

Section-by-Section Summary

The “Housing Preservation and Tenant Protection Act of 2010”

Sec. 1. Short title and table of contents.

Designates title of the bill as the “Housing Preservation and Tenant Protection Act of 2010”

Sec. 2. Implementation

This section authorizes the Secretary of Housing and Urban Development (HUD) and Secretary of Agriculture to issue any notices that are necessary to immediately carry out the purposes of the Act.

Title 1—Preservation of Federally Financed and State-Financed Affordable Housing at Risk of Conversion to Market-Rate Housing

Sec. 101. Conversion of Rent Supplement and RAP Contracts to Project-Based Rental Assistance Under Section 8

This section allows owners to convert legacy rental assistance contracts to Section 8 project-based rental assistance. HUD would be required to approve requests from owners provided the request is submitted to the Department within 12-months of bill enactment.

Sec. 102. Preservation of Properties with Expiring Use Restriction

Grant and Loan Program for Purchase/Rehabilitation. This section outlines federal assistance for an assisted multifamily housing project (whose contract termination will happen within a 10-year period beginning on the date of the enactment of this Act) whose properties can receive assistance.

This section stipulates that the HUD Secretary may provide a grant or loan for the purpose of rehabilitating the property for continued use as housing affordable to low- and moderate-income families. The amounts for the grant are only to be used for payment of non-recurring maintenance and capital improvements for the property. A grant will only be awarded if the property owner ensures that the property will be operated in accordance with all affordability restrictions under the multifamily subsidy program for a period not less than 30 years that would begin on the termination date for the contract.

Further, a grant or loan may be awarded by the Secretary to an eligible organization for the acquisition of an assisted multifamily housing property whose mission is to provide affordable housing to low- and moderate-income families. Amounts from the grant can only be used to cover direct costs (other than the purchase price) incurred by the nonprofit in purchasing and assuming responsibility for the property.

The Secretary will provide assistance to the owner of a covered multifamily housing property as long as the assistance is provided for the sole purpose of maintaining affordability of units for properties located in strong rental markets (based on housing market indicators that indicate a lack of affordable housing available). Assistance will not be given where a property is provided with project-based or tenant-based rental assistance from any source. The property must be operated for 10 years that begins on the termination date of the contract.

Notice Requirements. The property owner must provide a written statement to the HUD Secretary, the chief executive officer of the State, the unit of general local government and each tenant of the project no later than 12 months prior to the date of termination notifying them of any changes to the terms of the affordability of the property on or after the termination date. The notification will also include information about funds available from HUD to provide tenant-based rental assistance to all eligible residents, with the purpose of enabling them to choose the place they wish to rent, which could include the unit they currently reside in. The owner may not evict tenants or increase their rent if a notice has not been submitted in a timely manner.

Enhanced Vouchers. This section closes a gap in existing law by authorizing enhanced vouchers for low and moderate income tenants, as well as elderly and disabled tenants, who are living in properties where the mortgage matures and the affordability restrictions terminate. This section also prevents the eviction of families who have had their family size reduced and need enhanced vouchers in the case of a property prepayment or opt-out. Current program rules deny enhanced voucher assistance to such families in cases where their units are larger than program rules permit for their family size. To increase housing opportunities for larger families, however, this section provides that such overhoused families may be forced to move to units of appropriate size located on the premises.

Sec. 103. Enhanced Voucher Assistance and Preservation Project-Based Section 8 Assistance for State-Financed Affordable Housing

This section authorizes enhanced voucher assistance for tenants in state-financed units where the mortgage matures or is prepaid. At the owner's request, project-based voucher assistance can be provided in lieu of enhanced voucher assistance for state-financed units where the mortgage matures or is prepaid.

Sec. 104. Project-Based Preservation Assistance.

This section allows owner's to request project-based assistance (either project-based rental assistance or project-based voucher assistance) in lieu of enhanced voucher assistance. HUD would be required to provide the assistance in the form requested by the owner. In exchange for receiving such assistance, an owner would be required to accept assistance for 20-years to ensure the long-term affordability of the unit.

