Project-Based Rental Assistance

By National Preservation Working Group, sponsored by National Housing Trust

Administering Agency: HUD's Office of Multifamily Housing Programs

Years Started: 1961 – Section 221(d)(3) Below Market Interest Rate (BMIR); 1963 – USDA Section 515; 1965 – Section 101 Rent Supplement; 1968 – Section 236; 1974 – Project-Based Section 8, and Rental Assistance Payments Program; 1978 – Section 8 Moderate Rehabilitation Program.

Number of Persons/Households Served: Approximately 1.2 million households with over 2 million people. HUD's Picture of Subsidized Housing query tool includes 1.2 million units of project-based Section 8 "reported" and 1.3 million units "available."

Population Targeted: Extremely low- to moderate-income households

Funding: $14.91 billion in FY23, up from $13.94 billion in FY22 (of this, $969 million is provided in a disaster supplemental for project-based rental assistance in a separate section of the bill)

See Also: For related information, refer to the *USDA Rural Rental Housing Programs*, *Tenant Protection Vouchers*, and *Project-Based Vouchers* sections of this *Guide*.

Project-based housing refers to federally assisted housing for low-income households produced through a public-private partnership. Project-based assistance is fixed to a property, in contrast to portable tenant-based Section 8 Housing Choice Vouchers. Historically, HUD has provided private owners of multifamily housing either a long-term project-based rental assistance contract, a subsidized mortgage, or in some cases both, in order to make units affordable. This article focuses on the project-based rental assistance (PBRA) portfolio, after a historical summary of "legacy" HUD-subsidized mortgages that are maturing or being refinanced for which there is no replacement subsidized mortgage program.

This stock of PBRA-supported affordable housing is in danger of being permanently lost as a result of owners opting out of Section 8 contracts renewal or physical deterioration of properties. When owners choose not to renew a project-based Section 8 contract (referred to as "opting out"), they may convert their properties to market-rate rental buildings, condominiums, or non-housing uses.

BASIC DESCRIPTION OF THE SECTION 8 PROJECT-BASED RENTAL ASSISTANCE (PBRA) PROGRAM

In 1974, Section 8 of the "United States Housing Act" was enacted, providing a comprehensive tool for both project-based and tenant-based rental assistance. The project-based Section 8 program replaced a previous program, Section 236 described in the History section, below, as the primary affordable multifamily housing production tool through the New Construction, Substantial Rehabilitation and State Agency Programs. Instead of subsidizing a mortgage, as Section 236 did, HUD provided a 20- to 40-year fully appropriated rent subsidy. This virtually guaranteed rent stream gave lenders confidence in the soundness of project financing (whether provided through conventional, Federal Housing Administration, or state housing finance agency debt).

More than 800,000 PBRA units were developed from 1974 to 1983, when authorization for new construction was repealed. In addition, from 1977 to 1991, project-based Section 8 was provided to subsidize rent of tenants living at properties that also had mortgages from the Section 202 program (see *Section 202 Housing for Elderly*).

Project-based Section 8 is also an affordable housing preservation tool. The Section 8 Loan

Management Set-Aside (LMSA) program was used to replace some Rent Supplement contracts, and to support the feasibility of some struggling properties that were financed with the Section 221(d)(3) BMIR or 236 programs. The Section 8 Property Disposition Program was established to enable HUD-foreclosed multifamily properties to continue to house extremely low-income tenants after being sold back to private ownership. Finally, when the prepayment of subsidized mortgages and subsequent deregulation of BMIR and Section 236 properties became a national issue, the "Emergency Low Income Housing Preservation Act" of 1987 (ELIHPA) and the "Low Income Housing Preservation and Resident Homeownership Act" of 1990 (LIHPRHA) were enacted to provide a comprehensive preservation solution, including the provision of incremental Section 8 PBRA (BMIRs, 236s, ELIHPA and LIHPRA are explained below).

Inherent in every project-based Section 8 property is a Housing Assistance Payments (HAP) contract, which provides funding for the subsidy and sets out program requirements. A HAP contract is between a property owner and HUD (except for Moderate Rehab contracts, discussed below), although a Section 8 contract administrator may be delegated by HUD. Every HAP contract has a fixed term, and when it expires, the owner has a choice whether to renew. The HAP renewal process is codified in the Multifamily Assisted Housing Reform and Affordability Act of 1997 (MAHRA), discussed below. These contracts can be renewed, typically in one-, five-, or 20-year increments, with congressional funding for the contracts provided 12 months at a time.

