

FRANK MELVILLE SUPPORTIVE HOUSING INVESTMENT  
 ACT OF 2008

SEPTEMBER 15, 2008.—Committed to the Committee of the Whole House on the  
 State of the Union and ordered to be printed

Mr. FRANK of Massachusetts, from the Committee on Financial  
 Services, submitted the following

R E P O R T

[To accompany H.R. 5772]

[Including cost estimate of the Congressional Budget Office]

The Committee on Financial Services, to whom was referred the bill (H.R. 5772) to amend section 811 of the Cranston-Gonzalez National Affordable Housing Act to improve the program under such section for supportive housing for persons with disabilities, having considered the same, report favorably thereon with an amendment and recommend that the bill as amended do pass.

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## AMENDMENT

The amendment is as follows:  
Strike all after the enacting clause and insert the following:

**SECTION 1. SHORT TITLE; REFERENCES.**

(a) **SHORT TITLE.**—This Act may be cited as the “Frank Melville Supportive Housing Investment Act of 2008”.

(b) **REFERENCES.**—Except as otherwise expressly provided, wherever in this Act an amendment or repeal is expressed in terms of an amendment to, or repeal of, section 811 or any other provision of section 811, the reference shall be considered to be made to section 811 of the Cranston-Gonzalez National Affordable Housing Act (42 U.S.C. 8013).

**SEC. 2. TENANT-BASED RENTAL ASSISTANCE THROUGH CERTIFICATE FUND.**

(a) **TERMINATION OF MAINSTREAM TENANT-BASED RENTAL ASSISTANCE PROGRAM.**—Section 811 is amended—

(1) in subsection (b)—

(A) by striking the first subsection designation and all that follows through the end of subparagraph (B) of paragraph (2) and inserting the following:

“(b) **AUTHORITY TO PROVIDE ASSISTANCE.**—The Secretary is authorized to provide assistance to private nonprofit organizations to expand the supply of supportive housing for persons with disabilities, which shall be provided as—

“(1) capital advances in accordance with subsection (d)(1), and

“(2) contracts for project rental assistance in accordance with subsection (d)(2).”; and

(B) by striking “assistance under this paragraph” and inserting “Assistance under this subsection”;

(2) in subsection (d), by striking paragraph (4); and

(3) in subsection (l), by striking paragraph (1).

(b) **RENEWAL THROUGH SECTION 8.**—Section 811 is amended by adding at the end the following new subsection:

“(p) **AUTHORIZATION OF APPROPRIATIONS FOR SECTION 8 ASSISTANCE.**—

“(1) **IN GENERAL.**—There is authorized to be appropriated for tenant-based rental assistance under section 8(o) of the United States Housing Act of 1937 (42 U.S.C. 1437f(o)) for persons with disabilities in fiscal year 2009 the amount necessary to provide a number of incremental vouchers under such section that is equal to the number of vouchers provided in fiscal year 2008 under the tenant-based rental assistance program under subsection (d)(4) of this section (as in effect before the date of the enactment of the Frank Melville Supportive Housing Investment Act of 2008).

“(2) **REQUIREMENTS UPON TURNOVER.**—The Secretary shall develop and issue, to public housing agencies that receive voucher assistance made available under this subsection and to public housing agencies that received voucher assistance under section 8(o) of the United States Housing Act of 1937 (42 U.S.C. 1437f(o)) for non-elderly disabled families pursuant to appropriation Acts for fiscal years 1997 through 2002 or any other subsequent appropriations for incremental vouchers for non-elderly disabled families, guidance to ensure that, to the maximum extent possible, such vouchers continue to be provided upon turnover to qualified persons with disabilities or to qualified non-elderly disabled families, respectively.”.

**SEC. 3. MODERNIZED CAPITAL ADVANCE PROGRAM.**

(a) **PROJECT RENTAL ASSISTANCE CONTRACTS.**—Section 811 is amended—

(1) in subsection (d)(2)—

(A) by inserting “(A) **INITIAL PROJECT RENTAL ASSISTANCE CONTRACT.**—” after “PROJECT RENTAL ASSISTANCE.—”

(B) in the first sentence, by inserting after “shall” the following: “comply with subsection (e)(2) and shall”;

(C) by striking “annual contract amount” each place such term appears and inserting “amount provided under the contract for each year covered by the contract”; and

(D) by adding at the end the following new subparagraph:

“(B) **RENEWAL OF AND INCREASES IN CONTRACT AMOUNTS.**—

“(i) **EXPIRATION OF CONTRACT TERM.**—Upon the expiration of each contract term, subject to the availability of amounts made available in appropriation Acts, the Secretary shall adjust the annual contract amount to provide for reasonable project costs, and any increases, including adequate re-

serves and service coordinators, except that any contract amounts not used by a project during a contract term shall not be available for such adjustments upon renewal.

“(ii) EMERGENCY SITUATIONS.—In the event of emergency situations that are outside the control of the owner, the Secretary shall increase the annual contract amount, subject to reasonable review and limitations as the Secretary shall provide.”

(2) in subsection (e)(2)—

(A) in the first sentence, by inserting before the period at the end the following: “, except that, in the case of the sponsor of a project assisted with any low-income housing tax credit pursuant to section 42 of the Internal Revenue Code of 1986 or with any tax-exempt housing bonds, the contract shall have an initial term of not be less than 360 months and shall provide funding for a term of 60 months”; and

(B) by striking “extend any expiring contract” and insert “upon expiration of a contract (or any renewed contract), renew such contract”.

(b) PROGRAM REQUIREMENTS.—Section 811 is amended—

(1) in subsection (e)—

(A) by striking the subsection heading and inserting the following: “PROGRAM REQUIREMENTS”;

(B) by striking paragraph (1) and inserting the following new paragraph:

“(1) USE RESTRICTIONS.—

“(A) TERM.—Any project for which a capital advance is provided under subsection (d)(1) shall be operated for not less than 40 years as supportive housing for persons with disabilities, in accordance with the application for the project approved by the Secretary and shall, during such period, be made available for occupancy only by very low-income persons with disabilities.

“(B) CONVERSION.—If the owner of a project requests the use of the project for the direct benefit of very low-income persons with disabilities and, pursuant to such request the Secretary determines that a project is no longer needed for use as supportive housing for persons with disabilities, the Secretary may approve the request and authorize the owner to convert the project to such use.”; and

(C) by adding at the end the following new paragraphs:

“(3) LIMITATION ON USE OF FUNDS.—No assistance received under this section (or any State or local government funds used to supplement such assistance) may be used to replace other State or local funds previously used, or designated for use, to assist persons with disabilities.

“(4) MULTIFAMILY PROJECTS.—

“(A) LIMITATION.—Except as provided in subparagraph (B), of the total number of dwelling units in any multifamily housing project (including any condominium or cooperative housing project) containing any unit for which assistance is provided from a capital grant under subsection (d)(1) made after the date of the enactment of the Frank Melville Supportive Housing Investment Act of 2008, the aggregate number that are used for persons with disabilities, including supportive housing for persons with disabilities, or to which any occupancy preference for persons with disabilities applies, may not exceed 25 percent of such total.

“(B) EXCEPTION.—Subparagraph (A) shall not apply in the case of any project that is a group home or independent living facility.”; and

(2) in subsection (1), by striking paragraph (4).

(c) DELEGATED PROCESSING.—Subsection (g) of section 811 (42 U.S.C. 8013(g)) is amended—

(1) by striking “SELECTION CRITERIA.—” and inserting “SELECTION CRITERIA AND PROCESSING.—(1) SELECTION CRITERIA.—”;

(2) by redesignating paragraphs (1), (2), (3), (4), (5), (6), and (7) as subparagraphs (A), (B), (C), (D), (E), (G), and (H), respectively;

(3) by adding at the end the following new paragraph:

“(2) DELEGATED PROCESSING.—

“(A) In issuing a capital advance under subsection (d)(1) for any multifamily project (but not including any project that is a group home or independent living facility) for which financing for the purposes described in the last sentence of subsection (b) is provided by a combination of the capital advance and sources other than this section, within 30 days of award of the capital advance, the Secretary shall delegate review and processing of such projects to a State or local housing agency that—

“(i) is in geographic proximity to the property;

“(ii) has demonstrated experience in and capacity for underwriting multifamily housing loans that provide housing and supportive services;

“(iii) may or may not be providing low-income housing tax credits in combination with the capital advance under this section; and

“(iv) agrees to issue a firm commitment within 12 months of delegation.

“(B) The Secretary shall retain the authority to process capital advances in cases in which no State or local housing agency has applied to provide delegated processing pursuant to this paragraph or no such agency has entered into an agreement with the Secretary to serve as a delegated processing agency.

“(C) An agency to which review and processing is delegated pursuant to subparagraph (A) may assess a reasonable fee which shall be included in the capital advance amounts and may recommend project rental assistance amounts in excess of those initially awarded by the Secretary. The Secretary shall develop a schedule for reasonable fees under this subparagraph to be paid to delegated processing agencies, which shall take into consideration any other fees to be paid to the agency for other funding provided to the project by the agency, including bonds, tax credits, and other gap funding.

