

**DEPARTMENT OF HOUSING AND
URBAN DEVELOPMENT****24 CFR Part 972**

[Docket No. FR-4475-F-02]

RIN 2577-AC01

**Required Conversion of Developments
From Public Housing Stock**

AGENCY: Office of the Assistant Secretary for Public and Indian Housing, HUD.

ACTION: Final rule.

SUMMARY: This final rule implements section 537 of the Quality Housing and Work Responsibility Act of 1998. Section 537 requires Public Housing Agencies (PHAs) to identify distressed public housing developments that must be converted to tenant-based assistance. If it would be more expensive to modernize and operate a distressed development for its remaining useful life than to provide tenant-based assistance to all residents, or the PHA cannot assure the long-term viability of a distressed development, then it must develop and carry out a plan to remove the development from its public housing inventory and convert it to tenant-based assistance. Since the cost methodology necessary to conduct the cost comparisons for required conversions has not yet been finalized, PHAs are not required to undertake conversions under this final rule until the effective date of the cost methodology. HUD is publishing a proposed rule elsewhere in today's **Federal Register** to provide the public with an opportunity to comment on the methodology that HUD proposes be used for the required cost comparisons. This final rule follows publication of a July 23, 1999, proposed rule and takes into consideration the public comments received on the proposed rule.

DATES: *Effective Date:* March 15, 2004.

FOR FURTHER INFORMATION CONTACT: Bessy Kong, Acting Deputy Assistant Secretary for Policy, Program, and Legislative Initiatives, Department of Housing and Urban Development, Office of Public and Indian Housing, 451 Seventh Street, SW., Room 4116, Washington, DC 20410-5000; telephone (202) 708-0713 (this is not a toll-free telephone number). Persons with hearing or speech impairments may access this number via TTY by calling the toll-free Federal Information Relay Service at 1-800-877-8339.

SUPPLEMENTARY INFORMATION:**I. Background***A. The July 23, 1999, Proposed Rule*

On July 23, 1999 (64 FR 40232), HUD published for public comment a proposed rule implementing section 537 of the Quality Housing and Work Responsibility Act of 1998 (Title V of the Fiscal Year 1999 HUD

Appropriations Act; Pub. L. 105-276, approved October 21, 1998) (QHWRA). Section 537 of QHWRA added a new section 33 to the United States Housing Act of 1937 (42 U.S.C. 1437 *et seq.*) (1937 Act). Section 33 requires Public Housing Agencies (PHAs) to annually review their public housing inventory and identify distressed developments that must be converted to tenant-based assistance. If it would be more expensive to modernize and operate a distressed development for its remaining useful life than to provide tenant-based assistance to all residents, or the PHA cannot assure the long-term viability of a distressed development, then it must develop and carry out a plan to remove the development from its public housing inventory and convert it to tenant-based assistance. In the July 23, 1999, proposed rule HUD proposed to implement the provisions for required conversions through the creation of a new 24 CFR part 972, subpart A.

B. Relationship to Required Conversion Under Section 202 of the FY 1996 HUD Appropriations Act

Section 537 of QHWRA also repealed section 202 of the Fiscal Year 1996 HUD Appropriations Act (42 U.S.C. 1437l *note*). Section 202 provided for a program of required conversion of distressed public housing. HUD implemented section 202 by issuing the regulations located at 24 CFR part 971. Although section 202 has been repealed, developments that were identified by PHAs or by HUD—before the enactment of QHWRA—for conversion, or for assessment of whether such conversion is required, continue to be subject to the requirements of section 202 and the part 971 regulations implementing that section until such requirements are satisfied. Thereafter, the provisions of this final rule apply to any remaining public housing on the sites of those developments.

C. Relationship to Voluntary Conversion

In addition to revising the statutory provisions for required conversions, QHWRA created a program of voluntary conversions. Section 533 of QHWRA revised section 22 of the 1937 Act, entitled "Authority to Convert Public Housing to Vouchers." A separate

proposed rule was published on July 23, 1999 (64 FR 40240), to implement these provisions through a new 24 CFR part 972, subpart B. The final rule that will make these amendments effective is published elsewhere in today's **Federal Register**.

II. This Final Rule

This final rule establishes regulatory policies and procedures for the program of required conversions authorized under section 33 of the 1937 Act. The final rule follows publication of the July 23, 1999, proposed rule and takes into consideration the public comments received on the proposed rule. The major changes made by this final rule to the July 23, 1999, proposed rule are summarized below.

A. General Changes

1. *Reorganization and clarification of required conversion requirements.* For purposes of clarity, this final rule reorganizes and consolidates several of the regulatory provisions contained in the proposed rule. For example, the final rule now groups all regulatory provisions concerning similar subject matter (such as the required conversion process and conversion plans) under headings that identify the subject of the related requirements. In addition, the final rule replaces the question and answer format used in the proposed rule with standard section headings that identify the subject of the regulatory provisions. Further, a new section (§ 972.106) has been added, which summarizes the required conversion process.

2. *Applicability of the Uniform Relocation Act.* The final rule adds a new § 972.118, which affirms that, to the extent that tenants are displaced as a direct result of the demolition, acquisition, or rehabilitation of federally-assisted property converted pursuant to this final rule, the requirements of the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 (42 U.S.C. 4601) (URA), and the implementing regulations issued by the Department of Transportation at 49 CFR part 24, apply.

B. Changes Regarding Identification of Developments Subject to Required Conversion

1. *Revised vacancy rate for purposes of determining distress.* HUD has revised the rule to provide that, for the first five years following the effective date of this final rule, a 15 percent vacancy rate will be used for purposes of determining whether a development is subject to required conversion. A 12