

Rental Assistance Demonstration Sectional Analysis

Statutory Language	Explanation
<p><i>To conduct a demonstration designed to preserve and improve public housing and certain other multifamily housing through the voluntary conversion of properties with assistance under section 9 of the United States Housing Act of 1937, (hereinafter, “the Act”), or the moderate rehabilitation program under section 8(e)(2) of the Act (except for funds allocated under such section for single room occupancy dwellings as authorized by title IV of the McKinney-Vento Homeless Assistance Act), to properties with assistance under a project-based subsidy contract under section 8 of the Act, which shall be eligible for renewal under section 524 of the Multifamily Assisted Housing Reform and Affordability Act of 1997, or assistance under section 8(o)(13) of the Act, the Secretary may transfer amounts provided through contracts under section 8(e)(2) of the Act or under the headings “Public Housing Capital Fund” and “Public Housing Operating Fund” to the headings “Tenant-Based Rental Assistance” or “Project-Based Rental Assistance”:</i></p>	<p>The introductory language creates a demonstration whereby public housing or moderate rehabilitation projects may convert from their current forms of assistance to assistance under project-based section 8 (subsequently renewable under MAHRAA) or project-based vouchers under section 8(o)(13). To fund these converted contracts, the Secretary may transfer funds in accounts currently providing assistance to the relevant accounts for the new contracts. No additional funds were made available for conversions, so the amount of post-conversion assistance will be based upon the amount of pre-conversion assistance available to a property.</p>
<p><u>Proviso 1:</u> <i>Provided, That the initial long-term contract under which converted assistance is made available may allow for rental adjustments only by an operating cost factor established by the Secretary, and shall be subject to the availability of appropriations for each year of such term:</i></p>	<p>The new initial contracts for assistance will be long-term contracts, and may allow for operating cost adjustment factor (OCAF) rent adjustments. The contracts will be funded on an annual basis, subject to the availability of appropriations.</p>
<p><u>Proviso 2:</u> <i>Provided further, That project applications may be received under this demonstration until September 30, 2015:</i></p>	<p>The demonstration is limited by an application deadline of September 30, 2015. Conversions of assistance may occur after that date, but no new applications may be accepted.</p>
<p><u>Proviso 3:</u> <i>Provided further, That any increase in cost for “Tenant-Based Rental Assistance” or “Project-Based Rental Assistance” associated with such conversion shall be equal to amounts transferred from “Public Housing Capital Fund” and “Public Housing Operating Fund” or other account from which it was transferred:</i></p>	<p>As noted earlier, the amount of post-conversion assistance will be based upon the amount of pre-conversion assistance available to a property. This will be accomplished by transferring amounts from the “old” pre-conversion accounts to the “new” post-conversion accounts that will be the source of funding for the properties going forward from conversion.</p>
<p><u>Proviso 4:</u> <i>Provided further, That not more than 60,000 units currently receiving assistance under section 9 or section 8(e)(2) of the Act shall be converted under the authority provided under this heading:</i></p>	<p>Further, in keeping with the limited nature of a demonstration, no more than 60,000 units of public housing or moderate rehabilitation housing may have assistance converted under the demonstration.</p>
<p><u>Proviso 5:</u> <i>Provided further, That tenants of such properties with assistance converted from assistance under section 9 shall, at a minimum, maintain the same rights under such conversion as those provided under sections 6 and 9 of the Act:</i></p>	<p>Tenants of public housing buildings that convert their assistance will maintain the procedural rights provided under section 6 of the United States Housing Act of 1937, and the per unit funding for tenant organizations, as authorized under section 9, will continue to be made available under the new assistance.</p>
<p><u>Proviso 6:</u> <i>Provided further, That the Secretary shall select properties from applications for conversion as part of this demonstration through a</i></p>	<p>The selection process for properties to convert assistance must be a competitive process. While this will help ensure the transparency of the</p>

