

A BILL

To authorize the Department of Housing and Urban Development to initiate a multi-year effort to transform properties with rental assistance contracts under various programs into properties with long-term, property-based sustainable rental assistance contracts that include flexibility to address capital requirements, to enhance resident choice, and to streamline and simplify the administration of rental assistance.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) This Act may be cited as the “Preservation, Enhancement, and Transformation of Rental Assistance Act of 2010”.

(b) Table of Contents.—The table of contents for this Act is as follows:

- Sec. 1. Short title; table of contents.
- Sec. 2. Findings and purposes.
- Sec. 3. Transforming Rental Assistance.
- Sec. 4. Property-based contracts.
- Sec. 5. Property-based voucher contracts.
- Sec. 6. Conforming amendments.

SEC. 2. FINDINGS AND PURPOSES.

(a) FINDINGS.—The Congress finds that—

(1) the Department of Housing and Urban Development (HUD) currently provides rental assistance to more than 4.6 million households through at least 13 different programs that are implemented through an infrastructure of some 4,200 public housing agencies (PHAs), 18,000 private owners with individual Federal contracts, and hundreds of non-profit rental program administrators;

1 (2) the substantial unmet capital needs of the aging public and assisted housing
2 stock hinder Federal efforts to provide safe, high-quality affordable housing;

3 (3) the current rental assistance structure increases transaction costs for
4 developers and communities and makes it more difficult for families in need to access
5 HUD programs, while at the same time worst-case housing needs and homelessness are
6 increasing significantly;

7 (4) the number of rental assistance programs and administrative entities creates
8 many barriers to eligible low-income families seeking an effective and accessible rental
9 assistance program;

10 (5) the number of entities that administer HUD rental assistance, combined with
11 the geographical limits under which most operate, impede fair access to scarce resources,
12 resulting in waiting times that vary substantially and often with other adverse impacts;
13 and

14 (6) administrative geography and current program rules limit the use of Federal
15 rental assistance to decrease concentrations of poor and minority families or to expand
16 opportunities to live in mixed-income sustainable neighborhoods.

17 (b) PURPOSES.—The purposes of this Act are to—

18 (1) preserve affordable housing opportunities for the long term;

19 (2) enhance housing choice for residents;

20 (3) streamline and improve the delivery and oversight of rental assistance across
21 all rental assistance programs;

22 (4) create more uniform policies across all rental assistance programs funded by
23 the Secretary to increase administrative efficiency at all levels of program operations;

(5) provide the opportunity for public housing agencies and private owners to convert from current forms of rental assistance under a variety of programs to long-term, property-based contracts that will enhance market-based discipline and enable owners to sustain operations and leverage private financing to address immediate and long-term capital needs and implement energy-efficiency improvements; and

(6) promote consortia, consolidation and other locally designed structures for administrative functions to increase efficiency and expand access to a broad range of neighborhoods.

SEC. 3. TRANSFORMING RENTAL ASSISTANCE.

Section 8 of the United States Housing Act of 1937 (42 U.S.C. 1437f) is amended by inserting, after subsection (l), the following new subsection (m):

“(m) TRANSFORMATION OF RENTAL ASSISTANCE.—

“(1) TRANSFORMATION AUTHORITY.—

“(A) AUTHORITY TO STREAMLINE RENTAL ASSISTANCE PROGRAMS.—The Secretary is authorized to establish uniform policies and procedures governing rental assistance for properties converted under this subsection, and, to the extent not inconsistent with authorizing statutes, for other rental assistance programs funded by the Secretary, including policies and procedures with respect to—

“(i) RESIDENT CHOICE.—The Secretary shall promote informed choice regarding housing opportunities by participants in rental assistance

1 programs administered by the Secretary by providing, to the extent of
2 available resources, that—

3 “(I) each low-income family lawfully residing in a unit
4 converted under subsection (m)(2) or, to the extent of available
5 resources, otherwise funded under a rental assistance program
6 administered by the Secretary, may move at any time after residing
7 in the property for a period of not less than 24 months, or such
8 other period as determined by the Secretary or otherwise provided
9 in this Act, and may continue to receive rental assistance that is
10 subject to policies comparable to those that apply to assistance
11 under section 8(o) concerning income, assistance, rent
12 contribution, affordability, and other policies as the Secretary may
13 specify by regulation; and

14 “(II) a public housing agency administering a tenant-based
15 voucher program under section 8(o) whose property is selected for
16 conversion or that is selected to administer a rental assistance
17 contract pursuant to subsection (m)(2) shall make available to
18 eligible families who choose to move under the Choice Option
19 provided in subclause (I) not more than one-third of the vouchers
20 that become available each year as a result of turnover. A public
21 housing agency may establish a separate waiting list for families
22 eligible to exercise the Choice Option.

1 “(ii) TENANT ORGANIZATION RIGHTS.—In implementing the
2 authority under this section 8(m)(1) with respect to tenants’ rights to
3 organize, the Secretary shall provide that—

4 “(I) owners of properties funded under a rental assistance
5 program and public housing agencies administering rental
6 assistance shall not impede the reasonable efforts of tenants to
7 organize or of tenant organizations to represent their members;

8 “(II) property owners and public housing agencies
9 administering rental assistance shall recognize legitimate tenant
10 organizations and give reasonable consideration to concerns raised
11 by legitimate tenant organizations;

12 “(III) properties with only a portion of the units funded
13 under a rental assistance program may, at the option of the tenants
14 of units with such assistance, have a single tenant organization
15 representing all tenants;

16 “(IV) a tenant organization is legitimate if it meets
17 regularly, operates democratically, is broadly representative, and is
18 independent of the public housing agency, owners, management,
19 and their representatives and has been established—

20 “(aa) by the tenants in a property funded under a
21 rental assistance program administered by the Secretary for
22 purposes of addressing issues related to the tenants’ living
23 environment, which includes the terms and conditions of

1 their tenancy and other issues as determined by the
2 Secretary; or

3 “(bb) by the participants in a rental assistance
4 program under section 8(o), for purposes of addressing
5 issues related to policies governing payment standards,
6 conditions of occupied units, or other discretionary
7 policies and program implementation issues; or

8 “(cc) through a combination of tenant organizations,
9 including jurisdiction-wide or area-wide organizations; and

10 “(V) a portion of funds made available for renewal of rental
11 assistance may be allocated to facilitate tenants’ rights to organize,
12 subject to such terms and conditions as the Secretary may
13 establish.

14 “(iii) APPLICANT AND TENANT PROCEDURAL RIGHTS.—

15 With respect to properties with rental assistance under section 8(n), and
16 such other rental assistance programs as the Secretary by regulation may
17 designate, the following applicant and tenant procedural rights shall
18 apply—

19 “(I) IN GENERAL.—Applicants for, and tenants of, rental
20 assistance programs administered by the Secretary shall be timely
21 notified of and provided the rights listed in this clause upon
22 receiving notification of—

1 “(aa) ineligibility for assistance or for admission to
2 a unit assisted under this subsection;

3 “(bb) adverse actions involving income
4 determinations, tenant contributions, unit size, other
5 conditions of continuing eligibility, or such other issues as
6 determined by the Secretary; and

7 “(cc) eviction or termination of assistance.

8 “(II) PROCEDURES REQUIRED.—

9 “(aa) An applicant for, and tenants of, rental
10 assistance programs administered by the Secretary may
11 request a review of an action for which the applicant or
12 tenant receives notification pursuant to this clause, within
13 10 days of receipt of the notice or such longer time as the
14 owner, consistent with its written administrative policies,
15 may permit, and before the action may be initiated or
16 carried out. For any review concerning an eviction or
17 termination of tenancy that involves any activity that
18 threatens the health, safety, or right to peaceful enjoyment
19 of the premises of other tenants or employees of the owner
20 or any violent or drug-related criminal activity on or off
21 such premises, or any activity resulting in a felony
22 conviction, the agency or owner may establish an expedited
23 review procedure as the Secretary shall provide, or exclude

1 from its review procedure any such matter, in any
2 jurisdiction which requires that prior to eviction, a tenant be
3 given a hearing in court, which the Secretary determines
4 provides the basic elements of due process. Such elements
5 of due process shall not include a requirement that the
6 tenant be provided an opportunity to examine relevant
7 documents within the possession of the agency or owner.
8 The agency or owner shall provide to the tenant a
9 reasonable opportunity, prior to hearing or trial, to examine
10 any relevant documents, records, or regulations directly
11 related to the eviction or termination.

12 “(bb) The review shall be conducted by a person
13 with authority to approve, amend, or withdraw the action,
14 but not the person, or a direct subordinate of the person,
15 that made the initial decision to take the action.

16 “(cc) The entity that made the decision for which a
17 review is requested shall permit the inspection of
18 documents claimed to support the action at a reasonable
19 time in advance of the review.

