

HOUSING OPPORTUNITY THROUGH MODERNIZATION ACT  
OF 2015

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JANUARY 28, 2016.—Committed to the Committee of the Whole House on the State  
of the Union and ordered to be printed  
\_\_\_\_\_

Mr. HENSARLING, from the Committee on Financial Services,  
submitted the following

R E P O R T

[To accompany H.R. 3700]

[Including cost estimate of the Congressional Budget Office]

The Committee on Financial Services, to whom was referred the bill (H.R. 3700) to provide housing opportunities in the United States through modernization of various housing programs, and for other purposes, having considered the same, reports favorably thereon with an amendment and recommends that the bill as amended do pass.

The amendment is as follows:

Strike all after the enacting clause and insert the following:

**SECTION 1. SHORT TITLE AND TABLE OF CONTENTS.**

(a) **SHORT TITLE.**—This Act may be cited as the “Housing Opportunity Through Modernization Act of 2015”.

(b) **TABLE OF CONTENTS.**—The table of contents for this Act is as follows:

Sec. 1. Short title and table of contents.

**TITLE I—SECTION 8 RENTAL ASSISTANCE AND PUBLIC HOUSING**

- Sec. 101. Inspection of dwelling units.
- Sec. 102. Income reviews.
- Sec. 103. Limitation on public housing tenancy for over-income families.
- Sec. 104. Limitation on eligibility for assistance based on assets.
- Sec. 105. Units owned by public housing agencies.
- Sec. 106. PHA project-based assistance.
- Sec. 107. Establishment of fair market rent.
- Sec. 108. Collection of utility data.
- Sec. 109. Public housing Capital and Operating Funds.
- Sec. 110. Family unification program for children aging out of foster care.

**TITLE II—RURAL HOUSING**

Sec. 201. Delegation of guaranteed rural housing loan approval.

**TITLE III—FHA MORTGAGE INSURANCE FOR CONDOMINIUMS**

Sec. 301. Modification of FHA requirements for mortgage insurance for condominiums.

## TITLE IV—HOUSING REFORMS FOR THE HOMELESS AND FOR VETERANS

- Sec. 401. Definition of geographic area for Continuum of Care Program.  
 Sec. 402. Inclusion of public housing agencies and local redevelopment authorities in emergency solutions grants.  
 Sec. 403. Special assistant for Veterans Affairs in the Department of Housing and Urban Development.  
 Sec. 404. Annual supplemental report on veterans homelessness.

## TITLE V—MISCELLANEOUS

- Sec. 501. Inclusion of Disaster Housing Assistance Program in certain fraud and abuse prevention measures.  
 Sec. 502. Energy efficiency requirements under Self-Help Homeownership Opportunity program.  
 Sec. 503. Data exchange standardization for improved interoperability.

## TITLE I—SECTION 8 RENTAL ASSISTANCE AND PUBLIC HOUSING

### SEC. 101. INSPECTION OF DWELLING UNITS.

(a) IN GENERAL.—Section 8(o)(8) of the United States Housing Act of 1937 (42 U.S.C. 1437f(o)(8)) is amended—

(1) by striking subparagraph (A) and inserting the following new subparagraph:

“(A) INITIAL INSPECTION.—

“(i) IN GENERAL.—For each dwelling unit for which a housing assistance payment contract is established under this subsection, the public housing agency (or other entity pursuant to paragraph (11)) shall inspect the unit before any assistance payment is made to determine whether the dwelling unit meets the housing quality standards under subparagraph (B), except as provided in clause (ii) or (iii) of this subparagraph.

“(ii) CORRECTION OF NON-LIFE-THREATENING CONDITIONS.—In the case of any dwelling unit that is determined, pursuant to an inspection under clause (i), not to meet the housing quality standards under subparagraph (B), assistance payments may be made for the unit notwithstanding subparagraph (C) if failure to meet such standards is a result only of non-life-threatening conditions, as such conditions are established by the Secretary. A public housing agency making assistance payments pursuant to this clause for a dwelling unit shall, 30 days after the beginning of the period for which such payments are made, withhold any assistance payments for the unit if any deficiency resulting in noncompliance with the housing quality standards has not been corrected by such time. The public housing agency shall recommence assistance payments when such deficiency has been corrected, and may use any payments withheld to make assistance payments relating to the period during which payments were withheld.

“(iii) USE OF ALTERNATIVE INSPECTION METHOD FOR INTERIM PERIOD.—In the case of any property that within the previous 24 months has met the requirements of an inspection that qualifies as an alternative inspection method pursuant to subparagraph (E), a public housing agency may authorize occupancy before the inspection under clause (i) has been completed, and may make assistance payments retroactive to the beginning of the lease term after the unit has been determined pursuant to an inspection under clause (i) to meet the housing quality standards under subparagraph (B). This clause may not be construed to exempt any dwelling unit from compliance with the requirements of subparagraph (D).”;

(2) by redesignating subparagraph (G) as subparagraph (H); and

(3) by inserting after subparagraph (F) the following new subparagraph:

“(G) ENFORCEMENT OF HOUSING QUALITY STANDARDS.—

“(i) DETERMINATION OF NONCOMPLIANCE.—A dwelling unit that is covered by a housing assistance payments contract under this subsection shall be considered, for purposes of subparagraphs (D) and (F), to be in noncompliance with the housing quality standards under subparagraph (B) if—

“(I) the public housing agency or an inspector authorized by the State or unit of local government determines upon inspection of the unit that the unit fails to comply with such standards;

“(II) the agency or inspector notifies the owner of the unit in writing of such failure to comply; and

“(III) the failure to comply is not corrected—

“(aa) in the case of any such failure that is a result of life-threatening conditions, within 24 hours after such notice has been provided; and

“(bb) in the case of any such failure that is a result of non-life-threatening conditions, within 30 days after such notice has been provided or such other reasonable longer period as the public housing agency may establish.

“(ii) WITHHOLDING OF ASSISTANCE AMOUNTS DURING CORRECTION.—The public housing agency may withhold assistance amounts under this subsection with respect to a dwelling unit for which a notice pursuant to clause (i)(II), of failure to comply with housing quality standards under subparagraph (B) as determined pursuant to an inspection conducted under subparagraph (D) or (F), has been provided. If the unit is brought into compliance with such housing quality standards during the periods referred to in clause (i)(III), the public housing agency shall recommence assistance payments and may use any amounts withheld during the correction period to make assistance payments relating to the period during which payments were withheld.

“(iii) ABATEMENT OF ASSISTANCE AMOUNTS.—The public housing agency shall abate all of the assistance amounts under this subsection with respect to a dwelling unit that is determined, pursuant to clause (i) of this subparagraph, to be in noncompliance with housing quality standards under subparagraph (B). Upon completion of repairs by the public housing agency or the owner sufficient so that the dwelling unit complies with such housing quality standards, the agency shall recommence payments under the housing assistance payments contract to the owner of the dwelling unit.

“(iv) NOTIFICATION.—If a public housing agency providing assistance under this subsection abates rental assistance payments pursuant to clause (iii) with respect to a dwelling unit, the agency shall, upon commencement of such abatement—

“(I) notify the tenant and the owner of the dwelling unit that—

“(aa) such abatement has commenced; and

“(bb) if the dwelling unit is not brought into compliance with housing quality standards within 60 days after the effective date of the determination of noncompliance under clause (i) or such reasonable longer period as the agency may establish, the tenant will have to move; and

“(II) issue the tenant the necessary forms to allow the tenant to move to another dwelling unit and transfer the rental assistance to that unit.

“(v) PROTECTION OF TENANTS.—An owner of a dwelling unit may not terminate the tenancy of any tenant because of the withholding or abatement of assistance pursuant to this subparagraph. During the period that assistance is abated pursuant to this subparagraph, the tenant may terminate the tenancy by notifying the owner.

“(vi) TERMINATION OF LEASE OR ASSISTANCE PAYMENTS CONTRACT.—If assistance amounts under this section for a dwelling unit are abated pursuant to clause (iii) and the owner does not correct the noncompliance within 60 days after the effective date of the determination of noncompliance under clause (i), or such other reasonable longer period as the public housing agency may establish, the agency shall terminate the housing assistance payments contract for the dwelling unit.

“(vii) RELOCATION.—

“(I) LEASE OF NEW UNIT.—The agency shall provide the family residing in such a dwelling unit a period of 90 days or such longer period as the public housing agency determines is reasonably necessary to lease a new unit, beginning upon termination of the contract, to lease a new residence with tenant-based rental assistance under this section.

“(II) AVAILABILITY OF PUBLIC HOUSING UNITS.—If the family is unable to lease such a new residence during such period, the public housing agency shall, at the option of the family, provide such family a preference for occupancy in a dwelling unit of public housing that is owned or operated by the agency that first becomes available for occupancy after the expiration of such period.

“(III) ASSISTANCE IN FINDING UNIT.—The public housing agency may provide assistance to the family in finding a new residence, including use of up to two months of any assistance amounts with-

held or abated pursuant to clause (ii) or (iii), respectively, for costs directly associated with relocation of the family to a new residence, which shall include security deposits as necessary and may include reimbursements for reasonable moving expenses incurred by the household, as established by the Secretary. The agency may require that a family receiving assistance for a security deposit shall remit, to the extent of such assistance, the amount of any security deposit refunds made by the owner of the dwelling unit for which the lease was terminated.

“(viii) TENANT-CAUSED DAMAGES.—If a public housing agency determines that any damage to a dwelling unit that results in a failure of the dwelling unit to comply with housing quality standards under subparagraph (B), other than any damage resulting from ordinary use, was caused by the tenant, any member of the tenant’s household, or any guest or other person under the tenant’s control, the agency may waive the applicability of this subparagraph, except that this clause shall not exonerate a tenant from any liability otherwise existing under applicable law for damages to the premises caused by such tenant.

“(ix) APPLICABILITY.—This subparagraph shall apply to any dwelling unit for which a housing assistance payments contract is entered into or renewed after the date of the effectiveness of the regulations implementing this subparagraph.”

(b) EFFECTIVE DATE.—The Secretary of Housing and Urban Development shall issue notice or regulations to implement subsection (a) of this section and such subsection shall take effect upon such issuance.

**SEC. 102. INCOME REVIEWS.**

(a) INCOME REVIEWS FOR PUBLIC HOUSING AND SECTION 8 PROGRAMS.—Section 3 of the United States Housing Act of 1937 (42 U.S.C. 1437a) is amended—

(1) in subsection (a)—

(A) in the second sentence of paragraph (1), by striking “at least annually” and inserting “pursuant to paragraph (6)”; and

(B) by adding at the end the following new paragraphs:

“(6) REVIEWS OF FAMILY INCOME.—

“(A) FREQUENCY.—Reviews of family income for purposes of this section shall be made—

“(i) in the case of all families, upon the initial provision of housing assistance for the family;

“(ii) annually thereafter, except as provided in paragraph (1) with respect to fixed-income families;

“(iii) upon the request of the family, at any time the income or deductions (under subsection (b)(5)) of the family change by an amount that is estimated to result in a decrease of 10 percent (or such lower amount as the Secretary may, by notice, establish, or permit the public housing agency or owner to establish) or more in annual adjusted income; and

“(iv) at any time the income or deductions (under subsection (b)(5)) of the family change by an amount that is estimated to result in an increase of 10 percent or more in annual adjusted income, or such other amount as the Secretary may by notice establish, except that any increase in the earned income of a family shall not be considered for purposes of this clause (except that earned income may be considered if the increase corresponds to previous decreases under clause (iii)), except that a public housing agency or owner may elect not to conduct such review in the last three months of a certification period.

“(B) IN GENERAL.—Reviews of family income for purposes of this section shall be subject to the provisions of section 904 of the Stewart B. McKinney Homeless Assistance Amendments Act of 1988 (42 U.S.C. 3544).

“(7) CALCULATION OF INCOME.—

“(A) USE OF CURRENT YEAR INCOME.—In determining family income for initial occupancy or provision of housing assistance pursuant to clause (i) of paragraph (6)(A) or pursuant to reviews pursuant to clause (iii) or (iv) of such paragraph, a public housing agency or owner shall use the income of the family as estimated by the agency or owner for the upcoming year.

“(B) USE OF PRIOR YEAR INCOME.—In determining family income for annual reviews pursuant to paragraph (6)(A)(ii), a public housing agency or owner shall, except as otherwise provided in this paragraph and paragraph (1), use the income of the family as determined by the agency or owner for the preceding year, taking into consideration any redetermination of income during such prior year pursuant to clause (iii) or (iv) of paragraph (6)(A).

“(C) OTHER INCOME.—In determining the income for any family based on the prior year’s income, with respect to prior year calculations of income not subject to subparagraph (B), a public housing agency or owner may make other adjustments as it considers appropriate to reflect current income.

“(D) SAFE HARBOR.—A public housing agency or owner may, to the extent such information is available to the public housing agency or owner, determine the family’s income prior to the application of any deductions based on timely income determinations made for purposes of other means-tested Federal public assistance programs (including the program for block grants to States for temporary assistance for needy families under part A of title IV of the Social Security Act, a program for Medicaid assistance under a State plan approved under title XIX of the Social Security Act, and the supplemental nutrition assistance program (as such term is defined in section 3 of the Food and Nutrition Act of 2008 (7 U.S.C. 2012))). The Secretary shall, in consultation with other appropriate Federal agencies, develop procedures to enable public housing agencies and owners to have access to such income determinations made by other means-tested Federal programs that the Secretary determines to have comparable reliability. Exchanges of such information shall be subject to the same limitations and tenant protections provided under section 904 of the Stewart B. McKinney Homeless Assistance Act Amendments of 1988 (42 U.S.C. 3544) with respect to information obtained under the requirements of section 303(i) of the Social Security Act (42 U.S.C. 503(i)).

“(E) PHA AND OWNER COMPLIANCE.—A public housing agency or owner may not be considered to fail to comply with this paragraph or paragraph (6) due solely to any de minimis errors made by the agency or owner in calculating family incomes.”;

(2) by striking subsections (d) and (e); and

(3) by redesignating subsection (f) as subsection (d).

(b) CERTIFICATION REGARDING HARDSHIP EXCEPTION TO MINIMUM MONTHLY RENT.—Not later than the expiration of the 6-month period beginning on the date of the enactment of this Act, the Secretary of Housing and Urban Development shall submit to the Congress a certification that the hardship and tenant protection provisions in clause (i) of section 3(a)(3)(B) of the United States Housing Act of 1937 (42 U.S.C. 1437a(a)(3)(B)(i)) are being enforced at such time and that the Secretary will continue to provide due consideration to the hardship circumstances of persons assisted under relevant programs of this Act.

(c) INCOME; ADJUSTED INCOME.—Section 3(b) of the United States Housing Act of 1937 (42 U.S.C. 1437a(b)) is amended by striking paragraphs (4) and (5) and inserting the following new paragraphs:

“(4) INCOME.—The term ‘income’ means, with respect to a family, income received from all sources by each member of the household who is 18 years of age or older or is the head of household or spouse of the head of the household, plus unearned income by or on behalf of each dependent who is less than 18 years of age, as determined in accordance with criteria prescribed by the Secretary, in consultation with the Secretary of Agriculture, subject to the following requirements:

“(A) INCLUDED AMOUNTS.—Such term includes recurring gifts and receipts, actual income from assets, and profit or loss from a business.

“(B) EXCLUDED AMOUNTS.—Such term does not include—

“(i) any imputed return on assets, except to the extent that net family assets exceed \$50,000, except that such amount (as it may have been previously adjusted) shall be adjusted for inflation annually by the Secretary in accordance with an inflationary index selected by the Secretary;

“(ii) any amounts that would be eligible for exclusion under section 1613(a)(7) of the Social Security Act (42 U.S.C. 1382b(a)(7));

“(iii) deferred disability benefits from the Department of Veterans Affairs that are received in a lump sum amount or in prospective monthly amounts;

“(iv) any expenses related to aid and attendance under section 1521 of title 38, United States Code, to veterans who are in need of regular aid and attendance; and

“(v) exclusions from income as established by the Secretary by regulation or notice, or any amount required by Federal law to be excluded from consideration as income.

“(C) EARNED INCOME OF STUDENTS.—Such term does not include—

“(i) earned income, up to an amount as the Secretary may by regulation establish, of any dependent earned during any period that such de-

pendent is attending school or vocational training on a full-time basis;

or

“(ii) any grant-in-aid or scholarship amounts related to such attendance used—

“(I) for the cost of tuition or books; or

“(II) in such amounts as the Secretary may allow, for the cost of room and board.

“(D) EDUCATIONAL SAVINGS ACCOUNTS.—Income shall be determined without regard to any amounts in or from, or any benefits from, any Coverdell education savings account under section 530 of the Internal Revenue Code of 1986 or any qualified tuition program under section 529 of such Code.

“(E) RECORDKEEPING.—The Secretary may not require a public housing agency or owner to maintain records of any amounts excluded from income pursuant to this subparagraph.

“(5) ADJUSTED INCOME.—The term ‘adjusted income’ means, with respect to a family, the amount (as determined by the public housing agency or owner) of the income of the members of the family residing in a dwelling unit or the persons on a lease, after any deductions from income as follows:

“(A) ELDERLY AND DISABLED FAMILIES.—\$525 in the case of any family that is an elderly family or a disabled family.

“(B) DEPENDENTS.—In the case of any family, \$525 for each member who—

“(i) is less than 18 years of age or attending school or vocational training on a full-time basis; or

“(ii) is a person who is 18 years of age or older, resides in the household, and is certified as disabled and unable to work by the public housing agency of jurisdiction.

“(C) CHILD CARE.—The amount, if any, that exceeds 5 percent of annual family income that is used to pay for unreimbursed child care expenses, which shall include child care for preschool-age children, for before- and after-care for children in school, and for other child care necessary to enable a member of the family to be employed or further his or her education.

“(D) HEALTH AND MEDICAL EXPENSES.—The amount, if any, by which 10 percent of annual family income is exceeded by the sum of—

“(i) in the case of any elderly or disabled family, any unreimbursed health and medical care expenses; and

“(ii) any unreimbursed reasonable attendant care and auxiliary apparatus expenses for each handicapped member of the family, if determined necessary by the public housing agency or owner to enable any member of such family to be employed.

The Secretary shall, by regulation, provide hardship exemptions to the requirements of this subparagraph and subparagraph (C) for impacted families who demonstrate an inability to pay calculated rents because of financial hardship. Such regulations shall include a requirement to notify tenants regarding any changes to the determination of adjusted income pursuant to such subparagraphs based on the determination of the family’s claim of financial hardship exemptions required by the preceding sentence. Such regulations shall be promulgated in consultation with tenant organizations, industry participants, and the Secretary of Health and Human Services, with an adequate comment period provided for interested parties.

“(E) PERMISSIVE DEDUCTIONS.—Such additional deductions as a public housing agency may, at its discretion, establish, except that the Secretary shall establish procedures to ensure that such deductions do not materially increase Federal expenditures.

The Secretary shall annually calculate the amounts of the deductions under subparagraphs (A) and (B), as such amounts may have been previously calculated, by applying an inflationary factor as the Secretary shall, by regulation, establish, except that the actual deduction determined for each year shall be established by rounding such amount to the next lowest multiple of \$25.”

(d) HOUSING CHOICE VOUCHER PROGRAM.—Section 8(o) of the United States Housing Act of 1937 (42 U.S.C. 1437f(o)) is amended—

(1) in paragraph (1)(D), by inserting before the period at the end the following: “, except that a public housing agency may establish a payment standard of not more than 120 percent of the fair market rent where necessary as a reasonable accommodation for a person with a disability, without approval of the Secretary. A public housing agency may use a payment standard that is greater than 120 percent of the fair market rent as a reasonable accommodation for a person with a disability, but only with the approval of the Secretary. In connection with the use of any increased payment standard established or ap-

proved pursuant to either of the preceding two sentences as a reasonable accommodation for a person with a disability, the Secretary may not establish additional requirements regarding the amount of adjusted income paid by such person for rent”; and

(2) in paragraph (5)—

(A) in the paragraph heading, by striking “ANNUAL REVIEW” and inserting “REVIEWS”;

(B) in subparagraph (A)—

(i) by striking “the provisions of” and inserting “paragraphs (1), (6), and (7) of section 3(a) and to”; and

(ii) by striking “and shall be conducted” and all that follows through the end of the subparagraph and inserting a period; and

(C) in subparagraph (B), by striking the second sentence.

(e) ENHANCED VOUCHER PROGRAM.—Section 8(t)(1)(D) of the United States Housing Act of 1937 (42 U.S.C. 1437f(t)(1)(D)) is amended by striking “income” each place such term appears and inserting “annual adjusted income”.

(f) PROJECT-BASED HOUSING.—Paragraph (3) of section 8(c) of the United States Housing Act of 1937 (42 U.S.C. 1437f(c)(3)) is amended by striking the last sentence.

(g) IMPACT ON PUBLIC HOUSING REVENUES.—

(1) ADJUSTMENTS TO OPERATING FORMULA.—If the Secretary of Housing and Urban Development determines that the application of subsections (a) through (e) of this section results in a material and disproportionate reduction in the rental income of certain public housing agencies during the first year in which such subsections are implemented, the Secretary may make appropriate adjustments in the formula income for such year of those agencies experiencing such a reduction.

(2) HUD REPORTS ON REVENUE AND COST IMPACT.—In each of the first two years after the first year in which subsections (a) through (e) are implemented, the Secretary of Housing and Urban Development shall submit a report to Congress identifying and calculating the impact of changes made by such subsections and section 104 of this Act on the revenues and costs of operating public housing units, the voucher program for rental assistance under section 8 of the United States Housing Act of 1937, and the program under such section 8 for project-based rental assistance. If such report identifies a material reduction in the net income of public housing agencies nationwide or a material increase in the costs of funding the voucher program or the project-based assistance program, the Secretary shall include in such report recommendations for legislative changes to reduce or eliminate such a reduction.

(h) EFFECTIVE DATE.—The Secretary of Housing and Urban Development shall issue notice or regulations to implement this section and this section shall take effect after such issuance, except that this section may only take effect upon the commencement of a calendar year.

#### SEC. 103. LIMITATION ON PUBLIC HOUSING TENANCY FOR OVER-INCOME FAMILIES.

Subsection (a) of section 16 of the United States Housing Act of 1937 (42 U.S.C. 1437n(a)) is amended by adding at the end the following new paragraph:

“(5) LIMITATIONS ON TENANCY FOR OVER-INCOME FAMILIES.—

“(A) LIMITATIONS.—Except as provided in subparagraph (D), in the case of any family residing in a dwelling unit of public housing whose income for the most recent two consecutive years, as determined pursuant to income reviews conducted pursuant to section 3(a)(6), has exceeded the applicable income limitation under subparagraph (C), the public housing agency shall—

“(i) notwithstanding any other provision of this Act, charge such family as monthly rent for the unit occupied by such family an amount equal to the greater of—

“(I) the applicable fair market rental established under section 8(c) for a dwelling unit in the same market area of the same size; or

“(II) the amount of the monthly subsidy provided under this Act for the dwelling unit, which shall include any amounts from the Operating Fund and Capital Fund under section 9 used for the unit, as determined by the agency in accordance with regulations that the Secretary shall issue to carry out this subclause; or

“(ii) terminate the tenancy of such family in public housing not later than 6 months after the income determination described in subparagraph (A).

“(B) NOTICE.—In the case of any family residing in a dwelling unit of public housing whose income for a year has exceeded the applicable income

limitation under subparagraph (C), upon the conclusion of such year the public housing agency shall provide written notice to such family of the requirements under subparagraph (A).

“(C) INCOME LIMITATION.—The income limitation under this subparagraph shall be 120 percent of the median income for the area, as determined by the Secretary with adjustments for smaller and larger families, except that the Secretary may establish income limitations higher or lower than 120 percent of such median income on the basis of the Secretary’s findings that such variations are necessary because of prevailing levels of construction costs, or unusually high or low family incomes, vacancy rates, or rental costs.

“(D) EXCEPTION.—Subparagraph (A) shall not apply to a family occupying a dwelling unit in public housing pursuant to paragraph (5) of section 3(a) (42 U.S.C. 1437a(a)(5)).

“(E) REPORTS ON OVER-INCOME FAMILIES AND WAITING LISTS.—The Secretary shall require that each public housing agency shall—

“(i) submit a report annually, in a format required by the Secretary, that specifies—

“(I) the number of families residing, as of the end of the year for which the report is submitted, in public housing administered by the agency who had incomes exceeding the applicable income limitation under subparagraph (C); and

“(II) the number of families, as of the end of such year, on the waiting lists for admission to public housing projects of the agency; and

“(ii) make the information reported pursuant to clause (i) publicly available.”.

**SEC. 104. LIMITATION ON ELIGIBILITY FOR ASSISTANCE BASED ON ASSETS.**

Section 16 of the United States Housing Act of 1937 (42 U.S.C. 1437n) is amended by inserting after subsection (d) the following new subsection:

“(e) ELIGIBILITY FOR ASSISTANCE BASED ON ASSETS.—

“(1) LIMITATION ON ASSETS.—Subject to paragraph (3) and notwithstanding any other provision of this Act, a dwelling unit assisted under this Act may not be rented and assistance under this Act may not be provided, either initially or at each recertification of family income, to any family—

“(A) whose net family assets exceed \$100,000, as such amount is adjusted annually by applying an inflationary factor as the Secretary considers appropriate; or

“(B) who has a present ownership interest in, a legal right to reside in, and the effective legal authority to sell, real property that is suitable for occupancy by the family as a residence, except that the prohibition under this subparagraph shall not apply to—

“(i) any property for which the family is receiving assistance under subsection (y) or (o)(12) of section 8 of this Act;

“(ii) any person that is a victim of domestic violence; or

“(iii) any family that is offering such property for sale.

“(2) NET FAMILY ASSETS.—

“(A) IN GENERAL.—For purposes of this subsection, the term ‘net family assets’ means, for all members of the household, the net cash value of all assets after deducting reasonable costs that would be incurred in disposing of real property, savings, stocks, bonds, and other forms of capital investment. Such term does not include interests in Indian trust land, equity in property for which the family is receiving assistance under subsection (y) or (o)(12) of section 8, equity accounts in homeownership programs of the Department of Housing and Urban Development, or Family Self Sufficiency accounts.

“(B) EXCLUSIONS.—Such term does not include—

“(i) the value of personal property, except for items of personal property of significant value, as the Secretary may establish or the public housing agency may determine;

“(ii) the value of any retirement account;

“(iii) real property for which the family does not have the effective legal authority necessary to sell such property;

“(iv) any amounts recovered in any civil action or settlement based on a claim of malpractice, negligence, or other breach of duty owed to a member of the family and arising out of law, that resulted in a member of the family being disabled;

“(v) the value of any Coverdell education savings account under section 530 of the Internal Revenue Code of 1986 or any qualified tuition program under section 529 of such Code; and

“(vi) such other exclusions as the Secretary may establish.

“(C) TRUST FUNDS.—In cases in which a trust fund has been established and the trust is not revocable by, or under the control of, any member of the family or household, the value of the trust fund shall not be considered an asset of a family if the fund continues to be held in trust. Any income distributed from the trust fund shall be considered income for purposes of section 3(b) and any calculations of annual family income, except in the case of medical expenses for a minor.

“(3) SELF-CERTIFICATION.—

“(A) NET FAMILY ASSETS.—A public housing agency or owner may determine the net assets of a family, for purposes of this section, based on a certification by the family that the net assets of such family do not exceed \$50,000, as such amount is adjusted annually by applying an inflationary factor as the Secretary considers appropriate.

“(B) NO CURRENT REAL PROPERTY OWNERSHIP.—A public housing agency or owner may determine compliance with paragraph (1)(B) based on a certification by the family that such family does not have any current ownership interest in any real property at the time the agency or owner reviews the family’s income.

“(C) STANDARDIZED FORMS.—The Secretary may develop standardized forms for the certifications referred to in subparagraphs (A) and (B).

“(4) COMPLIANCE FOR PUBLIC HOUSING DWELLING UNITS.—When recertifying family income with respect to families residing in public housing dwelling units, a public housing agency may, in the discretion of the agency and only pursuant to a policy that is set forth in the public housing agency plan under section 5A for the agency, choose not to enforce the limitation under paragraph (1).

“(5) ENFORCEMENT.—When recertifying the income of a family residing in a dwelling unit assisted under this Act, a public housing agency or owner may choose not to enforce the limitation under paragraph (1) or may establish exceptions to such limitation based on eligibility criteria, but only pursuant to a policy that is set forth in the public housing agency plan under section 5A for the agency or under a policy adopted by the owner. Eligibility criteria for establishing exceptions may provide for separate treatment based on family type and may be based on different factors, such as age, disability, income, the ability of the family to find suitable alternative housing, and whether supportive services are being provided.

“(6) AUTHORITY TO DELAY EVICTIONS.—In the case of a family residing in a dwelling unit assisted under this Act who does not comply with the limitation under paragraph (1), the public housing agency or project owner may delay eviction or termination of the family based on such noncompliance for a period of not more than 6 months.”.

**SEC. 105. UNITS OWNED BY PUBLIC HOUSING AGENCIES.**

Paragraph (11) of section 8(o) of the United States Housing Act of 1937 (42 U.S.C. 1437f(o)(11)) is amended—

(1) by striking “(11) LEASING OF UNITS OWNED BY PHA.—If” and inserting the following:

“(11) LEASING OF UNITS OWNED BY PHA.—

“(A) INSPECTIONS AND RENT DETERMINATIONS.—If”; and

(2) by adding at the end the following new subparagraph:

“(B) UNITS OWNED BY PHA.—For purposes of this subsection, the term ‘owned by a public housing agency’ means, with respect to a dwelling unit, that the dwelling unit is in a project that is owned by such agency, by an entity wholly controlled by such agency, or by a limited liability company or limited partnership in which such agency (or an entity wholly controlled by such agency) holds a controlling interest in the managing member or general partner. A dwelling unit shall not be deemed to be owned by a public housing agency for purposes of this subsection because the agency holds a fee interest as ground lessor in the property on which the unit is situated, holds a security interest under a mortgage or deed of trust on the unit, or holds a non-controlling interest in an entity which owns the unit or in the managing member or general partner of an entity which owns the unit.”.

**SEC. 106. PHA PROJECT-BASED ASSISTANCE.**

(a) IN GENERAL.—Paragraph (13) of section 8(o) of the United States Housing Act of 1937 (42 U.S.C. 1437f(o)(13)) is amended—

(1) by striking “structure” each place such term appears and inserting “project”;

(2) by striking subparagraph (B) and inserting the following new subparagraph:

“(B) PERCENTAGE LIMITATION.—

“(i) IN GENERAL.—Subject to clause (ii), a public housing agency may use for project-based assistance under this paragraph not more than 20 percent of the authorized units for the agency.

“(ii) EXCEPTION.—A public housing agency may use up to an additional 10 percent of the authorized units for the agency for project-based assistance under this paragraph, to provide units that house individuals and families that meet the definition of homeless under section 103 of the McKinney-Vento Homeless Assistance Act (42 U.S.C. 11302), that house families with veterans, that provide supportive housing to persons with disabilities or elderly persons, or that are located in areas where vouchers under this subsection are difficult to use, as specified in subparagraph (D)(ii)(II). Any units of project-based assistance that are attached to units previously subject to federally required rent restrictions or receiving another type of long-term housing subsidy provided by the Secretary shall not count toward the percentage limitation under clause (i) of this subparagraph. The Secretary may, by regulation, establish additional categories for the exception under this clause.”;

(3) by striking subparagraph (D) and inserting the following new subparagraph:

“(D) INCOME-MIXING REQUIREMENT.—

“(i) IN GENERAL.—Except as provided in clause (ii), not more than the greater of 25 dwelling units or 25 percent of the dwelling units in any project may be assisted under a housing assistance payment contract for project-based assistance pursuant to this paragraph. For purposes of this subparagraph, the term ‘project’ means a single building, multiple contiguous buildings, or multiple buildings on contiguous parcels of land.

“(ii) EXCEPTIONS.—

“(I) CERTAIN FAMILIES.—The limitation under clause (i) shall not apply to dwelling units assisted under a contract that are exclusively made available to elderly families or to households eligible for supportive services that are made available to the assisted residents of the project, according to standards for such services the Secretary may establish.

“(II) CERTAIN AREAS.—With respect to areas in which tenant-based vouchers for assistance under this subsection are difficult to use, as determined by the Secretary, and with respect to census tracts with a poverty rate of 20 percent or less, clause (i) shall be applied by substituting ‘40 percent’ for ‘25 percent’, and the Secretary may, by regulation, establish additional conditions.

“(III) CERTAIN CONTRACTS.—The limitation under clause (i) shall not apply with respect to contracts or renewal of contracts under which a greater percentage of the dwelling units in a project were assisted under a housing assistance payment contract for project-based assistance pursuant to this paragraph on the date of the enactment of the Housing Opportunity Through Modernization Act of 2015.

“(IV) CERTAIN PROPERTIES.—Any units of project-based assistance under this paragraph that are attached to units previously subject to federally required rent restrictions or receiving other project-based assistance provided by the Secretary shall not count toward the percentage limitation imposed by this subparagraph (D).

“(iii) ADDITIONAL MONITORING AND OVERSIGHT REQUIREMENTS.—The Secretary may establish additional requirements for monitoring and oversight of projects in which more than 40 percent of the dwelling units are assisted under a housing assistance payment contract for project-based assistance pursuant to this paragraph.”;

(4) by striking subparagraph (F) and inserting the following new subparagraph:

“(F) CONTRACT TERM.—

“(i) TERM.—A housing assistance payment contract pursuant to this paragraph between a public housing agency and the owner of a project may have a term of up to 20 years, subject to—

“(I) the availability of sufficient appropriated funds for the purpose of renewing expiring contracts for assistance payments, as provided in appropriation Acts and in the agency’s annual contributions contract with the Secretary, provided that in the event of insufficient appropriated funds, payments due under contracts under this paragraph shall take priority if other cost-saving measures that do not require the termination of an existing contract are available to the agency; and

“(II) compliance with the inspection requirements under paragraph (8), except that the agency shall not be required to make biennial inspections of each assisted unit in the development.

“(ii) ADDITION OF ELIGIBLE UNITS.—Subject to the limitations of subparagraphs (B) and (D), the agency and the owner may add eligible units within the same project to a housing assistance payments contract at any time during the term thereof without being subject to any additional competitive selection procedures.

“(iii) HOUSING UNDER CONSTRUCTION OR RECENTLY CONSTRUCTED.—An agency may enter into a housing assistance payments contract with an owner for any unit that does not qualify as existing housing and is under construction or recently has been constructed whether or not the agency has executed an agreement to enter into a contract with the owner, provided that the owner demonstrates compliance with applicable requirements prior to execution of the housing assistance payments contract. This clause shall not subject a housing assistance payments contract for existing housing under this paragraph to such requirements or otherwise limit the extent to which a unit may be assisted as existing housing.

“(iv) ADDITIONAL CONDITIONS.—The contract may specify additional conditions, including with respect to continuation, termination, or expiration, and shall specify that upon termination or expiration of the contract without extension, each assisted family may elect to use its assistance under this subsection to remain in the same project if its unit complies with the inspection requirements under paragraph (8), the rent for the unit is reasonable as required by paragraph (10)(A), and the family pays its required share of the rent and the amount, if any, by which the unit rent (including the amount allowed for tenant-based utilities) exceeds the applicable payment standard.”;

(5) in subparagraph (G), by striking “15 years” and inserting “20 years”;

(6) by striking subparagraph (I) and inserting the following new subparagraph:

“(I) RENT ADJUSTMENTS.—A housing assistance payments contract pursuant to this paragraph entered into after the date of the enactment of the Housing Opportunity Through Modernization Act of 2015 shall provide for annual rent adjustments upon the request of the owner, except that—

“(i) by agreement of the parties, a contract may allow a public housing agency to adjust the rent for covered units using an operating cost adjustment factor established by the Secretary pursuant to section 524(c) of the Multifamily Assisted Housing Reform and Affordability Act of 1997 (which shall not result in a negative adjustment), in which case the contract may require an additional adjustment, if requested, up to the reasonable rent periodically during the term of the contract, and shall require such an adjustment, if requested, upon extension pursuant to subparagraph (G);

“(ii) the adjusted rent shall not exceed the maximum rent permitted under subparagraph (H);

“(iii) the contract may provide that the maximum rent permitted for a dwelling unit shall not be less than the initial rent for the dwelling unit under the initial housing assistance payments contract covering the units; and

“(iv) the provisions of subsection (c)(2)(C) shall not apply.”;

(7) in subparagraph (J)—

(A) in the first sentence—

(i) by striking “shall” and inserting “may”; and

(ii) by inserting before the period the following: “or may permit owners to select applicants from site-based waiting lists as specified in this subparagraph”;

(B) by striking the third sentence and inserting the following: “The agency or owner may establish preferences or criteria for selection for a unit assisted under this paragraph that are consistent with the public housing agency plan for the agency approved under section 5A and that give preference to families who qualify for voluntary services, including disability-specific services, offered in conjunction with assisted units.”; and

(C) by striking the fifth and sixth sentences and inserting the following: “A public housing agency may establish and utilize procedures for owner-maintained site-based waiting lists, under which applicants may apply at, or otherwise designate to the public housing agency, the project or projects in which they seek to reside, except that all eligible applicants on the waiting list of an agency for assistance under this subsection shall be permitted to place their names on such separate list, subject to policies and procedures established by the Secretary. All such procedures shall comply with title VI of the Civil Rights Act of 1964, the Fair Housing Act, section 504 of the Rehabilitation Act of 1973, and other applicable civil rights laws. The owner or manager of a project assisted under this paragraph shall not admit any family to a dwelling unit assisted under a contract pursuant to this paragraph other than a family referred by the public housing agency from its waiting list, or a family on a site-based waiting list that complies with the requirements of this subparagraph. A public housing agency shall disclose to each applicant all other options in the selection of a project in which to reside that are provided by the public housing agency and are available to the applicant.”;

(8) in subparagraph (M)(ii), by inserting before the period at the end the following: “relating to funding other than housing assistance payments”; and

(9) by adding at the end the following new subparagraphs:

“(N) STRUCTURE OWNED BY AGENCY.—A public housing agency engaged in an initiative to improve, develop, or replace a public housing property or site may attach assistance to an existing, newly constructed, or rehabilitated structure in which the agency has an ownership interest or which the agency has control of without following a competitive process, provided that the agency has notified the public of its intent through its public housing agency plan and subject to the limitations and requirements of this paragraph.

“(O) SPECIAL PURPOSE VOUCHERS.—A public housing agency that administers vouchers authorized under subsection (o)(19) or (x) of this section may provide such assistance in accordance with the limitations and requirements of this paragraph, without additional requirements for approval by the Secretary.”.

(b) EFFECTIVE DATE.—The Secretary of Housing and Urban Development shall issue notice or regulations to implement subsection (a) of this section and such subsection shall take effect upon such issuance.

#### SEC. 107. ESTABLISHMENT OF FAIR MARKET RENT.

(a) IN GENERAL.—Paragraph (1) of section 8(c) of the United States Housing Act of 1937 (42 U.S.C. 1437f(c)(1)) is amended—

- (1) by inserting “(A)” after the paragraph designation;
- (2) by striking the fourth, seventh, eighth, and ninth sentences; and
- (3) by adding at the end the following:

“(B) Fair market rentals for an area shall be published not less than annually by the Secretary on the site of the Department on the World Wide Web and in any other manner specified by the Secretary. Notice that such fair market rentals are being published shall be published in the Federal Register, and such fair market rentals shall become effective no earlier than 30 days after the date of such publication. The Secretary shall establish a procedure for public housing agencies and other interested parties to comment on such fair market rentals and to request, within a time specified by the Secretary, reevaluation of the fair market rentals in a jurisdiction before such rentals become effective. The Secretary shall cause to be published for comment in the Federal Register notices of proposed material changes in the methodology for estimating fair market rentals and notices specifying the final decisions regarding such proposed substantial methodological changes and responses to public comments.”.

(b) PAYMENT STANDARD.—Subparagraph (B) of section 8(o)(1) of the United States Housing Act of 1937 (42 U.S.C. 1437f(o)(1)(B)) is amended by inserting before the period at the end the following: “, except that no public housing agency shall be required as a result of a reduction in the fair market rental to reduce the payment standard applied to a family continuing to reside in a unit for which the family was receiving assistance under this section at the time the fair market rental was re-

duced. The Secretary shall allow public housing agencies to request exception payment standards within fair market rental areas subject to criteria and procedures established by the Secretary”.

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect upon the date of the enactment of this Act.

**SEC. 108. COLLECTION OF UTILITY DATA.**

Section 8(o) of the United States Housing Act of 1937 (42 U.S.C. 1437f(o)) is amended by adding at the end the following new paragraph:

“(20) COLLECTION OF UTILITY DATA.—

“(A) PUBLICATION.—The Secretary shall, to the extent that data can be collected cost effectively, regularly publish such data regarding utility consumption and costs in local areas as the Secretary determines will be useful for the establishment of allowances for tenant-paid utilities for families assisted under this subsection.

“(B) USE OF DATA.—The Secretary shall provide such data in a manner that—

“(i) avoids unnecessary administrative burdens for public housing agencies and owners; and

“(ii) protects families in various unit sizes and building types, and using various utilities, from high rent and utility cost burdens relative to income.”.

**SEC. 109. PUBLIC HOUSING CAPITAL AND OPERATING FUNDS.**

(a) CAPITAL FUND REPLACEMENT RESERVES.—Section 9 of the United States Housing Act of 1937 (42 U.S.C. 1437g) is amended—

(1) in subsection (j), by adding at the end the following new paragraph:

“(7) TREATMENT OF REPLACEMENT RESERVE.—The requirements of this subsection shall not apply to funds held in replacement reserves established pursuant to subsection (n).”; and

(2) by adding at the end the following new subsection:

“(n) ESTABLISHMENT OF REPLACEMENT RESERVES.—

“(1) IN GENERAL.—Public housing agencies shall be permitted to establish a replacement reserve to fund any of the capital activities listed in subsection (d)(1).

“(2) SOURCE AND AMOUNT OF FUNDS FOR REPLACEMENT RESERVE.—At any time, a public housing agency may deposit funds from such agency’s Capital Fund into a replacement reserve, subject to the following:

“(A) At the discretion of the Secretary, public housing agencies may transfer and hold in a replacement reserve funds originating from additional sources.

“(B) No minimum transfer of funds to a replacement reserve shall be required.

“(C) At any time, a public housing agency may not hold in a replacement reserve more than the amount the public housing authority has determined necessary to satisfy the anticipated capital needs of properties in its portfolio assisted under this section, as outlined in its Capital Fund 5-Year Action Plan, or a comparable plan, as determined by the Secretary.

“(D) The Secretary may establish, by regulation, a maximum replacement reserve level or levels that are below amounts determined under subparagraph (C), which may be based upon the size of the portfolio assisted under this section or other factors.

“(3) TRANSFER OF OPERATING FUNDS.—In first establishing a replacement reserve, the Secretary may allow public housing agencies to transfer more than 20 percent of its operating funds into its replacement reserve.

“(4) EXPENDITURE.—Funds in a replacement reserve may be used for purposes authorized by subsection (d)(1) and contained in its Capital Fund 5-Year Action Plan.

“(5) MANAGEMENT AND REPORT.—The Secretary shall establish appropriate accounting and reporting requirements to ensure that public housing agencies are spending funds on eligible projects and that funds in the replacement reserve are connected to capital needs.”.

(b) FLEXIBILITY OF OPERATING FUND AMOUNTS.—Paragraph (1) of section 9(g) of the United States Housing Act of 1937 (42 U.S.C. 1437g(g)(1)) is amended—

(1) by striking “(1)” and all that follows through “—Of” and inserting the following:

“(1) FLEXIBILITY IN USE OF FUNDS.—

“(A) FLEXIBILITY FOR CAPITAL FUND AMOUNTS.—Of”; and

(2) by adding at the end the following new subparagraph:

“(B) FLEXIBILITY FOR OPERATING FUND AMOUNTS.—Of any amounts appropriated for fiscal year 2016 or any fiscal year thereafter that are allocated for fiscal year 2016 or any fiscal year thereafter from the Operating Fund for any public housing agency, the agency may use not more than 20 percent for activities that are eligible under subsection (d) for assistance with amounts from the Capital Fund, but only if the public housing plan under section 5A for the agency provides for such use.”.

**SEC. 110. FAMILY UNIFICATION PROGRAM FOR CHILDREN AGING OUT OF FOSTER CARE.**

Section 8(x) of the United States Housing Act of 1937 (42 U.S.C. 1437f(x)) is amended—

(1) in paragraph (2)(B)—

(A) by striking “18 months” and inserting “36 months”;

(B) by striking “21 years of age” and inserting “24 years of age”; and

(C) by inserting after “have left foster care” the following: “, or will leave foster care within 90 days, in accordance with a transition plan described in section 475(5)(H) of the Social Security Act, and is homeless or is at risk of becoming homeless”;

(2) by redesignating paragraph (4) as paragraph (5); and

(3) by inserting after paragraph (3) the following new paragraph:

“(4) COORDINATION BETWEEN PUBLIC HOUSING AGENCIES AND PUBLIC CHILD WELFARE AGENCIES.—The Secretary shall, not later than the expiration of the 180-day period beginning on the date of the enactment of the Housing Opportunity Through Modernization Act of 2015 and after consultation with other appropriate Federal agencies, issue guidance to improve coordination between public housing agencies and public child welfare agencies in carrying out the program under this subsection, which shall provide guidance on—

“(A) identifying eligible recipients for assistance under this subsection;

“(B) coordinating with other local youth and family providers in the community and participating in the Continuum of Care program established under subtitle C of title IV of the McKinney-Vento Homeless Assistance Act (42 U.S.C. 11381 et seq.);

“(C) implementing housing strategies to assist eligible families and youth;

“(D) aligning system goals to improve outcomes for families and youth and reducing lapses in housing for families and youth; and

“(E) identifying resources that are available to eligible families and youth to provide supportive services available through parts B and E of title IV of the Social Security Act (42 U.S.C. 621 et seq.; 670 et seq.) or that the head of household of a family or youth may be entitled to receive under section 477 of the Social Security Act (42 U.S.C. 677).”.