Under project-based Section 8, residents are responsible for paying 30% of their adjusted income towards rent and utilities, while HUD provides a monthly subsidy payment to the owner that pays for the remaining cost of maintaining and operating the unit. The average monthly subsidy per household in 2021 was $904. New residents in project-based Section 8 units can have incomes of no more than 80% of the area median income (AMI), with 40% of new admissions required to have incomes below 30% of AMI.

The Project-Based Rental Assistance program (PBRA), in all its variations, provides rental assistance for about 2 million people in 1.2 million low-income, very low-income, and extremely low-income households allowing them to afford modest housing. Two-thirds of PBRA heads of households are seniors and disabled adults and the average household income is $13,768.

Since no new net units are being constructed using Section 8 PBRA, the challenge today is ensuring that federally assisted affordable housing is not permanently lost, either through physical deterioration or as a result of properties being converted to non-affordable uses, such as high-rent units or condominiums, when a PBRA contract is not renewed ("opt-out") or is terminated for any reason (see the Current Program Issues section below).

It is important to note that a property may have use restrictions or affordability covenants from a subsidized mortgage or other programs, as well as Section 8 PBRA pursuant to a HAP contract. Even if the affordability covenants expire or are terminated, the Section 8 rental assistance is independent of the mortgage financing, and so it survives any subsidized mortgage maturity or prepayment or other termination of covenants.

Another form of Section 8 rental assistance is the Moderate Rehabilitation (Mod Rehab) program, designed in 1978 to stimulate moderate levels of rehabilitation to preserve affordable housing. Mod Rehab provides project-based rental assistance for low- and very low-income residents; however, unlike other project-based Section 8 programs, the agreement is between the owner and a local public housing agency (PHA). Like project-based Section 8, residents pay 30% of adjusted income for rent, while rental assistance pays the balance. The program was repealed in 1991 and no new projects are authorized for development. There are approximately 14,436 Mod Rehab units and 10,402 Mod Rehab SRO (single-room occupancy) units remaining. Because of rent restrictions and limitations on the term of contract renewal, Mod Rehab properties are eligible to convert to conventional project-based Section 8 under the RAD program.

HUD Project Based Section 8 programs are codified in 24 CFR Parts 880-891:

- New construction, 24 CFR Part 880.
- Substantial rehabilitation, 24 CFR Part 881.
- Moderate Rehabilitation Program for Single Room Occupancy (SRO) Dwellings for Homeless Individuals, 24 CFR Part 882.
- State agency financed projects w/Section 8 assistance, 24 CFR Part 883.
- Loan management/property disposition set-aside, 24 CFR Parts 886 and 247 Supportive housing for elderly and persons with disabilities, 24 CFR Parts 891 and 247.

A BRIEF HISTORY

From 1965 to the mid-1980s, HUD played an essential role in creating affordable rental homes by providing financial incentives such as below-market interest rate loans, interest rate subsidies, and project-based Section 8 contracts. Currently, no additional units are being produced through these programs.

Initially, project-based assistance was provided through the Federal Housing Administration (FHA) in the form of a mortgage subsidy. Mortgage subsidies (also referred to as "shallow subsidies") reduced the cost of developing rental housing, and in return, owners agreed to restrictions that limited property rents, and occupancy to households meeting program income limits. Even though these programs provided a below-market rent that was affordable to low- and moderate-income tenants, they could not serve extremely low- or very low-income households, who could not afford even the subsidized rent.

Despite the limitation on the range of incomes served, the mortgage subsidy programs were an effective production tool. Two successive HUD programs created more than 600,000 units: the Section 221(d)(3) Below Market Interest Rate (BMIR) mortgage insurance program, created by the "National Housing Act of 1961," and Section 236, created in 1968. Some, but not all, subsidized mortgage properties also used precursors to project-based Section 8 to enable them to provide deeper affordability. Those early project-based rental assistance programs were the Rent Supplement program (Rent Supp, authorized by Section 101 of the "Housing and Urban Development Act of 1965") and the Section 236 Rental Assistance Program (RAP). They each provided an early example of a "deep subsidy," in which HUD sets the rent level, the tenant pays a percentage of their adjusted income and the subsidy program pays the balance. The last Rent Supp contracts converted to long-term project-based rental assistance contracts under the Rental Assistance Demonstration (RAD) in 2018. The last remaining RAP contracts converted to Section 8 under RAD in late 2019.

