



H.R. 3700—Housing Opportunity Through Modernization Act of 2015 (Rep. Luetkemeyer, R-MO)

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FLOOR SCHEDULE:

Scheduled for consideration on February 2, 2016 under a [structured](#) rule.

TOPLINE SUMMARY:

[H.R. 3700](#) would amend the [United States Housing Act of 1937](#) by implementing a number of reforms to Housing and Urban Development (HUD) [rental assistance](#) programs and [Rural Housing Service Programs](#) aimed at increasing access to affordable rental housing, creating housing opportunity, and improving the effectiveness of the programs while boosting opportunities for beneficiaries.

COST:

The Congressional Budget Office (CBO) [estimates](#) that implementing H.R. 3700 would reduce spending subject to appropriations by \$311 million over FY 2017-2021.

CONSERVATIVE CONCERNS:

There are no substantive concerns.

- **Expand the Size and Scope of the Federal Government?** No.
- **Encroach into State or Local Authority?** No.
- **Delegate Any Legislative Authority to the Executive Branch?** No.
- **Contain Earmarks/Limited Tax Benefits/Limited Tariff Benefits?** No.

DETAILED SUMMARY AND ANALYSIS:

The Federal government has provided housing assistance to families in need for several decades. Today, the Department of Housing and Urban Development operates programs using housing units that are owned and managed at the local level, through authorities under contract with the federal government. This creates a system of governance relying on both federal regulations and local policies. Under the [Public Housing Capital Fund](#) and the [Public Housing Operating Fund](#), the federal government subsidizes rental housing for low-income individuals. These funds use grants to provide for operations and maintenance of housing facilities, with families contributing roughly 30% of their adjusted gross income in rent. According to the [Committee report](#), roughly 1.2 million public housing units receive federal funds through these programs.

In 1974, the United States implemented the [Housing and Community Development Act of 1974](#), establishing the [Housing Choice Voucher Program](#), also known as Section 8 housing. This program moved

funds from public housing creation, to subsidizing rents for low-income families residing in privately owned units. This program benefits roughly two million families and individuals each year, in which tenants contribute roughly 30% of their income to rent, with the remainder paid through federal funds.

This program operates with dual functions, providing tenant-based rental assistance and project-based rental assistance. The tenant-based segment of the program provides vouchers families can use to pay a portion of their rent in private housing—these vouchers move with the family. Under the project-based program, the subsidy is tied to the housing unit itself. The program is administered through local housing authorities that receive federal payments. Over the last several years, this program has ballooned in scope, accounting for over half of the HUD Budget. The program is growing due to an increase in the number of participants, a large majority of whom have lower incomes than those who have been in the program for some time. The rate of subsidy provided by the program has also increased.

H.R. 3700 would modernize outdated rules and regulations under HUD's current Section 8 voucher program, and would enhance access to better implementation of the Section 8 program. It would streamline inspection protocol for rental assistance units, modernize the process for income review, simplify recertification policies, and modify mortgage insurance requirements stipulated by the Federal Housing Administration. Moreover, according to the Committee report, H.R. 3700 would clarify the requirements for the homeless assistance program, allow limited flexibility between capital and public housing operating funds, and would delegate rural housing loan approval authority to certain preferred lenders, per standards established by the Secretary.

This legislation would increase the ability of state and local agencies and private owners to have flexibility in meeting program objectives to decrease homelessness and give better access to higher-opportunity neighborhoods.

The bill would also improve the certification and recertification for condo buildings. Specifically, it would amend the process for approving condo buildings that also have commercial space, adjust the owner-occupancy requirement from 50% to 35%, and would set the FHA transfer fee policy in line with the Federal Housing Finance Agency. This legislation would also make changes to the condominium building approval process under the FHA, easing restrictions on condo purchases using FHA-insured mortgages, and would also update FHA condo approval regulations.

A detailed title-by-title analysis follows below:

TITLE I—Section 8 Rental Assistance and Public Housing

Section 101 would require a Public Housing Agency (PHA) to conduct an initial inspection before a Section 8 voucher is paid to a tenant. If the unit had previously been inspected within the prior 24 months through another federal, state or local housing program, a tenant would be allowed to live in the unit for an interim period, while the PHA determines, by inspection, that the unit meets quality standards. If the unit does not meet these standards, the tenant can continue to occupy the unit while the PHA has 30 days to meet the standards.

