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Summary

HUD FY 2016 Affordable Housing Preservation Provisions

[HR 2029, the Consolidated Appropriations Act, 2016](#), Pub. L. No. 114-113 (Dec. 18, 2015)

1. Funding Level for Project-Based Section 8

The Act provides a total of \$10.6 billion for project-based Section 8. This is an increase of \$890 million over the FY 2015 funding level. Under the new calendar year (CY) scheme, following the transition year in FY 2015, HUD will now have to provide full 12-month funding increments for all contracts starting in FY 2016 to cover CY 2016. Earlier estimates of the amount needed to provide full funding for all PBRA properties were in the \$1.2 billion range, but HUD has assured Congress and advocates that the allocated amount will be sufficient to cover renewals in 2016.

2. Funding Level for Tenant Protection Vouchers; Set-Aside for Mortgage Maturity or Expiring Use Restrictions

As in FY 2015, the Act maintains Tenant Protection Vouchers (TPVs) at \$130 million. TPVs protect tenants whose affordable HUD-supported homes are threatened by a variety of causes, including certain prepayments or maturities of HUD-subsidized mortgages, Section 8 project-based opt-outs or terminations, public housing demolitions or conversions, and expiration of legacy contracts, and they preserve the net level of subsidized units in a community, so long as the units were occupied within the 24 months prior to conversion. TPVs are also used for other purposes, including family unification, witness protection, etc.

The Act again includes a set-aside of up to \$5 million of these funds for enhanced vouchers or project-based vouchers (PBVs) to assist at-risk unassisted tenants in buildings in low vacancy areas with expiring mortgages, contracts or use restrictions who are otherwise ineligible for assistance. (We have marked this provision as “Mortgage Maturity/EUR set aside” in the statutory text below.) In addition to preserving affordable units, the PBV option permits many tenants’ rent burdens to be reduced to 30% of income, while also allowing tenant mobility. The Act deletes the requirement that

HUD issue new guidance under this set-aside; existing guidance issued with respect to this set aside in FY 2015 ([Notice HUD 2015-07](#) (April 23, 2015)) will continue to apply until modified. In 2015, HUD made \$2 million in additional “carry-over” funds available under this provision. NHLP continues to advocate with HUD for a transparent accounting of expenditures for this set-aside.

The Act retains a limitation (new in 2015) on reissuing certain TPVs when families that exit the program: PHAs can only reissue the voucher if it is a “replacement” voucher, otherwise the voucher will “cease to exist” when the initial household relinquishes it for any reason. (We have marked this provision as “Expiring Voucher addition” in the statutory text below.) HUD has provided guidance to determine what is a “replacement” voucher in [Notice PIH 2015-03](#) (February 27, 2015), which identifies vouchers issued as the result of a loss of an actual unit of HUD-supported affordable housing.

2016 Statutory Text:

\$130,000,000 shall be for section 8 rental assistance for relocation and replacement of housing units that are demolished or disposed of pursuant to section 18 of the Act, conversion of section 23 projects to assistance under section 8, the family unification program under section 8(x) of the Act, relocation of witnesses in connection with efforts to combat crime in public and assisted housing pursuant to a request from a law enforcement or prosecution agency, enhanced vouchers under any provision of law authorizing such assistance under section 8(t) of the Act, HOPE VI and Choice Neighborhood vouchers, mandatory and voluntary conversions, and tenant protection assistance including replacement and relocation assistance or for project-based assistance to prevent the displacement of unassisted elderly tenants currently residing in section 202 properties financed between 1959 and 1974 that are refinanced pursuant to Public Law 106–569, as amended, or under the authority as provided under this Act: Provided, That when a public housing development is submitted for demolition or disposition under section 18 of the Act, the Secretary may provide section 8 rental assistance when the units pose an imminent health and safety risk to residents: Provided further, That the Secretary may only provide replacement vouchers for units that were occupied within the previous 24 months that cease to be available as assisted housing, subject only to the availability of funds: Provided further, [Mortgage Maturity/EUR set aside] That of the amounts made available under this paragraph, \$5,000,000 may be available to provide tenant protection assistance, not otherwise provided under this paragraph, to residents residing in low vacancy areas and who may have to pay rents greater than 30 percent of household income, as the result of (A) the maturity of a HUD-insured, HUD-held or section 202 loan that requires the permission of the Secretary prior to loan prepayment; (B) the expiration of a rental assistance contract for which the tenants are not eligible for enhanced voucher or tenant protection assistance under existing law; or (C) the expiration of affordability restrictions accompanying a mortgage or preservation program administered by the Secretary: Provided further, That such tenant protection assistance made available under the previous proviso may be provided under the authority of section 8(t) or section 8(o)(13) of the United States Housing Act of 1937 (42 U.S.C. 1437f(t)): ~~Provided further, That the Secretary shall issue guidance to implement the previous provisos, including, but not limited to, requirements for defining eligible at risk households within 120 days of the enactment of this Act:~~ Provided further, [Expiring Voucher addition] That any tenant protection voucher made available from amounts under this paragraph shall not be reissued by