Sec. 105. Preservation of State-Financed Affordable Housing Not Subsidized by Federal Government

Provides that project based section 8 contracts on state agency financed properties will continue to the end of the original mortgage term even if the mortgage is refinanced.

Sec 106. Section 106. Preservation Exchange Program.

Purpose. This section establishes a voluntary preservation exchange program to provide incentives to owners of federally-assisted housing with a loan or mortgage scheduled to mature or expire within five years to transfer or sell their property to a preservation purchaser who agrees to accept new long-term affordability restrictions. Participation in the exchange program is for a period of 12 months, and may be renewed at the owner's option, and with the Secretary's approval.

Incentives for Participating Owners and Preservation Purchasers. By participating in the preservation exchange program, the owner agrees not to sell, transfer, or encumber the property and agrees to negotiate in good faith with potential preservation purchasers. To encourage owners to participate in the

preservation exchange program, the Secretary is authorized to provide a number of financial and regulatory incentives, including the following: suspend physical inspections and management reviews of a preservation project; streamline approval of requests for prepayment, assignment of Housing Assistance Payment contracts, transfer of physical assets, and other activities and functions, to facilitate the sale or transfer to a preservation purchaser; release of project resources in the form of Reserve for Replacement funds or project residual receipts; provide advances in the form of a forgivable loan for direct predevelopment and administration costs. To assist preservation purchasers who have entered into a bona-fide preservation purchase contract, the Secretary is authorized to provide grants or loans for the purpose of purchasing or rehabilitating the preservation project. The section does not require owners to accept a bona-fide preservation purchase offer. Owners, however, would be required to repay all funds received in connection with participation in the exchange program, plus interest.

Notice and Certification. The section requires owners to provide notice and certify their participation on the program; requires the Secretary to provide notice to Congress and the public about the owner's participation.

Terms and Conditions of Sale or Transfer of the Preservation Project. The section sets form terms and conditions for the sale or transfer of the property under the preservation exchange program, including: a 40 year long-term affordability commitment, a requirement by the purchaser to accept any contract, and to renew any contract, for project-based rental assistance for a period of at least 40 years; and require the project and related facilities remain affordable to very-low income households for a period of not less than 40 years.

Secretary Review and Approval. The section requires the Secretary to review and approve proposed sales or transfers to ensure that the property is being sold to a bona-fide preservation purchaser that meets the terms and conditions set forth in this section.

Section 107. Federal First Right of Refusal.

Purpose. This section establishes a first right of refusal for the Department of Housing and Urban Development ("HUD"), that HUD can assign to a state agency or a private qualified buyer. The first right of refusal will allow HUD, or an assignee, to purchase properties at fair market value and prevent affordable housing projects from being lost permanently to the private market.

Fair Market Value to Keep Housing Affordable. An affordable housing project owner can search for a fair market value of their property by placing the property on the market and attracting offers before termination of their affordable housing agreement. When the owner accepts an offer from a third party, HUD, or the assignee, can then match that offer at the same price and with the same material terms.

Notice. One year before termination of the affordable housing agreement, project owners must provide notice to HUD, the relevant state agency, all tenants, and the tenant association, if one exists.

Certification. In the event that an owner does not sell the property, owners can request certification from HUD to demonstrate that they have complied with any requirements under this chapter.

Terms of Matched Deposit. The Deposit by HUD or the assignee used to demonstrate an intent to purchase may not exceed the lesser of (1) the deposit in the third party purchase contract, (2) 2 percent of the sale price, or (3) \$250,000.

Timeline. 7 days after agreeing to a purchase agreement with a third party, the project owner must notify HUD and the tenants of the offer. HUD then has 30 days to match or assign. If HUD or the assignee

matches, the parties have 240 days to close on agreement. If an agreement is not reached, then the owner may execute the original third party purchase agreement.

Right to Offer. The section allows owners to negotiate directly with HUD during the notice period to sell their property to HUD or an assignee, without waiting for a third party offer. This will preserve affordable housing and allow owners to quickly dispense of their property for a fair price.

Sec. 108. Amendment to Low-Income Housing Preservation & Resident Homeownership Act

This section provides that LIHPRHA does not preempt State and local laws unless a “plan of action” has been executed. It also protects state and local laws that further affordable housing or serve to protect tenants of affordable housing from preemption.