## TITLE II—RURAL HOUSING

**SEC. 201. DELEGATION OF GUARANTEED RURAL HOUSING LOAN APPROVAL.**

Subsection (h) of section 502 of the Housing Act of 1949 (42 U.S.C. 1472(h)) is amended by adding at the end the following new paragraph:

“(18) DELEGATION OF APPROVAL.—The Secretary may delegate, in part or in full, the Secretary’s authority to approve and execute binding Rural Housing Service loan guarantees pursuant to this subsection to certain preferred lenders, in accordance with standards established by the Secretary.”.

## TITLE III—FHA MORTGAGE INSURANCE FOR CONDOMINIUMS

**SEC. 301. MODIFICATION OF FHA REQUIREMENTS FOR MORTGAGE INSURANCE FOR CONDOMINIUMS.**

Section 203 of the National Housing Act (12 U.S.C. 1709) is amended by adding at the end the following new subsection:

“(y) REQUIREMENTS FOR MORTGAGES FOR CONDOMINIUMS.—

“(1) PROJECT RECERTIFICATION REQUIREMENTS.—Notwithstanding any other law, regulation, or guideline of the Secretary, including chapter 2.4 of the Condominium Project Approval and Processing Guide of the FHA, the Secretary shall streamline the project certification requirements that are applicable to the insurance under this section for mortgages for condominium projects so that recertifications are substantially less burdensome than certifications. The Sec-

retary shall consider lengthening the time between certifications for approved properties, and allowing updating of information rather than resubmission.

“(2) COMMERCIAL SPACE REQUIREMENTS.—Notwithstanding any other law, regulation, or guideline of the Secretary, including chapter 2.1.3 of the Condominium Project Approval and Processing Guide of the FHA, in providing for exceptions to the requirement for the insurance of a mortgage on a condominium property under this section regarding the percentage of the floor space of a condominium property that may be used for nonresidential or commercial purposes, the Secretary shall provide that—

“(A) any request for such an exception and the determination of the disposition of such request may be made, at the option of the requester, under the direct endorsement lender review and approval process or under the HUD review and approval process through the applicable field office of the Department; and

“(B) in determining whether to allow such an exception for a condominium property, factors relating to the economy for the locality in which such project is located or specific to project, including the total number of family units in the project, shall be considered.

Not later than the expiration of the 90-day period beginning on the date of the enactment of this paragraph, the Secretary shall issue regulations to implement this paragraph, which shall include any standards, training requirements, and remedies and penalties that the Secretary considers appropriate.

“(3) TRANSFER FEES.—Notwithstanding any other law, regulation, or guideline of the Secretary, including chapter 1.8.8 of the Condominium Project Approval and Processing Guide of the FHA and section 203.41 of the Secretary’s regulations (24 C.F.R. 203.41), existing standards of the Federal Housing Finance Agency relating to encumbrances under private transfer fee covenants shall apply to the insurance of mortgages by the Secretary under this section to the same extent and in the same manner that such standards apply to the purchasing, investing in, and otherwise dealing in mortgages by the Federal National Mortgage Association and the Federal Home Loan Mortgage Corporation. If the provisions of part 1228 of the Director of the Federal Housing Finance Agency’s regulations (12 C.F.R. part 1228) are amended or otherwise changed after the date of the enactment of this paragraph, the Secretary of Housing and Urban Development shall adopt any such amendments or changes for purposes of this paragraph, unless the Secretary causes to be published in the Federal Register a notice explaining why the Secretary will disregard such amendments or changes within 90 days after the effective date of such amendments or changes.

“(4) OWNER-OCCUPANCY REQUIREMENT.—

“(A) ESTABLISHMENT OF PERCENTAGE REQUIREMENT.—Not later than the expiration of the 90-day period beginning on the date of the enactment of this paragraph, the Secretary shall, by rule, notice, or mortgagee letter, issue guidance regarding the percentage of units that must be occupied by the owners as a principal residence or a secondary residence (as such terms are defined by the Secretary), or must have been sold to owners who intend to meet such occupancy requirements, including justifications for the percentage requirements, in order for a condominium project to be acceptable to the Secretary for insurance under this section of a mortgage within such condominium property.

“(B) FAILURE TO ACT.—If the Secretary fails to issue the guidance required under subparagraph (A) before the expiration of the 90-day period specified in such clause, the following provisions shall apply:

“(i) 35 PERCENT REQUIREMENT.—In order for a condominium project to be acceptable to the Secretary for insurance under this section, at least 35 percent of all family units (including units not covered by FHA-insured mortgages) must be occupied by the owners as a principal residence or a secondary residence (as such terms are defined by the Secretary), or must have been sold to owners who intend to meet such occupancy requirement.

“(ii) OTHER CONSIDERATIONS.—The Secretary may increase the percentage applicable pursuant to clause (i) to a condominium project on a project-by-project or regional basis, and in determining such percentage for a project shall consider factors relating to the economy for the locality in which such project is located or specific to project, including the total number of family units in the project.”

## TITLE IV—HOUSING REFORMS FOR THE HOMELESS AND FOR VETERANS

### SEC. 401. DEFINITION OF GEOGRAPHIC AREA FOR CONTINUUM OF CARE PROGRAM.

(a) DEFINITION.—Subtitle C of the McKinney-Vento Homeless Assistance Act is amended—

(1) by redesignating sections 432 and 433 (42 U.S.C. 11387, 11388) as sections 433 and 434, respectively; and

(2) by inserting after section 431 (42 U.S.C. 11386e) the following new section:

#### “SEC. 432. GEOGRAPHIC AREAS.

“(a) REQUIREMENT TO DEFINE.—For purposes of this subtitle, the term ‘geographic area’ shall have such meaning as the Secretary shall by notice provide.

“(b) ISSUANCE OF NOTICE.—Not later than the expiration of the 90-day period beginning on the date of the enactment of the Housing Opportunity Through Modernization Act of 2015, the Secretary shall issue a notice setting forth the definition required by subsection (a).”

(b) CLERICAL AMENDMENT.—The table of contents in section 101(b) of the McKinney-Vento Homeless Assistance Act (42 U.S.C. 11301 note) is amended by striking the items relating to sections 432 and 433 and inserting the following new items:

“Sec. 432. Geographic areas.

“Sec. 433. Regulations.

“Sec. 434. Reports to Congress.”

### SEC. 402. INCLUSION OF PUBLIC HOUSING AGENCIES AND LOCAL REDEVELOPMENT AUTHORITIES IN EMERGENCY SOLUTIONS GRANTS.

Section 414(c) of the McKinney-Vento Homeless Assistance Act (42 U.S.C. 11373(c)) is amended—

(1) in the subsection heading, by inserting “, PUBLIC HOUSING AGENCIES, AND LOCAL REDEVELOPMENT AUTHORITIES” after “ORGANIZATIONS”; and

(2) in the first sentence, by inserting before the period at the end the following: “, to public housing agencies (as defined under section 3(b)(6) of the United States Housing Act of 1937), or to local redevelopment authorities (as defined under State law)”.

### SEC. 403. SPECIAL ASSISTANT FOR VETERANS AFFAIRS IN THE DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT.

(a) TRANSFER OF POSITION TO OFFICE OF THE SECRETARY.—Section 4 of the Department of Housing and Urban Development Act (42 U.S.C. 3533) is amended by adding at the end the following new subsection:

“(h) SPECIAL ASSISTANT FOR VETERANS AFFAIRS.—

“(1) POSITION.—There shall be in the Office of the Secretary a Special Assistant for Veterans Affairs, who shall report directly to the Secretary.

“(2) APPOINTMENT.—The Special Assistant for Veterans Affairs shall be appointed based solely on merit and shall be covered under the provisions of title 5, United States Code, governing appointments in the competitive service.

“(3) RESPONSIBILITIES.—The Special Assistant for Veterans Affairs shall be responsible for—

“(A) ensuring veterans have fair access to housing and homeless assistance under each program of the Department providing either such assistance;

“(B) coordinating all programs and activities of the Department relating to veterans;

“(C) serving as a liaison for the Department with the Department of Veterans Affairs, including establishing and maintaining relationships with the Secretary of Veterans Affairs;

“(D) serving as a liaison for the Department, and establishing and maintaining relationships with the United States Interagency Council on Homelessness and officials of State, local, regional, and nongovernmental organizations concerned with veterans;

“(E) providing information and advice regarding—

“(i) sponsoring housing projects for veterans assisted under programs administered by the Department; or

“(ii) assisting veterans in obtaining housing or homeless assistance under programs administered by the Department;

“(F) coordinating with the Secretary of Housing and Urban Development and the Secretary of Veterans Affairs in carrying out section 404 of the Housing Opportunity Through Modernization Act of 2015; and

“(G) carrying out such other duties as may be assigned to the Special Assistant by the Secretary or by law.”

(b) **TRANSFER OF POSITION IN OFFICE OF DEPUTY ASSISTANT SECRETARY FOR SPECIAL NEEDS.**—On the date that the initial Special Assistant for Veterans Affairs is appointed pursuant to section 4(h)(2) of the Department of Housing and Urban Development Act, as added by subsection (a) of this section, the position of Special Assistant for Veterans Programs in the Office of the Deputy Assistant Secretary for Special Needs of the Department of Housing and Urban Development shall be terminated.

**SEC. 404. ANNUAL SUPPLEMENTAL REPORT ON VETERANS HOMELESSNESS.**

(a) **IN GENERAL.**—The Secretary of Housing and Urban Development and the Secretary of Veterans Affairs, in coordination with the United States Interagency Council on Homelessness, shall submit annually to the Committees of the Congress specified in subsection (b), together with the annual reports required by such Secretaries under section 203(c)(1) of the McKinney-Vento Homeless Assistance Act (42 U.S.C. 11313(c)(1)), a supplemental report that includes the following information with respect to the preceding year:

(1) The same information, for such preceding year, that was included with respect to 2010 in the report by the Secretary of Housing and Urban Development and the Secretary of Veterans Affairs entitled “Veterans Homelessness: A Supplemental Report to the 2010 Annual Homeless Assessment Report to Congress”.

(2) Information regarding the activities of the Department of Housing and Urban Development relating to veterans during such preceding year, as follows:

(A) The number of veterans provided assistance under the housing choice voucher program for Veterans Affairs supported housing under section 8(o)(19) of the United States Housing Act of 1937 (42 U.S.C. 1437f(o)(19)), the socioeconomic characteristics of such homeless veterans, and the number, types, and locations of entities contracted under such section to administer the vouchers.

(B) A summary description of the special considerations made for veterans under public housing agency plans submitted pursuant to section 5A of the United States Housing Act of 1937 (42 U.S.C. 1437c–1) and under comprehensive housing affordability strategies submitted pursuant to section 105 of the Cranston-Gonzalez National Affordable Housing Act (42 U.S.C. 12705).

(C) A description of the activities of the Special Assistant for Veterans Affairs of the Department of Housing and Urban Development.

(D) A description of the efforts of the Department of Housing and Urban Development and the other members of the United States Interagency Council on Homelessness to coordinate the delivery of housing and services to veterans.

(E) The cost to the Department of Housing and Urban Development of administering the programs and activities relating to veterans.

(F) Any other information that the Secretary of Housing and Urban Development and the Secretary of Veterans Affairs consider relevant in assessing the programs and activities of the Department of Housing and Urban Development relating to veterans.

(b) **COMMITTEES.**—The Committees of the Congress specified in this subsection are as follows:

- (1) The Committee on Banking, Housing, and Urban Affairs of the Senate.
- (2) The Committee on Veterans’ Affairs of the Senate.
- (3) The Committee on Appropriations of the Senate.
- (4) The Committee on Financial Services of the House of Representatives.
- (5) The Committee on Veterans’ Affairs of the House of Representatives.
- (6) The Committee on Appropriations of the House of Representatives.

## **TITLE V—MISCELLANEOUS**

**SEC. 501. INCLUSION OF DISASTER HOUSING ASSISTANCE PROGRAM IN CERTAIN FRAUD AND ABUSE PREVENTION MEASURES.**

The Disaster Housing Assistance Program administered by the Department of Housing and Urban Development shall be considered a “program of the Department of Housing and Urban Development” under section 904 of the Stewart B. McKinney Homeless Assistance Amendments Act of 1988 (42 U.S.C. 3544) for the purpose of income verifications.

**SEC. 502. ENERGY EFFICIENCY REQUIREMENTS UNDER SELF-HELP HOMEOWNERSHIP OPPORTUNITY PROGRAM.**

Section 11 of the Housing Opportunity Program Extension Act of 1996 (42 U.S.C. 12805 note) is amended by inserting after subsection (f) the following new subsection:

“(g) **ENERGY EFFICIENCY REQUIREMENTS.**—The Secretary may not require any dwelling developed using amounts from a grant made under this section to meet any energy efficiency standards other than the standards applicable at such time pursuant to section 109 of the Cranston-Gonzalez National Affordable Housing Act (42 U.S.C. 12709) to housing specified in subsection (a) of such section.”.

**SEC. 503. DATA EXCHANGE STANDARDIZATION FOR IMPROVED INTEROPERABILITY.**

(a) **DATA EXCHANGE STANDARDIZATION.**—Title I of the United States Housing Act of 1937 (42 U.S.C. 1437 et seq.) is amended by adding at the end the following new section:

**“SEC. 37. DATA EXCHANGE STANDARDS FOR IMPROVED INTEROPERABILITY.**

“(a) **DESIGNATION.**—The Secretary shall, in consultation with an interagency work group established by the Office of Management and Budget, and considering State government perspectives, designate data exchange standards to govern, under this Act—

“(1) necessary categories of information that State agencies operating related programs are required under applicable law to electronically exchange with another State agency; and

“(2) Federal reporting and data exchange required under applicable law.

“(b) **REQUIREMENTS.**—The data exchange standards required by subsection (a) shall, to the maximum extent practicable—

“(1) incorporate a widely accepted, nonproprietary, searchable, computer-readable format, such as the eXtensible Markup Language;

“(2) contain interoperable standards developed and maintained by intergovernmental partnerships, such as the National Information Exchange Model;

“(3) incorporate interoperable standards developed and maintained by Federal entities with authority over contracting and financial assistance;

“(4) be consistent with and implement applicable accounting principles;

“(5) be implemented in a manner that is cost-effective and improves program efficiency and effectiveness; and

“(6) be capable of being continually upgraded as necessary.

“(c) **RULES OF CONSTRUCTION.**—Nothing in this section requires a change to existing data exchange standards for Federal reporting found to be effective and efficient.”.

(b) **APPLICABILITY.**—

(1) **IN GENERAL.**—Not later than 2 years after the date of the enactment of this Act, the Secretary of Housing and Urban Development shall issue a proposed rule to carry out the amendments made by subsection (a).

(2) **REQUIREMENTS.**—The rule shall—

(A) identify federally required data exchanges;

(B) include specification and timing of exchanges to be standardized;

(C) address the factors used in determining whether and when to standardize data exchanges;

(D) specify State implementation options; and

(E) describe future milestones.

## PURPOSE AND SUMMARY

Introduced by Representative Luetkemeyer on October 7, 2015, H.R. 3700, the Housing Opportunity Through Modernization Act of 2015, reforms certain Department of Housing and Urban Development (HUD) and Rural Housing Service programs in order to improve their effectiveness and provide enhanced opportunity for program beneficiaries and the organizations that serve such individuals.

H.R. 3700 enhances the implementation of HUD’s existing Section 8 voucher assistance and Public Housing programs, and also achieves savings by modernizing outdated rules and regulations which in some cases have not been updated in over a generation. Thus, H.R. 3700 streamlines the inspection protocol for rental assistance units, simplifies income review and recertification policies

for all assisted households, modifies Federal Housing Administration (FHA) requirements for mortgage insurance for condominiums, clarifies homeless assistance program requirements, delegates rural housing loan approval authority, and provides limited flexibility between public housing operating and capital funds.

H.R. 3700 gives state and local housing agencies, and private owners, enhanced flexibility in meeting key program objectives such as reducing homelessness, improving access to higher-opportunity neighborhoods, and addressing repair needs in public housing.

In addition, H.R. 3700 reduces the lengthy process for the certification and recertification of condominium buildings, which can cost thousands of dollars for small condominium boards, modifies the process for approving condominium buildings with commercial space, aligns FHA's transfer fee policy to that of the Federal Housing Finance Agency, and changes the current standard owner-occupancy requirement from 50% to 35%.

Collectively, by improving program effectiveness while ensuring that scarce resources are used to support those who are most in need, these and other provisions within H.R. 3700 expand affordable homeownership opportunities for American families.

#### BACKGROUND AND NEED FOR LEGISLATION

For many years, the federal government has provided affordable housing for families of modest means. Federal housing programs trace their roots to programs established in the 1930s through which the federal government helped secure lower rents for low- and middle income tenants. Today, HUD-administered programs rely on housing properties that are owned and managed at the local level by quasi-governmental public housing authorities, which are under contract to the federal government. Given this partnership between the federal government and local housing authorities, federal housing programs are governed in part by federal rules and regulations and in part by local policies.

The federal government subsidizes affordable rental housing through two formula grants—the Public Housing Capital Fund and the Public Housing Operating Fund. These grants supplement rents collected by public housing authorities. Public housing authorities use the grants to meet their operation, maintenance, and capital improvement needs. Families who live in public housing generally pay rent equal to 30 percent of their adjusted gross income. Today, roughly 1.2 million public housing units receive federal funds.

By the early 1970s, construction programs for public housing were increasingly criticized because they took too long to complete and because they were expensive. Policymakers had also become concerned that aging public housing units were beginning to physically deteriorate and that public housing communities might be contributing to social problems, including by perpetuating intergenerational dependence on government assistance, chronic poverty, and crime. In 1989, Congress established a National Commission on Severely Distressed Public Housing (Commission) to identify public housing projects that were in a severe state of distress, assess strategies for improvement, and develop a plan to improve public housing. In 1992, the Commission reported that public hous-

ing residents lived in fear of crime, and that they suffered from high unemployment and limited opportunities for employment, insufficient resources to address the needs of residents, and disincentives to self-sufficiency. The Commission also found that some public housing units had deteriorated to the point that they posed a physical danger to their residents. To address these problems, the Commission recommended that (1) public housing residents be provided with more social services; (2) funding be increased for public housing capital needs; (3) the operational performance of public housing authorities be assessed; and (4) new forms of affordable housing public-private partnerships be explored.

Even prior to the Commission's report, Congress and the Executive Branch examined new ideas for delivering housing subsidies to low-income families. The Housing and Community Development Act of 1974 created the Housing Choice Voucher Program, popularly known as the Section 8 program. The Section 8 program shifted funds from public-housing construction projects to subsidizing rents for low-income families living in privately-owned housing. The Section 8 program was designed to respond to criticisms of earlier housing programs by providing rental subsidies for tenants living in private units and relying less heavily on new construction and housing in concentrated public housing developments.

The Section 8 program provides housing assistance to approximately two million low-income families and individuals each year. Under the Section 8 program, tenants pay approximately 30 percent of their income towards rent; the balance of rent is paid by the federal government. The Section 8 program is itself comprised of two programs: the first provides tenant-based rental assistance and the second provides project-based rental assistance.

Tenant-based rental assistance vouchers are subsidies that low-income families can use to pay part of their rent for private-market housing; because families can move yet still retain their vouchers, the subsidy is portable. By contrast, project-based rental assistance is a subsidy attached to a unit of privately-owned housing that houses low-income tenants; if the family moves, the subsidy remains with the unit of housing. The Section 8 program is administered by more than 3,000 local public housing authorities, which receive payments from the federal government.

Over the past decade, the Section 8 program has consumed an increasingly large part of HUD's budget. In 2002, Section 8 accounted for 46 percent of HUD's annual budget. For fiscal year 2015, the budget authority for the HUD division responsible for administering Section 8—the Office of Public and Indian Housing—was \$26.401 billion, accounting for 58.21 percent of HUD's budget. Within the Office of Public and Indian Housing, 99 percent of the FY 2015 funding was allocated to contract renewals or formula grants, meaning HUD had little flexibility or input regarding how the funds were spent.

Section 8 is consuming a larger part of HUD's budget because more people are participating in the program and new participants have lower incomes than legacy participants. The subsidy provided by the federal government has increased for new Section 8 participants, which has in turn increased Section 8's share of the HUD budget. This ever-increasing consumption of HUD resources by the Section 8 program has concerned both critics and advocates of the

program. Many fear that unless the Section 8 program is reformed, it will soon drain resources from other HUD programs or it will require significant increased funding notwithstanding diminishing program effectiveness.

In addition to reforming the Section 8 program, H.R. 3700 remedies a byzantine condominium building approval process administered by the FHA. The FHA was created by the National Housing Act of 1934 and primarily serves as a federal mortgage insurance program for loans made by banks and other private lenders. H.R. 3700 eases restrictions on the purchase of condominiums using an FHA-insured mortgage, which for some can be a low-cost housing opportunity in place of purchasing a more expensive free-standing home. Specifically, H.R. 3700 updates and clarifies the FHA's condominium approval regulations, which will provide broader and more affordable financing options particularly to low- and moderate income qualified homebuyers.

#### HEARINGS

The Committee on Financial Services' Subcommittee on Housing and Insurance held a hearing examining matters relating to H.R. 3700 on October 21, 2015.

#### COMMITTEE CONSIDERATION

The Committee on Financial Services met in open session on December 8 and 9, 2015, and ordered H.R. 3700 to be reported favorably to the House as amended by a recorded vote of 44 yeas to 10 nays (recorded vote no. FC-76), a quorum being present. An amendment in the nature of a substitute offered by Representative Luetkemeyer was agreed to, as amended as set for the below, by a voice vote.

#### COMMITTEE VOTES

Clause 3(b) of rule XIII of the Rules of the House of Representatives requires the Committee to list the record votes on the motion to report legislation and amendments thereto. An amendment to the amendment in the nature of a substitute offered by Representative Luetkemeyer was agreed to be a recorded vote of 43 yeas—10 nays (FC-74). An amendment to the amendment in the nature of a substitute offered by Representative Waters was not agreed to by a recorded vote of 21 yeas to 32 nays (FC-75). The third and final recorded vote in Committee was a motion by Chairman Hensarling to report the bill favorably to the House as amended. The motion was agreed to by a recorded vote of 44 yeas to 10 nays (Record vote no. FC-76), a quorum being present.

## Record vote no. FC-74

Representative	Yea	Nay	Present	Representative	Yea	Nay	Present
Mr. Hensarling .....	X			Ms. Waters (CA) .....		X	
Mr. King (NY) .....	X			Mrs. Maloney (NY) .....		X	
Mr. Royce .....	X			Ms. Velázquez .....		X	
Mr. Lucas .....	X			Mr. Sherman .....	X		
Mr. Garrett .....	X			Mr. Meeks .....			
Mr. Neugebauer .....	X			Mr. Capuano .....	X		
Mr. McHenry .....				Mr. Hinojosa .....			
Mr. Pearce .....	X			Mr. Clay .....			
Mr. Posey .....	X			Mr. Lynch .....		X	
Mr. Fitzpatrick .....	X			Mr. David Scott (GA) .....		X	
Mr. Westmoreland .....				Mr. Al Green (TX) .....		X	
Mr. Luetkemeyer .....	X			Mr. Cleaver .....	X		
Mr. Huizenga (MI) .....	X			Ms. Moore .....			
Mr. Duffy .....	X			Mr. Ellison .....		X	
Mr. Hurt (VA) .....	X			Mr. Perlmutter .....			
Mr. Stivers .....	X			Mr. Himes .....	X		
Mr. Fincher .....	X			Mr. Carney .....	X		
Mr. Stutzman .....	X			Ms. Sewell (AL) .....	X		
Mr. Mulvaney .....	X			Mr. Foster .....	X		
Mr. Hultgren .....	X			Mr. Kildee .....	X		
Mr. Ross .....	X			Mr. Murphy (FL) .....		X	
Mr. Pittenger .....	X			Mr. Delaney .....		X	
Mrs. Wagner .....	X			Ms. Sinema .....	X		
Mr. Barr .....	X			Mrs. Beatty .....	X		
Mr. Rothfus .....	X			Mr. Heck (WA) .....	X		
Mr. Messer .....	X			Mr. Vargas .....		X	
Mr. Schweikert .....	X						
Mr. Guinta .....	X						
Mr. Tipton .....	X						
Mr. Williams .....	X						
Mr. Poliquin .....	X						
Mrs. Love .....	X						
Mr. Hill .....	X						
Mr. Emmer .....	X						

## Record vote no. FC-75

Representative	Yea	Nay	Present	Representative	Yea	Nay	Present
Mr. Hensarling .....		X		Ms. Waters (CA) .....	X		
Mr. King (NY) .....		X		Mrs. Maloney (NY) .....	X		
Mr. Royce .....		X		Ms. Velázquez .....	X		
Mr. Lucas .....		X		Mr. Sherman .....	X		
Mr. Garrett .....		X		Mr. Meeks .....			
Mr. Neugebauer .....		X		Mr. Capuano .....	X		
Mr. McHenry .....				Mr. Hinojosa .....			
Mr. Pearce .....		X		Mr. Clay .....			
Mr. Posey .....		X		Mr. Lynch .....	X		
Mr. Fitzpatrick .....		X		Mr. David Scott (GA) .....	X		
Mr. Westmoreland .....				Mr. Al Green (TX) .....	X		
Mr. Luetkemeyer .....		X		Mr. Cleaver .....	X		
Mr. Huizenga (MI) .....		X		Ms. Moore .....			
Mr. Duffy .....		X		Mr. Ellison .....	X		
Mr. Hurt (VA) .....		X		Mr. Perlmutter .....			
Mr. Stivers .....		X		Mr. Himes .....	X		
Mr. Fincher .....		X		Mr. Carney .....	X		
Mr. Stutzman .....		X		Ms. Sewell (AL) .....	X		
Mr. Mulvaney .....		X		Mr. Foster .....	X		
Mr. Hultgren .....		X		Mr. Kildee .....	X		
Mr. Ross .....		X		Mr. Murphy (FL) .....	X		
Mr. Pittenger .....		X		Mr. Delaney .....	X		
Mrs. Wagner .....		X		Ms. Sinema .....	X		
Mr. Barr .....		X		Mrs. Beatty .....	X		
Mr. Rothfus .....		X		Mr. Heck (WA) .....	X		
Mr. Messer .....		X		Mr. Vargas .....	X		
Mr. Schweikert .....		X					
Mr. Guinta .....		X					
Mr. Tipton .....		X					
Mr. Williams .....		X					
Mr. Poliquin .....		X					
Mrs. Love .....		X					
Mr. Hill .....		X					
Mr. Emmer .....		X					

## Record vote no. FC-76

Representative	Yea	Nay	Present	Representative	Yea	Nay	Present
Mr. Hensarling .....	X			Ms. Waters (CA) .....		X	
Mr. King (NY) .....	X			Mrs. Maloney (NY) .....	X		
Mr. Royce .....	X			Ms. Velázquez .....		X	
Mr. Lucas .....	X			Mr. Sherman .....	X		
Mr. Garrett .....	X			Mr. Meeks .....	X		
Mr. Neugebauer .....	X			Mr. Capuano .....	X		
Mr. McHenry .....				Mr. Hinojosa .....			
Mr. Pearce .....	X			Mr. Clay .....			
Mr. Posey .....	X			Mr. Lynch .....		X	
Mr. Fitzpatrick .....	X			Mr. David Scott (GA) .....		X	
Mr. Westmoreland .....				Mr. Al Green (TX) .....		X	
Mr. Luetkemeyer .....	X			Mr. Cleaver .....	X		
Mr. Huizenga (MI) .....	X			Ms. Moore .....			
Mr. Duffy .....	X			Mr. Ellison .....		X	
Mr. Hurt (VA) .....	X			Mr. Perlmutter .....			
Mr. Stivers .....	X			Mr. Himes .....	X		
Mr. Fincher .....	X			Mr. Carney .....	X		
Mr. Stutzman .....	X			Ms. Sewell (AL) .....	X		
Mr. Mulvaney .....	X			Mr. Foster .....	X		
Mr. Hultgren .....	X			Mr. Kildee .....		X	
Mr. Ross .....	X			Mr. Murphy (FL) .....		X	
Mr. Pittenger .....	X			Mr. Delaney .....		X	
Mrs. Wagner .....	X			Ms. Sinema .....	X		
Mr. Barr .....	X			Mrs. Beatty .....	X		
Mr. Rothfus .....	X			Mr. Heck (WA) .....	X		
Mr. Messer .....	X			Mr. Vargas .....		X	
Mr. Schweikert .....	X						
Mr. Guinta .....	X						
Mr. Tipton .....	X						
Mr. Williams .....	X						
Mr. Poliquin .....	X						
Mrs. Love .....	X						
Mr. Hill .....	X						
Mr. Emmer .....	X						

## COMMITTEE OVERSIGHT FINDINGS

Pursuant to clause 3(c)(1) of rule XIII of the Rules of the House of Representatives, the findings and recommendations of the committee based on oversight activities under clause 2(b)(1) of rule X of the Rules of the House of Representatives, are incorporated in the descriptive portions of this report.

## PERFORMANCE GOALS AND OBJECTIVES

Pursuant to clause 3(c)(4) of rule XIII of the Rules of the House of Representatives, the Committee states that H.R. 3700 updates HUD and Rural Housing Service rules to in order to increase their effectiveness and better serve program beneficiaries and organizations involved in assisting beneficiaries.

## NEW BUDGET AUTHORITY, ENTITLEMENT AUTHORITY, AND TAX EXPENDITURES

In compliance with clause 3(c)(2) of rule XIII of the Rules of the House of Representatives, the Committee adopts as its own the estimate of new budget authority, entitlement authority, or tax expenditures or revenues contained in the cost estimate prepared by the Director of the Congressional Budget Office pursuant to section 402 of the Congressional Budget Act of 1974.

## COMMITTEE COST ESTIMATE

The Committee adopts as its own the cost estimate prepared by the Director of the Congressional Budget Office pursuant to section 402 of the Congressional Budget Act of 1974.

## CONGRESSIONAL BUDGET OFFICE ESTIMATES

Pursuant to clause 3(c)(3) of rule XIII of the Rules of the House of Representatives, the following is the cost estimate provided by the Congressional Budget Office pursuant to section 402 of the Congressional Budget Act of 1974:

U.S. CONGRESS,  
CONGRESSIONAL BUDGET OFFICE,  
*Washington, DC, January 28, 2015.*

Hon. JEB HENSARLING,  
*Chairman, Committee on Financial Services,  
House of Representatives, Washington, DC.*

DEAR MR. CHAIRMAN: The Congressional Budget Office has prepared the enclosed cost estimate for H.R. 3700, the Housing Opportunity Through Modernization Act of 2015.

If you wish further details on this estimate, we will be pleased to provide them. The CBO staff contact is Elizabeth Cove Delisle.  
Sincerely,

KEITH HALL.

Enclosure.

*H.R. 3700—Housing Opportunity Through Modernization Act of 2015*

Summary: H.R. 3700 would amend the United States Housing Act of 1937 to change certain aspects of the Department of Housing and Urban Development's (HUD's) rental assistance programs. The bill would alter calculations of tenant income and rent; make households that exceed new income and asset limits ineligible for assistance; change requirements for adjusting payment standards; and expand eligibility for the Family Unification Program. The bill also would make changes to Federal Housing Administration (FHA) requirements that affect whether buyers of certain condominiums would be eligible to receive mortgage insurance from the agency.

CBO estimates that implementing this legislation would reduce spending subject to appropriation by \$311 million over the 2017–2021 period, assuming appropriations are consistent with the estimate.

Enacting H.R. 3700 would not affect direct spending or revenues; therefore, pay-as-you-go procedures do not apply. CBO estimates that enacting H.R. 3700 would not increase net direct spending or on-budget deficits in any of the four consecutive 10-year periods beginning in 2026.

H.R. 3700 contains no intergovernmental or private-sector mandates as defined in the Unfunded Mandates Reform Act (UMRA).

Estimated cost to the Federal Government: The estimated budgetary effect of H.R. 3700 is shown in the following table. The costs of this legislation fall within budget functions 370 (housing) and 600 (income security).

	By fiscal year, in millions of dollars—					
	2017	2018	2019	2020	2021	2017–2021
<b>CHANGES IN SPENDING SUBJECT TO APPROPRIATION</b>						
<b>Changes to Allowances:</b>						
<b>Medical Expense Allowance:</b>						
Estimated Authorization Level .....	–144	–201	–211	–223	–236	–1,015
Estimated Outlays .....	–79	–175	–207	–218	–230	–909
<b>Childcare Allowance:</b>						
Estimated Authorization Level .....	–36	–49	–50	–51	–53	–239
Estimated Outlays .....	–20	–43	–49	–51	–52	–215
<b>Elderly and Disabled Allowance:</b>						
Estimated Authorization Level .....	66	88	88	105	105	452
Estimated Outlays .....	36	78	88	97	105	404
<b>Dependent Allowance:</b>						
Estimated Authorization Level .....	34	46	46	71	71	268
Estimated Outlays .....	19	41	46	60	71	237
<b>Eligibility Changes:</b>						
<b>Asset Eligibility</b>						
Estimated Authorization Level .....	10	13	14	14	14	65
Estimated Outlays .....	6	12	14	14	14	59
<b>Income Limit in Public Housing:</b>						
Estimated Authorization Level .....	8	10	11	11	12	52
Estimated Outlays .....	4	9	11	11	11	46
<b>Income Determination Changes:</b>						
<b>Aid and Attendance Exclusion:</b>						
Estimated Authorization Level .....	6	6	6	6	6	30
Estimated Outlays .....	3	6	6	6	6	27
<b>Imputed Return on Assets:</b>						
Estimated Authorization Level .....	2	3	3	3	3	14
Estimated Outlays .....	1	2	3	3	3	12

	By fiscal year, in millions of dollars—					
	2017	2018	2019	2020	2021	2017–2021
<b>Other Housing Assistance Provisions:</b>						
Payment Standard for Rent:						
Estimated Authorization Level .....	24	24	25	26	27	125
Estimated Outlays .....	13	24	25	25	26	113
Expansion of the Family Unification Program:						
Estimated Authorization Level .....	4	6	5	5	6	27
Estimated Outlays .....	2	5	6	5	6	24
Moving Assistance:						
Estimated Authorization Level .....	1	2	2	2	2	8
Estimated Outlays .....	1	1	2	2	2	7
<b>Changes to FHA Insurance Requirements<sup>a</sup></b>						
Additional FHA Offsetting Collections:						
Estimated Authorization Level .....	-25	-23	-21	-20	-18	-107
Estimated Outlays .....	-25	-23	-21	-20	-18	-107
Additional GNMA Offsetting Collections:						
Estimated Authorization Level .....	-2	-2	-2	-2	-2	-10
Estimated Outlays .....	-2	-2	-2	-2	-2	-10
<b>Total Changes:</b>						
Estimated Authorization Level .....	-52	-77	-84	-53	-65	-331
Estimated Outlays .....	-41	-64	-80	-68	-58	-311

Notes: FHA = Federal Housing Administration; GNMA = Government National Mortgage Association. Components may not sum to totals because of rounding.

<sup>a</sup>Using the fair-value approach, CBO estimates that implementing H.R. 3700 would decrease offsetting collections generated by FHA and GNMA by \$117 million over the 2017–2021 period, assuming appropriation actions to allow FHA to increase the amount of mortgage guarantees it provides by an amount sufficient to meet the increased demand for mortgage guarantees under the bill. As shown in the table, using a FCRA approach, CBO estimates that implementing H.R. 3700 would increase offsetting collections generated by FHA and GNMA by \$117 million over the 2017–2021 period.

**Basis of estimate:** For this estimate, CBO assumes that H.R. 3700 will be enacted by the end of fiscal year 2016, spending will follow historical outlay patterns, and future appropriations will be consistent with the bill. The bill would require the changes to income determinations and allowances to take effect at the start of a calendar year; CBO expects that those changes would take effect beginning in January 2017. In cases where the tenant rent contribution would change, CBO assumes that appropriations will be adjusted to reflect the costs of such changes. In addition, CBO assumes that these changes would not affect the funding requirements for about 350,000 public housing or voucher units covered by Moving-to-Work agreements because those public housing authorities (PHA) are funded pursuant to their agreements, rather than the standard administrative formulas.

### *Background*

Almost 5 million households receive assistance through HUD's various rental assistance programs, including the Section 8 Housing Choice Voucher program, public housing, and other project-based subsidy programs. To be eligible for assistance, family income must be below either 50 percent or 80 percent of the area median income, depending on the program. Each program has a minimum percentage of families receiving assistance who must be below 30 percent of the area median income.

Tenants who receive assistance generally pay 30 percent of their adjusted monthly income towards rent. Funding from HUD covers the difference between what the tenant pays and the full rent for the unit (up to certain limits). In the case of public housing, HUD provides PHAs with operating and capital funding that allows them to subsidize rents.

Families participating in HUD's rental assistance programs have their incomes certified when they enter the program and at least annually thereafter in most cases. Current law allows various adjustments to income (called allowances) prior to calculating a family's rent payment. Families may deduct certain child care expenses and elderly and disabled households may deduct any medical expenses that exceed 3 percent of income. In addition, households may deduct \$400 from gross income if they include an elderly or disabled member, and all households may deduct \$480 for each dependent. As a result of these deductions, the average adjusted income is approximately 8 percent lower than the average gross income.

#### *Changes to allowances*

This bill would change how allowances are used to lower income to determine housing assistance; on net, CBO estimates that implementing these provisions would reduce outlays by \$483 million over the 2017–2021 period, assuming appropriation actions consistent with the bill.

**Medical Expense Allowance.** Elderly and disabled families can currently deduct the amount of unreimbursed medical expenses that exceed 3 percent of the family's income. Based on data provided by HUD, CBO estimates that 16 percent of families claim an average allowance of \$1,900 each (for a total of \$1.3 billion). The bill would decrease the amount of medical expenses that can be deducted to the amount that exceeds 10 percent of the family's income. CBO estimates that this change would cut the number of families claiming medical expenses by 40 percent and the total amount claimed by about 45 percent. CBO estimates that implementing that provision would reduce discretionary spending by \$909 million over the 2017–2021 period.

**Child Care Allowance.** Families may deduct any child care expenses necessary to enable a member of the family to be employed or attend school. Section 102 would only allow families to deduct child care expenses that exceed 5 percent of their annual family income. Based on data provided by HUD, CBO estimates that about 4 percent of families (about 160,000) claim child care allowances of about \$3,300 each. CBO estimates that implementing the new child care allowance would reduce outlays by \$215 million over the 2017–2021 period.

**Elderly and Disabled Allowance.** Section 102 would increase the amount that can be deducted by elderly and disabled households from \$400 to \$525, and would inflate that amount each year, rounded down to the nearest multiple of \$25. Based on data provided by HUD, CBO estimates that this deduction is claimed by just over half of households receiving assistance. About 1 percent of families claiming the allowance would not see any additional benefit from the increase because their adjusted incomes are already at zero. CBO estimates that increasing the elderly and disabled allowance would cost \$404 million over the 2017–2021 period.

**Dependent Allowance.** The bill also would increase the amount that can be deducted for dependents from \$480 to \$525, and would inflate that amount each year, rounded down to the nearest multiple of \$25. Based on data provided by HUD, CBO estimates that this allowance is currently claimed for about 3.7 million depend-

ents. About 9 percent of families claiming the allowance would not see any additional benefit from the increase because their adjusted incomes are already at zero. CBO estimates that increasing the dependent allowance would cost \$237 million over the 2017–2021 period.

#### *Eligibility changes*

H.R. 3700 would affect how household income and assets are used to target assistance. On net, CBO estimates that implementing these provisions would increase outlays by \$105 million over the 2017–2021 period, assuming appropriation actions consistent with those provisions.

**Asset Eligibility.** Section 104 would make households with more than \$100,000 in assets ineligible for assistance, but would leave the enforcement of this provision up to the discretion of the PHAs and property owners. Assets in retirement accounts would be not be subject to the asset limit. Based on data provided by HUD, CBO estimates that about 9,000 families would become ineligible for assistance under the bill. Because there is unmet demand for participation in HUD’s rental assistance programs, CBO expects that families made ineligible would be replaced by families on housing authority waiting lists. Replacing those newly ineligible families (who have higher than average incomes) with families with average income would cost the government an additional \$1,500 per family in 2017. CBO estimates that implementing that provision would cost \$59 million over the 2017–2021 period.

**Income Eligibility.** Under current law, families with income over 80 percent of the area median income at their initial certification are not eligible for assistance. Eligibility tests are not done after the initial certification (most incomes are certified each year to determine a tenant’s rent contribution); therefore, a family’s income can rise above 80 percent of the area median and the family can continue to receive assistance. Section 103 would require PHAs to terminate assistance for households in public housing whose income exceeds 120 percent of the median for two consecutive years. Alternatively, the PHA could charge the household the market rent for their unit.

Based on data provided by HUD, CBO estimates that approximately 2,100 households that reside in public housing would lose their subsidy. Because there is unmet demand for participation in HUD’s rental assistance programs, CBO expects that families made ineligible would be replaced by families on waiting lists maintained by housing authorities. Replacing those newly ineligible families with families with average income would cost the government an additional \$4,900 per family in 2017. CBO estimates that implementing that provision would cost \$46 million over the 2017–2021 period.

#### *Income determination changes*

Section 102 would require PHAs and property owners to change the way they calculate income for determining housing assistance. In total, those changes would increase spending subject to appropriation by \$39 million over the 2017–2021 period, assuming appropriation of the necessary amounts.

**Aid and Attendance Exclusion.** Section 102 would exclude federal pensions of veterans who receive Aid and Attendance (A&A) from the calculations of adjusted income. Doing so would reduce affected veterans' rent contributions, thereby increasing the cost of HUD's assistance payments. Based on data from the Government Accountability Office, CBO estimates that about 6 percent of households receiving assistance include a veteran. Based on information from the Department of Veterans Affairs, CBO estimates that less than 1 percent (about 1,600) of those households include a veteran receiving A&A and that those payments average about \$16,000 per year. Excluding those amounts from calculations of adjusted income would lower tenants' rent contributions by about \$6 million per year (once fully phased in). CBO estimates that implementing that provision would cost \$27 million over the 2017–2021 period.

**Imputed Return on Assets.** Under current law, housing authorities and property owners calculate a tenant's imputed rate of return on any assets over \$5,000 by using an interest rate determined by HUD. If the imputed return on assets is greater than actual income from assets, the imputed return is included in the family's income. Section 102 would increase the threshold for calculating imputed returns to \$50,000. Based on data provided by HUD, CBO estimates that about 1 percent of families (about 40,000) have imputed income from assets that would be excluded from their total income under the bill; asset income counted for determining housing assistance would decrease by about \$8 million per year. CBO estimates that excluding the imputed return on assets with a value of less than \$50,000 would cost \$12 million over the 2017–2021 period.

*Other housing assistance provisions*

**Payment Standard for Rent.** Under current law, PHAs generally must set a payment standard that is between 90 and 110 percent of the fair market rent. The standard, in combination with a household's income, determines the amount of the housing assistance payment (HAP) that the PHA pays to the landlord. If the fair market rent in an area decreases, a PHA that has set its payment standard at 110 percent would have to decrease the HAP. Section 107 would allow a PHA to maintain the HAP at the prior year's amount when the fair market rent in an area decreases. Based on data from HUD, CBO estimates that implementing this provision would cost \$113 million over the 2017–2021 period.

**Expansion of the Family Unification Program.** Section 110 would make adults ages 22 to 24 who left foster care after age 16 eligible for Family Unification Program vouchers. Under current law, only adults ages 18 to 21 who left foster care after age 16 are eligible for those vouchers. In 2015, the Congress appropriated about \$6 million for that program. Based on information from HUD, the department of Health and Human Services, and studies on outcomes of adults that were previously in foster care, CBO estimates that the Family Unification Program served about 0.4 percent of eligible adults in 2015. Assuming that the program serves the same proportion of eligible adults ages 22 to 24 and adjusting for anticipated inflation, CBO estimates that implementing that section would cost \$24 million over the 2017–2021 period.

Moving Assistance. Under current law, voucher payments that are withheld because a unit failed inspection are retained by the PHA; HUD's future payments to the PHA are then reduced by the amount withheld. Section 101 would allow PHAs to use voucher payments that are withheld because a unit failed inspection to pay for the relocation costs of the tenant that occupies the unit. Based on data provided by HUD and information provided by PHAs, CBO expects that about 1,000 households would receive assistance to move each year and that PHAs would provide about \$1,500 per household. Thus, CBO estimates that implementing this provision would cost \$7 million over the 2017–2021 period.