any public housing agency, except the replacement vouchers as defined by the Secretary by notice, when the initial family that received any such voucher no longer receives such voucher, and the authority for any public housing agency to issue any such voucher shall cease to exist: Provided further, That the Secretary, for the purpose under this paragraph, may use unobligated balances, including recaptures and carryovers, remaining from amounts appropriated in prior fiscal years under this heading for voucher assistance for nonelderly disabled families and for disaster assistance made available under Public Law 110–329.

3. Rental Assistance Demonstration Renewed

Section 237 of the Act’s General Provisions revises the statutory language to extend the Rental Assistance Demonstration (RAD) program into the future. The Act does not raise the current cap on RAD beyond the current level of 185,000 units.

4. Retaining Project-Based Assistance for Troubled Properties (“Schumer Amendment”)

The Act renews the important “Schumer Amendment,” enacted annually since 2006, generally requiring HUD to preserve project-based contracts on troubled properties before or during the foreclosure process, countermending HUD’s prior policy of automatically terminating contracts.

2016 Statutory Text: [was also Section 216 in FY15]

SEC. 216. Notwithstanding any other provision of law, in fiscal year 2016, in managing and disposing of any multifamily property that is owned or has a mortgage held by the Secretary of Housing and Urban Development, and during the process of foreclosure on any property with a contract for rental assistance payments under section 8 of the United States Housing Act of 1937 or other Federal programs, the Secretary shall maintain any rental assistance payments under section 8 of the United States Housing Act of 1937 and other programs that are attached to any dwelling units in the property. To the extent the Secretary determines, in consultation with the tenants and the local government, that such a multifamily property owned or held by the Secretary is not feasible for continued rental assistance payments under such section 8 or other programs, based on consideration of (1) the costs of rehabilitating and operating the property and all available Federal, State, and local resources, including rent adjustments under section 524 of the Multifamily Assisted Housing Reform and Affordability Act of 1997 (“MAHRAA”) and (2) environmental conditions that cannot be remedied in a cost-effective fashion, the Secretary may, in consultation with the tenants of that property, contract for project-based rental assistance payments with an owner or owners of other existing housing properties, or provide other rental assistance. The Secretary shall also take appropriate steps to ensure that project-based contracts remain in effect prior to foreclosure, subject to the exercise of contractual abatement remedies to assist relocation of tenants for imminent major threats to health and safety after written notice to and informed consent of the affected tenants and use of other available remedies, such as partial abatements or receivership. After disposition of any

multifamily property described under this section, the contract and allowable rent levels on such properties shall be subject to the requirements under section 524 of MAHRAA.

5. Transfer of Project-Based Assistance

The Act includes language identical to FY 2015 authorizing the HUD Secretary to transfer some or all project-based assistance, debt, and use restrictions from one multifamily project to another multifamily project or projects, for FYs 2016 and 2017. This authority to transfer project-based assistance is in addition to that provided by Section 8(bb) of the United States Housing Act (42 U.S.C. § 1437f(bb)), as implemented by HUD in [Notice H 2015-03](#) (April 3, 2015).

