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PROPOSED CHANGE IN HUD'S "MINIMUM RENT" POLICY COULD RAISE RENTS FOR SEVERAL HUNDRED THOUSAND POOR FAMILIES

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Leadership of the House Financial Services Committee recently circulated draft legislation that could increase rental costs for several hundred thousand extremely poor families that receive federal housing assistance. Families in every state could face rent increases that could total $300 a year or more (see Appendix 1).

The change would fall on the poorest housing assistance recipients. Currently, families that receive assistance are generally required to pay 30 percent of their income for rent, but public housing agencies may require families to pay a minimum rent of up to $50 per month if 30 percent of their income is less than that amount. The minimum rent thus affects only the most impoverished recipients, including many who would be at high risk of homelessness in the absence of rental assistance.

The new proposal, included in a revised October 5th draft of the Section 8 Savings Act (SESA),[1] would increase the minimum rent that families can be charged from $50 a month to either $75 a month or 12 percent of the local Fair Market Rent (FMR), whichever is higher. (The FMR is HUD's estimate of the amount needed to cover the rent and utility costs of moderately priced housing units in a given local area.) The increase would affect the most destitute people receiving housing assistance (since those are the people who pay the minimum rent), with the largest rent increases falling on very poor families with children, as a result of the 12-percent-of-FMR component of the proposed minimum rent standard.

An increase in monthly minimum rents from $50 to $75 would raise annual housing costs by $300, a difficult burden for destitute families with little or no income. Moreover, most of the families affected by the new policy would face rents of *more* than $75 per month, as a result of the proposal's linkage between rent contributions and prevailing rents in the area (i.e., the 12-percent-of-FMR provision). Families in high-cost metropolitan areas and with three or more children would face the highest minimum rents and be at the greatest risk of hardship. Moreover, the rent floor would rise further each year as market rents increase.

At a time of persistent, high unemployment, it is not clear what the rationale is for increasing the rent floor by 50 percent or more; the committee has not provided one. The change would generate some added rent revenues that would lower costs in the housing assistance programs, but as noted,

[1] This second draft of SESA, dated October 5, 2011, is available at http://www.cbpp.org/files/SESA-draft2_10-6-11.pdf. The change in the limit on minimum rents is on p. 16 of the bill, lines 7-19.

those higher rents would be paid by some of the nation's most vulnerable people. Raising rents on the very poor as a way to cut expenditures and reduce deficits also would contradict the principle, set forth in the report of fiscal commission co-chairs Erskine Bowles and Alan Simpson, that deficit reduction should not make the nation's poorest people still poorer.[2]

The higher minimum rents in SESA would be optional for housing agencies, but most agencies — 73 percent of those surveyed for a 2010 HUD-sponsored study — currently set their minimum rents at the maximum level permitted, and the share of housing assistance recipients paying rents at that level has risen sharply in recent years.[3] Moreover, even the minority of agencies that previously have not set minimum rents at the maximum level permitted could face considerable pressure to impose higher rents to make up for funding shortfalls. Congress recently enacted 2012 appropriations legislation that cut public housing funding deeply, and the long-term caps on domestic appropriations adopted as part of the recent Budget Control Act increase the chances that funding for both public housing and vouchers will be tight in future years.

Raising minimum rents could significantly harm some of the poorest recipients of housing assistance. Housing agencies are required to provide hardship exemptions from minimum rents in certain situations, but the 2010 HUD-sponsored study found that these exemptions were very rare. Among agencies that had adopted minimum rents above zero, 82 percent reported granting exemptions to fewer than 1 percent of families subject to the minimum rent, and only 5 percent of agencies said that they had exempted more than 10 percent of families.

HUD has not assessed the level of hardship experienced by families that are required to pay the minimum rent, but it is likely that many families at risk of homelessness or other serious hardship do not receive exemptions. Exemptions are available only to families that apply for them, so if a housing agency does an inadequate job of making families aware of the exemption policy or if households (many of which will include people with mental and physical disabilities or very low education levels) do not manage to apply for them, some families that qualify for a hardship exemption will not receive one. In, addition, some of the most destitute households — such as the chronically homeless — may not even qualify for an exemption, which typically requires a showing of a change in circumstances.[4] Moreover, families with temporary hardships who are exempted still must pay the accumulated rent arrears when their situation improves, and they may be evicted if they cannot make the extra payments.