“(D) Under such delegated system, the Secretary shall retain the authority to approve rents and development costs and to execute a capital advance within 60 days of receipt of the commitment from the State or local agency. The Secretary shall provide to such agency and the project sponsor, in writing, the reasons for any reduction in capital advance amounts or project rental assistance and such reductions shall be subject to appeal.”

(d) LEVERAGING OTHER RESOURCES.—Paragraph (1) of section 811(g) (as so designated by subsection (c)(1) of this section) is amended by inserting after subparagraph (E) (as so redesignated by subsection (c)(2) of this section) the following new subparagraph:

“(F) the extent to which the per-unit cost of units to be assisted under this section will be supplemented with resources from other public and private sources;”

(e) TENANT PROTECTIONS AND ELIGIBILITY FOR OCCUPANCY.—Section 811 is amended by striking subsection (i) and inserting the following new subsection:

“(i) ADMISSION AND OCCUPANCY.—

“(1) TENANT SELECTION.—

“(A) PROCEDURES.—An owner shall adopt written tenant selection procedures that are satisfactory to the Secretary as (i) consistent with the purpose of improving housing opportunities for very low-income persons with disabilities; and (ii) reasonably related to program eligibility and an applicant’s ability to perform the obligations of the lease. Owners shall promptly notify in writing any rejected applicant of the grounds for any rejection.

“(B) REQUIREMENT FOR OCCUPANCY.—Occupancy in dwelling units provided assistance under this section shall be available only to persons with disabilities and households that include at least one person with a disability.

“(C) AVAILABILITY.—Except only as provided in subparagraph (D), occupancy in dwelling units in housing provided with assistance under this section shall be available to all persons with disabilities eligible for such occupancy without regard to the particular disability involved.

“(D) LIMITATION ON OCCUPANCY.—Notwithstanding any other provision of law, the owner of housing developed under this section may, with the approval of the Secretary, limit occupancy within the housing to persons with disabilities who can benefit from the supportive services offered in connection with the housing.

“(2) TENANT PROTECTIONS.—

“(A) LEASE.—The lease between a tenant and an owner of housing assisted under this section shall be for not less than one year, and shall contain such terms and conditions as the Secretary shall determine to be appropriate.

“(B) TERMINATION OF TENANCY.—An owner may not terminate the tenancy or refuse to renew the lease of a tenant of a rental dwelling unit assisted under this section except—

“(i) for serious or repeated violation of the terms and conditions of the lease, for violation of applicable Federal, State, or local law, or for other good cause; and

“(ii) by providing the tenant, not less than 30 days before such termination or refusal to renew, with written notice specifying the grounds for such action.

“(C) VOLUNTARY PARTICIPATION IN SERVICES.—A supportive service plan for housing assisted under this section shall permit each resident to take

responsibility for choosing and acquiring their own services, to receive any supportive services made available directly or indirectly by the owner of such housing, or to not receive any supportive services.”.

(f) DEVELOPMENT COST LIMITATIONS.—Subsection (h) of section 811 is amended—

(1) in paragraph (1)—

(A) by striking the paragraph heading and inserting “GROUP HOMES”;

(B) in the first sentence, by striking “various types and sizes” and inserting “group homes”;

(C) by striking subparagraph (E); and

(D) by redesignating subparagraphs (F) and (G) as subparagraphs (E) and (F), respectively;

(2) in paragraph (3), by inserting “established pursuant to paragraph (1)” after “cost limitation”; and

(3) by adding at the end the following new paragraph:

“(6) APPLICABILITY OF HOME PROGRAM COST LIMITATIONS.—

“(A) IN GENERAL.—The provisions of section 212(e) of the Cranston-Gonzalez National Affordable Housing Act (42 U.S.C. 12742(e)) and the cost limits established by the Secretary pursuant to such section with respect to the amount of funds under subtitle A of title II of such Act that may be invested on a per unit basis, shall apply to supportive housing assisted with a capital advance under subsection (d)(1) and the amount of funds under such subsection that may be invested on a per unit basis.

“(B) WAIVERS.—The Secretary shall provide for waiver of the cost limits applicable pursuant to subparagraph (A)—

“(i) in the cases in which the cost limits established pursuant to section 212(e) of the Cranston-Gonzalez National Affordable Housing Act may be waived; and

“(ii) to provide for—

“(I) the cost of special design features to make the housing accessible to persons with disabilities;

“(II) the cost of special design features necessary to make individual dwelling units meet the special needs of persons with disabilities; and

“(III) the cost of providing the housing in a location that is accessible to public transportation and community organizations that provide supportive services to persons with disabilities.”.

(g) REPEAL OF AUTHORITY TO WAIVE SIZE LIMITATIONS.—Paragraph (1) of section 811(k) is amended—

(1) in paragraph (1), by striking the second sentence; and

(2) in paragraph (4), by striking “(or such higher number of persons” and all that follows through “subsection (h)(6))”.

(h) MINIMUM ALLOCATION FOR MULTIFAMILY PROJECTS.—Subsection (l) of section 811, as amended by the preceding provisions of this Act, is further amended by inserting before paragraph (2) the following new paragraph:

“(1) MINIMUM ALLOCATION FOR MULTIFAMILY PROJECTS.—The Secretary shall establish a minimum percentage of the amount made available for each fiscal year for capital advances under subsection (d)(1) that shall be used for multifamily projects subject to subsection (e)(4).”.

#### SEC. 4. PROJECT RENTAL ASSISTANCE COMPETITIVE DEMONSTRATION PROGRAM.

Section 811, as amended by the preceding provisions of this Act, is further amended—

(1) by redesignating subsections (k) through (n) as subsections (l) through (o), respectively; and

(2) by inserting after subsection (j) the following new subsection:

“(k) PROJECT RENTAL ASSISTANCE-ONLY COMPETITIVE DEMONSTRATION PROGRAM.—

“(1) AUTHORITY.—The Secretary shall carry out a demonstration program under this subsection to expand the supply of supportive housing for non-elderly adults with disabilities, under which the Secretary shall make funds available for project rental assistance pursuant to paragraph (2) for eligible projects under paragraph (3). The Secretary shall provide for State housing finance agencies and other appropriate entities to apply to the Secretary for such project rental assistance funds, which shall be made available by such agencies and entities for dwelling units in eligible projects based upon criteria established by the Secretary for the demonstration program under this subsection. The Secretary may not require any State housing finance agency or other entity applying for project rental assistance funds under the demonstration program to identify in such application the eligible projects for which such funds will be

used, and shall allow such agencies and applicants to subsequently identify such eligible projects pursuant to the making of commitments described in paragraph (3)(B).

“(2) PROJECT RENTAL ASSISTANCE.—

“(A) CONTRACT TERMS.—Project rental assistance under the demonstration program under this subsection shall be provided—

“(i) in accordance with subsection (d)(2);

“(ii) under a contract having an initial term of not less than 180 months that provides funding for a term 60 months, which funding shall be renewed upon expiration, subject to the availability of sufficient amounts in appropriation Acts.

“(B) LIMITATION ON UNITS ASSISTED.—Of the total number of dwelling units in any multifamily housing project containing any unit for which project rental assistance under the demonstration program under this subsection is provided, the aggregate number that are provided such project rental assistance, that are used for supportive housing for persons with disabilities, or to which any occupancy preference for persons with disabilities applies, may not exceed 25 percent of such total.

“(C) PROHIBITION OF CAPITAL ADVANCES.—The Secretary may not provide a capital advance under subsection (d)(1) for any project for which assistance is provided under the demonstration program.

“(D) ELIGIBLE POPULATION.—Project rental assistance under the demonstration program under this subsection may be provided only for dwelling units for extremely low-income persons with disabilities and extremely low-income households that include at least one person with a disability.

“(3) ELIGIBLE PROJECTS.—An eligible project under this paragraph is a new or existing multifamily housing project for which—

“(A) the development costs are paid with resources from other public or private sources; and

“(B) a commitment has been made—

“(i) by the applicable State agency responsible for allocation of low-income housing tax credits under section 42 of the Internal Revenue Code of 1986, for an allocation of such credits;

“(ii) by the applicable participating jurisdiction that receives assistance under the HOME Investment Partnership Act, for assistance from such jurisdiction; or

“(iii) by any Federal agency or any State or local government, for funding for the project from funds from any other sources.

“(4) STATE AGENCY INVOLVEMENT.—Assistance under the demonstration may be provided only for projects for which the applicable State agency responsible for health and human services programs, and the applicable State agency designated to administer or supervise the administration of the State plan for medical assistance under title XIX of the Social Security Act, have entered into such agreements as the Secretary considers appropriate—

“(A) to identify the target populations to be served by the project;

“(B) to set forth methods for outreach and referral; and

“(C) to make available appropriate services for tenants of the project.

“(5) USE REQUIREMENTS.—In the case of any project for which project rental assistance is provided under the demonstration program under this subsection, the dwelling units assisted pursuant to paragraph (2) shall be operated for not less than 30 years as supportive housing for persons with disabilities, in accordance with the application for the project approved by the Secretary, and such dwelling units shall, during such period, be made available for occupancy only by persons and households described in paragraph (2)(D).