2016 Statutory Text: [was also Section 212 in FY15]

SEC. 212. (a) Notwithstanding any other provision of law, subject to the conditions listed under this section, for fiscal years 2016 and 2017, the Secretary of Housing and Urban Development may authorize the transfer of some or all project-based assistance, debt held or insured by the Secretary and statutorily required low-income and very low-income use restrictions if any, associated with one or more multifamily housing project or projects to another multifamily housing project or projects.

(b) PHASED TRANSFERS.—Transfers of project-based assistance under this section may be done in phases to accommodate the financing and other requirements related to rehabilitating or constructing the project or projects to which the assistance is transferred, to ensure that such project or projects meet the standards under subsection (c).

(c) The transfer authorized in subsection (a) is subject to the following conditions:

(1) NUMBER AND BEDROOM SIZE OF UNITS.—

(A) For occupied units in the transferring project: the number of low-income and very low income units and the configuration (i.e., bedroom size) provided by the transferring project shall be no less than when transferred to the receiving project or projects and the net dollar amount of Federal assistance provided to the transferring project shall remain the same in the receiving project or projects.

(B) For unoccupied units in the transferring project: the Secretary may authorize a reduction in the number of dwelling units in the receiving project or projects to allow for a reconfiguration of bedroom sizes to meet current market demands, as determined by the Secretary and provided there is no increase in the project-based assistance budget authority.

(2) The transferring project shall, as determined by the Secretary, be either physically obsolete or economically nonviable.

(3) The receiving project or projects shall meet or exceed applicable physical standards established by the Secretary.

(4) The owner or mortgagor of the transferring project shall notify and consult with the tenants residing in the transferring project and provide a certification of approval by all appropriate local governmental officials.

(5) The tenants of the transferring project who remain eligible for assistance to be provided by the receiving project or projects shall not be required to vacate their units in the transferring project or projects until new units in the receiving project are available for occupancy.

(6) The Secretary determines that this transfer is in the best interest of the tenants.

- (7) *If either the transferring project or the receiving project or projects meets the condition specified in subsection (d)(2)(A), any lien on the receiving project resulting from additional financing obtained by the owner shall be subordinate to any FHA-insured mortgage lien transferred to, or placed on, such project by the Secretary, except that the Secretary may waive this requirement upon determination that such a waiver is necessary to facilitate the financing of acquisition, construction, and/or rehabilitation of the receiving project or projects.*
- (8) *If the transferring project meets the requirements of subsection (d)(2), the owner or mortgagor of the receiving project or projects shall execute and record either a continuation of the existing use agreement or a new use agreement for the project where, in either case, any use restrictions in such agreement are of no lesser duration than the existing use restrictions.*
- (9) *The transfer does not increase the cost (as defined in section 502 of the Congressional Budget Act of 1974, as amended) of any FHA-insured mortgage, except to the extent that appropriations are provided in advance for the amount of any such increased cost.*
- (d) *For purposes of this section—*
- (1) *the terms “low-income” and “very low-income” shall have the meanings provided by the statute and/or regulations governing the program under which the project is insured or assisted;*
- (2) *the term “multifamily housing project” means housing that meets one of the following conditions—*
- (A) *housing that is subject to a mortgage insured under the National Housing Act;*
- (B) *housing that has project-based assistance attached to the structure including projects undergoing mark to market debt restructuring under the Multifamily Assisted Housing Reform and Affordability Housing Act;*
- (C) *housing that is assisted under section 202 of the Housing Act of 1959, as amended by section 801 of the Cranston-Gonzales National Affordable Housing Act;*
- (D) *housing that is assisted under section 202 of the Housing Act of 1959, as such section existed before the enactment of the Cranston-Gonzales National Affordable Housing Act;*
- (E) *housing that is assisted under section 811 of the Cranston-Gonzales National Affordable Housing Act; or*
- (F) *housing or vacant land that is subject to a use agreement;*
- (3) *the term “project-based assistance” means—*
- (A) *assistance provided under section 8(b) of the United States Housing Act of 1937;*
- (B) *assistance for housing constructed or substantially rehabilitated pursuant to assistance provided under section 8(b)(2) of such Act (as such section existed immediately before October 1, 1983);*
- (C) *rent supplement payments under section 101 of the Housing and Urban Development Act of 1965;*
- (D) *interest reduction payments under section 236 and/or additional assistance payments under section 236(f)(2) of the National Housing Act;*
- (E) *assistance payments made under section 202(c)(2) of the Housing Act of 1959; and (F) assistance payments made under section 811(d)(2) of the Cranston-Gonzalez National Affordable Housing Act;*
- (4) *the term “receiving project or projects” means the multifamily housing project or projects to which some or all of the project-based assistance, debt, and statutorily required low-income and very low-income use restrictions are to be transferred;*
- (5) *the term “transferring project” means the multifamily housing project which is transferring some or all of the project-based assistance, debt, and the statutorily required low-income and very low-income use restrictions to the receiving project or projects; and*