A unit is considered in non-compliance if it: (1) fails inspection; (2) the PHA notifies the unit-owner of failure to comply; and (3) the failure to comply is not remedied within 24 hours in the instance of a life-threatening condition or within 30 days for non-life-threatening conditions. All assistance amounts are withheld if the owner does not correct the deficiencies within the prescribed times.

If a Public Housing Agency halts assistance payments to a unit owner due to compliance issues, the PHA would be required to: (1) notify the tenant that the payment has been halted and that the tenant must move if the unit is not brought into compliance within 60 days; and (2) must allow the tenant to move into another unit, and transfer their rental assistance to that unit. The owner of the unit would not be allowed to terminate a tenant's lease in the event the PHA withholds payments. The tenant, however, would be permitted to terminate the lease in the event the PHA abates assistance, by notifying the owner. In the event the owner does not correct the identified deficiency within 60 days following a determination of non-compliance, the PHA would be required to terminate the housing assistance payments contract.

Following the termination of a housing assistance payments contract for a unit, the PHA would be required to provide the tenant who was living in the unit a period of 90 days to lease a new unit. In the event the family is unable to lease another unit, the PHA would give the tenant preference for occupancy in a PHA-owned unit. The PHA would be permitted to provide tenants with other assistance in locating a new residence, including provision of security deposits and moving expenses. The PHA would not be required to provide such assistance if the damage to the unit causing the noncompliance was caused by tenant action.

This provision would be implemented following the issuance of notice or of regulations pertaining to implementation by the Department of Housing and Urban Development.

Section 102 would address income reviews. Under this provision, income reviews of tenants receiving housing assistance under the [Housing Act of 1937](#) would be required upon the initial provision of assistance, and would be repeated annually, unless the tenant's adjusted income or deductions falls by 10 percent.

Families living on fixed-incomes, or those who have provided certification that their income has not changed from the previous year would receive PHA conducted income reviews at least every three years. In years when an income review is not performed for these families, HUD would adjust the income determination through the application of an inflation factor.

To determine family income for initial occupancy, the owner of the Public Housing Agency would be required to use the estimated income of the family by the agency or owner for the upcoming year. For annual reviews, the owner or the PHA would be required to consider the prior year's income, in addition to consideration of any redetermination of income during the prior year. HUD would also be required to consult with agencies to form procedures to give PHAs and owners access to other income determinations established by other means-tested Federal programs that are similarly reliable.

This section would also require that no later than six months following enactment, the Secretary of HUD certify to Congress that the hardship provisions in statute pertaining to minimum rents will be enforced, and that HUD will continue to provide consideration of the hardship circumstances for those receiving assistance.

Section 102 would also define the term “income,” limiting it to income received from all members of the household that are 18 years of age or older, in addition to any unearned income from each dependent below 18 years of age. This would include recurring gifts, income from assets, or profits from business. Excluded from income would be: (1) a credited return on assets below \$50,000; (2) amounts that would be eligible for exclusion per section [1613\(a\)\(7\) of the Social Security Act](#); (3) deferred VA disability payments; (4) expenses pertaining to the aid of veterans needing regular care; and (5) any exclusions established by HUD. The income total would not include earned income from a dependent attending school or any scholarship income pertaining to school attendance, nor would income be determined with regard to Coverdell education savings accounts or to tuition programs per section 529 of the Internal Revenue Code of 1986.

This section would require the following deductions for the tenant’s adjusted income: (1) \$525 for the elderly or disabled; (2) \$525 for dependents; (3) an amount greater than 5% of annual income used to pay for childcare expenses that are not reimbursed; (4) any amount greater than 10% of annual income that is the sum of unreimbursed health, medical, or attendant care, and auxiliary apparatus expenses. HUD may establish hardship exemptions for certain families, so long as they do not materially increase federal expenditures.

This section would give the PHA the authority to create a voucher payment standard for those with disabilities of no more than 120% of fair market rent.

This section would also provide for conforming amendments for project-based housing and enhanced vouchers. If the income reviews provide for a significant reduction in the rental income of some PHAs, HUD may adjust the formula.

