

Section-by-Section Summary of
the Frank Melville Supportive Housing Investment Act of 2009

Section 1: Short Title. Frank Melville Supportive Housing Investment Act of 2009

Section 2. Tenant-Based Rental Assistance through Certificate Fund.

This section transfers all existing tenant-based Mainstream vouchers and any future incremental vouchers for persons with disabilities to the Section 8 Housing Choice Voucher program. Additionally, the section provides protections to ensure that upon the turnover of these vouchers, they continue to serve persons with disabilities.

Mainstream Tenant-Based Assistance. Terminates the Mainstream Tenant-Based Rental Assistance Program. Authorizes appropriations for tenant-based assistance under the Section 8 rental assistance program for low-income persons with disabilities in the amount necessary to provide incremental vouchers for all persons previously assisted under the Mainstream Tenant-Based Rental Assistance in 2009, as well as the renewal of incremental vouchers for non-elderly disabled households, pursuant to appropriations acts for FY 1997- 2002. Requires the Secretary to develop and issue guidance to public housing agencies to ensure that such vouchers continue to be provided to qualified persons with disabilities.

Section 3. Modernized Capital Advance Program.

This section makes a number of changes to the program to encourage integration and mixed-use developments, as well as facilitating the use of other sources of financing, such as Low Income Housing Tax Credits and HOME program funds.

Project Rental Assistance Contracts. Requires the Secretary, upon renewal of a project-based rental assistance contract, to adjust the annual contract amount to provide for reasonable cost increases, including adequate reserves, supportive services and services coordinators, as well as for emergency situations beyond the control of the owner.

Lengthens the initial rental assistance contract term for projects assisted with any low-income housing tax credits or bonds from 20 to 30 years, allowing such projects to more closely conform to the Low Income Housing Tax Credit (LIHTC) program.

Use Restrictions. Retains the current 40-year term during which the project must continue to be operated as supportive housing for persons with disabilities. Permits owners of supportive housing projects, with the approval of the Secretary, to convert projects for the direct benefit of very low-income persons, if the Secretary determines that the project is no longer needed for supportive housing. Prohibits the use of funds to replace State or local funds previously used to assist persons with disabilities.

Multifamily Projects. Limits to 25 percent of the total number of units in a project where any units funded with capital advance funds, the number of units used for persons with disabilities, including supportive housing, excepting group homes and independent living facilities.

Delegated Processing. Requires delegated processing for multifamily 811 projects which combine capital advance funds with other sources of financing and that

have already been approved by HUD, for the purpose of issuing a capital advance, to a state or local agency which (a) is in geographic proximity to the property, (b) has demonstrated experience in underwriting multifamily housing loans that provide housing and supportive services, (c) may or may not be providing LIHTC in combination with the 811 capital advance and (d) agrees to issue a firm commitment within 12 months of delegation. Retains the Secretary's authority to process capital advances where no State or local housing finance agency has applied. Waives the delegated underwriting requirement where no State or local agency has applied to provide delegated underwriting. Permits the state or local agency to charge a reasonable fee for processing, which will be included in the capital advance amount. Requires the Secretary to develop a schedule for reasonable fees to be paid for delegated underwriting. Confirms HUD Secretary's authority to approve rents and development costs and requires that the Secretary execute a capital advance within 60 days of receipt of commitment.

Leveraging Other Resources. Amends the selection criteria to give preference to projects that will leverage the per-unit cost of units assisted with other public or private resources.

Tenant Protections and Eligibility for Occupancy. Tenant Selection: Requires owners to develop written tenant selection procedures which, in the determination of the Secretary, are consistent with the purpose of improving housing opportunities for very low-income persons with disabilities and reasonably related to program eligibility and the applicant's ability to perform the obligations of the lease. Limits occupancy to persons with disabilities and households that include at least one person with a disability. Makes units available to eligible persons with disabilities without regard to particular disability involved. Permits an owner to limit occupancy within a project to persons with disabilities who can benefit from the supportive services offered in connection with the housing.

Tenant Protections. Establishes a 1-year lease. Prohibits the owner from terminating a lease, except in cases in which a tenant has seriously or repeatedly violated the terms and conditions of the lease, violated applicable Federal, State or local law, or for other good cause, and the owner has provided the tenant with written notice specifying the grounds of termination, 30 days prior to termination. Permits residents to choose and acquire available services for independent living facilities and multifamily housing.

