COMPILATION OF BASIC LAWS APPLICABLE TO THE DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

February 2017 Update

REVISED THROUGH DECEMBER 31, 2016
(end of the 114th Congress)

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NATIONAL HOUSING GOALS

HOUSING ACT OF 1949
[Public Law 171, 81st Congress; 63 Stat. 413; 42 U.S.C. 1441]

Sec. 2. [42 U.S.C. 1441]
CONGRESSIONAL DECLARATION OF NATIONAL HOUSING POLICY.

The Congress hereby declares that the general welfare and security of the Nation and the health and living standards of its people require housing production and related community development sufficient to remedy the serious housing shortage, the elimination of substandard and other inadequate housing through the clearance of slums and blighted areas, and the realization as soon as feasible of the goal of a decent home and a suitable living environment for every American family, thus contributing to the development and redevelopment of communities and to the advancement of the growth, wealth, and security of the Nation. The Congress further declares that such production is necessary to enable the housing industry to make its full contribution toward an economy of maximum employment, production, and purchasing power. The policy to be followed in attaining the national housing objective hereby established shall be: (1) private enterprise shall be encouraged to serve as large a part of the total need as it can; (2) governmental assistance shall be utilized where feasible to enable private enterprise to serve more of the total need; (3) appropriate local public bodies shall be encouraged and assisted to undertake positive programs of encouraging and assisting the development of well-planned, integrated residential neighborhoods, the development and redevelopment of communities, and the production, at lower costs, of housing of sound standards of design, construction, livability, and size for adequate family life; (4) governmental assistance to eliminate substandard and other inadequate housing through the clearance of slums and blighted areas, to facilitate community development and redevelopment, and to provide adequate housing for urban and rural nonfarm families with incomes so low that they are not being decently housed in new or existing housing shall be extended to those localities which estimate their own needs and demonstrate that these needs are not being met through reliance solely upon private enterprise, and without such aid; and (5) governmental assistance for decent, safe, and sanitary farm dwellings and related facilities shall be extended where the farm owner demonstrates that he lacks sufficient resources to provide such housing on his own account and is unable to secure necessary credit for such housing from other sources on terms and conditions which he could reasonably be expected to fulfill. The Department of Housing and Urban Development and any other departments or agencies of the Federal Government having powers, functions, or duties with respect to housing, shall exercise their powers, functions or duties under this or any other law, consistently with the national housing policy declared by this Act and in such manner as will facilitate sustained progress in attaining the national housing objective hereby established, and in such manner as will encourage and assist (1) the production of housing of sound standards of design, construction, livability, and size for adequate family life; (2) the reduction of the costs of housing without sacrifice of such sound standards; (3) the use of new designs, materials, techniques, and methods in residential construction, the use of standardized dimensions and methods of assembly of home-building materials and equipment, and the increase of efficiency in residential construction and maintenance; (4) the development of well-planned, integrated, residential neighborhoods and the development and redevelopment of communities; and (5) the stabilization of the housing industry at a high annual volume of residential construction.

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT ACT
[Public Law 89-174; 79 Stat. 667; 42 U.S.C. 3531]

Sec. 2. [42 U.S.C. 3531]
CONGRESSIONAL DECLARATION OF PURPOSE.

The Congress hereby declares that the general welfare and security of the Nation and the health and living standards of our people require, as a matter of national purpose, sound development of the Nation's communities and metropolitan areas in which the vast majority of its people live and work.

To carry out such purpose, and in recognition of the increasing importance of housing and urban development in our national life, the Congress finds that establishment of an executive department is desirable to achieve the best administration of the principal programs of the Federal Government which provide assistance for

housing and for the development of the Nation's communities; to assist the President in achieving maximum coordination of the various Federal activities which have a major effect upon urban community, suburban, or metropolitan development; to encourage the solution of problems of housing, urban development, and mass transportation through State, county, town, village, or other local and private action, including promotion of interstate, regional, and metropolitan cooperation; to encourage the maximum contributions that may be made by vigorous private homebuilding and mortgage lending industries to housing, urban development, and the national economy; and to provide for full and appropriate consideration, at the national level, of the needs and interests of the Nation's communities and of the people who live and work in them.

HOUSING AND URBAN DEVELOPMENT ACT OF 1968
[Public Law 90-448; 82 Stat. 476, 601; 12 U.S.C. 1701t and 42 U.S.C. 1441a et seq.]

Sec. 2. [12 U.S.C. 1701t]
CONGRESSIONAL AFFIRMATION OF NATIONAL GOAL OF DECENT HOMES AND SUITABLE LIVING ENVIRONMENT FOR AMERICAN FAMILIES.

The Congress affirms the national goal, as set forth in section 2 of the Housing Act of 1949, of "a decent home and a suitable living environment for every American family."

The Congress finds that this goal has not been fully realized for many of the Nation's lower income families; that this is a matter of grave national concern; and that there exist in the public and private sectors of the economy the resources and capabilities necessary to the full realization of this goal.

The Congress declares that in the administration of those housing programs authorized by this Act which are designed to assist families with incomes so low that they could not otherwise decently house themselves, and of other Government programs designed to assist in the provision of housing for such families, the highest priority and emphasis should be given to meeting the housing needs of those families for which the national goal has not become a reality; and in the carrying out of such programs there should be the fullest practicable utilization of the resources and capabilities of private enterprise and of individual self-help techniques.

* * * * * * *

TITLE XVI–HOUSING GOALS AND ANNUAL HOUSING REPORT REAFFIRMATION OF GOALS

Sec. 1601. [42 U.S.C. 1441a]
NATIONAL HOUSING GOALS.

(a) The Congress finds that the supply of the Nation's housing is not increasing rapidly enough to meet the national housing goal, established in the Housing Act of 1949, of the "realization as soon as feasible of the goal of a decent home and a suitable living environment for every American family". The Congress reaffirms this national housing goal and determines that it can be substantially achieved within the next decade by the construction or rehabilitation of twenty-six million housing units, six million of these for low and moderate income families.

(b) The Congress further finds that policies designed to contribute to the achievement of the national housing goal have not directed sufficient attention and resources to the preservation of existing housing and neighborhoods, that the deterioration and abandonment of housing for the Nation's lower income families has accelerated over the last decade, and that this acceleration has contributed to neighborhood disintegration and has partially negated the progress toward achieving the national housing goal which has been made primarily through new housing construction.

(c) The Congress declares that if the national housing goal is to be achieved, a greater effort must be made to encourage the preservation of existing housing and neighborhoods through such measures as housing preservation, moderate rehabilitation, and improvements in housing management and maintenance, in conjunction with the provision of adequate municipal services. Such an effort should concentrate, to a greater extent than it has in the past, on housing and neighborhoods where deterioration is evident but has not yet become acute.

Sec. 1602. [42 U.S.C. 1441B]
PLAN FOR ELIMINATION OF ALL SUBSTANDARD HOUSING AND REALIZATION OF NATIONAL HOUSING GOAL; REPORT BY PRESIDENT TO CONGRESS.

Not later than January 15, 1969, the President shall make a report to the Congress setting forth a plan, to be carried out over a period of ten years (June 30, 1968, to June 30, 1978), for the elimination of all substandard housing and the realization of the goal referred to in section 1601. Such plan shall—

(1) indicate the number of new or rehabilitated housing units which it is anticipated, will have to be provided, with or without Government assistance, during each fiscal year of the ten-year period, in order to achieve the objectives of the plan, showing the number of such units which it is anticipated will have to be provided under each of the various Federal programs designed to assist in the provision of housing;

(2) indicate the reduction in the number of occupied substandard housing units which it is anticipated will have to occur during each fiscal year of the ten-year period in order to achieve the objectives of the plan;

(3) provide an estimate of the cost of carrying out the plan for each of the various Federal programs and for each fiscal year during the ten-year period to the extent that such costs will be reflected in the Federal budget;

(4) make recommendations with respect to the legislative and administrative actions necessary or desirable to achieve the objectives of the plan; and

(5) provide such other pertinent data, estimates, and recommendations as the President deems advisable.

Such report shall, in addition, contain a projection of the residential mortgage market needs and prospects during the coming year, including an estimate of the requirements with respect to the availability, need, and flow of mortgage funds (particularly in declining urban and rural areas) during such year, together with such recommendations as may be deemed appropriate for encouraging the availability of such funds.

HOUSING AND COMMUNITY DEVELOPMENT ACT OF 1987
[Public Law 100-242; 101 Stat. 1819; 42 U.S.C. 5301 note]

Sec. 2. [42 U.S.C. 5301 note]
FINDINGS AND PURPOSE.

(a) FINDINGS.—The Congress finds that—

(1) for the past 50 years, the Federal Government has taken the leading role in enabling the people of the Nation to be the best housed in the world, and recent reductions in Federal assistance have contributed to a deepening housing crisis for low- and moderate-income families;

(2) the efforts of the Federal Government have included a system of specialized lending institutions, favorable tax policies, construction assistance, mortgage insurance, loan guarantees, secondary markets, and interest and rental subsidies, that have enabled people to rent or buy affordable, decent, safe, and sanitary housing; and

(3) the tragedy of homelessness in urban and suburban communities across the Nation, involving a record number of people, dramatically demonstrates the lack of affordable residential shelter, and people living on the economic margins of our society (lower income families, the elderly, the working poor, and the deinstitutionalized) have few available alternatives for shelter.

(b) PURPOSE.—The purpose of this Act, therefore, is—

(1) to reaffirm the principle that decent and affordable shelter is a basic necessity, and the general welfare of the Nation and the health and living standards of its people require the addition of new housing units to remedy a serious shortage of housing units for all Americans, particularly for person of low and moderate income;

(2) to make the distribution of direct and indirect housing assistance more equitable by providing Federal assistance for the less affluent people of the Nation;

(3) to provide needed housing assistance for homeless people and for persons of low and moderate income who lack affordable, decent, safe, and sanitary housing; and

(4) to reform existing programs to ensure that such assistance is delivered in the most efficient manner possible.

CRANSTON-GONZALEZ NATIONAL AFFORDABLE HOUSING ACT
[Public Law 101-625; 104 Stat 4085; 42 U.S.C. 12701-12703]

Sec. 101. [42 U.S.C. 12701]
THE NATIONAL HOUSING GOAL.

The Congress affirms the national goal that every American family be able to afford a decent home in a suitable environment.

Sec. 102. [42 U.S.C. 12702]
OBJECTIVE OF NATIONAL HOUSING POLICY.

The objective of national housing policy shall be to reaffirm the long-established national commitment to decent, safe, and sanitary housing for every American by strengthening a nationwide partnership of public and private institutions able—

(1) to ensure that every resident of the United States has access to decent shelter or assistance in avoiding homelessness;

(2) to increase the Nation's supply of decent housing that is affordable to low-income and moderate-income families and accessible to job opportunities;

(3) to improve housing opportunities for all residents of the United States, particularly members of disadvantaged minorities, on a nondiscriminatory basis;

(4) to help make neighborhoods safe and livable;

(5) to expand opportunities for homeownership;

(6) to provide every American community with a reliable, readily available supply of mortgage finance at the lowest possible interest rates; and

(7) to encourage tenant empowerment and reduce generational poverty in federally assisted and public housing by improving the means by which self-sufficiency may be achieved.

Sec. 103. [42 U.S.C. 12703]
PURPOSES OF THE CRANSTON-GONZALEZ NATIONAL AFFORDABLE HOUSING ACT.

The purposes of this Act are—

(1) to help families not owning a home to save for a down payment for the purchase of a home;

(2) to retain wherever feasible as housing affordable to low-income families those dwelling units produced for such purpose with Federal assistance;

(3) to extend and strengthen partnerships among all levels of government and the private sector, including for-profit and nonprofit organizations, in the production and operation of housing affordable to low-income and moderate-income families;

(4) to expand and improve Federal rental assistance for very low-income families; and

(5) to increase the supply of supportive housing, which combines structural features and services needed to enable persons with special needs to live with dignity and independence.

* * * * * * *

QUALITY HOUSING AND WORK RESPONSIBILITY ACT OF 1998
[Public Law 105-276; 112 Stat 2520; 42 U.S.C. 1437f note]

Sec. 502. [42 U.S.C. 1437f note]
FINDINGS AND PURPOSES.

(a) FINDINGS.—Congress finds that—

(1) there exists throughout the Nation a need for decent, safe, and affordable housing;

(2) the inventory of public housing units owned, assisted, or operated by public housing agencies, an asset in which the Federal Government has invested over $90,000,000,000, has traditionally provided rental housing that is affordable to low-income persons;

(3) despite serving this critical function, the public housing system is plagued by a series of problems, including the concentration of very poor people in very poor neighborhoods and disincentives for economic self-sufficiency;

(4) the Federal method of overseeing every aspect of public housing by detailed and complex statutes and regulations has aggravated the problem and has placed excessive administrative burdens on public housing agencies; and

(5) the interests of low-income persons, and the public interest, will best be served by a reformed public housing program that—

(A) consolidates many public housing programs into programs for the operation and capital needs of public housing;

(B) streamlines program requirements;

(C) vests in public housing agencies that perform well the maximum feasible authority, discretion, and control with appropriate accountability to public housing residents, localities, and the general public; and

(D) rewards employment and economic self-sufficiency of public housing residents.

(b) PURPOSES.—The purpose of this title[1] is to promote homes that are affordable to low-income families in safe and healthy environments, and thereby contribute to the supply of affordable housing, by—

(1) deregulating and decontrolling public housing agencies, thereby enabling them to perform as property and asset managers;

(2) providing for more flexible use of Federal assistance to public housing agencies, allowing the authorities to leverage and combine assistance amounts with amounts obtained from other sources;

(3) facilitating mixed income communities and decreasing concentrations of poverty in public housing;

(4) increasing accountability and rewarding effective management of public housing agencies;

(5) creating incentives and economic opportunities for residents of dwelling units assisted by public housing agencies to work, become self-sufficient, and transition out of public housing and federally assisted dwelling units;

(6) consolidating the voucher and certificate programs for rental assistance under section 8 of the United States Housing Act of 1937 into a single market-driven program that will assist in making tenant-based rental assistance under such section more successful at helping low-income families obtain affordable housing and will increase housing choice for low-income families; and

(7) remedying the problems of troubled public housing agencies and replacing or revitalizing severely distressed public housing projects.

END OF STATUTE

[1] Section 501(a) of the Departments of Veterans Affairs and Housing and Urban Development, and Independent Agencies Appropriations Act, 1999, provides that title V of such Act may be cited as the "Quality Housing and Work Responsibility Act of 1998".

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PART I—COMMUNITY DEVELOPMENT

HOUSING AND COMMUNITY DEVELOPMENT ACT

HOUSING AND COMMUNITY DEVELOPMENT ACT OF 1974
[Public Law 93-383; 88 Stat. 633; 42 U.S.C. 5301-5321]

TITLE I–COMMUNITY DEVELOPMENT

Sec. 101. [42 U.S.C. 5301]
CONGRESSIONAL FINDINGS AND DECLARATION OF PURPOSE.

(a) The Congress finds and declares that the Nation's cities, towns, and smaller urban communities face critical social, economic, and environmental problems arising in significant measure from—

(1) the growth of population in metropolitan and other urban areas, and the concentration of persons of lower income in central cities;

(2) inadequate public and private investment and reinvestment in housing and other physical facilities, and related public and social services, resulting in the growth and persistence of urban slums and blight and the marked deterioration of the quality of the urban environment; and

(3) increasing energy costs which have seriously undermined the quality and overall effectiveness of local community and housing development activities.

(b) The Congress further finds and declares that the future welfare of the Nation and the well-being of its citizens depend on the establishment and maintenance of viable urban communities as social, economic, and political entities, and require—

(1) systematic and sustained action by Federal, State, and local governments to eliminate blight, to conserve and renew older urban areas, to improve the living environment of low-and moderate-income families, and to develop new centers of population growth and economic activity;

(2) substantial expansion of and greater continuity in the scope and level of Federal assistance, together with increased private investment in support of community development activities;

(3) continuing effort at all levels of government to streamline programs and improve the functioning of agencies responsible for planning, implementing, and evaluating community development efforts; and

(4) concerted action by Federal, State, and local governments to address the economic and social hardships borne by communities as a consequence of scarce fuel supplies.

(c) The primary objective of this title and of the community development program of each grantee under this title is the development of viable urban communities, by providing decent housing and a suitable living environment and expanding economic opportunities, principally for persons of low and moderate income. Consistent with this primary objective, not less than 70 percent of the aggregate of the Federal assistance provided to States and units of general local government under section 106 and, if applicable, the funds received as a result of a guarantee or a grant under section 108, shall be used for the support of activities that benefit persons of low and moderate income, and the Federal assistance provided in this title is for the support of community development activities which are directed toward the following specific objectives—

(1) the elimination of slums and blight and the prevention of blighting influences and the deterioration of property and neighborhood and community facilities of importance to the welfare of the community, principally persons of low and moderate income;

(2) the elimination of conditions which are detrimental to health, safety, and public welfare, through code enforcement, demolition, interim rehabilitation assistance, and related activities;

(3) the conservation and expansion of the Nation's housing stock in order to provide a decent home and a suitable living environment for all persons, but principally those of low and moderate income;

(4) the expansion and improvement of the quantity and quality of community services, principally for persons of low and moderate income, which are essential for sound community development and for the development of viable urban communities;

(5) a more rational utilization of land and other natural resources and the better arrangement of residential, commercial, industrial, recreational, and other needed activity centers;

(6) the reduction of the isolation of income groups within communities and geographical areas and the promotion of an increase in the diversity and vitality of neighborhoods through the spatial deconcentration of housing opportunities for persons of lower income and the revitalization of deteriorating or deteriorated neighborhoods;

(7) the restoration and preservation of properties of special value for historic, architectural, or esthetic reasons;

(8) the alleviation of physical and economic distress through the stimulation of private investment and community revitalization in areas with population outmigration or a stagnating or declining tax base; and

(9) the conservation of the Nation's scarce energy resources, improvement of energy efficiency, and the provision of alternative and renewable energy sources of supply.

It is the intent of Congress that the Federal assistance made available under this title not be utilized to reduce substantially the amount of local financial support for community development activities below the level of such support prior to the availability of such assistance.

(d) It is also the purpose of this title to further the development of a national urban growth policy by consolidating a number of complex and overlapping programs of financial assistance to communities of varying sizes and needs into a consistent system of Federal aid which—

(1) provides assistance on an annual basis, with maximum certainty and minimum delay, upon which communities can rely in their planning;

(2) encourages community development activities which are consistent with comprehensive local and areawide development planning;

(3) furthers achievement of the national housing goal of a decent home and a suitable living environment for every American family; and

(4) fosters the undertaking of housing and community development activities in a coordinated and mutually supportive manner by Federal agencies and programs, as well as by communities.

Sec. 102. [42 U.S.C. 5302]
GENERAL PROVISIONS.

(a) As used in this title—

(1) The term "unit of general local government" means any city, county, town, township, parish, village, or other general purpose political subdivision of a State; Guam, the Northern Mariana Islands, the Virgin Islands, and American Samoa, or a general purpose political subdivision thereof; a combination of such political subdivisions that, except as provided in section 106(d)(4), is recognized by the Secretary; and the District of Columbia. Such term also includes a State or a local public body or agency (as defined in section 711 of the Housing and Urban Development Act of 1970), community association, or other entity, which is approved by the Secretary for the purpose of providing public facilities or services to a new community as part of a program meeting the eligibility standards of section 712 of the Housing and Urban Development Act of 1970 or title IV of the Housing and Urban Development Act of 1968.

(2) The term "State" means any State of the United States, or any instrumentality thereof approved by the Governor; and the Commonwealth of Puerto Rico.

(3) The term "metropolitan area" means a standard metropolitan statistical area as established by the Office of Management and Budget.

(4)[2] The term "metropolitan city" means (A) a city within a metropolitan area which is the central city of such area, as defined and used by the Office of Management and Budget, or (B) any other city, within a metropolitan area, which has a population of fifty thousand or more. Any city that was classified as a metropolitan city for at least 2 years pursuant to the first sentence of this paragraph shall remain classified as a metropolitan city. Any unit of general local government that becomes eligible to be classified as a metropolitan city, and was not classified as a metropolitan city in the immediately preceding fiscal

[2] Section 101(g) of Public Laws 99-500 and 99-591, 100 Stat. 1783-242, 3341-242, made effective the following provision:
"During 1987 and each succeeding fiscal year, any city within a metropolitan area shall be considered to be a metropolitan city under section 102(a)(4) of the Housing and Community Development Act of 1974 (42 U.S.C. 5302(a)(4)) if such city—

"(1) was entitled to a grant of a hold-harmless amount under section 106(h) of such Act as such section was in effect prior to the enactment of Public Law 96-399;

"(2) had, according to the 1980 decennial census, a population of 36,957; and

"(3) received a preliminary grant approval on March 8, 1984, for an urban development action grant under section 119 of the Housing and Community Development Act of 1974.".

year, may, upon submission of written notification to the Secretary, defer its classification as a metropolitan city for all purposes under this title, if it elects to have its population included in an urban county under subsection (d). Notwithstanding the second sentence of this paragraph, a city may elect not to retain its classification as a metropolitan city. Any city classified as a metropolitan city pursuant to this paragraph, and that no longer qualifies as a metropolitan city in a fiscal year beginning after fiscal year 1989, shall retain its classification as a metropolitan city for such fiscal year and the succeeding fiscal year, except that in such succeeding fiscal year (A) the amount of the grant to such city shall be 50 percent of the amount calculated under section 106(b); and (B) the remaining 50 percent shall be added to the amount allocated under section 106(d) to the State in which the city is located and the city shall be eligible in such succeeding fiscal year to receive a distribution from the State allocation under section 106(d) as increased by this sentence. Any unit of general local government that was classified as a metropolitan city in any fiscal year, may, upon submission of written notification to the Secretary, relinquish such classification for all purposes under this title if it elects to have its population included with the population of a county for purposes of qualifying for assistance (for such following fiscal year) under section 106 as an urban county under paragraph (6)(D). Any metropolitan city that elects to relinquish its classification under the preceding sentence and whose port authority shipped at least 35,000,000 tons of cargo in 1988, of which iron ore made up at least half, shall not receive, in any fiscal year, a total amount of assistance under section 106 from the urban county recipient that is less than the city would have received if it had not relinquished the classification under the preceding sentence. Notwithstanding any other provision of this paragraph, with respect to any fiscal year beginning after September 30, 2007, the cities of Alton and Granite City, Illinois, shall be considered metropolitan cities for purposes of this title.

(5) The term “city” means (A) any unit of general local government which is classified as a municipality by the United States Bureau of the Census or (B) any other unit of general local government which is a town or township and which, in the determination of the Secretary, (i) possesses powers and performs functions comparable to these associated with municipalities, (ii) is closely settled, and (iii) contains within its boundaries no incorporated places as defined by the United States Bureau of the Census which have not entered into cooperation agreements with such town or township to undertake or to assist in the undertaking of essential community development and housing assistance activities.

(6)(A) The term “urban county” means any county within a metropolitan area which—

(i) is authorized under State law to undertake essential community development and housing assistance activities in its unincorporated areas, if any, which are not units of general local government; and

(ii) either—

(I) has a population of 200,000 or more (excluding the population of metropolitan cities therein) and has a combined population of 100,000 or more (excluding the population of metropolitan cities therein) in such unincorporated areas and in its included units of general local government (and in the case of counties having a combined population of less than 200,000, the areas and units of general local government must include the areas and units of general local government which in the aggregate have the preponderance of the persons of low and moderate income who reside in the county) (a) in which it has authority to undertake essential community development and housing assistance activities and which do not elect to have their population excluded, or (b) with which it has entered into cooperation agreements to undertake or to assist in the undertaking of essential community development and housing assistance activities; or

(II) has a population in excess of 100,000, a population density of at least 5,000 persons per square mile, and contains within its boundaries no incorporated places as defined by the United States Bureau of the Census.

(B) Any county that was classified as an urban county for at least 2 years pursuant to subparagraph (A), (C), or (D) shall remain classified as an urban county, unless it fails to qualify as an urban county pursuant to subparagraph (A) by reason of the election of any unit of general local government included in such county to have its population excluded under clause (ii)(I)(a) of subparagraph (A) or not to renew a cooperation agreement under clause (ii)(I)(b) of such subparagraph.

(C) Notwithstanding the combined population amount set forth in clause (ii) of subparagraph (A), a county shall also qualify as an urban county for purposes of assistance under section 106 if such county—

(i) complies with all other requirements set forth in the first sentence;

(ii) has, according to the most recent available decennial census data, a combined population between 190,000 and 199,999, inclusive (excluding the population of metropolitan cities therein) in all its unincorporated areas that are not units of general local government and in all units of general local government located within such county;

(iii) had a population growth rate of not less than 15 percent during the most recent 10-year period measured by applicable censuses; and

(iv) has submitted data satisfactory to the Secretary that it has a combined population of not less than 200,000 (excluding the population of metropolitan cities therein) in all its unincorporated areas that are not units of general local government and in all units of general local government located within such county.

(D) Such term also includes a county that—

(i) has a combined population in excess of 175,000, has more than 50 percent of the housing units of the area unsewered, and has an aquifer that was designated before March 1, 1987, a sole source aquifer by the Environmental Protection Agency;

(ii) has taken steps, which include at least one public referendum, to consolidate substantial public services with an adjoining metropolitan city, and in the opinion of the Secretary, has consolidated these services with the city in an effort that is expected to result in the unification of the two governments within 6 years of the date of enactment of the Housing and Community Development Act of 1987;

(iii) had a population between 180,000 and 200,000 on October 1, 1987, was eligible for assistance under section 119 of the Housing and Community Development Act of 1974 in fiscal year 1986, and does not contain any metropolitan cities;

(iv) has entered into a local cooperation agreement with a metropolitan city that received assistance under section 106 because of such classification, and has elected under paragraph (4) to have its population included with the population of the county for purposes of qualifying as an urban county; except that to qualify as an urban county under this clause (I) the county must have a combined population of not less than 195,000, (II) more than 15 percent of the residents of the county shall be 60 years of age or older (according to the most recent decennial census data), (III) not less than 20 percent of the total personal income in the county shall be from pensions, social security, disability, and other transfer programs, and (IV) not less than 40 percent of the land within the county shall be publicly owned and not subject to property tax levies;

(v)(I) has a population of 175,000 or more (including the population of metropolitan cities therein), (II) before January 1, 1975, was designated by the Secretary of Defense pursuant to section 608 of the Military Construction Authorization Act, 1975 (Public Law 93-552; 88 Stat. 1763), as a Trident Defense Impact Area, and (III) has located therein not less than 1 unit of general local government that was classified as a metropolitan city and (a) for which county each such unit of general local government therein has relinquished its classification as a metropolitan city under the 6th sentence of paragraph (4), or (b) that has entered into cooperative agreements with each metropolitan city therein to undertake or to assist in the undertaking of essential community development and housing assistance activities;

(vi) has entered into a local cooperation agreement with a metropolitan city that received assistance under section 106 because of such classification, and has elected under paragraph (4) to have its population included with the population of the county for the purposes of qualifying as an urban county, except that to qualify as an urban county under this clause, the county must—

(I) have a combined population of not less than 210,000, excluding any metropolitan city located in the county that is not relinquishing its metropolitan city classification, according to the 1990 decennial census of the Bureau of the Census of the Department of Commerce;

(II) including any metropolitan cities located in the county, have had a decrease in population of 10,061 from 1992 to 1994, according to the estimates of the Bureau of the Census of the Department of Commerce; and

(III) have had a Federal naval installation that was more than 100 years old closed by action of the Base Closure and Realignment Commission appointed for 1993 under the Base Closure and Realignment Act of 1990,[3] directly resulting in a loss of

[3] So in law. Probably should refer to the Defense Base Closure and Realignment Act of 1990.

employment by more than 7,000 Federal Government civilian employees and more than 15,000 active duty military personnel, which naval installation was located within one mile of an enterprise community designated by the Secretary pursuant to section 1391 of the Internal Revenue Code of 1986, which enterprise community has a population of not less than 20,000, according to the 1990 decennial census of the Bureau of the Census of the Department of Commerce[4]

(vii)[5] has consolidated its government with one or more municipal governments, such that within the county boundaries there are no unincorporated areas; (II) has a population of not less than 650,000; (III) for more than 10 years, has been classified as a metropolitan city for purposes of allocating and distributing funds under section 106; and (IV) as of the date of enactment of this clause, has over 90 percent of the county's population within the jurisdiction of the consolidated government; or

(viii)[6] notwithstanding any other provision of this section, any county that was classified as an urban county pursuant to subparagraph (A) for fiscal year 1999, at the option of the county, may hereafter remain classified as an urban county for purposes of this Act.

(E) Any county classified as an urban county pursuant to subparagraph (A), (B), or (C) of this paragraph, and that no longer qualifies as an urban county under such subparagraph in a fiscal year beginning after fiscal year 1989, shall retain its classification as an urban county for such fiscal year and the succeeding fiscal year, except that in such succeeding fiscal year (i) the amount of the grant to such an urban county shall be 50 percent of the amount calculated under section 106(b); and (ii) the remaining 50 percent shall be added to the amount allocated under section 106(d) to the State in which the urban county is located and the urban county shall be eligible in such succeeding fiscal year to receive a distribution from the State allocation under section 106(d) as increased by this sentence.

(7) The term "nonentitlement area" means an area which is not a metropolitan city or part of an urban county and does not include Indian tribes.

(8) The term "population" means total resident population based on data compiled by the United States Bureau of the Census and referable to the same point or period in time.

(9) The term "extent of poverty" means the number of persons whose incomes are below the poverty level. Poverty levels shall be determined by the Secretary pursuant to criteria provided by the Office of Management and Budget, taking into account and making adjustments, if feasible and appropriate and in the sole discretion of the Secretary, for regional or area variations in income and cost of living, and shall be based on data referable to the same point or period in time.

(10) The term "extent of housing overcrowding" means the number of housing units with 1.01 or more persons per room based on data compiled by the United States Bureau of the Census and referable to the same point or period in time.

(11) The term "age of housing" means the number of existing housing units constructed in 1939 or earlier based on data compiled by the United States Bureau of the Census and referable to the same point or period in time.

(12) The term "extent of growth lag" means the number of persons who would have been residents in a metropolitan city or urban county, in excess of the current population of such metropolitan city or urban county, if such metropolitan city or urban county had had a population growth rate between 1960 and the date of the most recent population count referable to the same point or period in time equal to the population growth rate for such period of all metropolitan cities. Where the boundaries for a metropolitan city or urban county used for the 1980 census have changed as a result of annexation, the current population used to compute extent of growth lag shall be adjusted by multiplying the current population by the ratio of the population based on the 1980 census within the boundaries used for the 1980 census to the population based on the 1980 census within the current boundaries. Where the boundaries for a metropolitan city or urban county used for the 1980 census have changed as a result of annexation, the current population used to compute extent of growth lag shall be adjusted by multiplying the current population by the ratio of the population based on the 1980 census within the boundaries used for the 1980 census to the population based on the 1980 census within the current boundaries.[7]

(13) The term "housing stock" means the number of existing housing units based on data compiled by the United States Bureau of the Census and referable to the same point or period in time.

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[4] So in law.
[5] Margins so in law.
[6] Margins so in law.
[7] So in law. The same sentence appears twice.

(14) The term "adjustment factor" means the ratio between the age of housing in the metropolitan city or urban county and the predicted age of housing in such city or county.

(15) The term "predicted age of housing" means the arithmetic product of the housing stock in the metropolitan city or urban county multiplied times the ratio between the age of housing in all metropolitan areas and the housing stock in all metropolitan areas.

(16) The term "adjusted age of housing" means the arithmetic product of the age of housing in the metropolitan city or urban county multiplied times the adjustment factor.

(17) The term "Indian tribe" means any Indian tribe, band, group, and nation, including Alaska Indians, Aleuts, and Eskimos, and any Alaskan Native Village, of the United States, which is considered an eligible recipient under the Indian Self-Determination and Education Assistance Act (Public Law 93-638) or was considered an eligible recipient under chapter 67 of title 31, United States Code, prior to the repeal of such chapter.

(18) The term "Federal grant-in-aid program" means a program of Federal financial assistance other than loans and other than the assistance provided by this title.

(19) The term "Secretary" means the Secretary of Housing and Urban Development.

(20)(A)[8] The terms "persons of low and moderate income" and "low- and moderate-income persons" mean families and individuals whose incomes do not exceed 80 percent of the median income of the area involved, as determined by the Secretary with adjustments for smaller and larger families. The term "persons of low income" means families and individuals whose incomes do not exceed 50 percent of the median income of the area involved, as determined by the Secretary with adjustments for smaller and larger families. The term "persons of moderate income" means families and individuals whose incomes exceed 50 percent, but do not exceed 80 percent, of the median income of the area involved, as determined by the Secretary with adjustments for smaller and larger families. For purposes of such terms, the area involved shall be determined in the same manner as such area is determined for purposes of assistance under section 8 of the United States Housing Act of 1937.

(B) The Secretary may establish percentages of median income for any area that are higher or lower than the percentages set forth in subparagraph (A), if the Secretary finds such variations to be necessary because of unusually high or low family incomes in such area.

(21) The term "buildings for the general conduct of government" means city halls, county administrative buildings, State capitol or office buildings, or other facilities in which the legislative or general administrative affairs of the government are conducted. Such term does not include such facilities as neighborhood service centers or special purpose buildings located in low- and moderate-income areas that house various nonlegislative functions or services provided by government at decentralized locations.

(22) The term "microenterprise" means a commercial enterprise that has 5 or fewer employees, 1 or more of whom owns the enterprise.

(23) The term "small business" means a business that meets the criteria set forth in section 3(a) of the Small Business Act.

(24) The term "insular area" means each of Guam, the Northern Mariana Islands, the Virgin Islands, and American Samoa.

(b) Where appropriate, the definitions in subsection (a) shall be based, with respect to any fiscal year, on the most recent data compiled by the United States Bureau of the Census and the latest published reports of the Office of Management and Budget available ninety days prior to the beginning of such fiscal year. The Secretary may by regulation change or otherwise modify the meaning of the terms defined in subsection (a) in order to reflect any technical change or modification thereof made subsequent to such date by the United States Bureau of the Census or the Office of Management and Budget.

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[8] Section 590 of the Quality Housing and Work Responsibility Act of 1998, title V of Pub. L. 105-276, approved October 21, 1998, provides, in part, as follows:

"**SEC. 590. [42 U.S.C. 5301 note] INCOME ELIGIBILITY FOR HOME AND CDBG PROGRAMS.**

"(a) IN GENERAL.—The Secretary of Housing and Urban Development shall, for not less than 10 jurisdictions that are metropolitan cities or urban counties for purposes of title I of the Housing and Community Development Act of 1974, grant exceptions not later than 90 days after the date of the enactment of this Act for such jurisdictions that provide that—

"(1) ***

"(2) for purposes of the community development block grant program under title I of the Housing and Community Development Act of 1974, the limitation based on percentage of median income that is applicable pursuant to section 102(a)(20) for any area within the State or unit of general local government shall be the numerical percentage that is specified in subparagraph (A) of such section.

"(b) EFFECTIVE DATE.—This section shall take effect on the date of the enactment of this Act.".

(c) One or more public agencies, including existing local public agencies, may be designated by the chief executive officer of a State or a unit of general local government to undertake activities assisted under this title.

(d) With respect to program years beginning with the program year for which grants are made available from amounts appropriated for fiscal year 1982 under section 103, the population of any unit of general local government which is included in that of an urban county as provided in subparagraph (A)(ii) or (D) of subsection (a)(6) shall be included in the population of such urban county for three program years beginning with the program year in which its population was first so included and shall not otherwise be eligible for a grant under section 106 as a separate entity, unless the urban county does not receive a grant for any year during such three-year period.

(e) Any county seeking qualification as an urban county, including any urban county seeking to continue such qualification, shall notify, as provided in this subsection, each unit of general local government, which is included therein and is eligible to elect to have its population excluded from that of an urban county under subsection (a)(6)(A)(ii)(I)(a), of its opportunity to make such an election. Such notification shall, at a time and in a manner prescribed by the Secretary, be provided so as to provide a reasonable period for response prior to the period for which such qualification is sought. The population of any unit of general local government which is provided such notification and which does not inform, at a time and in a manner prescribed by the Secretary, the county of its election to exclude its population from that of the county shall, if the county qualifies as an urban county, be included in the population of such urban county as provided in subsection (d).

Sec. 103. [42 U.S.C. 5303]
GRANTS TO STATES, UNITS OF GENERAL LOCAL GOVERNMENT AND INDIAN TRIBES; AUTHORIZATIONS.

The Secretary is authorized to make grants to States, units of general local government, and Indian tribes to carry out activities in accordance with the provisions of this title. For purposes of assistance under section 106, there are authorized to be appropriated $4,000,000,000 for fiscal year 1993 and $4,168,000,000 for fiscal year 1994.

Sec. 104. [42 U.S.C. 5304]
STATEMENT OF ACTIVITIES AND REVIEW.

(a)(1) Prior to the receipt in any fiscal year of a grant under section 106(b) by any metropolitan city or urban county, under section 106(d) by any State, under section 106(d)(2)(B) by any unit of general local government, or under section 106(a)(3) by any insular area, the grantee shall have prepared a final statement of community development objectives and projected use of funds and shall have provided the Secretary with the certifications required in subsection (b) and, where appropriate, subsection (c). In the case of metropolitan cities and urban counties receiving grants pursuant to section 106(b), units of general local government receiving grants pursuant to section 106(d)(2)(B), and insular areas receiving grants pursuant to section 106(a)(3), the statement of projected use of funds shall consist of proposed community development activities. In the case of States receiving grants pursuant to section 106(d), the statement of projected use of funds shall consist of the method by which the States will distribute funds to units of general local government.

(2) In order to permit public examination and appraisal of such statements, to enhance the public accountability of grantees, and to facilitate coordination of activities with different levels of government, the grantee shall in a timely manner—

(A) furnish citizens or, as appropriate, units of general local government information concerning the amount of funds available for proposed community development and housing activities and the range of activities that may be undertaken, including the estimated amount proposed to be used for activities that will benefit persons of low and moderate income and the plans of the grantee for minimizing displacement of persons as a result of activities assisted with such funds and to assist persons actually displaced as a result of such activities;

(B) publish a proposed statement in such manner to afford affected citizens or, as appropriate, units of general local government an opportunity to examine its content and to submit comments on the proposed statement and on the community development performance of the grantee;

(C) hold one or more public hearings to obtain the views of citizens on community development and housing needs;

(D) provide citizens or, as appropriate, units of general local government with reasonable access to records regarding the past use of funds received under section 106 by the grantee; and

(E) provide citizens or, as appropriate, units of general local government with reasonable notice of, and opportunity to comment on, any substantial change proposed to be made in the use

of funds received under section 106 from one eligible activity to another or in the method of distribution of such funds.

In preparing the final statement, the grantee shall consider any such comments and views and may, if deemed appropriate by the grantee, modify the proposed statement. The final statement shall be made available to the public, and a copy shall be furnished to the Secretary together with the certifications required under subsection (b) and, where appropriate, subsection (c). Any final statement of activities may be modified or amended from time to time by the grantee in accordance with the same procedures required in this paragraph for the preparation and submission of such statement.

(3) A grant under section 106 may be made only if the grantee certifies that it is following a detailed citizen participation plan which—

(A) provides for and encourages citizen participation, with particular emphasis on participation by persons of low and moderate income who are residents of slum and blight areas and of areas in which section 106 funds are proposed to be used, and in the case of a grantee described in section 106(a), provides for participation of residents in low and moderate income neighborhoods as defined by the local jurisdiction;

(B) provides citizens with reasonable and timely access to local meetings, information, and records relating to the grantee's proposed use of funds, as required by regulations of the Secretary, and relating to the actual use of funds under this title;

(C) provides for technical assistance to groups representative of persons of low and moderate income that request such assistance in developing proposals with the level and type of assistance to be determined by the grantee;

(D) provides for public hearings to obtain citizen views and to respond to proposals and questions at all stages of the community development program, including at least the development of needs, the review of proposed activities, and review of program performance, which hearings shall be held after adequate notice, at times and locations convenient to potential or actual beneficiaries, and with accommodation for the handicapped;

(E) provides for a timely written answer to written complaints and grievances, within 15 working days where practicable; and

(F) identifies how the needs of non-English speaking residents will be met in the case of public hearings where a significant number of non-English speaking residents can be reasonably expected to participate.

This paragraph may not be construed to restrict the responsibility or authority of the grantee for the development and execution of its community development program.

(b) Any grant under section 106 shall be made only if the grantee certifies to the satisfaction of the Secretary that—

(1) the grantee is in full compliance with the requirements of subsection (a)(2) (A), (B), and (C) and has made the final statement available to the public;

(2) the grant will be conducted and administered in conformity with the Civil Rights Act of 1964 and the Fair Housing Act, and the grantee will affirmatively further fair housing;

(3) the projected use of funds has been developed so as to give maximum feasible priority to activities which will benefit low- and moderate-income families or aid in the prevention or elimination of slums or blight, and the projected use of funds may also include activities which the grantee certifies are designed to meet other community development needs having a particular urgency because existing conditions pose a serious and immediate threat to the health or welfare of the community where other financial resources are not available to meet such needs, except that (A) the aggregate use of funds received under section 106 and, if applicable, as a result of a guarantee or a grant under section 108, during a period specified by the grantee of not more than 3 years, shall principally benefit persons of low and moderate income in a manner that ensures that not less than 70 percent of such funds are used for activities that benefit such persons during such period; and (B) a grantee that borders on the Great Lakes and that experiences significant adverse financial and physical effects due to lakefront erosion or flooding may include in the projected use of funds activities that are clearly designed to alleviate the threat posed, and rectify the damage caused, by such erosion or flooding if such activities will principally benefit persons of low and moderate income and the grantee certifies that such activities are necessary to meet other needs having a particular urgency;

(4) it has developed a community development plan pursuant to subsection (m), for the period specified by the grantee under paragraph (3), that identifies community development needs and specifies

both short- and long-term community development objectives that have been developed in accordance with the primary objective and requirements of this title;

(5) the grantee will not attempt to recover any capital costs of public improvements assisted in whole or part under section 106 or with amounts resulting from a guarantee under section 108 by assessing any amount against properties owned and occupied by persons of low and moderate income, including any fee charged or assessment made as a condition of obtaining access to such public improvements, unless (A) funds received under section 106 are used to pay the proportion of such fee or assessment that relates to the capital costs of such public improvements that are financed from revenue sources other than under this title; or (B) for purposes of assessing any amount against properties owned and occupied by persons of moderate income, the grantee certifies to the Secretary that it lacks sufficient funds received under section 106 to comply with the requirements of subparagraph (A); and

(6) the grantee will comply with the other provisions of this title and with other applicable laws.

(c) A grant may be made under section 106(b) only if the unit of general local government certifies that it is following—

(1) a current housing affordability strategy which has been approved by the Secretary in accordance with section 105 of the Cranston-Gonzalez National Affordable Housing Act, or

(2) a housing assistance plan which was approved by the Secretary during the 180-day period beginning on the date of enactment of the Cranston-Gonzalez National Affordable Housing Act,[9] or during such longer period as may be prescribed by the Secretary in any case for good cause.

(d)(1) A grant under section 106 or 119 may be made only if the grantee certifies that it is following a residential antidisplacement and relocation assistance plan. A grantee receiving a grant under section 106(a) or section 119 shall so certify to the Secretary. A unit of general local government receiving amounts from a State under section 106(d) shall so certify to the State, and a unit of general local government receiving amounts from the Secretary under section 106(d) shall so certify to the Secretary.

(2) The residential antidisplacement and relocation assistance plan shall in connection with a development project assisted under section 106 or 119—

(A) in the event of such displacement, provide that—

(i) governmental agencies or private developers shall provide within the same community comparable replacement dwellings for the same number of occupants as could have been housed in the occupied and vacant occupiable low and moderate income dwelling units demolished or converted to a use other than for housing for low and moderate income persons, and provide that such replacement housing may include existing housing assisted with project based assistance provided under section 8 of the United States Housing Act of 1937;

(ii) such comparable replacement dwellings shall be designed to remain affordable to persons of low and moderate income for 10 years from the time of initial occupancy;

(iii) relocation benefits shall be provided for all low or moderate income persons who occupied housing demolished or converted to a use other than for low or moderate income housing,[10] including reimbursement for actual and reasonable moving expenses, security deposits, credit checks, and other moving-related expenses, including any interim living costs; and in the case of displaced persons of low and moderate income, provide either—

(I) compensation sufficient to ensure that, for a 5-year period, the displaced families shall not bear, after relocation, a ratio of shelter costs to income that exceeds 30 percent; or

(II) if elected by a family, a lump-sum payment equal to the capitalized value of the benefits available under subclause (I) to permit the household to secure participation in a housing cooperative or mutual housing association; and

(iv) persons displaced shall be relocated into comparable replacement housing that is—

(I) decent, safe, and sanitary;

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[9] November 28, 1990.

[10] Section 14 of the Department of Housing and Urban Development Act, which is set forth in part XII of this compilation, limits the making of lump-sum payments in providing relocation assistance in connection any program administered by the Department of Housing and Urban Development.

(II) adequate in size to accommodate the occupants;

(III) functionally equivalent; and

(IV) in an area not subject to unreasonably adverse environmental conditions;

(B) provide that persons displaced shall have the right to elect, as an alternative to the benefits under this subsection, to receive benefits under the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 (42 U.S.C. 4601 et seq.) if such persons determine that it is in their best interest to do so; and

(C) provide that where a claim for assistance under subparagraph (A)(iv) is denied by a grantee, the claimant may appeal to the Secretary in the case of a grant under section 106 or 119 or to the appropriate State official in the case of a grant under section 106(d), and that the decision of the Secretary or the State official shall be final unless a court determines the decision was arbitrary and capricious.

(3) Paragraphs (2)(A)(i) and (2)(A)(ii) shall not apply in any case in which the Secretary finds, on the basis of objective data, that there is available in the area an adequate supply of habitable affordable housing for low and moderate income persons. A determination under this paragraph is final and nonreviewable.

(e) Each grantee shall submit to the Secretary, at a time determined by the Secretary, a performance and evaluation report, concerning the use of funds made available under section 106, together with an assessment by the grantee of the relationship of such use to the objectives identified in the grantee's statement under subsection (a) and to the requirements of subsection (b)(3). Such report shall also be made available to the citizens in each grantee's jurisdiction in sufficient time to permit such citizens to comment on such report prior to its submission, and in such manner and at such times as the grantee may determine. The grantee's report shall indicate its programmatic accomplishments, the nature of and reasons for changes in the grantee's program objectives, indications of how the grantee would change its programs as a result of its experiences, and an evaluation of the extent to which its funds were used for activities that benefited low- and moderate-income persons. The report shall include a summary of any comments received by the grantee from citizens in its jurisdiction respecting its program. The Secretary shall encourage and assist national associations of grantees eligible under section 106(d)(2)(B), national associations of States, and national associations of units of general local government in nonentitlement areas to develop and recommend to the Secretary, within one year after the effective date of this sentence,[11] uniform recordkeeping, performance reporting and evaluation reporting, and auditing requirements for such grantees, States, and units of general local government, respectively. Based on the Secretary's approval of these recommendations, the Secretary shall establish such requirements for use by such grantees, States, and units of general local government. The Secretary shall, at least on an annual basis, make such reviews and audits as may be necessary or appropriate to determine—

(1) in the case of grants made under subsection (a)(3), (b), or (d)(2)(B) of section 106, whether the grantee has carried out its activities and, where applicable, its housing assistance plan in a timely manner, whether the grantee has carried out those activities and its certifications in accordance with the requirements and the primary objectives of this title and with other applicable laws, and whether the grantee has a continuing capacity to carry out those activities in a timely manner; and

(2) in the case of grants to States made under section 106(d), whether the State has distributed funds to units of general local government in a timely manner and in conformance to the method of distribution described in its statement, whether the State has carried out its certifications in compliance with the requirements of this title and other applicable laws, and whether the State has made such reviews and audits of the units of general local government as may be necessary or appropriate to determine whether they have satisfied the applicable performance criteria described in paragraph (1) of this subsection.

The Secretary may make appropriate adjustments in the amount of the annual grants in accordance with the Secretary's findings under this subsection. With respect to assistance made available to units of general local government under section 106(d), the Secretary may adjust, reduce, or withdraw such assistance, or take other action as appropriate in accordance with the Secretary's reviews and audits under this subsection, except that funds already expended on eligible activities under this title shall not be recaptured or deducted from future assistance to such units of general local government.

(f) Insofar as they relate to funds provided under this title, the financial transactions of recipients of such funds may be audited by the General Accounting Office under such rules and regulations as may be prescribed by

[11] The effective date of the sentence was November 30, 1983.

the Comptroller General of the United States. The representatives of the General Accounting Office[12] shall have access to all books, accounts, records, reports, files, and other papers, things, or property belonging to or in use by such recipients pertaining to such financial transactions and necessary to facilitate the audit.

(g)(1) In order to assure that the policies of the National Environmental Policy Act of 1969 and other provisions of law which further the purposes of such Act (as specified in regulations issued by the Secretary) are most effectively implemented in connection with the expenditure of funds under this title, and to assure to the public undiminished protection of the environment, the Secretary, in lieu of the environmental protection procedures otherwise applicable, may under regulations provide for the release of funds for particular projects to recipients of assistance under this title who assume all of the responsibilities for environmental review, decisionmaking, and action pursuant to such Act, and such other provisions of law as the regulations of the Secretary specify, that would apply to the Secretary were he to undertake such projects as Federal projects. The Secretary shall issue regulations to carry out this subsection only after consultation with the Council on Environmental Quality.

(2) The Secretary shall approve the release of funds for projects subject to the procedures authorized by this subsection only if, at least fifteen days prior to such approval and prior to any commitment of funds to such projects other than for purposes authorized by section 105(a)(12) or for environmental studies, the recipient of assistance under this title has submitted to the Secretary a request for such release accompanied by a certification which meets the requirements of paragraph (3). The Secretary's approval of any such certification shall be deemed to satisfy his responsibilities under the National Environmental Policy Act of 1969 and such other provisions of law as the regulations of the Secretary specify insofar as those responsibilities relate to the releases of funds for projects to be carried out pursuant thereto which are covered by such certification.

(3) A certification under the procedures authorized by this subsection shall—

(A) be in a form acceptable to the Secretary,

(B) be executed by the chief executive officer or other officer of the recipient of assistance under this title qualified under regulations of the Secretary,

(C) specify that the recipient of assistance under this title has fully carried out its responsibilities as described under paragraph (1) of this subsection, and

(D) specify that the certifying officer (i) consents to assume the status of a responsible Federal official under the National Environmental Policy Act of 1969 and each provision of law specified in regulations issued by the Secretary insofar as the provisions of such Act or other such provision of law apply pursuant to paragraph (1) of this subsection, and (ii) is authorized and consents on behalf of the recipient of assistance under this title and himself to accept the jurisdiction of the Federal courts for the purpose of enforcement of his responsibilities as such an official.

(4) In the case of grants made to States pursuant to section 106(d), the State shall perform those actions of the Secretary described in paragraph (2) and the performance of such actions shall be deemed to satisfy the Secretary's responsibilities referred to in the second sentence of such paragraph.

(h)(1) Units of general local government receiving assistance under this title may receive funds, in one payment, in an amount not to exceed the total amount designated in the grant (or, in the case of a unit of general local government receiving a distribution from a State pursuant to section 106(d), not to exceed the total amount of such distribution) for use in establishing a revolving loan fund which is to be established in a private financial institution and which is to be used to finance rehabilitation activities assisted under this title.[13] Rehabilitation

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[12] Section 8(a) of the GAO Human Capital Reform Act, Public Law 108-271, 118 Stat. 814, approved July 7, 2004, 31 U.S.C. 702 note, redesignated the General Accounting Office as the Government Accountability Office. Subsection (b) of such section provides that "[a]ny reference to the General Accounting Office in any law, rule, regulation, certificate, directive, instruction, or other official paper in force on the date of enactment of this Act shall be considered to refer and apply to the Government Accountability Office.".

[13] The Departments of Veterans Affairs and Housing and Urban Development, and Independent Agencies Appropriations Act, 1992, Pub. L. 102-139, 105 Stat. 752, 42 U.S.C. 5304 note, provides as follows: "That after September 30, 1991, notwithstanding section 909 of the Cranston-Gonzalez National Affordable Housing Act (Public Law 101-625), no funds provided or heretofore provided in this or any other appropriations Act shall be used to establish or supplement a revolving fund under section 104(h) of the Housing and Community Development Act of 1974, as amended.".

Section 909 of the Cranston-Gonzalez National Affordable Housing Act provides as follows:

"SEC. 909. [42 U.S.C. 5304 note] AUTHORITY TO PROVIDE LUMP-SUM PAYMENTS TO REVOLVING LOAN FUNDS.

"(a) In General.--Notwithstanding any other provision of law, units of general local government receiving assistance under title I of the Housing and Community Development Act of 1974 may receive funds in one payment for use in establishing or supplementing revolving loan funds in the manner provided under section 104(h) of such Act (42 U.S.C. 5304(h)).

activities authorized under this section shall begin within 45 days after receipt of such payment and substantial disbursements from such fund must begin within 180 days after receipt of such payment.

(2) The Secretary shall establish standards for such cash payments which will insure that the deposits result in appropriate benefits in support of the recipient's rehabilitation program. These standards shall be designed to assure that the benefits to be derived from the local program include, at a minimum, one or more of the following elements, or such other criteria as determined by the Secretary—

(A) leverage of community development block grant funds so that participating financial institutions commit private funds for loans in the rehabilitation program in amounts substantially in excess of deposit of community development funds;

(B) commitment of private funds for rehabilitation loans at below-market interest rates or with repayment periods lengthened or at higher risk than would normally be taken;

(C) provision of administrative services in support of the rehabilitation program by the participating lending institutions; and

(D) interest earned on such cash deposits shall be used in a manner which supports the community rehabilitation program.

(i) In any case in which a metropolitan city is located, in whole or in part, within an urban county, the Secretary may, upon the joint request of such city and county, approve the inclusion of the metropolitan city as part of the urban county for purposes of submitting a statement under section 104(a) and carrying out activities under this title.

(j) Notwithstanding any other provision of law, any unit of general local government may retain any program income that is realized from any grant made by the Secretary, or any amount distributed by a State, under section 106 if (1) such income was realized after the initial disbursement of the funds received by such unit of general local government under such section; and (2) such unit of general local government has agreed that it will utilize the program income for eligible community development activities in accordance with the provisions of this title; except that the Secretary may, by regulation, exclude from consideration as program income any amounts determined to be so small that compliance with this subsection creates an unreasonable administrative burden on the unit of general local government. A State may require as a condition of any amount distributed by such State under section 106(d) that a unit of general local government shall pay to such State any such income to be used by such State to fund additional eligible community development activities, except that such State shall waive such condition to the extent such income is applied to continue the activity from which such income was derived.

(k) Each grantee shall provide for reasonable benefits to any person involuntarily and permanently displaced as a result of the use of assistance received under this title to acquire or substantially rehabilitate property.

(l) PROTECTION OF INDIVIDUALS ENGAGING IN NON-VIOLENT CIVIL RIGHTS DEMONSTRATIONS.—No funds authorized to be appropriated under section 103 of this Act may be obligated or expended to any unit of general local government that—

(1) fails to adopt and enforce a policy prohibiting the use of excessive force by law enforcement agencies within its jurisdiction against any individuals engaged in nonviolent civil rights demonstrations; or

(2) fails to adopt and enforce a policy of enforcing applicable State and local laws against physically barring entrance to or exit from a facility or location which is the subject of such non-violent civil rights demonstration within its jurisdiction.

(m) COMMUNITY DEVELOPMENT PLANS.—

(1) IN GENERAL.—Prior to the receipt in any fiscal year of a grant from the Secretary under subsection (a)(2), (b), (d)(1), or (d)(2)(B) of section 106, each recipient shall have prepared and submitted in accordance with this subsection and in such standardized form as the Secretary shall, by regulation, prescribe a description of its priority nonhousing community development needs eligible for assistance under this title.

(2) LOCAL GOVERNMENTS.—In the case of a recipient that is a unit of general local government other than an insular area—

(A) prior to the submission required by paragraph (1), the recipient shall, to the extent practicable, notify adjacent units of general local government and solicit the views of citizens on priority nonhousing community development needs; and

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"(b) Applicability.--This section shall apply to funds approved in appropriations Acts for use under title I of the Housing and Community Development Act of 1974 for fiscal year 1992 and any fiscal year thereafter.".

(B) the description required under paragraph (1) shall be submitted to the Secretary, the State, and any other unit of general local government within which the recipient is located, in such standardized form as the Secretary shall, by regulation, prescribe.

(3) STATES.—In the case of a recipient that is a State, the description required by paragraph (1)—

(A) shall include only the needs within the State that affect more than one unit of general local government and involve activities typically funded by such States under this title; and

(B) shall be submitted to the Secretary in such standard form as the Secretary, by regulation, shall prescribe.

(4) EFFECT OF SUBMISSION.—A submission under this subsection shall not be binding with respect to the use or distribution of amounts received under section 106.

Sec. 105. [42 U.S.C. 5305]
ACTIVITIES ELIGIBLE FOR ASSISTANCE.

(a) Activities assisted under this title may include only—

(1) the acquisition of real property (including air rights, water rights, and other interests therein) which is (A) blighted, deteriorated, deteriorating, undeveloped, or inappropriately developed from the standpoint of sound community development and growth; (B) appropriate for rehabilitation or conservation activities; (C) appropriate for the preservation or restoration of historic sites, the beautification of urban land, the conservation of open spaces, natural resources, and scenic areas, the provision of recreational opportunities, or the guidance of urban development; (D) to be used for the provision of public works, facilities, and improvements eligible for assistance under this title; or (E) to be used for other public purposes;

(2) the acquisition, construction, reconstruction, or installation (including design features and improvements with respect to such construction, reconstruction, or installation that promote energy efficiency) of public works, facilities (except for buildings for the general conduct of government), and site or other improvements;

(3) code enforcement in deteriorated or deteriorating areas in which such enforcement, together with public or private improvements or services to be provided, may be expected to arrest the decline of the area;

(4) clearance, demolition, removal, reconstruction, and rehabilitation (including rehabilitation which promotes energy efficiency) of buildings and improvements (including interim assistance, and financing public or private acquisition for reconstruction or rehabilitation, and reconstruction or rehabilitation, of privately owned properties, and including the renovation of closed school buildings);

(5) special projects directed to the removal of material and architectural barriers which restrict the mobility and accessibility of elderly and handicapped persons;

(6) payments to housing owners for losses of rental income incurred in holding for temporary periods housing units to be utilized for the relocation of individuals and families displaced by activities under this title;

(7) disposition (through sale, lease, donation, or otherwise) of any real property acquired pursuant to this title or its retention for public purposes;

(8) provision of public services, including but not limited to those concerned with employment, crime prevention, child care, health, drug abuse, education, energy conservation, welfare or recreation needs, if such services have not been provided by the unit of general local government (through funds raised by such unit, or received by such unit from the State in which it is located) during any part of the twelve-month period immediately preceding the date of submission of the statement with respect to which funds are to be made available under this title, and which are to be used for such services, unless the Secretary finds that the discontinuation of such services was the result of events not within the control of the unit of general local government, except that not more than 15 per centum of the amount of any assistance to a unit of general local government (or in the case of nonentitled communities not more than 15 per centum statewide) under this title including program income may be used for activities under this paragraph unless such unit of general local government used more than 15 percent of the assistance received under this title for fiscal year 1982 or fiscal year 1983 for such activities (excluding any assistance received pursuant to Public Law 98-8), in which case such unit of general local government may use not more than the percentage or amount of such assistance used for such activities for such fiscal year, whichever method of calculation yields the higher amount, except that of any amount of assistance under

this title (including program income) in each of fiscal years 1993 through 2003 to the City of Los Angeles and County of Los Angeles, each such unit of general government may use not more than 25 percent in each such fiscal year for activities under this paragraph, and except that of any amount of assistance under this title (including program income) in each of fiscal years 1999, 2000, and 2001, to the City of Miami, such city may use not more than 25 percent in each fiscal year for activities under this paragraph;

(9) payment of the non-Federal share required in connection with a Federal grant-in-aid program undertaken as part of activities assisted under this title;

(10) payment of the cost of completing a project funded under title I of the Housing Act of 1949;

(11) relocation payments and assistance for displaced individuals, families, businesses, organizations, and farm operations, when determined by the grantee to be appropriate;

(12) activities necessary (A) to develop a comprehensive community development plan, and (B) to develop a policy-planning-management capacity so that the recipient of assistance under this title may more rationally and effectively (i) determine its needs, (ii) set long-term goals and short-term objectives, (iii) devise programs and activities to meet these goals and objectives, (iv) evaluate the progress of such programs in accomplishing these goals and objectives, and (v) carry out management, coordination, and monitoring of activities necessary for effective planning implementation;

(13) payment of reasonable administrative costs related to establishing and administering federally approved enterprise zones and payment of reasonable administrative costs and carrying charges related to (A) administering the HOME program under title II of the Cranston-Gonzalez National Affordable Housing Act; and (B) the planning and execution of community development and housing activities, including the provision of information and resources to residents of areas in which community development and housing activities are to be concentrated with respect to the planning and execution of such activities, and including the carrying out of activities as described in section 701(e) of the Housing Act of 1954 on the date prior to the date of enactment of the Housing and Community Development Amendments of 1981;

(14) provision of assistance including loans (both interim and long-term) and grants for activities which are carried out by public or private nonprofit entities, including (A) acquisition of real property; (B) acquisition, construction, reconstruction, rehabilitation, or installation of (i) public facilities (except for buildings for the general conduct of government), site improvements, and utilities, and (ii) commercial or industrial buildings or structures and other commercial or industrial real property improvements; and (C) planning;

(15) assistance to neighborhood-based nonprofit organizations, local development corporations, nonprofit organizations serving the development needs of the communities in nonentitlement areas, or entities organized under section 301(d) of the Small Business Investment Act of 1958 to carry out a neighborhood revitalization or community economic development or energy conservative project in furtherance of the objectives of section 101(c), and assistance to neighborhood-based nonprofit organizations, or other private or public nonprofit organizations, for the purpose of assisting, as part of neighborhood revitalization or other community development, the development of shared housing opportunities (other than by construction of new facilities) in which elderly families (as defined in section 3(b)(3) of the United States Housing Act of 1937) benefit as a result of living in a dwelling in which the facilities are shared with others in a manner that effectively and efficiently meets the housing needs of the residents and thereby reduces their cost of housing;

(16) activities necessary to the development of energy use strategies related to a recipient's development goals, to assure that those goals are achieved with maximum energy efficiency, including items such as—

(A) an analysis of the manner in, and the extent to, which energy conservation objectives will be integrated into local government operations, purchasing and service delivery, capital improvements, budgeting, waste management, district heating and cooling, land use planning and zoning, and traffic control, parking, and public transportation functions; and

(B) a statement of the actions the recipient will take to foster energy conservation and the use of renewable energy resources in the private sector, including the enactment and enforcement of local codes and ordinances to encourage or mandate energy conservation or use of renewable energy resources, financial and other assistance to be provided (principally for the benefit of low- and moderate-income persons) to make energy conserving improvements to residential structures and any other proposed energy conservation activities;

(17) provision of assistance to private, for-profit entities, when the assistance is appropriate to carry out an economic development project (that shall minimize, to the extent practicable, displacement of existing businesses and jobs in neighborhoods) that—

(A) creates or retains jobs for low- and moderate-income persons;

(B) prevents or eliminates slums and blight;

(C) meets urgent needs;

(D) creates or retains businesses owned by community residents;

(E) assists businesses that provide goods or services needed by, and affordable to, low- and moderate-income residents; or

(F) provides technical assistance to promote any of the activities under subparagraphs (A) through (E);

(18) the rehabilitation or development of housing assisted under section 17 of the United States Housing Act of 1937;

(19) provision of technical assistance to public or nonprofit entities to increase the capacity of such entities to carry out eligible neighborhood revitalization or economic development activities, which assistance shall not be considered a planning cost as defined in paragraph (12) or administrative cost as defined in paragraph (13);

(20) housing services, such as housing counseling in connection with tenant-based rental assistance and affordable housing projects assisted under title II of the Cranston-Gonzalez National Affordable Housing Act, energy auditing, preparation of work specifications, loan processing, inspections, tenant selection, management of tenant-based rental assistance, and other services related to assisting owners, tenants, contractors, and other entities, participating or seeking to participate in housing activities assisted under title II of the Cranston-Gonzalez National Affordable Housing Act;

(21) provision of assistance by recipients under this title to institutions of higher education having a demonstrated capacity to carry out eligible activities under this subsection for carrying out such activities;

(22) provision of assistance to public and private organizations, agencies, and other entities (including nonprofit and for-profit entities) to enable such entities to facilitate economic development by—

(A) providing credit (including providing direct loans and loan guarantees, establishing revolving loan funds, and facilitating peer lending programs) for the establishment, stabilization, and expansion of microenterprises;

(B) providing technical assistance, advice, and business support services (including assistance, advice, and support relating to developing business plans, securing funding, conducting marketing, and otherwise engaging in microenterprise activities) to owners of microenterprises and persons developing microenterprises; and

(C) providing general support (such as peer support programs and counseling) to owners of microenterprises and persons developing microenterprises;

(23) activities necessary to make essential repairs and to pay operating expenses necessary to maintain the habitability of housing units acquired through tax foreclosure proceedings in order to prevent abandonment and deterioration of such housing in primarily low- and moderate-income neighborhoods;

(24) provision of direct assistance to facilitate and expand homeownership among persons of low and moderate income (except that such assistance shall not be considered a public service for purposes of paragraph (8)) by using such assistance to—

(A) subsidize interest rates and mortgage principal amounts for low- and moderate-income homebuyers;

(B) finance the acquisition by low- and moderate-income homebuyers of housing that is occupied by the homebuyers;

(C) acquire guarantees for mortgage financing obtained by low- and moderate-income homebuyers from private lenders (except that amounts received under this title may not be used under this subparagraph to directly guarantee such mortgage financing and grantees under this title may not directly provide such guarantees);

(D) provide up to 50 percent of any downpayment required from low- or moderate-income homebuyer; or

(E) pay reasonable closing costs (normally associated with the purchase of a home) incurred by a low- or moderate-income homebuyer;

(25) the construction or improvement of tornado-safe shelters for residents of manufactured housing, and the provision of assistance (including loans and grants) to nonprofit and for-profit entities (including owners of manufactured housing parks) for such construction or improvement, except that—

(A) a shelter assisted with amounts provided pursuant to this paragraph may be located only in a neighborhood (including a manufactured housing park) that—

(i) contains not less than 20 manufactured housing units that are within such proximity to the shelter that the shelter is available to the residents of such units in the event of a tornado;

(ii) consists predominantly of persons of low and moderate income; and

(iii) is located within a State in which a tornado has occurred during the fiscal year for which the amounts to be used under this paragraph were made available or any of the 3 preceding fiscal years, as determined by the Secretary after consultation with the Director of the Federal Emergency Management Agency;

(B) such a shelter shall comply with standards for construction and safety as the Secretary, after consultation with the Director of the Federal Emergency Management Agency, shall provide to ensure protection from tornadoes;

(C) such a shelter shall be of a size sufficient to accommodate, at a single time, all occupants of manufactured housing units located within the neighborhood in which the shelter is located; and

(D) amounts may not be used for a shelter as provided under this paragraph unless there is located, within the neighborhood in which the shelter is located (or, in the case of a shelter located in a manufactured housing park, within 1,500 feet of such park), a warning siren that is operated in accordance with such local, regional, or national disaster warning programs or systems as the Secretary, after consultation with the Director of the Federal Emergency Management Agency[14], considers appropriate to ensure adequate notice of occupants of manufactured housing located in such neighborhood or park of a tornado; and

(26) lead-based paint hazard evaluation and reduction, as defined in section 1004 of the Residential Lead-Based Paint Hazard Reduction Act of 1992.

(b) Upon the request of the recipient of assistance under this title, the Secretary may agree to perform administrative services on a reimbursable basis on behalf of such recipient in connection with loans or grants for the rehabilitation of properties as authorized under subsection (a)(4).

(c)(1) In any case in which an assisted activity described in paragraph (14) or (17) of subsection (a) is identified as principally benefiting persons of low and moderate income, such activity shall—

(A) be carried out in a neighborhood consisting predominately of persons of low and moderate income and provide services for such persons; or

(B) involve facilities designed for use predominately by persons of low and moderate income; or

(C) involve employment of persons, a majority of whom are persons of low and moderate income.

(2)(A) In any case in which an assisted activity described in subsection (a) is designed to serve an area generally and is clearly designed to meet identified needs of persons of low and moderate income in such area, such activity shall be considered to principally benefit persons of low and moderate income if (i) not less than 51 percent of the residents of such area are persons of low and moderate income; (ii) in any metropolitan city or urban county, the area served by such activity is within the highest quartile of all areas within the jurisdiction of such city or county in terms of the degree of concentration of persons of low and moderate income; or (iii) the assistance for such activity is limited to paying assessments (including any charge made as a condition of obtaining access) levied against properties owned and occupied by persons of low and moderate income to recover the capital cost for a public improvement.

(B) The requirements of subparagraph (A) do not prevent the use of assistance under this title for the development, establishment, and operation for not to exceed 2 years after its establishment of a uniform emergency telephone number system if the Secretary determines that—

[14] Section 611 of Public Law 111-295 provides for the transfer of duties for this entity under the Department of Homeland Security. Section 612(c) of such Public Law provides: "[a]ny reference to the Director of the Federal Emergency Management Agency, in any law, rule, regulation, certificate, directive, instruction, or other official paper shall be considered to refer and apply to the Administrator of the Federal Emergency Management Agency.".

(i) such system will contribute substantially to the safety of the residents of the area served by such system;

(ii) not less than 51 percent of the use of the system will be by persons of low and moderate income; and

(iii) other Federal funds received by the grantee are not available for the development, establishment, and operation of such system due to the insufficiency of the amount of such funds, the restrictions on the use of such funds, or the prior commitment of such funds for other purposes by the grantee.

The percentage of the cost of the development, establishment, and operation of such a system that may be paid from assistance under this title and that is considered to benefit low and moderate income persons is the percentage of the population to be served that is made up of persons of low and moderate income.

(3) Any assisted activity under this title that involves the acquisition or rehabilitation of property to provide housing shall be considered to benefit persons of low and moderate income only to the extent such housing will, upon completion, be occupied by such persons.

(4) For the purposes of subsection (c)(1)(C)—

(A) if an employee resides in, or the assisted activity through which he or she is employed, is located in a census tract that meets the Federal enterprise zone eligibility criteria, the employee shall be presumed to be a person of low- or moderate-income; or

(B) if an employee resides in a census tract where not less than 70 percent of the residents have incomes at or below 80 percent of the area median, the employee shall be presumed to be a person of low or moderate income.

(d) TRAINING PROGRAM.—The Secretary shall implement, using funds recaptured pursuant to section 119(o), an on-going education and training program for officers and employees of the Department, especially officers and employees of area and other field offices of the Department, who are responsible for monitoring and administering activities pursuant to paragraphs (14), (15), and (17) of subsection (a) for the purpose of ensuring that (A) such personnel possess a thorough understanding of such activities; and (B) regulations and guidelines are implemented in a consistent fashion.

(e) GUIDELINES FOR EVALUATING AND SELECTING ECONOMIC DEVELOPMENT PROJECTS.—

(1) ESTABLISHMENT.—The Secretary shall establish, by regulation, guidelines to assist grant recipients under this title to evaluate and select activities described in section 105(a) (14), (15), and (17) for assistance with grant amounts. The Secretary shall not base a determination of eligibility of the use of funds under this title for such assistance solely on the basis that the recipient fails to achieve one or more of the guidelines' objectives as stated in paragraph (2).

(2) PROJECT COSTS AND FINANCIAL REQUIREMENTS.—The guidelines established under this subsection shall include the following objectives:

(A) The project costs of such activities are reasonable.

(B) To the extent practicable, reasonable financial support has been committed for such activities from non-Federal sources prior to disbursement of Federal funds.

(C) To the extent practicable, any grant amounts to be provided for such activities do not substantially reduce the amount of non-Federal financial support for the activity.

(D) Such activities are financially feasible.

(E) To the extent practicable, such activities provide not more than a reasonable return on investment to the owner.

(F) To the extent practicable, grant amounts used for the costs of such activities are disbursed on a pro rata basis with amounts from other sources.

(3) PUBLIC BENEFIT.—The guidelines established under this subsection shall provide that the public benefit provided by the activity is appropriate relative to the amount of assistance provided with grant amounts under this title.

(f) ASSISTANCE TO FOR-PROFIT ENTITIES.—In any case in which an activity described in paragraph (17) of subsection (a) is provided assistance such assistance shall not be limited to activities for which no other forms of assistance are available or could not be accomplished but for that assistance.

(g) MICROENTERPRISE AND SMALL BUSINESS PROGRAM REQUIREMENTS.—In developing program requirements and providing assistance pursuant to paragraph (17) of subsection (a) to a microenterprise or small business, the Secretary shall—

(1) take into account the special needs and limitations arising

(2) not consider training, technical assistance, or other support services costs provided to small businesses or microenterprises or to grantees and subgrantees to develop the capacity to provide such assistance, as a planning cost pursuant to section 105(a)(12) or an administrative cost pursuant to section 105(a)(13).

(h) PROHIBITION ON USE OF ASSISTANCE FOR EMPLOYMENT RELOCATION ACTIVITIES.—Notwithstanding any other provision of law, no amount from a grant under section 106 made in fiscal year 1999 or any succeeding fiscal year may be used to assist directly in the relocation of any industrial or commercial plant, facility, or operation, from 1 area to another area, if the relocation is likely to result in a significant loss of employment in the labor market area from which the relocation occurs.

Sec. 106. [42 U.S.C. 5306]
ALLOCATION AND DISTRIBUTION OF FUNDS.

(a)(1) For each fiscal year, of the amount approved in appropriation Acts under section 103 for grants for such fiscal year (excluding the amounts provided for use in accordance with section 107), the Secretary shall reserve for grants to Indian tribes 1 percent of the amount appropriated under such section. The Secretary shall provide for distribution of amounts under this paragraph to Indian tribes on the basis of a competition conducted pursuant to specific criteria for the selection of Indian tribes to receive such amounts. The criteria shall be contained in a regulation promulgated by the Secretary after notice and public comment. Notwithstanding any other provision of this Act, such grants to Indian tribes shall not be subject to the requirements of section 104, except subsections (f), (g), and (k) of such section.

(2) For each fiscal year, of the amount approved in appropriation Acts under section 103 for grants for such fiscal year (excluding the amounts provided for use in accordance with section 107), the Secretary shall reserve for grants to insular areas $7,000,000. The Secretary shall provide for distribution of amounts under this paragraph to insular areas on the basis of the ratio of the population of each insular area to the population of all insular areas. In determining the distribution of amounts to insular areas, the Secretary may also include other statistical criteria as data become available from the Bureau of the Census, but only if such criteria are contained in a regulation promulgated by the Secretary after notice and public comment.

(3) After reserving such amounts for Indian tribes under paragraph (1) and after reserving such amounts for insular areas under paragraph (2), the Secretary shall allocate amounts provided for use under section 107.

(4) Of the amount remaining after allocations pursuant to paragraphs (1), (2), and (3), 70 percent shall be allocated by the Secretary to metropolitan cities and urban counties. Except as otherwise specifically authorized, each metropolitan city and urban county shall be entitled to an annual grant from such allocation in an amount not exceeding its basic amount computed pursuant to paragraph (1) or (2) of subsection (b).

(b)(1) The Secretary shall determine the amount to be allocated to each metropolitan city which shall be the greater of an amount that bears the same ratio to the allocation for all metropolitan areas as either—

(A) the average of the ratios between—

(i) the population of that city and the population of all metropolitan areas;

(ii) the extent of poverty in that city and the extent of poverty in all metropolitan areas; and

(iii) the extent of housing overcrowding in that city, and the extent of housing overcrowding in all metropolitan areas; or

(B) the average of the ratios between—

(i) the extent of growth lag in that city and the extent of growth lag in all metropolitan cities;

(ii) the extent of poverty in that city and the extent of poverty in all metropolitan areas; and

(iii) the age of housing in that city and the age of housing in all metropolitan areas.