This section would also require HUD to submit a report to Congress surrounding the changes implemented by this section.

Section 103 would require PHAs to charge tenants have an income of greater than 120% of the median income for the area for two consecutive years the greater of the amount of the taxpayer subsidy for the unit or fair market rent, or evict the tenant. This section would allow the HUD Secretary to set income limitations at higher or lower than 120% of the median income in high-cost areas.

Section 104 would prohibit any unit that receives assistance under the U.S. Housing Act from being rented to a family with net assets over \$100,000, adjusted for inflation, or to a family that has any ownership interest in a property that could be used as a residence. Exemptions to this requirement would include domestic violence victims, those using assistance for homeownership opportunities, or families offering the property for sale.

This section would define net family assets as the net cash value of all assets following the deduction of reasonable costs from the disposal of savings, stocks, bonds, real property, or other capital investments. Net family assets would not include the value of personal property, real property the family does not have legal authority to sell, the value of retirement accounts, amounts recovered from any malpractice or

negligence civil actions that resulted in the disability of a family member, or other exclusions as established by the HUD Secretary.

Section 105 would define units held by PHAs to include those located in a project owned by a PHA, those owned by an entity controlled wholly by a PHA, or those owned by a limited liability company or limited partnership where a PHA has a controlling interest. This would not include those units in which the agency holds only an interest in the ground lease, a security interest under a deed of trust or mortgage, or holds a non-controlling interest in an entity that owns the dwelling.

Section 106 would authorize PHAs to make up to 20% of its voucher allocation project-based. It would allow PHAs to provide an additional 10% of its authorized vouchers to establish units geared at the homeless population, veterans, the elderly, or those with disabilities, or in areas with difficult market conditions. Units that had previously been subject to other federal rent restrictions or long-term HUD subsidies will not count toward the 20% limitation.

This section would also allow project-based voucher assistance to the greater of 25% of the property units or those 25 units receiving assistance. These limits would not apply to any units made solely available to the elderly or those who can receive supportive assistance.

In regions where vouchers are hard to use or in areas with a poverty rate of 20% or lower, PHAs are able to provide project-based voucher assistance to up to 40% of a property's units. Limitations on a property's project-based assistance would only apply to properties newly receiving assistance.

Units receiving project-based assistance that are attached to other units that have in the past been subject to rent restrictions or other project-based assistance would not count toward the cap.

This section would also extend the term of project-based voucher assistance from 15 to 20 years, and would require PHAs that have insufficient funding to prioritize payments to those subject to project-based voucher funding contract. The PHA and the owner would be permitted to add eligible units within the same project to an assistance contract at will during the term. A PHA would also be permitted to enter into an assistance contract with an owner for newly constructed housing or housing under construction. Tenant-based assistance would be extended to those households that continue to reside in a property, or to those that opt to move if project-based voucher assistance is not continued or is terminated.

This provision would also permit PHAs to agree to limit a requested rent increase to the Operating Cost Adjustment Factor allowed for most properties under Section 8 contracts. Owners would also be able to request additional adjustments, subject to reasonableness.

Residents would be permitted to join site-specific waiting lists managed by owners, as well as lists managed by PHAs. A PHA would be permitted to provide project-based voucher assistance to develop, replace, or make better any public housing property it owns or operates without using a competitive process, so long as the PHA complies with resident and public notification through its annual plan.

This section would also permit PHAs to make project-based, the [Family Unification Program](#) and [HUD-Veterans Affairs Supportive Housing vouchers](#) using the same policies and procedures the PHAs use for

general vouchers. This is a change to current law, and is geared at facilitating the use of these vouchers, which are targeted at providing homes for homeless veterans and to families involved with the child welfare system, in areas where there is a shortage of units.

Section 107 would amend the public notice requirements for proposed [Fair Market Rents](#), by requiring notifications on the HUD-designated website and notice of availability of data published in the Federal Register. This eliminates the previous requirement of publication in the Federal Register. HUD would still be required to publish proposed substantial methodological changes in the Federal Register in advance, and would allow parties to request changes after final Fair Market Rents are published.

Housing agencies would be permitted to request exception payment standards. This section would also stipulate that a PHA would not be required to reduce a payment standard based on the fair market rent determination if the tenant in the unit before the fair market rent analysis continues to reside in the unit.

