

National Low Income Housing Coalition written testimony

**Subcommittee on Insurance, Housing and Community Opportunity
House Committee on Financial Services
U.S. House of Representatives**

“The Section 8 Savings Act of 2011: Proposals to Promote Economic Independence for Assisted Families”

October 13, 2011

The National Low Income Housing Coalition (NLIHC) is pleased to submit comments on the revised discussion draft of the Section 8 Savings Act of 2011 (SESA) and the newly circulated Moving to Work Improvement, Expansion, and Permanency Act of 2011.

NLIHC is dedicated solely to achieving socially just public policy that assures people with the lowest incomes in the United States have affordable and decent homes.

Our members include non-profit housing providers, homeless service providers, fair housing organizations, state and local housing coalitions, public housing agencies, private developers and property owners, housing researchers, local and state government agencies, faith-based organizations, residents of public and assisted housing and their organizations, and concerned citizens. NLIHC does not represent any sector of the housing industry. Rather, NLIHC works only on behalf of and with low income people who need safe, decent, and affordable housing, especially those with the most serious housing problems. NLIHC is entirely funded with private donations.

Section 8 Savings Act of 2011

Minimum Rents

NLIHC opposes the a new provision in the second SESA discussion draft that would allow housing agencies to establish minimum monthly rents at the greater of \$75 or 12% of Fair Market Rent (FMR) for the public housing and voucher programs. The lowest income HUD-assisted households, particularly those in the highest-cost areas, would be faced with significant cost burdens by such an increase to minimum rents. We are equally concerned that the metric for determining rent would shift for many households from the Brooke standard to a percent of FMR. The Brooke standard is of tremendous importance to NLIHC. Shifting the calculation of a household's rent from a percent of a household's income, as Brooke provides to ensure affordability for each household, to a percent of an area's FMR, undermines the stability Brooke provides today to millions of HUD assisted households.

NLIHC tabulations of FY12 FMRs and HUD's 2008 *Picture of Subsidized Households* data find that 88% of people assisted by the housing choice voucher program, and 77% of households served by the public housing program, are in counties where 12% of the two bedroom FMR is greater than \$75. The lowest income households will shoulder the brunt of the burden of this new

minimum rent structure, which shift costs to those most unable to afford increased rents. While the statute does allow for certain hardship exemptions from the current authorized minimum rent, these hardship exemptions do not include housing cost burdens experienced as a result of unaffordable minimum rents. Our nation's federal housing safety net must be one that provides stable housing, regardless of the income level of the household assisted.

The new draft SESA bill would also allow private owners to set minimum rent amounts. Currently, the HUD Secretary has this authority and, through regulation, has set project-based minimum rents at \$25. In the draft SESA bill, owners could seek HUD approval to have minimum rents of the greater of \$75 or 12% of FMR. NLIHC looks forward to sharing our analysis of the potential for increased rent burdens triggered by this proposal.

NLIHC opposes this new section of the draft SESA bill and urges the Subcommittee to remove it as the bill moves forward.

Access to Reforms Contingent on Certain Programming

The latest discussion draft makes access to the bill's income determination and rent simplification provisions, as well as the bill's new inspection protocols, contingent upon a public housing agency carrying out a program that promotes economic self-sufficiency for families with children whose head of household is working, seeking work, or preparing for work by participating in job training, educational programs, or by other supporting services, including rental counseling.

NLIHC supports the goals of this new section of the draft SESA bill but we must also note that achieving "economic self-sufficiency" is extremely difficult during periods when unemployment is high, incomes are decreasing particularly for the lowest income households, and rents are rising. Due to the recession, HUD reports that public and assisted housing residents are using the housing assistance for longer periods of time as their ability to participate in the private, un-assisted rental market remains out of reach.

NLIHC is unsure what public housing agency resources could be dedicated to such commendable efforts. NLIHC understands that HUD is involved in a myriad of working groups with other departments and agencies. Perhaps these federal partnership conversations could produce commitments from a range of appropriate agencies to partner with housing agencies to achieve these goals.

NLIHC is concerned that conditioning access to the bill's key simplifications regarding rents, income determinations, and inspections on public housing agencies operating self-sufficiency programming would also exclude private owners and operators from taking advantage of these reforms. This would prohibit residents of privately owned, HUD-assisted housing from benefiting from these simplifications and would decrease the overall cost savings these reforms would generate because, in the new SESA draft, these reforms would not apply to project-based housing.