Rental Assistance Demonstration Sectional Analysis

Statutory Language	Explanation
<i>competitive process:</i>	selection process, the non-disclosure requirements of the HUD Reform Act will apply during the selection process.
<u>Proviso 7:</u> <i>Provided further, That in establishing criteria for such competition, the Secretary shall seek to demonstrate the feasibility of this conversion model to recapitalize and operate public housing properties (1) in different markets and geographic areas, (2) within portfolios managed by public housing agencies of varying sizes, and (3) by leveraging other sources of funding to recapitalize properties:</i>	The goal of the demonstration is to show how conversion of assistance might work for varying properties throughout the country. Therefore, the demonstration will seek to involve public housing agencies (PHAs) of different sizes and in different markets around the country. Furthermore, the demonstration should be designed to show how PHAs might leverage the converted assistance with other private and private sources to provide capital improvements in their properties.
<u>Proviso 8:</u> <i>Provided further, That the Secretary shall provide an opportunity for public comment on draft eligibility and selection criteria and procedures that will apply to the selection of properties that will participate in the demonstration:</i>	The eligibility and selection criteria for the properties seeking to convert assistance under this demonstration must be provided to the public for comment before going into effect. This process will insure public input before the non-disclosure requirements of the HUD Reform Act become applicable.
<u>Proviso 9:</u> <i>Provided further, That the Secretary shall provide an opportunity for comment from residents of properties to be proposed for participation in the demonstration to the owners or public housing agencies responsible for such properties:</i>	In all properties seeking to convert assistance, the residents must have an opportunity to comment on the potential participation in the demonstration of the property in which they reside. Residents' comments will be a significant factor in assessing a property's application to convert assistance.
<u>Proviso 10:</u> <i>Provided further, That the Secretary may waive or specify alternative requirements for (except for requirements related to fair housing, nondiscrimination, labor standards, and the environment) any provision of section 8(o)(13) or any provision that governs the use of assistance from which a property is converted under the demonstration or funds made available under the headings of "Public Housing Capital Fund", "Public Housing Operating Fund", and "Project-Based Rental Assistance", under this Act or any prior Act or any Act enacted during the period of conversion of assistance under the demonstration for properties with assistance converted under the demonstration, upon a finding by the Secretary that any such waivers or alternative requirements are necessary for the effective conversion of assistance under the demonstration:</i>	In order to make the conversion of assistance under the demonstration effective, the Secretary has broad authority to waive or specify alternatives to the otherwise applicable statutory or regulatory requirements that govern the assistance being converted, section 8 project-based assistance and project-based voucher assistance. This broad authority may be used for example, to establish tenant mobility parameters and procedures for the converted assistance.
<u>Proviso 11:</u> <i>Provided further, That the Secretary shall publish by notice in the Federal Register any waivers or alternative requirements pursuant to the previous proviso no later than 10 days before the effective date of such notice:</i>	To further ensure the transparency of the conversion process, any alternative requirements, to or waivers of, otherwise applicable requirements must be published in the Federal Register at least 10 days before they become effective.
<u>Proviso 12:</u> <i>Provided further, That the demonstration may proceed after the Secretary publishes notice of its terms in the Federal Register:</i>	In keeping with the limited nature of the demonstration, the terms of the demonstration, including selection criteria and other terms for conversion of

Rental Assistance Demonstration Sectional Analysis

Statutory Language	Explanation
	assistance, may be promulgated through Federal Register notice rather than in regulations, which have a more permanent status than appropriate for a limited demonstration.
<p><u>Proviso 13:</u> <i>Provided further, That notwithstanding sections 3 and 16 of the Act, the conversion of assistance under the demonstration shall not be the basis for re-screening or termination of assistance or eviction of any tenant family in a property participating in the demonstration, and such a family shall not be considered a new admission for any purpose, including compliance with income targeting requirements:</i></p>	Conversion of assistance under this demonstration does not then require or allow the residents to be re-screened for eligibility in the assistance program, nor does conversion qualify as good cause for termination of assistance or eviction for those tenants. Additionally, a family already residing in a property at the time assistance is converted shall not be considered a new admission into the assistance program.
<p><u>Proviso 14:</u> <i>Provided further, That in the case of a property with assistance converted under the demonstration from assistance under section 9 of the Act, section 18 of the Act shall not apply to a property converting assistance under the demonstration for all or substantially all of its units, the Secretary shall require ownership or control of assisted units by a public or nonprofit entity except as determined by the Secretary to be necessary pursuant to foreclosure, bankruptcy, or termination and transfer of assistance for material violations or substantial default, in which case the priority for ownership or control shall be provided to a capable public entity, then a capable entity, as determined by the Secretary, shall require long-term renewable use and affordability restrictions for assisted units, and may allow ownership to be transferred to a for-profit entity to facilitate the use of tax credits only if the public housing agency preserves its interest in the property in a manner approved by the Secretary, and upon expiration of the initial contract and each renewal contract, the Secretary shall offer and the owner of the property shall accept renewal of the contract subject to the terms and conditions applicable at the time of renewal and the availability of appropriations each year of such renewal:</i></p>	Public housing properties converting assistance have special requirements under the demonstration. If such a property converts assistance for all or substantially all of its units, the demolition/disposition provisions in section 18 do not apply. A limited number of units may not have to be included in the conversion, leaving open the possibility of reconfiguration of the units in a property in appropriate circumstances. Former public housing units must continue to be owned or controlled by a public or nonprofit entity except in very limited circumstances as determined by the Secretary to be necessary in circumstances involving foreclosure, bankruptcy, or termination and transfer of assistance because of material violations or substantial default of program requirements. If the Secretary determines it necessary in those situations, the priority of ownership shall go first to a capable public entity and then only if such an entity is not available, to another capable entity. To facilitate the use of tax credits, ownership may be transferred to a for-profit entity, but only as long as the PHA retains an interest in the property as required by the Secretary. Former public housing properties must have long-term use and affordability restrictions for assisted units. For former public housing properties, at the expiration of each contract, the Secretary shall offer a renewal, and the owner of the property must accept the renewal, subject to the applicable terms and conditions and the availability of appropriations.
<p><u>Proviso 15:</u> <i>Provided further, That the Secretary may permit transfer of assistance at or after conversion under the demonstration to replacement units subject to the requirements in the previous proviso:</i></p>	The Secretary is permitted to transfer assistance provided to units in one property to units in another property as long as, in the case of former public housing properties, the units in the new property meet the same requirements as in the previous proviso.
<p><u>Proviso 16:</u> <i>Provided further, That the Secretary may establish the requirements for converted assistance under the demonstration through</i></p>	To fulfill the purposes of the demonstration in the limited time permitted, the Secretary is given flexibility to choose from variety of methods to set forth the