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

(e) PUBLIC NOTICE AND RESEARCH REPORT.—

(1) The Secretary shall publish by notice in the Federal Register the terms and conditions, including criteria for HUD approval, of transfers pursuant to this section no later than 30 days before the effective date of such notice.

(2) The Secretary shall conduct an evaluation of the transfer authority under this section, including the effect of such transfers on the operational efficiency, contract rents, physical and financial conditions, and long-term preservation of the affected properties.

6. Mandatory HUD Enforcement Protocol for Assisted Properties with Low REAC Scores

The Act renews the FY 2015 prescriptive language for properties with Section 8 project-based or similar assistance that receive substandard REAC scores. These include projects (1) with a REAC score of 30 or less, or (2) that receive a physical inspection score between 31 and 59 either (a) twice in a row or (b) that fail to certify to HUD correction of all deficiencies within 60 days. These requirements do not apply to project-based vouchers or public housing. Upon occurrence of the REAC score trigger, HUD must notify the owner and provide an opportunity for a response within 30 days; if violations remain, HUD must develop a Compliance and Enforcement Plan within 60 days, with a timetable for correcting all deficiencies, and give notice to the owners, tenants, local government, mortgagees and contract administrator. If noncompliance persists at expiration of the term of the Plan, HUD may require replacement of the managing agent, and must take one of the following actions, providing notice to the previously specified parties: (1) impose civil money penalties; (2) partially or fully abate the contract until deficiencies are corrected; (3) pursue a transfer of the property to an approved owner who will repair the property and renew the contract; or (4) seek judicial appointment of a receiver to manage the property and correct the deficiencies or seek a judicial order for specific performance by the owner. The protections of the Schumer Amendment would continue to apply. HUD must report semi-annually on properties with REAC scores less than 30 or twice below 60, including a description of HUD’s actions to enforce and to protect tenants. HUD issued implementation guidance in [Notice H 2015-02](#) (March 2, 2015), but as of December 23, 2015, we are not aware of any reports provided to Congress.

2016 Statutory Text: *[was Section 226 in FY15, and 230 if FY 14]*

SEC. 225. (a) The Secretary of Housing and Urban Development shall take the required actions under subsection (b) when a multifamily housing project with a section 8 contract or contract for similar project-based assistance:

(1) receives a Real Estate Assessment Center (REAC) score of 30 or less; or

(2) receives a REAC score between 31 and 59 and:

(A) fails to certify in writing to HUD within 60 days that all deficiencies have been corrected;
or

(B) receives consecutive scores of less than 60 on REAC inspections.

Such requirements shall apply to insured and noninsured projects with assistance attached to the units under section 8 of the United States Housing Act of 1937 (42 U.S.C. 1437f), but do not

apply to such units assisted under section 8(o)(13) (42 U.S.C. 1437f(o)(13)) or to public housing units assisted with capital or operating funds under section 9 of the United States Housing Act of 1937 (42 U.S.C. 1437g).

(b) The Secretary shall take the following required actions as authorized under subsection (a)—

(1) The Secretary shall notify the owner and provide an opportunity for response within 30 days. If the violations remain, the Secretary shall develop a Compliance, Disposition and Enforcement Plan within 60 days, with a specified timetable for correcting all deficiencies. The Secretary shall provide notice of the Plan to the owner, tenants, the local government, any mortgagees, and any contract administrator.