20 “(dd) The applicant or tenant may bring a
21 representative to the review.

1 “(ee) A written notice of the outcome of the review
2 and the reasons in support of the outcome shall be provided
3 to the applicant or tenant and representative, if any.

4 “(III) The reasonable costs of providing the applicant and
5 tenant rights under this clause shall be considered operating costs
6 of the property.

7 “(iv) NONDISCRIMINATION AND AFFIRMATIVELY
8 FURTHERING FAIR HOUSING.—

9 “(I) NONDISCRIMINATION.— All programs and
10 activities related to providing or administering rental housing
11 assistance including, but not limited to, admissions, demolition or
12 disposition, relocation, replacement, or re-occupancy of housing
13 units, shall be conducted in compliance with the civil rights laws
14 and their implementing regulations, including, but not limited to,
15 the Fair Housing Act of 1968, as amended (42 U.S.C. 3601 et
16 seq.); Title VI of the Civil Rights Act of 1964 (42 U.S.C. 2000d et
17 seq.); section 504 of the Rehabilitation Act of 1973 of the
18 Rehabilitation Act of 1973 (29 U.S.C. 794); and Executive Order
19 11063, and shall not have the purpose or effect of discriminating
20 against a section 8 tenant or prospective tenant because of such
21 person’s receipt of a section 8 voucher.

22 “(II) AFFIRMATIVELY FURTHERING FAIR
23 HOUSING.—Owners and public housing agencies shall conduct

1 all rental housing assistance programs and activities funded by the
2 Secretary authorized under this Act, including but not limited to
3 admissions, demolition or disposition, relocation, replacement, and
4 re-occupancy of housing units, in a manner that affirmatively
5 furthers fair housing as required by section 808(e)(5) of the Fair
6 Housing Act (42 U.S.C. 3608(e)(5)).

7 “(v) ADMINISTRATION OF RENTAL ASSISTANCE.—In
8 implementing the authority under this section 8(m)(1) with respect to the
9 administration of rental assistance, the Secretary may—

10 "(I) facilitate the implementation, by public housing
11 agencies that administer tenant-based voucher programs under
12 section 8(o), of regional portability agreements, consortia, and
13 such other or additional methods of streamlining administration of
14 vouchers and other rental assistance on an area-wide basis as the
15 Secretary determines appropriate to promote greater efficiency in
16 the use of resources and to increase informed resident choice and
17 mobility; and

18 “(II) allocate funds to administer contracts for properties
19 converted under subsection (m)(2) to entities authorized to
20 administer rental assistance under section 3(b)(6)(B) pursuant to
21 such conditions and procedures as the Secretary may establish by
22 notice, following an opportunity for comment. In awarding such
23 funding, the Secretary shall promote administrative efficiency and

1 advance the goal of resident choice as specified in section
2 8(m)(1)(A)(i).

3 “(vi) PHYSICAL CONDITION STANDARDS.—In implementing
4 the authority under this section 8(m)(1) with respect to the inspection of
5 properties, the Secretary may establish or provide for the use of uniform
6 physical condition standards.

7 “(vii) PROPERTIES IN FORECLOSURE OR BANKRUPTCY.—

8 “(I) In the event of a foreclosure of a property described in
9 this clause or bankruptcy of an owner of a property described in
10 this clause, notwithstanding any provision of Federal or State law,
11 a property with units assisted under section 8(o), as of May 20,
12 2009, the date of enactment of the Protecting Tenants at
13 Foreclosure Act [Title VII of Public Law 111-22], or with rental
14 assistance under section 8(n), or funded by the Secretary under any
15 contract or agreement executed after the date of enactment of the
16 Preservation, Enhancement, and Transformation of Rental
17 Assistance Act of 2010, shall remain subject to the requirements of
18 such rental assistance contract and any extensions thereof, the lease
19 between the prior owner and tenants assisted under such contract,
20 and any use agreement in effect immediately before the foreclosure
21 or bankruptcy filing, and a successor in interest in such property
22 shall assume such contract, extensions, leases, and use agreement
23 obligations, provided that the Secretary may modify this

1 requirement if the Secretary determines the converted units are not
2 physically viable or financially sustainable, or if necessary to
3 generate sufficient lender participation, and following such
4 determination may require the transfer of the contract for
5 assistance to one or more other properties.

6 “(II) This clause shall not apply to a successor in interest
7 who will occupy a property as a primary residence and who
8 provides any tenant lawfully occupying the property with a notice
9 to vacate at least 90 days before the effective date of such notice.

10 “(viii) ENFORCEMENT.—

11 “(I) AUTHORITY TO BRING ACTION.—The Secretary
12 is authorized to commence any action in an appropriate United
13 States district court to obtain a monetary judgment and such other
14 relief as may be available under, or to protect or enforce any right
15 conferred upon the Secretary in, a rental assistance contract or any
16 statute, other than the Fair Housing Act of 1968, as amended (42
17 U.S.C. 3601 et seq.), or regulation applicable to the rental
18 assistance contract or the property assisted under such contract.
19 The monetary judgment or other relief may, in the court's
20 discretion, include the attorneys' fees and other expenses incurred
21 by the Secretary in connection with the action.

22 “(II) TERMINATION AND TRANSFER OF
23 ASSISTANCE.—Upon repeated or continued violation of

1 applicable requirements, or upon substantial default of any
2 covenants or conditions of a use agreement or rental assistance
3 contract by the owner of a property with rental assistance, the
4 Secretary may terminate the rental assistance contract with such
5 owner and, through a selection process established by regulation,
6 transfer the rental assistance by entering into a contract with the
7 owner or owners of a property or properties that have the capacity
8 to accept all assisted tenants who choose to move to such
9 properties from the property that has had its assistance terminated.
10 Assisted tenants that do not choose to move to the replacement
11 properties, or if replacement properties are not available, shall be
12 provided voucher assistance under section 8(o) which may be
13 funded initially by the remaining funds on the terminated contract.
14 No additional units of section 8 assistance are authorized to be
15 created as a result of such termination and transfer.

16 “(III) USE AGREEMENTS.— In implementing the
17 authority under this section 8(m)(1) with respect to use
18 agreements, the Secretary may impose a civil money penalty on a
19 party that knowingly and materially fails to comply, or causes a
20 failure to comply, with any of the provisions of the use agreement.

21 “(IV) LIABLE PARTIES.—The Secretary may impose a
22 civil money penalty under this clause on—

1 “(aa) any owner of a property subject to a use
2 agreement with the Secretary that governs the use of the
3 property;

4 “(bb) any general partner of a partnership owner of
5 a property subject to a use agreement with the Secretary
6 that governs the use of the property;

7 “(cc) any officer or director of a corporate owner of
8 a property subject to a use agreement with the Secretary
9 that governs the use of the property;

10 “(dd) any member of a limited liability company
11 that is the owner of a property subject to a use agreement
12 with the Secretary that governs the use of the property or is
13 the general partner of a limited partnership owner of such a
14 property, or is a partner of a general partnership owner of
15 such a property; and

16 “(ee) any management agent employed by the
17 owner of property subject to a use agreement with the
18 Secretary that governs the use of the property.

19 “(V) VIOLATIONS.—A penalty may be imposed under
20 this clause upon any liable party under subclause (II) who
21 knowingly and materially—

1 “(aa) fails to comply, or causes a failure to comply,
2 with the requirements of any use agreement under any Act
3 administered by the Secretary;

4 “(bb) fails to provide the Secretary, the agents of the
5 Secretary, the employees of the Secretary, or the attorneys
6 of the Secretary access to the books, records, and accounts
7 related to the operations of the project;

8 “(cc) fails to permit the Secretary, the agents of the
9 Secretary, the employees of the Secretary, or the attorneys
10 of the Secretary physical access to the property or any unit
11 of the property; or

12 “(dd) fails, after receiving a request from the
13 Secretary, the agents of the Secretary, the employees of the
14 Secretary, or the attorneys of the Secretary, to provide
15 specific answers to questions upon which information is
16 sought relative to the use, operation, condition, and
17 ownership and management of the property.

18 “(VI) AMOUNT OF PENALTY.—A penalty imposed for
19 a violation under this clause, as determined by the Secretary, shall
20 be in an amount as provided in section 29(b)(3) (42 U.S.C. 1437z-
21 1(b)(3)).

22 “(VII) APPLICABLE PROCEDURES AND
23 PROVISIONS.—The agency procedures, provisions for judicial

1 review of agency determination, remedies for noncompliance, and
2 settlement by the Secretary, and the definition of “knowing” under
3 this clause are those set forth at section 29(c), (d), (e), (f), and
4 (h)(2) (42 U.S.C. 1437z-1(c), (d), (e), (f), and (h)(2)).