Sec. 109. Preservation of HUD-Held and HUD-Owned Buildings

This section makes permanent HUD’s authority to spend funds from the General Insurance Fund to carry out rehabilitation and demolition of HUD-owned properties and properties with mortgages held by HUD. This section also requires HUD to act consistently with “other applicable provisions” to ensure that such properties are preserved as affordable housing.

Sec. 110. Authority for HUD to Assign Flexible Subsidy Loans to Qualified Preservation Owners

This section authorizes HUD, in connection with the transfer of an assisted project to a nonprofit organization, to forgive or assign any debt held by the Secretary that was created pursuant to section 201 of the Housing and Community Development Amendments. This section also prevents HUD from requiring any debt repayment, in connection with the assignment or forgiveness of the mortgages to the purchaser, if any low-income tax credits, State or local funds, tax-exempt housing bonds or other affordable housing resources are being used by the purchaser in connection with the transfer of the property.

Sec. 111. Use of Existing Section Funds to Preserve and Revitalize Affordable Housing

This section facilitates the transfer of multifamily housing projects with expiring housing assistance payments contracts to qualified preservation owners that are committed to maintaining the affordability and preservation of such projects by allowing expanded access to existing residual receipts to assist with the acquisition and rehabilitation of such projects.

Sec. 112. Authority for Ginnie Mae to Securitize FHA Risk-Sharing Mortgages

This section enhances efforts of state Housing Finance Agencies to preserve assisted multi-family housing by authoring the Government National Mortgage Association to securitize any FHA risk-share multifamily loan under the same terms and conditions as if the loan were insured under the National Housing Act.

Title II—Restoration of Housing At Risk of Loss Due to Deterioration

Sec. 201. Authority to Transfer Rental Assistance to other Properties

This section authorizes the Secretary to transfer project-based assistance, debt and statutorily required low-income and very low-income use restrictions associated with one or more multifamily housing project(s) to another multifamily housing project or projects located in the same metropolitan area; provided that the number of units in the receiving property are the same as was in the transferring property.

Sec. 202. Building Transfers: Requirements for Purchasers of FHA Insured Projects and Section 8 Projects

This section requires HUD to commence rulemaking within 90 days of enactment that outlines the participation and certification requirements for potential purchasers for the sale or transfer of any multifamily housing property that has a mortgage insured under the National Housing Act. HUD must provide notice of an owner's application for approval of a transfer to the unit of local government where the property is located and to the residents of the property. This section also clarifies that a purchaser's record of noncompliance under housing, health and safety codes, or financial instability of the project will be grounds for disapproval of the transfer.

Sec. 203. Use of Interest Reduction Payments for Rehabilitation Grants

This section maximizes HUD resources for preservation by requiring HUD to draft guidelines within 180 days of enactment that outlines how money recaptured from the termination of contracts for interest reduction payments is to be made available in the form of loans and grants.

Sec. 204. Clarification of Budget-Based Rent Increases for Rehabilitation Projects

This section requires HUD, upon the request of an owner or a purchaser of a multifamily housing project that needs to be rehabilitated, to adjust rents in order to support the cost of rehabilitation, any increased debt service or other appropriate costs. Any rent adjustment (1) will not be effective until completion of the rehabilitation; (2) is subject to adjustment by the Secretary based on differences between estimated and actual costs; (3) and except for 202s the resulting rent shall not exceed the rent for comparable unassisted units in the area. In return, the owner would be required to preserve the project until the later of the maturity date of the original mortgage or the termination of the assistance contracts.

Sec. 205. Interest Reduction Payments for Section 236 Projects Experiencing a Reduction of Units

This section authorizes HUD to continue to provide the entire amount of interest reduction payments under Section 236(e)(2) of the National Housing Act., notwithstanding a reduction of total units due to changing market conditions, economic infeasibility or physical obsolescence as determined by a State or local housing agency.

Title III—Protection of Residents

Sec. 301. Tenant Protection Voucher to Replace Lost Subsidized Units on 1-for-1 Basis

This section requires HUD to replace vouchers for rental assistance under section 8 for all units that are no longer available as "assisted housing" due to demolition, disposition or conversion.