*Changes to FHA insurance requirement<sup>1</sup>*

H.R. 3700 would change certain requirements that determine whether buyers of condominiums are eligible for FHA mortgage guarantees. The bill would reduce the amount of units in a condominium complex that must be owner occupied to qualify for an FHA guarantee from 50 percent to 35 percent. The bill also would eliminate a prohibition on providing FHA guarantees for units that are subject to certain fees that are assessed to owners who sell their condominiums.

Based on information provided by FHA and industry representatives, CBO estimates that implementing H.R. 3700 would increase offsetting collections generated by FHA and the Government National Mortgage Association (GNMA) by \$117 million over the 2017–2021 period, assuming appropriation actions to allow FHA to increase the amount of mortgage guarantees it provides by an amount sufficient to meet the increased demand for mortgage guarantees under the bill. That estimate also accounts for uncertainty regarding administrative actions that may be taken by FHA under current law.

Additional FHA Offsetting Collections. CBO estimates that, over the 2017–2021 period, implementing H.R. 3700 would increase offsetting collections for FHA's single-family program by \$214 million. Those additional offsetting receipts would stem from an increase in the volume of FHA loan guarantees. The increase in the volume of guarantees would occur because changes to FHA rules under the bill would allow additional condominium buyers to qualify for FHA guarantees.

CBO estimates that under current law FHA will guarantee about \$1 trillion in new mortgages over the 2017–2021 period. We estimate that, over the same period, enacting H.R. 3700 would increase mortgage guarantees from FHA's single-family program by roughly \$8 billion—an increase of about 0.75 percent. The combination of guarantee fees charged by FHA and estimated defaults and mortgage prepayments over the next five years yields an estimated

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<sup>1</sup>The budgetary effects of guarantees by FHA and the Government National Mortgage Association (GNMA) are classified as discretionary because new guarantees under those programs are subject to annual appropriation actions. Under current law, the budgetary effects of these activities are calculated under the Federal Credit Reform Act (FCRA). As required in S. Con. Res. 11, the Concurrent Resolution on the Budget for Fiscal Year 2016, CBO has also prepared a cost estimate for this section of H.R. 3700 using a fair-value approach to estimating the impact on FHA and GNMA. That alternative is discussed under the heading, "Additional Information."

average subsidy rate for FHA's guarantees of  $-2.7$  percent.<sup>2</sup> Multiplying that subsidy rate by the additional volume of mortgage guarantees expected to be offered by FHA under the bill would result in additional estimated offsetting collections of \$214 million over the 2017–2021 period. Because CBO estimates that there is a 50 percent chance FHA will make similar rule changes under current law, we estimate that new offsetting collections under the bill would total \$107 million over that period.

**Additional GNMA Offsetting Collections.** Through its Mortgage-Backed Securities (MBS) program, GNMA is responsible for guaranteeing securities backed by pools of mortgages that are insured by federal agencies such as FHA. In exchange for a fee paid by lenders or issuers of the securities, GNMA guarantees the timely payment of scheduled principal and interest due on the pooled mortgages that back those securities. Because the value of the fees collected by GNMA is estimated to exceed the cost of loan defaults in each year, CBO estimates that the GNMA MBS program will have an average subsidy rate of  $-0.28$  percent over the 2017–2021 period, resulting in net receipts collections to the federal government.

CBO estimates that each year about 90 percent of the new mortgage loan guarantees made by FHA would be included in GNMA's MBS program. We also estimate that changes in FHA's requirements for loan guarantees on condominiums under the bill would increase FHA's loan-guarantee volume by \$8 billion over the next 5 years. Multiplying 90 percent of that amount by the subsidy rate ( $-0.28$  percent) results in additional offsetting collections by GNMA's MBS program totaling \$20 million over the 2017–2021 period. Because CBO estimates that there is a 50 percent chance that FHA will make similar rule changes under current law, we estimate that implementing the bill would increase offsetting collections from GNMA's MBS program by \$10 million over that period.

**Additional information:** This section provides additional information on the estimated effects of title III of H.R. 3700 on the fair-value costs of the FHA single-family, FHA multifamily, and GNMA programs. CBO is required to provide this information by S. Con. Res. 11. Under current law, the costs of those programs are measured in the budget according to the procedures established in the Federal Credit Reform Act (FCRA).

The fair-value approach is an alternative to the approach specified in FCRA. Both the FCRA approach and the fair-value approach rely on the same projections of future cash flows for the guarantee programs, and both approaches take into account the lifetime cost of the new guarantees made in a given year (including the expected cost of defaults, net of fees collected). The fair-value estimates differ from the FCRA estimates by recognizing that the government's assumption of financial risk has a cost that exceeds the average amount of losses that would be expected from defaults. In practice, the main difference between FCRA estimates and fair-value estimates is the discount rates used to calculate the present value of estimated future guarantee costs and receipts.

<sup>2</sup>A negative subsidy cost for a federal credit program can occur if the net present value of upfront and annual fees charged for a loan guarantee are greater than the estimated cost of a default on that loan.

Using the fair-value approach, CBO estimates that implementing H.R. 3700 would decrease offsetting collections generated by FHA and GNMA by \$117 million over the 2017–2021 period, assuming appropriation actions to allow FHA to increase the amount of mortgage guarantees it provides by an amount sufficient to meet the increased demand for mortgage guarantees under the bill. Using a FCRA approach, CBO estimates that implementing H.R. 3700 would increase offsetting collections generated by FHA and GNMA by \$117 million over the 2017–2021 period.

Pay-As-You-Go considerations: None.

Increase in long term direct spending and deficits: CBO estimates that enacting H.R. 3700 would not increase net direct spending or on-budget deficits in any of the four consecutive 10-year periods beginning in 2026.

Intergovernmental and private-sector impact: H.R. 3700 contains no intergovernmental or private-sector mandates as defined in UMRA. State, local, and tribal governments would benefit from housing assistance activities authorized in the bill. Any costs those governments incur to comply with grant requirements would result from conditions of federal assistance.

Estimate prepared by: Federal costs: Elizabeth Cove Delisle (for public housing) and Jeff LaFave (for FHA); Impact on state, local, and tribal governments: J'nell Blanco Suchy; Impact on the private sector: Amy Petz.

Estimate approved by: H. Samuel Papenfuss, Deputy Assistant Director for Budget Analysis.

#### FEDERAL MANDATES STATEMENT

The Committee adopts as its own the estimate of Federal mandates prepared by the Director of the Congressional Budget Office pursuant to section 423 of the Unfunded Mandates Reform Act.

#### ADVISORY COMMITTEE STATEMENT

No advisory committees within the meaning of section 5(b) of the Federal Advisory Committee Act were created by this legislation.

#### APPLICABILITY TO LEGISLATIVE BRANCH

The Committee finds that the legislation does not relate to the terms and conditions of employment or access to public services or accommodations within the meaning of section 102(b)(3) of the Congressional Accountability Act.

#### EARMARK IDENTIFICATION

H.R. 3700 does not contain any congressional earmarks, limited tax benefits, or limited tariff benefits as defined in clause 9 of rule XXI.

#### DUPLICATION OF FEDERAL PROGRAMS

Pursuant to section 3(g) of H. Res. 5, 114th Cong. (2015), the Committee states that no provision of H.R. 3700 establishes or reauthorizes a program of the Federal Government known to be duplicative of another Federal program, a program that was included in any report from the Government Accountability Office to Con-

gress pursuant to section 21 of Public Law 111–139, or a program related to a program identified in the most recent Catalog of Federal Domestic Assistance.

#### DISCLOSURE OF DIRECTED RULEMAKING

Pursuant to section 3(i) of H. Res. 5, 114th Cong. (2015), the Committee states that H.R. 3700 contains four directed rulemakings.

#### SECTION-BY-SECTION ANALYSIS OF THE LEGISLATION

##### TITLE I—SECTION 8 RENTAL ASSISTANCE AND PUBLIC HOUSING

##### *Section 101. Inspection of dwelling units*

The section requires that a public housing authority (PHA) must conduct an initial inspection prior to any Section 8 voucher housing assistance payment being made to a tenant. If the unit has been inspected within the previous 24 months through an alternative inspection method under a Federal, State, or local housing program (including the HOME and Low-Income Housing Tax Credit programs), the tenant may occupy the unit for an interim period until the PHA determines, through an inspection, that the unit meets the housing quality standards. In the event that the unit does not meet the housing quality standards as a result of non-life-threatening conditions, the tenant may occupy the unit and the unit's owner has 30 days to correct the deficiency.

A PHA can determine that a dwelling unit is in non-compliance if (1) it fails inspection, (2) the PHA notifies the unit's owner of its failure to comply, and (3) the failure to comply is not corrected within 24 hours for a life-threatening condition and within 30 days for a non-life-threatening condition. Further, a PHA may withhold assistance payments during the correction period for life-threatening and non-life-threatening conditions and shall abate all assistance amounts if the owner does not correct the deficiency during the appropriate correction period. The PHA shall recommence housing assistance payments to the owner once the deficiency is corrected.

If a PHA abates assistance payments to the owner of the unit for failure to comply with the housing quality standards, the PHA must (1) notify the tenant that such abatement has commenced and that the tenant will have to move if the dwelling unit is not brought into compliance within 60 days and (2) allow the tenant to move to another unit and transfer the rental assistance to that unit. The owner of the unit may not terminate the tenant's lease if the PHA withholds or abates rental assistance payments. If the PHA abates assistance, the tenant may terminate the lease by notifying the owner.

A PHA shall terminate the housing assistance payments contract for the unit if during the abatement period the owner does not correct the deficiency within 60 days after the determination of non-compliance. Once a contract is terminated, the PHA shall provide the affected tenant at least 90 days to lease a new unit. If the family is unable to lease a new unit, the PHA shall provide the tenant a preference for occupancy in a unit that is owned or operated by the PHA. In addition, the PHA may provide additional assistance

to the tenants in finding a new residence, including payments of security deposits for the new unit and moving expenses. If the PHA determines that any damage to the unit that results in the unit's failure to comply with housing quality standards is due to tenant-caused damages, the PHA does not have to provide relocation assistance to the tenant or exonerate the tenant from liability for such damages.

These provisions would take effect once HUD issues a notice or regulations regarding implementation.

*Section 102. Income reviews*

This section provides that income reviews for assisted families in dwelling units assisted under the U.S. Housing Act of 1937 shall be made upon the initial provision of housing assistance for the family and annually thereafter, unless the family's adjusted annual income or deductions decrease by 10 percent.

In determining family income for initial occupancy, the PHA or owner shall use the income of the family as estimated by the agency or owner for the upcoming year. In determining family income for annual reviews, a PHA or owner shall use the prior year's income but take into consideration any redetermination of income during the prior year. In addition, HUD shall, in consultation with other appropriate agencies, develop procedures to enable PHAs and owners to have access to income determinations for families made by other means-tested Federal programs that have comparable reliability. Also, no later than six months after the bill is enacted, the Secretary shall certify for Congress that the hardship provisions currently in statute for minimum rents are enforced and will continue to provide due consideration to the hardship circumstances of persons receiving housing assistance.

In addition, this section defines "income" with respect to assisted families as income received from all sources by each member of the household who is 18 years or older, plus unearned income by each dependent who is less than 18 years old. Such term for income includes recurring gifts and receipts, actual income from assets, and profit or loss from a business. Excluded amounts for the definition of income are: (1) any imputed return on assets below \$50,000; (2) any amounts that would be eligible for exclusion under section 1613(a)(7) of the Social Security Act; (3) deferred disability benefits of the Department of Veterans Affairs; (4) expenses related to aid and attendance to veterans who are in need of regular aid and attendance; and (5) any exclusions from income as established by HUD. The income definition does not include earned income of any dependent who is attending school or any scholarship amounts related to school attendance. Income shall be determined without regard to any amounts in or from any Coverdell education savings accounts or any qualified tuition program under section 529 of the Internal Revenue Code of 1986. The HUD Secretary may not require a public housing agency or owner to maintain records of any amounts excluded from income.

This section provides the following deductions for the purposes of defining an assisted family's "adjusted income": (1) \$525 for a family that is elderly or disabled; (2) \$525 for each dependent; (3) any amount that exceeds 5 percent of annual family income that is used to pay for unreimbursed child care expenses; and (4) any

amount by which 10 percent of annual family income is exceeded by the sum of unreimbursed health and medical care expenses, unreimbursed attendant care, and auxiliary apparatus expenses. The Secretary of HUD may provide hardship exemptions for impacted families by regulation (such regulations shall include a requirement to notify tenants regarding any changes to the determination of adjusted income) and shall establish procedures to ensure that additional deductions as determined by the PHA does not materially increase Federal expenditures. This section gives the PHA the ability to establish a voucher payment standard of not more than 120 percent of the fair market rent for a person with a disability.

The section also provides conforming amendments for enhanced vouchers and project-based housing. In addition, if the Secretary of HUD determines that the income reviews under this section results in a material and disproportionate reduction in the rental income of certain PHAs, the Secretary may make appropriate adjustments in the formula income for such a reduction. This section requires that HUD submit a report to Congress on the changes made by this provision.

*Section 103. Limitation on public housing tenancy for over-income families*

Under this provision, for any tenant determined to have income in excess of 120 percent of the area median income for two consecutive years, a PHA would be required either to (1) charge the tenant either the greater of the fair market rent or the amount of taxpayer subsidy for the unit, or (2) terminate the tenancy of such tenant not later than 6 months after the tenant has exceeded the income limit for two years, as determined by the PHA. The provision gives the Secretary of HUD the ability to establish income limitations higher or lower than 120 percent of median income for those areas where there are unique local conditions, e.g. high cost or very-low-income rental market areas.

*Section 104. Limitation on eligibility for assistance based on assets*

This section specifies that any dwelling unit assisted under the U.S. Housing Act of 1937 may not be rented and assistance may not be provided to any family whose net family assets exceed \$100,000, as adjusted for inflation, or a family who has a present ownership interest in real property that is suitable for occupancy by the family as a residence. Victims of domestic violence, individuals using housing assistance for homeownership opportunities, or a family that is offering such property for sale are exempt from the limitations in this section.

Net family assets is defined as the net cash value of all assets after deducting reasonable costs that would be incurred in disposing of real property, savings, stocks, bonds, and other forms of capital investment. The term 'net family assets' does not include: (1) the value of personal property; (2) the value of any retirement account; (3) real property for which the family does not have the effective legal authority to sell; (4) any amounts recovered in any civil action or settlement based on a claim of malpractice, negligence that resulted in a family member being disabled; and (5) other exclusions the HUD Secretary may establish.

In the cases in which a trust fund has been established and the trust is not revocable by any member of the family, the value of the trust fund shall not be considered an asset of the family if the fund continues to be held in trust. When recertifying family income with respect to families residing in public housing units, the PHA may choose not to enforce the asset limitation in this provision.

*Section 105. Units owned by public housing agencies*

This provision defines the types of units owned by a PHA to be any dwelling unit that is located in a project that is owned by the PHA, by an entity wholly controlled by the PHA, or by a limited liability company or limited partnership where the PHA holds a controlling interest. Units will not be considered owned by a PHA if the agency only holds an interest in the ground lease, holds a security interest under a mortgage or deed of trust on the unit or holds a non-controlling interest in an entity that owns the unit.

*Section 106. PHA project-based assistance*

This section authorizes a PHA to attach vouchers to an apartment, rather than a tenant, a.k.a. project base voucher (PBV), up to a limit of 20 percent of its authorized voucher allocation. It also enables a PHA to provide up to an additional 10 percent of its authorized vouchers to create units targeting homeless individuals and families, veterans, elderly households or households with persons with disabilities, or units in areas where vouchers are difficult to use due to market conditions. Any units previously subject to federally required rent restrictions or receiving another type of long-term housing subsidy provided by the HUD Secretary shall not count toward the 20 percent limitation.

The section also allows a PHA to provide PBV assistance to properties where the assistance does not exceed 25 percent of the units in a property or 25 units, whichever is greater. These limits would not apply to units that are exclusively made available to elderly families or to households eligible for supportive services. 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 PBV assistance to up to 40 percent of units in a property. The limitations on the share of units in a property that may have project-based assistance would only apply to newly assisted properties. Units of PBV assistance that are attached to units previously subject to federally required rent restrictions or receiving other project-based assistance would be exempted from this cap.

In addition, this section extends the permissible term of PBV contracts from 15 to 20 years, and in the event of insufficient funding would require PHAs to prioritize payments for units subject to a PBV contract if other cost-saving measures are available. The PHA and the owner may add eligible units within the same project to a housing assistance payments contract at any time during the term. In addition, the provision further states that an agency may enter into a housing assistance payments contract with an owner for housing under construction or recently constructed. This section extends 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.

This section 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 HUD section 8 contracts. It also allows owners to request an additional adjustment periodically subject to rent reasonableness.

In addition, the section allows residents to place their names on site-specific waiting lists managed by owners, in addition to the waiting list established by the PHA. It 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.

This section clarifies that PHAs may use 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—for supportive housing and in areas where there is a shortage of suitable rental units.

*Section 107. Establishment of fair market rent*

This provision modifies the public notice requirements for proposed Fair Market Rents (FMRs) by moving the notifications to the HUD-designated website with notice of the availability of the data published in the Federal Register and eliminating publication in the Federal Register. HUD would continue to be required to publish in the Federal Register any proposed substantial methodological changes in advance and allow interested parties to request changes after final FMRs are published. Housing agencies are permitted to request exception payment standards subject to HUD established criteria. This provision also provides that a PHA would not be required to reduce any payment standard for a unit based on the fair market rent determination if the family occupying the unit before the FMR analysis continues to reside in the unit.

*Section 108. Collection of utility data*

This provision requires HUD to collect and publish utility consumption data to assist in establishment of tenant-paid utility allowances by PHAs, provided the data can be collected in a cost effective manner. HUD must also establish guidelines for use of the data in a manner that avoids unnecessary administrative burdens for PHAs.

*Section 109. Public housing Capital and Operating Funds*

This provision permits PHAs to establish a replacement reserve for capital fund activities. At the discretion of the Secretary of HUD, a PHA may hold in the replacement reserve funds originating from additional sources. Further, a PHA may hold, in its replacement reserve, only the amounts necessary to satisfy the anticipated capital needs of properties in its public housing portfolio. By regulation, the Secretary of HUD may establish a maximum reserve level that takes into consideration the size of the PHA's public housing portfolio. In establishing the replacement reserve, the Secretary of HUD may allow the PHA to transfer more than 20

percent of its operating funds into its replacement reserve. This provision also gives PHAs the discretion to use up to 20 percent of their operating funds for eligible capital fund activities, provided that the use is outlined in the PHA's annual plan.

*Section 110. Family Unification Program*

This provision extends the period for which a young adult, recently aging out of foster care, can use a family unification housing voucher from 18 to 36 months and increases the maximum age for an individual using a Family Unification Program (FUP) voucher to 24 years of age. This provision also states that the HUD Secretary shall, beginning 180 days after enactment, issue guidance to improve coordination between PHAs and public child welfare agencies in carrying out FUP. It requires that HUD shall provide guidance on: (1) identifying eligible recipients for assistance; (2) coordinating with other local youth and family homeless assistance providers; (3) implementing housing strategies to assist eligible families and youth; (4) aligning system goals to improve outcomes for families and youth; and (5) identifying resources that are available to eligible families and youth to provide supportive services.

TITLE II—RURAL HOUSING

*Section 201. Delegation of guaranteed rural housing loan approval*

This provision amends Section 502(h) of the Housing Act of 1949 to authorize the Rural Housing Service single family housing guaranteed loan program (GLP) to delegate loan approval authority to preferred lenders, in accordance with standards established by the Secretary of Agriculture.

TITLE III—FHA MORTGAGE INSURANCE FOR CONDOMINIUMS

*Section 301. Modification of FHA requirements for mortgage insurance for condominiums*

This section requires the Secretary of HUD to streamline the FHA's condominium project certification requirements so that recertification is substantially less burdensome than original certifications. More specifically, the Secretary must consider lengthening the time between certification and re-certifications. Also, this provision allows decisions on exemptions to current FHA commercial space requirements to be made at a HUD field office, and requires that any such exemption take into account factors relating to the local economy and specific condominium project. No later than 90 days after the date of enactment, the Secretary of HUD shall issue regulations to implement the commercial space exemption requirements.

In addition, this section states that existing standards of the Federal Housing Finance Agency (FHFA) relating to encumbrances under private transfer fee covenants for Fannie Mae and Freddie Mac shall apply to FHA insured condominium mortgages. If the FHFA changes its existing standards for those private transfer fee covenants after the date of enactment of this provision, the Secretary of HUD shall adopt FHFA's changes.

This section also requires that the Secretary of HUD shall, by rule, notice, or mortgagee letter, issue guidance regarding the percentage of units that must be occupied by the owners in order for

a condominium project to be acceptable to HUD for insurance of a mortgage within such condominium property. If the Secretary of HUD fails to issue guidance before the expiration of the 90 day period, the following provisions shall apply: (1) at least 35 percent of all family units must be occupied by the owners who intend to meet such occupancy requirement, and (2) the Secretary of HUD may increase the 35 percent requirement to a condominium project on a project-by-project or regional basis, provided that in determining such percentage for a project shall consider factors relating to the economy for the locality in which such project is located.

TITLE IV—HOUSING REFORMS FOR THE HOMELESS AND FOR VETERANS

*Section 401. Definition of geographic area for Continuum of Care Program*

This provision requires the Secretary of HUD to define the term “geographic area” for purposes of the Continuum of Care program.

*Section 402. Inclusion of public housing agencies and local redevelopment authorities in emergency solutions grants*

This provision expands the scope of the Emergency Solutions Grants (ESGs) distribution to PHAs and Local Redevelopment Authorities (LRAs) so that any state receiving ESG funds can distribute all or a portion of such assistance to private nonprofits, PHAs or LRAs if the local government for the locality in which the project is located approves the project.

*Section 403. Special assistant for Veterans Affairs in the Department of Housing and Urban Development*

This provision requires HUD to transfer the position of Special Assistant for Veterans Affairs from the HUD Office of the Deputy Assistant Secretary for Special Needs to the Office of the Secretary. There, the Special Assistant would be responsible for ensuring that veterans have fair access to HUD housing and homeless assistance programs, coordinate all HUD programs and activities relating to veterans, and serve as a HUD liaison with the Department of Veterans Affairs.

*Section 404. Annual supplemental report on Veterans homelessness*

This provision requires the Secretaries of HUD and Veterans Affairs, in coordination with the U.S. Interagency Council on Homelessness, to submit annual reports to particular congressional committees regarding: the number of veterans provided assistance by HUD programs, coordination of services for veterans, and cost of administering programs to veterans.

TITLE V—MISCELLANEOUS

*Section 501. Inclusion of Disaster Housing Assistance Program in certain fraud and abuse prevention measures*

This provision requires that all recipients of HUD Disaster Assistance funds meet McKinney-Vento income verification and matching requirements.

*Section 502. Energy efficiency requirement under Self-Help Ownership Opportunity program*

This provision prohibits the Secretary of HUD from requiring that any dwelling in the Self-Help Ownership Opportunity Program (SHOP) be required to meet any energy efficiency standards other than those contained in the Cranston-Gonzalez National Affordable Housing Act.

*Section 503. Data exchange standardization for improved interoperability*

This provision streamlines data exchange standards to improve interoperability between state and federal agencies by requiring the Secretary of HUD to, through consultation, create data exchange standards such that agencies, such as HUD and RHS, are using the same data sets when administering and determining eligibility for its respective means-tested housing programs. The Secretary of HUD must issue a proposed rule within two years after enactment to identify federally-required data exchanges, specify the timing of exchanges to be standardized, address factors used in determining whether and when to standardize data exchanges, specify state implementation options, and outline future milestones.

CHANGES IN EXISTING LAW MADE BY THE BILL, AS REPORTED

In compliance with clause 3(e) of rule XIII of the Rules of the House of Representatives, changes in existing law made by the bill, as reported, are shown as follows (existing law proposed to be omitted is enclosed in black brackets, new matter is printed in italic, and existing law in which no change is proposed is shown in roman):

**UNITED STATES HOUSING ACT OF 1937**

**TITLE I—GENERAL PROGRAM OF ASSISTED HOUSING**

\* \* \* \* \*

RENTAL PAYMENTS; DEFINITIONS

SEC. 3. (a)(1) Dwelling units assisted under this Act shall be rented only to families who are low-income families at the time of their initial occupancy of such units. Reviews of family income shall be made [at least annually] *pursuant to paragraph (6)*. Except as provided in paragraph (2) and subject to the requirement under paragraph (3), a family shall pay as rent for a dwelling unit assisted under this Act (other than a family assisted under section 8(o) or (y) or paying rent under section 8(c)(3)(B)) the highest of the following amounts, rounded to the nearest dollar:

- (A) 30 per centum of the family's monthly adjusted income;
- (B) 10 per centum of the family's monthly income; or
- (C) if the family is receiving payments for welfare assistance from a public agency and a part of such payments, adjusted in accordance with the family's actual housing costs, is specifi-

cally designated by such agency to meet the family's housing costs, the portion of such payments which is so designated.

(2) RENTAL PAYMENTS FOR PUBLIC HOUSING FAMILIES.—

(A) AUTHORITY FOR FAMILY TO SELECT.—

(i) IN GENERAL.— A family residing in a public housing dwelling shall pay as monthly rent for the unit the amount determined under clause (i) or (ii) of subparagraph (B), subject to the requirement under paragraph (3) (relating to minimum rents). Each public housing agency shall provide for each family residing in a public housing dwelling unit owned, assisted, or operated by the agency to elect annually whether the rent paid by such family shall be determined under clause (i) or (ii) of subparagraph (B). A public housing agency may not at any time fail to provide both such rent options for any public housing dwelling unit owned, assisted, or operated by the agency.

(ii) AUTHORITY TO RETAIN FLAT AND CEILING RENTS.— Notwithstanding clause (i) or any other provision of law, any public housing agency that is administering flat rents or ceiling rents pursuant to any authority referred to in section 519(d) of the Quality Housing and Work Responsibility Act of 1998 before the effective day of such Act may continue to charge rent in accordance with such rent provisions after such effective date, except that the agency shall provide for families residing in public housing dwelling units owned or operated by the agency to elect annually whether to pay rent under such provisions or in accordance with one of the rent options referred to in subparagraph (A).

(B) ALLOWABLE RENT STRUCTURES.—

(i) FLAT RENTS.— Each public housing agency shall establish, for each dwelling unit in public housing owned or operated by the agency, a flat rental amount for the dwelling unit, which—

(1) shall not be lower than 80 percent of—

(aa) the applicable fair market rental established under section 8(c) of this Act; or

(bb) at the discretion of the Secretary, such other applicable fair market rental established by the Secretary that the Secretary determines more accurately reflects local market conditions and is based on an applicable market area that is geographically smaller than the applicable market area used for purposes of the applicable fair market rental under section 8(c);

except that a public housing agency may apply to the Secretary for exception allowing for a flat rental amount for a property that is lower than the amount otherwise determined pursuant to item (aa) or (bb) and the Secretary may grant such exception if the Secretary determines that the fair market rental for the applicable market area pursuant to item (aa) or (bb) does not reflect the market value of the property and the proposed lower flat rental amount is based on a market

analysis of the applicable market and complies with subclause (II) and

(II) shall be designed in accordance with subparagraph (D) so that the rent structures do not create a disincentive for continued residency in public housing by families who are attempting to become economically self-sufficient through employment or who have attained a level of self-sufficiency through their own efforts.

If a new flat rental amount for a dwelling unit will increase a family's existing rental payment by more than 35 percent, the new flat rental amount shall be phased in as necessary to ensure that the family's existing rental payment does not increase by more than 35 percent annually. The preceding sentence shall not be construed to require establishment of rental amounts equal to 80 percent of the fair market rental in years when the fair market rental falls from the prior year.

(ii) INCOME-BASED RENTS.—

(I) IN GENERAL.— The monthly rental amount determined under this clause for a family shall be an amount, determined by the public housing agency, that does not exceed the greatest of the amounts (rounded to the nearest dollar) determined under subparagraphs (A), (B), and (C) of paragraph (1). This clause may not be construed to require a public housing agency to charge a monthly rent in the maximum amount permitted under this clause.

(II) DISCRETION.— Subject to the limitation on monthly rental amount under subclause (I), a public housing agency may, in its discretion, implement a rent structure under this clause requiring that a portion of the rent be deposited to an escrow or savings account, imposing ceiling rents, or adopting income exclusions (such as those set forth in section 3(b)(5)(B)), or may establish another reasonable rent structure or amount.

(C) SWITCHING RENT DETERMINATION METHODS BECAUSE OF HARDSHIP CIRCUMSTANCES.— Notwithstanding subparagraph (A), in the case of a family that has elected to pay rent in the amount determined under subparagraph (B)(i), a public housing agency shall immediately provide for the family to pay rent in the amount determined under subparagraph (B)(ii) during the period for which such election was made upon a determination that the family is unable to pay the amount determined under subparagraph (B)(i) because of financial hardship, including—

(i) situations in which the income of the family has decreased because of changed circumstances, loss of reduction of employment, death in the family, and reduction in or loss of income or other assistance;

(ii) an increase, because of changed circumstances, in the family's expenses for medical costs, child care, transportation, education, or similar items; and

(iii) such other situations as may be determined by the agency.

(D) ENCOURAGEMENT OF SELF-SUFFICIENCY.— The rental policy developed by each public housing agency shall encourage and reward employment and economic self-sufficiency.

(E) INCOME REVIEWS.— Notwithstanding the second sentence of paragraph (1), in the case of families that are paying rent in the amount determined under subparagraph (B)(i), the agency shall review the income of such family not less than once every 3 years.

(3) MINIMUM RENTAL AMOUNT.—

(A) REQUIREMENT.— Notwithstanding paragraph (1) of this subsection, the method for rent determination elected pursuant to paragraph (2)(A) of this subsection by a family residing in public housing, section 8(o)(2) of this Act, or section 206(d) of the Housing and Urban-Rural Recovery Act of 1983 (including paragraph (5) of such section), the following entities shall require the following families to pay a minimum monthly rental amount (which amount shall include any amount allowed for utilities) of not more than \$50 per month, as follows:

(i) Each public housing agency shall require the payment of such minimum monthly rental amount, which amount shall be determined by the agency, by—

(I) each family residing in a dwelling unit in public housing by the agency;

(II) each family who is assisted under the certificate or moderate rehabilitation program under section 8; and

(III) each family who is assisted under the voucher program under section 8, and the agency shall reduce the monthly assistance payment on behalf of such family as may be necessary to ensure payment of such minimum monthly rental amount.

(ii) The Secretary shall require each family who is assisted under any other program for rental assistance under section 8 to pay such minimum monthly rental amount, which amount shall be determined by the Secretary.

(B) EXCEPTION FOR HARDSHIP CIRCUMSTANCES.—

(i) IN GENERAL.— Notwithstanding subparagraph (A), a public housing agency (or the Secretary, in the case of a family described in subparagraph (A)(ii)) shall immediately grant an exemption from application of the minimum monthly rental under such subparagraph to any family unable to pay such amount because of financial hardship, which shall include situations in which (I) the family has lost eligibility for or is awaiting an eligibility determination for a Federal, State, or local assistance program, including a family that includes a member who is an alien lawfully admitted for permanent residence under the Immigration and Nationality Act who would be entitled to public benefits but for title IV of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996; (II) the family would be evicted as a result of the imposition of the minimum rent requirement under subparagraph (A); (III) the income of the family has decreased be-

cause of changed circumstance, including loss of employment; (IV) a death in the family has occurred; and (V) other situations as may be determined by the agency (or the Secretary, in the case of a family described in subparagraph (A)(ii)).

(ii) WAITING PERIOD.— If a resident requests a hardship exemption under this subparagraph and the public housing agency (or the Secretary, in the case of a family described in subparagraph (A)(ii)) reasonably determines the hardship to be of a temporary nature, an exemption shall not be granted during the 90-day period beginning upon the making of a request for the exemption. A resident may not be evicted during such 90-day period for nonpayment of rent. In such a case, if the resident thereafter demonstrates that the financial hardship is of a long-term basis, the agency (or the Secretary) shall retroactively exempt the resident from the applicability of the minimum rent requirement for such 90-day period.

(4) OCCUPANCY BY POLICE OFFICERS.—

(A) IN GENERAL.— Subject to subparagraph (B) and notwithstanding any other provision of law, a public housing agency may, in accordance with the public housing agency plan for the agency, allow a police officer who is not otherwise eligible for residence in public housing to reside in a public housing dwelling unit. The number and location of units occupied by police officers under this paragraph and the terms and conditions of their tenancies shall be determined by the public housing agency.

(B) INCREASED SECURITY.— A public housing agency may take the actions authorized in subparagraph (A) only for the purpose of increasing security for the residents of a public housing project.

(C) DEFINITION.— In this paragraph, the term “police officer” means any person determined by a public housing agency to be, during the period of residence of that person in public housing, employed on a full-time basis as a duly licensed professional police officer by a Federal, State, or local government or by any agency thereof (including a public housing agency having an accredited police force).

(5) OCCUPANCY BY OVER-INCOME FAMILIES IN CERTAIN PUBLIC HOUSING.—

(A) AUTHORITY.— Notwithstanding any other provision of law, a public housing agency that owns or operates less than 250 units may, on a month-to-month basis, lease a dwelling unit in a public housing project to an over-income family in accordance with this paragraph, but only if there are no eligible families applying for housing assistance from the public housing agency for that month and the agency provides not less than 30-day public notice of the availability of such assistance.

(B) TERMS AND CONDITIONS.— The number and location of dwelling units of a public housing agency occupied under this paragraph by over-income families, and the terms and conditions of those tenancies, shall be determined by the public housing agency, except that—

(i) notwithstanding paragraph (2), rent for a unit shall be in an amount that is not less than the costs to operate the unit;

(ii) if an eligible family applies for residence after an over-income family moves in to the last available unit, the over-income family shall vacate the unit in accordance with notice of termination of tenancy provided by the agency, which shall be provided not less than 30 days before such termination; and

(iii) if a unit is vacant and there is no one on the waiting list, the public housing agency may allow an over-income family to gain immediate occupancy in the unit, while simultaneously providing reasonable public notice and outreach with regard to availability of the unit.

(C) DEFINITION.— For purposes of this paragraph, the term “over-income family” means an individual or family that is not a low-income family at the time of initial occupancy.

(6) *REVIEWS OF FAMILY INCOME.*—

(A) *FREQUENCY.*— *Reviews of family income for purposes of this section shall be made—*

*(i) in the case of all families, upon the initial provision of housing assistance for the family;*

*(ii) annually thereafter, except as provided in paragraph (1) with respect to fixed-income families;*

*(iii) upon the request of the family, at any time the income or deductions (under subsection (b)(5)) of the family change by an amount that is estimated to result in a decrease of 10 percent (or such lower amount as the Secretary may, by notice, establish, or permit the public housing agency or owner to establish) or more in annual adjusted income; and*

*(iv) at any time the income or deductions (under subsection (b)(5)) of the family change by an amount that is estimated to result in an increase of 10 percent or more in annual adjusted income, or such other amount as the Secretary may by notice establish, except that any increase in the earned income of a family shall not be considered for purposes of this clause (except that earned income may be considered if the increase corresponds to previous decreases under clause (iii)), except that a public housing agency or owner may elect not to conduct such review in the last three months of a certification period.*

(B) *IN GENERAL.*— *Reviews of family income for purposes of this section shall be subject to the provisions of section 904 of the Stewart B. McKinney Homeless Assistance Amendments Act of 1988 (42 U.S.C. 3544).*

(7) *CALCULATION OF INCOME.*—

(A) *USE OF CURRENT YEAR INCOME.*— *In determining family income for initial occupancy or provision of housing assistance pursuant to clause (i) of paragraph (6)(A) or pursuant to reviews pursuant to clause (iii) or (iv) of such paragraph, a public housing agency or owner shall use the*

*income of the family as estimated by the agency or owner for the upcoming year.*

*(B) USE OF PRIOR YEAR INCOME.— In determining family income for annual reviews pursuant to paragraph (6)(A)(ii), a public housing agency or owner shall, except as otherwise provided in this paragraph and paragraph (1), use the income of the family as determined by the agency or owner for the preceding year, taking into consideration any redetermination of income during such prior year pursuant to clause (iii) or (iv) of paragraph (6)(A).*

*(C) OTHER INCOME.— In determining the income for any family based on the prior year's income, with respect to prior year calculations of income not subject to subparagraph (B), a public housing agency or owner may make other adjustments as it considers appropriate to reflect current income.*

*(D) SAFE HARBOR.— A public housing agency or owner may, to the extent such information is available to the public housing agency or owner, determine the family's income prior to the application of any deductions based on timely income determinations made for purposes of other means-tested Federal public assistance programs (including the program for block grants to States for temporary assistance for needy families under part A of title IV of the Social Security Act, a program for Medicaid assistance under a State plan approved under title XIX of the Social Security Act, and the supplemental nutrition assistance program (as such term is defined in section 3 of the Food and Nutrition Act of 2008 (7 U.S.C. 2012))). The Secretary shall, in consultation with other appropriate Federal agencies, develop procedures to enable public housing agencies and owners to have access to such income determinations made by other means-tested Federal programs that the Secretary determines to have comparable reliability. Exchanges of such information shall be subject to the same limitations and tenant protections provided under section 904 of the Stewart B. McKinney Homeless Assistance Act Amendments of 1988 (42 U.S.C. 3544) with respect to information obtained under the requirements of section 303(i) of the Social Security Act (42 U.S.C. 503(i)).*

*(E) PHA AND OWNER COMPLIANCE.— A public housing agency or owner may not be considered to fail to comply with this paragraph or paragraph (6) due solely to any de minimis errors made by the agency or owner in calculating family incomes.*

(b) When used in this Act:

(1) The term “low-income housing” means decent, safe, and sanitary dwellings assisted under this Act. The term “public housing” means low-income housing, and all necessary appurtenances thereto, assisted under this Act other than under section 8. The term “public housing” includes dwelling units in a mixed finance project that are assisted by a public housing agency with capital or operating assistance. When used in reference to public housing, the term “low-income housing project” or “project” means (A) housing

developed, acquired, or assisted by a public housing agency under this Act, and (B) the improvement of any such housing.

(2)(A) The term low-income families means those families whose incomes do not exceed 80 per centum of the median income for the area, as determined by the Secretary with adjustments for smaller and larger families, except that the Secretary may establish income ceilings higher or lower than 80 per centum of the median for the area on the basis of the Secretary's findings that such variations are necessary because of prevailing levels of construction costs or unusually high or low family incomes.

(B) The term very low-income families means low-income families whose incomes do not exceed 50 per centum of the median family income for the area, as determined by the Secretary with adjustments for smaller and larger families, except that the Secretary may establish income ceilings higher or lower than 50 per centum of the median for the area on the basis of the Secretary's findings that such variations are necessary because of unusually high or low family incomes.

(C) The term extremely low-income families means very low-income families whose incomes do not exceed the higher of—

(i) the poverty guidelines updated periodically by the Department of Health and Human Services under the authority of section 673(2) of the Community Services Block Grant Act applicable to a family of the size involved (except that this clause shall not apply in the case of public housing agencies or projects located in Puerto Rico or any other territory or possession of the United States); or

(ii) 30 percent of the median family income for the area, as determined by the Secretary, with adjustments for smaller and larger families (except that the Secretary may establish income ceilings higher or lower than 30 percent of the median for the area on the basis of the Secretary's findings that such variations are necessary because of unusually high or low family incomes).

(D) Such ceilings shall be established in consultation with the Secretary of Agriculture for any rural area, as defined in section 520 of the Housing Act of 1949, taking into account the subsidy characteristics and types of programs to which such ceilings apply. In determining median incomes (of persons, families, or households) for an area or establishing any ceilings or limits based on income under this Act, the Secretary shall determine or establish area median incomes and income ceilings and limits for Westchester and Rockland Counties, in the State of New York, as if each such county were an area not contained within the metropolitan statistical area in which it is located. In determining such area median incomes or establishing such income ceilings or limits for the portion of such metropolitan statistical area that does not include Westchester or Rockland Counties, the Secretary shall determine or establish area median incomes and income ceilings and limits as if such portion included Westchester and Rockland Counties. In determining areas that are designated as difficult development areas for purposes of the low-income housing tax credit, the Secretary shall include Westchester and Rockland Counties, New York, in the New York City metropolitan area.

(3) PERSONS AND FAMILIES.—

(A) SINGLE PERSONS.— The term “families” includes families consisting of a single person in the case of (i) an elderly person, (ii) a disabled person, (iii) a displaced person, (iv) the remaining member of a tenant family, and (v) any other single persons. In no event may any single person under clause (v) of the first sentence be provided a housing unit assisted under this Act of 2 or more bedrooms.

(B) FAMILIES.— The term “families” includes families with children and, in the cases of elderly families, near-elderly families, and disabled families, means families whose heads (or their spouses), or whose sole members, are elderly, near-elderly, or persons with disabilities, respectively. The term includes, in the cases of elderly families, near-elderly families, and disabled families, 2 or more elderly persons, near-elderly persons, or persons with disabilities living together, and 1 or more such persons living with 1 or more persons determined under the public housing agency plan to be essential to their care or well-being.

(C) ABSENCE OF CHILDREN.— The temporary absence of a child from the home due to placement in foster care shall not be considered in determining family composition and family size.

(D) ELDERLY PERSON.— The term “elderly person” means a person who is at least 62 years of age.

(E) PERSON WITH DISABILITIES.— The term “person with disabilities” means a person who—

(i) has a disability as defined in section 223 of the Social Security Act,

(ii) is determined, pursuant to regulations issued by the Secretary, to have a physical, mental, or emotional impairment which (I) is expected to be of long-continued and indefinite duration, (II) substantially impedes his or her ability to live independently, and (III) is of such a nature that such ability could be improved by more suitable housing conditions, or

(iii) has a developmental disability as defined in section 102 of the Developmental Disabilities Assistance and Bill of Rights Act of 2000.

Such term shall not exclude persons who have the disease of acquired immunodeficiency syndrome or any conditions arising from the etiologic agent for acquired immunodeficiency syndrome. Notwithstanding any other provision of law, no individual shall be considered a person with disabilities, for purposes of eligibility for low-income housing under this title, solely on the basis of any drug or alcohol dependence. The Secretary shall consult with other appropriate Federal agencies to implement the preceding sentence.

(F) DISPLACED PERSON.— The term “displaced person” means a person displaced by governmental action, or a person whose dwelling has been extensively damaged or destroyed as a result of a disaster declared or otherwise formally recognized pursuant to Federal disaster relief laws.

(G) NEAR-ELDERLY PERSON.— The term “near-elderly person” means a person who is at least 50 years of age but below the age of 62.

[(4) The term “income” means income from all sources of each member of the household, as determined in accordance with criteria prescribed by the Secretary, in consultation with the Secretary of Agriculture, except that any amounts not actually received by the family and any amounts which would be eligible for exclusion under section 1613(a)(7) of the Social Security Act (42 U.S.C. 1382b(a)(7)) or any deferred Department of Veterans Affairs disability benefits that are received in a lump sum amount or in prospective monthly amounts may not be considered as income under this paragraph.

[(5) ADJUSTED INCOME.—The term “adjusted income” means, with respect to a family, the amount (as determined by the public housing agency) of the income of the members of the family residing in a dwelling unit or the persons on a lease, after any income exclusions as follows:

[(A) MANDATORY EXCLUSIONS.— In determining adjusted income, a public housing agency shall exclude from the annual income of a family the following amounts:

[(i) ELDERLY AND DISABLED FAMILIES.— \$400 for any elderly or disabled family.

[(ii) MEDICAL EXPENSES.— The amount by which 3 percent of the annual family income is exceeded by the sum of—

[(I) unreimbursed medical expenses of any elderly family or disabled family;

[(II) unreimbursed medical expenses of any family that is not covered under subclause (I), except that this subclause shall apply only to the extent approved in appropriation Acts; and

[(III) unreimbursed reasonable attendant care and auxiliary apparatus expenses for each handicapped member of the family, to the extent necessary to enable any member of such family (including such handicapped member) to be employed.

[(iii) CHILD CARE EXPENSES.— Any reasonable child care expenses necessary to enable a member of the family to be employed or to further his or her education.

[(iv) MINORS, STUDENTS, AND PERSONS WITH DISABILITIES.— \$480 for each member of the family residing in the household (other than the head of the household or his or her spouse) who is less than 18 years of age or is attending school or vocational training on a full-time basis, or who is 18 years of age or older and is a person with disabilities.

[(v) CHILD SUPPORT PAYMENTS.— Any payment made by a member of the family for the support and maintenance of any child who does not reside in the household, except that the amount excluded under this clause may not exceed \$480 for each child for whom such payment is made; except that this clause shall apply only to the extent approved in appropriations Acts.

[(vi) SPOUSAL SUPPORT EXPENSES.— Any payment made by a member of the family for the support and maintenance of any spouse or former spouse who does not reside in the household, except that the amount excluded under this clause shall not exceed the lesser of (I) the amount

that such family member has a legal obligation to pay, or (II) \$550 for each individual for whom such payment is made; except that this clause shall apply only to the extent approved in appropriations Acts.

[(vii) EARNED INCOME OF MINORS.— The amount of any earned income of a member of the family who is not—

[(I) 18 years of age or older; and

[(II) the head of the household (or the spouse of the head of the household).

[(B) PERMISSIVE EXCLUSIONS FOR PUBLIC HOUSING.— In determining adjusted income, a public housing agency may, in the discretion of the agency, establish exclusions from the annual income of a family residing in a public housing dwelling unit. Such exclusions may include the following amounts:

[(i) EXCESSIVE TRAVEL EXPENSES.— Excessive travel expenses in an amount not to exceed \$25 per family per week, for employment- or education-related travel.

