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Public Housing and Section 8 Reforms: The Quality Housing and Work Responsibility Act of 1998

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Summary

The President signed the Quality Housing and Work Responsibility Act of 1998, P.L. 105-276, part of the VA/HUD FY1999 appropriations bill, on October 21, 1998. This report highlights the major provisions of this Act, indicating its nature and scope. This report will not be updated.

Under this Act, well-run public housing agencies will have more freedom to operate, while poorly run agencies will be held more accountable; more working families with higher incomes will live in public housing that is now largely occupied by the poorest of the poor; and some residents will be required to perform 8 hours a month of community service, while there will be more incentives and opportunities for tenants to improve their lives. In both public housing and the Section 8 program, it will be easier to evict tenants who commit crimes and cause problems. A home rule flexible grant demonstration program will allow some local governments (rather than public housing agencies) to receive federal housing funds to develop creative approaches for providing affordable housing. A new Section 8 housing voucher program will be more landlord-friendly and more market-driven. Most provisions in the new Act become effective October 1, 1999.

The New Housing Act in Perspective

Approximately 5 million low-income households currently receive federal housing assistance.¹ At least another 15 million qualify for help but do not receive it because of limited budget appropriations. Most of those receiving help are very poor, with a median income of about \$8,000. After three years of debate, Congress recently passed a major public housing and tenant-based assistance reform bill. The Quality Housing and Work

¹ For an extensive statistical data base on public and assisted housing see *A Picture of Subsidized Households in 1998: United States Summaries*, by Paul Burke. U.S. Department of Housing and Urban Development. Office of Policy Development and Research. August 28, 1998.

Responsibility Act of 1998, Title V of P.L. 105-276, the fiscal 1999 HUD budget bill, largely addresses the public housing agencies that manage 1.3 million households who live in publicly-owned units and another 1.4 million who receive Section 8 vouchers that are used to pay a part of the rent in privately-owned apartments.

Many provisions in the new act attempt to protect the \$90 billion investment the nation has made in public housing by requiring the agencies that manage these projects to rethink their own goals and standards of operations. Both the tenants and the local community are to have a role in this process. The agencies will then be held more accountable for carrying out their annual and long term plans. The new legislation also has many provisions for improving the living environment of the tenants – for example, better efforts to reduce crime and to modernize or replace dilapidated units. There are more incentives for residents to improve their lives and become more economically self-sufficient. For example, tenants will not necessarily face an immediate rent increase if they become employed or increase their current income, as has often happened in the past.

Many housing analysts believe housing vouchers are an efficient way to help low income households afford decent housing. Vouchers give households more choice over where they prefer to live than project-based assistance. They also make it at least somewhat less likely that the poor will be concentrated in a particular project or neighborhood. The new law makes it likely that all or parts of some public housing projects will convert to a system of vouchers. In addition, the fiscal 1999 HUD budget provides for about 90,000 new vouchers, including 50,000 under the “welfare to work” initiative. These and other changes will mean more low-income households will be taking their vouchers in search of housing in middle class apartment complexes. The new legislation makes the Section 8 voucher program more landlord-friendly in order to retain current landlords and to attract new ones. Landlords will be able to screen prospective tenants with vouchers and use a standard rental lease. They will be expected to treat voucher holders with the same respect, and provide them with the same level of service, as unassisted renters. Assisted tenants, in turn, will be held to the same standards of conduct as unassisted renters.

Title V: Quality Housing and Work Responsibility Act of 1998

Public Housing: General Provisions

Rents. Housing authorities may set minimum rent of up to \$50, but can make exceptions for hardship circumstances. Residents will be given an annual choice of paying either a flat rent or an income-based rent in order not to discourage families who are attempting to become economically self-sufficient through employment. Rents may not be increased for 12 months as a result of employment and then, increases are to be phased in. However, rents are not to be reduced if a tenant’s income from a welfare program is reduced because of failure to comply with requirements. But welfare benefits running out after a lifetime limit is reached will not be considered a failure to comply.
(Subtitle A, Sec. 507)

Plans. Public housing agencies (PHAs) will have to submit annual and five-year plans that include a statement of their mission and how they will serve the needs of low-income families. The plans must include policies and procedures for rent determination, admissions, waiting lists, management and operations, grievances, capital improvements, demolition and sale of units, community service requirements, self-sufficiency programs, and homeownership plans. Each PHA is to establish one or more resident advisory boards. Certain high performing agencies, and those with less than 250 units that are “not troubled,” will get streamlined plan approval. PHAs designated as “troubled,” or are at risk of being so designated, may be required to submit additional information to HUD. (Sec. 511).