“(6) REPORT.—Upon the expiration of the 5-year period beginning on the date of the enactment of the Frank Melville Supportive Housing Investment Act of 2008, the Secretary shall submit to the Congress a report describing the demonstration program under this subsection, analyzing the effectiveness of the program, including the effectiveness of the program compared to the program for capital advances in accordance with subsection (d)(1) (as in effect pursuant to the amendments made by such Act), and making recommendations regarding future models for assistance under this section based upon the experiences under the program.”.

**SEC. 5. TECHNICAL CORRECTIONS.**

Section 811 is amended—

(1) in subsection (a)—

(A) in paragraph (1), by striking “and” at the end;

(B) in paragraph (2)—

- (i) by striking “provides” and inserting “makes available”; and
- (ii) by striking the period at the end and inserting “; and”; and
- (C) by adding at the end the following new paragraph:
  - “(3) promotes and facilitates community integration for people with significant and long-term disabilities.”;
- (2) in subsection (c)—
  - (A) in paragraph (1), by striking “special” and inserting “housing and community-based services”; and
  - (B) in paragraph (2)—
    - (i) by striking subparagraph (A) and inserting the following:
      - “(A) make available voluntary supportive services that address the individual needs of persons with disabilities occupying such housing.”; and
      - (ii) in subparagraph (B), by striking the comma and inserting a semicolon;
    - (3) in subsection (d)(1), by striking “provided under” and all that follows through “shall bear” and inserting “provided pursuant to subsection (b)(1) shall bear.”;
  - (4) in subsection (f)—
    - (A) in paragraph (3)—
      - (i) in subparagraph (B), by striking “receive” and inserting “be offered”;
      - (ii) by striking subparagraph (C) and inserting the following:
        - “(C) evidence of the applicant’s experience in—
          - “(i) providing such supportive services; or
          - “(ii) creating and managing structured partnerships with service providers for the delivery of appropriate community-based services.”;
          - (iii) in subparagraph (D), by striking “such persons” and all that follows through “provision of such services” and inserting “tenants”; and
          - (iv) in subparagraph (E), by inserting “other Federal, and” before “State”; and
        - (B) in paragraph (4), by striking “special” and inserting “housing and community-based services”;
      - (5) in subsection (g), in paragraph (1) (as so redesignated by section 3(c)(1) of this Act)—
        - (A) in subparagraph (D) (as so redesignated by section 3(c)(2) of this Act), by striking “the necessary supportive services will be provided” and inserting “appropriate supportive services will be made available”; and
        - (B) by striking subparagraph (E) (as so redesignated by section 3(c)(2) of this Act) and inserting the following:
          - “(E) the extent to which the location and design of the proposed project will facilitate the provision of community-based supportive services and address other basic needs of persons with disabilities, including access to appropriate and accessible transportation, access to community services agencies, public facilities, and shopping.”;
      - (6) in subsection (j)—
        - (A) by striking paragraph (4); and
        - (B) by redesignating paragraphs (5), (6), and (7) as paragraphs (4), (5), and (6), respectively;
      - (7) in subsection (l) (as so redesignated by section 4(1) of this Act)—
        - (A) in paragraph (1), by inserting before the period at the end of the first sentence the following: “, which provides a separate bedroom for each tenant of the residence”;
        - (B) by striking paragraph (2) and inserting the following:
          - “(2)(A) The term ‘person with disabilities’ means a person who is 18 years of age or older and less than 62 years of age, who—
            - “(i) has a disability as defined in section 223 of the Social Security Act,
            - “(ii) is determined, pursuant to regulations issued by the Secretary, to have a physical, mental, or emotional impairment which—
              - “(I) is expected to be of long-continued and indefinite duration;
              - “(II) substantially impedes his or her ability to live independently;
              - and
              - “(III) is of such a nature that such ability could be improved by more suitable housing conditions; or
              - “(iii) has a developmental disability as defined in section 102 of the Developmental Disabilities Assistance and Bill of Rights Act of 2000.
          - (B) Such term shall not exclude persons who have the disease of acquired immunodeficiency syndrome or any conditions arising from the etiologic agent for acquired immunodeficiency syndrome. Notwithstanding any other provision of law, no individual shall be considered a person with disabilities, for purposes

of eligibility for low-income housing under this title, solely on the basis of any drug or alcohol dependence. The Secretary shall consult with other appropriate Federal agencies to implement the preceding sentence.

“(C) The Secretary shall prescribe such regulations as may be necessary to prevent abuses in determining, under the definitions contained in this paragraph, the eligibility of families and persons for admission to and occupancy of housing assisted under this section. Notwithstanding the preceding provisions of this paragraph, the term ‘person with disabilities’ includes two or more persons with disabilities living together, one or more such persons living with another person who is determined (under regulations prescribed by the Secretary) to be important to their care or well-being, and the surviving member or members of any household described in subparagraph (A) who were living, in a unit assisted under this section, with the deceased member of the household at the time of his or her death.”;

(C) by striking paragraph (3) and inserting the following new paragraph: “(3) The term ‘supportive housing for persons with disabilities’ means dwelling units that—

“(A) are designed to meet the permanent housing needs of very low-income persons with disabilities; and

“(B) are located in housing that make available supportive services that address the individual health, mental health, or other needs of such persons.”;

(D) in paragraph (5), by striking “a project for”; and

(E) in paragraph (6)—

(i) by inserting after and below subparagraph (D) the matter to be inserted by the amendment made by section 841 of the American Homeownership and Economic Opportunity Act of 2000 (Public Law 106-569; 114 Stat. 3022); and

(ii) in the matter inserted by the amendment made by subparagraph (A) of this paragraph, by striking “wholly owned and”; and

(8) in subsection (m) (as so redesignated by section 4(1) of this Act)—

(A) in paragraph (2), by striking “subsection (c)(1)” and inserting “subsection (d)(1)”; and

(B) in paragraph (3), by striking “subsection (c)(2)” and inserting “subsection (d)(2)”.

#### **SEC. 6. AUTHORIZATION OF APPROPRIATIONS.**

Subsection (n) of section 811 (as so redesignated by section 4(1) of this Act) is amended to read as follows:

“(n) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated for each of fiscal years 2008 through 2012 the following amounts:

“(1) CAPITAL ADVANCE/PRAC PROGRAM.—For providing assistance pursuant to subsection (b), such sums as may be necessary.

“(2) DEMONSTRATION PROGRAM.—For carrying out the demonstration program under subsection (k), such sums as may be necessary to provide 2,500 incremental dwelling units under such program in each of fiscal years 2008 and 2009 and 5,000 incremental dwelling units under such program in each of fiscal years 2010, 2011, and 2012.”.

#### **SEC. 7. NEW REGULATIONS AND PROGRAM GUIDANCE.**

Not later than the expiration of the 180-day period beginning on the date of the enactment of this Act, the Secretary of Housing and Urban Development shall issue new regulations and guidance for the program under section 811 of the Cranston-Gonzalez National Affordable Housing Act for supportive housing for persons with disabilities to carry out such program in accordance with the amendments made by this Act.

#### **SEC. 8. GAO STUDY.**

The Comptroller General of the United States shall conduct a study of 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. Such study shall determine—

(1) the total number of households assisted under such program;

(2) the extent to which households assisted under other programs of the Department of Housing and Urban Development that provide rental assistance or rental housing would be eligible to receive assistance under such section 811 program; and

(3) the extent to which households described in paragraph (2) who are eligible for, but not receiving, assistance under such section 811 program are receiving



supportive services from, or assisted by, the Department of Housing and Urban Development other than through the section 811 program (including under the Resident Opportunity and Self-Sufficiency program) or from other sources. Upon the completion of the study required under this section, the Comptroller General shall submit a report to the Congress setting forth the findings and conclusions of the study.

#### PURPOSE AND SUMMARY

H.R. 5772, the “Frank Melville Supportive Housing Investment Act of 2008” amends section 811 of the Cranston-Gonzalez National Affordable Housing Act (P.L. 101–625), which established the Housing for Persons with Disabilities program. The Section 811 program is the only Department of Housing and Urban Development (HUD) permanent supportive housing program exclusively serving persons with disabilities. The main goals of the bill are to facilitate the use of mixed financing for the more timely production of new developments and foster the integration of housing for persons with disabilities, while allowing residents to live independently. H.R. 5772 is designed to accomplish these goals by amending the tenant-based rental assistance component of the program, modernizing the capital advance program and authorizing a rental assistance-only demonstration program.

#### BACKGROUND AND NEED FOR LEGISLATION

The Section 811 Supportive Housing for Persons with Disabilities program structure consists of three components: (1) capital advances, (2) project rental assistance, and (3) tenant-based rental assistance. HUD provides no-interest capital advance grants to non-profit sponsors, to develop rental housing, such as independent living facilities, condominium units and groups homes which have available supportive services for persons with disabilities. The capital advance need not be repaid if the project serves very-low-income persons with disabilities for not less than 40 years. In connection with a capital advance, HUD provides project-based assistance through the Project-Based Rental Assistance Contract (PRAC), which covers the difference between the operating cost and the amount residents pay in rent.