(2) The Secretary shall determine the amount to be allocated to each urban county, which shall be the greater of an amount that bears the same ratio to the allocation for all metropolitan areas as either—

(A) the average of the ratios between—

(i) the population of that urban county and the population of all metropolitan areas;

(ii) the extent of poverty in that urban county and the extent of poverty in all metropolitan areas; and

(iii) the extent of housing overcrowding in that urban county and the extent of housing overcrowding in all metropolitan areas; or

(B) the average of the ratios between—

(i) the extent of growth lag in that urban county and the extent of growth lag in all metropolitan cities and urban counties;

(ii) the extent of poverty in that urban county and the extent of poverty in all metropolitan areas; and

(iii) the age of housing in that urban county and the age of housing in all metropolitan areas.

(3) In determining the average of ratios under paragraphs (1)(A) and (2)(A), the ratio involving the extent of poverty shall be counted twice, and each of the other ratios shall be counted once; and in determining the average of ratios under paragraphs (1)(B) and (2)(B), the ratio involving the extent of growth lag shall be counted once, the ratio involving the extent of poverty shall be counted one and one-half times, and the ratio involving the age of housing shall be counted two and one-half times.

(4) In computing amounts or exclusions under this section with respect to any urban county, there shall be excluded units of general local government located in the county the populations of which are not counted in determining the eligibility of the urban county to receive a grant under this subsection, except that there shall be included any independent city (as defined by the Bureau of the Census) which—

(A) is not part of any county;

(B) is not eligible for a grant pursuant to subsection (b)(1);

(C) is contiguous to the urban county;

(D) has entered into cooperation agreements with the urban county which provide that the urban county is to undertake or to assist in the undertaking of essential community development and housing assistance activities with respect to such independent city; and

(E) is not included as a part of any other unit of general local government for purposes of this section.

Any independent city which is included in any fiscal year for purposes of computing amounts pursuant to the preceding sentence shall not be eligible to receive assistance under subsection (d) with respect to such fiscal year.

(5) In computing amounts under this section with respect to any urban county, there shall be included all of the area of any unit of local government which is part of, but is not located entirely within the boundaries of, such urban county if the part of such unit of local government which is within the boundaries of such urban county would otherwise be included in computing the amount for such urban county under this section, and if the part of such unit of local government which is not within the boundaries of such urban county is not included as a part of any other unit of local government for the purpose of this section. Any amount received by such urban county under this section may be used with respect to the part of such unit of local government which is outside the boundaries of such urban county.

(6)(A) Where data are available, the amount determined under paragraph (1) for a metropolitan city that has been formed by the consolidation of one or more metropolitan cities with an urban county shall be equal to the sum of the amounts that would have been determined under paragraph (1) for the metropolitan city or cities and the balance of the consolidated government, if such consolidation had not occurred. This paragraph shall apply only to any consolidation that—

(i) included all metropolitan cities that received grants under this section for the fiscal year preceding such consolidation and that were located within the urban county;

(ii) included the entire urban county that received a grant under this section for the fiscal year preceding such consolidation; and

(iii) took place on or after January 1, 1983.

(B) The population growth rate of all metropolitan cities referred to in section 102(a)(12) shall be based on the population of (i) metropolitan cities other than consolidated governments the grant for which is determined under this paragraph; and (ii) cities that were metropolitan cities before their incorporation into consolidated governments. For purposes of calculating the entitlement share for the balance of the consolidated government under this paragraph, the entire balance shall be considered to have been an urban county.

(c)(1) Except as provided in paragraphs (2) and (4), any amounts allocated to a metropolitan city or an urban county pursuant to the preceding provisions of this section which are not received by the city or county for a fiscal year because of failure to meet the requirements of subsection (a), (b), (c), or (d) of section 104, or which become available as a result of actions under section 104(e) or 111, shall be reallocated in the succeeding fiscal year to the other metropolitan cities and urban counties in the same metropolitan area which certify to the satisfaction of the Secretary that they would be adversely affected by the loss of such amounts from the metropolitan area. The amount of the share of funds reallocated under this paragraph for any metropolitan city or urban county shall bear the same ratio to the total of such reallocated funds in the metropolitan area as the amount of funds awarded to the city or county for the fiscal year in which the reallocated funds become available bears to the total amount of funds awarded to all metropolitan cities and urban counties in the same metropolitan area for that fiscal year, except that—

(A) in determining the amounts awarded to cities or counties for purposes of calculating shares pursuant to this sentence, there shall be excluded from the award of any city or county any amounts which become available as a result of actions against such city or county under section 111;

(B) in reallocating amounts resulting from an action under section 104(e) or section 111, a city or county against whom any such action was taken in a fiscal year shall be excluded from a calculation of share for purposes of reallocating, in the succeeding year, the amounts becoming available as a result of such action; and

(C) in no event may the share of reallocated funds for any metropolitan city or urban county exceed 25 per centum of the amount awarded to the city or county under section 106(b) for the fiscal year in which the reallocated funds under this paragraph become available.

Any amounts allocated under section 106(b) which become available for reallocation and for which no metropolitan city or urban county qualifies under this paragraph shall be added to amounts available for allocation under such section 106(b) in the succeeding fiscal year.

(2) Notwithstanding any other provision of this title, the Secretary shall make grants from amounts authorized for use under section 106(b) by the Department of Housing and Urban Development—Independent Agencies Appropriation Act, 1981, in accordance with the provisions of this title which governed grants with respect to such amounts, as such provisions existed prior to the effective date of the Housing and Community Development Amendments of 1981, except that any such amounts which are not obligated before January 1, 1982, shall be reallocated in accordance with paragraph (1).

(3) Notwithstanding the provisions of paragraph (1), the Secretary may upon request transfer responsibility to any metropolitan city for the administration of any amounts received, but not obligated, by the urban county in which such city is located if (A) such city was an included unit of general local government in such county prior to the qualification of such city as a metropolitan city; (B) such amounts were designated and received by such county for use in such city prior to the qualification of such city as a metropolitan city; and (C) such city and county agree to such transfer of responsibility for the administration of such amounts.

(4)(A) Notwithstanding paragraph (1), in the event of a major disaster declared by the President under the Robert T. Stafford Disaster Relief and Emergency Assistance Act, the Secretary shall make available, to metropolitan cities and urban counties located or partially located in the areas affected by the disaster, any amounts that become available as a result of actions under section 104(e) or 111.

(B) In using any amounts that become available as a result of actions under section 104(e) or 111, the Secretary shall give priority to providing emergency assistance under this paragraph.

(C) The Secretary may provide assistance to any metropolitan city or urban county under this paragraph only to the extent necessary to meet emergency community development needs, as the Secretary shall determine (subject to subparagraph (D)), of the city or county resulting from the disaster that are not met with amounts otherwise provided under this title, the Robert T. Stafford Disaster Relief and Emergency Assistance Act, and other sources of assistance.

(D) Amounts provided to metropolitan cities and urban counties under this paragraph may be used only for eligible activities under section 105, and in implementing this section, the Secretary shall evaluate the natural hazards to which any permanent replacement housing is exposed and shall take appropriate action to mitigate such hazards.

(E) The Secretary shall provide for applications (or amended applications and statements under section 104) for assistance under this paragraph.

(F) A metropolitan city or urban county eligible for assistance under this paragraph may receive such assistance only in each of the fiscal years ending during the 3-year period beginning on the date of the declaration of the disaster by the President.

(G) This paragraph may not be construed to require the Secretary to reserve any amounts that become available as a result of actions under section 104(e) or 111 for assistance under this paragraph if, when such amounts are to be reallocated under paragraph (1), no metropolitan city or urban county qualifies for assistance under this paragraph.

(d)(1) Of the amount approved in an appropriations Act under section 103 that remains after allocations pursuant to paragraphs (1), (2), and (3) of subsection (a), 30 per centum shall be allocated among the States for use in nonentitlement areas. The allocation for each State shall be the greater of an amount that bears the same ratio to the allocation for such areas of all States available under this subparagraph as either—

(A) the average of the ratios between—

(i) the population of the nonentitlement areas in that State and the population of the nonentitlement areas of all States;

(ii) the extent of poverty in the nonentitlement areas in that State and the extent of poverty in the nonentitlement areas of all States; and

(iii) the extent of housing overcrowding in the nonentitlement areas in that State and the extent of housing overcrowding in the nonentitlement areas of all States; or

(B) the average of the ratios between—

(i) the age of housing in the nonentitlement areas in that State and the age of housing in the nonentitlement areas of all States;

(ii) the extent of poverty in the nonentitlement areas in that State and the extent of poverty in the nonentitlement areas of all States; and

(iii) the population of the nonentitlement areas in that State and the population of the nonentitlement areas of all States.

In determining the average of the ratios under subparagraph (A) the ratio involving the extent of poverty shall be counted twice and each of the other ratios shall be counted once; and in determining the average of the ratios under subparagraph (B), the ratio involving the age of housing shall be counted two and one-half times, the ratio involving the extent of poverty shall be counted one and one-half times, and the ratio involving population shall be counted once. The Secretary shall, in order to compensate for the discrepancy between the total of the amounts to be allocated under this paragraph and the total of the amounts available under such paragraph, make a pro rata reduction of each amount allocated to the nonentitlement areas in each State under such paragraph so that the nonentitlement areas in each State will receive an amount which represents the same percentage of the total amount available under such paragraph as the percentage which the nonentitlement areas of the same State would have received under such paragraph if the total amount available under such paragraph had equaled the total amount which was allocated under such paragraph.

(2)(A) Amounts allocated under paragraph (1) shall be distributed to units of general local government located in nonentitlement areas of the State to carry out activities in accordance with the provisions of this title—

(i) by a State that has elected, in such manner and at such time as the Secretary shall prescribe, to distribute such amounts, consistent with the statement submitted under section 104(a); or

(ii) by the Secretary, in any case described in subparagraph (B), for use by units of general local government in accordance with paragraph (3)(B).

Any election to distribute funds made after the close of fiscal year 1984 is permanent and final. Notwithstanding any provision of this title, the Secretary shall make grants from amounts authorized for use in nonentitlement areas by the Department of Housing and Urban Development—Independent Agencies Appropriation Act, 1981, in accordance with the provisions of this title which governed grants with respect to such amounts, as such provisions existed prior to the effective date of the Housing and Community Development Amendments of 1981. Any amounts under the preceding sentence (except amounts for which preapplications have been approved by the Secretary prior to October 1, 1981, and which have been obligated by January 1, 1982) which are or become available for obligation after fiscal year 1981 shall be available for distribution in the State in which the grants from such amounts were made, by the State or by the Secretary, whichever is distributing the State allocation in the fiscal year in which such amounts are or become available.

(B) The Secretary shall distribute amounts allocated under paragraph (1) if the State has not elected to distribute such amounts.

(C) To receive and distribute amounts allocated under paragraph (1), the State must certify that it, with respect to units of general local government in nonentitlement areas—

(i) engages or will engage in planning for community development activities;

(ii) provides or will provide technical assistance to units of general local government in connection with community development programs;

(iii) will not refuse to distribute such amounts to any unit of general local government on the basis of the particular eligible activity selected by such unit of general local government to meet its community development needs, except that this clause may not be considered to prevent a State from establishing priorities in distributing such amounts on the basis of the activities selected; and

(iv) has consulted with local elected officials from among units of general local government located in nonentitlement areas of that State in determining the method of distribution of funds required by subparagraph (A).

(D) To receive and distribute amounts allocated under paragraph (1), the State shall certify that each unit of general local government to be distributed funds will be required to identify its community development and housing needs, including the needs of low and moderate income persons, and the activities to be undertaken to meet such needs.

(3)(A) If the State receives and distributes such amounts, it shall be responsible for the administration of funds so distributed. The State shall pay from its own resources all administrative expenses incurred by the State in carrying out its responsibilities under this title, or section 17(e)(1) of the United States Housing Act of 1937, except that from the amounts received for distribution in nonentitlement areas, the State may deduct an amount to cover such expenses and its administrative expenses under section 810 of this Act not to exceed the sum of $100,000 plus 50 percent of any such expenses under this title in excess of $100,000. Amounts deducted in excess of $100,000 shall not, subject to paragraph (6), exceed 3 percent of the amount so received.

(B) If the Secretary distributes such amounts, the distribution shall be made in accordance with determinations of the Secretary pursuant to statements submitted and the other requirements of section 104 (other than subsection (c)) and in accordance with regulations and procedures prescribed by the Secretary.

(C) Any amounts allocated for use in a State under paragraph (1) that are not received by the State for any fiscal year because of failure to meet the requirements of subsection (a), (b), or (d) of section 104 or to make the certifications required in subparagraphs (C) and (D) of paragraph (2), or that become available as a result of actions against the State under section 104(e) or 111, shall be added to amounts allocated to all States under paragraph (1) for the succeeding fiscal year.

(D) Any amounts allocated for use in a State under paragraph (1) that become available as a result of actions under section 104(e) or 111 against units of general local government in nonentitlement areas of the State or as a result of the closeout of a grant made by the Secretary under this section in nonentitlement areas of the State shall be added to amounts allocated to the State under paragraph (1) for the fiscal year in which the amounts become so available.

(4) Any combination of units of general local governments may not be required to obtain recognition by the Secretary pursuant to section 102(a)(1) to be treated as a single unit of general local government for purposes of this subsection.

(5) From the amounts received under paragraph (1) for distribution in nonentitlement areas, the State may deduct an amount, subject to paragraph (6), not to exceed 3 percent of the amount so received, to provide technical assistance to local governments and nonprofit program recipients.

(6)[15] Of the amounts received under paragraph (1), the State may deduct not more than an aggregate total of 3 percent of such amounts for—

(A) administrative expenses under paragraph (3)(A); and

(B) technical assistance under paragraph (5).

(7) No amount may be distributed by any State or the Secretary under this subsection to any unit of general local government located in a nonentitlement area unless such unit of general local government certifies that—

(A) it will minimize displacement of persons as a result of activities assisted with such amounts;

[15] Indented so in law.

(B) its program will be conducted and administered in conformity with the Civil Rights Act of 1964 and the Fair Housing Act, and that it will affirmatively further fair housing;

(C) it will provide for opportunities for citizen participation, hearings, and access to information with respect to its community development program that are comparable to those required of grantees under section 104(a)(2); and

(D) it will not attempt to recover any capital costs of public improvements assisted in whole or part under section 106 or with amounts resulting from a guarantee under section 108 by assessing any amount against properties owned and occupied by persons of low and moderate income, including any fee charged or assessment made as a condition of obtaining access to such public improvements, unless (i) funds received under section 106 are used to pay the proportion of such fee or assessment that relates to the capital costs of such public improvements that are financed from revenue sources other than under this title; or (ii) for purposes of assessing any amount against properties owned and occupied by persons of moderate income, the grantee certifies to the Secretary or such State, as the case may be, that it lacks sufficient funds received under section 106 to comply with the requirements of clause (i).

(8) Any activities conducted with amounts received by a unit of general local government under this subsection shall be subject to the applicable provisions of this title and other Federal law in the same manner and to the same extent as activities conducted with amounts received by a unit of general local government under subsection (a).

(e) The Secretary may fix such qualification or submission dates as he determines are necessary to permit the computations and determinations required by this section to be made in a timely manner, and all such computations and determinations shall be final and conclusive.

(f) If the total amount available for distribution in any fiscal year to metropolitan cities and urban counties under this section is insufficient to provide the amounts to which metropolitan cities and urban counties would be entitled under subsection (b), and funds are not otherwise appropriated to meet the deficiency, the Secretary shall meet the deficiency through a pro rata reduction of all amounts determined under subsection (b). If the total amount available for distribution in any fiscal year to metropolitan cities and urban counties under this section exceeds the amounts to which metropolitan cities and urban counties would be entitled under subsection (b), the Secretary shall distribute the excess through a pro rata increase of all amounts determined under subsection (b).

Sec. 107. [42 U.S.C. 5307]
SPECIAL PURPOSE GRANTS.

(a) SET-ASIDE.—

(1) IN GENERAL.—For each fiscal year (except as otherwise provided in this paragraph), of the total amount provided in appropriation Acts under section 103 for the fiscal year, $60,000,000 shall be set aside for grants under subsection (b) for such year for the following purposes:

(A) $6,500,000 shall be available for grants under subsection (b)(3);

(B) $6,000,000 shall be available for grants under subsection (b)(5);

(C) $6,000,000 shall be available in fiscal year 1993 for grants under subsection (b)(7);

(D) $3,000,000 shall be available for grants under subsection (c);

(E) such sums as may be necessary shall be available for grants under paragraphs (2), (4), and (6) of subsection (b);

(F) $2,000,000 shall be available in fiscal year 1993 for a grant to the City of Bridgeport, Connecticut, subject to the approval of sufficient amounts in an appropriation Act and to binding commitments made by the City of Bridgeport and the State of Connecticut that the city and State, respectively, will supplement such amount with $2,000,000 of additional funds; and

(G) $7,500,000 shall be available to carry out the Community Outreach Partnership Act of 1992.

(2) TREATMENT OF GRANTS.—Any grants made under this section shall be in addition to any other grants that may be made under this title to the same entities for the same purposes.

(b) From amounts set aside under subsection (a), the Secretary is authorized to make grants—

(1) to States and units of general local government for the purpose of allocating amounts to any such State or unit of general local government that is determined by the Secretary to have received

insufficient amounts under section 106 as a result of a miscalculation of its share of funds under such section;[16]

(2) to historically Black colleges;

(3) to States, units of general local government, Indian tribes, or areawide planning organizations for the purpose of providing technical assistance in planning, developing, and administering assistance under this title and section 810 of this Act; to groups designated by such governmental units to assist them in carrying out assistance under this title; to qualified groups for the purpose of assisting more than one such governmental unit to carry out assistance under this title; the Secretary may also provide technical assistance, directly or through contracts, to such governmental units and groups; for purposes of this paragraph the term "technical assistance" means the facilitating of skills and knowledge in planning, developing, and administering activities under this title in entities that may need but do not possess such skills and knowledge, and includes assessing programs and activities under this title; except that any recipient of a grant under this paragraph that provides technical assistance pursuant to this paragraph shall provide for the notification of the availability of such assistance and shall have specific criteria for selection of recipients of such assistance that are published and publicly available;

(4) to States and units of general local government and institutions of higher education having a demonstrated capacity to carry out eligible activities under this title, except that the Secretary may make a grant under this paragraph only to a State or unit of general local government that jointly, with an institution of higher education, has prepared and submitted to the Secretary an application for such grant, as the Secretary shall by regulation require;

(5) to units of general local government in nonentitlement areas for planning community adjustments and economic diversification activities, which may include any eligible activities under section 105, required—

(A) by the proposed or actual establishment, realignment, or closure of a military installation,

(B) by the cancellation or termination of a Department of Defense contract or the failure to proceed with an approved major weapon system program, or

(C) by a publicly announced planned major reduction in Department of Defense spending that would directly and adversely affect a unit of general local government and will result in the loss of 1,000 or more full-time Department of Defense and contractor employee positions over a 5-year period in the unit of general local government and the surrounding area, or

if the Secretary (in consultation with the Secretary of Defense) determines that an action described in subparagraph (A), (B), or (C) is likely to have a direct and significant adverse consequence on the unit of general local government; and

(6) for the purposes of rebuilding and revitalizing distressed areas of the Los Angeles metropolitan area.

(c) Of the amount set aside for use under subsection (b) in any fiscal year, the Secretary shall,[17] make grants to institutions of higher education, either directly or through areawide planning organizations or States, for the purpose of providing assistance to economically disadvantaged and minority students who participate in community development work study programs and are enrolled in full-time graduate or undergraduate programs in community and economic development, community planning, or community management.

(d) Amounts set aside for use under subsection (b) in any fiscal year but not used in that year shall remain available for use in subsequent fiscal years in accordance with the provisions of that subsection.

(e)(1) Except as provided in paragraph (2), no grant may be made under this section, section 106(a)(1), or section 119 and no assistance may be made available under section 17 of the United States Housing Act of 1937 unless the grantee provides satisfactory assurances that its program will be conducted and administered in conformity with the Civil Rights Act of 1964 and the Fair Housing Act.

(2) No grant may be made to an Indian tribe under this section, section 106(a)(1), or section 119 unless the applicant provides satisfactory assurances that its program will be conducted and administered in conformity with title II of Public Law 90-284. The Secretary may waive, in connection with grants to Indian tribes, the provisions of section 109 and section 110.

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[16] Section 901(c) of the Cranston-Gonzalez National Affordable Housing Act, Pub. L. 101-625, amended "[s]ection 107(a)" of this Act by redesignating paragraphs (3) and (4) and inserting a new paragraph (3) as follows:
"(3) to units of general local government that are located in North Dakota for public services with respect to Indian housing;".
The amendments could not be executed and were probably intended to be made to section 107(b) of this Act.

[17] So in law.

(3) The Secretary may accept a certification from the grantee or applicant that it has complied with the requirements of paragraph (1) or (2), as appropriate.

(f) Any grant made under this section shall be made pursuant to criteria for selection of recipients of such grants that the Secretary shall by regulation establish and which the Secretary shall publish together with any notification of availability of amounts under this section.

Sec. 108. [42 U.S.C. 5308]
GUARANTEE AND COMMITMENT TO GUARANTEE LOANS FOR ACQUISITION OF PROPERTY. [COMMUNITY DEVELOPMENT LOAN GUARANTEES]

(a) The Secretary is authorized, upon such terms and conditions as the Secretary may prescribe, to guarantee and make commitments to guarantee, only to such extent or in such amounts as provided in appropriation Acts, the notes or other obligations issued by eligible public entities or by public agencies designated by such eligible public entities, for the purposes of financing (1) acquisition of real property or the rehabilitation of real property owned by the eligible public entity (including such related expenses as the Secretary may permit by regulation); (2) housing rehabilitation; (3) economic development activities permitted under paragraphs (14), (15), and (17) of section 105(a); (4) construction of housing by nonprofit organizations for homeownership under section 17(d) of the United States Housing Act of 1937 or title VI of the Housing and Community Development Act of 1987; (5) the acquisition, construction, reconstruction, or installation of public facilities (except for buildings for the general conduct of government); or (6) in the case of colonias (as such term is defined in section 916 of the Cranston-Gonzalez National Affordable Housing Act), public works and site or other improvements. A guarantee under this section may be used to assist a grantee in obtaining financing only if the grantee has made efforts to obtain such financing without the use of such guarantee and cannot complete such financing consistent with the timely execution of the program plans without such guarantee. Notes or other obligations guaranteed pursuant to this section shall be in such form and denominations, have such maturities, and be subject to such conditions as may be prescribed by regulations issued by the Secretary. The Secretary may not deny a guarantee under this section on the basis of the proposed repayment period for the note or other obligation, unless the period is more than 20 years or the Secretary determines that the period causes the guarantee to constitute an unacceptable financial risk. Notwithstanding any other provision of law and subject only to the absence of qualified applicants or proposed activities and to the authority provided in this section, to the extent approved or provided in appropriation Acts, the Secretary shall enter into commitments to guarantee notes and obligations under this section with an aggregate principal amount of $2,000,000,000 for fiscal year 1993 and $2,000,000,000 for fiscal year 1994. Of the amount approved in any appropriation Act for guarantees under this section in any fiscal year, the Secretary shall allocate 70 percent for guarantees for metropolitan cities, urban counties, and Indian tribes and 30 percent for guarantees for units of general local government in nonentitlement areas. The Secretary may waive the percentage requirements of the preceding sentence in any fiscal year only to the extent that there is an absence of qualified applicants or proposed activities from metropolitan cities, urban counties, and Indian tribes or units of general local government in nonentitlement areas.

(b) No guarantee or commitment to guarantee shall be made with respect to any note or other obligation if the issuer's total outstanding notes or obligations guaranteed under this section (excluding any amount defeased under the contract entered into under subsection (d)(1)(A)) would thereby exceed an amount equal to 5 times the amount of the grant approval for the issuer pursuant to section 106 or 107.

(c) Notwithstanding any other provision of this title, grants allocated to an issuer pursuant to this title (including program income derived therefrom) are authorized for use in the payment of principal and interest due (including such servicing, underwriting, or other costs as may be specified in regulations of the Secretary) on the notes or other obligations guaranteed pursuant to this section.

(d)(1) To assure the repayment of notes or other obligations and charges incurred under this section and as a condition for receiving such guarantees, the Secretary shall require the issuer to—

(A) enter into a contract, in a form acceptable to the Secretary, for repayment of notes or other obligations guaranteed hereunder;

(B) pledge any grant for which the issuer may become eligible under this title; and

(C) furnish, at the discretion of the Secretary, such other security as may be deemed appropriate by the Secretary in making such guarantees, including increments in local tax receipts generated by the activities assisted under this title or dispositions proceeds from the sale of land or rehabilitated property.

(2) To assist in assuring the repayment of notes or other obligations and charges incurred under this section, a State shall pledge any grant for which the State may become eligible under this title as

security for notes or other obligations and charges issued under this section by any unit of general local government in a nonentitlement area in the State.

(e) The Secretary is authorized, notwithstanding any other provision of this title, to apply grants pledged pursuant to paragraphs (1)(B) and (2) of subsection (d) to any repayments due the United States as a result of such guarantees.

(f) The full faith and credit of the United States is pledged to the payment of all guarantees made under this section. Any such guarantee made by the Secretary shall be conclusive evidence of the eligibility of the obligations for such guarantee with respect to principal and interest, and the validity of any such guarantee so made shall be incontestable in the hands of a holder of the guaranteed obligations.

(g) The Secretary may issue obligations to the Secretary of the Treasury in an amount outstanding at any one time sufficient to enable the Secretary to carry out his obligations under guarantees authorized by this section. The obligations issued under this subsection shall have such maturities and bear such rate or rates of interest as shall be determined by the Secretary of the Treasury. The Secretary of the Treasury is authorized and directed to purchase any obligations of the Secretary issued under this section, and for such purposes is authorized to use as a public debt transaction the proceeds from the sale of any securities issued under chapter 31 of title 31, United States Code, and the purposes for which such securities may be issued under such chapter are extended to include the purchases of the Secretary's obligations hereunder.

(h) Obligations guaranteed under this section shall be subject to Federal taxation as provided in subsection (j). The Secretary is authorized to make, and to contract to make, grants, in such amounts as may be approved in appropriations Acts, to or on behalf of the issuing eligible public entity or public agency to cover not to exceed 30 per centum of the net interest cost (including such servicing, underwriting, or other costs as may be specified in regulations of the Secretary) to the borrowing entity or agency of such obligations. The Secretary may also, to the extent approved in appropriation Acts, assist the issuer of a note or other obligation guaranteed under this section in the payment of all or a portion of the principal and interest amount due under the note or other obligation, if the Secretary determines that the issuer is unable to pay the amount because of circumstances of extreme hardship beyond the control of the issuer.

(i) [Repealed.]

(j) With respect to any obligation issued by a[18] eligible public entity or designated agency which is guaranteed pursuant to this section, the interest paid on such obligation shall be included in gross income for the purpose of chapter 1 of the Internal Revenue Code of 1954.

(k)(1) The total amount of outstanding obligations guaranteed on a cumulative basis by the Secretary pursuant to subsection (a) shall not at any time exceed $4,500,000,000 or such higher amount as may be authorized to be appropriated for sections 106 and 107 for any fiscal year.

(2) The Secretary shall monitor the use of guarantees under this section by eligible public entities. If the Secretary finds that 50 percent of the aggregate guarantee authority has been committed, the Secretary may—

(A) impose limitations on the amount of guarantees any one entity may receive in any fiscal year of $35,000,000 for units of general local government receiving grants under section 106(b) and $7,000,000 for units of general local government receiving grants under section 106(d); or

(B) request the enactment of legislation increasing the aggregate limitation on guarantees under this section.

(l) Notes or other obligations guaranteed under this section may not be purchased by the Federal Financing Bank.

(m) No fee or charge may be imposed by the Secretary or any other Federal agency on or with respect to a guarantee made by the Secretary under this section after the date of the enactment of the Housing and Community Development Act of 1987.[19]

(n) Any State that has elected under section 106(d)(2)(A) to distribute funds to units of general local government in nonentitlement areas may assist such units in the submission of applications for guarantees under this section.

(o) For purposes of this section, the term "eligible public entity" means any unit of general local government, including units of general local government in nonentitlement areas.

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[18] So in law.

[19] February 5, 1988.

(p)(1) The Secretary, in cooperation with eligible public entities, shall carry out training and information activities with respect to the guarantee program under this section. Such activities shall commence not later than 1 year after the date of the enactment of the Housing and Community Development Act of 1990.[20]

(2) The Secretary may use amounts set aside under section 107 to carry out this subsection.

(q) ECONOMIC DEVELOPMENT GRANTS.—

(1) AUTHORIZATION.—The Secretary may make grants in connection with notes or other obligations guaranteed under this section to eligible public entities for the purpose of enhancing the security of loans guaranteed under this section or improving the viability of projects financed with loans guaranteed under this section.

(2) ELIGIBLE ACTIVITIES.—Assistance under this subsection may be used only for the purposes of and in conjunction with projects and activities assisted under subsection (a).

(3) APPLICATIONS.—Applications for assistance under this subsection may be submitted only by eligible public entities, and shall be in the form and in accordance with the procedures established by the Secretary. Eligible public entities may apply for grants only in conjunction with requests for guarantees under subsection (a).

(4) SELECTION CRITERIA.—The Secretary shall establish criteria for awarding assistance under this subsection. Such criteria shall include—

(A) the extent of need for such assistance;

(B) the level of distress in the community to be served and in the jurisdiction applying for assistance;

(C) the quality of the plan proposed and the capacity or potential capacity of the applicant to successfully carry out the plan; and

(D) such other factors as the Secretary determines to be appropriate.

(r) GUARANTEE OF OBLIGATIONS BACKED BY LOANS.—

(1) AUTHORITY.—The Secretary may, upon such terms and conditions as the Secretary considers appropriate, guarantee the timely payment of the principal of and interest on such trust certificates or other obligations as may—

(A) be offered by the Secretary or by any other offeror approved for purposes of this subsection by the Secretary; and

(B) be based on and backed by a trust or pool composed of notes or other obligations guaranteed or eligible for guarantee by the Secretary under this section.

(2) FULL FAITH AND CREDIT.—To the same extent as provided in subsection (f), the full faith and credit of the United States is pledged to the payment of all amounts that may be required to be paid under any guarantee made by the Secretary under this subsection.

(3) SUBROGATION.—If the Secretary pays a claim under a guarantee made under this section, the Secretary shall be subrogated for all the rights of the holder of the guaranteed certificate or obligation with respect to such certificate or obligation.

(4) EFFECT OF LAWS.—No State or local law, and no Federal law, shall preclude or limit the exercise by the Secretary of—

(A) the power to contract with respect to public offerings and other sales of notes, trust certificates, and other obligations guaranteed under this section upon such terms and conditions as the Secretary deems appropriate;

(B) the right to enforce any such contract by any means deemed appropriate by the Secretary; and

(C) any ownership rights of the Secretary, as applicable, in notes, certificates, or other obligations guaranteed under this section, or constituting the trust or pool against which trust certificates, or other obligations guaranteed under this section, are offered.

Sec. 109. [42 U.S.C. 5309]
NONDISCRIMINATION IN PROGRAMS AND ACTIVITIES.

(a) No person in the United States shall on the ground of race, color, national origin, religion, or sex be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity funded in whole or in part with funds made available under this title. Any prohibition against discrimination

[20] So in law. Probably intended to refer to the Cranston-Gonzalez National Affordable Housing Act, Pub. L. 101-625, approved November 28, 1990.

on the basis of age under the Age Discrimination Act of 1975 or with respect to an otherwise qualified handicapped individual as provided in section 504 of the Rehabilitation Act of 1973 shall also apply to any such program or activity.

(b) Whenever the Secretary determines that a State or unit of general local government which is a recipient of assistance under this title has failed to comply with subsection (a) or (e) or an applicable regulation, he shall notify the Governor of such State or the chief executive officer of such unit of local government of the noncompliance and shall request the Governor or the chief executive officer to secure compliance. If within a reasonable period of time, not to exceed sixty days, the Governor or the chief executive officer fails or refuses to secure compliance, the Secretary is authorized to (1) refer the matter to the Attorney General with a recommendation that an appropriate civil action be instituted; (2) exercise the powers and functions provided by title VI of the Civil Rights Act of 1964 (42 U.S.C. 2000d); (3) exercise the powers and functions provided for in section 111(a) of this Act; or (4) take such other action as may be provided by law.

(c) When a matter is referred to the Attorney General pursuant to subsection (b), or whenever he has reason to believe that a State government or unit of general local government is engaged in a pattern or practice in violation of the provisions of this section, the Attorney General may bring a civil action in any appropriate United States district court for such relief as may be appropriate, including injunctive relief.

(d) The provisions of this section and section 104(b)(2) which relate to discrimination on the basis of race shall not apply to the provision of assistance by grantees under this title to the Hawaiian Home lands.

(e) EQUAL ACCESS.—

(1) DEFINITION.—In this subsection, the term "youth organization" means any organization described under part B of subtitle II of title 36, United States Code, that is intended to serve individuals under the age of 21 years.

(2) IN GENERAL.—No State or unit of general local government that has a designated open forum, limited public forum, or nonpublic forum and that is a recipient of assistance under this chapter shall deny equal access or a fair opportunity to meet to, or discriminate against, any youth organization, including the Boy Scouts of America or any group officially affiliated with the Boy Scouts of America, that wishes to conduct a meeting or otherwise participate in that designated open forum, limited public forum, or nonpublic forum.

Sec. 110. [42 U.S.C. 5310]
LABOR STANDARDS; RATE OF WAGES; EXCEPTIONS; ENFORCEMENT POWERS.

(a) All laborers and mechanics employed by contractors or subcontractors in the performance of construction work financed in whole or in part with assistance received under this title shall be paid wages at rates not less than those prevailing on similar construction in the locality as determined by the Secretary of Labor in accordance with the Davis-Bacon Act, as amended (40 U.S.C. 276a—276a-5); Provided, That this section shall apply to the rehabilitation of residential property only if such property contains not less than 8 units. The Secretary of Labor shall have, with respect to such labor standards, the authority and functions set forth in Reorganization Plan Numbered 14 of 1950 (15 F.R. 3176; 64 Stat. 1267) and section 2 of the Act of June 13, 1934, as amended (48 Stat. 948; 40 U.S.C. 276(c)).

(b) Subsection (a) shall not apply to any individual that—

(1) performs services for which the individual volunteered;

(2)(A) does not receive compensation for such services; or

(B) is paid expenses, reasonable benefits, or a nominal fee for such services; and

(3) is not otherwise employed at any time in the construction work.

Sec. 111. [42 U.S.C. 5311]
REMEDIES FOR NONCOMPLIANCE WITH COMMUNITY DEVELOPMENT REQUIREMENTS.

(a) If the Secretary finds after reasonable notice and opportunity for hearing that a recipient of assistance under this title has failed to comply substantially with any provision of this title, the Secretary, until he is satisfied that there is no longer any such failure to comply, shall—

(1) terminate payments to the recipient under this title, or

(2) reduce payments to the recipient under this title by an amount equal to the amount of such payments which were not expended in accordance with this title, or

(3) limit the availability of payments under this title to programs, projects, or activities not affected by such failure to comply.

(b)(1) In lieu of, or in addition to, any action authorized by subsection (a), the Secretary may, if he has reason to believe that a recipient has failed to comply substantially with any provision of this title, refer the matter to the Attorney General of the United States with a recommendation that an appropriate civil action be instituted.

(2) Upon such a referral the Attorney General may bring a civil action in any United States district court having venue thereof for such relief as may be appropriate, including an action to recover the amount of the assistance furnished under this title which was not expended in accordance with it, or for mandatory or injunctive relief.

(c)(1) Any recipient which receives notice under subsection (a) of the termination, reduction, or limitation of payments under this title may, within sixty days after receiving such notice, file with the United States Court of Appeals for the circuit in which such State is located, or in the United States Court of Appeals for the District of Columbia, a petition for review of the Secretary's action. The petitioner shall forthwith transmit copies of the petition to the Secretary and the Attorney General of the United States, who shall represent the Secretary in the litigation.

(2) The Secretary shall file in the court record of the proceeding on which he based his action, as provided in section 2112 of title 28, United States Code. No objection to the action of the Secretary shall be considered by the court unless such objection has been urged before the Secretary.

(3) The court shall have jurisdiction to affirm or modify the action of the Secretary or to set it aside in whole or in part. The findings of fact by the Secretary, if supported by substantial evidence on the record considered as a whole, shall be conclusive. The court may order additional evidence to be taken by the Secretary, and to be made part of the record. The Secretary may modify his findings of fact, or make new findings, by reason of the new evidence so taken and filed with the court, and he shall also file such modified or new findings, which findings with respect to questions of fact shall be conclusive if supported by substantial evidence on the record considered as a whole, and shall also file his recommendation, if any, for the modification or setting aside of his original action.

(4) Upon the filing of the record with the court, the jurisdiction of the court shall be exclusive and its judgment shall be final, except that such judgment shall be subject to review by the Supreme Court of the United States upon writ of certiorari or certification as provided in section 1254 of title 28, United State Code.

Sec. 112. [42 U.S.C. 5312]
USE OF GRANTS FOR SETTLEMENT OF OUTSTANDING URBAN RENEWAL LOANS OF UNITS OF GENERAL LOCAL GOVERNMENT.

(a) The Secretary is authorized, notwithstanding any other provision of this title, to apply a portion of the grants, not to exceed 20 per centum thereof
without the request of the recipient, made or to be made under section 103 in any fiscal year pursuant to an allocation under section 106 to any unit of general local government toward payment of the principal of, and accrued interest on, any temporary loan made in connection with urban renewal projects under title I of the Housing Act of 1949 being carried out within the jurisdication of such unit of general local government if—

(1) the Secretary determines, after consultation with the local public agency carrying out the project and the chief executive of such unit of general local government, that the project cannot be completed without additional capital grants, or

(2) the local public agency carrying out the project submits to the Secretary an appropriate request which is concurred in by the governing body of such unit of general local government.

In determining the amounts to be applied to the payment of temporary loans, the Secretary shall make an accounting for each project taking into consideration the costs incurred or to be incurred, the estimated proceeds upon any sale or disposition of property, and the capital grants approved for the project.

(b) Upon application by any local public agency carrying out an urban renewal project under title I of the Housing Act of 1949, which application is approved by the governing body of the unit of general local government in which the project is located, the Secretary may approve a financial settlement of such project if he finds that a surplus of capital grant funds after full repayment of temporary loan indebtedness will result and may authorize the unit of general local government to use such surplus funds, without deduction or offset, in accordance with the provisions of this title.

Sec. 113. [42 U.S.C. 5313]
REPORTING REQUIREMENTS.

(a) Not later than 180 days after the close of each fiscal year in which assistance under this title is furnished, the Secretary shall submit to the Congress a report which shall contain—

(1) a description of the progress made in accomplishing the objectives of this title;

(2) a summary of the use of such funds during the preceding fiscal year;

(3) with respect to the action grants authorized under section 119, a listing of each unit of general local government receiving funds and the amount of such grants, as well as a brief summary of the projects funded for each such unit, the extent of financial participation by other public or private entities, and the impact on employment and economic activity of such projects during the previous fiscal year; and

(4) a description of the activities carried out under section 108.

(b) The Secretary is authorized to require recipients of assistance under this title to submit to him such reports and other information as may be necessary in order for the Secretary to make the report required by subsection (a).

Sec. 113a [42 U.S.C. 5313a]
DUPLICATION OF BENEFITS.

The Secretary shall establish procedures to prevent recipients from receiving any duplication of benefits and report annually to the Committees on Appropriations with regard to all steps taken to prevent fraud and abuse of funds made available under this heading[21] including duplication of benefits.

Sec. 114. [42 U.S.C. 5314]
CONSULTATION BY SECRETARY WITH OTHER FEDERAL DEPARTMENTS, ETC.

In carrying out the provisions of this title including the issuance of regulations, the Secretary shall consult with other Federal departments and agencies administering Federal grant-in-aid programs.

Sec. 115. [42 U.S.C. 5315]
INTERSTATE AGREEMENTS OR COMPACTS; PURPOSES.

The consent of the Congress is hereby given to any two or more States to enter into agreements or compacts, not in conflict with any law of the United States, for cooperative efforts and mutual assistance in support of community development planning and programs carried out under this title as they pertain to interstate areas and to localities within such States, and to establish such agencies, joint or otherwise, as they may deem desirable for making such agreements and compacts effective.

Sec. 116. [42 U.S.C. 5316]
TRANSITION PROVISIONS.

(a) Except with respect to projects and programs for which funds have been previously committed, no new grants or loans shall be made after January 1, 1975, under (1) title I of the Demonstration Cities and Metropolitan Development Act of 1966, (2) title I of the Housing Act of 1949, (3) section 702 or section 703 of the Housing and Urban Development Act of 1965, (4) title II of the Housing Amendments of 1955, or (5) title VII of the Housing Act of 1961.

(b) In the case of funds available for any fiscal year, the Secretary shall not consider any statement under section 104(a), unless such statement is submitted on or prior to such date as the Secretary shall establish as the final date for submission of statements for that year.

Sec. 117. [42 U.S.C. 5317]
LIQUIDATION OF SUPERSEDED OR INACTIVE PROGRAMS.

The Secretary is authorized to transfer the assets and liabilities of any program which is superseded or inactive by reason of this title to the revolving fund for liquidating programs established pursuant to title II of the Independent Offices Appropriation Act, 1955 (Public Law 83-428; 68 Stat. 272, 295).

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[21] The reference in this section to "this heading" refers to the headings "Community Planning and Development" and "Community Development Fund" appearing in Public Laws 109-148, 110-252, and 110-329, each of which appropriated additional amounts for "necessary expenses related to disaster relief, long-term recovery, and restoration of infrastructure, housing, and economic revitalization" or for "disaster relief, long-term recovery, and restoration of infrastructure" in certain areas for which the President declared a major disaster under title VI of the Robert T. Stafford Disaster Relief and Emergency Assistance Act of 1974.

Sec. 119. [42 U.S.C. 5318]
URBAN DEVELOPMENT ACTION GRANTS.

(a) The Secretary is authorized to make urban development action grants to cities and urban counties which are experiencing severe economic distress to help stimulate economic development activity needed to aid in economic recovery. There are authorized to be appropriated to carry out this section $225,000,000 for fiscal year 1988, and $225,000,000 for fiscal year 1989. Any amount appropriated under this subsection shall remain available until expended.

(b)(1) Urban development action grants shall be made only to cities and urban counties which have, in the determination of the Secretary, demonstrated results in providing housing for low- and moderate-income persons and in providing equal opportunity in housing and employment for low- and moderate-income persons and members of minority groups. The Secretary shall issue regulations establishing criteria in accordance with the preceding sentence and setting forth minimum standards for determining the level of economic distress of cities and urban counties for eligibility for such grants. These standards shall take into account factors such as the age of housing; the extent of poverty; the extent of population lag; growth of per capita income; and, the extent of unemployment, job lag, or surplus labor. Any city that has a population of less than 50,000 persons and is not the central city of a metropolitan area, and that was eligible for fiscal year 1983 under this paragraph for assistance under this section, shall continue to be eligible for such assistance until the Secretary revises the standards for eligibility for such cities under this paragraph and includes the extent of unemployment, job lag, or labor surplus as a standard of distress for such cities. The Secretary shall make such revision as soon as practicable following the effective date of this sentence.

(2) A city or urban county which fails to meet the minimum standards established pursuant to paragraph (1) shall be eligible for assistance under this section if it meets the requirements of the first sentence of such paragraph and—

(A) in the case of a city with a population of fifty thousand persons of more or an urban county, contains an area (i) composed of one or more contiguous census tracts, enumeration districts, neighborhood statistics areas, or block groups, as defined by the United States Bureau of the Census, having at least a population of ten thousand persons or 10 per centum of the population of the city or urban county; (ii) in which at least 70 per centum of the residents have incomes below 80 per centum of the median income of the city or urban county; and (iii) in which at least 30 per centum of the residents have incomes below the national poverty level; or

(B) in the case of a city with a population of less than fifty thousand persons, contains an area (i) composed of one or more contiguous census tracts, enumeration districts, neighborhood statistics areas, or block groups or other areas defined by the United States Bureau of the Census or for which data certified by the United States Bureau of the Census are available having at least a population of two thousand five hundred persons or 10 per centum of the population of the city, whichever is greater; (ii) in which at least 70 per centum of the residents have incomes below 80 per centum of the median income of the city; and (iii) in which at least 30 per centum of the residents have incomes below the national poverty level.

The Secretary shall use up to, but not more than, 20 per centum of the funds appropriated for use in any fiscal year under this section for the purpose of making grants to cities and urban counties eligible under this paragraph.

(c) Applications for assistance under this section shall—

(1) in the case of an application for a grant under subsection (b)(2), include documentation of grant eligibility in accordance with the standards described in that subsection;

(2) set forth the activities for which assistance is sought, including (A) an estimate of the costs and general location of activities; (B) a summary of the public and private resources which are expected to be made available in connection with the activities, including how the activities will take advantage of unique opportunities to attract private investment; and (C) an analysis of the economic benefits which the activities are expected to produce;

(3) contain a certification satisfactory to the Secretary that the applicant, prior to submission of its application, (A) has held public hearings to obtain the views of citizens, particularly residents of the area in which the proposed activities are to be carried out; (B) has analyzed the impact of these proposed activities on the residents, particularly those of low and moderate income, of the residential neighborhood, and on the neighborhood in which they are to be carried out; and (C) has made available the analysis described in clause (B) to any interested person or organization residing or located in the neighborhood in which the proposed activities are to be carried out; and

(4) contain a certification satisfactory to the Secretary that the applicant, prior to submission of its application, (A) has identified all properties, if any, which are included on the National Register of Historic Places and which, as determined by the applicant, will be affected by the project for which the application is made; (B) has identified all other properties, if any, which will be affected by such project and which, as determined by the applicant, may meet the criteria established by the Secretary of the Interior for inclusion on such Register, together with documentation relating to the inclusion of such properties on the Register; (C) has determined the effect, as determined by the applicant, of the project on the properties identified pursuant to clauses (A) and (B); and (D) will comply with the requirements of section 121.

(d)(1) Except in the case of a city or urban county eligible under subsection (b)(2), the Secretary shall establish selection criteria for a national competition for grants under this section which must include—

(A) the comparative degree of economic distress among applicants, as measured (in the case of a metropolitan city or urban county) by the differences in the extent of growth lag, the extent of poverty, and the adjusted age of housing in the metropolitan city or urban county;

(B) other factors determined to be relevant by the Secretary in assessing the comparative degree of economic deterioration in cities and urban counties;

(C) the following other criteria:

(i) the extent to which the grant will stimulate economic recovery by leveraging private investment;

(ii) the number of permanent jobs to be created and their relation to the amount of grant funds requested;

(iii) the proportion of permanent jobs accessible to lower income persons and minorities, including persons who are unemployed;

(iv) the extent to which the project will retain jobs that will be lost without the provision of a grant under this section;

(v) the extent to which the project will relieve the most pressing employment or residential needs of the applicant by—

(I) reemploying workers in a skill that has recently suffered a sharp increase in unemployment locally;

(II) retraining recently unemployed residents in new skills;

(III) providing training to increase the local pool of skilled labor; or

(IV) producing decent housing for low- and moderate-income persons in cases where such housing is in severe shortage in the area of the applicant, except that an application shall be considered to produce housing for low- and moderate-income persons under this clause only if such application proposes that (a) not less than 51 percent of all funds available for the project shall be used for dwelling units and related facilities; and (b) not less than 30 percent of all funds used for dwelling units and related facilities shall be used for dwelling units to be occupied by persons of low and moderate income, or not less than 20 percent of all dwelling units made available to occupancy using such funds shall be occupied by persons of low and moderate income, whichever results in the occupancy of more dwelling units by persons of low and moderate income;

(vi) the impact of the proposed activities on the fiscal base of the city or urban county and its relation to the amount of grant funds requested;

(vii) the extent to which State or local Government funding or special economic incentives have been committed; and

(viii) the extent to which the project will have a substantial impact on physical and economic development of the city or urban county, the proposed activities are likely to be accomplished in a timely fashion with the grant amount available, and the city or urban county has demonstrated performance in housing and community development programs; and

(D) additional consideration for projects with the following characteristics:

(i) projects to be located within a city or urban county which did not receive a preliminary grant approval under this section during the 12-month period preceding the date on which applications are required to be submitted for the grant competition involved; and

(ii) twice the amount of the additional consideration provided under clause (i) for projects to be located in cities or urban counties which did not receive a preliminary grant approval during the 24-month period preceding the date on which applications under this section are required to be submitted for the grant competition involved.

If a city or urban county has submitted and has pending more than one application, the additional consideration provided by subparagraph (D) of the preceding sentence shall be available only to the project in such city or urban county which received the highest number of points under subparagraph (C) of such sentence.

(2) For the purpose of making grants with respect to areas described in subsection (b)(2), the Secretary shall establish selection criteria, which must include (A) factors determined to be relevant by the Secretary in assessing the comparative degree of economic deterioration among eligible areas, and (B) such other criteria as the Secretary may determine, including at a minimum the criteria listed in paragraph (1)(C) of this subsection.

(3) The Secretary shall award points to each application as follows:

(A) not more than 35 points on the basis of the criteria referred to in paragraph (1)(A);

(B) not more than 35 points on the basis of the criteria referred to in paragraph (1)(B);

(C) not more than 33 points on the basis of the criteria referred to in paragraph (1)(C); and

(D)(i) 1 additional point on the basis of the criterion referred to in paragraph (1)(D)(i); or

(ii) 2 additional points on the basis of the criterion referred to in paragraph (1)(D)(ii).

(4) The Secretary shall distribute grant funds under this section so that to the extent practicable during each funding cycle—

(A) 65 percent of the funds is first made available utilizing all of the criteria set forth in paragraph (1); and

(B) 35 percent of the funds is then made available solely on the basis of the factors referred to in subparagraphs (C) and (D) of paragraph (1).

(5)(A) Within 30 days of the start of each fiscal year, the Secretary shall announce the number of competitions for grants to be held in that fiscal year. The number of competitions shall be not less than two nor more than three.

(B) Each competition for grants described in any clause of subparagraph (A) shall be for an amount equal to the sum of—

(i) approximately the amount of the funds available for such grants for the fiscal year divided by the number of competitions for those funds;

(ii) any funds available for such grants in any previous competition that are not awarded; and

(iii) any funds available for such grants in any previous competition that are recaptured.

(C) Notwithstanding any other provision of this section, in each competition for grants under this section, no city or urban county may be awarded a grant or grants in an amount in excess of $10,000,000 until all cities and urban counties which submitted fundable applications have been awarded a grant. If funds are available for additional grants after each city and urban county submitting a fundable application is awarded one or more grants under the preceding sentence, then additional grants shall be made so that each city or urban county that has submitted multiple applications is awarded one additional grant in order of ranking, with no single city or urban county receiving more than one grant approval in any subsequent series of grant determinations within the same competition.

(D) All grants under this section, including grants to cities and urban counties described in subsection (b)(2), shall be awarded in accordance with subparagraph (C) so that all grants under this section are made in order of ranking.

(e) The Secretary may not approve any grant to a city or urban county eligible under subsection (b)(2) unless—

(1) the grant will be used in connection with a project located in an area described in subsection (b)(2), except that the Secretary may waive this requirement where the Secretary determines (A) that there is no suitable site for the project within that area, (B) the project will be located directly adjacent to that area, and (C) the project will contribute substantially to the economic development of that area;

(2) the city or urban county has demonstrated to the to the satisfaction of the Secretary that basic services supplied by the city or urban county to the area described in subsection (b)(2) are at least equivalent, as measured by per capita expenditures, to those supplied to other areas within the city or urban county which are similar in population size and physical characteristics and which have median incomes above the median income for the city or urban county;

(3) the grant will be used in connection with a project which will directly benefit the low- and moderate-income families and individuals residing in the area described in subsection (b)(2); and

(4) the city or urban county makes available, from its own funds or from funds received from the State or under any Federal program which permits the use of financial assistance to meet the non-Federal share requirements of Federal grant-in-aid programs, an amount equal to 20 per centum of the grant to be available under this section to be used in carrying out the activities described in the application.

(f) Activities assisted under this section may include such activities, in addition to those authorized under section 105(a), as the Secretary determines to be consistent with the purposes of this section. In any case in which the project proposes the repayment to the applicant of the grant funds, such funds shall be made available by the applicant for economic development activities that are eligible activities under this section or section 105. The applicant shall annually provide the Secretary with a statement of the projected receipt and use of repaid grant funds during the next year together with a report acceptable to the Secretary on the use of such funds during the most recent preceding full fiscal year of the applicant.

(g) The Secretary shall, at least on an annual basis, make reviews and audits of recipients of grants under this section as necessary to determine the progress made in carrying out activities substantially in accordance with approved plans and timetables. The Secretary may adjust, reduce, or withdraw grant funds, or take other action as appropriate in accordance with the findings of these reviews and audits, except that funds already expended on eligible activities under this title shall not be recaptured or deducted from future grants made to the recipient.

(h)(1) SPECULATIVE PROJECTS.—No assistance may be provided under this section for projects intended to facilitate the relocation of industrial or commercial plants or facilities from one area to another, unless the Secretary finds that the relocation does not significantly and adversely affect the unemployment or economic base of the area from which the industrial or commercial plant or facility is to be relocated. The provisions of this paragraph shall apply only to projects that do not have identified intended occupants.

(2) PROJECTS WITH IDENTIFIED INTENDED OCCUPANTS.—No assistance may be provided or utilized under this section for any project with identified intended occupants that is likely to facilitate—

(A) a relocation of any operation of an industrial or commercial plant or facility or other business establishment—

(i) from any city, urban county, or identifiable community described in subsection (p), that is eligible for assistance under this section; and

(ii) to the city, urban county, or identifiable community described in subsection (p), in which the project is located; or

(B) an expansion of any such operation that results in a reduction of any such operation in any city, county, or community described in subparagraph (A)(i).

(3) SIGNIFICANT AND ADVERSE EFFECT.—The restrictions established in paragraph (2) shall not apply if the Secretary determines that the relocation or expansion does not significantly and adversely affect the employment or economic base of the city, county, or community from which the relocation or expansion occurs.

(4) APPEAL OF ADVERSE DETERMINATION.—Following notice of intent to withhold, deny, or cancel assistance under paragraph (1) or (2), the Secretary shall provide a period of not less than 90 days in which the applicant can appeal to the Secretary the withholding, denial, or cancellation of assistance. Notwithstanding any other provision of this section, nothing in this section or in any legislative history related to the enactment of this section may be construed to permit an inference or conclusion that the policy of the Congress in the urban development action grant program is to facilitate the relocation of businesses from one area to another.

(5) ASSISTANCE FOR INDIVIDUALS ADVERSELY AFFECTED BY PROHIBITED RELOCATIONS.—

(A) Any amount withdrawn by, recaptured by, or paid to the Secretary due to a violation (or a settlement of an alleged violation) of this subsection (or of any regulation issued or contractual provision entered into to carry out this subsection) by a project with identified intended occupants shall be made available by the Secretary as a grant to the city, county, or

community described in subsection (p), from which the operation of an industrial or commercial plant or facility or other business establishment relocated or in which the operation was reduced.

(B)(i) Any amount made available under this paragraph shall be used by the grantee to assist individuals who were employed by the operation involved prior to the relocation or reduction and whose employment or terms of employment were adversely affected by the relocation or reduction. The assistance shall include job training, job retraining, and job placement.

(ii) If any amount made available to a grantee under this paragraph is more than is required to provide assistance under clause (i), the grantee shall use the excess amount to carry out community development activities eligible under section 105(a).

(C)(i) The provisions of this paragraph shall be applicable to any amount withdrawn by, recaptured by, or paid to the Secretary under this section, including any amount withdrawn, recaptured, or paid before the effective date of this paragraph.[22]

(ii) Grants may be made under this paragraph only to the extent of amounts provided in appropriation Acts.

(6) DEFINITION.—For purposes of this subsection, the term "operation" includes any plant, equipment, facility, position, employment opportunity, production capacity, or product line.

(7) REGULATIONS.—Not later than 60 days after the date of the enactment of the Housing and Community Development Act of 1987,[23] the Secretary shall issue such regulations as may be necessary to carry out the provisions of this subsection. Such regulations shall include specific criteria to be used by the Secretary in determining whether there is a significant and adverse effect under paragraph (3).

(i) Not less than 25 per centum of the funds made available for grants under this section shall be used for cities with populations of less than fifty thousand persons which are not central cities of a metropolitan statistical area. The Secretary shall encourage cooperation by geographically proximate cities of less than 50,000 population by permitting consortia of such cities, which may also include county governments that are not urban counties, to apply for grants on behalf of a city that is otherwise eligible for assistance under this section. Any grants awarded to such consortia shall be administered in compliance with eligibility requirements applicable to individual cities.

(j) A grant may be made under this section only where the Secretary determine that there is a strong probability that (1) the non-Federal investment in the project would not be made without the grant, and (2) the grant would not substitute for non-Federal funds which are otherwise available to the project.

(k) In making grants under this section, the Secretary shall take such steps as the Secretary deems appropriate to assure that the amount of the grant provided is the least necessary to make the project feasible.

(l) For purpose of this section, the Secretary may reduce or waive the requirement in section 102(a)(5)(B)(ii) that a town or township be closely settled.

(m) In the case of any application which identifies any property in accordance with subsection (c)(4)(B), the Secretary may not commit funds with respect to an approved application unless the applicant has certified to the Secretary that the appropriate State historic preservation officer and the Secretary of the Interior have been provided an opportunity to take action in accordance with the provisions of section 121(b).

(n)(1) For the purposes of this section, the term "city" includes Guam, American Samoa, the Northern Mariana Islands, the Virgin Islands, and Indian tribes. Such term also includes the counties of Kauai, Maui and Hawaii in the State of Hawaii.

(2) The Secretary may not approve a grant to an Indian tribe under this section unless the tribe (A) is located on a reservation, or on former Indian reservations in Oklahoma as determined by the Secretary of the Interior, or in an Alaskan Native Village, and (B) was an eligible recipient under chapter 67 of title 31, United States Code, prior to the repeal of such chapter.

(o) If no amounts are set aside under, or amounts are precluded from being appropriated for this section for fiscal years after fiscal year 1983, any amount which is or becomes available for use under this section after fiscal year 1983 shall be added to amounts appropriated under section 103, except that amounts available to the Secretary for use under this subsection as of October 1, 1993, and amounts released to the Secretary pursuant to subsection (t) may be used to provide grants under section 108(q).[24]

(p) An unincorporated portion of an urban county that is approved by the Secretary as an identifiable community for purposes of this section is eligible for a grant under subsection (b)(2) if such portion meets the

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[22] February 5, 1988.
[23] The date of enactment was February 5, 1988.
[24] So in law.

eligibility requirements contained in the first sentence of subsection (b)(1) and the requirements of subsection (b)(2)(B) (applied to the population of the portion of the urban county) and if it otherwise complies with the provisions of this section.

(q) Of the amounts appropriated for purposes of this section for any fiscal year, not more than $2,500,000 may be used by the Secretary to make technical assistance grants to States or their agencies, municipal technical advisory services operated by universities, or State associations of counties or municipalities, to enable such entities to assist units of general local government described in subsection (i) in developing, applying for assistance for, and implementing programs eligible for assistance under this section.

(r) In utilizing the discretion of the Secretary when providing assistance and applying selection criteria under this section, the Secretary may not discriminate against applications on the basis of (1) the type of activity involved, whether such activity is primarily housing, industrial, or commercial; or (2) the type of applicant, whether such applicant is a city or urban county.

(s) For fiscal years 1988 and 1989, the maximum grant amount for any project under this section is $10,000,000.

(t) UDAG RETENTION PROGRAM.—If a grant or a portion of a grant under this section remains unexpended upon the issuance of a notice implementing this subsection, the grantee may enter into an agreement, as provided under this subsection, with the Secretary to receive a percentage of the grant amount and relinquish all claims to the balance of the grant within 90 days of the issuance of notice implementing this subsection (or such later date as the Secretary may approve). The Secretary shall not recapture any funds obligated pursuant to this section during a period beginning on the date of enactment of the Multifamily Housing Property Disposition Reform Act of 1994[25] until 90 days after the issuance of a notice implementing this subsection. A grantee may receive as a grant under this subsection—

(1) 33 percent of such unexpended amounts if—

(A) the grantee agrees to expend not less than one-half of the amount received for activities authorized pursuant to section 108(q) and to expend such funds in conjunction with a loan guarantee made under section 108 at least equal to twice the amount of the funds received; and

(B)(i) the remainder of the amount received is used for economic development activities eligible under title I of this Act; and

(ii) except when waived by the Secretary in the case of a severely distressed jurisdiction, not more than one-half of the costs of activities under subparagraph (B) are derived from such unexpended amounts; or

(2) 25 percent of such unexpended amounts if—

(A) the grantee agrees to expend such funds for economic development activities eligible under title I of this Act; and

(B) except when waived by the Secretary in the case of a severely distressed jurisdiction, not more than one-half of the costs of such activities are derived from such unexpended amount.

Sec. 120. [42 U.S.C. 5319]
COMMUNITY PARTICIPATION IN PROGRAMS.

No community shall be barred from participating in any program authorized under this title solely on the basis of population, except as expressly authorized by statute.

Sec. 121. [42 U.S.C. 5320]
HISTORIC PRESERVATION REQUIREMENTS.

(a) With respect to applications for assistance under section 5318 of this title, the Secretary of the Interior, after consulting with the Secretary, shall prescribe and implement regulations concerning projects funded under section 5318 of this title and their relationship with division A of subtitle III and chapter 3125 of title 54, United States Code.

(b) In prescribing and implementing such regulations with respect to applications submitted under section 119 which identify any property pursuant to subsection (c)(4)(B) of such section, the Secretary of the Interior shall provide at least that—

[25] April 11, 1994.

(1) the appropriate State historic preservation officer (as determined in accordance with regulations prescribed by the Secretary of the Interior) shall, not later than 45 days after receiving information from the applicant relating to the identification of properties which will be affected by the project for which the application is made and which may meet the criteria established by the Secretary of the Interior for inclusion on the National Register of Historic Places (together with documentation relating to such inclusion), submit his or her comments, together with such other information considered necessary by the officer, to the applicant concerning such properties; and

(2) the Secretary of the Interior shall, not later than 45 days after receiving from the applicant the information described in paragraph (1) and the comments submitted to the applicant in accordance with paragraph (1), make a determination as to whether any of the properties affected by the project for which the application is made is eligible for inclusion on the National Register of Historic Places.

(c) The Advisory Council on Historic Preservation shall prescribe regulations providing for expeditious action by the Council in making its comments under section 306108 of title 54, United States Code, in the case of properties which are included on, or eligible for inclusion on, the National Register of Historic Places and which are affected by a project for which an application is made under section 119.

Sec. 122. [42 U.S.C. 5321]
SUSPENSION OF REQUIREMENTS FOR DISASTER AREAS.

For funds designated under this title by a recipient to address the damage in an area for which the President has declared a disaster under title IV of the Robert T. Stafford Disaster Relief and Emergency Assistance Act, the Secretary may suspend all requirements for purposes of assistance under section 106 for that area, except for those related to public notice of funding availability, nondiscrimination, fair housing, labor standards, environmental standards, and requirements that activities benefit persons of low- and moderate-income.

END OF STATUTE

CDBG ASSISTANCE FOR COLONIAS

CRANSTON-GONZALEZ NATIONAL AFFORDABLE HOUSING ACT
[Public Law 101-625; 104 Stat. 4396; 42 U.S.C. 5306 note]

Sec. 916. [42 U.S.C. 5306 note]
CDBG ASSISTANCE FOR UNITED STATES-MEXICO BORDER REGION.

(a) SET-ASIDE FOR COLONIAS.—The States of Arizona, California, New Mexico, and Texas shall each make available, for activities designed to meet the needs of the residents of colonias in the State relating to water, sewage, and housing, the following percentage of the amount allocated for the State under section 106(d) of the Housing and Community Development Act of 1974 (42 U.S.C. 5306(d)):

(1) FIRST FISCAL YEAR.—For the first fiscal year to which this section applies, 10 percent.

(2) SUCCEEDING FISCAL YEARS.—For each of the succeeding fiscal years to which this section applies, a percentage (not to exceed 10 percent) that is determined by the Secretary of Housing and Urban Development to be appropriate after consultation with representatives of the interests of the residents of colonias.

(b) ELIGIBLE ACTIVITIES.—Assistance distributed pursuant to this section may be used only to carry out the following activities:

(1) PLANNING.—Payment of the cost of planning community development (including water and sewage facilities) and housing activities, including the cost of—

(A) the provision of information and technical assistance to residents of the area in which the activities are to be concentrated and to appropriate nonprofit organizations and public agencies acting on behalf of the residents; and

(B) preliminary surveys and analyses of market needs, preliminary site engineering and architectural services, site options, applications, mortgage commitments, legal services, and obtaining construction loans.

(2) ASSESSMENTS FOR PUBLIC IMPROVEMENTS.—The payment of assessments (including any charge made as a condition of obtaining access) levied against properties owned and occupied by persons of low and moderate income to recover the capital cost for a public improvement.

(3) OTHER IMPROVEMENTS.—Other activities eligible under section 105 of the Housing and Community Development Act of 1974 designed to meet the needs of residents of colonias.

(c) DISTRIBUTION OF ASSISTANCE.—Assistance shall be made available pursuant to this section in accordance with a distribution plan that gives priority to colonias having the greatest need for such assistance.

(d) APPLICABLE LAW.—Except to the extent inconsistent with this section, assistance provided pursuant to this section shall be subject to the provisions of title I of the Housing and Community Development Act of 1974 (42 U.S.C. 5301 et seq.).

(e) DEFINITIONS.—For purposes of this section:

(1) COLONIA.—The term "colonia" means any identifiable community that—

(A) is in the State of Arizona, California, New Mexico, or Texas;

(B) is in the United States-Mexico border region;

(C) is determined to be a colonia on the basis of objective criteria, including lack of potable water supply, lack of adequate sewage systems, and lack of decent, safe, and sanitary housing; and

(D)[26] was in existence as a colonia before the date of the enactment of the Cranston-Gonzalez National Affordable Housing Act.

(2) NONPROFIT ORGANIZATION.—The term "nonprofit organization" means an organization described in section 501(c) of the Internal Revenue Code of 1986 and exempt from taxation under section 501(a) of such Code.

(3) PERSONS OF LOW AND MODERATE INCOME.—The term "persons of low and moderate income" has the meaning given the term in section 102(a) of the Housing and Community Development Act of 1974 (42 U.S.C. 5302(a)).

(4) UNITED STATES-MEXICO BORDER REGION.—The term "United States-Mexico border region" means the area of the United States within 150 miles of the border between the United States and

[26] Indented so in law.

Mexico, except that the term does not include any standard metropolitan statistical area that has a population exceeding 1,000,000.

END OF STATUTE

COMMUNITY DEVELOMENT NEEDS COMPUTER DATABASE

HOUSING AND COMMUNITY DEVELOPMENT ACT OF 1992
[Public Law 102-550; 106 Stat. 3858; 42 U.S.C. 5304 note]

Sec. 852. [42 U.S.C. 5304 note]
COMPUTERIZED DATABASE OF COMMUNITY DEVELOPMENT NEEDS.

(a) ESTABLISHMENT OF DEMONSTRATION PROGRAM.—Not later than the expiration of the 1-year period beginning on the date appropriations for the purposes of this section are made available, the Secretary of Housing and Urban Development (hereafter in this section referred to as the "Secretary") shall establish and implement a demonstration program to determine the feasibility of assisting States and units of general local government to develop methods, utilizing contemporary computer technology, to—

(1) monitor, inventory, and maintain current listings of the community development needs of the States and units of general local government; and

(2) coordinate strategies within States (especially among various units of general local government) for meeting such needs.

(b) INTEGRATED DATABASE SYSTEM AND COMPUTER MAPPING TOOL.—

(1) DEVELOPMENT AND PURPOSES.—In carrying out the program under this section, the Secretary shall provide for the development of an integrated database system and computer mapping tool designed to efficiently (A) collect, store, process, and retrieve information relating to priority nonhousing community development needs within States, and (B) coordinate strategies for meeting such needs. The integrated database system and computer mapping tool shall be designed in a manner to coordinate and facilitate the preparation of community development plans under section 104(m)(1) of the Housing and Community Development Act of 1974 and to process any information necessary for such plans.

(2) AVAILABILITY TO STATES.—The Secretary shall make the integrated database system and computer mapping tool developed pursuant to this subsection available to States without charge.

(3) COORDINATION WITH EXISTING TECHNOLOGY.—The Secretary shall, to the extent practicable, utilize existing technologies and coordinate such activities with existing data systems to prevent duplication.

(c) TECHNICAL ASSISTANCE.—Under the program under this section, the Secretary shall provide consultation and advice to States and units of general local government regarding the capabilities and advantages of the integrated database system and computer mapping tool developed pursuant to subsection (b) and assistance in installing and using the database system and mapping tool.

(d) GRANTS.—

(1) AUTHORITY AND PURPOSE.—The Secretary shall, to the extent amounts are made available under appropriation Acts pursuant to subsection (g), make grants to States for capital costs relating to installation and use of the integrated database system and computer mapping tool developed pursuant to subsection (b).

(2) LIMITATIONS.—The Secretary may not make more than one grant under this subsection to any single State. The Secretary may not make a grant under this subsection to any single State in an amount exceeding $1,000,000.

(3) APPLICATION AND SELECTION.—The Secretary shall provide for the form and manner of applications for grants under this subsection. The Secretary shall establish criteria for the selection of States which have submitted applications to receive grants under this section and shall select recipients according to such criteria, which shall give priority to States having, on a long-term basis (as determined by the Secretary), levels of unemployment above the national average level.

(e) STATE COORDINATION OF LOCAL NEEDS.—Each State that receives a grant under subsection (d) shall annually submit to the Secretary a report containing a summary of the priority nonhousing community development needs within the State.

(f) REPORTS BY SECRETARY.—The Secretary shall annually submit to the Committees on Banking, Finance and Urban Affairs of the House of Representatives[27] and Banking, Housing, and Urban Affairs of the

[27] Section 1(a) of Public Law 104-14, 109 Stat. 186, provides, in part, that "any reference in any provision of law enacted before January 4, 1995, to ... the Committee on Banking, Finance and Urban Affairs of the House of Representatives shall be treated as referring to the Committee on Banking and Financial Services of the House of Representatives". However, H. Res. 5, 107th Congress, agreed to on January 3, 2001, abolished

Senate, a report containing a summary of the information submitted for the year by States pursuant to subsection (e), which shall describe the priority nonhousing community development needs within such States.

(g) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated for each of the fiscal years 1993 and 1994, $10,000,000 to carry out the program established under this section.

END OF STATUTE

the Committee on Banking and Financial Services and established the Committee on Financial Services, which has jurisdiction over many of the areas previously under the jurisdiction of the Committee on Banking and Financial Services.

ADDITIONAL PROVISIONS REGARDING USE OF CDBG AMOUNTS

DEPARTMENTS OF VETERANS AFFAIRS AND HOUSING AND URBAN DEVELOPMENT, AND INDEPENDENT AGENCIES

APPROPRIATIONS ACT, 1999

[Public Law 105-276; 112 Stat. 2478, 2484; 42 U.S.C. 5305 note]

COMMUNITY DEVELOPMENT BLOCK GRANTS

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For any fiscal year, of the amounts made available as emergency funds under the heading "Community Development Block Grants Fund" and notwithstanding any other provision of law, not more than $250,000 may be used for the non-Federal cost-share of any project funded by the Secretary of the Army through the Corps of Engineers.

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BROWNFIELDS AS ELIGIBLE CDBG ACTIVITY

Sec. 205. [42 U.S.C. 5305 note]

For fiscal years 1998, 1999, and all fiscal years thereafter, States and entitlement communities may use funds allocated under the community development block grants program under title I of the Housing and Community Development Act of 1974 for environmental cleanup and economic development activities related to Brownfields projects in conjunction with the appropriate environmental regulatory agencies, as if such activities were eligible under section 105(a) of such Act.

END OF STATUTE

DISTRIBUTION OF CDBG AMOUNTS FOR STATE OF HAWAII

CONSOLIDATED APPROPRIATIONS ACT, 2004
[Public Law 108-199; 118 Stat. 397]

DIVISION G—DEPARTMENTS OF VETERANS AFFAIRS AND HOUSING AND URBAN DEVELOPMENT, AND INDEPENDENT AGENCIES APPROPRIATIONS ACT, 2004

Sec. 218.

Notwithstanding any other provision of law, the State of Hawaii may elect by July 31, 2004 to distribute funds under section 106(d)(2) of the Housing and Community Development Act of 1974, to units of general local government located in nonentitlement areas of that State. If the State of Hawaii fails to make such election, the Secretary shall for fiscal years 2005 and thereafter make grants to the units of general local government located in the State of Hawaii's nonentitlement areas (Hawaii, Kauai, and Maui counties). The Secretary of Housing and Urban Development shall allocate funds under section 106(d) of such Act to units of general local government located in nonentitlement areas within the State of Hawaii in accordance with a formula which bears the same ratio to the total amount available for the nonentitlement areas of the State as the weighted average of the ratios between: (1) the population of that eligible unit of general local government and the population of all eligible units of general local government in the nonentitlement areas of the State; (2) the extent of poverty in that eligible unit of general local government and the extent of poverty in all of the eligible units of general local government in the nonentitlement areas of the State; and (3) the extent of housing overcrowding in that eligible unit of general local government and the extent of housing overcrowding in all of the eligible units of general local government in the nonentitlement areas of the State. In determining the weighted average of the ratios described in the previous sentence, the ratio described in clause (2) shall be counted twice and the ratios described in clauses (1) and (3) shall be counted once. Notwithstanding any other provision, grants made under this section shall be subject to the program requirements of section 104 of the Housing and Community Development Act of 1974 in the same manner as such requirements are made applicable to grants made under section 106(b) of the Housing and Community Development Act of 1974.

END OF STATUTE

REHABILITATION DEMONSTRATION GRANT PROGRAM

QUALITY HOUSING AND WORK RESPONSIBILITY ACT OF 1998
[Public Law 105-276; 112 Stat. 2666; 12 U.S.C. 1701z-1 note]

Sec. 599G. [12 U.S.C. 1701z-1 note]
REHABILITATION DEMONSTRATION GRANT PROGRAM.

(a) IN GENERAL.—The Secretary of Housing and Urban Development shall, to the extent amounts are provided in appropriation Acts to carry out this section, carry out a program to demonstrate the effectiveness of making grants for rehabilitation of single family housing located within 10 demonstration areas designated by the Secretary. Of the areas designated by the Secretary under this section—

(1) 6 shall be areas that have primarily urban characteristics;

(2) 3 shall be areas that are outside of a metropolitan statistical area; and

(3) 1 shall be an area that has primarily rural characteristics.

In selecting areas, the Secretary shall provide for national geographic and demographic diversity.

(b) GRANTEES.—Grants under the program under this section may be made only to agencies of State and local governments and non-profit organizations operating within the demonstration areas.

(c) SELECTION CRITERIA.—In selecting among applications for designation of demonstration areas and grants under this section, the Secretary shall consider—

(1) the extent of single family residences located in the proposed area that have rehabilitation needs;

(2) the ability and expertise of the applicant in carrying out the purposes of the demonstration program, including the availability of qualified housing counselors and contractors in the proposed area willing and able to participate in rehabilitation activities funded with grant amounts;

(3) the extent to which the designation of such area and the grant award would promote affordable housing opportunities;

(4) the extent to which selection of the proposed area would have a beneficial effect on the neighborhood or community in the area and on surrounding areas;

(5) the extent to which the applicant has demonstrated that grant amounts will be used to leverage additional public or private funds to carry out the purposes of the demonstration program;

(6) the extent to which lenders (including local lenders and lenders outside the proposed area) are willing and able to make loans for rehabilitation activities assisted with grant funds; and

(7) the extent to which the application provides for the involvement of local residents in the planning of rehabilitation activities in the demonstration area.

(d) USE OF GRANT FUNDS.—Funds from grants made under this section may be used by grantees—

(1) to subsidize interest on loans, over a period of not more than 5 years from the origination date of the loan, made after the date of the enactment of this Act for rehabilitation of any owner-occupied 1- to 4-family residence, including the payment of interest during any period in which a residence is uninhabitable because of rehabilitation activities;

(2) to facilitate loans for rehabilitation of 1- to 4-family properties previously subject to a mortgage insured under the National Housing Act that has been foreclosed or for which insurance benefits have been paid, including to establish revolving loan funds, loan loss reserves, and other financial structures; and

(3) to provide technical assistance in conjunction with the rehabilitation of owner-occupied 1- to 4-family residences, including counseling, selection contractors, monitoring of work, approval of contractor payments, and final inspection of work.

(e) DEFINITION OF REHABILITATION.—For purposes of this section, the term “rehabilitation” has the meaning given such term in section 203(k)(2)(B) of the National Housing Act (12 U.S.C. 1709(k)(2)(B)).

