

Comparison: Housing Opportunity Through Modernization Act of 2016 (HR 3700) with Current Law

Title	Current Law	HR 3700 change
TITLE I – SECTION 8 RENTAL ASSISTANCE AND PUBLIC HOUSING		
101 – Inspection of dwelling unit	<p>Agencies must determine if unit complies with housing quality standards (HQS) before beginning assistance payments. If the PHA owns the unit, inspections must be performed by the local government or another entity approved by HUD. Units must be reinspected at least every two years, or following a complaint. The ongoing inspection requirement may be met by a satisfactory inspection of the property under the rules of another federal housing assistance program or under a non-federal program with standards that equal or exceed the protections of the voucher program HQS. If a defect is found, PHAs must inspect within 24 hours if the condition is life threatening, and 15 days in other cases. If a PHA determines on re-inspection that a unit fails to meet HQS, HUD rules require: (1) life-threatening conditions to be fixed within 24 hours; (2) a minimum cure period of 30 days for other defects, which PHAs may extend without limit; (3) abatement of subsidy payments in the month following the expiration of the PHA-allowed cure period; and (4) termination of the housing assistance payment (HAP) contract with the owner after allowing the family a reasonable time to relocate with voucher assistance. (Section 8(o)(8); 24 C.F.R. section 982.404(a); Housing Choice Voucher Program Guidebook 10-27.)</p>	<p>HQS still applies. The bill allows for initial occupancy if an alternate inspection has been passed within previous 24 months. Payments will not begin until PHA inspection, but will be retroactive. PHA has discretion to begin occupancy and payments when the unit has to make non-life threatening. If repairs not made within the allotted time, PHAs may withhold subsidy payments for a reasonable time, until repairs completed. Tenants are protected from eviction due to subsidy payments being withheld or abated, and may terminate the lease in order to move. If repairs are not made and the PHA terminates the contract, the lease between the owner and tenant also terminates. The PHA must give the family at least 90 days to find a new unit. The family also may elect to receive preference for the next available public housing unit. A PHA may provide such a family with assistance in finding a new residence, including use of up to two months of abated subsidy payments for relocation costs, which must cover security deposits if needed and may cover moving expenses. PHAs may require a family to repay a security deposit if it is subsequently refunded.</p>

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<p>Section 102 – income reviews</p>	<p>Changes a number of provisions related to income reviews. See addendum on Section 102.</p>	<p>A PHA must review the incomes of assisted families in dwelling units: (1) upon the initial provision of housing assistance for the family, (2) annually thereafter, and (3) any time the family's income and deductions are estimated to increase by 10%. A family may request a review at any time its income and deductions are estimated to decrease by 10%. The PHA must follow specified requirements in calculating income and deductions.</p> <p>HUD must: (1) develop a mechanism for disclosing information to PHAs for employment and income verification, and (2) ensure that PHAs have access to information contained in the Do Not Pay system established by the Improper Payments Elimination and Recovery Improvement Act of 2012.</p>
<p>Section 103 – Over Income Tenants</p>	<p>Income limits apply only at initial eligibility determination. Generally, a family is eligible if it is “low income”(80% area median income). Some exceptions apply. HUD permits (but does not require) PHAs to evict over-income families from public housing unless they are participating in the Family Self-Sufficiency program or receiving the earned income disregard. (24 C.F.R. § 960.261.) In most geographic areas, voucher assistance phases out at an income level well below the eligibility ceiling of 80 percent of area median because 30 percent of the family’s income exceeds the subsidy level.</p>	<p>If family in public housing has had income above 120% of area median income for two consecutive years the housing agency must either terminate the family’s tenancy within six months or charge the family a monthly rent equal to the higher of the HUD-determined Fair Market Rent for the units and the operating and capital subsidies provided for the unit. HUD may adjust the 120 percent of area median income limit based on local construction costs or unusually high or low incomes, vacancy rates, or rents. Each year housing agencies must submit to HUD and make public a report listing the number of families in public housing with incomes above the 120%</p>