The program also provides for tenant-based vouchers, which are available to families who are income eligible and include a person with disabilities, to lease private rental housing. Although the tenant-based voucher program was authorized under the Housing and Community Development Act of 1992 (P.L. 102–550), it was not funded until Fiscal Year 1997, at which time it was established as a 25 percent set aside within the Section 811 appropriation. Vouchers are administered by Public Housing Agencies and non-profit organizations. HUD did not establish a tracking system to follow voucher recipients or ensure that upon turnover the vouchers were reissued to families including persons with disabilities until 2005. Because there is the possibility that vouchers that were reissued by the public housing agencies before the tracking system was implemented were given to families who may not have included a person with disabilities, H.R. 5772 transfers these vouchers to the Section 8 Housing Choice Voucher program, and requires HUD to develop guidance to ensure that any existing and future appropriated vouchers continue to serve eligible persons with disabilities.

As funding for the Section 811 and other supportive housing programs has declined, grant applicants have been forced to find additional or “gap” financing to cover the difference between the grant and PRAC amounts and the full project cost of developing new housing. At the Subcommittee on Housing and Community Opportunity hearing on the bill on June 20, 2008, the Subcommittee heard testimony from several witnesses on the programmatic delays in processing new developments, including those that raise “gap” financing. One witness stated that grant processing can take over 2 years, in some cases causing increased project costs of up to 25 percent. By transferring grant processing through state housing finance agencies, H.R. 5772 encourages program sponsors to take full advantage other financing options by removing costly delays at HUD and allowing project to more efficiently bring new projects online. In addition, the modernized program removes disincentives for mixed financing by providing preference in the grant selection criteria to projects that will leverage the per-unit cost of units assisted with other resources. H.R. 5772 also permits project sponsors seeking to combine Section 811 program funds with other sources of financing to apply certain conforming program requirements such as development costs and use restrictions.

H.R. 5772 authorizes a project-based rental assistance-only demonstration program (as opposed to the current program, which provides project-based rental assistance in connection with a capital advance grant). In the demonstration program, HUD awards funds to state housing finance agencies, to enter into contracts with project owners to provide project-based rental assistance for units for persons with disabilities. Eligible projects are new or existing projects which have received capital funds from another private or public funding source and have entered into agreement with the state or local agency responsible for health and human services to assist in outreach and make available appropriate services for tenants. Such projects will be subject to a 25 percent limitation on the percentage of units which may assist persons with disabilities, whether assisted by the demonstration program, or a different funding source.

In addition to amending the Section 811 program structure, H.R. 5772 revises outdated program definitions and guidelines to reflect the permanent housing and services needs of and choices for persons with disabilities. The Committee believes it is essential for HUD to issue new regulations and program guidance to implement the amendments made by the bill to the Section 811 program.

#### HEARINGS

The Subcommittee on Housing and Community Opportunity held a hearing entitled “H.R. 5772, the Frank Melville Supportive Housing Investment Act of 2008” on June 20, 2008. The following witnesses testified:

- Ms. Diane Randall, Executive Director, Partnership for Strong Communities
- Ms. Ann O’Hara, The Technical Assistance Collaborative
- Mr. Ronald S. Cohen, Ph.D., Chief Executive Officer, United Cerebral Palsy of Los Angeles, Ventura & Santa Barbara Counties
- Mr. Mark Shelburne, North Carolina Housing Finance Agency
- Mr. Tony Paulauski, Executive Director, The Arc of Illinois

## COMMITTEE CONSIDERATION

The Committee on Financial Services met in open session on July 30, 2008, and ordered H.R. 5772, the “Frank Melville Supportive Housing Investment Act of 2008”, as amended, favorably reported by a voice vote.

## COMMITTEE VOTES

Clause 3(b) of rule XIII of the Rules of the House of Representatives requires the Committee to list the record votes on the motion to report legislation and amendments thereto. No record votes were taken with in conjunction with the consideration of this legislation. A motion by Mr. Frank to report the bill, as amended, to the House with a favorable recommendation was agreed to by a voice vote.

During the consideration of the bill, the following amendment was considered:

An amendment by Mr. Murphy (CT), No. 1, regarding identification of projects for demonstration program and requiring a GAO study, was agreed to by a voice vote.

## COMMITTEE OVERSIGHT FINDINGS

Pursuant to clause 3(c)(1) of rule XIII of the Rules of the House of Representatives, the Committee has held a hearing and made findings that are reflected in this report.

## PERFORMANCE GOALS AND OBJECTIVES

Pursuant to clause 3(c)(4) of rule XIII of the Rules of the House of Representatives, the Committee establishes the following performance related goals and objectives for this legislation:

H.R. 5772 amends section 811 of the Cranston-Gonzalez National Affordable Housing Act (P.L. 101-625), which established the Housing for Persons with Disabilities program. The Section 811 program is the only HUD permanent supportive housing program exclusively serving persons with disabilities. The main goals of the bill are to facilitate the use of mixed financing for the more timely production of new developments and foster the integration of housing for persons with disabilities, while allowing residents to live independently. H.R. 5772 is designed to accomplish these goals by amending the tenant-based rental assistance component of the program, modernizing the capital advance program and authorizing a rental assistance-only demonstration program.

## NEW BUDGET AUTHORITY, ENTITLEMENT AUTHORITY, AND TAX EXPENDITURES

In compliance with clause 3(c)(2) of rule XIII of the Rules of the House of Representatives, the Committee adopts as its own the estimate of new budget authority, entitlement authority, or tax expenditures or revenues contained in the cost estimate prepared by the Director of the Congressional Budget Office pursuant to section 402 of the Congressional Budget Act of 1974.

## COMMITTEE COST ESTIMATE

The Committee adopts as its own the cost estimate prepared by the Director of the Congressional Budget Office pursuant to section 402 of the Congressional Budget Act of 1974.

## CONGRESSIONAL BUDGET OFFICE ESTIMATE

Pursuant to clause 3(c)(3) of rule XIII of the Rules of the House of Representatives, the following is the cost estimate provided by the Congressional Budget Office pursuant to section 402 of the Congressional Budget Act of 1974:

U.S. CONGRESS,  
CONGRESSIONAL BUDGET OFFICE,  
*Washington, DC, September 11, 2008.*

Hon. BARNEY FRANK,  
*Chairman, Committee on Financial Services,  
House of Representatives, Washington, DC.*

DEAR MR. CHAIRMAN: The Congressional Budget Office has prepared the enclosed cost estimate for H.R. 5772, the Frank Melville Supportive Housing Investment Act of 2008.

If you wish further details on this estimate, we will be pleased to provide them. The CBO staff contact is Jessica Sherry.

Sincerely,

ROBERT A. SUNSHINE  
(For Peter R. Orszag, Director).

Enclosure.

*H.R. 5772—Frank Melville Supportive Housing Investment Act of 2008*

Summary: H.R. 5772 would amend the Cranston-Gonzalez National Affordable Housing Act to make changes to a housing program that provides supportive housing for low-income persons with disabilities.

CBO estimates that implementing H.R. 5772 would cost \$652 million over the 2009–2013 period, assuming appropriation of the necessary amounts. Enacting the bill would not affect direct spending or revenues.

H.R. 5772 contains no intergovernmental or private-sector mandates as defined in the Unfunded Mandates Reform Act (UMRA); any costs to state, local, or tribal governments would be incurred voluntarily.

Estimated cost to the Federal Government: The estimated budgetary impact of H.R. 5772 is shown in the following table. The costs of this legislation fall within budget function 600 (income security).

	By fiscal year in millions of dollars—					
	2009	2010	2011	2012	2013	2009–2013
CHANGES IN SPENDING SUBJECT TO APPROPRIATION						
Modernized Capital Advance Program:						
Estimated Authorization Level .....	167	170	173	176	0	686
Estimated Outlays .....	7	40	71	114	134	366
Renewal of Mainstream Tenant-Based Vouchers under Section 8 Program:						
Estimated Authorization Level .....	106	0	0	0	0	106
Estimated Outlays .....	92	14	0	0	0	106

	By fiscal year in millions of dollars—					
	2009	2010	2011	2012	2013	2009–2013
Project Rental Assistance Competitive Demonstration Program:						
Estimated Authorization Level .....	11	33	55	79	0	178
Estimated Outlays .....	6	23	45	68	36	178
Delegated Processing Fees:						
Estimated Authorization Level .....	0	<sup>1</sup>	1	1	0	2
Estimated Outlays .....	0	<sup>1</sup>	1	1	<sup>1</sup>	2
Total Changes:						
Estimated Authorization Level .....	284	203	229	256	0	972
Estimated Outlays .....	105	77	117	183	170	652

Note.— <sup>1</sup> = between zero and \$500,000.

Basis of estimate: For this estimate, CBO assumes that H.R. 5772 will be enacted near the start of fiscal year 2009, that the necessary amounts will be appropriated each year, and that outlays will follow historical spending patterns for existing programs. (H.R. 5772 also would authorize appropriations in 2008 for supportive housing for the disabled; however, those amounts are not included in this cost estimate because CBO assumes that no further appropriations will be provided in 2008 for such programs.)

