Important Provisions in S. 2292, H.R. 4816, and H.R. 3700

Reduce Administrative Burden for PHAs

The “Small Public Housing Agency Opportunity Act of 2015” (S. 2292) is designed to assure the long-term viability and effectiveness of small public housing agencies and the portfolios they manage. The recently introduced H.R. 4816 is a companion bill to S. 2292, and both bills are similar in many ways. The bills encourage flexibility and enable smaller housing agencies managing fewer than 550 units of federally-assisted housing to explore innovative approaches to determining tenant rents while reducing administrative burden unique to smaller agencies. The Housing Opportunity through Modernization Act (H.R. 3700) does in fact provide administrative and cost relief to public housing authorities of all sizes, however, small PHAs face a unique level and degree of federal oversight that is currently disproportionate to the risk presented by these agencies. S. 2292 and H.R. 4816 would liberate small PHAs from unnecessary and unproductive red tape and provide those agencies with new flexibility to administer assisted housing programs effectively, efficiently, and in the interests of low-income residents, program applicants, and taxpayers.

Both H.R. 3700, S. 2292, and H.R. 4816 contain provisions that are of extreme value to public housing agencies and efforts to streamline agency operations. S. 2292 and H.R. 4816, however, contain provisions not found in H.R. 3700 that would be of particular value to small public housing agencies. As S. 2292 preceded H.R. 4816, the following comparison is between H.R. 3700 and S. 2292. Additional provisions contained in H.R. 4816 but not in S. 2292 can be found at the end of the document.

Provisions Unique to S. 2292

Additional Streamlining

S. 2292: Contains additional streamlining beyond H.R. 3700 for small PHAs:

- Small PHAs would not be required to submit reports, plans, or other information if it is not required by Section 8 except designated housing for elderly and disabled families.
- Small PHAs would be able to allow tenants to self-certify their CSSR. Unlike HUD’s Streamlining Final Rule, small PHAs would not need third-party verification.
- Permanent exemption from asset management for PHAs that manage under a combined 400 vouchers or public housing units.
- Exemption from environmental reviews for projects that cost not more than $100,000 and a streamlined environmental review process for projects that cost more than $100,000.

Program Evaluations

S. 2292: The financial condition of a small PHA would be determined by the basis of ratio of current assets to current liabilities. The management condition of a small PHA would be determined by the basis of ratio of vacant unit months to eligible unit months. Evaluations for Section 8 programs for small PHAs would be determined on the basis of lease-up rate versus budget utilization rate. A lease-up rate of not less than 90 percent of voucher utilization would be deemed acceptable.

Public Housing Agency Designations

S. 2292: A small PHA would be designated high performing if it meets the criteria outlined in “program evaluations.” HUD may designate a small PHA as a troubled small PHA with respect to its public housing program or housing voucher program only if it meets certain negative criteria.
Rental Reform Demonstration

**S. 2292**: Establishes rent-setting mechanisms for small PHA demonstration project participants based on: (1) a tiered system for initial rents for extremely low-income families, very low-income families, and low-income families; (2) a certain range of gross income percentages; or (3) the existing method for establishing rents.

**Certain provisions in S. 2292 touch on similar topics as provisions in H.R. 3700, however S. 2292 further reduces additional administrative burdens that uniquely impact small housing agencies.** Reform of HUD’s oversight and regulatory regime would reduce small agencies’ resource requirements for oversight and compliance activity, and those resources may be devoted to activities directly related to fulfilling the agencies’ and the programs’ central missions. Small housing authorities may also find it easier to tailor programs to fit local needs and preferences, providing residents and communities more satisfaction with assisted housing programs.

**Physical Inspections**

**H.R. 3700**: PHAs would have to inspect any units before assistance is made. Non-life threatening conditions are given 30 days to be fixed before assistance may be stopped. Alternative inspection methods may be used as a substitute until a Housing Quality Standards (HQS) inspection.

**S. 2292**: Small, non-troubled PHAs would be required to perform physical inspections every three years. Small PHAs administering Section 8 tenant-based assistance under the housing voucher program must make physical inspections of assisted units at least once every three years. This would reduce small housing agency administrative burden, while also ensuring families have access to safe, secure homes. Small public housing agencies lack the capacity to perform additional inspections, and as such would benefit from triennial inspections.

**Subsidy Flexibility**

**H.R. 3700**: PHAs could voluntarily establish Capital Fund replacement reserves, and transfer 20 percent of their Operating Funds to their Capital Fund.

**S. 2292**: Small PHAs could combine Section 8, Capital Fund, and Operating Fund dollars, so long as funds are still used toward Section 8, Capital Fund, and Operating Fund eligible activities and PHAs continue to serve substantially the same number of families as before the funds are combined. Small housing agencies receive less funding than larger housing agencies due to their size. This can make it difficult to perform necessary capital and operating projects. Combining funds would help small housing agencies accomplish necessary modernization and rehabilitation projects while still ensuring they serve substantially the same number of families as before they combined their funds.

**Project-Based Vouchers**

**H.R. 3700**: PHAs would be able to change the amount they may project-base from 20 percent of their voucher funding to 20 percent of their authorized voucher allocation. PHAs that have units targeting homeless individuals and families, veterans, elderly households, disabled households, or units in areas where vouchers are difficult to use would be permitted to project-base up to 30 percent of those targeted units. PHA project-based voucher assistance may not exceed 25 percent of the units in a project or 25 units, whichever is greater. In areas where vouchers are difficult to use and in census tracts with a poverty rate of equal to or less than 20 percent, PHAs may provide project-based voucher assistance for up to 40 percent of the units in a project.
S. 2292: Small PHAs would be able to project-base 50 percent of vouchers to project-based voucher properties. Although H.R. 3700 allows public housing agencies to increase the number of vouchers that are project-based, S. 2292 provides increased flexibility for small housing authorities to project-base more vouchers, allowing more access to the Low Income Housing Tax Credit program and increased leveraging capabilities. As small housing agencies have less units, they require a larger percentage of project-based vouchers to attract financing partners.

Utility Costs

H.R. 3700: Utility Reimbursements are prohibited.

S. 2292: A small PHA may elect to be paid for its utility and waste management costs under a HUD assistance formula for a period, at its discretion, of up to 20 years based on its average annual consumption during the three-year period preceding the year in which the election is made. This will help small agencies better forecast future costs.

The companion bill to S. 2292, H.R. 4816, contains additional provisions that would lead to reduced administrative burden for small housing agencies not found in either S. 2292 or H.R. 3700.

Green Physical Needs Assessment Exemptions

H.R. 4816: Small public housing agencies would be exempt from any requirement to conduct a Green Physical Needs Assessment in any year that funding for the Capital Fund fails to meet the annual accrued need.

Minimum Rents Pegged to the Consumer Price Index

H.R. 4816: Minimum rents for small public housing agencies would be adjusted annually to reflect to percentage increase in the Consumer Price Index for all urban consumers published by the Department of Labor.

Demolition and Disposition

H.R. 4816: Small public agencies may demolish not more than the greater of 5 dwelling units or 5 percent of the total dwelling units owned by the public housing agency in any 5-year period.