

Summary
of the
Quality Housing and Work Responsibility Act of 1998
(Title V of P.L. 105-276)

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Summary of Title V, Public Housing and Tenant-Based Assistance, of the Quality Housing and Work Responsibility Act of 1998

Introduction

This is a summary of the sections of title V of the Quality Housing and Work Responsibility Act of 1998 (1998 Act) which are applicable to *public housing and public housing agency (PHA)-administered Section 8* assistance programs. As a summary, this document does not purport to contain a description of every provision of Title V, but it does provide a thorough overview. A separate document contains a listing of the effective dates and statutorily prescribed rulemaking procedures for the provisions of Title V.

Findings and Purpose - Sec. 502

Congress finds that there 1) is a need for affordable housing; 2) the government has invested over \$90 billion in rental housing for low-income persons; 3) public housing is plagued with problems; 4) the Federal method of oversight of public housing has aggravated the problems; and 5) public housing reform is in the best interests of low-income persons.

The purpose of this title is to: 1) deregulate PHAs; 2) provide more flexible use of Federal assistance to PHAs; 3) facilitate mixed income communities; 4) decrease concentrations of poverty in public housing; 5) increase accountability and reward effective management of PHAs; 6) create incentives and economic opportunities for residents assisted by PHAs to work and become self-sufficient; 7) consolidate the Section 8 voucher and certificate programs into a single market-driven program; 8) remedy the problems of troubled PHAs; and 9) replace or revitalize severely distressed public housing projects.

I. Rent Policies

A. Public housing and Section 8 minimum rents - Sec. 507

Requires that residents pay a monthly minimum rental amount. PHAs may set minimum monthly rental amounts of not more than \$50. Exceptions to the application of the minimum monthly rental amount will apply to any family unable to pay because of financial hardship which include: 1) the family has lost eligibility for or is awaiting an eligibility determination for a Federal, State, or local assistance program, including a family that includes a member who is an alien lawfully admitted for permanent residence; 2) the family would be evicted as a result of the imposition of the minimum rent requirement; 3) the income of the family has decreased because of changed circumstance, including loss of employment; 4) a death in the family has occurred; and 5)

other circumstances determined by the PHA. Bars eviction for 90 days if a family requests a hardship exemption and the PHA determines that the hardship is temporary.

B. Public housing and Section 8 definition of adjusted income; elimination of the public housing 18-month earned income disallowance and substitution of a public housing 12-month earned income disregard or an individual savings account - Sec. 508 and 545

This section establishes mandatory exclusions in determining adjusted income, which generally are similar to current income exclusions. For public housing only, permits PHAs to establish other income exclusions which, unlike current law, are not restricted to earned income exclusions.

Prohibits public housing tenant rent increases as a result of increased income due to employment during the 12-month period beginning on the date the employment began, when the earned income increase is the result of a family member who (1) was unemployed for at least 12 months, (2) is participating in a self-sufficiency program or job training program, or (3) is, or was in the past 6 months, receiving welfare. During the year after the 12-month period, permits a phase-in of not more than 50 percent of the amount of the total rent increase that otherwise would be applicable. In lieu of a disallowance of earned income and upon the request a family that qualifies, a PHA may establish an individual savings account for the purpose of purchasing a home, paying education costs, moving out of public housing, or other purposes promoting self-sufficiency. A current earned income disregard for persons in training programs is replaced by these provisions.

PHAs must require public housing and Section 8 tenant-based families who receive information regarding income, earning, wages, or unemployment compensation from HUD pursuant to income verification procedures to disclose such information to them. Families must consent to the release of income verification information. This requirement does not apply to Section 8 project-based certificate and moderate rehabilitation tenants.

C. Public housing and tenant-based section 8 treatment of income changes resulting from welfare program requirements - Sec. 512(d)

For public housing and tenant-based programs, a resident's monthly contribution to rent will not be decreased where a decrease in income is the result of noncompliance with the conditions of public assistance, or where public assistance is decreased due to an act of fraud by a member of a covered family. Neither a reduction of public assistance due to the expiration of a time limit for a family, nor inability to obtain a job after complying with welfare work requirements, is considered noncompliance with the conditions of public assistance. These requirements will not apply until a PHA receives written notice from the relevant welfare or public assistance agency specifying that a family's benefits have been reduced because of noncompliance with economic self-sufficiency program or work activities requirements, or fraud, and the level of the reductions. Families residing in public housing will have the right to review, if any determinations, through the administrative grievance procedures.

D. Family choice of rental payments for public housing - Sec. 523

Public housing residents are afforded a choice, annually, whether to pay rent based on their income (generally up to 30% rule of the adjusted income), or to pay a flat rent, based on the rental value of the unit. PHAs already administering ceiling rents may continue to do so. Families experiencing hardships may switch from paying flat rents to income based rents. Incomes of families paying flat rents must be reviewed not less than once every three years; incomes of families paying income-based rents must continue to be reviewed once a year.

E. Transitional ceiling rents for public housing - Sec. 519(d)

During the period ending upon the later of the implementation of the capital and operating formulas and October 1, 1999, a PHA may adopt and apply ceiling rents that reflect the reasonable market value of the housing but that are not less than 1) for housing other than housing predominantly for elderly or disabled families or both, 75 percent of the monthly cost to operate the housing of the agency; 2) for housing predominantly for elderly or disabled families, or both, 100 percent of the monthly cost to operate the housing of the agency; and 3) at the option of the PHA, the monthly cost to make a deposit to a replacement reserve. However, the ceiling rent may not be more than 30 percent of a family's adjusted income. During this transition period, if a PHA establishes a rental amount based on a ceiling rent as described above, then when implementing the capital and operating formulas, HUD will take into account any reduction of the per unit dwelling rental income of the PHA resulting from the use of that rental amount in calculating the contributions for the PHA for the operation of public housing.

Again during the transition period, previous authority from the Balanced Budget Act with respect to establishment of ceiling rents and earned income disregards may still be used. If a PHA establishes a rent amount not based on this authority that is less than the rent that would have been required under prior law (generally 30 percent of adjusted income), HUD will not take into account any reduction in the per unit dwelling rental income of the PHA resulting from the use of that rental amount in calculating the contributions for the PHA for the operation of the public housing.

II. Community Service and Family Self Sufficiency

A. Family self sufficiency (FSS) for public housing and Section 8 - Sec. 509

The minimum FSS program size will not increase when a PHA receives additional Section 8 and public housing units. Also, the minimum FSS program size will be reduced one-for-one for each post- 1998 Act FSS graduate fulfilling the contract of participation obligations. PHAs can continue to have programs larger than the required numbers, at their option.

B. Community service requirements for public housing - Sec. 512

Every adult resident of public housing will be required to perform eight hours of community service each month, or participate in a self-sufficiency program for at least eight hours every month. This requirement does not apply to elderly persons, disabled persons, persons already working, persons exempted from work requirements under State welfare to work programs, or persons receiving assistance under a State program that have not been found to be in noncompliance with such a program.