(f) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to the Secretary to carry out this section such sums as may be necessary for each of fiscal years 1999 through 2003.

(g) EFFECTIVE DATE.—This section shall take effect on the date of the enactment of this Act.[28]

END OF STATUTE

[28] October 21, 1998.

RIGHT OF REDEMPTION FOR SECTION 312 MORTGAGORS

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT REFORM ACT OF 1989

[Public Law 101-235; 103 Stat. 1987; 42 U.S.C. 1452c]

Sec. 701. [42 U.S.C. 1452c]
NULLIFICATION OF RIGHT OF REDEMPTION OF SINGLE FAMILY MORTGAGORS UNDER SECTION 312 REHABILITATION LOAN PROGRAM.

(a) IN GENERAL.—Whenever with respect to a single family mortgage securing a loan under section 312 of the Housing Act of 1964[29], the Secretary of Housing and Urban Development or its foreclosure agent forecloses in any Federal or State court or pursuant to a power of sale in a mortgage, the purchaser at the foreclosure sale shall be entitled to receive a conveyance of title to, and possession of, the property, subject to any interests senior to the interests of the Secretary. With respect to properties that are vacant and abandoned, notwithstanding any State law to the contrary, there shall be no right of redemption (including all instances any right to possession based upon any right of redemption) in the mortgagor or any other person subsequent to the foreclosure sale in connection with such single family mortgage. The appropriate State official or the trustee, as the case may be, shall execute and deliver a deed or other appropriate instrument conveying title to the purchaser at the foreclosure sale, consistent with applicable procedures in the jurisdiction and without regard to any such right of redemption.

(b) FORECLOSURE BY OTHERS.—Whenever with respect to a single family mortgage on a property that also has a single family mortgage securing a loan under section 312 of the Housing Act of 1964, a mortgagee forecloses in any Federal or State court or pursuant to a power of sale in a mortgage, the Secretary of Housing and Urban Development, if the Secretary is purchaser at the foreclosure sale, shall be entitled to receive a conveyance of title to, and possession of, the property, subject to the interests senior to the interests of the mortgagee. Notwithstanding any State law to the contrary, there shall be no right of redemption (including in all instances any right to possession based upon any right of redemption) if the mortgagor or any other person subsequent to the foreclosure sale to the Secretary in connection with a property that secured a single family mortgage for a loan under section 312 of the Housing Act of 1964. The appropriate State official or the trustee, as the case may be, shall execute and deliver a deed or other appropriate instrument conveying title to the Secretary, who is the purchaser at the foreclosure sale, consistent with applicable procedures in the jurisdiction and without regard to any such right of redemption.

(c) VERIFICATION OF TITLE.—The following actions shall be taken in order to verify title to the purchaser at the foreclosure sale:

(1) In the case of a judicial foreclosure in any Federal or State court, there shall be included in the petition and in the judgment of foreclosure a statement that the foreclosure is in accordance with this subsection and that there is no right of redemption in the mortgagor or any other person.

(2) In the case of a foreclosure pursuant to a power of sale provision in the mortgage, the statement required in paragraph (1) shall be included in the advertisement of the sale and either in the recitals of the deed or other appropriate instrument conveying title to the purchaser at the foreclosure sale or in an affidavit or addendum to the deed.

(d) DEFINITIONS.—For purposes of this section:

(1) The term "mortgage" means a deed of trust, mortgage, deed to secure debt, security agreement, or any other form of instrument under which any interest in property, real, personal or mixed, or any interest in property, including leaseholds, life estates, reversionary interests, and any other estates under applicable State law, is conveyed in trust, mortgaged, encumbered, pledged, or otherwise rendered subject to a lien, for the purpose of securing the payment of money or the performance of an obligation.

(2) The term "single family mortgage" means a mortgage that covers property that includes a 1- to 4-family residence.

END OF STATUTE

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[29] Section 289(a) of the Cranston-Gonzalez National Affordable Housing Act, Pub. L. 101-625, 104 Stat. 4128, set forth, post, in part IV of this compilation, provides that no new loans shall be made under section 312 of the Housing Act of 1964 after October 1, 1991. Section 289(b) of such Act repealed such section 312, effective on October 1, 1991.

NEIGHBORHOOD REINVESTMENT CORPORATION

HOUSING AND COMMUNITY DEVELOPMENT AMENDMENTS OF 1978
[Public Law 95-557; 92 Stat. 2115; 42 U.S.C. 8101-8107]

Sec. 601. [42 U.S.C. 8101 note]
SHORT TITLE.

This title may be cited as the "Neighborhood Reinvestment Corporation Act".

Sec. 602. [42 U.S.C. 8101]
CONGRESSIONAL FINDINGS AND DECLARATION OF PURPOSE.

(a) The Congress finds that—

(1) the neighborhood housing services demonstration of the Urban Reinvestment Task Force has proven its worth as a successful program to revitalize older urban neighborhoods by mobilizing public, private, and community resources at the neighborhood level; and

(2) the demand for neighborhood housing services programs in cities throughout the United States warrants the creation of a public corporation to institutionalize and expand the neighborhood housing services program and other programs of the present Urban Reinvestment Task Force.

(b) The purpose of this title is to establish a public corporation which will continue the joint efforts of the Federal financial supervisory agencies and the Department of Housing and Urban Development to promote reinvestment in older neighborhoods by local financial institutions working cooperatively with the community people and local government, and which will continue the nonbureaucratic approach of the Urban Reinvestment Task Force, relying largely on local initiative for the specific design of local programs.

Sec. 603. [42 U.S.C. 8102]
NEIGHBORHOOD REINVESTMENT CORPORATION.

(a) There is established a Neighborhood Reinvestment Corporation (hereinafter referred to as the "corporation") which shall be a body corporate and shall possess the powers and shall be subject to the direction and limitations specified herein.

(b) The corporation shall implement and expand the demonstration activities carried out by the Urban Reinvestment Task Force.

(c) The corporation shall maintain its principal office in the District of Columbia or at such other place the corporation may from time to time prescribe.

(d) The corporation, including its franchise, activities, assets, and income, shall be exempt from all taxation now or hereafter imposed by the United States, by any territory, dependency, or possession thereof, or by any State, county, municipality, or local taxing authority, except that any real property of the corporation shall be subject to State, territorial, county, municipal, or local taxation to the same extent according to its value as other real property is taxed.

Sec. 604. [42 U.S.C. 8103]
BOARD OF DIRECTORS.

(a) The corporation shall be under the direction of a board of directors made up of the following members:

(1) the Chairman of the Federal Home Loan Bank Board or a member of the Federal Home Loan Bank Board to be designated by the Chairman;

(2) the Secretary of Housing and Urban Development;

(3) the Chairman of the Board of Governors of the Federal Reserve System, or a member of the Board of Governors of the Federal Reserve System to be designated by the Chairman;

(4) the Chairman of the Federal Deposit Insurance Corporation or the appointive member of the Board of Directors of the Federal Deposit Insurance Corporation if so designated by the Chairman;

(5) the Comptroller of the Currency; and

(6) the Chairman of the National Credit Union Administration or a member of the Board of the National Credit Union Administration to be designated by the Chairman.

(b) The Board shall elect from among its members a chairman who shall serve for a term of two years, except that the Chairman of the Federal Home Loan Bank Board shall serve as Chairman of the Board of Directors for the first such two-year term.

(c) Each director of the corporation shall serve ex officio during the period he holds the office to which he is appointed by the President.

(d) The directors of the corporation, as full-time officers of the United States, shall serve without additional compensation but shall be reimbursed for travel, subsistence, and other necessary expenses incurred in the performance of their duties as directors of the corporation.

(e) The directors of the corporation shall adopt such bylaws, policies, and administrative provisions as are necessary to the functioning of the corporation and consistent with the provisions of this title.

(f) A director who is necessarily absent from a meeting of the board, or of a committee of the board, may participate in such meeting through a duly designated representative who is serving, pursuant to appointment by the President of the United States, by and with the advice and consent of the Senate, in the same department, agency, corporation, or instrumentality as the absent director, or in the case of the Comptroller of the Currency, through a duly designated Deputy Comptroller.

(g) The presence of a majority of the board members, or their representatives as provided in subsection (f), shall constitute a quorum.

(h) The corporation shall be subject to the provisions of section 552 of title 5, United States Code.

(i) All meetings of the board of directors will be conducted in accordance with the provisions of section 552b of title 5, United States Code.

Sec. 605. [42 U.S.C. 8104]
OFFICERS AND EMPLOYEES.

(a) The board shall have power to select, employ, and fix the compensation[30] and benefits of such officers, employees, attorneys, and agents as shall be necessary for the performance of its duties under this title, without regard to the provisions of title 5, United States Code, governing appointments in the competitive service, classification, and General Schedule pay rates, except that no officer, employee, attorney, or agent of the corporation may be paid compensation[31] at a rate in excess of the rate for level IV of the Executive Schedule, except that the board-appointed officers may be paid salary at a rate not to exceed level II of the Executive Schedule. The Corporation shall also apply the provisions of section 5307(a)(1), (b)(1) and (b)(2) of title 5, United States Code, governing limitations on certain pay as if its employees were Federal employees receiving payments under title 5.

(b) The directors of the corporation shall appoint an executive director who shall serve as chief executive officer of the corporation.

(c) The executive director of the corporation, subject to approval by the board, may appoint and remove such employees of the corporation as he determines necessary to carry out the purposes of the corporation.

(d) No political test or political qualification shall be used in selecting, appointing, promoting, or taking any other personnel action with respect to any officer, agent, or employee of the corporation or of any recipient, or in selecting or monitoring any grantee, contractor, or person or entity receiving financial assistance under this title.

(e) Officers and employees of the corporation shall not be considered officers or employees of the United States, and the corporation shall not be considered a department, agency, or instrumentality of the Federal Government. The corporation shall be subject to administrative and cost standards issued by the Office of Management and Budget similar to standards applicable to non-profit grantees and educational institutions. 42 U.S.C. 8104

Sec. 606. [42 U.S.C. 8105]
POWERS AND DUTIES OF CORPORATION.

(a)(1) The corporation shall continue the work of the Urban Reinvestment Task Force in establishing neighborhood housing services programs in neighborhoods throughout the United States, monitoring their progress, and providing them with grants and technical assistance. For the purpose of this paragraph, a neighborhood housing services program may involve a partnership of neighborhood residents and representatives of local governmental and financial institutions, organized as a State-chartered non-profit corporation, working to bring about reinvestment in one or more neighborhoods through a program of systematic housing inspections, increased public investment, increased private lending, increased resident investment, and a revolving loan fund to make loans available at flexible rates and terms to homeowners not meeting private lending criteria.

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[30] Public Law 108-199, 118 Stat. 913, amended this subsection by striking “compensation” and inserting “salary”, but did not specify which occurrence of the term to strike.

[31] Public Law 108-199, 118 Stat. 913, amended this subsection by striking “compensation” and inserting “salary”, but did not specify which occurrence of the term to strike.

(2) The corporation shall continue the work of the Urban Reinvestment Task Force in identifying, monitoring, evaluating, and providing grants and technical assistance to selected neighborhood preservation projects which show promise as mechanisms for reversing neighborhood decline and improving the quality of neighborhood life.

(3) The corporation shall experimentally replicate neighborhood preservation projects which have demonstrated success, and after creating reliable development processes, bring the new programs to neighborhoods throughout the United States which in the judgment of the corporation can benefit therefrom, by providing assistance in organizing programs, providing grants in partial support of program costs, and providing technical assistance to ongoing programs.

(4) The corporation shall continue the work of the Urban Reinvestment Task Force in supporting Neighborhood Housing Services of America, a nonprofit corporation established to provide services to local neighborhood housing services programs, with support which may include technical assistance and grants to expand its national loan purchase pool and may contract with it for services which it can perform more efficiently or effectively than the corporation.

(5) The corporation shall, in making and providing the foregoing grants and technical and other assistance, determine the reporting and management restrictions or requirements with which the recipients of such grants or other assistance must comply. In making such determinations, the corporation shall assure that recipients of grants and other assistance make available to the corporation such information as may be necessary to determine compliance with applicable Federal laws.

(b) To carry out the foregoing purposes and engage in the foregoing activities, the corporation is authorized—

(1) to adopt, alter, and use a corporate seal;

(2) to have succession, until dissolved by Act of Congress;

(3) to make and perform contracts, agreements, and commitments;

(4) to sue and be sued, complain and defend, in any State, Federal, or other court;

(5) to determine its necessary expenditures and the manner in which the same shall be incurred, allowed, and paid, and appoint, employ, and fix and provide for the compensation of consultants, without regard to any other law, except as provided in section 608(d);

(6) to settle, adjust, and compromise, and with or without compensation or benefit to the corporation to release or waive in whole or in part, in advance or otherwise, any claim, demand, or right of, by, or against the corporation;

(7) to invest such funds of the corporation in such investment as the board of directors may describe;

(8) to acquire, take, hold, and own, and to deal with and dispose of any property; and

(9) to exercise all other powers that are necessary and proper to carry out the purposes of this title.

(c)(1) The corporation may contract with the Office of Neighborhood Reinvestment of the Federal home loan banks for all staff, services, facilities, and equipment now or in the future furnished by the Office of Neighborhood Reinvestment to the Urban Reinvestment Task Force, including receiving the services of the Director of the Office of Neighborhood Reinvestment as the corporation's executive director.

(2) The corporation shall have the power to award contracts and grants to—

(A) neighborhood housing services corporations and other nonprofit corporations engaged in neighborhood preservation activities; and

(B) local governmental bodies.

(3) The Secretary of Housing and Urban Development, the Federal Housing Finance Agency[32] and the Federal home loan banks, the Board of Governors of the Federal Reserve System and the Federal Reserve banks, the Federal Deposit Insurance Corporation, and the Comptroller of the Currency, the National Credit Union Administration or any other department, agency, or other instrumentality of the Federal Government are authorized to provide funds, services and facilities, with or without reimbursement, necessary to achieve the objectives and to carry out the purposes to this title.

(d)(1) The corporation shall have no power to issue any shares of stocks, or to declare or pay any dividends.

(2) No part of the income or assets of the corporation shall inure to the benefit of any director, officer, or employee, except as reasonable compensation for services or reimbursement for expenses.

[32] Effective on July 21, 2011, section 374 of Public Law 111-203 amends section 606(c)(3) by striking "Federal Home Loan Bank Board" and inserting "Federal Housing Finance Agency".
Section 311 of such Public Law provides for a delayed effective date of one year after the date of enactment of this law subject to a transfer of duties. See section 311(b) of such Public Law for a possible extension of the transfer date.

(3) The corporation may not contribute to or otherwise support any political party or candidate for elective public office.

Sec. 607. [42 U.S.C. 8106]
REPORTS AND AUDITS.

(a) The corporation shall publish an annual report which shall be transmitted by the corporation to the President and the Congress.[33]

(b) The accounts of the corporation shall be audited annually. Such audits shall be conducted in accordance with generally accepted auditing standards by independent certified public accountants who are certified by a regulatory authority of the jurisdiction in which the audit is undertaken.

(c) In addition to the annual audit, the financial transactions of the corporation for any fiscal year during which Federal funds are available to finance any portion of its operations may be audited by the General Accounting Office[34] in accordance with such rules and regulations as may be prescribed by the Comptroller General of the United States.

(d) For any fiscal year during which Federal funds are available to finance any portion of the corporation's grants or contracts, the General Accounting Office, in accordance with such rules and regulations may be prescribed by the Comptroller General of the United States, may audit the grantees or contractors of the corporation.

(e) The corporation shall conduct or require each grantee or contractor to provide for an annual financial audit. The report of each such audit shall be maintained for a period of at least five years at the principal office of the corporation.

Sec. 608. [42 U.S.C. 8107]
APPROPRIATIONS.

(a)(1) There are authorized to be appropriated to the corporation to carry out this title $29,476,000 for fiscal year 1993 and $30,713,992 for fiscal year 1994. Not more than 15 percent of any amount appropriated under this paragraph for any fiscal year may be used for administrative expenses.

(2) Of the amount appropriated pursuant to this subsection for any fiscal year, amounts appropriated in excess of the amount necessary to continue existing services of the Neighborhood Reinvestment Corporation in revitalizing declining neighborhoods shall be available—

(A) to expand the national neighborhood housing services network and to assist network capacity development, including expansion of rental housing resources;

(B) to expand the loan purchase capacity of the national neighborhood housing services secondary market operated by Neighborhood Housing Services of America;

(C) to make grants to provide incentives to extend low-income housing use in connection with properties subject to prepayment pursuant to the Low-Income Housing Preservation and Resident Ownership Act of 1990;

(D) to increase the resources available to the national neighborhood housing services network programs for the purchase of multifamily and single-family properties owned by the Secretary of Housing and Urban Development for rehabilitation (if necessary) and sale to low- and moderate-income families; and

(E) to provide matching capital grants, operating subsidies, and technical services to mutual housing associations for the development, acquisition, and rehabilitation of multifamily and single-family properties (including properties owned by the Secretary of Housing and Urban Development) to ensure affordability by low- and moderate-income families.

(b) Funds appropriated pursuant to this section shall remain available until expended.

(c) Non-Federal funds received by the corporation, and funds received by any recipient from a source other than the corporation, shall be accounted for and reported as receipts and disbursements separate and distinct from Federal funds.

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[33] Section 3003(a)(1) of the Federal Reports Elimination and Sunset Act of 1995, Pub. L. 104-66, which is set forth post in part XII of this compilation, provides that certain provisions of law requiring submittal to Congress of an annual, semiannual, or other regular periodic report shall cease to be effective on May 15, 2000. This subsection is covered by such provision. However, section 1102 of the American Homeownership and Economic Opportunity Act of 2000, Public Law 106-569, which is set forth post in part XII of this compilation, provides that such section 3003(a)(1) shall not apply to the report required to be submitted under this subsection.

[34] Section 8(a) of the GAO Human Capital Reform Act, Public Law 108-271, 118 Stat. 814, approved July 7, 2004, 31 U.S.C. 702 note, redesignated the General Accounting Office as the Government Accountability Office. Subsection (b) of such section provides that "[a]ny reference to the General Accounting Office in any law, rule, regulation, certificate, directive, instruction, or other official paper in force on the date of enactment of this Act shall be considered to refer and apply to the Government Accountability Office.".

(d) The corporation shall prepare annually a business-type budget which shall be submitted to the Office of Management and Budget, under such rules and regulations as the President may establish as to the date of submission, the form and content, the classifications of data, and the manner in which such budget program shall be prepared and presented. The budget of the corporation as modified, amended, or revised by the President shall be transmitted to the Congress as a part of the annual budget required by chapter 11 of title 31, United States Code. Amendments to the annual budget program may be submitted from time to time.

END OF STATUTE

NATIONAL URBAN POLICY

HOUSING AND URBAN DEVELOPMENT ACT OF 1970
[Public Law 91-609; 84 Stat. 1791; 42 U.S.C. 4501-4503]

Sec. 701. [42 U.S.C. 4501]
SHORT TITLE.

(a) This title may be cited as "National Urban Policy and New Community Development Act of 1970". [42 U.S.C. 4501 note]

(b) It is the policy of the Congress and the purpose of this title to provide for the development of a national urban policy and to encourage the rational, orderly, efficient, and economic growth, development, and redevelopment of our States, metropolitan areas, cities, counties, towns, and communities in predominantly rural areas which demonstrate a special potential for accelerated growth; to encourage the prudent use and conservation of energy and our natural resources; and to encourage and support development which will assure our communities and their residents of adequate tax bases, community services, job opportunities, and good housing in well-balanced neighborhoods in socially, economically, and physically attractive living environments.

PART A—DEVELOPMENT OF A NATIONAL URBAN POLICY

Sec. 702. [42 U.S.C. 4502]
CONGRESSIONAL FINDINGS AND DECLARATION OF POLICY.

(a) The Congress finds that rapid changes in patterns of urban settlement, including change in population distribution and economic bases of urban areas, have created an imbalance between the Nation's needs and resources and seriously threaten our physical and social environment, and the financial viability of our cities, and that the economic and social development of the Nation, the proper conservation of our energy and other natural resources, and the achievement of satisfactory living standards depend upon the sound, orderly, and more balanced development of all areas of the Nation.

(b) The Congress further finds that Federal programs affect the location of population, economic growth, and the character of urban development; that such programs frequently conflict and result in undesirable and costly patterns of urban development and redevelopment which adversely affect the environment and wastefully use energy and other natural resources; and that existing and future programs must be interrelated and coordinated within a system of orderly development and established priorities consistent with a national urban policy.

(c) To promote the general welfare and properly apply the resources of the Federal Government in strengthening the economic and social health of all areas of the Nation and more adequately protect the physical environment and conserve energy and other natural resources, the Congress declares that the Federal Government, consistent with the responsibilities of State and local government and the private sector, must assume responsibility for the development of a national urban policy which shall incorporate social, economic, and other appropriate factors. Such policy shall serve as a guide in making specific decisions at the national level which affect the pattern of urban development and redevelopment and shall provide a framework for development of interstate, State, and local urban policy.

(d) The Congress further declares that the national urban policy should—

(1) favor patterns of urbanization and economic development and stabilization which offer a range of alternative locations and encourage the wise and balanced use of physical and human resources in metropolitan and urban regions as well as in smaller urban places which have a potential for accelerated growth;

(2) foster the continued economic strength of all parts of the United States, including central cities, suburbs, smaller communities, local neighborhoods, and rural areas;

(3) encourage patterns of development and redevelopment which minimize disparities among States, regions, and cities;

(4) treat comprehensively the problems of poverty and employment (including the erosion of tax bases, and the need for better community services and job opportunities) which are associated with disorderly urbanization and rural decline;

(5) develop means to encourage good housing for all Americans without regard to race or creed;

(6) refine the role of the Federal Government in revitalizing existing communities and encouraging planned, large-scale urban and new community development;

(7) strengthen the capacity of general governmental institutions to contribute to balanced urban growth and stabilization; and

(8) increase coordination among Federal programs that seek to promote job opportunities and skills, decent and affordable housing, public safety, access to health care, educational opportunities, and fiscal soundness for urban communities and their residents.

Sec. 703. [42 U.S.C. 4503]
NATIONAL URBAN POLICY REPORT.

(a) The President shall transmit to the Congress, not later than June 1, 1993, and not later than the first day of June of every odd-numbered year thereafter, a Report on National Urban Policy which shall contribute to the formulation of such a policy and in addition shall include—

(1) information, statistics, and significant trends relating to the pattern of urban development for the preceding two years;

(2) a summary of significant problems facing the United States as a result of urban trends and developments affecting the well-being of urban areas;

(3) an examination of the housing and related community development problems experienced by cities undergoing a growth rate which equals or exceeds the national average;

(4) an evaluation of the progress and the effectiveness of Federal efforts designed to meet such problems and to carry out the national urban policy;

(5) an assessment of the policies and structure of existing and proposed interstate planning and developments affecting such policy;

(6) a review of State, local, and private policies, plans, and programs relevent to such policy;

(7) current and foreseeable needs in the areas served by policies, plans, and programs designed to carry out such policy, and the steps being taken to meet such needs; and

(8)[35] recommendations for programs and policies for carrying out such policy, including such legislation and administrative actions as may be deemed necessary and desirable.

(b) The President may transmit from time to time to the Congress supplementary reports on urban growth which shall include such supplementary and revised recommendations as may be appropriate.

(c) To assist in the preparation of the National Urban Policy Report and any supplementary reports, the President may establish an advisory board, or seek the advice from time to time of temporary advisory boards, the members of whom shall be drawn from among private citizens familiar with the problems of urban areas, and from among Federal officials, Governors of States, mayors, county officials, members of State and local legislative bodies, and others qualified to assist in the preparation of such reports.

(d) REFERRAL.—The National Urban Policy Report shall, when transmitted to Congress, be referred in the Senate to the Committee on Banking, Housing, and Urban Affairs, and in the House of Representatives to the Committee on Banking, Finance and Urban Affairs.[36]

END OF STATUTE

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[35] Section 921(2)(B) of the Housing and Community Development Act of 1992, Pub. L. 102-550, provides that this paragraph is amended "by striking 'such' and all that follows through the end of the sentence and inserting 'legislative or administrative proposals—

'(A) to promote coordination among Federal programs to assist urban areas;

'(B) to enhance the fiscal capacity of fiscally distressed urban areas;

'(C) to promote job opportunities in economically distressed urban areas and to enhance the job skills of residents of such areas;

'(D) to generate decent and affordable housing;

'(E) to reduce racial tensions and to combat racial and ethnic violence in urban areas;

'(F) to combat urban drug abuse and drug-related crime and violence;

'(G) to promote the delivery of health care to low-income communities in urban areas;

'(H) to expand educational opportunities in urban areas; and

'(I) to achieve the goals of the national urban policy.'".

Because the word "such" appears in two places in this paragraph and the amendment does not specify which occurrence of the work to strike, the amendment could not be executed.

[36] Section 1(a) of Public Law 104-14, 109 Stat. 186, provides, in part, that "any reference in any provision of law enacted before January 4, 1995, to ... the Committee on Banking, Finance and Urban Affairs of the House of Representatives shall be treated as referring to the Committee on Banking and Financial Services of the House of Representatives". However, H. Res. 5, 107th Congress, agreed to on January 3, 2001, abolished the Committee on Banking and Financial Services and established the Committee on Financial Services, which has jurisdiction over many of the areas previously under the jurisdiction of the Committee on Banking and Financial Services.

JOHN HEINZ NEIGHBORHOOD DEVELOPMENT PROGRAM

HOUSING AND URBAN-RURAL RECOVERY ACT OF 1983
[Public Law 98-181; 97 Stat. 1172; 42 U.S.C. 5318a]

Sec. 123. [42 U.S.C. 5318a]
JOHN HEINZ NEIGHBORHOOD DEVELOPMENT PROGRAM.

(a) For the purposes of this section:

(1) The term "eligible neighborhood development activity" means—

(A) creating permanent jobs in the neighborhood;

(B) establishing or expanding businesses within the neighborhood;

(C) developing, rehabilitating, or managing neighborhood housing stock;

(D) developing delivery mechanisms for essential services that have lasting benefit to the neighborhood; or

(E) planning, promoting, or financing voluntary neighborhood improvement efforts.

(2) The term "eligible neighborhood development organization" means—

(A)(i) an entity organized as a private, voluntary, nonprofit corporation under the laws of the State in which it operates;

(ii) an organization that is responsible to residents of its neighborhood through a governing body, not less than 51 per centum of the members of which are residents of the area served;

(iii) an organization that has conducted business for at least one year prior to the date of application for participation;

(iv) an organization that operates within an area that—

(I) meets the requirements for Federal assistance under section 119 of the Housing and Community Development Act of 1974;

(II) is designated as an enterprise zone under Federal law;

(III) is designated as an enterprise zone under State law and recognized by the Secretary for purposes of this section as a State enterprise zone; or

(IV) is a qualified distressed community within the meaning of section 233(b)(1) of the Bank Enterprise Act of 1991; and

(v) an organization that conducts one or more eligible neighborhood development activities that have as their primary beneficiaries low- and moderate-income persons, as defined in section 102(a)(2) of the Housing and Community Development Act of 1974; or

(B) any facility that provides small entrepreneurial business with affordable shared support services and business development services and meets the requirements of subparagraph (A).

(3) The term "neighborhood development funding organization" means—

(A) a depository institution the accounts of which are insured pursuant to the Federal Deposit Insurance Act or the Federal Credit Union Act, and any subsidiary (as such term is defined in section 3(w) of the Federal Deposit Insurance Act) thereof;

(B) a depository institution holding company and any subsidiary thereof (as such term is defined in section 3(w) of the Federal Deposit Insurance Act); or

(C) a company at least 75 percent of the common stock of which is owned by one or more insured depository institutions or depository institution holding companies.

(4) The term "Secretary" means the Secretary of Housing and Urban Development.

(b)(1) The Secretary shall carry out, in accordance with this section, a program to support eligible neighborhood development activities by providing Federal matching funds to eligible neighborhood development organizations on the basis of the monetary support such organizations have received from individuals, businesses, and nonprofit or other organizations in their neighborhoods, and from neighborhood development funding organizations, prior to receiving assistance under this section.

(2) The Secretary shall accept applications from eligible neighborhood development organizations for participation in the program. Eligible organizations may participate in more than one year of the program, but shall be required to submit a new application and to compete in the selection process for each

program year. For fiscal year 1993 and thereafter, not more than 50 percent of the grants may be for multiyear awards.

(3) From the pool of eligible neighborhood development organizations submitting applications for participation in a given program year, the Secretary shall select participating organizations in an appropriate number through a competitive selection process. To be selected, an applicant shall—

(A) have demonstrated measurable achievements in one or more of the activities specified in subsection (a)(1);

(B) specify a business plan for accomplishing one or more of the activities specified in subsection (a)(1);

(C) specify a strategy for achieving greater long term private sector support, especially in cooperation with a neighborhood development funding organization, except that an eligible neighborhood development organization shall be deemed to have the full benefit of the cooperation of a neighborhood development funding organization if the eligible neighborhood development organization—

(i) is located in an area described in subsection (a)(2)(A)(iv) that does not contain a neighborhood development funding organization; or

(ii) demonstrates to the satisfaction of the Secretary that it has been unable to obtain the cooperation of any neighborhood development funding organization in such area despite having made a good faith effort to obtain such cooperation; and

(D) specify a strategy for increasing the capacity of the organization.

(c) The Secretary shall award grants under this section among the eligible neighborhood development organizations submitting applications for such grants on the basis of—

(1) the degree of economic distress of the neighborhood involved;

(2) the extent to which the proposed activities will benefit persons of low and moderate income;

(3) the extent of neighborhood participation in the proposed activities, as indicated by the proportion of the households and businesses in the neighborhood involved that are members of the eligible neighborhood development organization involved and by the extent of participation in the proposed activities by a neighborhood development funding organization that has a branch or office in the neighborhood, except that an eligible neighborhood development organization shall be deemed to have the full benefit of the participation of a neighborhood development funding organization if the eligible neighborhood development organization—

(A) is located in an[37] neighborhood that does not contain a branch or office of a neighborhood development funding organization; or

(B) demonstrates to the satisfaction of the Secretary that it has been unable to obtain the participation of any neighborhood development funding organization that has a branch or office in the neighborhood despite having made a good faith effort to obtain such participation; and

(4) the extent of voluntary contributions available for the purpose of subsection (e)(4), except that the Secretary shall waive the requirement of this subparagraph in the case of an application submitted by a small eligible neighborhood development organization, an application involving activities in a very low-income neighborhood, or an application that is especially meritorious.

(d) The Secretary shall consult with an informal working group representative of eligible neighborhood organizations with respect to the implementation and evaluation of the program established in this section.

(e)(1) The Secretary shall assign each participating organization a defined program year, during which time voluntary contributions from individuals, businesses, and nonprofit or other organizations in the neighborhood, and from neighborhood development funding organizations, shall be eligible for matching.

(2) Subject to paragraph (3), at the end of each three-month period occurring during the program year, the Secretary shall pay to each participating neighborhood development organization the product of—

(A) the aggregate amount of voluntary contributions that such organization certifies to the satisfaction of the Secretary it received during such three-month period; and

(B) the matching ratio established for such test neighborhoods under paragraph (4).

(3) The Secretary shall pay not more than $50,000 under this section to any participating neighborhood development organization during a single program year, except that, if appropriations for this section exceed $3,000,000, the Secretary may pay not more than $75,000 to any participating neighborhood development organization.

[37] So in law.

(4) For purposes of paragraph (2), the Secretary shall, for each participating organization, determine an appropriate ratio by which monetary contributions made to participating neighborhood development organizations will be matched by Federal funds. The highest such ratios shall be established for neighborhoods having the smallest number of households or the greatest degree of economic distress.

(5) The Secretary shall insure that—

(A) grants and other forms of assistance may be made available under this section only if the application contains a certification by the unit of general local government within which the neighborhood to be assisted is located that such assistance is not inconsistent with the comprehensive housing affordability strategy of such unit approved under section 105 of the Cranston-Gonzalez National Affordable Housing Act or the statement of community development activities and community development plans of the unit submitted under section 104(m) of the Housing and Community Development Act of 1974, except that the failure of a unit of general local government to respond to a request for a certification within thirty days after the request is made shall be deemed to be a certification; and

(B) eligible neighborhood development activities comply with all applicable provisions of the Civil Rights Act of 1964.

(6) To carry out this section, the Secretary—

(A) may issue regulations as necessary;

(B) shall utilize, to the fullest extent practicable, relevant research previously conducted by Federal agencies, State and local governments, and private organizations and persons;

(C) shall disseminate information about the kinds of activities, forms of organizations, and fund-raising mechanisms associated with successful programs; and

(D) may use not more than 5 per centum of the funds appropriated for administrative or other expenses in connection with the program.

(f) AUTHORIZATION.—Of the amounts made available for assistance under section 103 of the Housing and Community Development Act of 1974, $1,000,000 for fiscal year 1993 (in addition to other amounts provided for such fiscal year) and $3,000,000 for fiscal year 1994 shall be available to carry out this section.

(g) [42 U.S.C. 5318 note] SHORT TITLE.—This section may be cited as the “John Heinz Neighborhood Development Act”.

END OF STATUTE

COMMUNITY OUTREACH PARTNERSHIP DEMONSTRATION

HOUSING AND COMMUNITY DEVELOPMENT ACT OF 1992
[Public Law 102-550; 106 Stat. 3855; 42 U.S.C. 5307 note]

Sec. 851. [42 U.S.C. 5307 note]
COMMUNITY OUTREACH ACT.

(a) SHORT TITLE.—This section may be cited as the "Community Outreach Partnership Act of 1992".

(b) PURPOSE.—The Secretary shall carry out, in accordance with this section, a 5-year demonstration program to determine the feasibility of facilitating partnerships between institutions of higher education and communities to solve urban problems through research, outreach, and the exchange of information.

(c) GRANT PROGRAM.—

(1) IN GENERAL.—The Secretary is authorized to make grants to public and private nonprofit institutions of higher education to assist in establishing or carrying out research and outreach activities addressing the problems of urban areas.

(2) USE OF GRANTS.—Grants under this Act[38] shall be used to establish and operate Community Outreach Partnership Centers (hereafter in this section referred to as "Centers") which shall—

(A) conduct competent and qualified research and investigations on theoretical or practical problems in large and small cities; and

(B) facilitate partnerships and outreach activities between institutions of higher education, local communities, and local governments to address urban problems.

(3) SPECIFIC PROBLEMS.—Research and outreach activities assisted under this Act[39] shall focus on problems associated with housing, economic development, neighborhood revitalization, infrastructure, health care, job training, education, crime prevention, planning, community organizing, and other areas deemed appropriate by the Secretary.

(d) APPLICATION.—Any public or private nonprofit institution of higher education may submit an application for a grant under this section in such form and containing such information as the Secretary may require by regulation.

(e) SELECTION CRITERIA.—

(1) IN GENERAL.—The Secretary shall select recipients of grants under this section on the basis of the following criteria:

(A) The demonstrated research and outreach resources available to the applicant for carrying out the purposes of this section.

(B) The capability of the applicant to provide leadership in solving community problems and in making national contributions to solving long-term and immediate urban problems.

(C) The demonstrated commitment of the applicant to supporting urban research and outreach programs by providing matching contributions for any Federal assistance received.

(D) The demonstrated ability of the applicant to disseminate results of research and successful strategies developed through outreach activities to other Centers and communities served through the demonstration program.

(E) The projects and activities that the applicant proposes to carry out under the grant.

(F) The effectiveness of the applicant's strategy to provide outreach activities to communities.

(G) The extent of need in the communities to be served by the Centers.

(H) Other criteria deemed appropriate by the Secretary.

(2) PREFERENCE.—The Secretary shall give preference to institutions of higher education that undertake research and outreach activities by bringing together knowledge and expertise in the various social science and technical disciplines that relate to urban problems.

(f) FEDERAL SHARES.—The Federal share of a grant under this section shall not be more than—

(1) 50 percent of the cost of establishing and operating a Center's research activities; and

(2) 75 percent of the cost of establishing and operating a Center's outreach activities.

[38] So in law. Probably intended to refer to this section.
[39] So in law. Probably intended to refer to this section.

(g) NON-FEDERAL SHARES.—The non-Federal share of a grant may include cash, or the value of non-cash contributions, equipment, or other in-kind contributions deemed appropriate by the Secretary.

(h) RESPONSIBILITIES.—A Center established under this section shall—

(1) employ the research and outreach resources of its sponsoring institution of higher education to solve specific urban problems identified by communities served by the Center;

(2) establish outreach activities in areas identified in the grant application as the communities to be served;

(3) establish a community advisory committee comprised of representatives of local institutions and residents of the communities to be served to assist in identifying local needs and advise on the development and implementation of strategies to address those issues;

(4) coordinate outreach activities in communities to be served by the Center;

(5) facilitate public service projects in the communities served by the Center;

(6) act as a clearinghouse for the dissemination of information;

(7) develop instructional programs, convene conferences, and provide training for local community leaders, when appropriate; and

(8) exchange information with other Centers.

(i) NATIONAL ADVISORY COUNCIL.—

(1) ESTABLISHMENT.—The Secretary shall establish a national advisory council (hereafter in this section referred to as the "council") to—

(A) disseminate the results of research and outreach activities carried out under this section;

(B) act as a clearinghouse between grant recipients and other institutions of higher education; and

(C) review and evaluate programs carried out by grant recipients.

(2) MEMBERS.—The council shall be composed of 12 members to be appointed by the Secretary as follows—

(A) 3 representatives of State and local governments;

(B) 3 representatives of institutions of higher education that receive grants under this section;

(C) 3 individuals or representatives of organizations that possess significant expertise in urban issues; and

(D) 3 representatives from community advisory committees created pursuant to this section.

(3) VACANCIES.—A vacancy in the membership of the council shall be filled in the manner in which the original appointment was made.

(4) COMPENSATION.—Members of the council shall serve without pay.

(5) CHAIRMAN.—The council shall elect a member to serve as chairperson of the council.

(6) MEETINGS.—The council shall meet at least biannually and at such other times as the chairman may designate.

(j) NATIONAL CLEARINGHOUSE.—The Secretary shall establish a national clearinghouse to disseminate information resulting from the research and successful outreach activities developed through the Centers to grant recipients and other interested institutions of higher education.

(k) AUTHORIZATIONS.—The sums set aside by section 107 of the Housing and Community Development Act of 1974 for the purpose of this section shall be available—

(1) to enable Centers to carry out research and outreach activities;

(2) to establish and operate the national clearinghouse to be established under subsection (j).

(l) REPORTING.—

(1) IN GENERAL.—The Secretary of Housing and Urban Development shall submit an annual report to the Committee on Banking, Housing, and Urban Affairs of the Senate and the Committee on Banking, Finance and Urban Affairs of the House of Representatives[40].

[40] Section 1(a) of Public Law 104-14, 109 Stat. 186, provides, in part, that "any reference in any provision of law enacted before January 4, 1995, to ... the Committee on Banking, Finance and Urban Affairs of the House of Representatives shall be treated as referring to the Committee on Banking and Financial Services of the House of Representatives". However, H. Res. 5, 107th Congress, agreed to on January 3, 2001, abolished the Committee on Banking and Financial Services and established the Committee on Financial Services, which has jurisdiction over many of the areas previously under the jurisdiction of the Committee on Banking and Financial Services.

(2) CONTENTS.—The report under paragraph (1) shall contain a summary of the activities carried out under this section during the preceding fiscal year, and findings and conclusions drawn from such activities.

END OF STATUTE

COMMUNITY INVESTMENT CORPORATION DEMONSTRATION

HOUSING AND COMMUNITY DEVELOPMENT ACT OF 1992
[Public Law 102-550; 106 Stat. 3859; 42 U.S.C. 5305 note]

Sec. 853. [42 U.S.C. 5305 note]
COMMUNITY INVESTMENT CORPORATION DEMONSTRATION.

(a) SHORT TITLE.—This section may be cited as the "Community Investment Corporation Demonstration Act".

(b) COMMUNITY INVESTMENT CORPORATION DEMONSTRATION.—

(1) FINDINGS.—The Congress finds that—

(A) the Nation's urban and rural communities face critical social and economic problems arising from lack of growth; growing numbers of low-income persons and persons living in poverty; lack of employment and other opportunities to improve the quality of life of these residents; and lack of capital for business located in, or seeking to locate in these communities;

(B) the future well-being of the United States and its residents depends on the restoration and maintenance of viable local economies, and will require increased public and private investment in low-income housing, business development, and economic and community development activities, and technical assistance to local organizations carrying out revitalization strategies;

(C) lack of expertise and technical capacity can significantly limit the ability of residents and local institutions to effectively carry out revitalization strategies;

(D) the Federal Government needs to develop new models for facilitating local revitalization activities;

(E) indigenous community-based financial institutions play a significant role in identifying and responding to community needs; and

(F) institutions, such as South Shore Bank (Chicago, Illinois), Southern Development Bancorporation (Arkadelphia, Arkansas), Center for Community Self Help (Durham, North Carolina), and Community Capital Bank (Brooklyn, New York), with a primary mission of promoting community development have proven their ability to promote revitalization and are appropriate models for restoring economic stability and growth in distressed communities and neighborhoods.

(2) PURPOSES.—The demonstration program carried out under this section shall—

(A) improve access to capital for initiatives which benefit residents and businesses in targeted geographic areas; and

(B) test new models for bringing credit and investment capital to targeted geographic areas and low-income persons in such areas through the provision of assistance for capital, development services, and technical assistance.

(3) DEFINITIONS.—As used in this section—

(A) the term "Federal financial supervisory agency" means—

(i) the Comptroller of the Currency with respect to national banks;

(ii) the Board of Governors of the Federal Reserve System with respect to State-chartered banks which are members of the Federal Reserve System and bank holding companies;

(iii) the Federal Deposit Insurance Corporation with respect to State-chartered banks and savings banks which are not members of the Federal Reserve System and the deposits of which are insured by the Federal Deposit Insurance Corporation;

(iv) the National Credit Union Administration Board with respect to insured credit union associations; and

(v) the Office of Thrift Supervision with respect to insured savings associations and savings and loan holding companies that are not bank holding companies;

(B) the term "community investment corporation" means an eligible organization selected by the Secretary to receive assistance pursuant to this section;

(C) the term "development services" means activities that are consistent with the purposes of this section and which support and strengthen the lending and investment activities undertaken by eligible organizations including—

(i) the development of real estate;

(ii) administrative activities associated with the extension of credit or necessary to make an investment;

(iii) marketing and management assistance;

(iv) business planning and counseling services; and

(v) other capacity building activities which enable borrowers, prospective borrowers, or entities in which eligible organizations have invested, or expect to invest, to improve the likelihood of success of their activities;

(D) the term "eligible organization" means an entity—

(i) that is organized as—

(I) a depository institution holding company as defined in section 3 of the Federal Deposit Insurance Act (12 U.S.C. 1813); or

(II) a nonprofit organization—

(aa) that is organized under State law;

(bb) has no part of its net earnings inuring to the benefit of any member, founder, contributor, or other person;

(cc) complies with standards of financial accountability acceptable to the Secretary; and

(dd) is affiliated with a nondepository lending institution; or is affiliated with a regulated financial institution but is not a subsidiary thereof;

(ii) that has as its primary mission the revitalization of a targeted geographic area;

(iii) that maintains, through significant representation on its governing board and otherwise, accountability to community residents;

(iv) that has principals active in the implementation of its programs who possess significant experience in lending and the development of affordable housing, small business development, or community revitalization;

(v) that directly or through a subsidiary or affiliate carries out development services; and

(vi) that will match any assistance received dollar-for-dollar with non-Federal sources of funds;

(E) the term "equity investment" means a capital contribution through the purchase of nonvoting common stock or through equity grants or contributions to capital reserves or surplus, subject to terms and conditions satisfactory to the Secretary;

(F) the term "low-income person" means a person in a family whose income does not exceed 80 percent of the median income for the area, as determined by the Secretary with adjustments for smaller and larger families;

(G) the term "regulated financial institution" means an insured depository institution (as defined in section 3 of the Federal Deposit Insurance Act (12 U.S.C. 1813), or an insured credit union as defined in section 101 of the Federal Credit Union Act (12 U.S.C. 1752));

(H) the term "Secretary" means the Secretary of Housing and Urban Development;

(I) the term "targeted geographic area" means a geographically contiguous area of chronic economic distress, as measured by unemployment, growth lag, poverty, lag in growth of per capita income, extent of blight and disinvestment, fiscal distress, or other indicators deemed appropriate by the Secretary, that has been identified by an eligible organization as the area to be served by it; and

(J) an entity is an "affiliate" of another entity if the first entity controls, is controlled by, or is under common control with the other entity.

(4) SELECTION CRITERIA.—The Secretary shall select eligible organizations from among applications submitted to participate in the demonstration program, using selection criteria based on—

(A) the capacity of the eligible organizations to carry out the purposes of this section;

(B) the range and comprehensiveness of lending, investment strategies, and development services to be offered by the organizations directly or through subsidiaries and affiliates thereof;

(C) the types of activities to be pursued, including lending and development of small business, agriculture, industrial, commercial, or residential projects;

(D) the extent of need in the targeted geographic area to be served;

(E) the experience and background of the principals at each eligible organization responsible for carrying out the purposes of this section;

(F) the extent to which the eligible organizations directly or through subsidiaries and affiliates has successfully implemented other revitalization activities;

(G) an appropriate distribution of eligible organizations among regions of the United States; and

(H) other criteria determined to be appropriate by the Secretary and consistent with the purposes of this section.

(5) PROGRAM ASSISTANCE.—The Secretary shall—

(A) carry out, in accordance with this section, a program to improve access to capital and demonstrate the feasibility of facilitating the revitalization of targeted geographic areas by providing assistance to eligible organizations;

(B) accept applications from eligible organizations; and

(C) select eligible organizations to receive assistance pursuant to this section.

(6) ACTIVITIES REQUIRED.—All eligible organizations receiving assistance pursuant to this section are required to engage in activities that provide access to capital for initiatives which benefit residents and businesses in targeted geographic areas.

(7) CAPITAL ASSISTANCE.—

(A) IN GENERAL.—

(i) IN GENERAL.—The Secretary shall make grants and loans to eligible organizations.

(ii) LOANS.—Assistance provided to a depository institution holding company that is an eligible organization as defined in paragraph (3)(D)(i)(I) shall be in the form of a loan to be repaid to the Secretary. The terms and conditions of each loan shall be determined by the Secretary based on the ability of such entity to repay, except that interest shall accrue at the current Treasury rate for obligations of comparable maturity.

(iii) GRANTS OR LOANS.—Assistance provided to an eligible organization that is a nonprofit organization, as defined in paragraph (3)(D)(i)(II), may be in the form of a grant or a loan. If an eligible organization that is a nonprofit organization uses assistance that it received under this section to provide assistance to a for-profit entity, the assistance provided by the nonprofit organization must be in the form of a loan with interest to be repaid to the nonprofit organization and the nonprofit organization must use the proceeds of the loan for activities consistent with this section.

(B) ELIGIBLE ACTIVITIES.—Capital assistance may only be used to support the following activities that facilitate revitalization of targeted geographic areas or that provide economic opportunities for low-income persons—

(i) increasing the capital available for the purpose of making loans;

(ii) providing funds for equity investments in projects;

(iii) providing a portion of loan loss reserves of regulated financial institutions; and

(iv) providing credit enhancement.

(C) CAPITAL REQUIREMENTS.—Any investment derived from assistance provided by the Secretary and made by an eligible organization to a regulated financial institution shall not be included as an asset in calculating compliance with applicable capital standards. Such standards shall be satisfied from sources other than assistance provided under this section.

(D) AUTHORIZATION.—There are authorized to be appropriated to carry out this paragraph $25,000,000 for fiscal year 1993 and $26,000,000 for fiscal year 1994 to be used to provide capital assistance to eligible organizations. Funds appropriated pursuant to this subparagraph shall remain available until expended.

(8) DEVELOPMENT SERVICES AND TECHNICAL ASSISTANCE GRANTS.—

(A) IN GENERAL.—The Secretary shall—

(i) provide grants or loans to eligible organizations for the provision of development services that support and contribute to the success of the mission of such organizations; and

(ii) provide, or contract to provide, technical assistance to eligible organizations to assist in establishing program activities that are consistent with the purposes of this section.

(B) AUTHORIZATION.—There are authorized to be appropriated to carry out this paragraph, $15,000,000 for fiscal year 1993 and $15,600,000 for fiscal year 1994. Funds appropriated pursuant to this subparagraph shall remain available until expended.

(9) TRAINING PROGRAM.—

(A) IN GENERAL.—The Secretary shall establish, or contract to establish, an ongoing training program to assist eligible organizations and their staffs in developing the capacity to carry out the purposes of this section.

(B) AUTHORIZATION.—There are authorized to be appropriated to carry out this paragraph $2,000,000 for fiscal year 1993 and $2,100,000 for fiscal year 1994. Funds appropriated pursuant to this subparagraph shall remain available until expended.

(10) REPORTS.—The Secretary shall determine the appropriate reporting requirements with which eligible organizations receiving assistance under this section must comply.

(11) ADVISORY BOARD.—

(A) IN GENERAL.—In establishing requirements to carry out the provisions of this section, and in considering applications under this section, the Secretary shall consult with an advisory board comprised of the following members:

(i) the Administrator of the Small Business Administration;

(ii) two representatives from among the Federal financial supervisory agencies who possess expertise in matters related to extending credit to persons in low-income communities;

(iii) two representatives of organizations that possess expertise in development of low-income housing;

(iv) two representatives of organizations that possess expertise in economic development;

(v) two representatives of organizations that possess expertise in small business development;

(vi) two representatives from organizations that possess expertise in the needs of low-income communities; and

(vii) two representatives from community investment corporations receiving assistance under this section.

(B) CHAIRPERSON.—The Board shall elect from among its members a chairperson who shall serve for a term of 2 years.

(C) TERMS.—The members shall serve for terms of 3 years which shall expire on a staggered basis.

(D) REIMBURSEMENT.—The members shall serve without additional compensation but shall be reimbursed for travel, per diem, and other necessary expenses incurred in the performance of their duties as members of the advisory board, in accordance with sections 5702 and 5703 of title 5, United States Code.

(E) DESIGNATED REPRESENTATIVES.—A member who is necessarily absent from a meeting of the board, or of a committee of the board, may participate in such meeting through a duly designated representative who is serving in the same agency or organization as the absent member.

(F) QUORUM.—The presence of a majority of members, or their representatives, shall constitute a quorum.

(12) EVALUATION AND REPORT.—The Secretary shall submit to the Committee on Banking, Housing, and Urban Affairs of the Senate and the Committee on Banking, Finance and Urban Affairs of the House of Representatives[41] an annual report containing a summary of the activities carried out under this

[41] Section 1(a) of Public Law 104-14, 109 Stat. 186, provides, in part, that "any reference in any provision of law enacted before January 4, 1995, to ... the Committee on Banking, Finance and Urban Affairs of the House of Representatives shall be treated as referring to the Committee on

section during the fiscal year and any preliminary findings or conclusions drawn from the demonstration program.

(13) NO BENEFIT RULE.—To the extent that assistance is provided to an eligible organization that is a depository institution holding company, the Secretary shall ensure, to the extent practicable, that such assistance does not inure to the benefit of directors, officers, employees and stockholders.

(14) REGULATIONS.—(A) The Secretary shall issue such regulations as may be necessary to carry out the provisions of this subsection.

(B) The appropriate Federal financial supervisory agency, by regulation or order—

(i) may restrict any regulated financial institution's receipt of an extension of credit from, or investment by, an eligible organization;

(ii) may restrict the making, by a regulated financial institution or holding company, of an extension of credit to, or investment in, an eligible organization; and

(iii) shall prohibit any transaction that poses an undue risk to the affected deposit insurance fund.

(C) To the extent practicable, the Secretary and the Federal financial supervisory agencies shall coordinate the development of regulations and other program guidelines.

(15) SAFETY AND SOUNDNESS OF INSURED DEPOSITORIES.—Nothing in this section shall limit the applicability of other law relating to the safe and sound operation and management of a regulated financial institution (or a holding company) affiliated with an eligible organization or receiving assistance provided under this section.

(16) EFFECTIVE DATE.—This section shall become effective 6 months from the date of enactment of this Act.[42]

END OF STATUTE

Banking and Financial Services of the House of Representatives". However, H. Res. 5, 107th Congress, agreed to on January 3, 2001, abolished the Committee on Banking and Financial Services and established the Committee on Financial Services, which has jurisdiction over many of the areas previously under the jurisdiction of the Committee on Banking and Financial Services.

[42] The date of enactment was October 28, 1992.

ENTERPRISE ZONE DEVELOPMENT

HOUSING AND COMMUNITY DEVELOPMENT ACT OF 1987
[Public Law 100-242; 101 Stat. 1957; 42 U.S.C. 11501-11505]

Sec. 701. [42 U.S.C. 11501]
DESIGNATION OF ENTERPRISE ZONES.

(a) DESIGNATION OF ZONES.—

(1) DEFINITION.—For purposes of this section, the term "enterprise zone" means any area that—

(A) is nominated by one or more local governments and the State or States in which it is located for designation as an enterprise zone (in this section referred to as a "nominated area"); and

(B) the Secretary of Housing and Urban Development designates as an enterprise zone, after consultation with—

(i) the Secretaries of Agriculture, Commerce, Labor, and the Treasury, the Director of the Office of Management and Budget, and the Administrator of the Small Business Administration; and

(ii) in the case of an area on an Indian reservation, the Secretary of the Interior.

(2) NUMBER OF DESIGNATIONS.—

(A) IN GENERAL.—The Secretary of Housing and Urban Development may designate not more than 100 nominated areas as enterprise zones.

(B) MINIMUM DESIGNATION IN RURAL AREAS.—Of the areas designated under subparagraph (A), not less than \1/3\ shall be areas that—

(i) are within a local government jurisdiction or jurisdictions with a population of less than 50,000 (as determined under the most recent census data available);

(ii) are outside of a metropolitan statistical area (as designated by the Director of the Office of Management and Budget); or

(iii) that are determined by the Secretary, after consultation with the Secretary of Commerce, to be rural areas.

(3) AREAS DESIGNATED BASED SOLELY ON DEGREE OF POVERTY.—

(A) IN GENERAL.—Except as provided in subparagraph (B), the Secretary shall designate (i) the nominated areas with the highest average ranking with respect to the criteria set forth in subparagraphs (C) and (D) of subsection (c)(3), and the 1 criterion set forth in subparagraph (E)(i) or (E)(ii) of subsection (c)(3) that gives an area a higher ranking; and (ii) for areas described in paragraph (2)(B), the nominated areas with the highest ranking with respect to the 1 criterion set forth in subparagraph (C), (D), (E)(i), or (E)(ii) of subsection (c)(3) that gives an area a higher ranking. For purposes of the preceding sentence, an area shall be ranked within each such criterion on the basis of the amount by which the area exceeds such criterion, with the area that exceeds such criterion by the greatest amount given the highest ranking.

(B) EXCEPTION WHERE INADEQUATE COURSE OF ACTION, ETC.—An area shall not be designated under subparagraph (A) if the Secretary determines that the course of action with respect to such area is inadequate.

(C) SEPARATE APPLICATION TO RURAL AND OTHER AREAS.—Subparagraph (A) shall be applied separately with respect to areas described in paragraph (2)(B) and to other areas.

(4) LIMITATION ON DESIGNATIONS.—

(A) PUBLICATION OF REGULATIONS.—Before designating any area as an enterprise zone, the Secretary shall prescribe by regulation not later than 4 months following the date of the enactment of this Act,[43] after consultation with the officials described in paragraph (1)(B)—

(i) the procedures for nominating an area under paragraph (1)(A);

(ii) the parameters relating to the size and population characteristics of an enterprise zone; and

[43] The date of enactment was February 5, 1988.

(iii) the manner in which nominated areas will be evaluated based on the criteria specified in subsection (d).

(B) TIME LIMITATIONS.—The Secretary shall designate nominated areas as enterprise zones only during the 24-month period beginning on the 1st day of the 1st month following the month in which the date of the enactment of the Housing and Community Development Act of 1992 occurs.[44]

(C) PROCEDURAL RULES.—The Secretary shall not make any designation under paragraph (1) unless—

(i) the local governments and the State in which the nominated area is located have the authority—

(I) to nominate such area for designation as an enterprise zone;

(II) to make the State and local commitments under subsection (d); and

(III) to provide assurances satisfactory to the Secretary that such commitments will be fulfilled;

(ii) a nomination therefor is submitted in such a manner and in such form, and contains such information, as the Secretary shall by regulation prescribe;

(iii) the Secretary determines that any information furnished is reasonably accurate; and

(iv) the State and local governments certify that no portion of the area nominated is already included in an enterprise zone or in an area otherwise nominated to be an enterprise zone.

(5) NOMINATION PROCESS FOR INDIAN RESERVATIONS.—In the case of a nominated area on an Indian reservation, the reservation governing body (as determined by the Secretary of the Interior) shall be deemed to be both the State and local governments with respect to such area.

(b) PERIOD FOR WHICH DESIGNATION IS IN EFFECT.—

(1) IN GENERAL.—Any designation of an area as an enterprise zone shall remain in effect during the period beginning on the date of the designation and ending on the earliest of—

(A) December 31 of the 24th calendar year following the calendar year in which such date occurs;

(B) the termination date designated by the State and local governments as provided for in their nomination pursuant to subsection (a)(4)(C)(ii); or

(C) the date the Secretary revokes such designation under paragraph (2).

(2) REVOCATION OF DESIGNATION.—The Secretary, after consultation with the officials described in subsection (a)(1)(B) and a hearing on the record involving officials of the State or local government involved, may revoke the designation of an area if the Secretary determines that the local government or the State in which it is located is not complying substantially with the State and local commitments pursuant to subsection (d).

(c) AREA AND ELIGIBILITY REQUIREMENTS.—

(1) IN GENERAL.—The Secretary may make a designation of any nominated area under subsection (a)(1) only if it meets the requirements of paragraphs (2) and (3).

(2) AREA REQUIREMENTS.—A nominated area meets the requirements of this paragraph if—

(A) the area is within the jurisdiction of the local government;

(B) the boundary of the area is continuous; and

(C) the area—

(i) has a population, as determined by the most recent census data available, of not less than—

(I) 4,000 if any portion of such area (other than a rural area described in subsection (a)(2)(B)(i)) is located within a metropolitan statistical area (as designated by the Director of the Office of Management and Budget) with a population of 50,000 or more; or

(II) 1,000 in any other case; or

(ii) is entirely within an Indian reservation (as determined by the Secretary of the Interior).

[44] The date of enactment was October 28, 1992.

(3) ELIGIBILITY REQUIREMENTS.—For purposes of paragraph (1), a nominated area meets the requirements of this paragraph if the State and local governments in which it is located certify and the Secretary, after such review of supporting data as he deems appropriate, accepts such certification, that—

(A) the area is one of pervasive poverty, unemployment, and general distress;

(B) the area is located wholly within the jurisdiction of a local government that is eligible for Federal assistance under section 119 of the Housing and Community Development Act of 1974, as in effect on the date of the enactment of the Housing and Community Development Act of 1992;[45]

(C) the unemployment rate, as determined by the appropriate available data, was not less than 1.5 times the national unemployment rate for that period;

(D) the poverty rate (as determined by the most recent census data available) for each populous census tract (or where not tracted, the equivalent county division as defined by the Bureau of the Census for the purpose of defining poverty areas) within the area was not less than 20 percent for the period to which such data relate; and

(E) the area meets at least one of the following criteria:

(i) Not less than 70 percent of the households living in the area have incomes below 80 percent of the median income of households of the local government (determined in the same manner as under section 119(b)(2) of the Housing and Community Development Act of 1974).

(ii) The population of the area decreased by 20 percent or more between 1970 and 1980 (as determined from the most recent census available).

(4) ELIGIBILITY REQUIREMENTS FOR RURAL AREAS.—For purposes of paragraph (1), a nominated area that is a rural area described in subsection (a)(2)(B) meets the requirements of paragraph (3) if the State and local governments in which it is located certify and the Secretary, after such review of supporting data as he deems appropriate, accepts such certification, that the area meets—

(A) the criteria set forth in subparagraphs (A) and (B) of paragraph (3); and

(B) not less than one of the criteria set forth in the other subparagraphs of paragraph (3).

(d) REQUIRED STATE AND LOCAL COMMITMENTS.—

(1) IN GENERAL.—No nominated area shall be designated as an enterprise zone unless the local government and the State in which it is located agree in writing that, during any period during which the area is an enterprise zone, such governments will follow a specified course of action designated to reduce the various burdens borne by employers or employees in such area. A course of action shall not be treated as meeting the requirements of this paragraph unless the course of action include provisions described in not less than 4 of the subparagraphs of paragraph (2).

(2) COURSE OF ACTION.—The course of action under paragraph (1) may be implemented by both such governments and private nongovernmental entities, may be funded from proceeds of any program administered by the Secretary of Housing and Urban Development or of any program administered by the Secretary of Agriculture under title V of the Housing Act of 1949, and may include, but is not limited to—

(A) a reduction of tax rates or fees applying within the enterprise zone;

(B) an increase in the level of public services, or in the efficiency of the delivery of public services, within the enterprise zone;

(C) actions to reduce, remove, simplify, or streamline paperwork requirements within the enterprise zone;

(D) involvement in the program by public authorities or private entities, organizations, neighborhood associations, and community groups, particularly those within the nominated area, including a written commitment to provide jobs and job training for, and technical, financial, or other assistance to, employers, employees, and residents of the nominated area;

(E) the giving of special preference to contractors owned and operated by members of any minority; and

(F) the gift (or sale at below fair market value) of surplus land in the enterprise zone to neighborhood organizations agreeing to operate a business on the land.

[45] October 28, 1992.

(3) RECOGNITION OF PAST EFFORTS.—In evaluating courses of action agreed to by any State or local government, the Secretary shall take into account the past efforts of such State or local government in reducing the various burdens borne by employers and employees in the area involved.

(4) PROHIBITION OF ASSISTANCE FOR BUSINESS RELOCATIONS.—

(A) IN GENERAL.—The course of action implemented under paragraph (1) may not include any action to assist—

(i) any establishment relocating from one area to another area; or

(ii) any subcontractor whose purpose is to divest, or whose economic success is dependent upon divesting, any other contractor or subcontractor of any contract customarily performed by such other contractor or subcontractor.

(B) EXCEPTION.—The limitations established in subparagraph (A) shall not be construed to prohibit assistance for the expansion of an existing business entity through the establishment of a new branch, affiliate, or subsidiary if the Secretary—

(i) finds that the establishment of the new branch, affiliate, or subsidiary will not result in an increase in unemployment in the area of original location or in any other area where the existing business entity conducts business operations; and

(ii) has no reason to believe that the new branch, affiliate, or subsidiary is being established with the intention of closing down the operations of the existing business entity in the area of its original location or in any other area where the existing business entity conducts business operations.

(e) DEFINITIONS.—For purposes of this section:

(1) GOVERNMENT.—If more than one government seeks to nominate an area as an enterprise zone, any reference to, or requirement of, this section shall apply to all such governments.

(2) LOCAL GOVERNMENT.—The term "local government" means—

(A) any county, city, town, township, parish, village, or other general purpose political subdivision of a State;

(B) any combination of political subdivisions described in subparagraph (A) recognized by the Secretary; and

(C) the District of Columbia.

(3) SECRETARY.—The term "Secretary" means the Secretary of Housing and Urban Development.

(4) STATE.—The term "State" includes Puerto Rico, the Virgin Islands, Guam, American Samoa, the Northern Mariana Islands, and any other possession of the United States.

Sec. 702. [42 U.S.C. 11502]
EVALUATION AND REPORTING REQUIREMENTS.

Not later than the close of the 4th calendar year after the year in which the Secretary of Housing and Urban Development first designates areas as enterprise zones pursuant to the amendments made by section 834 of the Housing and Community Development Act of 1992, and at the close of each 4th calendar year thereafter, the Secretary shall prepare and submit to the Congress a report on the effects of such designation in accomplishing the purposes of this title. 42 U.S.C. 11502

Sec. 703. [42 U.S.C. 11503]
INTERACTION WITH OTHER FEDERAL PROGRAMS.

(a) COORDINATION WITH RELOCATION ASSISTANCE.—The designation of an enterprise zone under section 701 shall not—

(1) constitute approval of a Federal or federally assisted program or project (within the meaning of the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 (42 U.S.C. 4601 et seq.)); or

(2) entitle any person displaced from real property located in such zone to any rights or any benefits under such Act.

(b) ENTERPRISE ZONES TREATED AS LABOR SURPLUS AREAS.—Any area that is designated as an enterprise zone under section 701 shall be treated for all purposes under Federal law as a labor surplus area.

Sec. 704. [42 U.S.C. 11504]
WAIVER OR MODIFICATION OF HOUSING AND COMMUNITY DEVELOPMENT RULES IN ENTERPRISE ZONES.

(a) IN GENERAL.—Upon the written request of the governments that designated and approved an area that has been designated as an enterprise zone under section 701, the Secretary of Housing and Urban Development (or, with respect to any rule issued under title V of the Housing Act of 1949, the Secretary of Agriculture) may, in order to further the job creation, community development, or economic revitalization objectives of the zone, waive or modify all or part of any rule that the Secretary has authority to promulgate, as such rule pertains to the carrying out of projects, activities, or undertakings within the zone.

(b) LIMITATION.—No provision of this section may be construed to authorize the Secretary to waive or modify any rule adopted to carry out a statute or Executive order that prohibits, or the purpose of which is to protect persons against, discrimination on the basis of race, color, religion, sex, marital status, national origin, age, or handicap.

(c) SUBMISSION OF REQUESTS.—A request under subsection (a) shall specify the rule or rules to be waived or modified and the change proposed, and shall briefly describe why the change would promote the achievement of the job creation, community development, or economic revitalization objectives of the enterprise zone. If a request is made to the Secretary of Agriculture, the requesting governments shall send a copy of the request to the Secretary of Housing and Urban Development at the time the request is made.

(d) CONSIDERATION OF REQUESTS.—In considering a request, the Secretary shall weigh the extent to which the proposed change is likely to further job creation, community development, or economic revitalization within the enterprise zone against the effect the change is likely to have on the underlying purposes of applicable statutes in the geographic area that would be affected by the change. The Secretary shall approve the request whenever the Secretary finds, in the discretion of the Secretary, that the public interest that the proposed change would serve in furthering such job creation, community development or economic revitalization outweighs the public interest that continuation of the rule unchanged would serve in furthering such underlying purposes. The Secretary shall not approve any request to waive or modify a rule if that waiver or modification would—

(1) directly violate a statutory requirement; or

(2) be likely to present a significant risk to the public health, including environmental health or safety.

(e) NOTICE OF DISAPPROVAL.—If a request is disapproved, the Secretary shall inform the requesting governments in writing of the reasons therefor and shall, to the maximum extent possible, work with such governments to develop an alternative, consistent with the standards contained in subsection (d).

(f) PERIOD FOR DETERMINATION.—The Secretary shall discharge the responsibilities of the Secretary under this section in an expeditious manner, and shall make a determination on requests not later than 90 days after their receipt.

(g) APPLICABLE PROCEDURES.—A waiver or modification of a rule under subsection (a) shall not be considered to be a rule, rulemaking, or regulation under chapter 5 of title 5, United States Code. To facilitate reaching a decision on any requested waiver or modification, the Secretary may seek the views of interested parties and, if the views are to be sought, determine how they should be obtained and to what extent, if any, they should be taken into account in considering the request. The Secretary shall publish a notice in the Federal Register stating any waiver or modification of a rule under this section.

(h) EFFECT OF SUBSEQUENT AMENDMENT OF RULES.—In the event that the Secretary proposes to amend a rule for which a waiver or modification under this section is in effect, the Secretary shall not change the waiver or modification to impose additional requirements unless the Secretary determines, consistent with standards contained in subsection (d), that such action is necessary.

(i) EXPIRATION OF WAIVERS AND MODIFICATIONS.—No waiver or modification of a rule under this section shall remain in effect for a longer period than the period for which the enterprise zone designation remains in effect for the area in which the waiver or modification applies.

(j) DEFINITIONS.—For purposes of this section:

(1) RULE.—The term “rule” means—

(A) any rule as defined in section 551(4) of title 5, United States Code; or

(B) any rulemaking conducted on the record after opportunity for an agency hearing pursuant to sections 556 and 557 of such title 5.

(2) SECRETARY.—The term “Secretary” means the Secretary of Housing and Urban Development or, with respect to any rule issued under title V of the Housing Act of 1949, the Secretary of Agriculture.

Sec. 706. [42 U.S.C. 11505]
COORDINATION WITH CDBG AND UDAG PROGRAMS.

It is the policy of the Congress that amounts provided under the community development block grant and urban development action grant programs under title I of the Housing and Community Development Act of 1974 shall not be reduced in any fiscal year in which the provisions of this title are in effect.

END OF STATUTE

CAPACITY BUILDING FOR COMMUNITY DEVELOPMENT AND AFFORDABLE HOUSING

HUD DEMONSTRATION ACT OF 1993
[Public Law 103-120; 107 Stat. 1148; 42 U.S.C. 9816 note]

Sec. 4. [42 U.S.C. 9816 note]
CAPACITY BUILDING FOR COMMUNITY DEVELOPMENT AND AFFORDABLE HOUSING.

(a) IN GENERAL.—The Secretary is authorized to provide assistance through the National Community Development Initiative, Local Initiatives Support Corporation, The Enterprise Foundation, Habitat for Humanity, and Youthbuild USA to develop the capacity and ability of community development corporations and community housing development organizations to undertake community development and affordable housing projects and programs.

(b) FORM OF ASSISTANCE.—Assistance under this section may be used for—

(1) training, education, support, and advice to enhance the technical and administrative capabilities of community development corporations and community housing development organizations;

(2) loans, grants, or predevelopment assistance to community development corporations and community housing development organizations to carry out community development and affordable housing activities that benefit low-income families; and

(3) such other activities as may be determined by the National Community Development Initiative, Local Initiatives Support Corporation, The Enterprise Foundation, Habitat for Humanity, and Youthbuild USA in consultation with the Secretary.

(c) MATCHING REQUIREMENT.—Assistance provided under this section shall be matched from private sources in an amount equal to 3 times the amount made available under this section.

(d) IMPLEMENTATION.—The Secretary shall by notice establish such requirements as may be necessary to carry out the provisions of this section. The notice shall take effect upon issuance.

(e) AUTHORIZATION.—There are authorized to be appropriated $25,000,000 for fiscal year 1994 to carry out this section.

END OF STATUTE

NEIGHBORHOOD STABILIZATION PROGRAM

HOUSING AND ECONOMIC RECOVERY ACT OF 2008
[Public Law 110-289; 122 Stat. 2850; 42 U.S.C. 5301 note]

Sec. 2301. [42 U.S.C. 5301 note]
EMERGENCY ASSISTANCE FOR THE REDEVELOPMENT OF ABANDONED AND FORECLOSED HOMES.

(a) DIRECT APPROPRIATIONS.—There are appropriated out of any money in the Treasury not otherwise appropriated for the fiscal year 2008, $4,000,000,000, to remain available until expended, for assistance to States and units of general local government (as such terms are defined in section 102 of the Housing and Community Development Act of 1974 (42 U.S.C. 5302)) for the redevelopment of abandoned and foreclosed upon homes and residential properties.

(b) ALLOCATION OF APPROPRIATED AMOUNTS.—

(1) IN GENERAL.—The amounts appropriated or otherwise made available to States and units of general local government under this section shall be allocated based on a funding formula established by the Secretary of Housing and Urban Development (in this title referred to as the "Secretary").

(2) FORMULA TO BE DEVISED SWIFTLY.—The funding formula required under paragraph (1) shall be established not later than 60 days after the date of enactment of this section.

(3) CRITERIA.—The funding formula required under paragraph (1) shall ensure that any amounts appropriated or otherwise made available under this section are allocated to States and units of general local government with the greatest need, as such need is determined in the discretion of the Secretary based on—

(A) the number and percentage of home foreclosures in each State or unit of general local government;

(B) the number and percentage of homes financed by a subprime mortgage related loan in each State or unit of general local government; and

(C) the number and percentage of homes in default or delinquency in each State or unit of general local government.

(4) DISTRIBUTION.—Amounts appropriated or otherwise made available under this section shall be distributed according to the funding formula established by the Secretary under paragraph (1) not later than 30 days after the establishment of such formula.

(c) USE OF FUNDS.—

(1) IN GENERAL.—Any State or unit of general local government that receives amounts pursuant to this section shall, not later than 18 months after the receipt of such amounts, use such amounts to purchase and redevelop abandoned and foreclosed homes and residential properties.[46]

(2) PRIORITY.—Any State or unit of general local government that receives amounts pursuant to this section shall in distributing such amounts give priority emphasis and consideration to those metropolitan areas, metropolitan cities, urban areas, rural areas, low- and moderate-income areas, and other areas with the greatest need, including those—

(A) with the greatest percentage of home foreclosures;

(B) with the highest percentage of homes financed by a subprime mortgage related loan; and

(C) identified by the State or unit of general local government as likely to face a significant rise in the rate of home foreclosures.

(3) EXCEPTION FOR CERTAIN STATES.—Each State that has received the minimum allocation of amounts pursuant to the requirement under section 2302 may, to the extent such State has fulfilled the requirements of paragraph (2), distribute any remaining amounts to areas with homeowners at risk of foreclosure or in foreclosure without regard to the percentage of home foreclosures in such areas.

(4) ELIGIBLE USES.—Amounts made available under this section may be used to—

[46] The American Recovery and Reinvestment Act of 2009, Public Law 111-5, title XII of division A, 123 Stat. 218, provides as follows: "Provided further, That the recipient of any grant or loan from amounts made available under this heading or, after the date of enactment under division B, title III of the Housing and Economic Recovery Act of 2008, may not refuse to lease a dwelling unit in housing with such loan or grant to a participant under section 8 of the United States Housing Act of 1937 (42 U.S.C 1437f) because of the status of the prospective tenant as such a participant".

(A) establish financing mechanisms for purchase and redevelopment of foreclosed upon homes and residential properties, including such mechanisms as soft-seconds, loan loss reserves, and shared-equity loans for low- and moderate-income homebuyers;

(B) purchase and rehabilitate homes and residential properties that have been abandoned or foreclosed upon, in order to sell, rent, or redevelop such homes and properties;

(C) establish and operate land banks for homes and residential properties that have been foreclosed upon[47]

(D) demolish blighted structures; and

(E) redevelop demolished or vacant properties.

(d) LIMITATIONS.—

(1) ON PURCHASES.—Any purchase of a foreclosed upon home or residential property under this section shall be at a discount from the current market appraised value of the home or property, taking into account its current condition, and such discount shall ensure that purchasers are paying below-market value for the home or property.

(2) REHABILITATION.—Any rehabilitation of a foreclosed-upon home or residential property under this section shall be to the extent necessary to comply with applicable laws, codes, and other requirements relating to housing safety, quality, and habitability, in order to sell, rent, or redevelop such homes and properties. Rehabilitation may include improvements to increase the energy efficiency or conservation of such homes and properties or provide a renewable energy source or sources for such homes and properties.

(3) SALE OF HOMES.—If an abandoned or foreclosed upon home or residential property is purchased, redeveloped, or otherwise sold to an individual as a primary residence, then such sale shall be in an amount equal to or less than the cost to acquire and redevelop or rehabilitate such home or property up to a decent, safe, and habitable condition.

(e) RULES OF CONSTRUCTION.—

(1) IN GENERAL.—Except as otherwise provided by this section, amounts appropriated, revenues generated, or amounts otherwise made available to States and units of general local government under this section shall be treated as though such funds were community development block grant funds under title I of the Housing and Community Development Act of 1974 (42 U.S.C. 5301 et seq.).

(2) NO MATCH.—No matching funds shall be required in order for a State or unit of general local government to receive any amounts under this section.

(f) AUTHORITY TO SPECIFY ALTERNATIVE REQUIREMENTS.—

(1) IN GENERAL.—In administering any amounts appropriated or otherwise made available under this section, the Secretary may specify alternative requirements to any provision under title I of the Housing and Community Development Act of 1974 (except for those related to fair housing, nondiscrimination, labor standards, and the environment) in accordance with the terms of this section and for the sole purpose of expediting the use of such funds.

(2) NOTICE.—The Secretary shall provide written notice of its intent to exercise the authority to specify alternative requirements under paragraph (1) to the Committee on Banking, Housing and Urban Affairs of the Senate and the Committee on Financial Services of the House of Representatives not later than 10 business days before such exercise of authority is to occur.