Section 108 would require HUD to assemble and publish utility consumption data to assist in the creation of tenant-paid utility allowances, so long as the data can be collected in a cost-effective manner. HUD would be required to establish guidelines so that this may be done in a manner that does not create unnecessary administrative burdens for PHAs.

Section 109 would allow PHAs to create replacement reserves for capital fund activities. The replacement reserves would be permitted to contain funds from additional sources, at the discretion of the HUD Secretary. A PHA would also be permitted to hold in reserve only the amounts necessary for the anticipated capital needs of properties in its public housing portfolio. The HUD Secretary would be permitted to establish a maximum reserve level that considers the PHA's public housing portfolio. A PHA would be permitted to transfer more than 20% of its operating funds into the replacement reserve at the discretion of the HUD Secretary. This section would also permit PHAs the discretion to use up to 20% of their operating funds for eligible capital fund activities.

Section 110 would address the family unification program to extend the period from 18 to 36 months, for which a family is permitted to use a family unification voucher. It would also increase the ceiling for the family unification program to 24 years of age.

This section would require the HUD Secretary to issue guidance, 180 days following enactment, aimed at improving coordination between PHAs and child welfare agencies in administering the Family Unification Program. HUD would be required to provide guidance on (1) identifying eligible recipients; (2) coordinating with other youth and homeless assistance programs; (3) aligning system goals to improve outcomes; (4) implementing housing strategies for families and youth; and (5) identifying supportive resources for eligible families and youth.

TITLE II—Rural Housing

Section 201 would amend [section 502\(h\) of the Housing Act of 1949](#) to authorize the [Rural Housing Service single family housing guaranteed loan program](#) (GLP). The GLP would delegate loan approval authority to preferred lenders in compliance with standards established by the Secretary of Agriculture.

TITLE III—FHA Mortgage Insurance for Condominiums

Section 301 would require the HUD Secretary to streamline FHA condominium project certification requirements to make re-certification substantially less burdensome than initial certification. The Secretary would be required to consider lengthening the period between initial certification and re-certification. It would also allow for exceptions to current FHA commercial space requirements to be made at a HUD field office, and would require consideration of several factors pertaining to the local economy and to the specific project. No more than 90 days following enactment of this bill, the HUD Secretary would be required to issue regulations to implement commercial space requirements.

This section also stipulates that current standards of the Federal Housing Finance Agency (FHFA) pertaining to encumbrances under private transfer fee covenants for Freddie Mac and Fannie Mae, would apply to all FHA insured condominium mortgages. The HUD Secretary would be required to adopt any future changes by the FHFA pertaining to this matter as well.

This section would also require the HUD Secretary to issue guidance pertaining to the percentage of units that have to be occupied by owners, so that a condo project is acceptable for the insurance of a mortgage within a condominium property. In the event the HUD Secretary fails to issue guidance within the 90 day period, then, (1) at least 35% of all family units would be required to be occupied by owners who intend to meet the occupancy requirement; and (2) the HUD Secretary would be able to increase the 35% requirement on a project-by-project basis or on a regional basis. The Secretary would be required to consider factors pertaining to the economy of the project location.

TITLE IV—Housing Reforms for the Homeless and for Veterans

Section 401 would permit private non-profits to administer permanent rental assistance through the [Continuum of Care Program](#), under [McKinney-Vento](#). This section would require the reallocation of assistance under the [Emergency Solutions Grants Program](#) at minimum of once per fiscal year. This section would also require the Secretary to define “geographic area” for the Continuum of Care Program.

Section 402 would increase the scope of the Emergency Solution Grants (ESGs) to PHAs and Local Redevelopment Authorities (LRAs), to allow for any state receiving ESG funds to be able to distribute all or a portion of assistance to private non-profits, PHAs, or LRAs, if approved by the local government.

Section 403 would require HUD to transfer the Special Assistant for Veterans Affairs position from the HUD Office of the Deputy Assistant Secretary for Special Needs to the Office of the Secretary. The Special Assistant would be required to ensure that veterans have access to housing assistance programs, coordinate programs and serve as a liaison.

Section 404 would require the Secretaries of Veterans Affairs and HUD to, in conjunction with the US Interagency Council on Homelessness, to provide annual reports to Congress on veterans assisted by HUD programs.