A PHA must determine compliance with the public housing community service requirements once a year, 30 days prior to the expiration of the resident's lease, in accordance with the principles of due process. If the PHA determines that a tenant is not compliant, the PHA must notify that resident of the determination; that the determination is subject to administrative grievance procedures (a court hearing also is not precluded); and that the resident's lease will not be renewed unless the resident enters into an agreement with the PHA to make up the missed hours by participating in a self-sufficiency program or contributing to community service.

C. Linking services to public housing residents - Sec. 538

This section combines the Economic Development, Supportive Services (EDSS), and the Tenant Opportunity (TOP) programs and authorizes HUD to make grants to PHAs or to resident organizations to provide for supportive services and resident empowerment activities designed to assist residents in becoming economically self-sufficient on or near the public housing project. These activities may include physical improvements, the provision of service coordinators or a congregate housing services program for the elderly or disabled, services relating to work readiness, economic and job development, resident management activities and other activities designed to encourage self-sufficiency.

These grants may be awarded on either a competitive or formula basis. Not less than 25% of these funds must be provided directly to resident councils, organizations, and resident management corporations, to the extent there are a sufficient number of qualified applicants. In order to be eligible for such a grant, the agency or organization must match at least 25% of the grant amount with funds from other sources.

D. Cooperative agreements for economic self-sufficiency activities for public housing and tenant-based section 8 - Sec. 512(d)(7)

The PHA must seek out cooperation agreements with other agencies in order to assist the PHA in determining whether residents are complying with the requirements in this section, and to establish services targeting the needs of the residents in public housing and families receiving tenant-based section 8. (Also, see paragraph I. C. above)

III. Income Targeting and Tenant Selection and Assignment

A. Prohibition of concentration of low-income families in public housing - Sec. 513

A PHA may not concentrate very low-income families in public housing units in certain public housing projects or certain buildings within projects. HUD must review the income and occupancy characteristics of the public housing projects and the buildings to ensure compliance. A PHA must submit with its annual PHA plan an admissions policy designed to provide for deconcentration of poverty and income-mixing by bringing higher income tenants into lower income projects and lower income tenants into higher income projects. A PHA may offer incentives for eligible families having higher incomes to occupy dwelling units in projects predominantly occupied by eligible families having lower incomes and provide for occupancy of eligible families having lower incomes in projects predominantly occupied by eligible families having higher incomes. The skipping of a family on a waiting list to reach another family to implement deconcentration is permissible. Admission policies relating to deconcentration must not interfere with the use of site-based waiting lists.

B. Income targeting - Sec. 513

Public Housing:

- Not less than 40% of new families must have incomes at or below 30% of the area median income.
- Other admissions must be at or below 80% of the area median.
- Limited fungibility between the public housing and tenant-based section 8 program targeting requirements. To the extent the PHA exceeds the income targets in the tenant-based program by up to ten percent of that program's size, the PHA may admit that many fewer than 40% (but not less than 30%) of new public housing families at or below 30% of the area median. Fungibility will be allowed only to the extent that relatively higher income families move into public housing units in census tracts having a poverty rate of at least 30% .

Tenant-Based Section 8:

- Not less than 75% of new families must have incomes at or below 30% of the area median income
- Other admissions generally must be at or below 50% of the area median, or up to 80% for families that meet eligibility criteria specified by a PHA.

Project-Based Section 8:

- Like public housing, not less than 40% of new families must have incomes at or below 30% of the area median income.

- The bill retains the current law eligibility limits and "anti-skipping" prohibition (owner cannot skip over the lowest income families on the waiting list in order to reach relatively higher income families). Owners can establish preferences for households with working members.

C. Permanent repeal of federal preferences for public housing and Section 8 - Sec. 514 and 545 [8(o)(6)]

Repeals the mandatory Federal preferences which included applicants involuntarily displaced, living in substandard housing, or paying more than 50% of family income for rent. Authorizes PHAs to develop locally-based admission preferences based upon local housing needs and priorities, using accepted data sources, including public comments from the PHA plan and data from the consolidated plan process.

D. Definitions of single persons and persons with disabilities for public housing and section 8 - Sec. 506

For the purposes of eligibility for low-income housing: deletes the admission preference to single persons who are elderly, disabled, or displaced persons before other single families; and adds to the definition of persons with disabilities that no individual will be considered a person with disabilities solely on the basis of any drug or alcohol dependence.

E. Site-based waiting lists for public housing - Sec. 525

Permits PHAs to establish site-based waiting lists for admissions to public housing projects. Site-based waiting lists would allow applicants to apply directly at or otherwise designate the project or projects in which they seek to reside. Procedures must be in compliance with applicable civil rights laws. Also, PHAs must fully disclose to each applicant any option available in the selection of the project in which to reside.

IV Overall Operations

A. PHA plan for public housing and Section 8 - Sec. 511

Creates a PHA plan requirement that is intended to serve as an operations, planning, and management tool for PHAs. The plan must be developed in consultation with a resident advisory board composed of residents who will make recommendations regarding the development of the PHA plan. The plan must be consistent with the Comprehensive Housing Affordability Strategy (CHAS) for the PHA jurisdiction and include a description of how the contents of the plan are consistent with the applicable CHAS (or consolidated plan).

This provision requires a 5-year plan and an annual plan. The 5-year plan includes a mission statement for serving the needs of low-income and very low-income families in the PHA's

jurisdiction and a statement of goals and objectives of the PHA to serve the needs of those families.

The annual plan must include the following information relating to the upcoming fiscal year: a statement of low-income and very low-income housing needs in the community and how the PHA intends to address these needs; a statement of financial resources and their planned uses; the PHA's general policies governing eligibility, selection, admission, assignment, occupancy, and rents, including the admissions policy for deconcentration of lower-income families; the PHA's policies for the maintenance and operations of the agency; a statement of the PHA's grievance procedures; a plan describing any capital improvements; a description of any housing to be demolished or disposed of; a description of any developments that are or proposed to be designated for elderly or disabled; a description of any properties to be converted to tenant-based assistance; a description of any homeownership or community service and self-sufficiency programs; a description of policies for safety and crime prevention; a statement of the PHA's pet policies; a certification of compliance with fair housing laws; an annual audit; and a statement of how the PHA will carry out its asset management functions. Plans may be amended or modified and significant modifications are subject to public hearing requirements, board of directors approval, and must be submitted to HUD.

The initial 5-year plan must be submitted by the PHA for the 5-year period beginning on October 1, 1999. After submission of the initial plan, annual submissions must be submitted not later than 75 days before the start of the fiscal year of the PHA and must include a plan update, including any amendments or modifications to the agency's plan.

To the extent HUD considers necessary, HUD must review a PHA plan and determine whether the contents of the plan are complete, consistent with information and data available to HUD, and are not prohibited by or inconsistent with any applicable laws. HUD may, by regulation, provide that one or more elements of a PHA plan must not be reviewed unless the element is challenged. However, HUD must review the information submitted in a plan about the public housing admissions policy for deconcentration of lower-income families, public housing demolition or disposition plans, and civil rights certifications. Not later than 75 days after submission of a PHA plan, HUD must provide written notice to the PHA if the plan has been disapproved and the reasons for disapproval. Otherwise a PHA plan will be deemed approved (but still subject to applicable court challenge).