5 “(VIII) DEPOSIT OF PENALTIES.—Notwithstanding any
6 other provision of law, the Secretary shall apply civil money
7 penalties or other amounts collected under this clause to the Rental
8 Assistance Conversion Trust Fund established under section
9 8(m)(1)(E) or shall authorize the owner of the property or project
10 at issue in the penalty action to use the penalty funds, in
11 accordance with the requirements of the Secretary, for the
12 improvement of that property or project.

13 “(B) AUTHORITY FOR CONVERSION OF RENTAL
14 ASSISTANCE.—The Secretary is authorized, subject to the availability of
15 amounts provided in appropriations Acts and that otherwise become available,
16 and to the control of the Secretary of applicable accounts in the Treasury of the
17 United States, to allocate amounts to public housing agencies and other owners of
18 eligible properties for the conversion of existing project-based rental housing
19 assistance contracts, as listed below, including annual contributions contracts,
20 through the execution of long-term, property-based assistance contracts under
21 section 8(n) (in this section 8(m) referred to as “PB contracts”) or of project-based
22 voucher rental assistance contracts for additional units of assistance under section

1 8(o)(13) (in this section 8(m) referred to as “PBV contracts”) with public and
2 private owners of properties assisted under—

3 “(i) section 8 of the United States Housing Act of 1937 (42 U.S.C.
4 1437f);

5 “(ii) section 9 of the United States Housing Act of 1937 (42 U.S.C.
6 1437g);

7 “(iii) the rent supplement program under section 101 of the
8 Housing and Urban Development Act of 1965 (12 U.S.C. 1701s);

9 “(iv) the rental assistance program under section 236(f)(2) of the
10 National Housing Act (12 U.S.C. 1715z-1); and

11 “(v) other Federal affordable housing programs, as identified by
12 the Secretary by notice.

13 “(C) AUTHORITY FOR FUNDING.—There are authorized to be
14 appropriated for the transformation of rental assistance under this section 8(m)
15 \$350,000,000 for fiscal year 2011 and such sums as may be necessary in fiscal
16 years 2012, 2013, 2014, and 2015.

17 “(D) RECOVERIES.—To the extent provided in advance in
18 appropriations Acts, funds obligated with respect to a property under a rental
19 assistance program, for years beyond the fiscal year in which conversion of rental
20 assistance under this section 8(m) takes place, shall be deobligated and collected
21 by the Secretary.

22 “(E) ACCOUNT ESTABLISHED.—

23 (i) There is established in the Treasury of the United States a fund

1 to be known as the “Rental Assistance Conversion Trust Fund” (“the
2 Fund”) for deposit of amounts from:

3 “(I) To the extent provided in advance in appropriations
4 Acts, the collection of fees charged to owners of properties in the
5 process of conversion as authorized by this section 8(m), as may be
6 necessary for payment of expenses incurred by the Secretary in
7 connection with assessing such properties for conversion,
8 including the costs of rental comparability studies and physical
9 needs and financial assessments, as the Secretary may require, and
10 in accordance with a fee schedule that shall not exceed \$100,000
11 per property (or such other fee schedule, which may exceed
12 \$100,000 per property, as the Secretary may establish after
13 providing public notice and an opportunity to comment on a
14 proposal for the fee schedule); and

15 “(II) The amounts deobligated and collected under section
16 8(m)(1)(D), which may be used in accordance with section
17 8(m)(2)(N)(ii).

18 “(ii) Amounts in the Fund shall be available only to the extent
19 provided in advance in appropriations Acts.

20 “(F) ALLOCATION.—The Secretary may allocate amounts for the
21 transformation of rental assistance under this section 8(m), including for a portion
22 of the funding of PB and PBV contracts, the costs of initial administration of a PB
23 or PBV contract for a particular property, promotion of tenant organizing rights

1 and resident mobility (including of participants in the tenant-based voucher
2 program under section 8(o)), relocation assistance pursuant to subparagraph (G),
3 efforts to affirmatively further fair housing, and expenses of combining
4 administrative components of local programs under section 8(o) by competition or
5 such other procedure the Secretary determines appropriate, upon publication of a
6 Federal Register notice at least 30 days before such allocation is made. Except in
7 the case of a competitive allocation, if the method of allocation from year to year
8 does not change, publication of a new notice is not required.

9 “(2) CONVERSION OF RENTAL ASSISTANCE.—

10 “(A) CONDITIONS AND PROCEDURES FOR THE CONVERSION
11 PROCESS.—The Secretary shall provide, by notice inviting owners of eligible
12 properties to request conversion of assistance pursuant to this section 8(m),
13 conditions and procedures for approval of such requests as the Secretary
14 determines appropriate, including conditions and procedures that—

15 “(i) promote the rehabilitation, energy-efficiency, and long-term
16 financial and physical sustainability of properties;

17 “(ii) deconcentrate poverty;

18 “(iii) increase administrative efficiency; and

19 “(iv) promote physical accessibility for persons with disabilities.

20 “(B) REQUIRED CONDITIONS.—In addition to any other conditions of
21 conversion the Secretary may require, the Secretary shall ensure through
22 measures including requirements for conversion requests, contract provisions, and
23 the control of the allocation of amounts that—

1 “(i) the number of affordable units with property-based assistance
2 is not decreased by the conversion of assistance under this section 8(m)
3 except as provided in section 8(m)(2)(D);

4 “(ii) there is no reduction in the number of families receiving rental
5 assistance as a result of the conversion under this section 8(m);

6 “(iii) conversion under this section 8(m) shall not be grounds for
7 termination of tenancy; and

8 “(iv) the owner has complied with requirements established by the
9 Secretary for consultation with residents about the owner’s intention to
10 apply for conversion under this section 8(m)(2), and any related
11 rehabilitation or demolition of units in which tenants reside and any
12 resulting relocation of tenants to other units, including any applicable right
13 of return. For a public housing agency, a plan to convert under this
14 section 8(m)(2) shall be considered a significant amendment to the agency
15 plan under section 5A (42 U.S.C. 1437c-1), and the agency shall comply
16 with applicable requirements to consult with the resident advisory board
17 and the public concerning significant amendments.

18 “(C) AGREEMENT TO PROVIDE ASSISTANCE.—The Secretary may
19 provide for an agreement to provide assistance under a PB or PBV contract with
20 an owner of a property in advance of final approval of conversion, to facilitate the
21 owner’s ability to obtain financing or for other reasons.

22 “(D) ONE-FOR-ONE REPLACEMENT OF ASSISTED UNITS.—The
23 initial conversion of assistance under this section 8(m) may provide for a

1 reduction in the number of assisted units, including vacant units, in the property
2 that is converting to assistance under a PB contract or under a PBV contract only
3 if the assistance from such reduced number of units is transferred to an equal
4 number of units in a replacement property or properties, as follows:

5 “(i) NUMBER OF UNITS.—For one hundred percent of all such
6 units in existence, as of the date of the request for conversion, that are to
7 be demolished or disposed or converted to a unit that is not assisted under
8 this Act, the owner shall provide a plan acceptable to the Secretary for
9 timely replacement of each unit.

10 “(ii) NUMBER OF BEDROOMS.—Replacement housing shall
11 reflect the number of bedrooms that are needed to adequately serve
12 returning tenants, households currently on the waiting list and to meet
13 future needs based on other market data, as determined by the Secretary.

14 “(iii) LOCATION.—Replacement housing units shall be
15 developed—

16 “(I) on the site of the property being converted; and

17 “(II) in the neighborhood or within the metropolitan area up
18 to 25 miles from the property being converted, as necessary to—

19 “(aa) comply with fair housing requirements;

20 “(bb) deconcentrate poverty;

21 “(cc) provide appropriate densities for the property
22 being converted; or

“(dd) meet other factors as determined by the
Secretary in order to further the purposes of this section
8(m).

“(iv) OFF-SITE REPLACEMENT.—

“(I) Off-site replacement housing shall offer access to
economic opportunities and public transportation and be accessible
to social, recreational, educational, commercial, health facilities
and services, and other municipal services and facilities that are
comparable under such standards as the Secretary may prescribe.

“(II) Off-site replacement housing shall not be located in
areas of minority concentration, defined in relation to the
metropolitan area or rural county in which the project is located, or
in areas of extreme poverty, except in areas that qualify as
revitalizing neighborhoods, as defined by the Secretary.

“(III) Replacement housing shall not result in a decrease in
available inventory of disability accessible housing, and all
housing, where otherwise covered, shall comply with the
accessibility requirements of the Fair Housing Act (42 U.S.C. 3601
et seq.) and section 504 of the Rehabilitation Act of 1973 (29
U.S.C. 794).