Sec. 302. Maintenance of Housing

This section authorizes HUD to enforce housing quality standards based on an inspection which determines that there are serious violations of housing quality standards. After reasonable notice, the Secretary is authorized to (1) withhold all or part of the housing assistance payments due under a contract; (2) withhold any rent increases due; (3) use the withheld money to pay for repairs or reimburse those who make the repairs; and (4) take control of the management of the project and make any and all necessary corrections to the violations. This section is consistent with current HUD policy.

This section also allows tenants to withhold the tenant contribution toward rent and pay the amount, when due, into an escrow fund established by the Secretary. In turn, if the tenant withholds this portion of the rent, the Secretary is authorized to withhold all or part of the housing assistance payments due under the contract until the violation is remedied. This section also prevents the owner from evicting tenants for nonpayment of rent when exercising their rights under this paragraph.

Sec. 303. Resident Enforcement of Public Housing Agency or Project Owner Agreements with HUD

This section extends similar rights to tenants that are currently included in tax credit and mark up to market use agreements. Specifically, the provision allows tenants or tenant associations to petition the Secretary to enforce property maintenance requirements. If the Secretary does not respond with 90 days, residents may seek judicial relief in connection with a covered agreement. This section also includes protections to ensure that personal and proprietary information is not publicly disclosed.

Sec. 304. Resident Access to Building Information

Requires the HUD Secretary to make the following information available to a legitimate residents association if requested by them in writing: (1) information about property ownership and management, identification of general partners and other principals and their other HUD-assisted properties; (2) an annual operating statement of profit and loss; (3) subsidy contracts between HUD and owners; (4) management reviews; and (5) statement of replacement reserves and other escrow funds for the project administered by HUD.

Title IV—Preservation of Troubled Projects Facing Foreclosure

Sec. 401. Maintaining Affordability Through Escrowing of Rental Assistance

This section authorizes HUD to recapture any rental assistance that is attached to the section 8 units (or any other program administered by HUD) where there is a transfer of a distressed multifamily property that does not comply with housing quality standards. This section also requires HUD to place recaptured funds into an escrow for the property during the period of non-compliance until it is determined that the property complies with the given standards.

Sec. 402. Multifamily Housing Mortgage Foreclosure

This section provides that mortgages transferred by the Secretary to State and local governments be foreclosed in the same way as mortgages held by the Secretary.

Sec. 403. Building Acquisition: Valuation of Physically Distressed Properties Sold by HUD

This section modifies the manner in which physically distressed properties are valued by requiring that loans and properties be valued by standard appraisal practices, which must include both the cost of maintaining the applicable affordability restrictions and the cost of repairs needed for the property to comply with minimum building and safety standards. Current valuation practice does not take into account the affordability requirements.

Sec. 404. Investment Through Up-Front Grants from General Insurance Fund

This section reauthorizes “up front” grants from the General Insurance Fund for rehabilitation expenses

Sec. 405. Maintaining Project-Based Assistance for Projects Disposed of by HUD

This section authorizes HUD to maintain any section 8 rental assistance payments (or another HUD program) that are attached to the units in the property where HUD owns or holds the mortgage on a multifamily property that is to be disposed of by HUD.

This section also authorizes, in consultation with the tenants of the property, to contract for project-based rental assistance payments with an owner or owners of other existing housing properties or provide other rental assistance where HUD determines that it is infeasible to continue HUD assistance on the property (based on the cost of rehabilitating and operating the property, taking into account all available Federal, State and local reserves including rent adjustments and if it is proven that the environmental conditions cannot be fixed in a cost-effective manner).

Sec. 406. Correcting Harm Caused by Late Subsidy Payments

This section requires HUD to make monthly project-based rental assistance housing assistance payments to owners upon the first day of each month and also requires HUD to notify owners at least 10 days prior to the due date of the payment will be late and when such payment will be made. This section allows owners who have not received the monthly housing assistance payments within 10 days of the due date to use project replacement reserves, residual receipt reserves or other project reserves for the purpose of paying operating and debt service. This section also requires HUD to pay simple interest on the amount of such monthly payment from the due date until the date of payment.