Rental Assistance Demonstration Sectional Analysis

Statutory Language	Explanation
<i>contracts, use agreements, regulations, or other means:</i>	requirements for participation in this demonstration, including but not limited to use agreements, contracts for assistance, and regulations.
<u>Proviso 17:</u> <i>Provided further, That the Secretary shall assess and publish findings regarding the impact of the conversion of assistance under the demonstration on the preservation and improvement of public housing, the amount of private sector leveraging as a result of such conversion, and the effect of such conversion on tenants:</i>	The Secretary is required to assess the demonstration and publish findings on how the demonstration allowed for the preservation and improvement of public housing, how much PHAs were able to leverage their converted assistance with the private sector, and how tenants in properties with converted assistance were affected.
<u>Proviso 18:</u> <i>Provided further, That for fiscal years 2012 and 2013, owners of properties assisted under section 101 of the Housing and Urban Development Act of 1965, section 236(f)(2) of the National Housing Act, or section 8(e)(2) (except for funds allocated under such section for single room occupancy dwellings as authorized by title IV of the McKinney-Vento Homeless Assistance Act) of the United States Housing Act of 1937 for which an event after October 1, 2006 has caused or results in the termination of rental assistance or affordability restrictions and the issuance of tenant protection vouchers under section 8(o) of the Act, shall be eligible, subject to requirements established by the Secretary, including but not limited to tenant consultation procedures and agreement of the administering public housing agency, for conversion of assistance available for such vouchers to assistance under section 8(o)(13) of the Act, to which the limitation under subsection (B) of section 8(o)(13) of the Act shall not apply and for which the Secretary of Housing and Urban Development may waive or alter the provisions of subparagraphs (C) and (D) of section 8(o)(13) of the Act:</i>	Properties assisted under the Rent Supplement, Rental Assistance, and Moderate Rehabilitation Programs that became eligible for tenant protection vouchers within the past five years and that become eligible for such vouchers through September 30, 2013, are eligible to convert the tenant protection voucher assistance to project-based vouchers. Enhanced vouchers, as a form of tenant protection vouchers would be eligible for this conversion, but the rents levels must comply with project-based voucher limits. The Secretary may set requirements for such conversions, including consultation with the tenants of the properties and agreement of the PHA administering the assistance. The portfolio limit under section 8(o)(13) does not apply to the properties so converting their assistance, and the Secretary may further waive or change the requirements relating to income mixing and compliance with the PHA plan.
<u>Proviso 19:</u> <i>Provided further, That with respect to the previous proviso, the Comptroller General of the United States shall conduct a study of the long-term impact of the previous proviso on the ratio of tenant-based vouchers to project-based vouchers.</i>	The GAO must conduct a study on the long-term effect of conversion of tenant protection vouchers to project-based vouchers on the ratio of tenant-based vouchers to project-based vouchers.