

FOSTERING STABLE HOUSING OPPORTUNITIES ACT OF
2018

NOVEMBER 14, 2018.—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

together with

MINORITY VIEWS

[To accompany H.R. 2069]

[Including cost estimate of the Congressional Budget Office]

The Committee on Financial Services, to whom was referred the bill (H.R. 2069) to provide priority under certain federally assisted housing programs to assist youths who are aging out of foster care, and for other purposes, having considered the same, report favorably thereon with an amendment and recommend 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.

This Act may be cited as the “Fostering Stable Housing Opportunities Act of 2018”.

SEC. 2. DEFINITION OF FAMILY.

Subparagraph (A) of section 3(b)(3) of the United States Housing Act of 1937 (42 U.S.C. 1437a(b)(3)(A)) is amended—

(1) in the first sentence—

(A) by striking “(v)” and inserting “(vi)”; and

(B) by inserting after “tenant family,” the following: “(v) a child who is in foster care and has attained an age such that the provision of foster care for such child will end by reason of the age of the child within 6 months;”
and

(2) in the second sentence, by inserting “or (vi)” after “clause (v)”.

SEC. 3. PRIORITY FOR PUBLIC HOUSING OCCUPANCY AND SECTION 8 ASSISTANCE.

(a) **PUBLIC HOUSING.**—Subparagraph (A) of section 6(c)(4) of the United States Housing Act of 1937 (42 U.S.C. 1437d(c)(4)(A)) is amended—

(1) by striking “may establish a system for making dwelling units available that provides preference” and inserting the following: “shall establish a system for making dwelling units available that—

“(i) shall provide preferences”;

(2) by striking “each system of preferences established pursuant to this subparagraph shall be based” and inserting the following:

“(ii) except as provided in clause (iii), shall be based”;

(3) by adding at the end the following new clause:

“(iii) except for projects or portions of projects designated for occupancy pursuant to section 7(a), shall provide that the highest preference for occupancy shall be given to otherwise eligible children who are in foster care, have attained an age such that the provision of foster care for such child will end by reason of the age of the child within 6 months, meet the requirements under clauses (i) and (ii) of paragraph (1) of the definition of ‘at risk of homelessness’ in section 91.5 of the Secretary’s regulations (24 C.F.R. 91.5), as in effect on September 1, 2016, and have agreed to comply with the requirements under section 39(c); and

“(iv) may provide highest preference for occupancy to, in addition to eligible children described in clause (iii), not more than two other types of families.”.

(b) **VOUCHER ASSISTANCE.**—Subparagraph (A) of section 8(o)(6) of the United States Housing Act of 1937 (42 U.S.C. 1437f(o)(6)(A)) is amended—

(1) in clause (i), by striking “may” the first place such term appears and inserting “shall”;

(2) by redesignating clause (ii) as clause (iii);

(3) by inserting before clause (iii), as so redesignated by paragraph (1) of this subsection, the following new clause:

“(ii) **HIGHEST PREFERENCE.**—Each system of preferences established pursuant to this subparagraph—

“(I) shall provide that the highest preference for assistance shall be given to otherwise eligible children who are in foster care, have attained an age such that the provision of foster care for such child will end by reason of the age of the child within 6 months, meet the requirements under clauses (i) and (ii) of paragraph (1) of the definition of ‘at risk of homelessness’ in section 91.5 of the Secretary’s regulations (24 C.F.R. 91.5), as in effect on September 1, 2016, and have agreed to comply with the requirements under section 39(c); and

“(II) may provide highest preference for assistance to, in addition to eligible children described in subclause (I), not more than two other types of eligible families.”; and

(4) in clause (iii), as so redesignated by paragraph (2) of this subsection, by striking “Each system” and inserting “Except as provided in clause (ii)(I), each system”.

(c) **PHA PROJECT-BASED VOUCHER ASSISTANCE.**—Subparagraph (J) of section 8(o)(13) of the United States Housing Act of 1937 (42 U.S.C. 1437f(o)(13)(J)) is amended—

(1) by striking “(J) **TENANT SELECTION.**—A public” and inserting the following:

“(J) **TENANT SELECTION.**—

“(i) **SELECTION AND ELIGIBILITY.**—A public”;

(2) by striking “The agency or owner may establish preferences or criteria for selection for a unit assisted under this paragraph that” and inserting the following:

“(ii) **PREFERENCES FOR OCCUPANCY.**—The agency or owner shall establish a system of preferences or criteria for selection for a unit assisted under this section that—

“(I) shall provide that the highest preference shall be given to otherwise eligible children who are in foster care, have attained an age such that the provision of foster care for such child will end by reason of the age of the child within 6 months, meet the requirements under clauses (i) and (ii) of paragraph (1) of the definition of ‘at risk of homelessness’ in section 91.5 of the Secretary’s regulations (24 C.F.R. 91.5), as in effect on September 1, 2016, and have agreed to comply with the requirements under section 39(c); and

“(II) may provide highest preference to, in addition to eligible children described in subclause (I), not more than two other types of eligible families; and

“(III) except as provided under subclause (I),”; and

(3) by striking “Any family that” and inserting the following:

“(iii) WAITING LISTS.—Any family that”.

(d) PROJECT-BASED SECTION 8 RENTAL ASSISTANCE.—Subparagraph (A) of section 8(d)(1) of the United States Housing Act of 1937 (42 U.S.C. 1437f(d)(1)(A)) is amended—

(1) by realigning such subparagraph so as to be indented 2 ems from the left margin;

(2) by striking “except that with respect” and inserting the following: “except that—

“(i) with respect to assisted dwelling units in a project assisted with project-based assistance under this section, the tenant selection criteria used by the owner—

“(I) shall provide that the highest preference shall be given to otherwise eligible children who are in foster care, have attained an age such that the provision of foster care for such child will end by reason of the age of the child within 6 months, meet the requirements under clauses (i) and (ii) of paragraph (1) of the definition of ‘at risk of homelessness’ in section 91.5 of the Secretary’s regulations (24 C.F.R. 91.5), as in effect on September 1, 2016, and have agreed to comply with the requirements under section 39(c); and

“(II) may provide highest preference to, in addition to eligible children described in subclause (I), not more than two other types of eligible families; and

“(ii) with respect”; and

(3) by inserting “who are not eligible for highest preference pursuant to clause (i)(I)” after “to be assisted”.

(e) TERMS AND CONDITIONS ON PRIORITY.—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. 39. TERMS AND CONDITIONS ON PREFERENCE FOR ASSISTANCE FOR CHILDREN AGING OUT OF FOSTER CARE.

“(a) PREFERENCE.—For purposes of this section, the term ‘preference for housing assistance’ means preference, for an otherwise eligible child in foster care, for—

“(1) occupancy in a public housing dwelling unit, pursuant to section 6(c)(4)(A)(iii);

“(2) tenant-based assistance under section 8(o), pursuant to paragraph (6)(A)(ii)(I) of such section;

“(3) project-based assistance under section 8(o)(13), pursuant to subparagraph (J)(ii)(I) of such section; and

“(4) occupancy in a dwelling unit in a project assisted with project-based assistance under section 8, pursuant to subsection (d)(1)(A)(i)(I) of such section.

“(b) EARLY APPLICATION FOR ASSISTANCE.—Notwithstanding the period during which a preference for housing assistance is provided for a person, an otherwise eligible person may apply for such occupancy or assistance at any time after such person attains 16 years of age.

“(c) REQUIREMENT FOR EDUCATION OR TRAINING.—

“(1) REQUIREMENT.—Except as provided in paragraph (2), each person occupying a dwelling unit pursuant to a preference for housing assistance shall, not later than 30 months after such initial occupancy, comply with the requirements under one of the following subparagraphs, as selected by the public housing agency for or project owner of the assisted housing dwelling unit involved, in consultation with relevant public child welfare agencies:

“(A) OPTION 1.—The requirements under this subparagraph are—

“(i) obtaining a recognized postsecondary credential or a secondary school diploma or its recognized equivalent;

“(ii) enrollment in an institution of higher education, as such term is defined in section 101(a) of the Higher Education Act of 1965 (20 U.S.C. 1001(a)) and including the institutions described in subparagraphs (A) and (B) of section 102(a)(1) of such Act (20 U.S.C. 1002(a)(1)); or

“(iii) participation in a career pathway, as such term is defined in section 3 of the Workforce Innovation and Opportunity Act (29 U.S.C. 3102).

Notwithstanding any other provision of this paragraph, a public housing agency or project owner may consider employment as satisfying the requirements under this subparagraph.

“(B) OPTION 2.—The requirements under this subparagraph are compliance with the terms and conditions applicable under section 23 of the United States Housing Act of 1937 (42 U.S.C. 1437u) and the regulations implementing such section to a person participating in a family self-sufficiency program under such section, except that—

“(i) a public housing agency may select the option under this subparagraph only if the agency is participating in such self-sufficiency program or has made such commitments to commence participation as the Secretary considers sufficient; and

“(ii) a project owner of assisted housing may select the option under this subparagraph only if the public housing agency in whose jurisdiction the project is located is participating in such self-sufficiency program or has made such commitments to commence participation as the Secretary considers sufficient.

“(C) OPTION 3.—The requirements under this subparagraph are compliance with any combination of the terms, conditions, and requirements under subparagraphs (A) and (B), as may be established by the public housing agency, except that a project owner of assisted housing may select the option under this subparagraph only if the public housing agency in whose jurisdiction the project is located has selected the option under this subparagraph and has established such terms, conditions, and requirements. In designing such terms, conditions, and requirements, the public housing agency may consult with local workforce development agencies and other organizations and entities with expertise and experience in this field.

“(2) EXCEPTIONS.—The requirement under paragraph (1) shall not apply to—

“(A) a parent or other household member responsible for the care of a dependent child under the age of 6 or for the care of an incapacitated person;

“(B) a person who is regularly and actively participating in a drug addiction or alcohol treatment and rehabilitation program; and

“(C) a person who is incapable of complying with the requirement under paragraph (1) due to a documented medical condition.

“(3) VERIFICATION OF COMPLIANCE.—The Secretary shall require the public housing agency or project owner, as applicable, to verify compliance with the requirement under paragraph (1) by each person occupying a dwelling unit assisted or administered by such agency or owner, as applicable, pursuant to a preference for housing assistance annually in conjunction with reviews of income for purposes of determining eligibility for assistance described in subsection (a).

“(d) LIMITATION ON BEDROOMS.—A dwelling unit that is occupied by a person, or assisted with assistance made available on behalf of a person, pursuant to a preference for housing assistance may contain more than one bedroom only if such additional bedrooms are occupied only by other persons who occupy such dwelling unit, or receive assistance made available, pursuant to a preference for housing assistance.

“(e) SUPPORTIVE SERVICES.—

“(1) ELIGIBILITY.—Each person occupying a dwelling unit pursuant to a preference for housing assistance shall be eligible for any supportive services (as such term is defined in section 103 of the Workforce Innovation and Opportunity Act (29 U.S.C. 3102)) made available, in connection with any housing assistance program of the agency, by or through the public housing agency providing such preference or, in the case of a preference for housing assistance for housing not assisted by such agency, by or through the public housing agency in whose jurisdiction the housing is located, including any services provided under a family self-sufficiency program under section 23 of this Act.

“(2) INFORMATION.—Upon the initial provision of housing assistance for any person pursuant to a preference for such assistance, the public housing agency or owner, as applicable, shall inform such person of the existence of any programs or services referred to in paragraph (1) and of their eligibility for such programs and services.

“(f) TERMINATION OF ASSISTANCE.—The public housing agency or project owner, as applicable, shall terminate any occupancy of, or assistance on behalf of, a person pursuant to any preference for housing assistance upon the person attaining 25 years of age or upon substantial noncompliance with the requirement under subsection (c), except that nothing in this subsection may be construed to prohibit the occupancy of housing assisted under this title by, or the provision of rental assistance under section 8 for, any person, or to affect the eligibility of any person for such occupancy or assistance, other than pursuant to a preference for housing assistance.

“(g) **APPLICABILITY TO MOVING TO WORK AGENCIES.**—Notwithstanding any other provision of law, the preferences for housing assistance identified in subsection (a) of this section shall apply to assistance made available by each public housing agency participating in the Moving to Work Program under section 204 of the Departments of Veterans Affairs and Housing and Urban Development, and Independent Agencies Appropriations Act, 1996 (42 U.S.C. 1437f note), except that in lieu of compliance with one of the options under subsection (c)(1) of this section, such an agency may comply with the requirement under such subsection by complying with such terms, conditions, and requirements as may be established by the agency for persons occupying dwelling units pursuant to a preference for housing assistance.

“(h) **REPORTS.**—The Secretary of Housing and Urban Development shall require each public housing agency that provides any preference for housing assistance pursuant to this section in any fiscal year to submit a report to the Secretary for such fiscal year that—

“(1) specifies the number of applications for such preferences received during such fiscal year disaggregated by—

“(A) the number received by persons who have attained 16 years of age but have not attained an age such that the provision of foster care for such child will end by reason of the age of the child within 6 months; and

“(B) the number received by persons who have attained an age such that the provision of foster care for such child will end by reason of the age of the child within 6 months;

“(2) specifies the number of persons provided a preference for housing assistance during such fiscal year; and

“(3) describes how the public housing agency communicated or collaborated with public child welfare agencies to collect such data.”