Title V—Incentives Under MAHRA for Owners to Maintain Housing Affordability

Sec 501. Extension of Mark-to-Market Program

This section amends the Multifamily Assisted Housing Reform and Affordability Act of 1997 (MAHRA) to reauthorize the following programs until October 1, 2015: (1) the Mark-to-Market program; and (2) provisions of the FHA-insured Multifamily Housing Mortgage and Housing Assistance Restructuring program regarding projects and programs for which binding commitments have been entered into under such Act.

Sec. 502. Maintaining Affordability in Preservation Project Transactions.

This section allows owners of projects covered by the Emergency Low Income Housing Preservation Act (ELIPHA) and the Low-Income Housing Preservation and Resident Homeownership Act (LIHPRHA) to

renew section 8 contracts under any renewal option for which the property is eligible under MAHRA to facilitate the sale of such projects to a purchaser who agrees to maintain the property within low-income affordability restrictions for at least 30 years after the ELIPHA/LIHPRA plan of action. Upon expiration of the plan of action, the rents may be converted to comparable market rents for the market area.

Sec. 503. Encouraging Continued Participation in Assisted Housing Program

This section provides that owners of section 8 project-based housing projects requesting renewal of assistance pursuant to section 524 of MAHRA shall have their rent levels determined as if it were the first contract renewal contract. If rent levels were reduced prior to the renewal of the expiring contract, the rent levels in effect immediately prior to the first renewal of assistance will be considered the deemed rent levels.

Sec. 504. Prepayment of FHA Mortgages on Multifamily Housing

This section clarifies the requirements and determinations that must be made by HUD in connection with the prepayment of a HUD-assisted mortgage under Section 250 of the National Housing Act. Specifically, this section provides: (1) that proceeds of any refinancing may be used for rehabilitation of the project and related costs or for affordable housing and related social services under a plan approved by the Secretary; (2) that tenants shall not be displaced from the project; (3) that rent burdens for unassisted tenants will not increase more than 10 percent annually or 20 percent in total unless additional project-based assistance is provided; and (4) that binding commitments shall be made to ensure the low-income affordability requirements continued to the remaining mortgage term plus an additional 20 years. In addition, this section requires HUD to permit nonprofit organizations to have access to refinancing proceeds in the same manner that applies to for-profit entities.

Sec. 505. Period of Eligibility for Nonprofit Debt Relief

This section facilitates the transfer of properties from existing owners to qualified non-profit preservation owners by extending the time for which the Secretary is authorized to exercise non-profit purchase incentives from the later of seven years after the date of recordation of the affordability agreement (currently it is three years) or two years after the date of enactment of the Act.

Sec. 506. Acquisition of Restructured Projects by Nonprofit Organizations

This section clarifies that in addition to acquiring title to restructured projects, a qualified nonprofit organization may qualify for forgiveness or modification of secondary debt held by HUD if it acquires control over the limited partnership owning the project by becoming the sole general partner of the partnership.

Sec. 507. Rent Adjustments Upon Subsequent Renewals of Section 8 Contracts

This section provides that a contract initially renewed under section 524 (c) of MAHRA will not be considered an eligible multifamily housing project unless the owner of the project and the Secretary agree to designate the project as such and the project meets the requirements of subparagraphs (A) and (C) of section 512(2).

Sec. 508. Budget-Based Rent Adjustments

This section requires HUD to establish and use an operating cost adjustment factor to determine rent adjustments under section 514(g) of MAHRA, or, upon request of the owner, a budget basis. This section also amends section 517(c) of MAHRA so that at the request of a project owner, based on an evaluation of the physical condition of the property, HUD shall provide rehabilitation assistance for any project where the Department and the owner established a mortgage restructuring and rental assistance sufficiency plan prior to October 1, 2001—pursuant to which mortgage debt on the project was restructured.

This section also authorizes HUD to modify or waive any of the requirements or conditions on debt restructuring to provide a simplified debt restructuring for funding the rehabilitation of previously restructured projects. In addition, this section authorizes HUD to make a non-default, partial or full payment of claim under a mortgage insurance contract pursuant to section 541(b) of the National Housing Act, except where HUD increases rents to provide a return of the owner's contribution over time.