“(v) TENANT-BASED VOUCHERS AS REPLACEMENT
HOUSING.—An owner may replace up to half of the units that are
demolished or disposed of or permitted to be unassisted under the

1 conversion in accordance with this section 8(m) with tenant-based
2 vouchers in housing markets where there is an adequate supply of
3 affordable rental housing in areas of low poverty. This supply shall be
4 demonstrated by data that show within the housing market area of the
5 property that—

6 “(I) a minimum of 80 percent of vouchers issued over the
7 last 24 months to comparable families were successfully leased
8 within 120 days of issuance, or if a sufficient number of
9 comparable families have not received vouchers, the Secretary
10 shall design an alternative measure;

11 “(II) existing voucher holders are widely dispersed
12 geographically, as determined by the Secretary, among the
13 available private rental housing stock, including in areas of low
14 poverty; and

15 “(III) there has been over time, and is currently, a relatively
16 high vacancy rate, as determined by the Secretary, within the
17 county or other area, as defined by the Secretary, for units with
18 rent and utility costs not exceeding the applicable payment
19 standard under section 8(o) of the United States Housing Act of
20 1937 (42 U.S.C. 1437f(o)).

21 “(vi) DE MINIMIS REDUCTION—Notwithstanding any other
22 provision of this paragraph, the owner of a property converting under

1 section 8(m) may demolish not more than the lesser of 5 dwelling units or
2 5 percent of the total dwelling units at the converting property, but only—

3 “(I) to reconfigure units to serve returning tenants or
4 households currently on the waiting list;

5 “(II) if the space occupied by the demolished unit is used
6 for meeting the service or other needs of residents; or

7 “(III) if the demolished unit was beyond repair.

8 “(E) USE RESTRICTIONS.—The Secretary shall require use and
9 affordability restrictions as a condition of conversion of each property to a PB
10 contract or PBV contract as follows:

11 “(i) PUBLIC HOUSING.—An owner of a property assisted under
12 section 9 approved for conversion pursuant to section 8(m)(2) shall agree
13 to provide the number of units, as required under section 8(m)(2)(D),
14 subject to the eligibility, targeting, and rent rules as provided under the PB
15 or PBV contract for use as affordable housing for at least 30 years from
16 the date of execution of the rental assistance contract; and

17 “(ii) OTHER HOUSING.—An owner of a property other than a
18 property assisted under section 9 entering into a contract for rental
19 assistance pursuant to section 8(m)(2) shall agree to provide the number of
20 units, as required under section 8(m)(2)(D), subject to the eligibility,
21 targeting, and rent rules as provided under the PB or PBV contract for use
22 as affordable housing for the greater of the remaining term of any prior

1 use restriction existing at the time of conversion to the new rental
2 assistance contract or the term of the new rental assistance contract.

3 “(iii) MODIFICATION DURING TERM OF USE

4 AGREEMENT.—Upon request of an owner, the Secretary may allow the
5 transfer of assistance from part or all of the units in a converted property
6 to a replacement property or properties, subject to the location
7 requirements in section 8(m)(2)(D) and to a continuation of the use
8 restrictions. The Secretary shall require owners requesting such
9 modifications to provide notice and consultation with tenants prior to
10 submission of the request for modification to the Secretary and to assist
11 tenants to relocate, in accordance with section 8(m)(2)(G).

12 “(iv) EXPIRATION OR TERMINATION OF USE

13 AGREEMENT.—In the case of a PB contract that is not extended or
14 renewed and the property is no longer subject to a use agreement, in whole
15 or in part, to the extent that amounts are provided in advance in
16 appropriation Acts, upon the date of expiration of such contract the
17 Secretary shall make voucher assistance under section 8(o) available on
18 behalf of each low-income family who, upon the date of such expiration,
19 is residing in an assisted dwelling unit in the property, and may provide
20 replacement vouchers for any vacant units subject to the contract at the
21 time of expiration or termination.

22 “(F) TENANTS RESIDING IN UNITS AT TIME OF CONVERSION.—

23 A family lawfully residing in a property at the time of a conversion of assistance

1 under section 8(m)(2) shall not be subject to rescreening or termination of
2 assistance or eviction from the unit because of the conversion, and the
3 requirements of section 16 shall not apply to such family, but must be complied
4 with upon turnover of tenants.

5 “(G) RELOCATION ASSISTANCE.—

6 “(i) The Uniform Relocation and Real Property Acquisition
7 Policies Act of 1970 (42 U.S.C. 4601) shall apply to displacement and
8 relocation activities pursuant to the conversion of rental assistance under
9 section 8(m) except as otherwise provided in this subparagraph.

10 “(ii) A public housing agency or owner that acquires, rehabilitates,
11 or demolishes any project or building, or portion thereof, in connection
12 with the conversion or transfer of assistance under section 8(m) may
13 temporarily, for a period not to exceed 12 months, or such other period,
14 not to exceed 24 months, as the Secretary may authorize, relocate families
15 lawfully residing in a unit on the property and provide such families notice
16 and relocation assistance as required by the Secretary. A relocated family
17 shall have, upon completion of the project and consistent with any
18 guidelines issued by the Secretary, the right to return if the tenant has not
19 committed serious or repeated violations of material terms of the lease or
20 occupancy agreement at the time of departure from the housing subject to
21 rehabilitation or demolition, or during the temporary relocation period.

22 “(iii) When assistance is transferred to another property pursuant to
23 section 8(m) without a period of temporary relocation, the public housing

1 agency or owner shall offer each family that chooses to relocate from the
2 property from which assistance is transferred to the property to which
3 assistance is transferred payment of actual, reasonable, and necessary
4 moving expenses, including utility deposits, and, if the newly assisted
5 units are not owned by the public housing agency or owner, payment of
6 security deposits, credit checks, and other moving-related expenses.

7 “(iv) Displacement and relocation costs as required by law or as
8 the Secretary may direct as authorized by this subparagraph shall be paid
9 from any rental assistance or other funds provided by the Secretary or
10 otherwise available to a public housing agency or owner that may be used
11 for this purpose. A displaced family may receive an incremental, tenant-
12 based voucher under section 8, if such a voucher is made available and no
13 additional section 8 assistance is attached to the unit from which such
14 family was displaced.

15 “(H) AMOUNT OF MONTHLY ASSISTANCE PAYMENT TO
16 OWNER.—The amount of the monthly assistance payment with respect to any
17 unit upon conversion shall be the difference between the maximum monthly rent
18 that the PB or PBV contract provides the owner is to receive for the unit plus the
19 allowance for tenant-paid utilities and the rent that the family is required to pay
20 under section 3 of this Act.

21 “(I) TENANTS OVER-INCOME FOR CONTINUING SUBSIDY.—If
22 the required contribution of a family toward rent under section 3 exceeds the rent
23 established for the unit and the applicable utility allowance, the family may

1 continue to reside in the unit and pay the established rent. The Secretary or the
2 public housing agency shall not reduce the number of units assisted under the PB
3 or PBV contract due to residency by such a family, and may use funds not
4 required for assistance under the contract in any year for other authorized rental
5 assistance.

6 “(J) LEASES AND TENANCY.—Each property-based contract for a
7 property converted under this section 8(m) shall provide that the lease between
8 the tenant and the owner—

9 “(i) shall be for an initial term of 1 year, automatically renewable
10 at the expiration of each term, and that the owner may terminate a tenancy
11 only for serious or repeated violations of the terms and conditions of the
12 lease or for a violation of applicable law;

13 “(ii) shall provide that an incident or incidents of actual or
14 threatened domestic violence, dating violence, or stalking shall not be
15 construed as a serious or repeated violation of the lease by the victim or
16 threatened victim of that violence and shall not be good cause for
17 terminating the tenancy or occupancy rights of the victim of such
18 violence;

19 “(iii) shall comply with section 8(o)(7)(D); and

20 “(iv) shall contain provisions required by HUD and State and local
21 law.”

22 “(K) VACANCY PAYMENTS.—

1 “(i) IN GENERAL.—For each property with assistance converted
2 under this section 8(m), the owner may receive, as permitted by the
3 Secretary or allowed by section 8(o)(13), for a reasonable period not
4 exceeding 60 days, vacancy payments for a unit that becomes vacant, but
5 only if—

6 “(I) the vacancy was not the fault of the owner of the
7 dwelling unit; and

8 “(II) the owner has taken and continues to take every
9 reasonable action to minimize the likelihood and extent of any
10 such vacancy.

11 “(ii) LIMITATION.—Rental assistance may not be provided for a
12 vacant unit after the expiration of the 60-day period in section
13 8(m)(2)(J)(i).

14 “(iii) PROHIBITION OF DOUBLE COMPENSATION FOR
15 VACANCIES.—If the owner collects payments for vacancies from other
16 sources, the owner shall not be entitled to collect vacancy payments to the
17 extent these collections from other sources plus the vacancy payment
18 exceed contract rent.

19 “(L) DESIGNATED HOUSING.—If the units proposed to be converted
20 pursuant to this subsection are subject to an approved designation plan under
21 section 7 (42 U.S.C. 1437e) or are designed to accommodate tenants with special
22 needs under any other authority, the Secretary shall permit the designation or
23 accommodation to continue to apply to the converted units under the same terms

1 and conditions as would otherwise have applied, and may permit additional
2 designations consistent with Federal statute or executive order.