Another 136,000 households live in homes with one of the other forms of project-based assistance, but without rental assistance.

CURRENT PROGRAM ISSUES

Subsidized Mortgage Prepayment

Although Section 236 and Section 221(d)(3) BMIR mortgages originally had 40-year terms, program regulations allowed most for-profit owners to prepay their mortgages after 20 years. By prepaying, in most cases owners may terminate income and rent restrictions, although any project-based Section 8 rent subsidy will continue for the remaining term of the contract. Owners must give tenants at least 150 days' advance notice of an intention to prepay. Upon prepayment, tenants are eligible for Tenant Protection Vouchers (TPVs), or in some cases an Enhanced Voucher (EVs), that allows a tenant to either remain in the property or find new affordable rental housing with the voucher assistance (see the *Tenant Protection Vouchers* section of this *Advocates' Guide*).

Maturing Subsidized Mortgages

Tens of thousands of low-income families face escalating rents if affordability protections are not extended for properties with maturing Section 236 and Section 221(d)(3) BMIR mortgages. Residents living in apartments with affordability protections but without project-based Section 8 contracts do not categorically qualify for enhanced vouchers or other rental assistance when the HUD-subsidized mortgage or a federal use agreement expires. However, in recent years, including FY 2022, Congress has appropriated $5 million annually for Enhanced Vouchers or Project-Based Vouchers for tenants in low-vacancy areas who are at risk of becoming rent-burdened as a result of a subsidized mortgage maturity or expiration of a use agreement. The National Housing Preservation Database identifies more than 6,892 unassisted units in 34 properties in 13 states at risk of subsidized mortgage maturity or the expiration of use restrictions or assistance between FY22 and FY27 (tenants remain eligible despite the expiration of restrictions prior to FY15, subject to owner application).

Expiring Project-Based Section 8 Assistance Contracts

When project-based Section 8 contracts expire, owners may renew the contract, but also may choose to opt out of their contracts, enabling them to increase rents to market levels or to convert units to market-rate condominiums, thereby rendering apartments unaffordable to lower-income tenants. Owners must give tenants one-year advance notice of intent to opt out. Most tenants will receive enhanced vouchers to enable them to remain in their homes. According to the Joint Center for Housing Studies at Harvard University, of the approximately 1.2 million active Project-Based Rental Assistance (PBRA) units, more than 266,000 units (22%) are at risk of losing their affordability status according to calculations from the National Housing Preservation Database.

Enhanced Vouchers

Special voucher assistance is provided to tenants who would otherwise be displaced due to rising rents or market conversion if an owner prepays a Section 221(d)(3) BMIR or Section 236 mortgage, if an owner opts out of a project-based Section 8 contract, or if the Section 8 contract is terminated by HUD for cause. HUD is required by statute to provide Enhanced Vouchers (EVs) to tenants in such properties to enable them to afford to remain in their homes. Enhanced vouchers pay the difference between 30% of the tenant's income and the new rent, even if that rent is higher than the PHA's payment standard. Tenants have a right to remain in their apartments after conversion to market rents and owners must accept enhanced vouchers. If a tenant with an enhanced voucher moves to another property, the enhanced voucher converts to a regular voucher and the unit they occupied is unfortunately no longer affordable to any lower-income household (see the *Tenant Protection Vouchers* section of this *Advocates' Guide*).

Section 8 PBRA Contract Renewal: Mark-to-Market and Mark-Up-to-Market

Every Section 8 Housing Assistance Payment (HAP) contract was issued with a finite term, typically for 1, 5, 20, or 40 years. These contracts were fully funded at inception for the estimated cost over the entire term. When HAP contracts began to expire in large numbers in the mid-1990s, it became clear that comprehensive legislation, along with funding, was needed to prevent a massive upheaval due to loss of affordability.

The resulting statutory provisions governing renewal of Section 8 PBRA contracts (as well as Mod Rehab contracts) were defined in the Multifamily Assisted Housing Reform and Affordability Act of 1997 (MAHRA). HUD's operational guidance on MAHRA renewals is contained in the Section 8 Renewal Guide, which is organized around five Options, some of which have sub-options. A detailed description of the MAHRA renewal options is beyond the scope of this article, but the basic principles of MAHRA can be summarized as follows:

- HUD must renew all project-based Section 8 contracts if the owner elects, *subject to annual appropriations*.

