

## Ensuring NAHMA Members Receive the Latest News and Analysis of Breaking Issues in Affordable Housing

National Affordable Housing Management Association – 400 N. Columbus Street, Suite 203 - Alexandria, VA 22314  
Phone 703-683-8630 - Fax 703-683-8634 - [www.nahma.org](http://www.nahma.org)



June 16, 2008

NAHMAanalysis 2008 - 0616

### **SECTION 8 VOUCHER REFORM ACT (SEVRA) OF 2008 (H.R. 1851 & S.2684)**

#### **Background**

HR 1851, the Section 8 Voucher Reform Act of 2007, is a bipartisan alternative to the flawed block grant legislation proposed by the Bush Administration in previous budget requests.

According to the bill's sponsor Congresswoman Maxine Waters, Congress began discussing Section 8 voucher reform in 2004 after changing the voucher payment formulas to public housing authorities, by paying the voucher cost during a 3-month period in the previous year. Many affordable housing providers and PHAs saw a disastrous cut in their funding as a result. Because of the funding instability, these organizations had no reason to house more families, resulting in \$1.4 billion in unspent voucher funds and the loss of 150,000 vouchers as a direct result of the older funding formula. This prompted the need for Congressional action, she said.

Although the development of the legislation originated in the 109th Congress, real progress on Section 8 reform began with the introduction of H.R. 1851 by Congresswoman Waters on March 29, 2007. In May 2007, the Committee on Financial Services began hearings to consider major reforms to the Section 8 program. The act was passed by the House in July 2007 with overwhelming bipartisan support. Included in the bill approved by the House was an amendment containing NAHMA's crucial LEP guidance language. The bill was then referred to the Senate Committee on Banking, Housing, and Urban Affairs.

Senator Christopher Dodd introduced a revised version of the bill, S. 2684, in March 2008. The Senate Banking Committee's Subcommittee on Housing, Transportation, and Community Development held a hearing on SEVRA on April 16. A coalition of industry representatives and tenant advocates voiced widespread support for the proposed reforms. Jack Murray, a past president of NAHMA, delivered the joint testimony of NAHMA and the National Leased Housing Association (NLHA). When the hearing concluded, Subcommittee Chairman Chuck Schumer vowed to push the legislation forward.

The Administration opposes both the House and Senate SEVRA language, despite the widespread industry support. They claim the reformed funding formula and other provisions will

increase the cost of the program, despite Congressional and industry assurance that the reforms will cut costs.

### **Summary**

While S. 2684 differs slightly from the House proposal, HR 1851, they both include provisions:

- Basing funding for vouchers on the previous year's leasing and cost data—stabilizing funding for the program;
- Simplifying the rules for the determining rent, recertifying income;
- Streamlining the unit inspection process—most importantly, by allowing PHAs to permit occupancy prior to inspection if an inspection for another federal program meeting Housing Quality Standards has been made in the last year;
- Increasing the cap on the percentage of vouchers PHAs may project-base to 25 percent;
- Restoring the ability of state and local housing agencies to enter into project-based voucher contracts at higher Section 8 rents in buildings financed by LIHTC;
- Permitting PHAs to extend the length of project-based contracts from 10 to 15 years;
- Authorizing appropriations for 20,000 new incremental vouchers per year for 5 years;
- Recapturing and redistributing unspent voucher funds to PHAs that can and will spend them;
- Providing tools for PHAs to pay for increased costs or emergencies without having to cut assistance or request new funding;
- Providing incentives for PHAs to serve more households by tying administrative funding to the number of families housed;
- Including tools to encourage voucher families to move to economic self-sufficiency, such as disregarding a portion of earned income to protect families from increases in rent;
- Eliminating the complex billing process between PHAs using portable vouchers;
- Allowing Section 8 voucher to be used for a down payment by first-time homebuyers;
- Making eligibility for a voucher based on income and assets; and
- Authorizing HUD to better serve persons with limited English proficiency by providing technical assistance to recipients of federal funds, including document translations, a housing information resource center for translations, and a toll-free hotline to assist with oral interpretation needs.

## **Different Approaches to the Common Goals:**

### *Rent Reform and Income Reviews*

Interim recertifications are triggered by a change in annual adjusted income of \$1,500 in the House version and \$1,000 in the Senate bill. Earned income disregards are provided in both bills to provide incentives for employment, earnings and education. The House allows 10 percent of the first \$10,000 of the previous year's income to be excluded, while the Senate changes the figures to 10 percent of the first \$9,000. There are modest differences in the dollar amount of deductions for elderly and disabled families and dependents. Also, the Senate includes a deduction for childcare. Both bills allow a deduction for health and medical expenses.

### *Eligibility for Assistance*

Net family assets may not exceed \$100,000. There are some differences in the wording of exclusions from assets.