SEC. 4. PRIORITY FOR RURAL RENTAL ASSISTANCE.

Paragraph (2) of section 521(a) of the Housing Act of 1949 (42 U.S.C. 1490a(a)(2)) is amended by adding at the end the following new subparagraph:

“(F)(i) In making occupancy in a project assisted under this paragraph, and rental assistance under this paragraph, available on behalf of eligible families, the project owner—

“(I) shall provide that the highest preference shall be given to otherwise eligible children who—

“(aa) are in foster care;

“(bb) have attained an age such that the provision of foster care for such child will end by reason of the age of the child within 6 months;

“(cc) meet the requirements under clauses (i) and (ii) of paragraph (1) of the definition of ‘at risk of homelessness’ in section 91.5 of the Secretary of Housing and Urban Development’s regulations (24 C.F.R. 91.5), as in effect on September 1, 2016; and

“(dd) have agreed to comply with the requirements under clause (iii); and

“(II) may provide highest preference to, in addition to eligible children described in subclause (I), not more than two other types of eligible families.

“(ii) Notwithstanding the period during which a preference pursuant to clause (i)(I) for occupancy in project assisted under this paragraph or for rental assistance under this paragraph is provided for a person, an otherwise eligible person may apply for such occupancy or assistance at any time after the person attains 16 years of age.

“(iii)(I) Except as provided in subclause (II), each person occupying a dwelling unit pursuant to a preference under clause (i)(I) shall, not later than 30 months after such initial occupancy, be—

“(aa) obtaining a recognized postsecondary credential or a secondary school diploma or its recognized equivalent;

“(bb) enrolled in an institution of higher education, as such term is defined in section 101(a) of the Higher Education Act of 1965 (20 U.S.C. 1001(a)) and including the institutions described in subparagraphs (A) and (B) of section 102(a)(1) of such Act (20 U.S.C. 1002(a)(1)); or

“(cc) participating in a career pathway, as such term is defined in section 3 of the Workforce Innovation and Opportunity Act (29 U.S.C. 3102).

Notwithstanding any other provision of this subclause, a project owner may consider employment as satisfying the requirements under this subclause.

“(II) The requirement under subclause (I) shall not apply to—

“(aa) a parent or other household member responsible for the care of a dependent child under the age of 6 or for the care of an incapacitated person;

“(bb) a person who is regularly and actively participating in a drug addiction or alcohol treatment and rehabilitation program; and

“(cc) a person who is incapable of complying with the requirement under sub-clause (I) due to a documented medical condition.

“(III) The Secretary shall require a project owner to verify compliance with the requirement under this clause by each person occupying a dwelling unit pursuant to a preference under clause (i)(I) annually in conjunction with reviews of income for purposes of determining eligibility for assistance described in clause (i).

“(iv) A dwelling unit that is occupied by a person pursuant to a preference under clause (i)(I) may contain more than one bedroom only if such additional bedrooms are occupied only by other persons who occupy such dwelling unit pursuant to a preference under clause (i)(I).

“(v) The project owner shall terminate any occupancy of a person pursuant to the preference under clause (i)(I) upon the person attaining 25 years of age or upon substantial noncompliance with the requirement under clause (iii), except that nothing in this clause may be construed to prohibit the occupancy in a project assisted under this paragraph by, or the provision of rental assistance under this paragraph for, any person, or to affect the eligibility of any person for such occupancy or assistance, other than pursuant to a preference under clause (i)(I).”

SEC. 5. EXCEPTIONS TO LIMITATIONS FOR PROJECT-BASED VOUCHER ASSISTANCE.

(a) **PERCENTAGE LIMITATION.**—The first sentence of clause (ii) of section 8(o)(13)(B) of the United States Housing Act of 1937 (42 U.S.C. 1437f(o)(13)(B)(ii)) is amended by inserting before “or that” the following: “that house eligible children described in section 6(c)(4)(A)(iii) who comply with the requirements under section 39(c),”.

(b) **INCOME-MIXING REQUIREMENT.**—Subclause (I) of section 8(o)(13)(D)(ii) of the United States Housing Act of 1937 (42 U.S.C. 1437f(o)(13)(D)(ii)(I)) is amended by inserting after “elderly families” the following: “, to eligible children described in section 6(c)(4)(A)(iii),”.

SEC. 6. GUIDANCE REGARDING IMPLEMENTATION.

(a) **IN GENERAL.**—The Secretary of Housing and Urban Development jointly with the Secretary of Agriculture, in consultation with the Secretary of Health and Human Services, shall develop guidance for public housing agencies and owners of assisted housing regarding how to correctly and efficiently implement and comply with the requirements of this Act and the amendments made by this Act and shall make such guidance available to such agencies and owners.

(b) **CONSULTATION WITH HHS.**—The Secretary of Housing and Urban Development jointly with the Secretary of Agriculture shall consult with the Secretary of Health and Human Services to provide such information and guidance to the Secretary of Health and Human Services as may be necessary to facilitate such Secretary in informing States and public child welfare agencies on how to correctly and efficiently implement and comply with the requirements of this Act and the amendments made by this Act.

PURPOSE AND SUMMARY

On April 6, 2017, Rep. Mike Turner introduced H.R. 2069, the “Fostering Stable Housing Opportunities Act of 2018.” H.R. 2069 amends the United States Housing Act of 1937 to include within the definition of “families” a child who is in foster care and who has attained an age such that the provision of foster care for such child will end by reason of the age of the child within six months. H.R. 2069 authorizes Public Housing Agencies (PHAs) to give preferences, subject to certain terms and conditions, for public housing occupancy and section 8 housing assistance to eligible foster youth who are aging out of foster care and are at-risk for homelessness. In addition to foster youth aging out of care and at-risk of homelessness, PHAs may also provide the highest preference for housing assistance to two other types of eligible families, selected at their discretion. H.R. 2069 also amends the Housing Act of 1949 to give similar preference for rural rental assistance to eligible foster youth who are aging out of foster care and are at-risk of homelessness.

BACKGROUND AND NEED FOR LEGISLATION

In Fiscal Year 2015, the U.S. Department of Health and Human Services' Administration for Children and Families estimated that nearly 21,000 youth across the country emancipated ("aged out") from foster care. Because the government assumes the role of parent for these youth, and also determines when they age out of care, it is equally responsible to provide and supply adequate support as they make the overnight transition into adulthood, so as to prevent government-triggered homelessness. Homeless individuals face extraordinary difficulties across a broad range of life activities, and being homeless is associated with a host of negative outcomes, often straining America's social safety net and financial resources.

Unfortunately, foster care alumni are one of the most vulnerable, high-risk groups to succumb to homelessness. Studies show that the sudden and permanent transition from foster care to adulthood is a key driver behind homelessness. Nearly one-in-five foster youth initially surveyed at age 17 reported that by age 19—at which point 80 percent were no longer in foster care—they had experienced homelessness during the previous two years. In another study, more than two-in-five youth endured housing challenges during the two years after exiting foster care, with 20 percent struggling through chronic homelessness. Former foster children are also disproportionately represented among homeless adult populations. Overall, as many as 37 percent of foster care alumni have experienced homelessness. A May 2014 U.S. Department of Housing and Urban Development analysis confirmed that, "current research on the outcomes of youth aging out of foster care points to a real need for policy and programs to assist them in maintaining housing. . . ."

Section 8(o) of the United States Housing Act of 1937 (42 U.S.C. 1437f (o)) authorizes the Housing Choice Voucher (HCV) program and approximately 2,300 PHAs locally administers the program. A family who is issued a housing voucher is responsible for finding a suitable housing unit of the family's choice, including: single-family homes, townhouses, and apartments, in which the owner agrees to rent under the program (provided the rental unit passes a Housing Quality Standards (HQS) inspection performed by the PHA). Tenant-based housing assistance is provided on behalf of the family or individual as opposed to a subsidy tied to a particular unit or project. Participating families may subsequently choose to move to another unit, neighborhood, or community without losing their rental assistance. Of the families currently receiving HCV assistance, 76 percent are extremely low-income, with incomes at or below 30 percent of the area median income, 36 percent have a disabled head of household, and 24 percent are elderly.

The PHA pays the housing subsidy directly to the owner of the unit on behalf of the participating family. The family is responsible for paying the difference between the gross rent of the unit and the amount subsidized by the program. The family must pay a minimum of 30 percent of their adjusted monthly income toward rent and utilities. The amount of the subsidy is capped by the payment standard established by the PHA, which may be between 90 and 110 percent of the Fair Market Rent (FMR) for the area. If families rent units with rents above the payment standard, for instance

units located in more desirable areas with greater opportunity, the family pays the difference between the gross rent and the payment standard in addition to the 30 percent of monthly adjusted income. Funding for the HCV program consists of two main cost components: (1) Housing Assistance Payments (HAP) made to owners to cover the difference between a tenant's rent contribution and the unit rent, and (2) administrative fees paid to PHAs to cover the cost of administering the program.

Since the demand for housing assistance often exceeds the limited resources available to HUD and the local housing agencies, long waiting periods are common. In fact, a PHA may close its waiting list when it has more families on the list than can be assisted in the near future.

PHAs may establish local preferences for selecting applicants from its waiting list. For example, PHAs may give a preference to a family who is (1) homeless or living in substandard housing, (2) paying more than 50 percent of its income for rent, or (3) involuntarily displaced. Families who qualify for any such local preferences move ahead of other families on the lists that do not qualify for any preference. Each PHA has the discretion to establish local preferences to reflect the housing needs and priorities of its particular community.

Government plays the role of parent for foster youth, and it determines when they age out and must take on adult responsibilities. Government also has an obligation to end the homelessness it creates by preventing foster youth from applying for assistance until adulthood—which frequently relegates them to the end of a long line for housing assistance—even though the government knows when these youth will age out of foster care. The Fostering Stable Housing Opportunities Act would help put an end to this barrier to access to housing assistance by ensuring that aging out of foster care would not mean aging into homelessness. H.R. 2069, provides eligible foster youth with the opportunity to apply for housing assistance before they age out of foster care and prioritizes them during this difficult transition period to adulthood and in doing so the legislation will provide a stronger foundation for stable, independent, and self-sufficient lives.

HEARINGS

The Committee on Financial Services, Subcommittee on Housing and Insurance held a hearing examining matters relating to H.R. 2069 on April 17, 2018.

COMMITTEE CONSIDERATION

The Committee on Financial Services met in open session on July 24, 2018, and ordered H.R. 2069 to be reported favorably to the House, as amended, by a recorded vote of 34 yeas to 23 nays (recorded vote no. FC-196), a quorum being present.

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. A motion by Chairman Hensarling to report the bill favorably to the House, as

amended, was agreed to by a recorded vote of 34 ayes and 23 nays (FC-196), a quorum being present. An amendment in the nature of a substitute offered by Mr. Duffy was agreed to by a voice vote. An amendment to the amendment in the nature of a substitute offered by Ms. Waters was not agreed to by a recorded vote of 23 ayes and 34 nays (FC-195).

Record vote no. FC-196

Representative	Yea	Nay	Present	Representative	Yea	Nay	Present
Mr. Hensarling	X			Ms. Maxine Waters (CA)		X	
Mr. McHenry	X			Mrs. Carolyn B. Maloney (NY)		X	
Mr. King	X			Ms. Velázquez		X	
Mr. Royce (CA)	X			Mr. Sherman		X	
Mr. Lucas	X			Mr. Meeks		X	
Mr. Pearce	X			Mr. Capuano		X	
Mr. Posey	X			Mr. Clay		X	
Mr. Luetkemeyer	X			Mr. Lynch		X	
Mr. Huizenga	X			Mr. David Scott (GA)		X	
Mr. Duffy	X			Mr. Al Green (TX)		X	
Mr. Stivers	X			Mr. Cleaver		X	
Mr. Hultgren	X			Ms. Moore			
Mr. Ross	X			Mr. Ellison			
Mr. Pittenger	X			Mr. Perlmutter		X	
Mrs. Wagner	X			Mr. Himes		X	
Mr. Barr	X			Mr. Foster		X	
Mr. Rothfus	X			Mr. Kildee		X	
Mr. Messer	X			Mr. Delaney		X	
Mr. Tipton	X			Ms. Sinema		X	
Mr. Williams	X			Mrs. Beatty		X	
Mr. Poliquin	X			Mr. Heck		X	
Mrs. Love	X			Mr. Vargas		X	
Mr. Hill	X			Mr. Gottheimer		X	
Mr. Emmer	X			Mr. Gonzalez (TX)		X	
Mr. Zeldin	X			Mr. Crist		X	
Mr. Trott	X			Mr. Kihuen			
Mr. Loudermilk	X						
Mr. Mooney (WV)	X						
Mr. MacArthur	X						
Mr. Davidson	X						
Mr. Budd	X						
Mr. Kustoff (TN)	X						
Ms. Tenney	X						
Mr. Hollingsworth	X						

Record vote no. FC-195

Representative	Yea	Nay	Present	Representative	Yea	Nay	Present
Mr. Hensarling		X		Ms. Maxine Waters (CA)	X		
Mr. McHenry		X		Mrs. Carolyn B. Maloney (NY)	X		
Mr. King		X		Ms. Velázquez	X		
Mr. Royce (CA)		X		Mr. Sherman	X		
Mr. Lucas		X		Mr. Meeks	X		
Mr. Pearce		X		Mr. Capuano	X		
Mr. Posey		X		Mr. Clay	X		
Mr. Luetkemeyer		X		Mr. Lynch	X		
Mr. Huizenga		X		Mr. David Scott (GA)	X		
Mr. Duffy		X		Mr. Al Green (TX)	X		
Mr. Stivers		X		Mr. Cleaver	X		
Mr. Hultgren		X		Ms. Moore			
Mr. Ross		X		Mr. Ellison			
Mr. Pittenger		X		Mr. Perlmutter	X		
Mrs. Wagner		X		Mr. Himes	X		
Mr. Barr		X		Mr. Foster	X		
Mr. Rothfus		X		Mr. Kildee	X		
Mr. Messer		X		Mr. Delaney	X		
Mr. Tipton		X		Ms. Sinema	X		
Mr. Williams		X		Mrs. Beatty	X		
Mr. Poliquin		X		Mr. Heck	X		
Mrs. Love		X		Mr. Vargas	X		
Mr. Hill		X		Mr. Gottheimer	X		
Mr. Emmer		X		Mr. Gonzalez (TX)	X		
Mr. Zeldin		X		Mr. Crist	X		
Mr. Trott		X		Mr. Kihuen			
Mr. Loudermilk		X					
Mr. Mooney (WV)		X					
Mr. MacArthur		X					
Mr. Davidson		X					
Mr. Budd		X					
Mr. Kustoff (TN)		X					
Ms. Tenney		X					
Mr. Hollingsworth		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. 5793 authorizes the Secretary of Housing and Urban Development to carry out a housing choice voucher mobility demonstration to encourage families receiving such voucher assistance to move to lower-poverty areas and expand access to opportunity areas.