[(ii) EARNED INCOME.— An amount of any earned income of the family, established at the discretion of the public housing agency, which may be based on—

[(I) all earned income of the family,

[(II) the amount earned by particular members of the family;

[(III) the amount earned by families having certain characteristics; or

[(IV) the amount earned by families or members during certain periods or from certain sources.

[(iii) OTHERS.— Such other amounts for other purposes, as the public housing agency may establish.]

(4) INCOME.— *The term “income” means, with respect to a family, income received from all sources by each member of the household who is 18 years of age or older or is the head of household or spouse of the head of the household, plus unearned income by or on behalf of each dependent who is less than 18 years of age, as determined in accordance with criteria prescribed by the Secretary, in consultation with the Secretary of Agriculture, subject to the following requirements:*

(A) INCLUDED AMOUNTS.— *Such term includes recurring gifts and receipts, actual income from assets, and profit or loss from a business.*

(B) EXCLUDED AMOUNTS.— *Such term does not include—*

(i) *any imputed return on assets, except to the extent that net family assets exceed \$50,000, except that such amount (as it may have been previously adjusted) shall be adjusted for inflation annually by the Secretary in accordance with an inflationary index selected by the Secretary;*

(ii) *any amounts that would be eligible for exclusion under section 1613(a)(7) of the Social Security Act (42 U.S.C. 1382b(a)(7));*

(iii) *deferred disability benefits from the Department of Veterans Affairs that are received in a lump sum amount or in prospective monthly amounts;*

(iv) *any expenses related to aid and attendance under section 1521 of title 38, United States Code, to*

veterans who are in need of regular aid and attendance; and

(v) exclusions from income as established by the Secretary by regulation or notice, or any amount required by Federal law to be excluded from consideration as income.

(C) **EARNED INCOME OF STUDENTS.**— Such term does not include—

(i) earned income, up to an amount as the Secretary may by regulation establish, of any dependent earned during any period that such dependent is attending school or vocational training on a full-time basis; or

(ii) any grant-in-aid or scholarship amounts related to such attendance used—

(I) for the cost of tuition or books; or

(II) in such amounts as the Secretary may allow, for the cost of room and board.

(D) **EDUCATIONAL SAVINGS ACCOUNTS.**— Income shall be determined without regard to any amounts in or from, or any benefits from, any Coverdell education savings account under section 530 of the Internal Revenue Code of 1986 or any qualified tuition program under section 529 of such Code.

(E) **RECORDKEEPING.**— The Secretary may not require a public housing agency or owner to maintain records of any amounts excluded from income pursuant to this subparagraph.

(5) **ADJUSTED INCOME.**— The term “adjusted income” means, with respect to a family, the amount (as determined by the public housing agency or owner) of the income of the members of the family residing in a dwelling unit or the persons on a lease, after any deductions from income as follows:

(A) **ELDERLY AND DISABLED FAMILIES.**— \$525 in the case of any family that is an elderly family or a disabled family.

(B) **DEPENDENTS.**— In the case of any family, \$525 for each member who—

(i) is less than 18 years of age or attending school or vocational training on a full-time basis; or

(ii) is a person who is 18 years of age or older, resides in the household, and is certified as disabled and unable to work by the public housing agency of jurisdiction.

(C) **CHILD CARE.**— The amount, if any, that exceeds 5 percent of annual family income that is used to pay for unreimbursed child care expenses, which shall include child care for preschool-age children, for before- and after-care for children in school, and for other child care necessary to enable a member of the family to be employed or further his or her education.

(D) **HEALTH AND MEDICAL EXPENSES.**— The amount, if any, by which 10 percent of annual family income is exceeded by the sum of—

(i) in the case of any elderly or disabled family, any unreimbursed health and medical care expenses; and

(ii) any unreimbursed reasonable attendant care and auxiliary apparatus expenses for each handicapped member of the family, if determined necessary by the public housing agency or owner to enable any member of such family to be employed.

The Secretary shall, by regulation, provide hardship exemptions to the requirements of this subparagraph and subparagraph (C) for impacted families who demonstrate an inability to pay calculated rents because of financial hardship. Such regulations shall include a requirement to notify tenants regarding any changes to the determination of adjusted income pursuant to such subparagraphs based on the determination of the family's claim of financial hardship exemptions required by the preceding sentence. Such regulations shall be promulgated in consultation with tenant organizations, industry participants, and the Secretary of Health and Human Services, with an adequate comment period provided for interested parties.

(E) PERMISSIVE DEDUCTIONS.— Such additional deductions as a public housing agency may, at its discretion, establish, except that the Secretary shall establish procedures to ensure that such deductions do not materially increase Federal expenditures.

The Secretary shall annually calculate the amounts of the deductions under subparagraphs (A) and (B), as such amounts may have been previously calculated, by applying an inflationary factor as the Secretary shall, by regulation, establish, except that the actual deduction determined for each year shall be established by rounding such amount to the next lowest multiple of \$25.

(6) PUBLIC HOUSING AGENCY.—

(A) IN GENERAL.— Except as provided in subparagraph (B), the term “public housing agency” means any State, county, municipality, or other governmental entity or public body (or agency or instrumentality thereof) which is authorized to engage in or assist in the development or operation of public housing, or a consortium of such entities or bodies as approved by the Secretary.

(B) SECTION 8 PROGRAM.— For purposes of the program for tenant-based assistance under section 8, such term includes—

(i) a consortia of public housing agencies that the Secretary determines has the capacity and capability to administer a program for assistance under such section in an efficient manner;

(ii) any other public or private nonprofit entity that, upon the effective date under section 503(a) of the Quality Housing and Work Responsibility Act of 1998, was administering any program for tenant-based assistance under section 8 of this Act (as in effect before the effective date of such Act), pursuant to a contract with the Secretary or a public housing agency; and

(iii) with respect to any area in which no public housing agency has been organized or where the Secretary determines that a public housing agency is unwilling or unable

to implement a program for tenant-based assistance section 8, or is not performing effectively—

(I) the Secretary or another public or private non-profit entity that by contract agrees to receive assistance amounts under section 8 and enter into housing assistance payments contracts with owners and perform the other functions of public housing agency under section 8; or

(II) notwithstanding any provision of State or local law, a public housing agency for another area that contracts with the Secretary to administer a program for housing assistance under section 8, without regard to any otherwise applicable limitations on its area of operation.

(7) The term “State” includes the several States, the District of Columbia, the Commonwealth of Puerto Rico, the territories and possessions of the United States, and the Trust Territory of the Pacific Islands.

(8) The term “Secretary” means the Secretary of Housing and Urban Development.

(9) DRUG-RELATED CRIMINAL ACTIVITY.—The term “drug-related criminal activity” means the illegal manufacture, sale, distribution, use, or possession with intent to manufacture, sell, distribute, or use, of a controlled substance (as such term is defined in section 102 of the Controlled Substances Act).

(10) MIXED-FINANCE PROJECT.—The term “mixed-finance project” means a public housing project that meets the requirements of section 35.

(11) PUBLIC HOUSING AGENCY PLAN.—The term “public housing agency plan” means the plan of a public housing agency prepared in accordance with section 5A.

(12) CAPITAL FUND.—The term “Capital Fund” means the fund established under section 9(d).

(13) OPERATING FUND.—The term “Operating Fund” mean the fund established under section 9(e).

(c) When used in reference to public housing:

(1) The term “development” means any or all undertakings necessary for planning, land acquisition, demolition, construction, or equipment, in connection with a low-income housing project. The term “development cost” comprises the costs incurred by a public housing agency in such undertakings and their necessary financing (including the payment of carrying charges), and in otherwise carrying out the development of such project, but does not include the costs associated with the demolition of or remediation of environmental hazards associated with public housing units that will not be replaced on the project site, or other extraordinary site costs as determined by the Secretary. Construction activity in connection with a low-income housing project may be confined to the reconstruction, remodeling, or repair of existing buildings.

(2) The term “operation” means any or all undertakings appropriate for management, operation, services, maintenance, security (including the cost of security personnel), or financing in connection with a low-income housing project. The term also means the financing of tenant programs and services for families residing in low-income housing projects, particularly where there is maximum fea-

sible participation of the tenants in the development and operation of such tenant programs and services. As used in this paragraph, the term “tenant programs and services” includes the development and maintenance of tenant organizations which participate in the management of low-income housing projects; the training of tenants to manage and operate such projects and the utilization of their services in project management and operation; counseling on household management, housekeeping, budgeting, money management, child care, and similar matters; advice as to resources for job training and placement, education, welfare, health, and other community services; services which are directly related to meeting tenant needs and providing a wholesome living environment; and referral to appropriate agencies in the community when necessary for the provision of such services. To the maximum extent available and appropriate, existing public and private agencies in the community shall be used for the provision of such services.

(3) The term “acquisition cost” means the amount prudently required to be expended by a public housing agency in acquiring property for a low-income housing project.

**[(d) DISALLOWANCE OF EARNED INCOME FROM RENT DETERMINATIONS.—**

**[(1) IN GENERAL.—** Notwithstanding any other provision of law, the rent payable under subsection (a) by a family described in paragraph (3) of this subsection may not be increased as a result of the increased income due to such employment during the 12-month period beginning on the date on which the employment is commenced.

**[(2) PHASE-IN OF RENT INCREASES.—** Upon the expiration of the 12-month period referred to in paragraph (1), the rent payable by a family described in paragraph (3) may be increased due to the continued employment of the family member described in paragraph (3)(B), except that during the 12-month period beginning upon such expiration the amount of the increase may not be greater than 50 percent of the amount of the total rent increase that would be applicable but for this paragraph.

**[(3) ELIGIBLE FAMILIES.—** A family described in this paragraph is a family—

**[(A) that—**

**[(i) occupies a dwelling unit in a public housing project; or**

**[(ii) receives assistance under section 8; and**

**[(B)(i) whose income increases as a result of employment of a member of the family who was previously unemployed for 1 or more years;**

**[(ii) whose earned income increases during the participation of a family member in any family self-sufficiency or other job training program; or**

**[(iii) who is or was, within 6 months, assisted under any State program for temporary assistance for needy families funded under part A of title IV of the Social Security Act and whose earned income increases.**

**[(4) APPLICABILITY.—** This subsection and subsection (e) shall apply beginning upon October 1, 1999, except that this subsection and subsection (e) shall apply with respect to any

family described in paragraph 3(A)(ii) only to the extent provided in advance in appropriations Acts.

**[(e) INDIVIDUAL SAVINGS ACCOUNTS.—**

**[(1) IN GENERAL.—** In lieu of a disallowance of earned income under subsection (d), upon the request of a family that qualifies under subsection (d), a public housing agency may establish an individual savings account in accordance with this subsection for that family.

**[(2) DEPOSITS TO ACCOUNT.—** The public housing agency shall deposit in any savings account established under this subsection an amount equal to the total amount that otherwise would be applied to the family's rent payment under subsection (a) as a result of employment.

**[(3) WITHDRAWAL FROM ACCOUNT.—** Amounts deposited in a savings account established under this subsection may only be withdrawn by the family for the purpose of—

**[(A) purchasing a home;**

**[(B) paying education costs of family members;**

**[(C) moving out of public or assisted housing; or**

**[(D) paying any other expense authorized by the public housing agency for the purpose of promoting the economic self-sufficiency of residents of public and assisted housing.]**

**[(f)] (d) AVAILABILITY OF INCOME MATCHING INFORMATION.—**

**(1) DISCLOSURE TO PHA.—** A public housing agency, or the owner responsible for determining the participant's eligibility or level of benefits, shall require any family described in paragraph (2) who receives information regarding income, earnings, wages, or unemployment compensation from the Department of Housing and Urban Development pursuant to income verification procedures of the Department to disclose such information, upon receipt of the information, to the public housing agency that owns or operates the public housing dwelling unit in which such family resides or that provides the housing assistance under this Act on behalf of such family, as applicable, or to the owner responsible for determining the participant's eligibility or level of benefits.

**(2) FAMILIES COVERED.—** A family described in this paragraph is a family that resides in a dwelling unit—

**(A) that is a public housing dwelling unit;**

**(B) for which tenant-based assistance is provided under section 8, or**

**(C) for which project-based assistance is provided under section 8, section 202, or section 811.**

\* \* \* \* \*

LOWER INCOME HOUSING ASSISTANCE

**SEC. 8. (a)** For the purpose of aiding lower-income families in obtaining a decent place to live and of promoting economically mixed housing, assistance payments may be made with respect to existing housing in accordance with the provisions of this section.

**(b) OTHER EXISTING HOUSING PROGRAMS.—(1) IN GENERAL.—** The Secretary is authorized to enter into annual contributions contracts with public housing agencies pursuant to which such agencies may

enter into contracts to make assistance payments to owners of existing dwelling units in accordance with this section. In areas where no public housing agency has been organized or where the Secretary determines that a public housing agency is unable to implement the provisions of this section, the Secretary is authorized to enter into such contracts and to perform the other functions assigned to a public housing agency by this section.

(2) The Secretary is authorized to enter into annual contributions contracts with public housing agencies for the purpose of replacing public housing transferred in accordance with title III of this Act. Each contract entered into under this subsection shall be for a term of not more than 60 months.

(c)(1) (A) An assistance contract entered into pursuant to this section shall establish the maximum monthly rent (including utilities and all maintenance and management charges) which the owner is entitled to receive for each dwelling unit with respect to which such assistance payments are to be made. The maximum monthly rent shall not exceed by more than 10 per centum the fair market rental established by the Secretary periodically but not less than annually for existing or newly constructed rental dwelling units of various sizes and types in the market area suitable for occupancy by persons assisted under this section, except that the maximum monthly rent may exceed the fair market rental (A) by more than 10 but not more than 20 per centum where the Secretary determines that special circumstances warrant such higher maximum rent or that such higher rent is necessary to the implementation of a housing strategy as defined in section 105 of the Cranston-Gonzalez National Affordable Housing Act, or (B) by such higher amount as may be requested by a tenant and approved by the public housing agency in accordance with paragraph (3)(B). In the case of newly constructed and substantially rehabilitated units, the exception in the preceding sentence shall not apply to more than 20 per centum of the total amount of authority to enter into annual contributions contracts for such units which is allocated to an area and obligated with respect to any fiscal year beginning on or after October 1, 1980. [Proposed fair market rentals for an area shall be published in the Federal Register with reasonable time for public comment, and shall become effective upon the date of publication in final form in the Federal Register.] Each fair market rental in effect under this subsection shall be adjusted to be effective on October 1 of each year to reflect changes, based on the most recent available data trended so the rentals will be current for the year to which they apply, of rents for existing or newly constructed rental dwelling units, as the case may be, of various sizes and types in the market area suitable for occupancy by persons assisted under this section. Notwithstanding any other provision of this section, after the date of enactment of the Housing and Community Development Act of 1977, the Secretary shall prohibit high-rise elevator projects for families with children unless there is no practical alternative. [The Secretary shall establish separate fair market rentals under this paragraph for Westchester County in the State of New York.] [The Secretary shall also establish separate fair market rentals under this paragraph for Monroe County in the Commonwealth of Pennsylvania. In establishing fair market rentals for the remaining portion of the market area in which Monroe

County is located, the Secretary shall establish the fair market rentals as if such portion included Monroe County.】 If units assisted under this section are exempt from local rent control while they are so assisted or otherwise, the maximum monthly rent for such units shall be reasonable in comparison with other units in the market area that are exempt from local rent control.

*(B) Fair market rentals for an area shall be published not less than annually by the Secretary on the site of the Department on the World Wide Web and in any other manner specified by the Secretary. Notice that such fair market rentals are being published shall be published in the Federal Register, and such fair market rentals shall become effective no earlier than 30 days after the date of such publication. The Secretary shall establish a procedure for public housing agencies and other interested parties to comment on such fair market rentals and to request, within a time specified by the Secretary, reevaluation of the fair market rentals in a jurisdiction before such rentals become effective. The Secretary shall cause to be published for comment in the Federal Register notices of proposed material changes in the methodology for estimating fair market rentals and notices specifying the final decisions regarding such proposed substantial methodological changes and responses to public comments.*

(2)(A) The assistance contract shall provide for adjustment annually or more frequently in the maximum monthly rents for units covered by the contract to reflect changes in the fair market rentals established in the housing area for similar types and sizes of dwelling units or, if the Secretary determines, on the basis of a reasonable formula. However, where the maximum monthly rent, for a unit in a new construction, substantial rehabilitation, or moderate rehabilitation project, to be adjusted using an annual adjustment factor exceeds the fair market rental for an existing dwelling unit in the market area, the Secretary shall adjust the rent only to the extent that the owner demonstrates that the adjusted rent would not exceed the rent for an unassisted unit of similar quality, type, and age in the same market area, as determined by the Secretary. The immediately foregoing sentence shall be effective only during fiscal year 1995, fiscal year 1996 prior to April 26, 1996, and fiscal years 1997 and 1998, and during fiscal year 1999 and thereafter. Except for assistance under the certificate program, for any unit occupied by the same family at the time of the last annual rental adjustment, where the assistance contract provides for the adjustment of the maximum monthly rent by applying an annual adjustment factor and where the rent for a unit is otherwise eligible for an adjustment based on the full amount of the factor, 0.01 shall be subtracted from the amount of the factor, except that the factor shall not be reduced to less than 1.0. In the case of assistance under the certificate program, 0.01 shall be subtracted from the amount of the annual adjustment factor (except that the factor shall not be reduced to less than 1.0), and the adjusted rent shall not exceed the rent for a comparable unassisted unit of similar quality, type, and age in the market area. The immediately foregoing two sentences shall be effective only during fiscal year 1995, fiscal year 1996 prior to April 26, 1996, and fiscal years 1997 and 1998, and during fiscal year 1999 and thereafter. In establishing annual adjustment factors for units in new construction and sub-

stantial rehabilitation projects, the Secretary shall take into account the fact that debt service is a fixed expense. The immediately foregoing sentence shall be effective only during fiscal year 1998.

(B) The contract shall further provide for the Secretary to make additional adjustments in the maximum monthly rent for units under contract to the extent he determines such adjustments are necessary to reflect increases in the actual and necessary expenses of owning and maintaining the units which have resulted from substantial general increases in real property taxes, utility rates, or similar costs which are not adequately compensated for by the adjustment in the maximum monthly rent authorized by subparagraph (A). The Secretary shall make additional adjustments in the maximum monthly rent for units under contract (subject to the availability of appropriations for contract amendments) to the extent the Secretary determines such adjustments are necessary to reflect increases in the actual and necessary expenses of owning and maintaining the units that have resulted from the expiration of a real property tax exemption. Where the Secretary determines that a project assisted under this section is located in a community where drug-related criminal activity is generally prevalent and the project's operating, maintenance, and capital repair expenses have been substantially increased primarily as a result of the prevalence of such drug-related activity, the Secretary may (at the discretion of the Secretary and subject to the availability of appropriations for contract amendments for this purpose), on a project by project basis, provide adjustments to the maximum monthly rents, to a level no greater than 120 percent of the project rents, to cover the costs of maintenance, security, capital repairs, and reserves required for the owner to carry out a strategy acceptable to the Secretary for addressing the problem of drug-related criminal activity. Any rent comparability standard required under this paragraph may be waived by the Secretary to so implement the preceding sentence. The Secretary may (at the discretion of the Secretary and subject to the availability of appropriations for contract amendments), on a project by project basis for projects receiving project-based assistance, provide adjustments to the maximum monthly rents to cover the costs of evaluating and reducing lead-based paint hazards, as defined in section 1004 of the Residential Lead-Based Paint Hazard Reduction Act of 1992.

(C) Adjustments in the maximum rents under subparagraphs (A) and (B) shall not result in material differences between the rents charged for assisted units and unassisted units of similar quality, type, and age in the same market area, as determined by the Secretary. In implementing the limitation established under the preceding sentence, the Secretary shall establish regulations for conducting comparability studies for projects where the Secretary has reason to believe that the application of the formula adjustments under subparagraph (A) would result in such material differences. The Secretary shall conduct such studies upon the request of any owner of any project, or as the Secretary determines to be appropriate by establishing, to the extent practicable, a modified annual adjustment factor for such market area, as the Secretary shall designate, that is geographically smaller than the applicable housing area used for the establishment of the annual adjustment factor under subparagraph (A). The Secretary shall establish such modi-

fied annual adjustment factor on the basis of the results of a study conducted by the Secretary of the rents charged, and any change in such rents over the previous year, for assisted units and unassisted units of similar quality, type, and age in the smaller market area. Where the Secretary determines that such modified annual adjustment factor cannot be established or that such factor when applied to a particular project would result in material differences between the rents charged for assisted units and unassisted units of similar quality, type, and age in the same market area, the Secretary may apply an alternative methodology for conducting comparability studies in order to establish rents that are not materially different from rents charged for comparable unassisted units. If the Secretary or appropriate State agency does not complete and submit to the project owner a comparability study not later than 60 days before the anniversary date of the assistance contract under this section, the automatic annual adjustment factor shall be applied. The Secretary may not reduce the contract rents in effect on or after April 15, 1987, for newly constructed, substantially rehabilitated, or moderately rehabilitated projects assisted under this section (including projects assisted under this section as in effect prior to November 30, 1983), unless the project has been refinanced in a manner that reduces the periodic payments of the owner. Any maximum monthly rent that has been reduced by the Secretary after April 14, 1987, and prior to the enactment of this sentence shall be restored to the maximum monthly rent in effect on April 15, 1987. For any project which has had its maximum monthly rents reduced after April 14, 1987, the Secretary shall make assistance payments (from amounts reserved for the original contract) to the owner of such project in an amount equal to the difference between the maximum monthly rents in effect on April 15, 1987, and the reduced maximum monthly rents, multiplied by the number of months that the reduced maximum monthly rents were in effect.

(3) The amount of the monthly assistance payment with respect to any dwelling unit shall be the difference between the maximum monthly rent which the contract provides that the owner is to receive for the unit and the rent the family is required to pay under section 3(a) of this Act. **[Reviews of family income shall be made no less frequently than annually.]**

(4) The assistance contract shall provide that assistance payments may be made only with respect to a dwelling unit under lease for occupancy by a family determined to be a lower income family at the time it initially occupied such dwelling unit, except that such payments may be made with respect to unoccupied units for a period not exceeding sixty days (A) in the event that a family vacates a dwelling unit before the expiration date of the lease for occupancy or (B) where a good faith effort is being made to fill an unoccupied unit, and, subject to the provisions of the following sentence, such payments may be made, in the case of a newly constructed or substantially rehabilitated project, after such sixty-day period in an amount equal to the debt service attributable to such an unoccupied dwelling unit for a period not to exceed one year, if a good faith effort is being made to fill the unit and the unit provides decent, safe, and sanitary housing. No such payment may be made after such sixty-day period if the Secretary determines that the dwelling unit is in a project which provides the owner with rev-

enues exceeding the costs incurred by such owner with respect to such project.

(5) The Secretary shall take such steps as may be necessary, including the making of contracts for assistance payments in amounts in excess of the amounts required at the time of the initial renting of dwelling units, the reservation of annual contributions authority for the purpose of amending housing assistance contracts, or the allocation of a portion of new authorizations for the purpose of amending housing assistance contracts, to assure that assistance payments are increased on a timely basis to cover increases in maximum monthly rents or decreases in family incomes.

(8)(A) Not less than one year before termination of any contract under which assistance payments are received under this section, other than a contract for tenant-based assistance under this section, an owner shall provide written notice to the Secretary and the tenants involved of the proposed termination. The notice shall also include a statement that, if the Congress makes funds available, the owner and the Secretary may agree to a renewal of the contract, thus avoiding termination, and that in the event of termination the Department of Housing and Urban Development will provide tenant-based rental assistance to all eligible residents, enabling them to choose the place they wish to rent, which is likely to include the dwelling unit in which they currently reside. Any contract covered by this paragraph that is renewed may be renewed for a period of up to 1 year or any number or years, with payments subject to the availability of appropriations for any year.

(B) In the event the owner does not provide the notice required, the owner may not evict the tenants or increase the tenants' rent payment until such time as the owner has provided the notice and 1 year has elapsed. The Secretary may allow the owner to renew the terminating contract for a period of time sufficient to give tenants 1 year of advance notice under such terms and conditions as the Secretary may require.

(C) Any notice under this paragraph shall also comply with any additional requirements established by the Secretary.

(D) For purposes of this paragraph, the term "termination" means the expiration of the assistance contract or an owner's refusal to renew the assistance contract, and such term shall include termination of the contract for business reasons.

(d)(1) Contracts to make assistance payments entered into by a public housing agency with an owner of existing housing units shall provide (with respect to any unit) that—

(A) the selection of tenants shall be the function of the owner, subject to the annual contributions contract between the Secretary and the agency, except that with respect to the certificate and moderate rehabilitation programs only, for the purpose of selecting families to be assisted, the public housing agency may establish local preferences, consistent with the public housing agency plan submitted under section 5A (42 U.S.C. 1437c-1) by the public housing agency;

(B)(i) the lease between the tenant and the owner shall be for at least one year or the term of such contract, whichever is shorter, and shall contain other terms and conditions specified by the Secretary;

(ii) during the term of the lease, the owner shall not terminate the tenancy except for serious or repeated violation of the terms and conditions of the lease, for violation of applicable Federal, State, or local law, or for other good cause;

(iii) during the term of the lease, any criminal activity that threatens the health, safety, or right to peaceful enjoyment of the premises by other tenants, any criminal activity that threatens the health, safety, or right to peaceful enjoyment of their residences by persons residing in the immediate vicinity of the premises, or any drug-related criminal activity on or near such premises, engaged in by a tenant of any unit, any member of the tenant's household, or any guest or other person under the tenant's control, shall be cause for termination of tenancy;

(iv) any termination of tenancy shall be preceded by the owner's provision of written notice to the tenant specifying the grounds for such action; and

(v) it shall be cause for termination of the tenancy of a tenant if such tenant—

(I) is fleeing to avoid prosecution, or custody or confinement after conviction, under the laws of the place from which the individual flees, for a crime, or attempt to commit a crime, which is a felony under the laws of the place from which the individual flees, or which, in the case of the State of New Jersey, is a high misdemeanor under the laws of such State; or

(II) is violating a condition of probation or parole imposed under Federal or State law;

(C) maintenance and replacement (including redecoration) shall be in accordance with the standard practice for the building concerned as established by the owner and agreed to by the agency; and

(D) the agency and the owner shall carry out such other appropriate terms and conditions as may be mutually agreed to by them.

(2)(A) Each contract for an existing structure entered into under this section shall be for a term of not less than one month nor more than one hundred and eighty months. The Secretary shall permit public housing agencies to enter into contracts for assistance payments of less than 12 months duration in order to avoid disruption in assistance to eligible families if the annual contributions contract is within 1 year of its expiration date.

(B)(i) In determining the amount of assistance provided under an assistance contract for project-based assistance under this paragraph or a contract for assistance for housing constructed or substantially rehabilitated pursuant to assistance provided under section 8(b)(2) of this Act (as such section existed immediately before October 1, 1983), the Secretary may consider and annually adjust, with respect to such project, for the cost of employing or otherwise retaining the services of one or more service coordinators under section 661 of the Housing and Community Development Act of 1992 to coordinate the provision of any services within the project for residents of the project who are elderly or disabled families.

(ii) The budget authority available under section 5(c) for assistance under this section is authorized to be increased by

\$15,000,000 on or after October 1, 1992, and by \$15,000,000 on or after October 1, 1993. Amounts made available under this subparagraph shall be used to provide additional amounts under annual contributions contracts for assistance under this section which shall be made available through assistance contracts only for the purpose of providing service coordinators under clause (i) for projects receiving project-based assistance under this paragraph and to provide additional amounts under contracts for assistance for projects constructed or substantially rehabilitated pursuant to assistance provided under section 8(b)(2) of this Act (as such section existed immediately before October 1, 1983) only for such purpose.

(C) An assistance contract for project-based assistance under this paragraph shall provide that the owner shall ensure and maintain compliance with subtitle C of title VI of the Housing and Community Development Act of 1992 and any regulations issued under such subtitle.

(D) An owner of a covered section 8 housing project (as such term is defined in section 659 of the Housing and Community Development Act of 1992) may give preference for occupancy of dwelling units in the project, and reserve units for occupancy, in accordance with subtitle D of title VI of the Housing and Community Development Act of 1992.

(3) Notwithstanding any other provision of law, with the approval of the Secretary the public housing agency administering a contract under this section with respect to existing housing units may exercise all management and maintenance responsibilities with respect to those units pursuant to a contract between such agency and the owner of such units.

(4) A public housing agency that serves more than one unit of general local government may, at the discretion of the agency, in allocating assistance under this section, give priority to disabled families that are not elderly families.

(5) CALCULATION OF LIMIT.— Any contract entered into under section 514 of the Multifamily Assisted Housing Reform and Affordability Act of 1997 shall be excluded in computing the limit on project-based assistance under this subsection.

(6) TREATMENT OF COMMON AREAS.— The Secretary may not provide any assistance amounts pursuant to an existing contract for project-based assistance under this section for a housing project and may not enter into a new or renewal contract for such assistance for a project unless the owner of the project provides consent, to such local law enforcement agencies as the Secretary determines appropriate, for law enforcement officers of such agencies to enter common areas of the project at any time and without advance notice upon a determination of probable cause by such officers that criminal activity is taking place in such areas.

(e)(1) Nothing in this Act shall be deemed to prohibit an owner from pledging, or offering as security for any loan or obligation, a contract for assistance payments entered into pursuant to this section: *Provided*, That such security is in connection with a project constructed or rehabilitated pursuant to authority granted in this section, and the terms of the financing or any refinancing have been approved by the Secretary.

(f) As used in this section—

(1) the term “owner” means any private person or entity, including a cooperative, an agency of the Federal Government, or a public housing agency, having the legal right to lease or sublease dwelling units;

(2) the terms “rent” or “rental” mean, with respect to members of a cooperative, the charges under the occupancy agreements between such members and the cooperative;

(3) the term “debt service” means the required payments for principal and interest made with respect to a mortgage secured by housing assisted under this Act;

(4) the term “participating jurisdiction” means a State or unit of general local government designated by the Secretary to be a participating jurisdiction under title II of the Cranston-Gonzalez National Affordable Housing Act;

(5) the term “drug-related criminal activity” means the illegal manufacture, sale, distribution, use, or possession with intent to manufacture, sell, distribute, or use, of a controlled substance (as defined in section 102 of the Controlled Substances Act (21 U.S.C. 802));

(6) the term “project-based assistance” means rental assistance under subsection (b) that is attached to the structure pursuant to subsection (d)(2) or (o)(13); and

(7) the term “tenant-based assistance” means rental assistance under subsection (o) that is not project-based assistance and that provides for the eligible family to select suitable housing and to move to other suitable housing.

(g) Notwithstanding any other provision of this Act, assistance payments under this section may be provided, in accordance with regulations prescribed by the Secretary, with respect to some or all of the units in any project approved pursuant to section 202 of the Housing Act of 1959.

(h) Sections 5(e) and 6 and any other provisions of this Act which are inconsistent with the provisions of this section shall not apply to contracts for assistance entered into under this section.

(i) The Secretary may not consider the receipt by a public housing agency of assistance under section 811(b)(1) of the Cranston-Gonzalez National Affordable Housing Act, or the amount received, in approving assistance for the agency under this section or determining the amount of such assistance to be provided.

(k) The Secretary shall establish procedures which are appropriate and necessary to assure that income data provided to public housing agencies and owners by families applying for or receiving assistance under this section is complete and accurate. In establishing such procedures, the Secretary shall randomly, regularly, and periodically select a sample of families to authorize the Secretary to obtain information on these families for the purpose of income verification, or to allow those families to provide such information themselves. Such information may include, but is not limited to, data concerning unemployment compensation and Federal income taxation and data relating to benefits made available under the Social Security Act, the Food and Nutrition Act of 2008, or title 38, United States Code. Any such information received pursuant to this subsection shall remain confidential and shall be used only for the purpose of verifying incomes in order to determine eligibility of

families for benefits (and the amount of such benefits, if any) under this section.

(o) VOUCHER PROGRAM.—

(1) AUTHORITY.—

(A) IN GENERAL.— The Secretary may provide assistance to public housing agencies for tenant-based assistance using a payment standard established in accordance with subparagraph (B). The payment standard shall be used to determine the monthly assistance that may be paid for any family, as provided in paragraph (2).

(B) ESTABLISHMENT OF PAYMENT STANDARD.— Except as provided under subparagraph (D), the payment standard for each size of dwelling unit in a market area shall not exceed 110 percent of the fair market rental established under subsection (c) for the same size of dwelling unit in the same market area and shall be not less than 90 percent of that fair market rental, *except that no public housing agency shall be required as a result of a reduction in the fair market rental to reduce the payment standard applied to a family continuing to reside in a unit for which the family was receiving assistance under this section at the time the fair market rental was reduced. The Secretary shall allow public housing agencies to request exception payment standards within fair market rental areas subject to criteria and procedures established by the Secretary .*

(C) SET-ASIDE.— The Secretary may set aside not more than 5 percent of the budget authority made available for assistance under this subsection as an adjustment pool. The Secretary shall use amounts in the adjustment pool to make adjusted payments to public housing agencies under subparagraph (A), to ensure continued affordability, if the Secretary determines that additional assistance for such purpose is necessary, based on documentation submitted by a public housing agency.

(D) APPROVAL.— The Secretary may require a public housing agency to submit the payment standard of the public housing agency to the Secretary for approval, if the payment standard is less than 90 percent of the fair market rental or exceeds 110 percent of the fair market rental, *except that a public housing agency may establish a payment standard of not more than 120 percent of the fair market rent where necessary as a reasonable accommodation for a person with a disability, without approval of the Secretary. A public housing agency may use a payment standard that is greater than 120 percent of the fair market rent as a reasonable accommodation for a person with a disability, but only with the approval of the Secretary. In connection with the use of any increased payment standard established or approved pursuant to either of the preceding two sentences as a reasonable accommodation for a person with a disability, the Secretary may not establish additional requirements regarding the amount of adjusted income paid by such person for rent .*

(E) REVIEW.— The Secretary—

(i) shall monitor rent burdens and review any payment standard that results in a significant percentage of the families occupying units of any size paying more than 30 percent of adjusted income for rent; and

(ii) may require a public housing agency to modify the payment standard of the public housing agency based on the results of that review.

(2) AMOUNT OF MONTHLY ASSISTANCE PAYMENT.— Subject to the requirement under section 3(a)(3) (relating to minimum rental amount), the monthly assistance payment for a family receiving assistance under this subsection shall be determined as follows:

(A) TENANT-BASED ASSISTANCE; RENT NOT EXCEEDING PAYMENT STANDARD.— For a family receiving tenant-based assistance, if the rent for the family (including the amount allowed for tenant-paid utilities) does not exceed the applicable payment standard established under paragraph (1), the monthly assistance payment for the family shall be equal to the amount by which the rent (including the amount allowed for tenant-paid utilities) exceeds the greatest of the following amounts, rounded to the nearest dollar:

(i) 30 percent of the monthly adjusted income of the family.

(ii) 10 percent of the monthly income of the family.

(iii) If the family is receiving payments for welfare assistance from a public agency and a part of those payments, adjusted in accordance with the actual housing costs of the family, is specifically designated by that agency to meet the housing costs of the family, the portion of those payments that is so designated.

(B) TENANT-BASED ASSISTANCE; RENT EXCEEDING PAYMENT STANDARD.— For a family receiving tenant-based assistance, if the rent for the family (including the amount allowed for tenant-paid utilities) exceeds the applicable payment standard established under paragraph (1), the monthly assistance payment for the family shall be equal to the amount by which the applicable payment standard exceeds the greatest of amounts under clauses (i), (ii), and (iii) of subparagraph (A).

(C) FAMILIES RECEIVING PROJECT-BASED ASSISTANCE.— For a family receiving project-based assistance, the rent that the family is required to pay shall be determined in accordance with section 3(a)(1), and the amount of the housing assistance payment shall be determined in accordance with subsection (c)(3) of this section.

(D) UTILITY ALLOWANCE.—

(i) GENERAL.— In determining the monthly assistance payment for a family under subparagraphs (A) and (B), the amount allowed for tenant-paid utilities shall not exceed the appropriate utility allowance for the family unit size as determined by the public housing agency regardless of the size of the dwelling unit leased by the family.

(ii) EXCEPTION FOR FAMILIES IN INCLUDING PERSONS WITH DISABILITIES.— Notwithstanding subparagraph (A), upon request by a family that includes a person with disabilities, the public housing agency shall approve a utility allowance that is higher than the applicable amount on the utility allowance schedule if a higher utility allowance is needed as a reasonable accommodation to make the program accessible to and usable by the family member with a disability.

(3) 40 PERCENT LIMIT.— At the time a family initially receives tenant-based assistance under this section with respect to any dwelling unit, the total amount that a family may be required to pay for rent may not exceed 40 percent of the monthly adjusted income of the family.

(4) ELIGIBLE FAMILIES.— To be eligible to receive assistance under this subsection, a family shall, at the time a family initially receives assistance under this subsection, be a low-income family that is—

(A) a very low-income family;

(B) a family previously assisted under this title;

(C) a low-income family that meets eligibility criteria specified by the public housing agency;

(D) a family that qualifies to receive a voucher in connection with a homeownership program approved under title IV of the Cranston-Gonzalez National Affordable Housing Act; or

(E) a family that qualifies to receive a voucher under section 223 or 226 of the Low-Income Housing Preservation and Resident Homeownership Act of 1990.

(5) **ANNUAL REVIEW** REVIEWS OF FAMILY INCOME.—

(A) IN GENERAL.— Reviews of family incomes for purposes of this section shall be subject to **the provisions of paragraphs (1), (6), and (7) of section 3(a) and to section 904 of the Stewart B. McKinney Homeless Assistance Amendments Act of 1988** **and shall be conducted upon the initial provision of housing assistance for the family and thereafter not less than annually.**

(B) PROCEDURES.— Each public housing agency administering assistance under this subsection shall establish procedures that are appropriate and necessary to ensure that income data provided to the agency and owners by families applying for or receiving assistance from the agency is complete and accurate. **Each public housing agency shall, not less frequently than annually, conduct a review of the family income of each family receiving assistance under this subsection.**

(6) SELECTION OF FAMILIES AND DISAPPROVAL OF OWNERS.—

(A) PREFERENCES.—

(i) AUTHORITY TO ESTABLISH.— Each public housing agency may establish a system for making tenant-based assistance under this subsection available on behalf of eligible families that provides preference for such assistance to eligible families having certain characteristics, which may include a preference for families residing in public housing who are victims of

a crime of violence (as such term is defined in section 16 of title 18, United States Code) that has been reported to an appropriate law enforcement agency.

(ii) CONTENT.— Each system of preferences established pursuant to this subparagraph shall be based upon local housing needs and priorities, as determined by the public housing agency using generally accepted data sources, including any information obtained pursuant to an opportunity for public comment as provided under section 5A(f) and under the requirements applicable to the comprehensive housing affordability strategy for the relevant jurisdiction.

(B) SELECTION OF TENANTS.— Each housing assistance payment contract entered into by the public housing agency and the owner of a dwelling unit) shall provide that the screening and selection of families for those units shall be the function of the owner. In addition, the public housing agency may elect to screen applicants for the program in accordance with such requirements as the Secretary may establish.

(C) PHA DISAPPROVAL OF OWNERS.— In addition to other grounds authorized by the Secretary, a public housing agency may elect not to enter into a housing assistance payments contract under this subsection with an owner who refuses, or has a history of refusing, to take action to terminate tenancy for activity engaged in by the tenant, any member of the tenant's household, any guest, or any other person under the control of any member of the household that—

(i) threatens the health or safety of, or right to peaceful enjoyment of the premises by, other tenants or employees of the public housing agency, owner, or other manager of the housing;

(ii) threatens the health or safety of, or right to peaceful enjoyment of the residences by, persons residing in the immediate vicinity of the premises; or

(iii) is drug-related or violent criminal activity.

(7) LEASES AND TENANCY.— Each housing assistance payment contract entered into by the public housing agency and the owner of a dwelling unit—

(A) shall provide that the lease between the tenant and the owner shall be for a term of not less than 1 year, except that the public housing agency may approve a shorter term for an initial lease between the tenant and the dwelling unit owner if the public housing agency determines that such shorter term would improve housing opportunities for the tenant and if such shorter term is considered to be a prevailing local market practice;

(B) shall provide that the dwelling unit owner shall offer leases to tenants assisted under this subsection that—

(i) are in a standard form used in the locality by the dwelling unit owner; and

(ii) contain terms and conditions that—

(I) are consistent with State and local law; and

(II) apply generally to tenants in the property who are not assisted under this section;

(C) shall provide that during the term of the lease, the owner shall not terminate the tenancy except for serious or repeated violation of the terms and conditions of the lease, for violation of applicable Federal, State, or local law, or for other good cause, and in the case of an owner who is an immediate successor in interest pursuant to foreclosure during the term of the lease vacating the property prior to sale shall not constitute other good cause, except that the owner may terminate the tenancy effective on the date of transfer of the unit to the owner if the owner—

(i) will occupy the unit as a primary residence; and

(ii) has provided the tenant a notice to vacate at least 90 days before the effective date of such notice.;

(D) shall provide that during the term of the lease, any criminal activity that threatens the health, safety, or right to peaceful enjoyment of the premises by other tenants, any criminal activity that threatens the health, safety, or right to peaceful enjoyment of their residences by persons residing in the immediate vicinity of the premises, or any violent or drug-related criminal activity on or near such premises, engaged in by a tenant of any unit, any member of the tenant's household, or any guest or other person under the tenant's control, shall be cause for termination of tenancy;

(E) shall provide that any termination of tenancy under this subsection shall be preceded by the provision of written notice by the owner to the tenant specifying the grounds for that action, and any relief shall be consistent with applicable State and local law; and

(F) may include any addenda required by the Secretary to set forth the provisions of this subsection. In the case of any foreclosure on any federally-related mortgage loan (as that term is defined in section 3 of the Real Estate Settlement Procedures Act of 1974 (12 U.S.C. 2602)) or on any residential real property in which a recipient of assistance under this subsection resides, the immediate successor in interest in such property pursuant to the foreclosure shall assume such interest subject to the lease between the prior owner and the tenant and to the housing assistance payments contract between the prior owner and the public housing agency for the occupied unit, except that this provision and the provisions related to foreclosure in subparagraph (C) shall not affect any State or local law that provides longer time periods or other additional protections for tenants.

(8) INSPECTION OF UNITS BY PHA'S.—

[(A) IN GENERAL.— Except as provided in paragraph (11), for each dwelling unit for which a housing assistance payment contract is established under this subsection, the public housing agency shall inspect the unit before any assistance payment is made to determine whether the dwell-

ing unit meets the housing quality standards under subparagraph (B).】

(A) INITIAL INSPECTION.—

(i) *IN GENERAL.*— For each dwelling unit for which a housing assistance payment contract is established under this subsection, the public housing agency (or other entity pursuant to paragraph (11)) shall inspect the unit before any assistance payment is made to determine whether the dwelling unit meets the housing quality standards under subparagraph (B), except as provided in clause (ii) or (iii) of this subparagraph.

(ii) *CORRECTION OF NON-LIFE-THREATENING CONDITIONS.*— In the case of any dwelling unit that is determined, pursuant to an inspection under clause (i), not to meet the housing quality standards under subparagraph (B), assistance payments may be made for the unit notwithstanding subparagraph (C) if failure to meet such standards is a result only of non-life-threatening conditions, as such conditions are established by the Secretary. A public housing agency making assistance payments pursuant to this clause for a dwelling unit shall, 30 days after the beginning of the period for which such payments are made, withhold any assistance payments for the unit if any deficiency resulting in noncompliance with the housing quality standards has not been corrected by such time. The public housing agency shall recommence assistance payments when such deficiency has been corrected, and may use any payments withheld to make assistance payments relating to the period during which payments were withheld.

(iii) *USE OF ALTERNATIVE INSPECTION METHOD FOR INTERIM PERIOD.*— In the case of any property that within the previous 24 months has met the requirements of an inspection that qualifies as an alternative inspection method pursuant to subparagraph (E), a public housing agency may authorize occupancy before the inspection under clause (i) has been completed, and may make assistance payments retroactive to the beginning of the lease term after the unit has been determined pursuant to an inspection under clause (i) to meet the housing quality standards under subparagraph (B). This clause may not be construed to exempt any dwelling unit from compliance with the requirements of subparagraph (D).

(B) HOUSING QUALITY STANDARDS.— The housing quality standards under this subparagraph are standards for safe and habitable housing established—

(i) by the Secretary for purposes of this subsection;

or

(ii) by local housing codes or by codes adopted by public housing agencies that—

(I) meet or exceed housing quality standards, except that the Secretary may waive the requirement under this subclause to significantly in-

crease access to affordable housing and to expand housing opportunities for families assisted under this subsection, except where such waiver could adversely affect the health or safety of families assisted under this subsection; and

(II) do not severely restrict housing choice

(C) INSPECTION.— The determination required under subparagraph (A) shall be made by the public housing agency (or other entity, as provided in paragraph (11)) pursuant to an inspection of the dwelling unit conducted before any assistance payment is made for the unit. Inspections of dwelling units under this subparagraph shall be made before the expiration of the 15-day period beginning upon a request by the resident or landlord to the public housing agency or, in the case of any public housing agency that provides assistance under this subsection on behalf of more than 1250 families, before the expiration of a reasonable period beginning upon such request. The performance of the agency in meeting the 15-day inspection deadline shall be taken into consideration in assessing the performance of the agency.