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<p>Section 104 – Eligibility Based on Assets</p>	<p>There are no asset limits for public housing or the Section 8 programs. Income from assets is counted in determining rent obligations.</p>	<p>Makes applicants and current tenants or participants ineligible for public housing or the Section 8 programs if they have more than \$100,000 in net assets (adjusted annually for inflation) or have “a present ownership interest” in a suitable home for which they have a legal right to reside and legal authority to sell, unless the home is being purchased with a voucher or the family includes a person who is a victim of domestic violence or is offering the home for sale. Excluded from assets are interests in Indian trust land, equity in homes purchased with a voucher, equity accounts in HUD homeownership or FSS programs, certain inaccessible trust funds, retirement accounts, settlements or awards due to actions that resulted in the serious disability of a household member, tax-protected education savings accounts, personal property not of significant value, and real property that the family does not have legal authority to sell. Allows PHAs and owners to adopt a policy of not enforcing the asset limitations at all, to establish exceptions, or to delay for up to six months evictions of tenants or termination of voucher holders with assets above the limit. Allows PHAs to determine a family’s assets based on the family’s certification that its assets do not exceed \$50,000 and it does not have an ownership interest in real property.</p>
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Section 105 – PHA-owned Units	For HCV program purposes, a unit owned by a PHA or by an entity substantially controlled by a PHA. (24 C.F.R. 982.352(b)).	For HCV program purposes, a unit owned directly by a PHA or by an entity in which a PHA has a controlling interest. Specifies that properties will not be considered PHA-owned solely because a PHA holds a fee interest as ground lessor, a security interest under a mortgage or deed of trust, or a non-controlling interest in an entity which owns or manages the property.
Section 106- PHA Project-Based Assistance	An agency may project-base up to 20 percent of its budget authority. The initial contract term may be up to 15 years, and PHAs may agree at any time to extend the term in up to 15-year increments subject to certain conditions. Project-basing is permitted only in areas consistent with the goals of deconcentrating poverty and expanding housing and economic opportunity. No more than 25 percent of units in a project may receive project-based voucher assistance, with exceptions for units housing the elderly, people with disabilities, or families receiving supportive services. Families have a right to relocate with the next available voucher after one year. Certain special subsidy and rent rules apply, enabling higher subsidies if reasonable (including in LIHTC units) and restricting tenants' contribution to 30 percent of income. (Section 8(o)(13) as amended by the Housing and Economic Recovery Act of 2008, P.L.110-289; final rules at 24 C.F.R. Part 983.	An agency may project-base up to 20 percent of its authorized number of vouchers, plus an additional 10 percent of its vouchers to assist certain types of households (formerly homeless people, veterans, persons with disabilities or elderly persons) or in area where vouchers are difficult to use. PBVs attached to certain types of previously federally-assisted or rent-restricted units are exempt from these limitations. The maximum term of an initial contract or extension is 20 years. Vouchers may be project-based in 25 units in a project, or 25 percent of the units, whichever is greater. Exceptions are modified prospectively to include units housing the elderly or other households eligible for supportive services that are made available to the assisted residents of the project, or located in areas where vouchers are difficult to use. In census tracts with a poverty rate of 20 percent or less, vouchers may be project-based in 25 units or 40 percent of the units in a project, whichever is greater. PHAs and owners have new flexibility regarding the terms of PBV contracts, to add units to an existing PBV contract,