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.

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, September 11, 2018.

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. 2069, the Fostering Stable Housing Opportunities Act of 2018.

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,
Director.

Enclosure.

H.R. 2069—Fostering Stable Housing Opportunities Act of 2018

H.R. 2069 would require public housing authorities and property owners to give children who are aging out of foster care priority for federal housing assistance. Former foster children generally would be required to have a high-school diploma, be employed, be enrolled at an institution of higher education, or be participating in a career pathway within 30 months of the time that they initially receive

housing assistance. Housing assistance would terminate if the former foster child fails to meet the requirements, or once they turn 25 years of age.

Former foster children are eligible for housing assistance under current law—provided they meet income and other requirements—so the bill would not increase eligibility for housing assistance. The bill could increase the workload associated with verifying compliance with program requirements such as working or being enrolled in school. CBO estimates, that the cost of that increased workload would be insignificant over the 2019–2023 period because of the small number of former foster kids that would receive assistance and because the requirement to comply would be delayed by up to 30 months.

Enacting the bill would not affect direct spending or revenues; therefore, pay-as-you-go procedures do not apply.

CBO estimates that enacting H.R. 2069 would not increase net direct spending or on-budget deficits in any of the four consecutive 10-year periods beginning in 2029.

H.R. 2069 contains no private-sector mandates as defined in the Unfunded Mandates Reform Act. The bill would impose an intergovernmental mandate by preempting state, local, and tribal laws governing the occupancy preferences used by public housing agencies participating in the Moving to Work Program. CBO estimates that the preemption would not affect the budgets of state, local, or tribal governments. Although it would limit the application of state laws, it would impose no duty on states that would result in additional spending or a loss of revenues.

The CBO staff contacts for this estimate are Elizabeth Cove Delisle (for federal costs) and Rachel Austin (for mandates). The estimate was reviewed by H. Samuel Papenfuss, Deputy Assistant Director for Budget Analysis.

FEDERAL MANDATES STATEMENT

This information is provided in accordance with section 423 of the Unfunded Mandates Reform Act of 1995.

The Committee has determined that the bill does not contain Federal mandates on the private sector. The Committee has determined that the bill does not impose a Federal intergovernmental mandate on State, local, or tribal governments.

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 the section 102(b)(3) of the Congressional Accountability Act.

EARMARK IDENTIFICATION

With respect to clause 9 of rule XXI of the Rules of the House of Representatives, the Committee has carefully reviewed the pro-

visions of the bill and states that the provisions of the bill do not contain any congressional earmarks, limited tax benefits, or limited tariff benefits within the meaning of the rule.

DUPLICATION OF FEDERAL PROGRAMS

In compliance with clause 3(c)(5) of rule XIII of the Rules of the House of Representatives, the Committee states that no provision of the bill establishes or reauthorizes: (1) a program of the Federal Government known to be duplicative of another Federal program; (2) a program included in any report from the Government Accountability Office to Congress pursuant to section 21 of Public Law 111–139; or (3) a program related to a program identified in the most recent Catalog of Federal Domestic Assistance, published pursuant to the Federal Program Information Act (Pub. L. No. 95–220, as amended by Pub. L. No. 98–169).

DISCLOSURE OF DIRECTED RULEMAKING

Pursuant to section 3(i) of H. Res. 5, (115th Congress), the following statement is made concerning directed rule makings: The Committee estimates that the bill requires no directed rule makings within the meaning of such section.

SECTION-BY-SECTION ANALYSIS OF THE LEGISLATION

Section 1. Short title

This section titles the bill as the “Fostering Stable Housing Opportunities Act of 2018”.

Section 2. Definition of family

Section 2 amends section 3(b)(3) of the United States Housing Act of 1937 by including within the definition of “families” a child who is in foster care and has attained an age such that the provision of foster care for such child will end by reason of the age of the child within six months.

Section 3. Priority for public housing occupancy and section 8 assistance

This section amends sections 6 and 8 of the United States Housing Act of 1937 to require Public Housing Authorities (PHAs) to provide the highest preference for occupancy in public housing units and project-based section 8 development, or for the provision of a voucher authorized under the Housing Choice Voucher (HCV) program, to those eligible children who are (1) in foster care, (2) will age-out of the foster care system with six months, (3) are at-risk of homelessness as defined in regulation, and (4) meet certain program and occupancy requirements. In addition to foster youth aging out of care and at-risk of homelessness, PHAs may also provide the highest preference for housing assistance to two other types of eligible families, selected at their discretion. Eligible foster youth are authorized to begin the application process at 16 years of age.

Education & workforce development requirements

This section also requires eligible foster youth, within thirty months of receiving housing assistance authorized under this bill, to either: (1) be obtaining a recognized postsecondary credential or a secondary school diploma (or its equivalent); (2) be enrolled in an institution of higher education as defined by sections 101 and 102 of the Higher Education Act of 1965; (3) participate in a career pathway as defined in section 3 of the Workforce Innovation and Opportunity Act; (4) participate in the Department of Housing and Urban Development's (HUD) family self-sufficiency program, provided the local PHA is a program participant; or (5) a combination of the above criteria, as designed by the PHA in conjunction with local workforce development agencies. PHAs are authorized to consider employment as satisfying the education and workforce development requirements. In selecting which of the foregoing criteria will apply within the PHA's area of jurisdiction, PHAs shall consult with public child welfare agencies (PCWAs).

Eligible foster youth are exempt from the education or workforce development requirements if they are: (1) a parent caring for a dependent child under six years of age or caring for an incapacitated person; (2) regularly and actively participating in a drug addiction or alcohol treatment and rehabilitation program; or (3) incapable of complying due to a documented medical condition. PHAs and private owners will verify compliance with these terms and conditions annually in conjunction with verifications of income for purposes of determining eligibility for housing assistance.

Unit flexibility

This section allows eligible foster youth to occupy a dwelling unit with more than one bedroom if such bedroom is occupied by another foster youth aging out of care who receives housing assistance pursuant to this Act.

Supportive services

This section also clarifies that eligible foster youth would be eligible for all available supportive services, as defined in section 103 of the Workforce Innovation and Opportunity Act. Upon initially furnishing housing assistance pursuant to this Act, PHAs and private owners shall inform recipients of all existing supportive services or associated programs.

Termination of assistance

Assistance authorized under this Act would be terminated when an eligible foster youth attains the age of 25 or upon substantial noncompliance with the education and workforce development requirements. This section also clarifies that, even upon termination, eligible foster youth are not prohibited from applying for housing assistance otherwise available to any individual outside of the preferences provided in this Act.

Moving To Work

This section clarifies that those PHAs that are designated Moving To Work agencies, as defined under section 204 of the Department of Veterans Affairs and Housing and Urban Development and Independent Agencies Appropriations Act, 1996, are exempt from

complying with the education and workforce development requirements as set out by this Act.

Reports

This section requires PHAs to report annually on: (1) the number of applications for housing assistance pursuant to this Act received from foster youth who have attained 16 years of age but not yet aged-out of the foster care system; (2) the number of applications for housing assistance pursuant to this Act received from foster youth who will be eligible to receive a preference within 6 months; (3) the number of persons who received housing assistance pursuant to this Act; and (4) how the PHA communicated or collaborated with PCWAs to collect such data.

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):

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 pursuant to paragraph (6); except that, in the case of any family with a fixed income, as defined by the Secretary, after the initial review of the family's income, the public housing agency or owner shall not be required to conduct a review of the family's income for any year for which such family certifies, in accordance with such requirements as the Secretary shall establish, which shall include policies to adjust for inflation-based income changes, that 90 percent or more of the income of the family consists of fixed income, and that the sources of such income have not changed since the previous year, except that the public housing agency or owner shall conduct a review of each such family's income not less than once every 3 years. Except as provided in para-

graph (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 specifically 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—

(I) 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 determina-

tion 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 because 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 electronic procedures to enable public housing agencies and owners to have access to such benefit 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) ELECTRONIC INCOME VERIFICATION.—The Secretary shall develop a mechanism for disclosing information to a public housing agency for the purpose of verifying the employment and income of individuals and families in accordance with section 453(j)(7)(E) of the Social Security Act (42

U.S.C. 653(j)(7)(E)), and shall ensure public housing agencies have access to information contained in the “Do Not Pay” system established by section 5 of the Improper Payments Elimination and Recovery Improvement Act of 2012 (Public Law 112–248; 126 Stat. 2392).

(F) 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, (v) *a child who is in foster care and has attained an age such that the provision of foster care for such child will end by reason of the age of the child within 6 months*, and [(v)] (vi) any other single persons. In no event may any single person under clause (v) or (vi) 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) **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) 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.

(C) CHILD CARE.—Any reasonable child care expenses necessary to enable a member of the family to be employed or to 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 nonprofit 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 feasible 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) 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.

* * * * *

CONTRACT PROVISIONS AND REQUIREMENTS

SEC. 6. (a) The Secretary may include in any contract for loans, contributions, sale, lease, mortgage, or any other agreement or instrument made pursuant to this Act, such covenants, conditions, or provisions as he may deem necessary in order to insure the lower income character of the project involved, in a manner consistent with the public housing agency plan. Any such contract shall require that, except in the case of housing predominantly for elderly or disabled families, high-rise elevator projects shall not be provided for families with children unless the Secretary makes a determination that there is no practical alternative.

(b)(1) Each contract for loans (other than preliminary loans) or contributions for the development, acquisition, or operation of public housing shall provide that the total development cost of the project on which the computation of any annual contributions under this Act may be based may not exceed the amount determined under paragraph (2) (for the appropriate structure type) unless the Secretary provides otherwise, and in any case may not exceed 110 per centum of such amount unless the Secretary for good cause determines otherwise.

(2) For purposes of paragraph (1), the Secretary shall determine the total development cost by multiplying the construction cost guideline for the project (which shall be determined by averaging the current construction costs, as listed by not less than 2 nationally recognized residential construction cost indices, for publicly bid construction of a good and sound quality) by—

(A) in the case of elevator type structures, 1.6; and

(B) in the case of nonelevator type structures, 1.75.

(3) In calculating the total development cost of a project under paragraph (2), the Secretary shall consider only capital assistance provided by the Secretary to a public housing agency that are authorized for use in connection with the development of public housing, and shall exclude all other amounts, including amounts provided under—

(A) the HOME investment partnerships program authorized under title II of the Cranston-Gonzalez National Affordable Housing Act; or

(B) the community development block grants program under title I of the Housing and Community Development Act of 1974.

(4) The Secretary may restrict the amount of capital funds that a public housing agency may use to pay for housing construction costs. For purposes of this paragraph, housing construction costs include the actual hard costs for the construction of units, builders' overhead and profit, utilities from the street, and finish landscaping.

(c) Every contract for contributions shall provide that—

(1) the Secretary may require the public housing agency to review and revise its maximum income limits if the Secretary determines that changed conditions in the locality make such revision necessary in achieving the purposes of this Act;

(2) the public housing agency shall determine, and so certify to the Secretary, that each family in the project was admitted in accordance with duly adopted regulations and approved income limits; and the public housing agency shall review the incomes of families living in the project no less frequently than annually;

(3) the public housing agency shall promptly notify (i) any applicant determined to be ineligible for admission to the project of the basis for such determination and provide the applicant upon request, within a reasonable time after the determination is made, with an opportunity for an informal hearing on such determination, and (ii) any applicant determined to be eligible for admission to the project of the approximate date of occupancy insofar as such date can be reasonably determined;

(4) the public housing agency shall comply with such procedures and requirements as the Secretary may prescribe to assure that sound management practices will be followed in the operation of the project, including requirements pertaining to—

(A) making dwelling units in public housing available for occupancy, which shall provide that the public housing agency **may establish a system for making dwelling units available that provides preference** *shall establish a system for making dwelling units available that—*

(i) shall provide preferences for such occupancy to families having certain characteristics; [each system of preferences established pursuant to this subparagraph shall be based]

(ii) except as provided in clause (iii), 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;

(iii) except for projects or portions of projects designated for occupancy pursuant to section 7(a), shall provide that the highest preference for occupancy shall be given to otherwise eligible children who are in foster care, have attained an age such that the provision of foster care for such child will end by reason of the age of the child within 6 months, meet the requirements under clauses (i) and (ii) of paragraph (1) of the definition of "at risk of homelessness" in section 91.5 of the Secretary's regulations (24 C.F.R. 91.5), as in effect on September 1, 2016, and have agreed to comply with the requirements under section 39(c); and

(iv) may provide highest preference for occupancy to, in addition to eligible children described in clause (iii), not more than two other types of families.