(2) At the end of the term of the Compliance, Disposition and Enforcement Plan, if the owner fails to fully comply with such plan, the Secretary may require immediate replacement of project management with a management agent approved by the Secretary, and shall take one or more of the following actions, and provide additional notice of those actions to the owner and the parties specified above:

(A) impose civil money penalties;

(B) abate the section 8 contract, including partial abatement, as determined by the Secretary, until all deficiencies have been corrected;

(C) pursue transfer of the project to an owner, approved by the Secretary under established procedures, which will be obligated to promptly make all required repairs and to accept renewal of the assistance contract as long as such renewal is offered; or (D) seek judicial appointment of a receiver to manage the property and cure all project deficiencies or seek a judicial order of specific performance requiring the owner to cure all project deficiencies.

(c) The Secretary shall also take appropriate steps to ensure that project-based contracts remain in effect, subject to the exercise of contractual abatement remedies to assist relocation of tenants for imminent major threats to health and safety after written notice to and informed consent of the affected tenants and use of other remedies set forth above. To the extent the Secretary determines, in consultation with the tenants and the local government, that the property is not feasible for continued rental assistance payments under such section 8 or other programs, based on consideration of (1) the costs of rehabilitating and operating the property and all available Federal, State, and local resources, including rent adjustments under section 524 of the Multifamily Assisted Housing Reform and Affordability Act of 1997 (“MAHRAA”) and (2) environmental conditions that cannot be remedied in a cost-effective fashion, the Secretary may, in consultation with the tenants of that property, contract for project-based rental assistance payments with an owner or owners of other existing housing properties, or provide other rental assistance. The Secretary shall report semi-annually on all properties covered by this section that are assessed through the Real Estate Assessment Center and have physical inspection scores of less than 30 or have consecutive physical inspection scores of less than 60. The report shall include: (1) The enforcement actions being taken to address such conditions, including imposition of civil money penalties and termination of subsidies, and identify properties that have such conditions multiple times; and (2) Actions that the Department of Housing and Urban Development is taking to protect tenants of such identified properties.

7. *Other:*

A. *Choice Neighborhoods Initiative*

The Act provides \$125 million for the Choice Neighborhoods Initiative (CNI), an increase of \$45 million from FY 2015. At least \$75 million of the total must be awarded to PHAs, \$25 million above the prescribed set-aside in FY 2015.

As in FY2015, the Act clarifies that, for purposes of environmental review, a grantee shall be treated as a public housing agency, and grants under this heading shall be subject to the regulations under United States Housing Act Section 26 (allowing for environmental review responsibility to be led by a state or local government entity). And it provides that unobligated HOPE VI balances in fiscal year 2011 and prior fiscal years may be used for CNI.

2016 Statutory Text:

*For competitive grants under the Choice Neighborhoods Initiative (subject to section 24 of the United States Housing Act of 1937 (42 U.S.C. 1437v), unless otherwise specified under this heading), for transformation, rehabilitation, and replacement housing needs of both public and HUD-assisted housing and to transform neighborhoods of poverty into functioning, sustainable mixed income neighborhoods with appropriate services, schools, public assets, transportation and access to jobs, ~~\$80~~\$125,000,000, to remain available until September 30, 2018: Provided, That grant funds may be used for resident and community services, community development, and affordable housing needs in the community, and for conversion of vacant or foreclosed properties to affordable housing: Provided further, That the use of funds made available under this heading shall not be deemed to be public housing notwithstanding section 3(b)(1) of such Act: Provided further, That grantees shall commit to an additional period of affordability determined by the Secretary of not fewer than 20 years: Provided further, That grantees shall undertake comprehensive local planning with input from residents and the community, and that grantees shall provide a match in State, local, other Federal or private funds: Provided further, That grantees may include local governments, tribal entities, public housing authorities, and nonprofits: Provided further, That for-profit developers may apply jointly with a public entity: **Provided further, That for purposes of environmental review, a grantee shall be treated as a public housing agency under section 26 of the United States Housing Act of 1937 (42 U.S.C. 1437x), and grants under this heading shall be subject to the regulations issued by the Secretary to implement such section: Provided further, That of the amount provided, not less than ~~\$50~~\$75,000,000 shall be awarded to public housing authorities.** Provided further, That such grantees shall create partnerships with other local organizations including assisted housing owners, service agencies, and resident organizations: Provided further, That the Secretary shall consult with the Secretaries of Education, Labor, Transportation, Health and Human Services, Agriculture, and Commerce, the Attorney General, and the Administrator of the Environmental Protection Agency to coordinate and leverage other appropriate Federal resources: Provided further, That no more than \$5,000,000 of funds made available under this heading may be provided to assist communities in developing comprehensive strategies for implementing this program or implementing other revitalization efforts in conjunction with community notice and input: Provided further, That the Secretary shall develop and publish*