SESA contains important improvements to the Section 8 housing voucher program and other federal rental assistance programs that would ease administrative burdens, make it easier for private owners to participate in the voucher program, establish voucher funding rules that would help local housing agencies use funds more efficiently, and generate more than $700 million in federal savings.

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[2] See Alan Simpson and Erskine Bowles, "Our advice to the debt supercommittee: Go big, be bold, be smart," *Washington Post,* September 30, 2011, http://www.washingtonpost.com/opinions/our-advice-to-the-debt-supercommittee-go-big-be-bold-be-smart/2011/09/30/gIQAPzjBBL_story.html.

[3] Abt Associates et al, *Study of Rents and Rent Flexibility*, prepared for HUD Office of Public and Indian Housing, May 26, 2010, http://www.huduser.org/publications/pdf/Rent%20Study_Final%20Report_05-26-10.pdf.

[4] Families who would be evicted due to inability to pay the minimum rent should be granted an exemption, but only if they request one. See 24 C.F.R. § 5.630.

SESA's core provisions are needed at a time when budgets are tight and housing needs are high, and Congress should move promptly to enact them.[5] But the House Financial Services Committee should reject the proposed increase in the minimum rent.

Families in Every State Could Face Increased Rents

Families receiving federal rental assistance typically pay 30 percent of their adjusted income toward rent and utility costs. Public housing agencies are permitted to set a "minimum rent" for public housing residents and families participating in the Section 8 Housing Choice voucher (HCV) program that is *higher* than that 30 percent level. This rent floor, however, may not exceed $50 per month.[6] In the project-based Section 8 program, current law requires HUD to set the minimum rent rather than leaving the decision up to the thousands of private owners that administer the rental assistance attached to the properties. HUD has set the minimum rent for residents of these properties at $25 per month.

In a draft of SESA dated October 5, 2011, Rep. Judy Biggert, Chair of the Subcommittee on Insurance, Housing and Community Opportunity, included a proposed amendment to the minimum rent provision of current law. The proposed change would:

1. Raise the cap on the minimum rent — i.e., the rent that may be charged regardless of income — to $75 or 12 percent of the applicable Fair Market Rent, whichever is higher; and

2. Allow HUD to permit private owners to set the minimum rent for assisted residents of their properties at up to the same cap that applies to public housing agencies.[7]

The October 5th SESA draft contains a separate provision that limits the application of the minimum rent increase and a number of other changes in the bill to public housing agencies (PHAs) that receive approval from HUD to implement an agency-designed self-sufficiency program. If this limitation (intended as an incentive for agencies to establish self-sufficiency programs) were enacted as written, the increase in the minimum rent cap would apply to some, but not all, housing agencies and would not apply to the project-based Section 8 program, as those properties largely are not owned by public housing agencies.

Congress could modify or eliminate these limitations, however, as SESA moves forward, and the feature of the bill that does not permit the higher minimum rents in project-based Section 8 may

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[5] See testimony of Barbara Sard and of Will Fischer submitted to the Subcommittee on Insurance, Housing and Community Opportunity of the House Financial Services Committee on June 23, 2011 and October 13, 2011, http://www.cbpp.org/research/index.cfm?fa=topic&id=143.

[6] HUD allows agencies participating in the Moving to Work demonstration to set a minimum rent at any level. Some agencies have used this discretion to set a minimum rent above $50 or eliminate income-based rents entirely for certain types of families.

[7] The increase in the cap on minimum rents is new in the October 5th SESA draft. The flexibility for HUD to delegate the setting of minimum rents was included in the earlier draft of SESA (as well as the last draft of the predecessor Section 8 Voucher Reform Act) in order to facilitate the adoption of uniform rent policies for all of HUD's major rental assistance programs.

have been inadvertent. Moreover, groups representing private assisted owners are already objecting to that limitation.