The Supportive Housing for Persons with Disabilities program was established by the Cranston-Gonzalez National Affordable Housing Act of 1990. The program currently makes capital grants and project rental assistance available to nonprofit entities to develop affordable housing for low-income households headed by people with disabilities. In addition, the program currently funds tenant-based vouchers for such households. Prior to 1990, housing units for persons with disabilities were made available under the Housing for the Elderly program.

#### *Modernized Capital Advance Program*

Section 3 would authorize the appropriation of such sums as necessary for each of fiscal years 2008 through 2012 for the Capital Advance/Project Rental Assistance Contract program. In 2008, \$162 million was made available for that program. Based on data from the Department of Housing and Urban Development (HUD) for current operations, and adjusting for inflation, CBO estimates that implementing this section would cost \$366 million over the 2009–2013 period, assuming appropriation of the necessary amounts.

#### *Renewal of mainstream tenant-based vouchers under Section 8 Program*

Section 2 would transfer all current vouchers under the supportive housing program and all future incremental vouchers for people with disabilities to the Section 8 housing choice voucher program. The bill would authorize the appropriation of such sums as necessary in 2009 to provide funding for the number of vouchers provided in fiscal year 2008 under the current mainstream voucher program. In 2007, HUD provided about 15,000 vouchers at an average cost of \$540 a month; the numbers for 2008 are not yet available. Adjusting for inflation, CBO estimates that providing the same number of vouchers in 2009 would cost \$106 million over the 2007–2010 period, assuming appropriation of the necessary amounts.

*Project Rental Assistance Competitive Demonstration Program*

Section 4 would authorize a new demonstration program for project-based assistance to subsidize housing units developed with funds not provided under the supportive housing program, including units developed through the Low-Income Housing Tax Credit and the HOME Investment Partnerships Program. Specifically, the bill would authorize the appropriation of such sums as may be necessary to provide 2,500 incremental dwelling units in each of fiscal years 2008 and 2009 and 5,000 incremental dwelling units in each of fiscal years 2010, 2011, and 2012. Based on information from HUD, CBO estimates that beginning in 2009, 2,500 units would receive such rental assistance at an average cost of about \$4,200 per unit, reaching a cumulative total of 17,500 units in 2012. Assuming appropriation of the necessary amounts, CBO estimates that providing such assistance to the tenants of those properties would cost \$178 million over the 2009–2013 period.

*Delegated processing fees*

Section 3 also would require HUD to delegate the processing of certain capital grants to interested state or local housing agencies. The provision would direct HUD to develop a schedule of reasonable fees to be paid to the delegated processing agencies and would allow the fees to be included as part of the total capital grant amount. Based on information provided by HUD, industry groups, and state agencies, CBO estimates that paying those fees would cost \$2 million over the 2009–2013 period, assuming availability of the necessary amounts.

Intergovernmental and private-sector impact: H.R. 5772 contains no intergovernmental or private-sector mandates as defined in UMRA. The bill would benefit state, local, and tribal governments that participate in affordable housing projects and programs. Any costs those governments incur to comply with program requirements would be incurred voluntarily.

Estimate prepared by: Federal Spending: Jessica Sherry; Impact on State, Local, and Tribal Governments: Lisa Ramirez-Branum; Impact on the Private Sector: Patrick Bernhardt.

Estimate approved by: Peter H. Fontaine, Assistant Director for Budget Analysis.

## FEDERAL MANDATES STATEMENT

The Committee adopts as its own the estimate of Federal mandates prepared by the Director of the Congressional Budget Office pursuant to section 423 of the Unfunded Mandates Reform Act.

## ADVISORY COMMITTEE STATEMENT

No advisory committees within the meaning of section 5(b) of the Federal Advisory Committee Act were created by this legislation.

## CONSTITUTIONAL AUTHORITY STATEMENT

Pursuant to clause 3(d)(1) of rule XIII of the Rules of the House of Representatives, the Committee finds that the Constitutional Authority of Congress to enact this legislation is provided by Article 1, section 8, clause 1 (relating to the general welfare of the

United States) and clause 3 (relating to the power to regulate interstate commerce).

#### APPLICABILITY TO LEGISLATIVE BRANCH

The Committee finds that the legislation does not relate to the terms and conditions of employment or access to public services or accommodations within the meaning of section 102(b)(3) of the Congressional Accountability Act.

#### EARMARK IDENTIFICATION

H.R. 5772 does not contain any congressional earmarks, limited tax benefits, or limited tariff benefits as defined in clause 9 of rule XXI.

#### SECTION-BY-SECTION ANALYSIS OF THE LEGISLATION

##### *Section 1. Short title*

This section establishes the short title of the bill, the “Frank Melville Supportive Housing Investment Act of 2008.”

##### *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.** 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 2008, 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 and service 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.** Establishes a limitation on the overall percentage of units in a multifamily project funded by a capital advance, which are not group homes or independent living facilities, which may be provided for persons with disabilities.

**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 pro-



gram 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 term of 15 years, with 5-year renewals. Limits the number of reserved for persons with disabilities in projects to no more than 25 percent 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 operated 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.

*Section 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.

*Section 6. Authorization of appropriations*

Authorizes an appropriation of such sums as may be necessary for the capital advance/project rental assistance contract. Authorizes such sums as may be necessary for the demonstration program to provide for 2,500 incremental dwelling units under such program for 2008 and 2009 and 5,000 incremental dwelling units under the demonstration program for fiscal years 2010, 2011 and 2012.

*Section 7. New regulations and program guidance*

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

*Section 8. GAO study*

Directs GAO to assess the number of households assisted by the Section 811 Supportive Housing for Persons with Disabilities program, the number of Section 811-eligible households currently living in other HUD-assisted housing, and the extent to which those households have access to supportive services.

## CHANGES IN EXISTING LAW MADE BY THE BILL, AS REPORTED

In compliance with clause 3(e) of rule XIII of the Rules of the House of Representatives, changes in existing law made by the bill, as reported, are shown as follows (existing law proposed to be omitted is enclosed in black brackets, new matter is printed in italic, existing law in which no change is proposed is shown in roman):

**CRANSTON-GONZALEZ NATIONAL AFFORDABLE  
HOUSING ACT**

\* \* \* \* \*

**TITLE VIII—HOUSING FOR PERSONS WITH  
SPECIAL NEEDS**

\* \* \* \* \*

**Subtitle B—Supportive Housing for Persons With  
Disabilities**

**SEC. 811. SUPPORTIVE HOUSING FOR PERSONS WITH DISABILITIES.**

(a) **PURPOSE.**—The purpose of this section is to enable persons with disabilities to live with dignity and independence within their communities by expanding the supply of supportive housing that—

(1) is designed to accommodate the special needs of such persons; **[and]**

(2) **[provides]** *makes available* supportive services that address the individual health, mental health, and other needs of such persons**【.】**; *and*

(3) *promotes and facilitates community integration for people with significant and long-term disabilities.*

**【(b) AUTHORITY TO PROVIDE ASSISTANCE.**—The Secretary is authorized—

**【(1) to provide tenant-based rental assistance to eligible persons with disabilities, in accordance with subsection (d)(4); and**

**【(2) to provide assistance to private, nonprofit organizations to expand the supply of supportive housing for persons with disabilities, which shall be provided as—**

**【(A) capital advances in accordance with subsection (d)(1), and**

**【(B) contracts for project rental assistance in accordance with subsection (d)(2);】**

*(b) AUTHORITY TO PROVIDE ASSISTANCE.*—*The Secretary is authorized to provide assistance to private nonprofit organizations to expand the supply of supportive housing for persons with disabilities, which shall be provided as—*

*(1) capital advances in accordance with subsection (d)(1), and*

*(2) contracts for project rental assistance in accordance with subsection (d)(2).*

**【assistance under this paragraph】** *Assistance under this subsection may be used to finance the acquisition, acquisition and moderate rehabilitation, construction, reconstruction, or moderate or substantial rehabilitation of housing, including the acquisition from the Resolution Trust Corporation, to be used as supportive housing for*

persons with disabilities and may include real property acquisition, site improvement, conversion, demolition, relocation, and other expenses that the Secretary determines are necessary to expand the supply of supportive housing for persons with disabilities.

(c) GENERAL REQUIREMENTS.—The Secretary shall take such actions as may be necessary to ensure that—

- (1) assistance made available under this section will be used to meet the **special** *housing and community-based services* needs of persons with disabilities by providing a variety of housing options, ranging from group homes and independent living facilities to dwelling units in multifamily housing developments, condominium housing, and cooperative housing; and
- (2) supportive housing for persons with disabilities assisted under this section shall—

**[(A) provide persons with disabilities occupying such housing with supportive services that address their individual needs;]**

*(A) make available voluntary supportive services that address the individual needs of persons with disabilities occupying such housing;*

**[(B) provide such persons with opportunities for optimal independent living and participation in normal daily activities[,]; and**

\* \* \* \* \*

(d) FORMS OF ASSISTANCE.—

(1) CAPITAL ADVANCES.—A capital advance **provided under this section shall bear** *provided pursuant to subsection (b)(1) shall bear* no interest and its repayment shall not be required so long as the housing remains available for very-low-income persons with disabilities in accordance with this section. Such advance shall be in an amount calculated in accordance with the development cost limitation established in subsection (h).