*guidelines for the use of such competitive funds, including but not limited to eligible activities, program requirements, and performance metrics: **Provided further, That unobligated balances, including recaptures, remaining from funds appropriated under the heading “Revitalization of Severely Distressed Public Housing (HOPE VI)” in fiscal year 2011 and prior fiscal years may be used for purposes under this heading, notwithstanding the purposes for which such amounts were appropriated.***

B. Section 202 and Section 811 provisions:

The Act provides funding for both the Section 202 program for senior housing (\$433 million – an increase from \$420 million in FY 2015 – including \$77 million for service coordinators and congregate services, up from \$70 million) and the Section 811 program for Supportive Housing for People with Disabilities (\$150.6 million, up from \$135 million). These funds provide an important potential source of new rental assistance (such as Senior Preservation Rental Assistance Contracts (SPRAC)) or, more commonly, renewal of expiring assistance contracts at existing properties. The Section 202 account is set out below (the statutory language for both accounts is similar).

Also in the Act is a provision (Sec. 240) authorizing the Secretary to transfer Sec. 811 capital advance and rental assistance contracts.

2016 Statutory Text:

HOUSING FOR THE ELDERLY

*For amendments to capital advance contracts for housing for the elderly, as authorized by section 202 of the Housing Act of 1959, as amended, and for project rental assistance for the elderly under section 202(c)(2) of such Act, including amendments to contracts for such assistance and renewal of expiring contracts for such assistance for up to a 1-year term, and for senior preservation rental assistance contracts, including renewals, as authorized by section 811(e) of the American Housing and Economic Opportunity Act of 2000, as amended, and for supportive services associated with the housing, \$432,700,000 to remain available until September 30, 2019: **Provided, That of the amount provided under this heading, up to \$77,000,000 shall be for service coordinators and the continuation of existing congregate service grants for residents of assisted housing projects: Provided further, That amounts under this heading shall be available for Real Estate Assessment Center inspections and inspection-related activities associated with section 202 projects: Provided further, That the Secretary may waive the provisions of section 202 governing the terms and conditions of project rental assistance, except that the initial contract term for such assistance shall not exceed 5 years in duration: Provided further, That upon request of the Secretary of Housing and Urban Development, project funds that are held in residual receipts accounts for any project subject to a section 202 project rental assistance contract, and that upon termination of such contract are in excess of an amount to be determined by the Secretary, ~~up to \$16,000,000 in any such excess amounts~~ shall be remitted to the Department and deposited in this account, to be available until September 30, 2019: Provided further, That amounts deposited in this account pursuant to the***

previous proviso shall be available, in addition to the amounts otherwise provided by this heading, for amendments and renewals: Provided further, That unobligated balances, including recaptures and carryover, remaining from funds transferred to or appropriated under this heading shall be available for amendments and renewals notwithstanding the purposes for which such funds originally were appropriated., for purposes under this heading, and shall be in addition to the amounts otherwise provided under this heading for such purposes.

SEC. 240. (a) *AUTHORITY.*—Subject to the conditions in subsection (d), the Secretary of Housing and Urban Development may authorize, in response to requests received in fiscal years 2016 through 2020, the transfer of some or all project-based assistance, tenant-based assistance, capital advances, debt, and statutorily required use restrictions from housing assisted under section 811 of the Cranston-Gonzalez National Affordable Housing Act (42 U.S.C. 8013) to other new or existing housing, which may include projects, units, and other types of housing, as permitted by the Secretary.