### *Voucher Funding Renewal*

Each bill authorizes appropriations for vouchers. The House authorization runs from FY 2008 through FY 2012; the Senate period runs from FY 2009 through FY 2013. Both bills allocate voucher funding based on previous year's leasing and cost data, adjusted for inflation and certain other factors. Each bill also calls for proration of funding if appropriations are insufficient, except that renewals of enhanced vouchers shall not be prorated. The bills also permit PHAs to resume "overleasing" up to 103 percent of their authorized vouchers if reserves are used for this purpose. The overleasing is capped to prevent agencies with large reserves from using them to overlease by an amount that substantially inflates the PHAs baselines in the next year's funding allocations.

SEVRA permits PHAs to reserve a percentage of their annual allocations to deal with market and program income fluctuations. The House permits 12.5 percent for the first year (2007) and 5 percent for each subsequent year (2008-2011), while the Senate allows 12.5 percent for the first year (2008), 7.5 percent for the second year (2009), and 5 percent for each subsequent year (2010-2012).

### *Performance Assessments*

Both versions of SEVRA stipulate that HUD must, by regulation, establish performance assessments of PHA voucher programs. The Senate version required a biannual report to Congress and the public on the program efficiency and also requires HUD, by regulation, to establish procedures to help poorly performing PHAs improve.

### *PHA Project-Based Assistance*

Both bills increase the 25 percent limit on dwelling units that may be project-based in any project for areas where vouchers are difficult to use. HR 1851 increases the limit to 50 percent of dwelling units in the project, while S 2684 increases the limit to 40 percent.

S. 2684 permits project-based assistance to be used in PHA units without a competitive process as long as those units do not receive public housing funds. It also allows PHAs to transfer voucher and budget authority to other PHAs in the same region for project-based assistance

### *Rent Burdens*

While both versions insist that PHAs must make the local information on rent burdens public. The versions differ about when PHAs are required to either raise payment standards or explain their reasons for not doing so. H.R. 1851 requires PHAs to raise their payment standard when the percentage of participating families paying more than 30 percent or 40 percent of their income on rent exceeds the national average, but the Senate version only raises the standards if the percentage of voucher families paying more than 40 percent of income for rent exceeds 5 percent or families of particular racial and ethnic groups are concentrated in higher poverty areas.

### *Screening of Applicants*

Both bills limit PHAs' elective screening of applicants to their ability to fulfill lease obligations, requires that applicants must be notified when determined ineligible and must be given a chance to refute at an informal hearing.

The Senate version allows PHAs to deny assistance based on criminal backgrounds, safety and security. S. 2684 also prohibits "re-screening" public housing tenants requesting voucher assistance as a result of demolition or disposition of public housing.

### *Enhanced Vouchers*

H.R. 1851 and S. 2684 both include new language allowing families to receive enhanced vouchers in oversized units if there are no appropriately sized units available. The Senate bill stipulates that owners must accept these vouchers and can only terminate tenancies when the lease or law has been violated; the House version has no such stipulation. The Senate also prohibits requiring assisted families to requalify for enhanced vouchers.

## **Policies only in the House SEVRA:**

### *PHA Reporting of Rent Payments to Credit Agencies*

The PHA may submit information regarding tenant payment history to credit reporting agencies as long as the family agrees to it in writing.

### *Housing Innovation Program*

The legislation changes "Moving to Work" (MTW) program to "Housing Innovation Program" (HIP), adds additional PHAs to the program, extends the program for 10 more years, authorizes \$15 million for HUD to evaluate the PHAs' performance, and authorizes \$10 million for each of fiscal years 2008 through 2012 for resident technical assistance.

### *Acceptable Identification Requirement*

HR 1851 prohibits assistance under the Section 8 voucher program to individuals or households unless the individual or all adult members of the household provide valid personal identification to establish proof of their legal residency. Permissible forms of identification are a driver's license or REAL ID card; a foreign or U.S. passport; a citizens and immigration services photo ID card; or a Social Security card in conjunction with the State or Federal photo ID.

### **Policies only in the Senate SEVRA:**

#### *Project-Based Preservation Vouchers*

The legislation authorizes project-based vouchers can be given in lieu of enhanced vouchers at the request of the project owner, to be determined by the PHA.

#### *GAO Study*

The Senate has called for a GAO study to determine whether any legislative, regulatory, and administrative requirements or PHA or owner practices and policies act as obstacles to the use of vouchers in HOME and Low Income Housing Tax Credit properties.

#### *Tenant Data Collection*

State agencies administering LIHTC must submit annual data to HUD concerning race, ethnicity, family composition, age, income, use of rental assistance, disability status, and monthly rental payments of households residing in the tax credit properties.

#### *Agency Authority for Utility Payments*

In cases where utility payments are the owner's responsibility (per the lease or applicable law) and the owner fails to pay them, PHAs may make direct payments using the subsidy otherwise due to the owner.