(2) PROJECT RENTAL ASSISTANCE.—*(A) INITIAL PROJECT RENTAL ASSISTANCE CONTRACT.*—Contracts for project rental assistance shall *comply with subsection (e)(2) and shall* obligate the Secretary to make monthly payments to cover any part of the costs attributed to units occupied (or, as approved by the Secretary, held for occupancy) by very low-income persons with disabilities that is not met from project income. The **annual contract amount** *amount provided under the contract for each year covered by the contract* for any project shall not exceed the sum of the initial annual project rentals for all units and any initial utility allowances for such units, as approved by the Secretary. Any contract amounts not used by a project in any year shall remain available to the project until the expiration of the contract. The Secretary may adjust the **annual contract amount** *amount provided under the contract for each year covered by the contract* if the sum of the project income and the amount of assistance payments available under this paragraph are inadequate to provide for reasonable project costs. In the case of an intermediate care facility which is the residence of persons assisted under title XIX of the Social Security Act, project income under this paragraph shall include the same amount as if such person were being assisted under title XVI of the Social Security Act.

**(B) RENEWAL OF AND INCREASES IN CONTRACT AMOUNTS.—**

(i) **EXPIRATION OF CONTRACT TERM.**—Upon the expiration of each contract term, subject to the availability of amounts made available in appropriation Acts, the Secretary shall adjust the annual contract amount to provide for reasonable project costs, and any increases, including adequate reserves and service coordinators, except that any contract amounts not used by a project during a contract term shall not be available for such adjustments upon renewal.

(ii) **EMERGENCY SITUATIONS.**—In the event of emergency situations that are outside the control of the owner, the Secretary shall increase the annual contract amount, subject to reasonable review and limitations as the Secretary shall provide.

\* \* \* \* \*

**[(4) TENANT-BASED RENTAL ASSISTANCE.—**

**[(A) ADMINISTERING ENTITIES.**—Tenant-based rental assistance provided under subsection (b)(1) may be provided only through a public housing agency that has submitted and had approved a plan under section 7(d) of the United States Housing Act of 1937 (42 U.S.C. 1437e(d)) that provides for such assistance, or through a private nonprofit organization. A public housing agency shall be eligible to apply under this section only for the purposes of providing such tenant-based rental assistance.

**[(B) PROGRAM RULES.**—Tenant-based rental assistance under subsection (b)(1) shall be made available to eligible persons with disabilities and administered under the same rules that govern tenant-based rental assistance made available under section 8 of the United States Housing Act of 1937, except that the Secretary may waive or modify such rules, but only to the extent necessary to provide for administering such assistance under subsection (b)(1) through private nonprofit organizations rather than through public housing agencies.

**[(C) ALLOCATION OF ASSISTANCE.**—In determining the amount of assistance provided under subsection (b)(1) for a private nonprofit organization or public housing agency, the Secretary shall consider the needs and capabilities of the organization or agency, in the case of a public housing agency, as described in the plan for the agency under section 7 of the United States Housing Act of 1937.]

**(e) [TERM OF COMMITMENT] PROGRAM REQUIREMENTS.—**

**[(1) USE LIMITATIONS.**—All units in housing assisted under subsection (b)(2) shall be made available for occupancy by very low-income persons with disabilities for not less than 40 years.]

**(1) USE RESTRICTIONS.—**

**(A) TERM.**—Any project for which a capital advance is provided under subsection (d)(1) shall be operated for not less than 40 years as supportive housing for persons with disabilities, in accordance with the application for the project approved by the Secretary and shall, during such period, be made available for occupancy only by very low-income persons with disabilities.

(B) *CONVERSION.*—If the owner of a project requests the use of the project for the direct benefit of very low-income persons with disabilities and, pursuant to such request the Secretary determines that a project is no longer needed for use as supportive housing for persons with disabilities, the Secretary may approve the request and authorize the owner to convert the project to such use.

(2) *CONTRACT TERMS.*—The initial term of a contract entered into under subsection (d)(2) shall be 240 months, *except that, in the case of the sponsor of a project assisted with any low-income housing tax credit pursuant to section 42 of the Internal Revenue Code of 1986 or with any tax-exempt housing bonds, the contract shall have an initial term of not be less than 360 months and shall provide funding for a term of 60 months.* The Secretary shall, to the extent approved in appropriation Acts, **[extend any expiring contract]** upon expiration of a contract (or any renewed contract), renew such contract for a term of not less than 60 months. In order to facilitate the orderly extension of expiring contracts, the Secretary is authorized to make commitments to extend expiring contracts during the year prior to the date of expiration.

(3) *LIMITATION ON USE OF FUNDS.*—No assistance received under this section (or any State or local government funds used to supplement such assistance) may be used to replace other State or local funds previously used, or designated for use, to assist persons with disabilities.

(4) *MULTIFAMILY PROJECTS.*—

(A) *LIMITATION.*—Except as provided in subparagraph (B), of the total number of dwelling units in any multifamily housing project (including any condominium or cooperative housing project) containing any unit for which assistance is provided from a capital grant under subsection (d)(1) made after the date of the enactment of the Frank Melville Supportive Housing Investment Act of 2008, the aggregate number that are used for persons with disabilities, including supportive housing for persons with disabilities, or to which any occupancy preference for persons with disabilities applies, may not exceed 25 percent of such total.

(B) *EXCEPTION.*—Subparagraph (A) shall not apply in the case of any project that is a group home or independent living facility.

(f) *APPLICATIONS.*—Funds made available under subsection (b)(2) shall be allocated by the Secretary among approvable applications submitted by private nonprofit organizations. Applications for assistance under subsection (b)(2) shall be submitted in such form and in accordance with such procedures as the Secretary shall establish. Such applications shall contain—

(1) \* \* \*

\* \* \* \* \*

(3) a supportive service plan that contains—

(A) \* \* \*

(B) assurances that persons with disabilities occupying such housing will **[receive]** be offered supportive services based on their individual needs;

[(C) evidence of the applicant's (or a designated service provider's) experience in providing such supportive services;]

(C) *evidence of the applicant's experience in—*  
 (i) *providing such supportive services; or*  
 (ii) *creating and managing structured partnerships with service providers for the delivery of appropriate community-based services;*

(D) a description of the manner in which such services will be provided to [such persons, including evidence of such residential supervision as the Secretary determines is necessary to facilitate the adequate provision of such services] *tenants*; and

(E) identification of the extent of *other Federal, and State and local funds* available to assist in the provision of such services;

(4) a certification from the appropriate State or local agency (as determined by the Secretary) that the provision of the services identified in paragraph (3) are well designed to serve the [special] *housing and community-based services* needs of persons with disabilities;

\* \* \* \* \*

(g) [SELECTION CRITERIA.—] *SELECTION CRITERIA AND PROCESSING.—(1) SELECTION CRITERIA.—*The Secretary shall establish selection criteria for assistance under this section, which shall include—

[(1)] (A) the ability of the applicant to develop and operate the proposed housing;

[(2)] (B) the need for housing for persons with disabilities in the area to be served;

[(3)] (C) the extent to which the proposed design of the housing will meet the special needs of persons with disabilities;

[(4)] (D) the extent to which the applicant has demonstrated that [the necessary supportive services will be provided] *appropriate supportive services will be made available* on a consistent, long-term basis;

[(5)] the extent to which the proposed design of the housing will accommodate the provision of such services;]

(E) *the extent to which the location and design of the proposed project will facilitate the provision of community-based supportive services and address other basic needs of persons with disabilities, including access to appropriate and accessible transportation, access to community services agencies, public facilities, and shopping;*

(F) *the extent to which the per-unit cost of units to be assisted under this section will be supplemented with resources from other public and private sources;*

[(6)] (G) the extent to which the applicant has control of the site of the proposed housing; and

[(7)] (H) such other factors as the Secretary determines to be appropriate to ensure that funds made available under this section are used effectively.

(2) *DELEGATED PROCESSING.—*

(A) *In issuing a capital advance under subsection (d)(1) for any multifamily project (but not including any project that is*

a group home or independent living facility) for which financing for the purposes described in the last sentence of subsection (b) is provided by a combination of the capital advance and sources other than this section, within 30 days of award of the capital advance, the Secretary shall delegate review and processing of such projects to a State or local housing agency that—

- (i) is in geographic proximity to the property;
- (ii) has demonstrated experience in and capacity for underwriting multifamily housing loans that provide housing and supportive services;
- (iii) may or may not be providing low-income housing tax credits in combination with the capital advance under this section; and
- (iv) agrees to issue a firm commitment within 12 months of delegation.

(B) The Secretary shall retain the authority to process capital advances in cases in which no State or local housing agency has applied to provide delegated processing pursuant to this paragraph or no such agency has entered into an agreement with the Secretary to serve as a delegated processing agency.

(C) An agency to which review and processing is delegated pursuant to subparagraph (A) may assess a reasonable fee which shall be included in the capital advance amounts and may recommend project rental assistance amounts in excess of those initially awarded by the Secretary. The Secretary shall develop a schedule for reasonable fees under this subparagraph to be paid to delegated processing agencies, which shall take into consideration any other fees to be paid to the agency for other funding provided to the project by the agency, including bonds, tax credits, and other gap funding.