TITLE V—Miscellaneous

Section 501 pertaining to disaster housing assistance would require all recipients of [HUD Disaster Assistance funds](#) to meet McKinney-Vento income verification and matching requirements.

Section 502 would prevent the Secretary from requiring any unit in the [Self-Help Ownership Opportunity Program \(SHOP\)](#) from meeting any other energy standards than those contained in the [Cranston-Gonzalez National Affordable Housing Act](#).

Section 503 would streamline data exchange standards so that agencies like HUD and RHS are using the same data sets in determining eligibility for means-tested housing programs. Within two years of enactment, the Secretary would be required to issue a proposed rule to identify federally required data exchanges, a time frame for which exchanges to be standardized, factors used in determining whether and when to standardize data exchanges, future milestones, and state implementation options.

Amendments:

1. [Sewell \(D-AL\)](#) – This amendment would require the HUD Secretary to conduct a study on the impacts of decreased deductions on rent paid by disabled or elderly individuals and families under Section 8.
2. [Jackson Lee \(D-TX\)](#) – This amendment would direct the HUD Secretary to produce an annual report on interagency efforts to strengthen family economic empowerment by linking housing with support services like employment housing, childcare, and financial growth.
3. [Waters \(D-CA\)](#) – This amendment would remove and replace language limiting the amount that families receiving federal housing assistance can receive from their income for childcare expenses.
4. [Green \(D-TX\)](#) – This amendment would reauthorize an FHA pilot program to establish an automated process for providing additional credit rating information to determine creditworthiness for families with insufficient credit histories.
5. [Price, David \(D-NC\)](#) – This amendment would update HUD’s funding formula for the Housing Opportunities for Persons with AIDS program, so that funding is distributed to jurisdictions based on living cases of HIV/AIDS.
6. [Hinojosa \(D-TX\)](#) – This amendment would allow the USDA to assess a fee of at most \$50 per loan under Section 503 of the Single Family Guaranteed Home Loan Program to fund technological improvements and investments to the underwriting system.
7. [Ellison \(D-MN\)](#) – This amendment would provide permission for housing providers that administer HUD funds to report on-time rental payment data to credit reporting agencies without requiring written consent agreements. HUD would be required to maintain tenant privacy so that the information did not the information provided does not specifically note that the tenants receive HUD assistance.
8. [Welch \(D-VT\)](#) – This amendment would allow property taxes paid on mobile homes, insurance payments, utilities and financing to be included as components of housing costs eligible for Section 8 payments.
9. [Lujan Grisham \(D-NM\)](#) – This amendment would insert a provision for collaboration between the Department of Veterans Affairs and HUD on ways to better coordinate and improve veterans housing services.
10. [Palazzo \(R-MS\)](#) – This amendment would make permanent the exception to public housing agency resident board member requirement.
11. [Meng \(D-NY\)](#) – This amendment would require HUD to publish model guidelines for minimum heating requirements for units receiving federal assistance.

12. [Bordallo \(D-GU\)](#) – This amendment would prioritize US citizens and nationals over migrants from the Republic of the Marshall Islands, Republic of Palau, and the Federated States of Micronesia when receiving federal housing assistance in Guam.
13. [Buchanan \(R-FL\)](#) – This amendment would promote efficient and accurate administration of income reviews and the collection of asset information in determining the eligibility for rental assistance for individuals and families, consistent with other means-tested programs.
14. [Peters, Scott \(D-CA\)](#) – This amendment would direct the HUD Secretary to reopen the public comment period for the Homeless Emergency Assistance and Rapid Transition to Housing: Continuum of Care Program” to give stakeholders more opportunity to provide input on how to use HUD resources to end homelessness.

COMMITTEE ACTION:

H.R. 3700 was introduced on October 7, 2015 and was referred to the House Committee on Financial Services. It was reported amended by the yeas and nays, 44-10, on December 9, 2015.

ADMINISTRATION POSITION:

A Statement of Administration Policy can be found [here](#).

CONSTITUTIONAL AUTHORITY:

Congress has the power to enact this legislation pursuant to the following: Article 1, Section 8, clause 3 and Article 1, Section 7 Clause 2.

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