HUD may require troubled and at-risk agencies to include additional information in the PHA plan. HUD may establish a streamlined PHA plan for high-performing PHAs, those with fewer than 250 public housing units, and those that only administer tenant-based assistance.

B. Public Housing Capital and Operating Funds for public housing

Contributions of lower income housing projects - Sec. 518

Requires HUD to notify local government of amounts for use for the development of any housing or other property not previously used as public housing.

Public housing capital and operating funds - Sec. 519

Creates public housing capital and operating funds. For the capital fund, requires HUD to develop a formula which must include a mechanism to reward performance. For the operating fund, requires HUD to develop a formula which provides an incentive to encourage PHAs to facilitate increases in earned income by families. Beginning in FY 2000, allows 20 percent of the capital fund to be used for eligible activities under the operating fund. Effective upon the date of enactment, allows non-troubled PHAs with less than 250 public housing units full flexibility between capital and operating funds. In other words, small non-troubled PHAs are allowed to use capital or operating amounts for eligible capital or operating activities.

Limits the amount of funds from the capital and operating fund that may be used for new construction, by prohibiting use of such funds where new construction would result in a net increase from the number of public housing units owned, assisted, or operated by the PHA. Any public housing units demolished as part of any revitalization effort, however, would count in this base number. A PHA may exceed the new construction limit by using capital and operating funds, as long as additional funding for new construction is not provided from these funds. HUD may also, subject to reasonable limitations, authorize additional capital and operating funds for mixed finance projects where units would cost less over time than vouchers.

PHAs generally must obligate capital funds within 24 months of the date funds become available to the PHA for obligation or the date adequate funds are available to undertake modernization, substantial rehabilitation, or new construction of units. HUD may extend this time period for various reasons, including litigation, relocating residents, an event beyond the control of the PHA, and other reasons established by HUD by notice published in the Federal Register, such as the need to accumulate funds for replacement housing. PHAs which do not meet these requirements will not be awarded capital funding for any month during any fiscal year in which they are in violation. PHAs that come into compliance will be provided with the share of funds attributable to the months remaining in the year. Funds not allocated to PHAs because of this requirement will be redistributed to high performing PHAs. Generally, PHAs must expend funds within 4 years from the date on which funds become available. To enforce this provision, HUD may use default remedies up to and including withdrawal of funding.

To the extent appropriated, amounts may be used for technical assistance, training, data collection, contract expertise and technical assistance to PHAs designated as troubled or at risk of being designated as troubled.

Beginning in FY 2000, HUD may set aside up to two percent of the total amount in the capital and operating funds for emergencies, other disasters, technical assistance, and housing needs resulting from any settlement of litigation. This set aside may be used for eligible activities under the capital and operating funds, or tenant-based assistance. Also, up to \$20 million may be

set aside for Operation Safe Home. HUD may not carry over more than \$25 million from this set aside.

A PHA that receives income from nonrental sources may retain and use that income, for low-income housing or to benefit the residents of the agency, without any decrease in the amounts received from the capital or operating formula amounts.

As determined by HUD, a PHA may commit capital assistance only, or operating assistance only, for public housing units. HUD may shorten the required terms of assistance and for operating assistance only, may apply section 8 rules.

The capital and operating fund formulas must be implemented through negotiated rulemaking. Until then, HUD will provide modernization and operating funds in the same way as before enactment of the 1998 Act.

C. Sanctions for improper use of amounts for public housing - Sec. 521

For PHAs which fail to comply substantially with capital and operating program requirements, HUD may terminate assistance; withhold assistance; reduce future assistance amounts; limit the availability of assistance to certain activities; withhold assistance allocated under section 8 of the USHA of 1937; or order other corrective action.

D. Pets for public housing - Sec. 526

Allows residents to have one or more common household pets, subject to the reasonable requirements of the PHA. In particular, PHAs may prohibit pets that are classified as dangerous and prohibit pets in certain kinds of buildings or developments. Also, residents must keep their pets responsibly.

V. Resident Management Issues

A. Resident councils and resident management corporations for public housing - Sec. 532

Makes conforming changes to public housing resident management.

B. Transfer of management of certain public housing to independent manager at request of residents - Sec. 534.

Permits HUD to transfer management responsibility of a public housing project or projects from a PHA to an eligible management entity, where the residents of the project request such a transfer in accordance with this section, and where HUD finds that there has been mismanagement of the project, the project is subject to recurrent vandalism and criminal activity, and the residents can demonstrate that new management can remedy these problems. Capital and operating

assistance would be made available to the new management entity, and the new manager would be required to comply with the approved PHA plan.

VI. Stock Management and Reconfiguration

A. Demolition and disposition of public housing - Sec. 531

This section streamlines the application requirements for demolition and disposition and eliminates the requirement that a PHA replace, on a one-for-one basis, every unit that a PHA disposes of or demolishes. To demolish or dispose of a public housing project or portion of a public housing project, a PHA must certify that the project is obsolete, not cost-effective to operate and in the case of partial demolition, will help ensure the viability of the remaining portion of the project. The PHA must authorize the demolition or disposition in the PHA plan. HUD is required to disapprove an application for demolition or disposition if it determines that any certification made by the PHA is clearly inconsistent with the information available to HUD or data or information requested by HUD, and if the application was not developed in consultation with the affected residents or resident advisory board.

Families must be notified 90 days before the displacement date, except in cases of imminent threat to health or safety, and demolition will not start until families have been relocated. The Uniform Relocation Act (URA) is not applicable to this section, but the section contains tenant protections similar to those found in the URA.

Also, this section: 1) to pay off outstanding obligations, or if HUD waives that requirement, proceeds may be used in addition for leveraging amounts for securing commercial enterprises on-site in public housing projects or for meeting other low-income housing as resident needs; 2) provides residents with the opportunity to purchase developments in the case of proposed dispositions - not demolitions; 3) permits any public housing replacement units to be built on the same site or in the neighborhood, but only if the number of such replacement units is significantly fewer than the number of units demolished; 4) permits the consolidation of occupancy within or among buildings; 5) permits a PHA to demolish the lesser of 5 dwelling units or 5 percent of the total dwelling units owned by the PHA in any 5-year period, where the demolished space was used for meeting the service or other needs of the residents, or the demolished unit was beyond repair; and 6) authorizes HUD to use tenant-based assistance for relocation and replacement housing for units that have been demolished or disposed of from the public housing inventory.

B. Total development costs for public housing - Sec. 520

Amends the definition of development cost to exclude any costs associated with the demolition of, or the remediation of environmental hazards associated with, public housing units that will not be replaced on the project sites.

