

One Hundred Eleventh Congress

of the

United States of America

AT THE SECOND SESSION

Begun and held at the City of Washington on Tuesday,

the fifth day of January, two thousand and ten

An Act

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.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE; REFERENCES.

(a) Short Title- This Act may be cited as the ‘Frank Melville Supportive Housing Investment Act of 2010’.

(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.

(a) Renewal Through Section 8- Section 811(d)(4) is amended to read as follows:

‘(4) TENANT-BASED RENTAL ASSISTANCE-

‘(A) IN GENERAL- Tenant-based rental assistance provided under subsection (b)(1) shall be provided under section 8(o) of the United States Housing Act of 1937 (42 U.S.C. 1437f(o)).

‘(B) CONVERSION OF EXISTING ASSISTANCE- 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 an amount not less than the amount necessary to convert the number of authorized vouchers and funding under an annual contributions contract in effect on the date of enactment of the Frank Melville Supportive Housing Investment Act of 2010. Such converted vouchers may be administered by the entity administering the vouchers prior to conversion. For purposes of administering such converted vouchers, such entities shall be considered a ‘public housing agency’ authorized to engage in the operation of tenant-based assistance under section 8 of the United States Housing Act of 1937.

‘(C) 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.’.

(b) Provision of Technical Assistance- The Secretary is authorized to the extent amounts are made available in future appropriations Acts, to provide technical assistance to public housing agencies and other administering entities to facilitate using vouchers to provide permanent supportive housing for persons with disabilities, help States reduce reliance on segregated restrictive settings for people with disabilities to meet community care requirements, end chronic homelessness, as ‘chronically homeless’ is defined in section 401 of the McKinney-Vento Homeless Assistance Act (42 U.S.C. 11361), and for other related purposes.

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, including adequate reserves and service coordinators as appropriate, 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 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 2010, 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 (l), 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; and

(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 is sufficiently qualified 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) The Secretary shall--

‘(i) develop criteria and a timeline to periodically assess the performance of State and local housing agencies in carrying out the duties delegated to such agencies pursuant to subparagraph (A); and

‘(ii) retain the authority to review and process projects financed by a capital advance in the event that, after a review and assessment, a State or local housing agency is determined to have failed to satisfy the criteria established pursuant to clause (i).

‘(D) 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.

‘(E) 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 may 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) Congressional Notification of Waiver- Section 811(k) is amended--

(1) in paragraph (1), by adding the following after the second sentence: 'Not later than the date of the exercise of any waiver permitted under the previous sentence, the Secretary shall notify the Committee on Banking, Housing, and Urban Affairs of the Senate and the Committee on Financial Services of the House of Representatives of the waiver or the intention to exercise the waiver, together with a detailed explanation of the reason for the waiver.'; and

(2) in paragraph (4)--

(A) by striking ‘prescribe, subject to the limitation under subsection (h)(6) of this section)’ and inserting ‘prescribe)’; and

(B) by adding the following after the first sentence: ‘Not later than the date that the Secretary prescribes a limit exceeding the 24 person limit in the previous sentence, the Secretary shall notify the Committee on Banking, Housing, and Urban Affairs of the Senate and the Committee on Financial Services of the House of Representatives of the limit or the intention to prescribe a limit in excess of 24 persons, together with a detailed explanation of the reason for the new limit.’.

(h) Minimum Allocation for Multifamily Projects- Paragraph (1) of section 811(l) is amended to read as follows:

‘(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.

Section 811(b) is amended--

(1) in the matter preceding paragraph (1), by striking ‘is authorized--’ and inserting ‘is authorized to take the following actions:’;

(2) in paragraph (1)--

(A) by striking ‘(1) to provide tenant-based’ and inserting ‘(1) TENANT-BASED ASSISTANCE- To provide tenant-based’; and

(B) by striking ‘; and’ and inserting a period;

(3) in paragraph (2), by striking ‘(2) to provide assistance’ and inserting ‘(2) CAPITAL ADVANCES- To provide assistance’; and

(4) by adding at the end the following:

‘(3) PROJECT RENTAL ASSISTANCE-

‘(A) IN GENERAL- To offer additional methods of financing supportive housing for non-elderly adults with disabilities, the Secretary shall make funds available for project rental assistance pursuant to subparagraph (B) for eligible projects under subparagraph (C). 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. The Secretary may not require any State housing finance agency or other entity applying for such project rental assistance funds 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 subparagraph (C)(ii).

‘(B) CONTRACT TERMS-

‘(i) CONTRACT TERMS- Project rental assistance under this paragraph shall be provided--

‘(I) in accordance with subsection (d)(2); and

‘(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.

‘(ii) 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 this paragraph 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.

‘(iii) 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 this paragraph.

‘(iv) ELIGIBLE POPULATION- Project rental assistance under this paragraph 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.

‘(C) ELIGIBLE PROJECTS- An eligible project under this subparagraph is a new or existing multifamily housing project for which--

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

‘(ii) 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.

‘(D) STATE AGENCY INVOLVEMENT- Assistance under this paragraph 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--

‘(i) to identify the target populations to be served by the project;

‘(ii) to set forth methods for outreach and referral; and

‘(iii) to make available appropriate services for tenants of the project.

‘(E) USE REQUIREMENTS- In the case of any project for which project rental assistance is provided under this paragraph, the dwelling units assisted pursuant to subparagraph (B) 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 subparagraph (B)(iv).

‘(F) REPORT- Not later than 3 years after the date of the enactment of this paragraph, and again 2 years thereafter, the Secretary shall submit to Congress a report--

‘(i) describing the assistance provided under this paragraph;

‘(ii) analyzing the effectiveness of such assistance, including the effectiveness of such assistance compared to the assistance program for capital advances set forth under subsection (d)(1) (as in effect pursuant to the amendments made by such Act); and

‘(iii) making recommendations regarding future models for assistance under this section.’.

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 (k)--

(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) in paragraph (2), by striking the first sentence, and inserting the following: 'The term 'person with disabilities' means a household composed of one or more persons who is 18 years of age or older and less than 62 years of age, and who has a disability.';

(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 (l)--

(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 (m) of section 811 is amended to read as follows:

‘(m) Authorization of Appropriations- There are authorized to be appropriated for providing assistance pursuant to this section \$300,000,000 for each of fiscal years 2011 through 2015.’.

SEC. 7. 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.

Speaker of the House of Representatives.

Vice President of the United States and

President of the Senate.