(D) BIENNIAL INSPECTIONS.—

(i) REQUIREMENT.— Each public housing agency providing assistance under this subsection (or other entity, as provided in paragraph (11)) shall, for each assisted dwelling unit, make inspections not less often than biennially during the term of the housing assistance payments contract for the unit to determine whether the unit is maintained in accordance with the requirements under subparagraph (A).

(ii) USE OF ALTERNATIVE INSPECTION METHOD.— The requirements under clause (i) may be complied with by use of inspections that qualify as an alternative inspection method pursuant to subparagraph (E).

(iii) RECORDS.— The public housing agency (or other entity) shall retain the records of the inspection for a reasonable time, as determined by the Secretary, and shall make the records available upon request to the Secretary, the Inspector General for the Department of Housing and Urban Development, and any auditor conducting an audit under section 5(h).

(iv) MIXED-FINANCE PROPERTIES.— The Secretary may adjust the frequency of inspections for mixed-finance properties assisted with vouchers under paragraph (13) to facilitate the use of the alternative inspections in subparagraph (E).

(E) ALTERNATIVE INSPECTION METHOD.— An inspection of a property shall qualify as an alternative inspection method for purposes of this subparagraph if—

(i) the inspection was conducted pursuant to requirements under a Federal, State, or local housing program (including the Home investment partnership program under title II of the Cranston-Gonzalez National Affordable Housing Act and the low-income

housing tax credit program under section 42 of the Internal Revenue Code of 1986); and

(ii) pursuant to such inspection, the property was determined to meet the standards or requirements regarding housing quality or safety applicable to properties assisted under such program, and, if a non-Federal standard or requirement was used, the public housing agency has certified to the Secretary that such standard or requirement provides the same (or greater) protection to occupants of dwelling units meeting such standard or requirement as would the housing quality standards under subparagraph (B).

(F) INTERIM INSPECTIONS.— Upon notification to the public housing agency, by a family (on whose behalf tenant-based rental assistance is provided under this subsection) or by a government official, that the dwelling unit for which such assistance is provided does not comply with the housing quality standards under subparagraph (B), the public housing agency shall inspect the dwelling unit—

(i) in the case of any condition that is life-threatening, within 24 hours after the agency's receipt of such notification, unless waived by the Secretary in extraordinary circumstances; and

(ii) in the case of any condition that is not life-threatening, within a reasonable time frame, as determined by the Secretary.

(G) ENFORCEMENT OF HOUSING QUALITY STANDARDS.—

(i) DETERMINATION OF NONCOMPLIANCE.— *A dwelling unit that is covered by a housing assistance payments contract under this subsection shall be considered, for purposes of subparagraphs (D) and (F), to be in noncompliance with the housing quality standards under subparagraph (B) if—*

*(I) the public housing agency or an inspector authorized by the State or unit of local government determines upon inspection of the unit that the unit fails to comply with such standards;*

*(II) the agency or inspector notifies the owner of the unit in writing of such failure to comply; and*

*(III) the failure to comply is not corrected—*

*(aa) in the case of any such failure that is a result of life-threatening conditions, within 24 hours after such notice has been provided; and*

*(bb) in the case of any such failure that is a result of non-life-threatening conditions, within 30 days after such notice has been provided or such other reasonable longer period as the public housing agency may establish.*

(ii) WITHHOLDING OF ASSISTANCE AMOUNTS DURING CORRECTION.— *The public housing agency may withhold assistance amounts under this subsection with respect to a dwelling unit for which a notice pursuant to clause (i)(II), of failure to comply with housing quality standards under subparagraph (B) as determined pur-*

suant to an inspection conducted under subparagraph (D) or (F), has been provided. If the unit is brought into compliance with such housing quality standards during the periods referred to in clause (i)(III), the public housing agency shall recommence assistance payments and may use any amounts withheld during the correction period to make assistance payments relating to the period during which payments were withheld.

(iii) **ABATEMENT OF ASSISTANCE AMOUNTS.**— The public housing agency shall abate all of the assistance amounts under this subsection with respect to a dwelling unit that is determined, pursuant to clause (i) of this subparagraph, to be in noncompliance with housing quality standards under subparagraph (B). Upon completion of repairs by the public housing agency or the owner sufficient so that the dwelling unit complies with such housing quality standards, the agency shall recommence payments under the housing assistance payments contract to the owner of the dwelling unit.

(iv) **NOTIFICATION.**— If a public housing agency providing assistance under this subsection abates rental assistance payments pursuant to clause (iii) with respect to a dwelling unit, the agency shall, upon commencement of such abatement—

(I) notify the tenant and the owner of the dwelling unit that—

(aa) such abatement has commenced; and

(bb) if the dwelling unit is not brought into compliance with housing quality standards within 60 days after the effective date of the determination of noncompliance under clause (i) or such reasonable longer period as the agency may establish, the tenant will have to move; and

(II) issue the tenant the necessary forms to allow the tenant to move to another dwelling unit and transfer the rental assistance to that unit.

(v) **PROTECTION OF TENANTS.**— An owner of a dwelling unit may not terminate the tenancy of any tenant because of the withholding or abatement of assistance pursuant to this subparagraph. During the period that assistance is abated pursuant to this subparagraph, the tenant may terminate the tenancy by notifying the owner.

(vi) **TERMINATION OF LEASE OR ASSISTANCE PAYMENTS CONTRACT.**— If assistance amounts under this section for a dwelling unit are abated pursuant to clause (iii) and the owner does not correct the noncompliance within 60 days after the effective date of the determination of noncompliance under clause (i), or such other reasonable longer period as the public housing agency may establish, the agency shall terminate the housing assistance payments contract for the dwelling unit.

(vii) **RELOCATION.**—

(I) *LEASE OF NEW UNIT.*— The agency shall provide the family residing in such a dwelling unit a period of 90 days or such longer period as the public housing agency determines is reasonably necessary to lease a new unit, beginning upon termination of the contract, to lease a new residence with tenant-based rental assistance under this section.

(II) *AVAILABILITY OF PUBLIC HOUSING UNITS.*— If the family is unable to lease such a new residence during such period, the public housing agency shall, at the option of the family, provide such family a preference for occupancy in a dwelling unit of public housing that is owned or operated by the agency that first becomes available for occupancy after the expiration of such period.

(III) *ASSISTANCE IN FINDING UNIT.*— The public housing agency may provide assistance to the family in finding a new residence, including use of up to two months of any assistance amounts withheld or abated pursuant to clause (ii) or (iii), respectively, for costs directly associated with relocation of the family to a new residence, which shall include security deposits as necessary and may include reimbursements for reasonable moving expenses incurred by the household, as established by the Secretary. The agency may require that a family receiving assistance for a security deposit shall remit, to the extent of such assistance, the amount of any security deposit refunds made by the owner of the dwelling unit for which the lease was terminated.

(viii) *TENANT-CAUSED DAMAGES.*— If a public housing agency determines that any damage to a dwelling unit that results in a failure of the dwelling unit to comply with housing quality standards under subparagraph (B), other than any damage resulting from ordinary use, was caused by the tenant, any member of the tenant's household, or any guest or other person under the tenant's control, the agency may waive the applicability of this subparagraph, except that this clause shall not exonerate a tenant from any liability otherwise existing under applicable law for damages to the premises caused by such tenant.

(ix) *APPLICABILITY.*— This subparagraph shall apply to any dwelling unit for which a housing assistance payments contract is entered into or renewed after the date of the effectiveness of the regulations implementing this subparagraph.

**[(G)] (H) INSPECTION GUIDELINES.**— The Secretary shall establish procedural guidelines and performance standards to facilitate inspections of dwelling units and conform such inspections with practices utilized in the private housing market. Such guidelines and standards shall take into consideration variations in local laws and practices of public

housing agencies and shall provide flexibility to authorities appropriate to facilitate efficient provision of assistance under this subsection.

(9) VACATED UNITS.— If an assisted family vacates a dwelling unit for which rental assistance is provided under a housing assistance payment contract before the expiration of the term of the lease for the unit, rental assistance pursuant to such contract may not be provided for the unit after the month during which the unit was vacated.

(10) RENT.—

(A) REASONABLENESS.— The rent for dwelling units for which a housing assistance payment contract is established under this subsection shall be reasonable in comparison with rents charged for comparable dwelling units in the private, unassisted local market.

(B) NEGOTIATIONS.— A public housing agency (or other entity, as provided in paragraph (11)) shall, at the request of a family receiving tenant-based assistance under this subsection, assist that family in negotiating a reasonable rent with a dwelling unit owner. A public housing agency (or such other entity) shall review the rent for a unit under consideration by the family (and all rent increases for units under lease by the family) to determine whether the rent (or rent increase) requested by the owner is reasonable. If a public housing agency (or other such entity) determines that the rent (or rent increase) for a dwelling unit is not reasonable, the public housing agency (or other such entity) shall not make housing assistance payments to the owner under this subsection with respect to that unit.

(C) UNITS EXEMPT FROM LOCAL RENT CONTROL.— If a dwelling unit for which a housing assistance payment contract is established under this subsection is exempt from local rent control provisions during the term of that contract, the rent for that unit shall be reasonable in comparison with other units in the market area that are exempt from local rent control provisions.

(D) TIMELY PAYMENTS.— Each public housing agency shall make timely payment of any amounts due to a dwelling unit owner under this subsection. The housing assistance payment contract between the owner and the public housing agency may provide for penalties for the late payment of amounts due under the contract, which shall be imposed on the public housing agency in accordance with generally accepted practices in the local housing market.

(E) PENALTIES.— Unless otherwise authorized by the Secretary, each public housing agency shall pay any penalties from administrative fees collected by the public housing agency, except that no penalty shall be imposed if the late payment is due to factors that the Secretary determines are beyond the control of the public housing agency.

(F) TAX CREDIT PROJECTS.— In the case of a dwelling unit receiving tax credits pursuant to section 42 of the Internal Revenue Code of 1986 or for which assistance is provided under subtitle A of title II of the Cranston Gon-

zalez National Affordable Housing Act of 1990, for which a housing assistance contract not subject to paragraph (13) of this subsection is established, rent reasonableness shall be determined as otherwise provided by this paragraph, except that—

(i) comparison with rent for units in the private, unassisted local market shall not be required if the rent is equal to or less than the rent for other comparable units receiving such tax credits or assistance in the project that are not occupied by families assisted with tenant-based assistance under this subsection; and

(ii) the rent shall not be considered reasonable for purposes of this paragraph if it exceeds the greater of—

(I) the rents charged for other comparable units receiving such tax credits or assistance in the project that are not occupied by families assisted with tenant-based assistance under this subsection; and

(II) the payment standard established by the public housing agency for a unit of the size involved.

**[(11) LEASING OF UNITS OWNED BY PHA.—If]**

**(11) LEASING OF UNITS OWNED BY PHA.—**

*(A) INSPECTIONS AND RENT DETERMINATIONS.—If an eligible family assisted under this subsection leases a dwelling unit (other than a public housing dwelling unit) that is owned by a public housing agency administering assistance under this subsection, the Secretary shall require the unit of general local government or another entity approved by the Secretary, to make inspections required under paragraph (8) and rent determinations required under paragraph (10). The agency shall be responsible for any expenses of such inspections and determinations.*

*(B) UNITS OWNED BY PHA.— For purposes of this subsection, the term “owned by a public housing agency” means, with respect to a dwelling unit, that the dwelling unit is in a project that is owned by such agency, by an entity wholly controlled by such agency, or by a limited liability company or limited partnership in which such agency (or an entity wholly controlled by such agency) holds a controlling interest in the managing member or general partner. A dwelling unit shall not be deemed to be owned by a public housing agency for purposes of this subsection because the agency holds a fee interest as ground lessor in the property on which the unit is situated, holds a security interest under a mortgage or deed of trust on the unit, or holds a non-controlling interest in an entity which owns the unit or in the managing member or general partner of an entity which owns the unit.*

**(12) ASSISTANCE FOR RENTAL OF MANUFACTURED HOUSING.—**

**(A) IN GENERAL.—** A public housing agency may make assistance payments in accordance with this subsection on behalf of a family that utilizes a manufactured home as a

principal place of residence. Such payments may be made only for the rental of the real property on which the manufactured home owned by any such family is located.

(B) RENT CALCULATION.—

(i) CHARGES INCLUDED.— For assistance pursuant to this paragraph, the rent for the space on which a manufactured home is located and with respect to which assistance payments are to be made shall include maintenance and management charges and tenant-paid utilities.

(ii) PAYMENT STANDARD.— The public housing agency shall establish a payment standard for the purpose of determining the monthly assistance that may be paid for any family under this paragraph. The payment standard may not exceed an amount approved or established by the Secretary.

(iii) MONTHLY ASSISTANCE PAYMENT.— The monthly assistance payment for a family assisted under this paragraph shall be determined in accordance with paragraph (2).

(13) PHA PROJECT-BASED ASSISTANCE.—

(A) IN GENERAL.— A public housing agency may use amounts provided under an annual contributions contract under this subsection to enter into a housing assistance payment contract with respect to an existing, newly constructed, or rehabilitated [structure] *project*, that is attached to the [structure] *project*, subject to the limitations and requirements of this paragraph.

[(B) PERCENTAGE LIMITATION.— Not more than 20 percent of the funding available for tenant-based assistance under this section that is administered by the agency may be attached to structures pursuant to this paragraph.]

(B) PERCENTAGE LIMITATION.—

(i) *IN GENERAL.*— *Subject to clause (ii), a public housing agency may use for project-based assistance under this paragraph not more than 20 percent of the authorized units for the agency.*

(ii) *EXCEPTION.*— *A public housing agency may use up to an additional 10 percent of the authorized units for the agency for project-based assistance under this paragraph, to provide units that house individuals and families that meet the definition of homeless under section 103 of the McKinney-Vento Homeless Assistance Act (42 U.S.C. 11302), that house families with veterans, that provide supportive housing to persons with disabilities or elderly persons, or that are located in areas where vouchers under this subsection are difficult to use, as specified in subparagraph (D)(ii)(II). Any units of project-based assistance that are attached to units previously subject to federally required rent restrictions or receiving another type of long-term housing subsidy provided by the Secretary shall not count toward the percentage limitation under clause (i) of this subparagraph. The Secretary may, by regulation,*

*establish additional categories for the exception under this clause.*

(C) CONSISTENCY WITH PHA PLAN AND OTHER GOALS.— A public housing agency may approve a housing assistance payment contract pursuant to this paragraph only if the contract is consistent with—

(i) the public housing agency plan for the agency approved under section 5A; and

(ii) the goal of deconcentrating poverty and expanding housing and economic opportunities.

[(D) INCOME MIXING REQUIREMENT.—

[(i) IN GENERAL.— Not more than 25 percent of the dwelling units in any project may be assisted under a housing assistance payment contract for project-based assistance pursuant to this paragraph. For purposes of this subparagraph, the term “project” means a single building, multiple contiguous buildings, or multiple buildings on contiguous parcels of land.

[(ii) EXCEPTIONS.— The limitation under clause (i) shall not apply in the case of assistance under a contract for housing consisting of single family properties or for dwelling units that are specifically made available for households comprised of elderly families, disabled families, and families receiving supportive services.]

(D) INCOME-MIXING REQUIREMENT.—

(i) IN GENERAL.— *Except as provided in clause (ii), not more than the greater of 25 dwelling units or 25 percent of the dwelling units in any project may be assisted under a housing assistance payment contract for project-based assistance pursuant to this paragraph. For purposes of this subparagraph, the term “project” means a single building, multiple contiguous buildings, or multiple buildings on contiguous parcels of land.*

(ii) EXCEPTIONS.—

(I) CERTAIN FAMILIES.— *The limitation under clause (i) shall not apply to dwelling units assisted under a contract that are exclusively made available to elderly families or to households eligible for supportive services that are made available to the assisted residents of the project, according to standards for such services the Secretary may establish.*

(II) CERTAIN AREAS.— *With respect to areas in which tenant-based vouchers for assistance under this subsection are difficult to use, as determined by the Secretary, and with respect to census tracts with a poverty rate of 20 percent or less, clause (i) shall be applied by substituting “40 percent” for “25 percent”, and the Secretary may, by regulation, establish additional conditions.*

(III) CERTAIN CONTRACTS.— *The limitation under clause (i) shall not apply with respect to contracts or renewal of contracts under which a*

*greater percentage of the dwelling units in a project were assisted under a housing assistance payment contract for project-based assistance pursuant to this paragraph on the date of the enactment of the Housing Opportunity Through Modernization Act of 2015.*

(IV) *CERTAIN PROPERTIES.*— Any units of project-based assistance under this paragraph that are attached to units previously subject to federally required rent restrictions or receiving other project-based assistance provided by the Secretary shall not count toward the percentage limitation imposed by this subparagraph (D).

(iii) *ADDITIONAL MONITORING AND OVERSIGHT REQUIREMENTS.*— The Secretary may establish additional requirements for monitoring and oversight of projects in which more than 40 percent of the dwelling units are assisted under a housing assistance payment contract for project-based assistance pursuant to this paragraph.

(E) *RESIDENT CHOICE REQUIREMENT.*— A housing assistance payment contract pursuant to this paragraph shall provide as follows:

(i) *MOBILITY.*— Each low-income family occupying a dwelling unit assisted under the contract may move from the housing at any time after the family has occupied the dwelling unit for 12 months.

(ii) *CONTINUED ASSISTANCE.*— Upon such a move, the public housing agency shall provide the low-income family with tenant-based rental assistance under this section or such other tenant-based rental assistance that is subject to comparable income, assistance, rent contribution, affordability, and other requirements, as the Secretary shall provide by regulation. If such rental assistance is not immediately available to fulfill the requirement under the preceding sentence with respect to a low-income family, such requirement may be met by providing the family priority to receive the next voucher or other tenant-based rental assistance amounts that become available under the program used to fulfill such requirement.

[(F) *CONTRACT TERM.*— A housing assistance payment contract pursuant to this paragraph between a public housing agency and the owner of a structure may have a term of up to 15 years, subject to the availability of sufficient appropriated funds for the purpose of renewing expiring contracts for assistance payments, as provided in appropriations Acts and in the agency's annual contributions contract with the Secretary, and to annual compliance with the inspection requirements under paragraph (8), except that the agency shall not be required to make annual inspections of each assisted unit in the development. The contract may specify additional conditions for its continuation. If the units covered by the contract are owned by the agency, the term of the contract shall be agreed upon

by the agency and the unit of general local government or other entity approved by the Secretary in the manner provided under paragraph (11).】

*(F) CONTRACT TERM.—*

*(i) TERM.— A housing assistance payment contract pursuant to this paragraph between a public housing agency and the owner of a project may have a term of up to 20 years, subject to—*

*(I) the availability of sufficient appropriated funds for the purpose of renewing expiring contracts for assistance payments, as provided in appropriation Acts and in the agency's annual contributions contract with the Secretary, provided that in the event of insufficient appropriated funds, payments due under contracts under this paragraph shall take priority if other cost-saving measures that do not require the termination of an existing contract are available to the agency; and*

*(II) compliance with the inspection requirements under paragraph (8), except that the agency shall not be required to make biennial inspections of each assisted unit in the development.*

*(ii) ADDITION OF ELIGIBLE UNITS.— Subject to the limitations of subparagraphs (B) and (D), the agency and the owner may add eligible units within the same project to a housing assistance payments contract at any time during the term thereof without being subject to any additional competitive selection procedures.*

*(iii) HOUSING UNDER CONSTRUCTION OR RECENTLY CONSTRUCTED.— An agency may enter into a housing assistance payments contract with an owner for any unit that does not qualify as existing housing and is under construction or recently has been constructed whether or not the agency has executed an agreement to enter into a contract with the owner, provided that the owner demonstrates compliance with applicable requirements prior to execution of the housing assistance payments contract. This clause shall not subject a housing assistance payments contract for existing housing under this paragraph to such requirements or otherwise limit the extent to which a unit may be assisted as existing housing.*

*(iv) ADDITIONAL CONDITIONS.— The contract may specify additional conditions, including with respect to continuation, termination, or expiration, and shall specify that upon termination or expiration of the contract without extension, each assisted family may elect to use its assistance under this subsection to remain in the same project if its unit complies with the inspection requirements under paragraph (8), the rent for the unit is reasonable as required by paragraph (10)(A), and the family pays its required share of the rent and the amount, if any, by which the unit rent (including the amount allowed for tenant-based utilities) exceeds the applicable payment standard.*

(G) EXTENSION OF CONTRACT TERM.— A public housing agency may enter into a contract with the owner of a **[structure]** *project* assisted under a housing assistance payment contract pursuant to this paragraph to extend the term of the underlying housing assistance payment contract for such period as the agency determines to be appropriate to achieve long-term affordability of the housing or to expand housing opportunities. Such contract may, at the election of the public housing agency and the owner of the **[structure]** *project*, specify that such contract shall be extended for renewal terms of up to **[15 years]** *20 years* each, if the agency makes the determination required by this subparagraph and the owner is in compliance with the terms of the contract. Such a contract shall provide that the extension of such term shall be contingent upon the future availability of appropriated funds for the purpose of renewing expiring contracts for assistance payments, as provided in appropriations Acts, and may obligate the owner to have such extensions of the underlying housing assistance payment contract accepted by the owner and the successors in interest of the owner. A public housing agency may agree to enter into such a contract at the time it enters into the initial agreement for a housing assistance payment contract or at any time thereafter that is before the expiration of the housing assistance payment contract.

(H) RENT CALCULATION.— A housing assistance payment contract pursuant to this paragraph shall establish rents for each unit assisted in an amount that does not exceed 110 percent of the applicable fair market rental (or any exception payment standard approved by the Secretary pursuant to paragraph (1)(D)), except that if a contract covers a dwelling unit that has been allocated low-income housing tax credits pursuant to section 42 of the Internal Revenue Code of 1986 (26 U.S.C. 42) and is not located in a qualified census tract (as such term is defined in subsection (d) of such section 42), the rent for such unit may be established at any level that does not exceed the rent charged for comparable units in the building that also receive the low-income housing tax credit but do not have additional rental assistance, except that in the case of a contract unit that has been allocated low-income housing tax credits and for which the rent limitation pursuant to such section 42 is less than the amount that would otherwise be permitted under this subparagraph, the rent for such unit may, in the sole discretion of a public housing agency, be established at the higher section 8 rent, subject only to paragraph (10)(A). The rents established by housing assistance payment contracts pursuant to this paragraph may vary from the payment standards established by the public housing agency pursuant to paragraph (1)(B), but shall be subject to paragraph (10)(A).

**(I) RENT ADJUSTMENTS.**— A housing assistance payments contract pursuant to this paragraph shall provide for rent adjustments, except that—

[(i) the adjusted rent for any unit assisted shall be reasonable in comparison with rents charged for comparable dwelling units in the private, unassisted, local market and may not exceed the maximum rent permitted under subparagraph (H), except that the contract may provide that the maximum rent permitted for a dwelling unit shall not be less than the initial rent for the dwelling unit under the initial housing assistance payments contract covering the unit; and

[(ii) the provisions of subsection (c)(2)(C) shall not apply.]

(I) *RENT ADJUSTMENTS.*— *A housing assistance payments contract pursuant to this paragraph entered into after the date of the enactment of the Housing Opportunity Through Modernization Act of 2015 shall provide for annual rent adjustments upon the request of the owner, except that—*

*(i) by agreement of the parties, a contract may allow a public housing agency to adjust the rent for covered units using an operating cost adjustment factor established by the Secretary pursuant to section 524(c) of the Multifamily Assisted Housing Reform and Affordability Act of 1997 (which shall not result in a negative adjustment), in which case the contract may require an additional adjustment, if requested, up to the reasonable rent periodically during the term of the contract, and shall require such an adjustment, if requested, upon extension pursuant to subparagraph (G);*

*(ii) the adjusted rent shall not exceed the maximum rent permitted under subparagraph (H);*

*(iii) the contract may provide that the maximum rent permitted for a dwelling unit shall not be less than the initial rent for the dwelling unit under the initial housing assistance payments contract covering the units; and*

*(iv) the provisions of subsection (c)(2)(C) shall not apply.*

(J) *TENANT SELECTION.*— *A public housing agency [shall] may select families to receive project-based assistance pursuant to this paragraph from its waiting list for assistance under this subsection or may permit owners to select applicants from site-based waiting lists as specified in this subparagraph . Eligibility for such project-based assistance shall be subject to the provisions of section 16(b) that apply to tenant-based assistance. [The agency may establish preferences or criteria for selection for a unit assisted under this paragraph that are consistent with the public housing agency plan for the agency approved under section 5A.] The agency or owner may establish preferences or criteria for selection for a unit assisted under this paragraph that are consistent with the public housing agency plan for the agency approved under section 5A and that give preference to families who qualify for voluntary services, including disability-specific services, offered in conjunction with assisted units. Any family that rejects an offer of project-based assistance under this paragraph or*

that is rejected for admission to a [structure] *project* by the owner or manager of a [structure] *project* assisted under this paragraph shall retain its place on the waiting list as if the offer had not been made. [The owner or manager of a structure assisted under this paragraph shall not admit any family to a dwelling unit assisted under a contract pursuant to this paragraph other than a family referred by the public housing agency from its waiting list. Subject to its waiting list policies and selection preferences, a public housing agency may place on its waiting list a family referred by the owner or manager of a structure and may maintain a separate waiting list for assistance under this paragraph, but only if all families on the agency's waiting list for assistance under this subsection are permitted to place their names on the separate list.] *A public housing agency may establish and utilize procedures for owner-maintained site-based waiting lists, under which applicants may apply at, or otherwise designate to the public housing agency, the project or projects in which they seek to reside, except that all eligible applicants on the waiting list of an agency for assistance under this subsection shall be permitted to place their names on such separate list, subject to policies and procedures established by the Secretary. All such procedures shall comply with title VI of the Civil Rights Act of 1964, the Fair Housing Act, section 504 of the Rehabilitation Act of 1973, and other applicable civil rights laws. The owner or manager of a project assisted under this paragraph shall not admit any family to a dwelling unit assisted under a contract pursuant to this paragraph other than a family referred by the public housing agency from its waiting list, or a family on a site-based waiting list that complies with the requirements of this subparagraph. A public housing agency shall disclose to each applicant all other options in the selection of a project in which to reside that are provided by the public housing agency and are available to the applicant.*

(K) VACATED UNITS.— Notwithstanding paragraph (9), a housing assistance payment contract pursuant to this paragraph may provide as follows:

(i) PAYMENT FOR VACANT UNITS.— That the public housing agency may, in its discretion, continue to provide assistance under the contract, for a reasonable period not exceeding 60 days, for a dwelling unit that becomes vacant, but only: (I) if the vacancy was not the fault of the owner of the dwelling unit; and (II) the agency and the owner take every reasonable action to minimize the likelihood and extent of any such vacancy. Rental assistance may not be provided for a vacant unit after the expiration of such period.

(ii) REDUCTION OF CONTRACT.— That, if despite reasonable efforts of the agency and the owner to fill a vacant unit, no eligible family has agreed to rent the unit within 120 days after the owner has notified the agency of the vacancy, the agency may reduce its housing assistance payments contract with the owner

by the amount equivalent to the remaining months of subsidy attributable to the vacant unit. Amounts deobligated pursuant to such a contract provision shall be available to the agency to provide assistance under this subsection.

Eligible applicants for assistance under this subsection may enforce provisions authorized by this subparagraph.

(L) USE IN COOPERATIVE HOUSING AND ELEVATOR BUILDINGS.— A public housing agency may enter into a housing assistance payments contract under this paragraph with respect to—

(i) dwelling units in cooperative housing; and

(ii) notwithstanding subsection (c), dwelling units in a high-rise elevator project, including such a project that is occupied by families with children, without review and approval of the contract by the Secretary.

(M) REVIEWS.—

(i) SUBSIDY LAYERING.— A subsidy layering review in accordance with section 102(d) of the Department of Housing and Urban Development Reform Act of 1989 (42 U.S.C. 3545(d)) shall not be required for assistance under this paragraph in the case of a housing assistance payments contract for an existing **[structure] project**, or if a subsidy layering review has been conducted by the applicable State or local agency.

(ii) ENVIRONMENTAL REVIEW.— A public housing agency shall not be required to undertake any environmental review before entering into a housing assistance payments contract under this paragraph for an existing **[structure] project**, except to the extent such a review is otherwise required by law or regulation *relating to funding other than housing assistance payments*.

(N) STRUCTURE OWNED BY AGENCY.— *A public housing agency engaged in an initiative to improve, develop, or replace a public housing property or site may attach assistance to an existing, newly constructed, or rehabilitated structure in which the agency has an ownership interest or which the agency has control of without following a competitive process, provided that the agency has notified the public of its intent through its public housing agency plan and subject to the limitations and requirements of this paragraph.*

(O) SPECIAL PURPOSE VOUCHERS.— *A public housing agency that administers vouchers authorized under subsection (o)(19) or (x) of this section may provide such assistance in accordance with the limitations and requirements of this paragraph, without additional requirements for approval by the Secretary.*

(14) INAPPLICABILITY TO TENANT-BASED ASSISTANCE.— Subsection (c) shall not apply to tenant-based assistance under this subsection.

(15) HOMEOWNERSHIP OPTION.—

(A) IN GENERAL.— A public housing agency providing assistance under this subsection may, at the option of the

agency, provide assistance for homeownership under subsection (y).

(B) ALTERNATIVE ADMINISTRATION.— A public housing agency may contract with a nonprofit organization to administer a homeownership program under subsection (y).

(16) RENTAL VOUCHERS FOR RELOCATION OF WITNESSES AND VICTIMS OF CRIME.—

(A) WITNESSES.— Of amounts made available for assistance under this subsection in each fiscal year, the Secretary, in consultation with the Inspector General, shall make available such sums as may be necessary for the relocation of witnesses in connection with efforts to combat crime in public and assisted housing pursuant to requests from law enforcement or prosecution agencies.

(B) VICTIMS OF CRIME.—

(i) IN GENERAL.— Of amounts made available for assistance under this section in each fiscal year, the Secretary shall make available such sums as may be necessary for the relocation of families residing in public housing who are victims of a crime of violence (as that term is defined in section 16 of title 18, United States Code) that has been reported to an appropriate law enforcement agency.

(ii) NOTICE.— A public housing agency that receives amounts under this subparagraph shall establish procedures for providing notice of the availability of that assistance to families that may be eligible for that assistance.

(17) DEED RESTRICTIONS.— Assistance under this subsection may not be used in any manner that abrogates any local deed restriction that applies to any housing consisting of 1 to 4 dwelling units. This paragraph may not be construed to affect the provisions or applicability of the Fair Housing Act.

(18) RENTAL ASSISTANCE FOR ASSISTED LIVING FACILITIES.—

(A) IN GENERAL.— A public housing agency may make assistance payments on behalf of a family that uses an assisted living facility as a principal place of residence and that uses such supportive services made available in the facility as the agency may require. Such payments may be made only for covering costs of rental of the dwelling unit in the assisted living facility and not for covering any portion of the cost of residing in such facility that is attributable to service relating to assisted living.

(B) RENT CALCULATION.—

(i) CHARGES INCLUDED.— For assistance pursuant to this paragraph, the rent of the dwelling unit that is an assisted living facility with respect to which assistance payments are made shall include maintenance and management charges related to the dwelling unit and tenant-paid utilities. Such rent shall not include any charges attributable to services relating to assisted living.

(ii) PAYMENT STANDARD.— In determining the monthly assistance that may be paid under this paragraph on behalf of any family residing in an assisted

living facility, the public housing agency shall utilize the payment standard established under paragraph (1), for the market area in which the assisted living facility is located, for the applicable size dwelling unit.

(iii) MONTHLY ASSISTANCE PAYMENT.— The monthly assistance payment for a family assisted under this paragraph shall be determined in accordance with paragraph (2) (using the rent and payment standard for the dwelling unit as determined in accordance with this subsection), except that a family may be required at the time the family initially receives such assistance to pay rent in an amount exceeding 40 percent of the monthly adjusted income of the family by such an amount or percentage that is reasonable given the services and amenities provided and as the Secretary deems appropriate..

(C) DEFINITION.— For the purposes of this paragraph, the term “assisted living facility” has the meaning given that term in section 232(b) of the National Housing Act (12 U.S.C. 1715w(b)), except that such a facility may be contained within a portion of a larger multifamily housing project.

(19) RENTAL VOUCHERS FOR VETERANS AFFAIRS SUPPORTED HOUSING PROGRAM.—

(A) SET ASIDE.— Subject to subparagraph (C), the Secretary shall set aside, from amounts made available for rental assistance under this subsection, the amounts specified in subparagraph (B) for use only for providing such assistance through a supported housing program administered in conjunction with the Department of Veterans Affairs. Such program shall provide rental assistance on behalf of homeless veterans who have chronic mental illnesses or chronic substance use disorders, shall require agreement of the veteran to continued treatment for such mental illness or substance use disorder as a condition of receipt of such rental assistance, and shall ensure such treatment and appropriate case management for each veteran receiving such rental assistance.

(B) AMOUNT.— The amount specified in this subparagraph is—

(i) for fiscal year 2007, the amount necessary to provide 500 vouchers for rental assistance under this subsection;

(ii) for fiscal year 2008, the amount necessary to provide 1,000 vouchers for rental assistance under this subsection;

(iii) for fiscal year 2009, the amount necessary to provide 1,500 vouchers for rental assistance under this subsection;

(iv) for fiscal year 2010, the amount necessary to provide 2,000 vouchers for rental assistance under this subsection; and

(v) for fiscal year 2011, the amount necessary to provide 2,500 vouchers for rental assistance under this subsection.

(C) FUNDING THROUGH INCREMENTAL ASSISTANCE.— In any fiscal year, to the extent that this paragraph requires the Secretary to set aside rental assistance amounts for use under this paragraph in an amount that exceeds the amount set aside in the preceding fiscal year, such requirement shall be effective only to such extent or in such amounts as are or have been provided in appropriation Acts for such fiscal year for incremental rental assistance under this subsection.

(20) COLLECTION OF UTILITY DATA.—

(A) PUBLICATION.— *The Secretary shall, to the extent that data can be collected cost effectively, regularly publish such data regarding utility consumption and costs in local areas as the Secretary determines will be useful for the establishment of allowances for tenant-paid utilities for families assisted under this subsection.*

(B) USE OF DATA.— *The Secretary shall provide such data in a manner that—*

*(i) avoids unnecessary administrative burdens for public housing agencies and owners; and*

*(ii) protects families in various unit sizes and building types, and using various utilities, from high rent and utility cost burdens relative to income.*

(p) In order to assist elderly families (as defined in section 3(b)(3)) who elect to live in a shared housing arrangement in which they benefit as a result of sharing the facilities of a dwelling with others in a manner that effectively and efficiently meets their housing needs and thereby reduces their costs of housing, the Secretary shall permit assistance provided under the existing housing and moderate rehabilitation programs to be used by such families in such arrangements. In carrying out this subsection, the Secretary shall issue minimum habitability standards for the purpose of assuring decent, safe, and sanitary housing for such families while taking into account the special circumstances of shared housing.

(q) ADMINISTRATIVE FEES.—

(1) FEE FOR ONGOING COSTS OF ADMINISTRATION.—

(A) IN GENERAL.— The Secretary shall establish fees for the costs of administering the tenant-based assistance, certificate, voucher, and moderate rehabilitation programs under this section.

(B) FISCAL YEAR 1999.—

(i) CALCULATION.— For fiscal year 1999, the fee for each month for which a dwelling unit is covered by an assistance contract shall be—

(I) in the case of a public housing agency that, on an annual basis, is administering a program for not more than 600 dwelling units, 7.65 percent of the base amount; and

(II) in the case of an agency that, on an annual basis, is administering a program for more than 600 dwelling units (aa) for the first 600 units, 7.65 percent of the base amount, and (bb) for any additional dwelling units under the program, 7.0 percent of the base amount.

(ii) **BASE AMOUNT.**— For purposes of this subparagraph, the base amount shall be the higher of—

(I) the fair market rental established under section 8(c) of this Act (as in effect immediately before the effective date under section 503(a) of the Quality Housing and Work Responsibility Act of 1998) for fiscal year 1993 for a 2-bedroom existing rental dwelling unit in the market area of the agency, and

(II) the amount that is the lesser of (aa) such fair market rental for fiscal year 1994, or (bb) 103.5 percent of the amount determined under clause (i),

adjusted based on changes in wage data or other objectively measurable data that reflect the costs of administering the program, as determined by the Secretary. The Secretary may require that the base amount be not less than a minimum amount and not more than a maximum amount.

(C) **SUBSEQUENT FISCAL YEARS.**— For subsequent fiscal years, the Secretary shall publish a notice in the Federal Register, for each geographic area, establishing the amount of the fee that would apply for public housing agencies administering the program, based on changes in wage data or other objectively measurable data that reflect the costs of administering the program, as determined by the Secretary.

(D) **INCREASE.**— The Secretary may increase the fee if necessary to reflect the higher costs of administering small programs and programs operating over large geographic areas.

(E) **DECREASE.**— The Secretary may decrease the fee for units owned by a public housing agency to reflect reasonable costs of administration.

(2) **FEE FOR PRELIMINARY EXPENSES.**— The Secretary shall also establish reasonable fees (as determined by the Secretary) for—

(A) the costs of preliminary expenses, in the amount of \$500, for a public housing agency, except that such fee shall apply to an agency only in the first year that the agency administers a tenant-based assistance program under this section, and only if, immediately before the effective date under section 503(a) of the Quality Housing and Work Responsibility Act of 1998, the agency was not administering a tenant-based assistance program under the United States Housing Act of 1937 (as in effect immediately before such effective date), in connection with its initial increment of assistance received;

(B) the costs incurred in assisting families who experience difficulty (as determined by the Secretary) in obtaining appropriate housing under the programs; and

(C) extraordinary costs approved by the Secretary.

(3) **TRANSFER OF FEES IN CASES OF CONCURRENT GEOGRAPHICAL JURISDICTION.**— In each fiscal year, if any public housing agency provides tenant-based assistance under this

section on behalf of a family who uses such assistance for a dwelling unit that is located within the jurisdiction of such agency but is also within the jurisdiction of another public housing agency, the Secretary shall take such steps as may be necessary to ensure that the public housing agency that provides the services for a family receives all or part of the administrative fee under this section (as appropriate).

(4) APPLICABILITY.— This subsection shall apply to fiscal year 1999 and fiscal years thereafter.

(r) PORTABILITY.—(1) IN GENERAL.— (A) Any family receiving tenant-based assistance under subsection (o) may receive such assistance to rent an eligible dwelling unit if the dwelling unit to which the family moves is within any area in which a program is being administered under this section.

(B)(i) Notwithstanding subparagraph (A) and subject to any exceptions established under clause (ii) of this subparagraph, a public housing agency may require that any family not living within the jurisdiction of the public housing agency at the time the family applies for assistance from the agency shall, during the 12-month period beginning on the date of initial receipt of housing assistance made available on behalf of the family from such agency, lease and occupy an eligible dwelling unit located within the jurisdiction served by the agency.

(ii) The Secretary may establish such exceptions to the authority of public housing agencies established under clause (i).

(2) The public housing agency having authority with respect to the dwelling unit to which a family moves under this subsection shall have the responsibility of carrying out the provisions of this subsection with respect to the family.

(3) In providing assistance under subsection (o) for any fiscal year, the Secretary shall give consideration to any reduction in the number of resident families incurred by a public housing agency in the preceding fiscal year as a result of the provisions of this subsection. The Secretary shall establish procedures for the compensation of public housing agencies that issue vouchers to families that move into or out of the jurisdiction of the public housing agency under portability procedures. The Secretary may reserve amounts available for assistance under subsection (o) to compensate those public housing agencies.

(4) The provisions of this subsection may not be construed to restrict any authority of the Secretary under any other provision of law to provide for the portability of assistance under this section.

(5) LEASE VIOLATIONS.—A family may not receive a voucher from a public housing agency and move to another jurisdiction under the tenant-based assistance program if the family has moved out of the assisted dwelling unit of the family in violation of a lease, except that a family may receive a voucher from a public housing agency and move to another jurisdiction under the tenant-based assistance program if the family has complied with all other obligations of the section 8 program and has moved out of the assisted dwelling unit in order to protect the health or safety of an individual who is or has been the victim of domestic violence, dating violence, or stalking and who reasonably believed he or she was imminently threatened by harm from further violence if he or she remained in the assisted dwelling unit.

(s) In selecting families for the provision of assistance under this section (including subsection (o)), a public housing agency may not exclude or penalize a family solely because the family resides in a public housing project.

(t) ENHANCED VOUCHERS.—

(1) IN GENERAL.— Enhanced voucher assistance under this subsection for a family shall be voucher assistance under subsection (o), except that under such enhanced voucher assistance—

(A) subject only to subparagraph (D), the assisted family shall pay as rent no less than the amount the family was paying on the date of the eligibility event for the project in which the family was residing on such date;

(B) the assisted family may elect to remain in the same project in which the family was residing on the date of the eligibility event for the project, and if, during any period the family makes such an election and continues to so reside, the rent for the dwelling unit of the family in such project exceeds the applicable payment standard established pursuant to subsection (o) for the unit, the amount of rental assistance provided on behalf of the family shall be determined using a payment standard that is equal to the rent for the dwelling unit (as such rent may be increased from time-to-time), subject to paragraph (10)(A) of subsection (o) and any other reasonable limit prescribed by the Secretary, except that a limit shall not be considered reasonable for purposes of this subparagraph if it adversely affects such assisted families;

(C) subparagraph (B) of this paragraph shall not apply and the payment standard for the dwelling unit occupied by the family shall be determined in accordance with subsection (o) if—

(i) the assisted family moves, at any time, from such project; or

(ii) the voucher is made available for use by any family other than the original family on behalf of whom the voucher was provided; and

(D) if the [income] *annual adjusted income* of the assisted family declines to a significant extent, the percentage of [income] *annual adjusted income* paid by the family for rent shall not exceed the greater of 30 percent or the percentage of [income] *annual adjusted income* paid at the time of the eligibility event for the project.

(2) ELIGIBILITY EVENT.— For purposes of this subsection, the term “eligibility event” means, with respect to a multifamily housing project, the prepayment of the mortgage on such housing project, the voluntary termination of the insurance contract for the mortgage for such housing project (including any such mortgage prepayment during fiscal year 1996 or a fiscal year thereafter or any insurance contract voluntary termination during fiscal year 1996 or a fiscal year thereafter), the termination or expiration of the contract for rental assistance under section 8 of the United States Housing Act of 1937 for such housing project (including any such termination or expiration during fiscal years after fiscal year 1994 prior to the effective

date of the Departments of Veterans Affairs and Housing and Urban Development, and Independent Agencies Appropriations Act, 2001), or the transaction under which the project is preserved as affordable housing, that, under paragraphs (3) and (4) of section 515(c), section 524(d) of the Multifamily Assisted Housing Reform and Affordability Act of 1997 (42 U.S.C. 1437f note), section 223(f) of the Low-Income Housing Preservation and Resident Homeownership Act of 1990 (12 U.S.C. 4113(f)), or section 201(p) of the Housing and Community Development Amendments of 1978 (12 U.S.C. 1715z-1a(p)), results in tenants in such housing project being eligible for enhanced voucher assistance under this subsection.

(3) TREATMENT OF ENHANCED VOUCHERS PROVIDED UNDER OTHER AUTHORITY.—

(A) IN GENERAL.— Notwithstanding any other provision of law, any enhanced voucher assistance provided under any authority specified in subparagraph (B) shall (regardless of the date that the amounts for providing such assistance were made available) be treated, and subject to the same requirements, as enhanced voucher assistance under this subsection.

(B) IDENTIFICATION OF OTHER AUTHORITY.— The authority specified in this subparagraph is the authority under—

(i) the 10th, 11th, and 12th provisos under the “Preserving Existing Housing Investment” account in title II of the Departments of Veterans Affairs and Housing and Urban Development, and Independent Agencies Appropriations Act, 1997 (Public Law 104-204; 110 Stat. 2884), pursuant to such provisos, the first proviso under the “Housing Certificate Fund” account in title II of the Departments of Veterans Affairs and Housing and Urban Development, and Independent Agencies Appropriations Act, 1998 (Public Law 105-65; 111 Stat. 1351), or the first proviso under the “Housing Certificate Fund” account in title II of the Departments of Veterans Affairs and Housing and Urban Development, and Independent Agencies Appropriations Act, 1999 (Public Law 105-276; 112 Stat. 2469); and

(ii) paragraphs (3) and (4) of section 515(c) of the Multifamily Assisted Housing Reform and Affordability Act of 1997 (42 U.S.C. 1437f note), as in effect before the enactment of this Act.

(4) AUTHORIZATION OF APPROPRIATIONS.— There are authorized to be appropriated for each of fiscal years 2000, 2001, 2002, 2003, and 2004 such sums as may be necessary for enhanced voucher assistance under this subsection.

(u) In the case of low-income families living in rental projects rehabilitated under section 17 of this Act or section 533 of the Housing Act of 1949 before rehabilitation—

(1) vouchers under this section shall be made for families who are required to move out of their units because of the physical rehabilitation activities or because of overcrowding;

(2) at the discretion of each public housing agency or other agency administering the allocation of assistance or vouchers

under this section may be made for families who would have to pay more than 30 percent of their adjusted income for rent after rehabilitation whether they choose to remain in, or to move from, the project; and

(3) the Secretary shall allocate assistance for vouchers under this section to ensure that sufficient resources are available to address the physical or economic displacement, or potential economic displacement, of existing tenants pursuant to paragraphs (1) and (2).