Sec. 509. Independent Appraisal Requirement in Cases of Divergent Rent Studies

This section provides that if there is a 15 percent or more difference between the Secretary's and the owner's appraisals of the market rent determination, at the owner's election, a third appraiser will be selected and compensated by both the owner and HUD and the third appraiser's rent determination will be binding.

Sec. 510. Extension of Housing Assistance Payment Contract

This section requires HUD, upon the request of an owner, to amend the housing assistance payment contract to extend the contract term to 20 years (or such shorter term as requested by the owner) in connection with the refinancing or sale of a project covered by MAHRA.

Sec. 511. Otherwise Eligible Projects

This section revises requirements for an approved mortgage restructuring and rental assistance sufficiency plan with respect to modification or forgiveness of all or part of a second mortgage held by the Secretary (debt relief) if the project concerned is acquired by a tenant organization or tenant-endorsed community-based nonprofit or public agency. In addition, this section sets forth requirements for alternative periods of eligibility for such nonprofit debt relief if the purchaser acquires the project subsequent to the date of recordation of the related affordability agreement, and two years after the date of bill enactment.

Sec. 512. Exception Rents

This section permits HUD to waive rent level limits for up to 9 percent (currently 5 percent) of all units subject to restructured mortgages in any fiscal year, based on certain findings of special need.

Sec. 513. Disaster-Damaged Eligible Projects

This section clarifies that disaster-damaged eligible projects are eligible for mortgage restructuring without regard to the relationship between rent level for the assisted units and comparable market rents.

Sec. 514. Funding for Tenant and other Participation and Capacity Building

This section authorizes \$10 million in grant funds for training and technical assistance, permits technical assistance for the purpose of improvement as well as preservation, and broadens the list of eligible projects to include any housing receiving a subsidized loan, project-based rental assistance, or enhanced vouchers. This section also permits predevelopment assistance to enable transfers to nonprofits, public entities and tenant groups.

In addition, this section requires HUD to implement a performance-based grant program for outreach and training of tenants, and requires that those providing capacity-building or technical assistance service to tenants meet certain qualifications. This section further requires HUD to make flexible grants available to qualified nonprofits that do not own assisted properties, to conduct tenant outreach in underserved areas.

This section also requires HUD to resume an inter-agency agreement with the Corporation for National and Community Service (CNCS) to restart the VISTA program, which helps to train volunteers who provide technical assistance to residents and to use \$1 million of the \$10 million in authorized funds for the VISTA program. CNCS would be required to match HUD's funding dollar-for-dollar resulting in \$2 million for technical assistance.

This section establishes reporting requirements and other measures to ensure that funds are used solely for authorized activities. Specifically, this section requires each grant recipient to submit to HUD on a quarterly basis reports detailing the use of such funds. This section states no funds may be used for political activities, political advocacy or lobbying, or for expenses to travel to engage in political activities or preparation of or provision of advice on tax returns and authorizes HUD to impose penalties on any recipient of grant funds for failure to comply with any requirement.

Title VI—Preservation Database

Sec. 601. Preservation Database

This section requires HUD, in consultation with the Rural Housing Service, to establish a Preservation Database within 18 months of bill enactment composed of data regarding federally assisted housing projects, which will enable policymakers, owners, and housing advocates to more effectively preserve the existing portfolio of federally-assisted housing. The information in the database shall be made publicly available on the Internet in a single database. The database information shall be updated at least annually, and in accordance with rules particular to any subsidy program by which information is collected more frequently.

This section also includes protections to ensure that personal and proprietary information is not publicly disclosed. In addition, this section also authorizes HUD to make grants to states and local governments to collect similar information regarding assistance through state and local housing assistance programs.

Title VII—Section 202 Supportive Housing for the Elderly

Sec. 701. Short title and table of contents.

This section designates the bill title as the “Section 202 Supportive Housing for the Elderly Act of 2010”

Subtitle A—New Construction Reforms

Sec. 711. Project Rental Assistance

This section requires HUD to adjust the annual contract amounts for renewal of Project Rental Assistance contracts to provide for reasonable project costs (including adequate reserves, service coordinators, and service cost) and to cover emergencies such as utility cost spikes.