(3) LOW AND MODERATE INCOME REQUIREMENT.—

(A) IN GENERAL.—Notwithstanding the authority of the Secretary under paragraph (1)—

(i) all of the funds appropriated or otherwise made available under this section shall be used with respect to individuals and families whose income does not exceed 120 percent of area median income; and

(ii) not less than 25 percent of the funds appropriated or otherwise made available under this section shall be used for the purchase and redevelopment of abandoned or foreclosed upon homes or residential properties that will be used[48] to house individuals or families whose incomes do not exceed 50 percent of area median income.

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[47] Missing punctuation so in law. See amendment made by title XII of division A of Public Law 111-5 (123 Stat. 218).

[48] Section 1497(b)(1)(A) of Public Law 111-203 provides for an amendment to strike "for the purchase and redevelopment of abandoned and foreclosed upon homes or residential properties that will be used". Such amendment probably should be to strike "for the purchase and redevelopment of abandoned or foreclosed upon homes or residential properties that will be used". Section 1400(c) of Public Law 111-203 provides as follows:

(B) RECURRENT REQUIREMENT.—The Secretary shall, by rule or order, ensure, to the maximum extent practicable and for the longest feasible term, that the sale, rental, or redevelopment of abandoned and foreclosed upon homes and residential properties under this section remain affordable to individuals or families described in subparagraph (A).

(g) PERIODIC AUDITS.—In consultation with the Secretary of Housing and Urban Development, the Comptroller General of the United States shall conduct periodic audits to ensure that funds appropriated, made available, or otherwise distributed under this section are being used in a manner consistent with the criteria provided in this section.

Sec. 2302. [42 U.S.C. 5301 note]
NATIONWIDE DISTRIBUTION OF RESOURCES.

Notwithstanding any other provision of this Act or the amendments made by this Act, each State shall receive not less than 0.5 percent of funds made available under section 2301 (relating to emergency assistance for the redevelopment of abandoned and foreclosed homes).

Sec. 2303. [42 U.S.C. 5301 note]
LIMITATION ON USE OF FUNDS WITH RESPECT TO EMINENT DOMAIN.

No State or unit of general local government may use any amounts received pursuant to section 2301 to fund any project that seeks to use the power of eminent domain, unless eminent domain is employed only for a public use: Provided, That for purposes of this section, public use shall not be construed to include economic development that primarily benefits private entities.

Sec. 2304. [42 U.S.C. 5301 note]
LIMITATION ON DISTRIBUTION OF FUNDS.

(a) IN GENERAL.—None of the funds made available under this title or title IV shall be distributed to—

(1) an organization which has been indicted for a violation under Federal law relating to an election for Federal office; or

(2) an organization which employs applicable individuals.

(b) APPLICABLE INDIVIDUALS DEFINED.—In this section, the term "applicable individual" means an individual who—

(1) is—

(A) employed by the organization in a permanent or temporary capacity;

(B) contracted or retained by the organization; or

(C) acting on behalf of, or with the express or apparent authority of, the organization; and

(2) has been indicted for a violation under Federal law relating to an election for Federal office.

Sec. 2305. [42 U.S.C. 5301 note]
COUNSELING INTERMEDIARIES.

Notwithstanding any other provision of this Act, the amount appropriated under section 2301(a) of this Act shall be $3,920,000,000 and the amount appropriated under section 2401 of this Act shall be $180,000,000: Provided, That of the amount appropriated under section 2401 of this Act pursuant to this section, not less than 15 percent shall be provided to counseling organizations that target counseling services regarding loss mitigation to minority and low-income homeowners or provide such services in neighborhoods with high concentrations of minority and low-income homeowners: Provided further, That of amounts appropriated under such section 2401 $30,000,000 shall be used by the Neighborhood Reinvestment Corporation (referred to in this section as the "NRC")

(c) REGULATIONS; EFFECTIVE DATE.—

(1) REGULATIONS.—The regulations required to be prescribed under this title or the amendments made by this title shall—

(A) be prescribed in final form before the end of the 18-month period beginning on the designated transfer date; and

(B) take effect not later than 12 months after the date of issuance of the regulations in final form.

(2) EFFECTIVE DATE ESTABLISHED BY RULE.—Except as provided in paragraph (3), a section, or provision thereof, of this title shall take effect on the date on which the final regulations implementing such section, or provision, take effect.

(3) EFFECTIVE DATE.—A section of this title for which regulations have not been issued on the date that is 18 months after the designated transfer date shall take effect on such date.

Pursuant to section 1062 of such Act (12 U.S.C. 5582; 124 Stat. 2039), the designated transfer date referred to in paragraphs (1)(A) and (3) of such subsection (c) was established as July 21, 2011. (See 75 Fed. Reg. 57252, September 20, 2010.)

to make grants to counseling intermediaries approved by the Department of Housing and Urban Development or the NRC to hire attorneys to assist homeowners who have legal issues directly related to the homeowner's foreclosure, delinquency or short sale. Such attorneys shall be capable of assisting homeowners of owner-occupied homes with mortgages in default, in danger of default, or subject to or at risk of foreclosure and who have legal issues that cannot be handled by counselors already employed by such intermediaries: Provided further, That of the amounts provided for in the prior provisos the NRC shall give priority consideration to counseling intermediaries and legal organizations that (1) provide legal assistance in the 100 metropolitan statistical areas (as defined by the Director of the Office of Management and Budget) with the highest home foreclosure rates, and (2) have the capacity to begin using the financial assistance within 90 days after receipt of the assistance: Provided further, That no funds provided under this Act shall be used to provide, obtain, or arrange on behalf of a homeowner, legal representation involving or for the purposes of civil litigation: Provided further, That the NRC, in awarding counseling grants under section 2401 of this Act, may consider, where appropriate, whether the entity has implemented a written plan for providing in-person counseling and for making contact, including personal contact, with defaulted mortgagors, for the purpose of providing counseling or providing information about available counseling.

END OF STATUTE

NEIGHBORHOOD STABILIZATION PROGRAM II

DODD-FRANK WALL STREET REFORM AND CONSUMER PROTECTION ACT OF 2010 [Public Law 111-203; 124 Stat. 1376; 42 U.S.C. 5301 note]

Sec. 1497. [42 U.S.C. 5301 note]
ADDITIONAL ASSISTANCE FOR NEIGHBORHOOD STABILIZATION PROGRAM.

(a) IN GENERAL.—Effective October 1, 2010, out of funds in the Treasury not otherwise appropriated, there is hereby made available to the Secretary of Housing and Urban Development $1,000,000,000, and the Secretary of Housing and Urban Development shall use such amounts for assistance to States and units of general local government for the redevelopment of abandoned and foreclosed homes, in accordance with the same provisions applicable under the second undesignated paragraph under the heading "Community Planning and Development—Community Development Fund" in title XII of division A of the American Recovery and Reinvestment Act of 2009 (Public Law 111-5; 123 Stat. 217) to amounts made available under such second undesignated paragraph, except as follows:

(1) Notwithstanding the matter of such second undesignated paragraph that precedes the first proviso, amounts made available by this section shall remain available until expended.

(2) The 3rd, 4th, 5th, 6th, 7th, and 15th provisos of such second undesignated paragraph shall not apply to amounts made available by this section.

(3) Amounts made available by this section shall be allocated based on a funding formula for such amounts established by the Secretary in accordance with section 2301(b) of the Housing and Economic Recovery Act of 2008 (42 U.S.C. 5301 note), except that—

(A) notwithstanding paragraph (2) of such section 2301(b), the formula shall be established not later than 30 days after the date of the enactment of this Act;

(B) notwithstanding such section 2301(b), each State shall receive, at a minimum, not less than 0.5 percent of funds made available under this section;

(C) the Secretary may establish a minimum grant amount for direct allocations to units of general local government located within a State, which shall not exceed $1,000,000;

(D) each State and local government receiving grant amounts shall establish procedures to create preferences for the development of affordable rental housing for properties assisted with amounts made available by this section; and

(E) the Secretary may use not more than 2 percent of the funds made available under this section for technical assistance to grantees.

(4) Paragraph (1) of section 2301(c) of the Housing and Economic Recovery Act of 2008 shall not apply to amounts made available by this section.

(5) The fourth proviso from the end of such second undesignated paragraph shall be applied to amounts made available by this section by substituting "2013" for "2012".

(6) Notwithstanding section 2301(a) of the Housing and Economic Recovery Act of 2008, the term "State" means any State, as defined in section 102 of the Housing and Community Development Act of 1974 (42 U.S.C. 5302), and the District of Columbia, for purposes of this section and this title, as applied to amounts made available by this section.

(7)(A) None of the amounts made available by this section shall be distributed to—

(i) any organization which has been convicted for a violation under Federal law relating to an election for Federal office; or

(ii) any organization which employs applicable individuals.

(B) In this paragraph, the term "applicable individual" means an individual who—

(i) is—

(I) employed by the organization in a permanent or temporary capacity;

(II) contracted or retained by the organization; or

(III) acting on behalf of, or with the express or apparent authority of, the organization; and

(ii) has been convicted for a violation under Federal law relating to an election for Federal office.

(8) An eligible entity receiving a grant under this section shall, to the maximum extent feasible, provide for the hiring of employees who reside in the vicinity, as such term is defined by the Secretary, of projects funded under this section or contract with small businesses that are owned and operated by persons residing in the vicinity of such projects.

(b) ADDITIONAL AMENDMENTS.—

(1) SECTION 2301.—Section 2301(f)(3)(A)(ii) of the Housing and Economic Recovery Act of 2008 (42 U.S.C. 5301(f)(3)(A)(ii))—

(A) is amended by striking "for the purchase and redevelopment of abandoned and foreclosed upon homes or residential properties that will be used"; and

(B) shall apply with respect to any unexpended or unobligated balances, including recaptured and reallocated funds made available under this Act, section 2301 of the Housing and Economic Recovery Act of 2008 (42 U.S.C. 5301), and the heading "Community Planning and Development—Community Development Fund" in title XII of division A of the American Recovery and Reinvestment Act of 2009 (Public Law 111-5; 123 Stat. 217).

(2) NOTICE OF FORECLOSURE.—For any amounts made available under this section, under division B, title III of the Housing and Economic Recovery Act of 2008 (42 U.S.C. 5301), or under the heading "Community Planning and Development—Community Development Fund" in title XII of division A of the American Recovery and Reinvestment Act of 2009 (Public Law 111-5; 123 Stat. 217), the date of a notice of foreclosure shall be deemed to be the date on which complete title to a property is transferred to a successor entity or person as a result of an order of a court or pursuant to provisions in a mortgage, deed of trust, or security deed.

END OF STATUTE

PROGRAM TO REHABILITATE AND MODIFY HOMES OF DISABLED AND LOW-INCOME VETERANS

CARL LEVIN AND HOWARD P. "BUCK" MCKEON NATIONAL DEFENSE AUTHORIZATION ACT FOR FISCAL YEAR 2015 [Public Law 113-291; 128 Stat. 3291; 38 U.S.C. 2101 note]

Sec. 1079. [38 U.S.C. 2101 note]
PILOT PROGRAM TO REHABILITATE AND MODIFY HOMES OF DISABLED AND LOW-INCOME VETERANS.

(a) DEFINITIONS.—In this section:

(1) DISABLED.—The term "disabled" means an individual with a disability, as defined by section 3 of the Americans with Disabilities Act of 1990 (42 U.S.C. 12102).

(2) ELIGIBLE VETERAN.—The term "eligible veteran" means a disabled or low-income veteran.

(3) ENERGY EFFICIENT FEATURES OR EQUIPMENT.—The term "energy efficient features or equipment" means features of, or equipment in, a primary residence that help reduce the amount of electricity used to heat, cool, or ventilate such residence, including insulation, weatherstripping, air sealing, heating system repairs, duct sealing, or other measures.

(4) LOW-INCOME VETERAN.—The term "low-income veteran" means a veteran whose income does not exceed 80 percent of the median income for an area, as determined by the Secretary.

(5) NONPROFIT ORGANIZATION.—The term "nonprofit organization" means an organization that is—

(A) described in section 501(c)(3) or 501(c)(19) of the Internal Revenue Code of 1986; and

(B) exempt from tax under section 501(a) of such Code.

(6) PRIMARY RESIDENCE.—

(A) IN GENERAL.—The term "primary residence" means a single family house, a duplex, or a unit within a multiple-dwelling structure that is the principal dwelling of an eligible veteran and is owned by such veteran or a family member of such veteran.

(B) FAMILY MEMBER DEFINED.—For purposes of this paragraph, the term "family member" includes--

(i) a spouse, child, grandchild, parent, or sibling;

(ii) a spouse of such a child, grandchild, parent, or sibling; or

(iii) any individual related by blood or affinity whose close association with a veteran is the equivalent of a family relationship.

(7) QUALIFIED ORGANIZATION.—The term "qualified organization" means a nonprofit organization that provides nationwide or statewide programs that primarily serve veterans or low-income individuals.

(8) SECRETARY.—The term "Secretary" means the Secretary of Housing and Urban Development.

(9) VETERAN.—The term "veteran" has the meaning given the term in section 101 of title 38, United States Code.

(10) VETERANS SERVICE ORGANIZATION.—The term "veterans service organization" means any organization recognized by the Secretary of Veterans Affairs for the representation of veterans under section 5902 of title 38, United States Code.

(b) ESTABLISHMENT OF A PILOT PROGRAM.—

(1) GRANT.—

(A) IN GENERAL.—The Secretary shall establish a pilot program to award grants to qualified organizations to rehabilitate and modify the primary residence of eligible veterans.

(B) COORDINATION.—The Secretary shall work in conjunction with the Secretary of Veterans Affairs to establish and oversee the pilot program and to ensure that such program meets the needs of eligible veterans.

(C) MAXIMUM GRANT.—A grant award under the pilot program to any one qualified organization shall not exceed $1,000,000 in any one fiscal year, and such an award shall remain available until expended by such organization.

(2) APPLICATION.—

(A) IN GENERAL.—Each qualified organization that desires a grant under the pilot program shall submit an application to the Secretary at such time, in such manner, and, in addition to the information required under subparagraph (B), accompanied by such information as the Secretary may reasonably require.

(B) CONTENTS.—Each application submitted under subparagraph (A) shall include—

(i) a plan of action detailing outreach initiatives;

(ii) the approximate number of veterans the qualified organization intends to serve using grant funds;

(iii) a description of the type of work that will be conducted, such as interior home modifications, energy efficiency improvements, and other similar categories of work; and

(iv) a plan for working with the Department of Veterans Affairs and veterans service organizations to identify veterans who are not eligible for programs under chapter 21 of title 38, United States Code, and meet their needs.

(3) USE OF FUNDS.—A grant award under the pilot program shall be used--

(A) to modify and rehabilitate the primary residence of an eligible veteran, and may include—

(i) installing wheelchair ramps, widening exterior and interior doors, reconfigurating and re-equipping bathrooms (which includes installing new fixtures and grab bars), removing doorway thresholds, installing special lighting, adding additional electrical outlets and electrical service, and installing appropriate floor coverings to--

(I) accommodate the functional limitations that result from having a disability; or

(II) if such residence does not have modifications necessary to reduce the chances that an elderly, but not disabled person, will fall in their home, reduce the risks of such an elderly person from falling;

(ii) rehabilitating such residence that is in a state of interior or exterior disrepair; and

(iii) installing energy efficient features or equipment if—

(I) an eligible veteran's monthly utility costs for such residence is more than 5 percent of such veteran's monthly income; and

(II) an energy audit of such residence indicates that the installation of energy efficient features or equipment will reduce such costs by 10 percent or more; and

(B) in connection with modification and rehabilitation services provided under the pilot program, to provide technical, administrative, and training support to an affiliate of a qualified organization receiving a grant under such pilot program.

(4) LIMITATION ON USE OF FUNDS.—Funds may be expended under the pilot program only for the benefit of an eligible veteran who the Secretary determines is residing in and reasonably intends to continue residing in a primary residence owned by such veteran or by a member of such veteran's family. The Secretary shall make this determination on the basis of a certification by the veteran or a member of the veteran's family that the veteran intends to continue residing in the primary residence for a sufficient period of time to be determined by the Secretary.

(5) OVERSIGHT.—The Secretary shall direct the oversight of the grant funds for the pilot program so that such funds are used efficiently until expended to fulfill the purpose of addressing the adaptive housing needs of eligible veterans.

(6) MATCHING FUNDS.—

(A) IN GENERAL.—A qualified organization receiving a grant under the pilot program shall contribute towards the housing modification and rehabilitation services provided to eligible veterans an amount equal to not less than 50 percent of the grant award received by such organization.

(B) IN-KIND CONTRIBUTIONS.—In order to meet the requirement under subparagraph (A), such organization may arrange for in-kind contributions.

(7) LIMITATION COST TO THE VETERANS.—A qualified organization receiving a grant under the pilot program shall modify or rehabilitate the primary residence of an eligible veteran at no cost to such veteran (including application fees) or at a cost such that such veteran pays no more than 30 percent of his or her income in housing costs during any month.

(8) REPORTS.—

(A) ANNUAL REPORT.—The Secretary shall submit to Congress, on an annual basis, a report that provides, with respect to the year for which such report is written—

(i) the number of eligible veterans provided assistance under the pilot program;

(ii) the socioeconomic characteristics of such veterans, including their gender, age, race, and ethnicity;

(iii) the total number, types, and locations of entities contracted under such program to administer the grant funding;

(iv) the amount of matching funds and in-kind contributions raised with each grant;

(v) a description of the housing rehabilitation and modification services provided, costs saved, and actions taken under such program;

(vi) a description of the outreach initiatives implemented by the Secretary to educate the general public and eligible entities about such program;

(vii) a description of the outreach initiatives instituted by grant recipients to engage eligible veterans and veteran service organizations in projects utilizing grant funds under such program;

(viii) a description of the outreach initiatives instituted by grant recipients to identify eligible veterans and their families; and

(ix) any other information that the Secretary considers relevant in assessing such program.

(B) FINAL REPORT.—Not later than 6 months after the completion of the pilot program, the Secretary shall submit to Congress a report that provides such information that the Secretary considers relevant in assessing the pilot program.

(C) INSPECTOR GENERAL REPORT.—Not later than March 31, 2019, the Inspector General of the Department of Housing and Urban Development shall submit to the Chairmen and Ranking Members of the Committee on Banking, Housing, and Urban Affairs of the Senate and the Committee on Financial Services of the House of Representatives a report containing a review of—

(i) the use of appropriated funds by the Secretary and by grantees under the pilot program; and

(ii) oversight and accountability of grantees under the pilot program.

(9) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated for the Department of Housing and Urban Development for carrying out this section $4,000,000 for each of fiscal years 2015 through 2019.

END OF STATUTE

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PART II—PUBLIC HOUSING AND SECTION 8 RENTAL ASSISTANCE

ALLOCATION OF FUNDS

HOUSING AND COMMUNITY DEVELOPMENT ACT OF 1974
[Public Law 93-383; 88 Stat. 674; 42 U.S.C. 1439]

Sec. 213. [42 U.S.C. 1439]
LOCAL HOUSING ASSISTANCE PLAN.

(a)(1) The Secretary of Housing and Urban Development, upon receiving an application for housing assistance under the United States Housing Act of 1937, section 101 of the Housing and Urban Development Act of 1965, or[49] if the unit of general local government in which the proposed assistance is to be provided has an approved housing assistance plan, shall—

(A) not later than ten days after receipt of the application, notify the chief executive officer of such unit of general local government that such application is under consideration; and

(B) afford such unit of general local government, the opportunity, during the thirty-day period beginning on the date of such notification, to object to the approval of the application on the grounds that the application is inconsistent with its housing assistance plan.

Upon receiving an application for such housing assistance, the Secretary shall assure that funds made available under this section shall be utilized to the maximum extent practicable to meet the needs and goals identified in the unit of local government's housing assistance plan.

(2) If the unit of general local government objects to the application on the grounds that it is inconsistent with its housing assistance plan, the Secretary may not approve the application unless he determines that the application is consistent with such housing assistant plan. If the Secretary determines, that such application is consistent with the housing assistance plan, he shall notify the chief executive officer of the unit of general local government of his determination and the reasons therefor in writing. If the Secretary concurs with the objection of the unit of local government, he shall notify the applicant stating the reason therefor in writing.

(3) If the Secretary does not receive an objection by the close of the period referred to in paragraph (1)(B), he may approve the application unless he finds it inconsistent with the housing assistance plan. If the Secretary determines that an application is inconsistent with a housing assistance plan, he shall notify the applicant stating the reasons therefor in writing.

(4) The Secretary shall make the determinations referred to in paragraphs (2) and (3) within thirty days after he receives an objection pursuant to paragraph (1)(B) or within thirty days after the close of the period referred to in paragraph (1)(B), whichever is earlier.

(5) As used in this section, the term "housing assistance plan" means a housing assistance plan submitted and approved under section 104 of this Act or, in the case of a unit of general local government not participating under title I of this Act, a housing plan approved by the Secretary as meeting the requirements of this section. In developing a housing assistance plan under this paragraph a unit of general local government shall consult with local public agencies involved in providing for the welfare of children to determine the housing needs of (A) families identified by the agencies as having a lack of adequate housing that is a primary factor in the imminent placement of a child in foster care or in preventing the discharge of a child from foster care and reunification with his or her family; and (B) children who, upon discharge of the child from foster care, cannot return to their family or extended family and for which adoption is not available. The unit of general local government shall include in the housing assistance plan needs and goals with respect to such families and children.

(b) The provisions of subsection (a) shall not apply to—

(1) applications for assistance involving 12 or fewer units in a single project or development;

(2) applications for assistance with respect to housing in new community developments approved under title IV of the Housing and Urban Development Act of 1968 or title VII of the Housing and Urban

[49] So in law.

Development Act of 1970 which the Secretary determines are necessary to meet the housing requirements under such title; or

(3) applications for assistance with respect to housing financed by loans or loan guarantees from a State or agency thereof, except that the provisions of subsection (a) shall apply where the unit of general local government in which the assistance is to be provided objects in its housing assistance plan to the exemption provided by this paragraph.

[(c) [Repealed.]]

(d)(1)(A)(i) Except as provided by subparagraph (B), the Secretary shall allocate assistance referred to in subsection (a)(1) the first time it is available for reservation on the basis of a formula that is contained in a regulation prescribed by the Secretary, and that is based on the relative needs of different States, areas, and communities, as reflected in data as to population, poverty, housing overcrowding, housing vacancies, amount of substandard housing, and other objectively measurable conditions specified in the regulation. The Secretary may allocate assistance under the preceding sentence in such a manner that each State shall receive not less than one-half of one percent of the amount of funds available for each program referred to in subsection (a)(1) in each fiscal year. In allocating assistance under this paragraph for each program of housing assistance under subsection (a)(1), the Secretary shall apply the formula, to the extent practicable, in a manner so that the assistance under the program is allocated according to the particular relative needs under the preceding sentence that are characteristic of and related to the particular type of assistance provided under the program. Assistance under section 202 of the Housing Act of 1959 shall be allocated in a manner that ensures that awards of the assistance under such section are made for projects of sufficient size to accommodate facilities for supportive services appropriate to the needs of frail elderly residents. Amounts for tenant-based assistance under section 8(o) of the United States Housing Act of 1937 may not be provided to any public housing agency that has been disqualified from providing such assistance.

(ii) Assistance under section 8(o) of the United States Housing Act of 1937 shall be allocated in a manner that enables participating jurisdictions to carry out, to the maximum extent practicable, comprehensive housing affordability strategies approved in accordance with section 105 of the Cranston-Gonzalez National Affordable Housing Act. Such jurisdictions shall submit recommendations for allocating assistance under such section 8(o) to the Secretary in accordance with procedures that the Secretary determines to be appropriate to permit allocations of such assistance to be made on the basis of timely and complete information. This clause may not be construed to prevent, alter, or otherwise affect the application of the formula established pursuant to clause (i) for purposes of allocating such assistance. For purposes of this clause, the term "participating jurisdiction" means a State or unit of general local government designated by the Secretary to be a participating jurisdiction under title II of the Cranston-Gonzalez National Affordable Housing Act. The preceding sentence shall not apply to projects acquired from the Resolution Trust Corporation under section 21A(c) of the Federal Home Loan Bank Act.

(B) The formula allocation requirements of subparagraph (A) shall not apply to—

(i) assistance that is approved in appropriation Acts for use under sections 9 or 14[50], or the rental rehabilitation grant program under section 17, of the United States Housing Act of 1937, except that the Secretary shall comply with section 102 of the Department of Housing and Urban Development Reform Act of 1989 with respect to such assistance; or

(ii) other assistance referred to in subsection (a) that is approved in appropriation Acts for uses that the Secretary determines are incapable of geographic allocation, including amendments of existing contracts, renewal of assistance contracts, assistance to families that would otherwise lose assistance due to the decision of the project owner to prepay the project mortgage or not to renew the assistance contract, assistance to prevent displacement or to provide replacement housing in connection with the demolition or disposition of public housing, and assistance in support of the property disposition and loan management functions of the Secretary.

[50] Section 522(b)(2) of the Quality Housing and Work Responsibility Act of 1998, title V of Public Law 105-276, approved October 21, 1998, amended section 213(d)(1)(B)(ii) of this Act by striking "or section 14". Such section probably intended to amend this clause.

(C) Any allocation of assistance under subparagraph (A) shall, as determined by the Secretary, be made to the smallest practicable area, consistent with the delivery of assistance through a meaningful competitive process designed to serve areas with greater needs.

(D) Any amounts allocated to a State or areas or communities within a State that are not likely to be used within a fiscal year shall not be reallocated for use in another State, unless the Secretary determines that other areas or communities (that are eligible for assistance under the program) within the same State cannot use the amounts within that same fiscal year.

(2) The Secretary may reserve such housing assistance funds as he deems appropriate for use by a State or agency thereof.

(3)(A) Notwithstanding any other provision of law, with respect to fiscal years beginning after September 30, 1990, the Secretary may retain not more than 5 percent of the financial assistance that becomes available under programs described in subsection (a)(1) during any fiscal year. Any such financial assistance that is retained shall be available for subsequent allocation to specific areas and communities, and may only be used for—

(i) unforeseen housing needs resulting from natural and other disasters;

(ii) housing needs resulting from emergencies, as certified by the Secretary, other than such disasters;

(iii) housing needs resulting from the settlement of litigation; and

(iv) housing in support of desegregation efforts.

(B) Any amounts retained in any fiscal year under subparagraph (A) that are unexpended at the end of such fiscal year shall remain available for the following fiscal year under the program under subsection (a)(1) from which the amount was retained. Such amounts shall be allocated on the basis of the formula under subsection (d)(1).

(4)(A) The Secretary shall not reserve or obligate assistance subject to allocation under paragraph (1)(A) to specific recipients, unless the assistance is first allocated on the basis of the formula contained in that paragraph and then is reserved and obligated pursuant to a competition.

(B) Any competition referred to in subparagraph (A) shall be conducted pursuant to specific criteria; for the selection of recipients of assistance. The criteria shall be contained in—

(i) a regulation promulgated by the Secretary after notice and public comment; or

(ii) to the extent authorized by law, a notice published in the Federal Register.

(C) Subject to the times at which appropriations for assistance subject to paragraph (1)(A) may become available for reservation in any fiscal year, the Secretary shall take such steps as the Secretary deems appropriate to ensure that, to the maximum extent practicable, the process referred to in subparagraph (A) is carried out with similar frequency and at similar times for each fiscal year.

(D) This paragraph shall not apply to assistance referred to in paragraph (4)[51].

(e) From budget authority made available in appropriation Acts for fiscal year 1988, the Secretary shall enter into an annual contributions contract for a term of 180 months to obligate sufficient funds to provide assistance payments pursuant to section 8(b)(1) of the United States Housing Act of 1937 on behalf of 500 lower income families from budget authority made available for fiscal year 1988, so long as such families occupy properties in the Park Central New Community Project or in adjacent areas that are recognized by the unit of general local government in which such Project is located as being included within the Park Central New Town In Town Project.[52] If a lower income family receiving assistance payments pursuant to this subsection ceases to qualify for assistance payments pursuant to the provisions of section 8 of such Act or of this subsection during the 180-month term of the annual contributions contract, assistance payments shall be made on behalf of another lower income family who occupies a unit identified in the previous sentence.

END OF STATUTE

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[51] So in law. Probably intended to refer to paragraph (3).

[52] Section 154 of the Housing and Community Development Act of 1992, Public Law 102-550, 106 Stat. 3718, and the Departments of Veterans Affairs and Housing and Urban Development, and Independent Agencies Appropriations Act, 1993, Public Law 102-389, 106 Stat. 1591, both attempted to amend this subsection by striking the provisions relating to the Park Central New Community Project and inserting "Jefferson County, Texas". Neither amendment could be executed because the matter cited in both Acts to be struck from this subsection did not conform to the exact language of this subsection.

UNITED STATES HOUSING ACT OF 1937

UNITED STATES HOUSING ACT OF 1937
[Public Law 93-383; 88 Stat. 653; 42 U.S.C. 1437 et seq.]

TITLE I–GENERAL PROGRAM OF ASSISTED HOUSING
42 U.S.C. 1437—1437z-8

Section 1. [42 U.S.C. 1437 note]
SHORT TITLE.

This Act may be cited as the "United States Housing Act of 1937".

Sec. 2. [42 U.S.C. 1437]
DECLARATION OF POLICY AND PUBLIC HOUSING AGENCY ORGANIZATION.

(a) DECLARATION OF POLICY.—It is the policy of the United States—

(1) to promote the general welfare of the Nation by employing the funds and credit of the Nation, as provided in this Act—

(A) to assist States and political subdivisions of States to remedy the unsafe housing conditions and the acute shortage of decent and safe dwellings for low-income families;

(B) to assist States and political subdivisions of States to address the shortage of housing affordable to low-income families; and

(C) consistent with the objectives of this title, to vest in public housing agencies that perform well, the maximum amount of responsibility and flexibility in program administration, with appropriate accountability to public housing residents, localities, and the general public;

(2) that the Federal Government cannot through its direct action alone provide for the housing of every American citizen, or even a majority of its citizens, but it is the responsibility of the Government to promote and protect the independent and collective actions of private citizens to develop housing and strengthen their own neighborhoods;

(3) that the Federal Government should act where there is a serious need that private citizens or groups cannot or are not addressing responsibly; and

(4) that our Nation should promote the goal of providing decent and affordable housing for all citizens through the efforts and encouragement of Federal, State, and local governments, and by the independent and collective actions of private citizens, organizations, and the private sector.

(b) PUBLIC HOUSING AGENCY ORGANIZATION.—

(1) REQUIRED MEMBERSHIP.—Except as provided in paragraphs (2) and (3), the membership of the board of directors or similar governing body of each public housing agency shall contain not less than 1 member—

(A) who is directly assisted by the public housing agency; and

(B) who may, if provided for in the public housing agency plan, be elected by the residents directly assisted by the public housing agency.

(2) EXCEPTION.—Paragraph (1) shall not apply to any public housing agency—

(A) that is located in a State that requires the members of the board of directors or similar governing body of a public housing agency to be salaried and to serve on a full-time basis; or

(B) with less than 300 public housing units, if—

(i) the agency has provided reasonable notice to the resident advisory board of the opportunity of not less than 1 resident described in paragraph (1) to serve on the board of directors or similar governing body of the public housing agency pursuant to such paragraph; and

(ii) within a reasonable time after receipt by the resident advisory board established by the agency pursuant to section 5A(e) of notice under clause (i), the public housing agency has not been notified of the intention of any resident to participate on the board of directors.

(3) EXCEPTION FOR CERTAIN JURISDICTIONS.—

(A) EXCEPTION.—A covered agency (as such term is defined in subparagraph (C) of this paragraph) shall not be required to include on the board of directors or a similar governing board of such agency a member described in paragraph (1).

(B) ADVISORY BOARD REQUIREMENT.—Each covered agency that administers Federal housing assistance under section 8 (42 U.S.C. 1437f) that chooses not to include a member described in paragraph (1) on the board of directors or a similar governing board of the agency shall establish an advisory board of not less than 6 residents of public housing or recipients of assistance under section 8 (42 U.S.C. 1437f) to provide advice and comment to the agency or other administering entity on issues related to public housing and section 8. Such advisory board shall meet not less than quarterly.

(C) COVERED AGENCY OR ENTITY.—For purposes of this paragraph, the term 'covered agency' means a public housing agency or such other entity that administers Federal housing assistance for—

(I)[53] the Housing Authority of the county of Los Angeles, California; or

(ii) any of the States of Alaska, Iowa, and Mississippi.

(4) NONDISCRIMINATION.—No person shall be prohibited from serving on the board of directors or similar governing body of a public housing agency because of the residence of that person in a public housing project or status as assisted under section 8.

Sec. 3. [42 U.S.C. 1437a]
RENTAL PAYMENTS.

(a) FAMILIES INCLUDED; AMOUNT.—

(1) Dwelling units assisted under this Act shall be rented only to families who are low-income families at the time of their initial occupancy of such units. Reviews of family income shall be made at least annually.[54] Except as provided in paragraph (2) and subject to the requirement under paragraph (3), a family shall pay as rent for a dwelling unit assisted under this Act (other than a family assisted under section 8(o) or (y) or paying rent under section 8(c)(3)(B)) the highest of the following amounts, rounded to the nearest dollar:

(A) 30 per centum of the family's monthly adjusted income;

(B) 10 per centum of the family's monthly income; or

(C) if the family is receiving payments for welfare assistance from a public agency and a part of such payments, adjusted in accordance with the family's actual housing costs, is specifically designated by such agency to meet the family's housing costs, the portion of such payments which is so designated; except that, in the case of any family with a fixed income, as defined by the Secretary, after the initial review of the family's income, the public housing agency or owner shall not be required to conduct a review of the family's income for any year for which such family certifies, in accordance with such requirements as the Secretary shall establish, which shall include policies to adjust for inflation-based income changes, that 90 percent or more of the income of the family consists of fixed income, and that the sources of such income have not changed since the previous year, except that the public housing agency or owner shall conduct a review of each such family's income not less than once every 3 years.

(2) RENTAL PAYMENTS FOR PUBLIC HOUSING FAMILIES.—

(A) AUTHORITY FOR FAMILY TO SELECT.—

(i) IN GENERAL.—A family residing in a public housing dwelling[55] shall pay as monthly rent for the unit the amount determined under clause (i) or (ii) of subparagraph (B), subject to the requirement under paragraph (3) (relating to minimum rents). Each public housing agency shall provide for each family residing in a public housing dwelling unit owned, assisted, or operated by the agency to elect annually whether the rent paid by such family shall be determined under clause (i) or (ii) of subparagraph (B). A public housing agency may not at any time fail to provide both such

[53] As it appears in the public law print. Should be "(i)".
[54] Section 102(a)(1) of the Housing Opportunity Through Modernization Act (P.L. 114-201, approved July 29, 2016) amends section 3(a), but the statutory changes are effective only at the beginning of the calendar year following the issuance of a Federal Register notice published by the Secretary. The amended paragraph would reference reviews of family income "pursuant to paragraph (6)" instead of "at least annually"
[55] So in law. Probably should refer to a "public housing dwelling unit".

rent options for any public housing dwelling unit owned, assisted, or operated by the agency.

(ii) AUTHORITY TO RETAIN FLAT AND CEILING RENTS.—Notwithstanding clause (i) or any other provision of law, any public housing agency that is administering flat rents or ceiling rents pursuant to any authority referred to in section 519(d) of the Quality Housing and Work Responsibility Act of 1998 before the effective day of such Act[56] may continue to charge rent in accordance with such rent provisions after such effective date, except that the agency shall provide for families residing in public housing dwelling units owned or operated by the agency to elect annually whether to pay rent under such provisions or in accordance with one of the rent options referred to in subparagraph (A).

(B) ALLOWABLE RENT STRUCTURES.—

(i) FLAT RENTS.—Each public housing agency shall establish, for each dwelling unit in public housing owned or operated by the agency, a flat rental amount for the dwelling unit, which—

(I) shall not be lower than 80 percent of—

(aa) the applicable fair market rental established under section 8(c) of this Act; or

(bb) at the discretion of the Secretary, such other applicable fair market rental established by the Secretary that the Secretary determines more accurately reflects local market conditions and is based on an applicable market area that is geographically smaller than the applicable market area used for purposes of the applicable fair market rental under section 8(c); except that a public housing agency may apply to the Secretary for exception allowing for a flat rental amount for a property that is lower than the amount otherwise determined pursuant to item (aa) or (bb) and the Secretary may grant such exception if the Secretary determines that the fair market rental for the applicable market area pursuant to item (aa) or (bb) does not reflect the market value of the property and the proposed lower flat rental amount is based on a market analysis of the applicable market and complies with subclause (II); and

(II) shall be designed in accordance with subparagraph (D) so that the rent structures do not create a disincentive for continued residency in public housing by families who are attempting to become economically self-sufficient through employment or who have attained a level of self-sufficiency through their own efforts.

If a new flat rental amount for a dwelling unit will increase a family's existing rental payment by more than 35 percent, the new flat rental amount shall be phased in as necessary to ensure that the family's existing rental payment does not increase by more than 35 percent annually. The preceding sentence shall not be construed to require establishment of rental amounts equal to 80 percent of the fair market rental in years when the fair market rental falls from the prior year.

(ii) INCOME-BASED RENTS.—

(I) IN GENERAL.—The monthly rental amount determined under this clause for a family shall be an amount, determined by the public housing agency, that does not exceed the greatest of the amounts (rounded to the nearest dollar) determined under subparagraphs (A), (B), and (C) of paragraph (1). This clause may not be construed to require a public housing agency to charge a monthly rent in the maximum amount permitted under this clause.

(II) DISCRETION.—Subject to the limitation on monthly rental amount under subclause (I), a public housing agency may, in its discretion, implement a rent structure under this clause requiring that a portion of the rent

[56] Pursuant to section 503 of such Act (42 U.S.C. 1437 note), the effective date was October 1, 1999, except to the extent otherwise specifically provided in such Act or to the extent that the Secretary, by notice, implemented any provision of such Act before such date.

be deposited to an escrow or savings account, imposing ceiling rents, or adopting income exclusions (such as those set forth in section 3(b)(5)(B)), or may establish another reasonable rent structure or amount.

(C) SWITCHING RENT DETERMINATION METHODS BECAUSE OF HARDSHIP CIRCUMSTANCES.—Notwithstanding subparagraph (A), in the case of a family that has elected to pay rent in the amount determined under subparagraph (B)(i), a public housing agency shall immediately provide for the family to pay rent in the amount determined under subparagraph (B)(ii) during the period for which such election was made upon a determination that the family is unable to pay the amount determined under subparagraph (B)(i) because of financial hardship, including—

(i) situations in which the income of the family has decreased because of changed circumstances, loss of[57] reduction of employment, death in the family, and reduction in or loss of income or other assistance;

(ii) an increase, because of changed circumstances, in the family's expenses for medical costs, child care, transportation, education, or similar items; and

(iii) such other situations as may be determined by the agency.

(D) ENCOURAGEMENT OF SELF-SUFFICIENCY.—The rental policy developed by each public housing agency shall encourage and reward employment and economic self-sufficiency.

(E) INCOME REVIEWS.—Notwithstanding the second sentence of paragraph (1), in the case of families that are paying rent in the amount determined under subparagraph (B)(i), the agency shall review the income of such family not less than once every 3 years.

(3) MINIMUM RENTAL AMOUNT.—

(A) REQUIREMENT.—Notwithstanding paragraph (1) of this subsection, the method for rent determination elected pursuant to paragraph (2)(A) of this subsection by a family residing in public housing, section 8(o)(2) of this Act, or section 206(d) of the Housing and Urban-Rural Recovery Act of 1983 (including paragraph (5) of such section), the following entities shall require the following families to pay a minimum monthly rental amount (which amount shall include any amount allowed for utilities) of not more than $50 per month, as follows:

(i) Each public housing agency shall require the payment of such minimum monthly rental amount, which amount shall be determined by the agency, by—

(I) each family residing in a dwelling unit in public housing by the agency;

(II) each family who is assisted under the certificate or moderate rehabilitation program under section 8; and

(III) each family who is assisted under the voucher program under section 8, and the agency shall reduce the monthly assistance payment on behalf of such family as may be necessary to ensure payment of such minimum monthly rental amount.

(ii) The Secretary shall require each family who is assisted under any other program for rental assistance under section 8 to pay such minimum monthly rental amount, which amount shall be determined by the Secretary.

(B) EXCEPTION FOR HARDSHIP CIRCUMSTANCES.—

(i) IN GENERAL.—Notwithstanding subparagraph (A), a public housing agency (or the Secretary, in the case of a family described in subparagraph (A)(ii)) shall immediately grant an exemption from application of the minimum monthly rental under such subparagraph to any family unable to pay such amount because of financial hardship, which shall include situations in which (I) the family has lost eligibility for or is awaiting an eligibility determination for a Federal, State, or local assistance program, including a family that includes a member who is an alien lawfully admitted for permanent residence under the Immigration and Nationality Act who would be entitled to public benefits but for title IV of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996; (II) the family would be evicted as a result of the imposition of the minimum rent requirement under subparagraph (A); (III) the income of the family

[57] So in law. Probably should be "or".

has decreased because of changed circumstance, including loss of employment; (IV) a death in the family has occurred; and (V) other situations as may be determined by the agency (or the Secretary, in the case of a family described in subparagraph (A)(ii)).

(ii) WAITING PERIOD.—If a resident requests a hardship exemption under this subparagraph and the public housing agency (or the Secretary, in the case of a family described in subparagraph (A)(ii)) reasonably determines the hardship to be of a temporary nature, an exemption shall not be granted during the 90-day period beginning upon the making of a request for the exemption. A resident may not be evicted during such 90-day period for nonpayment of rent. In such a case, if the resident thereafter demonstrates that the financial hardship is of a long-term basis, the agency (or the Secretary) shall retroactively exempt the resident from the applicability of the minimum rent requirement for such 90-day period.

(4) OCCUPANCY BY POLICE OFFICERS.—

(A) IN GENERAL.—Subject to subparagraph (B) and notwithstanding any other provision of law, a public housing agency may, in accordance with the public housing agency plan for the agency, allow a police officer who is not otherwise eligible for residence in public housing to reside in a public housing dwelling unit. The number and location of units occupied by police officers under this paragraph and the terms and conditions of their tenancies shall be determined by the public housing agency.

(B) INCREASED SECURITY.—A public housing agency may take the actions authorized in subparagraph (A) only for the purpose of increasing security for the residents of a public housing project.

(C) DEFINITION.—In this paragraph, the term "police officer" means any person determined by a public housing agency to be, during the period of residence of that person in public housing, employed on a full-time basis as a duly licensed professional police officer by a Federal, State, or local government or by any agency thereof (including a public housing agency having an accredited police force).

(5) OCCUPANCY BY OVER-INCOME FAMILIES IN CERTAIN PUBLIC HOUSING.—

(A) AUTHORITY.—Notwithstanding any other provision of law, a public housing agency that owns or operates less than 250 units may, on a month-to-month basis, lease a dwelling unit in a public housing project to an over-income family in accordance with this paragraph, but only if there are no eligible families applying for housing assistance from the public housing agency for that month and the agency provides not less than 30-day public notice of the availability of such assistance.

(B) TERMS AND CONDITIONS.—The number and location of dwelling units of a public housing agency occupied under this paragraph by over-income families, and the terms and conditions of those tenancies, shall be determined by the public housing agency, except that—

(i) notwithstanding paragraph (2), rent for a unit shall be in an amount that is not less than the costs to operate the unit;

(ii) if an eligible family applies for residence after an over-income family moves in to the last available unit, the over-income family shall vacate the unit in accordance with notice of termination of tenancy provided by the agency, which shall be provided not less than 30 days before such termination; and

(iii) if a unit is vacant and there is no one on the waiting list, the public housing agency may allow an over-income family to gain immediate occupancy in the unit, while simultaneously providing reasonable public notice and outreach with regard to availability of the unit.

(C) DEFINITION.—For purposes of this paragraph, the term "over-income family" means an individual or family that is not a low-income family at the time of initial occupancy.[58]

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[58] Section 102(a)(1) of the Housing Opportunity Through Modernization Act (P.L. 114-201, approved July 29, 2016) adds at the end new paragraphs (6) and (7), but the statutory changes are effective only at the beginning of the calendar year following the issuance of a Federal Register notice published by the Secretary. The new paragraphs (6) and (7) would read as follows:

(6) REVIEWS OF FAMILY INCOME.—

(A) FREQUENCY.—Reviews of family income for purposes of this section shall be made—

(i) in the case of all families, upon the initial provision of housing assistance for the family;

(ii) annually thereafter, except as provided in paragraph (1) with respect to fixed-income families;

(b) DEFINITION OF TERMS UNDER THIS ACT.—When used in this Act:

(1) The term "low-income housing" means decent, safe, and sanitary dwellings assisted under this Act. The term "public housing" means low-income housing, and all necessary appurtenances thereto, assisted under this Act other than under section 8. The term "public housing" includes dwelling units in a mixed finance project that are assisted by a public housing agency with capital or operating assistance. When used in reference to public housing, the term "low-income housing project" or "project" means (A) housing developed, acquired, or assisted by a public housing agency under this Act, and (B) the improvement of any such housing.

(2)(A) The term "low-income families" means those families whose incomes do not exceed 80 per centum of the median income for the area, as determined by the Secretary with adjustments for smaller and larger families, except that the Secretary may establish income ceilings higher or lower than 80 per centum of the median for the area on the basis of the Secretary's findings that such variations are necessary because of prevailing levels of construction costs or unusually high or low family incomes.

(B) The term "very low-income families" means low-income families whose incomes do not exceed 50 per centum of the median family income for the area, as determined by the Secretary with adjustments for smaller and larger families, except that the Secretary may establish income ceilings higher or lower than 50 per centum of the median for the area on the basis of the Secretary's findings that such variations are necessary because of unusually high or low family incomes.

(iii) upon the request of the family, at any time the income or deductions (under subsection (b)(5)) of the family change by an amount that is estimated to result in a decrease of 10 percent (or such lower amount as the Secretary may, by notice, establish, or permit the public housing agency or owner to establish) or more in annual adjusted income; and

(iv) at any time the income or deductions (under subsection (b)(5)) of the family change by an amount that is estimated to result in an increase of 10 percent or more in annual adjusted income, or such other amount as the Secretary may by notice establish, except that any increase in the earned income of a family shall not be considered for purposes of this clause (except that earned income may be considered if the increase corresponds to previous decreases under clause (iii)), except that a public housing agency or owner may elect not to conduct such review in the last three months of a certification period.

(B) IN GENERAL.—Reviews of family income for purposes of this section shall be subject to the provisions of section 904 of the Stewart B. McKinney Homeless Assistance Amendments Act of 1988 (42 U.S.C. 3544).

(7) CALCULATION OF INCOME.—

(A) USE OF CURRENT YEAR INCOME.—In determining family income for initial occupancy or provision of housing assistance pursuant to clause (i) of paragraph (6)(A) or pursuant to reviews pursuant to clause (iii) or (iv) of such paragraph, a public housing agency or owner shall use the income of the family as estimated by the agency or owner for the upcoming year.

(B) USE OF PRIOR YEAR INCOME.—In determining family income for annual reviews pursuant to paragraph (6)(A)(ii), a public housing agency or owner shall, except as otherwise provided in this paragraph and paragraph (1), use the income of the family as determined by the agency or owner for the preceding year, taking into consideration any redetermination of income during such prior year pursuant to clause (iii) or (iv) of paragraph (6)(A).

(C) OTHER INCOME.—In determining the income for any family based on the prior year's income, with respect to prior year calculations of income not subject to subparagraph (B), a public housing agency or owner may make other adjustments as it considers appropriate to reflect current income.

(D) SAFE HARBOR.—A public housing agency or owner may, to the extent such information is available to the public housing agency or owner, determine the family's income prior to the application of any deductions based on timely income determinations made for purposes of other means-tested Federal public assistance programs (including the program for block grants to States for temporary assistance for needy families under part A of title IV of the Social Security Act, a program for Medicaid assistance under a State plan approved under title XIX of the Social Security Act, and the supplemental nutrition assistance program (as such term is defined in section 3 of the Food and Nutrition Act of 2008 (7 U.S.C. 2012))). The Secretary shall, in consultation with other appropriate Federal agencies, develop electronic procedures to enable public housing agencies and owners to have access to such benefit determinations made by other means-tested Federal programs that the Secretary determines to have comparable reliability. Exchanges of such information shall be subject to the same limitations and tenant protections provided under section 904 of the Stewart B. McKinney Homeless Assistance Act Amendments of 1988 (42 U.S.C. 3544) with respect to information obtained under the requirements of section 303(i) of the Social Security Act (42 U.S.C. 503(i)).

(E) ELECTRONIC INCOME VERIFICATION.—The Secretary shall develop a mechanism for disclosing information to a public housing agency for the purpose of verifying the employment and income of individuals and families in accordance with section 453(j)(7)(E) of the Social Security Act (42 U.S.C. 653(j)(7)(E)), and shall ensure public housing agencies have access to information contained in the 'Do Not Pay' system established by section 5 of the Improper Payments Elimination and Recovery Improvement Act of 2012 (Public Law 112–248; 126 Stat. 2392).

(F) PHA AND OWNER COMPLIANCE.—A public housing agency or owner may not be considered to fail to comply with this paragraph or paragraph (6) due solely to any de minimis errors made by the agency or owner in calculating family incomes.

(C) The term "extremely low-income families" means very low-income families whose incomes do not exceed the higher of—

(i) the poverty guidelines updated periodically by the Department of Health and Human Services under the authority of section 673(2) of the Community Services Block Grant Act applicable to a family of the size involved (except that this clause shall not apply in the case of public housing agencies or projects located in Puerto Rico or any other territory or possession of the United States); or

(ii) 30 percent of the median family income for the area, as determined by the Secretary, with adjustments for smaller and larger families (except that the Secretary may establish income ceilings higher or lower than 30 percent of the median for the area on the basis of the Secretary's findings that such variations are necessary because of unusually high or low family incomes).

(D) Such ceilings shall be established in consultation with the Secretary of Agriculture for any rural area, as defined in section 520 of the Housing Act of 1949, taking into account the subsidy characteristics and types of programs to which such ceilings apply. In determining median incomes (of persons, families, or households) for an area or establishing any ceilings or limits based on income under this Act, the Secretary shall determine or establish area median incomes and income ceilings and limits for Westchester and Rockland Counties, in the State of New York, as if each such county were an area not contained within the metropolitan statistical area in which it is located. In determining such area median incomes or establishing such income ceilings or limits for the portion of such metropolitan statistical area that does not include Westchester or Rockland Counties, the Secretary shall determine or establish area median incomes and income ceilings and limits as if such portion included Westchester and Rockland Counties. In determining areas that are designated as difficult development areas for purposes of the low-income housing tax credit, the Secretary shall include Westchester and Rockland Counties, New York, in the New York City metropolitan area.

(3) PERSONS AND FAMILIES.—

(A) SINGLE PERSONS.—The term "families" includes families consisting of a single person in the case of (i) an elderly person, (ii) a disabled person, (iii) a displaced person, (iv) the remaining member of a tenant family, and (v) any other single persons. In no event may any single person under clause (v) of the first sentence be provided a housing unit assisted under this Act of 2 or more bedrooms.

(B)[59] FAMILIES.—The term "families" includes families with children and, in the cases of elderly families, near-elderly families, and disabled families, means families whose heads (or their spouses), or whose sole members, are elderly, near-elderly, or persons with disabilities, respectively. The term includes, in the cases of elderly families, near-elderly families, and disabled families, 2 or more elderly persons, near-elderly persons, or persons with disabilities living together, and 1 or more such persons living with 1 or more persons determined under the public housing agency plan to be essential to their care or well-being.

(C) ABSENCE OF CHILDREN.—The temporary absence of a child from the home due to placement in foster care shall not be considered in determining family composition and family size.

(D) ELDERLY PERSON.—The term "elderly person" means a person who is at least 62 years of age.

(E) PERSON WITH DISABILITIES.—The term "person with disabilities" means a person who—

(i) has a disability as defined in section 223 of the Social Security Act,

(ii) is determined, pursuant to regulations issued by the Secretary, to have a physical, mental, or emotional impairment which (I) is expected to be of long-continued and indefinite duration, (II) substantially impedes his or her ability to live independently, and (III) is of such a nature that such ability could be improved by more suitable housing conditions, or

[59] Section 573(b) of the Cranston-Gonzalez National Affordable Housing Act, Public Law 101-625, amended this paragraph to exclude from consideration as income amounts not received by a family. Section 573(e) of such Act provides as follows:

"(e) Budget Compliance.—The amendments made by subsections (b) and (c) shall apply only to the extent approved in appropriations Acts.".

(iii) has a developmental disability as defined in section 102 of the Developmental Disabilities Assistance and Bill of Rights Act of 2000.

Such term shall not exclude persons who have the disease of acquired immunodeficiency syndrome or any conditions arising from the etiologic agent for acquired immunodeficiency syndrome. Notwithstanding any other provision of law, no individual shall be considered a person with disabilities, for purposes of eligibility for low-income housing under this title, solely on the basis of any drug or alcohol dependence. The Secretary shall consult with other appropriate Federal agencies to implement the preceding sentence.

(F) DISPLACED PERSON.—The term "displaced person" means a person displaced by governmental action, or a person whose dwelling has been extensively damaged or destroyed as a result of a disaster declared or otherwise formally recognized pursuant to Federal disaster relief laws.

(G) NEAR-ELDERLY PERSON.—The term "near-elderly person" means a person who is at least 50 years of age but below the age of 62.

(4)[60] The term "income" means income from all sources of each member of the household, as determined in accordance with criteria prescribed by the Secretary, in consultation with the Secretary of Agriculture, except that any amounts not actually received by the family[61] and any amounts which would be eligible for exclusion under section 1613(a)(7) of the Social Security Act (42 U.S.C. 1382b(a)(7))[62] or any deferred Department of Veterans Affairs disability benefits that are received in a lump sum amount or in prospective monthly amounts may not be considered as income under this paragraph.[63]

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[60] Section 102(c) of the Housing Opportunity Through Modernization Act (P.L. 114-201, approved July 29, 2016) would amend subsection (b)(4). That change is effective at the beginning of a calendar year following the issuance of a regulation or Federal Register notice by the Secretary. The new paragraph (4) would read as follows:

(4) INCOME.—The term 'income' means, with respect to a family, income received from all sources by each member of the household who is 18 years of age or older or is the head of household or spouse of the head of the household, plus unearned income by or on behalf of each dependent who is less than 18 years of age, as determined in accordance with criteria prescribed by the Secretary, in consultation with the Secretary of Agriculture, subject to the following requirements:

(A) INCLUDED AMOUNTS.—Such term includes recurring gifts and receipts, actual income from assets, and profit or loss from a business.

(B) EXCLUDED AMOUNTS.—Such term does not include—

(i) any imputed return on assets, except to the extent that net family assets exceed $50,000, except that such amount (as it may have been previously adjusted) shall be adjusted for inflation annually by the Secretary in accordance with an inflationary index selected by the Secretary;

(ii) any amounts that would be eligible for exclusion under section 1613(a)(7) of the Social Security Act (42 U.S.C. 1382b(a)(7));

(iii) deferred disability benefits from the Department of Veterans Affairs that are received in a lump sum amount or in prospective monthly amounts;

(iv) any expenses related to aid and attendance under section 1521 of title 38, United States Code, to veterans who are in need of regular aid and attendance; and

(v) exclusions from income as established by the Secretary by regulation or notice, or any amount required by Federal law to be excluded from consideration as income.

(C) EARNED INCOME OF STUDENTS.—Such term does not include—

(i) earned income, up to an amount as the Secretary may by regulation establish, of any dependent earned during any period that such dependent is attending school or vocational training on a full-time basis; or

(ii) any grant-in-aid or scholarship amounts related to such attendance used—

(I) for the cost of tuition or books; or

(II) in such amounts as the Secretary may allow, for the cost of room and board.

(D) EDUCATIONAL SAVINGS ACCOUNTS.—Income shall be determined without regard to any amounts in or from, or any benefits from, any Coverdell education savings account under section 530 of the Internal Revenue Code of 1986 or any qualified tuition program under section 529 of such Code.

(E) RECORDKEEPING.—The Secretary may not require a public housing agency or owner to maintain records of any amounts excluded from income pursuant to this subparagraph.

[61] Section 573(b) of the Cranston-Gonzalez National Affordable Housing Act, Public Law 101-625, amended this paragraph to exclude from consideration as income amounts not received by a family. Section 573(e) of such Act provides as follows:

"(e) BUDGET COMPLIANCE.—The amendments made by subsections (b) and (c) shall apply only to the extent approved in appropriations Acts.".

[62] Section 103(a)(1) of the Housing and Community Development Act of 1992, Public Law 102-550, amended this paragraph to exclude from consideration as income the amounts eligible for exclusion under the Social Security Act.

Paragraph (3) of such section 103(a) provides as follows:

"(3) Budget compliance.—To the extent that the amendments made by paragraphs (1) and (2) result in additional costs under this title, such amendments shall be effective only to the extent that amounts to cover such additional costs are provided in advance in appropriation Acts.".

[63] Other Federal laws exclude various amounts from consideration as income for purposes of housing assistance. See, for example, the exclusion provided by section 509 of the Older Americans Act of 1965 (42 U.S.C. 3056g).

(5)[64] ADJUSTED INCOME.—The term "adjusted income" means, with respect to a family, the amount (as determined by the public housing agency) of the income of the members of the family residing in a dwelling unit or the persons on a lease, after any income exclusions as follows:

(A) MANDATORY EXCLUSIONS.—In determining adjusted income, a public housing agency shall exclude from the annual income of a family the following amounts:

(i) ELDERLY AND DISABLED FAMILIES.—$400 for any elderly or disabled family.

(ii) MEDICAL EXPENSES.—The amount by which 3 percent of the annual family income is exceeded by the sum of—

(I) unreimbursed medical expenses of any elderly family or disabled family;

(II) unreimbursed medical expenses of any family that is not covered under subclause (I), except that this subclause shall apply only to the extent approved in appropriation Acts; and

(III) unreimbursed reasonable attendant care and auxiliary apparatus expenses for each handicapped member of the family, to the extent necessary to enable any member of such family (including such handicapped member) to be employed.

(iii) CHILD CARE EXPENSES.—Any reasonable child care expenses necessary to enable a member of the family to be employed or to further his or her education.

(iv) MINORS, STUDENTS, AND PERSONS WITH DISABILITIES.—$480 for each member of the family residing in the household (other than the head of the household or his or her spouse) who is less than 18 years of age or is attending school or vocational training on a full-time basis, or who is 18 years of age or older and is a person with disabilities.

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[64] Section 102(c) of the Housing Opportunity Through Modernization Act (P.L. 114-201, signed July 29, 2016) would amend subsection (b)(5). That change is effective at the beginning of a calendar year following the issuance of a regulation or Federal Register notice by the Secretary. The new paragraph (5) would read:

(5) ADJUSTED INCOME.—The term 'adjusted income' means, with respect to a family, the amount (as determined by the public housing agency or owner) of the income of the members of the family residing in a dwelling unit or the persons on a lease, after any deductions from income as follows:

(A) ELDERLY AND DISABLED FAMILIES.—$525 in the case of any family that is an elderly family or a disabled family.

(B) MINORS, STUDENTS, AND PERSONS WITH DISABILITIES.—$480 for each member of the family residing in the household (other than the head of the household or his or her spouse) who is less than 18 years of age or is attending school or vocational training on a full-time basis, or who is 18 years of age or older and is a person with disabilities.

(C) CHILD CARE.—Any reasonable child care expenses necessary to enable a member of the family to be employed or to further his or her education.

(D) HEALTH AND MEDICAL EXPENSES.—The amount, if any, by which 10 percent of annual family income is exceeded y the sum of—

"(i) in the case of any elderly or disabled family, any unreimbursed health and medical care expenses; and

(ii) any unreimbursed reasonable attendant care and auxiliary apparatus expenses for each handicapped member of the family, if determined necessary by the public housing agency or owner to enable any member of such family to be employed.

The Secretary shall, by regulation, provide hardship exemptions to the requirements of this subparagraph and subparagraph (C) for impacted families who demonstrate an inability to pay calculated rents because of financial hardship. Such regulations shall include a requirement to notify tenants regarding any changes to the determination of adjusted income pursuant to such subparagraphs based on the determination of the family's claim of financial hardship exemptions required by the preceding sentence. Such regulations shall be promulgated in consultation with tenant organizations, industry participants, and the Secretary of Health and Human Services, with an adequate comment period provided for interested parties.

(E) PERMISSIVE DEDUCTIONS.—Such additional deductions as a public housing agency may, at its discretion, establish, except that the Secretary shall establish procedures to ensure that such deductions do not materially increase Federal expenditures.

The Secretary shall annually calculate the amounts of the deductions under subparagraphs (A) and (B), as such amounts may have been previously calculated, by applying an inflationary factor as the Secretary shall, by regulation, establish, except that the actual deduction determined for each year shall be established by rounding such amount to the next lowest multiple of $25.

(v) CHILD SUPPORT PAYMENTS.—Any payment made by a member of the family for the support and maintenance of any child who does not reside in the household, except that the amount excluded under this clause may not exceed $480 for each child for whom such payment is made; except that this clause shall apply only to the extent approved in appropriations Acts.

(vi) SPOUSAL SUPPORT EXPENSES.—Any payment made by a member of the family for the support and maintenance of any spouse or former spouse who does not reside in the household, except that the amount excluded under this clause shall not exceed the lesser of (I) the amount that such family member has a legal obligation to pay, or (II) $550 for each individual for whom such payment is made; except that this clause shall apply only to the extent approved in appropriations Acts.

(vii) EARNED INCOME OF MINORS.—The amount of any earned income of a member of the family who is not—

(I) 18 years of age or older; and

(II) the head of the household (or the spouse of the head of the household).

(B) PERMISSIVE EXCLUSIONS FOR PUBLIC HOUSING.—In determining adjusted income, a public housing agency may, in the discretion of the agency, establish exclusions from the annual income of a family residing in a public housing dwelling unit. Such exclusions may include the following amounts:

(i) EXCESSIVE TRAVEL EXPENSES.—Excessive travel expenses in an amount not to exceed $25 per family per week, for employment- or education-related travel.[65]

(ii) EARNED INCOME.—An amount of any earned income of the family, established at the discretion of the public housing agency, which may be based on—

(I) all earned income of the family,[66]

(II) the amount earned by particular members of the family;

(III) the amount earned by families having certain characteristics; or

(IV) the amount earned by families or members during certain periods or from certain sources.

(iii) OTHERS.—Such other amounts for other purposes, as the public housing agency may establish.

(6) PUBLIC HOUSING AGENCY.—

(A) IN GENERAL.—Except as provided in subparagraph (B), the term "public housing agency" means any State, county, municipality, or other governmental entity or public body (or agency or instrumentality thereof) which is authorized to engage in or assist in the development or operation of public housing, or a consortium of such entities or bodies as approved by the Secretary.

(B) SECTION 8 PROGRAM.—For purposes of the program for tenant-based assistance under section 8, such term includes—

(i) a consortia of public housing agencies that the Secretary determines has the capacity and capability to administer a program for assistance under such section in an efficient manner;

(ii) any other public or private nonprofit entity that, upon the effective date under section 503(a) of the Quality Housing and Work Responsibility Act of 1998, was administering any program for tenant-based assistance under section 8 of this Act (as in effect before the effective date of such Act), pursuant to a contract with the Secretary or a public housing agency; and

(iii) with respect to any area in which no public housing agency has been organized or where the Secretary determines that a public housing agency is unwilling or unable to implement a program for tenant-based assistance section 8[67], or is not performing effectively—

[65] So in law. Should probably be a semicolon.
[66] So in law. Should probably be a semicolon.
[67] So in law.

(I) the Secretary or another public or private nonprofit entity that by contract agrees to receive assistance amounts under section 8 and enter into housing assistance payments contracts with owners and perform the other functions of public housing agency under section 8; or

(II) notwithstanding any provision of State or local law, a public housing agency for another area that contracts with the Secretary to administer a program for housing assistance under section 8, without regard to any otherwise applicable limitations on its area of operation.

(7) The term "State" includes the several States, the District of Columbia, the Commonwealth of Puerto Rico, the territories and possessions of the United States, and the Trust Territory of the Pacific Islands.

(8) The term "Secretary" means the Secretary of Housing and Urban Development.

(9) DRUG-RELATED CRIMINAL ACTIVITY.—The term "drug-related criminal activity" means the illegal manufacture, sale, distribution, use, or possession with intent to manufacture, sell, distribute, or use, of a controlled substance (as such term is defined in section 102 of the Controlled Substances Act).

(10) MIXED-FINANCE PROJECT.—The term "mixed-finance project" means a public housing project that meets the requirements of section 35.

(11) PUBLIC HOUSING AGENCY PLAN.—The term "public housing agency plan" means the plan of a public housing agency prepared in accordance with section 5A.

(12) CAPITAL FUND.—The term "Capital Fund" means the fund established under section 9(d).

(13) OPERATING FUND.—The term "Operating Fund" mean the fund established under section 9(e).

(c) DEFINITION OF TERMS USED IN REFERENCE TO PUBLIC HOUSING.—When used in reference to public housing:

(1) The term "development" means any or all undertakings necessary for planning, land acquisition, demolition, construction, or equipment, in connection with a low-income housing project. The term "development cost" comprises the costs incurred by a public housing agency in such undertakings and their necessary financing (including the payment of carrying charges), and in otherwise carrying out the development of such project, but does not include the costs associated with the demolition of or remediation of environmental hazards associated with public housing units that will not be replaced on the project site, or other extraordinary site costs as determined by the Secretary. Construction activity in connection with a low-income housing project may be confined to the reconstruction, remodeling, or repair of existing buildings.

(2) The term "operation" means any or all undertakings appropriate for management, operation, services, maintenance, security (including the cost of security personnel), or financing in connection with a low-income housing project. The term also means the financing of tenant programs and services for families residing in low-income housing projects, particularly where there is maximum feasible participation of the tenants in the development and operation of such tenant programs and services. As used in this paragraph, the term "tenant programs and services" includes the development and maintenance of tenant organizations which participate in the management of low-income housing projects; the training of tenants to manage and operate such projects and the utilization of their services in project management and operation; counseling on household management, housekeeping, budgeting, money management, child care, and similar matters; advice as to resources for job training and placement, education, welfare, health, and other community services; services which are directly related to meeting tenant needs and providing a wholesome living environment; and referral to appropriate agencies in the community when necessary for the provision of such services. To the maximum extent available and appropriate, existing public and private agencies in the community shall be used for the provision of such services.

(3) The term "acquisition cost" means the amount prudently required to be expended by a public housing agency in acquiring property for a low-income housing project.[68]

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[68] Section 622(c) of the Housing and Community Development Act of 1992, Public Law 102-550, amended this subsection by inserting after "project." the following new paragraphs:

"(4) The term 'congregate housing' means low-rent housing with which there is connected a central dining facility where wholesome and economical meals can be served to occupants. Expenditures incurred by a public housing agency in the operation of a central dining facility in connection with congregate housing (other than the cost of providing food and service) shall be considered a cost of operation of the project.

(4) The term "congregate housing" means low-rent housing with which there is connected a central dining facility where wholesome and economical meals can be served to occupants. Expenditures incurred by a public housing agency in the operation of a central dining facility in connection with congregate housing (other than the cost of providing food and service) shall be considered a cost of operation of the project.

(5) The terms "group home" and "independent living facility" have the meanings given such terms in section 811(k) of the Cranston-Gonzalez National Affordable Housing Act.

(d)[69] DISALLOWANCE OF EARNED INCOME FROM RENT DETERMINATIONS.—

(1) IN GENERAL.—Notwithstanding any other provision of law, the rent payable under subsection (a) by a family described in paragraph (3) of this subsection may not be increased as a result of the increased income due to such employment during the 12-month period beginning on the date on which the employment is commenced.

(2) PHASE-IN OF RENT INCREASES.—Upon the expiration of the 12-month period referred to in paragraph (1), the rent payable by a family described in paragraph (3) may be increased due to the continued employment of the family member described in paragraph (3)(B), except that during the 12-month period beginning upon such expiration the amount of the increase may not be greater than 50 percent of the amount of the total rent increase that would be applicable but for this paragraph.

(3) ELIGIBLE FAMILIES.—A family described in this paragraph is a family—

(A) that—

(i) occupies a dwelling unit in a public housing project; or

(ii) receives assistance under section 8; and

(B)(i) whose income increases as a result of employment of a member of the family who was previously unemployed for 1 or more years;

(ii) whose earned income increases during the participation of a family member in any family self-sufficiency or other job training program; or

(iii) who is or was, within 6 months, assisted under any State program for temporary assistance for needy families funded under part A of title IV of the Social Security Act and whose earned income increases.

(4) APPLICABILITY.—This subsection and subsection (e) shall apply beginning upon October 1, 1999, except that this subsection and subsection (e) shall apply with respect to any family described in paragraph 3(A)(ii)[70] only to the extent provided in advance in appropriations Acts.

(e)[71] INDIVIDUAL SAVINGS ACCOUNTS.—

(1) IN GENERAL.—In lieu of a disallowance of earned income under subsection (d), upon the request of a family that qualifies under subsection (d), a public housing agency may establish an individual savings account in accordance with this subsection for that family.

(2) DEPOSITS TO ACCOUNT.—The public housing agency shall deposit in any savings account established under this subsection an amount equal to the total amount that otherwise would be applied to the family's rent payment under subsection (a) as a result of employment.

(3) WITHDRAWAL FROM ACCOUNT.—Amounts deposited in a savings account established under this subsection may only be withdrawn by the family for the purpose of—

(A) purchasing a home;

(B) paying education costs of family members;

(C) moving out of public or assisted housing; or

(D) paying any other expense authorized by the public housing agency for the purpose of promoting the economic self-sufficiency of residents of public and assisted housing.

"(5) The terms 'group home' and 'independent living facility' have the meanings given such terms in section 811(k) of the Cranston-Gonzalez National Affordable Housing Act.".

Because the amendatory instructions did not specify which occurrence of "project." the new paragraphs were to be placed after, the amendment could not be executed. The new paragraphs were probably intended to be inserted after this paragraph.

[69] Section 102(a)(2) of the Housing Opportunity Through Modernization Act (P.L. 114-201, approved July 29, 2016) would strike subsection (d) in its entirety. That change is effective at the beginning of a calendar year following the issuance of a regulation or Federal Register notice by the Secretary.

[70] So in law. Probably should refer to paragraph (3)(B)(ii).

[71] Section 102(a)(2) of the Housing Opportunity Through Modernization Act (P.L. 114-201, approved July 29, 2016) would strike subsection (e). That change is effective at the beginning of a calendar year following the issuance of a regulation or Federal Register notice by the Secretary.

(f)[72] AVAILABILITY OF INCOME MATCHING INFORMATION.—

(1) DISCLOSURE TO PHA.—A public housing agency, or the owner responsible for determining the participant's eligibility or level of benefits, shall require any family described in paragraph (2) who receives information regarding income, earnings, wages, or unemployment compensation from the Department of Housing and Urban Development pursuant to income verification procedures of the Department to disclose such information, upon receipt of the information, to the public housing agency that owns or operates the public housing dwelling unit in which such family resides or that provides the housing assistance under this Act on behalf of such family, as applicable, or to the owner responsible for determining the participant's eligibility or level of benefits.

(2) FAMILIES COVERED.—A family described in this paragraph is a family that resides in a dwelling unit—

(A) that is a public housing dwelling unit;

(B) for which tenant-based assistance is provided under section 8,[73] or

(C) for which project-based assistance is provided under section 8, section 202, or section 811.

Sec. 4. [42 U.S.C. 1437b]
LOANS AND COMMITMENTS TO MAKE LOANS FOR LOW-INCOME HOUSING PROJECTS.

(a) The Secretary may make loans or commitments to make loans to public housing agencies to help finance or refinance the development, acquisition, or operation of low-income housing projects by such agencies. Any contract for such loans and any amendment to a contract for such loans shall provide that such loans shall bear interest at a rate specified by the Secretary which shall not be less than a rate determined by the Secretary of the Treasury taking into consideration the current average market yield on outstanding marketable obligations of the United States with remaining periods to maturity comparable to the average maturities of such loans, plus one-eighth of 1 per centum. Such loans shall be secured in such manner and shall be repaid within such period not exceeding forty years, or not exceeding forty years from the date of the bonds evidencing the loan, as the Secretary may determine. The Secretary may require loans or commitments to make loans under this section to be pledged as security for obligations issued by a public housing agency in connection with a low-income housing project.

(b) The Secretary may issue and have outstanding at any one time notes and other obligations for purchase by the Secretary of the Treasury in an amount which will not, unless authorized by the President, exceed $1,500,000,000. For the purpose of determining obligations incurred to make loans pursuant to this Act against any limitation otherwise applicable with respect to such loans, the Secretary shall estimate the maximum amount to be loaned at any one time pursuant to loan agreements then outstanding with public housing agencies. Such notes or other obligations shall be in such forms and denominations and shall be subject to such terms and conditions as may be prescribed by the Secretary with the approval of the Secretary of the Treasury. The notes or other obligations issued under this subsection shall have such maturities and bear such rate or rates of interest as shall be determined by the Secretary of the Treasury. The Secretary of the Treasury is authorized and directed to purchase any notes or other obligations of the Secretary issued hereunder and for such purpose is authorized to use as a public debt transaction the proceeds from the sale of any securities issued under chapter 31 of title 31, United States Code, and the purposes for which securities may be issued under such chapter are extended to include any purchases of such obligations. The Secretary of the Treasury may at any time sell any of the notes or other obligations acquired by him under this section. All redemptions, purchases, and sales by the Secretary of the Treasury of such notes or other obligations shall be treated as public debt transactions of the United States.

(c)(1) At such times as the Secretary may determine, and in accordance with such accounting and other procedures as the Secretary may prescribe, each loan made by the Secretary under subsection (a) that has any principal amount outstanding or any interest amount outstanding or accrued shall be forgiven; and the terms and conditions of any contract, or any amendment to a contract, for such loan with respect to any promise to repay such principal and interest shall be canceled. Such cancellation shall not affect any other terms and conditions of such contract, which shall remain in effect as if the cancellation had not occurred. This paragraph shall not apply to any loan the repayment of which was not to be made using annual contributions, or to any loan all or part of the proceeds of which are due a public housing agency from contractors or others.

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[72] Section 102(a)(3) of the Housing Opportunity Through Modernization Act (P.L. 114-201, approved July 29, 2016) would redesignate subsection (f) as subsection (d). That change is effective at the beginning of a calendar year following the issuance of a regulation or Federal Register notice by the Secretary.

[73] Punctuation so in law. Probably should be a semicolon.

(2)(A) On the date of the enactment of the Housing and Community Development Reconciliation Amendments of 1985,[74] each note or other obligation issued by the Secretary to the Secretary of the Treasury pursuant to subsection (b), together with any promise to repay the principal and unpaid interest that has accrued on each note or obligation, shall be forgiven; and any other term or condition specified by each such obligation shall be canceled.

(B) On September 30, 1986, and on any subsequent September 30, each such note or other obligation issued by the Secretary to the Secretary of the Treasury pursuant to subsection (b) during the fiscal year ending on such date, together with any promise to repay the principal and unpaid interest that has accrued on each note or obligation, shall be forgiven; and any other term or condition specified by each such obligation shall be canceled.

(3) Any amount of budget authority (and contract authority) that becomes available during any fiscal year as a result of the forgiveness of any loan, note, or obligation under this subsection shall be rescinded.

Sec. 5. [42 U.S.C. 1437c]
CONTRIBUTIONS FOR LOW-INCOME HOUSING PROJECTS.

(a)(1) The Secretary may make annual contributions to public housing agencies to assist in achieving and maintaining the lower income character of their projects. The Secretary shall embody the provisions for such annual contributions in a contract guaranteeing their payment. The contribution payable annually under this section shall in no case exceed a sum equal to the annual amount of principal and interest payable on obligations issued by the public housing agency to finance the development or acquisition cost of the lower income project involved. Annual contributions payable under this section shall be pledged, if the Secretary so requires, as security for obligations issued by a public housing agency to assist the development or acquisition of the project to which annual contributions relate and shall be paid over a period not to exceed 40 years.

(2) The Secretary may make contributions (in the form of grants) to public housing agencies to cover the development cost of public housing projects. The contract under which such contributions shall be made shall specify the amount of capital contributions required for each project to which the contract pertains, and that the terms and conditions of such contract shall remain in effect for a 40-year period.

(3) The amount of contributions that would be established for a newly constructed project by a public housing agency designed to accommodate a number of families of a given size and kind may be established under this section for a project by such public housing agency that would provide housing for the comparable number, sizes, and kinds of families through the acquisition and rehabilitation, or use under lease, of structures that are suitable for low-income housing use and obtained in the local market.