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		to enter into a PBV contract for a property under construction, to agree to rent adjustments using operating cost adjustment factors (rather than market rent comparisons), and to establish owner-maintained site-based waiting lists. PHAs may commit PBVs to a property owned or controlled by the PHA without competition. Upon termination or expiration of a contract, families have the right to use their vouchers to remain in the property.
Section 107- FMR	HUD is required to propose Fair Market Rents (FMRs) for units of various sizes that are suitable for occupancy by low-income households in each “market area,” and publish them for comment in the Federal Register. Final FMRs must be published by October 1st of each year. (Section 8(c)(1).)	Eliminates requirement that proposed FMRs be published for comment, but requires that FMRs be published at least 30 days before they go into effect. In addition, requires that HUD publish proposed methodological changes in advance for comment and allow interested parties to request changes after final FMRs are published. To protect current voucher holders from declines in subsidies when FMRs drop, PHAs are permitted to continue to use payment standards based on the pre-reduction FMRs for as long as a family remains in the same unit.
Section 108- Utility Data	No Requirement	Requires HUD to regularly publish data regarding utility consumption and costs that can be collected cost-effectively and that HUD determines will be useful for setting voucher utility allowances and to provide the data in a manner that avoids unnecessary administrative burdens for agencies and protects families from high rent and utility cost burdens relative to income.

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<p>Section 109 – Public Housing Capital and Operating Funds</p>	<p>PHAs that are not “small” can transfer up to 20 percent of their capital funds to the operating fund (Section 9(g)(1)). 2015 appropriations legislation allowed agencies to transfer up to 25 percent of 2015 capital fund grants to operating fund and allowed HUD to waive that limitation to fund anticrime and antidrug activities. PHAs can use operating funds only for certain capital purposes, including payments on debt used to finance capital improvements and addressing emergencies such as damage from a disaster, and may not transfer operating funds to the capital fund unless they are “small.” (Section 9(e), PIH notice 2012-2) Small PHAs (with fewer than 250 public housing units) that are not troubled and operate their public housing in a safe, clean, healthy condition have complete flexibility to use operating and capital funds for purposes authorized under either funding stream. (Section 9(g)(2)).</p>	<p>Allows agencies to transfer up to 20 percent of operating funds appropriated for fiscal year 2016 and later years to the capital fund.</p>
<p>Section 110 – Family Unification</p>	<p>The Family Unification Program (FUP) sets aside some HCV vouchers for youths age 18 to 21 who have left foster care at age 16 or older. Youth who have left foster care may receive assistance for no more than 18 months. (Section 8(x))</p>	<p>FUP eligibility is extended to former foster youth up to age 24 and to otherwise eligible youth who will leave foster care within 90 days and are homeless or at risk of homelessness. In addition, extends the period for which youth who have left foster care may receive assistance to 36 months. Requires HUD, in consultation with other appropriate federal agencies, to issue guidance to improve coordination between housing and child welfare agencies in administering FUP.</p>

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Section 111- Public Housing Heating	PHAs are required to supply “reasonable amounts of heat at appropriate times of year (according to local custom and usage)” in most public housing units where heat is controlled by building management rather than individual tenants. (24 C.F.R. section 966.4(e).)	Directs HUD to publish model guidelines for minimum heating requirements in public housing.
Section 112 – Vouchers in Manufactured Housing	Subsidy payments are permitted only to meet the cost of renting the land on which a manufactured home owned by a family is located. HUD generally limits the payment standards for land rentals to 40 percent of the two-bedroom fair market rent. (24 C.F.R. section 888.113(g).)	Allows vouchers used for manufactured homes to cover payments and insurance on the home, property taxes, ground rent, and tenant-paid utility costs, subject to the same payment standards that apply to rental payments for other housing. PHAs may choose to pay the subsidy amount attributable to costs other than ground rent directly.
Section 113-Preference for US Citizens	Migrants from three former U.S. Pacific territories (the Republic of the Marshall Islands, Federated States of Micronesia, and Republic of Palau) who are lawfully living in the U.S. and its territories are eligible for housing assistance. In Guam, such families may not be given preference for assistance over U.S. citizens and nationals. (Section 214(a)(7) of the Housing and Community Development Act of 1980 (42 U.S.C. 1436a(a)(7)))	In Guam, gives preference for US Citizens over lawful residents of the Republic of the Marshall Islands, Federated States of Micronesia, and Republic of Palau.
Section 114- PHA Resident Board Member Requirement	PHAs’ governing bodies must include at least one member who receives assistance from the agency unless the agency has fewer than 300 units and no residents opt to participate after the PHA provides reasonable notice, or the agency is located in a state that requires board members to be salaried and serve on a full time basis.	PHAs in Los Angeles County, Alaska, Mississippi, and Iowa would be permanently permitted to opt out of the requirement to have an assistance recipient on the board and instead establish an advisory board of at least six public housing, voucher, or other Section 8 tenants that meets at