3 “(M) CONVERSION OF PUBLIC HOUSING.—In addition to such other
4 conditions as the Secretary may require, the following conditions shall apply to a
5 public housing property that is converting to rental assistance under this section
6 8(m):

7 “(i) TREATMENT OF CONVERTED UNITS.—The conversion
8 of units assisted under section 9 to assistance in accordance with this
9 section 8(m) shall not be considered a disposition under section 18 (42
10 U.S.C. 1437p).

11 “(ii) PROJECTS AND UNITS OWNED BY PUBLIC HOUSING
12 AGENCIES.—The Secretary may consider a project or unit owned by a
13 public housing agency to include a project or unit owned by an entity in
14 which the agency or its officers, employees or agents hold a significant
15 direct or indirect interest and which has among its purposes the ownership
16 or management of affordable housing.

17 “(iii) RESIDENT MEMBERSHIP ON BOARD.—A public
18 housing agency that converts some or all of its units to assistance in
19 accordance with this section 8(m) shall comply with the resident board
20 membership requirement of section 2(b) (42 U.S.C. 1437), as applicable.

21 “(iv) EXISTING CONTRACTS.—The Secretary shall require,
22 following conversion of assistance in accordance with this section 8(m),
23 that a public housing agency shall continue to meet financing obligations

1 pursuant to section 30 (42 U.S.C. 1437z-2) using assistance provided
2 under the PB or PBV contract, and shall comply with the terms and
3 conditions of energy performance contracts and similar contracts, as
4 specified by the Secretary, in effect before conversion of assistance in
5 accordance with this subsection.

6 “(N) TRANSFER AND USE OF FUNDS.—

7 “ (i) Following conversion under this section 8(m), additional
8 assistance for a property shall not be provided under the previous contract,
9 agreement, or authority.

10 “(ii) The Secretary shall take necessary actions to provide that, as a
11 condition of conversion of a property, the unexpended assistance made
12 available for such property under a previous contract, agreement, or
13 authority (up to and including the Federal fiscal year of conversion) shall
14 be transferred to accounts applicable to assistance provided under section
15 8(m) to pay all or a portion of—

16 “(I) the up-front costs of conversion;

17 “(II) the initial contributions to any necessary
18 reserves;

19 “(III) the funding of the initial year or years of the
20 new PB or PBV contract of assistance entered into
21 pursuant to this section 8(m);

22 “(IV) the financing of necessary renovations to, or
23 other capital expenses for, the property, including

1 the making of capital contributions and the
2 provision of letters of credit or other credit
3 enhancements or financing expenses approved by
4 the Secretary; and

5 “(V) contract administration of converted rental
6 assistance properties under this section 8(m).

7 “(iii) To the extent provided in advance in appropriations Acts, the
8 Secretary may transfer funds between accounts applicable to assistance
9 provided under section 9 and accounts applicable to assistance provided
10 under sections 8(m), 8(n) and 8(o).

11 “(O) RELEASE OF PRIOR REQUIREMENTS.—A property assisted
12 under a PB or PBV contract following conversion under this section 8(m) shall
13 not be subject to any terms, conditions, and requirements of the previous
14 assistance from which it was converted, except as provided for by this section
15 8(m), section 8(n), or section 8(o)(13) and by such terms, conditions, and
16 requirements as established for the new assistance by the Secretary.

17 “(P) CONVERSION FROM A PB CONTRACT TO A PBV
18 CONTRACT.—A property under a PB contract may convert to a PBV contract at
19 the request of the owner of the property and at the discretion of, and upon
20 approval by, the Secretary if the property meets the applicable requirements under
21 section 8(o)(13) and a public housing agency eligible to administer the contract
22 agrees to such administration.

23 “(Q) FEDERAL OPTION TO PURCHASE.—

1 “(i) NOTICE OF TERMINATION OF AFFORDABILITY

2 RESTRICTIONS.—An owner of a covered HUD-assisted property that
3 has been converted to a property-based contract pursuant to this paragraph
4 shall, if the property is beyond the period of its use agreement and the
5 owner intends not to renew or extend the rental assistance contract at the
6 property, provide written notice of such intent at least one year in advance
7 of the intended termination date. Notice shall be provided to the Secretary
8 and to the tenants at such time and in such form as may be prescribed by
9 the Secretary through regulation.

10 “(ii) OPPORTUNITY FOR PURCHASE BY THE

11 SECRETARY.—Except as provided in clause (vii), an owner of covered
12 housing shall not sell the covered housing at any time before—

13 “(I) providing notice as described in clause (i); and

14 “(II) offering the Secretary the opportunity to purchase the
15 property pursuant to clause (iii).

16 “(iii) RIGHT OF SECRETARY TO MAKE OFFER.—Upon

17 receipt of the notice required in clause (i), the Secretary shall have the
18 right either to purchase the property subject to terms and conditions
19 established through regulation or to select an assignee to act on behalf of
20 the Secretary as the purchaser before the owner enters into any agreement
21 to sell to a third party. Failure by the Secretary or the Secretary’s assignee
22 to submit an offer to purchase the property in compliance with the

1 conditions specified in regulation shall constitute an irrevocable waiver of
2 the Secretary's right under this subparagraph.

3 “(iv) RELATIONSHIP WITH OTHER LAWS.—The
4 requirements of this paragraph are in addition to, and not in lieu of, any
5 State or local law that has established a right of first refusal to preserve
6 affordable housing.

7 “(v) REGULATIONS.—The Secretary shall issue regulations to
8 carry out this subparagraph. The regulations to be issued by the Secretary
9 may define such terms as the Secretary determines necessary to facilitate
10 the understanding of the rights and obligations of the owner of the
11 property, the Secretary, the Secretary's assignee, or tenants; address any
12 agreement that may be appropriate between the Secretary and the
13 Secretary's assignee; provide for the timing of any offer made by the
14 Secretary to purchase the owner's property and the acceptance or refusal
15 of the Secretary's purchase offer; and establish the conditions for sale of a
16 property to the Secretary.

17 “(vi) COVERED PROPERTIES.—Properties covered by this
18 paragraph include those converted pursuant to section 8(m)(2) after
19 receiving assistance under section 8(e)(2) or section 9 of the USHA,
20 section 236(f)(2) of the National Housing Act (12 U.S.C. 1715z-1(f)(2)),
21 or section 101 of the Housing and Urban Development Act of 1965 (12
22 U.S.C. 1701s). For other converted properties, the Secretary and owner
23 may agree to be bound by this subparagraph.

1 “(vii) INAPPLICABILITY OF SECRETARY’S RIGHT TO
2 PURCHASE.—Clauses (ii) through (vi) of this paragraph shall not apply
3 to any of the following actions:

4 “(I) A government taking of covered housing by eminent
5 domain or a negotiated purchase in lieu of eminent domain.

6 “(II) A proposed sale pursuant to terms and conditions that
7 preserve affordability, as determined by the Secretary.

8 “(III) A proposed transfer of assistance from the property to
9 another, subject to terms and conditions established by the
10 Secretary.

11
12 **SEC. 4. PROPERTY-BASED CONTRACTS.**

13 Section 8 of the United States Housing Act of 1937 (42 U.S.C. 1437f) is amended by
14 inserting, after subsection (m), the following new subsection (n):

15 **“(n) PROJECT-BASED CONTRACTS—**

16 **“(1) AUTHORITY.—**Subject to the availability of amounts provided in
17 appropriations Acts and that otherwise become available, and to the control of the
18 Secretary of applicable accounts in the Treasury of the United States, the Secretary may
19 enter into a project-based housing assistance payment contract (in this subsection referred
20 to as a “PB contract”) with respect to a property converted pursuant to subsection (m) or
21 a replacement property, and may provide funds pursuant to such conditions and
22 procedures as the Secretary may establish for a public housing agency to administer or
23 assist in the administration of such PB contract.

1 “(2) CONTRACT TERM.—The Secretary may enter into a multi-year PB
2 contract for assistance pursuant to this subsection, subject to the availability of
3 appropriations for each year of such contract, for the following terms:

4 “(A) INITIAL TERM.—

5 “(i) PUBLIC HOUSING.—A PB contract between the Secretary
6 and the owner of a property assisted, prior to conversion, under section 9,
7 shall have an initial term of no less than 20 years.

8 “(ii) OTHER HOUSING.—A PB contract between the Secretary
9 and the owner of any other property shall have a term at least equal to the
10 term remaining on the contract being converted to a contract for rental
11 assistance under this subsection, or may have a term of up to 20 years, as
12 determined by the Secretary.