- Multi-year contracts are permitted; a minimum five-year term is required for Mark-Up-to-Market contract renewals.
- Since any contract that is renewed for more than one year is subject to annual appropriations, HUD must provide a new funding increment each year, out of current appropriations made by Congress. Since the enactment of MAHRA, Congress has ultimately provided this funding, notwithstanding some occasional timing delays.

  Certain properties with below-market contract rents may increase rents to market level at renewal (Mark-*Up*-to-Market or (Mark-Up-to-Budget).
- If contract rents are above market at the time of renewal, then:
  - If the property has an FHA-insured loan, rents must be reduced to market, and the debt is restructured (Mark-*to*-Market); and
  - If the property has non-FHA financing or is a Section 202 property, over-market rents may continue after renewal (Exception Properties).
- Future annual rent adjustments vary according to the renewal scenario selected by the owner.

Regarding Mark-to-Market: As noted, some FHA-insured properties with expiring project-based Section 8 contracts have rents that exceed market rents. This may be due to current market conditions and is also often a programmatic consequence of the early use of Section 8 as a production tool. Upon contract renewal, HUD is required to reduce rents in properties with FHA-insured mortgages to market level, creating a cash crunch for those properties and potentially putting their FHA-insured mortgages at risk of default. To address this problem, Congress enacted the Mark-to-Market Program in 1997. Owners of eligible properties must either go through the Mark-to-Market Program, renew at lower market rents, or opt out. In the Mark-to-Market Program, an owner has two options:

- Choose to have the mortgage restructured to be able to afford to operate and maintain the property with lower market rents. In exchange for this mortgage restructuring, an owner agrees to accept Section 8 rent subsidies for an additional 30 years, or
- Choose to renew the Section 8 contract for one year with Section 8 rents reduced to market without undergoing a mortgage restructuring.

HUD is also able to raise contract rents to market levels upon contract renewal for properties in high-cost areas through the Mark-Up-to-Market Program. Contract renewals of at least five years are required in Mark-Up-to-Market, which provides a needed incentive for owners to renew their participation in the Section 8 program when private-sector rents are high. These contract renewals also provide a source of revenue for capital improvements.

Beginning in May of 1999, HUD began the process of transferring the administration of Section 8 contracts to third party Contract Administrators (CA). The CA's responsibilities were identified in HUD Notice H 99-36 and initially applied to some 16,000 contracts under 24 CFR parts 880-886. Specific tasks the CAs perform include:

1. Conduct management and occupancy reviews;
2. Adjust contract rents;
3. Process HAP contract terminations or expirations;
4. Pay monthly vouchers from Section 8 owners;
5. Respond to health and safety issues;
6. Submit Section 8 budgets, requisitions, revisions, and year-end statements;
7. Submit audits of the CA's financial condition;
8. Renew HAP Contracts;
9. Report on CA operating plans and progress; and
10. Follow-up and monitor results of physical inspections of Section 8 properties.

There currently are 53 third-party CAs operating across the country who are HUD's primary providers for overseeing compliance, renewing rental contracts, and managing tenant interactions.

Troubled Properties

HUD multifamily properties may be at risk when a property is in poor financial or physical condition. An owner in default on a HUD-assisted mortgage could result in termination of the Section 8 subsidy through HUD's foreclosure and property disposition process. Since 2005, however, Congress has used appropriations acts to renew the "Schumer Amendment," which requires HUD to maintain a project-based Section 8 contract at foreclosure or disposition sale if the property is in viable condition. If not viable, HUD can, after consulting tenants, transfer the Section 8 subsidy to another property.

Another risk is that HUD may terminate a Section 8 contract mid-term or refuse to renew the Section 8 contract if there is a serious violation of the terms of the Section 8 Housing Assistance Payment contract. Appropriations act provisions since FY06 have allowed HUD to transfer project-based assistance, debt, and use restrictions from properties that are physically obsolete or not financially viable to another project. Residents must be notified and consulted.