Sec. 712. Selection Criteria

This section amends the selection criteria for grant selection to include the extent to which a project will provide a service coordinator.

Section 713. Development Cost Limitations

This section amends development cost limitations by adding the term “reasonable” to the phrase “developments cost limitation.”

Sec. 714. Owner Deposits

This section amends use of owner deposits by limiting use to operating deficits during first three years, clarifying that deposits shall not be used to cover construction shortfalls.

Sec. 715. Definition of Private Nonprofit Organization

This section amends the definition of “private nonprofit organization” to create an exception for national nonprofit organizations that run multiple projects. Such organization may comply with the governing board requirement by having a local advisory board for each community, except that the national organization will maintain responsibility for the operation of the housing.

Sec. 716. Preferences for Homeless Elderly

This section allows project sponsors to implement preferences for homeless elderly, where such persons meet all program eligibility requirements and the project provides supportive services to meet their needs.

Sec 717. Nonmetropolitan Allocation

This section requires HUD to allocate funds for nonmetropolitan units through a national competition, or through regional offices.

Subtitle B. Refinancing

Sec. 721. Approval of Prepayment of Debt

This section allows 202 project sponsors to prepay loans if the sponsor agrees to extend the affordability of the property for at least 30 years beyond the maturity date of the original loan. Authorizes a sponsor to seek new financing if it results in (a) a lower interest rate, (b) a transaction in which the owner will address the physical needs of the project, and (1) rents will not increase for residents, and (2) the overall cost of providing section 8 rental assistance is no increased, except upon approval of the Secretary to mark up to market or mark up to budget.

Sec. 722. Sources of Refinancing

This section authorizes new lenders to underwrite loans refinanced with risk sharing loans.

Sec. 723. Use of Unexpended Amounts

This section requires the Secretary to ensure that proceeds are used to benefit current tenants or are used in the provision of affordable rental housing and related social services for elderly persons who are tenants of the project or residents of other properties assisted under the Section 202 program by the private nonprofit organization project owner, sponsor, or developer. This section also strikes the 15% limitation on supportive services, permits the cost of reducing and reconfiguring obsolete units, and strikes the requirement that rent reduction for unassisted tenants be based on a pro rata allocation of shared savings. In addition, this section requires that rehabilitation shall ensure long term affordability, conditionally covers the payment of a developer's fee, and permits equity payments to be calculated based on the appraised value of the project in the case of sale or refinance.

Sec. 724. Use of Project Residual Receipts

This section authorizes the use of residual receipts held for a project in connection with a prepayment or refinancing in excess of \$500 per unit for activities to increase supportive services or other purposes approved by HUD.

Sec. 725. Additional Provisions

This section authorizes Senior Preservation Rental Assistance Contracts. Senior Preservation Contracts would be made available to private nonprofit owners whose 202 loan predates the accompanying rental subsidy, for whom the cost of refinancing and rehabbing a project could otherwise significantly raise the rents. This contract would allow the sponsor to cover this cost increase with the project-based assistance in conjunction with a refinancing and preservation transaction.

This section clarifies that HUD has authority to subordinate 202 and other subordinate debt to new financing; and (2) authorizes HUD to approve assumption of 202 loans in connection with a transfer of a project with such a loan, to a private nonprofit organization.

This section waives the required payment of a Flexible Subsidy loan upon prepayment or refinancing of a 202 loan, if such a waiver is necessary for the financial feasibility of the transaction or to preserve the long-term affordability of the project.

This section also conditions the approval of prepayment by the Secretary on a determination by the Secretary that the owner has provided notice to residents of the intention to request prepayment, provided an opportunity for resident to comment on owner's request, and has taken such comments into consideration.

In addition, this section confirms definition of private nonprofit organization as defined in section 202(k) of the Housing Act of 1959.