(B) the establishment of satisfactory procedures designed to assure the prompt payment and collection of rents and the prompt processing of evictions in the case of non-payment of rent;

(C) the establishment of effective tenant-management relationships designated to assure the satisfactory standards of tenant security and project maintenance are formulated and that the public housing agency (together with tenant councils where they exist) enforces those standards fully and effectively;

(D) the development by local housing authority managements of viable homeownership opportunity programs for low-income families capable of assuming the responsibilities of homeownership;

(E) for each agency that receives assistance under this title, the establishment and maintenance of a system of accounting for rental collections and costs (including administrative, utility, maintenance, repair and other operating costs) for each project or operating cost center (as determined by the Secretary), which collections and costs shall be made available to the general public and submitted to the appropriate local public official (as determined by the Secretary); except that the Secretary may permit agencies owning or operating less than 500 units to comply with the requirements of this subparagraph by accounting on an agency-wide basis; and

(F) requiring the public housing agency to 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) Every contract for contributions with respect to a low-income housing project shall provide that no contributions by the Secretary shall be made available for such project unless such project (exclusive of any portion thereof which is not assisted by contributions under this Act) is exempt from all real and personal property taxes

levied or imposed by the State, city, county, or other political subdivision; and such contract shall require the public housing agency to make payments in lieu of taxes equal to 10 per centum of the sum of the shelter rents charged in such project, or such lesser amount as (i) is prescribed by State law, or (ii) is agreed to by the local governing body in its agreement for local cooperation with the public housing agency required under section 5(e)(2) of this Act, or (iii) is due to failure of a local public body or bodies other than the public housing agency to perform any obligation under such agreement. If any such project is not exempt from all real and personal property taxes levied or imposed by the State, city, county, or other political subdivision, such contract shall provide, in lieu of the requirement for tax exemption and payments in lieu of taxes, that no contributions by the Secretary shall be made available for such project unless and until the State, city, county, or other political subdivision in which such project is situated shall contribute, in the form of cash or tax remission, the amount by which the taxes paid with respect to the project exceed 10 per centum of the shelter rents charged in such project.

(f) HOUSING QUALITY REQUIREMENTS.—

(1) IN GENERAL.—Each contract for contributions for a public housing agency shall require that the agency maintain its public housing in a condition that complies with standards which meet or exceed the housing quality standards established under paragraph (2).

(2) FEDERAL STANDARDS.—The Secretary shall establish housing quality standards under this paragraph that ensure that public housing dwelling units are safe and habitable. Such standards shall include requirements relating to habitability, including maintenance, health and sanitation factors, condition, and construction of dwellings, and shall, to the greatest extent practicable, be consistent with the standards established under section 8(o)(8)(B)(i). The Secretary may determine whether the laws, regulations, standards, or codes of any State or local jurisdiction meet or exceed these standards, for purposes of this subsection.

(3) ANNUAL INSPECTIONS.—Each public housing agency that owns or operates public housing shall make an annual inspection of each public housing project to determine whether units in the project are maintained in accordance with the requirements under paragraph (1). The agency shall retain the results of such inspections and, upon the request of the Secretary, the Inspector General for the Department of Housing and Urban Development, or any auditor conducting an audit under section 5(h), shall make such results available.

(g) Every contract for contributions (including contracts which amend or supersede contracts previously made) may provide that—

(1) upon the occurrence of a substantial default in respect to the covenants or conditions to which the public housing agency is subject (as such substantial default shall be defined in such contract), the public housing agency shall be obligated at the option of the Secretary either to convey title in any case where, in the determination of the Secretary (which determination shall be final and conclusive), such conveyance of title is necessary to achieve the purposes of this Act, or to deliver to the

Secretary possession of the project, as then constituted, to which such contract relates; and

(2) the Secretary shall be obligated to reconvey or redeliver possession of the project, as constituted at the time of reconveyance or redelivery, to such public housing agency or to its successor (if such public housing agency or a successor exists) upon such terms as shall be prescribed in such contract, and as soon as practicable (i) after the Secretary is satisfied that all defaults with respect to the project have been cured, and that the project will, in order to fulfill the purposes of this Act, thereafter be operated in accordance with the terms of such contract; or (ii) after the termination of the obligation to make annual contributions available unless there are any obligations or covenants of the public housing agency to the Secretary which are then in default. Any prior conveyances and reconveyances or deliveries and redeliveries of possession shall not exhaust the right to require a conveyance or delivery of possession of the project to the Secretary pursuant to subparagraph (1) upon the subsequent occurrence of a substantial default.

Whenever such a contract for annual contributions includes provisions which the Secretary in such contract determines are in accordance with this subsection, and the portion of the annual contribution payable for debt service requirements pursuant to such contract has been pledged by the public housing agency as security for the payment of the principal and interest on any of its obligations, the Secretary (notwithstanding any other provisions of this Act) shall continue to make such annual contributions available for the project so long as any of such obligations remain outstanding, and may covenant in such contract that in any event such annual contributions shall in each year be at least equal to an amount which, together with such income or other funds as are actually available from the project for the purpose at the time such annual contribution is made, will suffice for the payment of all installments, falling due within the next succeeding twelve months, of principal and interest on the obligations for which the annual contributions provided for in the contract shall have been pledged as security. In no case shall such annual contributions be in excess of the maximum sum specified in the contract involved, nor for longer than the remainder of the maximum period fixed by the contract.

(h) On or after October 1, 1983, the Secretary may enter into a contract involving new construction only if the public housing agency demonstrates to the satisfaction of the Secretary that the cost of new construction in the neighborhood where the public housing agency determines the housing is needed is less than the cost of acquisition or acquisition and rehabilitation in such neighborhood, including any reserve fund under subsection (i), would be.

(i) The Secretary may, upon application by a public housing agency in connection with the acquisition of housing for use as public housing, establish and set aside a reserve fund in an amount not to exceed 30 per centum of the acquisition cost which shall be available for use for major repairs to such housing.

(j)(1) The Secretary shall develop and publish in the Federal Register indicators to assess the management performance of public housing agencies and resident management corporations. The indi-

cators shall be established by rule under section 553 of title 5, United States Code. Such indicators shall enable the Secretary to evaluate the performance of public housing agencies and resident management corporations in all major areas of management operations. The Secretary shall, in particular, use the following indicators:

(A) The number and percentage of vacancies within an agency's inventory, including the progress that an agency has made within the previous 3 years to reduce such vacancies.

(B) The amount and percentage of funds provided to the public housing agency from the Capital Fund under section 9(d) which remain unobligated by the public housing agency after 3 years.

(C) The percentage of rents uncollected.

(D) The utility consumption (with appropriate adjustments to reflect different regions and unit sizes).

(E) The average period of time that an agency requires to repair and turn-around vacant units.

(F) The proportion of maintenance work orders outstanding, including any progress that an agency has made during the preceding 3 years to reduce the period of time required to complete maintenance work orders.

(G) The percentage of units that an agency fails to inspect to ascertain maintenance or modernization needs within such period of time as the Secretary deems appropriate (with appropriate adjustments, if any, for large and small agencies).

(H) The extent to which the public housing agency—

(i) coordinates, promotes, or provides effective programs and activities to promote the economic self-sufficiency of public housing residents; and

(ii) provides public housing residents with opportunities for involvement in the administration of the public housing.

(I) The extent to which the public housing agency—

(i) implements effective screening and eviction policies and other anticrime strategies; and

(ii) coordinates with local government officials and residents in the project and implementation of such strategies.

(J) The extent to which the public housing agency is providing acceptable basic housing conditions.

(K) Any other factors as the Secretary deems appropriate.

(2)(A)(i) The Secretary shall, under the rulemaking procedures under section 553 of title 5, United States Code, establish procedures for designating troubled public housing agencies, which procedures shall include identification of serious and substantial failure to perform as measured by the performance indicators specified under paragraph (1) and such other factors as the Secretary may deem to be appropriate. Such procedures shall provide that an agency that fails on a widespread basis to provide acceptable basic housing conditions for its residents shall be designated as a troubled public housing agency. The Secretary may use a simplified set of indicators for public housing agencies with less than 250 public housing units. The Secretary shall also designate, by rule under section 553 of title 5, United States Code, agencies that are trou-

bled with respect to the program for assistance from the Capital Fund under section 9(d).

(ii) The Secretary may also, in consultation with national organizations representing public housing agencies and public officials (as the Secretary determines appropriate), identify and commend public housing agencies that meet the performance standards established under paragraph (1) in an exemplary manner.

(iii) The Secretary shall establish procedures for public housing agencies to appeal designation as a troubled agency (including designation as a troubled agency for purposes of the program for assistance from the Capital Fund under section 9(d)), to petition for removal of such designation, and to appeal any refusal to remove such designation.

(B)(i) Upon designating a public housing agency with more than 250 units as troubled pursuant to subparagraph (A) and determining that an assessment under this subparagraph will not duplicate any comparable and recent review, the Secretary shall provide for an on-site, independent assessment of the management of the agency.

(ii) To the extent the Secretary deems appropriate (taking into account an agency's performance under the indicators specified under paragraph (1)), the assessment team shall also consider issues relating to the agency's resident population and physical inventory, including the extent to which (I) the agency's comprehensive plan prepared pursuant to section 14 adequately and appropriately addresses the rehabilitation needs of the agency's inventory, (II) residents of the agency are involved in and informed of significant management decisions, and (III) any projects in the agency's inventory are severely distressed and eligible for assistance pursuant to section 24.

(iii) An independent assessment under this subparagraph shall be carried out by a team of knowledgeable individuals selected by the Secretary (referred to in this section as the "assessment team") with expertise in public housing and real estate management. In conducting an assessment, the assessment team shall consult with the residents and with public and private entities in the jurisdiction in which the public housing is located. The assessment team shall provide to the Secretary and the public housing agency a written report, which shall contain, at a minimum, recommendations for such management improvements as are necessary to eliminate or substantially remedy existing deficiencies.

(C) The Secretary shall seek to enter into an agreement with each troubled public housing agency, after reviewing the report submitted pursuant to subparagraph (B) (if applicable) and consulting with the agency's assessment team.

To the extent the Secretary deems appropriate (taking into account an agency's performance under the indicators specified under paragraph (1)), such agreement shall also set forth a plan for enhancing resident involvement in the management of the public housing agency. Such agreement shall set forth—

(i) targets for improving performance as measured by the performance indicators specified under paragraph (1) and other requirements within a specified period of time;

(ii) strategies for meeting such targets, including a description of the technical assistance that the Secretary will make available to the agency; and

(iii) incentives or sanctions for effective implementation of such strategies, which may include any constraints on the use of funds that the Secretary determines are appropriate.

The Secretary and the public housing agency shall, to the maximum extent practicable, seek the assistance of local public and private entities in carrying out the agreement.

(D) The Secretary shall apply the provisions of this paragraph to resident management corporations as well as public housing agencies.

(3)(A) Notwithstanding any other provision of law or of any contract for contributions, upon the occurrence of events or conditions that constitute a substantial default by a public housing agency with respect to the covenants or conditions to which the public housing agency is subject or an agreement entered into under paragraph (2), the Secretary may—

(i) solicit competitive proposals from other public housing agencies and private housing management agents which (I) in the discretion of the Secretary, may be selected by existing public housing residents through administrative procedures established by the Secretary, and (II) if appropriate, shall provide for such agents to manage all, or part, of the housing administered by the public housing agency or all or part of the other programs of the agency;

(ii) petition for the appointment of a receiver (which may be another public housing agency or a private management corporation) of the public housing agency to any district court of the United States or to any court of the State in which the real property of the public housing agency is situated, that is authorized to appoint a receiver for the purposes and having the powers prescribed in this subsection;

(iii) solicit competitive proposals from other public housing agencies and private entities with experience in construction management in the eventuality that such agencies or firms may be needed to oversee implementation of assistance made available from the Capital Fund under section 9(d) for the housing; and

(iv) take possession of all or part of the public housing agency, including all or part of any project or program of the agency, including any project or program under any other provision of this title; and

(v) require the agency to make other arrangements acceptable to the Secretary and in the best interests of the public housing residents and families assisted under section 8 for managing all, or part, of the public housing administered by the agency or of the programs of the agency.

Residents of a public housing agency designated as troubled pursuant to paragraph (2)(A) may petition the Secretary in writing to take 1 or more of the actions referred to in this subparagraph. The Secretary shall respond to such petitions in a timely manner with a written description of the actions, if any, the Secretary plans to take and, where applicable, the reasons why such actions differ from the course proposed by the residents.