We have estimated the impact of the policy change if Congress were to apply the increase in the minimum rent cap to all PHAs and private assisted owners.[8] These are our major findings.

- Some 13 percent of assisted households — more than 505,000 families — paid less than $75 per month toward their rent and utility costs in 2010, according to HUD administrative data. All of these families could face a rent increase under the new minimum rent policy.

- The new policy also could affect an additional 173,000 families that paid modestly more than $75 per month for rent and utilities in 2010 but could face higher rents under the FMR-based minimum rent.

- In all, 685,000 families could face a rent increase, or 17 percent of the assisted households for which we had sufficient data to include in the analysis.

Table 1:
Households at Risk of Rent Increase due to SESA Minimum Rent Proposal, By Program

	Housing Choice Vouchers	Public Housing	Project-based Section 8	Total
National	308,255	179,955	196,783	684,993

Source: CBPP analysis of HUD administrative data.

- A large share of the affected families — some 100,000 households — could have to pay more than $150 per month under the proposed policy. For nearly two-fifths of the potentially affected families, the rent permitted under the new policy would be at least double the maximum their housing agency or owner could require them to pay today.

- In nearly the entire country, the rent floor could exceed $75 for at least some units or vouchers. The higher FMR-based rent floor would affect three-bedroom units in 506 out of 514 metro

[8] To estimate the impact of the proposed minimum rent policy change, we used HUD's 2010 extract of administrative data gathered through the PIC and TRACS systems for the programs currently subject to the minimum rent policy under the U.S. Housing Act — Housing Choice (Section 8) vouchers, project-based Section 8 (except Moderate Rehabilitation units), and public housing. For the FMR-based component of the proposed policy, we compared the HUD-determined 2012 FMR for the appropriate location and unit size (based on the actual unit occupied or the bedroom size of the Housing Choice voucher used by the family) to the tenant rent contribution ("total tenant payment") shown in the HUD administrative data. These estimates are conservative. Data were missing for about 317,000 of the 4,253,000 households that received rental assistance under these programs in 2010, so we excluded them from the analysis; we did not try to extrapolate the results of our analysis to the missing households. In much of New England, HUD sets FMRs for individual towns rather than for entire counties; we used the lowest FMRs applicable to any town within each county. Finally, we excluded families served by PHAs in the Moving to Work (MTW) demonstration from this estimate because MTW agencies are allowed by HUD to set minimum rents at any level. Exclusion of MTW agencies from the analysis reduced the number of affected families by at least 63,000. (In 2010, MTW agencies served 165,000 voucher households omitted from the analysis due to missing data.)

areas and 3,112 out of 3,228 counties. For two-bedroom units or vouchers, the minimum rent could exceed $75 in 74 percent of metro areas. Appendix 2 shows the applicable minimum rent cap for the highest-cost FMR area in each state.

- About 70 percent of public housing and project-based Section 8 units and 83 percent of vouchers are located or used in areas where the minimum rent could exceed $75 under the FMR-based rent floor.[9]

Most Families Affected Have Children

Seventy percent of the households that could face a rent increase under the proposed policy — 475,000 families — have minor children. Research has found that homelessness, crowding, and housing instability have serious harmful effects on children's health and development. Adults in 77,000 of these families worked in 2010 or received unemployment insurance based on recent work but would have to pay more than 30 percent of their income at the newly allowed rent floor. Some 17,000 of these families with children are headed by a person who is elderly or has disabilities.

More than 124,000 of the families with children that would face a rent increase receive modest cash assistance under the Temporary Assistance for Needy Families (TANF) program. In nine states, TANF benefits are sufficiently low that all TANF families with two children or more who do not have other income could have to pay more than 30 percent of their very small incomes for rent under the proposed policy.[10] Moreover, many states are cutting TANF benefit levels and imposing other restrictions on benefits due to budget shortfalls.[11] (See Appendix 2 for a state-by-state table of minimum rents and TANF benefit levels.)