Resident Participation in Project-Based Section 8 Rental Assistance

Congress and HUD have acknowledged that active resident participation in the operation of HUD-subsidized properties is essential to the success of assisted properties. Tenants are closest to the harm perpetuated by poor housing policies and often have institutional knowledge that other stakeholders lack. Residents and resident organizations have played a vital role in highlighting systematic conditions and administrative issues at assisted properties and proposing solutions. Resident organizations also play an important role in informing and educating their neighbors about the federal housing programs and for building collective power. Resident engagement and participation can ensure that tenants play an integral role in preserving the property, promoting services benefiting all residents, and furthering the goal of creating a more just housing system.

Overview

HUD tenants' right to organize is based on law at 12 U.S.C. § 1715z-1b and spelled out in regulations at 24 CFR Part 245, Subpart B, which require owners of privately owned, HUD-assisted multifamily housing to recognize tenant organizations. A legitimate tenant organization is one established by tenants that represents all tenants, operates democratically, meets regularly, and is completely independent of owners and management. The regulations recognize the rights of tenants to distribute leaflets, canvass, post notices, and convene meetings without management present and without prior notice or permission from management. Residents can invite outside organizers to assist them. HUD-funded organizers have the right to go into a building without a tenant invitation to help residents organize.

Unlike the Section 964 regulations for Public Housing, the Section 245 regulations do not require a specific structure, written bylaws, or even elections for a tenant association to be "legitimate," as long as the "organic" tests are met: the group meets regularly, operates democratically, represents all tenants, and is completely independent of owners. This allows "early stage" tenant organizing committees to demand recognition as legitimate tenant groups and to claim their right to organize in the face of common resistance or hostility from private owners and managers.

Over the years, Congress and HUD have expanded the formal process for tenant participation in decisions affecting HUD-assisted housing. For example, HUD must notify tenants about a pending auction or sale of their building if it is owned by HUD or is under HUD foreclosure so that tenants can either submit a purchase offer as a nonprofit or limited-equity cooperative or support purchase by others. Additionally, when owners choose to go into HUD's Mark-to-Market program, HUD is required to notify tenants prior to a first and second tenant meeting so that tenants can comment on the owner's plans to rehabilitate the building and change the financing.

Enforcement

The civil money penalties regulation (24 CFR Part 30) allows HUD to assess fines on owners or management agents for major violations of tenants' right to organize. On June 18, 2010, HUD sent a letter to all owners and management agents highlighting key features of Part 245, emphasizing the right of tenants to organize and repeating the list of protected tenant organizing activities. HUD Notice H 2011-29 and Notice H 2012-21 repeated and elaborated on the content of the June 2010 letter, adding civil money penalties that HUD could impose on an owner or manager failing to comply with Part 245. Notice H 2014-12 revised Notice H 2011-29 and Notice H 2012-21 by adding a tenant appeals process when a decision by the local HUD office concludes that an owner did not violate the tenant participation regulations or other program obligations.

HUD Notice H 2016-05 updated the previous notice regarding filing complaints, added to the list of property types that may be assessed a civil money penalty, and clarified that civil money penalties may be assessed on Project-based Section 8 developments, not just buildings with HUD mortgages. HUD Notice H 2016-05 also elaborated on the responsibility of owners to give priority to meeting spaces that provide physical access to people with disabilities. Additionally, when residents have complaints, the Notice allows tenants to reject "mediation" with owners as an option for resolving complaints because many tenants found mediation unproductive; instead, tenants may seek a ruling by HUD regarding owner infractions.

Other HUD guidance on tenants' right to organize includes HUD's Model Lease, which is applicable to all HUD tenants, and explicitly refers to the regulations' about the right to organize. HUD's Management Agent Handbook 4381.5 Revision 2 requires owners to recognize tenant unions and specifies management practices that would violate tenants' rights and therefore potentially result in HUD-imposed sanctions.

Resident Rights and Responsibilities is a resident-oriented HUD brochure explaining that tenants have the right to organize free from management harassment or retaliation. This brochure must be made available in appropriate languages and distributed annually to all HUD tenants at lease signing or recertification.

HUD Preservation Action

As discussed earlier in this article, properties may lose their subsidy for a variety of reasons. As rental markets become more stressed, preserving the subsidy will be essential to maintaining communities' ability to provide affordable, decent, safe, and sanitary housing.

HUD and communities have several options to consider when working to preserve subsidy contracts. Preservation can be done by utilizing various intervention strategies that can be crafted into a preservation plan. A preservation plan is a coordinated effort to preserve the long-term affordability, quality, and supply of units available to house low-income families. In order to create an effective preservation plan, advocates must understand what is putting the subsidy at risk, the reasons for the owner exiting the program, and the rules governing the program. Below are some intervention strategies for consideration.