(B)(i) If a public housing agency is identified as troubled under this subsection, the Secretary shall notify the agency of the troubled status of the agency.

(ii)(I) Upon the expiration of the 1-year period beginning on the later of the date on which the agency receives initial notice from the Secretary of the troubled status of the agency under clause (i) and the date of the enactment of the Quality Housing and Work Responsibility Act of 1998, the agency shall improve its performance, as measured by the performance indicators established pursuant to paragraph (1), by at least 50 percent of the difference between the most recent performance measurement and the measurement necessary to remove that agency's designation as troubled.

(II) Upon the expiration of the 2-year period beginning on the later of the date on which the agency receives initial notice from the Secretary of the troubled status of the agency under clause (i) and the date of the enactment of the Quality Housing and Work Responsibility Act of 1998, the agency shall improve its performance, as measured by the performance indicators established pursuant to paragraph (1), such that the agency is no longer designated as troubled.

(III) In the event that a public housing agency designated as troubled under this subsection fails to comply with the requirements set forth in subclause (I) or (II), the Secretary shall—

(aa) in the case of a troubled public housing agency with 1,250 or more units, petition for the appointment of a receiver pursuant to subparagraph (A)(ii); or

(bb) in the case of a troubled public housing agency with fewer than 1,250 units, either petition for the appointment of a receiver pursuant to subparagraph (A)(ii), or take possession of the public housing agency (including all or part of any project or program of the agency) pursuant to subparagraph (A)(iv) and appoint, on a competitive or noncompetitive basis, an individual or entity as an administrative receiver to assume the responsibilities of the Secretary for the administration of all or part of the public housing agency (including all or part of any project or program of the agency).

This subparagraph shall not be construed to limit the courses of action available to the Secretary under subparagraph (A).

(IV) During the period between the date on which a petition is filed under subclause (III)(aa) and the date on which a receiver assumes responsibility for the management of the public housing agency under such subclause, the Secretary may take possession of the public housing agency (including all or part of any project or program of the agency) pursuant to subparagraph (A)(iv) and may appoint, on a competitive or noncompetitive basis, an individual or entity as an administrative receiver to assume the responsibilities of the Secretary for the administration of all or part of the public housing agency (including all or part of any project or program of the agency).

(C) If a receiver is appointed pursuant to subparagraph (A)(ii), in addition to the powers accorded by the court appointing the receiver, the receiver—

(i) may abrogate any contract to which the United States or an agency of the United States is not a party that, in the receiver's written determination (which shall include the basis

for such determination), substantially impedes correction of the substantial default, but only after the receiver determines that reasonable efforts to renegotiate such contract have failed;

(ii) may demolish and dispose of all or part of the assets of the public housing agency (including all or part of any project of the agency) in accordance with section 18, including disposition by transfer of properties to resident-supported nonprofit entities;

(iii) if determined to be appropriate by the Secretary, may seek the establishment, as permitted by applicable State and local law, of 1 or more new public housing agencies;

(iv) if determined to be appropriate by the Secretary, may seek consolidation of all or part of the agency (including all or part of any project or program of the agency), as permitted by applicable State and local laws, into other well-managed public housing agencies with the consent of such well-managed agencies; and

(v) shall not be required to comply with any State or local law relating to civil service requirements, employee rights (except civil rights), procurement, or financial or administrative controls that, in the receiver's written determination (which shall include the basis for such determination), substantially impedes correction of the substantial default.

(D)(i) If, pursuant to subparagraph (A)(iv), the Secretary takes possession of all or part of the public housing agency, including all or part of any project or program of the agency, the Secretary—

(I) may abrogate any contract to which the United States or an agency of the United States is not a party that, in the written determination of the Secretary (which shall include the basis for such determination), substantially impedes correction of the substantial default, but only after the Secretary determines that reasonable efforts to renegotiate such contract have failed;

(II) may demolish and dispose of all or part of the assets of the public housing agency (including all or part of any project of the agency) in accordance with section 18, including disposition by transfer of properties to resident-supported nonprofit entities;

(III) may seek the establishment, as permitted by applicable State and local law, of 1 or more new public housing agencies;

(IV) may seek consolidation of all or part of the agency (including all or part of any project or program of the agency), as permitted by applicable State and local laws, into other well-managed public housing agencies with the consent of such well-managed agencies;

(V) shall not be required to comply with any State or local law relating to civil service requirements, employee rights (except civil rights), procurement, or financial or administrative controls that, in the Secretary's written determination (which shall include the basis for such determination), substantially impedes correction of the substantial default; and

(VI) shall, without any action by a district court of the United States, have such additional authority as a district court of the United States would have the authority to confer upon a receiver to achieve the purposes of the receivership.

(ii) If, pursuant to subparagraph (B)(ii)(III)(bb), the Secretary appoints an administrative receiver to assume the responsibilities of the Secretary for the administration of all or part of the public housing agency (including all or part of any project or program of the agency), the Secretary may delegate to the administrative receiver any or all of the powers given the Secretary by this subparagraph, as the Secretary determines to be appropriate and subject to clause (iii).

(iii) An administrative receiver may not take an action described in subclause (III) or (IV) of clause (i) unless the Secretary first approves an application by the administrative receiver to authorize such action.

(E) The Secretary may make available to receivers and other entities selected or appointed pursuant to this paragraph such assistance as the Secretary determines in the discretion of the Secretary is necessary and available to remedy the substantial deterioration of living conditions in individual public housing projects or other related emergencies that endanger the health, safety, and welfare of public housing residents or families assisted under section 8. A decision made by the Secretary under this paragraph shall not be subject to review in any court of the United States, or in any court of any State, territory, or possession of the United States.

(F) In any proceeding under subparagraph (A)(ii), upon a determination that a substantial default has occurred and without regard to the availability of alternative remedies, the court shall appoint a receiver to conduct the affairs of all or part of the public housing agency in a manner consistent with this Act and in accordance with such further terms and conditions as the court may provide. The receiver appointed may be another public housing agency, a private management corporation, or any other person or appropriate entity. The court shall have power to grant appropriate temporary or preliminary relief pending final disposition of the petition by the Secretary.

(G) The appointment of a receiver pursuant to this paragraph may be terminated, upon the petition of any party, when the court determines that all defaults have been cured or the public housing agency is capable again of discharging its duties.

(H) If the Secretary (or an administrative receiver appointed by the Secretary) takes possession of a public housing agency (including all or part of any project or program of the agency), or if a receiver is appointed by a court, the Secretary or receiver shall be deemed to be acting not in the official capacity of that person or entity, but rather in the capacity of the public housing agency, and any liability incurred, regardless of whether the incident giving rise to that liability occurred while the Secretary or receiver was in possession of all or part of the public housing agency (including all or part of any project or program of the agency), shall be the liability of the public housing agency.

(4) SANCTIONS FOR IMPROPER USE OF AMOUNTS.—

(A) IN GENERAL.—In addition to any other actions authorized under this Act, if the Secretary finds that a public housing agency receiving assistance amounts under section 9 for public housing has failed to comply substantially with any provision of this Act relating to the public housing program, the Secretary may—

- (i) terminate assistance payments under this section 9 to the agency;
 - (ii) withhold from the agency amounts from the total allocations for the agency pursuant to section 9;
 - (iii) reduce the amount of future assistance payments under section 9 to the agency by an amount equal to the amount of such payments that were not expended in accordance with this Act;
 - (iv) limit the availability of assistance amounts provided to the agency under section 9 to programs, projects, or activities not affected by such failure to comply;
 - (v) withhold from the agency amounts allocated for the agency under section 8; or
 - (vi) order other corrective action with respect to the agency.
- (B) **TERMINATION OF COMPLIANCE ACTION.**—If the Secretary takes action under subparagraph (A) with respect to a public housing agency, the Secretary shall—
- (i) in the case of action under subparagraph (A)(i), resume payments of assistance amounts under section 9 to the agency in the full amount of the total allocations under section 9 for the agency at the time that the Secretary first determines that the agency will comply with the provisions of this Act relating to the public housing program;
 - (ii) in the case of action under clause (ii) or (v) of subparagraph (A), make withheld amounts available as the Secretary considers appropriate to ensure that the agency complies with the provisions of this Act relating to such program;
 - (iii) in the case of action under subparagraph (A)(iv), release such restrictions at the time that the Secretary first determines that the agency will comply with the provisions of this Act relating to such program; or
 - (iv) in the case of action under subparagraph (vi), cease such action at the time that the Secretary first determines that the agency will comply with the provisions of this Act relating to such program.
- (5) The Secretary shall submit to the Congress annually, as a part of the report of the Secretary under section 8 of the Department of Housing and Urban Development Act, a report that—
- (A) identifies the public housing agencies that have been designated as troubled under paragraph (2);
 - (B) describes the grounds on which such public housing agencies were designated as troubled and continue to be so designated;
 - (C) describes the agreements that have been entered into with such agencies under such paragraph;
 - (D) describes the status of progress under such agreements;
 - (E) describes any action that has been taken in accordance with paragraph (3); and
 - (F) describes the status of any public housing agency designated as troubled with respect to the program for assistance from the Capital Fund under section 9(d) and specifies the amount of assistance the agency received under such program.

(6)(A) To the extent that the Secretary determines such action to be necessary in order to ensure the accuracy of any certification made under this section, the Secretary shall require an independent auditor to review documentation or other information maintained by a public housing agency pursuant to this section to substantiate each certification submitted by the agency or corporation relating to the performance of that agency or corporation.

(B) The Secretary may withhold, from assistance otherwise payable to the agency or corporation under section 9, amounts sufficient to pay for the reasonable costs of any review under this paragraph.

(7) The Secretary shall apply the provisions of this subsection to resident management corporations in the same manner as applied to public housing agencies.

(k) The Secretary shall by regulation require each public housing agency receiving assistance under this Act to establish and implement an administrative grievance procedure under which tenants will—

(1) be advised of the specific grounds of any proposed adverse public housing agency action;

(2) have an opportunity for a hearing before an impartial party upon timely request within any period applicable under subsection (1);

(3) have an opportunity to examine any documents or records or regulations related to the proposed action;

(4) be entitled to be represented by another person of their choice at any hearing;

(5) be entitled to ask questions of witnesses and have others make statements on their behalf; and

(6) be entitled to receive a written decision by the public housing agency on the proposed action.

For any grievance concerning an eviction or termination of tenancy that involves any activity that threatens the health, safety, or right to peaceful enjoyment of the premises of other tenants or employees of the public housing agency or any violent or drug-related criminal activity on or off such premises, or any activity resulting in a felony conviction, the agency may (A) establish an expedited grievance procedure as the Secretary shall provide by rule under section 553 of title 5, United States Code, or (B) exclude from its grievance procedure any such grievance, in any jurisdiction which requires that prior to eviction, a tenant be given a hearing in court which the Secretary determines provides the basic elements of due process (which the Secretary shall establish by rule under section 553 of title 5, United States Code). Such elements of due process shall not include a requirement that the tenant be provided an opportunity to examine relevant documents within the possession of the public housing agency. The agency shall provide to the tenant a reasonable opportunity, prior to hearing or trial, to examine any relevant documents, records, or regulations directly related to the eviction or termination.

(l) Each public housing agency shall utilize leases which—

(1) have a term of 12 months and shall be automatically renewed for all purposes except for noncompliance with the requirements under section 12(c) (relating to community service requirements); except that nothing in this title shall prevent a

resident from seeking timely redress in court for failure to renew based on such noncompliance;

(2) do not contain unreasonable terms and conditions;

(3) obligate the public housing agency to maintain the project in a decent, safe, and sanitary condition;

(4) require the public housing agency to give adequate written notice of termination of the lease which shall not be less than—

(A) a reasonable period of time, but not to exceed 30 days—

(i) if the health or safety of other tenants, public housing agency employees, or persons residing in the immediate vicinity of the premises is threatened; or

(ii) in the event of any drug-related or violent criminal activity or any felony conviction;

(B) 14 days in the case of nonpayment of rent; and

(C) 30 days in any other case, except that if a State or local law provides for a shorter period of time, such shorter period shall apply;

(5) require that the public housing agency may not terminate the tenancy except for serious or repeated violation of the terms or conditions of the lease or for other good cause;

(6) provide that any criminal activity that threatens the health, safety, or right to peaceful enjoyment of the premises by other tenants or any drug-related criminal activity on or off such premises, engaged in by a public housing tenant, 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;

(7) specify that with respect to any notice of eviction or termination, notwithstanding any State law, a public housing tenant shall be informed of the opportunity, prior to any hearing or trial, to examine any relevant documents, records or regulations directly related to the eviction or termination;

(7) provide that any occupancy in violation of section 576(b) of the Quality Housing and Work Responsibility Act of 1998 (relating to ineligibility of illegal drug users and alcohol abusers) or the furnishing of any false or misleading information pursuant to section 577 of such Act (relating to termination of tenancy and assistance for illegal drug users and alcohol abusers) shall be cause for termination of tenancy;

(9) provide that it shall be cause for immediate termination of the tenancy of a public housing tenant if such tenant—

(A) 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

(2) is violating a condition of probation or parole imposed under Federal or State law.

For purposes of paragraph (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)).