(b) The Secretary may prescribe regulations fixing the maximum contributions available under different circumstances, giving consideration to cost, location, size, rent-paying ability of prospective tenants, or other factors bearing upon the amounts and periods of assistance needed to achieve and maintain low rentals. Such regulations may provide for rates of contribution based upon development, acquisition, or operation costs, number of dwelling units, number of persons housed, interest charges, or other appropriate factors.

(c)(1) The Secretary may enter into contracts for annual contributions aggregating not more than $7,875,049,000 per annum, which amount shall be increased by $1,494,400,000 on October 1, 1980, and by $906,985,000 on October 1, 1981. The additional authority to enter into such contracts provided on or after October 1, 1980, shall be effective only in such amounts as may be approved in appropriation Acts. In addition, the aggregate amount which may be obligated over the duration of the contracts may not exceed $31,200,000 with respect to the additional authority provided on October 1, 1980, and $18,087,370,000 with respect to the additional authority provided on October 1, 1981.

(2) The Secretary shall enter into only such new contracts for preliminary loans as are consistent with the number of dwelling units for which contracts for annual contributions may be entered into.

(3) The full faith and credit of the United States is solemnly pledged to the payment of all annual contributions contracted for pursuant to this section, and there are hereby authorized to be appropriated in each fiscal year, out of any money in the Treasury not otherwise appropriated, the amounts necessary to provide for such payments.

(4) All payments of annual contributions pursuant to this section shall be made out of any funds available for purposes of this Act when such payments are due, except that funds obtained through the

[74] April 7, 1986.

issuance of obligations pursuant to section 4(b) (including repayments or other realizations of the principal of loans made out of such funds) shall not be available for the payment of such annual contributions.

(5) During such period as the Secretary may prescribe for starting construction, the Secretary may approve the conversion of public housing development authority for use under section 9 or for use for the acquisition and rehabilitation of property to be used in public housing, if the public housing agency, after consultation with the unit of local government, certifies that such assistance would be more effectively used for such purpose, and if the total number of units assisted will not be less than 90 per centum of the units covered by the original reservation.

(6) The aggregate amount of budget authority which may be obligated for contracts for annual contributions and for grants under section 17 is increased by $9,912,928,000 on October 1, 1983, and by such sums as may be approved in appropriation Acts on October 1, 1984. The aggregate amount of budget authority that may be obligated for contracts for annual contributions for assistance under section 8, for contracts referred to in paragraphs (7)(A)(iv) and (7)(B)(iv), for grants for public housing, for comprehensive improvement assistance, and for amendments to existing contracts, is increased (to the extent approved in appropriation Acts) by $7,167,000,000 on October 1, 1987, and by $7,300,945,000 on October 1, 1988. The aggregate amount of budget authority that may be obligated for assistance referred to in paragraph (7) is increased (to the extent approved in appropriation Acts) by $16,194,000,000 on October 1, 1990, and by $14,709,400,000 on October 1, 1991. The aggregate amount of budget authority that may be obligated for assistance referred to in paragraph (7) is increased (to the extent approved in appropriation Acts) by $14,710,990,520 on October 1, 1992, and by $15,328,852,122 on October 1993.

(7)(A) Using the additional budget authority provided under paragraph (6) and the balances of budget authority that become available during fiscal year 1993, the Secretary shall, to the extent approved in appropriation Acts, reserve authority to enter into obligations aggregating—

(i) for public housing grants under subsection (a)(2), not more than $830,900,800, of which amount not more than $257,320,000 shall be available for Indian housing;

(ii) for assistance under section 8, not more than $1,977,662,720, of which $20,000,000 shall be available for 15-year contracts for project-based assistance to be used for a multicultural tenant empowerment and homeownership project located in the District of Columbia, except that assistance provided for such project shall not be considered for purposes of the percentage limitations under section 8(i)(2); except that not more than 49 percent of any amounts appropriated under this clause may be used for vouchers under section 8(o);

(iii) for comprehensive improvement assistance grants under section 14(k), not more than $3,100,000,000;

(iv) for assistance under section 8 for property disposition, not more than $93,032,000;

(v) for assistance under section 8 for loan management, not more than $202,000,000;

(vi) for extensions of contracts expiring under section 8, not more than $6,746,135,000, which shall be for 5-year contracts for assistance under section 8 and for loan management assistance under such section;

(vii) for amendments to contracts under section 8, not more than $1,350,000,000;

(viii) for public housing lease adjustments and amendments, not more than $83,055,000;

(ix) for conversions from leased housing contracts under section 23 of this Act (as in effect immediately before the enactment of the Housing and Community Development Act of 1974) to assistance under section 8, not more than $12,767,000; and

(x) for grants under section 24 for revitalization of severely distressed public housing, not more than $300,000,000.

(B) Using the additional budget authority provided under paragraph (6) and the balances of budget authority that become available during fiscal year 1994, the Secretary shall, to the extent approved in appropriation Acts, reserve authority to enter into obligations aggregating—

(i) for public housing grants under subsection (a)(2), not more than $865,798,634, of which amount not more than $268,127,440 shall be available for Indian housing;

(ii) for assistance under section 8, not more than $2,060,724,554, of which $20,000,000 shall be available for 15-year contracts for project-based assistance to be used for a multicultural tenant empowerment and homeownership project located in the District of Columbia, except that assistance provided for such project shall not be considered for purposes of the percentage limitations under section 8(i)(2); except that not more than 49 percent of any amounts appropriated under this clause may be used for vouchers under section 8(o);

(iii) for comprehensive improvement assistance grants under section 14(k), not more than $3,230,200,000;

(iv) for assistance under section 8 for property disposition, not more than $96,939,344;

(v) for assistance under section 8 for loan management, not more than $210,484,000;

(vi) for extensions of contracts expiring under section 8, not more than $7,029,472,670, which shall be for 5-year contracts for assistance under section 8 and for loan management assistance under such section;

(vii) for amendments to contracts under section 8, not more than $1,406,700,000;

(viii) for public housing lease adjustments and amendments, not more than $86,543,310;

(ix) for conversions from leased housing contracts under section 23 of this Act (as in effect immediately before the enactment of the Housing and Community Development Act of 1974) to assistance under section 8, not more than $13,303,214; and

(x) for grants under section 24 for revitalization of severely distressed public housing, not more than $312,600,000.

(C)(i) Any amount available for the conversion of a project to assistance under section 8(b)(1), if not required for such purpose, shall be used for assistance under section 8(b)(1).

(ii) Any amount available for assistance under section 8 for property disposition, if not required for such purpose, shall be used for assistance under section 8(b)(1).

(8) Any amount available for Indian housing under subsection (a) that is recaptured shall be used only for such housing.

(d) Any contract for loans or annual contributions, or both, entered into by the Secretary with a public housing agency, may cover one or more than one low-income housing project owned by such public housing agency; in the event the contract covers two or more projects, such projects may, for any of the purposes of this Act and of such contract (including, but not limited to, the determination of the amount of the loan, annual contributions, or payments in lieu of taxes, specified in such contract), be treated collectively as one project.

(e) In recognition that there should be local determination of the need for low-income housing to meet needs not being adequately met by private enterprise—

(1) the Secretary shall not make any contract with a public housing agency for preliminary loans (all of which shall be repaid out of any moneys which become available to such agency for the development of the projects involved) for surveys and planning in respect to any low-income housing projects (i) unless the governing body of the locality involved has by resolution approved the application of the public housing agency for such preliminary loan; and (ii) unless the public housing agency has demonstrated to the satisfaction of the Secretary that there is need for such low-income housing which is not being met by private enterprise; and

(2) the Secretary shall not make any contract for loans (other than preliminary loans) or for contributions pursuant to this Act unless the governing body of the locality involved has entered into an agreement with the public housing agency providing for the local cooperation required by the Secretary pursuant to this Act; the Secretary shall require that each such agreement shall provide that, notwithstanding any order, judgment, or decree of any court (including any settlement order), before making any amounts that are provided pursuant to any contract for contributions under this title available for use for the development of any housing or other property not previously used as public housing, the public housing agency shall (A) notify the chief executive officer (or other appropriate official) of the unit

of general local government in which the public housing for which such amounts are to be so used is located (or to be located) of such use, and (B) pursuant to the request of such unit of general local government, provide such information as may reasonably be requested by such unit of general local government regarding the public housing to be so assisted (except to the extent otherwise prohibited by law).

(f) Subject to the specific limitations or standards in this Act governing the terms of sales, rentals, leases, loans, contracts for annual contributions, or other agreements, the Secretary may, whenever he deems it necessary or desirable in the fulfillment of the purposes of this Act, consent to the modification, with respect to rate of interest, time of payment of any installment of principal or interest, security, amount of annual contribution, or any other term, of any contract or agreement of any kind to which the Secretary is a party. When the Secretary finds that it would promote economy or be in the financial interest of the Federal Government or is necessary to assure or maintain the lower income character of the project or projects involved, any contract heretofore or hereafter made for annual contributions, loans, or both, may be amended or superseded by a contract entered into by mutual agreement between the public housing agency and the Secretary. Contracts may not be amended or superseded in a manner which would impair the rights of the holders of any outstanding obligations of the public housing agency involved for which annual contributions have been pledged. Any rule of law contrary to this provision shall be deemed inapplicable.

(g) In addition to the authority of the Secretary under subsection (a) to pledge annual contributions as security for obligations issued by a public housing agency, the Secretary is authorized to pledge annual contributions as a guarantee of payment by a public housing agency of all principal and interest on obligations issued by it to assist the development or acquisition of the project to which the annual contributions relate, except that no obligation shall be guaranteed under this subsection if the income thereon is exempt from Federal taxation.

(h) AUDITS.—

(1) By secretary and comptroller general.—Each contract for contributions for any assistance under this Act to a public housing agency shall provide that the Secretary, the Inspector General of the Department of Housing and Urban Development, and the Comptroller General of the United States, or any of their duly authorized representatives, shall, for the purpose of audit and examination, have access to any books, documents, papers, and records of the public housing agency that are pertinent to this Act and to its operations with respect to financial assistance under the[75] this Act.

(2) Withholding of amounts for audits under single audit act.—The Secretary may, in the sole discretion of the Secretary, arrange for and pay the costs of an audit required under chapter 75 of title 31, United States Code. In such circumstances, the Secretary may withhold, from assistance otherwise payable to the agency under this Act, amounts sufficient to pay for the reasonable costs of conducting an acceptable audit, including, when appropriate, the reasonable costs of accounting services necessary to place the agency's books and records in auditable condition. As agreed to by the Secretary and the Inspector General, the Inspector General may arrange for an audit under this paragraph.

(i) PROHIBITION ON USE OF FUNDS.—None of the funds made available to the Department of Housing and Urban Development to carry out this Act, which are obligated to State or local governments, public housing agencies, housing finance agencies, or other public or quasi-public housing agencies, shall be used to indemnify contractors or subcontractors of the government or agency against costs associated with judgments of infringement of intellectual property rights.

Sec. 5A. [42 U.S.C. 1437c-1]
PUBLIC HOUSING AGENCY PLANS.

(a) 5-YEAR PLAN.—

(1) IN GENERAL.—Subject to paragraph (3), not less than once every 5 fiscal years, each public housing agency shall submit to the Secretary a plan that includes, with respect to the 5 fiscal years immediately following the date on which the plan is submitted—

(A) a statement of the mission of the public housing agency for serving the needs of low-income and very low-income families in the jurisdiction of the public housing agency during such fiscal years; and

(B) a statement of the goals and objectives of the public housing agency that will enable the public housing agency to serve the needs identified pursuant to subparagraph (A) during those fiscal years.

[75] So in law.

(2) STATEMENT OF GOALS.—The 5-year plan shall include a statement by any public housing agency of the goals, objectives, policies, or programs that will enable the housing authority to serve the needs of child and adult victims of domestic violence, dating violence, sexual assault, or stalking.

(3) INITIAL PLAN.—The initial 5-year plan submitted by a public housing agency under this subsection shall be submitted for the 5-year period beginning on October 1, 1999, or the first fiscal year thereafter for which the public housing agency initially receives assistance under this Act.

(b) ANNUAL PLAN.—

(1) IN GENERAL.—Effective beginning upon October 1, 1999, each public housing agency shall submit to the Secretary an annual public housing agency plan under this subsection for each fiscal year for which the public housing agency receives assistance under section 8(o) or 9.

(2) UPDATES.—For each fiscal year after the initial submission of an annual plan under this subsection by a public housing agency, the public housing agency may comply with requirements for submission of a plan under this subsection by submitting an update of the plan for the fiscal year.

(3) EXEMPTION OF CERTAIN PHAS FROM FILING REQUIREMENT.—

(A) IN GENERAL.—Notwithstanding paragraph (1) or any other provision of this Act—

(i) the requirement under paragraph (1) shall not apply to any qualified public housing agency; and

(ii) except as provided in subsection (e)(4)(B), any reference in this section or any other provision of law to a "public housing agency" shall not be considered to refer to any qualified public housing agency, to the extent such reference applies to the requirement to submit an annual public housing agency plan under this subsection.

(B) CIVIL RIGHTS CERTIFICATION.—Notwithstanding that qualified public housing agencies are exempt under subparagraph (A) from the requirement under this section to prepare and submit an annual public housing plan, each qualified public housing agency shall, on an annual basis, make the certification described in paragraph (16) of subsection (d), except that for purposes of such qualified public housing agencies, such paragraph shall be applied by substituting "the public housing program of the agency" for "the public housing agency plan".

(C) DEFINITION.—For purposes of this section, the term "qualified public housing agency" means a public housing agency that meets the following requirements:

(i) The sum of (I) the number of public housing dwelling units administered by the agency, and (II) the number of vouchers under section 8(o) of the United States Housing Act of 1937 (42 U.S.C. 1437f(o)) administered by the agency, is 550 or fewer.

(ii) The agency is not designated under section 6(j)(2) as a troubled public housing agency, and does not have a failing score under the section 8 Management Assessment Program during the prior 12 months.

(c) PROCEDURES.—

(1) IN GENERAL.—The Secretary shall establish requirements and procedures for submission and review of plans, including requirements for timing and form of submission, and for the contents of such plans.

(2) CONTENTS.—The procedures established under paragraph (1) shall provide that a public housing agency shall—

(A) in developing the plan consult with the resident advisory board established under subsection (e); and

(B) ensure that the plan under this section is consistent with the applicable comprehensive housing affordability strategy (or any consolidated plan incorporating such strategy) for the jurisdiction in which the public housing agency is located, in accordance with title I of the Cranston-Gonzalez National Affordable Housing Act, and contains a certification by the appropriate State or local official that the plan meets the requirements of this paragraph and a description of the manner in which the applicable contents of the public housing agency plan are consistent with the comprehensive housing affordability strategy.

(d) CONTENTS.—An annual public housing agency plan under subsection (b) for a public housing agency shall contain the following information relating to the upcoming fiscal year for which the assistance under this Act is to be made available:

(1) NEEDS.—A statement of the housing needs of low-income and very low-income families residing in the jurisdiction served by the public housing agency, and of other low-income and very low-income families on the waiting list of the agency (including housing needs of elderly families and disabled

families), and the means by which the public housing agency intends, to the maximum extent practicable, to address those needs.

(2) FINANCIAL RESOURCES.—A statement of financial resources available to the agency and the planned uses of those resources.

(3) ELIGIBILITY, SELECTION, AND ADMISSIONS POLICIES.—A statement of the policies governing eligibility, selection, admissions (including any preferences), assignment, and occupancy of families with respect to public housing dwelling units and housing assistance under section 8(o), including—

(A) the procedures for maintaining waiting lists for admissions to public housing projects of the agency, which may include a system of site-based waiting lists under section 6(r); and

(B) the admissions policy under section 16(a)(3)(B) for deconcentration of lower-income families.

(4) RENT DETERMINATION.—A statement of the policies of the public housing agency governing rents charged for public housing dwelling units and rental contributions of families assisted under section 8(o).

(5) OPERATION AND MANAGEMENT.—A statement of the rules, standards, and policies of the public housing agency governing maintenance and management of housing owned, assisted, or operated by the public housing agency (which shall include measures necessary for the prevention or eradication of pest infestation, including by cockroaches), and management of the public housing agency and programs of the public housing agency.

(6) GRIEVANCE PROCEDURE.—A statement of the grievance procedures of the public housing agency.

(7) CAPITAL IMPROVEMENTS.—With respect to public housing projects owned, assisted, or operated by the public housing agency, a plan describing the capital improvements necessary to ensure long-term physical and social viability of the projects.

(8) DEMOLITION AND DISPOSITION.—With respect to public housing projects owned by the public housing agency—

(A) a description of any housing for which the PHA will apply for demolition or disposition under section 18; and

(B) a timetable for the demolition or disposition.

(9) DESIGNATION OF HOUSING FOR ELDERLY AND DISABLED FAMILIES.—With respect to public housing projects owned, assisted, or operated by the public housing agency, a description of any projects (or portions thereof) that the public housing agency has designated or will apply for designation for occupancy by elderly and disabled families in accordance with section 7.

(10) CONVERSION OF PUBLIC HOUSING.—With respect to public housing owned by a public housing agency—

(A) a description of any building or buildings that the public housing agency is required to convert to tenant-based assistance under section 33 or that the public housing agency plans to voluntarily convert under section 22;

(B) an analysis of the projects or buildings required to be converted under section 33; and

(C) a statement of the amount of assistance received under this Act to be used for rental assistance or other housing assistance in connection with such conversion.

(11) HOMEOWNERSHIP.—A description of any homeownership programs of the agency under section 8(y) or for which the public housing agency has applied or will apply for approval under section 32.

(12) COMMUNITY SERVICE AND SELF-SUFFICIENCY.—A description of—

(A) any programs relating to services and amenities provided or offered to assisted families;

(B) any policies or programs of the public housing agency for the enhancement of the economic and social self-sufficiency of assisted families;[76]

(C) how the public housing agency will comply with the requirements of subsections (c) and (d) of section 12 (relating to community service and treatment of income changes resulting from welfare program requirements).

(13) DOMESTIC VIOLENCE, DATING VIOLENCE, SEXUAL ASSAULT, OR STALKING PROGRAMS.—A description of—

[76] So in law.

(A) any activities, services, or programs provided or offered by an agency, either directly or in partnership with other service providers, to child or adult victims of domestic violence, dating violence, sexual assault, or stalking;

(B) any activities, services, or programs provided or offered by a public housing agency that helps child and adult victims of domestic violence, dating violence, sexual assault, or stalking, to obtain or maintain housing; and

(C) any activities, services, or programs provided or offered by a public housing agency to prevent domestic violence, dating violence, sexual assault, and stalking, or to enhance victim safety in assisted families.

(14) SAFETY AND CRIME PREVENTION.—A plan established by the public housing agency, which shall be subject to the following requirements:

(A) SAFETY MEASURES.—The plan shall provide, on a project-by-project or jurisdiction-wide basis, for measures to ensure the safety of public housing residents.

(B) ESTABLISHMENT.—The plan shall be established in consultation with the police officer or officers in command for the appropriate precinct or police department.

(C) CONTENT.—The plan shall describe the need for measures to ensure the safety of public housing residents and for crime prevention measures, describe any such activities conducted or to be conducted by the agency, and provide for coordination between the agency and the appropriate police precincts for carrying out such measures and activities.

(D) SECRETARIAL ACTION.—If the Secretary determines, at any time, that the security needs of a project are not being adequately addressed by the plan, or that the local police precinct is not complying with the plan, the Secretary may mediate between the public housing agency and the local precinct to resolve any issues of conflict.

(15) PETS.—The requirements of the agency, pursuant to section 31, relating to pet ownership in public housing.

(16) CIVIL RIGHTS CERTIFICATION.—A certification by the public housing agency that the public housing agency will carry out the public housing agency plan in conformity with title VI of the Civil Rights Act of 1964, the Fair Housing Act, section 504 of the Rehabilitation Act of 1973, and title II of the Americans with Disabilities Act of 1990, and will affirmatively further fair housing.

(17) ANNUAL AUDIT.—The results of the most recent fiscal year audit of the public housing agency under section 5(h)(2).

(18) ASSET MANAGEMENT.—A statement of how the agency will carry out its asset management functions with respect to the public housing inventory of the agency, including how the agency will plan for the long-term operating, capital investment, rehabilitation, modernization, disposition, and other needs for such inventory.

(19) OTHER.—Any other information required by law to be included in a public housing agency plan.

(e) RESIDENT ADVISORY BOARD.—

(1) IN GENERAL.—Except as provided in paragraph (3), each public housing agency shall establish 1 or more resident advisory boards in accordance with this subsection, the membership of which shall adequately reflect and represent the residents assisted by the public housing agency.

(2) FUNCTIONS.—Each resident advisory board established under this subsection by a public housing agency shall assist and make recommendations regarding the development of the public housing agency plan for the agency. The agency shall consider the recommendations of the resident advisory boards in preparing the final public housing agency plan, and shall include, in the public housing agency plan submitted to the Secretary under this section, a copy of the recommendations and a description of the manner in which the recommendations were addressed.

(3) WAIVER.—The Secretary may waive the requirements of this subsection with respect to the establishment of resident advisory boards for a public housing agency if the agency demonstrates to the satisfaction of the Secretary that there exist resident councils or other resident organizations of the public housing agency that—

(A) adequately represent the interests of the residents of the public housing agency; and

(B) have the ability to perform the functions described in paragraph (2).

(4) QUALIFIED PUBLIC HOUSING AGENCIES.—

(A) IN GENERAL.—Except as provided in subparagraph (B), nothing in this section may be construed to exempt a qualified public housing agency from the requirement under

paragraph (1) to establish 1 or more resident advisory boards. Notwithstanding that qualified public housing agencies are exempt under subsection (b)(3)(A) from the requirement under this section to prepare and submit an annual public housing plan, each qualified public housing agency shall consult with, and consider the recommendations of the resident advisory boards for the agency, at the annual public hearing required under subsection (f)(5), regarding any changes to the goals, objectives, and policies of that agency.

(B) APPLICABILITY OF WAIVER AUTHORITY.—Paragraph (3) shall apply to qualified public housing agencies, except that for purposes of such qualified public housing agencies, subparagraph (B) of such paragraph shall be applied by substituting "the functions described in the second sentence of paragraph (4)(A)" for "the functions described in paragraph (2)".

(f) PUBLIC HEARINGS.—

(1) IN GENERAL.—In developing a public housing agency plan under this section, the board of directors or similar governing body of a public housing agency shall conduct a public hearing to discuss the public housing agency plan and to invite public comment regarding that plan. The hearing shall be conducted at a location that is convenient to residents.

(2) AVAILABILITY OF INFORMATION AND NOTICE.—Not later than 45 days before the date of a hearing conducted under paragraph (1), the public housing agency shall—

(A) make the proposed public housing agency plan and all information relevant to the hearing and proposed plan available for inspection by the public at the principal office of the public housing agency during normal business hours; and

(B) publish a notice informing the public that—

(i) that[77] the information is available as required under subparagraph (A); and

(ii) that[78] a public hearing under paragraph (1) will be conducted.

(3) ADOPTION OF PLAN.—A public housing agency may adopt a public housing agency plan and submit the plan to the Secretary in accordance with this section only after—

(A) conducting a public hearing under paragraph (1);

(B) considering all public comments received; and

(C) making any appropriate changes in the public housing agency plan, in consultation with the resident advisory board.

(4) ADVISORY BOARD CONSULTATION ENFORCEMENT.—Pursuant to a written request made by the resident advisory board for a public housing agency that documents a failure on the part of the agency to provide adequate notice and opportunity for comment under this subsection and a finding by the Secretary of good cause within the time period provided for in subsection (i)(4), the Secretary may require the public housing agency to adequately remedy such failure before final approval of the public housing agency plan under this section.

(5) QUALIFIED PUBLIC HOUSING AGENCIES.—

(A) REQUIREMENT.—Notwithstanding that qualified public housing agencies are exempt under subsection (b)(3)(A) from the requirement under this section to conduct a public hearing regarding the annual public housing plan of the agency, each qualified public housing agency shall annually conduct a public hearing—

(i) to discuss any changes to the goals, objectives, and policies of the agency; and

(ii) to invite public comment regarding such changes.

(B) AVAILABILITY OF INFORMATION AND NOTICE.—Not later than 45 days before the date of any hearing described in subparagraph (A), a qualified public housing agency shall—

(i) make all information relevant to the hearing and any determinations of the agency regarding changes to the goals, objectives, and policies of the agency to be considered at the hearing available for inspection by the public at the principal office of the public housing agency during normal business hours; and

(ii) publish a notice informing the public that—

(I) the information is available as required under clause (i); and

[77] So in law.
[78] So in law.

(II) a public hearing under subparagraph (A) will be conducted.

(g) AMENDMENTS AND MODIFICATIONS TO PLANS.—

(1) IN GENERAL.—Except as provided in paragraph (2), nothing in this section shall preclude a public housing agency, after submitting a plan to the Secretary in accordance with this section, from amending or modifying any policy, rule, regulation, or plan of the public housing agency, except that a significant amendment or modification may not—

(A) be adopted, other than at a duly called meeting of board of directors (or similar governing body) of the public housing agency that is open to the public; and

(B) be implemented, until notification of the amendment or modification is provided to the Secretary and approved in accordance with subsection (i).

(2) CONSISTENCY AND NOTICE.—Each significant amendment or modification to a public housing agency plan submitted to the Secretary under this section shall—

(A) meet the requirements under subsection (c)(2) (relating to consultation with resident advisory board and consistency with comprehensive housing affordability strategies); and

(B) be subject to the notice and public hearing requirements of subsection (A).

(h) SUBMISSION OF PLANS.—

(1) INITIAL SUBMISSION.—Each public housing agency shall submit the initial plan required by this section, and any amendment or modification to the initial plan, to the Secretary at such time and in such form as the Secretary shall require.

(2) ANNUAL SUBMISSION.—Not later than 75 days before the start of the fiscal year of the public housing agency, after submission of the initial plan required by this section in accordance with subparagraph (A), each public housing agency shall annually submit to the Secretary a plan update, including any amendments or modifications to the public housing agency plan.

(i) REVIEW AND DETERMINATION OF COMPLIANCE.—

(1) REVIEW.—Subject to paragraph (2), after submission of the public housing agency plan or any amendment or modification to the plan to the Secretary, to the extent that the Secretary considers such action to be necessary to make determinations under this paragraph, the Secretary shall review the public housing agency plan (including any amendments or modifications thereto) and determine whether the contents of the plan—

(A) set forth the information required by this section and this Act to be contained in a public housing agency plan;

(B) are consistent with information and data available to the Secretary, including the approved comprehensive housing affordability strategy under title I of the Cranston-Gonzalez National Affordable Housing Act for the jurisdiction in which the public housing agency is located; and

(C) are not prohibited by or inconsistent with any provision of this title or other applicable law.

(2) ELEMENTS EXEMPTED FROM REVIEW.—The Secretary may, by regulation, provide that one or more elements of a public housing agency plan shall be reviewed only if the element is challenged, except that the Secretary shall review the information submitted in each plan pursuant to paragraphs (3)(B), (8), and (15) of subsection (d).

(3) DISAPPROVAL.—The Secretary may disapprove a public housing agency plan (or any amendment or modification thereto) only if Secretary[79] determines that the contents of the plan (or amendment or modification) do not comply with the requirements under subparagraph[80] (A) through (C) of paragraph (1).

(4) DETERMINATION OF COMPLIANCE.—

(A) IN GENERAL.—Except as provided in subsection (j)(2), not later than 75 days after the date on which a public housing agency plan is submitted in accordance with this section, the Secretary shall make the determination under paragraph (1) and provide written notice to the public housing agency if the plan has been disapproved. If the Secretary disapproves the plan, the notice shall state with specificity the reasons for the disapproval.

(B) FAILURE TO PROVIDE NOTICE OF DISAPPROVAL.—In the case of a plan disapproved, if the Secretary does not provide notice of disapproval under subparagraph (A)

[79] So in law.
[80] So in law.

before the expiration of the period described in subparagraph (A), the Secretary shall be considered, for purposes of this Act, to have made a determination that the plan complies with the requirements under this section and the agency shall be considered to have been notified of compliance upon the expiration of such period. The preceding sentence shall not preclude judicial review regarding such compliance pursuant to chapter 7 of title 5, United States Code, or an action regarding such compliance under section 1979 of the Revised Statutes of the United States (42 U.S.C. 1983).

(5) PUBLIC AVAILABILITY.—A public housing agency shall make the approved plan of the agency available to the general public.

(j) TROUBLED AND AT-RISK PHAS.—

(1) IN GENERAL.—The Secretary may require, for each public housing agency that is at risk of being designated as troubled under section 6(j)(2) or is designated as troubled under section 6(j)(2), that the public housing agency plan for such agency include such additional information as the Secretary determines to be appropriate, in accordance with such standards as the Secretary may establish or in accordance with such determinations as the Secretary may make on an agency-by-agency basis.

(2) TROUBLED AGENCIES.—The Secretary shall provide explicit written approval or disapproval, in a timely manner, for a public housing agency plan submitted by any public housing agency designated by the Secretary as a troubled public housing agency under section 6(j)(2).

(k) STREAMLINED PLAN.—In carrying out this section, the Secretary may establish a streamlined public housing agency plan for—

(A)[81] public housing agencies that are determined by the Secretary to be high performing public housing agencies;

(B)[82] public housing agencies with less than 250 public housing units that have not been designated as troubled under section 6(j)(2); and

(C)[83] public housing agencies that only administer tenant-based assistance and that do not own or operate public housing.

(l) COMPLIANCE WITH PLAN.—

(1) IN GENERAL.—In providing assistance under this title, a public housing agency shall comply with the rules, standards, and policies established in the public housing agency plan of the public housing agency approved under this section.

(2) INVESTIGATION AND ENFORCEMENT.—In carrying out this title, the Secretary shall—

(A) provide an appropriate response to any complaint concerning noncompliance by a public housing agency with the applicable public housing agency plan; and

(B) if the Secretary determines, based on a finding of the Secretary or other information available to the Secretary, that a public housing agency is not complying with the applicable public housing agency plan, take such actions as the Secretary determines to be appropriate to ensure such compliance.

Sec. 6. [42 U.S.C. 1437d]

CONTRACT PROVISIONS AND REQUIREMENTS; LOANS AND ANNUAL CONTRIBUTIONS.

(a) CONDITIONS; ELEVATORS.—The Secretary may include in any contract for loans, contributions, sale, lease, mortgage, or any other agreement or instrument made pursuant to this Act, such covenants, conditions, or provisions as he may deem necessary in order to insure the lower income character of the project involved, in a manner consistent with the public housing agency plan. Any such contract shall require that, except in the case of housing predominantly for elderly or disabled families, high-rise elevator projects shall not be provided for families with children unless the Secretary makes a determination that there is no practical alternative.

(b) LIMITATION ON DEVELOPMENT COSTS.—

(1) Each contract for loans (other than preliminary loans) or contributions for the development, acquisition, or operation of public housing shall provide that the total development cost of the project on which the computation of any annual contributions under this Act may be based may not exceed the amount determined under paragraph (2) (for the appropriate structure type) unless the Secretary provides

[81] Indented so in law. Subparagraphs (A) through (C) probably should be designated as paragraphs (1) through (3).
[82] Indented so in law. Subparagraphs (A) through (C) probably should be designated as paragraphs (1) through (3).
[83] Indented so in law. Subparagraphs (A) through (C) probably should be designated as paragraphs (1) through (3).

otherwise, and in any case may not exceed 110 per centum of such amount unless the Secretary for good cause determines otherwise.

(2) For purposes of paragraph (1), the Secretary shall determine the total development cost by multiplying the construction cost guideline for the project (which shall be determined by averaging the current construction costs, as listed by not less than 2 nationally recognized residential construction cost indices, for publicly bid construction of a good and sound quality) by—

(A) in the case of elevator type structures, 1.6; and

(B) in the case of nonelevator type structures, 1.75.

(3) In calculating the total development cost of a project under paragraph (2), the Secretary shall consider only capital assistance provided by the Secretary to a public housing agency that are[84] authorized for use in connection with the development of public housing, and shall exclude all other amounts, including amounts provided under—

(A) the HOME investment partnerships program authorized under title II of the Cranston-Gonzalez National Affordable Housing Act; or

(B) the community development block grants program under title I of the Housing and Community Development Act of 1974.

(4) The Secretary may restrict the amount of capital funds that a public housing agency may use to pay for housing construction costs. For purposes of this paragraph, housing construction costs include the actual hard costs for the construction of units, builders' overhead and profit, utilities from the street, and finish landscaping.

(c) REVISION OF MAXIMUM INCOME LIMITS; CERTIFICATION OF COMPLIANCE WITH REQUIREMENTS; NOTIFICATION OF ELIGIBILITY; INFORMAL HEARING; COMPLIANCE WITH PROCEDURES FOR SOUND MANAGEMENT.—Every contract for contributions shall provide that—

(1) the Secretary may require the public housing agency to review and revise its maximum income limits if the Secretary determines that changed conditions in the locality make such revision necessary in achieving the purposes of this Act;

(2) the public housing agency shall determine, and so certify to the Secretary, that each family in the project was admitted in accordance with duly adopted regulations and approved income limits; and the public housing agency shall review the incomes of families living in the project no less frequently than annually;

(3) the public housing agency shall promptly notify (i) any applicant determined to be ineligible for admission to the project of the basis for such determination and provide the applicant upon request, within a reasonable time after the determination is made, with an opportunity for an informal hearing on such determination, and (ii) any applicant determined to be eligible for admission to the project of the approximate date of occupancy insofar as such date can be reasonably determined;

(4) the public housing agency shall comply with such procedures and requirements as the Secretary may prescribe to assure that sound management practices will be followed in the operation of the project, including requirements pertaining to—

(A) making dwelling units in public housing available for occupancy, which shall provide that the public housing agency may establish a system for making dwelling units available that provides preference for such occupancy to families having certain characteristics; each system of preferences established pursuant to this subparagraph shall be based upon local housing needs and priorities, as determined by the public housing agency using generally accepted data sources, including any information obtained pursuant to an opportunity for public comment as provided under section 5A(f) and under the requirements applicable to the comprehensive housing affordability strategy for the relevant jurisdiction;

(B) the establishment of satisfactory procedures designed to assure the prompt payment and collection of rents and the prompt processing of evictions in the case of nonpayment of rent;

(C) the establishment of effective tenant-management relationships designed to assure that satisfactory standards of tenant security and project maintenance are formulated and that the public housing agency (together with tenant councils where they exist) enforces those standards fully and effectively;

[84] So in law.

(D) the development by local housing authority managements of viable homeownership opportunity programs for low-income families capable of assuming the responsibilities of homeownership;

(E) for each agency that receives assistance under this title, the establishment and maintenance of a system of accounting for rental collections and costs (including administrative, utility, maintenance, repair and other operating costs) for each project or operating cost center (as determined by the Secretary), which collections and costs shall be made available to the general public and submitted to the appropriate local public official (as determined by the Secretary); except that the Secretary may permit agencies owning or operating less than 500 units to comply with the requirements of this subparagraph by accounting on an agency-wide basis; and

(F) requiring the public housing agency to ensure and maintain compliance with subtitle C of title VI of the Housing and Community Development Act of 1992 and any regulations issued under such subtitle.

(d) EXEMPTION FROM PERSONAL AND REAL PROPERTY TAXES; PAYMENTS IN LIEU OF TAXES; CASH CONTRIBUTION OF TAX REMISSION.—Every contract for contributions with respect to a low-income housing project shall provide that no contributions by the Secretary shall be made available for such project unless such project (exclusive of any portion thereof which is not assisted by contributions under this Act) is exempt from all real and personal property taxes levied or imposed by the State, city, county, or other political subdivision; and such contract shall require the public housing agency to make payments in lieu of taxes equal to 10 per centum of the sum of the shelter rents charged in such project, or such lesser amount as (i) is prescribed by State law, or (ii) is agreed to by the local governing body in its agreement for local cooperation with the public housing agency required under section 5(e)(2) of this Act, or (iii) is due to failure of a local public body or bodies other than the public housing agency to perform any obligation under such agreement. If any such project is not exempt from all real and personal property taxes levied or imposed by the State, city, county, or other political subdivision, such contract shall provide, in lieu of the requirement for tax exemption and payments in lieu of taxes, that no contributions by the Secretary shall be made available for such project unless and until the State, city, county, or other political subdivision in which such project is situated shall contribute, in the form of cash or tax remission, the amount by which the taxes paid with respect to the project exceed 10 per centum of the shelter rents charged in such project.

(e) [Repealed.]

(f) HOUSING QUALITY REQUIREMENTS.—

(1) IN GENERAL.—Each contract for contributions for a public housing agency shall require that the agency maintain its public housing in a condition that complies with standards which meet or exceed the housing quality standards established under paragraph (2).

(2) FEDERAL STANDARDS.—The Secretary shall establish housing quality standards under this paragraph that ensure that public housing dwelling units are safe and habitable. Such standards shall include requirements relating to habitability, including maintenance, health and sanitation factors, condition, and construction of dwellings, and shall, to the greatest extent practicable, be consistent with the standards established under section 8(o)(8)(B)(i). The Secretary may determine whether the laws, regulations, standards, or codes of any State or local jurisdiction meet or exceed these standards, for purposes of this subsection.

(3) ANNUAL INSPECTIONS.—Each public housing agency that owns or operates public housing shall make an annual inspection of each public housing project to determine whether units in the project are maintained in accordance with the requirements under paragraph (1). The agency shall retain the results of such inspections and, upon the request of the Secretary, the Inspector General for the Department of Housing and Urban Development, or any auditor conducting an audit under section 5(h), shall make such results available.

(g) SUBSTANTIAL DEFAULT; CONVEYANCE OF TITLE AND DELIVERY OF POSSESSION; RECONVEYANCE AND REDELIVERY; PAYMENTS FOR OUTSTANDING OBLIGATIONS.—Every contract for contributions (including contracts which amend or supersede contracts previously made) may provide that—

(1) upon the occurrence of a substantial default in respect to the covenants or conditions to which the public housing agency is subject (as such substantial default shall be defined in such contract), the public housing agency shall be obligated at the option of the Secretary either to convey title in any case where, in the determination of the Secretary (which determination shall be final and conclusive), such conveyance of title is necessary to achieve the purposes of this Act, or to deliver to the Secretary possession of the project, as then constituted, to which such contract relates; and

(2) the Secretary shall be obligated to reconvey or redeliver possession of the project, as constituted at the time of reconveyance or redelivery, to such public housing agency or to its successor (if such public housing agency or a successor exists) upon such terms as shall be prescribed in such contract, and as soon as practicable (i) after the Secretary is satisfied that all defaults with respect to the project have been cured, and that the project will, in order to fulfill the purposes of this Act, thereafter be operated in accordance with the terms of such contract; or (ii) after the termination of the obligation to make annual contributions available unless there are any obligations or covenants of the public housing agency to the Secretary which are then in default. Any prior conveyances and reconveyances or deliveries and redeliveries of possession shall not exhaust the right to require a conveyance or delivery of possession of the project to the Secretary pursuant to subparagraph (1)[85] upon the subsequent occurrence of a substantial default.

Whenever such a contract for annual contributions includes provisions which the Secretary in such contract determines are in accordance with this subsection, and the portion of the annual contribution payable for debt service requirements pursuant to such contract has been pledged by the public housing agency as security for the payment of the principal and interest on any of its obligations, the Secretary (notwithstanding any other provisions of this Act) shall continue to make such annual contributions available for the project so long as any of such obligations remain outstanding, and may covenant in such contract that in any event such annual contributions shall in each year be at least equal to an amount which, together with such income or other funds as are actually available from the project for the purpose at the time such annual contribution is made, will suffice for the payment of all installments, falling due within the next succeeding twelve months, of principal and interest on the obligations for which the annual contributions provided for in the contract shall have been pledged as security. In no case shall such annual contributions be in excess of the maximum sum specified in the contract involved, nor for longer than the remainder of the maximum period fixed by the contract.

(h) NEW CONSTRUCTION CONTRACTS.—On or after October 1, 1983, the Secretary may enter into a contract involving new construction only if the public housing agency demonstrates to the satisfaction of the Secretary that the cost of new construction in the neighborhood where the public housing agency determines the housing is needed is less than the cost of acquisition or acquisition and rehabilitation in such neighborhood, including any reserve fund under subsection (i), would be.

(i) RESERVE FUND; MAJOR REPAIRS.—The Secretary may, upon application by a public housing agency in connection with the acquisition of housing for use as public housing, establish and set aside a reserve fund in an amount not to exceed 30 per centum of the acquisition cost which shall be available for use for major repairs to such housing.

(j) PERFORMANCE INDICATORS FOR PUBLIC HOUSING AGENCIES.—

(1) The Secretary shall develop and publish in the Federal Register indicators to assess the management performance of public housing agencies and resident management corporations. The indicators shall be established by rule under section 553 of title 5, United States Code. Such indicators shall enable the Secretary to evaluate the performance of public housing agencies and resident management corporations in all major areas of management operations. The Secretary shall, in particular, use the following indicators for public housing agencies, to the extent practicable:[86]

(A) The number and percentage of vacancies within an agency's inventory, including the progress that an agency has made within the previous 3 years to reduce such vacancies.

(B) The amount and percentage of funds provided to the public housing agency from the Capital Fund under section 9(d) which remain unobligated by the public housing agency after 3 years.

(C) The percentage of rents uncollected.

(D) The utility consumption (with appropriate adjustments to reflect different regions and unit sizes).

(E) The average period of time that an agency requires to repair and turn-around vacant units.

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[85] So in law. Probably intended to refer to paragraph (1).

[86] Section 113(e)(1)(C) of the Housing and Community Development Act of 1992 (Public Law 102-550; 106 Stat. 3691) amended this sentence by striking "indicators." and inserting "indicators for public housing agencies, to the extent practicable:". Because the matter to be struck by the amendment does not appear in this sentence, the amendment could not be executed.

(F) The proportion of maintenance work orders outstanding, including any progress that an agency has made during the preceding 3 years to reduce the period of time required to complete maintenance work orders.

(G) The percentage of units that an agency fails to inspect to ascertain maintenance or modernization needs within such period of time as the Secretary deems appropriate (with appropriate adjustments, if any, for large and small agencies).

(H) The extent to which the public housing agency—

(i) coordinates, promotes, or provides effective programs and activities to promote the economic self-sufficiency of public housing residents; and

(ii) provides public housing residents with opportunities for involvement in the administration of the public housing.

(I) The extent to which the public housing agency—

(i) implements effective screening and eviction policies and other anticrime strategies; and

(ii) coordinates with local government officials and residents in the project and implementation of such strategies.

(J) The extent to which the public housing agency is providing acceptable basic housing conditions.

(K) Any other factors as the Secretary deems appropriate.[87]

(2)(A)(i) The Secretary shall, under the rulemaking procedures under section 553 of title 5, United States Code, establish procedures for designating troubled public housing agencies, which procedures shall include identification of serious and substantial failure to perform as measured by the performance indicators specified under paragraph (1) and such other factors as the Secretary may deem to be appropriate. Such procedures shall provide that an agency that fails on a widespread basis to provide acceptable basic housing conditions for its residents shall be designated as a troubled public housing agency. The Secretary may use a simplified set of indicators for public housing agencies with less than 250 public housing units. The Secretary shall also designate, by rule under section 553 of title 5, United States Code, agencies that are troubled with respect to the program for assistance from the Capital Fund under section 9(d).

(ii) The Secretary may also, in consultation with national organizations representing public housing agencies and public officials (as the Secretary determines appropriate), identify and commend public housing agencies that meet the performance standards established under paragraph (1) in an exemplary manner.

(iii) The Secretary shall establish procedures for public housing agencies to appeal designation as a troubled agency (including designation as a troubled agency for purposes of the program for assistance from the Capital Fund under section 9(d)), to petition for removal of such designation, and to appeal any refusal to remove such designation.

(B)(i) Upon designating a public housing agency with more than 250 units as troubled pursuant to subparagraph (A) and determining that an assessment under this subparagraph will not

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[87] The Departments of Veterans Affairs and Housing and Urban Development, and Independent Agencies Appropriations Act, 1992, Public Law 102-139, 105 Stat. 757, provides as follows:

"Section 6(j)(1) of the Housing Act of 1937, 42 U.S.C. 1437d(j)(1), section 502(a) of the National Affordable Housing Act, is amended as follows:

"(1) by adding at the end of subparagraph (H) the following language: 'which shall not exceed the seven factors in the statute, plus an additional five'; and

"(2) by adding as subparagraph (I) the following:

'(I) The Secretary shall:

'(1) administer the system of evaluating public housing agencies flexibly to ensure that such agencies are not penalized as result of circumstances beyond their control;

'(2) reflect in the weights assigned to the various indicators the differences in the difficulty of managing individual projects that result from their physical condition and their neighborhood environment; and

'(3) determine a public housing agency's status as 'troubled with respect to the program under section 14' based upon factors solely related to its ability to carry out that program.'.".

The amendments were probably intended to be made to section 6(j)(1) of the United States Housing Act of 1937, as amended by section 502(a) of the Cranston-Gonzalez National Affordable Housing Act. Subparagraph (H), referred to in paragraph (1) of this provision from the appropriations Act, has since been redesignated as subparagraph (K).

duplicate any comparable and recent review, the Secretary shall provide for an on-site, independent assessment of the management of the agency.

(ii) To the extent the Secretary deems appropriate (taking into account an agency's performance under the indicators specified under paragraph (1)), the assessment team shall also consider issues relating to the agency's resident population and physical inventory, including the extent to which (I) the agency's comprehensive plan prepared pursuant to section 14 adequately and appropriately addresses the rehabilitation needs of the agency's inventory, (II) residents of the agency are involved in and informed of significant management decisions, and (III) any projects in the agency's inventory are severely distressed and eligible for assistance pursuant to section 24.

(iii) An independent assessment under this subparagraph shall be carried out by a team of knowledgeable individuals selected by the Secretary (referred to in this section as the "assessment team") with expertise in public housing and real estate management. In conducting an assessment, the assessment team shall consult with the residents and with public and private entities in the jurisdiction in which the public housing is located. The assessment team shall provide to the Secretary and the public housing agency a written report, which shall contain, at a minimum, recommendations for such management improvements as are necessary to eliminate or substantially remedy existing deficiencies.

(C) The Secretary shall seek to enter into an agreement with each troubled public housing agency, after reviewing the report submitted pursuant to subparagraph (B) (if applicable) and consulting with the agency's assessment team.

To the extent the Secretary deems appropriate (taking into account an agency's performance under the indicators specified under paragraph (1)), such agreement shall also set forth a plan for enhancing resident involvement in the management of the public housing agency.[88] Such agreement shall set forth—

(i) targets for improving performance as measured by the performance indicators specified under paragraph (1) and other requirements within a specified period of time;

(ii) strategies for meeting such targets, including a description of the technical assistance that the Secretary will make available to the agency; and

(iii) incentives or sanctions for effective implementation of such strategies, which may include any constraints on the use of funds that the Secretary determines are appropriate.

The Secretary and the public housing agency shall, to the maximum extent practicable, seek the assistance of local public and private entities in carrying out the agreement.

(D)[89] The Secretary shall apply the provisions of this paragraph to resident management corporations as well as public housing agencies.

(3)(A) Notwithstanding any other provision of law or of any contract for contributions, upon the occurrence of events or conditions that constitute a substantial default by a public housing agency with respect to the covenants or conditions to which the public housing agency is subject or an agreement entered into under paragraph (2), the Secretary may—

(i) solicit competitive proposals from other public housing agencies and private housing management agents which (I) in the discretion of the Secretary, may be selected by existing public housing residents through administrative procedures established by the Secretary, and (II) if appropriate, shall provide for such agents to manage all, or part, of the housing administered by the public housing agency or all or part of the other programs of the agency;

(ii) petition for the appointment of a receiver (which may be another public housing agency or a private management corporation) of the public housing agency to any district court of the United States or to any court of the State in which the real property of the public housing agency is situated, that is authorized to appoint a receiver for the purposes and having the powers prescribed in this subsection;

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[88] So in law. This new flush sentence probably should have been inserted after clause (iii) of this subparagraph. See section 113(a)(3)(B) of the Housing and Community Development Act of 1992, Public Law 102-550.

[89] Indented so in law.

(iii) solicit competitive proposals from other public housing agencies and private entities with experience in construction management in the eventuality that such agencies or firms may be needed to oversee implementation of assistance made available from the Capital Fund under section 9(d) for the housing; and

(iv) take possession of all or part of the public housing agency, including all or part of any project or program of the agency, including any project or program under any other provision of this title; and

(v) require the agency to make other arrangements acceptable to the Secretary and in the best interests of the public housing residents and families assisted under section 8 for managing all, or part, of the public housing administered by the agency or of the programs of the agency.

Residents of a public housing agency designated as troubled pursuant to paragraph (2)(A) may petition the Secretary in writing to take 1 or more of the actions referred to in this subparagraph. The Secretary shall respond to such petitions in a timely manner with a written description of the actions, if any, the Secretary plans to take and, where applicable, the reasons why such actions differ from the course proposed by the residents.

(B)(i) If a public housing agency is identified as troubled under this subsection, the Secretary shall notify the agency of the troubled status of the agency.

(ii)(I) Upon the expiration of the 1-year period beginning on the later of the date on which the agency receives initial notice from the Secretary of the troubled status of the agency under clause (i) and the date of the enactment of the Quality Housing and Work Responsibility Act of 1998[90], the agency shall improve its performance, as measured by the performance indicators established pursuant to paragraph (1), by at least 50 percent of the difference between the most recent performance measurement and the measurement necessary to remove that agency's designation as troubled.

(II) Upon the expiration of the 2-year period beginning on the later of the date on which the agency receives initial notice from the Secretary of the troubled status of the agency under clause (i) and the date of the enactment of the Quality Housing and Work Responsibility Act of 1998[91], the agency shall improve its performance, as measured by the performance indicators established pursuant to paragraph (1), such that the agency is no longer designated as troubled.

(III) In the event that a public housing agency designated as troubled under this subsection fails to comply with the requirements set forth in subclause (I) or (II), the Secretary shall—

(aa) in the case of a troubled public housing agency with 1,250 or more units, petition for the appointment of a receiver pursuant to subparagraph (A)(ii); or

(bb) in the case of a troubled public housing agency with fewer than 1,250 units, either petition for the appointment of a receiver pursuant to subparagraph (A)(ii), or take possession of the public housing agency (including all or part of any project or program of the agency) pursuant to subparagraph (A)(iv) and appoint, on a competitive or noncompetitive basis, an individual or entity as an administrative receiver to assume the responsibilities of the Secretary for the administration of all or part of the public housing agency (including all or part of any project or program of the agency).

This subparagraph shall not be construed to limit the courses of action available to the Secretary under subparagraph (A).

(IV) During the period between the date on which a petition is filed under subclause (III)(aa) and the date on which a receiver assumes responsibility for the management of the public housing agency under such subclause, the Secretary may take possession of the public housing agency (including all or part of any project or program of the agency) pursuant to subparagraph (A)(iv)

[90] October 21, 1998.
[91] October 21, 1998.

and may appoint, on a competitive or noncompetitive basis, an individual or entity as an administrative receiver to assume the responsibilities of the Secretary for the administration of all or part of the public housing agency (including all or part of any project or program of the agency).

(C) If a receiver is appointed pursuant to subparagraph (A)(ii), in addition to the powers accorded by the court appointing the receiver, the receiver—

(i) may abrogate any contract to which the United States or an agency of the United States is not a party that, in the receiver's written determination (which shall include the basis for such determination), substantially impedes correction of the substantial default, but only after the receiver determines that reasonable efforts to renegotiate such contract have failed;

(ii) may demolish and dispose of all or part of the assets of the public housing agency (including all or part of any project of the agency) in accordance with section 18, including disposition by transfer of properties to resident-supported nonprofit entities;

(iii) if determined to be appropriate by the Secretary, may seek the establishment, as permitted by applicable State and local law, of 1 or more new public housing agencies;

(iv) if determined to be appropriate by the Secretary, may seek consolidation of all or part of the agency (including all or part of any project or program of the agency), as permitted by applicable State and local laws, into other well-managed public housing agencies with the consent of such well-managed agencies; and

(v) shall not be required to comply with any State or local law relating to civil service requirements, employee rights (except civil rights), procurement, or financial or administrative controls that, in the receiver's written determination (which shall include the basis for such determination), substantially impedes correction of the substantial default.

(D)(i) If, pursuant to subparagraph (A)(iv), the Secretary takes possession of all or part of the public housing agency, including all or part of any project or program of the agency, the Secretary—

(I) may abrogate any contract to which the United States or an agency of the United States is not a party that, in the written determination of the Secretary (which shall include the basis for such determination), substantially impedes correction of the substantial default, but only after the Secretary determines that reasonable efforts to renegotiate such contract have failed;

(II) may demolish and dispose of all or part of the assets of the public housing agency (including all or part of any project of the agency) in accordance with section 18, including disposition by transfer of properties to resident-supported nonprofit entities;

(III) may seek the establishment, as permitted by applicable State and local law, of 1 or more new public housing agencies;

(IV) may seek consolidation of all or part of the agency (including all or part of any project or program of the agency), as permitted by applicable State and local laws, into other well-managed public housing agencies with the consent of such well-managed agencies;

(V) shall not be required to comply with any State or local law relating to civil service requirements, employee rights (except civil rights), procurement, or financial or administrative controls that, in the Secretary's written determination (which shall include the basis for such determination), substantially impedes correction of the substantial default; and

(VI) shall, without any action by a district court of the United States, have such additional authority as a district court of the United States would have the authority to confer upon a receiver to achieve the purposes of the receivership.

(ii) If, pursuant to subparagraph (B)(ii)(III)(bb), the Secretary appoints an administrative receiver to assume the responsibilities of the Secretary for the administration of all or part of the public housing agency (including all or part of any

project or program of the agency), the Secretary may delegate to the administrative receiver any or all of the powers given the Secretary by this subparagraph, as the Secretary determines to be appropriate and subject to clause (iii).

(iii) An administrative receiver may not take an action described in subclause (III) or (IV) of clause (i) unless the Secretary first approves an application by the administrative receiver to authorize such action.

(E) The Secretary may make available to receivers and other entities selected or appointed pursuant to this paragraph such assistance as the Secretary determines in the discretion of the Secretary is necessary and available to remedy the substantial deterioration of living conditions in individual public housing projects or other related emergencies that endanger the health, safety, and welfare of public housing residents or families assisted under section 8. A decision made by the Secretary under this paragraph shall not be subject to review in any court of the United States, or in any court of any State, territory, or possession of the United States.

(F) In any proceeding under subparagraph (A)(ii), upon a determination that a substantial default has occurred and without regard to the availability of alternative remedies, the court shall appoint a receiver to conduct the affairs of all or part of the public housing agency in a manner consistent with this Act and in accordance with such further terms and conditions as the court may provide. The receiver appointed may be another public housing agency, a private management corporation, or any other person or appropriate entity. The court shall have power to grant appropriate temporary or preliminary relief pending final disposition of the petition by the Secretary.

(G) The appointment of a receiver pursuant to this paragraph may be terminated, upon the petition of any party, when the court determines that all defaults have been cured or the public housing agency is capable again of discharging its duties.

(H) If the Secretary (or an administrative receiver appointed by the Secretary) takes possession of a public housing agency (including all or part of any project or program of the agency), or if a receiver is appointed by a court, the Secretary or receiver shall be deemed to be acting not in the official capacity of that person or entity, but rather in the capacity of the public housing agency, and any liability incurred, regardless of whether the incident giving rise to that liability occurred while the Secretary or receiver was in possession of all or part of the public housing agency (including all or part of any project or program of the agency), shall be the liability of the public housing agency.

(4) SANCTIONS FOR IMPROPER USE OF AMOUNTS.—

(A) IN GENERAL.—In addition to any other actions authorized under this Act, if the Secretary finds that a public housing agency receiving assistance amounts under section 9 for public housing has failed to comply substantially with any provision of this Act relating to the public housing program, the Secretary may—

(i) terminate assistance payments under this section 9[92] to the agency;

(ii) withhold from the agency amounts from the total allocations for the agency pursuant to section 9;

(iii) reduce the amount of future assistance payments under section 9 to the agency by an amount equal to the amount of such payments that were not expended in accordance with this Act;

(iv) limit the availability of assistance amounts provided to the agency under section 9 to programs, projects, or activities not affected by such failure to comply;

(v) withhold from the agency amounts allocated for the agency under section 8; or

(vi) order other corrective action with respect to the agency.

(B) TERMINATION OF COMPLIANCE ACTION.—If the Secretary takes action under subparagraph (A) with respect to a public housing agency, the Secretary shall—

(i) in the case of action under subparagraph (A)(i), resume payments of assistance amounts under section 9 to the agency in the full amount of the total allocations under section 9 for the agency at the time that the Secretary first determines

[92] So in law.

that the agency will comply with the provisions of this Act relating to the public housing program;

(ii) in the case of action under clause (ii) or (v) of subparagraph (A), make withheld amounts available as the Secretary considers appropriate to ensure that the agency complies with the provisions of this Act relating to such program;

(iii) in the case of action under subparagraph (A)(iv), release such restrictions at the time that the Secretary first determines that the agency will comply with the provisions of this Act relating to such program; or

(iv) in the case of action under subparagraph (vi), cease such action at the time that the Secretary first determines that the agency will comply with the provisions of this Act relating to such program.

(5) The Secretary shall submit to the Congress annually, as a part of the report of the Secretary under section 8 of the Department of Housing and Urban Development Act, a report that—

(A) identifies the public housing agencies that have been designated as troubled under paragraph (2);

(B) describes the grounds on which such public housing agencies were designated as troubled and continue to be so designated;

(C) describes the agreements that have been entered into with such agencies under such paragraph;

(D) describes the status of progress under such agreements;

(E) describes any action that has been taken in accordance with paragraph (3)[93]; and

(F) describes the status of any public housing agency designated as troubled with respect to the program for assistance from the Capital Fund under section 9(d) and specifies the amount of assistance the agency received under such program.

(6)(A) To the extent that the Secretary determines such action to be necessary in order to ensure the accuracy of any certification made under this section, the Secretary shall require an independent auditor to review documentation or other information maintained by a public housing agency pursuant to this section to substantiate each certification submitted by the agency or corporation relating to the performance of that agency or corporation.

(B) The Secretary may withhold, from assistance otherwise payable to the agency or corporation under section 9, amounts sufficient to pay for the reasonable costs of any review under this paragraph.

(7) The Secretary shall apply the provisions of this subsection to resident management corporations in the same manner as applied to public housing agencies.

(k) ADMINISTRATIVE GRIEVANCE PROCEDURE REGULATIONS; GROUNDS OF ADVERSE ACTION, HEARING, EXAMINATION OF DOCUMENTS, REPRESENTATION, EVIDENCE, DECISION; JUDICIAL HEARING.—The Secretary shall by regulation require each public housing agency receiving assistance under this Act to establish and implement an administrative grievance procedure under which tenants will—

(1) be advised of the specific grounds of any proposed adverse public housing agency action;

(2) have an opportunity for a hearing before an impartial party upon timely request within any period applicable under subsection (l);

(3) have an opportunity to examine any documents or records or regulations related to the proposed action;

(4) be entitled to be represented by another person of their choice at any hearing;

(5) be entitled to ask questions of witnesses and have others make statements on their behalf; and

(6) be entitled to receive a written decision by the public housing agency on the proposed action.

For any grievance concerning an eviction or termination of tenancy that involves any activity that threatens the health, safety, or right to peaceful enjoyment of the premises of other tenants or employees of the public housing agency or any violent or drug-related criminal activity on or off such premises, or any activity resulting in a felony conviction, the agency may (A) establish an expedited grievance procedure as the Secretary shall provide by rule

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[93] Section 113(d) of the Housing and Community Development Act of 1992, Public Law 102-550, provides as follows:

"(d) Annual Reports.—Section 6(j)(5)(E) of the United States Housing Act of 1937 (42 U.S.C. 1437d(j)(4)(E)), as so redesignated by subsection (d)(1), is amended by inserting before the semicolon the following: ', including an accounting of the authorized funds that have been expended to support such actions'.".

The amendment could not be executed because this paragraph was designated as paragraph (4) at the time of enactment. The subsection heading and the United States Code citation indicate that the amendment probably was intended to be made to this subparagraph.

under section 553 of title 5, United States Code, or (B) exclude from its grievance procedure any such grievance, in any jurisdiction which requires that prior to eviction, a tenant be given a hearing in court which the Secretary determines provides the basic elements of due process (which the Secretary shall establish by rule under section 553 of title 5, United States Code). Such elements of due process shall not include a requirement that the tenant be provided an opportunity to examine relevant documents within the possession of the public housing agency. The agency shall provide to the tenant a reasonable opportunity, prior to hearing or trial, to examine any relevant documents, records, or regulations directly related to the eviction or termination.

(l) LEASES; TERMS AND CONDITIONS; MAINTENANCE; TERMINATION.—Each public housing agency shall utilize leases which—

(1) have a term of 12 months and shall be automatically renewed for all purposes except for noncompliance with the requirements under section 12(c) (relating to community service requirements); except that nothing in this title shall prevent a resident from seeking timely redress in court for failure to renew based on such noncompliance;

(2) do not contain unreasonable terms and conditions;

(3) obligate the public housing agency to maintain the project in a decent, safe, and sanitary condition;

(4) require the public housing agency to give adequate written notice of termination of the lease which shall not be less than—

(A) a reasonable period of time, but not to exceed 30 days—

(i) if the health or safety of other tenants, public housing agency employees, or persons residing in the immediate vicinity of the premises is threatened; or

(ii) in the event of any drug-related or violent criminal activity or any felony conviction;

(B) 14 days in the case of nonpayment of rent; and

(C) 30 days in any other case, except that if a State or local law provides for a shorter period of time, such shorter period shall apply;

(5) require that the public housing agency may not terminate the tenancy except for serious or repeated violation of the terms or conditions of the lease or for other good cause;

(6) provide that any criminal activity that threatens the health, safety, or right to peaceful enjoyment of the premises by other tenants or any drug-related criminal activity on or off such premises, engaged in by a public housing tenant, any member of the tenant's household, or any guest or other person under the tenant's control, shall be cause for termination of tenancy;

(7) specify that with respect to any notice of eviction or termination, notwithstanding any State law, a public housing tenant shall be informed of the opportunity, prior to any hearing or trial, to examine any relevant documents, records or regulations directly related to the eviction or termination;

(7)[94] provide that any occupancy in violation of section 576(b) of the Quality Housing and Work Responsibility Act of 1998 (relating to ineligibility of illegal drug users and alcohol abusers) or the furnishing of any false or misleading information pursuant to section 577 of such Act (relating to termination of tenancy and assistance for illegal drug users and alcohol abusers) shall be cause for termination of tenancy;[95]

(9) provide that it shall be cause for immediate termination of the tenancy of a public housing tenant if such tenant—

(A) is fleeing to avoid prosecution, or custody or confinement after conviction, under the laws of the place from which the individual flees, for a crime, or attempt to commit a crime, which is a felony under the laws of the place from which the individual flees, or which, in the case of the State of New Jersey, is a high misdemeanor under the laws of such State; or

(2)[96] is violating a condition of probation or parole imposed under Federal or State law.

For purposes of paragraph (5), the term "drug-related criminal activity" means the illegal manufacture, sale, distribution, use, or possession with intent to manufacture, sell, distribute, or use, of a controlled substance (as defined in section 102 of the Controlled Substances Act (21 U.S.C. 802)).

(m) REPORTING REQUIREMENTS; LIMITATION.—The Secretary shall not impose any unnecessarily duplicative or burdensome reporting requirements on tenants or public housing agencies assisted under this Act.

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[94] So in law. Probably should be designated as paragraph (8).
[95] So in law.
[96] Indented and designated so in law. Probably should be designated as subparagraph (B).

(n) NOTICE TO POST OFFICE REGARDING EVICTION FOR CRIMINAL ACTIVITY.—When a public housing agency evicts an individual or family from a dwelling unit for engaging in criminal activity, including drug-related criminal activity, the public housing agency shall notify the local post office serving that dwelling unit that such individual or family is no longer residing in the dwelling unit.

(o) PUBLIC HOUSING ASSISTANCE FOR FOSTER CARE CHILDREN.In providing housing in low-income housing projects, each public housing agency may coordinate with any local public agencies involved in providing for the welfare of children to make available dwelling units to—

(1) families identified by the agencies as having a lack of adequate housing that is a primary factor—

(A) in the imminent placement of a child in foster care; or

(B) in preventing the discharge of a child from foster care and reunification with his or her family; and

(2) youth, upon discharge from foster care, in cases in which return to the family or extended family or adoption is not available.

(p) [Repealed.]

(q) AVAILABILITY OF RECORDS.—

(1) IN GENERAL.—

(A) PROVISION OF INFORMATION.—Notwithstanding any other provision of law, except as provided in subparagraph (C), the National Crime Information Center, police departments, and other law enforcement agencies shall, upon request, provide information to public housing[97] agencies regarding the criminal conviction records of adult applicants for, or tenants of, public housing for purposes of applicant screening, lease enforcement, and eviction.

(B) REQUESTS BY OWNERS OF PROJECT-BASED SECTION 8 HOUSING.—A public housing agency may make a request under subparagraph (A) for information regarding applicants for, or tenants of, housing that is provided project-based assistance under section 8 only if the housing is located within the jurisdiction of the agency and the owner of such housing has requested that the agency obtain such information on behalf of the owner. Upon such a request by the owner, the agency shall make a request under subparagraph (A) for the information. The agency may not make such information available to the owner but shall perform determinations for the owner regarding screening, lease enforcement, and eviction based on criteria supplied by the owner.

(C) EXCEPTION.—A law enforcement agency described in subparagraph (A) shall provide information under this paragraph relating to any criminal conviction of a juvenile only to the extent that the release of such information is authorized under the law of the applicable State, tribe, or locality.

(2) OPPORTUNITY TO DISPUTE.—Before an adverse action is taken with regard to assistance under this title on the basis of a criminal record, the public housing agency shall provide the tenant or applicant with a copy of the criminal record and an opportunity to dispute the accuracy and relevance of that record.

(3) FEES.—A public housing agency may be charged a reasonable fee for information provided under paragraph (1). In the case of a public housing agency obtaining information pursuant to paragraph (1)(B) for another owner of housing, the agency may pass such fee on to the owner initiating the request and may charge additional reasonable fees for making the request on behalf of the owner and taking other actions for owners under this subsection.

(4) RECORDS MANAGEMENT.—Each public housing agency shall establish and implement a system of records management that ensures that any criminal record received by the public housing agency is—

(A) maintained confidentially;

(B) not misused or improperly disseminated; and

(C) destroyed, once the purpose for which the record was requested has been accomplished.

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[97] Section 575(c)(1)(A)(ii) of the Quality Housing and Work Responsibility Act of 1998, title V of Public Law 105-276, approved October 21, 1998, amended this subparagraph by striking "public housing" and inserting "covered housing". Because the term "public housing" appears twice in this subparagraph, the amendment could not be executed. The amendment was probably intended to strike the second occurrence of the term.

(5) CONFIDENTIALITY.—A public housing agency receiving information under this subsection may use such information only for the purposes provided in this subsection and such information may not be disclosed to any person who is not an officer, employee, or authorized representative of the agency and who has a job-related need to have access to the information in connection with admission of applicants, eviction of tenants, or termination of assistance. For judicial eviction proceedings, disclosures may be made to the extent necessary. The Secretary shall, by regulation, establish procedures necessary to ensure that information provided under this subsection to a public housing agency is used, and confidentiality of such information is maintained, as required under this subsection. The Secretary shall establish standards for confidentiality of information obtained under this subsection by public housing agencies on behalf of owners.

(6) PENALTY.—Any person who knowingly and willfully requests or obtains any information concerning an applicant for, or tenant of, covered housing assistance pursuant to the authority under this subsection under false pretenses, or any person who knowingly and willfully discloses any such information in any manner to any individual not entitled under any law to receive it, shall be guilty of a misdemeanor and fined not more than $5,000. The term "person" as used in this paragraph include an officer, employee, or authorized representative of any public housing agency.

(7) CIVIL ACTION.—Any applicant for, or tenant of, covered housing assistance affected by (A) a negligent or knowing disclosure of information referred to in this subsection about such person by an officer, employee, or authorized representative of any public housing agency, which disclosure is not authorized by this subsection, or (B) any other negligent or knowing action that is inconsistent with this subsection, may bring a civil action for damages and such other relief as may be appropriate against any public housing agency responsible for such unauthorized action. The district court of the United States in the district in which the affected applicant or tenant resides, in which such unauthorized action occurred, or in which the officer, employee, or representative alleged to be responsible for any such unauthorized action resides, shall have jurisdiction in such matters. Appropriate relief that may be ordered by such district courts shall include reasonable attorney's fees and other litigation costs.

(8) DEFINITIONS.—For purposes of this subsection, the following definitions shall apply:

(A) ADULT.—The term "adult" means a person who is 18 years of age or older, or who has been convicted of a crime as an adult under any Federal, State, or tribal law.

(B) COVERED HOUSING ASSISTANCE.—The term "covered housing assistance" means—

(i) a dwelling unit in public housing;

(ii) a dwelling unit in housing that is provided project-based assistance under section 8, including new construction and substantial rehabilitation projects; and

(iii) tenant-based assistance under section 8.

(C) OWNER.—The term "owner" means, with respect to covered housing assistance described in subparagraph (B)(ii), the entity or private person (including a cooperative or public housing agency) that has the legal right to lease or sublease dwelling units in the housing assisted.

(r) SITE-BASED WAITING LISTS.—

(1) AUTHORITY.—A public housing agency may establish procedures for maintaining waiting lists for admissions to public housing projects of the agency, which may include (notwithstanding any other law, regulation, handbook, or notice to the contrary) a system of site-based waiting lists under which applicants may apply directly at or otherwise designate the project or projects in which they seek to reside. All such procedures shall comply with all provisions of title VI of the Civil Rights Act of 1964, the Fair Housing Act, and other applicable civil rights laws.

(2) NOTICE.—Any system described in paragraph (1) shall provide for the full disclosure by the public housing agency to each applicant of any option available to the applicant in the selection of the project in which to reside.

(s) AUTHORITY TO REQUIRE ACCESS TO CRIMINAL RECORDS.—A public housing agency may require, as a condition of providing admission to the public housing program or assisted housing program under the jurisdiction of the public housing agency, that each adult member of the household provide a signed, written authorization for the public housing agency to obtain records described in subsection (q)(1) regarding such member of the household from the National Crime Information Center, police departments, and other law enforcement agencies.

(t) OBTAINING INFORMATION FROM DRUG ABUSE TREATMENT FACILITIES.—

(1) AUTHORITY.—Notwithstanding any other provision of law other than the Public Health Service Act (42 U.S.C. 201 et seq.), a public housing agency may require each person who applies for admission to public housing to sign one or more forms of written consent authorizing the agency to receive information from a drug abuse treatment facility that is solely related to whether the applicant is currently engaging in the illegal use of a controlled substance.

(2) CONFIDENTIALITY OF APPLICANT'S RECORDS.—

(A) Limitation on information requested.—In a form of written consent, a public housing agency may request only whether the drug abuse treatment facility has reasonable cause to believe that the applicant is currently engaging in the illegal use of a controlled substance.

(B) Records management.—Each public housing agency that receives information under this subsection from a drug abuse treatment facility shall establish and implement a system of records management that ensures that any information received by the public housing agency under this subsection—

(i) is maintained confidentially in accordance with section 543 of the Public Health Service Act (12 U.S.C. 290dd-2);

(ii) is not misused or improperly disseminated; and

(iii) is destroyed, as applicable—

(I) not later than 5 business days after the date on which the public housing agency gives final approval for an application for admission; or

(II) if the public housing agency denies the application for admission, in a timely manner after the date on which the statute of limitations for the commencement of a civil action from the applicant based upon that denial of admission has expired.

(C) EXPIRATION OF WRITTEN CONSENT.—In addition to the requirements of subparagraph (B), an applicant's signed written consent shall expire automatically after the public housing agency has made a final decision to either approve or deny the applicant's application for admittance to public housing.

(3) PROHIBITION OF DISCRIMINATORY TREATMENT OF APPLICANTS.—

(A) FORMS SIGNED.—A public housing agency may only require an applicant for admission to public housing to sign one or more forms of written consent under this subsection if the public housing agency requires all such applicants to sign the same form or forms of written consent.

(B) CIRCUMSTANCES OF INQUIRY.—A public housing agency may only make an inquiry to a drug abuse treatment facility under this subsection if—

(i) the public housing agency makes the same inquiry with respect to all applicants; or

(ii) the public housing agency only makes the same inquiry with respect to each and every applicant with respect to whom—

(I) the public housing agency receives information from the criminal record of the applicant that indicates evidence of a prior arrest or conviction; or

(II) the public housing agency receives information from the records of prior tenancy of the applicant that demonstrates that the applicant—

(aa) engaged in the destruction of property;

(bb) engaged in violent activity against another person; or

(cc) interfered with the right of peaceful enjoyment of the premises of another tenant.

(4) FEE PERMITTED.—A drug abuse treatment facility may charge a public housing agency a reasonable fee for information provided under this subsection.

(5) DISCLOSURE PERMITTED BY TREATMENT FACILITIES.—A drug abuse treatment facility shall not be liable for damages based on any information required to be disclosed pursuant to this subsection if such disclosure is consistent with section 543 of the Public Health Service Act (42 U.S.C. 290dd-2).

(6) OPTION TO NOT REQUEST INFORMATION.—A public housing agency shall not be liable for damages based on its decision not to require each person who applies for admission to public housing to sign one or more forms of written consent authorizing the public housing agency to receive information from a drug abuse treatment facility under this subsection.

(7) DEFINITIONS.—For purposes of this subsection, the following definitions shall apply:

(A) DRUG ABUSE TREATMENT FACILITY.—The term "drug abuse treatment facility" means an entity that—

(i) is—

(I) an identified unit within a general medical care facility; or

(II) an entity other than a general medical care facility; and

(ii) holds itself out as providing, and provides, diagnosis, treatment, or referral for treatment with respect to the illegal use of a controlled substance.

(B) CONTROLLED SUBSTANCE.—The term "controlled substance" has the meaning given the term in section 102 of the Controlled Substances Act (21 U.S.C. 802).

(C) CURRENTLY ENGAGING IN THE ILLEGAL USE OF A CONTROLLED SUBSTANCE.—The term "currently engaging in the illegal use of a controlled substance" means the illegal use of a controlled substance that occurred recently enough to justify a reasonable belief that an applicant's illegal use of a controlled substance is current or that continuing illegal use of a controlled substance by the applicant is a real and ongoing problem.

(8) EFFECTIVE DATE.—This subsection shall take effect upon enactment and without the necessity of guidance from, or any regulation issued by, the Secretary.

Sec. 7. [42 U.S.C. 1437e]
DESIGNATED HOUSING FOR ELDERLY AND DISABLED FAMILIES.

(a) AUTHORITY TO PROVIDE DESIGNATED HOUSING.—

(1) IN GENERAL.—Subject only to provisions of this section and notwithstanding any other provision of law, a public housing agency for which a plan under subsection (d) is in effect may provide public housing projects (or portions of projects) designated for occupancy by (A) only elderly families, (B) only disabled families, or (C) elderly and disabled families.

(2) PRIORITY FOR OCCUPANCY.—In determining priority for admission to public housing projects (or portions of projects) that are designated for occupancy as provided in paragraph (1), the public housing agency may make units in such projects (or portions) available only to the types of families for whom the project is designated.

(3) ELIGIBILITY OF NEAR-ELDERLY FAMILIES.—If a public housing agency determines that there are insufficient numbers of elderly families to fill all the units in a project (or portion of a project) designated under paragraph (1) for occupancy by only elderly families, the agency may provide that near-elderly families may occupy dwelling units in the project (or portion).

(b) STANDARDS REGARDING EVICTIONS.—Except as provided in section 16(e)(1)(B), any tenant who is lawfully residing in a dwelling unit in a public housing project may not be evicted or otherwise required to vacate such unit because of the designation of the project (or portion of a project) pursuant to this section or because of any action taken by the Secretary or any public housing agency pursuant to this section.

(c) RELOCATION ASSISTANCE.—A public housing agency that designates any existing project or building, or portion thereof, for occupancy as provided under subsection (a)(1) shall provide, to each person and family who agrees to be relocated in connection with such designation—

(1) notice of the designation and an explanation of available relocation benefits, as soon as is practicable for the agency and the person or family;

(2) access to comparable housing (including appropriate services and design features), which may include tenant-based rental assistance under section 8, at a rental rate paid by the tenant that is comparable to that applicable to the unit from which the person or family has vacated; and

(3) payment of actual, reasonable moving expenses.