(v) The Secretary may extend expiring contracts entered into under this section for project-based loan management assistance to the extent necessary to prevent displacement of low-income families receiving such assistance as of September 30, 1996.

(x) FAMILY UNIFICATION.—

(1) INCREASE IN BUDGET AUTHORITY.— The budget authority available under section 5(c) for assistance under section 8(b) is authorized to be increased by \$100,000,000 on or after October 1, 1992, and by \$104,200,000 on or after October 1, 1993.

(2) USE OF FUNDS.— The amounts made available under this subsection shall be used only in connection with tenant-based assistance under section 8 on behalf of (A) any family (i) who is otherwise eligible for such assistance, and (ii) who the public child welfare agency for the jurisdiction has certified is a family for whom the lack of adequate housing is a primary factor in the imminent placement of the family's child or children in out-of-home care or the delayed discharge of a child or children to the family from out-of-home care and (B) for a period not to exceed ~~18~~ 36 months, otherwise eligible youths who have attained at least 18 years of age and not more than ~~21~~ 24 years of age and who have left foster care, *or will leave foster care within 90 days, in accordance with a transition plan described in section 475(5)(H) of the Social Security Act, and is homeless or is at risk of becoming homeless* at age 16 or older.

(3) ALLOCATION.— The amounts made available under this subsection shall be allocated by the Secretary through a national competition among applicants based on demonstrated need for assistance under this subsection. To be considered for assistance, an applicant shall submit to the Secretary a written proposal containing a report from the public child welfare agency serving the jurisdiction of the applicant that describes how a lack of adequate housing in the jurisdiction is resulting in the initial or prolonged separation of children from their families, and how the applicant will coordinate with the public child welfare agency to identify eligible families and provide the families with assistance under this subsection.

(4) COORDINATION BETWEEN PUBLIC HOUSING AGENCIES AND PUBLIC CHILD WELFARE AGENCIES.— *The Secretary shall, not later than the expiration of the 180-day period beginning on the date of the enactment of the Housing Opportunity Through Modernization Act of 2015 and after consultation with other appropriate Federal agencies, issue guidance to improve coordination between public housing agencies and public child welfare agencies in carrying out the program under this subsection, which shall provide guidance on—*

(A) identifying eligible recipients for assistance under this subsection;

(B) coordinating with other local youth and family providers in the community and participating in the Continuum of Care program established under subtitle C of title IV of the McKinney-Vento Homeless Assistance Act (42 U.S.C. 11381 et seq.);

(C) implementing housing strategies to assist eligible families and youth;

(D) aligning system goals to improve outcomes for families and youth and reducing lapses in housing for families and youth; and

(E) identifying resources that are available to eligible families and youth to provide supportive services available through parts B and E of title IV of the Social Security Act (42 U.S.C. 621 et seq.; 670 et seq.) or that the head of household of a family or youth may be entitled to receive under section 477 of the Social Security Act (42 U.S.C. 677).

[(4)] (5) DEFINITIONS.— For purposes of this subsection:

(A) APPLICANT.— The term “applicant” means a public housing agency or any other agency responsible for administering assistance under section 8.

(B) PUBLIC CHILD WELFARE AGENCY.— The term “public child welfare agency” means the public agency responsible under applicable State law for determining that a child is at imminent risk of placement in out-of-home care or that a child in out-of-home care under the supervision of the public agency may be returned to his or her family.

(y) HOMEOWNERSHIP OPTION.—

(1) USE OF ASSISTANCE FOR HOMEOWNERSHIP.— A public housing agency providing tenant-based assistance on behalf of an eligible family under this section may provide assistance for an eligible family that purchases a dwelling unit (including a unit under a lease-purchase agreement) that will be owned by 1 or more members of the family, and will be occupied by the family, if the family—

(A) is a first-time homeowner, or owns or is acquiring shares in a cooperative;

(B) demonstrates that the family has income from employment or other sources (other than public assistance, except that the Secretary may provide for the consideration of public assistance in the case of an elderly family or a disabled family), as determined in accordance with requirements of the Secretary, that is not less than twice the payment standard established by the public housing agency (or such other amount as may be established by the Secretary);

(C) except as provided by the Secretary, demonstrates at the time the family initially receives tenant-based assistance under this subsection that one or more adult members of the family have achieved employment for the period as the Secretary shall require;

(D) participates in a homeownership and housing counseling program provided by the agency; and

- (E) meets any other initial or continuing requirements established by the public housing agency in accordance with requirements established by the Secretary.
- (2) DETERMINATION OF AMOUNT OF ASSISTANCE.—
- (A) MONTHLY EXPENSES NOT EXCEEDING PAYMENT STANDARD.— If the monthly homeownership expenses, as determined in accordance with requirements established by the Secretary, do not exceed the payment standard, the monthly assistance payment shall be the amount by which the homeownership expenses exceed the highest of the following amounts, rounded to the nearest dollar:
- (i) 30 percent of the monthly adjusted income of the family.
  - (ii) 10 percent of the monthly income of the family.
  - (iii) If the family is receiving payments for welfare assistance from a public agency, and a portion of those payments, adjusted in accordance with the actual housing costs of the family, is specifically designated by that agency to meet the housing costs of the family, the portion of those payments that is so designated.
- (B) MONTHLY EXPENSES EXCEED PAYMENT STANDARD.— If the monthly homeownership expenses, as determined in accordance with requirements established by the Secretary, exceed the payment standard, the monthly assistance payment shall be the amount by which the applicable payment standard exceeds the highest of the amounts under clauses (i), (ii), and (iii) of subparagraph (A).
- (3) INSPECTIONS AND CONTRACT CONDITIONS.—
- (A) IN GENERAL.— Each contract for the purchase of a unit to be assisted under this section shall—
- (i) provide for pre-purchase inspection of the unit by an independent professional; and
  - (ii) require that any cost of necessary repairs be paid by the seller.
- (B) ANNUAL INSPECTIONS NOT REQUIRED.— The requirement under subsection (o)(8)(A)(ii) for annual inspections shall not apply to units assisted under this section.
- (4) OTHER AUTHORITY OF THE SECRETARY.— The Secretary may—
- (A) limit the term of assistance for a family assisted under this subsection; and
  - (B) modify the requirements of this subsection as the Secretary determines to be necessary to make appropriate adaptations for lease-purchase agreements.
- (5) INAPPLICABILITY OF CERTAIN PROVISIONS.— Assistance under this subsection shall not be subject to the requirements of the following provisions:
- (A) Subsection (c)(3)(B) of this section.
  - (B) Subsection (d)(1)(B)(i) of this section.
  - (C) Any other provisions of this section governing maximum amounts payable to owners and amounts payable by assisted families.
  - (D) Any other provisions of this section concerning contracts between public housing agencies and owners.

- (E) Any other provisions of this Act that are inconsistent with the provisions of this subsection.
- (6) REVERSION TO RENTAL STATUS.—
- (A) FHA-INSURED MORTGAGES.— If a family receiving assistance under this subsection for occupancy of a dwelling defaults under a mortgage for the dwelling insured by the Secretary under the National Housing Act, the family may not continue to receive rental assistance under this section unless the family (i) transfers to the Secretary marketable title to the dwelling, (ii) moves from the dwelling within the period established or approved by the Secretary, and (iii) agrees that any amounts the family is required to pay to reimburse the escrow account under section 23(d)(3) may be deducted by the public housing agency from the assistance payment otherwise payable on behalf of the family.
- (B) OTHER MORTGAGES.— If a family receiving assistance under this subsection defaults under a mortgage not insured under the National Housing Act, the family may not continue to receive rental assistance under this section unless it complies with requirements established by the Secretary.
- (C) ALL MORTGAGES.— A family receiving assistance under this subsection that defaults under a mortgage may not receive assistance under this subsection for occupancy of another dwelling owned by one or more members of the family.
- (7) DOWNPAYMENT ASSISTANCE.—
- (A) AUTHORITY.— A public housing agency may, in lieu of providing monthly assistance payments under this subsection on behalf of a family eligible for such assistance and at the discretion of the public housing agency, provide assistance for the family in the form of a single grant to be used only as a contribution toward the downpayment required in connection with the purchase of a dwelling for fiscal year 2000 and each fiscal year thereafter to the extent provided in advance in appropriations Acts.
- (B) AMOUNT.— The amount of a downpayment grant on behalf of an assisted family may not exceed the amount that is equal to the sum of the assistance payments that would be made during the first year of assistance on behalf of the family, based upon the income of the family at the time the grant is to be made.
- (8) DEFINITION OF FIRST-TIME HOMEOWNER.— For purposes of this subsection, the term “first-time homeowner” means—
- (A) a family, no member of which has had a present ownership interest in a principal residence during the 3 years preceding the date on which the family initially receives assistance for homeownership under this subsection; and
- (B) any other family, as the Secretary may prescribe.
- (z) TERMINATION OF SECTION 8 CONTRACTS AND REUSE OF RECAPTURED BUDGET AUTHORITY.—
- (1) GENERAL AUTHORITY.— The Secretary may reuse any budget authority, in whole or part, that is recaptured on ac-

count of expiration or termination of a housing assistance payments contract only for one or more of the following:

(A) TENANT-BASED ASSISTANCE.— Pursuant to a contract with a public housing agency, to provide tenant-based assistance under this section to families occupying units formerly assisted under the terminated contract.

(B) PROJECT-BASED ASSISTANCE.— Pursuant to a contract with an owner, to attach assistance to one or more structures under this section, for relocation of families occupying units formerly assisted under the terminated contract.

(2) FAMILIES OCCUPYING UNITS FORMERLY ASSISTED UNDER TERMINATED CONTRACT.— Pursuant to paragraph (1), the Secretary shall first make available tenant- or project-based assistance to families occupying units formerly assisted under the terminated contract. The Secretary shall provide project-based assistance in instances only where the use of tenant-based assistance is determined to be infeasible by the Secretary.

(aa) REFINANCING INCENTIVE.—

(1) IN GENERAL.— The Secretary may pay all or a part of the up front costs of refinancing for each project that—

(A) is constructed, substantially rehabilitated, or moderately rehabilitated under this section;

(B) is subject to an assistance contract under this section; and

(C) was subject to a mortgage that has been refinanced under section 223(a)(7) or section 223(f) of the National Housing Act to lower the periodic debt service payments of the owner.

(2) SHARE FROM REDUCED ASSISTANCE PAYMENTS.— The Secretary may pay the up front cost of refinancing only—

(A) to the extent that funds accrue to the Secretary from the reduced assistance payments that results from the refinancing; and

(B) after the application of amounts in accordance with section 1012 of the Stewart B. McKinney Homeless Assistance Amendments Act of 1988.

(bb) TRANSFER, REUSE, AND RESCISSION OF BUDGET AUTHORITY.—

(1) TRANSFER OF BUDGET AUTHORITY.— If an assistance contract under this section, other than a contract for tenant-based assistance, is terminated or is not renewed, or if the contract expires, the Secretary shall, in order to provide continued assistance to eligible families, including eligible families receiving the benefit of the project-based assistance at the time of the termination, transfer any budget authority remaining in the contract to another contract. The transfer shall be under such terms as the Secretary may prescribe.

(2) REUSE AND RESCISSION OF CERTAIN RECAPTURED BUDGET AUTHORITY.— Notwithstanding paragraph (1), if a project-based assistance contract for an eligible multifamily housing project subject to actions authorized under title I is terminated or amended as part of restructuring under section 517 of the Multifamily Assisted Housing Reform and Affordability Act of

1997, the Secretary shall recapture the budget authority not required for the terminated or amended contract and use such amounts as are necessary to provide housing assistance for the same number of families covered by such contract for the remaining term of such contract, under a contract providing for project-based or tenant-based assistance. The amount of budget authority saved as a result of the shift to project-based or tenant-based assistance shall be rescinded.

(cc) LAW ENFORCEMENT AND SECURITY PERSONNEL.—

(1) IN GENERAL.— Notwithstanding any other provision of this Act, in the case of assistance attached to a structure, for the purpose of increasing security for the residents of a project, an owner may admit, and assistance under this section may be provided to, police officers and other security personnel who are not otherwise eligible for assistance under the Act.

(2) RENT REQUIREMENTS.— With respect to any assistance provided by an owner under this subsection, the Secretary may—

(A) permit the owner to establish such rent requirements and other terms and conditions of occupancy that the Secretary considers to be appropriate; and

(B) require the owner to submit an application for those rent requirements, which application shall include such information as the Secretary, in the discretion of the Secretary, determines to be necessary.

(3) APPLICABILITY.— This subsection shall apply to fiscal year 1999 and fiscal years thereafter.

(dd) TENANT-BASED CONTRACT RENEWALS.—Subject to amounts provided in appropriation Acts, starting in fiscal year 1999, the Secretary shall renew all expiring tenant-based annual contribution contracts under this section by applying an inflation factor based on local or regional factors to an allocation baseline. The allocation baseline shall be calculated by including, at a minimum, amounts sufficient to ensure continued assistance for the actual number of families assisted as of October 1, 1997, with appropriate upward adjustments for incremental assistance and additional families authorized subsequent to that date.

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**SEC. 9. PUBLIC HOUSING CAPITAL AND OPERATING FUNDS.**

(a) MERGER INTO CAPITAL FUND.—Except as otherwise provided in the Quality Housing and Work Responsibility Act of 1998, any assistance made available for public housing under section 14 of this Act before October 1, 1999, shall be merged into the Capital Fund established under subsection (d).

(b) MERGER INTO OPERATING FUND.—Except as otherwise provided in the Quality Housing and Work Responsibility Act of 1998, any assistance made available for public housing under section 9 of this Act before October 1, 1999, shall be merged into the Operating Fund established under subsection (e).

(c) ALLOCATION AMOUNT.—

(1) IN GENERAL.— For fiscal year 2000 and each fiscal year thereafter, the Secretary shall allocate amounts in the Capital Fund and Operating Funds for assistance for public housing agencies eligible for such assistance. The Secretary shall deter-

mine the amount of the allocation for each eligible agency, which shall be, for any fiscal year beginning after the effective date of the formulas described in subsections (d)(2) and (e)(2)—

(A) for assistance from the Capital Fund, the amount determined for the agency under the formula under subsection (d)(2); and

(B) for assistance from the Operating Fund, the amount determined for the agency under the formula under subsection (e)(2).

(2) FUNDING.— There are authorized to be appropriated for assistance for public housing agencies under this section the following amounts:

(A) CAPITAL FUND.— For allocations of assistance from the Capital Fund, \$3,000,000,000 for fiscal year 1999, and such sums as may be necessary for fiscal years 2000, 2001, 2002, and 2003.

(B) OPERATING FUND.— For allocations of assistance from the Operating Fund, \$2,900,000,000 for fiscal year 1999, and such sums as may be necessary for each of fiscal years 2000, 2001, 2002, and 2003.

(d) CAPITAL FUND.—

(1) IN GENERAL.— The Secretary shall establish a Capital Fund for the purpose of making assistance available to public housing agencies to carry out capital and management activities, including—

(A) the development, financing, and modernization of public housing projects, including the redesign, reconstruction, and reconfiguration of public housing sites and buildings (including accessibility improvements) and the development of mixed-finance projects;

(B) vacancy reduction;

(C) addressing deferred maintenance needs and the replacement of obsolete utility systems and dwelling equipment;

(D) planned code compliance;

(E) management improvements, including the establishment and initial operation of computer centers in and around public housing through a Neighborhood Networks initiative, for the purpose of enhancing the self-sufficiency, employability, and economic self-reliance of public housing residents by providing them with onsite computer access and training resources;

(F) demolition and replacement;

(G) resident relocation;

(H) capital expenditures to facilitate programs to improve the empowerment and economic self-sufficiency of public housing residents and to improve resident participation;

(I) capital expenditures to improve the security and safety of residents;

(J) homeownership activities, including programs under section 32;

(K) improvement of energy and water-use efficiency by installing fixtures and fittings that conform to the American Society of Mechanical Engineers/American National

Standards Institute standards A112.19.2–1998 and A112.18.1–2000, or any revision thereto, applicable at the time of installation, and by increasing energy efficiency and water conservation by such other means as the Secretary determines are appropriate; and

(L) integrated utility management and capital planning to maximize energy conservation and efficiency measures.

(2) FORMULA.— The Secretary shall develop a formula for determining the amount of assistance provided to public housing agencies from the Capital Fund for a fiscal year, which shall include a mechanism to reward performance. The formula may take into account such factors as—

(A) the number of public housing dwelling units owned, assisted, or operated by the public housing agency, the characteristics and locations of the projects, and the characteristics of the families served and to be served (including the incomes of the families);

(B) the need of the public housing agency to carry out rehabilitation and modernization activities, replacement housing, and reconstruction, construction, and demolition activities related to public housing dwelling units owned, assisted, or operated by the public housing agency, including backlog and projected future needs of the agency;

(C) the cost of constructing and rehabilitating property in the area;

(D) the need of the public housing agency to carry out activities that provide a safe and secure environment in public housing units owned, assisted, or operated by the public housing agency;

(E) any record by the public housing agency of exemplary performance in the operation of public housing, as indicated by the system of performance indicators established pursuant to section 6(j); and

(F) any other factors that the Secretary determines to be appropriate.

(3) CONDITIONS ON USE FOR DEVELOPMENT AND MODERNIZATION.—

(A) DEVELOPMENT.— Except as otherwise provided in this Act, any public housing developed using amounts provided under this subsection, or under section 14 as in effect before the effective date under section 503(a) of the Quality Housing and Work Responsibility Act of 1998, shall be operated under the terms and conditions applicable to public housing during the 40-year period that begins on the date on which the project (or stage of the project) becomes available for occupancy.

(B) MODERNIZATION.— Except as otherwise provided in this Act, any public housing or portion thereof that is modernized using amounts provided under this subsection or under section 14 (as in effect before the effective date under section 503(a) of the Quality Housing and Work Responsibility Act of 1998) shall be maintained and operated under the terms and conditions applicable to public housing during the 20-year period that begins on the latest date on which modernization is completed.

(C) APPLICABILITY OF LATEST EXPIRATION DATE.— Public housing subject to this paragraph or to any other provision of law mandating the operation of the housing as public housing or under the terms and conditions applicable to public housing for a specified length of time, shall be maintained and operated as required until the latest such expiration date.

(e) OPERATING FUND.—

(1) IN GENERAL.— The Secretary shall establish an Operating Fund for the purpose of making assistance available to public housing agencies for the operation and management of public housing, including—

(A) procedures and systems to maintain and ensure the efficient management and operation of public housing units (including amounts sufficient to pay for the reasonable costs of review by an independent auditor of the documentation or other information maintained pursuant to section 6(j)(6) by a public housing agency or resident management corporation to substantiate the performance of that agency or corporation);

(B) activities to ensure a program of routine preventative maintenance;

(C) anticrime and antidrug activities, including the costs of providing adequate security for public housing residents, including above-baseline police service agreements;

(D) activities related to the provision of services, including service coordinators for elderly persons or persons with disabilities;

(E) activities to provide for management and participation in the management and policy making of public housing by public housing residents;

(F) the costs of insurance;

(G) the energy costs associated with public housing units, with an emphasis on energy conservation;

(H) the costs of administering a public housing work program under section 12, including the costs of any related insurance needs;

(I) the costs of repaying, together with rent contributions, debt incurred to finance the rehabilitation and development of public housing units, which shall be subject to such reasonable requirements as the Secretary may establish;

(J) the costs associated with the operation and management of mixed finance projects, to the extent appropriate; and

(K) the costs of operating computer centers in public housing through a Neighborhood Networks initiative described in subsection (d)(1)(E), and of activities related to that initiative.

(2) FORMULA.—

(A) IN GENERAL.— The Secretary shall establish a formula for determining the amount of assistance provided to public housing agencies from the Operating Fund for a fiscal year. The formula may take into account—

(i) standards for the costs of operating and reasonable projections of income, taking into account the characteristics and locations of the public housing projects and characteristics of the families served and to be served (including the incomes of the families), or the costs of providing comparable services as determined in accordance with criteria or a formula representing the operations of a prototype well-managed public housing project;

(ii) the number of public housing dwelling units owned, assisted, or operated by the public housing agency;

(iii) the number of public housing dwelling units owned, assisted, or operated by the public housing agency that are chronically vacant and the amount of assistance appropriate for those units;

(iv) to the extent quantifiable, the extent to which the public housing agency provides programs and activities designed to promote the economic self-sufficiency and management skills of public housing residents;

(v) the need of the public housing agency to carry out anti-crime and anti-drug activities, including providing adequate security for public housing residents;

(vi) the amount of public housing rental income foregone by the public housing agency as a result of escrow savings accounts under section 23(d)(2) for families participating in a family self-sufficiency program of the agency under such section 23; and

(vii) any other factors that the Secretary determines to be appropriate.

(B) INCENTIVE TO INCREASE CERTAIN RENTAL INCOME.—

The formula shall provide an incentive to encourage public housing agencies to facilitate increases in earned income by families in occupancy. Any such incentive shall provide that the agency shall benefit from increases in such rental income and that such amounts accruing to the agency pursuant to such benefit may be used only for low-income housing or to benefit the residents of the public housing agency.

(C) TREATMENT OF SAVINGS.—

(i) IN GENERAL.— The treatment of utility and waste management costs under the formula shall provide that a public housing agency shall receive the full financial benefit from any reduction in the cost of utilities or waste management resulting from any contract with a third party to undertake energy conservation improvements in one or more of its public housing projects.

(ii) THIRD PARTY CONTRACTS.— Contracts described in clause (i) may include contracts for equipment conversions to less costly utility sources, projects with resident-paid utilities, and adjustments to frozen base year consumption, including systems repaired to meet

applicable building and safety codes and adjustments for occupancy rates increased by rehabilitation.

(iii) **TERM OF CONTRACT.**— The total term of a contract described in clause (i) shall not exceed 20 years to allow longer payback periods for retrofits, including windows, heating system replacements, wall insulation, site-based generation, advanced energy savings technologies, including renewable energy generation, and other such retrofits.

(iv) **EXISTING CONTRACTS.**— The term of a contract described in clause (i) that, as of the date of enactment of this clause, is in repayment and has a term of not more than 12 years, may be extended to a term of not more than 20 years to permit additional energy conservation improvements without requiring the reprocurement of energy performance contractors.

(3) **CONDITION ON USE.**— No portion of any public housing project operated using amounts provided under this subsection, or under this section as in effect before the effective date under section 503(a) of the Quality Housing and Work Responsibility Act of 1998, may be disposed of before the expiration of the 10-year period beginning upon the conclusion of the fiscal year for which such amounts were provided, except as otherwise provided in this Act.

(f) **NEGOTIATED RULEMAKING PROCEDURE.**—The formulas under subsections (d)(2) and (e)(2) shall be developed according to procedures for issuance of regulations under the negotiated rulemaking procedure under subchapter III of chapter 5 of title 5, United States Code.

(g) **LIMITATIONS ON USE OF FUNDS.**—

(1) **FLEXIBILITY [FOR CAPITAL FUND AMOUNTS] IN USE OF FUNDS.**—

(A) **FLEXIBILITY FOR CAPITAL FUND AMOUNTS.**—Of any amounts appropriated for fiscal year 2000 or any fiscal year thereafter that are allocated for fiscal year 2000 or any fiscal year thereafter from the Capital Fund for any public housing agency, the agency may use not more than 20 percent for activities that are eligible under subsection (e) for assistance with amounts from the Operating Fund, but only if the public housing agency plan for the agency provides for such use.

(B) **FLEXIBILITY FOR OPERATING FUND AMOUNTS.**— *Of any amounts appropriated for fiscal year 2016 or any fiscal year thereafter that are allocated for fiscal year 2016 or any fiscal year thereafter from the Operating Fund for any public housing agency, the agency may use not more than 20 percent for activities that are eligible under subsection (d) for assistance with amounts from the Capital Fund, but only if the public housing plan under section 5A for the agency provides for such use.*

(2) **FULL FLEXIBILITY FOR SMALL PHA'S.**— Of any amounts allocated for any fiscal year for any public housing agency that owns or operates less than 250 public housing dwelling units, is not designated pursuant to section 6(j)(2) as a troubled public housing agency, and (in the determination of the Secretary)

is operating and maintaining its public housing in a safe, clean, and healthy condition, the agency may use any such amounts for any eligible activities under subsections (d)(1) and (e)(1), regardless of the fund from which the amounts were allocated and provided. This subsection shall take effect on the date of the enactment of the Quality Housing and Work Responsibility Act of 1998.

(3) LIMITATION ON NEW CONSTRUCTION.—

(A) IN GENERAL.— Except as provided in subparagraphs (B) and (C), a public housing agency may not use any of the amounts allocated for the agency from the Capital Fund or Operating Fund for the purpose of constructing any public housing unit, if such construction would result in a net increase from the number of public housing units owned, assisted, or operated by the public housing agency on October 1, 1999, including any public housing units demolished as part of any revitalization effort.

(B) EXCEPTION REGARDING USE OF ASSISTANCE.— A public housing agency may use amounts allocated for the agency from the Capital Fund or Operating Fund for the construction and operation of housing units that are available and affordable to low-income families in excess of the limitations on new construction set forth in subparagraph (A), but the formulas established under subsections (d)(2) and (e)(2) shall not provide additional funding for the specific purpose of allowing construction and operation of housing in excess of those limitations (except to the extent provided in subparagraph (C)).

(C) EXCEPTION REGARDING FORMULAS.— Subject to reasonable limitations set by the Secretary, the formulas established under subsections (d)(2) and (e)(2) may provide additional funding for the operation and modernization costs (but not the initial development costs) of housing in excess of amounts otherwise permitted under this paragraph, and such amounts may be so used, if—

(i) such units are part of a mixed-finance project or otherwise leverage significant additional private or public investment; and

(ii) the estimated cost of the useful life of the project is less than the estimated cost of providing tenant-based assistance under section 8(o) for the same period of time.

(h) TECHNICAL ASSISTANCE.—To the extent amounts are provided in advance in appropriations Acts, the Secretary may make grants or enter into contracts or cooperative agreements in accordance with this subsection for purposes of providing, either directly or indirectly—

(1) technical assistance to public housing agencies, resident councils, resident organizations, and resident management corporations, including assistance relating to monitoring and inspections;

(2) training for public housing agency employees and residents;

(3) data collection and analysis;

(4) training, technical assistance, and education to public housing agencies that are—

(A) at risk of being designated as troubled under section 6(j), to assist such agencies from being so designated; and

(B) designated as troubled under section 6(j), to assist such agencies in achieving the removal of that designation;

(5) contract expertise;

(6) training and technical assistance to assist in the oversight and management of public housing or tenant-based assistance;

(7) clearinghouse services in furtherance of the goals and activities of this subsection; and

(8) assistance in connection with the establishment and operation of computer centers in public housing through a Neighborhood Networks initiative described in subsection (d)(1)(E).

As used in this subsection, the terms “training” and “technical assistance” shall include training or technical assistance and the cost of necessary travel for participants in such training or technical assistance, by or to officials and employees of the Department and of public housing agencies, and to residents and to other eligible grantees.

(i) **ELIGIBILITY OF UNITS ACQUIRED FROM PROCEEDS OF SALES UNDER DEMOLITION OR DISPOSITION PLAN.**—If a public housing agency uses proceeds from the sale of units under a homeownership program in accordance with section 32 to acquire additional units to be sold to low-income families, the additional units shall be counted as public housing for purposes of determining the amount of the allocation to the agency under this section until sale by the agency, but in no case longer than 5 years.

(j) **PENALTY FOR SLOW EXPENDITURE OF CAPITAL FUNDS.**—

(1) **OBLIGATION OF AMOUNTS.**— Except as provided in paragraph (4) and subject to paragraph (2), a public housing agency shall obligate any assistance received under this section not later than 24 months after, as applicable—

(A) the date on which the funds become available to the agency for obligation in the case of modernization; or

(B) the date on which the agency accumulates adequate funds to undertake modernization, substantial rehabilitation, or new construction of units.

(2) **EXTENSION OF TIME PERIOD FOR OBLIGATION.**— The Secretary—

(A) may, extend the time period under paragraph (1) for a public housing agency, for such period as the Secretary determines to be necessary, if the Secretary determines that the failure of the agency to obligate assistance in a timely manner is attributable to—

(i) litigation;

(ii) obtaining approvals of the Federal Government or a State or local government;

(iii) complying with environmental assessment and abatement requirements;

(iv) relocating residents;

(v) an event beyond the control of the public housing agency; or

(vi) any other reason established by the Secretary by notice published in the Federal Register;

(B) shall disregard the requirements of paragraph (1) with respect to any unobligated amounts made available to a public housing agency, to the extent that the total of such amounts does not exceed 10 percent of the original amount made available to the public housing agency; and

(C) may, with the prior approval of the Secretary, extend the time period under paragraph (1), for an additional period not to exceed 12 months, based on—

(i) the size of the public housing agency;

(ii) the complexity of capital program of the public housing agency;

(iii) any limitation on the ability of the public housing agency to obligate the amounts allocated for the agency from the Capital Fund in a timely manner as a result of State or local law; or

(iv) such other factors as the Secretary determines to be relevant.

(3) EFFECT OF FAILURE TO COMPLY.—

(A) PROHIBITION OF NEW ASSISTANCE.— A public housing agency shall not be awarded assistance under this section for any month during any fiscal year in which the public housing agency has funds unobligated in violation of paragraph (1) or (2).

(B) WITHHOLDING OF ASSISTANCE.— During any fiscal year described in subparagraph (A), the Secretary shall withhold all assistance that would otherwise be provided to the public housing agency. If the public housing agency cures its failure to comply during the year, it shall be provided with the share attributable to the months remaining in the year.

(C) REDISTRIBUTION.— The total amount of any funds not provided public housing agencies by operation of this paragraph shall be allocated for agencies determined under section 6(j) to be high-performing.

(4) EXCEPTION TO OBLIGATION REQUIREMENTS.—

(A) IN GENERAL.— Subject to subparagraph (B), if the Secretary has consented, before the effective date under section 503(a) of the Quality Housing and Work Responsibility Act of 1998, to an obligation period for any agency longer than provided under paragraph (1), a public housing agency that obligates its funds before the expiration of that period shall not be considered to be in violation of paragraph (1).

(B) PRIOR FISCAL YEARS.— Notwithstanding subparagraph (A), any funds appropriated to a public housing agency for fiscal year 1997 or prior fiscal years shall be fully obligated by the public housing agency not later than September 30, 1999.

(5) EXPENDITURE OF AMOUNTS.—

(A) IN GENERAL.— A public housing agency shall spend any assistance received under this section not later than 4 years (plus the period of any extension approved by the

Secretary under paragraph (2)) after the date on which funds become available to the agency for obligation.

(B) ENFORCEMENT.— The Secretary shall enforce the requirement of subparagraph (A) through default remedies up to and including withdrawal of the funding.

(6) RIGHT OF RECAPTURE.— Any obligation entered into by a public housing agency shall be subject to the right of the Secretary to recapture the obligated amounts for violation by the public housing agency of the requirements of this subsection.

(7) TREATMENT OF REPLACEMENT RESERVE.— *The requirements of this subsection shall not apply to funds held in replacement reserves established pursuant to subsection (n).*

(k) TREATMENT OF NONRENTAL INCOME.— A public housing agency that receives income from nonrental sources (as determined by the Secretary) may retain and use such amounts without any decrease in the amounts received under this section from the Capital or Operating Fund. Any such nonrental amounts retained shall be used only for low-income housing or to benefit the residents assisted by the public housing agency.

(l) PROVISION OF ONLY CAPITAL OR OPERATING ASSISTANCE.—

(1) AUTHORITY.— In appropriate circumstances, as determined by the Secretary, a public housing agency may commit capital assistance only, or operating assistance only, for public housing units, which assistance shall be subject to all of the requirements applicable to public housing except as otherwise provided in this subsection.

(2) EXEMPTIONS.— In the case of any public housing unit assisted pursuant to the authority under paragraph (1), the Secretary may, by regulation, reduce the period under subsection (d)(3) or (e)(3), as applicable, during which such units must be operated under requirements applicable to public housing. In cases in which there is commitment of operating assistance but no commitment of capital assistance, the Secretary may make section 8 requirements applicable, as appropriate, by regulation.

(m) TREATMENT OF PUBLIC HOUSING.—

(2) REDUCTION OF ASTHMA INCIDENCE.— Notwithstanding any other provision of this section, the New York City Housing Authority may, in its sole discretion, from amounts provided from the Operating and Capital Funds, or from amounts provided for public housing before amounts are made available from such Funds, use not more than exceeding \$500,000 per year for the purpose of initiating, expanding or continuing a program for the reduction of the incidence of asthma among residents. The Secretary shall consult with the Administrator of the Environmental Protection Agency and the Secretary of Health and Human Services to identify and consider sources of funding for the reduction of the incidence of asthma among recipients of assistance under this title.

(3) SERVICES FOR ELDERLY RESIDENTS.— Notwithstanding any other provision of this section, the New York City Housing Authority may, in its sole discretion, from amounts provided from the Operating and Capital Funds, or from amounts provided for public housing before the amounts are made available from such Funds, use not more than \$600,000 per year for the

purpose of developing a comprehensive plan to address the need for services for elderly residents. Such plan may be developed by a partnership created by such Housing Authority and may include the creation of a model project for assisted living at one or more developments. The model project may provide for contracting with private parties for the delivery of services.

(4) EFFECTIVE DATE.— This subsection shall apply to fiscal year 1999 and each fiscal year thereafter.

(n) ESTABLISHMENT OF REPLACEMENT RESERVES.—

(1) IN GENERAL.— *Public housing agencies shall be permitted to establish a replacement reserve to fund any of the capital activities listed in subsection (d)(1).*

(2) SOURCE AND AMOUNT OF FUNDS FOR REPLACEMENT RESERVE.— *At any time, a public housing agency may deposit funds from such agency's Capital Fund into a replacement reserve, subject to the following:*

(A) *At the discretion of the Secretary, public housing agencies may transfer and hold in a replacement reserve funds originating from additional sources.*

(B) *No minimum transfer of funds to a replacement reserve shall be required.*

(C) *At any time, a public housing agency may not hold in a replacement reserve more than the amount the public housing authority has determined necessary to satisfy the anticipated capital needs of properties in its portfolio assisted under this section, as outlined in its Capital Fund 5-Year Action Plan, or a comparable plan, as determined by the Secretary.*

(D) *The Secretary may establish, by regulation, a maximum replacement reserve level or levels that are below amounts determined under subparagraph (C), which may be based upon the size of the portfolio assisted under this section or other factors.*

(3) TRANSFER OF OPERATING FUNDS.— *In first establishing a replacement reserve, the Secretary may allow public housing agencies to transfer more than 20 percent of its operating funds into its replacement reserve.*

(4) EXPENDITURE.— *Funds in a replacement reserve may be used for purposes authorized by subsection (d)(1) and contained in its Capital Fund 5-Year Action Plan.*

(5) MANAGEMENT AND REPORT.— *The Secretary shall establish appropriate accounting and reporting requirements to ensure that public housing agencies are spending funds on eligible projects and that funds in the replacement reserve are connected to capital needs.*

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ELIGIBILITY FOR ASSISTED HOUSING

SEC. 16. (a) INCOME ELIGIBILITY FOR PUBLIC HOUSING.—

(1) INCOME MIX WITHIN PROJECTS.— *A public housing agency may establish and utilize income-mix criteria for the selection of residents for dwelling units in public housing projects, subject to the requirements of this section.*

(2) PHA INCOME MIX.—

(A) TARGETING.— Except as provided in paragraph (4), of the public housing dwelling units of a public housing agency made available for occupancy in any fiscal year by eligible families, not less than 40 percent shall be occupied by families whose incomes at the time of commencement of occupancy do not exceed 30 percent of the area median income, as determined by the Secretary with adjustments for smaller and larger families; except that the Secretary may establish income ceilings higher or lower than 30 percent of the area median income on the basis of the Secretary's findings that such variations are necessary because of unusually high or low family incomes.

(3) PROHIBITION OF CONCENTRATION OF LOW-INCOME FAMILIES.—

(A) PROHIBITION.— A public housing agency may not, in complying with the requirements under paragraph (2), concentrate very low-income families (or other families with relatively low incomes) in public housing dwelling units in certain public housing projects or certain buildings within projects. The Secretary shall review the income and occupancy characteristics of the public housing projects and the buildings of such projects of such agencies to ensure compliance with the provisions of this paragraph and paragraph (2).

(B) DECONCENTRATION.—

(i) IN GENERAL.— A public housing agency shall submit with its annual public housing agency plan under section 5A an admissions policy designed to provide for deconcentration of poverty and income-mixing by bringing higher income tenants into lower income projects and lower income tenants into higher income projects. This clause may not be construed to impose or require any specific income or racial quotas for any project or projects.

(ii) INCENTIVES.— In implementing the policy under clause (i), a public housing agency may offer incentives for eligible families having higher incomes to occupy dwelling unit in projects predominantly occupied by eligible families having lower incomes, and provide for occupancy of eligible families having lower incomes in projects predominantly occupied by eligible families having higher incomes.

(iii) FAMILY CHOICE.— Incentives referred to in clause (ii) may be made available by a public housing agency only in a manner that allows for the eligible family to have the sole discretion in determining whether to accept the incentive and an agency may not take any adverse action toward any eligible family for choosing not to accept an incentive and occupancy of a project described in clause (i)(II), *Provided*, That the skipping of a family on a waiting list to reach another family to implement the policy under clause (i) shall not be considered an adverse action. An agency implementing an admissions policy under this subparagraph shall implement the policy in a manner

that does not prevent or interfere with the use of site-based waiting lists authorized under section 6(s).

(4) FUNGIBILITY WITH TENANT-BASED ASSISTANCE.—

(A) AUTHORITY.— Except as provided under subparagraph (D), the number of public housing dwelling units that a public housing agency shall otherwise make available in accordance with paragraph (2)(A) to comply with the percentage requirement under such paragraph for a fiscal year shall be reduced by the credit number for the agency under subparagraph (B).

(B) CREDIT FOR EXCEEDING TENANT-BASED ASSISTANCE TARGETING REQUIREMENT.— Subject to subparagraph (C), the credit number under this subparagraph for a public housing agency for a fiscal year shall be the number by which—

(i) the aggregate number of qualified families who, in such fiscal year, are initially provided tenant-based assistance under section 8 by the agency; exceeds

(ii) the number of qualified families that is required for the agency to comply with the percentage requirement under subsection (b)(1) for such fiscal year.

(C) LIMITATIONS ON CREDIT NUMBER.— The credit number under subparagraph (B) for a public housing agency for a fiscal year may not in any case exceed the lesser of—

(i) the number of dwelling units that is equivalent to 10 percent of the aggregate number of families initially provided tenant-based assistance under section 8 by the agency in such fiscal year; or

(ii) the number of public housing dwelling units of the agency that—

(I) are in projects that are located in census tracts having a poverty rate of 30 percent or more; and

(II) are made available for occupancy during such fiscal year and are actually filled only by families whose incomes at the time of commencement of such occupancy exceed 30 percent of the area median income, as determined by the Secretary with adjustments for smaller and larger families.

(D) FUNGIBILITY FLOOR.— Notwithstanding any authority under subparagraph (A), of the public housing dwelling units of a public housing agency made available for occupancy in any fiscal year by eligible families, not less than 30 percent shall be occupied by families whose incomes at the time of commencement of occupancy do not exceed 30 percent of the area median income, as determined by the Secretary with adjustments for smaller and larger families.

(E) QUALIFIED FAMILY.— For purposes of this paragraph, the term “qualified family” means a family having an income described in subsection (b)(1).

(5) LIMITATIONS ON TENANCY FOR OVER-INCOME FAMILIES.—

(A) *LIMITATIONS.*— Except as provided in subparagraph (D), in the case of any family residing in a dwelling unit of public housing whose income for the most recent two consecutive years, as determined pursuant to income reviews conducted pursuant to section 3(a)(6), has exceeded the applicable income limitation under subparagraph (C), the public housing agency shall—

(i) notwithstanding any other provision of this Act, charge such family as monthly rent for the unit occupied by such family an amount equal to the greater of—

(I) the applicable fair market rental established under section 8(c) for a dwelling unit in the same market area of the same size; or

(II) the amount of the monthly subsidy provided under this Act for the dwelling unit, which shall include any amounts from the Operating Fund and Capital Fund under section 9 used for the unit, as determined by the agency in accordance with regulations that the Secretary shall issue to carry out this subclause; or

(ii) terminate the tenancy of such family in public housing not later than 6 months after the income determination described in subparagraph (A).

(B) *NOTICE.*— In the case of any family residing in a dwelling unit of public housing whose income for a year has exceeded the applicable income limitation under subparagraph (C), upon the conclusion of such year the public housing agency shall provide written notice to such family of the requirements under subparagraph (A).

(C) *INCOME LIMITATION.*— The income limitation under this subparagraph shall be 120 percent of the median income for the area, as determined by the Secretary with adjustments for smaller and larger families, except that the Secretary may establish income limitations higher or lower than 120 percent of such median income on the basis of the Secretary's findings that such variations are necessary because of prevailing levels of construction costs, or unusually high or low family incomes, vacancy rates, or rental costs.

(D) *EXCEPTION.*— Subparagraph (A) shall not apply to a family occupying a dwelling unit in public housing pursuant to paragraph (5) of section 3(a) (42 U.S.C. 1437a(a)(5)).

(E) *REPORTS ON OVER-INCOME FAMILIES AND WAITING LISTS.*— The Secretary shall require that each public housing agency shall—

(i) submit a report annually, in a format required by the Secretary, that specifies—

(I) the number of families residing, as of the end of the year for which the report is submitted, in public housing administered by the agency who had incomes exceeding the applicable income limitation under subparagraph (C); and

(II) the number of families, as of the end of such year, on the waiting lists for admission to public housing projects of the agency; and

(ii) *make the information reported pursuant to clause (i) publicly available.*

(b) INCOME ELIGIBILITY FOR TENANT-BASED SECTION 8 ASSISTANCE.—

(1) IN GENERAL.— Of the families initially provided tenant-based assistance under section 8 by a public housing agency in any fiscal year, not less than 75 percent shall be families whose incomes do not exceed 30 percent of the area median income, as determined by the Secretary with adjustments for smaller and larger families; except that the Secretary may establish income ceilings higher or lower than 30 percent of the area median income on the basis of the Secretary's findings that such variations are necessary because of unusually high or low family incomes.

(2) JURISDICTIONS SERVED BY MULTIPLE PHA'S.— In the case of any 2 or more public housing agencies that administer tenant-based assistance under section 8 with respect solely to identical geographical areas, such agencies shall be treated as a single public housing agency for purposes of paragraph (1).

(c) INCOME ELIGIBILITY FOR PROJECT-BASED SECTION 8 ASSISTANCE.—

(1) PRE-1981 ACT PROJECTS.— Not more than 25 percent of the dwelling units that were available for occupancy under section 8 housing assistance payments contracts under this Act before the effective date of the Housing and Community Development Amendments of 1981, and which will be leased on or after such effective date shall be available for leasing by low-income families other than very low-income families.

(2) POST-1981 ACT PROJECTS.— Not more than 15 percent of the dwelling units which become available for occupancy under section 8 housing assistance payments contracts under this Act on or after the effective date of the Housing and Community Development Amendments of 1981 shall be available for leasing by low-income families other than very low-income families.

(3) TARGETING.— For each project assisted under a contract for project-based assistance, of the dwelling units that become available for occupancy in any fiscal year that are assisted under the contract, not less than 40 percent shall be available for leasing only by extremely low-income families.

(4) PROHIBITION OF SKIPPING.— In developing admission procedures implementing paragraphs (1), (2), and (3), the Secretary shall prohibit project owners from selecting families for residence in an order different from the order on the waiting list for the purpose of selecting relatively higher income families for residence. Nothing in this paragraph or this subsection may be construed to prevent an owner of housing assisted under a contract for project-based assistance from establishing a preference for occupancy in such housing for families containing a member who is employed.

(5) EXCEPTION.— The limitations established in paragraphs (1), (2), and (3) shall not apply to dwelling units made available under project-based contracts under section 8 for the purpose of preventing displacement, or ameliorating the effects of displacement.

(6) DEFINITION.— For purposes of this subsection, the term “project-based assistance” means assistance under any of the following programs:

(A) The new construction or substantial rehabilitation program under section 8(b)(2) (as in effect before October 1, 1983).

(B) The property disposition program under section 8(b) (as in effect before the effective date under section 503(a) of the Quality Housing and Work Responsibility Act of 1998).

(C) The loan management set-aside program under subsections (b) and (v) of section 8.

(D) The project-based certificate program under section 8(d)(2).

(E) The moderate rehabilitation program under section 8(e)(2) (as in effect before October 1, 1991).

(F) The low-income housing preservation program under Low-Income Housing Preservation and Resident Homeownership Act of 1990 or the provisions of the Emergency Low Income Housing Preservation Act of 1987 (as in effect before November 28, 1990).

(G) Section 8 (as in effect before the effective date under section 503(a) of the Quality Housing and Work Responsibility Act of 1998), following conversion from assistance under section 101 of the Housing and Urban Development Act of 1965 or section 236(f)(2) of the National Housing Act.