### **Positive Aspects of this Legislation**

At the Senate Banking Subcommittee on Housing, Transportation and Community Development hearing on April 16, Jack Murray highlighted several positive aspects of SEVRA. First, Jack stressed that the single most important change in SEVRA that will increase voucher utilization is streamlining the inspection process. Under current law, a voucher holder cannot move in until the inspection is completed, but there is uncertainty about when a PHA will conduct the inspection, and ultimately enable the owner to begin collecting rent. This policy has placed voucher holders at a disadvantage when they compete with unassisted tenants for the same units. Voucher holders in tight rental markets with low vacancy would be helped, Jack said, because SEVRA permits PHAs to approve lease-ups of apartments that have been recently inspected under other federal housing assistance programs. PHAs would inspect the units within 30 days

after the voucher tenant moves in, and minor repairs could also be made after the move in. Jack explained, “The residents are provided much needed housing sooner and the owners are not losing income due to delayed move-ins.”

Jack’s testimony also applauded the inclusion of LEP language (S. 2018) as part of SEVRA. Congress has provided funding to HUD in order to translate documents. This is a positive first step. He testified that the authorization provides “an excellent framework to guide HUD in the use of its \$380,000 appropriation for LEP translations.” It creates a stakeholder task force to identify vital documents (official HUD forms as well as unofficial property documents), requires HUD to produce translations within six months, and authorizes a 1-800 oral interpretation hotline.

Finally, Jack explained that project-based vouchers “are an important tool in expanding the supply of housing, particularly when used with the tax credit program.” He cited three specific SEVRA provisions which aid such housing by:

- Increasing the percent of voucher funds that PHAs can use for project-based properties from 20 percent to 25 percent to make it possible for smaller PHAs to effectively use the project-based option;
- Changing the maximum initial contract term for project-based vouchers from 10 years to 15 years to make it conform with the tax credit compliance period; and
- Allowing a PHA (at an owner’s request) to provide existing residents with project-based vouchers in lieu of enhanced vouchers.

Likewise, the SEVRA bills include several other industry recommendations which will make the Section 8 voucher program more user friendly for participating owners and management agents. These include:

- Stabilizing the funding formula;
- Streamlining the process for calculating income and rent; and
- Reducing administrative burdens posed by portability.

### **NAHMA Concerns**

NAHMA has heard a concern that because non-profit housing providers are ineligible for enhanced vouchers, they would not be able to request the project-based voucher substitution. NAHMA believes the intent of the provision is positive for tenants, project managers and owners; however, we would support removing this potential obstacle by tweaking the language of this legislation, or through an alternative legislative vehicle.

NAHMA’s major concern with SEVRA is a tenant protection provision within the “Inspection of Dwelling Units” section which allows tenants to stay for extended periods in units that have failed housing quality standards (HQS). The Senate SEVRA (S. 2684) requires that if a unit fails inspection and the failure is not corrected within 30 days, PHAs must abate assistance for up to 120 days. Furthermore, a tenant may remain in an unsafe unit for up to 150 days after a violation

is recorded—30 days to correct the violation, with an additional 120 days to make repairs before the lease terminates and the tenant must move. This time-period seems excessive, considering the unit has failed an inspection and the subsidy has been abated. NAHMA signed onto industry letters raising concern about this section.

As with any new information collection, we are concerned that the LIHTC data collection in the Senate bill could result in unfunded mandates on properties in terms of staff time and extra paper work.

Finally, some NAHMA members expressed interest in legislation that would encourage self-sufficiency and discourage generational dependency in the Section 8 program through time limits on assistance and tenant work requirements. The House rejected amendments to H.R. 1851 that would have included work requirements and time limits. In response, Rep. Steve Chabot sponsored legislation similar to the rejected H.R. 1851 amendments, the Section 8 Reform, Responsibility, and Accountability Act (H.R. 5490). After careful consideration, NAHMA has adopted a policy position of neutrality on H.R. 5490 unless and until we can ensure it will not result in an unfunded mandate on housing operators. As this bill was considered through NAHMA's public policy approval process, members became concerned that the responsibility (and related expenses) for monitoring tenants' work requirements would fall on housing operators. Likewise, when time limits expire and assistance is cut off, who will absorb the costs of eviction proceedings if the tenant refuses to move or pay market rent? Protecting housing operators from unfunded mandates will be our guiding principle if there is further consideration on H.R. 5490 or similar amendments when the Senate considers SEVRA.

### **NAHMA position**

NAHMA strongly supports SEVRA. A reformed Section 8 Voucher program will better meet the needs of America's hard working families who cannot find decent, affordable housing. Although we have some concerns with specific provisions in these bills, NAHMA will continue working with the sponsors and with our industry colleagues to ensure the final bill represents the best package of reforms to the Section 8 program that can be achieved to increase owners' participation, simplify administration of the program and increase housing options for low-income families.