Subtitle C. Assisted Living Facilities

Sec. 731. Definition of Assisted Living Facility

This section amends the definition of assisted living facility to make the requirement regarding project eligibility more flexible. This section also requires projects to be either (1) licensed and regulated by the State or local government, or (2) (a) make available directly or recognized and experienced third party service providers supportive services to assist residents with the activities of daily living, and (b) provide

separate dwelling units each of which may include a full kitchen and bathroom for residents. Under current law, a project must comply with all three of these requirements.

Sec. 732. Monthly Assistance Payment Under Rental Assistance

This section permits voucher holders in assisted living facilities to pay more than 40% of their income for rent, subject to HUD approval.

Sec. 741. National Senior Housing Clearinghouse

This section requires HUD to establish a clearinghouse of information on availability and quality of multifamily housing developments for elderly tenants nationwide.

Title VIII—Rural Housing Preservation

Sec. 801. Short Title

This section designates the bill title as the “Rural Housing Preservation Act of 2010.”

Sec. 802 Preservation of Multifamily Housing

This section permanently authorizes a rural housing preservation revitalization program, which provides financial incentives and other assistance to owners of eligible rural multifamily housing projects through long-term use agreements.

This section requires the Secretary of Agriculture to prepare and approve a long-term viability plan for each eligible project that includes a physical needs assessment and financial plan. The Secretary shall use the results of the long-term viability plan in determining whether to offer project owners a financial restructuring plan, including the financial incentives to be included in any such plan.

This section requires a new long-term use agreement and provides that use agreements shall be for a term of 30 years or the remaining term of any loans under this title, whichever is longer; limits the maximum amount that households may pay in rent and utilities to 30 percent of the adjusted income of the eligible household; and permits rents to be adjusted annually based on the terms included in the long-term use agreement.

This section includes a work incentive for households by preventing for one-year any rent increases in connection with increased household income due to employment over a 12-month period and allowing the Secretary to phase in any rent increases for such households .

This section prevents participation in the preservation program for project owners: (a) who have a history of poor management or maintenance of multifamily housing properties; (b) who are in default on a loan made under the Section 515 program; (c) where the Secretary is unable to enter a long-term use agreement within a reasonable time; (d) where the project owner is suspended or debarred from participating in Federal contracts or program; or (e) for other good cause as determined by the Secretary.

This section prohibits participations in the preservation program for projects owners that are party to a prepayment lawsuit and conditions participation for projects owners who were awarded damages through a prepayment lawsuit by requiring that such owners contribute the lesser of 50 percent of the damage award or \$100,000 towards revitalizing the property.

This section also requires the Secretary to submit an annual report to Congress regarding the compliance of owners participating in the preservation program with the requirements of such program.

Sec. 803. Preservation and Rural Tenant Protection Vouchers

This section authorizes rental assistance in the form of rural preservation vouchers or Section 521 rental assistance for tenants in Section 515 properties preserved under the preservation program who did not receive rental assistance under Section 521 of the Housing Act of 1949 or Section 8 of the National Housing Act to ensure that such tenants can remain in the unit and also ensure that such tenants pay no more than 30 percent of their income towards rent. It provides that the assistance shall remain with the project after the eligible household leaves the voucher program and be available for use by another eligible household residing in the project.

This section authorizes rural tenant protection vouchers to eligible households who are not receiving rental assistance under Section 521 of the Housing Act of 1949 or Section 8 of the national Housing Act where the project is prepaid or foreclosed upon. Households receiving such vouchers shall be able to remain in their existing unit or use the voucher to secure other available housing. Households receiving such vouchers shall pay no more than 30 percent of their income towards rent and utilities.

This section authorizes the Secretary to contract with a public housing agency or a private or nonprofit organization to administer the preservation and rural tenant protection vouchers.

Sec. 804. Tenant Participation.

This section extends tenant protections that apply to residents of HUD-assisted housing to tenants of RHS-assisted housing.

Sec. 805. Priority for Financing.

This section authorizes the Secretary of Agriculture to provide priority in financing projects under Section 515 of the Housing Act of 1949 to projects located in areas having a need for affordable low-income rental housing due to the prepayment of a loan.

Sec. 806. Conforming Amendment.

This section clarifies the authority of the rural housing preservation program established under this title.

Sec. 807. Regulations.

This section requires the Secretary of Agriculture to issue regulations to carry out the requirements of this title.