(d) ESTABLISHMENT OF DIFFERENT STANDARDS.—Notwithstanding subsection (a)(2) or (b)(1), if approved by the Secretary, a public housing agency may for good cause establish and implement, in accordance with the public housing agency plan, an admission standard other than the standard under such subsection.

(e) ELIGIBILITY FOR ASSISTANCE BASED ON ASSETS.—

(1) LIMITATION ON ASSETS.— *Subject to paragraph (3) and notwithstanding any other provision of this Act, a dwelling unit assisted under this Act may not be rented and assistance under this Act may not be provided, either initially or at each recertification of family income, to any family—*

(A) *whose net family assets exceed \$100,000, as such amount is adjusted annually by applying an inflationary factor as the Secretary considers appropriate; or*

(B) *who has a present ownership interest in, a legal right to reside in, and the effective legal authority to sell, real property that is suitable for occupancy by the family as a residence, except that the prohibition under this subparagraph shall not apply to—*

*(i) any property for which the family is receiving assistance under subsection (y) or (o)(12) of section 8 of this Act;*

*(ii) any person that is a victim of domestic violence;*

*or*

*(iii) any family that is offering such property for sale.*

(2) NET FAMILY ASSETS.—

(A) IN GENERAL.— *For purposes of this subsection, the term “net family assets” means, for all members of the*

household, the net cash value of all assets after deducting reasonable costs that would be incurred in disposing of real property, savings, stocks, bonds, and other forms of capital investment. Such term does not include interests in Indian trust land, equity in property for which the family is receiving assistance under subsection (y) or (o)(12) of section 8, equity accounts in homeownership programs of the Department of Housing and Urban Development, or Family Self Sufficiency accounts.

(B) *EXCLUSIONS.*— Such term does not include—

(i) the value of personal property, except for items of personal property of significant value, as the Secretary may establish or the public housing agency may determine;

(ii) the value of any retirement account;

(iii) real property for which the family does not have the effective legal authority necessary to sell such property;

(iv) any amounts recovered in any civil action or settlement based on a claim of malpractice, negligence, or other breach of duty owed to a member of the family and arising out of law, that resulted in a member of the family being disabled;

(v) the value of any Coverdell education savings account under section 530 of the Internal Revenue Code of 1986 or any qualified tuition program under section 529 of such Code; and

(vi) such other exclusions as the Secretary may establish.

(C) *TRUST FUNDS.*— In cases in which a trust fund has been established and the trust is not revocable by, or under the control of, any member of the family or household, the value of the trust fund shall not be considered an asset of a family if the fund continues to be held in trust. Any income distributed from the trust fund shall be considered income for purposes of section 3(b) and any calculations of annual family income, except in the case of medical expenses for a minor.

(3) *SELF-CERTIFICATION.*—

(A) *NET FAMILY ASSETS.*— A public housing agency or owner may determine the net assets of a family, for purposes of this section, based on a certification by the family that the net assets of such family do not exceed \$50,000, as such amount is adjusted annually by applying an inflationary factor as the Secretary considers appropriate.

(B) *NO CURRENT REAL PROPERTY OWNERSHIP.*— A public housing agency or owner may determine compliance with paragraph (1)(B) based on a certification by the family that such family does not have any current ownership interest in any real property at the time the agency or owner reviews the family's income.

(C) *STANDARDIZED FORMS.*— The Secretary may develop standardized forms for the certifications referred to in subparagraphs (A) and (B).

(4) *COMPLIANCE FOR PUBLIC HOUSING DWELLING UNITS.*—When recertifying family income with respect to families residing in public housing dwelling units, a public housing agency may, in the discretion of the agency and only pursuant to a policy that is set forth in the public housing agency plan under section 5A for the agency, choose not to enforce the limitation under paragraph (1).

(5) *ENFORCEMENT.*—When recertifying the income of a family residing in a dwelling unit assisted under this Act, a public housing agency or owner may choose not to enforce the limitation under paragraph (1) or may establish exceptions to such limitation based on eligibility criteria, but only pursuant to a policy that is set forth in the public housing agency plan under section 5A for the agency or under a policy adopted by the owner. Eligibility criteria for establishing exceptions may provide for separate treatment based on family type and may be based on different factors, such as age, disability, income, the ability of the family to find suitable alternative housing, and whether supportive services are being provided.

(6) *AUTHORITY TO DELAY EVICTIONS.*—In the case of a family residing in a dwelling unit assisted under this Act who does not comply with the limitation under paragraph (1), the public housing agency or project owner may delay eviction or termination of the family based on such noncompliance for a period of not more than 6 months.

(f) *INELIGIBILITY OF INDIVIDUALS CONVICTED OF MANUFACTURING OR PRODUCING METHAMPHETAMINE ON THE PREMISES.*—Notwithstanding any other provision of law, a public housing agency shall establish standards for occupancy in public housing dwelling units and assistance under section 8 that—

(1) permanently prohibit occupancy in any public housing dwelling unit by, and assistance under section 8 for, any person who has been convicted of manufacturing or otherwise producing methamphetamine on the premises in violation of any Federal or State law; and

(2) immediately and permanently terminate the tenancy in any public housing unit of, and the assistance under section 8 for, any person who is convicted of manufacturing or otherwise producing methamphetamine on the premises in violation of any Federal or State law.

\* \* \* \* \*

**SEC. 37. DATA EXCHANGE STANDARDS FOR IMPROVED INTEROPERABILITY.**

(a) *DESIGNATION.*—The Secretary shall, in consultation with an interagency work group established by the Office of Management and Budget, and considering State government perspectives, designate data exchange standards to govern, under this Act—

(1) necessary categories of information that State agencies operating related programs are required under applicable law to electronically exchange with another State agency; and

(2) Federal reporting and data exchange required under applicable law.

(b) *REQUIREMENTS.*—The data exchange standards required by subsection (a) shall, to the maximum extent practicable—

(1) incorporate a widely accepted, nonproprietary, searchable, computer-readable format, such as the eXtensible Markup Language;

(2) contain interoperable standards developed and maintained by intergovernmental partnerships, such as the National Information Exchange Model;

(3) incorporate interoperable standards developed and maintained by Federal entities with authority over contracting and financial assistance;

(4) be consistent with and implement applicable accounting principles;

(5) be implemented in a manner that is cost-effective and improves program efficiency and effectiveness; and

(6) be capable of being continually upgraded as necessary.

(c) **RULES OF CONSTRUCTION.**—Nothing in this section requires a change to existing data exchange standards for Federal reporting found to be effective and efficient.

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**HOUSING ACT OF 1949**

\* \* \* \* \*

**TITLE V—FARM HOUSING**

\* \* \* \* \*

**LOANS FOR HOUSING AND BUILDINGS ON ADEQUATE FARMS**

**SEC. 502.** (a)(1) If the Secretary determines that an applicant is eligible for assistance as provided in section 501 and that the applicant has the ability to repay in full the sum to be loaned, with interest giving due consideration to the income and earnings capacity of the applicant and his family from the farm and other sources, and the maintenance of a reasonable standard of living for the owner and the occupants of said farm, a loan may be made by the Secretary to said applicant for a period of not to exceed thirty-three years from the making of the loan with interest. The Secretary may accept the personal liability of any person with adequate repayment ability who will cosign the applicant's note to compensate for any deficiency in the applicant's repayment ability. At the borrower's option, the borrower may prepay to the Secretary as escrow agent, on terms and conditions prescribed by him, such taxes, insurance, and other expenses as the Secretary may require in accordance with section 501(e).

(2) The Secretary may extend the period of any loan made under this section if the Secretary determines that such extension is necessary to permit the making of such loan to any person whose income does not exceed 60 per centum of the median income for the area and who would otherwise be denied such loan because the payments required under a shorter period would exceed the financial capacity of such person. The aggregate period for which any loan may be extended under this paragraph may not exceed 5 years.

(3)(A) Notwithstanding any other provision of this title, a loan may be made under this section for the purchase of a dwelling located on land owned by a community land trust, if the borrower and the loan otherwise meet the requirements applicable to loans under this section.

(B) For purposes of this paragraph, the term “community land trust” means a community housing development organization as such term is defined in section 104 of the Cranston-Gonzalez National Affordable Housing Act (except that the requirements under section 104(6)(C) and section 104(6)(D) shall not apply for purposes of this paragraph)—

- (i) that is not sponsored by a for-profit organization;
  - (ii) that is established to carry out the activities under clause (iii);
  - (iii) that—
    - (I) acquires parcels of land, held in perpetuity, primarily for conveyance under long-term ground leases;
    - (II) transfers ownership of any structural improvements located on such leased parcels to the lessees; and
    - (III) retains a preemptive option to purchase any such structural improvement at a price determined by formula that is designed to ensure that the improvement remains affordable to low- and moderate-income families in perpetuity; and
  - (iv) that has its corporate membership open to any adult resident of a particular geographic area specified in the bylaws of the organization.
- (b) The instruments under which the loan is made and the security given shall—
- (1) provide for security upon the applicant’s equity in the farm or such other security or collateral, if any, as may be found necessary by the Secretary reasonably to assure repayment of the indebtedness;
  - (2) provide for the repayment of principal and interest in accordance with schedules and repayment plans prescribed by the Secretary, except that any prepayment of a loan made or insured under section 514 or 515 shall be subject to the provisions of subsection (c);
  - (3) except for guaranteed loans, contain the agreement of the borrower that he will, at the request of the Secretary, proceed with diligence to refinance the balance of the indebtedness through cooperative or other responsible private credit sources whenever the Secretary determines, in the light of the borrower’s circumstances, including his earning capacity and the income from the farm, that he is able to do so upon reasonable terms and conditions;
  - (4) be in such form and contain such covenants as the Secretary shall prescribe to secure the payment of the loan with interest, protect the security, and assure that the farm will be maintained in repair and that waste and exhaustion of the farm will be prevented.
- (c)(1)(A) The Secretary may not accept an offer to prepay, or request refinancing in accordance with subsection (b)(3) of, any loan made or insured under section 514 or 515 of this title pursuant to a contract entered into after December 21, 1979, but before the

date of the enactment of the Department of Housing and Urban Development Reform Act of 1989, unless the Secretary takes appropriate action which will obligate the borrower (and successors in interest thereof) to utilize the assisted housing and related facilities for the purposes specified in section 514 or 515, as the case may be, for a period of—

(i) fifteen years from the date on which the loan was made in the case of a loan made or insured pursuant to a contract entered into after December 21, 1979, but before the date of the enactment of the Department of Housing and Urban Development Reform Act of 1989, and utilized for housing and related facilities which have not received assistance under section 521 (a)(1)(B), (a)(2), or (5) of this title or section 8 of the United States Housing Act of 1937; or

(ii) twenty years from the date on which the loan was made in the case of any or other such loan;

or until the Secretary determines (prior to the end of such period) that there is no longer a need for such housing and related facilities to be so utilized or that Federal or other financial assistance provided to the residents of such housing will no longer be provided.

(B) The Secretary may not accept an offer to prepay, or request refinancing in accordance with subsection (b)(3) of, any initial loan made or insured under section 515 pursuant to a contract entered into on or after the date of the enactment of the Department of Housing and Urban Development Reform Act of 1989.

(2) If any loan which was made or insured under section 514 or 515 pursuant to a contract entered into prior to the date of enactment of the Department of Housing and Urban Development Reform Act of 1989, is prepaid or refinanced on or after the date of enactment of the Housing and Community Development Act of 1980, and tenants of the housing and related facilities financed with such loan are displaced due to a change in the use of the housing, or to an increase in rental or other charges, as a result of such prepayment or refinancing, the Secretary shall provide such tenants a priority for relocation in alternative housing assisted pursuant to this title.

(3) NOTICE OF OFFER TO PREPAY.—Not less than 30 days after receiving an offer to prepay any loan made or insured under section 514 or 515, the Secretary shall provide written notice of the offer or request to the tenants of the housing and related facilities involved, to interested nonprofit organizations, and to any appropriate State and local agencies.

(4)(A) AGREEMENT BY BORROWER TO EXTEND LOW INCOME USE.—Before accepting any offer to prepay, or requesting refinancing in accordance with subsection (b)(3) of, any loan made or insured under section 514 or 515 pursuant to a contract entered into prior to the date of enactment of the Department of Housing and Urban Development Reform Act of 1989, the Secretary shall make reasonable efforts to enter into an agreement with the borrower under which the borrower will make a binding commitment to extend the low income use of the assisted housing and related facilities involved for not less than the 20-year period beginning on the date on which the agreement is executed.

(B) ASSISTANCE AVAILABLE TO BORROWER TO EXTEND LOW INCOME USE.—To the extent of amounts provided in appropriation Acts, the agreement under subparagraph (A) may provide for 1 or more of the following forms of assistance that the Secretary, after taking into account local market conditions, determines to be necessary to extend the low income use of the housing and related facilities involved:

(i) Increase in the rate of return on investment.

(ii) Reduction of the interest rate on the loan through the provision of interest credits under section 521(a)(1)(B), or additional assistance or an increase in assistance provided under section 521(a)(5).

(iii) Additional rental assistance, or an increase in assistance provided under existing contracts, under section 521(a)(2) or under section 8 of the United States Housing Act of 1937.

(iv) An equity loan to the borrower under paragraphs (1) and (2) of section 515(c) or under paragraphs (1) and (2) of section 514(j), except that an equity loan referred to in this clause may not be made available after the date of the enactment of the Act entitled “An Act making appropriations for Agriculture, Rural Development, Food and Drug Administration, and Related Agencies programs for the fiscal year ending September 30, 1997, and for other purposes”, unless the Secretary determines that the other incentives available under this subparagraph are not adequate to provide a fair return on the investment of the borrower, to prevent prepayment of the loan insured under section 514 or 515, or to prevent the displacement of tenants of the housing for which the loan was made.

(v) Incremental rental assistance in connection with loans under clauses (ii) and (iv) to the extent necessary to avoid increases in the rental payments of current tenants not receiving rental assistance under section 521(a)(2) or under section 8 of the United States Housing Act of 1937, or current tenants of projects not assisted under section 521(a)(5).

(vi) In the case of a project that has received rental assistance under section 8 of the United States Housing Act of 1937, permitting the owner to receive rent in excess of the amount determined necessary by the Secretary to defray the cost of long-term repair or maintenance of such a project.

(C) APPROVAL OF ASSISTANCE.—The Secretary may approve assistance under subparagraph (B) for assisted housing only if the restrictive period has expired for any loan for the housing made or insured under section 514 or 515 pursuant to a contract entered into after December 21, 1979, but before the date of the enactment of the Department of Housing and Urban Development Reform Act of 1989, and the Secretary determines that the combination of assistance provided—

(i) is necessary to provide a fair return on the investment of the borrower; and

(ii) is the least costly alternative for the Federal Government that is consistent with carrying out the purposes of this subsection.

(5)(A) OFFER TO SELL TO NONPROFIT ORGANIZATIONS AND PUBLIC AGENCIES.—

(i) IN GENERAL.— If the Secretary determines after a reasonable period that an agreement will not be entered into with a borrower under paragraph (4), the Secretary shall require the borrower (except as provided in subparagraph (G)) to offer to sell the assisted housing and related facilities involved to any qualified nonprofit organization or public agency at a fair market value determined by 2 independent appraisers, one of whom shall be selected by the Secretary and one of whom shall be selected by the borrower. If the 2 appraisers fail to agree on the fair market value, the Secretary and the borrower shall jointly select a third appraiser, whose appraisal shall be binding on the Secretary and the borrower.

(ii) PERIOD FOR WHICH REQUIREMENT APPLICABLE.— If, upon the expiration of 180 days after an offer is made to sell housing and related facilities under clause (i), no qualified nonprofit organization or public agency has made a bona fide offer to purchase, the Secretary may accept the offer to prepay, or may request refinancing in accordance with subsection (b)(3) of, the loan. This clause shall apply only when funds are available for purposes of carrying out a transfer under this paragraph.

(B) QUALIFIED NONPROFIT ORGANIZATIONS AND PUBLIC AGENCIES.—

(i) LOCAL NONPROFIT ORGANIZATION OR PUBLIC AGENCY.— A local nonprofit organization or public agency may purchase housing and related facilities under this paragraph only if—

(I) the organization or agency is determined by the Secretary to be capable of managing the housing and related facilities (either directly or through a contract) for the remaining useful life of the housing and related facilities; and

(II) the organization or agency has entered into an agreement that obligates it (and successors in interest thereof) to maintain the housing and related facilities as affordable for very low-income families or persons and low income families or persons for the remaining useful life of the housing and related facilities.

(ii) NATIONAL OR REGIONAL NONPROFIT ORGANIZATION.— If the Secretary determines that there is no local nonprofit organization or public agency qualified to purchase the housing and related facilities involved, the Secretary shall require the borrower to offer to sell the assisted housing and related facilities to an existing qualified national or regional nonprofit organization.

(iii) SELECTION OF QUALIFIED PURCHASER.— The Secretary shall promulgate regulations that establish criteria for selecting a qualified nonprofit organization or public agency to purchase housing and related facilities when more than 1 such organization or agency has made a bona fide offer. Such regulations shall give a priority to those organizations or agencies with the greatest experience in developing or managing low income housing or community development projects and with the longest record of service to the community.

(C) FINANCING OF SALE.—To facilitate the sale described in subparagraph (A), the Secretary shall—

(i) to the extent provided in appropriation Acts, make an advance to the nonprofit organization or public agency whose offer to purchase is accepted under this paragraph to cover any direct costs (other than the purchase price) incurred by the organization or agency in purchasing and assuming responsibility for the housing and related facilities involved;

(ii) approve the assumption, by the nonprofit organization or public agency involved, of the loan made or insured under section 514 or 515;

(iii) to the extent provided in appropriation Acts, transfer any rental assistance payments that are received under section 521(a)(2)(A) or under section 8 of the United States Housing Act of 1937, or any assistance payments received under section 521(a)(5), with respect to the housing and related facilities involved; and

(iv) to the extent provided in appropriation Acts, provide a loan under section 515(c)(3) to the nonprofit organization or public agency whose offer to purchase is accepted under this paragraph to enable the organization or agency to purchase the housing and related facilities involved.

(D) RENT LIMITATION AND ASSISTANCE.—The Secretary shall, to the extent provided in appropriation Acts, provide to each nonprofit organization or public agency purchasing housing and related facilities under this paragraph financial assistance (in the form of monthly payments or forgiveness of debt) in an amount necessary to ensure that the monthly rent payment made by each low income family or person residing in the housing does not exceed the maximum rent permitted under section 521(a)(2)(A) or, in the case of housing assisted under section 521(a)(5), does not exceed the rents established for the project under such section.

(E) RESTRICTION ON SUBSEQUENT TRANSFERS.—Except as provided in subparagraph (B)(ii), the Secretary may not approve the transfer of any housing and related facilities purchased under this paragraph during the remaining useful life of the housing and related facilities, unless the Secretary determines that—

(i) the transfer will further the provision of housing and related facilities for low income families or persons; or

(ii) there is no longer a need for such housing and related facilities by low income families or persons.

(F) GENERAL RESTRICTION ON PREPAYMENTS AND REFINANCINGS.—Following the transfer of the maximum number of dwelling units set forth in subparagraph (H)(i) in any fiscal year or the maximum number of dwelling units for which budget authority is available in any fiscal year, the Secretary may not accept in such fiscal year any offer to prepay, or request refinancing in accordance with subsection (b)(3) of, any loan made or insured under section 514 or 515 pursuant to a contract entered into prior to the date of enactment of the Department of Housing and Urban Development Reform Act of 1989, except in accordance with subparagraph (G). The limitation established in this subparagraph shall not apply to an offer to prepay, or request to refinance, if, following the date on which such offer or request is made (or following the date of the enactment of the Housing and Community Development Act of 1987, whichever occurs later) a 15-month period expires during which no budget authority is available to carry out this paragraph. For purposes of

this subparagraph, the Secretary shall allocate budget authority under this paragraph in the order in which offers to prepay, or request to refinance, are made.

(G) EXCEPTION.—This paragraph shall not apply to any offer to prepay, or any request to refinance in accordance with subsection (b)(3), any loan made or insured under section 514 or 515 pursuant to a contract entered into prior to the date of enactment of the Department of Housing and Urban Development Reform Act of 1989, if—

(i) the borrower enters into an agreement with the Secretary that obligates the borrower (and successors in interest thereof)—

(I) to utilize the assisted housing and related facilities for the purposes specified in section 514 or 515, as the case may be, for a period determined by the Secretary (but not less than the period described in paragraph (1)(B) calculated from the date on which the loan is made or insured); and

(II) upon termination of the period described in paragraph (1)(B), to offer to sell the assisted housing and related facilities to a qualified nonprofit organization or public agency in accordance with this paragraph; or

(ii) the Secretary determines that housing opportunities of minorities will not be materially affected as a result of the prepayment or refinancing, and that—

(I) the borrower (and any successor in interest thereof) are obligated to ensure that tenants of the housing and related facilities financed with the loan will not be displaced due to a change in the use of the housing, or to an increase in rental or other charges, as a result of the prepayment or refinancing; or

(II) there is an adequate supply of safe, decent, and affordable rental housing within the market area of the housing and related facilities and sufficient actions have been taken to ensure that the rental housing will be made available to each tenant upon displacement.

(H) FUNDING.—

(i) BUDGET LIMITATION.— Not more than 5,000 dwelling units may be transferred under this paragraph in any fiscal year, and the budget authority that may be provided under this paragraph for any fiscal year may not exceed the amounts required to carry out this paragraph with respect to such number.

(ii) REIMBURSEMENT OF RURAL HOUSING INSURANCE FUND.— There are authorized to be appropriated to the Rural Housing Insurance Fund such sums as may be necessary to reimburse the Fund for financial assistance provided under this paragraph, paragraph (4), and section 517(j)(7).

(I) DEFINITIONS.—For purposes of this paragraph:

(i) LOCAL NONPROFIT ORGANIZATION.— The term “local nonprofit organization” means a nonprofit organization that—

(I) has a broad based board reflecting various interests in the community or trade area; and

- (II) is a non-for-profit charitable organization whose principal purposes include developing or managing low income housing or community development projects.
- (ii) NONPROFIT ORGANIZATION.— The term “nonprofit organization” means any private organization—
- (I) no part of the net earnings of which inures to the benefit of any member, founder, contributor, or individual;
  - (II) that is approved by the Secretary as to financial responsibility; and
  - (III) that does not have among its officers or directorate persons or parties with a material interest (or persons or parties related to any person or party with such an interest) in loans financed under section 515 that have been prepaid.
- (J) REGULATIONS.—Notwithstanding section 534, the Secretary shall issue final regulations to carry out this paragraph not later than 60 days after the date of the enactment of the Housing and Community Development Act of 1987. The Secretary shall provide for the regulations to take effect not later than 45 days after the date on which the regulations are issued.
- (d) On and after the effective date of the Rural Housing Amendments of 1983—
- (1) not less than 40 percent of the funds approved in appropriation Acts for use under this section shall be set aside and made available only for very low-income families or persons; and
  - (2) not less than 30 percent of the funds allocated to each State under this section shall be available only for very low-income families or persons.
- (e)(1) A loan which may be made or insured under this section with respect to housing shall be made or insured with respect to a manufactured home or with respect to a manufactured home and lot, whether such home or such home and lot is real property, personal property, or mixed real and personal property, if—
- (A) the manufactured home meets the standards prescribed pursuant to title VI of the Housing and Community Development Act of 1974;
  - (B) the manufactured home, or the manufactured home and lot, meets the installation, structural, and site requirements which would apply under title II of the National Housing Act; and
  - (C) the manufactured home meets the energy conserving requirements established under paragraph (2), or until the energy conserving requirements are established under paragraph (2), the manufactured home meets the energy conserving requirements applicable to housing other than manufactured housing financed under this title.
- (2) Energy conserving requirements established by the Secretary for the purpose of paragraph (1)(C) shall—
- (A) reduce the operating costs for a borrower by maximizing the energy savings and be cost-effective over the life of the manufactured home or the term of the loan, whichever is shorter, taking into account variations in climate, types of energy used, the cost to modify the home to meet such require-

ments, and the estimated value of the energy saved over the term of the mortgage; and

(B) be established so that the increase in the annual loan payment resulting from the added energy conserving requirements in excess of those required by the standards prescribed under title VI of the Housing and Community Development Act of 1974 shall not exceed the projected savings in annual energy costs.

(3) A loan that may be made or insured under this section with respect to a manufactured home on a permanent foundation, or a manufactured home on a permanent foundation and a lot, shall be repayable over the same period as would be applicable under section 203(b) of the National Housing Act.

(f) REMOTE RURAL AREAS.—

(1) LOAN SUPPLEMENTS.— The Secretary may supplement any loan under this section to finance housing located in a remote rural area or on tribal allotted or Indian trust land with a grant in an amount not greater than the amount by which the reasonable land acquisition and construction costs of the security property exceeds the appraised value of such property.

(2) PROHIBITION.— The Secretary may not refuse to make, insure, or guarantee a loan that otherwise meets the requirements under this section solely on the basis that the housing involved is located in an area that is excessively rural in character or excessively remote or on tribal allotted or Indian trust land.

(g) DEFERRED MORTGAGE DEMONSTRATION.—

(1) AUTHORITY.— With respect to families or persons otherwise eligible for assistance under subsection (d) but having incomes below the amount determined to qualify for a loan under this section, the Secretary may defer mortgage payments beyond the amount affordable at 1 percent interest, taking into consideration income, taxes and insurance. Deferred mortgage payments shall be converted to payment status when the ability of the borrower to repay improves. Deferred amounts shall not exceed 25 percent of the amount of the payment due at 1 percent interest and shall be subject to recapture.

(2) INTEREST.— Interest on principal deferred shall be set at 1 percent and any interest payments deferred under this subsection shall not be treated as principal in calculating indebtedness.

(3) FUNDING.— Subject to approval in appropriations Acts, not more than 10 percent of the amount approved for each of fiscal years 1993 and 1994 for loans under this section may be used to carry out this subsection.

(h) DOUG BEREUTER SECTION 502 SINGLE FAMILY HOUSING LOAN GUARANTEE PROGRAM.—

(1) SHORT TITLE.— This subsection may be cited as the “Doug Bereuter Section 502 Single Family Housing Loan Guarantee Act”.

(2) AUTHORITY.— The Secretary shall, to the extent provided in appropriation Acts, provide guaranteed loans in accordance with this section, section 517(d), and the last sentence of section 521(a)(1)(A), except as modified by the provisions of this

subsection. Loans shall be guaranteed under this subsection in an amount equal to 90 percent of the loan.

(3) ELIGIBLE BORROWERS.— Loans guaranteed pursuant to this subsection shall be made only to borrowers who are low or moderate income families or persons, whose incomes do not exceed 115 percent of the median income of the area, as determined by the Secretary.

(4) ELIGIBLE HOUSING.— Loans may be guaranteed pursuant to this subsection only if the loan is used to acquire or construct a single-family residence that is—

(A) to be used as the principal residence of the borrower;

(B) eligible for assistance under this section, section 203(b) of the National Housing Act, or chapter 37 of title 38, United States Code; and

(C) located in a rural area

(5) PRIORITY AND COUNSELING FOR FIRST-TIME HOME-BUYERS.—

(A) In providing guaranteed loans under this subsection, the Secretary shall give priority to first-time homebuyers (as defined in paragraph (17)).

(B) The Secretary may require that, as a condition of receiving a guaranteed loan pursuant to this subsection, a borrower who is a first-time homebuyer successfully complete a program of homeownership counseling under section 106(a)(1)(iii) of the Housing and Urban Development Act of 1968 and obtain certification from the provider of the program that the borrower is adequately prepared for the obligations of homeownership.

(6) ELIGIBLE LENDERS.— Guaranteed loans pursuant to this subsection may be made only by lenders approved by and meeting qualifications established by the Secretary.

(7) LOAN TERMS.— Loans guaranteed pursuant to this subsection shall—

(A) be made for a term not to exceed 30 years;

(B) involve a rate of interest that is fixed over the term of the loan and does not exceed the rate for loans guaranteed under chapter 37 of title 38, United States Code, or comparable loans in the area that are not guaranteed; and

(C) involve a principal obligation (including initial service charges, appraisal, inspection, and other fees as the Secretary may approve)—

(i) for a first-time homebuyer, in any amount not in excess of 100 percent of the appraised value of the property as of the date the loan is accepted or the acquisition cost of the property, whichever is less, plus the guarantee fee as authorized by subsection (h)(7); and

(ii) for any borrower other than a first-time homebuyer, in an amount not in excess of the percentage of the property or the acquisition cost of the property that the Secretary shall determine, such percentage or cost in any event not to exceed 100 percent of the appraised value of the property as of the date the loan is accepted or the acquisition cost of the property,

whichever is less, plus the guarantee fee as authorized by subsection (h)(7).

(8) FEES.— Notwithstanding paragraph (14)(D), with respect to a guaranteed loan issued or modified under this subsection, the Secretary may collect from the lender—

(A) at the time of issuance of the guarantee or modification, a fee not to exceed 3.5 percent of the principal obligation of the loan; and

(B) an annual fee not to exceed 0.5 percent of the outstanding principal balance of the loan for the life of the loan.

(9) REFINANCING.— Any guaranteed loan under this subsection may be refinanced and extended in accordance with terms and conditions that the Secretary shall prescribe, but in no event for an additional amount or term which exceeds the limitations under this subsection.

(10) NONASSUMPTION.— Notwithstanding the transfer of property for which a guaranteed loan under this subsection was made, the borrower of a guaranteed loan under this subsection may not be relieved of liability with respect to the loan.

(11) GEOGRAPHICAL TARGETING.— In providing guaranteed loans under this subsection, the Secretary shall establish standards to target and give priority to areas that have a demonstrated need for additional sources of mortgage financing for low and moderate income families.

(12) ALLOCATION.— The Secretary shall provide that, in each fiscal year, guaranteed loans under this subsection shall be allocated among the States on the basis of the need of eligible borrowers in each State for such loans in comparison with the need of eligible borrowers for such loans among all States.

(13) LOSS MITIGATION.— Upon default or imminent default of any mortgage guaranteed under this subsection, mortgagees shall engage in loss mitigation actions for the purpose of providing an alternative to foreclosure (including actions such as special forbearance, loan modification, pre-foreclosure sale, deed in lieu of foreclosure, as required, support for borrower housing counseling, subordinate lien resolution, and borrower relocation), as provided for by the Secretary.

(14) PAYMENT OF PARTIAL CLAIMS AND MORTGAGE MODIFICATIONS.— The Secretary may authorize the modification of mortgages, and establish a program for payment of a partial claim to a mortgagee that agrees to apply the claim amount to payment of a mortgage on a 1- to 4-family residence, for mortgages that are in default or face imminent default, as defined by the Secretary. Any payment under such program directed to the mortgagee shall be made at the sole discretion of the Secretary and on terms and conditions acceptable to the Secretary, except that—

(A) the amount of the partial claim payment shall be in an amount determined by the Secretary, and shall not exceed an amount equivalent to 30 percent of the unpaid principal balance of the mortgage and any costs that are approved by the Secretary;

(B) the amount of the partial claim payment shall be applied first to any outstanding indebtedness on the mort-

gage, including any arrearage, but may also include principal reduction;

(C) the mortgagor shall agree to repay the amount of the partial claim to the Secretary upon terms and conditions acceptable to the Secretary;

(D) expenses related to a partial claim or modification are not to be charged to the borrower;

(E) the Secretary may authorize compensation to the mortgagee for lost income on monthly mortgage payments due to interest rate reduction;

(F) the Secretary may reimburse the mortgagee from the appropriate guaranty fund in connection with any activities that the mortgagee is required to undertake concerning repayment by the mortgagor of the amount owed to the Secretary;

(G) the Secretary may authorize payments to the mortgagee on behalf of the borrower, under such terms and conditions as are defined by the Secretary, based on successful performance under the terms of the mortgage modification, which shall be used to reduce the principal obligation under the modified mortgage; and

(H) the Secretary may authorize the modification of mortgages with terms extended up to 40 years from the date of modification.

(15) ASSIGNMENT.—

(A) PROGRAM AUTHORITY.— The Secretary may establish a program for assignment to the Secretary, upon request of the mortgagee, of a mortgage on a 1- to 4-family residence guaranteed under this chapter.

(B) PROGRAM REQUIREMENTS.—

(i) IN GENERAL.— The Secretary may encourage loan modifications for eligible delinquent mortgages or mortgages facing imminent default, as defined by the Secretary, through the payment of the guaranty and assignment of the mortgage to the Secretary and the subsequent modification of the terms of the mortgage according to a loan modification approved under this section.

(ii) ACCEPTANCE OF ASSIGNMENT.— The Secretary may accept assignment of a mortgage under a program under this subsection only if—

(I) the mortgage is in default or facing imminent default;

(II) the mortgagee has modified the mortgage or qualified the mortgage for modification sufficient to cure the default and provide for mortgage payments the mortgagor is reasonably able to pay, at interest rates not exceeding current market interest rates; and

(III) the Secretary arranges for servicing of the assigned mortgage by a mortgagee (which may include the assigning mortgagee) through procedures that the Secretary has determined to be in the best interests of the appropriate guaranty fund.

(C) PAYMENT OF GUARANTY.— Under the program under this paragraph, the Secretary may pay the guaranty for a mortgage, in the amount determined in accordance with paragraph (2), without reduction for any amounts modified, but only upon the assignment, transfer, and delivery to the Secretary of all rights, interest, claims, evidence, and records with respect to the mortgage, as defined by the Secretary.

(D) DISPOSITION.— After modification of a mortgage pursuant to this paragraph, and assignment of the mortgage, the Secretary may provide guarantees under this subsection for the mortgage. The Secretary may subsequently—

(i) re-assign the mortgage to the mortgagee under terms and conditions as are agreed to by the mortgagee and the Secretary;

(ii) act as a Government National Mortgage Association issuer, or contract with an entity for such purpose, in order to pool the mortgage into a Government National Mortgage Association security; or

(iii) re-sell the mortgage in accordance with any program that has been established for purchase by the Federal Government of mortgages insured under this title, and the Secretary may coordinate standards for interest rate reductions available for loan modification with interest rates established for such purchase.

(E) LOAN SERVICING.— In carrying out the program under this subsection, the Secretary may require the existing servicer of a mortgage assigned to the Secretary under the program to continue servicing the mortgage as an agent of the Secretary during the period that the Secretary acquires and holds the mortgage for the purpose of modifying the terms of the mortgage. If the mortgage is resold pursuant to subparagraph (D)(iii), the Secretary may provide for the existing servicer to continue to service the mortgage or may engage another entity to service the mortgage.

(16) DEFINITIONS.— For purposes of this subsection:

(A) The term “displaced homemaker” means an individual who—

(i) is an adult;

(ii) has not worked full-time full-year in the labor force for a number of years but has, during such years, worked primarily without remuneration to care for the home and family; and

(iii) is unemployed or underemployed and is experiencing difficulty in obtaining or upgrading employment.

(B) The term “first-time homebuyer” means any individual who (and whose spouse) has had no present ownership in a principal residence during the 3-year period ending on the date of purchase of the property acquired with a guaranteed loan under this subsection except that—

(i) any individual who is a displaced homemaker may not be excluded from consideration as a first-time

homebuyer under this subparagraph on the basis that the individual, while a homemaker, owned a home with his or her spouse or resided in a home owned by the spouse; and

(ii) any individual who is a single parent may not be excluded from consideration as a first-time homebuyer under this subparagraph on the basis that the individual, while married, owned a home with his or her spouse or resided in a home owned by the spouse.

(C) The term “single parent” means an individual who—

(i) is unmarried or legally separated from a spouse; and

(ii)(I) has 1 or more minor children for whom the individual has custody or joint custody; or

(II) is pregnant.

(D) The term “State” means the States of the United States, the Commonwealth of Puerto Rico, the District of Columbia, the Commonwealth of the Northern Mariana Islands, Guam, the Virgin Islands, American Samoa, the Trust Territories of the Pacific, and any other possession of the United States.

(17) GUARANTEES FOR REFINANCING LOANS.—

(A) IN GENERAL.— Upon the request of the borrower, the Secretary shall, to the extent provided in appropriation Acts and subject to subparagraph (F), guarantee a loan that is made to refinance an existing loan that is made under this section or guaranteed under this subsection, and that the Secretary determines complies with the requirements of this paragraph.

(B) INTEREST RATE.— To be eligible for a guarantee under this paragraph, the refinancing loan shall have a rate of interest that is fixed over the term of the loan and does not exceed the interest rate of the loan being refinanced.

(C) SECURITY.— To be eligible for a guarantee under this paragraph, the refinancing loan shall be secured by the same single-family residence as was the loan being refinanced, which shall be owned by the borrower and occupied by the borrower as the principal residence of the borrower.

(D) AMOUNT.— To be eligible for a guarantee under this paragraph, the principal obligation under the refinancing loan shall not exceed an amount equal to the sum of the balance of the loan being refinanced and such closing costs as may be authorized by the Secretary, which shall include a discount not exceeding 200 basis points and an origination fee not exceeding such amount as the Secretary shall prescribe.

(E) OTHER REQUIREMENTS.— The provisions of the last sentence of paragraph (2) and paragraphs (3), (6), (7)(A), (8), and (10) shall apply to loans guaranteed under this paragraph, and no other provisions of paragraphs (2) through (13) shall apply to such loans.

(F) AUTHORITY TO ESTABLISH LIMITATION.— The Secretary may establish limitations on the number of loans

guaranteed under this paragraph, which shall be based on market conditions and other factors as the Secretary considers appropriate.

(18) *DELEGATION OF APPROVAL.*— *The Secretary may delegate, in part or in full, the Secretary’s authority to approve and execute binding Rural Housing Service loan guarantees pursuant to this subsection to certain preferred lenders, in accordance with standards established by the Secretary.*

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**NATIONAL HOUSING ACT**

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**TITLE II—MORTGAGE INSURANCE**

\* \* \* \* \*

INSURANCE OF MORTGAGES

SEC. 203. (a) The Secretary is authorized, upon application by the mortgagee, to insure as hereinafter provided any mortgage offered to him which is eligible for insurance as hereinafter provided, and, upon such terms as the Secretary may prescribe, to make commitments for the insuring of such mortgages prior to the date of their execution or disbursement thereon.

(b) To be eligible for insurance under this section a mortgage shall comply with the following:

(1) Have been made to, and be held by, a mortgagee approved by the Secretary as responsible and able to service the mortgage properly.

(2) Involve a principal obligation (including such initial service charges, appraisal, inspection, and other fees as the Secretary shall approve) in an amount—

(A) not to exceed the lesser of—

(i) in the case of a 1-family residence, 115 percent of the median 1-family house price in the area, as determined by the Secretary; and in the case of a 2-, 3-, or 4-family residence, the percentage of such median price that bears the same ratio to such median price as the dollar amount limitation determined under the sixth sentence of section 305(a)(2) of the Federal Home Loan Mortgage Corporation Act (12 U.S.C. 1454(a)(2)) for a 2-, 3-, or 4-family residence, respectively, bears to the dollar amount limitation determined under such section for a 1-family residence; or

(ii) 150 percent of the dollar amount limitation determined under the sixth sentence of such section 305(a)(2) for a residence of applicable size;

except that the dollar amount limitation in effect under this subparagraph for any size residence for any area may not be less than the greater of: (I) the dollar amount limitation in effect under this section for the area on October 21, 1998; or (II) 65 percent of the dollar amount limitation

determined under the sixth sentence of such section 305(a)(2) for a residence of the applicable size; and

(B) not to exceed 100 percent of the appraised value of the property.

For purposes of the preceding sentence, the term "area" means a metropolitan statistical area as established by the Office of Management and Budget; and the median 1-family house price for an area shall be equal to the median 1-family house price of the county within the area that has the highest such median price.

Notwithstanding any other provision of this paragraph, the amount which may be insured under this section may be increased by up to 20 percent if such increase is necessary to account for the increased cost of the residence due to the installation of a solar energy system (as defined in subparagraph (3) of the last paragraph of section 2(a) of this Act) therein.

Notwithstanding any other provision of this paragraph, the Secretary may not insure, or enter into a commitment to insure, a mortgage under this section that is executed by a first-time homebuyer and that involves a principal obligation (including such initial service charges, appraisal, inspection, and other fees as the Secretary shall approve) in excess of 97 percent of the appraised value of the property unless the mortgagor has completed a program of counseling with respect to the responsibilities and financial management involved in homeownership that is approved by the Secretary; except that the Secretary may, in the discretion of the Secretary, waive the applicability of this requirement.

(3) Have a maturity satisfactory to the Secretary, but not to exceed, in any event, thirty-five years (or thirty years if such mortgage is not approved for insurance prior to construction) from the date of the beginning of amortization of the mortgage.

(4) Contain complete amortization provisions satisfactory to the Secretary requiring periodic payments by the mortgagor not in excess of his reasonable ability to pay as determined by the Secretary.

(5) Bear interest at such rate as may be agreed upon by the mortgagor and the mortgagee.

(6) Provide, in a manner satisfactory to the Secretary, for the application of the mortgagor's periodic payments (exclusive of the amount allocated to interest and to the premium charge which is required for mortgage insurance as hereinafter provided) to amortization of the principal of the mortgage.

(7) Contain such terms and provisions with respect to insurance, repairs, alterations, payment of taxes, default reserves, delinquency charges, foreclosure proceedings, anticipation of maturity, additional and secondary liens, and other matters as the Secretary may in his discretion prescribe.

(9) CASH INVESTMENT REQUIREMENT.—

(A) IN GENERAL.— A mortgage insured under this section shall be executed by a mortgagor who shall have paid, in cash or its equivalent, on account of the property an amount equal to not less than 3.5 percent of the appraised value of the property or such larger amount as the Secretary may determine.

(B) FAMILY MEMBERS.— For purposes of this paragraph, the Secretary shall consider as cash or its equivalent any amounts borrowed from a family member (as such term is defined in section 201), subject only to the requirements that, in any case in which the repayment of such borrowed amounts is secured by a lien against the property, that—

(i) such lien shall be subordinate to the mortgage; and

(ii) the sum of the principal obligation of the mortgage and the obligation secured by such lien may not exceed 100 percent of the appraised value of the property plus any initial service charges, appraisal, inspection, and other fees in connection with the mortgage.

(C) PROHIBITED SOURCES.— In no case shall the funds required by subparagraph (A) consist, in whole or in part, of funds provided by any of the following parties before, during, or after closing of the property sale:

(i) The seller or any other person or entity that financially benefits from the transaction.

(ii) Any third party or entity that is reimbursed, directly or indirectly, by any of the parties described in clause (i).

This subparagraph shall apply only to mortgages for which the mortgagee has issued credit approval for the borrower on or after October 1, 2008.

(c)(1) The Secretary is authorized to fix premium charge for the insurance of mortgages under the separate sections of this title but in the case of any mortgage such charge shall be not less than an amount equivalent to one-fourth of 1 per centum per annum nor more than an amount equivalent to 1 per centum per annum of the amount of the principal obligation of the mortgage outstanding at any time, without taking into account delinquent payments or prepayments: *Provided*, That premium charges fixed for insurance (1) under section 245, 247, 251, 252, or 253, or any other financing mechanism providing alternative methods for repayment of a mortgage that is determined by the Secretary to involve additional risk, or (2) under subsection (n) are not required to be the same as the premium charges for mortgages insured under the other provisions of this section, but in no case shall premium charges under subsection (n) exceed 1 per centum per annum: *Provided*, That any reduced premium charge so fixed and computed may, in the discretion of the Secretary, also be made applicable in such manner as the Secretary shall prescribe to each insured mortgage outstanding under the section or sections involved at the time the reduced premium charge is fixed. Such premium charges shall be payable by the mortgagee, either in cash, or in debentures issued by the Secretary under this title at par plus accrued interest, in such manner as may be prescribed by the Secretary: *Provided*, That debentures presented in payment of premium charges shall represent obligations of the particular insurance fund or account to which such premium charges are to be credited: *Provided further*, That the Secretary may require the payment of one or more such premium charges at the time the mortgage is insured, at such discount rate as he may prescribe not in excess of the interest rate specified in the mortgage. If the Secretary finds upon the presentation of a

mortgage for insurance and the tender of the initial premium charge or charges so required that the mortgage complies with the provisions of this section, such mortgage may be accepted for insurance by endorsement or otherwise as the Secretary may prescribe; but no mortgage shall be accepted for insurance under this section unless the Secretary finds that the project with respect to which the mortgage is executed is economically sound. In the event that the principal obligation of any mortgage accepted for insurance under this title is paid in full prior to the maturity date, the Secretary is further authorized in his discretion to require the payment by the mortgagee of an adjusted premium charge in such amount as the Secretary determines to be equitable, but not in excess of the aggregate amount of the premium charges that the mortgagee would otherwise have been required to pay if the mortgage had continued to be insured until such maturity date; and in the event that the principal obligation is paid in full as herein set forth, the Secretary is authorized to refund to the mortgagee for the account of the mortgagor all, or such portion as he shall determine to be equitable, of the current unearned premium charges theretofore paid: *Provided*, That with respect to mortgages (1) for which the Secretary requires, at the time the mortgage is insured, the payment of a single premium charge to cover the total premium obligation for the insurance of the mortgage, and (2) on which the principal obligation is paid before the number of years on which the premium with respect to a particular mortgage was based, or the property is sold subject to the mortgage or is sold and the mortgage is assumed prior to such time, the Secretary shall provide for refunds, where appropriate, of a portion of the premium paid and shall provide for appropriate allocation of the premium cost among the mortgagors over the term of the mortgage, in accordance with procedures established by the Secretary which take into account sound financial and actuarial considerations.