(D) Under such delegated system, the Secretary shall retain the authority to approve rents and development costs and to execute a capital advance within 60 days of receipt of the commitment from the State or local agency. The Secretary shall provide to such agency and the project sponsor, in writing, the reasons for any reduction in capital advance amounts or project rental assistance and such reductions shall be subject to appeal.

(h) DEVELOPMENT COST LIMITATIONS.—

(1) **[IN GENERAL] GROUP HOMES.**—The Secretary shall periodically establish development cost limitations by market area for **[various types and sizes] group homes** of supportive housing for persons with disabilities by publishing a notice of the cost limitations in the Federal Register. The cost limitations shall reflect—

(A) \* \* \*

\* \* \* \* \*

**[(E) the cost of congregate space necessary to accommodate the provision of supportive services to persons with disabilities;]**

**[(F) (E) if the housing is newly constructed, the cost of meeting the energy efficiency standards promulgated by the Secretary in accordance with section 109 of the Cranston-Gonzalez National Affordable Housing Act; and**



**[(G)] (F)** the cost of land, including necessary site improvement.

\* \* \* \* \*

(3) ANNUAL ADJUSTMENTS.—The Secretary shall adjust the cost limitation *established pursuant to paragraph (1)* not less than once annually to reflect changes in the general level of acquisition, construction, reconstruction, or rehabilitation costs.

\* \* \* \* \*

(6) APPLICABILITY OF HOME PROGRAM COST LIMITATIONS.—  
 (A) *IN GENERAL.*—The provisions of section 212(e) of the Cranston-Gonzalez National Affordable Housing Act (42 U.S.C. 12742(e)) and the cost limits established by the Secretary pursuant to such section with respect to the amount of funds under subtitle A of title II of such Act that may be invested on a per unit basis, shall apply to supportive housing assisted with a capital advance under subsection (d)(1) and the amount of funds under such subsection that may be invested on a per unit basis.

(B) *WAIVERS.*—The Secretary shall provide for waiver of the cost limits applicable pursuant to subparagraph (A)—  
 (i) in the cases in which the cost limits established pursuant to section 212(e) of the Cranston-Gonzalez National Affordable Housing Act may be waived; and  
 (ii) to provide for—

(I) the cost of special design features to make the housing accessible to persons with disabilities;

(II) the cost of special design features necessary to make individual dwelling units meet the special needs of persons with disabilities; and

(III) the cost of providing the housing in a location that is accessible to public transportation and community organizations that provide supportive services to persons with disabilities.

**[(i) TENANT SELECTION.**—(1) An owner shall adopt written tenant selection procedures that are satisfactory to the Secretary as (A) consistent with the purpose of improving housing opportunities for very low-income persons with disabilities; and (B) reasonably related to program eligibility and an applicant's ability to perform the obligations of the lease. Owners shall promptly notify in writing any rejected applicant of the grounds for any rejection.

**[(2) Notwithstanding any other provision of law, an owner may, with the approval of the Secretary, limit occupancy within housing developed under this section to persons with disabilities who have similar disabilities and require a similar set of supportive services in a supportive housing environment.]**

(i) *ADMISSION AND OCCUPANCY.*—

(1) *TENANT SELECTION.*—

(A) *PROCEDURES.*—An owner shall adopt written tenant selection procedures that are satisfactory to the Secretary as (i) consistent with the purpose of improving housing opportunities for very low-income persons with disabilities; and (ii) reasonably related to program eligibility and an applicant's ability to perform the obligations of the lease. Owners

shall promptly notify in writing any rejected applicant of the grounds for any rejection.

(B) *REQUIREMENT FOR OCCUPANCY.*—Occupancy in dwelling units provided assistance under this section shall be available only to persons with disabilities and households that include at least one person with a disability.

(C) *AVAILABILITY.*—Except only as provided in subparagraph (D), occupancy in dwelling units in housing provided with assistance under this section shall be available to all persons with disabilities eligible for such occupancy without regard to the particular disability involved.

(D) *LIMITATION ON OCCUPANCY.*—Notwithstanding any other provision of law, the owner of housing developed under this section may, with the approval of the Secretary, limit occupancy within the housing to persons with disabilities who can benefit from the supportive services offered in connection with the housing.

(2) *TENANT PROTECTIONS.*—

(A) *LEASE.*—The lease between a tenant and an owner of housing assisted under this section shall be for not less than one year, and shall contain such terms and conditions as the Secretary shall determine to be appropriate.

(B) *TERMINATION OF TENANCY.*—An owner may not terminate the tenancy or refuse to renew the lease of a tenant of a rental dwelling unit assisted under this section except—

(i) for serious or repeated violation of the terms and conditions of the lease, for violation of applicable Federal, State, or local law, or for other good cause; and

(ii) by providing the tenant, not less than 30 days before such termination or refusal to renew, with written notice specifying the grounds for such action.

(C) *VOLUNTARY PARTICIPATION IN SERVICES.*—A supportive service plan for housing assisted under this section shall permit each resident to take responsibility for choosing and acquiring their own services, to receive any supportive services made available directly or indirectly by the owner of such housing, or to not receive any supportive services.

(j) *MISCELLANEOUS PROVISIONS.*—

(1) \* \* \*

\* \* \* \* \*

[(4) *OWNER DEPOSIT.*—The Secretary may require an owner to deposit an amount not to exceed \$10,000 in a special escrow account to assure the owner's commitment to the housing.]

[(5)] (4) *NOTICE OF APPEAL.*—The Secretary shall notify an owner not less than 30 days prior to canceling any reservation of assistance provided under this section. During the 30-day period following the receipt of a notice under the preceding sentence, an owner may appeal the proposed cancellation. Such appeal, including review by the Secretary, shall be completed not later than 45 days after the appeal is filed.

[(6)] (5) *LABOR STANDARDS.*—

(A) \* \* \*

\* \* \* \* \*

[(7)] (6) USE OF PROJECT RESERVES.—Amounts for project reserves for a project assisted under this section may be used for costs, subject to reasonable limitations as the Secretary determines appropriate, for reducing the number of dwelling units in the project. Such use shall be subject to the approval of the Secretary to ensure that the use is designed to retrofit units that are currently obsolete or unmarketable.

(k) PROJECT RENTAL ASSISTANCE-ONLY COMPETITIVE DEMONSTRATION PROGRAM.—

(1) AUTHORITY.—*The Secretary shall carry out a demonstration program under this subsection to expand the supply of supportive housing for non-elderly adults with disabilities, under which the Secretary shall make funds available for project rental assistance pursuant to paragraph (2) for eligible projects under paragraph (3). The Secretary shall provide for State housing finance agencies and other appropriate entities to apply to the Secretary for such project rental assistance funds, which shall be made available by such agencies and entities for dwelling units in eligible projects based upon criteria established by the Secretary for the demonstration program under this subsection. The Secretary may not require any State housing finance agency or other entity applying for project rental assistance funds under the demonstration program to identify in such application the eligible projects for which such funds will be used, and shall allow such agencies and applicants to subsequently identify such eligible projects pursuant to the making of commitments described in paragraph (3)(B).*

(2) PROJECT RENTAL ASSISTANCE.—

(A) CONTRACT TERMS.—*Project rental assistance under the demonstration program under this subsection shall be provided—*

*(i) in accordance with subsection (d)(2);*

*(ii) under a contract having an initial term of not less than 180 months that provides funding for a term 60 months, which funding shall be renewed upon expiration, subject to the availability of sufficient amounts in appropriation Acts.*

(B) LIMITATION ON UNITS ASSISTED.—*Of the total number of dwelling units in any multifamily housing project containing any unit for which project rental assistance under the demonstration program under this subsection is provided, the aggregate number that are provided such project rental assistance, that are used for supportive housing for persons with disabilities, or to which any occupancy preference for persons with disabilities applies, may not exceed 25 percent of such total.*

(C) PROHIBITION OF CAPITAL ADVANCES.—*The Secretary may not provide a capital advance under subsection (d)(1) for any project for which assistance is provided under the demonstration program.*

(D) ELIGIBLE POPULATION.—*Project rental assistance under the demonstration program under this subsection may be provided only for dwelling units for extremely low-*

*income persons with disabilities and extremely low-income households that include at least one person with a disability.*

(3) *ELIGIBLE PROJECTS.*—An eligible project under this paragraph is a new or existing multifamily housing project for which—

(A) *the development costs are paid with resources from other public or private sources; and*

(B) *a commitment has been made—*

*(i) by the applicable State agency responsible for allocation of low-income housing tax credits under section 42 of the Internal Revenue Code of 1986, for an allocation of such credits;*

*(ii) by the applicable participating jurisdiction that receives assistance under the HOME Investment Partnership Act, for assistance from such jurisdiction; or*

*(iii) by any Federal agency or any State or local government, for funding for the project from funds from any other sources.*

(4) *STATE AGENCY INVOLVEMENT.*—Assistance under the demonstration may be provided only for projects for which the applicable State agency responsible for health and human services programs, and the applicable State agency designated to administer or supervise the administration of the State plan for medical assistance under title XIX of the Social Security Act, have entered into such agreements as the Secretary considers appropriate—

(A) *to identify the target populations to be served by the project;*

(B) *to set forth methods for outreach and referral; and*

(C) *to make available appropriate services for tenants of the project.*

(5) *USE REQUIREMENTS.*—In the case of any project for which project rental assistance is provided under the demonstration program under this subsection, the dwelling units assisted pursuant to paragraph (2) shall be operated for not less than 30 years as supportive housing for persons with disabilities, in accordance with the application for the project approved by the Secretary, and such dwelling units shall, during such period, be made available for occupancy only by persons and households described in paragraph (2)(D).