- **Increased Unit Rents**: A 2018 HUD report found that properties most at risk of owner opt-out are properties in higher opportunity and/or gentrifying communities with increasing rents and higher home values, as well as properties where the rent is below the surrounding fair market rent (FMR) and ownership is for-profit. If an owner cites low rents or high operating costs as reasons for exiting the program, HUD has several ways to renew the subsidy contract at higher rents. The Multifamily Assisted Housing Reform and Affordability Act of 1997, which includes the Mark-to-Market (M2M) program, provides the general framework for renewing expiring subsidy contracts. As discussed above, M2M allows owners to renew their contracts at its expiration and provides additional incentives for remaining in the program. To learn more about the various contract renewal options, see HUD Section 8 Renewal Guidebook.

- **Early Intervention due to Poor Habitability Conditions:** HUD must ensure assisted housing is decent, safe, and sanitary. And while a good portion of HUD's portfolio is in good condition, the conditions at non-compliant properties have a detrimental impact on assisted families' health and place the subsidy at risk. HUD Notice H 2018-08 describes the various tools HUD can use to bring a property back into compliance after failing a HUD inspection. Often, tenants and advocates have had to push HUD to take one of these additional actions when a property has had a long period of non-compliance. Along with alerting HUD about the poor conditions, advocates have had success getting local jurisdictions to use their authority to have condition defects fixed.
- **Transferring of the Budget Authority:** Where the property cannot be preserved, or the owner chooses to end their participation in the program, HUD can transfer the budget authority from that property to assist another property. There are two vehicles HUD can use to do this-- a Section 8(bb) transfer (codified at 42 U.S.C. § 1437f(bb)) and a general provision of the annual appropriation act (the "Schumer Amendment," section 209 in FY 22). As discussed above, HUD lacks the authority and the funding to expand the size of the project-based Section 8 program. Thus, the ability to transfer the budget authority keeps the budget authority alive and available for continued use. HUD can use section 8(bb) transfers in response to an owner choosing to exit the program or in conjunction with an enforcement action. You can learn more about Section 8(bb) transfers by reviewing HUD Notice H 2015-03.
- **Project-basing Tenant-based Assistance:** When a property's affordability cannot be preserved, Tenant Protection Vouchers (TPV) and Enhanced Vouchers (EV) are provided to eligible assisted families living at the building at the time of the triggering event. Tenants who receive TPVs or EVs can volunteer to participate in the process to "project-base" those vouchers, resulting in a subsidy that mirrors the Project-Based Voucher program. For more information on project-basing TPVs and EVs, see HUD Notice PIH 2013–27 and the *Tenant Protection Vouchers* and *Project-Based Vouche*r articles in this *Advocates' Guide*.
- **Local Preservation Working Groups:** Local preservation working groups are a collective of stakeholders working collaboratively to preserve affordable housing within a jurisdiction. Stakeholders can include tenant organizations, legal aid programs, local housing authorities, state and local government agencies, nonprofits, and other community groups. These local preservation working groups allow stakeholders to proactively plan for changes in the affordable housing stock, share knowledge, and quickly mobilize resources to at-risk properties.

Provisions of the "Consolidated Appropriations Act of 2022"

The "FY22 Consolidated Appropriations Act" has four key provisions affecting project-based programs. These provisions are in the HUD appropriations act's General Provisions section and are not codified in permanent law. Therefore, they must be renewed each year.

1. Section 8 Savings: The savings provided to State housing finance agencies from refunding bonds can be used for social services, professional services essential to carrying out McKinney Act homeless assistance-funded activities, project facilities or mechanical systems, and office systems.
2. Transfers of Assistance, Debt, and Use Restrictions: Authorizes the HUD Secretary to transfer some or all project-based assistance, debt held or insured by HUD, and statutorily required to serve low-income and very low-income use from one or more obsolete

multifamily housing project(s) to a viable multifamily housing project.

3. Management and Disposition of Certain Multifamily Housing Projects: Authorizes HUD to provide direction on HUD's management and disposition of certain multifamily housing projects owned by HUD and requires HUD to maintain a project-based Section 8 contract at foreclosure or disposition sale, unless "infeasible" (this is known as "the Schumer Amendment").
4. Physical Conditions Requirements: Describes HUD's oversight obligations within the PBRA program, and permits HUD to mandate corrective action, contract transfers, or change in management due to failure to meet physical condition standards.