(m) The Secretary shall not impose any unnecessarily duplicative or burdensome reporting requirements on tenants or public housing agencies assisted under this Act.

(n) When a public housing agency evicts an individual or family from a dwelling unit for engaging in criminal activity, including drug-related criminal activity, the public housing agency shall notify the local post office serving that dwelling unit that such individual or family is no longer residing in the dwelling unit.

(o) In providing housing in low-income housing projects, each public housing agency may coordinate with any local public agencies involved in providing for the welfare of children to make available dwelling units to—

(1) families identified by the agencies as having a lack of adequate housing that is a primary factor—

(A) in the imminent placement of a child in foster care;

or

(B) in preventing the discharge of a child from foster care and reunification with his or her family; and

(2) youth, upon discharge from foster care, in cases in which return to the family or extended family or adoption is not available.

(q) AVAILABILITY OF RECORDS.—

(1) IN GENERAL.—

(A) PROVISION OF INFORMATION.—Notwithstanding any other provision of law, except as provided in subparagraph (C), the National Crime Information Center, police departments, and other law enforcement agencies shall, upon request, provide information to public housing agencies regarding the criminal conviction records of adult applicants for, or tenants of, public housing for purposes of applicant screening, lease enforcement, and eviction.

(B) REQUESTS BY OWNERS OF PROJECT-BASED SECTION 8 HOUSING.—A public housing agency may make a request under subparagraph (A) for information regarding applicants for, or tenants of, housing that is provided project-based assistance under section 8 only if the housing is located within the jurisdiction of the agency and the owner of such housing has requested that the agency obtain such information on behalf of the owner. Upon such a request by the owner, the agency shall make a request under subparagraph (A) for the information. The agency may not make such information available to the owner but shall perform determinations for the owner regarding screening, lease enforcement, and eviction based on criteria supplied by the owner.

(C) EXCEPTION.—A law enforcement agency described in subparagraph (A) shall provide information under this paragraph relating to any criminal conviction of a juvenile only to the extent that the release of such information is authorized under the law of the applicable State, tribe, or locality.

(2) OPPORTUNITY TO DISPUTE.—Before an adverse action is taken with regard to assistance under this title on the basis of

a criminal record, the public housing agency shall provide the tenant or applicant with a copy of the criminal record and an opportunity to dispute the accuracy and relevance of that record.

(3) FEES.—A public housing agency may be charged a reasonable fee for information provided under paragraph (1). In the case of a public housing agency obtaining information pursuant to paragraph (1)(B) for another owner of housing, the agency may pass such fee on to the owner initiating the request and may charge additional reasonable fees for making the request on behalf of the owner and taking other actions for owners under this subsection.

(4) RECORDS MANAGEMENT.—Each public housing agency shall establish and implement a system of records management that ensures that any criminal record received by the public housing agency is—

- (A) maintained confidentially;
- (B) not misused or improperly disseminated; and
- (C) destroyed, once the purpose for which the record was requested has been accomplished.

(5) CONFIDENTIALITY.—A public housing agency receiving information under this subsection may use such information only for the purposes provided in this subsection and such information may not be disclosed to any person who is not an officer, employee, or authorized representative of the agency and who has a job-related need to have access to the information in connection with admission of applicants, eviction of tenants, or termination of assistance. For judicial eviction proceedings, disclosures may be made to the extent necessary. The Secretary shall, by regulation, establish procedures necessary to ensure that information provided under this subsection to a public housing agency is used, and confidentiality of such information is maintained, as required under this subsection. The Secretary shall establish standards for confidentiality of information obtained under this subsection by public housing agencies on behalf of owners.

(6) PENALTY.—Any person who knowingly and willfully requests or obtains any information concerning an applicant for, or tenant of, covered housing assistance pursuant to the authority under this subsection under false pretenses, or any person who knowingly and willfully discloses any such information in any manner to any individual not entitled under any law to receive it, shall be guilty of a misdemeanor and fined not more than \$5,000. The term “person” as used in this paragraph include an officer, employee, or authorized representative of any public housing agency.

(7) CIVIL ACTION.—Any applicant for, or tenant of, covered housing assistance affected by (A) a negligent or knowing disclosure of information referred to in this subsection about such person by an officer, employee, or authorized representative of any public housing agency, which disclosure is not authorized by this subsection, or (B) any other negligent or knowing action that is inconsistent with this subsection, may bring a civil action for damages and such other relief as may be appropriate against any public housing agency responsible for such unau-

thorized action. The district court of the United States in the district in which the affected applicant or tenant resides, in which such unauthorized action occurred, or in which the officer, employee, or representative alleged to be responsible for any such unauthorized action resides, shall have jurisdiction in such matters. Appropriate relief that may be ordered by such district courts shall include reasonable attorney's fees and other litigation costs.

(8) DEFINITIONS.—For purposes of this subsection, the following definitions shall apply:

(A) ADULT.—The term “adult” means a person who is 18 years of age or older, or who has been convicted of a crime as an adult under any Federal, State, or tribal law.

(B) COVERED HOUSING ASSISTANCE.—The term “covered housing assistance” means—

(i) a dwelling unit in public housing;

(ii) a dwelling unit in housing that is provided project-based assistance under section 8, including new construction and substantial rehabilitation projects; and

(iii) tenant-based assistance under section 8.

(C) OWNER.—The term “owner” means, with respect to covered housing assistance described in subparagraph (B)(ii), the entity or private person (including a cooperative or public housing agency) that has the legal right to lease or sublease dwelling units in the housing assisted.

(r) SITE-BASED WAITING LISTS.—

(1) AUTHORITY.—A public housing agency may establish procedures for maintaining waiting lists for admissions to public housing projects of the agency, which may include (notwithstanding any other law, regulation, handbook, or notice to the contrary) a system of site-based waiting lists under which applicants may apply directly at or otherwise designate the project or projects in which they seek to reside. All such procedures shall comply with all provisions of title VI of the Civil Rights Act of 1964, the Fair Housing Act, and other applicable civil rights laws.

(2) NOTICE.—Any system described in paragraph (1) shall provide for the full disclosure by the public housing agency to each applicant of any option available to the applicant in the selection of the project in which to reside.

(s) AUTHORITY TO REQUIRE ACCESS TO CRIMINAL RECORDS.—A public housing agency may require, as a condition of providing admission to the public housing program or assisted housing program under the jurisdiction of the public housing agency, that each adult member of the household provide a signed, written authorization for the public housing agency to obtain records described in subsection (q)(1) regarding such member of the household from the National Crime Information Center, police departments, and other law enforcement agencies.

(t) OBTAINING INFORMATION FROM DRUG ABUSE TREATMENT FACILITIES.—

(1) AUTHORITY.—Notwithstanding any other provision of law other than the Public Health Service Act (42 U.S.C. 201 et seq.), a public housing agency may require each person who

applies for admission to public housing to sign one or more forms of written consent authorizing the agency to receive information from a drug abuse treatment facility that is solely related to whether the applicant is currently engaging in the illegal use of a controlled substance.

(2) CONFIDENTIALITY OF APPLICANT'S RECORDS.—

(A) LIMITATION ON INFORMATION REQUESTED.—In a form of written consent, a public housing agency may request only whether the drug abuse treatment facility has reasonable cause to believe that the applicant is currently engaging in the illegal use of a controlled substance.

(B) RECORDS MANAGEMENT.—Each public housing agency that receives information under this subsection from a drug abuse treatment facility shall establish and implement a system of records management that ensures that any information received by the public housing agency under this subsection—

(i) is maintained confidentially in accordance with section 543 of the Public Health Service Act (12 U.S.C. 290dd-2);

(ii) is not misused or improperly disseminated; and
(iii) is destroyed, as applicable—

(I) not later than 5 business days after the date on which the public housing agency gives final approval for an application for admission; or

(II) if the public housing agency denies the application for admission, in a timely manner after the date on which the statute of limitations for the commencement of a civil action from the applicant based upon that denial of admission has expired.

(C) EXPIRATION OF WRITTEN CONSENT.—In addition to the requirements of subparagraph (B), an applicant's signed written consent shall expire automatically after the public housing agency has made a final decision to either approve or deny the applicant's application for admittance to public housing.

(3) PROHIBITION OF DISCRIMINATORY TREATMENT OF APPLICANTS.—

(A) FORMS SIGNED.—A public housing agency may only require an applicant for admission to public housing to sign one or more forms of written consent under this subsection if the public housing agency requires all such applicants to sign the same form or forms of written consent.

(B) CIRCUMSTANCES OF INQUIRY.—A public housing agency may only make an inquiry to a drug abuse treatment facility under this subsection if—

(i) the public housing agency makes the same inquiry with respect to all applicants; or

(ii) the public housing agency only makes the same inquiry with respect to each and every applicant with respect to whom—

(I) the public housing agency receives information from the criminal record of the applicant that

indicates evidence of a prior arrest or conviction;
or

(II) the public housing agency receives information from the records of prior tenancy of the applicant that demonstrates that the applicant—

(aa) engaged in the destruction of property;

(bb) engaged in violent activity against another person; or

(cc) interfered with the right of peaceful enjoyment of the premises of another tenant.

(4) FEE PERMITTED.—A drug abuse treatment facility may charge a public housing agency a reasonable fee for information provided under this subsection.

(5) DISCLOSURE PERMITTED BY TREATMENT FACILITIES.—A drug abuse treatment facility shall not be liable for damages based on any information required to be disclosed pursuant to this subsection if such disclosure is consistent with section 543 of the Public Health Service Act (42 U.S.C. 290dd–2).

(6) OPTION TO NOT REQUEST INFORMATION.—A public housing agency shall not be liable for damages based on its decision not to require each person who applies for admission to public housing to sign one or more forms of written consent authorizing the public housing agency to receive information from a drug abuse treatment facility under this subsection.

(7) DEFINITIONS.—For purposes of this subsection, the following definitions shall apply:

(A) DRUG ABUSE TREATMENT FACILITY.—The term “drug abuse treatment facility” means an entity that—

(i) is—

(I) an identified unit within a general medical care facility; or

(II) an entity other than a general medical care facility; and

(ii) holds itself out as providing, and provides, diagnosis, treatment, or referral for treatment with respect to the illegal use of a controlled substance.

(B) CONTROLLED SUBSTANCE.—The term “controlled substance” has the meaning given the term in section 102 of the Controlled Substances Act (21 U.S.C. 802).

(C) CURRENTLY ENGAGING IN THE ILLEGAL USE OF A CONTROLLED SUBSTANCE.—The term “currently engaging in the illegal use of a controlled substance” means the illegal use of a controlled substance that occurred recently enough to justify a reasonable belief that an applicant’s illegal use of a controlled substance is current or that continuing illegal use of a controlled substance by the applicant is a real and ongoing problem.

(8) EFFECTIVE DATE.—This subsection shall take effect upon enactment and without the necessity of guidance from, or any regulation issued by, the Secretary.

* * * * *

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. 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. 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 substantial rehabilitation projects, the Secretary shall take into ac-

count 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 modified 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.

(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 revenues 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 of 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]** *except that—*

(i) with respect to assisted dwelling units in a project assisted with project-based assistance under this section, the tenant selection criteria used by the owner—

(I) shall provide that the highest preference shall be given to otherwise eligible children who are in foster care, have attained an age such that the provision of foster care for such child will end by reason of the age of the child within 6 months, meet the requirements under clauses (i) and (ii) of paragraph (1) of the definition of "at risk of homelessness" in section 91.5 of the Secretary's regulations (24 C.F.R. 91.5), as in effect on

September 1, 2016, and have agreed to comply with the requirements under section 39(c); and

(II) may provide highest preference to, in addition to eligible children described in subclause (I), not more than two other types of eligible families; and

(ii) with respect to the certificate and moderate rehabilitation programs only, for the purpose of selecting families to be assisted who are not eligible for highest preference pursuant to clause (i)(I), 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) REVIEWS OF FAMILY INCOME.—

(A) IN GENERAL.—Reviews of family incomes for purposes of this section shall be subject to paragraphs (1), (6), and (7) of section 3(a) and to section 904 of the Stewart B. McKinney Homeless Assistance Amendments Act of 1988.

(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.

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

(A) PREFERENCES.—

(i) AUTHORITY TO ESTABLISH.—Each public housing agency **[may]** *shall* 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) *HIGHEST PREFERENCE.—Each system of preferences established pursuant to this subparagraph—*

(I) shall provide that the highest preference for assistance shall be given to otherwise eligible children who are in foster care, have attained an age such that the provision of foster care for such child will end by reason of the age of the child within 6 months, meet the requirements under clauses (i) and (ii) of paragraph (1) of the definition of “at risk of homelessness” in section 91.5 of the Secretary’s regulations (24 C.F.R. 91.5), as in effect on September 1, 2016, and have agreed to comply with the requirements under section 39(c); and

(II) may provide highest preference for assistance to, in addition to eligible children described in subclause (I), not more than two other types of eligible families.

[(ii)] (iii) CONTENT.—[Each system] *Except as provided in clause (ii)(I), 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) 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 increase 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 non-compliance 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 non-compliance 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.

(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 con-

tract 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 Gonzalez 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.**—

(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 and rents 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, rent shall mean the sum of the monthly payments made by a family assisted under this paragraph to amortize the cost of purchasing the manufactured home, including any required insurance and property taxes, the monthly amount allowed for tenant-paid utilities, and the monthly rent charged for the real property on which the manufactured home is located, including monthly management and maintenance charges.