(2) Notwithstanding any other provision of this section, each mortgage secured by a 1- to 4-family dwelling that is an obligation of the Mutual Mortgage Insurance Fund shall be subject to the following requirements:

(A) The Secretary shall establish and collect, at the time of insurance, a single premium payment in an amount not exceeding 3 percent of the amount of the original insured principal obligation of the mortgage. In the case of a mortgage for which the mortgagor is a first-time homebuyer who completes a program of counseling with respect to the responsibilities and financial management involved in homeownership that is approved by the Secretary, the premium payment under this subparagraph shall not exceed 2.75 percent of the amount of the original insured principal obligation of the mortgage. Upon payment in full of the principal obligation of a mortgage prior to the maturity date of the mortgage, the Secretary shall refund all of the unearned premium charges paid on the mortgage pursuant to this subparagraph, provided that the mortgagor refinances the unpaid principal obligation under title II of this Act.

(B) In addition to the premium under subparagraph (A), the Secretary may establish and collect annual premium payments in an amount not exceeding 1.5 percent of the remaining in-

sured principal balance (excluding the portion of the remaining balance attributable to the premium collected under subparagraph (A) and without taking into account delinquent payments or prepayments) for the following periods:

(i) For any mortgage involving an original principal obligation (excluding any premium collected under subparagraph (A)) that is less than 90 percent of the appraised value of the property (as of the date the mortgage is accepted for insurance), for the first 11 years of the mortgage term.

(ii) For any mortgage involving an original principal obligation (excluding any premium collected under subparagraph (A)) that is greater than or equal to 90 percent of such value, for the first 30 years of the mortgage term; except that notwithstanding the matter preceding clause (i), for any mortgage involving an original principal obligation (excluding any premium collected under subparagraph (A)) that is greater than 95 percent of such value, the annual premium collected during the 30-year period under this clause may be in an amount not exceeding 1.55 percent of the remaining insured principal balance (excluding the portion of the remaining balance attributable to the premium collected under subparagraph (A) and without taking into account delinquent payments or prepayments).

(C)(i) In addition to the premiums under subparagraphs (A) and (B), the Secretary shall establish and collect annual premium payments for any mortgage for which the Secretary collects an annual premium payment under subparagraph (B), in an amount described in clause (ii).

(ii)(I) Subject to subclause (II), with respect to a mortgage, the amount described in this clause is 10 basis points of the remaining insured principal balance (excluding the portion of the remaining balance attributable to the premium collected under subparagraph (A) and without taking into account delinquent payments or prepayments).

(II) During the 2-year period beginning on the date of enactment of this subparagraph, the Secretary shall increase the number of basis points of the annual premium payment collected under this subparagraph incrementally, as determined appropriate by the Secretary, until the number of basis points of the annual premium payment collected under this subparagraph is equal to the number described in subclause (I).

(d)(1) Except as provided in paragraph (2) of this subsection, notwithstanding provision of this title governing maximum mortgage amounts for insuring a mortgage secured by a one- to four-family dwelling, the maximum amount of the mortgage determined under any such provision may be increased by the amount of the mortgage insurance premium paid at the time the mortgage is insured.

(2) The maximum amount of a mortgage determined under subsection (b)(2)(B) of this section may not be increased as provided in paragraph (1).

(e) Any contract of insurance heretofore or hereafter executed by the Secretary under this title shall be conclusive evidence of the eligibility of the loan or mortgage for insurance, and the validity of any contract of insurance so executed shall be incontestable in

the hands of an approved financial institution or approved mortgagee from the date of the execution of such contract, except for fraud or misrepresentation on the part of such approved financial institution or approved mortgagee.

(f) DISCLOSURE OF OTHER MORTGAGE PRODUCTS.—

(1) IN GENERAL.— In conjunction with any loan insured under this section, an original lender shall provide to each prospective borrower a disclosure notice that provides a 1-page analysis of mortgage products offered by that lender and for which the borrower would qualify.

(2) NOTICE.— The notice required under paragraph (1) shall include—

(A) a generic analysis comparing the note rate (and associated interest payments), insurance premiums, and other costs and fees that would be due over the life of the loan for a loan insured by the Secretary under subsection (b) with the note rates, insurance premiums (if applicable), and other costs and fees that would be expected to be due if the mortgagor obtained instead other mortgage products offered by the lender and for which the borrower would qualify with a similar loan-to-value ratio in connection with a conventional mortgage (as that term is used in section 305(a)(2) of the Federal Home Loan Mortgage Corporation Act (12 U.S.C. 1454(a)(2)) or section 302(b)(2) of the Federal National Mortgage Association Charter Act (12 U.S.C. 1717(b)(2)), as applicable), assuming prevailing interest rates; and

(B) a statement regarding when the requirement of the mortgagor to pay the mortgage insurance premiums for a mortgage insured under this section would terminate, or a statement that the requirement shall terminate only if the mortgage is refinanced, paid off, or otherwise terminated.

(g)(1) The Secretary may insure a mortgage under this title that is secured by a 1- to 4-family dwelling, or approve a substitute mortgagor with respect to any such mortgage, only if the mortgagor is to occupy the dwelling as his or her principal residence or as a secondary residence, as determined by the Secretary. In making this determination with respect to the occupancy of secondary residences, the Secretary may not insure mortgages with respect to such residences unless the Secretary determines that it is necessary to avoid undue hardship to the mortgagor. In no event may a secondary residence under this subsection include a vacation home, as determined by the Secretary.

(2) The occupancy requirement established in paragraph (1) shall not apply to any mortgagor (or co-mortgagor, as appropriate) that is—

(A) a public entity, as provided in section 214 or 247, or any other State or local government or an agency thereof;

(B) a private nonprofit or public entity, as provided in section 221(h) or 235(j), or other private nonprofit organization that is exempt from taxation under section 501(c)(3) of the Internal Revenue Code of 1986 and intends to sell or lease the mortgage property to low or moderate-income persons, as determined by the Secretary;

(C) an Indian tribe, as provided in section 248;

(D) a serviceperson who is unable to meet such requirement because of his or her duty assignment, as provided in section 216 or subsection (b)(4) or (f) of section 222;

(E) a mortgagor or co-mortgagor under subsection (k); or

(F) a mortgagor that, pursuant to section 223(a)(7), is refinancing an existing mortgage insured under this Act for not more than the outstanding balance of the existing mortgage, if the amount of the monthly payment due under the refinancing mortgage is less than the amount due under the existing mortgage for the month in which the refinancing mortgage is executed.

(3) For purposes of this subsection, the term “substitute mortgagor” means a person who, upon the release by a mortgagee of a previous mortgagor from personal liability on the mortgage note, assumes such liability and agrees to pay the mortgage debt.

(h) Notwithstanding any other provision of this section, the Secretary is authorized to insure any mortgage which involves a principal obligation not in excess of the applicable maximum dollar limit under subsection (b) and not in excess of 100 per centum of the appraised value of a property upon which there is located a dwelling designed principally for a single-family residence, where the mortgagor establishes (to the satisfaction of the Secretary) that his home which he occupied as an owner or as a tenant was destroyed or damaged to such an extent that reconstruction is required as a result of a flood, fire, hurricane, earthquake, storm, or other catastrophe, which the President, pursuant to Robert T. Stafford Disaster Relief and Emergency Assistance Act, has determined to be a major disaster. In any case in which the single family residence to be insured under this subsection is within a jurisdiction in which the President has declared a major disaster to have occurred, the Secretary is authorized, for a temporary period not to exceed 18 months from the date of such Presidential declaration, to enter into agreements to insure a mortgage which involves a principal obligation of up to 100 percent of the dollar limitation determined under section 305(a)(2) of the Federal Home Loan Mortgage Corporation Act for single family residence, and not in excess of 100 percent of the appraised value.

(j) Loans secured by mortgages insured under this section shall not be taken into account in determining the amount of real estate loans which a national bank may make in relation to its capital and surplus or its time and savings deposits.

(k)(1) The Secretary may, in order to assist in the rehabilitation of one- to four-family structures used primarily for residential purposes, insure and make commitments to insure rehabilitation loans (including advances made during rehabilitation) made by financial institutions. Such commitments to insure and such insurance shall be made upon such terms and conditions which the Secretary may prescribe and which are consistent with the provisions of subsections (b), (c), (e), (i) and (j) of this section, except as modified by the provisions of this subsection.

(2) For the purpose of this subsection—

(A) the term “rehabilitation loan” means a loan, advance of credit, or purchase of an obligation representing a loan or advance of credit, made for the purpose of financing—

(i) the rehabilitation of an existing one- to four-unit structure which will be used primarily for residential purposes;

(ii) the rehabilitation of such a structure and the refinancing of the outstanding indebtedness on such structure and the real property on which the structure is located; or

(iii) the rehabilitation of such a structure and the purchase of the structure and the real property on which it is located; and

(B) the term “rehabilitation” means the improvement (including improvements designed to meet cost-effective energy conservation standards prescribed by the Secretary) or repair of a structure, or facilities in connection with a structure, and may include the provision of such sanitary or other facilities as are required by applicable codes, a community development plan, or a statewide property insurance plan to be provided by the owner or tenant of the project. The term “rehabilitation” may also include measures to evaluate and reduce lead-based paint hazards, as such terms are defined in section 1004 of the Residential Lead-Based Paint Hazard Reduction Act of 1992.

(3) To be eligible for insurance under this subsection, a rehabilitation loan shall—

(A) involve a principal obligation (including such initial service charges, appraisal, inspection, and other fees as the Secretary shall approve) in an amount which does not exceed, when added to any outstanding indebtedness of the borrower which is secured by the structure and the property on which it is located, the amount specified in subsection (b)(2); except that, in determining the amount of the principal obligation for purposes of this subsection, the Secretary shall establish as the appraised value of the property an amount not to exceed the sum of the estimated cost of rehabilitation and the Secretary’s estimate of the value of the property before rehabilitation;

(B) bear interest at such rate as may be agreed upon by the borrower and the financial institution;

(C) be an acceptable risk, as determined by the Secretary; and

(D) comply with such other terms, conditions, and restrictions as the Secretary may prescribe.

(4) Any rehabilitation loan insured under this subsection may be refinanced and extended in accordance with such terms and conditions as the Secretary may prescribe, but in no event for an additional amount or term which exceeds the maximum provided for in this subsection.

(5) All funds received and all disbursements made pursuant to the authority established by this subsection shall be credited or charged as appropriate, to the Mutual Mortgage Insurance Fund, and insurance benefits shall be paid in cash out of such Fund or in debentures executed in the name of such Fund. Insurance benefits paid with respect to loans secured by a first mortgage and insured under this subsection shall be paid in accordance with section 204. Insurance benefits paid with respect to loans secured by a mortgage other than a first mortgage and insured under this subsection shall be paid in accordance with paragraphs (6) and (7) of

section 220(h), except that reference to “this subsection” in such paragraphs shall be construed as referring to this subsection.

(6) The Secretary is authorized, for a temporary period not to exceed 18 months from the date on which the President has declared a major disaster to have occurred, to enter into agreements to insure a rehabilitation loan under this subsection which involves a principal obligation of up to 100 percent of the dollar limitation determined under section 305(a)(2) of the Federal Home Loan Mortgage Corporation Act for a residence of the applicable size, if such loan is secured by a structure and property that are within a jurisdiction in which the President has declared such disaster, pursuant to the Robert T. Stafford Disaster Relief and Emergency Assistance Act, and if such loan otherwise conforms to the loan-to-value ratio and other requirements of this subsection.

(n)(1) The Secretary is authorized to insure under this section any mortgage meeting the requirements of subsection (b) of this section, except as modified by this subsection. To be eligible, the mortgage shall involve a dwelling unit in a cooperative housing project which is covered by a blanket mortgage insured under this Act or the construction of which was completed more than a year prior to the application for the mortgage insurance. The mortgage amount as determined under the other provisions of subsection (b) of this section shall be reduced by an amount equal to the portion of the unpaid balance of the blanket mortgage covering the project which is attributable (as of the date the mortgage is accepted for insurance) to such unit.

(2) For the purpose of this subsection—

(A) The terms “home mortgage” and “mortgage” include a first or subordinate mortgage or lien given (in accordance with the laws of the State where the property is located and accompanied by such security and other undertakings as may be required under regulations of the Secretary) to secure a loan made to finance the purchase of stock or membership in a cooperative ownership housing corporation the permanent occupancy of the dwelling units of which is restricted to members of such corporation, where the purchase of such stock or membership will entitle the purchaser to the permanent occupancy of one of such units.

(B) The terms “appraised value of the property”, “value of the property”, and “value” include the appraised value of a dwelling unit in a cooperative housing project of the type described in subparagraph (A) where the purchase of the stock or membership involved will entitle the purchaser to the permanent occupancy of that unit; and the term “property” includes a dwelling unit in such a cooperative project.

(C) The terms “mortgagor” includes a person or persons giving a first or subordinate mortgage or lien (of the type described in subparagraph (A)) to secure a loan to finance the purchase of stock or membership in a cooperative housing corporation.

(r) The Secretary shall take appropriate actions to reduce losses under the single-family mortgage insurance programs carried out under this title. Such actions shall include—

(1) an annual review by the Secretary of the rate of early serious defaults and claims, in accordance with section 533;

(2) requiring that at least one person acquiring ownership of a one- to four-family residential property encumbered by a mortgage insured under this title be determined to be credit-worthy under standards prescribed by the Secretary, whether or not such person assumes personal liability under the mortgage (except that acquisitions by devise or descent shall not be subject to this requirement);

(3) in any case where personal liability under a mortgage is assumed, requiring that the original mortgagor be advised of the procedures by which he or she may be released from liability; and

(4) providing counseling, either directly or through third parties, to delinquent mortgagors whose mortgages are insured under this section 203 (12 U.S.C. 1709), using the Fund to pay for such counseling.

In any case where the homeowner does not request a release from liability, the purchaser and the homeowner shall have joint and several liability for any default for a period of 5 years following the date of the assumption. After the close of such 5-year period, only the purchaser shall be liable for any default on the mortgage unless the mortgage is in default at the time of the expiration of the 5-year period.

(t)(1) Each mortgagee (or servicer) with respect to a mortgage under this section shall provide each mortgagor of such mortgagee (or servicer) written notice, not less than annually, containing a statement of the amount outstanding for prepayment of the principal amount of the mortgage and describing any requirements the mortgagor must fulfill to prevent the accrual of any interest on such principal amount after the date of any prepayment. This paragraph shall apply to any insured mortgage outstanding on or after the expiration of the 90-day period beginning on the date of effectiveness of final regulations implementing this paragraph.

(2) Each mortgagee (or servicer) with respect to a mortgage under this section shall, at or before closing with respect to any such mortgage, provide the mortgagor with written notice (in such form as the Secretary shall prescribe, by regulation, before the expiration of the 90-day period beginning upon the date of the enactment of the Cranston-Gonzalez National Affordable Housing Act) describing any requirements the mortgagor must fulfill upon prepayment of the principal amount of the mortgage to prevent the accrual of any interest on the principal amount after the date of such prepayment. This paragraph shall apply to any mortgage executed after the expiration of the period under paragraph (1).

(u)(1) No mortgagee may make or hold mortgages insured under this section if the customary lending practices of the mortgagee, as determined by the Secretary pursuant to section 539, provide for a variation in mortgage charge rates that exceeds 2 percent for insured mortgages made by the mortgagee on dwellings located within an area. The Secretary shall ensure that any permissible variations in the mortgage charge rates of any mortgagee are based only on actual variations in fees or costs to the mortgagee to make the loan.

(2) For purposes of this subsection—

(A) the term “area” means a metropolitan statistical area as established by the Office of Management and Budget;

(B) the term “mortgage charges” includes the interest rate, discount points, loan origination fee, and any other amount charged to a mortgagor with respect to an insured mortgage; and

(C) the term “mortgage charge rate” means the amount of mortgage charges for an insured mortgage expressed as a percentage of the initial principal amount of the mortgage.

(v) The insurance of a mortgage under this section in connection with the assistance provided under section 8(y) of the United States Housing Act of 1937 shall be the obligation of the Mutual Mortgage Insurance Fund.

(w) ANNUAL REPORT.—The Secretary of Housing and Urban Development shall submit to the Congress an annual report on the single family mortgage insurance program under this section. Each report shall set forth—

(1) an analysis of the income groups served by the single family insurance program, including—

(A) the percentage of borrowers whose incomes do not exceed 100 percent of the median income for the area;

(B) the percentage of borrowers whose incomes do not exceed 80 percent of the median income for the area; and

(C) the percentage of borrowers whose incomes do not exceed 60 percent of the median income for the area;

(2) an analysis of the percentage of minority borrowers annually assisted by the program; the percentage of central city borrowers assisted and the percentage of rural borrowers assisted by the program;

(3) the extent to which the Secretary in carrying out the program has employed methods to ensure that needs of low and moderate income families, underserved areas, and historically disadvantaged groups are served by the program; and

(4) the current impediments to having the program serve low and moderate income borrowers; borrowers from central city areas; borrowers from rural areas; and minority borrowers.

(x) MANAGEMENT DEFICIENCIES REPORT.—

(1) IN GENERAL.— Not later than 60 days after the date of the enactment of this subsection, and annually thereafter, the Secretary shall submit to Congress a report on the plan of the Secretary to address each material weakness, reportable condition, and noncompliance with an applicable law or regulation (as defined by the Director of the Office of Management and Budget) identified in the most recent audited financial statement of the Federal Housing Administration submitted under section 3515 of title 31, United States Code.

(2) CONTENTS OF ANNUAL REPORT.— Each report submitted under paragraph (1) shall include—

(A) an estimate of the resources, including staff, information systems, and contract assistance, required to address each material weakness, reportable condition, and noncompliance with an applicable law or regulation described in paragraph (1), and the costs associated with those resources;

(B) an estimated timetable for addressing each material weakness, reportable condition, and noncompliance with an applicable law or regulation described in paragraph (1); and

(C) the progress of the Secretary in implementing the plan of the Secretary included in the report submitted under paragraph (1) for the preceding year, except that this subparagraph does not apply to the initial report submitted under paragraph (1).

(y) *REQUIREMENTS FOR MORTGAGES FOR CONDOMINIUMS.—*

(1) *PROJECT RECERTIFICATION REQUIREMENTS.— Notwithstanding any other law, regulation, or guideline of the Secretary, including chapter 2.4 of the Condominium Project Approval and Processing Guide of the FHA, the Secretary shall streamline the project certification requirements that are applicable to the insurance under this section for mortgage projects so that recertifications are substantially less burdensome than certifications. The Secretary shall consider lengthening the time between certifications for approved properties, and allowing updating of information rather than resubmission.*

(2) *COMMERCIAL SPACE REQUIREMENTS.— Notwithstanding any other law, regulation, or guideline of the Secretary, including chapter 2.1.3 of the Condominium Project Approval and Processing Guide of the FHA, in providing for exceptions to the requirement for the insurance of a mortgage on a condominium property under this section regarding the percentage of the floor space of a condominium property that may be used for nonresidential or commercial purposes, the Secretary shall provide that—*

*(A) any request for such an exception and the determination of the disposition of such request may be made, at the option of the requester, under the direct endorsement lender review and approval process or under the HUD review and approval process through the applicable field office of the Department; and*

*(B) in determining whether to allow such an exception for a condominium property, factors relating to the economy for the locality in which such project is located or specific to project, including the total number of family units in the project, shall be considered.*

*Not later than the expiration of the 90-day period beginning on the date of the enactment of this paragraph, the Secretary shall issue regulations to implement this paragraph, which shall include any standards, training requirements, and remedies and penalties that the Secretary considers appropriate.*

(3) *TRANSFER FEES.— Notwithstanding any other law, regulation, or guideline of the Secretary, including chapter 1.8.8 of the Condominium Project Approval and Processing Guide of the FHA and section 203.41 of the Secretary's regulations (24 C.F.R. 203.41), existing standards of the Federal Housing Finance Agency relating to encumbrances under private transfer fee covenants shall apply to the insurance of mortgages by the Secretary under this section to the same extent and in the same manner that such standards apply to the purchasing, investing*

*in, and otherwise dealing in mortgages by the Federal National Mortgage Association and the Federal Home Loan Mortgage Corporation. If the provisions of part 1228 of the Director of the Federal Housing Finance Agency's regulations (12 C.F.R. part 1228) are amended or otherwise changed after the date of the enactment of this paragraph, the Secretary of Housing and Urban Development shall adopt any such amendments or changes for purposes of this paragraph, unless the Secretary causes to be published in the Federal Register a notice explaining why the Secretary will disregard such amendments or changes within 90 days after the effective date of such amendments or changes.*

**(4) OWNER-OCCUPANCY REQUIREMENT.—**

**(A) ESTABLISHMENT OF PERCENTAGE REQUIREMENT.—**

*Not later than the expiration of the 90-day period beginning on the date of the enactment of this paragraph, the Secretary shall, by rule, notice, or mortgagee letter, issue guidance regarding the percentage of units that must be occupied by the owners as a principal residence or a secondary residence (as such terms are defined by the Secretary), or must have been sold to owners who intend to meet such occupancy requirements, including justifications for the percentage requirements, in order for a condominium project to be acceptable to the Secretary for insurance under this section of a mortgage within such condominium property.*

**(B) FAILURE TO ACT.—***If the Secretary fails to issue the guidance required under subparagraph (A) before the expiration of the 90-day period specified in such clause, the following provisions shall apply:*

**(i) 35 PERCENT REQUIREMENT.—***In order for a condominium project to be acceptable to the Secretary for insurance under this section, at least 35 percent of all family units (including units not covered by FHA-insured mortgages) must be occupied by the owners as a principal residence or a secondary residence (as such terms are defined by the Secretary), or must have been sold to owners who intend to meet such occupancy requirement.*

**(ii) OTHER CONSIDERATIONS.—***The Secretary may increase the percentage applicable pursuant to clause (i) to a condominium project on a project-by-project or regional basis, and in determining such percentage for a project shall consider factors relating to the economy for the locality in which such project is located or specific to project, including the total number of family units in the project.*

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**MCKINNEY-VENTO HOMELESS ASSISTANCE ACT**

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**SECTION 101. SHORT TITLE AND TABLE OF CONTENTS.**

(a) **SHORT TITLE.**—This Act may be cited as the “McKinney-Vento Homeless Assistance Act”.

(b) **TABLE OF CONTENTS.**—

*	*	*	*	*	*	*
<b>TITLE IV—HOUSING ASSISTANCE</b>						
*	*	*	*	*	*	*
Subtitle C—Continuum of Care Program						
Sec. 421. Purposes.						
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[Sec. 433. Reports to Congress.]						
<i>Sec. 432. Geographic areas.</i>						
<i>Sec. 433. Regulations.</i>						
<i>Sec. 434. Reports to Congress.</i>						
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**TITLE IV—HOUSING ASSISTANCE**

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**Subtitle B—Emergency Solutions Grants Program**

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**SEC. 414. ALLOCATION AND DISTRIBUTION OF ASSISTANCE.**

(a) **IN GENERAL.**—The Secretary shall allocate assistance under this subtitle to metropolitan cities, urban counties, and States (for distribution to local governments and private nonprofit organizations in the States) in a manner that ensures that the percentage of the total amount available under this subtitle for any fiscal year that is allocated to any State, metropolitan city, or urban county is equal to the percentage of the total amount available for section 106 of the Housing and Community Development Act of 1974 for such prior fiscal year that is allocated to such State, metropolitan city, or urban county.

(b) **MINIMUM ALLOCATION REQUIREMENT.**—If, under the allocation provisions applicable under this subtitle, any metropolitan city or urban county would receive a grant of less than 0.05 percent of the amounts appropriated under section 408 and made available to carry out this subtitle for any fiscal year, such amount shall instead be reallocated to the State, except that any city that is located in a State that does not have counties as local governments, that has a population greater than 40,000 but less than 50,000 as used in determining the fiscal year 1987 community development block grant program allocation, and that was allocated in excess of \$1,000,000 in community development block grant funds in fiscal year 1987, shall receive directly the amount allocated to such city under subsection (a).

(c) **DISTRIBUTIONS TO NONPROFIT ORGANIZATIONS, PUBLIC HOUSING AGENCIES, AND LOCAL REDEVELOPMENT AUTHORITIES.**—Any local government receiving assistance under this subtitle may dis-

tribute all or a portion of such assistance to private nonprofit organizations providing assistance to homeless individuals, *to public housing agencies (as defined under section 3(b)(6) of the United States Housing Act of 1937), or to local redevelopment authorities (as defined under State law)* . Any State receiving assistance under this subtitle may distribute all or a portion of such assistance to private nonprofit organizations providing assistance to homeless individuals, if the local government for the locality in which the project is located certifies that it approves of the project.

(d) REALLOCATION OF FUNDS.—

(1) The Secretary shall, not less than twice during each fiscal year, reallocate any assistance provided under this subtitle that is unused or returned or that becomes available under subsection (b).

(2) If a city or county eligible for a grant under subsection (a) fails to obtain approval of its comprehensive plan during the 90-day period following the date funds authorized by this subtitle first become available for allocation during any fiscal year, the amount that the city or county would have received shall be available to the State in which the city or county is located if the State has obtained approval of its comprehensive plan. Any amounts that cannot be allocated to a State under the preceding sentence shall be reallocated to other States, counties, and cities that demonstrate extraordinary need or large numbers of homeless individuals, as determined by the Secretary.

(3) If a State or Indian tribe fails to obtain approval of its comprehensive plan during the 90-day period following the date funds authorized by this subtitle first become available for allocation during any fiscal year, the amount that the State or Indian tribe would have received shall be reallocated to other States and to cities and counties as applicable, that demonstrate extraordinary need or large numbers of homeless individuals, as determined by the Secretary.

(e) ALLOCATIONS TO TERRITORIES.—In addition to the other allocations required in this section, the Secretary shall (for amounts appropriated after the date of enactment of this Act) allocate assistance under this subtitle to the Virgin Islands, Guam, American Samoa, the Northern Mariana Islands, the Trust Territory of the Pacific Islands, and any other territory or possession of the United States, in accordance with an allocation formula established by the Secretary.

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**Subtitle C—Continuum of Care Program**

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**SEC. 432. GEOGRAPHIC AREAS.**

(a) *REQUIREMENT TO DEFINE.*—For purposes of this subtitle, the term “geographic area” shall have such meaning as the Secretary shall by notice provide.

(b) *ISSUANCE OF NOTICE.*—Not later than the expiration of the 90-day period beginning on the date of the enactment of the Housing Opportunity Through Modernization Act of 2015, the Secretary

*shall issue a notice setting forth the definition required by subsection (a).*

**SEC. [432.] 433. REGULATIONS.**

Not later than the expiration of the 90-day period beginning on the date of the enactment of the Housing and Community Development Act of 1992, the Secretary shall issue interim regulations to carry out this subtitle, which shall take effect upon issuance. The Secretary shall issue final regulations to carry out this subtitle after notice and opportunity for public comment regarding the interim regulations, pursuant to the provisions of section 553 of title 5, United States Code (notwithstanding subsections (a)(2), (b)(B), and (d)(3) of such section). The duration of the period for public comment shall not be less than 60 days, and the final regulations shall be issued not later than the expiration of the 60-day period beginning upon the conclusion of the comment period and shall take effect upon issuance.

**SEC. [433.] 434. REPORTS TO CONGRESS.**

The Secretary shall submit a report to the Congress annually, summarizing the activities carried out under this subtitle and setting forth the findings, conclusions, and recommendations of the Secretary as a result of the activities. The report shall be submitted not later than 4 months after the end of each fiscal year (except that, in the case of fiscal year 1993, the report shall be submitted not later than 6 months after the end of the fiscal year).

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**DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT  
ACT**

\* \* \* \* \*

**UNDER SECRETARY AND OTHER OFFICERS AND OFFICES**

SEC. 4. (a)(1) There shall be in the Department a Deputy Secretary, 7 Assistant Secretaries, and a general counsel, who shall be appointed by the President by and with the advice and consent of the Senate, and who shall perform such functions, powers, and duties as the Secretary shall prescribe from time to time.

(2) There shall be in the Department an Assistant Secretary for Public Affairs, who shall be appointed by the President and shall perform such functions, powers, and duties as the Secretary shall prescribe from time to time.

(b) There shall be in the Department a Federal Housing Commissioner, who shall be one of the Assistant Secretaries, who shall head a Federal Housing Administration within the Department, who shall have such duties and powers as may be prescribed by the Secretary, and who shall administer, under the supervision and direction of the Secretary, departmental programs relating to the private mortgage market. The Secretary shall ensure, to the extent practicable, that managers of Federal Housing Administration programs, at each level of the Department, shall be accountable for program operation, risk management, management of cash and other Federal assets, and program financing related to activities over which such managers have responsibility.

(c) There shall be in the Department a Director of Urban Program Coordination, who shall be designated by the Secretary. He shall assist the Secretary in carrying out his responsibilities to the President with respect to achieving maximum coordination of the programs of the various departments and agencies of the Government which have a major impact on community development. In providing such assistance, the Director shall make such studies of urban and community problems as the Secretary shall request, and shall develop recommendations relating to the administration of Federal programs affecting such problems, particularly with respect to achieving effective cooperation among the Federal, State, and local agencies concerned. Subject to the direction of the Secretary, the Director shall, in carrying out his responsibilities, (1) establish and maintain close liaison with the Federal departments and agencies concerned, and (2) consult with State, local, and regional officials, and consider their recommendations with respect to such programs.

(d) There shall be in the Department an Assistant to the Secretary, designated by the Secretary, who shall be responsible for providing information and advice to nonprofit organizations desiring to sponsor housing projects assisted under programs administered by the Department.

(e)(1)(A) There shall be in the Department a Special Assistant for Indian and Alaska Native Programs, who shall be located in the Office of the Assistant Secretary for Public and Indian Housing. The Special Assistant for Indian and Alaska Native Programs shall be designated by the Secretary not later than 60 days after the date of enactment of this subsection.

(B) The Special Assistant for Indian and Alaska Native Programs shall be appointed based solely on merit and shall be covered under the provisions of title 5, United States Code, governing appointments in the competitive service.

(C) The Special Assistant for Indian and Alaska Native Programs shall be responsible for—

(i) administering, in coordination with the relevant office in the Department, the provision of housing assistance to Indian tribes or Indian housing authorities under each program of the Department that provides for such assistance;

(ii) administering the community development block grant program for Indian tribes under title I of the Housing and Community Development Act of 1974 and the provision of assistance to Indian tribes under such Act;

(iii) directing, coordinating, and assisting in managing any regional offices of the Department that administer Indian programs to the extent of such programs; and

(iv) coordinating all programs of the Department relating to Indian and Alaska Native housing and community development.

(D) The Secretary shall include in the annual report under section 8 a description of the extent of the housing needs for Indian families and community development needs of Indian tribes in the United States and the activities of the Department, and extent of such activities, in meeting such needs.

(2) The Secretary shall, not later than December 1 of each year, submit to Congress an annual report which shall include—

- (A) a description of his actions during the current year and a projection of his activities during the succeeding years;
  - (B) estimate of the cost of the projected activities for succeeding fiscal years;
  - (C) a statistical report on the conditions of Indian and Alaska Native housing; and
  - (D) recommendations for such legislative, administrative, and other actions, as he deems appropriate.
- (f) There shall be in the Department a Federal Housing Administration Comptroller, designated by the Secretary, who shall be responsible for overseeing the financial operations of the Federal Housing Administration.
- (g) OFFICE OF HOUSING COUNSELING.—
- (1) ESTABLISHMENT.— There is established, in the Department, the Office of Housing Counseling.
  - (2) DIRECTOR.— There is established the position of Director of Housing Counseling. The Director shall be the head of the Office of Housing Counseling and shall be appointed by, and shall report to, the Secretary. Such position shall be a career-reserved position in the Senior Executive Service.
  - (3) FUNCTIONS.—
    - (A) IN GENERAL.— The Director shall have primary responsibility within the Department for all activities and matters relating to homeownership counseling and rental housing counseling, including—
      - (i) research, grant administration, public outreach, and policy development relating to such counseling; and
      - (ii) establishment, coordination, and administration of all regulations, requirements, standards, and performance measures under programs and laws administered by the Department that relate to housing counseling, homeownership counseling (including maintenance of homes), mortgage-related counseling (including home equity conversion mortgages and credit protection options to avoid foreclosure), and rental housing counseling, including the requirements, standards, and performance measures relating to housing counseling.
    - (B) SPECIFIC FUNCTIONS.— The Director shall carry out the functions assigned to the Director and the Office under this section and any other provisions of law. Such functions shall include establishing rules necessary for—
      - (i) the counseling procedures under section 106(g)(1) of the Housing and Urban Development Act of 1968 (12 U.S.C. 1701x(h)(1));
      - (ii) carrying out all other functions of the Secretary under section 106(g) of the Housing and Urban Development Act of 1968, including the establishment, operation, and publication of the availability of the toll-free telephone number under paragraph (2) of such section;
      - (iii) contributing to the distribution of home buying information booklets pursuant to section 5 of the Real Estate Settlement Procedures Act of 1974 (12 U.S.C. 2604);

(iv) carrying out the certification program under section 106(e) of the Housing and Urban Development Act of 1968 (12 U.S.C. 1701x(e));

(v) carrying out the assistance program under section 106(a)(4) of the Housing and Urban Development Act of 1968, including criteria for selection of applications to receive assistance;

(vi) carrying out any functions regarding abusive, deceptive, or unscrupulous lending practices relating to residential mortgage loans that the Secretary considers appropriate, which shall include conducting the study under section 6 of the Expand and Preserve Home Ownership Through Counseling Act;

(vii) providing for operation of the advisory committee established under paragraph (4) of this subsection;

(viii) collaborating with community-based organizations with expertise in the field of housing counseling; and

(ix) providing for the building of capacity to provide housing counseling services in areas that lack sufficient services, including underdeveloped areas that lack basic water and sewer systems, electricity services, and safe, sanitary housing.

(4) ADVISORY COMMITTEE.—

(A) IN GENERAL.— The Secretary shall appoint an advisory committee to provide advice regarding the carrying out of the functions of the Director.

(B) MEMBERS.— Such advisory committee shall consist of not more than 12 individuals, and the membership of the committee shall equally represent the mortgage and real estate industry, including consumers and housing counseling agencies certified by the Secretary.

(C) TERMS.— Except as provided in subparagraph (D), each member of the advisory committee shall be appointed for a term of 3 years. Members may be reappointed at the discretion of the Secretary.

(D) TERMS OF INITIAL APPOINTEES.— As designated by the Secretary at the time of appointment, of the members first appointed to the advisory committee, 4 shall be appointed for a term of 1 year and 4 shall be appointed for a term of 2 years.

(E) PROHIBITION OF PAY; TRAVEL EXPENSES.— Members of the advisory committee shall serve without pay, but shall receive travel expenses, including per diem in lieu of subsistence, in accordance with applicable provisions under subchapter I of chapter 57 of title 5, United States Code.

(F) ADVISORY ROLE ONLY.— The advisory committee shall have no role in reviewing or awarding housing counseling grants.

(5) SCOPE OF HOMEOWNERSHIP COUNSELING.— In carrying out the responsibilities of the Director, the Director shall ensure that homeownership counseling provided by, in connection with, or pursuant to any function, activity, or program of the

Department addresses the entire process of homeownership, including the decision to purchase a home, the selection and purchase of a home, issues arising during or affecting the period of ownership of a home (including refinancing, default and foreclosure, and other financial decisions), and the sale or other disposition of a home.

(h) *SPECIAL ASSISTANT FOR VETERANS AFFAIRS.*—

(1) *POSITION.*— *There shall be in the Office of the Secretary a Special Assistant for Veterans Affairs, who shall report directly to the Secretary.*

(2) *APPOINTMENT.*— *The Special Assistant for Veterans Affairs shall be appointed based solely on merit and shall be covered under the provisions of title 5, United States Code, governing appointments in the competitive service.*

(3) *RESPONSIBILITIES.*— *The Special Assistant for Veterans Affairs shall be responsible for—*

(A) *ensuring veterans have fair access to housing and homeless assistance under each program of the Department providing either such assistance;*

(B) *coordinating all programs and activities of the Department relating to veterans;*

(C) *servicing as a liaison for the Department with the Department of Veterans Affairs, including establishing and maintaining relationships with the Secretary of Veterans Affairs;*

(D) *servicing as a liaison for the Department, and establishing and maintaining relationships with the United States Interagency Council on Homelessness and officials of State, local, regional, and nongovernmental organizations concerned with veterans;*

(E) *providing information and advice regarding—*

(i) *sponsoring housing projects for veterans assisted under programs administered by the Department; or*

(ii) *assisting veterans in obtaining housing or homeless assistance under programs administered by the Department;*

(F) *coordinating with the Secretary of Housing and Urban Development and the Secretary of Veterans Affairs in carrying out section 404 of the Housing Opportunity Through Modernization Act of 2015; and*

(G) *carrying out such other duties as may be assigned to the Special Assistant by the Secretary or by law.*

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**SECTION 11 OF THE HOUSING OPPORTUNITY PROGRAM EXTENSION ACT OF 1996**

**SEC. 11. ASSISTANCE FOR SELF-HELP HOUSING PROVIDERS.**

(a) *GRANT AUTHORITY.*—*The Secretary of Housing and Urban Development may, to the extent amounts are available to carry out this section and the requirements of this section are met, make grants for use in accordance with this section to national and regional organizations and consortia that have experience in pro-*

viding or facilitating self-help housing homeownership opportunities.

(b) GOALS AND ACCOUNTABILITY.—In making grants under this section, the Secretary shall take such actions as may be necessary to ensure that—

(1) assistance provided under this section is used to facilitate and encourage innovative homeownership opportunities through the provision of self-help housing, under which the homeowner contributes a significant amount of sweat equity toward the construction of the new dwellings;

(2) assistance provided under this section for land acquisition and infrastructure development results in the development of not less than 4,000 new dwellings;

(3) the dwellings constructed in connection with assistance provided under this section are quality dwellings that comply with local building and safety codes and standards and are available at prices below the prevailing market prices;

(4) the provision of assistance under this section establishes and fosters a partnership between the Federal Government and organizations and consortia, resulting in efficient development of affordable housing with minimal governmental intervention, limited governmental regulation, and significant involvement by private entities;

(5) activities to develop housing assisted pursuant to this section involve community participation in which volunteers assist in the construction of dwellings; and

(6) dwellings are developed in connection with assistance under this section on a geographically diverse basis, which includes areas having high housing costs, rural areas, and areas underserved by other homeownership opportunities that are populated by low-income families unable to otherwise afford housing.

If, at any time, the Secretary determines that the goals under this subsection cannot be met by providing assistance in accordance with the terms of this section, the Secretary shall immediately notify the applicable Committees in writing of such determination and any proposed changes for such goals or this section.

(c) NATIONAL COMPETITION.—The Secretary shall select organizations and consortia referred to in subsection (a) to receive grants through a national competitive process, which the Secretary shall establish.

(d) USE.—

(1) PURPOSE.— Amounts from grants made under this section, including any recaptured amounts, shall be used only for eligible expenses in connection with developing new decent, safe, and sanitary nonluxury dwellings in the United States for families and persons who otherwise would be unable to afford to purchase a dwelling.

(2) ELIGIBLE EXPENSES.— For purposes of paragraph (1), the term “eligible expenses” means costs only for the following activities:

(A) LAND ACQUISITION.— Acquiring land (including financing and closing costs), which may include reimbursing an organization, consortium, or affiliate, upon approval of any required environmental review, for nongrant amounts

of the organization, consortium, or affiliate advanced before such review to acquire land.

(B) INFRASTRUCTURE IMPROVEMENT.—Installing, extending, constructing, rehabilitating, or otherwise improving utilities and other infrastructure.

Such term does not include any costs for the rehabilitation, improvement, or construction of dwellings.

(e) ESTABLISHMENT OF GRANT FUND.—

(1) IN GENERAL.—Any amounts from any grant made under this section shall be deposited by the grantee organization or consortium in a fund that is established by such organization or consortium for such amounts, administered by such organization or consortium, and available for use only for the purposes under subsection (d). Any interest, fees, or other earnings of the fund shall be deposited in the fund and shall be considered grant amounts for purposes of this section.

(2) ASSISTANCE TO AFFILIATES.—Any organization or consortia that receives a grant under this section may use amounts in the fund established for such organization or consortia pursuant to paragraph (1) for the purposes under subsection (d) by providing assistance from the fund to local affiliates of such organization or consortia.

(f) REQUIREMENTS FOR ASSISTANCE.—The Secretary may make a grant to an organization or consortium under subsection (a) only pursuant to—

(1) an expression of interest by such organization or consortia to the Secretary for a grant for such purposes;

(2) a determination by the Secretary that the organization or consortia has the capability and has obtained financial commitments (or has the capacity to obtain financial commitments) necessary to—

(A) develop not less than 30 dwellings in connection with the grant amounts; and

(B) otherwise comply with a grant agreement under subsection (i); and

(3) a grant agreement entered into under subsection (i).

(g) ENERGY EFFICIENCY REQUIREMENTS.—*The Secretary may not require any dwelling developed using amounts from a grant made under this section to meet any energy efficiency standards other than the standards applicable at such time pursuant to section 109 of the Cranston-Gonzalez National Affordable Housing Act (42 U.S.C. 12709) to housing specified in subsection (a) of such section.*

(h) GEOGRAPHICAL DIVERSITY.—In making grants under subsection (a), the Secretary shall ensure that grants are provided and grant amounts are used in a manner that results in national geographic diversity among housing developed using grant amounts under this section.

(i) GRANT AGREEMENT.—A grant under this section shall be made only pursuant to a grant agreement entered into by the Secretary and the organization or consortia receiving the grant, which shall—

(1) require such organization or consortia to use grant amounts only as provided in this section;

(2) provide for the organization or consortia to develop a specific and reasonable number of dwellings using the grant amounts, which number shall be established taking into con-

sideration costs and economic conditions in the areas in which the dwellings will be developed, but in no case shall be less than 30;

(3) require the organization or consortia to use the grant amounts in a manner that leverages other sources of funding (other than grants under this section), including private or public funds, in developing the dwellings;

(4) require the organization or consortia to comply with the other provisions of this section;

(5) provide that the Secretary shall recapture any grant amounts provided to the organization or consortia that are not used within 24 months after such amounts are first disbursed to the organization or consortia, except that such period shall be 36 months in the case of grant amounts from amounts made available for fiscal year 1996 to carry out this section, and in the case of a grant amounts provided to a local affiliate of the organization or consortia that is developing five or more dwellings in connection with such grant amounts; and

(6) contain such other terms as the Secretary may require to provide for compliance with subsection (b) and the requirements of this section.

(j) FULFILLMENT OF GRANT AGREEMENT.—If the Secretary determines that an organization or consortia awarded a grant under this section has not, within 24 months after grant amounts are first made available to the organization or consortia (or, in the case of grant amounts from amounts made available for fiscal year 1996 to carry out this section and grant amounts provided to a local affiliate of the organization or consortia that is developing five or more dwellings in connection with such grant amounts, within 36 months), substantially fulfilled the obligations under the grant agreement, including development of the appropriate number of dwellings under the agreement, the Secretary shall use any such undisbursed amounts remaining from such grant for other grants in accordance with this section.

(k) RECORDS AND AUDITS.—During the period beginning upon the making of a grant under this section and ending upon close-out of the grant under subsection (l)—

(1) the organization awarded the grant shall keep such records and adopt such administrative practices as the Secretary may require to ensure compliance with the provisions of this section and the grant agreement; and

(2) the Secretary and the Comptroller General of the United States, and any of their duly authorized representatives, shall have access for the purpose of audit and examination to any books, documents, papers, and records of the grantee organization or consortia and its affiliates that are pertinent to the grant made under this section.

(l) CLOSE-OUT.—The Secretary shall close out a grant made under this section upon determining that the aggregate amount of any assistance provided from the fund established under subsection (e)(1) by the grantee organization or consortium exceeds the amount of the grant. For purposes of this paragraph, any interest, fees, and other earnings of the fund shall be excluded from the amount of the grant.

(m) ENVIRONMENTAL REVIEW.—A grant under this section shall be considered to be funds for a special project for purposes of section 305(c) of the Multifamily Housing Property Disposition Reform Act of 1994.

(n) REPORT TO CONGRESS.—Not later than 90 days after close-out of all grants under this section is completed, the Secretary shall submit a report to the applicable Committees describing the grants made under this section, the grantees, the housing developed in connection with the grant amounts, and the purposes for which the grant amounts were used.

(o) DEFINITIONS.—For purposes of this section, the following definitions shall apply:

(1) APPLICABLE COMMITTEES.— The term “applicable Committees” means the Committee on Banking and Financial Services of the House of Representatives and the Committee on Banking, Housing, and Urban Affairs of the Senate.

(2) SECRETARY.— The term “Secretary” means the Secretary of Housing and Urban Development.

(3) UNITED STATES.— The term “United States” includes the States of the United States, the District of Columbia, the Commonwealth of Puerto Rico, the Commonwealth of the Northern Mariana Islands, Guam, the Virgin Islands, American Samoa, and any other territory or possession of the United States.

(p) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this section such sums as may be necessary for fiscal year 2001.

(q) REGULATIONS.—The Secretary shall issue any final regulations necessary to carry out this section not later than 30 days after the date of the enactment of this Act. The regulations shall take effect upon issuance and may not exceed, in length, 5 full pages in the Federal Register.