TIPS FOR LOCAL SUCCESS

Subsidized multifamily rental housing can be at risk of leaving the affordable housing stock for any number of reasons, such as an owner's intent to prepay a subsidized mortgage or not renew a project-based rental subsidy contract, or uninhabitable living conditions prompting a HUD foreclosure. Preservation is when action is taken to ensure the federal housing subsidy and affordability restrictions remain in place, preserving long-term housing affordability. Preservation is usually combined with repairs to the property. Often the property is purchased by a new owner who is committed to the long-term affordability of the property and is then renovated and managed along with those values.

Preservation of affordable rental housing is usually undertaken by mission-driven developers, often regional or national nonprofits. The most successful local efforts include early identification of properties at risk of conversion, as well as active partnerships with tenants, local HUD officials, state and local housing officials, and lenders and investors with a shared commitment to preserving affordable rental housing.

Preservation inventories are lists of specific affordable multifamily rental properties in a jurisdiction that can be used to identify and prevent the loss of at-risk properties. These inventories typically focus on dedicated subsidized properties, including those with project-based rental assistance, although affordable unsubsidized units may be covered as well. Preservation inventories may include information on each property's location, age, number of units (affordable and market rate), physical condition, and the year when rent restrictions expire, among other data points. Through proactive monitoring of this information, local jurisdictions can act in a timely manner to try to preserve at-risk properties as part of the affordable stock, allowing time to assemble financing or an incentive package to facilitate the transfer of the property to a mission-oriented owner or encourage the current owner to maintain affordability. Local Housing Solutions provides resources and examples for local governments which wish to create a preservation inventory.

NLIHC and the Public and Affordable Housing Research Corporation created the National Housing Preservation Database, a tool for preserving the nation's affordable rental housing. It provides integrated information on all housing subsidies for each federally subsidized project. It also enables advocates and researchers to easily quantify the supply of federally assisted affordable housing in any geographic area, while at the same time establishing a baseline of subsidized affordable units against which future levels can be measured. The database is available at: http://www.preservationdatabase.org.

WHAT TO SAY TO LEGISLATORS

Advocates should urge legislators to provide sufficient funding to renew all project-based rental assistance contracts for a full 12 months. If Congress moves forward with another long-term Continuing Resolution, explain that an anomaly will be needed to fully fund all project-based rental assistance contracts for the entire year, given necessary adjustments to rental contracts.

Members of Congress also should be asked to support preservation features of the RAD program and improvements to the project-based voucher program to allow housing authorities, developers, and owners to preserve the existing housing stock. In addition, advocates should urge reintroduction of broad legislation to preserve assisted housing that would:

- Provide grants and loans to for-profit and nonprofit housing sponsors to help ensure that properties can be recapitalized and kept affordable.
- Allow owners to request project-based assistance in lieu of enhanced vouchers.
- Protect the rights of states to enact preservation and tenant protection laws that will not be preempted by federal law.
- Ensure that data needed to preserve housing are publicly available and regularly updated and allow for the creation of a single database for all federally assisted properties based on a unique identifier for each property.
- Streamline the process of transferring Project-Based Section 8 contracts under Section 8(bb)(1) of the United States Housing Act of 1937 to ensure no Section 8 budget authority is ever lost.
- Authorize rural housing preservation programs for Rural Development Section 515 properties.

FOR MORE INFORMATION

National Low Income Housing Coalition, 202-662-1530, www.nlihc.org.

National Housing Trust, 202-333-8931, www.nhtinc.org.

National Housing Law Project, 415-546-7000, www.nhlp.org.

National Alliance of HUD Tenants, 617-267-9564, www.saveourhomes.org.

HUD's Multifamily webpage, https://www.hud.gov/program_offices/housing/mfh.

HUD's Section 8 Renewal Policy Guide, https://www.hud.gov/sites/documents/508FIN_CONSOL_GUIDE6_8_17.PDF.

HUD's Multifamily Preservation webpage, https://www.hud.gov/program_offices/housing/mfh/presrv/presmfh.

HUD's Picture of Subsidized Housing, https://www.huduser.gov/portal/datasets/assthsg.html.