(ii) MONTHLY ASSISTANCE PAYMENT.—The monthly assistance payment for a family assisted under this paragraph shall be determined in accordance with paragraph (2). If the amount of the monthly assistance payment for a family exceeds the monthly rent charged for the real property on which the manufactured home is located, including monthly management and maintenance charges, a public housing agency may pay the remainder to the family, lender or utility company, or may choose to make a single payment to the family for the entire monthly assistance amount.

(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 project, that is attached to the

project, subject to the limitations and requirements of 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, *that house eligible children described in section 6(c)(4)(A)(iii) who comply with the requirements under section 39(c)*, 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.—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, *to eligible children described in section 6(c)(4)(A)(iii)*, 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 2016.

(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.—

(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 project assisted under a housing assistance payment con-

tract 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 project, specify that such contract shall be extended for renewal terms of up to 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 entered into after the date of the enactment of the Housing Opportunity Through Modernization Act of 2016 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]

(J) TENANT SELECTION.—

(i) **SELECTION AND ELIGIBILITY.—**A public housing agency 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 or owner may establish preferences or criteria for selection for a unit assisted under this paragraph that]**

(ii) **PREFERENCES FOR OCCUPANCY.—**The agency or owner shall establish a system of preferences or criteria for selection for a unit assisted under this section that—

(I) shall provide that the highest preference shall be given to otherwise eligible children who are in foster care, have attained an age such that the provision of foster care for such child will end by reason of the age of the child within 6 months, meet the requirements under clauses (i) and (ii) of paragraph (1) of the definition of “at risk of homelessness” in section 91.5 of the Secretary’s regulations (24 C.F.R. 91.5), as in effect on September 1, 2016, and have agreed to comply with the requirements under section 39(c); and

(II) may provide highest preference to, in addition to eligible children described in subclause (I), not more than two other types of eligible families; and

(III) except as provided under subclause (I), are consistent with the public housing agency plan for the agency approved under section 5A and that give preference to families who qualify for vol-

untary services, including disability-specific services, offered in conjunction with assisted units.

【Any family that】

(iii) *WAITING LISTS.*—*Any family that* rejects an offer of project-based assistance under this paragraph or that is rejected for admission to a project by the owner or manager of a project assisted under this paragraph shall retain its place on the waiting list as if the offer had not been made. 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 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 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 annual adjusted income of the assisted family declines to a significant extent, the percentage of annual adjusted income paid by the family for rent shall not exceed the greater of 30 percent or the percentage of 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 36 months, otherwise eligible youths who have attained at least 18 years of age and not more than 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 2016 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).

(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. 39. TERMS AND CONDITIONS ON PREFERENCE FOR ASSISTANCE FOR CHILDREN AGING OUT OF FOSTER CARE.

(a) PREFERENCE.—For purposes of this section, the term “preference for housing assistance” means preference, for an otherwise eligible child in foster care, for—

(1) occupancy in a public housing dwelling unit, pursuant to section 6(c)(4)(A)(iii);

(2) tenant-based assistance under section 8(o), pursuant to paragraph (6)(A)(ii)(I) of such section;

(3) project-based assistance under section 8(o)(13), pursuant to subparagraph (J)(ii)(I) of such section; and

(4) occupancy in a dwelling unit in a project assisted with project-based assistance under section 8, pursuant to subsection (d)(1)(A)(i)(I) of such section.

(b) EARLY APPLICATION FOR ASSISTANCE.—Notwithstanding the period during which a preference for housing assistance is provided

for a person, an otherwise eligible person may apply for such occupancy or assistance at any time after such person attains 16 years of age.

(c) *REQUIREMENT FOR EDUCATION OR TRAINING.*—

(1) *REQUIREMENT.*—Except as provided in paragraph (2), each person occupying a dwelling unit pursuant to a preference for housing assistance shall, not later than 30 months after such initial occupancy, comply with the requirements under one of the following subparagraphs, as selected by the public housing agency for or project owner of the assisted housing dwelling unit involved, in consultation with relevant public child welfare agencies:

(A) *OPTION 1.*—The requirements under this subparagraph are—

(i) obtaining a recognized postsecondary credential or a secondary school diploma or its recognized equivalent;

(ii) enrollment in an institution of higher education, as such term is defined in section 101(a) of the Higher Education Act of 1965 (20 U.S.C. 1001(a)) and including the institutions described in subparagraphs (A) and (B) of section 102(a)(1) of such Act (20 U.S.C. 1002(a)(1)); or

(iii) participation in a career pathway, as such term is defined in section 3 of the Workforce Innovation and Opportunity Act (29 U.S.C. 3102).

Notwithstanding any other provision of this paragraph, a public housing agency or project owner may consider employment as satisfying the requirements under this subparagraph.

(B) *OPTION 2.*—The requirements under this subparagraph are compliance with the terms and conditions applicable under section 23 of the United States Housing Act of 1937 (42 U.S.C. 1437u) and the regulations implementing such section to a person participating in a family self-sufficiency program under such section, except that—

(i) a public housing agency may select the option under this subparagraph only if the agency is participating in such self-sufficiency program or has made such commitments to commence participation as the Secretary considers sufficient; and

(ii) a project owner of assisted housing may select the option under this subparagraph only if the public housing agency in whose jurisdiction the project is located is participating in such self-sufficiency program or has made such commitments to commence participation as the Secretary considers sufficient.

(C) *OPTION 3.*—The requirements under this subparagraph are compliance with any combination of the terms, conditions, and requirements under subparagraphs (A) and (B), as may be established by the public housing agency, except that a project owner of assisted housing may select the option under this subparagraph only if the public housing agency in whose jurisdiction the project is located has selected the option under this subparagraph and has estab-

lished such terms, conditions, and requirements. In designing such terms, conditions, and requirements, the public housing agency may consult with local workforce development agencies and other organizations and entities with expertise and experience in this field.

(2) **EXCEPTIONS.**—The requirement under paragraph (1) shall not apply to—

(A) a parent or other household member responsible for the care of a dependent child under the age of 6 or for the care of an incapacitated person;

(B) a person who is regularly and actively participating in a drug addiction or alcohol treatment and rehabilitation program; and

(C) a person who is incapable of complying with the requirement under paragraph (1) due to a documented medical condition.

(3) **VERIFICATION OF COMPLIANCE.**—The Secretary shall require the public housing agency or project owner, as applicable, to verify compliance with the requirement under paragraph (1) by each person occupying a dwelling unit assisted or administered by such agency or owner, as applicable, pursuant to a preference for housing assistance annually in conjunction with reviews of income for purposes of determining eligibility for assistance described in subsection (a).

(d) **LIMITATION ON BEDROOMS.**—A dwelling unit that is occupied by a person, or assisted with assistance made available on behalf of a person, pursuant to a preference for housing assistance may contain more than one bedroom only if such additional bedrooms are occupied only by other persons who occupy such dwelling unit, or receive assistance made available, pursuant to a preference for housing assistance.

(e) **SUPPORTIVE SERVICES.**—

(1) **ELIGIBILITY.**—Each person occupying a dwelling unit pursuant to a preference for housing assistance shall be eligible for any supportive services (as such term is defined in section 103 of the Workforce Innovation and Opportunity Act (29 U.S.C. 3102)) made available, in connection with any housing assistance program of the agency, by or through the public housing agency providing such preference or, in the case of a preference for housing assistance for housing not assisted by such agency, by or through the public housing agency in whose jurisdiction the housing is located, including any services provided under a family self-sufficiency program under section 23 of this Act.

(2) **INFORMATION.**—Upon the initial provision of housing assistance for any person pursuant to a preference for such assistance, the public housing agency or owner, as applicable, shall inform such person of the existence of any programs or services referred to in paragraph (1) and of their eligibility for such programs and services.

(f) **TERMINATION OF ASSISTANCE.**—The public housing agency or project owner, as applicable, shall terminate any occupancy of, or assistance on behalf of, a person pursuant to any preference for housing assistance upon the person attaining 25 years of age or upon substantial noncompliance with the requirement under subsection (c), except that nothing in this subsection may be construed

to prohibit the occupancy of housing assisted under this title by, or the provision of rental assistance under section 8 for, any person, or to affect the eligibility of any person for such occupancy or assistance, other than pursuant to a preference for housing assistance.

(g) *APPLICABILITY TO MOVING TO WORK AGENCIES.*—Notwithstanding any other provision of law, the preferences for housing assistance identified in subsection (a) of this section shall apply to assistance made available by each public housing agency participating in the Moving to Work Program under section 204 of the Departments of Veterans Affairs and Housing and Urban Development, and Independent Agencies Appropriations Act, 1996 (42 U.S.C. 1437f note), except that in lieu of compliance with one of the options under subsection (c)(1) of this section, such an agency may comply with the requirement under such subsection by complying with such terms, conditions, and requirements as may be established by the agency for persons occupying dwelling units pursuant to a preference for housing assistance.

(h) *REPORTS.*—The Secretary of Housing and Urban Development shall require each public housing agency that provides any preference for housing assistance pursuant to this section in any fiscal year to submit a report to the Secretary for such fiscal year that—

(1) specifies the number of applications for such preferences received during such fiscal year disaggregated by—

(A) the number received by persons who have attained 16 years of age but have not attained an age such that the provision of foster care for such child will end by reason of the age of the child within 6 months; and

(B) the number received by persons who have attained an age such that the provision of foster care for such child will end by reason of the age of the child within 6 months;

(2) specifies the number of persons provided a preference for housing assistance during such fiscal year; and

(3) describes how the public housing agency communicated or collaborated with public child welfare agencies to collect such data.

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HOUSING ACT OF 1949

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TITLE V—FARM HOUSING

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LOANS TO PROVIDE OCCUPANT-OWNED, RENTAL, AND COOPERATIVE HOUSING FOR LOW- AND MODERATE-INCOME PERSONS AND FAMILIES

SEC. 521. (a)(1)(A) Notwithstanding the provisions of sections 502, 517(a) and 515, loans to persons of low or moderate income under section 502 or 517(a)(1), or 526(a), loans under section 515 or 526(c) to provide rental or cooperative housing and related facilities for persons and families of low or moderate income or elderly persons and elderly families, and loans under section 526 to provide condominium housing for persons and families of low or mod-

erate income, shall bear interest at a rate prescribed by the Secretary at not less than a rate determined by the Secretary of the Treasury upon the request of the Secretary taking into consideration the current average market yield on outstanding marketable obligations of the United States with remaining periods of maturity comparable to the average maturities of such loans, adjusted to the nearest one-eighth of 1 per centum. Any loan guaranteed under this title shall bear interest at such rate as may be agreed upon by the borrower and the lender.

(B) From the interest rate so determined, the Secretary may provide the borrower with assistance in the form of credits so as to reduce the effective interest rate to a rate not less than 1 per centum per annum for such periods of time as the Secretary may determine for applicants described in subparagraph (A) if without such assistance such applicants could not afford the dwelling or make payments on the indebtedness of the rental or cooperative housing. In the case of assistance provided under this subparagraph with respect to a loan under section 502, the Secretary may not reduce, cancel, or refuse to renew the assistance due to an increase in the adjusted income of the borrower if the reduction, cancellation, or nonrenewal will cause the borrower to be unable to reasonably afford the resulting payments required under the loan.

(C) For persons of low income under section 502 or 517(a) who the Secretary determines are unable to afford a dwelling with the assistance provided under subparagraph (B) and when the Secretary determines that assisted rental housing programs (as authorized under this title, the National Housing Act, and the United States Housing Act of 1937) would be unsuitable in the area in which such persons reside, the Secretary may provide additional assistance, pursuant to amounts approved in appropriation Acts and for such periods of time as the Secretary may determine, which may be in an amount not to exceed the difference between (i) the amount determined by the Secretary to be necessary to pay the principal indebtedness, interest, taxes, insurance, utilities, and maintenance, and (ii) 25 per centum of the income of such applicant. The amount of such additional assistance which may be approved in appropriation Acts may not exceed an aggregate amount of \$100,000,000. Such additional assistance may not be so approved with respect to any fiscal year beginning on or after October 1, 1981.

(D)(i) With respect to borrowers under section 502 or 517(a) who have received assistance under subparagraph (B) or (C), the Secretary shall provide for the recapture of all or a portion of such assistance rendered upon the disposition or nonoccupancy of the property by the borrower. In providing for such recapture, the Secretary shall make provisions to provide incentives for the borrower to maintain the property in a marketable condition. Notwithstanding any other provisions of law, any such assistance whenever rendered shall constitute a debt secured by the Security instruments given by the borrower to the Secretary to the extent that the Secretary may provide for recapture of such assistance.

(ii) In determining the amount recaptured under this subparagraph with respect to any loan made pursuant to section 502(a)(3) for the purchase of a dwelling located on land owned by a community land trust, the Secretary shall determine any appreciation of

the dwelling based on any agreement between the borrower and the community land trust that limits the sale price or appreciation of the dwelling.

(E) Except for Federal or State laws relating to taxation, the assistance rendered to any borrower under subparagraphs (B) and (C) shall not be considered to be income or resources for any purpose under any Federal or State laws including, but not limited to, laws relating to welfare and public assistance programs.