Community Service and Self-Sufficiency Requirements. Residents will be required to contribute 8 hours per month of community service or participate in an economic self-sufficiency program unless exempted, such as those who are engaged in a work activity or educational program, or who are 62 years old and over. Those who do not comply could lose the right to renew their lease. (Sec. 512)

Income Targeting. At least 40% of public housing units in a public housing authority are to be occupied by families with incomes (at the time of first occupancy) that are below 30% of the area median income. The PHA’s annual plan must show how it intends to deconcentrate poverty and create mixed-income projects, such as by bringing higher income tenants into lower income projects and vice versa. The new targeting goal will be carried out as vacancies occur, but is not to be done by concentrating very low-income families in certain projects or in certain buildings of a project. An agency may offer incentives for eligible higher income families to occupy units in projects now mostly occupied by very-low income families. Skipping a family on a waiting list to accomplish the income mixing will not be considered an adverse action. Within limits, a PHA that exceeds the required targeting in public housing may receive a credit towards meeting the targeting requirement in the Section 8 voucher program. It is the “Sense of Congress” that preference for occupancy in the public housing and Section 8 voucher programs be given to individuals who are the victims of domestic violence. (Sec. 513)

Mental Health Action Plan. The HUD Secretary is to develop an action plan and recommendations for improving the treatment of severe mental illness for families and individuals receiving public housing and Section 8 housing assistance. (Sec. 517)

Public Housing: Capital and Operating Assistance

A Capital Fund will be made available to PHAs for the development, financing, and modernization of public housing projects, including the redesign and reconstruction of public housing sites and buildings, and for the development of mixed-finance projects. The fund may also be used for vacancy reduction, correcting deferred maintenance, management improvements, demolition and replacement, resident relocation, expenditures to improve the empowerment and economic self-sufficiency of public housing residents, and to improve resident participation. Expenditures may also be used to improve the security and safety of the residents and for homeownership activities. A formula for distributing these funds is to include a mechanism to reward management performance. There are to be penalties for the slow expenditure of funds. (Sec. 519)

An Operating Fund will be available to PHAs for the operation and management of public housing, including systems for efficient management, routine preventive maintenance, anticrime and antidrug activities, and for the participation in management and policy making of public housing by public housing residents. (Sec. 519)

Public Housing: Admission and Occupancy Requirements

Occupancy by Police Officers. A PHA may allow a police officer who is not otherwise eligible for residence in public housing to reside there for the purpose of increased security. (Subtitle B, Sec. 524). (The same for the Section 8 voucher program).

Site-Based Waiting Lists. Applicants may specify which project(s) they prefer, but they must be told of any options that are available to them. (Sec. 525)

Pet ownership. Residents may own 1 or more common household pets subject to reasonable requirements. (Sec. 526)

Public Housing: Management, Homeownership, Demolition, and Disposition

Demolition and sale of units are allowed for most reasons that are in the best interest of the agency, project, and residents. Each resident must be offered comparable housing with relocation expenses paid. Where units are offered for sale, preference is to be given to any eligible resident organization, resident management corporation, or nonprofit corporation acting on behalf of the residents. (Subtitle B, Sec 531)

Resident Councils and Resident Management Corporations may apply for and receive funds to operate a public housing project. (Sec. 532)

Conversion of Public Housing to Vouchers. A PHA may convert any public housing project (or a portion) to tenant-based assistance, but only after a series of steps and justifications that include (1) a cost analysis that shows this approach is less expensive, (2) an analysis that shows residents with vouchers would have a reasonable chance of finding safe and decent units, and (3) evidence that the conversion would principally benefit the residents, the PHA, and the community. To be approved, a conversion plan would have to show significant participation of the residents. (Sec. 533)

The **Transfer of Management** of certain public housing to an independent manager may be made at the request of residents and may occur if HUD determines there is poor management, including deferred maintenance and excessive criminal activity. (Sec. 534)

Demolition, Site Revitalization, Replacement Housing, and Tenant-Based Assistance Grants for Projects. \$600 million is authorized to be appropriated for FY1999 and amounts necessary for each of FY2000, 2001, and 2002 for grants to dispose of and replace severely distressed public housing. (Sec. 535)

Homeownership. A PHA may carry out a homeownership program that would sell public housing units and other housing owned or acquired by the PHA to low-income families. Protections are to be given to those residents who do not purchase. (Sec. 536)

Required Conversion of Distressed Public Housing to Tenant-Based Assistance.