(d) REQUIRED PLAN.—A plan under this subsection for designating a project (or portion of a project) for occupancy under subsection (a)(1) is a plan, prepared by the public housing agency for the project and submitted to the Secretary, that—

(1) establishes that the designation of the project is necessary—

(A) to achieve the housing goals for the jurisdiction under the comprehensive housing affordability strategy under section 105 of the Cranston-Gonzalez National Affordable Housing Act; and

(B) to meet the housing needs of the low-income population of the jurisdiction; and

(2) includes a description of—

(A) the project (or portion of a project) to be designated;

(B) the types of tenants for which the project is to be designated;

(C) any supportive services to be provided to tenants of the designated project (or portion);

(D) how the design and related facilities (as such term is defined in section 202(d)(8) of the Housing Act of 1959)[98] of the project accommodate the special environmental needs of the intended occupants; and

(E) any plans to secure additional resources or housing assistance to provide assistance to families that may have been housed if occupancy in the project were not restricted pursuant to this section.

For purposes of this subsection, the term "supportive services" means services designed to meet the special needs of residents.

(e) REVIEW OF PLANS.—

(1) REVIEW AND NOTIFICATION.—The Secretary shall conduct a limited review of each plan under subsection (d) that is submitted to the Secretary to ensure that the plan is complete and complies with the requirements of subsection (d). The Secretary shall notify each public housing agency submitting a plan whether the plan complies with such requirements not later than 60 days after receiving the plan. If the Secretary does not notify the public housing agency, as required under this paragraph or paragraph (2), the plan shall be considered, for purposes of this section, to comply with the requirements under subsection (d) and the Secretary shall be considered to have notified the agency of such compliance upon the expiration of such 60-day period.

(2) NOTICE OF REASONS FOR DETERMINATION OF NONCOMPLIANCE.—If the Secretary determines that a plan, as submitted, does not comply with the requirements under subsection (d), the Secretary shall specify in the notice under paragraph (1) the reasons for the noncompliance and any modifications necessary for the plan to meet such requirements.

(3) STANDARDS FOR DETERMINATION OF NONCOMPLIANCE.—The Secretary may determine that a plan does not comply with the requirements under subsection (d) only if—

(A) the plan is incomplete in significant matters required under such subsection; or

(B) there is evidence available to the Secretary that challenges, in a substantial manner, any information provided in the plan.

(4) TREATMENT OF EXISTING PLANS.—Notwithstanding any other provision of this section, a public housing agency shall be considered to have submitted a plan under this subsection if the agency has submitted to the Secretary an application and allocation plan under this section (as in effect before the date of the enactment of the Housing Opportunity Program Extension Act of 1996[99]) that have not been approved or disapproved before such date of enactment.

(f) EFFECTIVENESS.—

(1) 5-YEAR EFFECTIVENESS OF ORIGINAL PLAN.—A plan under subsection (d) shall be in effect for purposes of this section during the 5-year period that begins upon notification under subsection (e)(1) of the public housing agency that the plan complies with the requirements under subsection (d).

(2) RENEWAL OF PLAN.—Upon the expiration of the 5-year period under paragraph (1) or any 2-year period under this paragraph, an agency may extend the effectiveness of the designation and plan for an additional 2-year period (that begins upon such expiration) by submitting to the Secretary any information needed to update the plan. The Secretary may not limit the number of times a public housing agency extends the effectiveness of a designation and plan under this paragraph.

(3) TRANSITION PROVISION.—Any application and allocation plan approved under this section (as in effect before the date of the enactment of the Housing Opportunity Program Extension Act of 1996[100]) before such date of enactment shall be considered to be a plan under subsection (d) that is in effect for purposes of this section for the 5-year period beginning upon such approval.

(g) INAPPLICABILITY OF UNIFORM RELOCATION ASSISTANCE AND REAL PROPERTY ACQUISITIONS POLICY ACT OF 1970.—No tenant of a public housing project shall be considered to be displaced for purposes of the Uniform Relocation Assistance and Real Property Acquisitions[101] Policy Act of 1970

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[98] Probably intended to refer to section 202(d)(8) as in effect before October 1, 1991.

[99] March 28, 1996.

[100] March 28, 1996.

[101] So in law. Probably should be "Acquisition".

because of the designation of any existing project or building, or portion thereof, for occupancy as provided under subsection (a) of this section.

Sec. 8. [42 U.S.C. 1437f]
LOW-INCOME HOUSING ASSISTANCE.

(a) AUTHORIZATION FOR ASSISTANCE PAYMENTS.—For the purpose of aiding lower-income families in obtaining a decent place to live and of promoting economically mixed housing, assistance payments may be made with respect to existing housing in accordance with the provisions of this section.

(b) OTHER EXISTING HOUSING PROGRAMS.—

(1) IN GENERAL.—The Secretary is authorized to enter into annual contributions contracts with public housing agencies pursuant to which such agencies may enter into contracts to make assistance payments to owners of existing dwelling units in accordance with this section. In areas where no public housing agency has been organized or where the Secretary determines that a public housing agency is unable to implement the provisions of this section, the Secretary is authorized to enter into such contracts and to perform the other functions assigned to a public housing agency by this section.

(2) The Secretary is authorized to enter into annual contributions contracts with public housing agencies for the purpose of replacing public housing transferred in accordance with title III of this Act. Each contract entered into under this subsection shall be for a term of not more than 60 months.

(c) CONTENTS AND PURPOSES OF CONTRACTS FOR ASSISTANCE PAYMENTS; AMOUNT AND SCOPE OF MONTHLY ASSISTANCE PAYMENTS.—

(1)(A) An assistance contract entered into pursuant to this section shall establish the maximum monthly rent (including utilities and all maintenance and management charges) which the owner is entitled to receive for each dwelling unit with respect to which such assistance payments are to be made. The maximum monthly rent shall not exceed by more than 10 per centum the fair market rental established by the Secretary periodically but not less than annually for existing or newly constructed rental dwelling units of various sizes and types in the market area suitable for occupancy by persons assisted under this section, except that the maximum monthly rent may exceed the fair market rental (A) by more than 10 but not more than 20 per centum where the Secretary determines that special circumstances warrant such higher maximum rent or that such higher rent is necessary to the implementation of a housing strategy as defined in section 105 of the Cranston-Gonzalez National Affordable Housing Act, or (B) by such higher amount as may be requested by a tenant and approved by the public housing agency in accordance with paragraph (3)(B). In the case of newly constructed and substantially rehabilitated units, the exception in the preceding sentence shall not apply to more than 20 per centum of the total amount of authority to enter into annual contributions contracts for such units which is allocated to an area and obligated with respect to any fiscal year beginning on or after October 1, 1980. Each fair market rental in effect under this subsection shall be adjusted to be effective on October 1 of each year to reflect changes, based on the most recent available data trended so the rentals will be current for the year to which they apply, of rents for existing or newly constructed rental dwelling units, as the case may be, of various sizes and types in the market area suitable for occupancy by persons assisted under this section. Notwithstanding any other provision of this section, after the date of enactment of the Housing and Community Development Act of 1977, the Secretary shall prohibit high-rise elevator projects for families with children unless there is no practical alternative. If units assisted under this section are exempt from local rent control while they are so assisted or otherwise, the maximum monthly rent for such units shall be reasonable in comparison with other units in the market area that are exempt from local rent control.

(B) Fair market rentals for an area shall be published not less than annually by the Secretary on the site of the Department on the World Wide Web and in any other manner specified by the Secretary. Notice that such fair market rentals are being published shall be published in the Federal Register, and such fair market rentals shall become effective no earlier than 30 days after the date of such publication. The Secretary shall establish a procedure for public housing agencies and other interested parties to comment on such fair market rentals and to request, within a time specified by the Secretary, reevaluation of the fair market rentals in a jurisdiction before such rentals become effective. The Secretary shall cause to be published for comment in the Federal Register notices of proposed material changes in the methodology for estimating fair market rentals and notices specifying the final decisions regarding such proposed substantial methodological changes and responses to public comments.

(2)(A) The assistance contract shall provide for adjustment annually or more frequently in the maximum monthly rents for units covered by the contract to reflect changes in the fair market rentals established in the housing area for similar types and sizes of dwelling units or, if the Secretary determines, on the basis of a reasonable formula. However, where the maximum monthly rent, for a unit in a new construction, substantial rehabilitation, or moderate rehabilitation project, to be adjusted using an annual adjustment factor exceeds the fair market rental for an existing dwelling unit in the market area, the Secretary shall adjust the rent only to the extent that the owner demonstrates that the adjusted rent would not exceed the rent for an unassisted unit of similar quality, type, and age in the same market area, as determined by the Secretary.[102] The immediately foregoing sentence shall be effective only during fiscal year 1995, fiscal year 1996 prior to April 26, 1996, and fiscal years 1997 and 1998, and during fiscal year 1999 and thereafter. Except for assistance under the certificate program, for any unit occupied by the same family at the time of the last annual rental adjustment, where the assistance contract provides for the adjustment of the maximum monthly rent by applying an annual adjustment factor and where the rent for a unit is otherwise eligible for an adjustment based on the full amount of the factor, 0.01 shall be subtracted from the amount of the factor, except that the factor shall not be reduced to less than 1.0.[103] In the case of assistance under the certificate program, 0.01 shall be subtracted from the amount of the annual adjustment factor (except that the factor shall not be reduced to less than 1.0), and the adjusted rent shall not exceed the rent for a comparable unassisted unit of similar quality, type, and age in the market area. The immediately foregoing two sentences shall be effective only during fiscal year 1995, fiscal year 1996 prior to April 26, 1996, and fiscal years 1997 and 1998, and during fiscal year 1999 and thereafter. In establishing annual adjustment factors for units in new construction and substantial rehabilitation projects, the Secretary shall take into account the fact that debt service is a fixed expense. The immediately foregoing sentence shall be effective only during fiscal year 1998.

(B) The contract shall further provide for the Secretary to make additional adjustments in the maximum monthly rent for units under contract to the extent he determines such adjustments are necessary to reflect increases in the actual and necessary expenses of owning and maintaining the units which have resulted from substantial general increases in real property taxes, utility rates, or similar costs which are not adequately compensated for by the adjustment in the maximum monthly rent authorized by subparagraph (A). The Secretary shall make additional adjustments in the maximum monthly rent for units under contract (subject to the availability of appropriations for contract amendments) to the extent the Secretary determines such adjustments are necessary to reflect increases in the actual and necessary expenses of owning and maintaining the units that have resulted from the expiration of a real property tax exemption. Where the Secretary determines that a project assisted under this section is located in a community where drug-related criminal activity is generally prevalent and the project's operating, maintenance, and capital repair expenses have been substantially increased primarily as a result of the prevalence of such drug-related activity, the Secretary may (at the discretion of the Secretary and subject to the availability of appropriations for contract amendments for this purpose), on a project by project basis, provide adjustments to the maximum monthly rents, to a level no greater than 120 percent of the project rents, to cover the costs of maintenance, security, capital repairs, and reserves required for the owner to carry out a strategy acceptable to the Secretary for addressing the problem of drug-related criminal activity. Any rent comparability standard required under this paragraph may be waived by the Secretary to so implement the preceding sentence. The Secretary may (at the discretion of the Secretary and subject to the availability of appropriations for contract amendments), on a project by project basis for projects receiving project-based assistance, provide adjustments to the maximum monthly rents to cover the costs of evaluating and reducing lead-based paint hazards, as defined in section 1004 of the Residential Lead-Based Paint Hazard Reduction Act of 1992.

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[102] The Departments of Veterans Affairs and Housing and Urban Development, and Independent Agencies Appropriations Act, 1995, Public Law 103-327, 108 Stat. 2315, approved September 28, 1994, amended this subsection by inserting this sentence and the sentence that follows. Such Act provides that "[such] amendment shall apply to all contracts for new construction, substantial rehabilitation, and moderate rehabilitation projects under which rents are adjusted under section 8(c)(2)(A) of [the United States Housing Act of 1937] by applying an annual adjustment factor.".

[103] The Departments of Veterans Affairs and Housing and Urban Development, and Independent Agencies Appropriations Act, 1995, Public Law 103-327, 108 Stat. 2315, approved September 28, 1994, amended this subsection by inserting this sentence and second sentence following this sentence. Such Act provides that "[such] amendment shall apply to all contracts that are subject to section 8(c)(2)(A) of [the United States Housing Act of 1937] an that provide for rent adjustments using an annual adjustment factor.".

(C) Adjustments in the maximum rents under subparagraphs (A) and (B) shall not result in material differences between the rents charged for assisted units and unassisted units of similar quality, type, and age in the same market area, as determined by the Secretary. In implementing the limitation established under the preceding sentence, the Secretary shall establish regulations for conducting comparability studies for projects where the Secretary has reason to believe that the application of the formula adjustments under subparagraph (A) would result in such material differences. The Secretary shall conduct such studies upon the request of any owner of any project, or as the Secretary determines to be appropriate by establishing, to the extent practicable, a modified annual adjustment factor for such market area, as the Secretary shall designate, that is geographically smaller than the applicable housing area used for the establishment of the annual adjustment factor under subparagraph (A). The Secretary shall establish such modified annual adjustment factor on the basis of the results of a study conducted by the Secretary of the rents charged, and any change in such rents over the previous year, for assisted units and unassisted units of similar quality, type, and age in the smaller market area. Where the Secretary determines that such modified annual adjustment factor cannot be established or that such factor when applied to a particular project would result in material differences between the rents charged for assisted units and unassisted units of similar quality, type, and age in the same market area, the Secretary may apply an alternative methodology for conducting comparability studies in order to establish rents that are not materially different from rents charged for comparable unassisted units. If the Secretary or appropriate State agency does not complete and submit to the project owner a comparability study not later than 60 days before the anniversary date of the assistance contract under this section, the automatic annual adjustment factor shall be applied. The Secretary may not reduce the contract rents in effect on or after April 15, 1987, for newly constructed, substantially rehabilitated, or moderately rehabilitated projects assisted under this section (including projects assisted under this section as in effect prior to November 30, 1983), unless the project has been refinanced in a manner that reduces the periodic payments of the owner. Any maximum monthly rent that has been reduced by the Secretary after April 14, 1987, and prior to the enactment of this sentence shall be restored to the maximum monthly rent in effect on April 15, 1987. For any project which has had its maximum monthly rents reduced after April 14, 1987, the Secretary shall make assistance payments (from amounts reserved for the original contract) to the owner of such project in an amount equal to the difference between the maximum monthly rents in effect on April 15, 1987, and the reduced maximum monthly rents, multiplied by the number of months that the reduced maximum monthly rents were in effect.[104]

(3) The amount of the monthly assistance payment with respect to any dwelling unit shall be the difference between the maximum monthly rent which the contract provides that the owner is to receive for the unit and the rent the family is required to pay under section 3(a) of this Act. Reviews of family income shall be made no less frequently than annually.[105]

(4) The assistance contract shall provide that assistance payments may be made only with respect to a dwelling unit under lease for occupancy by a family determined to be a lower income family at the time it initially occupied such dwelling unit, except that such payments may be made with respect to unoccupied units for a period not exceeding sixty days (A) in the event that a family vacates a dwelling unit before the expiration date of the lease for occupancy or (B) where a good faith effort is being made to fill an unoccupied unit, and, subject to the provisions of the following sentence, such payments may be made, in the case of a newly constructed or substantially rehabilitated project, after such sixty-day period in an amount equal to the debt service attributable to such an unoccupied dwelling unit for a period not to exceed one year, if a good faith effort is being made to fill the unit and the unit provides decent, safe, and sanitary housing. No such payment may be made after such sixty-day period if the Secretary determines that the

[104] Section 1004(a) of the Stewart B. McKinney Homeless Assistance Amendments Act of 1988, Public Law 100-628, added this sentence and the preceding sentence. Section 1004(b) of such Act provides as follows:

"(b) Budget Compliance.—During fiscal year 1989, the amendment made by subsection (a)(2) shall be effective only to such extent or in such amounts as are provided in appropriation Acts. For purposes of section 202 of the Balanced Budget and Emergency Deficit Control Reaffirmation Act of 1987 (Public Law 100-119), to the extent that this section has the effect of transferring an outlay of the United States from one fiscal year to an adjacent fiscal year, the transfer is a necessary (but secondary) result of a significant policy change.".

[105] Section 102(f) of the Housing Opportunity Through Modernization Act (P.L. 114-201, approved July 29, 2016) strikes the lasts sentence of section 8(c)(3), but the statutory changes are effective only upon the issuance of a Federal Register notice published by the Secretary.

dwelling unit is in a project which provides the owner with revenues exceeding the costs incurred by such owner with respect to such project.

(5) The Secretary shall take such steps as may be necessary, including the making of contracts for assistance payments in amounts in excess of the amounts required at the time of the initial renting of dwelling units, the reservation of annual contributions authority for the purpose of amending housing assistance contracts, or the allocation of a portion of new authorizations for the purpose of amending housing assistance contracts, to assure that assistance payments are increased on a timely basis to cover increases in maximum monthly rents or decreases in family incomes.

(6) [Repealed.]

(7) [Repealed.]

(8)(A) Not less than one year before termination of any contract under which assistance payments are received under this section, other than a contract for tenant-based assistance under this section, an owner shall provide written notice to the Secretary and the tenants involved of the proposed termination. The notice shall also include a statement that, if the Congress makes funds available, the owner and the Secretary may agree to a renewal of the contract, thus avoiding termination, and that in the event of termination the Department of Housing and Urban Development will provide tenant-based rental assistance to all eligible residents, enabling them to choose the place they wish to rent, which is likely to include the dwelling unit in which they currently reside. Any contract covered by this paragraph that is renewed may be renewed for a period of up to 1 year or any number or years, with payments subject to the availability of appropriations for any year.

(B) In the event the owner does not provide the notice required, the owner may not evict the tenants or increase the tenants' rent payment until such time as the owner has provided the notice and 1 year has elapsed. The Secretary may allow the owner to renew the terminating contract for a period of time sufficient to give tenants 1 year of advance notice under such terms and conditions as the Secretary may require.

(C) Any notice under this paragraph shall also comply with any additional requirements established by the Secretary.

(D) For purposes of this paragraph, the term "termination" means the expiration of the assistance contract or an owner's refusal to renew the assistance contract, and such term shall include termination of the contract for business reasons.

(9) [Deleted.]

(d) REQUIRED PROVISIONS AND DURATION OF CONTRACTS FOR ASSISTANCE PAYMENTS; WAIVER OF LIMITATION.—

(1) Contracts to make assistance payments entered into by a public housing agency with an owner of existing housing units shall provide (with respect to any unit) that—

(A) the selection of tenants shall be the function of the owner, subject to the annual contributions contract between the Secretary and the agency, except that with respect to the certificate and moderate rehabilitation programs only, for the purpose of selecting families to be assisted, the public housing agency may establish local preferences, consistent with the public housing agency plan submitted under section 5A (42 U.S.C. 1437c-1) by the public housing agency;

(B)(i) the lease between the tenant and the owner shall be for at least one year or the term of such contract, whichever is shorter, and shall contain other terms and conditions specified by the Secretary;

(ii) during the term of the lease, the owner shall not terminate the tenancy except 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;

(iii) during the term of the lease, any criminal activity that threatens the health, safety, or right to peaceful enjoyment of the premises by other tenants, any criminal activity that threatens the health, safety, or right to peaceful enjoyment of their residences by persons residing in the immediate vicinity of the premises, or any drug-related criminal activity on or near such premises, engaged in by a tenant of any unit, any member of the tenant's household, or any guest or other person under the tenant's control, shall be cause for termination of tenancy.

(iv) any termination of tenancy shall be preceded by the owner's provision of written notice to the tenant specifying the grounds for such action; and

(v) it shall be cause for termination of the tenancy of a tenant if such tenant—

(I) is fleeing to avoid prosecution, or custody or confinement after conviction, under the laws of the place from which the individual flees, for a crime, or attempt to commit a crime, which is a felony under the laws of the place from which the individual flees, or which, in the case of the State of New Jersey, is a high misdemeanor under the laws of such State; or

(II) is violating a condition of probation or parole imposed under Federal or State law;

(C) maintenance and replacement (including redecoration) shall be in accordance with the standard practice for the building concerned as established by the owner and agreed to by the agency; and

(D) the agency and the owner shall carry out such other appropriate terms and conditions as may be mutually agreed to by them.

(2)(A) Each contract for an existing structure entered into under this section shall be for a term of not less than one month nor more than one hundred and eighty months. The Secretary shall permit public housing agencies to enter into contracts for assistance payments of less than 12 months duration in order to avoid disruption in assistance to eligible families if the annual contributions contract is within 1 year of its expiration date.

(B)(i) In determining the amount of assistance provided under an assistance contract for project-based assistance under this paragraph or a contract for assistance for housing constructed or substantially rehabilitated pursuant to assistance provided under section 8(b)(2) of this Act (as such section existed immediately before October 1, 1983), the Secretary may consider and annually adjust, with respect to such project, for the cost of employing or otherwise retaining the services of one or more service coordinators under section 661[106] of the Housing and Community Development Act of 1992 to coordinate the provision of any services within the project for residents of the project who are elderly or disabled families.

(ii) The budget authority available under section 5(c) for assistance under this section is authorized to be increased by $15,000,000 on or after October 1, 1992, and by $15,000,000 on or after October 1, 1993. Amounts made available under this subparagraph shall be used to provide additional amounts under annual contributions contracts for assistance under this section which shall be made available through assistance contracts only for the purpose of providing service coordinators under clause (i) for projects receiving project-based assistance under this paragraph and to provide additional amounts under contracts for assistance for projects constructed or substantially rehabilitated pursuant to assistance provided under section 8(b)(2) of this Act (as such section existed immediately before October 1, 1983) only for such purpose.

(C) An assistance contract for project-based assistance under this paragraph shall provide that the owner shall ensure and maintain compliance with subtitle C of title VI of the Housing and Community Development Act of 1992 and any regulations issued under such subtitle.

(D) An owner of a covered section 8 housing project (as such term is defined in section 659 of the Housing and Community Development Act of 1992) may give preference for occupancy of dwelling units in the project, and reserve units for occupancy, in accordance with subtitle D of title VI of the Housing and Community Development Act of 1992.

(3) Notwithstanding any other provision of law, with the approval of the Secretary the public housing agency administering a contract under this section with respect to existing housing units may exercise all management and maintenance responsibilities with respect to those units pursuant to a contract between such agency and the owner of such units.

(4) A public housing agency that serves more than one unit of general local government may, at the discretion of the agency, in allocating assistance under this section, give priority to disabled families that are not elderly families.

(5) CALCULATION OF LIMIT.—Any contract entered into under section 514 of the Multifamily Assisted Housing Reform and Affordability Act of 1997 shall be excluded in computing the limit on project-based assistance under this subsection.

[106] So in law. Probably intended to refer to section 671 of such Act.

(6) TREATMENT OF COMMON AREAS.—The Secretary may not provide any assistance amounts pursuant to an existing contract for project-based assistance under this section for a housing project and may not enter into a new or renewal contract for such assistance for a project unless the owner of the project provides consent, to such local law enforcement agencies as the Secretary determines appropriate, for law enforcement officers of such agencies to enter common areas of the project at any time and without advance notice upon a determination of probable cause by such officers that criminal activity is taking place in such areas.

(e) RESTRICTIONS ON CONTRACTS FOR ASSISTANCE PAYMENTS.—

(1) Nothing in this Act shall be deemed to prohibit an owner from pledging, or offering as security for any loan or obligation, a contract for assistance payments entered into pursuant to this section: Provided, That such security is in connection with a project constructed or rehabilitated pursuant to authority granted in this section, and the terms of the financing or any refinancing have been approved by the Secretary.

(2) [Repealed.][107]

(f) DEFINITIONS.—As used in this section—

(1) the term "owner" means any private person or entity, including a cooperative, an agency of the Federal Government, or a public housing agency, having the legal right to lease or sublease dwelling units;

(2) the terms "rent" or "rental" mean, with respect to members of a cooperative, the charges under the occupancy agreements between such members and the cooperative;

(3) the term "debt service" means the required payments for principal and interest made with respect to a mortgage secured by housing assisted under this Act;

(4) the term "participating jurisdiction" means a State or unit of general local government designated by the Secretary to be a participating jurisdiction under title II of the Cranston-Gonzalez National Affordable Housing Act;

(5) the term "drug-related criminal activity" means the illegal manufacture, sale, distribution, use, or possession with intent to manufacture, sell, distribute, or use, of a controlled substance (as defined in section 102 of the Controlled Substances Act (21 U.S.C. 802));

(6) the term "project-based assistance" means rental assistance under subsection (b) that is attached to the structure pursuant to subsection (d)(2) or (o)(13); and

(7) the term "tenant-based assistance" means rental assistance under subsection (o) that is not project-based assistance and that provides for the eligible family to select suitable housing and to move to other suitable housing.

(g) REGULATIONS APPLICABLE FOR IMPLEMENTATION OF ASSISTANCE PAYMENTS.—Notwithstanding any other provision of this Act, assistance payments under this section may be provided, in accordance with regulations prescribed by the Secretary, with respect to some or all of the units in any project approved pursuant to section 202 of the Housing Act of 1959.

(h) NONAPPLICABILITY OF INCONSISTENT PROVISIONS TO CONTRACTS FOR ASSISTANCE PAYMENTS.—Sections 5(e) and 6[108] and any other provisions of this Act which are inconsistent with the provisions of this section shall not apply to contracts for assistance entered into under this section.

(i) ASSISTANCE UNDER SECTION 811.—The Secretary may not consider the receipt by a public housing agency of assistance under section 811(b)(1) of the Cranston-Gonzalez National Affordable Housing Act, or the amount received, in approving assistance for the agency under this section or determining the amount of such assistance to be provided.

(j) [Repealed.]

(k) VERIFICATION OF INCOME.—The Secretary shall establish procedures which are appropriate and necessary to assure that income data provided to public housing agencies and owners by families applying for or receiving assistance under this section is complete and accurate. In establishing such procedures, the Secretary shall randomly, regularly, and periodically select a sample of families to authorize the Secretary to obtain information on

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[107] Section 289(a) of the Cranston-Gonzalez National Affordable Housing Act, Public Law 101-625, set forth, post, in part IV of this compilation, provides that no new grants shall be made under this paragraph after October 1, 1991, except for funds allocated for single room occupancy dwellings as authorized by title IV of the Stewart B. McKinney Homeless Assistance Act. Section 289(b) of such Act repealed this paragraph, effective on October 1, 1991, except with respect to single-room occupancy dwellings under title IV of the Stewart B. McKinney Homeless Assistance Act. Before its repeal, the provisions of this section contained the authority for the moderate rehabilitation program.
The provisions of this paragraph, as in effect on the date of such repeal, are set forth in the footnote to section 441 of the Stewart B. McKinney Homeless Assistance Act, found in part VI, post, of this compilation.

[108] Section 565(c) of the Quality Housing and Work Responsibility Act of 1998, title V of Public Law 105-276, approved October 21, 1998, amended this subsection by inserting "(except as provided in section 6(j)(3))" after "section 6". The amendment could not be executed.

these families for the purpose of income verification, or to allow those families to provide such information themselves. Such information may include, but is not limited to, data concerning unemployment compensation and Federal income taxation and data relating to benefits made available under the Social Security Act, the Food and Nutrition Act of 2008, or title 38, United States Code. Any such information received pursuant to this subsection shall remain confidential and shall be used only for the purpose of verifying incomes in order to determine eligibility of families for benefits (and the amount of such benefits, if any) under this section.

(l) [Repealed.]

(m) [Repealed.]

(n) [Repealed.]

(o) VOUCHER PROGRAM.—

(1) AUTHORITY.—

(A) IN GENERAL.—The Secretary may provide assistance to public housing agencies for tenant-based assistance using a payment standard established in accordance with subparagraph (B). The payment standard shall be used to determine the monthly assistance that may be paid for any family, as provided in paragraph (2).

(B) ESTABLISHMENT OF PAYMENT STANDARD.—Except as provided under subparagraph (D), the payment standard for each size of dwelling unit in a market area shall not exceed 110 percent of the fair market rental established under subsection (c) for the same size of dwelling unit in the same market area and shall be not less than 90 percent of that fair market rental, except that no public housing agency shall be required as a result of a reduction in the fair market rental to reduce the payment standard applied to a family continuing to reside in a unit for which the family was receiving assistance under this section at the time the fair market rental was reduced. The Secretary shall allow public housing agencies to request exception payment standards within fair market rental areas subject to criteria and procedures established by the Secretary.

(C) SET-ASIDE.—The Secretary may set aside not more than 5 percent of the budget authority made available for assistance under this subsection as an adjustment pool. The Secretary shall use amounts in the adjustment pool to make adjusted payments to public housing agencies under subparagraph (A), to ensure continued affordability, if the Secretary determines that additional assistance for such purpose is necessary, based on documentation submitted by a public housing agency.

(D) APPROVAL.—The Secretary may require a public housing agency to submit the payment standard of the public housing agency to the Secretary for approval, if the payment standard is less than 90 percent of the fair market rental or exceeds 110 percent of the fair market rental, except that a public housing agency may establish a payment standard of not more than 120 percent of the fair market rent where necessary as a reasonable accommodation for a person with a disability, without approval of the Secretary. A public housing agency may use a payment standard that is greater than 120 percent of the fair market rent as a reasonable accommodation for a person with a disability, but only with the approval of the Secretary. In connection with the use of any increased payment standard established or approved pursuant to either of the preceding two sentences as a reasonable accommodation for a person with a disability, the Secretary may not establish additional requirements regarding the amount of adjusted income paid by such person for rent.

(E) REVIEW.—The Secretary—

(i) shall monitor rent burdens and review any payment standard that results in a significant percentage of the families occupying units of any size paying more than 30 percent of adjusted income for rent; and

(ii) may require a public housing agency to modify the payment standard of the public housing agency based on the results of that review.

(2) AMOUNT OF MONTHLY ASSISTANCE PAYMENT.—Subject to the requirement under section 3(a)(3) (relating to minimum rental amount), the monthly assistance payment for a family receiving assistance under this subsection shall be determined as follows:

(A) TENANT-BASED ASSISTANCE; RENT NOT EXCEEDING PAYMENT STANDARD.—For a family receiving tenant-based assistance, if the rent for the family (including the amount allowed for tenant-paid utilities) does not exceed the applicable payment standard established under paragraph (1), the monthly assistance payment for the family shall be

equal to the amount by which the rent (including the amount allowed for tenant-paid utilities) exceeds the greatest of the following amounts, rounded to the nearest dollar:

(i) 30 percent of the monthly adjusted income of the family.

(ii) 10 percent of the monthly income of the family.

(iii) If the family is receiving payments for welfare assistance from a public agency and a part of those payments, adjusted in accordance with the actual housing costs of the family, is specifically designated by that agency to meet the housing costs of the family, the portion of those payments that is so designated.

(B) TENANT-BASED ASSISTANCE; RENT EXCEEDING PAYMENT STANDARD.—For a family receiving tenant-based assistance, if the rent for the family (including the amount allowed for tenant-paid utilities) exceeds the applicable payment standard established under paragraph (1), the monthly assistance payment for the family shall be equal to the amount by which the applicable payment standard exceeds the greatest of amounts under clauses (i), (ii), and (iii) of subparagraph (A).

(C) FAMILIES RECEIVING PROJECT-BASED ASSISTANCE.—For a family receiving project-based assistance, the rent that the family is required to pay shall be determined in accordance with section 3(a)(1), and the amount of the housing assistance payment shall be determined in accordance with subsection (c)(3) of this section.

(D) UTILITY ALLOWANCE.—

(i) GENERAL.—In determining the monthly assistance payment for a family under subparagraphs (A) and (B), the amount allowed for tenant-paid utilities shall not exceed the appropriate utility allowance for the family unit size as determined by the public housing agency regardless of the size of the dwelling unit leased by the family.

(ii) EXCEPTION FOR FAMILIES INCLUDING PERSONS WITH DISABILITIES.—Notwithstanding subparagraph (A), upon request by a family that includes a person with disabilities, the public housing agency shall approve a utility allowance that is higher than the applicable amount on the utility allowance schedule if a higher utility allowance is needed as a reasonable accommodation to make the program accessible to and usable by the family member with a disability.

(3) 40 PERCENT LIMIT.—At the time a family initially receives tenant-based assistance under this section with respect to any dwelling unit, the total amount that a family may be required to pay for rent may not exceed 40 percent of the monthly adjusted income of the family.

(4) ELIGIBLE FAMILIES.—To be eligible to receive assistance under this subsection, a family shall, at the time a family initially receives assistance under this subsection, be a low-income family that is—

(A) a very low-income family;

(B) a family previously assisted under this title;

(C) a low-income family that meets eligibility criteria specified by the public housing agency;

(D) a family that qualifies to receive a voucher in connection with a homeownership program approved under title IV of the Cranston-Gonzalez National Affordable Housing Act; or

(E) a family that qualifies to receive a voucher under section 223 or 226 of the Low-Income Housing Preservation and Resident Homeownership Act of 1990.

(5) REVIEWS OF FAMILY INCOME.—

(A) IN GENERAL.—Reviews of family incomes for purposes of this section shall be subject to paragraphs (1), (6), and (7) of section 3(a) and to section 904 of the Stewart B. McKinney Homeless Assistance Amendments Act of 1988.

(B) PROCEDURES.—Each public housing agency administering assistance under this subsection shall establish procedures that are appropriate and necessary to ensure that income data provided to the agency and owners by families applying for or receiving assistance from the agency is complete and accurate

(6) SELECTION OF FAMILIES AND DISAPPROVAL OF OWNERS.—

(A) PREFERENCES.—

(i) AUTHORITY TO ESTABLISH.—Each public housing agency may establish a system for making tenant-based assistance under this subsection available on behalf of eligible families that provides preference for such assistance to eligible families

having certain characteristics, which may include a preference for families residing in public housing who are victims of a crime of violence (as such term is defined in section 16 of title 18, United States Code) that has been reported to an appropriate law enforcement agency.

(ii) CONTENT.—Each system of preferences established pursuant to this subparagraph shall be based upon local housing needs and priorities, as determined by the public housing agency using generally accepted data sources, including any information obtained pursuant to an opportunity for public comment as provided under section 5A(f) and under the requirements applicable to the comprehensive housing affordability strategy for the relevant jurisdiction.

(B) SELECTION OF TENANTS.—Each housing assistance payment contract entered into by the public housing agency and the owner of a dwelling unit)[109] shall provide that the screening and selection of families for those units shall be the function of the owner. In addition, the public housing agency may elect to screen applicants for the program in accordance with such requirements as the Secretary may establish. That an applicant or participant is or has been a victim of domestic violence, dating violence, or stalking is not an appropriate basis for denial of program assistance or for denial of admission if the applicant otherwise qualifies for assistance for admission.[110]

(C) PHA DISAPPROVAL OF OWNERS.—In addition to other grounds authorized by the Secretary, a public housing agency may elect not to enter into a housing assistance payments contract under this subsection with an owner who refuses, or has a history of refusing, to take action to terminate tenancy for activity engaged in by the tenant, any member of the tenant's household, any guest, or any other person under the control of any member of the household that—

(i) threatens the health or safety of, or right to peaceful enjoyment of the premises by, other tenants or employees of the public housing agency, owner, or other manager of the housing;

(ii) threatens the health or safety of, or right to peaceful enjoyment of the residences by, persons residing in the immediate vicinity of the premises; or

(iii) is drug-related or violent criminal activity.

(7) LEASES AND TENANCY.—Each housing assistance payment contract entered into by the public housing agency and the owner of a dwelling unit—

(A) shall provide that the lease between the tenant and the owner shall be for a term of not less than 1 year, except that the public housing agency may approve a shorter term for an initial lease between the tenant and the dwelling unit owner if the public housing agency determines that such shorter term would improve housing opportunities for the tenant and if such shorter term is considered to be a prevailing local market practice;

(B) shall provide that the dwelling unit owner shall offer leases to tenants assisted under this subsection that—

(i) are in a standard form used in the locality by the dwelling unit owner; and

(ii) contain terms and conditions that—

(I) are consistent with State and local law; and

(II) apply generally to tenants in the property who are not assisted under this section;

(C) shall provide that during the term of the lease, the owner shall not terminate the tenancy except 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;

(D) shall provide that during the term of the lease, any criminal activity that threatens the health, safety, or right to peaceful enjoyment of the premises by other tenants, any criminal activity that threatens the health, safety, or right to peaceful enjoyment of their residences by persons residing in the immediate vicinity of the premises, or any violent or drug-related criminal activity on or near such premises, engaged in by a tenant of any unit, any member of the tenant's

[109] So in law. There is no open parenthesis.

[110] Section 5(e)(4)(A) of Public Law 109-271, 120 Stat. 760, provides for amendments to the second sentence but such amendments should have been made to the third sentence.

household, or any guest or other person under the tenant's control, shall be cause for termination of tenancy;

(E) shall provide that any termination of tenancy under this subsection shall be preceded by the provision of written notice by the owner to the tenant specifying the grounds for that action, and any relief shall be consistent with applicable State and local law; and

(F) may include any addenda required by the Secretary to set forth the provisions of this subsection.

(8) INSPECTION OF UNITS BY PHA'S.—

(A)[111] IN GENERAL.—Except as provided in paragraph (11), for each dwelling unit for which a housing assistance payment contract is established under this subsection, the public housing agency shall inspect the unit before any assistance payment is made to determine whether the dwelling unit meets the housing quality standards under subparagraph (B).

(B) HOUSING QUALITY STANDARDS.—The housing quality standards under this subparagraph are standards for safe and habitable housing established—

(i) by the Secretary for purposes of this subsection; or

(ii) by local housing codes or by codes adopted by public housing agencies that—

(I) meet or exceed housing quality standards, except that the Secretary may waive the requirement under this subclause to significantly increase access to affordable housing and to expand housing opportunities for families assisted under this subsection, except where such waiver could adversely affect the health or safety of families assisted under this subsection; and

(II) do not severely restrict housing choice[112]

(C) INSPECTION.—The determination required under subparagraph (A) shall be made by the public housing agency (or other entity, as provided in paragraph (11)) pursuant to an inspection of the dwelling unit conducted before any assistance payment is made for the unit. Inspections of dwelling units under this subparagraph shall be made before the expiration of the 15-day period beginning upon a request by the resident or landlord to the public housing agency or, in the case of any public housing agency that provides assistance under this subsection on behalf of more than 1250 families, before the expiration of a reasonable period beginning upon such request. The performance of the agency in meeting the 15-day inspection deadline shall be taken into consideration in assessing the performance of the agency.

(D) BIENNIAL INSPECTIONS.—

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[111] Section 101(a)(1) of the Housing Opportunity Through Modernization Act (P.L. 114-201, approved July 29, 2016) amends section 8(o)(8)(A), but the statutory changes are effective only upon the issuance of a rule or Federal Register notice published by the Secretary. The amended subparagraph would read:

(A) INITIAL INSPECTION.—

(i) IN GENERAL.—For each dwelling unit for which a housing assistance payment contract is established under this subsection, the public housing agency (or other entity pursuant to paragraph (11)) shall inspect the unit before any assistance payment is made to determine whether the dwelling unit meets the housing quality standards under subparagraph (B), except as provided in clause (ii) or (iii) of this subparagraph.

(ii) CORRECTION OF NON-LIFE-THREATENING CONDITIONS.—In the case of any dwelling unit that is determined, pursuant to an inspection under clause (i), not to meet the housing quality standards under subparagraph (B), assistance payments may be made for the unit notwithstanding subparagraph (C) if failure to meet such standards is a result only of non-life-threatening conditions, as such conditions are established by the Secretary. A public housing agency making assistance payments pursuant to this clause for a dwelling unit shall, 30 days after the beginning of the period for which such payments are made, withhold any assistance payments for the unit if any deficiency resulting in noncompliance with the housing quality standards has not been corrected by such time. The public housing agency shall recommence assistance payments when such deficiency has been corrected, and may use any payments withheld to make assistance payments relating to the period during which payments were withheld.

(iii) USE OF ALTERNATIVE INSPECTION METHOD FOR INTERIM PERIOD.—In the case of any property that within the previous 24 months has met the requirements of an inspection that qualifies as an alternative inspection method pursuant to subparagraph (E), a public housing agency may authorize occupancy before the inspection under clause (i) has been completed, and may make assistance payments retroactive to the beginning of the lease term after the unit has been determined pursuant to an inspection under clause (i) to meet the housing quality standards under subparagraph (B). This clause may not be construed to exempt any dwelling unit from compliance with the requirements of subparagraph (D).

[112] So in law. Should probably end with a period.

(i) REQUIREMENT.—Each public housing agency providing assistance under this subsection (or other entity, as provided in paragraph (11)) shall, for each assisted dwelling unit, make inspections not less often than biennially during the term of the housing assistance payments contract for the unit to determine whether the unit is maintained in accordance with the requirements under subparagraph (A).

(ii) USE OF ALTERNATIVE INSPECTION METHOD.—The requirements under clause (i) may be complied with by use of inspections that qualify as an alternative method pursuant to subparagraph (E).

(iii) RECORDS.—The public housing agency (or other entity) shall retain the records of the inspection for a reasonable time, as determined by the Secretary, and shall make the records available upon request to the Secretary, the Inspector General for the Department of Housing and Urban Development, and any auditor conducting an audit under section 5(h).

(iv) MIXED-FINANCE PROPERTIES.—The Secretary may adjust the frequency of inspections for mixed-finance properties assisted with vouchers under paragraph (13) to facilitate the use of the alternative inspections in subparagraph (E).

(E) ALTERNATIVE INSPECTION METHOD.—An inspection of a property shall qualify as an alternative inspection method for purposes of this subparagraph if—

(i) the inspection was conducted pursuant to requirements under a Federal, State, or local housing program (including the Home investment partnership program under title II of the Cranston-Gonzalez National Affordable Housing Act [42 USCS §§ 12721 et seq.] and the low-income housing tax credit program under section 42 of the Internal Revenue Code of 1986 [26 USCS § 42]); and

(ii) pursuant to such inspection, the property was determined to meet the standards or requirements regarding housing quality or safety applicable to properties assisted under such program, and, if a non-Federal standard or requirement was used, the public housing agency has certified to the Secretary that such standard or requirement provides the same (or greater) protection to occupants of dwelling units meeting such standard or requirement as would the housing quality standards under subparagraph (B).

(F) INTERIM INSPECTIONS.—Upon notification to the public housing agency, by a family (on whose behalf tenant-based rental assistance is provided under this subsection) or by a government official, that the dwelling unit for which such assistance is provided does not comply with the housing quality standards under subparagraph (B), the public housing agency shall inspect the dwelling unit—

(i) in the case of any condition that is life-threatening, within 24 hours after the agency's receipt of such notification, unless waived by the Secretary in extraordinary circumstances; and

(ii) in the case of any condition that is not life-threatening, within a reasonable time frame, as determined by the Secretary.

(G)[113] INSPECTION GUIDELINES.—The Secretary shall establish procedural guidelines and performance standards to facilitate inspections of dwelling units and conform such

[113] Section 101(a)(3) of the Housing Opportunity Through Modernization Act (P.L. 114-201, approved July 29, 2016) amends section 8(o)(8)(G) by redesignating (G) as (H) and inserting a new subparagraph (G), but the statutory changes are effective only upon the issuance of a rule published by the Secretary. The new subparagraph (G) would read:

(G) ENFORCEMENT OF HOUSING QUALITY STANDARDS.—

(i) DETERMINATION OF NONCOMPLIANCE.—A dwelling unit that is covered by a housing assistance payments contract under this subsection shall be considered, for purposes of subparagraphs (D) and (F), to be in noncompliance with the housing quality standards under subparagraph (B) if—

(I) the public housing agency or an inspector authorized by the State or unit of local government determines upon inspection of the unit that the unit fails to comply with such standards;

(II) the agency or inspector notifies the owner of the unit in writing of such failure to comply; and

(III) the failure to comply is not corrected—

(aa) in the case of any such failure that is a result of life-threatening conditions, within 24 hours after such notice has been provided; and

(bb) in the case of any such failure that is a result of non-life-threatening conditions, within 30 days after such notice has been provided or such other reasonable longer period as the public housing agency may establish.

inspections with practices utilized in the private housing market. Such guidelines and standards shall take into consideration variations in local laws and practices of public housing agencies and shall provide flexibility to authorities appropriate to facilitate efficient provision of assistance under this subsection.

(9) VACATED UNITS.—If an assisted family vacates a dwelling unit for which rental assistance is provided under a housing assistance payment contract before the expiration of the term of the lease for the unit, rental assistance pursuant to such contract may not be provided for the unit after the month during which the unit was vacated.

(ii) WITHHOLDING OF ASSISTANCE AMOUNTS DURING CORRECTION.—The public housing agency may withhold assistance amounts under this subsection with respect to a dwelling unit for which a notice pursuant to clause (i)(II), of failure to comply with housing quality standards under subparagraph (B) as determined pursuant to an inspection conducted under subparagraph (D) or (F), has been provided. If the unit is brought into compliance with such housing quality standards during the periods referred to in clause (i)(III), the public housing agency shall recommence assistance payments and may use any amounts withheld during the correction period to make assistance payments relating to the period during which payments were withheld.

(iii) ABATEMENT OF ASSISTANCE AMOUNTS.—The public housing agency shall abate all of the assistance amounts under this subsection with respect to a dwelling unit that is determined, pursuant to clause (i) of this subparagraph, to be in noncompliance with housing quality standards under subparagraph (B). Upon completion of repairs by the public housing agency or the owner sufficient so that the dwelling unit complies with such housing quality standards, the agency shall recommence payments under the housing assistance payments contract to the owner of the dwelling unit.

(iv) NOTIFICATION.—If a public housing agency providing assistance under this subsection abates rental assistance payments pursuant to clause (iii) with respect to a dwelling unit, the agency shall, upon commencement of such abatement—

(I) notify the tenant and the owner of the dwelling unit that—

(aa) such abatement has commenced; and

(bb) if the dwelling unit is not brought into compliance with housing quality standards within 60 days after the effective date of the determination of noncompliance under clause (i) or such reasonable longer period as the agency may establish, the tenant will have to move; and

(II) issue the tenant the necessary forms to allow the tenant to move to another dwelling unit and transfer the rental assistance to that unit.

(v) PROTECTION OF TENANTS.—An owner of a dwelling unit may not terminate the tenancy of any tenant because of the withholding or abatement of assistance pursuant to this subparagraph. During the period that assistance is abated pursuant to this subparagraph, the tenant may terminate the tenancy by notifying the owner.

(vi) TERMINATION OF LEASE OR ASSISTANCE PAYMENTS CONTRACT.—If assistance amounts under this section for a dwelling unit are abated pursuant to clause (iii) and the owner does not correct the noncompliance within 60 days after the effective date of the determination of noncompliance under clause (i), or such other reasonable longer period as the public housing agency may establish, the agency shall terminate the housing assistance payments contract for the dwelling unit.

(vii) RELOCATION.—

(I) LEASE OF NEW UNIT.—The agency shall provide the family residing in such a dwelling unit a period of 90 days or such longer period as the public housing agency determines is reasonably necessary to lease a new unit, beginning upon termination of the contract, to lease a new residence with tenant-based rental assistance under this section.

(II) AVAILABILITY OF PUBLIC HOUSING UNITS.—If the family is unable to lease such a new residence during such period, the public housing agency shall, at the option of the family, provide such family a preference for occupancy in a dwelling unit of public housing that is owned or operated by the agency that first becomes available for occupancy after the expiration of such period.

(III) ASSISTANCE IN FINDING UNIT.—The public housing agency may provide assistance to the family in finding a new residence, including use of up to two months of any assistance amounts withheld or abated pursuant to clause (ii) or (iii), respectively, for costs directly associated with relocation of the family to a new residence, which shall include security deposits as necessary and may include reimbursements for reasonable moving expenses incurred by the household, as established by the Secretary. The agency may require that a family receiving assistance for a security deposit shall remit, to the extent of such assistance, the amount of any security deposit refunds made by the owner of the dwelling unit for which the lease was terminated.

(viii) TENANT-CAUSED DAMAGES.—If a public housing agency determines that any damage to a dwelling unit that results in a failure of the dwelling unit to comply with housing quality standards under subparagraph (B), other than any damage resulting from ordinary use, was caused by the tenant, any member of the tenant's household, or any guest or other person under the tenant's control, the agency may waive the applicability of this subparagraph, except that this clause shall not exonerate a tenant from any liability otherwise existing under applicable law for damages to the premises caused by such tenant.

(ix) APPLICABILITY.—This subparagraph shall apply to any dwelling unit for which a housing assistance payments contract is entered into or renewed after the date of the effectiveness of the regulations implementing this subparagraph.

(10) RENT.—

(A) REASONABLENESS.—The rent for dwelling units for which a housing assistance payment contract is established under this subsection shall be reasonable in comparison with rents charged for comparable dwelling units in the private, unassisted local market.

(B) Negotiations.—A public housing agency (or other entity, as provided in paragraph (11)) shall, at the request of a family receiving tenant-based assistance under this subsection, assist that family in negotiating a reasonable rent with a dwelling unit owner. A public housing agency (or such other entity) shall review the rent for a unit under consideration by the family (and all rent increases for units under lease by the family) to determine whether the rent (or rent increase) requested by the owner is reasonable. If a public housing agency (or other such entity) determines that the rent (or rent increase) for a dwelling unit is not reasonable, the public housing agency (or other such entity) shall not make housing assistance payments to the owner under this subsection with respect to that unit.

(C) UNITS EXEMPT FROM LOCAL RENT CONTROL.—If a dwelling unit for which a housing assistance payment contract is established under this subsection is exempt from local rent control provisions during the term of that contract, the rent for that unit shall be reasonable in comparison with other units in the market area that are exempt from local rent control provisions.

(D) TIMELY PAYMENTS.—Each public housing agency shall make timely payment of any amounts due to a dwelling unit owner under this subsection. The housing assistance payment contract between the owner and the public housing agency may provide for penalties for the late payment of amounts due under the contract, which shall be imposed on the public housing agency in accordance with generally accepted practices in the local housing market.

(E) PENALTIES.—Unless otherwise authorized by the Secretary, each public housing agency shall pay any penalties from administrative fees collected by the public housing agency, except that no penalty shall be imposed if the late payment is due to factors that the Secretary determines are beyond the control of the public housing agency.

(F) TAX CREDIT PROJECTS.—In the case of a dwelling unit receiving tax credits pursuant to section 42 of the Internal Revenue Code of 1986 or for which assistance is provided under subtitle A of title II of the Cranston Gonzalez National Affordable Housing Act of 1990[114], for which a housing assistance contract not subject to paragraph (13) of this subsection is established, rent reasonableness shall be determined as otherwise provided by this paragraph, except that—

(i) comparison with rent for units in the private, unassisted local market shall not be required if the rent is equal to or less than the rent for other comparable units receiving such tax credits or assistance in the project that are not occupied by families assisted with tenant-based assistance under this subsection; and

(ii) the rent shall not be considered reasonable for purposes of this paragraph if it exceeds the greater of—

(I) the rents charged for other comparable units receiving such tax credits or assistance in the project that are not occupied by families assisted with tenant-based assistance under this subsection; and

(II) the payment standard established by the public housing agency for a unit of the size involved.

(11) LEASING OF UNITS OWNED BY PHA.—

(A) INSPECTIONS AND RENT DETERMINATIONS.—If an eligible family assisted under this subsection leases a dwelling unit (other than a public housing dwelling unit) that is owned by a public housing agency administering assistance under this subsection, the Secretary shall require the unit of general local government or another entity approved by the Secretary, to make inspections required under paragraph (8) and rent determinations required under paragraph (10). The agency shall be responsible for any expenses of such inspections and determinations.

(B) UNITS OWNED BY PHA.—For purposes of this subsection, the term "owned by a public housing agency" means, with respect to a dwelling unit, that the dwelling unit is in a project that is owned by such agency, by an entity wholly controlled by such agency, or by a limited liability company or limited partnership in which such agency (or an entity wholly controlled by

[114] So in law. Probably intended to refer to the "Cranston-Gonzalez National Affordable Housing Act of 1990".

such agency) holds a controlling interest in the managing member or general partner. A dwelling unit shall not be deemed to be owned by a public housing agency for purposes of this subsection because the agency holds a fee interest as ground lessor in the property on which the unit is situated, holds a security interest under a mortgage or deed of trust on the unit, or holds a non-controlling interest in an entity which owns the unit or in the managing member or general partner of an entity which owns the unit.

(12)[115] ASSISTANCE FOR RENTAL OF MANUFACTURED HOUSING.—

(A) IN GENERAL.—A public housing agency may make assistance payments in accordance with this subsection on behalf of a family that utilizes a manufactured home as a principal place of residence. Such payments may be made only for the rental of the real property on which the manufactured home owned by any such family is located.

(B) RENT CALCULATION.—

(i) CHARGES INCLUDED.—For assistance pursuant to this paragraph, the rent for the space on which a manufactured home is located and with respect to which assistance payments are to be made shall include maintenance and management charges and tenant-paid utilities.

(ii) PAYMENT STANDARD.—The public housing agency shall establish a payment standard for the purpose of determining the monthly assistance that may be paid for any family under this paragraph. The payment standard may not exceed an amount approved or established by the Secretary.

(iii) MONTHLY ASSISTANCE PAYMENT.—The monthly assistance payment for a family assisted under this paragraph shall be determined in accordance with paragraph (2).

(13) PHA PROJECT-BASED ASSISTANCE.—

(A) IN GENERAL.—A public housing agency may use amounts provided under an annual contributions contract under this subsection to enter into a housing assistance payment contract with respect to an existing, newly constructed, or rehabilitated project, that is attached to the project, subject to the limitations and requirements of this paragraph.

(B)[116] PERCENTAGE LIMITATION.—Not more than 20 percent of the funding available for tenant-based assistance under this section that is administered by the agency may be attached to projects pursuant to this paragraph.

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[115] Section 112 of the Housing Opportunity Through Modernization Act (P.L. 114-201, approved July 29, 2016) amends section 8(o)(12), but the statutory changes are effective only upon the issuance of a Federal Register notice published by the Secretary. The amended paragraph (12) would read:

(12) ASSISTANCE FOR RENTAL OF MANUFACTURED HOUSING.—

(A) IN GENERAL.—A public housing agency may make assistance payments in accordance with this subsection on behalf of a family that utilizes a manufactured home as a principal place of residence and rents the real property on which the manufactured home owned by any such family is located.

(B) RENT CALCULATION.—

(i) CHARGES INCLUDED.—For assistance pursuant to this paragraph, rent shall mean the sum of the monthly payments made by a family assisted under this paragraph to amortize the cost of purchasing the manufactured home, including any required insurance and property taxes, the monthly amount allowed for tenant-paid utilities, and the monthly rent charged for the real property on which the manufactured home is located, including monthly management and maintenance charges.

(ii) MONTHLY ASSISTANCE PAYMENT.—The monthly assistance payment for a family assisted under this paragraph shall be determined in accordance with paragraph (2). If the amount of the monthly assistance payment for a family exceeds the monthly rent charged for the real property on which the manufactured home is located, including monthly management and maintenance charges, a public housing agency may pay the remainder to the family, lender or utility company, or may choose to make a single payment to the family for the entire monthly assistance amount.

[116] Section 106(a)(2) of the Housing Opportunity Through Modernization Act (P.L. 114-201, approved July 29, 2016) amends subparagraph (B), but the statutory changes are effective only upon the issuance of a Federal Register notice or regulation published by the Secretary. The amended subparagraph (B) would read:

(B) PERCENTAGE LIMITATION.—

(i) IN GENERAL.—Subject to clause (ii), a public housing agency may use for project-based assistance under this paragraph not more than 20 percent of the authorized units for the agency.

(ii) EXCEPTION.—A public housing agency may use up to an additional 10 percent of the authorized units for the agency for project-based assistance under this paragraph, to provide units that house individuals and families that meet the definition of homeless under section 103 of the McKinney-Vento Homeless Assistance Act (42 U.S.C. 11302), that house families with veterans, that provide supportive housing to persons with disabilities or elderly persons, or that are located in areas where vouchers under this subsection

(C) CONSISTENCY WITH PHA PLAN AND OTHER GOALS.—A public housing agency may approve a housing assistance payment contract pursuant to this paragraph only if the contract is consistent with—

(i) the public housing agency plan for the agency approved under section 5A; and

(ii) the goal of deconcentrating poverty and expanding housing and economic opportunities.

(D)[117] INCOME MIXING REQUIREMENT.—

(i) IN GENERAL.—Not more than 25 percent of the dwelling units in any project may be assisted under a housing assistance payment contract for project-based assistance pursuant to this paragraph. For purposes of this subparagraph, the term "project" means a single building, multiple contiguous buildings, or multiple buildings on contiguous parcels of land.

(ii) EXCEPTIONS.—The limitation under clause (i) shall not apply in the case of assistance under a contract for housing consisting of single family properties or for dwelling units that are specifically made available for households comprised of elderly families, disabled families, and families receiving supportive services.

(E) RESIDENT CHOICE REQUIREMENT.—A housing assistance payment contract pursuant to this paragraph shall provide as follows:

(i) MOBILITY.—Each low-income family occupying a dwelling unit assisted under the contract may move from the housing at any time after the family has occupied the dwelling unit for 12 months.

(ii) CONTINUED ASSISTANCE.—Upon such a move, the public housing agency shall provide the low-income family with tenant-based rental assistance under this section or such other tenant-based rental assistance that is subject to comparable income, assistance, rent contribution, affordability, and other requirements, as the Secretary shall provide by regulation. If such rental assistance is not immediately available to fulfill the

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are difficult to use, as specified in subparagraph (D)(ii)(II). Any units of project-based assistance that are attached to units previously subject to federally required rent restrictions or receiving another type of long-term housing subsidy provided by the Secretary shall not count toward the percentage limitation under clause (i) of this subparagraph. The Secretary may, by regulation, establish additional categories for the exception under this clause.

[117] Section 106(a)(3) of the Housing Opportunity Through Modernization Act (P.L. 114-201, approved July 29, 2016) amends subparagraph (D), but the statutory changes are effective only upon the issuance of a Federal Register notice or regulation published by the Secretary. The amended subparagraph (D) would read:

(D) INCOME-MIXING REQUIREMENT.—

(i) IN GENERAL.—Except as provided in clause (ii), not more than the greater of 25 dwelling units or 25 percent of the dwelling units in any project may be assisted under a housing assistance payment contract for project-based assistance pursuant to this paragraph. For purposes of this subparagraph, the term 'project' means a single building, multiple contiguous buildings, or multiple buildings on contiguous parcels of land.

(ii) EXCEPTIONS.—

(I) CERTAIN FAMILIES.—The limitation under clause (i) shall not apply to dwelling units assisted under a contract that are exclusively made available to elderly families or to households eligible for supportive services that are made available to the assisted residents of the project, according to standards for such services the Secretary may establish.

(II) CERTAIN AREAS.—With respect to areas in which tenant-based vouchers for assistance under this subsection are difficult to use, as determined by the Secretary, and with respect to census tracts with a poverty rate of 20 percent or less, clause (i) shall be applied by substituting '40 percent' for '25 percent', and the Secretary may, by regulation, establish additional conditions.

(III) CERTAIN CONTRACTS.—The limitation under clause (i) shall not apply with respect to contracts or renewal of contracts under which a greater percentage of the dwelling units in a project were assisted under a housing assistance payment contract for project-based assistance pursuant to this paragraph on the date of the enactment of the Housing Opportunity Through Modernization Act of 2016.

(IV) CERTAIN PROPERTIES.—Any units of project-based assistance under this paragraph that are attached to units previously subject to federally required rent restrictions or receiving other project-based assistance provided by the Secretary shall not count toward the percentage limitation imposed by this subparagraph (D).

(iii) ADDITIONAL MONITORING AND OVERSIGHT REQUIREMENTS.—The Secretary may establish additional requirements for monitoring and oversight of projects in which more than 40 percent of the dwelling units are assisted under a housing assistance payment contract for project-based assistance pursuant to this paragraph.

requirement under the preceding sentence with respect to a low-income family, such requirement may be met by providing the family priority to receive the next voucher or other tenant-based rental assistance amounts that become available under the program used to fulfill such requirement.

(F)[118] CONTRACT TERM.—A housing assistance payment contract pursuant to this paragraph between a public housing agency and the owner of a project may have a term of up to 15 years, subject to the availability of sufficient appropriated funds for the purpose of renewing expiring contracts for assistance payments, as provided in appropriations Acts and in the agency's annual contributions contract with the Secretary, and to annual compliance with the inspection requirements under paragraph (8), except that the agency shall not be required to make annual inspections of each assisted unit in the development. The contract may specify additional conditions for its continuation. If the units covered by the contract are owned by the agency, the term of the contract shall be agreed upon by the agency and the unit of general local government or other entity approved by the Secretary in the manner provided under paragraph (11).

(G) EXTENSION OF CONTRACT TERM.—A public housing agency may enter into a contract with the owner of a project assisted under a housing assistance payment contract pursuant to this paragraph to extend the term of the underlying housing assistance payment contract for such period as the agency determines to be appropriate to achieve long-term affordability of the housing or to expand housing opportunities. Such contract may, at the election of the public housing agency and the owner of the project, specify that such contract shall be extended for renewal terms of up to 15 years[119] each, if the agency makes the determination required by this subparagraph and the owner is in compliance with the terms of the contract. Such a contract shall provide that the extension of such term shall be contingent upon the future availability of appropriated funds for the purpose of renewing expiring contracts for assistance payments, as provided in appropriations Acts, and may obligate the owner to have such extensions of the underlying housing assistance payment contract accepted by the owner and the successors in interest of the owner. A public housing agency may agree to enter into such a contract at the time

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[118] Section 106(a)(4) of the Housing Opportunity Through Modernization Act (P.L. 114-201, approved July 29, 2016) amends subparagraph (F), but the statutory changes are effective only upon the issuance of a Federal Register notice or regulation published by the Secretary. The amended subparagraph (F) would read:

(F) CONTRACT TERM.—

(i) TERM.—A housing assistance payment contract pursuant to this paragraph between a public housing agency and the owner of a project may have a term of up to 20 years, subject to—

(I) the availability of sufficient appropriated funds for the purpose of renewing expiring contracts for assistance payments, as provided in appropriation Acts and in the agency's annual contributions contract with the Secretary, provided that in the event of insufficient appropriated funds, payments due under contracts under this paragraph shall take priority if other cost-saving measures that do not require the termination of an existing contract are available to the agency; and

(II) compliance with the inspection requirements under paragraph (8), except that the agency shall not be required to make biennial inspections of each assisted unit in the development.

(ii) ADDITION OF ELIGIBLE UNITS.—Subject to the limitations of subparagraphs (B) and (D), the agency and the owner may add eligible units within the same project to a housing assistance payments contract at any time during the term thereof without being subject to any additional competitive selection procedures.

(iii) HOUSING UNDER CONSTRUCTION OR RECENTLY CONSTRUCTED.—An agency may enter into a housing assistance payments contract with an owner for any unit that does not qualify as existing housing and is under construction or recently has been constructed whether or not the agency has executed an agreement to enter into a contract with the owner, provided that the owner demonstrates compliance with applicable requirements prior to execution of the housing assistance payments contract. This clause shall not subject a housing assistance payments contract for existing housing under this paragraph to such requirements or otherwise limit the extent to which a unit may be assisted as existing housing.

(iv) ADDITIONAL CONDITIONS.—The contract may specify additional conditions, including with respect to continuation, termination, or expiration, and shall specify that upon termination or expiration of the contract without extension, each assisted family may elect to use its assistance under this subsection to remain in the same project if its unit complies with the inspection requirements under paragraph (8), the rent for the unit is reasonable as required by paragraph (10)(A), and the family pays its required share of the rent and the amount, if any, by which the unit rent (including the amount allowed for tenant-based utilities) exceeds the applicable payment standard.

[119] Section 106(a)(5) of the Housing Opportunity Through Modernization Act (P.L. 114-201, approved July 29, 2016) amends "15 years" to "20 years", but the statutory change is effective only upon the issuance of a Federal Register notice or regulation published by the Secretary.

it enters into the initial agreement for a housing assistance payment contract or at any time thereafter that is before the expiration of the housing assistance payment contract.

(H) RENT CALCULATION.—A housing assistance payment contract pursuant to this paragraph shall establish rents for each unit assisted in an amount that does not exceed 110 percent of the applicable fair market rental (or any exception payment standard approved by the Secretary pursuant to paragraph (1)(D)), except that if a contract covers a dwelling unit that has been allocated low-income housing tax credits pursuant to section 42 of the Internal Revenue Code of 1986 (26 U.S.C. 42) and is not located in a qualified census tract (as such term is defined in subsection (d) of such section 42), the rent for such unit may be established at any level that does not exceed the rent charged for comparable units in the building that also receive the low-income housing tax credit but do not have additional rental assistance, except that in the case of a contract unit that has been allocated low-income housing tax credits and for which the rent limitation pursuant to such section 42 is less than the amount that would otherwise be permitted under this subparagraph, the rent for such unit may, in the sole discretion of a public housing agency, be established at the higher section 8 rent, subject only to paragraph (10)(A). The rents established by housing assistance payment contracts pursuant to this paragraph may vary from the payment standards established by the public housing agency pursuant to paragraph (1)(B), but shall be subject to paragraph (10)(A).

(I)[120] RENT ADJUSTMENTS.—A housing assistance payments contract pursuant to this paragraph shall provide for rent adjustments, except that—

(i) the adjusted rent for any unit assisted shall be reasonable in comparison with rents charged for comparable dwelling units in the private, unassisted, local market and may not exceed the maximum rent permitted under subparagraph (H), except that the contract may provide that the maximum rent permitted for a dwelling unit shall not be less than the initial rent for the dwelling unit under the initial housing assistance payments contract covering the unit; and

(ii) the provisions of subsection (c)(2)(C) shall not apply.

(J)[121] TENANT SELECTION.—A public housing agency shall select families to receive project-based assistance pursuant to this paragraph from its waiting list for assistance under this

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[120] Section 106(a)(6) of the Housing Opportunity Through Modernization Act (P.L. 114-201, signed July 29, 2016) amends subparagraph (I), but the statutory changes are effective only upon the issuance of a Federal Register notice or regulation published by the Secretary. The amended subparagraph (I) would read:

(I) RENT ADJUSTMENTS.—A housing assistance payments contract pursuant to this paragraph entered into after the date of the enactment of the Housing Opportunity Through Modernization Act of 2016 shall provide for annual rent adjustments upon the request of the owner, except that—

(i) by agreement of the parties, a contract may allow a public housing agency to adjust the rent for covered units using an operating cost adjustment factor established by the Secretary pursuant to section 524(c) of the Multifamily Assisted Housing Reform and Affordability Act of 1997 (which shall not result in a negative adjustment), in which case the contract may require an additional adjustment, if requested, up to the reasonable rent periodically during the term of the contract, and shall require such an adjustment, if requested, upon extension pursuant to subparagraph (G);

(ii) the adjusted rent shall not exceed the maximum rent permitted under subparagraph (H);

(iii) the contract may provide that the maximum rent permitted for a dwelling unit shall not be less than the initial rent for the dwelling unit under the initial housing assistance payments contract covering the units; and

(iv) the provisions of subsection (c)(2)(C) shall not apply.

[121] Section 106(a)(7) of the Housing Opportunity Through Modernization Act (P.L. 114-201, signed July 29, 2016) amends subparagraph (J), but the statutory changes are effective only upon the issuance of a Federal Register notice or regulation published by the Secretary. The amended subparagraph (J) would read:

(J) TENANT SELECTION.—A public housing agency may select families to receive project-based assistance pursuant to this paragraph from its waiting list for assistance under this subsection or may permit owners to select applicants from site-based waiting lists as specified in this subparagraph. Eligibility for such project-based assistance shall be subject to the provisions of section 16(b) that apply to tenant-based assistance. The agency or owner may establish preferences or criteria for selection for a unit assisted under this paragraph that are consistent with the public housing agency plan for the agency approved under section 5A and that give preference to families who qualify for voluntary services, including disability-specific services, offered in conjunction with assisted units. Any family that rejects an offer of project-based assistance under this paragraph or that is rejected for admission to a project by the owner or manager of a project assisted under this paragraph shall retain its place on the waiting list as if the offer had not been made. A public housing agency may establish and utilize procedures for owner-maintained site-based waiting lists, under which applicants may apply at, or otherwise designate to the public housing agency, the project or projects in which they seek to reside, except that all eligible applicants on the waiting list of an agency for assistance under this subsection shall be permitted to

subsection. Eligibility for such project-based assistance shall be subject to the provisions of section 16(b) that apply to tenant-based assistance. The agency may establish preferences or criteria for selection for a unit assisted under this paragraph that are consistent with the public housing agency plan for the agency approved under section 5A. Any family that rejects an offer of project-based assistance under this paragraph or that is rejected for admission to a project by the owner or manager of a project assisted under this paragraph shall retain its place on the waiting list as if the offer had not been made. The owner or manager of a project assisted under this paragraph shall not admit any family to a dwelling unit assisted under a contract pursuant to this paragraph other than a family referred by the public housing agency from its waiting list. Subject to its waiting list policies and selection preferences, a public housing agency may place on its waiting list a family referred by the owner or manager of a project and may maintain a separate waiting list for assistance under this paragraph, but only if all families on the agency's waiting list for assistance under this subsection are permitted to place their names on the separate list.

(K) VACATED UNITS.—Notwithstanding paragraph (9), a housing assistance payment contract pursuant to this paragraph may provide as follows:

(i) PAYMENT FOR VACANT UNITS.—That the public housing agency may, in its discretion, continue to provide assistance under the contract, for a reasonable period not exceeding 60 days, for a dwelling unit that becomes vacant, but only: (I) if the vacancy was not the fault of the owner of the dwelling unit; and (II) the agency and the owner take every reasonable action to minimize the likelihood and extent of any such vacancy. Rental assistance may not be provided for a vacant unit after the expiration of such period.

(ii) REDUCTION OF CONTRACT.—That, if despite reasonable efforts of the agency and the owner to fill a vacant unit, no eligible family has agreed to rent the unit within 120 days after the owner has notified the agency of the vacancy, the agency may reduce its housing assistance payments contract with the owner by the amount equivalent to the remaining months of subsidy attributable to the vacant unit. Amounts deobligated pursuant to such a contract provision shall be available to the agency to provide assistance under this subsection.

Eligible applicants for assistance under this subsection may enforce provisions authorized by this subparagraph.

(L) USE IN COOPERATIVE HOUSING AND ELEVATOR BUILDINGS.—A public housing agency may enter into a housing assistance payments contract under this paragraph with respect to—

(i) dwelling units in cooperative housing; and

(ii) notwithstanding subsection (c), dwelling units in a high-rise elevator project, including such a project that is occupied by families with children, without review and approval of the contract by the Secretary.

(M) REVIEWS.—

(i) SUBSIDY LAYERING.—A subsidy layering review in accordance with section 102(d) of the Department of Housing and Urban Development Reform Act of 1989 (42 U.S.C. 3545(d)) shall not be required for assistance under this paragraph in the case of a housing assistance payments contract for an existing project, or if a subsidy layering review has been conducted by the applicable State or local agency.

(ii) ENVIRONMENTAL REVIEW.—A public housing agency shall not be required to undertake any environmental review before entering into a housing assistance

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place their names on such separate list, subject to policies and procedures established by the Secretary. All such procedures shall comply with title VI of the Civil Rights Act of 1964, the Fair Housing Act, section 504 of the Rehabilitation Act of 1973, and other applicable civil rights laws. The owner or manager of a project assisted under this paragraph shall not admit any family to a dwelling unit assisted under a contract pursuant to this paragraph other than a family referred by the public housing agency from its waiting list, or a family on a site-based waiting list that complies with the requirements of this subparagraph. A public housing agency shall disclose to each applicant all other options in the selection of a project in which to reside that are provided by the public housing agency and are available to the applicant.

payments contract under this paragraph for an existing project, except to the extent such a review is otherwise required by law or regulation.[122] [123]

(14) INAPPLICABILITY TO TENANT-BASED ASSISTANCE.—Subsection (c) shall not apply to tenant-based assistance under this subsection.

(15) HOMEOWNERSHIP OPTION.—

(A) IN GENERAL.—A public housing agency providing assistance under this subsection may, at the option of the agency, provide assistance for homeownership under subsection (y).

(B) ALTERNATIVE ADMINISTRATION.—A public housing agency may contract with a nonprofit organization to administer a homeownership program under subsection (y).

(16) RENTAL VOUCHERS FOR RELOCATION OF WITNESSES AND VICTIMS OF CRIME.—

(A) WITNESSES.—Of amounts made available for assistance under this subsection in each fiscal year, the Secretary, in consultation with the Inspector General, shall make available such sums as may be necessary for the relocation of witnesses in connection with efforts to combat crime in public and assisted housing pursuant to requests from law enforcement or prosecution agencies.

(B) VICTIMS OF CRIME.—

(i) IN GENERAL.—Of amounts made available for assistance under this section in each fiscal year, the Secretary shall make available such sums as may be necessary for the relocation of families residing in public housing who are victims of a crime of violence (as that term is defined in section 16 of title 18, United States Code) that has been reported to an appropriate law enforcement agency.

(ii) NOTICE.—A public housing agency that receives amounts under this subparagraph shall establish procedures for providing notice of the availability of that assistance to families that may be eligible for that assistance.

(17) DEED RESTRICTIONS.—Assistance under this subsection may not be used in any manner that abrogates any local deed restriction that applies to any housing consisting of 1 to 4 dwelling units. This paragraph may not be construed to affect the provisions or applicability of the Fair Housing Act.

(18) RENTAL ASSISTANCE FOR ASSISTED LIVING FACILITIES.—

(A) IN GENERAL.—A public housing agency may make assistance payments on behalf of a family that uses an assisted living facility as a principal place of residence and that uses such supportive services made available in the facility as the agency may require. Such payments may be made only for covering costs of rental of the dwelling unit in the assisted living facility and not for covering any portion of the cost of residing in such facility that is attributable to service relating to assisted living.

(B) RENT CALCULATION.—

(i) CHARGES INCLUDED.—For assistance pursuant to this paragraph, the rent of the dwelling unit that is an assisted living facility with respect to which assistance payments are made shall include maintenance and management charges related to the dwelling unit and tenant-paid utilities. Such rent shall not include any charges attributable to services relating to assisted living.

(ii) PAYMENT STANDARD.—In determining the monthly assistance that may be paid under this paragraph on behalf of any family residing in an assisted living facility,

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[122] Section 106(a)(8) of the Housing Opportunity Through Modernization Act (P.L. 114-201, approved July 29, 2016) amends subparagraph (M)(i), but the statutory change is effective only upon the issuance of a Federal Register notice or regulation published by the Secretary. The amended statute would insert before the period, "relating to funding other than housing assistance payments".

[123] Section 106(a)(9) of the Housing Opportunity Through Modernization Act (P.L. 114-201, approved July 29, 2016) adds two new subparagraphs (N) and (O) to section 8(o)(13), but the statutory changes are effective only upon the issuance of a Federal Register notice or regulation published by the Secretary. The new subparagraphs (N) and (O) would read:

(N) STRUCTURE OWNED BY AGENCY.—A public housing agency engaged in an initiative to improve, develop, or replace a public housing property or site may attach assistance to an existing, newly constructed, or rehabilitated structure in which the agency has an ownership interest or which the agency has control of without following a competitive process, provided that the agency has notified the public of its intent through its public housing agency plan and subject to the limitations and requirements of this paragraph.

(O) SPECIAL PURPOSE VOUCHERS.—A public housing agency that administers vouchers authorized under subsection (o)(19) or (x) of this section may provide such assistance in accordance with the limitations and requirements of this paragraph, without additional requirements for approval by the Secretary.

the public housing agency shall utilize the payment standard established under paragraph (1), for the market area in which the assisted living facility is located, for the applicable size dwelling unit.

(iii) MONTHLY ASSISTANCE PAYMENT.—The monthly assistance payment for a family assisted under this paragraph shall be determined in accordance with paragraph (2) (using the rent and payment standard for the dwelling unit as determined in accordance with this subsection), except that a family may be required at the time the family initially receives such assistance to pay rent in an amount exceeding 40 percent of the monthly adjusted income of the family by such an amount or percentage that is reasonable given the services and amenities provided and as the Secretary deems appropriate..[124]

(C) DEFINITION.—For the purposes of this paragraph, the term "assisted living facility" has the meaning given that term in section 232(b) of the National Housing Act (12 U.S.C. 1715w(b)), except that such a facility may be contained within a portion of a larger multifamily housing project.