13 “(B) EXTENSIONS.—The Secretary may enter into a contract with the
14 owner to extend the term of the PB contract for up to a 20-year period beyond the
15 original contract term or the term of any extension. Such an extension contract
16 shall provide that the extension of such term shall be subject to the availability of
17 appropriations for each year of such extension. In the initial contract or any
18 contract extension, the Secretary may obligate the owner to have such extensions
19 of the PB contract accepted by the owner and by the successors in interest of the
20 owner. An owner of a property converted from assistance under section 9 shall
21 agree to accept extensions offered by the Secretary, absent compelling reasons as
22 determined by the Secretary. The Secretary may agree to enter into such a
23 contract extension at the time of the initial execution of a PB contract or at any

1 time thereafter that is before the expiration of the PB contract or any extension
2 thereof.

3 “(C) RENEWALS.—The owner of a property with a PB contract that
4 expires or otherwise terminates may renew such expired or terminated contract in
5 whole or in part, subject to the approval of the Secretary and the availability of
6 appropriations.

7 “(3) CALCULATION OF RENT TO OWNER.—

8 “(A) INITIAL CALCULATION.—

9 “(i) IN GENERAL.—The Secretary shall establish rents for each
10 unit assisted under a PB contract at the level requested by the owner but
11 not to exceed the rents derived from comparable unassisted properties in
12 the area, up to 110 percent of the applicable area rental established by the
13 Secretary or such higher amount approved by the Secretary based on
14 criteria established by the Secretary to determine whether the property
15 should be preserved. The Secretary may approve or determine a lower
16 rent than that permitted under the prior sentence if such lower rent is
17 sufficient to meet the financial and physical sustainability needs of the
18 property.

19 “(ii) EXCEPTION PROPERTIES.—The maximum monthly rent
20 may exceed the rents derived from comparable unassisted properties in the
21 area upon a determination by the Secretary that such exception rents are
22 necessary to meet the financial and physical sustainability needs of the
23 property, and if the property meets criteria established by the Secretary to

1 determine whether the property should be preserved. The Secretary may
2 not approve an exception above the higher of 110 percent of the applicable
3 area rental or 120 percent of the rent for comparable unassisted properties
4 in the area. In determining whether to allow an exception rent, the
5 Secretary shall consider the availability of unexpended funds that may be
6 used for this purpose.

7 “(iii) UNITS EXEMPT FROM RENT CONTROL.—If a unit for
8 which a PB contract is established is exempt from local rent control
9 provisions during the term of that contract, the rent for that unit shall be
10 reasonable in comparison with other units in the area that are exempt from
11 local rent control provisions.

12 “(B) RENT ADJUSTMENTS.—A PB contract pursuant to this subsection
13 shall provide for annual rent adjustments using an index established by the
14 Secretary by notice published in the Federal Register to reflect the change in the
15 rents of multifamily rental housing, except that—

16 “(i) the contract may provide that the maximum rent permitted for
17 a unit shall not be less than the initial rent for the unit under the initial PB
18 contract under this subsection;

19 “(ii) an owner may request a rent increase above the index based
20 on significant improvements to the property, subject to limitations in
21 section 8(n)(3)(A) and any additional standards issued by the Secretary;
22 and

1 “(iii) the Secretary may at any time, and at least every 5 years,
2 compare the maximum rent to the level of rents charged for comparable
3 units in the private, unassisted local market, and shall, if appropriate,
4 decrease the contract rent, subject to the limitations in clause (i) or any
5 exception approved by the Secretary, and may, if appropriate, increase the
6 contract rent, subject to the limitations in sections 8(n)(3)(A) and
7 8(n)(3)(B)(ii).

8 “(C) TAX CREDIT OR HOME PROJECTS.—In the case of a unit
9 receiving tax credits pursuant to section 42 of title 26 or for which assistance is
10 provided under subtitle A of Title II of the Cranston Gonzalez National
11 Affordable Housing Act of 1990 (42 U.S.C. 12701 note, et seq.) for which a PB
12 contract is established under this subsection, rent reasonableness shall be
13 determined as otherwise provided by this section 8(n)(3), except that comparison
14 with rents for units in the private, unassisted local market shall not be required if
15 the rent is equal to or less than the rent for other comparable units receiving such
16 tax credits or assistance in the project that are not occupied by families assisted
17 under a PB contract.

18 “(4) TENANT CONTRIBUTION.—A family shall pay as rent for a unit assisted
19 under section 8(n) the amount determined in accordance with section 3 (42 U.S.C 1437a).

20 “(5) ELIGIBLE TENANTS.—To be eligible as a tenant for a unit assisted under
21 this subsection, a family shall, at the time a family initially receives assistance under this
22 subsection, be—

1 “(A) a family lawfully residing in a unit at the time of a conversion of
2 assistance under section 8(m); or

3 “(B) a low-income family meeting eligibility criteria specified by the
4 Secretary that fulfill the requirements under section 16(c)(3) and (4) (42 U.S.C
5 1437n) of this Act.

6 “(6) SELECTION OF TENANTS.—

7 “(A) WAITING LISTS.—Subject to such conditions as may be
8 established by the Secretary—

9 “(i) The owner shall select families for units assisted under a PB
10 contract from a waiting list for applicants for housing assistance under this
11 section 8(n). If a property has rental assistance that has been converted
12 under section 8(m), any waiting list for the property prior to conversion
13 shall continue to apply after the conversion.

14 “(ii) An owner may maintain a waiting list or may use a waiting
15 list maintained by a public housing agency on such terms and conditions
16 as agreed to by the owner and public housing agency and permitted by the
17 Secretary.

18 “(iii) An owner of more than one property, or a public housing
19 agency administering waiting lists for properties assisted under this
20 subsection, may maintain a single waiting list for all or some of such
21 properties or may establish a site-based waiting list for individual
22 properties. An owner or public housing agency shall disclose to each
23 applicant all other options in the selection of a property in which to reside

1 that are provided by the owner or administered by the public housing
2 agency and are available to the applicant. If a public housing agency
3 administers site-based waiting lists for more than one property assisted
4 under this section 8(n), an applicant may apply in a single location to all
5 site-based waiting lists maintained by such an entity.

6 “(iv) The owner or the public housing agency administering the
7 waiting list for the property may establish preferences or criteria for tenant
8 selection for a unit that are consistent with the affordable housing needs
9 established for the area in which a property is located in the Consolidated
10 Plan prepared pursuant to 24 CFR part 91, or successor regulation.

11 “(v) The owner or the public housing agency administering the
12 waiting list for the property shall adopt affirmative marketing procedures
13 and undertake affirmative marketing activities. These special outreach
14 efforts shall be targeted to those who are least likely to apply for the
15 housing to ensure that all persons regardless of their race, color, national
16 origin, religion, sex, disability, or familial status are aware of the housing
17 opportunities in each of the owner’s properties with rental assistance.

18 “(vi) All procedures, preferences, and criteria for waiting lists shall
19 comply with Title VI of the Civil Rights Act of 1964 (42 U.S.C. 2000d et
20 seq.), the Fair Housing Act (42 U.S.C. 3601 et seq.), section 504 of the
21 Rehabilitation Act of 1973 (29 U.S.C. 794), and other applicable civil
22 rights laws.

1 “(B) SELECTION BY OWNER.—Each PB contract entered into by the
2 Secretary and an owner shall provide that the screening and selection of families
3 shall be the function of the owner.

4 “(C) PREVENTION OF DISPLACEMENT.—Any family who resides in
5 a unit proposed to be assisted under this section 8(n), or in a unit to be replaced by
6 a unit proposed to be assisted under this section 8(n), shall be given an absolute
7 preference for selection for placement in the unit proposed to be assisted, if the
8 family is otherwise eligible for assistance under this section 8(n).

9 “(7) PHYSICAL INSPECTIONS OF PROPERTIES.—

10 “(A) REQUIREMENT.—The Secretary shall, for each property receiving
11 assistance under this subsection, provide for inspections during the term of the PB
12 contract to determine whether the property is maintained in accordance with the
13 physical condition standards established or provided by the Secretary under
14 section 8(m)(1)(A)(vi). The schedule of the inspections shall be determined by
15 the Secretary.

16 “(B) FAILURE OF INSPECTION.—The Secretary may take such actions
17 as provided by law or contract to enforce and maintain compliance with
18 applicable inspection standards.

19 “(C) RECORDS.—The owner shall retain the records of the inspection for
20 a reasonable time and shall make the records available upon request to the
21 Secretary, the Inspector General for the Department of Housing and Urban
22 Development, and any auditor conducting an audit under section 5(h) (42. U.S.C.
23 1437c(h)).

1 “(8) USE OF RENTAL AMOUNTS.—

2 “(A) RESERVE REQUIREMENTS.—An owner of a property with rental
3 assistance under this section 8(n) shall comply with operating and replacement
4 reserve requirements established by the Secretary.