Families that face rent increases under the proposed policy would be forced to divert resources from other basic needs, such as food, medicine, or clothing. Some families would be unable to cover the increases and would be displaced from their homes. These families would often be compelled to double up in crowded conditions or live in hotels, shelters, or on the streets. It is likely that a significant number of this group of households were admitted to one of the federal housing programs because they were homeless; the proposed policy could cause a number of these households to rejoin the ranks of the homeless.

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[9] More families could be impacted by the minimum rent policy than we estimate if larger families replace smaller households when vouchers are reissued as families leave the program (since FMR-based minimum rents are higher for units with more bedrooms), or if families who leave the program are replaced with poorer families, on average.

[10] Under current law, a family of one adult and two minor children would pay an income-based rent of less than $75 per month if it received TANF benefits of $279 or less per month. In 2010, the TANF benefit level was this low in Alabama, Arizona, Arkansas, Kentucky, Louisiana, Mississippi, North Carolina, South Carolina, and Texas. See Liz Schott and Ife Finch, "TANF Benefits Are Low and Have Not Kept Pace with Inflation," Center on Budget and Policy Priorities, October 14, 2010, http://www.cbpp.org/files/10-14-10tanf.pdf .

[11] Liz Schott and LaDonna Pavetti, Ph.D., "Many States Cutting TANF Benefits Harshly Despite High Unemployment and Unprecedented Need," Center on Budget and Policy Priorities, revised October 3, 2011, http://www.cbpp.org/files/5-19-11tanf.pdf. Families' income losses in these states are not reflected in this analysis as the HUD data is for the period ending December 31, 2010.

Conclusion

The draft Section 8 Savings Act includes a number of well-considered, non-controversial policy changes that would improve the effectiveness of the federal rental assistance programs and reduce administrative burdens without harming vulnerable families. Unfortunately, the inclusion in the latest draft of an increase in the allowable minimum rent does not meet these key tests. Congress should delete the minimum rent proposal as it considers this important bill.

Appendix 1:

Households at Risk of Rent Increase due to SESA Minimum Rent Proposal, By State and Program

State	Housing Choice Vouchers	Public Housing	Project-based Section 8	Total Number of Households at Risk
Alabama	6,283	7,393	3,373	17,049
Alaska*	0	0	126	126
Arizona	4,728	1,581	1,053	7,362
Arkansas	2,927	1,946	1,754	6,627
California*	32,941	5,912	10,232	49,085
Colorado	5,914	1,463	2,781	10,158
Connecticut*	4,819	1,594	2,030	8,443
Delaware*	723	314	738	1,775
District of Columbia*	0	0	3,379	3,379
Florida	16,239	5,994	8,936	31,169
Georgia*	10,482	5,839	6,883	23,204
Hawaii	2,025	1,212	378	3,615
Idaho	942	84	563	1,589
Illinois*	7,407	5,554	9,470	22,431
Indiana	7,829	3,572	6,801	18,202
Iowa	2,278	241	1,059	3,578
Kansas*	1,416	1,148	1,362	3,926
Kentucky*	3,849	2,895	5,296	12,040
Louisiana	7,670	2,304	3,013	12,987
Maine	922	218	355	1,495
Massachusetts*	5,600	1,364	4,106	11,070
Maryland*	5,415	2,655	4,204	12,274
Michigan	7,168	2,483	5,716	15,367
Minnesota*	3,033	1,626	3,330	7,989
Mississippi	3,910	1,480	4,471	9,861
Missouri	8,870	2,987	4,812	16,669
Montana	832	340	456	1,628
Nebraska*	1,554	934	656	3,144
Nevada	2,984	929	750	4,663
New Hampshire*	624	179	210	1,013
New Jersey	9,209	3,921	5,541	18,671
New Mexico	1,458	530	607	2,595
New York	20,114	16,772	8,672	45,558