(19) RENTAL VOUCHERS FOR VETERANS AFFAIRS SUPPORTED HOUSING PROGRAM.—

(A) SET ASIDE.—Subject to subparagraph (C), the Secretary shall set aside, from amounts made available for rental assistance under this subsection, the amounts specified in subparagraph (B) for use only for providing such assistance through a supported housing program administered in conjunction with the Department of Veterans Affairs. Such program shall provide rental assistance on behalf of homeless veterans who have chronic mental illnesses or chronic substance use disorders, shall require agreement of the veteran to continued treatment for such mental illness or substance use disorder as a condition of receipt of such rental assistance, and shall ensure such treatment and appropriate case management for each veteran receiving such rental assistance.

(B) AMOUNT.—The amount specified in this subparagraph is—

(i) for fiscal year 2007, the amount necessary to provide 500 vouchers for rental assistance under this subsection;

(ii) for fiscal year 2008, the amount necessary to provide 1,000 vouchers for rental assistance under this subsection;

(iii) for fiscal year 2009, the amount necessary to provide 1,500 vouchers for rental assistance under this subsection;

(iv) for fiscal year 2010, the amount necessary to provide 2,000 vouchers for rental assistance under this subsection; and

(v) for fiscal year 2011, the amount necessary to provide 2,500 vouchers for rental assistance under this subsection.

(C) FUNDING THROUGH INCREMENTAL ASSISTANCE.—In any fiscal year, to the extent that this paragraph requires the Secretary to set aside rental assistance amounts for use under this paragraph in an amount that exceeds the amount set aside in the preceding fiscal year, such requirement shall be effective only to such extent or in such amounts as are or have been provided in appropriation Acts for such fiscal year for incremental rental assistance under this subsection.

(20) COLLECTION OF UTILITY DATA.—

(A) PUBLICATION.—The Secretary shall, to the extent that data can be collected cost effectively, regularly publish such data regarding utility consumption and costs in local areas as the Secretary determines will be useful for the establishment of allowances for tenant-paid utilities for families assisted under this subsection.

(B) USE OF DATA.—The Secretary shall provide such data in a manner that—

(i) avoids unnecessary administrative burdens for public housing agencies and owners; and

(ii) protects families in various unit sizes and building types, and using various utilities, from high rent and utility cost burdens relative to income.

[124] Two periods so in law. See amendment made by section 302 of Public Law 111-372.

(p) SHARED HOUSING FOR ELDERALY AND HANDICAPPED.—In order to assist elderly families (as defined in section 3(b)(3)) who elect to live in a shared housing arrangement in which they benefit as a result of sharing the facilities of a dwelling with others in a manner that effectively and efficiently meets their housing needs and thereby reduces their costs of housing, the Secretary shall permit assistance provided under the existing housing and moderate rehabilitation programs to be used by such families in such arrangements. In carrying out this subsection, the Secretary shall issue minimum habitability standards for the purpose of assuring decent, safe, and sanitary housing for such families while taking into account the special circumstances of shared housing.

(q) ADMINISTRATIVE FEES.—

(1) FEE FOR ONGOING COSTS OF ADMINISTRATION.—

(A) IN GENERAL.—The Secretary shall establish fees for the costs of administering the tenant-based assistance, certificate, voucher, and moderate rehabilitation programs under this section.

(B) FISCAL YEAR 1999.—

(i) CALCULATION.—For fiscal year 1999, the fee for each month for which a dwelling unit is covered by an assistance contract shall be—

(I) in the case of a public housing agency that, on an annual basis, is administering a program for not more than 600 dwelling units, 7.65 percent of the base amount; and

(II) in the case of an agency that, on an annual basis, is administering a program for more than 600 dwelling units (aa) for the first 600 units, 7.65 percent of the base amount, and (bb) for any additional dwelling units under the program, 7.0 percent of the base amount.

(ii) BASE AMOUNT.—For purposes of this subparagraph, the base amount shall be the higher of—

(I) the fair market rental established under section 8(c) of this Act (as in effect immediately before the effective date under section 503(a) of the Quality Housing and Work Responsibility Act of 1998[125]) for fiscal year 1993 for a 2-bedroom existing rental dwelling unit in the market area of the agency, and

(II) the amount that is the lesser of (aa) such fair market rental for fiscal year 1994, or (bb) 103.5 percent of the amount determined under clause (i), adjusted based on changes in wage data or other objectively measurable data that reflect the costs of administering the program, as determined by the Secretary. The Secretary may require that the base amount be not less than a minimum amount and not more than a maximum amount.

(C) SUBSEQUENT FISCAL YEARS.—For subsequent fiscal years, the Secretary shall publish a notice in the Federal Register, for each geographic area, establishing the amount of the fee that would apply for public housing agencies administering the program, based on changes in wage data or other objectively measurable data that reflect the costs of administering the program, as determined by the Secretary.

(D) INCREASE.—The Secretary may increase the fee if necessary to reflect the higher costs of administering small programs and programs operating over large geographic areas.

(E) DECREASE.—The Secretary may decrease the fee for units owned by a public housing agency to reflect reasonable costs of administration.

(2) FEE FOR PRELIMINARY EXPENSES.—The Secretary shall also establish reasonable fees (as determined by the Secretary) for—

(A) the costs of preliminary expenses, in the amount of $500, for a public housing agency, except that such fee shall apply to an agency only in the first year that the agency administers a tenant-based assistance program under this section, and only if, immediately before the effective date under section 503(a) of the Quality Housing and Work Responsibility Act of 1998, the agency was not administering a tenant-based assistance program under the United States Housing Act of 1937 (as in effect immediately before such effective date), in connection with its initial increment of assistance received;

(B) the costs incurred in assisting families who experience difficulty (as determined by the Secretary) in obtaining appropriate housing under the programs; and

[125] The effective date under section 503 of such Act (112 Stat. 2521; 42 U.S.C. 1437 note) was October 1, 1999, except to the extent otherwise specifically provided in such Act or to the extent that the Secretary, by notice, implemented any provision of such Act before such date.

(C) extraordinary costs approved by the Secretary.

(3) TRANSFER OF FEES IN CASES OF CONCURRENT GEOGRAPHICAL JURISDICTION.—In each fiscal year, if any public housing agency provides tenant-based assistance under this section on behalf of a family who uses such assistance for a dwelling unit that is located within the jurisdiction of such agency but is also within the jurisdiction of another public housing agency, the Secretary shall take such steps as may be necessary to ensure that the public housing agency that provides the services for a family receives all or part of the administrative fee under this section (as appropriate).

(4) APPLICABILITY.—This subsection shall apply to fiscal year 1999 and fiscal years thereafter.

(r) PORTABILITY.—(1) IN GENERAL.—(A) Any family receiving tenant-based assistance under subsection (o) may receive such assistance to rent an eligible dwelling unit if the dwelling unit to which the family moves is within any area in which a program is being administered under this section.

(B)(i) Notwithstanding subparagraph (A) and subject to any exceptions established under clause (ii) of this subparagraph, a public housing agency may require that any family not living within the jurisdiction of the public housing agency at the time the family applies for assistance from the agency shall, during the 12-month period beginning on the date of initial receipt of housing assistance made available on behalf of the family from such agency, lease and occupy an eligible dwelling unit located within the jurisdiction served by the agency.

(ii) The Secretary may establish such exceptions to the authority of public housing agencies established under clause (i).

(2) The public housing agency having authority with respect to the dwelling unit to which a family moves under this subsection shall have the responsibility of carrying out the provisions of this subsection with respect to the family.

(3) In providing assistance under subsection (o) for any fiscal year, the Secretary shall give consideration to any reduction in the number of resident families incurred by a public housing agency in the preceding fiscal year as a result of the provisions of this subsection. The Secretary shall establish procedures for the compensation of public housing agencies that issue vouchers to families that move into or out of the jurisdiction of the public housing agency under portability procedures. The Secretary may reserve amounts available for assistance under subsection (o) to compensate those public housing agencies.

(4) The provisions of this subsection may not be construed to restrict any authority of the Secretary under any other provision of law to provide for the portability of assistance under this section.

(5) LEASE VIOLATIONS.—A family may not receive a voucher from a public housing agency and move to another jurisdiction under the tenant-based assistance program if the family has moved out of the assisted dwelling unit of the family in violation of a lease, except that a family may receive a voucher from a public housing agency and move to another jurisdiction under the tenant-based assistance program if the family has complied with all other obligations of the section 8 program and has moved out of the assisted dwelling unit in order to protect the health or safety of an individual who is or has been the victim of domestic violence, dating violence, or stalking and who reasonably believed he or she was imminently threatened by harm from further violence if he or she remained in the assisted dwelling unit.

(s) PROHIBITION OF DENIAL OF CERTIFICANTS AND VOUCHERS TO RESIDENTS OF PUBLIC HOUSING.—In selecting families for the provision of assistance under this section (including subsection (o)), a public housing agency may not exclude or penalize a family solely because the family resides in a public housing project.

(t) ENHANCED VOUCHERS.—

(1) IN GENERAL.—Enhanced voucher assistance under this subsection for a family shall be voucher assistance under subsection (o), except that under such enhanced voucher assistance—

(A) subject only to subparagraph (D), the assisted family shall pay as rent no less than the amount the family was paying on the date of the eligibility event for the project in which the family was residing on such date;

(B) the assisted family may elect to remain in the same project in which the family was residing on the date of the eligibility event for the project, and if, during any period the family makes such an election and continues to so reside, the rent for the dwelling unit of the family in such project exceeds the applicable payment standard established pursuant to subsection (o) for the unit, the amount of rental assistance provided on behalf of the family shall be determined using a payment standard that is equal to the rent for the dwelling unit (as such rent may be increased from time-to-time), subject to paragraph (10)(A) of subsection (o) and any other reasonable limit

prescribed by the Secretary, except that a limit shall not be considered reasonable for purposes of this subparagraph if it adversely affects such assisted families;

(C) subparagraph (B) of this paragraph shall not apply and the payment standard for the dwelling unit occupied by the family shall be determined in accordance with subsection (o) if—

(i) the assisted family moves, at any time, from such project; or

(ii) the voucher is made available for use by any family other than the original family on behalf of whom the voucher was provided; and

(D)[126] if the income of the assisted family declines to a significant extent, the percentage of income paid by the family for rent shall not exceed the greater of 30 percent or the percentage of income paid at the time of the eligibility event for the project.

(2) ELIGIBILITY EVENT.—For purposes of this subsection, the term "eligibility event" means, with respect to a multifamily housing project, the prepayment of the mortgage on such housing project, the voluntary termination of the insurance contract for the mortgage for such housing project (including any such mortgage prepayment during fiscal year 1996 or a fiscal year thereafter or any insurance contract voluntary termination during fiscal year 1996 or a fiscal year thereafter), the termination or expiration of the contract for rental assistance under section 8 of the United States Housing Act of 1937 for such housing project (including any such termination or expiration during fiscal years after fiscal year 1994 prior to the effective date of the Departments of Veterans Affairs and Housing and Urban Development, and Independent Agencies Appropriations Act, 2001), or the transaction under which the project is preserved as affordable housing, that, under paragraphs (3) and (4) of section 515(c), section 524(d) of the Multifamily Assisted Housing Reform and Affordability Act of 1997 (42 U.S.C. 1437f note), section 223(f) of the Low-Income Housing Preservation and Resident Homeownership Act of 1990 (12 U.S.C. 4113(f)), or section 201(p) of the Housing and Community Development Amendments of 1978 (12 U.S.C. 1715z-1a(p)), results in tenants in such housing project being eligible for enhanced voucher assistance under this subsection.

(3) TREATMENT OF ENHANCED VOUCHERS PROVIDED UNDER OTHER AUTHORITY.—

(A) IN GENERAL.—Notwithstanding any other provision of law, any enhanced voucher assistance provided under any authority specified in subparagraph (B) shall (regardless of the date that the amounts for providing such assistance were made available) be treated, and subject to the same requirements, as enhanced voucher assistance under this subsection.

(B) IDENTIFICATION OF OTHER AUTHORITY.—The authority specified in this subparagraph is the authority under—

(i) the 10th, 11th, and 12th provisos under the "Preserving Existing Housing Investment" account in title II of the Departments of Veterans Affairs and Housing and Urban Development, and Independent Agencies Appropriations Act, 1997 (Public Law 104-204; 110 Stat. 2884), pursuant to such provisos, the first proviso under the "Housing Certificate Fund" account in title II of the Departments of Veterans Affairs and Housing and Urban Development, and Independent Agencies Appropriations Act, 1998 (Public Law 105-65; 111 Stat. 1351), or the first proviso under the "Housing Certificate Fund" account in title II of the Departments of Veterans Affairs and Housing and Urban Development, and Independent Agencies Appropriations Act, 1999 (Public Law 105-276; 112 Stat. 2469); and

(ii) paragraphs (3) and (4) of section 515(c) of the Multifamily Assisted Housing Reform and Affordability Act of 1997 (42 U.S.C. 1437f note), as in effect before the enactment of this Act.

(4) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated for each of fiscal years 2000, 2001, 2002, 2003, and 2004 such sums as may be necessary for enhanced voucher assistance under this subsection.

(u) ASSISTANCE FOR RESIDENTS OF RENTAL REHABILITATION PROJECTS.—In the case of low-income families living in rental projects rehabilitated under section 17 of this Act or section 533 of the Housing Act of 1949 before rehabilitation—

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[126] Section 102(e) of the Housing Opportunity Through Modernization Act (P.L. 114-201, approved July 29, 2016) amends section 8(t(1)(D) by replacing "income" with "annual adjusted income" every time it appears in subparagraph (D), but these statutory changes are effective only upon the issuance of a Federal Register notice published by the Secretary.

(1) vouchers under this section shall be made for families who are required to move out of their units because of the physical rehabilitation activities or because of overcrowding;

(2) at the discretion of each public housing agency or other agency administering the allocation of assistance[127] or vouchers under this section may be made for families who would have to pay more than 30 percent of their adjusted income for rent after rehabilitation whether they choose to remain in, or to move from, the project; and

(3) the Secretary shall allocate assistance for vouchers under this section to ensure that sufficient resources are available to address the physical or economic displacement, or potential economic displacement, of existing tenants pursuant to paragraphs (1) and (2).

(v) EXTENSION OF CONTRACTS.—The Secretary may extend expiring contracts entered into under this section for project-based loan management assistance to the extent necessary to prevent displacement of low-income families receiving such assistance as of September 30, 1996.

(w) [Repealed.]

(x) FAMILY UNIFICATION.—

(1) INCREASE IN BUDGET AUTHORITY.—The budget authority available under section 5(c) for assistance under section 8(b) is authorized to be increased by $100,000,000 on or after October 1, 1992, and by $104,200,000 on or after October 1, 1993.

(2) USE OF FUNDS.—The amounts made available under this subsection shall be used only in connection with tenant-based assistance under section 8 on behalf of (A) any family (i) who is otherwise eligible for such assistance, and (ii) who the public child welfare agency for the jurisdiction has certified is a family for whom the lack of adequate housing is a primary factor in the imminent placement of the family's child or children in out-of-home care or the delayed discharge of a child or children to the family from out-of-home care and (B) for a period not to exceed 36 months, otherwise eligible youths who have attained at least 18 years of age and not more than 24 years of age and who have left foster care, or will leave foster care within 90 days, in accordance with a transition plan described in section 475(5)(H) of the Social Security Act, and is homeless or is at risk of becoming homeless at age 16 or older.

(3) ALLOCATION.—The amounts made available under this subsection shall be allocated by the Secretary through a national competition among applicants based on demonstrated need for assistance under this subsection. To be considered for assistance, an applicant shall submit to the Secretary a written proposal containing a report from the public child welfare agency serving the jurisdiction of the applicant that describes how a lack of adequate housing in the jurisdiction is resulting in the initial or prolonged separation of children from their families, and how the applicant will coordinate with the public child welfare agency to identify eligible families and provide the families with assistance under this subsection.

(4) COORDINATION BETWEEN PUBLIC HOUSING AGENCIES AND PUBLIC CHILD WELFARE AGENCIES.—The Secretary shall, not later than the expiration of the 180-day period beginning on the date of the enactment of the Housing Opportunity Through Modernization Act of 2016 and after consultation with other appropriate Federal agencies, issue guidance to improve coordination between public housing agencies and public child welfare agencies in carrying out the program under this subsection, which shall provide guidance on—

(A) identifying eligible recipients for assistance under this subsection;

(B) coordinating with other local youth and family providers in the community and participating in the Continuum of Care program established under subtitle C of title IV of the McKinney-Vento Homeless Assistance Act (42 U.S.C. 11381 et seq.);

(C) implementing housing strategies to assist eligible families and youth;

(D) aligning system goals to improve outcomes for families and youth and reducing lapses in housing for families and youth; and

(E) identifying resources that are available to eligible families and youth to provide supportive services available through parts B and E of title IV of the Social Security Act (42 U.S.C. 621 et seq.; 670 et seq.) or that the head of household of a family or youth may be entitled to receive under section 477 of the Social Security Act (42 U.S.C. 677).

(5) DEFINITIONS.—For purposes of this subsection:

(A) APPLICANT.—The term "applicant" means a public housing agency or any other agency responsible for administering assistance under section 8.

[127] So in law. There should probably be a comma.

(B) PUBLIC CHILD WELFARE AGENCY.—The term "public child welfare agency" means the public agency responsible under applicable State law for determining that a child is at imminent risk of placement in out-of-home care or that a child in out-of-home care under the supervision of the public agency may be returned to his or her family.

(y) HOMEOWNERSHIP OPTION.—

(1) USE OF ASSISTANCE FOR HOMEOWNERSHIP.—A public housing agency providing tenant-based assistance on behalf of an eligible family under this section may provide assistance for an eligible family that purchases a dwelling unit (including a unit under a lease-purchase agreement) that will be owned by 1 or more members of the family, and will be occupied by the family, if the family—

(A) is a first-time homeowner, or owns or is acquiring shares in a cooperative;

(B) demonstrates that the family has income from employment or other sources (other than public assistance, except that the Secretary may provide for the consideration of public assistance in the case of an elderly family or a disabled family), as determined in accordance with requirements of the Secretary, that is not less than twice the payment standard established by the public housing agency (or such other amount as may be established by the Secretary);

(C) except as provided by the Secretary, demonstrates at the time the family initially receives tenant-based assistance under this subsection that one or more adult members of the family have achieved employment for the period as the Secretary shall require;

(D) participates in a homeownership and housing counseling program provided by the agency; and

(E) meets any other initial or continuing requirements established by the public housing agency in accordance with requirements established by the Secretary.

(2) DETERMINATION OF AMOUNT OF ASSISTANCE.—

(A) Monthly expenses not exceeding payment standard.—If the monthly homeownership expenses, as determined in accordance with requirements established by the Secretary, do not exceed the payment standard, the monthly assistance payment shall be the amount by which the homeownership expenses exceed the highest of the following amounts, rounded to the nearest dollar:

(i) 30 percent of the monthly adjusted income of the family.

(ii) 10 percent of the monthly income of the family.

(iii) If the family is receiving payments for welfare assistance from a public agency, and a portion of those payments, adjusted in accordance with the actual housing costs of the family, is specifically designated by that agency to meet the housing costs of the family, the portion of those payments that is so designated.

(B) MONTHLY EXPENSES EXCEED PAYMENT STANDARD.—If the monthly homeownership expenses, as determined in accordance with requirements established by the Secretary, exceed the payment standard, the monthly assistance payment shall be the amount by which the applicable payment standard exceeds the highest of the amounts under clauses (i), (ii), and (iii) of subparagraph (A).

(3) INSPECTIONS AND CONTRACT CONDITIONS.—

(A) IN GENERAL.—Each contract for the purchase of a unit to be assisted under this section shall—

(i) provide for pre-purchase inspection of the unit by an independent professional; and

(ii) require that any cost of necessary repairs be paid by the seller.

(B) ANNUAL INSPECTIONS NOT REQUIRED.—The requirement under subsection (o)(8)(A)(ii) for annual inspections shall not apply to units assisted under this section.

(4) OTHER AUTHORITY OF THE SECRETARY.—The Secretary may—

(A) limit the term of assistance for a family assisted under this subsection; and

(B) modify the requirements of this subsection as the Secretary determines to be necessary to make appropriate adaptations for lease-purchase agreements.

(5) INAPPLICABILITY OF CERTAIN PROVISIONS.—Assistance under this subsection shall not be subject to the requirements of the following provisions:

(A) Subsection (c)(3)(B) of this section.

(B) Subsection (d)(1)(B)(i) of this section.

(C) Any other provisions of this section governing maximum amounts payable to owners and amounts payable by assisted families.

(D) Any other provisions of this section concerning contracts between public housing agencies and owners.

(E) Any other provisions of this Act that are inconsistent with the provisions of this subsection.

(6) REVERSION TO RENTAL STATUS.—

(A) FHA-INSURED MORTGAGES.—If a family receiving assistance under this subsection for occupancy of a dwelling defaults under a mortgage for the dwelling insured by the Secretary under the National Housing Act, the family may not continue to receive rental assistance under this section unless the family (i) transfers to the Secretary marketable title to the dwelling, (ii) moves from the dwelling within the period established or approved by the Secretary, and (iii) agrees that any amounts the family is required to pay to reimburse the escrow account under section 23(d)(3) may be deducted by the public housing agency from the assistance payment otherwise payable on behalf of the family.

(B) OTHER MORTGAGES.—If a family receiving assistance under this subsection defaults under a mortgage not insured under the National Housing Act, the family may not continue to receive rental assistance under this section unless it complies with requirements established by the Secretary.

(C) ALL MORTGAGES.—A family receiving assistance under this subsection that defaults under a mortgage may not receive assistance under this subsection for occupancy of another dwelling owned by one or more members of the family.

(7) DOWNPAYMENT ASSISTANCE.—

(A) AUTHORITY.—A public housing agency may, in lieu of providing monthly assistance payments under this subsection on behalf of a family eligible for such assistance and at the discretion of the public housing agency, provide assistance for the family in the form of a single grant to be used only as a contribution toward the downpayment required in connection with the purchase of a dwelling for fiscal year 2000 and each fiscal year thereafter to the extent provided in advance in appropriations Acts.

(B) AMOUNT.—The amount of a downpayment grant on behalf of an assisted family may not exceed the amount that is equal to the sum of the assistance payments that would be made during the first year of assistance on behalf of the family, based upon the income of the family at the time the grant is to be made.

(8) DEFINITION OF FIRST-TIME HOMEOWNER.—For purposes of this subsection, the term "first-time homeowner" means—

(A) a family, no member of which has had a present ownership interest in a principal residence during the 3 years preceding the date on which the family initially receives assistance for homeownership under this subsection; and

(B) any other family, as the Secretary may prescribe.

(z) TERMINATION OF SECTION 8 CONTRACTS AND REUSE OF RECAPTURED BUDGET AUTHORITY.—

(1) GENERAL AUTHORITY.—The Secretary may reuse any budget authority, in whole or part, that is recaptured on account of expiration or termination of a housing assistance payments contract only for one or more of the following:

(A) TENANT-BASED ASSISTANCE.—Pursuant to a contract with a public housing agency, to provide tenant-based assistance under this section to families occupying units formerly assisted under the terminated contract.

(B) PROJECT-BASED ASSISTANCE.—Pursuant to a contract with an owner, to attach assistance to one or more structures under this section, for relocation of families occupying units formerly assisted under the terminated contract.

(2) FAMILIES OCCUPYING UNITS FORMERLY ASSISTED UNDER TERMINATED CONTRACT.—Pursuant to paragraph (1), the Secretary shall first make available tenant- or project-based assistance to families occupying units formerly assisted under the terminated contract. The Secretary shall provide project-based assistance in instances only where the use of tenant-based assistance is determined to be infeasible by the Secretary.

(aa) [Terminated.][128]

(bb) TRANSFER, REUSE, AND RESCISSION OF BUDGET AUTHORITY.—

(1) TRANSFER OF BUDGET AUTHORITY.—If an assistance contract under this section, other than a contract for tenant-based assistance, is terminated or is not renewed, or if the contract expires, the Secretary shall, in order to provide continued assistance to eligible families, including eligible families receiving the benefit of the project-based assistance at the time of the termination, transfer any budget authority remaining in the contract to another contract. The transfer shall be under such terms as the Secretary may prescribe.

(2) REUSE AND RESCISSION OF CERTAIN RECAPTURED BUDGET AUTHORITY.—Notwithstanding paragraph (1), if a project-based assistance contract for an eligible multifamily housing project subject to actions authorized under title I is terminated or amended as part of restructuring under section 517 of the Multifamily Assisted Housing Reform and Affordability Act of 1997, the Secretary shall recapture the budget authority not required for the terminated or amended contract and use such amounts as are necessary to provide housing assistance for the same number of families covered by such contract for the remaining term of such contract, under a contract providing for project-based or tenant-based assistance. The amount of budget authority saved as a result of the shift to project-based or tenant-based assistance shall be rescinded.

(cc) LAW ENFORCEMENT AND SECURITY PERSONNEL.—

(1) IN GENERAL.—Notwithstanding any other provision of this Act, in the case of assistance attached to a structure, for the purpose of increasing security for the residents of a project, an owner may admit, and assistance under this section may be provided to, police officers and other security personnel who are not otherwise eligible for assistance under the Act.

(2) RENT REQUIREMENTS.—With respect to any assistance provided by an owner under this subsection, the Secretary may—

(A) permit the owner to establish such rent requirements and other terms and conditions of occupancy that the Secretary considers to be appropriate; and

(B) require the owner to submit an application for those rent requirements, which application shall include such information as the Secretary, in the discretion of the Secretary, determines to be necessary.

(3) APPLICABILITY.—This subsection shall apply to fiscal year 1999 and fiscal years thereafter.

(dd) TENANT-BASED CONTRACT RENEWALS.—Subject to amounts provided in appropriation Acts, starting in fiscal year 1999, the Secretary shall renew all expiring tenant-based annual contribution contracts under this section by applying an inflation factor based on local or regional factors to an allocation baseline. The allocation baseline shall be calculated by including, at a minimum, amounts sufficient to ensure continued assistance for the actual number of families assisted as of October 1, 1997, with appropriate upward adjustments for incremental assistance and additional families authorized subsequent to that date.

Sec. 9. [42 U.S.C. 1437g]
PUBLIC HOUSING CAPITAL AND OPERATING FUNDS.

(a) MERGER INTO CAPITAL FUND.—Except as otherwise provided in the Quality Housing and Work Responsibility Act of 1998, any assistance made available for public housing under section 14 of this Act before October 1, 1999, shall be merged into the Capital Fund established under subsection (d).

(b) MERGER INTO OPERATING FUND.—Except as otherwise provided in the Quality Housing and Work Responsibility Act of 1998, any assistance made available for public housing under section 9 of this Act before October 1, 1999, shall be merged into the Operating Fund established under subsection (e).

(c) ALLOCATION AMOUNT.—

(1) IN GENERAL.—For fiscal year 2000 and each fiscal year thereafter, the Secretary shall allocate amounts in the Capital Fund and Operating Funds for assistance for public housing agencies eligible for such assistance. The Secretary shall determine the amount of the allocation for each eligible agency, which shall be, for any fiscal year beginning after the effective date of the formulas described in subsections (d)(2) and (e)(2)—

[128] The Departments of Veterans Affairs and Housing and Urban Development, and Independent Agencies Appropriations Act, 1995, Public Law 103-327, 108 Stat. 2316, approved September 28, 1994, amended this section by adding this subsection. Such Act also provides that such amendment "shall be effective only during fiscal year 1995.".

(A) for assistance from the Capital Fund, the amount determined for the agency under the formula under subsection (d)(2); and

(B) for assistance from the Operating Fund, the amount determined for the agency under the formula under subsection (e)(2).

(2) FUNDING.—There are authorized to be appropriated for assistance for public housing agencies under this section the following amounts:

(A) CAPITAL FUND.—For allocations of assistance from the Capital Fund, $3,000,000,000 for fiscal year 1999, and such sums as may be necessary for fiscal years 2000, 2001, 2002, and 2003.

(B) OPERATING FUND.—For allocations of assistance from the Operating Fund, $2,900,000,000 for fiscal year 1999, and such sums as may be necessary for each of fiscal years 2000, 2001, 2002, and 2003.

(d) CAPITAL FUND.—

(1) IN GENERAL.—The Secretary shall establish a Capital Fund for the purpose of making assistance available to public housing agencies to carry out capital and management activities, including—

(A) the development, financing, and modernization of public housing projects, including the redesign, reconstruction, and reconfiguration of public housing sites and buildings (including accessibility improvements) and the development of mixed-finance projects;

(B) vacancy reduction;

(C) addressing deferred maintenance needs and the replacement of obsolete utility systems and dwelling equipment;

(D) planned code compliance;

(E) management improvements, including the establishment and initial operation of computer centers in and around public housing through a Neighborhood Networks initiative, for the purpose of enhancing the self-sufficiency, employability, and economic self-reliance of public housing residents by providing them with onsite computer access and training resources;

(F) demolition and replacement;

(G) resident relocation;

(H) capital expenditures to facilitate programs to improve the empowerment and economic self-sufficiency of public housing residents and to improve resident participation;

(I) capital expenditures to improve the security and safety of residents;

(J) homeownership activities, including programs under section 32;

(K) improvement of energy and water-use efficiency by installing fixtures and fittings that conform to the American Society of Mechanical Engineers/American National Standards Institute standards A112.19.2-1998 and A112.18.1-2000, or any revision thereto, applicable at the time of installation, and by increasing energy efficiency and water conservation by such other means as the Secretary determines are appropriate; and

(L) integrated utility management and capital planning to maximize energy conservation and efficiency measures.

(2) FORMULA.—The Secretary shall develop a formula for determining the amount of assistance provided to public housing agencies from the Capital Fund for a fiscal year, which shall include a mechanism to reward performance. The formula may take into account such factors as—

(A) the number of public housing dwelling units owned, assisted, or operated by the public housing agency, the characteristics and locations of the projects, and the characteristics of the families served and to be served (including the incomes of the families);

(B) the need of the public housing agency to carry out rehabilitation and modernization activities, replacement housing, and reconstruction, construction, and demolition activities related to public housing dwelling units owned, assisted, or operated by the public housing agency, including backlog and projected future needs of the agency;

(C) the cost of constructing and rehabilitating property in the area;

(D) the need of the public housing agency to carry out activities that provide a safe and secure environment in public housing units owned, assisted, or operated by the public housing agency;

(E) any record by the public housing agency of exemplary performance in the operation of public housing, as indicated by the system of performance indicators established pursuant to section 6(j); and

(F) any other factors that the Secretary determines to be appropriate.

(3) CONDITIONS ON USE FOR DEVELOPMENT AND MODERNIZATION.—

(A) DEVELOPMENT.—Except as otherwise provided in this Act, any public housing developed using amounts provided under this subsection, or under section 14 as in effect before the effective date under section 503(a) of the Quality Housing and Work Responsibility Act of 1998[129], shall be operated under the terms and conditions applicable to public housing during the 40-year period that begins on the date on which the project (or stage of the project) becomes available for occupancy.

(B) MODERNIZATION.—Except as otherwise provided in this Act, any public housing or portion thereof that is modernized using amounts provided under this subsection or under section 14 (as in effect before the effective date under section 503(a) of the Quality Housing and Work Responsibility Act of 1998) shall be maintained and operated under the terms and conditions applicable to public housing during the 20-year period that begins on the latest date on which modernization is completed.

(C) APPLICABILITY OF LATEST EXPIRATION DATE.—Public housing subject to this paragraph or to any other provision of law mandating the operation of the housing as public housing or under the terms and conditions applicable to public housing for a specified length of time, shall be maintained and operated as required until the latest such expiration date.

(e) OPERATING FUND.—

(1) IN GENERAL.—The Secretary shall establish an Operating Fund for the purpose of making assistance available to public housing agencies for the operation and management of public housing, including[130]—

(A) procedures and systems to maintain and ensure the efficient management and operation of public housing units (including amounts sufficient to pay for the reasonable costs of review by an independent auditor of the documentation or other information maintained pursuant to section 6(j)(6) by a public housing agency or resident management corporation to substantiate the performance of that agency or corporation);

(B) activities to ensure a program of routine preventative maintenance;

(C) anticrime and antidrug activities, including the costs of providing adequate security for public housing residents, including above-baseline police service agreements;

(D) activities related to the provision of services, including service coordinators for elderly persons or persons with disabilities;

(E) activities to provide for management and participation in the management and policy making of public housing by public housing residents;

(F) the costs of insurance;

(G) the energy costs associated with public housing units, with an emphasis on energy conservation;

(H) the costs of administering a public housing work program under section 12, including the costs of any related insurance needs;

(I) the costs of repaying, together with rent contributions, debt incurred to finance the rehabilitation and development of public housing units, which shall be subject to such reasonable requirements as the Secretary may establish;

(J) the costs associated with the operation and management of mixed finance projects, to the extent appropriate; and

(K) the costs of operating computer centers in public housing through a Neighborhood Networks initiative described in subsection (d)(1)(E), and of activities related to that initiative.

(2) FORMULA.—

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[129] The effective date under section 503 of such Act (112 Stat. 2521; 42 U.S.C. 1437 note) was October 1, 1999, except to the extent otherwise specifically provided in such Act or to the extent that the Secretary, by notice, implemented any provision of such Act before such date.

[130] The Department of Housing and Urban Development Appropriations Act, 2010, enacted as title II of Division A of the Consolidated Appropriations Act, 2010, Public Law 111-117, 123 Stat. 3080, 42 U.S.C. 1437g note, provides in the heading relating to "Public Housing Operating Fund" that "for fiscal year 2009 and all fiscal years hereafter, the Secretary shall provide assistance under this heading to public housing agencies on a calendar year basis: Provided further, That in fiscal year 2009 and all fiscal years hereafter, no amounts under this heading in any appropriations Act may be used for payments to public housing agencies for the costs of operation and management of public housing for any year prior to the current year of such Act".

(A) IN GENERAL.—The Secretary shall establish a formula for determining the amount of assistance provided to public housing agencies from the Operating Fund for a fiscal year. The formula may take into account—

(i) standards for the costs of operating and reasonable projections of income, taking into account the characteristics and locations of the public housing projects and characteristics of the families served and to be served (including the incomes of the families), or the costs of providing comparable services as determined in accordance with criteria or a formula representing the operations of a prototype well-managed public housing project;

(ii) the number of public housing dwelling units owned, assisted, or operated by the public housing agency;

(iii) the number of public housing dwelling units owned, assisted, or operated by the public housing agency that are chronically vacant and the amount of assistance appropriate for those units;

(iv) to the extent quantifiable, the extent to which the public housing agency provides programs and activities designed to promote the economic self-sufficiency and management skills of public housing residents;

(v) the need of the public housing agency to carry out anti-crime and anti-drug activities, including providing adequate security for public housing residents;

(vi) the amount of public housing rental income foregone by the public housing agency as a result of escrow savings accounts under section 23(d)(2) for families participating in a family self-sufficiency program of the agency under such section 23; and

(vii) any other factors that the Secretary determines to be appropriate.

(B) INCENTIVE TO INCREASE CERTAIN RENTAL INCOME.—The formula shall provide an incentive to encourage public housing agencies to facilitate increases in earned income by families in occupancy. Any such incentive shall provide that the agency shall benefit from increases in such rental income and that such amounts accruing to the agency pursuant to such benefit may be used only for low-income housing or to benefit the residents of the public housing agency.

(C) TREATMENT OF SAVINGS.—

(i) IN GENERAL.—The treatment of utility and waste management costs under the formula shall provide that a public housing agency shall receive the full financial benefit from any reduction in the cost of utilities or waste management resulting from any contract with a third party to undertake energy conservation improvements in one or more of its public housing projects.

(ii) THIRD PARTY CONTRACTS.—Contracts described in clause (i) may include contracts for equipment conversions to less costly utility sources, projects with resident-paid utilities, and adjustments to frozen base year consumption, including systems repaired to meet applicable building and safety codes and adjustments for occupancy rates increased by rehabilitation.

(iii) TERM OF CONTRACT.—The total term of a contract described in clause (i) shall not exceed 20 years to allow longer payback periods for retrofits, including windows, heating system replacements, wall insulation, site-based generation, advanced energy savings technologies, including renewable energy generation, and other such retrofits.

(iv) EXISTING CONTRACTS.—The term of a contract described in clause (i) that, as of the date of enactment of this clause, is in repayment and has a term of not more than 12 years, may be extended to a term of not more than 20 years to permit additional energy conservation improvements without requiring the reprocurement of energy performance contractors.

(3) CONDITION ON USE.—No portion of any public housing project operated using amounts provided under this subsection, or under this section as in effect before the effective date under section

503(a) of the Quality Housing and Work Responsibility Act of 1998[131], may be disposed of before the expiration of the 10-year period beginning upon the conclusion of the fiscal year for which such amounts were provided, except as otherwise provided in this Act.

(f) NEGOTIATED RULEMAKING PROCEDURE.—The formulas under subsections (d)(2) and (e)(2) shall be developed according to procedures for issuance of regulations under the negotiated rulemaking procedure under subchapter III of chapter 5 of title 5, United States Code.

(g) LIMITATIONS ON USE OF FUNDS.—

(1) FLEXIBILITY IN USE OF FUNDS.—

(A) FLEXIBILITY FOR CAPITAL FUND AMOUNTS.—Of any amounts appropriated for fiscal year 2000 or any fiscal year thereafter that are allocated for fiscal year 2000 or any fiscal year thereafter from the Capital Fund for any public housing agency, the agency may use not more than 20 percent for activities that are eligible under subsection (e) for assistance with amounts from the Operating Fund, but only if the public housing agency plan for the agency provides for such use.

(B) FLEXIBILITY FOR OPERATING FUND AMOUNTS.—Of any amounts appropriated for fiscal year 2016 or any fiscal year thereafter that are allocated for fiscal year 2016 or any fiscal year thereafter from the Operating Fund for any public housing agency, the agency may use not more than 20 percent for activities that are eligible under subsection (d) for assistance with amounts from the Capital Fund, but only if the public housing plan under section 5A for the agency provides for such use.

(2) FULL FLEXIBILITY FOR SMALL PHA'S.—Of any amounts allocated for any fiscal year for any public housing agency that owns or operates less than 250 public housing dwelling units, is not designated pursuant to section 6(j)(2) as a troubled public housing agency, and (in the determination of the Secretary) is operating and maintaining its public housing in a safe, clean, and healthy condition, the agency may use any such amounts for any eligible activities under subsections (d)(1) and (e)(1), regardless of the fund from which the amounts were allocated and provided. This subsection shall take effect on the date of the enactment of the Quality Housing and Work Responsibility Act of 1998[132].

(3) LIMITATION ON NEW CONSTRUCTION.—

(A) IN GENERAL.—Except as provided in subparagraphs (B) and (C), a public housing agency may not use any of the amounts allocated for the agency from the Capital Fund or Operating Fund for the purpose of constructing any public housing unit, if such construction would result in a net increase from the number of public housing units owned, assisted, or operated by the public housing agency on October 1, 1999, including any public housing units demolished as part of any revitalization effort.

(B) EXCEPTION REGARDING USE OF ASSISTANCE.—A public housing agency may use amounts allocated for the agency from the Capital Fund or Operating Fund for the construction and operation of housing units that are available and affordable to low-income families in excess of the limitations on new construction set forth in subparagraph (A), but the formulas established under subsections (d)(2) and (e)(2) shall not provide additional funding for the specific purpose of allowing construction and operation of housing in excess of those limitations (except to the extent provided in subparagraph (C)).

(C) EXCEPTION REGARDING FORMULAS.—Subject to reasonable limitations set by the Secretary, the formulas established under subsections (d)(2) and (e)(2) may provide additional funding for the operation and modernization costs (but not the initial development costs) of housing in excess of amounts otherwise permitted under this paragraph, and such amounts may be so used, if—

(i) such units are part of a mixed-finance project or otherwise leverage significant additional private or public investment; and

(ii) the estimated cost of the useful life of the project is less than the estimated cost of providing tenant-based assistance under section 8(o) for the same period of time.

[131] The effective date under section 503 of such Act (112 Stat. 2521; 42 U.S.C. 1437 note) was October 1, 1999, except to the extent otherwise specifically provided in such Act or to the extent that the Secretary, by notice, implemented any provision of such Act before such date.
[132] October 21, 1998.

(h) TECHNICAL ASSISTANCE.—To the extent amounts are provided in advance in appropriations Acts, the Secretary may make grants or enter into contracts or cooperative agreements in accordance with this subsection for purposes of providing, either directly or indirectly—

(1) technical assistance to public housing agencies, resident councils, resident organizations, and resident management corporations, including assistance relating to monitoring and inspections;

(2) training for public housing agency employees and residents;

(3) data collection and analysis;

(4) training, technical assistance, and education to public housing agencies that are—

(A) at risk of being designated as troubled under section 6(j), to assist such agencies from being so designated; and

(B) designated as troubled under section 6(j), to assist such agencies in achieving the removal of that designation;

(5) contract expertise;

(6) training and technical assistance to assist in the oversight and management of public housing or tenant-based assistance;

(7) clearinghouse services in furtherance of the goals and activities of this subsection; and

(8) assistance in connection with the establishment and operation of computer centers in public housing through a Neighborhood Networks initiative described in subsection (d)(1)(E).

As used in this subsection, the terms "training" and "technical assistance" shall include training or technical assistance and the cost of necessary travel for participants in such training or technical assistance, by or to officials and employees of the Department and of public housing agencies, and to residents and to other eligible grantees.

(i) ELIGIBILITY OF UNITS ACQUIRED FROM PROCEEDS OF SALES UNDER DEMOLITION OR DISPOSITION PLAN.—If a public housing agency uses proceeds from the sale of units under a homeownership program in accordance with section 32 to acquire additional units to be sold to low-income families, the additional units shall be counted as public housing for purposes of determining the amount of the allocation to the agency under this section until sale by the agency, but in no case longer than 5 years.

(j) PENALTY FOR SLOW EXPENDITURE OF CAPITAL FUNDS.—[133]

(1) OBLIGATION OF AMOUNTS.—Except as provided in paragraph (4) and subject to paragraph (2), a public housing agency shall obligate any assistance received under this section not later than 24 months after, as applicable—

(A) the date on which the funds become available to the agency for obligation in the case of modernization; or

(B) the date on which the agency accumulates adequate funds to undertake modernization, substantial rehabilitation, or new construction of units.

(2) EXTENSION OF TIME PERIOD FOR OBLIGATION.—The Secretary—

(A) may, extend the time period under paragraph (1) for a public housing agency, for such period as the Secretary determines to be necessary, if the Secretary determines that the failure of the agency to obligate assistance in a timely manner is attributable to—

(i) litigation;

(ii) obtaining approvals of the Federal Government or a State or local government;

(iii) complying with environmental assessment and abatement requirements;

(iv) relocating residents;

(v) an event beyond the control of the public housing agency; or

(vi) any other reason established by the Secretary by notice published in the Federal Register;

(B) shall disregard the requirements of paragraph (1) with respect to any unobligated amounts made available to a public housing agency, to the extent that the total of such amounts does not exceed 10 percent of the original amount made available to the public housing agency; and

[133] The Departments of Veterans Affairs and Housing and Urban Development, and Independent Agencies Appropriations Act, 2002, Pub. L. 107-703, 115 Stat. 660, 42 U.S.C. 1437g note, provides "[t]hat, hereafter, notwithstanding any other provision of law or any failure of the Secretary of Housing and Urban Development to issue regulations to carry out section 9(j) of the United States Housing Act of 1937 (42 U.S.C. 1437g(j)), such section is deemed to have taken effect on October 1, 1998, and, except as otherwise provided in this heading, shall apply to all assistance made available under this same heading on or after such date".

(C) may, with the prior approval of the Secretary, extend the time period under paragraph (1), for an additional period not to exceed 12 months, based on—

(i) the size of the public housing agency;

(ii) the complexity of capital program of the public housing agency;

(iii) any limitation on the ability of the public housing agency to obligate the amounts allocated for the agency from the Capital Fund in a timely manner as a result of State or local law; or

(iv) such other factors as the Secretary determines to be relevant.

(3) EFFECT OF FAILURE TO COMPLY.—

(A) PROHIBITION OF NEW ASSISTANCE.—A public housing agency shall not be awarded assistance under this section for any month during any fiscal year in which the public housing agency has funds unobligated in violation of paragraph (1) or (2).

(B) WITHHOLDING OF ASSISTANCE.—During any fiscal year described in subparagraph (A), the Secretary shall withhold all assistance that would otherwise be provided to the public housing agency. If the public housing agency cures its failure to comply during the year, it shall be provided with the share attributable to the months remaining in the year.

(C) REDISTRIBUTION.—The total amount of any funds not provided public housing agencies by operation of this paragraph shall be allocated for agencies determined under section 6(j) to be high-performing.

(4) EXCEPTION TO OBLIGATION REQUIREMENTS.—

(A) IN GENERAL.—Subject to subparagraph (B), if the Secretary has consented, before the effective date under section 503(a) of the Quality Housing and Work Responsibility Act of 1998[134], to an obligation period for any agency longer than provided under paragraph (1), a public housing agency that obligates its funds before the expiration of that period shall not be considered to be in violation of paragraph (1).

(B) PRIOR FISCAL YEARS.—Notwithstanding subparagraph (A), any funds appropriated to a public housing agency for fiscal year 1997 or prior fiscal years shall be fully obligated by the public housing agency not later than September 30, 1999.

(5) EXPENDITURE OF AMOUNTS.—

(A) IN GENERAL.—A public housing agency shall spend any assistance received under this section not later than 4 years (plus the period of any extension approved by the Secretary under paragraph (2)) after the date on which funds become available to the agency for obligation.

(B) ENFORCEMENT.—The Secretary shall enforce the requirement of subparagraph (A) through default remedies up to and including withdrawal of the funding.

(6) RIGHT OF RECAPTURE.—Any obligation entered into by a public housing agency shall be subject to the right of the Secretary to recapture the obligated amounts for violation by the public housing agency of the requirements of this subsection.

(7) TREATMENT OF REPLACEMENT RESERVE.—The requirements of this subsection shall not apply to funds held in replacement reserves established pursuant to subsection (n).

(k) TREATMENT OF NONRENTAL INCOME.—A public housing agency that receives income from nonrental sources (as determined by the Secretary) may retain and use such amounts without any decrease in the amounts received under this section from the Capital or Operating Fund. Any such nonrental amounts retained shall be used only for low-income housing or to benefit the residents assisted by the public housing agency.

(l) PROVISION OF ONLY CAPITAL OR OPERATING ASSISTANCE.—

(1) AUTHORITY.—In appropriate circumstances, as determined by the Secretary, a public housing agency may commit capital assistance only, or operating assistance only, for public housing units, which assistance shall be subject to all of the requirements applicable to public housing except as otherwise provided in this subsection.

(2) EXEMPTIONS.—In the case of any public housing unit assisted pursuant to the authority under paragraph (1), the Secretary may, by regulation, reduce the period under subsection (d)(3) or (e)(3), as applicable, during which such units must be operated under requirements applicable to public housing. In cases in which there is commitment of operating assistance but no commitment of capital assistance, the Secretary may make section 8 requirements applicable, as appropriate, by regulation.

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[134] The effective date under section 503 of such Act (112 Stat. 2521; 42 U.S.C. 1437 note) was October 1, 1999, except to the extent otherwise specifically provided in such Act or to the extent that the Secretary, by notice, implemented any provision of such Act before such date.

(m) TREATMENT OF PUBLIC HOUSING.—

(1) [Repealed.]

(2) REDUCTION OF ASTHMA INCIDENCE.—Notwithstanding any other provision of this section, the New York City Housing Authority may, in its sole discretion, from amounts provided from the Operating and Capital Funds, or from amounts provided for public housing before amounts are made available from such Funds, use not more than exceeding $500,000 per year for the purpose of initiating, expanding or continuing a program for the reduction of the incidence of asthma among residents. The Secretary shall consult with the Administrator of the Environmental Protection Agency and the Secretary of Health and Human Services to identify and consider sources of funding for the reduction of the incidence of asthma among recipients of assistance under this title.

(3) SERVICES FOR ELDERLY RESIDENTS.—Notwithstanding any other provision of this section, the New York City Housing Authority may, in its sole discretion, from amounts provided from the Operating and Capital Funds, or from amounts provided for public housing before the amounts are made available from such Funds, use not more than $600,000 per year for the purpose of developing a comprehensive plan to address the need for services for elderly residents. Such plan may be developed by a partnership created by such Housing Authority and may include the creation of a model project for assisted living at one or more developments. The model project may provide for contracting with private parties for the delivery of services.

(4) EFFECTIVE DATE.—This subsection shall apply to fiscal year 1999 and each fiscal year thereafter.

(n) ESTABLISHMENT OF REPLACEMENT RESERVES.—

(1) IN GENERAL.—Public housing agencies shall be permitted to establish a replacement reserve to fund any of the capital activities listed in subsection (d)(1).

(2) SOURCE AND AMOUNT OF FUNDS FOR REPLACEMENT RESERVE.—At any time, a public housing agency may deposit funds from such agency's Capital Fund into a replacement reserve, subject to the following:

(A) At the discretion of the Secretary, public housing agencies may transfer and hold in a replacement reserve funds originating from additional sources.

(B) No minimum transfer of funds to a replacement reserve shall be required.

(C) At any time, a public housing agency may not hold in a replacement reserve more than the amount the public housing authority has determined necessary to satisfy the anticipated capital needs of properties in its portfolio assisted under this section, as outlined in its Capital Fund 5-Year Action Plan, or a comparable plan, as determined by the Secretary.

(D) The Secretary may establish, by regulation, a maximum replacement reserve level or levels that are below amounts determined under subparagraph (C), which may be based upon the size of the portfolio assisted under this section or other factors.

(3) TRANSFER OF OPERATING FUNDS.—In first establishing a replacement reserve, the Secretary may allow public housing agencies to transfer more than 20 percent of its operating funds into its replacement reserve.

(4) EXPENDITURE.—Funds in a replacement reserve may be used for purposes authorized by subsection (d)(1) and contained in its Capital Fund 5-Year Action Plan.

(5) MANAGEMENT AND REPORT.—The Secretary shall establish appropriate accounting and reporting requirements to ensure that public housing agencies are spending funds on eligible projects and that funds in the replacement reserve are connected to capital needs.

(o) PUBLIC HOUSING HEATING GUIDELINES.—The Secretary shall publish model guidelines for minimum heating requirements for public housing dwelling units operated by public housing agencies receiving assistance under this section.

Sec. 10. [42 U.S.C. 1437h]
IMPLEMENTATION OF PROVISIONS BY SECRETARY.

(a) In the performance of, and with respect to, the functions, powers, and duties vested in him by this Act, the Secretary, notwithstanding the provisions of any other law, shall—

(1) prepare annually and submit a budget program as provided for wholly owned Government corporations by chapter 91 of title 31, United States Code; and

(2) maintain an integral set of accounts which may be audited by the General Accounting Office[135] as provided by chapter 91 of title 31, United States Code.

(b) All receipts and assets of the Secretary under this Act shall be available for the purposes of this Act until expended.

(c) The Federal Reserve banks are authorized and directed to act as depositories, custodians, and fiscal agents for the Secretary in the general exercise of his powers under this Act, and the Secretary may reimburse any such bank for its services in such manner as may be agreed upon.

Sec. 11. [42 U.S.C. 1437i]
OBLIGATIONS OF PUBLIC HOUSING AGENCIES; CONTESTABILITY; FULL FAITH AND CREDIT OF UNITED STATES PLEDGED AS SECURITY; TAX EXEMPTION.

(a) Obligations issued by a public housing agency in connection with low-income housing projects which (1) are secured (A) by a pledge of a loan under any agreement between such public housing agency and the Secretary, or (B) by a pledge of annual contributions under an annual contributions contract between such public housing agency and the Secretary, or (C) by a pledge of both annual contributions under an annual contributions contract and a loan under an agreement between such public housing agency and the Secretary, and (2) bear, or are accompanied by, a certificate of the Secretary that such obligations are so secured, shall be incontestable in the hands of a bearer and the full faith and credit of the United States is pledged to the payment of all amounts agreed to be paid by the Secretary as security for such obligations.

(b) Except as provided in section 5(g), obligations, including interest thereon, issued by public housing agencies in connection with low-income housing projects shall be exempt from all taxation now or hereafter imposed by the United States whether paid by such agencies or by the Secretary. The income derived by such agencies from such projects shall be exempt from all taxation now or hereafter imposed by the United States.

Sec. 12. [42 U.S.C. 1437j]
LABOR STANDARDS AND COMMUNITY SERVICE REQUIREMENT.

(a) Any contract for loans, contributions, sale, or lease pursuant to this Act shall contain a provision requiring that not less than the wages prevailing in the locality, as determined or adopted (subsequent to a determination under applicable State or local law) by the Secretary, shall be paid to all architects, technical engineers, draftsmen, and technicians employed in the development, and all maintenance laborers and mechanics employed in the operation, of the low-income housing project involved; and shall also contain a provision that not less than the wages prevailing in the locality, as predetermined by the Secretary of Labor pursuant to the Davis-Bacon Act (49 Stat. 1011), shall be paid to all laborers and mechanics employed in the development of the project involved (including a project with nine or more units assisted under section 8 of this Act, where the public housing agency or the Secretary and the builder or sponsor enter into an agreement for such use before construction or rehabilitation is commenced), and the Secretary shall require certification as to compliance with the provisions of this section prior to making any payment under such contract.

(b) Subsection (a) and the provisions relating to wages (pursuant to subsection (a)) in any contract for loans, annual contributions, sale, or lease pursuant to this Act, shall not apply to any individual that—

(1) performs services for which the individual volunteered;

(2)(A) does not receive compensation for such services; or

(B) is paid expenses, reasonable benefits, or a nominal fee for such services; and

(3) is not otherwise employed at any time in the construction work.

(c) COMMUNITY SERVICE REQUIREMENT.—

(1) IN GENERAL.—Except as provided in paragraph (2) and notwithstanding any other provision of law, each adult resident of a public housing project shall—

(A) contribute 8 hours per month of community service (not including political activities) within the community in which that adult resides; or

(B) participate in an economic self-sufficiency program (as that term is defined in subsection (g)) for 8 hours per month.

(2) EXEMPTIONS.—The Secretary shall provide an exemption from the applicability of paragraph (1) for any individual who—

[135] Section 8(a) of the GAO Human Capital Reform Act, Public Law 108-271, 118 Stat. 814, approved July 7, 2004, 31 U.S.C. 702 note, redesignated the General Accounting Office as the Government Accountability Office. Subsection (b) of such section provides that "[a]ny reference to the General Accounting Office in any law, rule, regulation, certificate, directive, instruction, or other official paper in force on the date of enactment of this Act shall be considered to refer and apply to the Government Accountability Office.".

(A) is 62 years of age or older;

(B) is a blind or disabled individual, as defined under section 216(i)(1) or 1614 of the Social Security Act (42 U.S.C. 416(i)(1); 1382c), and who is unable to comply with this section, or is a primary caretaker of such individual;

(C) is engaged in a work activity (as such term is defined in section 407(d) of the Social Security Act (42 U.S.C. 607(d)), as in effect on and after July 1, 1997))[136];

(D) meets the requirements for being exempted from having to engage in a work activity under the State program funded under part A of title IV of the Social Security Act (42 U.S.C. 601 et seq.) or under any other welfare program of the State in which the public housing agency is located, including a State-administered welfare-to-work program; or

(E) is in a family receiving assistance under a State program funded under part A of title IV of the Social Security Act (42 U.S.C. 601 et seq.) or under any other welfare program of the State in which the public housing agency is located, including a State-administered welfare-to-work program, and has not been found by the State or other administering entity to be in noncompliance with such program.

(3) ANNUAL DETERMINATIONS.—

(A) REQUIREMENT.—For each public housing resident subject to the requirement under paragraph (1), the public housing agency shall, 30 days before the expiration of each lease term of the resident under section 6(l)(1), review and determine the compliance of the resident with the requirement under paragraph (1) of this subsection.

(B) DUE PROCESS.—Such determinations shall be made in accordance with the principles of due process and on a nondiscriminatory basis.

(C) NONCOMPLIANCE.— If an agency determines that a resident subject to the requirement under paragraph (1) has not complied with the requirement, the agency—

(i) shall notify the resident—

(I) of such noncompliance;

(II) that the determination of noncompliance is subject to the administrative grievance procedure under subsection (k); and

(III) that, unless the resident enters into an agreement under clause (ii) of this subparagraph, the resident's lease will not be renewed; and

(ii) may not renew or extend the resident's lease upon expiration of the lease term and shall take such action as is necessary to terminate the tenancy of the household, unless the agency enters into an agreement, before the expiration of the lease term, with the resident providing for the resident to cure any noncompliance with the requirement under paragraph (1), by participating in an economic self-sufficiency program for or contributing to community service as many additional hours as the resident needs to comply in the aggregate with such requirement over the 12-month term of the lease.

(4) INELIGIBILITY FOR OCCUPANCY FOR NONCOMPLIANCE.—A public housing agency may not renew or extend any lease, or provide any new lease, for a dwelling unit in public housing for any household that includes an adult member who was subject to the requirement under paragraph (1) and failed to comply with the requirement.

(5) INCLUSION IN PLAN.—Each public housing agency shall include in its public housing agency plan a detailed description of the manner in which the agency intends to implement and administer this subsection.

(6) GEOGRAPHIC LOCATION.—The requirement under paragraph (1) may include community service or participation in an economic self-sufficiency program performed at a location not owned by the public housing agency.

(7) PROHIBITION AGAINST REPLACEMENT OF EMPLOYEES.—In carrying out this subsection, a public housing agency may not—

(A) substitute community service or participation in an economic self-sufficiency program, as described in paragraph (1), for work performed by a public housing employee; or

(B) supplant a job at any location at which community work requirements are fulfilled.

(8) THIRD-PARTY COORDINATING.—A public housing agency may administer the community service requirement under this subsection directly, through a resident organization, or through a

[136] Parentheses so in law.

contractor having experience in administering volunteer-based community service programs within the service area of the public housing agency. The Secretary may establish qualifications for such organizations and contractors.

(d) TREATMENT OF INCOME CHANGES RESULTING FROM WELFARE PROGRAM REQUIREMENTS.—

(1) COVERED FAMILY.—For purposes of this subsection, the term "covered family" means a family that (A) receives benefits for welfare or public assistance from a State or other public agency under a program for which the Federal, State, or local law relating to the program requires, as a condition of eligibility for assistance under the program, participation of a member of the family in an economic self-sufficiency program, and (B) resides in a public housing dwelling unit or is provided tenant-based assistance under section 8.

(2) DECREASES IN INCOME FOR FAILURE TO COMPLY.—

(A) IN GENERAL.—Notwithstanding the provisions of section 3(a) (relating to family rental contributions) or paragraph (4) or (5) of section 3(b) (relating to definition of income and adjusted income), if the welfare or public assistance benefits of a covered family are reduced under a Federal, State, or local law regarding such an assistance program because of any failure of any member of the family to comply with the conditions under the assistance program requiring participation in an economic self-sufficiency program or imposing a work activities requirement, the amount required to be paid by the family as a monthly contribution toward rent may not be decreased, during the period of the reduction, as a result of any decrease in the income of the family (to the extent that the decrease in income is a result of the benefits reduction).

(B) NO REDUCTION BASED ON TIME LIMIT FOR ASSISTANCE.—For purposes of this paragraph, a reduction in benefits as a result of the expiration of a lifetime time limit for a family receiving welfare or public assistance benefits shall not be considered to be a failure to comply with the conditions under the assistance program requiring participation in an economic self-sufficiency program or imposing a work activities requirement. This paragraph shall apply beginning upon the date of the enactment of the Quality Housing and Work Responsibility Act of 1998[137].

(3) EFFECT OF FRAUD.—Notwithstanding the provisions of section 3(a) (relating to family rental contributions) or paragraph (4) or (5) of section 3(b) (relating to definition of income and adjusted income), if the welfare or public assistance benefits of a covered family are reduced because of an act of fraud by a member of the family under the law or program, the amount required to be paid by the covered family as a monthly contribution toward rent may not be decreased, during the period of the reduction, as a result of any decrease in the income of the family (to the extent that the decrease in income is a result of the benefits reduction). This paragraph shall apply beginning upon the date of the enactment of the Quality Housing and Work Responsibility Act of 1998[138].

(4) NOTICE.—Paragraphs (2) and (3) shall not apply to any covered family before the public housing agency providing assistance under this Act on behalf of the family obtains written notification from the relevant welfare or public assistance agency specifying that the family's benefits have been reduced because of noncompliance with economic self-sufficiency program or work activities requirements or fraud, and the level of such reduction.

(5) OCCUPANCY RIGHTS.—This subsection may not be construed to authorize any public housing agency to establish any time limit on tenancy in a public housing dwelling unit or on receipt of tenant-based assistance under section 8.

(6) REVIEW.—Any covered family residing in public housing that is affected by the operation of this subsection shall have the right to review the determination under this subsection through the administrative grievance procedure established pursuant to section 6(k) for the public housing agency.

(7) COOPERATION AGREEMENTS FOR ECONOMIC SELF-SUFFICIENCY ACTIVITIES.—

(A) REQUIREMENT.—A public housing agency providing public housing dwelling units or tenant-based assistance under section 8 for covered families shall make its best efforts to enter into such cooperation agreements, with State, local, and other agencies providing assistance to covered families under welfare or public assistance programs, as may be necessary, to provide for such agencies to transfer information to facilitate administration of subsection (c) and

[137] October 21, 1998.
[138] October 21, 1998.

paragraphs (2), (3), and (4) of this subsection and other information regarding rents, income, and assistance that may assist a public housing agency or welfare or public assistance agency in carrying out its functions.

(B) CONTENTS.—A public housing agency shall seek to include in a cooperation agreement under this paragraph requirements and provisions designed to target assistance under welfare and public assistance programs to families residing in public housing projects and families receiving tenant-based assistance under section 8, which may include providing for economic self-sufficiency services within such housing, providing for services designed to meet the unique employment-related needs of residents of such housing and recipients of such assistance, providing for placement of workfare positions on-site in such housing, and such other elements as may be appropriate.

(C) CONFIDENTIALITY.—This paragraph may not be construed to authorize any release of information prohibited by, or in contravention of, any other provision of Federal, State, or local law.

(e) LEASE PROVISIONS.—A public housing agency shall incorporate into leases under section 6(l) and into agreements for the provision of tenant-based assistance under section 8, provisions incorporating the conditions under subsection (d).

(f) TREATMENT OF INCOME.—Notwithstanding any other provision of this section, in determining the income of a family who resides in public housing or receives tenant-based assistance under section 8, a public housing agency shall consider any decrease in the income of a family that results from the reduction of any welfare or public assistance benefits received by the family under any Federal, State, or local law regarding a program for such assistance if the family (or a member thereof, as applicable) has complied with the conditions for receiving such assistance and is unable to obtain employment notwithstanding such compliance.

(g) DEFINITION.—For purposes of this section, the term "economic self-sufficiency program" means any program designed to encourage, assist, train, or facilitate the economic independence of participants and their families or to provide work for participants, including programs for job training, employment counseling, work placement, basic skills training, education, workfare, financial or household management, apprenticeship, or other activities as the Secretary may provide.

Sec. 13. [42 U.S.C. 1437k]
CONSORTIA, JOINT VENTURES, AFFILIATES, AND SUBSIDIARIES OF PUBLIC HOUSING AGENCIES.

(a) CONSORTIA.—

(1) IN GENERAL.—Any 2 or more public housing agencies may participate in a consortium for the purpose of administering any or all of the housing programs of those public housing agencies in accordance with this section.

(2) EFFECT.—With respect to any consortium described in paragraph (1)—

(A) any assistance made available under this title to each of the public housing agencies participating in the consortium shall be paid to the consortium; and

(B) all planning and reporting requirements imposed upon each public housing agency participating in the consortium with respect to the programs operated by the consortium shall be consolidated.

(3) RESTRICTIONS.—

(A) AGREEMENT.—Each consortium described in paragraph (1) shall be formed and operated in accordance with a consortium agreement, and shall be subject to the requirements of a joint public housing agency plan, which shall be submitted by the consortium in accordance with section 5A.

(B) MINIMUM REQUIREMENTS.—The Secretary shall specify minimum requirements relating to the formation and operation of consortia and the minimum contents of consortium agreements under this paragraph.

(b) JOINT VENTURES.—

(1) IN GENERAL.—Notwithstanding any other provision of law, a public housing agency, in accordance with the public housing agency plan, may—

(A) form and operate wholly owned or controlled subsidiaries (which may be nonprofit corporations) and other affiliates, any of which may be directed, managed, or controlled by the

same persons who constitute the board of directors or similar governing body of the public housing agency, or who serve as employees or staff of the public housing agency; or

(B) enter into joint ventures, partnerships, or other business arrangements with, or contract with, any person, organization, entity, or governmental unit—

(i) with respect to the administration of the programs of the public housing agency, including any program that is subject to this title; or

(ii) for the purpose of providing or arranging for the provision of supportive or social services.

(2) USE OF AND TREATMENT INCOME[139].—Any income generated under paragraph (1)—

(A) shall be used for low-income housing or to benefit the residents assisted by the public housing agency; and

(B) shall not result in any decrease in any amount provided to the public housing agency under this title, except as otherwise provided under the formulas established under section 9(d)(2) and 9(e)(2).

(3) AUDITS.—The Comptroller General of the United States, the Secretary, or the Inspector General of the Department of Housing and Urban Development may conduct an audit of any activity undertaken under paragraph (1) at any time.

[Sec. 14 [Repealed.]].

Sec. 15. [42 U.S.C. 1437m]
PAYMENT OF NON-FEDERAL SHARE.

Any of the following may be used as the non-Federal share required in connection with activities undertaken under Federal grant-in-aid programs which provide social, educational, employment, and other services to the tenants in a project assisted under this Act, other than under section 8:

(1) annual contributions under this Act for operation of the project; or

(2) rental or use-value of buildings or facilities paid for, in whole or in part, from development, modernization, or operation cost financed under this Act.

Sec. 16. [42 U.S.C. 1437n]
ELIGIBILITY FOR ASSISTED HOUSING.

(a) INCOME ELIGIBILITY FOR PUBLIC HOUSING.—

(1) INCOME MIX WITHIN PROJECTS.—A public housing agency may establish and utilize income-mix criteria for the selection of residents for dwelling units in public housing projects, subject to the requirements of this section.

(2) PHA INCOME MIX.—

(A)[140] TARGETING.—Except as provided in paragraph (4), of the public housing dwelling units of a public housing agency made available for occupancy in any fiscal year by eligible families, not less than 40 percent shall be occupied by extremely low-income families.

(3) PROHIBITION OF CONCENTRATION OF LOW-INCOME FAMILIES.—

(A) PROHIBITION.—A public housing agency may not, in complying with the requirements under paragraph (2), concentrate very low-income families (or other families with relatively low incomes) in public housing dwelling units in certain public housing projects or certain buildings within projects. The Secretary shall review the income and occupancy characteristics of the public housing projects and the buildings of such projects of such agencies to ensure compliance with the provisions of this paragraph and paragraph (2).

(B) DECONCENTRATION.—

(i) IN GENERAL.—A public housing agency shall submit with its annual public housing agency plan under section 5A an admissions policy designed to provide for deconcentration of poverty and income-mixing by bringing higher income tenants into lower income projects and lower income tenants into higher income projects. This clause may not be construed to impose or require any specific income or racial quotas for any project or projects.

[139] So in law.
[140] So in law. There is no subparagraph (B).

(ii) INCENTIVES.—In implementing the policy under clause (i), a public housing agency may offer incentives for eligible families having higher incomes to occupy dwelling unit in projects predominantly occupied by eligible families having lower incomes, and provide for occupancy of eligible families having lower incomes in projects predominantly occupied by eligible families having higher incomes.

(iii) FAMILY CHOICE.—Incentives referred to in clause (ii) may be made available by a public housing agency only in a manner that allows for the eligible family to have the sole discretion in determining whether to accept the incentive and an agency may not take any adverse action toward any eligible family for choosing not to accept an incentive and occupancy of a project described in clause (i)(II)[141], Provided, That the skipping of a family on a waiting list to reach another family to implement the policy under clause (i) shall not be considered an adverse action. An agency implementing an admissions policy under this subparagraph shall implement the policy in a manner that does not prevent or interfere with the use of site-based waiting lists authorized under section 6(s)[142].

(4) FUNGIBILITY WITH TENANT-BASED ASSISTANCE.—

(A) AUTHORITY.—Except as provided under subparagraph (D), the number of public housing dwelling units that a public housing agency shall otherwise make available in accordance with paragraph (2)(A) to comply with the percentage requirement under such paragraph for a fiscal year shall be reduced by the credit number for the agency under subparagraph (B).

(B) CREDIT FOR EXCEEDING TENANT-BASED ASSISTANCE TARGETING REQUIREMENT.—Subject to subparagraph (C), the credit number under this subparagraph for a public housing agency for a fiscal year shall be the number by which—

(i) the aggregate number of qualified families who, in such fiscal year, are initially provided tenant-based assistance under section 8 by the agency; exceeds

(ii) the number of qualified families that is required for the agency to comply with the percentage requirement under subsection (b)(1) for such fiscal year.

(C) LIMITATIONS ON CREDIT NUMBER.—The credit number under subparagraph (B) for a public housing agency for a fiscal year may not in any case exceed the lesser of—

(i) the number of dwelling units that is equivalent to 10 percent of the aggregate number of families initially provided tenant-based assistance under section 8 by the agency in such fiscal year; or

(ii) the number of public housing dwelling units of the agency that—

(I) are in projects that are located in census tracts having a poverty rate of 30 percent or more; and

(II) are made available for occupancy during such fiscal year and are actually filled only by families whose incomes at the time of commencement of such occupancy exceed 30 percent of the area median income, as determined by the Secretary with adjustments for smaller and larger families.

(D) FUNGIBILITY FLOOR.—Notwithstanding any authority under subparagraph (A), of the public housing dwelling units of a public housing agency made available for occupancy in any fiscal year by eligible families, not less than 30 percent shall be occupied by families whose incomes at the time of commencement of occupancy do not exceed 30 percent of the area median income, as determined by the Secretary with adjustments for smaller and larger families.

(E) QUALIFIED FAMILY.—For purposes of this paragraph, the term "qualified family" means a family having an income described in subsection (b)(1).

(5) LIMITATIONS ON TENANCY FOR OVER-INCOME FAMILIES.—

(A) LIMITATIONS.—Except as provided in subparagraph (D), in the case of any family residing in a dwelling unit of public housing whose income for the most recent two consecutive years, as determined pursuant to income reviews conducted pursuant to section 3(a)(6) , has exceeded the applicable income limitation under subparagraph (C), the public housing agency shall—

[141] So in law. There is no subclause (II) in clause (i).
[142] So in law. Probably should refer to section 6(r).

(i) notwithstanding any other provision of this Act, charge such family as monthly rent for the unit occupied by such family an amount equal to the greater of—

(I) the applicable fair market rental established under section 8(c) for a dwelling unit in the same market area of the same size; or

(II) the amount of the monthly subsidy provided under this Act for the dwelling unit, which shall include any amounts from the Operating Fund and Capital Fund under section 9 used for the unit, as determined by the agency in accordance with regulations that the Secretary shall issue to carry out this subclause; or

(ii) terminate the tenancy of such family in public housing not later than 6 months after the income determination described in subparagraph (A).

(B) NOTICE.—In the case of any family residing in a dwelling unit of public housing whose income for a year has exceeded the applicable income limitation under subparagraph (C), upon the conclusion of such year the public housing agency shall provide written notice to such family of the requirements under subparagraph (A).

(C) INCOME LIMITATION.—The income limitation under this subparagraph shall be 120 percent of the median income for the area, as determined by the Secretary with adjustments for smaller and larger families, except that the Secretary may establish income limitations higher or lower than 120 percent of such median income on the basis of the Secretary's findings that such variations are necessary because of prevailing levels of construction costs, or unusually high or low family incomes, vacancy rates, or rental costs.

(D) EXCEPTION.—Subparagraph (A) shall not apply to a family occupying a dwelling unit in public housing pursuant to paragraph (5) of section 3(a).

(E) REPORTS ON OVER-INCOME FAMILIES AND WAITING LISTS.—The Secretary shall require that each public housing agency shall—

(i) submit a report annually, in a format required by the Secretary, that specifies—

(I) the number of families residing, as of the end of the year for which the report is submitted, in public housing administered by the agency who had incomes exceeding the applicable income limitation under subparagraph (C); and

(II) the number of families, as of the end of such year, on the waiting lists for admission to public housing projects of the agency; and

(ii) make the information reported pursuant to clause (i) publicly available.

(b) INCOME ELIGIBILITY FOR TENANT-BASED SECTION 8 ASSISTANCE.—

(1) IN GENERAL.—Of the families initially provided tenant-based assistance under section 8 by a public housing agency in any fiscal year, not less than 75 percent shall be extremely low-income families.

(2) JURISDICTIONS SERVED BY MULTIPLE PHA'S.—In the case of any 2 or more public housing agencies that administer tenant-based assistance under section 8 with respect solely to identical geographical areas, such agencies shall be treated as a single public housing agency for purposes of paragraph (1).

(c) INCOME ELIGIBILITY FOR PROJECT-BASED SECTION 8 ASSISTANCE.—

(1) PRE-1981 ACT PROJECTS.—Not more than 25 percent of the dwelling units that were available for occupancy under section 8 housing assistance payments contracts under this Act before the effective date of the Housing and Community Development Amendments of 1981[143], and which will be leased on or after such effective date shall be available for leasing by low-income families other than very low-income families.

(2) POST-1981 ACT PROJECTS.—Not more than 15 percent of the dwelling units which become available for occupancy under section 8 housing assistance payments contracts under this Act on or after the effective date of the Housing and Community Development Amendments of 1981[144] shall be available for leasing by low-income families other than very low-income families.

[143] October 1, 1981.
[144] October 1, 1981.

(3) TARGETING.—For each project assisted under a contract for project-based assistance, of the dwelling units that become available for occupancy in any fiscal year that are assisted under the contract, not less than 40 percent shall be available for leasing only by extremely low-income families.

(4) PROHIBITION OF SKIPPING.—In developing admission procedures implementing paragraphs (1), (2), and (3), the Secretary shall prohibit project owners from selecting families for residence in an order different from the order on the waiting list for the purpose of selecting relatively higher income families for residence. Nothing in this paragraph or this subsection may be construed to prevent an owner of housing assisted under a contract for project-based assistance from establishing a preference for occupancy in such housing for families containing a member who is employed.

(5) EXCEPTION.—The limitations established in paragraphs (1), (2), and (3) shall not apply to dwelling units made available under project-based contracts under section 8 for the purpose of preventing displacement, or ameliorating the effects of displacement.

(6) DEFINITION.—For purposes of this subsection, the term "project-based assistance" means assistance under any of the following programs:

(A) The new construction or substantial rehabilitation program under section 8(b)(2) (as in effect before October 1, 1983).

(B) The property disposition program under section 8(b) (as in effect before the effective date under section 503(a) of the Quality Housing and Work Responsibility Act of 1998)[145].

(C) The loan management set-aside program under subsections (b) and (v) of section 8.

(D) The project-based certificate program under section 8(d)(2).

(E) The moderate rehabilitation program under section 8(e)(2) (as in effect before October 1, 1991).

(F) The low-income housing preservation program under Low-Income Housing Preservation and Resident Homeownership Act of 1990 or the provisions of the Emergency Low Income Housing Preservation Act of 1987 (as in effect before November 28, 1990).

(G) Section 8 (as in effect before the effective date under section 503(a) of the Quality Housing and Work Responsibility Act of 1998), following conversion from assistance under section 101 of the Housing and Urban Development Act of 1965 or section 236(f)(2) of the National Housing Act.

(d) ESTABLISHMENT OF DIFFERENT STANDARDS.—Notwithstanding subsection (a)(2) or (b)(1), if approved by the Secretary, a public housing agency may for good cause establish and implement, in accordance with the public housing agency plan, an admission standard other than the standard under such subsection.

(e) ELIGIBILITY FOR ASSISTANCE BASED ON ASSETS.—

(1) LIMITATION ON ASSETS.—Subject to paragraph (3) and notwithstanding any other provision of this Act, a dwelling unit assisted under this Act may not be rented and assistance under this Act may not be provided, either initially or at each recertification of family income, to any family—

(A) whose net family assets exceed $ 100,000, as such amount is adjusted annually by applying an inflationary factor as the Secretary considers appropriate; or

(B) who has a present ownership interest in, a legal right to reside in, and the effective legal authority to sell, real property that is suitable for occupancy by the family as a residence, except that the prohibition under this subparagraph shall not apply to—

(i) any property for which the family is receiving assistance under subsection (y) or (o)(12) of section 8 of this Act;

(ii) any person that is a victim of domestic violence; or

(iii) any family that is offering such property for sale.