(F) Loans subject to the interest rates and assistance provided under this paragraph (1) may be made only when the Secretary determines the needs of the applicant for necessary housing cannot be met with financial assistance from other sources including assistance under the National Housing Act and the United States Housing Act of 1937.

(G) Interest on loans under section 502 or 517(a) to victims of a natural disaster shall not exceed the rate which would be applicable to such loans under section 502 without regard to this section.

(2)(A) The Secretary shall make and insure loans under this section and sections 514, 515, and 517 to provide rental or cooperative housing and related facilities for persons and families of low income in multifamily housing projects, and shall make, and contract to make, assistance payments to the owners of such rental, congregate, or cooperative housing in order to make available to low-income occupants of such housing rentals at rates commensurate to income and not exceeding the highest of (i) 30 per centum of monthly adjusted income, (ii) 10 per centum of monthly income, or (iii) if the person or family is receiving payments for welfare assistance from a public agency, the portion of such payments which is specifically designated by such agency to meet the person's or family's housing costs. Any rent or contribution of any recipient shall not increase as a result of this section or any other provision of Federal law or regulation by more than 10 per centum during any twelve-month period, unless the increase above 10 per centum is attributable to increases in income which are unrelated to this subsection or other law or regulation.

(B) The owner of any project assisted under this paragraph or paragraph (5) shall be required to provide at least annually a budget of operating expenses and record of tenants' income. The budget (and the income, in the case of a project assisted under this paragraph) shall be used to determine the amount of the assistance for each project.

(C) The project owner shall accumulate, safeguard, and periodically pay to the Secretary any rental charges collected in excess of basic rental charges as established by the Secretary in conformity with subparagraph (A). These funds may be credited to the appropriation and used by the Secretary for making such assistance payments through the end of the next fiscal year. Notwithstanding the preceding sentence, excess funds received from tenants in projects financed under section 515 during a fiscal year shall be available during the next succeeding fiscal year, together with funds provided under subparagraph (D), to the extent approved in appropriations Acts, to make assistance payments to reduce rent overburden on behalf of tenants of any such project whose rents exceed the levels referred to in subparagraph (A). In providing assistance to relieve rent overburden, the Secretary shall provide assistance with

respect to very low-income and low-income families to reduce housing rentals to the levels specified in subparagraph (A).

(D) The Secretary, to the extent approved in appropriation Acts, may enter into rental assistance contracts aggregating not more than \$398,000,000 in carrying out subparagraph (A) with respect to the fiscal year ending on September 30, 1982.

(E) In order to assist elderly or handicapped persons or families 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 rental assistance to be used by such persons or families if the shared housing arrangement is in a single-family dwelling. For the purpose of this subparagraph, the Secretary shall prescribe minimum habitability standards to assure decent, safe, and sanitary housing for such families while taking into account the special circumstances of shared housing.

(F)(i) In making occupancy in a project assisted under this paragraph, and rental assistance under this paragraph, available on behalf of eligible families, the project owner—

(I) shall provide that the highest preference shall be given to otherwise eligible children who—

(aa) are in foster care;

(bb) have attained an age such that the provision of foster care for such child will end by reason of the age of the child within 6 months;

(cc) meet the requirements under clauses (i) and (ii) of paragraph (1) of the definition of “at risk of homelessness” in section 91.5 of the Secretary of Housing and Urban Development’s regulations (24 C.F.R. 91.5), as in effect on September 1, 2016; and

(dd) have agreed to comply with the requirements under clause (iii); and

(II) may provide highest preference to, in addition to eligible children described in subclause (I), not more than two other types of eligible families.

(ii) Notwithstanding the period during which a preference pursuant to clause (i)(I) for occupancy in project assisted under this paragraph or for rental assistance under this paragraph is provided for a person, an otherwise eligible person may apply for such occupancy or assistance at any time after the person attains 16 years of age.

(iii)(I) Except as provided in subclause (II), each person occupying a dwelling unit pursuant to a preference under clause (i)(I) shall, not later than 30 months after such initial occupancy, be—

(aa) obtaining a recognized postsecondary credential or a secondary school diploma or its recognized equivalent;

(bb) enrolled in an institution of higher education, as such term is defined in section 101(a) of the Higher Education Act of 1965 (20 U.S.C. 1001(a)) and including the institutions described in subparagraphs (A) and (B) of section 102(a)(1) of such Act (20 U.S.C. 1002(a)(1)); or

(cc) participating in a career pathway, as such term is defined in section 3 of the Workforce Innovation and Opportunity Act (29 U.S.C. 3102).

Notwithstanding any other provision of this subclause, a project owner may consider employment as satisfying the requirements under this subclause.

(II) The requirement under subclause (I) shall not apply to—

(aa) a parent or other household member responsible for the care of a dependent child under the age of 6 or for the care of an incapacitated person;

(bb) a person who is regularly and actively participating in a drug addiction or alcohol treatment and rehabilitation program; and

(cc) a person who is incapable of complying with the requirement under subclause (I) due to a documented medical condition.

(III) The Secretary shall require a project owner to verify compliance with the requirement under this clause by each person occupying a dwelling unit pursuant to a preference under clause (i)(I) annually in conjunction with reviews of income for purposes of determining eligibility for assistance described in clause (i).

(iv) A dwelling unit that is occupied by a person pursuant to a preference under clause (i)(I) may contain more than one bedroom only if such additional bedrooms are occupied only by other persons who occupy such dwelling unit pursuant to a preference under clause (i)(I).

(v) The project owner shall terminate any occupancy of a person pursuant to the preference under clause (i)(I) upon the person attaining 25 years of age or upon substantial noncompliance with the requirement under clause (iii), except that nothing in this clause may be construed to prohibit the occupancy in a project assisted under this paragraph by, or the provision of rental assistance under this paragraph for, any person, or to affect the eligibility of any person for such occupancy or assistance, other than pursuant to a preference under clause (i)(I).

(3)(A) In the case of loans under sections 514 and 515 approved prior to the effective date of this paragraph with respect to which rental assistance is provided, the rent for tenants receiving such assistance shall not exceed the highest of (i) 30 per centum of monthly adjusted income, (ii) 10 per centum of monthly income, or (iii) if the person or family is receiving payments for welfare assistance from a public agency, the portion of such payments which is specifically designated by such agency to meet the person's or family's housing costs.

(B) In the case of a section 515 loan approved prior to the effective date of this paragraph with respect to which interest credits are provided, the tenant's rent shall not exceed the highest of (i) 30 per centum of monthly adjusted income, (ii) 10 per centum of monthly income, or (iii) if the person or family is receiving payments for welfare assistance from a public agency, the portion of such payments which is specifically designated by such agency to meet the person's or family's housing costs, or, where no rental assistance authority is available, the rent level established on a basis of a 1 per centum interest rate on debt service.

(C) No rent for a unit financed under section 514 or 515 shall be increased as a result of this subsection or other provision of Federal law or Federal regulation by more than 10 per centum in any twelve-month period, unless the increase above 10 per centum is

attributable to increases in income which are unrelated to this subsection or other law, or regulation.

(4) In the case of a loan with respect to the purchase of a manufactured home with respect to which rental assistance is provided, the monthly payment for principal and interest on the manufactured home and for lot rental and utilities shall not exceed the highest of (A) 30 per centum of monthly adjusted income, (B) 10 per centum of monthly income, or (C) if the person or family is receiving payments for welfare assistance from a public agency, the portion of such payments which is specifically designated by such agency to meet the person's or family's housing costs.

(5) OPERATING ASSISTANCE FOR MIGRANT FARMWORKER PROJECTS.—

(A) AUTHORITY.—In the case of housing (and related facilities) for migrant farmworkers provided or assisted with a loan under section 514 or a grant under section 516, the Secretary may, at the request of the owner of the project, use amounts provided for rental assistance payments under paragraph (2) to provide assistance for the costs of operating the project. Any tenant or unit assisted under this paragraph may not receive rental assistance under paragraph (2).

(B) AMOUNT.—In any fiscal year, the assistance provided under this paragraph for any project shall not exceed an amount equal to 90 percent of the operating costs for the project for the year, as determined by the Secretary. The amount of assistance to be provided for a project under this paragraph shall be an amount that makes units in the project available to migrant farmworkers in the area of the project at rates not exceeding 30 percent of the monthly adjusted incomes of such farmworkers, based on the prevailing incomes of such farmworkers in the area.

(C) SUBMISSION OF INFORMATION.—The owner of a project assisted under this paragraph shall be required to provide to the Secretary, at least annually, a budget of operating expenses and estimated rental income, which the Secretary may use to determine the amount of assistance for the project.

(D) DEFINITIONS.—For purposes of this paragraph, the following definitions shall apply:

(i) The term “migrant farmworker” has the same meaning given such term in section 516(k)(7).

(ii) The term “operating cost” means expenses incurred in operating a project, including expenses for—

(I) administration, maintenance, repair, and security of the project;

(II) utilities, fuel, furnishings, and equipment for the project; and

(III) maintaining adequate reserve funds for the project.

(b) Housing and related facilities provided with loans described in subsection (a) shall be located in rural areas; and applicants eligible for such loans under section 502 or 517(a)(1), or for occupancy of housing provided with such loans under section 515, shall include otherwise qualified nonrural residents who will become rural residents.

(c) There shall be reimbursed to the Rural Housing Insurance Fund by annual appropriations (1) the amounts by which nonprincipal payments made from the fund during each fiscal year to the holders of insured loans described in subsection (a)(1) exceed interest due from the borrowers during each year, and (2) the amount of assistance payments described in subsections (a)(2) and (a)(5). There are authorized to be appropriated to the Rural Housing Insurance Fund such sums as may be necessary to reimburse such fund for the amount of assistance payments described in subsection (a)(1)(C). The Secretary may from time to time issue notes to the Secretary of the Treasury under section 517(h) and section 526 to obtain amounts equal to such unreimbursed payments, pending the annual reimbursement by appropriation.

(d)(1) In utilizing the rental assistance payments authority pursuant to subsection (a)(2)—

(A) the Secretary shall make such assistance available in existing projects for units occupied by low income families or persons to extend expiring contracts or to provide additional assistance when necessary to provide the full amount authorized pursuant to existing contracts;

(B) any such authority remaining after carrying out subparagraph (A) shall be used in projects receiving commitments under section 514, 515, or 516 after fiscal year 1983 for contracts to assist very low-income families or persons to occupy the units in such projects, except that not more than 5 percent of the units assisted may be occupied by low income families or persons who are not very low-income families or persons; and

(C) any such authority remaining after carrying out subparagraphs (A) and (B) may be used to provide further assistance to existing projects under section 514, 515, or 516.

(2) The Secretary shall transfer rental assistance contract authority under this section from projects where such authority is unused after initial rentup and not needed because of a lack of eligible tenants in the area to projects where such authority is needed.

(e) Any rent or contribution of any recipient or any tenant in a project assisted under subsection (a)(5) shall not increase as a result of this section, any amendment thereto, or any other provision of Federal law or regulation by more than 10 per centum during any twelve-month period, unless the increase above 10 per centum is attributable to increases in income which are unrelated to this subsection or other law or regulation.

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MINORITY VIEWS

H.R. 2069 is a well-intentioned, but harmful bill that seeks to help foster youth aging out of care by allowing them to receive preference for key federal housing programs over other households that have been waiting in line for assistance, including other vulnerable populations such as people experiencing homelessness, veterans, victims of domestic violence, and families with young children. Further, H.R. 2069 would introduce mandatory education, training, or work requirements at the federal level. There is no evidence that such requirements help individuals increase their earned incomes, and these requirements could leave the most vulnerable foster youth at risk of eviction and homelessness.

H.R. 2069 would supersede voluntary local PHA and owner waiting list preferences and replace them with a mandatory federal preference for foster youth aging out of foster care who are at risk of homelessness, allowing them to go to the top of years long waiting lists for public housing, Housing Choice Vouchers, project-based rental assistance, and rural housing units subsidized by Section 521. Under H.R. 2069, PHAs and owners would be allowed to establish preferences for two additional groups alongside foster youth such that all three groups, if so designated, would collectively be given a highest preference. Congress eliminated federal preferences for housing assistance in 1998 through the Quality Housing and Work Responsibility Act (QHWRA) due to concerns that federal preferences were contributing to an overconcentration of poverty in federal housing programs, as well as concerns that federal preferences were not nimble enough to respond to the needs of local communities with differing populations. Currently, PHAs and owners are free to establish preferences for foster youth aging out of care if they determine it is appropriate based on local needs. Some PHAs have chosen to establish such preferences for foster youth, while others have decided to establish preferences for other populations based on different local needs or to establish no preferences at all.

Under H.R. 2069, foster youth who are provided housing assistance through the new federal preference would be subject to educational, training, or work requirements, as determined by the PHA or owner, in consultation with relevant public child welfare agencies. There is no guarantee that foster youth would receive supportive services to help them meet these requirements. Due to the discretion left to PHAs and owners, some youth may be subjected strictly to work requirements without the option to pursue education or training as an alternative to obtaining employment. Substantial noncompliance with these education, training, or work requirements would result in termination of assistance. While the bill allows for hardship exemptions, HUD has a documented history of failing to ensure that PHAs follow existing hardship re-

quirements. There is no reason to believe that HUD will police these new hardship requirements differently. For these reasons, Democrats oppose H.R. 2069, but continue to support increased resources for housing assistance to help foster youth aging out of care.

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