(b) *CAPITAL ADVANCES.*—Interest shall not be due and repayment of a capital advance shall not be triggered by a transfer pursuant to this section.

(c) *PHASED AND PROPORTIONAL TRANSFERS.*—

(1) *Transfers under this section may be done in phases to accommodate the financing and other requirements related to rehabilitating or constructing the housing to which the assistance is transferred, to ensure that such housing meets the conditions under subsection (d).*

(2) *The capital advance repayment requirements, use restrictions, rental assistance, and debt shall transfer proportionally from the transferring housing to the receiving housing.*

(d) *CONDITIONS.*—The transfers authorized by this section shall be subject to the following conditions:

(1) *the owner of the transferring housing shall demonstrate that the transfer is in compliance with applicable Federal, State, and local requirements regarding Housing for Persons with Disabilities and shall provide the Secretary with evidence of obtaining any approvals related to housing disabled persons that are necessary under Federal, State, and local government requirements;*

(2) *the owner of the transferring housing shall demonstrate to the Secretary that any transfer is in the best interest of the disabled residents by offering opportunities for increased integration or less concentration of individuals with disabilities;*

(3) *the owner of the transferring housing shall continue to provide the same number of units as approved for rental assistance by the Secretary in the receiving housing;*

(4) the owner of the transferring housing shall consult with the disabled residents in the transferring housing about any proposed transfer under this section and shall notify the residents of the transferring housing who are eligible for assistance to be provided in the receiving housing that they shall not be required to vacate the transferring housing until the receiving housing is available for occupancy;

(5) the receiving housing shall meet or exceed applicable physical standards established or adopted by the Secretary; and

(6) if the receiving housing has a mortgage insured under title II of the National Housing Act, any lien on the receiving housing resulting from additional financing shall be subordinate to any federally insured mortgage lien transferred to, or placed on, such housing, except that the Secretary may waive this requirement upon determination that such a waiver is necessary to facilitate the financing of acquisition, construction, or rehabilitation of the receiving housing.

(e) PUBLIC NOTICE.—The Secretary shall publish a notice in the Federal Register of the terms and conditions, including criteria for the Department’s approval of transfers pursuant to this section no later than 30 days before the effective date of such notice.

C. Other Rent Supplement and Section 236 RAP

The Act provides \$30 million for amendments to Rent Supplement and state-aided, non-federally insured RAP contracts – an increase from \$18 million in FY 2015. This amount, plus unobligated balances (including recaptures and carryover) remaining from RS and RAP funds appropriated after FY 2005, is also available for extensions of up to one year of expiring RS and RAP contracts. Note that provisions added to the RAD account in FY 15, for supporting the costs of converting assistance on RS and RAP projects under RAD Component 2 also affect the use of this account.

2016 Statutory Text:

RENTAL HOUSING ASSISTANCE

For amendments to contracts under section 101 of the Housing and Urban Development Act of 1965 (12 U.S.C. 1701s) and section 236(f)(2) of the National Housing Act (12 U.S.C. 1715z-1) in State-aided, non-insured rental housing projects, \$30,000,000, to remain available until expended: Provided, That such amount, together with unobligated balances from recaptured amounts appropriated prior to fiscal year 2006 from terminated contracts under such sections of law, and any unobligated balances, including recaptures and carryover, remaining from funds appropriated under this heading after fiscal year 2005, shall also be available for extensions of up to one year for expiring contracts under such sections of law.

D. Removal of Reports to Congress re Status of Project-Based Section 8

The FY 2016 Act removes a longstanding requirement that HUD report on the status of the project-based Section 8 inventory. The FY 2015 Act had substituted language requiring HUD to identify units lost by opt-out or other termination, and the reasons for more specific prior requirements.

E. Moving to Work (MTW) Expansion

Worthy of brief note for the potential impact on PHAs' flexibility to address preservation priorities is the Act's expansion of the number of HUD's Moving to Work agencies by 100 PHAs. (As [summarized by our colleagues at NLIHC](#), the number of MTW agencies is far below the originally-proposed total of 300 new PHAs, and the Act includes some restrictions and qualifications that were not part of the original proposed expansion.)