5 “(B) CASH FLOW LIMITATION.—The Secretary may establish
6 standards for the cash flow of a property, including standards applicable upon
7 expiration or termination of rental assistance, with assistance under this
8 subsection. Any access to cash flow shall not be limited based on the tax status of
9 the property owner.

10 “(9) FINANCIAL REVIEWS.—The owner of a property assisted under this
11 section 8(n) shall provide the Secretary an annual financial report of the property,
12 prepared and submitted in accordance with the requirements of the Secretary, which may
13 include certification by the owner, a Certified Public Accountant, or other person
14 acceptable to the Secretary.

15
16 **SEC. 5. PROPERTY-BASED VOUCHER CONTRACTS.**

17 Section 8(o)(13) of the United States Housing Act of 1937 (42 U.S.C. 1437f(o)(13)) is
18 amended—

19 (1) by striking “structure” in every place it appears in paragraph (13) and inserting
20 “project”;

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

22 “(B) PERCENTAGE LIMITATION.—

1 “(i) IN GENERAL.—Subject to clauses (ii) and (iii), not more than
2 20 percent of the dwelling units assisted by the agency under this
3 subsection may be assisted with project-based assistance under this
4 paragraph.

5 “(ii) EXCEPTION.—Up to an additional 5 percent of the dwelling
6 units assisted by an agency under this subsection may be assisted with
7 project-based assistance under this paragraph to provide dwelling units
8 that house individuals and families that meet the definition of homeless
9 under section 103 of the McKinney-Vento Homeless Assistance Act (42
10 U.S.C. 11302), that provide supportive housing to elderly persons or
11 persons with disabilities, or that are located in areas where vouchers under
12 this subsection are difficult to use, as specified in subparagraph (D)(ii)(II).
13 The Secretary may, by regulation, establish additional categories for the
14 exception under this clause.

15 “(iii) EXCEPTION FOR PROJECTS CONVERTED UNDER
16 SECTION 8(m)(2).—An agency administering project-based assistance
17 under this paragraph pursuant to a conversion under section 8(m)(2) may
18 attach project-based assistance under this paragraph to up to 40 percent of
19 the dwelling units assisted by the agency under this subsection, but in no
20 event may an agency attach project-based assistance through means other
21 than conversion to more than the share of units permitted by clauses (i)
22 and (ii).”;

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

1 “(D) INCOME MIXING REQUIREMENT.—

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

8 “(ii) EXCEPTIONS.—

9 “(I) CERTAIN HOUSEHOLDS.—The limitation under
10 clause (i) shall not apply to dwelling units assisted under a contract
11 that are exclusively made available to elderly families or to
12 households eligible for comprehensive social services that are
13 made available to residents of the property. The Secretary may
14 establish additional requirements for the monitoring and oversight
15 of projects in which more than 40 percent of the dwelling units are
16 assisted;

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

1 “(III) EXCEPTION FOR PROJECTS CONVERTED

2 UNDER SECTION 8(m)(2).—In the case of a project assisted
3 under this paragraph pursuant to a conversion under section
4 8(m)(2), the exception in subclause (I) shall apply to not more than
5 40 percent of the dwelling units.”

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

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

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

17 “(ii) compliance with the inspection requirements under paragraph
18 (8), except that the Secretary may modify the application of paragraph (8)
19 to properties assisted under this paragraph, through actions including
20 permitting inspection of a sample of dwelling units in a project, avoiding
21 duplicative requirements, and incentivizing high performance.

22 The contract may specify additional conditions, including with respect to
23 continuation, termination, or expiration.”;

1 (5) in subparagraph (G)—

2 (A) by inserting “(i) IN GENERAL.— ” preceding the start of the first
3 sentence of the subparagraph;

4 (B) by striking “15” and inserting “20”;

5 (C) by inserting “extension” following the phrase “A public housing
6 agency may enter into a contract”;

7 (D) by inserting “extension” following the phrase “A public housing
8 agency may agree to enter into such a contract”; and

9 (E) by adding at the end the following new clause:

10 “(ii) CONVERTED PROPERTIES.—In the case of projects
11 converted from other forms of rental assistance pursuant to subsection (m)
12 after the date of enactment, a public housing agency may decline to offer
13 to extend the term of the underlying housing assistance payment contract
14 for the maximum period permitted under the prior clause only with the
15 advance approval of the Secretary.”;

16 (6) in subparagraph (H)—

17 (A) by inserting “(i) IN GENERAL.— ” preceding the start of the first
18 sentence of the subparagraph;

19 (B) by striking “(or any exception payment standard approved by the
20 Secretary pursuant to paragraph (1)(D)),” and inserting “(or any exception
21 payment standard approved by the Secretary for the area pursuant to paragraph
22 (1)(D) or for the project),”; and

23 (C) by adding at the end the following new clause:

1 “(ii) TENANTS OVER INCOME FOR CONTINUING
2 SUBSIDY.—Section 8(m)(2)(I) shall apply to all contracts under this
3 paragraph, except that the public housing agency and the owner may agree
4 to retain the number of dwelling units subject to a contract for assistance
5 under this subparagraph, subject to policies issued by the Secretary.”;
6 (7) by striking subparagraph (I) and inserting the following new subparagraph:

7 “(I) RENT ADJUSTMENTS.—

8 “(i) IN GENERAL.—A housing assistance payment contract
9 pursuant to this paragraph shall provide for reasonable rent adjustments if
10 requested by the owner, except that—

11 “(I) the adjusted rent for any unit assisted shall be
12 reasonable in comparison with rents charged for comparable
13 dwelling units in the private, unassisted, local market and may not
14 exceed the maximum rent permitted under subparagraph (H); and

15 “(II) the contract may provide that the maximum rent
16 permitted for a dwelling unit shall not be less than the initial rent
17 for the dwelling unit under the initial housing assistance payments
18 contract covering the unit.

19 “(ii) SCHEDULED RENT ADJUSTMENTS.—A housing
20 assistance payment contract pursuant to this paragraph may, at the
21 discretion of the Secretary, provide for annual rent adjustments using an
22 index determined by the Secretary to reflect the change in the rents of
23 multifamily rental housing. Such a contract shall provide that—

1 “(I) an owner may request a rent increase above the index
2 based on significant improvements to the project, subject to
3 limitations in subparagraph (H) and any additional standards issued
4 by the Secretary; and

5 “(II) the public housing agency shall, at least every 5 years,
6 compare the maximum rent to the level of rents charged for
7 comparable dwelling units in the private, unassisted local market,
8 and shall, if appropriate, decrease the contract rent, subject to the
9 limitations in clause (i) or any exception approved by the
10 Secretary, and may, if appropriate, increase the contract rent,
11 subject to the limitations in subparagraph (H).”;

12 (8) in subparagraph (J)—

13 (A) by inserting “(i) IN GENERAL.— ” following “(J) TENANT
14 SELECTION.— ”;

15 (B) by striking the fifth and sixth sentences of clause (i), as designated in
16 paragraph (A);

17 (C) by inserting after the third sentence the following new sentence in
18 clause (i), as designated in paragraph (A): “Any family who resides in a dwelling
19 unit proposed to be assisted under this paragraph, or in a unit to be replaced by a
20 unit proposed to be assisted under this paragraph, shall be given an absolute
21 preference for selection for placement in the proposed unit, if the family is
22 otherwise eligible for assistance under this subsection.”; and

23 (D) by adding at the end the following new clause—

1 “(ii) SITE-BASED WAITING LISTS.—A public housing agency
2 may establish and utilize procedures for maintaining site-based waiting
3 lists under which applicants may apply directly at, or otherwise designate
4 to the public housing agency, the project or projects in which they seek to
5 reside, except that all eligible applicants on the waiting list of an agency
6 for assistance under this subsection shall be permitted to place their names
7 on such separate lists, subject to policies and procedures specified by the
8 Secretary. All such procedures shall comply with Title VI of the Civil
9 Rights Act of 1964 (42 U.S.C. 2000d et seq.), the Fair Housing
10 Act (42 U.S.C. 3601 et seq.), section 504 of the Rehabilitation Act of 1973
11 (29 U.S.C. 794), and other applicable civil rights laws. The owner or
12 manager of a project assisted under this paragraph shall not admit any
13 family to a dwelling unit assisted under a contract pursuant to this
14 paragraph other than a family referred by the public housing agency from
15 its waiting list, or a family on a site-based waiting list that complies with
16 the requirements of this subparagraph. A public housing agency shall
17 disclose to each applicant all other options in the selection of a project in
18 which to reside that are provided by the public housing agency and are
19 available to the applicant.”

20 (9) in subparagraph (K)(ii) by striking “the owner has notified the agency of the
21 vacancy” and inserting “the unit has become vacant”; and

22 (10) by adding at the end the following new subparagraph:

1 “(N) LEASES AND TENANCY.—Notwithstanding any other provision
2 of law, for the term of the contract under this paragraph, the owner may terminate
3 a tenancy only for serious or repeated violations of the terms and conditions of the
4 lease or for violation of applicable law.”