In calculating total development costs under Section 6(b) of the USHA of 1937, only capital assistance provided by HUD to a PHA for use in connection with the development of public housing may be considered. All other amounts will be excluded from this calculation, including amounts provided under the HOME investment partnerships program and the CDBG program. HUD may limit the amount of capital funds that a PHA may use for housing construction costs, including hard costs to construct units, builders' overhead and profit, utilities from the street, and landscaping. In a floor colloquy, the bill's sponsors clarified that HUD should require indices such as the R.S. Means cost index for construction of "average" quality and the Marshall and Swift cost index for construction of "good quality".

C. Conversion of public housing to vouchers; repeal of family investment centers - Sec. 533

Repeals Family Investment Centers and replaces it with a new section allowing the conversion of public housing to vouchers.

Allows a PHA to convert any public housing project owned by the PHA to tenant-based assistance if after conducting a conversion assessment, the PHA determines that conversion will not be more expensive than continued operation of the housing project, will benefit the residents of the housing project, and will not adversely affect the availability of affordable housing in the community. Every PHA must conduct, and submit to HUD, a conversion assessment no later than two years after the effective date of the 1998 Act. A conversion assessment must include a cost analysis of whether providing tenant-based assistance is less expensive than continuing public housing assistance, an analysis of the market value of the public housing project before and after rehabilitation and conversion, an analysis of the rental market and the likely success of the use of tenant-based assistance, the impact of conversion on the neighborhood, and a plan of action for conversion. HUD may waive the assessment requirement or allow for a streamlined assessment. Conversion may only occur as provided in a conversion plan, which must include provisions that the PHA will notify all impacted residents, offer comparable housing, offer any necessary counseling, pay relocation expenses, and ensure that if the project converted is used for housing after the conversion, each resident may choose to remain.

D. Demolition, site revitalization, replacement housing, and tenant-based assistance grants for public housing projects - Sec. 535

This section rewrites section 24 of the USHA of 1937 involving the revitalization of distressed public housing, and thus authorizes what has been the HOPE VI program. This program allows HUD to provide competitive grants to PHAs for demolition of obsolete projects, site revitalization and replacement housing, including tenant-based assistance. Severely distressed public housing means a public housing project (or building of a project) that: 1) requires major redesign, reconstruction or redevelopment, or partial or total demolition, to correct serious deficiencies in the original design (including inappropriately high population density), deferred maintenance, physical deterioration or obsolescence of major systems; 2) is a significant contributing factor to the physical decline of and disinvestment by public and private entities in the surrounding neighborhood; 3) is occupied predominantly by families who are very low-income

families with children, are unemployed, and dependent on various forms of public assistance, or has high rates of vandalism and criminal activity in comparison to other housing in the area; 4) cannot be revitalized through assistance under other programs because of cost constraints and inadequacy of available amounts; and 5) in the case of individual buildings, is, in HUD's determination, sufficiently separable from the remainder of the project, of which the building is part, to make sure of the building feasible. However, if there is a project as described above that has been legally vacated or demolished, but for which HUD has not yet provided replacement housing assistance other than tenant-based assistance, such a project would also meet the definition of severely distressed public housing.

The selection criteria will include factors such as: 1) the capacity of the PHA for managing redevelopment projects, meeting construction timetables, and obligating amounts in a timely manner 2) the need for affordable housing; 3) the supply of other housing available and affordable to voucher holders; and 4) the amount of funds and other resources to be leveraged by the grant; and 5) the local impact of the proposed revitalization.

A PHA must contribute 5% of the grant amount. This "soft" match requirement may include funds from other sources, the value of donated material, building, time, services, and other in-kind services. A grantee that uses more than 5% for services must provide supplemental funds from sources other than this section in an amount equal to the amount used in excess of 5%. Not more than 15% of the amount of any grant may be used for supportive services. Certain selection criteria need not apply when awarding demolition only grants, tenant-based assistance only, or other specific categories of revitalization activities. Any severely distressed public housing demolished pursuant to a revitalization plan will not be subject to the demolition requirements of section 18 of the USHA of 1937. In the administration of the program, HUD could require a grantee to make arrangements to use an entity other than the PHA to carry out the activities assisted under the revitalization plan. HUD must withdraw any grant amount if a PHA has not obligated funds within a reasonable time frame. Such amounts must be redistributed to other capable entities. This program is authorized through FY 2002.

E. Mixed-finance public housing - Sec. 539

This section allows PHAs to own, operate, or assist in the development of mixed-finance projects. A PHA may provide capital assistance to a mixed finance project in the form of a grant, loan, guarantee, or other form of investment in the project. This may involve drawdown of funds on a schedule commensurate with construction draws for deposit into an interest-bearing escrow account to serve as collateral or credit enhancement for bonds issued by a PHA, or other forms of public or private borrowing, for the construction or rehabilitation of the development. Mixed finance projects must be developed, operated, and maintained in accordance with public housing requirements, unless otherwise specified. The proportion of public housing units to total units should equal the proportion of public housing financial commitment to total financial commitments in the mixed-finance project. A PHA may elect to subject all public housing units in a mixed-finance project to local real estate taxes. The rents charged to the residents of public housing units in a mixed finance project that is assisted with low-income housing tax credits, may

be set at levels not to exceed the amounts allowable under that section, provided that such levels do not exceed the amounts otherwise allowable for public housing. Where a PHA is unable to fulfill its contractual obligations to a mixed-finance development as a result of a reduction in appropriations for capital or operating funds, the entity that owns or operates the development may deviate (under regulations developed by HUD) from otherwise applicable restrictions governing public housing rents and income eligibility to the extent necessary to preserve the viability of the units.

To the extent HUD deems appropriate, to facilitate the development of socioeconomically mixed communities, a PHA that uses assistance from the capital fund for a mixed finance project, to the extent that income from such a project reduces the amount of assistance used for operating or other public housing costs, may use such resulting savings to rent privately developed dwelling units in the neighborhood of the mixed-finance project. Such units must be made available for occupancy only by low-income families eligible for residency in public housing.

F. Required conversion of distressed public housing to tenant-based assistance - Sec. 537

This section requires each PHA, in consultation with residents and the local government, to identify public housing projects that are distressed and develop a plan for removal of such projects over a five-year period, which may be extended by an additional 5 years if HUD determines that such a deadline is impracticable. PHAs must use HUD guidelines that have been established after taking into account the criteria established by the National Commission on Severely Distressed Public Housing, in determining which projects are distressed. Where the PHA fails to adequately develop or implement a plan for removing distressed properties from the public housing inventory, HUD is required to take actions to ensure the removal of such units. To the extent approved in advance in appropriations Acts, HUD must provide assistance to families residing in any public housing project that is removed from a PHA's inventory. PHAs are required to provide displaced families with notification of the elimination of the distressed projects, any necessary counseling, and actual and reasonable relocation costs. PHAs are also required to offer each displaced family comparable housing, including tenant-based assistance, project-based assistance, or units in another public housing project. HUD may require cessation of unnecessary spending until HUD determines an appropriate course of action, in the case of projects likely to meet the criteria of this section. If a project meets the criteria of removal under this section, HUD may authorize or direct the transfer of remaining modernization funds of the project to tenant-based assistance or appropriate site revitalization or other capital improvements. Section 18 will not apply to the demolition of public housing projects removed from the inventory of a PHA under this section.