(6) *REPORT.*—Upon the expiration of the 5-year period beginning on the date of the enactment of the Frank Melville Supportive Housing Investment Act of 2008, the Secretary shall submit to the Congress a report describing the demonstration program under this subsection, analyzing the effectiveness of the program, including the effectiveness of the program compared to the program for capital advances in accordance with subsection (d)(1) (as in effect pursuant to the amendments made by such Act), and making recommendations regarding future models for assistance under this section based upon the experiences under the program.

[(k)] (l) *DEFINITIONS.*—As used in this section—

(1) The term “group home” means a single family residential structure designed or adapted for occupancy by not more than

8 persons with disabilities, *which provides a separate bedroom for each tenant of the residence.* **【**The Secretary may waive the project size limitation contained in the previous sentence if the applicant demonstrates that local market conditions dictate the development of a larger project.**】** Not more than 1 home may be located on any one site and no such home may be located on a site contiguous to another site containing such a home.

**【**(2) The term “person with disabilities” means a household composed of one or more persons at least one of whom is an adult who has a disability. A person shall be considered to have a disability if such person is determined, pursuant to regulations issued by the Secretary to have a physical, mental, or emotional impairment which (A) is expected to be of 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. A person shall also be considered to have a disability if such person has a developmental disability as defined in section 102 of the Developmental Disabilities Assistance and Bill of Rights Act of 2000. The Secretary shall prescribe such regulations as may be necessary to prevent abuses in determining, under the definitions contained in this paragraph, the eligibility of families and persons for admission to and occupancy of housing assisted under this section. Notwithstanding the preceding provisions of this paragraph, the term “person with disabilities” includes two or more persons with disabilities living together, one or more such persons living with another person who is determined (under regulations prescribed by the Secretary) to be important to their care or well-being, and the surviving member or members of any household described in the first sentence of this paragraph who were living, in a unit assisted under this section, with the deceased member of the household at the time of his or her death.

**【**(3) The term “supportive housing for persons with disabilities” means housing that—

**【**(A) is designed to meet the special needs of persons with disabilities, and

**【**(B) provides supportive services that address the individual health, mental health or other special needs of such persons.**】**

(2)(A) *The term “person with disabilities” means a person who is 18 years of age or older and less than 62 years of age, who—*

*(i) has a disability as defined in section 223 of the Social Security Act,*

*(ii) is determined, pursuant to regulations issued by the Secretary, to have a physical, mental, or emotional impairment which—*

*(I) is expected to be of long-continued and indefinite duration;*

*(II) substantially impedes his or her ability to live independently; and*

*(III) is of such a nature that such ability could be improved by more suitable housing conditions; or*

(iii) has a developmental disability as defined in section 102 of the Developmental Disabilities Assistance and Bill of Rights Act of 2000.

(B) Such term shall not exclude persons who have the disease of acquired immunodeficiency syndrome or any conditions arising from the etiologic agent for acquired immunodeficiency syndrome. Notwithstanding any other provision of law, no individual shall be considered a person with disabilities, for purposes of eligibility for low-income housing under this title, solely on the basis of any drug or alcohol dependence. The Secretary shall consult with other appropriate Federal agencies to implement the preceding sentence.

(C) The Secretary shall prescribe such regulations as may be necessary to prevent abuses in determining, under the definitions contained in this paragraph, the eligibility of families and persons for admission to and occupancy of housing assisted under this section. Notwithstanding the preceding provisions of this paragraph, the term "person with disabilities" includes two or more persons with disabilities living together, one or more such persons living with another person who is determined (under regulations prescribed by the Secretary) to be important to their care or well-being, and the surviving member or members of any household described in subparagraph (A) who were living, in a unit assisted under this section, with the deceased member of the household at the time of his or her death.

(3) The term "supportive housing for persons with disabilities" means dwelling units that—

(A) are designed to meet the permanent housing needs of very low-income persons with disabilities; and

(B) are located in housing that make available supportive services that address the individual health, mental health, or other needs of such persons.

(4) The term "independent living facility" means a project designed for occupancy by not more than 24 persons with disabilities [(or such higher number of persons as permitted under criteria that the Secretary shall prescribe, subject to the limitation under subsection (h)(6))] in separate dwelling units where each dwelling unit includes a kitchen and a bath.

(5) The term "owner" means a private nonprofit organization that receives assistance under this section to develop and operate [a project for] supportive housing for persons with disabilities.

(6) The term "private nonprofit organization" means any institution or foundation—

(A) \* \* \*

\* \* \* \* \*

Such term includes a for-profit limited partnership the sole general partner of which is an organization meeting the requirements under subparagraphs (A), (B), (C), and (D) or a corporation controlled by an organization meeting the requirements under subparagraphs (A), (B), (C), and (D).

\* \* \* \* \*

[(1)] (m) ALLOCATION OF FUNDS.—[(1) ALLOCATION.—Of any amount made available for assistance under this section in any fiscal year, an amount shall be used for assistance under subsection

(b)(2) that is not less than the amount made available in appropriation Acts for such assistance in the preceding year.】

(1) *MINIMUM ALLOCATION FOR MULTIFAMILY PROJECTS.*—*The Secretary shall establish a minimum percentage of the amount made available for each fiscal year for capital advances under subsection (d)(1) that shall be used for multifamily projects subject to subsection (e)(4).*

(2) *CAPITAL ADVANCES.*—Of any amounts made available for assistance under subsection (b), such sums as may be necessary shall be available for funding capital advances in accordance with 【subsection (c)(1)】 *subsection (d)(1)*. Such amounts, the repayments from such advances, and the proceeds from notes or obligations issued under this section prior to the enactment of this Act shall constitute a revolving fund to be used by the Secretary in carrying out this section.

(3) *PROJECT RENTAL ASSISTANCE.*—Of any amounts made available for assistance under subsection (b), such sums as may be necessary shall be available for funding project rental assistance in accordance with 【subsection (c)(2)】 *subsection (d)(2)*.

【(4) *SIZE LIMITATION.*—Of any amounts made available for any fiscal year and used for capital advances or project rental assistance under paragraphs (1) and (2) of subsection (d), not more than 25 percent may be used for supportive housing which contains more than 24 separate dwelling units.】

【(m) *AUTHORIZATION OF APPROPRIATIONS.*—There are authorized to be appropriated for providing assistance under this section such sums as may be necessary for each of fiscal years 2001, 2002, and 2003.】

(n) *AUTHORIZATION OF APPROPRIATIONS.*—*There is authorized to be appropriated for each of fiscal years 2008 through 2012 the following amounts:*

(1) *CAPITAL ADVANCE/PRAC PROGRAM.*—*For providing assistance pursuant to subsection (b), such sums as may be necessary.*

(2) *DEMONSTRATION PROGRAM.*—*For carrying out the demonstration program under subsection (k), such sums as may be necessary to provide 2,500 incremental dwelling units under such program in each of fiscal years 2008 and 2009 and 5,000 incremental dwelling units under such program in each of fiscal years 2010, 2011, and 2012.*

【(n)】 (o) *EFFECTIVE DATE AND APPLICABILITY.*—

(1) \* \* \*

\* \* \* \* \*

(p) *AUTHORIZATION OF APPROPRIATIONS FOR SECTION 8 ASSISTANCE.*—

(1) *IN GENERAL.*—*There is authorized to be appropriated for tenant-based rental assistance under section 8(o) of the United States Housing Act of 1937 (42 U.S.C. 1437f(o)) for persons with disabilities in fiscal year 2009 the amount necessary to provide a number of incremental vouchers under such section that is equal to the number of vouchers provided in fiscal year 2008 under the tenant-based rental assistance program under subsection (d)(4) of this section (as in effect before the date of the enactment of the Frank Melville Supportive Housing Investment Act of 2008).*

(2) *REQUIREMENTS UPON TURNOVER.*—*The Secretary shall develop and issue, to public housing agencies that receive voucher assistance made available under this subsection and to public housing agencies that received voucher assistance under section 8(o) of the United States Housing Act of 1937 (42 U.S.C. 1437f(o)) for non-elderly disabled families pursuant to appropriation Acts for fiscal years 1997 through 2002 or any other subsequent appropriations for incremental vouchers for non-elderly disabled families, guidance to ensure that, to the maximum extent possible, such vouchers continue to be provided upon turnover to qualified persons with disabilities or to qualified non-elderly disabled families, respectively.*

\* \* \* \* \*

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