Appendix 1 cont'd: Households at Risk of Rent Increase due to SESA Minimum Rent Proposal, By State and Program				
State	**Housing Choice Vouchers**	**Public Housing**	**Project-based Section 8**	**Total Number of Households at Risk**
North Carolina*	8,357	8,586	5,258	22,201
North Dakota	953	211	412	1,576
Ohio*	18,106	11,332	16,214	45,652
Oklahoma	5,035	2,996	4,048	12,079
Oregon*	2,858	353	985	4,196
Pennsylvania*	6,287	4,480	6,374	17,141
Rhode Island	1,121	1,124	976	3,221
South Carolina	4,707	3,541	5,619	13,867
South Dakota	1,011	151	842	2,004
Tennessee	7,449	8,535	8,448	24,432
Texas*	25,217	8,990	12,402	46,609
Utah	1,746	344	670	2,760
Vermont	277	46	118	441
Virginia	8,858	5,392	7,079	21,329
Washington*	2,398	387	1,167	3,952
West Virginia	2,716	1,023	1,633	5,372
Wisconsin	2,508	753	2,660	5,921
Wyoming	283	81	328	692
Puerto Rico	16,996	34,400	7,768	59,164
Other Territories	1,207	1,766	567	3,540

Source: CBPP analysis of HUD administrative data. States marked with an asterisk have one or more agencies participating in the Moving to Work demonstration. We excluded families served by MTW agencies from these estimates because those agencies have broad authority to raise minimum rents under current law.

Appendix 2: Rents for Two-Bedroom Units in Highest-Cost Area of Each State, Compared to TANF Benefit Levels			
State	Fair Market Rent (FMR) for 2-Bedroom Unit in Highest-Cost Area	Monthly Minimum Rent Cap for 2-Bedroom Unit in Highest-Cost Area, Under Proposal	TANF Benefit for 3-Person Family
Alabama	754	90	215
Alaska	1,429	171	923
Arizona	887	106	278
Arkansas	717	86	204
California	1,905	229	638
Colorado	1,244	149	462
Connecticut	1,769	212	674
Delaware	1,075	129	338
District of Columbia	1,506	181	428
Florida	1,419	170	303
Georgia	842	101	280
Hawaii	1,767	212	610
Idaho	888	107	309
Illinois	985	118	432
Indiana	818	98	288
Iowa	751	90	426
Kansas	754	90	429
Kentucky	723	87	262
Louisiana	948	114	240
Maine	1,004	120	485
Maryland	1,587	190	574
Massachusetts	1,799	216	618
Michigan	874	105	492
Minnesota	904	108	532
Mississippi	753	90	170
Missouri	792	95	292
Montana	751	90	504
Nebraska	757	91	364
Nevada	1,024	123	383
New Hampshire	1,369	164	675
New Jersey	1,515	182	424

Appendix 2 cont'd: Rents for Two-Bedroom Units in Highest-Cost Area of Each State, Compared to TANF Benefit Levels			
State	Fair Market Rent (FMR) for 2-Bedroom Unit in Highest-Cost Area	Monthly Minimum Rent Cap for 2-Bedroom Unit in Highest-Cost Area, Under Proposal	TANF Benefit for 3-Person Family
New Mexico	944	113	380
New York	1,682	202	798[i]
North Carolina	1,064	128	272
North Dakota	686	82	477
Ohio	790	95	434
Oklahoma	732	88	292
Oregon	891	107	506
Pennsylvania	1,075	129	421[ii]
Rhode Island	1,123	135	554
South Carolina	874	105	216
South Dakota	714	86	555
Tennessee	751	90	185
Texas	989	119	260
Utah	897	108	498
Vermont	1,124	135	665[iii]
Virginia	1,506	181	389
Washington	1,098	132	478
West Virginia	908	109	340
Wisconsin	904	108	673
Wyoming	888	107	577

[i] The TANF benefit level is for residents of Nassau County, NY to correspond with the highest-cost area.

[ii] The highest-cost area in Pennsylvania is the Philadelphia-Camden-Wilmington MSA and includes the counties of: Philadelphia, Montgomery, Delaware, Chester, and Bucks. The TANF benefit listed is for the counties of: Montgomery, Chester, Bucks, Lancaster, and Pike.

[iii] The highest-cost rent area in Vermont is the Burlington-South Burlington MSA and includes the counties of Chittenden, Grand Isle, and Franklin. The TANF benefit listed is for Chittenden County.