The parallel language to this section found in section 202 of the Departments of Veteran Affairs and Housing and Urban Development, and Independent Agencies Appropriations Act of 1996 is repealed. However, that section and the current regulations will continue to apply to public housing developments identified by HUD or a PHA for conversion or for assessment prior to enactment.

G. Homeownership programs - Sec. 536

Authorizes HUD to design homeownership programs for sale of public housing and other units to public housing residents, to entities for resale to residents or other low-income persons, or directly to low-income persons. Entities must sell the units to low-income families within 5 years after acquisition and net proceeds from the resale and from managing the units, must be used for housing purposes. PHAs must initially offer the public housing units to the resident occupying the unit, or to an organization serving as a conduit for sales to any such resident.

Protections are offered to nonpurchasing residents including: 1) notification of displacement; 2) offering of comparable housing that meets housing quality standards, located in areas that are generally not less desirable than the location of the displaced resident's housing, and may include tenant-based assistance, project-based assistance, or other public housing; 3) provision for payment of the actual and reasonable relocation expenses of the displaced resident; and 4) provision of counseling.

Downpayments must come from a family's own resources, which may include grant amounts, gifts from relative, or private sources, however, at least one percent of the purchase price must come directly from family's resources. PHAs may devise methods which permit recapture of some of the economic gain at resale, but not more than the amount of assistance provided once five years have elapsed. Net proceeds of any sales must be used for low-income housing purposes. PHAs may provide assistance to residents to facilitate their ability to purchase housing, from the capital fund. The public housing demolition and disposition requirements are not applicable to this section.

H. Joint ventures and consortia of PHAs - Sec. 515

Any two or more PHAs may form a consortium to administer any or all of the housing programs of those PHAs. Any assistance otherwise paid to each PHA must be paid to the consortium. All planning and reporting must be consolidated and the consortium must submit and follow a joint public housing agency plan. A PHA may also form and operate wholly owned or controlled subsidiaries and other affiliates, form joint ventures and other business arrangements to administer the programs of the PHA or to provide for supportive or social services. Any income derived from such activities must be used for low income housing or to benefit the residents assisted by the PHA and will not result in a decrease of assistance provided to the PHA, except as otherwise provided under the capital and operating formulas.

I. PHA mortgages and security interests for public housing - Sec. 516

HUD may authorize a PHA to mortgage otherwise grant a security interest to any public housing project or other property of the PHA.

VII. Section 8 Rental and Homeownership Assistance

A. Merger of the Section 8 certificate and voucher programs - Sec. 545

The Section 8 certificate and voucher program are merged into one tenant-based program called Section 8 vouchers. The new vouchers have features of the certificate and old voucher programs, plus new requirements. A summary of the new voucher program follows.

1. Payment standards. The subsidy amount is based on a payment standard set by the PHA anywhere between 90% to 110% of FMR. HUD may approve payment standards lower than 90% of FMR and payment standards higher than 110% of FMR. HUD may require PHA payment standard changes because of incidence of high rent burdens. [§545: §8(o)(1)(B),(D)&(E)]

2. Tenant rent. A family renting a unit below the payment standard pays the higher of 30% of monthly adjusted income, 10% of monthly income, or the welfare rent. There is no voucher shopping incentive. A family renting a unit above the payment standard pays the higher of 30% of monthly adjusted income, 10% of monthly income, or the welfare rent, plus the amount of rent above the payment standard. [§545: §8(o)(2)(A)&(B)]

3. Maximum initial rent burden. A family must not pay more than 40% of income for rent when the family first receives the subsidy in a particular unit. (This maximum rent burden requirement is not applicable at reexamination if the family stays in place.) [§545: §8(o)(3)]

4. Income limits. Eligibility is limited to a:

- very low-income family
- low-income family previously assisted under the public housing, Section 23, or Section 8 programs.
- low-income family that is a nonpurchasing tenant of certain homeownership programs
- low-income tenant displaced from certain Section 221 and 236 projects
- low-income family that meets PHA-specified eligibility criteria

[§545: §8(o)(4)]

5. Optional PHA screening of applicants. Although the screening and selection of tenants will remain a function of the owner, the PHA also may elect to screen applicants in accordance with any HUD requirements. [§545: §8(o)(6)(B)]

6. Optional PHA disapproval of owners. The PHA may refuse to enter into new Section 8 HAP contracts with owners who refuse (or have a history of refusing) to evict families for drug-related or violent criminal activity, or for activity that threatens the health, safety or right of peaceful enjoyment of the premises by tenants, PHA employees or owner employees, or the residences by neighbors. [§545: §8(o)(6)(C)]

7. Initial lease term. The PHA may approve an initial lease term of less than 1 year if a lease of less than 1 year is prevailing local practice and the PHA determines that the shorter term will improve housing opportunities for the family. [§545: §8(o)(7)(A)]

8. Lease form and content. The lease form must be in the standard form used in the locality by the owner. The lease must contain terms that are consistent with State and local law, and that apply generally to unassisted tenants in the same property. The lease may contain the HUD prescribed lease addendum. [§545: §8(o)(7)(B)&(F)]

9. Termination of tenancy. "Violent criminal activity on or near the premises" is added to the statutory termination of tenancy provisions. [§545: §8(o)(7)(D)]

10. HQS. Units must pass the federally established HQS or substitute local housing codes or codes adopted by PHAs. Substitute local housing codes or codes adopted by PHAs (1) cannot severely restrict housing choice and (2) must meet or exceed the HQS (unless HUD approves a lower standard that does not adversely affect the health or safety of families, and will significantly increase affordable housing access and expand housing opportunities). [§545: §8(o)(8)(B)]

11. 15 day initial HQS inspection deadline. PHAs with 1250 or fewer tenant-based Section 8 units must conduct initial HQS inspections within 15 days of the owner's inspection request. PHAs with more than 1250 tenant-based Section 8 units must conduct initial HQS inspections within a "reasonable period" of the owner's inspection request. The PHA assessment system for tenant-based assistance (currently the Section 8 Management Assessment Program) must incorporate this PHA performance standard. [§545: §8(o)(8)(C)]

12. PHA penalties for late payment of housing assistance to owners. The housing assistance payment (HAP) contract may provide for PHA penalties for late payment of the housing assistance payment to the owner. Any late payment penalties must be imposed by the owner in accordance with generally accepted practices in the local housing market. For example, an owner could charge the PHA a late fee if the housing assistance payment is not received by the 5th day of the month if it is local practice that tenants are charged a late fee when the rent has not been paid-in-full by the 5th day of each month. A late payment fee must be paid from the PHA's administrative fee unless HUD authorizes payment from another source. No late fee may be charged if HUD determines that the late payment is due to factors beyond the control of the PHA (e.g., late receipt of the Section 8 funds from Treasury). [§545: §8(o)(10)(D)&(E)]

13. HQS inspections and rent reasonableness determinations for PHA-owned units. The local government or another entity approved by HUD must conduct HQS inspections and rent reasonableness determinations for PHA-owned units leased by voucher holders. The PHA must pay any expenses associated with the performance of such inspections and rent determinations. [§545: §8(o)(11)]