Many of the draft bill's rent simplification provisions serve double duty by also encouraging increased earned income. In the draft bill, interim income recertifications due to increased income would only occur when annual income increased by 10%. And, PHAs and owners could chose not to conduct any interim income recertifications during the last three months of a tenant's recertification period. The bill would also base rents at annual income recertifications on prior year income instead of on projected income, which is the current practice.

NLIHC believes that these provisions will benefit residents by allowing them to hold on to more of their increased earned income longer and make rent setting and income recertifications easier for PHAs and owners. NLIHC would not want to condition the ability of residents to benefit from these good provisions because their public housing agency did not, or could not, operate a new self-sufficiency program or their private owner was prohibited from operating one.

Provisions Still Not in SESA

While NLIHC had praised the first bill's inclusion of enhanced vouchers for tenants in properties with maturing mortgages, this provision has been removed in the second discussion draft. NLIHC hopes that this provision, which would apply only to tenants who would be eligible for enhanced vouchers if their owners had instead prepaid their contracts, can be added back into SESA.

In our June 23, testimony on the first discussion draft of SESA, NLIHC recommended a number of provisions be included in SESA. We are disappointed that none of the issues NLIHC encouraged including in SESA are in the second draft.

Among the **voucher funding provisions** NLIHC continues to urge the Subcommittee to include are: basing annual voucher funding allocations on leasing and cost data; voucher funding offset and reallocation policies; and, an advance funding mechanism. Voucher funding instability was the main force behind developing voucher reform legislation in the mid-2000's and NLIHC believes that SESA will be incomplete if it does not incorporate such provisions, which will bring stability and reliability to the voucher program.

NLIHC also continues to urge the Subcommittee to include **project-based voucher reforms** in SESA. The draft bill would extend maximum project-based voucher contract terms from 15 to 20 years. NLIHC seeks other provisions to allow housing agencies to base the existing 20% cap for project-basing on either the number of its vouchers or its voucher budget authority. NLIHC also continues to support authorization for an additional 5% of vouchers or voucher funds to be project-based in units housing homeless families, for supportive housing for persons with disabilities, or for units in tight rental markets.

NLIHC had also recommended a number of improvements to the draft bill's **rent policy demonstration**. These might include: meaningful resident participation in development and ongoing administration of any demonstration; interim and final evaluation components that include data gathering, both of which would monitor rent burdens; rent burdens becoming de

facto time limits; hardship provisions; how well the demonstration is meeting the goals in the discussion draft; authority for the HUD Secretary to stop or change a demonstration policy if it's been found to harm residents; ineligibility of troubled agencies to participate; and, limiting the demonstration to the smallest, specific number of families and for the shortest time frame necessary to test various rent structures.

NLIHC also continues to support including **manufactured housing** provisions into SESA. We continue to support the inclusion of language that would allow voucher assistance to cover the cost of purchasing a manufactured home, including any required insurance and property taxes and the monthly amount allowed for tenant-paid utilities, in addition to the already allowable use of voucher assistance to pay the monthly rent charged for the real property on which the manufactured home is located.

NLIHC also continues to urge the Subcommittee to include additional **admissions protections** as well. Protections from earlier versions of voucher reform bills would limit denials of assistance for criminal activity to violent and drug-related activity or a pattern of other criminal activity during a reasonable period before the admission date and where there is credible and objective evidence.

NLIHC also continues to support that **Fair Market Rents** and income limits be published by some dates certain each year.

Moving to Work Improvement, Expansion, and Permanency Act of 2011

NLIHC opposes this MTW Act of 2011. The bill would authorize a wholesale expansion of the controversial MTW demonstration program, which has never been fully evaluated. The discussion draft bill would require the HUD Secretary to establish an MTW program and then approve all but the most wayward of applications. The discussion draft includes no provisions to ensure that the lowest income households are served or that they are served in an affordable way. NLIHC urges the Subcommittee to require a thorough evaluation of the current MTW demonstration and to use this information to decide which pieces of MTW are worthy of replication and which others contribute to housing instability and to the inefficient use of scarce housing resources. As we described in detail in our June 23 testimony before the Subcommittee, the MTW demonstration is not worthy of expansion.

Thank you for considering our views.