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	(Section 2(b).) Appropriations acts have regularly allowed PHAs in Los Angeles County, Alaska, Mississippi, and Iowa to opt out of this requirement for the year covered by the act and instead establish an advisory board of at least six public housing, voucher, or other Section 8 tenants that meets at least quarterly. (Division L, Title 2, Section 210 of Consolidated Appropriations Act, 2016 (P.L. 114-113).)	least quarterly.
TITLE II – RURAL HOUSING		
Section 201 - Delegation of guaranteed rural housing loan approval	Currently private lenders underwrite RHS loans and then RHS officials must approve the loan prior to closing. FHA and VA both use direct endorsed lenders.	Both FHA and VA use direct endorsed lenders. This legislation will also give them the authority to do that.
Section 202 - Guaranteed underwriting user fee	RHS information systems are out of date	Will allow RHS to collect up to a \$50 fee per loan to pay for technology upgrades at RHS.
TITLE III - FHA MORTGAGE INSURANCE FOR CONDOMINIUMS		
Section 301, Section 1 - Project Recertification Requirements	Under current law, properties must be certified every 2 years. There is no difference between certification and RE-certification	Requires the HUD Secretary to make RE-certification “substantially less burdensome than certifications”
Section 301, Section 2 – Commercial Space Requirements	With respect to commercial space, FHA has a 25% limit, but more flexibility for exceptions to be provided up to 50%, with those up to 35% processed at local level, and	Would allow the petitioner to request a DE Lenders or HUD field office to approve exceptions over 25%. And would require such a determination to

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	higher with significant additional documentation at Philadelphia HOC. Exception may also be made over 50%, but must be approved by the FHA Commissioner or their designee.	include consideration of local factors.
Section 301, Section 3 – Transfer Fees	FHA prohibits mortgage insurance on any property that imposes a transfer fee	Would require HUD to mirror the FHFA guidelines regarding transfer fees, which would allow mortgage insurance on a property with a transfer fee that provides a benefit to the homeowner.
Section 301, Section 4 – Owner-Occupancy Requirement	FHA requires that the units in the condominium property be at least 50% owner occupied.	Would require HUD to publish a notice regarding required owner occupancy rates, including reasons for the ratio. If HUD does not act within 90 days, would reduce the owner occupancy ratio to 35%, unless HUD specifically opposes it for a specific property or on a regional basis.
Title 4- Housing Reforms For The Homeless And For Veterans		
Section 401	The Continuum of Care Program awards competitive grants focused on addressing the long-term housing and services needs of homeless individuals and families.	This section amends the McKinney-Vento Homeless Assistance Act to require HUD to define the "geographic area" for purposes of awarding the grants.
Section 402	Emergency Solutions Grants are limited to nonprofit organizations.	Would expand eligible grantees to PHAs or Local Redevelopment Authorities.

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Section 403	The position of Special Assistant for Veterans Affairs is housed in the Office of the Deputy Assistant Secretary for Special Needs.	Would transfer the position of Special Assistant for Veterans Affairs to the Office of the Secretary.
Section 404	none	HUD and the Department of Veterans Affairs must submit annually to Congress reports regarding: the number of veterans assisted by HUD programs, coordination of services for veterans, and the cost of administering programs to veterans.
Section 405	HUD's "Homeless Emergency Assistance and Rapid Transition to Housing: Continuum of Care Program" final regulation was published in the Federal Register on December 4, 2015	HUD must reopen the public comment period on the Final Rule.
Title V - Miscellaneous		
Section 501	FEMA determines eligibility	All recipients of HUD Disaster Housing Assistance Program funds must meet specified income verification requirements.
Section 502	HUD requires dwellings in the Self-Help Ownership Opportunity Program to meet energy efficiency standards.	Would prohibit HUD from requiring energy efficiency standards for SHOPT other than those included in the Cranston-Gonzalez National Affordable Housing Act.
Section 503	none	HUD must create data exchange standards to improve interoperability between federal and state agencies.