14. Subsidy amount for manufactured homeowners leasing pads. The subsidy amount for expenses associated with leasing the pads are revised to mirror the subsidy calculation method for families leasing "regular" units. [§545: §8(o)(12)]

15. Project-based vouchers. Project-based assistance is authorized for up to 15% of the PHA's certificates and vouchers. The prior exception allowing additional project-based assistance and special HAP contract terms for certain State assisted projects is eliminated. Initial and any annual rent adjustments are subject to a rent reasonableness determination. [§545: §8(o)(13)]

16. Witness relocation funds. PHAs that receive witness relocation funds must have procedures for notifying potential recipients of funding availability. [§545: §8(o)(16)]

17. Deed restrictions. Voucher assistance may not be used in any manner that "abrogates any local deed restriction that applies to any housing consisting of 1 to 4 units". The Fair Housing Act explicitly applies. [§545: 8(o)(17)]

B. Section 8 PHA definition - Sec. 546

For the administration of tenant-based assistance only, a "PHA" includes (1) a consortia of PHAs, (2) a nonprofit entity administering certificates or vouchers under a contract with a PHA or HUD on 10/1/99, and (3) a nonprofit entity administering the tenant-based programs under a contract with HUD post 10/1/99 because HUD determines there is no PHA organized, the PHA is not performing effectively, or the PHA is unable or unwilling to administer the tenant-based programs.

C. Section 8 administrative fees - Sec. 547

The administrative fee system authorized previously was made permanent law, with the exception that effective 10/1/98, the administrative fee will be increased from 7.5 percent to 7.65 percent of the base amount for the first 600 certificate, voucher, and moderate rehabilitation units.

D. Section 8 "endless lease" and owner termination notices - Sec. 549

The "endless lease" provision and the 90-day owner termination notice for tenant-based assistance is permanently eliminated. The content and timing of the project-based certificate and moderate rehabilitation owner termination notices have been revised. In addition to the tenant notification 12-months prior to contract termination, an owner must provide an additional written termination notice, not less than 120-days prior to the termination, if an owner decides to terminate a contract. If an owner does not provide the 120-day notice, the owner may not evict the tenants or increase the tenants' rent payments until such time as the owner has provided the 120-day notice and such period has elapsed.

E. Technical and conforming amendments including elimination of Section 8 SRO approvals - Sec. 550

Among a series of technical and conforming amendments, the requirements for a HUD determination of a significant demand for single room occupancy (SRO) units, PHA and local

government approval of SRO use, and a PHA and local government certification that the SRO meets local SRO health and safety standards, have been eliminated.

F. Elimination of certain funding application comment requirements and nonmetro funding setasides - Sec. 551

The requirements for comments from local governments in non-housing assistance payment (HAP) communities on applications for Section 8 funding and the nonmetropolitan funding setaside, imposed by section 213 of the Housing and Community Development Act of 1974, were eliminated.

G. Requirement for access to Section 8 project-based housing common areas by police officers - Sec. 552

HUD may not provide section 8 subsidies to, or renew contracts of, owners who refuse to allow local law enforcement agencies to enter common areas at any time, and without advance notice, if there is probable cause of criminal activity in the project receiving project-based Section 8 assistance.

H. Portability - 553

Nationwide portability to any area where the voucher program is operational is mandated for the new voucher program. PHAs may opt to require applicants who were nonresidents at the time of application to live in the PHA's jurisdiction during the first year. PHAs must not issue a participant a voucher for a portable move if the family has moved out of the unit in violation of the lease.

I. Elimination of "take-one, take-all" provision - Sec. 554

The "take-one, take-all" provision is permanently repealed. This provision required that an owner who entered into a Section 8 housing assistance payment (HAP) contract on behalf of any tenant in a multifamily housing project could not refuse to lease otherwise affordable units in all multifamily projects of the owner if the reason for the refusal was that the family was a certificate or voucher holder.

J. Section 8 homeownership - Sec. 545: Sec.8(o)(15) & Sec. 555]

PHAs may opt to implement a Section 8 tenant-based homeownership program. A demonstration program is authorized. Other changes (such as elimination of downpayment and recapture provisions) were made to the voucher homeownership statute to provide local flexibility and needed improvements. (HUD had determined that the voucher homeownership legislation was unworkable.)

K. Tenant-based assistance renewal funding process - Sec. 556

The law requires HUD to establish the renewal funding process for tenant-based assistance in a regulation. Beginning October 1, 1998, HUD must renew expiring certificate and voucher ACCs by applying a localized inflation factor to an allocation baseline that includes, at a minimum, "amounts sufficient to ensure continued assistance for the actual number of families assisted on October 1, 1997, with appropriate upward adjustments for incremental assistance and additional families authorized subsequent to that date".

L. Section 8 moderate rehabilitation project renewals - Sec. 597

PHAs must extend for one year the project-based HAP contracts for non-SRO, non-market multifamily moderate rehabilitation projects at contract rents that are the lower of (1) current rents adjusted by HUD's operating cost adjustment factor, (2) comparable rents, or (3) Fair Market Rents less any amounts allowed for tenant-purchased utilities.

M. Tenant participation in multifamily Section 8 moderate rehabilitation projects, project-based certificate projects, and preservation projects with enhanced vouchers - Sec. 599

Owners of multifamily Section 8 moderate rehabilitation projects, project-based certificate projects, and preservation projects with tenants who began receiving enhanced voucher assistance on or after 10/1/97 must not "interfere with the efforts of tenants to obtain rent subsidies or other public assistance" and must not "impede the reasonable effort of resident tenant organizations to represent their members or the reasonable efforts of tenants to organize".

VIII. Home Rule Flexible Grant Demonstration for Public Housing and Section 8 - Sec. 561

Allows HUD to carry out a demonstration program with up to 100 local jurisdictions to take over and flexibly administer public housing and tenant-based section 8 funds for one to five years in order to design creative approaches to providing housing assistance. These jurisdictions may not be served by housing authorities that are high performers based on the most recent PHMAP scores, or that have PHMAP scores that are among the highest 60% of the scores of all housing authorities. Not more than 55 of the jurisdictions can be served by housing authorities that are designated as troubled, and not more than 45 that are designated as not troubled. HUD may waive any terms and conditions which would have applied to the PHA where necessary, except regarding the eligibility of low-income families, income eligibility and targeting of assistance, rental payments for public housing families, demolition and disposition, and limits on the amount of rent paid by families with tenant-based assistance.

The jurisdiction may combine funds made available for activities eligible under the programs of tenant based assistance and capital and operating assistance of the U.S. Housing Act of 1937 in order to facilitate the transition of families to work, to reduce homelessness, to increase homeownership, and for other purposes determined by the jurisdiction. The participating jurisdiction must assist substantially the same number of families which would have otherwise

been assisted, and the amount of funds made available to a home rule jurisdiction must be equal to the amount of housing assistance that would have been available to the PHA.