Development Cost Limitations. Limits current program development cost limitations to group homes, only. Adopts the HOME program development cost limitations on funds invested on a per-unit basis. Provides waivers of cost limitations in cases in which the cost limits may be waived to provide for the cost of special design features to make housing accessible, the cost of special design features necessary to make individual dwelling units meet the special needs of persons with disabilities and the cost of providing the housing in a location that is accessible to public transportation and community organizations that provide supportive services.

Repeal of Authority to Waive Size Limitations. Repeals the authority of the Secretary to waive the size limitations on group homes and independent living facilities.

Minimum Allocation for Multifamily Projects. Requires the Secretary to establish a minimum percentage of capital advance funds to be used for multifamily projects.

Section 4. Project Rental Assistance Competitive Demonstration Program.

This section authorizes a demonstration program in which projects will be awarded project-based rental assistance contracts only and not new construction capital advance grants. These project-based units will be within larger multifamily housing projects and are intended to facilitate the creation of mixed-use housing.

Authority. Requires the Secretary to make available project rental assistance funds to State and local financing agencies and other appropriate agencies to carry out a demonstration program to provide dwelling units in eligible projects.

Project-Rental Assistance. Requires the Secretary to make monthly rental assistance payments to projects for an initial contract terms of 15 years, with 5-year renewals. Limits the number of reserved for persons with disabilities in projects to no more than 25% of the total number of units in such project, in projects assisted under this demonstration program. Prohibits the provision of capital advance grant funds for any project which receives assistance under the demonstration program. Limits the eligible occupants of units assisted under the demonstration to extremely low-income persons with disabilities.

Eligible Projects. Establishes the eligibility of projects as a new or existing multifamily housing project for which the development costs are paid with resources from other public or private sources and a commitment had been made (a) by the State HFA for the allocation of tax credits, (b) by the applicable participating jurisdiction for HOME assistance, or (c) any other Federal, State or local funding for the project from other sources.

State Agency Involvement. Limits project eligibility to projects for which the State agency responsible for health and human services program, and the State agency designated to administer Medicaid assistance have entered into such agreements (a) to identify and target populations to be served by project, (b) to set forth methods for outreach and referral, and (c) to make available appropriate services for tenants of the project.

Use Requirements. Requires all dwelling units assisted under this demonstration program will be operate as supportive housing for persons with disabilities for 30 years, for extremely low-income persons with disabilities.

Report. Requires the Secretary to submit to Congress 5 years after the enactment of this act, describing the demonstration program, its effectiveness and any recommendations regarding future models for assist under this act.

Sec. 5. Technical Corrections.

This section makes technical corrections to the statute to clarify and amend certain program guidelines and definitions.

Amends the purpose of the program to include the promotion and facilitation of community integration for persons with significant and long-term disabilities; the application requirements for supportive service plans; and the project selection criteria to encourage the use of locations that will facilitate the provision of services and other basic needs. Eliminates the owner deposit requirement.

Revises the definition of Group Home to require a separate bedroom for each tenant. Revises the definition of persons with disabilities to apply to persons between 18 and 62 years of age, who has a disability as defined in section 223 of the Social Security Act and is determined, pursuant to regulations issued by the Secretary, to have a physical, mental or emotional impairment, which (a) is expected to be of a long-continued and indefinite duration, (b) substantially impedes his or her ability to live independently, and (c) is of such a nature that such ability could be improved by more suitable housing conditions, or has a developmental disability as defined in section 102 of the Development Disabilities Assistance and Bill of Rights Act of 2000. Confirms that persons with AIDS are not excluded by this definition. Clarifies that individuals shall not be considered persons with disabilities under this definition, based solely on drug or alcohol dependence. Requires the Secretary to prescribe regulations to implement this definition and to prevent abuses in determining eligibility of households. Revises the definition of “supportive housing for persons with disabilities” to dwelling units that are designed to meet the permanent housing needs of very low-income persons with disabilities and make available supportive services that address the individual health, mental health, or other needs of such persons.

Sec. 6. Authorization of Appropriations.

Amends the appropriation authorization for the capital advance/project rental assistance contract such sums as may be necessary; the demonstration program such sums as may be necessary for 2,500 incremental dwelling units under such program for 2009 and 5,000 incremental dwelling units under the demonstration program for each of fiscal years 2010, 2011 and 2012.

Sec. 7. New Regulations and Program Guidance.

Requires the Secretary to issue implementing regulations within 180 days of enactment.

Sec. 8. GAO Study

Requires a GAO study on the supportive housing for persons with disabilities program under section 811 of the Cranston- Gonzalez National Affordable Housing Act (42 U.S.C. 8013) to determine the adequacy and effectiveness of such program in assisting households of persons with disabilities.