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Title VI - Reports		
Section 601	none	HUD, in consultation with the Department of Labor, must report to Congress on their interagency strategies to improve family economic empowerment by linking housing assistance with other support services, such as employment counseling and training, financial education and growth, childcare, transportation, meals, and youth recreational activities.
Title VII - Housing Opportunities For Persons With Aids		
Title 701	<p>(1) Formula allocation The Secretary shall allocate 90% of the amounts approved in appropriation Acts under section 12912 of this title among States and cities whose most recent comprehensive housing affordability strategy (or abbreviated strategy) has been approved by the Secretary under section 12705 of this title. Such amounts shall be allocated as follows:</p> <p>(A) 75% among-</p> <p>(i) cities that are the most populous unit of general local government in a metropolitan statistical area having a population greater than 500,000 and more than 1,500 cases of acquired immunodeficiency syndrome; and</p> <p>(ii) States with more than 1,500 cases of acquired immunodeficiency syndrome outside of metropolitan</p>	<p>Increases the number of threshold cases to 2,000 from 1,500 and changes the date for date from the Centers for Disease Control and Prevention, to December 31 from March 31.</p> <p>Requires a new allocation formula that takes into consideration differences in housing costs and poverty rates among states.</p> <p>A grantee that received an allocation in FY2016 shall continue to be eligible for such allocations in subsequent fiscal years, subject to HUD approval and the amounts available from appropriations Acts.</p>

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	<p>statistical areas described in clause (i); and (B) 25 percent among cities that (i) are the most populous unit of general local government in a metropolitan statistical area having a population greater than 500,000 and more than 1,500 cases of acquired immunodeficiency syndrome, and (ii) have a higher than average per capita incidence of acquired immunodeficiency syndrome.</p> <p>A single city may receive assistance allocated under subparagraph (A) and subparagraph (B). For purposes of allocating amounts under this paragraph for any fiscal year, the number of cases of acquired immunodeficiency syndrome shall be the number of such cases reported to and confirmed by the Director of the Centers for Disease Control of the Public Health Service as of March 31 of the fiscal year immediately preceding the fiscal year for which the amounts are appropriated and to be allocated.</p> <p>(2) Minimum grant Subject only to the availability of amounts pursuant to appropriations Acts under section 12912 of this title, for each fiscal year each eligible grantee under paragraph (1) shall receive funding according to its proportionate share of the total, except that each entity shall receive a minimum allocation of \$200,000 from subparagraphs (A) and (B) of paragraph (1) combined, and any increase this entails from the formula amount will be deducted from all other allocations exceeding \$200,000 on a pro rata basis. If allocation under subparagraph (A) of</p>	<p>HUD shall:</p> <ul style="list-style-type: none"> • redetermine a grantee's eligibility at least once every 10 years, and • ensure that a grantee that received an allocation in the prior fiscal year does not receive an allocation 5% less than or 10% greater than the amount allocated to that grantee in the preceding fiscal year. <p>HUD may also award such funds to an alternative grantee if the original grantee agrees in a written document meeting HUD approval.</p>
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	<p>paragraph (1) would allocate less than \$200,000 for any State, the allocation for such State shall be \$200,000 and the amount of the increase under this sentence shall be deducted on a pro rata basis from the allocations of the other States, except that a reduction under this subparagraph may not reduce the amount allocated to any eligible entity to less than \$200,000.</p>	
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