IX. Accountability and oversight of PHAs

A. Housing quality requirements for public housing - Sec. 530

Public housing must be maintained in a condition that complies with standards which meet or exceed federally established housing quality standards. These standards must include requirements relating to habitability, including maintenance, health, and sanitation factors, condition and construction of dwellings, and to the greatest extent practicable be consistent with section 8 standards. PHAs must annually inspect their public housing units.

B. Study of alternative methods for evaluating PHAs - Sec. 563

Requires HUD to contract for a study to determine the effectiveness of various alternative methods of evaluating the performance of PHAs and other providers of federally assisted housing. The study must evaluate various performance systems including: the current system; accreditation models; performance based models and; local review and monitoring models. The report is due in one year.

C. Public housing management assessment - Sec. 564.

The assessment of PHAs' management is revised to apply to resident management corporations and to include the following new factors: 1) the extent to which the PHA coordinates, promotes, or provides effective programs and activities to promote the economic self-sufficiency of public housing residents, and provides public housing residents with opportunities for involvement in the administration of public housing; 2) the extent to which the PHA implements effective screening and eviction policies and other anticrime strategies, and coordinates with local government officials and residents in the project and implementation of such strategies and 3) the extent to which the PHA is providing acceptable basic housing conditions. A PHA which fails on a widespread basis to provide acceptable basic housing conditions for its residents must be designated as a troubled agency. The current requirement for independent assessments of agencies after their designation as troubled to PHAs would be limited to PHAs with more than 250 units where no comparable recent assessment has been done. Allows HUD to use a simplified system of performance indicators for PHAs with fewer than 250 units.

D. Expansion of powers for dealing with PHAs in substantial default - Sec. 565

This section gives HUD options for dealing with PHAs in substantial default. Provisions providing for solicitation of proposals for alternative management of public housing, and permitting HUD to require an agency to provide for alternative management of public housing,

would be extended to cover section 8 and any other program of an agency. HUD is authorized to take possession of the PHA, including all or part of any project or program.

Within one year beginning on the later of the date on which an agency receives initial notice of its troubled designation and the date of enactment, a troubled PHA must improve its performance by at least 50 percent of the difference between the most recent performance measurement and the measurement necessary to remove that agency's troubled designation. Within two years beginning on the later of the date on which an agency receives initial notice of its troubled designation and the date of enactment, a troubled PHA must improve its performance such that it is no longer designated as troubled. If a troubled agency cannot improve its performance within this timeframe, HUD must 1) in the case of a PHA with 1,250 or more units, petition for the appointment of a judicial receiver; or 2) in the case of a PHA with fewer than 1,250 units, either petition for the appointment of a judicial receiver or take possession of the PHA and appoint an individual or entity to act as an administrative receiver. The law explicitly gives HUD administrative flexibility with respect to initial implementation, which HUD can use to ensure that the new requirements are imposed in a manner consistent with the timing for a PHA's receipt of performance scores and the changes now being implemented in the scoring system.

Subject to procedural requirements, additional powers provided where HUD or a receiver has taken over a PHA include: 1) abrogate contracts impeding correction of the substantial default; 2) demolish or dispose of PHA properties and transfer ownership to resident-supported nonprofit entities; 3) break up the troubled agency into one or more new PHAs; 4) consolidate all or part of an agency and; 5) preempt State or local law relating to civil service requirements, employee rights, procurement, or financial controls that, in the written opinion of the receiver or HUD, substantially impede correction of the substantial default.

A court may terminate receivership when the court determines that all defaults have been cured or the PHA is capable of again discharging its duties.

If HUD takes possession of a PHA or appoints a receiver, HUD or the receiver will be deemed to be acting in the capacity of the PHA. Any liability incurred will be the liability of the PHA, not HUD or a receiver.

This section would be applicable to actions taken before, on, or after the effective date of the 1998 Act. Also, this section would be applicable to any receivers appointed for a PHA before the date of enactment of the 1998 Act.

E. Advisory council for Housing Authority of New Orleans - Sec. 567

Establishes an advisory council for the Housing Authority of New Orleans (HANO), appointed by HUD, to: 1) establish standards and guidelines for assessing the performance of HANO in carrying out operational, asset management, and financial functions; 2) provide advice, expertise, and recommendations to HANO about the management, operation, repair, redevelopment, revitalization, demolition and disposition of public housing developments; 3)

report to Congress about any progress by HANO in its performance; 4) make final recommendations to Congress about the future of HANO within 18 months upon the appointment of an advisory board. If the advisory council finds that HANO is not substantially improved in its performance in a manner sufficient that HANO should be allowed to continue to operate as the manager of the public housing of HANO, HUD must petition for the appointment of a receiver.

F. Treatment of Troubled PHAs - Sec. 568

Requires disapproval of the comprehensive housing affordability strategy (or any consolidated plan) for the State or local government in which any troubled PHA is located, unless the plan includes a description of how the State or local government will provide financial or other assistance to the troubled agency to improve its operations.

X. Safety and Security in Public and Assisted Housing

A. PHA access to criminal records for Section 8 families - Sec 575(c)

PHA access to adult criminal conviction records of the National Crime Information Center and other law enforcement agencies is extended to Section 8 applicants and tenants. PHAs may access criminal records for applicants and tenants of the PHA-administered certificate, voucher, and moderate rehabilitation for purposes of tenant screening and subsidy termination.

A project-based Section 8 owner may request a PHA to obtain criminal records on its behalf. The PHA may not give the owner the criminal records directly. Instead, the PHA must perform determinations for the owner regarding screening, lease enforcement, and eviction based on criteria supplied by the owner. The PHA may charge the owner a fee for obtaining the criminal records and taking other actions on behalf of the owner.

Previous requirements concerning record management and family opportunity to dispute the criminal records are applicable to the Section 8 program. In addition, the 1998 Housing Act establishes new requirements concerning PHA confidentiality, penalty for misuse of criminal records, and civil action rights of the families which apply to both public housing and Section 8.

B. Public housing and section 8 family consent for the PHA to obtain criminal records - Sec. 575(d)

The PHA may require each public housing and Section 8 adult applicant family member within the PHA's jurisdiction to provide a signed, written authorization for the PHA to obtain criminal records.

C. Ineligibility of applicants for, and evictions and terminations of assistance from, federally assisted housing for drug crimes and alcohol abuse - Sec. 576 and Sec. 577.

The prohibition on admitting families for 3 years to public housing and Section 8 units because of evictions from public housing or Section 8 units for drug-related criminal activity is extended to include admissions to and evictions from other federally subsidized projects. Other requirements for PHA standards to deny admission and terminate tenancy and assistance for illegal drug use and alcohol abuse are also extended to owners of other federally subsidized projects. In addition, new authority to deny admission of criminal offenders to federally assisted housing is added.

D. Ineligibility of dangerous sex offender applicants for admission to federally assisted housing - Sec. 578.

Owners of federally assisted housing (including public housing and Section 8) must prohibit admission of persons who are subject to a lifetime registration requirement under a State sex offender registration program. Similar to criminal record checks under §575, PHAs must conduct the sex offender criminal history background checks and make further sex offender inquiries with State and local agencies on behalf of owners of federally assisted housing.