2016 Statutory Text:

SEC. 239. The Secretary of Housing and Urban Development shall increase, pursuant to this section, the number of Moving to Work agencies authorized under section 204, title II, of the Departments of Veterans Affairs and Housing and Urban Development and Independent Agencies Appropriations Act, 1996 (Public Law 104-134; 110 Stat. 1321) by adding to the program 100 public housing agencies that are designated as high performing agencies under the Public Housing Assessment System (PHAS) or the Section Eight Management Assessment Program (SEMAP). No public housing agency shall be granted this designation through this section that administers in excess of 27,000 aggregate housing vouchers and public housing units. Of the agencies selected under this section, no less than 50 shall administer 1,000 or fewer aggregate housing voucher and public housing units, no less than 47 shall administer 1,001-6,000 aggregate housing voucher and public housing units, and no more than 3 shall administer 6,001-27,000 aggregate housing voucher and public housing units. Of the 100 agencies selected under this section, five shall be agencies with portfolio awards under the Rental Assistance Demonstration that meet the other requirements of this section, including current designations as high performing agencies or such designations held immediately prior to such portfolio awards. Selection of agencies under this section shall be based on ensuring the geographic diversity of Moving to Work agencies. In addition to the preceding selection criteria, agencies shall be designated by the Secretary over a 7-year period. The Secretary shall establish a research advisory committee which shall advise the Secretary with respect to specific policy proposals and methods of research and evaluation for the demonstration. The advisory committee shall include program and research experts from the Department, a fair representation of agencies with a Moving to Work designation, and independent subject matter experts in housing policy research. For each cohort of agencies receiving a designation under this heading, the Secretary shall direct one specific policy change to be implemented by the agencies, and with the approval of the Secretary, such agencies may implement additional policy changes. All agencies designated under this section shall be evaluated through rigorous research as determined by the Secretary, and shall provide information requested by the Secretary to support such oversight and evaluation, including the targeted policy changes. Research and evaluation shall be coordinated under the direction of the Secretary, and in consultation with the advisory committee, and findings shall be shared broadly. The Secretary shall consult the advisory committee with respect to policy changes that have proven successful and can be applied more broadly to all public housing agencies, and propose any necessary

statutory changes. The Secretary may, at the request of a Moving to Work agency and one or more adjacent public housing agencies in the same area, designate that Moving to Work agency as a regional agency. A regional Moving to Work agency may administer the assistance under sections 8 and 9 of the United States Housing Act of 1937 (42 U.S.C. 1437f and g) for the participating agencies within its region pursuant to the terms of its Moving to Work agreement with the Secretary. The Secretary may agree to extend the term of the agreement and to make any necessary changes to accommodate regionalization. A Moving to Work agency may be selected as a regional agency if the Secretary determines that unified administration of assistance under sections 8 and 9 by that agency across multiple jurisdictions will lead to efficiencies and to greater housing choice for low-income persons in the region. For purposes of this expansion, in addition to the provisions of the Act retained in section 204, section 8(r)(1) of the Act shall continue to apply unless the Secretary determines that waiver of this section is necessary to implement comprehensive rent reform and occupancy policies subject to evaluation by the Secretary, and the waiver contains, at a minimum, exceptions for requests to port due to employment, education, health and safety. No public housing agency granted this designation through this section shall receive more funding under sections 8 or 9 of the United States Housing Act of 1937 than it otherwise would have received absent this designation. The Secretary shall extend the current Moving to Work agreements of previously designated participating agencies until the end of each such agency's fiscal year 2028 under the same terms and conditions of such current agreements, except for any changes to such terms or conditions otherwise mutually agreed upon by the Secretary and any such agency and such extension agreements shall prohibit any statutory offset of any reserve balances equal to 4 months of operating expenses. Any such reserve balances that exceed such amount shall remain available to any such agency for all permissible purposes under such agreement unless subject to a statutory offset. In addition to other reporting requirements, all Moving to Work agencies shall report financial data to the Department of Housing and Urban Development as specified by the Secretary, so that the effect of Moving to Work policy changes can be measured.