5
6 **SEC. 6. CONFORMING AMENDMENTS.**

7 (a) DEFINITION.—Subparagraph (B) of section 3(b)(6) of the United States Housing
8 Act of 1937 (42 U.S.C. 1437a(b)(6)) is amended—

9 (1) by striking “tenant-based” each place that term appears;

10 (2) in the subparagraph heading and in the matter preceding clause (i), by striking
11 “program” and inserting “programs”;

12 (3) by amending clause (i) to read as follows:

13 “(i) any State, county, municipality, or other governmental entity
14 or public body, or an agency or instrumentality of such an entity, and a
15 nonprofit entity, that has the capability to administer a program for
16 assistance under such section in an efficient manner and, notwithstanding
17 any provision of State or local law, without regard to any otherwise
18 applicable limitations on its area of operation, as determined by the
19 Secretary;” and

20 (4) by amending clause (ii) to read as follows:

21 “(ii) a consortium of public housing agencies, which shall have a
22 legal entity or entities authorized to act as the legal representative of the
23 consortium members; and”.

1 (b) ADMINISTRATIVE FEE.—Section 8(q)(1) of the United States Housing Act of
2 1937 (42 U.S.C. 1437f) is amended by adding at the end the following new subparagraph—

3 “(F) CONVERSION RENTAL ASSISTANCE ADMINISTRATOR.—

4 The Secretary may establish and allocate a fee, as determined by the Secretary,
5 for the administration of the rental assistance for properties converted to a
6 property-based voucher contract under section 8(m)(2) of this Act.”.

7 (c) RENEWAL OF MAINSTREAM TENANT-BASED RENTAL ASSISTANCE
8 PROGRAM THROUGH SECTION 8(o).—

9 (1) Section 811 of the Cranston-Gonzalez National Affordable Housing Act (42
10 U.S.C. 8013) is amended in subsection (d), by striking paragraph (4) and inserting the
11 following:

12 “(4) TENANT-BASED RENTAL ASSISTANCE.—

13 “(A) IN GENERAL.—Tenant-based rental assistance provided
14 under subsection (b)(1) shall be provided under section 8(o) of the United
15 States Housing Act of 1937 (42 U.S.C. 1437f(o)).

16 “(B) CONVERSION OF EXISTING ASSISTANCE.—There is
17 authorized to be appropriated for tenant-based rental assistance under
18 section 8(o) of the United States Housing Act of 1937 (42 U.S.C.
19 1437f(o)) for persons with disabilities an amount not less than the amount
20 necessary to convert the number of authorized vouchers and obligated
21 funding under an annual contributions contract on the date of enactment of
22 the Preservation, Enhancement, and Transformation of Rental Assistance
23 Act of 2010 under the tenant-based rental assistance program under

1 subsection (d)(4) as in effect before the date of enactment of the
2 Preservation, Enhancement, and Transformation of Rental Assistance Act
3 of 2010 to tenant-based vouchers under section 8(o). Such converted
4 vouchers may be managed together with other non-elderly disabled
5 vouchers under section 8(o).

6 “(C) REQUIREMENTS UPON TURNOVER.—The Secretary
7 shall develop and issue, to public housing agencies that administer
8 voucher assistance made available under this paragraph, guidance to
9 ensure that such voucher assistance continues to be provided upon
10 turnover to qualified persons with disabilities and to qualified non-elderly
11 disabled families.”.

12 (2) Unexpended amounts made available in prior year appropriations Acts under
13 the heading “Housing for Persons with Disabilities” or the heading “Housing for Special
14 Populations” for contracts under section 811 of the Cranston-Gonzalez National
15 Affordable Housing Act (42 U.S.C. 8013) shall be available until expended for renewal
16 of vouchers converted under subsection (d)(4)(B) of section 811 of the Cranston-
17 Gonzalez National Affordable Housing Act (42 U.S.C. 8013(d)(4)(B)), notwithstanding
18 the period of availability for such amounts established in such prior appropriations Acts.

19 (3) The Secretary is authorized, to the extent amounts are made available in
20 appropriations acts, to provide technical assistance to public housing agencies to facilitate
21 using vouchers to provide permanent supportive housing for persons with disabilities, to
22 help states meet community care requirements, to end chronic homelessness, as

1 “chronically homeless” is defined in section 401 of the McKinney-Vento Homeless
2 Assistance Act (42 U.S.C. 11361), and for other related purposes.

3 (d) INCOME ELIGIBILITY. —Paragraph (6) of section 16(c) (42 U.S.C. 1437n) is
4 amended by adding at the end the following new subparagraph (H)—

5 “(H) The project-based contract program under subsection (n) of section
6 8.”

7 (e) ENFORCEMENT PROVISIONS. —Section 29 of the United States Housing Act of
8 1937 (42 U.S.C. 1437z-1) is amended—

9 (1) in the section heading, by inserting “AND PUBLIC HOUSING AGENCIES
10 ADMINISTERING RENTAL ASSISTANCE UNDER SECTION 8” after “OWNERS”;

11 (2) in subsection (b)(1)—

12 (A) in subparagraph (B) by striking “and” after the semicolon;

13 (B) in subparagraph (C) by inserting a semicolon after “any agent
14 employed to manage the property,” and by striking “that has an identity of interest
15 with the owner or the general partner of a partnership owner of the property”; and

16 (C) by inserting, after subparagraph (C), the following new subsections:

17 “(D) any public housing agency administering rental assistance under
18 section 8;

19 “(E) any officer or director of a corporate owner; and

20 “(F) any member of a limited liability company that is the owner of such
21 property or is the general partner of a limited partnership owner or is a partner of a
22 general partnership owner.”;

23 (3) in subsection (b)(2)—

1 (A) in subparagraph (A) by striking “ or” after the semicolon;

2 (B) in subparagraph (B) by replacing the period after “United States” with
3 a semicolon; and

4 (C) by inserting, after subparagraph (B), the following new subsections:

5 “(C) failure of an owner of a property receiving project-based assistance
6 under Section 8 to submit an annual audited financial statement to the Department
7 in the form and manner established by the Secretary;

8 “(D) failure of a public housing agency administering rental assistance
9 under section 8 to comply with any requirements of the Secretary or any of the
10 terms of a contract between the administrator and the Secretary;

11 “(E) failure of an owner of a property receiving project-based assistance
12 under Section 8, or an officer or director of a corporate owner, to comply with any
13 requirements of the Secretary or any of the terms of a contract between the
14 administrator and the Secretary;

15 “(F) failure of an owner of a property receiving project-based assistance
16 under Section 8, or an officer or director of a corporate owner, to provide
17 management for the property that is acceptable to the Secretary pursuant to
18 regulations and requirements of the Secretary;

19 “(G) failure to provide access to the books, records, and accounts related
20 to the operations of the project; or

21 “(H) failure to permit physical access to the property or any unit of the
22 property.”;

23 (4) in subsection (b)(3) by striking “\$25,000” and inserting “\$37,500”; and

(5) in subsection (g) by amending paragraph (1) to read as follows:

“(1) IN GENERAL.—Notwithstanding any other provision of law, the Secretary shall apply civil money penalties collected under this section to the Rental Assistance Conversion Trust Fund, established under section 8(m)(1)(E), or shall authorize the owner of the property or project at issue in the penalty action to use the penalty funds, in accordance with the requirements of the Secretary, for the improvement of that property or project.”.

(f) AMENDMENTS TO SECTION 3 OF THE HOUSING AND URBAN DEVELOPMENT ACT OF 1968.—Section 3(c) of the Housing and Urban Development Act of 1968 (12 U.S.C. 1701u) is amended—

(1) in paragraph (1) —

(A) by striking “(A) IN GENERAL.— ”; and

(B) by striking subparagraph (B);

(2) in paragraph (2)—

(A) by striking “(A) IN GENERAL.—”; and

(B) by striking subparagraph (B); and

(3) by adding at the end the following new paragraphs (3) and (4):

“(3) PRIORITY.—The efforts required under paragraphs (1) and (2) of this subsection shall be directed in the following order of priority:

“(A) To recipients of Federal rental assistance, including public housing residents, residents of other federally subsidized properties, or participants in the program under section 8(o) of the U.S. Housing Act in the service area and metropolitan area (or nonmetropolitan county).

1 “(B) To low- and very low-income residents in the service area and
2 metropolitan area (or nonmetropolitan county).

3 “(C) To other residents, as designated by the Secretary by regulation.

4 “(4) SCOPE.—For properties with rental assistance converted under section
5 8(m)(2) of the United States Housing Act of 1937, the requirements of subsections
6 (c)(1)(A) and (c)(2)(A) in effect prior to the date of enactment of the Preservation,
7 Enhancement, and Transformation of Rental Assistance Act of 2010 shall continue to
8 apply.”.