E. Access to drug abuse treatment facility records for public housing applicants - Sec. 575(e)

The PHA may require each public housing applicant to provide written authorization for the PHA to obtain drug abuse treatment facility records related to whether the facility has reasonable cause to believe that the applicant is currently engaging in the illegal use of a controlled substance. If the PHA opts to implement this provision, there are statutory applicant consent, record request, records management, and confidentiality requirements. A PHA may only make such an inquiry if the PHA makes the same inquiry with respect to all applicants, or makes the same inquiry with respect to all applicants to whom the PHA receives information about evidence of prior arrest or conviction, destruction of property, violent activity against another person, or interference with the right of peaceful enjoyment of another tenant. The drug abuse treatment facility may charge the PHA a fee for providing information.

F. Drug-related and criminal activity under public housing grievance procedures - Sec. 575(a).

The types of public housing evictions that qualify for an expedited grievance procedure or exclusion from the grievance procedure because of local court due process hearings are expanded to include evictions for (1) violent criminal activity on or off the premises, and (2) any activity resulting in a felony conviction.

G. Public housing evictions - Sec. 575(b).

The reasons why a public housing lease may be terminated with less than 30 days notice are expanded. The 1998 Housing Act extends the "reasonable time, not to exceed 30 days" termination notice timeframe to situations where the health and safety of persons residing in the

immediate vicinity of the premises is threatened, and to cases of drug-related crime, violent crime, or any felony conviction. A 14-day notice is still required for cases of nonpayment of rent; a 30-day notice is required in all other cases "except that if a State or local law provides for a shorter period of time, such shorter period shall apply".

XI. Drug Elimination

A. Amendments to Public and Assisted Housing Drug Elimination Act of 1990 - Sec. 586

Broadens eligible activities to include “drug-related or violent crime in and around” public or assisted low income housing developments and adds as an eligible activity, sports programs. Permits one-year renewable grants for up to 4 years for agencies performing satisfactorily. Allows HUD to establish a preference for applications that address urgent or serious crime problems and to reserve a portion of the amount appropriated each FY for such class of PHAs. In a floor colloquy, the sponsors clarified that the intent of these provisions is to provide more certain funding for agencies with clear needs for funds and to assure that both current funding recipients and other agencies with urgent or serious crime problems are appropriately assisted by the program. The sponsors stated that HUD can establish a fixed funding mechanism in which the relative needs of PHAs are addressed with a greater amount of certainty. Grants may not be used to reimburse or support any local law enforcement agency or unit of general local government for the provision of services that are included in the baseline of services required by a local cooperation agreement. There is a set-aside for Federally assisted low-income housing, which is not subject to the above changes, of 6.25 percent of the annual appropriation. There is also a set-aside for technical assistance and program oversight.

B. Review of public housing drug elimination program contracts - Sec. 587

This section requires HUD to review all security contracts awarded by grantees under the Public and Assisted Housing Drug Elimination Act of 1990 that are PHAs that own or operate more than 4,500 public housing units. HUD must determine whether such contractors have complied with anti-discrimination laws and regulations and determine how many contracts were awarded under emergency contracting procedures, and must submit the findings of the investigation in a report to Congress within 180 days after the date of enactment.

XII. Native American Housing Assistance - Sec. 595

Makes technical and conforming changes to the Native American Housing Assistance and Self Determination Act of 1996.

XIII. Repeals - Sec. 582

This section repeals several programs, studies, or demonstrations that are either merged with other programs, expired, inactive, or already completed, including: public housing rent waivers for police; treatment of certificate and voucher holders, repeal of “take-one, take-all” for

certain federally assisted housing; report regarding fair housing objectives; obsolete provisions regarding withdrawal from the section 8 program and conflicts of interest; payment for development managers; public housing childhood development; Indian housing childhood development; public housing comprehensive transition demonstration, public housing one-stop perinatal services demonstration; public housing MINCS demonstration; public housing energy efficiency demonstration; Omaha homeownership demonstration; public and assisted youth sports programs; removal of limits on the size of multifamily mortgages that FNMA and FHLMC can purchase; and (special projects for elderly or handicapped families).

XIII. Miscellaneous

A. PHA organization - required membership - Sec. 505(b)

Requires that the board of directors of a PHA include at least one member who is directly assisted by the PHA and who may be elected by the residents, except for PHAs: 1) required by law to have salaried, full-time board of directors or 2) with less than 300 public housing units, where residents do not express an interest in serving. (This section is applicable to section 8-only, as well as other PHAs.)

B. Prohibition on use of funds - Sec. 510

None of the funds made available will be used to indemnify contractors or subcontractors against costs associated with judgments of infringement of intellectual property rights.

C. Mental health action plan - Sec. 517

The Secretary of HUD, in consultation with the Secretaries of Health and Human Services and Department of Labor and other appropriate persons, must develop a plan of action to improve the means by which severe mental health illness treatment is provided to persons who receive housing assistance, and develop and disseminate a list of current practices of PHAs and owners of assisted housing that benefit persons with severe mental illness.

D. Public housing occupancy by police officers and over-income families and leasing moderate rehabilitation and project-based certificate or vouchers to police officers and other security personnel - Sec. 524 and 548

A PHA may allow a police officer who is not otherwise eligible for residence in public housing to reside in a public housing unit in order to increase security for the residents of a public housing project. PHAs with less than 250 units, may on a month-to-month basis, lease a unit in a public housing project to an over-income family, but only if there are no eligible families applying for housing assistance from the PHA for that month and the agency provides not less than 30-day public notice of the availability of such assistance. Rent for such a unit may be not less than the cost to operate the unit.

Assisted units may be rented to police officers and other security personnel who are not income eligible. The rent for such units may be determined as agreed to between HUD and the owner.

E. Annual report - Sec. 581

Not later than 1 year after the date of enactment and annually thereafter, HUD must report to Congress on the impact of this Act on the demographics of public housing residents and families receiving tenant-based assistance under the USHA of 1937 and the effectiveness of the rent policies, employment status, and earned income of public housing residents.

F. Public housing flexibility in the CHAS - Sec. 583

Requires the comprehensive housing affordable strategy to describe the manner in which plans of a jurisdiction will help address the needs of public housing.

G. Treatment of occupancy standards - Sec. 589

HUD must publish a Federal Register notice within 60 days of enactment, that specifies that the standards provided in a 3-20-91 HUD “Keating” memorandum must be the HUD policy with respect to familial status discrimination complaints which involve an occupancy standard established by a housing provider. HUD must not directly or indirectly establish a national occupancy standard.

H. Use of assisted housing by aliens - Sec. 592

Section 214 of the Housing and Community Development Act of 1980, as amended by the immigration and welfare reform acts, prohibits HUD from providing housing assistance to any alien unless that alien is a resident of the US and meets one of six categories of lawfully admitted aliens as specified in the statute. This section permits PHAs to opt out of advance verification of immigration status before admission to assisted housing, rather than opting out of any verification at all.