A “distressed” public housing project is one where the agency cannot assure the long-term viability through reasonable modernization, achievement of a broader range of family income, or where the estimated costs during its remaining useful life exceed that of providing tenant-based assistance under Section 8 to all families in occupancy. Where an agency fails to adequately correct this situation, the HUD Secretary may designate the public housing projects to be removed from the inventory of the PHA. (Sec. 537)

Linking Services to Public Housing Residents. The HUD Secretary may make grants to PHAs to provide supportive services and resident empowerment activities including education, job training and counseling, job search skills, business development training and planning, tutoring, adult literacy, computer access, health services, transportation, and child care. A 25% match by the grant applicant is required. (Sec. 538)

Mixed Finance Public Housing. A PHA may provide operating and capital funds for a “mixed-finance project” in the form of a grant, loan, or guarantee, for the construction or rehabilitation of public housing units. A mixed-finance project is one that is financially assisted by private resources, which can include low-income housing tax credits. (Sec. 539)

Section 8 Rental and Homeownership Assistance

The existing Section 8 housing certificate and voucher programs are merged into a new tenant-based assistance program – a new modified voucher. The new program will use a payment standard to determine the monthly assistance that would be paid to the landlord on behalf of the tenant. The payment standard is to be a range – between 90% and 110% of the fair market rent established in local areas by HUD. If the voucher holder finds a unit with a rent in the acceptable range (or less), he/she would generally pay 30% of their income for rent, and their voucher would pay the rest. If the unit has a rent that exceeds the payment standard range, the tenant would pay 30% of their income plus the amount of the rent exceeding the payment standard. But tenant- paid initial move-in rent could not be more than 40% of their income. Rents are to be reasonable in comparison with rents in the private, unassisted local market. (Subtitle C, Sec. 545)

Income Targeting for Tenant-Based Section 8 Assistance. Each PHA is to develop a system of eligibility preferences based on local housing needs and priorities. In general, of those receiving assistance, at least 75% of the families must have incomes below 30% of the local area median. (Sec. 513)

Screening. The private landlord is to do the screening and selection of households with vouchers. PHAs may choose not to work with landlords who have a history of refusing to take action to end tenancy for certain activity engaged in by the tenant, a member of the tenant’s household, or other person that threatens the health or safety of, or the right of peaceful enjoyment of their premises, by persons residing in the immediate vicinity of the premises. (Sec. 545)

Leases must be for at least one year and can be a standard rental lease as long as it is consistent with state and local law. The “endless lease” provision is permanently ended. That is, while an owner may not end the tenancy during the lease period, except for serious

or repeated violations of the lease, or for other good cause, a landlord can end the tenancy without cause at the end of the lease. (Sec. 545)

Inspections. The PHA is to provide an initial inspection of the unit and annually, to assure the unit meets housing quality standards. The HUD Secretary can waive the quality standards if it would significantly increase access to affordable housing as long as this does not adversely affect the health and safety of assisted families. (Sec. 545)

Homeownership. A PHA may allow vouchers to be used to pay monthly costs to purchase a dwelling unit to be owner-occupied. There must be a pre-purchase inspection and the cost of any repairs must be paid by the seller. (Sec. 555)

Portability. In general, a household may use a voucher in any jurisdiction where the program is administered. A family may not take a voucher to another jurisdiction if they have moved out of an assisted unit in violation of the lease. (Sec. 553)

Home Rule Flexible Grant Demonstration

A 4-year demonstration program is to be carried out to show the effectiveness of allowing local governments (rather than PHAs) to receive and combine certain federal housing assistance, including public housing operating and capital funds and Section 8 tenant-based assistance, in order to design creative approaches for achieving various housing goals. Up to 100 jurisdictions may participate, except those with high performing PHAs. Not more than 55 jurisdictions may be jurisdictions with “troubled” PHAs and not more than 45 may be those with “non-troubled” PHAs. (Subtitle D)

Accountability and Oversight of Public Housing Agencies

HUD is to conduct a study to determine the effectiveness of alternative methods of evaluating the performance of PHAs and other providers of federally assisted housing. There would be an expansion of powers for dealing with PHAs in substantial default. The Comprehensive Housing Affordability Strategies (CHAS) of state and local governments that contain troubled PHAs, would be considered in compliance only if they describe the manner in which financial or other assistance would be provided to these agencies to improve their operations and remove the “troubled” designation. (Subtitle E)

Safety and Security in Public and Assisted Housing

PHAs will be able to obtain criminal records for tenant screening and evictions. In most cases, information may be obtained from a drug treatment facility for adults seeking admission to public or assisted housing to determine if they are currently engaging in the illegal use of a controlled substance. Any tenant evicted from assisted housing for drug-related criminal activity will not be eligible for assistance for 3 years unless they complete a rehabilitation program. Admission to assisted housing may be denied to anyone when there is reason to believe abuse of alcohol may interfere with the health, safety, or right to peaceful enjoyment of the premises by other residents. Dangerous sex offenders may be denied admission to public housing. (Subtitle F)