(2) NET FAMILY ASSETS.—

(A) IN GENERAL.—For purposes of this subsection, the term "net family assets" means, for all members of the household, the net cash value of all assets after deducting reasonable costs that would be incurred in disposing of real property, savings, stocks, bonds, and other forms of capital investment. Such term does not include interests in Indian trust land, equity in property for which the family is receiving assistance under subsection (y) or (o)(12) of section 8, equity accounts in homeownership programs of the Department of Housing and Urban Development, or Family Self Sufficiency accounts.

[145] The effective date under section 503 of such Act (112 Stat. 2521; 42 U.S.C. 1437 note) was October 1, 1999, except to the extent otherwise specifically provided in such Act or to the extent that the Secretary, by notice, implemented any provision of such Act before such date.

(B) EXCLUSIONS.—Such term does not include—

(i) the value of personal property, except for items of personal property of significant value, as the Secretary may establish or the public housing agency may determine;

(ii) the value of any retirement account;

(iii) real property for which the family does not have the effective legal authority necessary to sell such property;

(iv) any amounts recovered in any civil action or settlement based on a claim of malpractice, negligence, or other breach of duty owed to a member of the family and arising out of law, that resulted in a member of the family being disabled;

(v) the value of any Coverdell education savings account under section 530 of the Internal Revenue Code of 1986 or any qualified tuition program under section 529 of such Code; and

(vi) such other exclusions as the Secretary may establish.

(C) TRUST FUNDS.—In cases in which a trust fund has been established and the trust is not revocable by, or under the control of, any member of the family or household, the value of the trust fund shall not be considered an asset of a family if the fund continues to be held in trust. Any income distributed from the trust fund shall be considered income for purposes of section 3(b) and any calculations of annual family income, except in the case of medical expenses for a minor.

(3) SELF-CERTIFICATION.—

(A) NET FAMILY ASSETS.—A public housing agency or owner may determine the net assets of a family, for purposes of this section, based on a certification by the family that the net assets of such family do not exceed $ 50,000, as such amount is adjusted annually by applying an inflationary factor as the Secretary considers appropriate.

(B) NO CURRENT REAL PROPERTY OWNERSHIP.—A public housing agency or owner may determine compliance with paragraph (1)(B) based on a certification by the family that such family does not have any current ownership interest in any real property at the time the agency or owner reviews the family's income.

(C) STANDARDIZED FORMS.—The Secretary may develop standardized forms for the certifications referred to in subparagraphs (A) and (B).

(4) COMPLIANCE FOR PUBLIC HOUSING DWELLING UNITS.—When recertifying family income with respect to families residing in public housing dwelling units, a public housing agency may, in the discretion of the agency and only pursuant to a policy that is set forth in the public housing agency plan under section 5A for the agency, choose not to enforce the limitation under paragraph (1).

(5) ENFORCEMENT.—When recertifying the income of a family residing in a dwelling unit assisted under this Act, a public housing agency or owner may choose not to enforce the limitation under paragraph (1) or may establish exceptions to such limitation based on eligibility criteria, but only pursuant to a policy that is set forth in the public housing agency plan under section 5A for the agency or under a policy adopted by the owner. Eligibility criteria for establishing exceptions may provide for separate treatment based on family type and may be based on different factors, such as age, disability, income, the ability of the family to find suitable alternative housing, and whether supportive services are being provided.

(6) AUTHORITY TO DELAY EVICTIONS.—In the case of a family residing in a dwelling unit assisted under this Act who does not comply with the limitation under paragraph (1), the public housing agency or project owner may delay eviction or termination of the family based on such noncompliance for a period of not more than 6 months.

(7) VERIFYING INCOME.—

(A) Beginning in fiscal year 2018, the Secretary shall require public housing agencies to require each applicant for, or recipient of, benefits under this Act to provide authorization by the applicant or recipient (or by any other person whose income or resources are material to the determination of the eligibility of the applicant or recipient for such benefits) for the public housing agency to obtain (subject to the cost reimbursement requirements of section 1115(a) of the Right to Financial Privacy Act) from any financial institution (within the meaning of section 1101(1) of such Act) any financial record (within the meaning of section 1101(2) of such Act) held by the institution with respect to the applicant or recipient (or any such other person)

whenever the public housing agency determines the record is needed in connection with a determination with respect to such eligibility or the amount of such benefits.

(B) Notwithstanding section 1104(a)(1) of the Right to Financial Privacy Act, an authorization provided by an applicant or recipient (or any other person whose income or resources are material to the determination of the eligibility of the applicant or recipient) pursuant to subparagraph (A) of this paragraph shall remain effective until the earliest of—

(i) the rendering of a final adverse decision on the applicant's application for eligibility for benefits under this Act;

(ii) the cessation of the recipient's eligibility for benefits under this Act; or

(iii) the express revocation by the applicant or recipient (or such other person referred to in subparagraph (A)) of the authorization, in a written notification to the Secretary.

(C)(i) An authorization obtained by the public housing agency pursuant to this paragraph shall be considered to meet the requirements of the Right to Financial Privacy Act for purposes of section 1103(a) of such Act, and need not be furnished to the financial institution, notwithstanding section 1104(a) of such Act.

(ii) The certification requirements of section 1103(b) of the Right to Financial Privacy Act shall not apply to requests by the public housing agency pursuant to an authorization provided under this clause.

(iii) A request by the public housing agency pursuant to an authorization provided under this clause is deemed to meet the requirements of section 1104(a)(3) of the Right to Financial Privacy Act and the flush language of section 1102 of such Act.

(iv) The public housing agency shall inform any person who provides authorization pursuant to this paragraph of the duration and scope of the authorization.

(D) If an applicant for, or recipient of, benefits under this Act (or any such other person referred to in subparagraph (A)) refuses to provide, or revokes, any authorization made by the applicant or recipient for the public housing agency to obtain from any financial institution any financial record, the public housing agency may, on that basis, determine that the applicant or recipient is ineligible for benefits under this title.

(f) INELIGIBILITY OF INDIVIDUALS CONVICTED OF MANUFACTURING OR PRODUCING METHAMPHETAMINE ON THE PREMISES.—Notwithstanding any other provision of law, a public housing agency shall establish standards for occupancy in public housing dwelling units and assistance under section 8 that—

(1) permanently prohibit occupancy in any public housing dwelling unit by, and assistance under section 8 for, any person who has been convicted of manufacturing or otherwise producing methamphetamine on the premises in violation of any Federal or State law; and

(2) immediately and permanently terminate the tenancy in any public housing unit of, and the assistance under section 8 for, any person who is convicted of manufacturing or otherwise producing methamphetamine on the premises in violation of any Federal or State law.

[Sec. 17. [Repealed.]] [146]

Sec. 18. [42 U.S.C. 1437p]
DEMOLITION AND DISPOSITION OF PUBLIC HOUSING.

(a) APPLICATIONS FOR DEMOLITION AND DISPOSITION.—Except as provided in subsection (b), upon receiving an application by a public housing agency for authorization, with or without financial assistance under this title, to demolish or dispose of a public housing project or a portion of a public housing project (including

[146] Section 289(a) of the Cranston-Gonzalez National Affordable Housing Act, Public Law 101-625, set forth, post, in part IV of this compilation, provides that no new grants or loans may be made under this section after October 1, 1991. Subsection (b) of such section repealed this section effective on October 1, 1991.

However, section 152 of the Housing and Community Development Act of 1987, Public Law 100-242, provides as follows:

"SEC. 152. TERMINATION OF RENTAL DEVELOPMENT GRANT PROGRAM.

"(a) IN GENERAL.—Effective on October 1, 1989, the rental development grant program under section 17(d) of the United States Housing Act of 1937 shall terminate.

"(b) SAVINGS PROVISION.—The provisions of subsection (a) shall not apply with respect to any housing development grant under section 17(d) of the United States Housing Act of 1937 made pursuant to a reservation of funds made by the Secretary of Housing and Urban Development before October 1, 1989.".

any transfer to a resident-supported nonprofit entity), the Secretary shall approve the application, if the public housing agency certifies—

(1) in the case of—

(A) an application proposing demolition of a public housing project or a portion of a public housing project, that—

(i) the project or portion of the public housing project is obsolete as to physical condition, location, or other factors, making it unsuitable for housing purposes; and

(ii) no reasonable program of modifications is cost-effective to return the public housing project or portion of the project to useful life; and

(B) an application proposing the demolition of only a portion of a public housing project, that the demolition will help to ensure the viability of the remaining portion of the project;

(2) in the case of an application proposing disposition by sale or other transfer of a public housing project or other real property subject to this title—

(A) the retention of the property is not in the best interests of the residents or the public housing agency because—

(i) conditions in the area surrounding the public housing project adversely affect the health or safety of the residents or the feasible operation of the project by the public housing agency; or

(ii) disposition allows the acquisition, development, or rehabilitation of other properties that will be more efficiently or effectively operated as low-income housing;

(B) the public housing agency has otherwise determined the disposition to be appropriate for reasons that are—

(i) in the best interests of the residents and the public housing agency;

(ii) consistent with the goals of the public housing agency and the public housing agency plan; and

(iii) otherwise consistent with this title; or

(C) for property other than dwelling units, the property is excess to the needs of a public housing project or the disposition is incidental to, or does not interfere with, continued operation of a public housing project;

(3) that the public housing agency has specifically authorized the demolition or disposition in the public housing agency plan, and has certified that the actions contemplated in the public housing agency plan comply with this section;

(4) that the public housing agency—

(A) will notify each family residing in a project subject to demolition or disposition 90 days prior to the displacement date, except in cases of imminent threat to health or safety, consistent with any guidelines issued by the Secretary governing such notifications, that—

(i) the public housing project will be demolished or disposed of;

(ii) the demolition of the building in which the family resides will not commence until each resident of the building is relocated; and

(iii) each family displaced by such action will be offered comparable housing—

(I) that meets housing quality standards;

(II) that is located in an area that is generally not less desirable than the location of the displaced person's housing; and

(III) which may include—

(aa) tenant-based assistance, except that the requirement under this clause regarding offering of comparable housing shall be fulfilled by use of tenant-based assistance only upon the relocation of such family into such housing;

(bb) project-based assistance; or

(cc) occupancy in a unit operated or assisted by the public housing agency at a rental rate paid by the family that is comparable to the rental rate applicable to the unit from which the family is vacated;

(B) will provide for the payment of the actual and reasonable relocation expenses of each resident to be displaced;

(C) will ensure that each displaced resident is offered comparable housing in accordance with the notice under subparagraph (A); and[147]

(D) will provide any necessary counseling for residents who are displaced; and

(E) will not commence demolition or complete disposition until all residents residing in the building are relocated;

(5) that the net proceeds of any disposition will be used—

(A) unless waived by the Secretary, for the retirement of outstanding obligations issued to finance the original public housing project or modernization of the project; and

(B) to the extent that any proceeds remain after the application of proceeds in accordance with subparagraph (A), for—

(i) the provision of low-income housing or to benefit the residents of the public housing agency; or

(ii) leveraging amounts for securing commercial enterprises, on-site in public housing projects of the public housing agency, appropriate to serve the needs of the residents; and

(6) that the public housing agency has complied with subsection (c).

(b) DISAPPROVAL OF APPLICATIONS.—The Secretary shall disapprove an application submitted under subsection (a) if the Secretary determines that—

(1) any certification made by the public housing agency under that subsection is clearly inconsistent with information and data available to the Secretary or information or data requested by the Secretary; or

(2) the application was not developed in consultation with—

(A) residents who will be affected by the proposed demolition or disposition;

(B) each resident advisory board and resident council, if any, of the project (or portion thereof) that will be affected by the proposed demolition or disposition; and

(C) appropriate government officials.

(c) RESIDENT OPPORTUNITY TO PURCHASE IN CASE OF PROPOSED DISPOSITION.—

(1) IN GENERAL.—In the case of a proposed disposition of a public housing project or portion of a project, the public housing agency shall, in appropriate circumstances, as determined by the Secretary, initially offer the property to any eligible resident organization, eligible resident management corporation, or nonprofit organization acting on behalf of the residents, if that entity has expressed an interest, in writing, to the public housing agency in a timely manner, in purchasing the property for continued use as low-income housing.

(2) TIMING.—

(A) EXPRESSION OF INTEREST.—A resident organization, resident management corporation, or other resident-supported nonprofit entity referred to in paragraph (1) may express interest in purchasing property that is the subject of a disposition, as described in paragraph (1), during the 30-day period beginning on the date of notification of a proposed sale of the property.

(B) OPPORTUNITY TO ARRANGE PURCHASE.—If an entity expresses written interest in purchasing a property, as provided in subparagraph (A), no disposition of the property shall occur during the 60-day period beginning on the date of receipt of that written notice (other than to the entity providing the notice), during which time that entity shall be given the opportunity to obtain a firm commitment for financing the purchase of the property.

(d) REPLACEMENT UNITS.—Notwithstanding any other provision of law, replacement public housing units for public housing units demolished in accordance with this section may be built on the original public housing location or in the same neighborhood as the original public housing location if the number of the replacement public housing units is significantly fewer than the number of units demolished.

(e) CONSOLIDATION OF OCCUPANCY WITHIN OR AMONG BUILDINGS.—Nothing in this section may be construed to prevent a public housing agency from consolidating occupancy within or among buildings of a public housing project, or among projects, or with other housing for the purpose of improving living conditions of, or providing more efficient services to, residents.

(f) DE MINIMIS EXCEPTION TO DEMOLITION REQUIREMENTS.—Notwithstanding any other provision of this section, in any 5-year period a public housing agency may demolish not more than the lesser of 5 dwelling units or 5 percent of the total dwelling units owned by the public housing agency, but only if the space

[147] So in law.

occupied by the demolished unit is used for meeting the service or other needs of public housing residents or the demolished unit was beyond repair.

(g) UNIFORM RELOCATION AND REAL PROPERTY ACQUISITION ACT.—The Uniform Relocation and Real Property Acquisition Policies Act of 1970 shall not apply to activities under this section.

(h) RELOCATION AND REPLACEMENT.—Of the amounts appropriated for tenant-based assistance under section 8 in any fiscal year, the Secretary may use such sums as are necessary for relocation and replacement housing for dwelling units that are demolished and disposed of from the public housing inventory (in addition to other amounts that may be available for such purposes).

Sec. 19. [42 U.S.C. 1437q]
FINANCING LIMITATIONS.

On and after October 1, 1983, the Secretary—

(1) may only enter into contracts for annual contributions regarding obligations financing public housing projects authorized by section 5(c) if such obligations are exempt from taxation under section 11(b), or if such obligations are issued under section 4 and such obligations are exempt from taxation; and

(2) may not enter into contracts for periodic payments to the Federal Financing Bank to offset the costs to the Bank of purchasing obligations (as described in the first sentence of section 16(b) of the Federal Financing Bank Act of 1973) issued by local public housing agencies for purposes of financing public housing projects authorized by section 5(c) of this Act.

Sec. 20. [42 U.S.C. 1437r]
PUBLIC HOUSING RESIDENT MANAGEMENT.

(a) PURPOSE.—The purpose of this section is to encourage increased resident management of public housing projects, as a means of improving existing living conditions in public housing projects, by providing increased flexibility for public housing projects that are managed by residents by—

(1) permitting the retention, and use for certain purposes, of any revenues exceeding operating and project costs; and

(2) providing funding, from amounts otherwise available, for technical assistance to promote formation and development of resident management entities.

For purposes of this section, the term “public housing project” includes one or more contiguous buildings or an area of contiguous row houses the elected resident councils of which approve the establishment of a resident management corporation and otherwise meet the requirements of this section.

(b) PROGRAM REQUIREMENTS.—

(1) RESIDENT COUNCIL.—As a condition of entering into a resident management program, the elected resident council of a public housing project shall approve the establishment of a resident management corporation. When such approval is made by the elected resident council of a building or row house area, the resident management program shall not interfere with the rights of other families residing in the project or harm the efficient operation of the project. The resident management corporation and the resident council may be the same organization, if the organization complies with the requirements applicable to both the corporation and council. The corporation shall be a nonprofit corporation organized under the laws of the State in which the project is located, and the tenants of the project shall be the sole voting members of the corporation. If there is no elected resident council, a majority of the households of the public housing project shall approve the establishment of a resident council to determine the feasibility of establishing a resident management corporation to manage the project.

(2) PUBLIC HOUSING MANAGEMENT SPECIALIST.—The resident council of a public housing project, in cooperation with the public housing agency, shall select a qualified public housing management specialist to assist in determining the feasibility of, and to help establish, a resident management corporation and to provide training and other duties agreed to in the daily operations of the project.

(3) BONDING AND INSURANCE.—Before assuming any management responsibility for a public housing project, the resident management corporation shall provide fidelity bonding and insurance, or equivalent protection, in accordance with regulations and requirements of the Secretary and the public housing agency. Such bonding and insurance, or its equivalent, shall be adequate to protect the Secretary and the public housing agency against loss, theft, embezzlement, or fraudulent acts on the part of the resident management corporation or its employees.

(4) MANAGEMENT RESPONSIBILITIES.—A resident management corporation that qualifies under this section, and that supplies insurance and bonding or equivalent protection sufficient to the Secretary and the public housing agency, shall enter into a contract with the public housing agency establishing the respective management rights and responsibilities of the corporation and the public housing agency. Such contract shall be consistent with the requirements of this Act applicable to public housing projects and may include specific terms governing management personnel and compensation, access to public housing project records, submission of and adherence to budgets, rent collection procedures, tenant income verification, tenant eligibility determinations, tenant eviction, the acquisition of supplies and materials, rent determination, community service requirements, and such other matters as may be appropriate. The contract shall be treated as a contracting out of services and shall be subject to any provision of a collective bargaining agreement regarding contracting out to which the public housing agency is subject.

(5) ANNUAL AUDIT.—The books and records of a resident management corporation operating a public housing project shall be audited annually by a certified public accountant. A written report of each audit shall be forwarded to the public housing agency and the Secretary.

(c) ASSISTANCE AMOUNTS.—A contract under this section for management of a public housing project by a resident management corporation shall provide for—

(1) the public housing agency to provide a portion of the assistance to agency from the Capital and Operating Funds to the resident management corporation in accordance with subsection (e) for purposes of operating the public housing project covered by the contract and performing such other eligible activities with respect to the project as may be provided under the contract;

(2) the amount of income expected to be derived from the project itself (from sources such as rents and charges);

(3) the amount of income to be provided to the project from the other sources of income of the public housing agency (such as interest income, administrative fees, and rents); and

(4) any income generated by a resident management corporation of a public housing project that exceeds the income estimated under the contract shall be used for eligible activities under subsections (d)(1) and (e)(1) of section 9.

(d) WAIVER OF FEDERAL REQUIREMENTS.—

(1) WAIVER OF REGULATORY REQUIREMENTS.—Upon the request of any resident management corporation and public housing agency, and after notice and an opportunity to comment is afforded to the affected tenants, the Secretary may waive (for both the resident management corporation and the public housing agency) any requirement established by the Secretary (and not specified in any statute) that the Secretary determines to unnecessarily increase the costs or restrict the income of a public housing project.

(2) WAIVER TO PERMIT EMPLOYMENT.—Upon the request of any resident management corporation, the Secretary may, subject to applicable collective bargaining agreements, permit residents of such project to volunteer a portion of their labor.

(3) EXCEPTIONS.—The Secretary may not waive under this subsection any requirement with respect to income eligibility for purposes of section 16, rental payments under section 3(a), tenant or applicant protections, employee organizing rights, or rights of employees under collective bargaining agreements.

(e) DIRECT PROVISION OF OPERATING AND CAPITAL ASSISTANCE.—

(1) IN GENERAL.—The Secretary shall directly provide assistance from the Operating and Capital Funds to a resident management corporation managing a public housing development pursuant to a contract under this section, but only if—

(A) the resident management corporation petitions the Secretary for the release of the funds;

(B) the contract provides for the resident management corporation to assume the primary management responsibilities of the public housing agency; and

(C) the Secretary determines that the corporation has the capability to effectively discharge such responsibilities.

(2) USE OF ASSISTANCE.—Any assistance from the Operating and Capital Funds provided to a resident management corporation pursuant to this subsection shall be used for purposes of operating the public housing developments of the agency and performing such other eligible activities with respect to public housing as may be provided under the contract.

(3) RESPONSIBILITY OF PUBLIC HOUSING AGENCY.—If the Secretary provides direct funding to a resident management corporation under this subsection, the public housing agency shall not be responsible for the actions of the resident management corporation.

(4) CALCULATION OF OPERATING FUND ALLOCATION.—Notwithstanding any provision of section 9 or any regulation under such section, and subject to the exception provided in paragraph (3), the portion of the amount received by a public housing agency under section 9 that is due to an allocation from the Operating Fund and that is allocated to a public housing project managed by a resident management corporation shall not be less than the public housing agency per unit monthly amount provided in the previous year as determined on an individual project basis.

(5) CALCULATION OF TOTAL INCOME.—

(A) Subject to subparagraph (B), the amount of funds provided by a public housing agency to a public housing project managed by a resident management corporation may not be reduced during the 3-year period beginning on the date of the enactment of the Housing and Community Development Act of 1987 or on any later date on which a resident management corporation is first established for the project.

(B) If the total income of a public housing agency (including any amounts from the Capital or Operating Funds provided to the public housing agency under section 9) is reduced or increased, the income provided by the public housing agency to a public housing project managed by a resident management corporation shall be reduced or increased in proportion to the reduction or increase in the total income of the public housing agency, except that any reduction in amounts from the Operating Fund that occurs as a result of fraud, waste, or mismanagement by the public housing agency shall not affect the funds provided to the resident management corporation.

(6) RETENTION OF EXCESS REVENUES.—

(A) Any income generated by a resident management corporation of a public housing project that exceeds the income estimated for purposes of this subsection shall be excluded in subsequent years in calculating (i) the allocations from the Operating Fund for the public housing agency under section 9; and (ii) the funds provided by the public housing agency to the resident management corporation.

(B) Any revenues retained by a resident management corporation under subparagraph (A) shall be used for purposes of improving the maintenance and operation of the public housing project, for establishing business enterprises that employ residents of public housing, or for acquiring additional dwelling units for low-income families.

(f) [Repealed.]

(g) [Repealed.]

(h) APPLICABILITY.—Any management contract between a public housing agency and a resident management corporation that is entered into after the date of the enactment of the Stewart B. McKinney Homeless Assistance Amendments Act of 1988[148] shall be subject to this section and the regulations issued to carry out this section.

Sec. 21. [42 U.S.C. 1437s]
PUBLIC HOUSING HOMEOWNERSHIP AND MANAGEMENT OPPORTUNITIES.

(a) Homeownership Opportunities in General.—Lower income families residing in a public housing project shall be provided with the opportunity to purchase the dwelling units in the project through a qualifying resident management corporation as follows:

(1) FORMATION OF RESIDENT MANAGEMENT CORPORATION.—As a condition for public housing homeownership—

(A) the adult residents of a public housing project shall have formed a resident management corporation in accordance with regulations and requirements of the Secretary prescribed under this section and section 20;

(B) the resident management corporation shall have entered into a contract with the public housing agency establishing the respective management rights and responsibilities of the resident management corporation and the public housing agency; and

(C) the resident management corporation shall have demonstrated its ability to manage public housing effectively and efficiently for a period of not less than 3 years.

[148] November 7, 1988.

(2) HOMEOWNERSHIP ASSISTANCE.—

(A) The Secretary may provide assistance from the Capital Fund to a public housing project in which homeownership activities under this section are conducted.

(B) The Secretary may provide financial assistance to public housing agencies, resident management corporations, or resident councils that obtain, by contract or otherwise, training, technical assistance, and educational assistance as the Secretary determines to be necessary to promote homeownership opportunities under this section.

(C) This paragraph shall not have effect after February 4, 1991. The Secretary may not provide financial assistance under subparagraph (B), after such date, unless the Secretary determines that such assistance is necessary for the development of a homeownership program that was initiated, as determined by the Secretary, before the date of the enactment of the Cranston-Gonzalez National Affordable Housing Act.[149]

(3) CONDITIONS OF PURCHASE BY A RESIDENT MANAGEMENT CORPORATION.—

(A) A resident management corporation may purchase from a public housing agency one or more multifamily buildings in a public housing project following a determination by the Secretary that—

(i) the resident management corporation has met the conditions of paragraph (1);

(ii) the resident management corporation has applied for and is prepared to undertake the ownership, management, and maintenance of the building or buildings with continued assistance from the Secretary;

(iii) the public housing agency has held one or more public hearings to obtain the views of citizens regarding the proposed purchase and, in consultation with the Secretary, has certified that the purchase will not interfere with the rights of other families residing in public housing, will not harm the efficient operation of other public housing, and is in the interest of the community;

(iv) the public housing agency has certified that it has and will implement a plan to replace public housing units sold under this section within 30 months of the sale, which plan shall provide for replacement of 100 percent of the units sold under this section by—

(I) production, acquisition, or rehabilitation of vacant public housing units by the public housing agency; and

(II) acquisition by the resident management corporation of nonpublicly owned, decent, and affordable housing units, which the resident management corporation shall operate as rental housing subject to tenant income and rent limitations comparable to the limitations applicable to public housing; and

(v) the building or buildings meet the housing quality standards applicable under section 6(f), and the physical condition, management, and operation of the building or buildings are sufficient to permit affordable homeownership by the families residing in the project.

(B) The price of a building purchased under the preceding sentence shall be approved by the Secretary, in consultation with the public housing agency and resident management corporation, taking into account the fair market value of the property, the ability of resident families to afford and maintain the property, and such other factors as the Secretary determines to be consistent with increasing the supply of dwelling units affordable to very low income families.

(C) This paragraph shall not have effect after February 4, 1991. The authority for a resident management corporation to purchase 1 or more multifamily buildings in a public housing project from a public housing agency shall terminate after such date, unless the Secretary determines that such purchase is necessary for the development of a homeownership program that was initiated, as determined by the Secretary, before the date of the enactment of the Cranston-Gonzalez National Affordable Housing Act.[150]

(4) CONDITIONS OF RESALE.—

(A)(i) A resident management corporation may sell a dwelling unit or ownership rights in a dwelling unit only to a lower income family residing in, or eligible to reside in, public housing

[149] November 28, 1990.
[150] November 28, 1990.

and only if the Secretary determines that the purchase will not interfere with the rights of other families residing in the housing project or harm the efficient operation of the project, and the family will be able to purchase and maintain the property.

(ii) The sale of dwelling units or ownership rights in dwelling units under clause (i) shall be made to families in the following order of priority:

(I) a lower income family residing in the public housing project in which the dwelling unit is located;

(II) a lower income family residing in any public housing project within the jurisdiction of the public housing agency having jurisdiction with respect to the project in which the dwelling unit is located;

(III) a lower income family receiving Federal housing assistance and residing in the jurisdiction of such public housing agency; and

(IV) a lower income family on the waiting list of such public housing agency for public housing or assistance under section 8, with priority given in the order in which the family appears on the waiting list.

(iii) Each resident management corporation shall provide each family described in clause (ii) with a notice of the eligibility of the family to purchase a dwelling unit under this paragraph.

(B) A purchase under subparagraph (A) may be made under any of the following arrangements:

(i) Limited dividend cooperative ownership.

(ii) Condominium ownership.

(iii) Fee simple ownership.

(iv) Shared appreciation with a public housing agency providing financing under paragraph (6).

(v) Any other arrangement determined by the Secretary to be appropriate.

(C) Property purchased under this section shall be resold only to the resident management corporation, a lower income family residing in or eligible to reside in public housing or housing assisted under section 8, or to the public housing agency.

(D) In no case may the owner receive consideration for his or her interest in the property that exceeds the total of—

(i) the contribution to equity paid by the owner;

(ii) the value, as determined by such means as the Secretary shall determine through regulation, of any improvements installed at the expense of the owner during the owner's tenure as owner; and

(iii) the appreciated value determined by an inflation allowance at a rate which may be based on a cost of living index, an income index, or market index as determined by the Secretary through regulation and agreed to by the purchaser and the resident management corporation or the public housing agency, whichever is appropriate, at the time of initial sale, and applied against the contribution to equity; the resident management corporation or the public housing agency may, at the time of initial sale, enter into an agreement with the owner to set a maximum amount which this appreciation may not exceed.

(E) Upon sale, the resident management corporation or the public housing agency, whichever is appropriate, shall ensure that subsequent owners are bound by the same limitations on resale and further restrictions on equity appreciation.

(5) USE OF PROCEEDS.—Notwithstanding any other provision of this Act or other law to the contrary, proceeds from the sale of a building or buildings under paragraph (3) and amounts recaptured under paragraph (4) shall be paid to the public housing agency and shall be retained and used by the public housing agency only to increase the number of public housing units available for occupancy. The resident management corporation shall keep and make available to the public housing agency and the Secretary all records necessary to calculate accurately payments due the local housing agency under this section. The Secretary shall not reduce or delay payments under other provisions of law as a result of amounts made available to the local housing agency under this section.

(6) FINANCING.—When financing for the purchase of the property is not otherwise available for purposes of assisting any purchase by a family or resident management corporation under this section, the

public housing agency involved may make a loan on the security of the property involved to the family or resident management corporation at a rate of interest that shall not be lower than 70 percent of the market interest rate for conventional mortgages on the date on which the loan is made.

(7) CAPITAL AND OPERATING ASSISTANCE.—Notwithstanding the purchase of a building in a public housing project under this section, the Secretary shall continue to provide assistance under section 9 with respect to the project. Such assistance may not exceed the allocation for the project under section 9.

(8) OPERATING FUND ALLOCATION.—Amounts from the Operating Fund shall not be available with respect to a building after the date of its sale by the public housing agency.

(b) PROTECTION OF NONPURCHASING FAMILIES.—

(1) EVICTION PROHIBITION.—No family residing in a dwelling unit in a public housing project may be evicted by reason of the sale of the project to a resident management corporation under this section.

(2) TENANTS RIGHTS.—Families renting a dwelling unit purchased by a resident management corporation shall have all rights provided to tenants of public housing under this Act.

(3) RENTAL ASSISTANCE.—If any family resides in a dwelling unit in a building purchased by a resident management corporation, and the family decides not to purchase the dwelling unit, the Secretary shall offer to provide to the family (at the option of the family) tenant-based assistance under section 8(o) for as long as the family continues to reside in the building. The Secretary may adjust the payment standard for such assistance to take into account conditions under which the building was purchased.

(4) RENTAL AND RELOCATION ASSISTANCE.—If any family resides in a dwelling unit in a public housing project in which other dwelling units are purchased under this section, and the family decides not to purchase the dwelling unit, the Secretary shall offer (to be selected by the family, at its option)—

(A) to assist the family in relocating to a comparable appropriate sized dwelling unit in another public housing project, and to reimburse the family for their cost of relocation; and

(B) to provide to the family the financial assistance necessary to permit the family to stay in the dwelling unit or to move to another comparable dwelling unit and to pay no more for rent than required under subparagraph (A), (B), or (C) of section 3(a)(1).

(c) FINANCIAL ASSISTANCE FOR PUBLIC HOUSING AGENCIES.—The Secretary shall provide to public housing agencies such financial assistance as is necessary to permit such agencies to carry out the provisions of this section.

(d) ADDITIONAL HOMEOWNERSHIP AND MANAGEMENT OPPORTUNITIES.—This section shall not apply to the turnkey III, the mutual help, or any other homeownership program established under section 6(c)(4)(D), as in effect before the effective date under section 503(a) of the Quality Housing and Work Responsibility Act of 1998[151], and in existence before the date of the enactment of the Housing and Community Development Act of 1987[152].

(e) REGULATIONS.—The Secretary shall issue such regulations as may be necessary to carry out the provisions of this section. Such regulations may establish any additional terms and conditions for homeownership or resident management under this section that are determined by the Secretary to be appropriate.

(f) [Repealed.]

(g) LIMITATION.—Any authority of the Secretary under this section to provide financial assistance, or to enter into contracts to provide financial assistance, shall be effective only to such extent or in such amounts as are or have been provided in advance in an appropriation Act.

Sec. 22. [42 U.S.C. 1437t]
AUTHORITY TO CONVERT PUBLIC HOUSING TO VOUCHERS.

(a) AUTHORITY.—A public housing agency may convert any public housing project (or portion thereof) owned by the public housing agency to tenant-based assistance, but only in accordance with the requirements of this section.

(b) CONVERSION ASSESSMENT.—

[151] The effective date under section 503 of such Act (112 Stat. 2521; 42 U.S.C. 1437 note) was October 1, 1999, except to the extent otherwise specifically provided in such Act or to the extent that the Secretary, by notice, implemented any provision of such Act before such date.
[152] February 5, 1988.

(1) IN GENERAL.—To convert public housing under this section, a public housing agency shall conduct an assessment of the public housing that includes—

(A) a cost analysis that demonstrates whether or not the cost (both on a net present value basis and in terms of new budget authority requirements) of providing tenant-based assistance under section 8 for the same families in substantially similar dwellings over the same period of time is less expensive than continuing public housing assistance in the public housing project for the remaining useful life of the project;

(B) an analysis of the market value of the public housing project both before and after rehabilitation, and before and after conversion;

(C) an analysis of the rental market conditions with respect to the likely success of the use of tenant-based assistance under section 8 in that market for the specific residents of the public housing project, including an assessment of the availability of decent and safe dwellings renting at or below the payment standard established for tenant-based assistance under section 8 by the agency;

(D) the impact of the conversion to tenant-based assistance under this section on the neighborhood in which the public housing project is located; and

(E) a plan that identifies actions, if any, that the public housing agency would take with regard to converting any public housing project or projects (or portions thereof) of the public housing agency to tenant-based assistance.

(2) TIMING.—Not later than 2 years after the effective date under section 503(a) of the Quality Housing and Work Responsibility Act of 1998[153], each public housing agency shall conduct an assessment under paragraph (1) or (3) of the status of each public housing project owned by such agency and shall submit to the Secretary such assessment. A public housing agency may otherwise undertake an assessment under this subsection at any time and for any public housing project (or portion thereof) owned by the agency. A public housing agency may update a previously conducted assessment for a project (or portion thereof) for purposes of compliance with the one-year limitation under subsection (c).

(3) STREAMLINED ASSESSMENT.—At the discretion of the Secretary or at the request of a public housing agency, the Secretary may waive any or all of the requirements of paragraph (1) or (3) or otherwise require a streamlined assessment with respect to any public housing project or class of public housing projects.

(c) CRITERIA FOR IMPLEMENTATION OF CONVERSION PLAN.—A public housing agency may convert a public housing project (or portion thereof) owned by the agency to tenant-based assistance only pursuant to a conversion assessment under subsection (b) that one year and that demonstrates that the conversion—

(1) will not be more expensive than continuing to operate the public housing project (or portion thereof) as public housing;

(2) will principally benefit the residents of the public housing project (or portion thereof) to be converted, the public housing agency, and the community; and

(3) will not adversely affect the availability of affordable housing in such community.

(d) CONVERSION PLAN REQUIREMENT.—A public housing project may be converted under this section to tenant-based assistance only as provided in a conversion plan under this subsection, which has not been disapproved by the Secretary pursuant to subsection (e). Each conversion plan shall—

(1) be developed by the public housing agency, in consultation with the appropriate public officials, with significant participation by the residents of the project (or portion thereof) to be converted;

(2) be consistent with and part of the public housing agency plan;

(3) describe the conversion and future use or disposition of the project (or portion thereof) and include an impact analysis on the affected community;

(4) provide that the public housing agency shall—

(A) notify each family residing in a public housing project (or portion) to be converted under the plan 90 days prior to the displacement date except in cases of imminent threat to health or safety, consistent with any guidelines issued by the Secretary governing such notifications, that—

(i) the public housing project (or portion) will be removed from the inventory of the public housing agency; and

[153] The effective date under section 503 of such Act (112 Stat. 2521; 42 U.S.C. 1437 note) was October 1, 1999, except to the extent otherwise specifically provided in such Act or to the extent that the Secretary, by notice, implemented any provision of such Act before such date.

(ii) each family displaced by such action will be offered comparable housing—

(I) that meets housing quality standards;

(II) that is located in an area that is generally not less desirable than the location of the displaced person's housing; and

(III) which may include—

(aa) tenant-based assistance, except that the requirement under this clause regarding offering of comparable housing shall be fulfilled by use of tenant-based assistance only upon the relocation of such family into such housing;

(bb) project-based assistance; or

(cc) occupancy in a unit operated or assisted by the public housing agency at a rental rate paid by the family that is comparable to the rental rate applicable to the unit from which the family is vacated;

(B) provide any necessary counseling for families displaced by such action;

(C) ensure that, if the project (or portion) converted is used as housing after such conversion, each resident may choose to remain in their dwelling unit in the project and use the tenant-based assistance toward rent for that unit; and

(D) provide any actual and reasonable relocation expenses for families displaced by the conversion; and

(5) provide that any proceeds to the agency from the conversion will be used subject to the limitations that are applicable under section 18(a)(5) to proceeds resulting from the disposition or demolition of public housing.

(e) REVIEW AND APPROVAL OF CONVERSION PLANS.—The Secretary shall disapprove a conversion plan only if—

(1) the plan is plainly inconsistent with the conversion assessment for the agency developed under subsection (b);

(2) there is reliable information and data available to the Secretary that contradicts that conversion assessment; or

(3) the plan otherwise fails to meet the requirements of this section.

(f) TENANT-BASED ASSISTANCE.—To the extent approved by the Secretary, the funds used by the public housing agency to provide tenant-based assistance under section 8 shall be added to the annual contribution contract administered by the public housing agency.

Sec. 23. [42 U.S.C. 1437u]
FAMILY SELF-SUFFICIENCY PROGRAM.

(a) PURPOSE.—The purpose of the Family Self-Sufficiency program established under this section is to promote the development of local strategies to coordinate use of public housing and assistance under the certificate and voucher programs under section 8 with public and private resources, to enable eligible families to achieve economic independence and self-sufficiency.

(b) ESTABLISHMENT OF PROGRAM.—

(1) REQUIRED PROGRAMS.—Except as provided in paragraph (2), the Secretary shall carry out a program under which each public housing agency that administers assistance under subsection (b) or (o) of section 8 or makes available new public housing dwelling units—

(A) may, during fiscal years 1991 and 1992, carry out a local Family Self-Sufficiency program under this section;

(B) effective on October 1, 1992, the Secretary shall require each such agency to carry out a local Family Self-Sufficiency program under this section, subject to the limitations in paragraph (4); and

(C) effective on the date of the enactment of the Quality Housing and Work Responsibility Act of 1998[154], to the extent an agency is not required to carry out a program pursuant to subparagraph (B) of this paragraph and paragraph (4), may carry out a local Family Self-Sufficiency program under this section.

Each local program shall, subject to availability of supportive services, include an action plan under subsection (g) and shall provide comprehensive supportive services for families electing to

[154] October 21, 1998.

participate in the program. In carrying out the self-sufficiency program under this section, the Secretary shall consult with the heads of other appropriate Federal agencies and provide for cooperative actions and funding agreements with such agencies. Each public housing agency administering an approved local program may employ a service coordinator to administer the local program.

(2) EXCEPTION.—The Secretary shall not require a public housing agency to carry out a local program under subsection (a) if the public housing agency provides certification (as such term is defined under title I of the Cranston-Gonzalez National Affordable Housing Act) to the Secretary, that the establishment and operation of the program is not feasible because of local circumstances, which may include—

(A) lack of supportive services accessible to eligible families, which shall include insufficient availability of resources for programs under title I of the Workforce Innovation and Opportunity Act or the Job Opportunities and Basic Skills Training Program under part F of title IV of the Social Security Act;

(B) lack of funding for reasonable administrative costs;

(C) lack of cooperation by other units of State or local government; or

(D) any other circumstances that the Secretary may consider appropriate.

In allocating assistance available for reservation under this Act, the Secretary may not refuse to provide assistance or decrease the amount of assistance that would otherwise be provided to any public housing agency because the agency has provided a certification under this paragraph or because, pursuant to a certification, the agency has failed to carry out a self-sufficiency program.

(3) SCOPE.—Subject to paragraph (4), each public housing agency required to carry out a local program under this section shall make the following housing assistance available under the program in each fiscal year:

(A) Certificate and voucher assistance under section 8(b) and (o), in an amount equivalent to the increase for such year in the number of families so assisted by the agency (as compared to the preceding year).

(B) Public housing dwelling units, in the number equal to the increase for such year in units made available by the agency (as compared to the preceding year).

Each such public housing agency shall continue to operate a local program for the number of families determined under this paragraph subject only to the availability under appropriations Acts of sufficient amounts for assistance.

(4) TERMINATION OF REQUIREMENT TO EXPAND PROGRAM.—

(A) IN GENERAL.—Notwithstanding any other provision of law, a public housing agency that receives incremental assistance under subsection (b) or (o) of section 8 or that makes available new public housing dwelling units shall not be required, after the enactment of the Quality Housing and Work Responsibility Act of 1998[155], to provide assistance under a local Family Self-Sufficiency program under this section to any families not required to be assisted under subparagraph (B) of this paragraph.

(B) CONTINUATION OF EXISTING OBLIGATIONS.—

(i) IN GENERAL.—Each public housing agency that, before the enactment of the Quality Housing and Work Responsibility Act of 1998[156], was required under this section to carry out a local Family Self-Sufficiency program shall continue to operate such local program for the number of families determined under paragraph (3), subject only to the availability under appropriations Acts of sufficient amounts for housing assistance.

(ii) REDUCTION.—The number of families for which an agency is required under clause (i) to operate such local program shall be decreased by one for each family that, after enactment of the Quality Housing and Work Responsibility Act of 1998[157], fulfills its obligations under the contract of participation.

(5) Nonparticipation.—Assistance under the certificate or voucher programs under section 8 for a family that elects not to participate in a local program shall not be delayed by reason of such election.

(c) CONTRACT OF PARTICIPATION.—

[155] October 21, 1998.
[156] October 21, 1998.
[157] October 21, 1998.

(1) IN GENERAL.—Each public housing agency carrying out a local program under this section shall enter into a contract with each leaseholder receiving assistance under the certificate and voucher programs of the public housing agency under section 8 or residing in public housing administered by the agency, that elects to participate in the self-sufficiency program under this section. The contract shall set forth the provisions of the local program, shall establish specific interim and final goals by which compliance with and performance of the contract may be measured, and shall specify the resources and supportive services to be made available to the participating family pursuant to paragraph (2) and the responsibilities of the participating family. The contract shall provide that the public housing agency may terminate or withhold assistance under section 8 and services under paragraph (2) of this subsection if the public housing agency determines, through an administrative grievance procedure in accordance with the requirements of section 6(k), that the family has failed to comply with the requirements of the contract without good cause (which may include a loss or reduction in access to supportive services, or a change in circumstances that makes the family or individual unsuitable for participation).

(2) SUPPORTIVE SERVICES.—A local program under this section shall provide appropriate supportive services under this paragraph to each participating family entering into a contract of participation under paragraph (1). The supportive services shall be provided during the period the family is receiving assistance under section 8 or residing in public housing, and may include—

(A) child care;

(B) transportation necessary to receive services;

(C) remedial education;

(D) education for completion of high school;

(E) job training and preparation;

(F) substance abuse treatment and counseling;

(G) training in homemaking and parenting skills;

(H) training in money management;

(I) training in household management; and

(J) any other services and resources appropriate to assist eligible families to achieve economic independence and self-sufficiency.

(3) TERM AND EXTENSION.—Each family participating in a local program shall be required to fulfill its obligations under the contract of participation not later than 5 years after entering into the contract. The public housing agency shall extend the term of the contract for any family that requests an extension, upon a finding of the agency of good cause.

(4) EMPLOYMENT AND COUNSELING.—The contract of participation shall require the head of the participating family to seek suitable employment during the term of the contract. The public housing agency may, during such period, provide counseling for the family with respect to affordable rental and homeownership opportunities in the private housing market and money management counseling.

(d) INCENTIVES FOR PARTICIPATION.—

(1) MAXIMUM RENTS.—During the term of the contract of participation, the amount of rent paid by any participating family whose monthly adjusted income does not exceed 50 percent of the area median income for occupancy in the public housing unit or dwelling unit assisted under section 8 may not be increased on the basis of any increase in the earned income of the family, unless the increase results in an income exceeding 50 percent of the area median income. The Secretary shall provide for increased rents for participating families whose incomes are between 50 and 80 percent of the area median income, so that any family whose income increases to 80 percent or more of the area median income pays 30 percent of the family's monthly adjusted income for rent. Upon completion of the contract of participation, if the participating family continues to qualify for and reside in a dwelling unit in public housing or housing assisted under section 8, the rent charged the participating family shall be increased (if applicable) to 30 percent of the monthly adjusted income of the family.

(2) ESCROW SAVINGS ACCOUNTS.—For each participating family whose monthly adjusted income is less than 50 percent of the area median income, the difference between 30 percent of the adjusted income of the participating family and the amount of rent paid by a participating family shall be placed in an interest-bearing escrow account established by the public housing agency on behalf of the participating family. For families with incomes between 50 and 80 percent of the area median income, the Secretary shall provide for escrow of the difference between 30 percent of the family income and the amount paid by the family for rent as determined by the Secretary under paragraph (1). The Secretary shall not escrow any amounts for any family whose adjusted income exceeds 80 percent of the area median income. Amounts in

the escrow account may be withdrawn by the participating family after the family ceases to receive income assistance under Federal or State welfare programs, upon successful performance of the obligations of the family under the contract of participation entered into by the family under subsection (c), as determined according to the specific goals and terms included in the contract, and under other circumstances in which the Secretary determines an exception for good cause is warranted. A public housing agency establishing such escrow accounts may make certain amounts in the accounts available to the participating families before full performance of the contract obligations based on compliance with, and completion of, specific interim goals included in the contract; except that any such amounts shall be used by the participating families for purposes consistent with the contracts of participation, as determined by the public housing agency.

(3) PLAN.—Each public housing agency carrying out a local program under this section shall establish a plan to offer incentives to families to encourage families to participate in the program. The plan shall require the establishment of escrow savings accounts under paragraph (2) and may include any other incentives designed by the public housing agency.

(e) EFFECT OF INCREASES IN FAMILY INCOME.—Any increase in the earned income of a family during the participation of the family in a local program established under this section may not be considered as income or a resource for purposes of eligibility of the family for other benefits, or amount of benefits payable to the family, under any program administered by the Secretary, unless the income of the family equals or exceeds 80 percent of the median income of the area (as determined by the Secretary with adjustments for smaller and larger families).

(f) PROGRAM COORDINATING COMMITTEE.—

(1) FUNCTIONS.—Each public housing agency carrying out a local program under this section shall, in consultation with the chief executive officer of the unit of general local government, develop an action plan under subsection (g), carry out activities under the local program, and secure commitments of public and private resources through a program coordinating committee established by the public housing agency under this subsection.

(2) MEMBERSHIP.—The program coordinating committee may consist of representatives of the public housing agency, the unit of general local government, the local agencies (if any) responsible for carrying out programs under title I of the Workforce Innovation and Opportunity Act and Opportunity Act or the Job Opportunities and Basic Skills Training Program under part F of title IV of the Social Security Act, and other organizations, such as other State and local welfare and employment agencies, public and private education or training institutions, nonprofit service providers, and private businesses. The public housing agency may, in consultation with the chief executive officer of the unit of general local government, utilize an existing entity as the program coordinating committee if it meets the requirements of this subsection.

(g) ACTION PLAN.—

(1) REQUIRED SUBMISSION.—The Secretary shall require each public housing agency participating in the self-sufficiency program under this section to submit to the Secretary, for approval by the Secretary, an action plan under this subsection in such form and in accordance with such procedures as the Secretary shall require.

(2) DEVELOPMENT OF PLAN.—In developing the plan, the public housing agency shall consult with the chief executive officer of the applicable unit of general local government, the program coordinating committee established under subsection (f), representatives of residents of the public housing, any local agencies responsible for programs under title I of the Workforce Innovation and Opportunity Act or the Job Opportunities and Basic Skills Training Program under part F of title IV of the Social Security Act, other appropriate organizations (such as other local welfare and employment or training institutions, child care providers, nonprofit service providers, and private businesses), and any other public and private service providers affected by the operation of the local program.

(3) CONTENTS OF PLAN.—The Secretary shall require that the action plan contain at a minimum—

(A) a description of the size, characteristics, and needs of the population of the families expected to participate in the local self-sufficiency program;

(B) a description of the number of eligible participating families who can reasonably be expected to receive supportive services under the program, based on available and anticipated Federal, State, local, and private resources;

(C) a description of the services and activities under subsection (c)(2) to be provided to families receiving assistance under this section through the section 8 and public housing programs, which shall be provided by both public and private resources;

(D) a description of the incentives pursuant to subsection (d) offered by the public housing agency to families to encourage participation in the program;

(E) a description of how the local program will deliver services and activities according to the needs of the families participating in the program;

(F) a description of both the public and private resources that are expected to be made available to provide the activities and services under the local program;

(G) a timetable for implementation of the local program;

(H) assurances satisfactory to the Secretary that development of the services and activities under the local program has been coordinated with the Job Opportunities and Basic Skills Training Program under part F of title IV of the Social Security Act and programs under title I of the workforce Investment Act of 1998 and any other relevant employment, child care, transportation, training, and education programs in the applicable area, and that implementation will continue to be coordinated, in order to avoid duplication of services and activities; and

(I) assurances satisfactory to the Secretary that nonparticipating families will retain their rights to public housing or section 8 assistance notwithstanding the provisions of this section.

(h) ALLOWABLE PUBLIC HOUSING AGENCY ADMINISTRATIVE FEES AND COSTS.—

(1) SECTION 8 FEES.—The Secretary shall establish a fee under section 8(q) for the costs incurred in administering the provision of certificate and voucher assistance under section 8 through the self-sufficiency program under this section. The fee shall be the fee in effect under such section on June 1, 1990, except that for purposes of the fee under this paragraph the applicable dollar amount for preliminary expenses under section 8(q)(2)(A)(i) shall, subject to approval in appropriations Acts, be $300. Upon the submission by the Comptroller General of the United States of the report required under section 554(b) of the Cranston-Gonzalez National Affordable Housing Act, the Secretary shall revise the fee under this paragraph, taking into consideration the report of the Comptroller General.

(2) PERFORMANCE FUNDING SYSTEM.—Notwithstanding any provision of section 9, the Secretary shall provide for inclusion under the performance funding system under section 9 of reasonable and eligible administrative costs (including the costs of employing a full-time service coordinator) incurred by public housing agencies carrying out local programs under this section. The Secretary shall include an estimate of the administrative costs likely to be incurred by participating public housing agencies in the annual budget request for the Department of Housing and Urban Development for public housing operating assistance under section 9 and shall include a request for such amounts in the budget request. Of any amounts appropriated under section 9(c) for fiscal year 1993, $25,000,000 is authorized to be used for costs under this paragraph, and of any amounts appropriated under such section for fiscal year 1994, $25,900,000 is authorized to be used for costs under this paragraph.

(i) PUBLIC HOUSING AGENCY INCENTIVE AWARD ALLOCATION.—

(1) IN GENERAL.—The Secretary shall carry out a competition for budget authority for certificate and voucher assistance under section 8 and public housing development assistance under section 5(a)(2) reserved under paragraph (4) and shall allocate such budget authority to public housing agencies pursuant to the competition.

(2) CRITERIA.—The competition shall be based on successful and outstanding implementation by public housing agencies of a local self-sufficiency program under this section. The Secretary shall establish performance[158] criteria for public housing agencies carrying out such local programs and the Secretary shall cause such criteria to be published in the Federal Register.

(3) USE.—Each public housing agency that receives an allocation of budget authority under this subsection shall use such authority to provide assistance under the local self-sufficiency program established by the public housing agency under this section.

(4) RESERVATION OF BUDGET AUTHORITY.—Notwithstanding section 213(d) of the Housing and Community Development Act of 1974, the Secretary shall reserve for allocation under this subsection not less than 10 percent of the portion of budget authority appropriated in each of fiscal years 1991 and 1992 for section 8 that is available for purposes of providing assistance under the existing housing certificate and housing voucher programs for families not currently receiving assistance, and not

[158] So in law.

less than 10 percent of the public housing development assistance available in such fiscal years for the purpose under section 5(a)(2) (excluding amounts for major reconstruction of obsolete projects).

(j) ON-SITE FACILITIES.—Each public housing agency carrying out a local program may, subject to the approval of the Secretary, make available and utilize common areas or unoccupied public housing units in public housing projects administered by the agency for the provision of supportive services under the local program. The use of the facilities of a public housing agency under this subsection shall not affect the amount of assistance provided to the agency under section 9.

(k) FLEXIBILITY.—In establishing and carrying out the self-sufficiency program under this section, the Secretary shall allow public housing agencies, units of general local government, and other organizations discretion and flexibility, to the extent practicable, in developing and carrying out local programs.

(l) REPORTS.—

(1) TO SECRETARY.—Each public housing agency that carries out a local self-sufficiency program approved by the Secretary under this section shall submit to the Secretary, not less than annually a report regarding the program. The report shall include—

(A) a description of the activities carried out under the program;

(B) a description of the effectiveness of the program in assisting families to achieve economic independence and self-sufficiency;

(C) a description of the effectiveness of the program in coordinating resources of communities to assist families to achieve economic independence and self-sufficiency; and

(D) any recommendations of the public housing agency or the appropriate local program coordinating committee for legislative or administrative action that would improve the self-sufficiency program carried out by the Secretary and ensure the effectiveness of the program.

(2) HUD ANNUAL REPORT.—The Secretary shall submit to the Congress annually, as a part of the report of the Secretary under section 8 of the Department of Housing and Urban Development Act, a report summarizing the information submitted by public housing agencies under paragraph (1). The report under this paragraph shall also include any recommendations of the Secretary for improving the effectiveness of the self-sufficiency program under this section.

(m) GAO REPORT.—The Comptroller General of the United States may submit to the Congress reports under this subsection evaluating and describing the Family Self-Sufficiency program carried out by the Secretary under this section.

(n) DEFINITIONS.—As used in this section:

(1) The term “contract of participation” means a contract under subsection (c) entered into by a public housing agency carrying out a local program under this section and a participating family.

(2) The term “earned income” means income from wages, tips, salaries, and other employee compensation, and any earnings from self-employment. The term does not include any pension or annuity, transfer payments, or any cash or in-kind benefits.

(3) The term “eligible family” means a family whose head of household is not elderly, disabled, pregnant, a primary caregiver for children under the age of 3, or for whom the family self-sufficiency program would otherwise be unsuitable. Notwithstanding the preceding sentence, a public housing agency may enroll such families if they choose to participate in the program.

(4) The term “local program” means a program for providing supportive services to participating families carried out by a public housing agency within the jurisdiction of the public housing agency.

(5) The term “participating family” means a family that resides in public housing or housing assisted under section 8 and elects to participate in a local self-sufficiency program under this section.

(6) The term “vacant unit” means a dwelling unit that has been vacant for not less than 9 consecutive months.

(o) EFFECTIVE DATE AND REGULATIONS.—

(1) REGULATIONS.—Not later than the expiration of the 180-day period beginning on the date of the enactment of the Cranston-Gonzalez National Affordable Housing Act,[159] the Secretary shall by notice establish any requirements necessary to carry out this section. Such requirements shall be subject to section 553 of title 5, United States Code. The Secretary shall issue final regulations based on the notice not later than the expiration of the 8-month period beginning on the date of the notice. Such regulations shall become effective upon the expiration of the 1-year period beginning on the date of the publication of the final regulations.

[159] The date of enactment was November 28, 1990.

(2) [Repealed.]

Sec. 24. [42 U.S.C. 1437v]
DEMOLITION, SITE REVITALIZATION, REPLACEMENT HOUSING, AND TENANT-BASED ASSISTANCE GRANTS FOR PROJECTS.

(a) PURPOSES.—The purpose of this section is to provide assistance to public housing agencies for the purposes of—

(1) improving the living environment for public housing residents of severely distressed public housing projects through the demolition, rehabilitation, reconfiguration, or replacement of obsolete public housing projects (or portions thereof);

(2) revitalizing sites (including remaining public housing dwelling units) on which such public housing projects are located and contributing to the improvement of the surrounding neighborhood;

(3) providing housing that will avoid or decrease the concentration of very low-income families; and

(4) building sustainable communities.

It is also the purpose of this section to provide assistance to smaller communities for the purpose of facilitating the development of affordable housing for low-income families that is undertaken in connection with a main street revitalization or redevelopment project in such communities.

(b) GRANT AUTHORITY.—The Secretary may make grants as provided in this section to applicants whose applications for such grants are approved by the Secretary under this section.

(c) CONTRIBUTION REQUIREMENT.—

(1) IN GENERAL.—The Secretary may not make any grant under this section to any applicant unless the applicant certifies to the Secretary that the applicant will—

(A) supplement the aggregate amount of assistance provided under this section with an amount of funds from sources other than this section equal to not less than 5 percent of the amount provided under this section; and

(B) in addition to supplemental amounts provided in accordance with subparagraph (A), if the applicant uses more than 5 percent of the amount of assistance provided under this section for services under subsection (d)(1)(L), provide supplemental funds from sources other than this section in an amount equal to the amount so used in excess of 5 percent.

(2) SUPPLEMENTAL FUNDS.—In calculating the amount of supplemental funds provided by a grantee for purposes of paragraph (1), the grantee may include amounts from other Federal sources, any State or local government sources, any private contributions, the value of any donated material or building, the value of any lease on a building, the value of the time and services contributed by volunteers, and the value of any other in-kind services or administrative costs provided.

(3) EXEMPTION.—If assistance provided under this title will be used only for providing tenant-based assistance under section 8 or demolition of public housing (without replacement), the Secretary may exempt the applicant from the requirements under paragraph (1)(A).

(d) ELIGIBLE ACTIVITIES.—

(1) IN GENERAL.—Grants under this section may be used for activities to carry out revitalization programs for severely distressed public housing, including—

(A) architectural and engineering work;

(B) redesign, rehabilitation, or reconfiguration of a severely distressed public housing project, including the site on which the project is located;

(C) the demolition, sale, or lease of the site, in whole or in part;

(D) covering the administrative costs of the applicant, which may not exceed such portion of the assistance provided under this section as the Secretary may prescribe;

(E) payment of reasonable legal fees;

(F) providing reasonable moving expenses for residents displaced as a result of the revitalization of the project;

(G) economic development activities that promote the economic self-sufficiency of residents under the revitalization program, including a Neighborhood Networks initiative for the establishment and operation of computer centers in public housing for the purpose of enhancing the self-sufficiency, employability, an economic self-reliance of public housing residents by providing them with onsite computer access and training resources;

(H) necessary management improvements;

(I) leveraging other resources, including additional housing resources, retail supportive services, jobs, and other economic development uses on or near the project that will benefit future residents of the site;

(J) replacement housing (including appropriate homeownership downpayment assistance for displaced residents or other appropriate replacement homeownership activities) and rental assistance under section 8;

(K) transitional security activities; and

(L) necessary supportive services, except that not more than 15 percent of the amount of any grant may be used for activities under this paragraph.

(2) ENDOWMENT TRUST FOR SUPPORTIVE SERVICES.—In using grant amounts under this section made available in fiscal year 2000 or thereafter for supportive services under paragraph (1)(L), a public housing agency may deposit such amounts in an endowment trust to provide supportive services over such period of time as the agency determines. Such amounts shall be provided to the agency by the Secretary in a lump sum when requested by the agency, shall be invested in a wise and prudent manner, and shall be used (together with any interest thereon earned) only for eligible uses pursuant to paragraph (1)(L). A public housing agency may use amounts in an endowment trust under this paragraph in conjunction with other amounts donated or otherwise made available to the trust for similar purposes.

(e) APPLICATION AND SELECTION.—

(1) APPLICATION.—An application for a grant under this section shall demonstrate the appropriateness of the proposal in the context of the local housing market relative to other alternatives, and shall include such other information and be submitted at such time and in accordance with such procedures, as the Secretary shall prescribe.

(2) SELECTION CRITERIA.—The Secretary shall establish criteria for the award of grants under this section and shall include among the factors—

(A) the relationship of the grant to the public housing agency plan for the applicant and how the grant will result in a revitalized site that will enhance the neighborhood in which the project is located and enhance economic opportunities for residents;

(B) the capability and record of the applicant public housing agency, or any alternative management entity for the agency, for managing redevelopment or modernization projects, meeting construction timetables, and obligating amounts in a timely manner;

(C) the extent to which the applicant could undertake such activities without a grant under this section;

(D) the extent of involvement of residents, State and local governments, private service providers, financing entities, and developers, in the development and ongoing implementation of a revitalization program for the project, except that the Secretary may not award a grant under this section unless the applicant has involved affected public housing residents at the beginning and during the planning process for the revitalization program, prior to submission of an application;

(E) the need for affordable housing in the community;

(F) the supply of other housing available and affordable to families receiving tenant-based assistance under section 8;

(G) the amount of funds and other resources to be leveraged by the grant;

(H) the extent of the need for, and the potential impact of, the revitalization program;

(I) the extent to which the plan minimizes permanent displacement of current residents of the public housing site who wish to remain in or return to the revitalized community and provides for community and supportive services to residents prior to any relocation;

(J) the extent to which the plan sustains or creates more project-based housing units available to persons eligible for public housing in markets where the plan shows there is demand for the maintenance or creation of such units;

(K) the extent to which the plan gives to existing residents priority for occupancy in dwelling units which are public housing dwelling units, or for residents who can afford to live in other units, priority for those units in the revitalized community; and

(L) such other factors as the Secretary considers appropriate.

(3) APPLICABILITY OF SELECTION CRITERIA.—The Secretary may determine not to apply certain of the selection criteria established pursuant to paragraph (2) when awarding grants for demolition only, tenant-based assistance only, or other specific categories of revitalization activities. This section may not be construed to require any application for a grant under this section to include demolition of public

housing or to preclude use of grant amounts for rehabilitation or rebuilding of any housing on an existing site.

(f) COST LIMITS.—Subject to the provisions of this section, the Secretary—

(1) shall establish cost limits on eligible activities under this section sufficient to provide for effective revitalization programs; and

(2) may establish other cost limits on eligible activities under this section.

(g) DISPOSITION AND REPLACEMENT.—Any severely distressed public housing disposed of pursuant to a revitalization plan and any public housing developed in lieu of such severely distressed housing, shall be subject to the provisions of section 18. Severely distressed public housing demolished pursuant to a revitalization plan shall not be subject to the provisions of section 18.

(h) ADMINISTRATION BY OTHER ENTITIES.—The Secretary may require a grantee under this section to make arrangements satisfactory to the Secretary for use of an entity other than the public housing agency to carry out activities assisted under the revitalization plan, if the Secretary determines that such action will help to effectuate the purposes of this section.

(i) WITHDRAWAL OF FUNDING.—If a grantee under this section does not proceed within a reasonable timeframe, in the determination of the Secretary, the Secretary shall withdraw any grant amounts under this section that have not been obligated by the public housing agency. The Secretary shall redistribute any withdrawn amounts to one or more other applicants eligible for assistance under this section or to one or more other entities capable of proceeding expeditiously in the same locality in carrying out the revitalization plan of the original grantee.

(j) DEFINITIONS.—For purposes of this section, the following definitions shall apply:

(1) APPLICANT.—The term "applicant" means—

(A) any public housing agency that is not designated as troubled pursuant to section 6(j)(2);

(B) any public housing agency for which a private housing management agent has been selected, or a receiver has been appointed, pursuant to section 6(j)(3); and

(C) any public housing agency that is designated as troubled pursuant to section 6(j)(2) and that—

(i) is so designated principally for reasons that will not affect the capacity of the agency to carry out a revitalization program;

(ii) is making substantial progress toward eliminating the deficiencies of the agency; or

(iii) is otherwise determined by the Secretary to be capable of carrying out a revitalization program.

(2) SEVERELY DISTRESSED PUBLIC HOUSING.—The term "severely distressed public housing" means a public housing project (or building in a project)—

(A) that—

(i) requires major redesign, reconstruction or redevelopment, or partial or total demolition, to correct serious deficiencies in the original design (including inappropriately high population density), deferred maintenance, physical deterioration or obsolescence of major systems and other deficiencies in the physical plant of the project;

(ii) is a significant contributing factor to the physical decline of and disinvestment by public and private entities in the surrounding neighborhood;

(iii)(I) is occupied predominantly by families who are very low-income families with children, are unemployed, and dependent on various forms of public assistance;

(II) has high rates of vandalism and criminal activity (including drug-related criminal activity) in comparison to other housing in the area; or

(III) is lacking in sufficient appropriate transportation, supportive services, economic opportunity, schools, civic and religious institutions, and public services, resulting in severe social distress in the project;

(iv) cannot be revitalized through assistance under other programs, such as the program for capital and operating assistance for public housing under this Act, or the programs under sections 9 and 14 of the United States Housing Act of 1937 (as in effect before the effective date under under[160] section 503(a)[161] the Quality Housing and Work

[160] So in law.
[161] So in law.

Responsibility Act of 1998[162]), because of cost constraints and inadequacy of available amounts; and

(v) in the case of individual buildings, is, in the Secretary's determination, sufficiently separable from the remainder of the project of which the building is part to make use of the building feasible for purposes of this section; or

(B) that was a project described in subparagraph (A) that has been legally vacated or demolished, but for which the Secretary has not yet provided replacement housing assistance (other than tenant-based assistance).

(3) SUPPORTIVE SERVICES.—The term "supportive services" includes all activities that will promote upward mobility, self-sufficiency, and improved quality of life for the residents of the public housing project involved, including literacy training, job training, day care, transportation, and economic development activities.

(k) GRANTEE REPORTING.—The Secretary shall require grantees of assistance under this section to report the sources and uses of all amounts expended for revitalization plans.

(l) ANNUAL REPORT.—The Secretary shall submit to the Congress an annual report setting forth—

(1) the number, type, and cost of public housing units revitalized pursuant to this section;

(2) the status of projects identified as severely distressed public housing;

(3) the amount and type of financial assistance provided under and in conjunction with this section, including a specification of the amount and type of assistance provided under subsection (n);

(4) the types of projects funded, and number of affordable housing dwelling units developed with, grants under subsection (n); and

(5) the recommendations of the Secretary for statutory and regulatory improvements to the program established by this section.

(m) FUNDING.—

(1) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated for grants under this section $574,000,000 for fiscal year 2016.

(2) TECHNICAL ASSISTANCE AND PROGRAM OVERSIGHT.—Of the amount appropriated pursuant to paragraph (1) for any fiscal year, the Secretary may use up to 2 percent for technical assistance or contract expertise, including assistance in connection with the establishment and operation of computer centers in public housing through the Neighborhoods Networks initiative described in subsection (d)(1)(G). Such assistance or contract expertise may be provided directly or indirectly by grants, contracts, or cooperative agreements, and shall include training, and the cost of necessary travel for participants in such training, by or to officials of the Department of Housing and Urban Development, of public housing agencies, and of residents.

(3) SET-ASIDE FOR MAIN STREET HOUSING GRANTS.—Of the amount appropriated pursuant to paragraph (1) for any fiscal year, the Secretary shall provide up to 5 percent for use only for grants under subsection (n).

(n) GRANTS FOR ASSISTING AFFORDABLE HOUSING DEVELOPED THROUGH MAIN STREET PROJECTS IN SMALLER COMMUNITIES.—

(1) AUTHORITY AND USE OF GRANT AMOUNTS.—The Secretary may make grants under this subsection to smaller communities. Such grant amounts shall be used by smaller communities only to provide assistance to carry out eligible affordable housing activities under paragraph (4) in connection with an eligible project under paragraph (2).

(2) ELIGIBLE PROJECT.—For purposes of this subsection, the term "eligible project" means a project that—

(A) the Secretary determines, under the criteria established pursuant to paragraph (3), is a main street project;

(B) is carried out within the jurisdiction of a smaller community receiving the grant; and

(C) involves the development of affordable housing that is located in the commercial area that is the subject of the project.

(3) MAIN STREET PROJECTS.—The Secretary shall establish requirements for a project to be considered a main street project for purposes of this section, which shall require that the project—

[162] The effective date under section 503 of such Act (112 Stat. 2521; 42 U.S.C. 1437 note) was October 1, 1999, except to the extent otherwise specifically provided in such Act or to the extent that the Secretary, by notice, implemented any provision of such Act before such date.

(A) has as its purpose the revitalization or redevelopment of a historic or traditional commercial area;

(B) involves investment, or other participation, by the government for, and private entities in, the community in which the project is carried out; and

(C) complies with such historic preservation guidelines or principles as the Secretary shall identify to preserve significant historic or traditional architectural and design features in the structures or area involved in the project.

(4) ELIGIBLE AFFORDABLE HOUSING ACTIVITIES.—For purposes of this subsection, the activities described in subsection (d)(1) shall be considered eligible affordable housing activities, except that—

(A) such activities shall be conducted with respect to affordable housing rather than with respect to severely distressed public housing projects; and

(B) eligible affordable housing activities under this subsection shall not include the activities described in subparagraphs (B) through (E), (J), or (K) of subsection (d)(1).

(5) MAXIMUM GRANT AMOUNT.—A grant under this subsection for a fiscal year for a single smaller community may not exceed $1,000,000.

(6) CONTRIBUTION REQUIREMENT.—A smaller community applying for a grant under this subsection shall be considered an applicant for purposes of subsection (c) (relating to contributions by applicants), except that—

(A) such supplemental amounts shall be used only for carrying out eligible affordable housing activities; and

(B) paragraphs (1)(B) and (3) shall not apply to grants under this subsection.

(7) APPLICATIONS AND SELECTION.—

(A) APPLICATION.—Pursuant to subsection (e)(1), the Secretary shall provide for smaller communities to apply for grants under this subsection, except that the Secretary may establish such separate or additional criteria for applications for such grants as may be appropriate to carry out this subsection.

(B) SELECTION CRITERIA.—The Secretary shall establish selection criteria for the award of grants under this subsection, which shall be based on the selection criteria established pursuant to subsection (e)(2), with such changes as may be appropriate to carry out the purposes of this subsection.

(8) COST LIMITS.—The cost limits established pursuant to subsection (f) shall apply to eligible affordable housing activities assisted with grant amounts under this subsection.

(9) INAPPLICABILITY OF OTHER PROVISIONS.—The provisions of subsections (g) (relating to disposition and replacement of severely distressed public housing), and (h) (relating to administration of grants by other entities), shall not apply to grants under this subsection.

(10) REPORTING.—The Secretary shall require each smaller community receiving a grant under this subsection to submit a report regarding the use of all amounts provided under the grant.

(11) DEFINITIONS.—For purposes of this subsection, the following definitions shall apply:

(A) AFFORDABLE HOUSING.—The term “affordable housing” means rental or homeownership dwelling units that—

(i) are made available for initial occupancy to low-income families, with a subset of units made available to very- and extremely-low income families; and

(ii) are subject to the same rules regarding occupant contribution toward rent or purchase and terms of rental or purchase as dwelling units in public housing projects assisted with a grant under this section.

(B) SMALLER COMMUNITY.—The term “smaller community” means a unit of general local government (as such term is defined in section 102 of the Housing and Community Development Act of 1974 (42 U.S.C. 5302)) that—

(i) has a population of 50,000 or fewer; and

(ii)(I) is not served by a public housing agency; or

(II) is served by a single public housing agency, which agency administers 100 or fewer public housing dwelling units.

(o) SUNSET.—No assistance may be provided under this section after September 30, 2012.

Sec. 25. [42 U.S.C. 1437w]
TRANSFER OF MANAGEMENT OF CERTAIN HOUSING TO INDEPENDENT MANAGER AT REQUEST OF RESIDENTS.

(a) AUTHORITY.—The Secretary may transfer the responsibility and authority for management of specified housing (as such term is defined in subsection (h)) from a public housing agency to an eligible management entity, in accordance with the requirements of this section, if—

(1) a request for transfer of management of such housing is made and approved in accordance with subsection (b); and

(2) the Secretary or the public housing agency, as appropriate pursuant to subsection (b), determines that—

(A) due to the mismanagement of the agency, such housing has deferred maintenance, physical deterioration, or obsolescence of major systems and other deficiencies in the physical plant of the project;

(B) such housing is located in an area such that the housing is subject to recurrent vandalism and criminal activity (including drug-related criminal activity); and

(C) the residents can demonstrate that the elements of distress for such housing specified in subparagraphs (A) and (B) can be remedied by an entity or entities, identified by the residents, that has or have a demonstrated capacity to manage, with reasonable expenses for modernization.

(b) REQUEST FOR TRANSFER.—The responsibility and authority for managing specified housing may be transferred only pursuant to a request made by a majority vote of the residents for the specified housing that—

(1) in the case of specified housing that is owned by a public housing agency that is designated as a troubled agency under section 6(j)(2)—

(A) is made to the public housing agency or the Secretary; and

(B) is approved by the agency or the Secretary; or

(2) in the case of specified housing that is owned by a public housing agency that is not designated as a troubled agency under section 6(j)(2)—

(A) is made to and approved by the public housing agency; or

(B) if a request is made to the agency pursuant to subparagraph (A) and is not approved, is subsequently made to and approved by the Secretary.

(c) CAPITAL AND OPERATING ASSISTANCE.—Pursuant to a contract under subsection (d), the Secretary shall require the public housing agency for specified housing to provide to the manager for the housing, from any assistance from the Capital and Operating Funds under section 9 for the agency, fair and reasonable amounts for the housing for eligible capital and operating activities under subsection (d)(1) and (e)(1) of section 9. The amount made available under this subsection to a manager shall be determined by the Secretary based on the share for the specified housing of the aggregate amount of assistance from such Funds for the public housing agency transferring the housing, taking into consideration the operating and capital improvement needs of the specified housing, the operating and capital improvement needs of the remaining public housing units managed by the public housing agency, and the public housing agency plan of such agency.

(d) CONTRACT BETWEEN SECRETARY AND MANAGER.—

(1) REQUIREMENTS.—Pursuant to the approval of a request under this section for transfer of the management of specified housing, the Secretary shall enter into a contract with the eligible management entity.

(2) TERMS.—A contract under this subsection shall contain provisions establishing the rights and responsibilities of the manager with respect to the specified housing and the Secretary and shall be consistent with the requirements of this Act applicable to public housing projects.

(e) COMPLIANCE WITH PUBLIC HOUSING AGENCY PLAN.—A manager of specified housing under this section shall comply with the approved public housing agency plan applicable to the housing and shall submit such information to the public housing agency from which management was transferred as may be necessary for such agency to prepare and update its public housing agency plan.

(f) DEMOLITION AND DISPOSITION BY MANAGER.—A manager under this section may demolish or dispose of specified housing only if, and in the manner, provided for in the public housing agency plan for the agency transferring management of the housing.

(g) LIMITATION ON PHA LIABILITY.—A public housing agency that is not a manager for specified housing shall not be liable for any act or failure to act by a manager or resident council for the specified housing.

(h) DEFINITIONS.—For purposes of this section, the following definitions shall apply:

(1) ELIGIBLE MANAGEMENT ENTITY.—The term "eligible management entity" means, with respect to any public housing project, any of the following entities:

(A) NONPROFIT ORGANIZATION.—A public or private nonprofit organization, which may—

(i) include a resident management corporation; and

(ii) not include the public housing agency that owns or operates the project.

(B) FOR-PROFIT ENTITY.—A for-profit entity that has demonstrated experience in providing low-income housing.

(C) STATE OR LOCAL GOVERNMENT.—A State or local government, including an agency or instrumentality thereof.

(D) PUBLIC HOUSING AGENCY.—A public housing agency (other than the public housing agency that owns or operates the project).

The term does not include a resident council.

(2) MANAGER.—The term "manager" means any eligible management entity that has entered into a contract under this section with the Secretary for the management of specified housing.

(3) NONPROFIT.—The term "nonprofit" means, with respect to an organization, association, corporation, or other entity, that no part of the net earnings of the entity inures to the benefit of any member, founder, contributor, or individual.

(4) PRIVATE NONPROFIT ORGANIZATION.—The term "private nonprofit organization" means any private organization (including a State or locally chartered organization) that—

(A) is incorporated under State or local law;

(B) is nonprofit in character;

(C) complies with standards of financial accountability acceptable to the Secretary; and

(D) has among its purposes significant activities related to the provision of decent housing that is affordable to low-income families.

(5) PUBLIC NONPROFIT ORGANIZATION.—The term "public nonprofit organization" means any public entity that is nonprofit in character.

(6) SPECIFIED HOUSING.—The term "specified housing" means a public housing project or projects, or a portion of a project or projects, for which the transfer of management is requested under this section. The term includes one or more contiguous buildings and an area of contiguous row houses, but in the case of a single building, the building shall be sufficiently separable from the remainder of the project of which it is part to make transfer of the management of the building feasible for purposes of this section.

Sec. 26. [42 U.S.C. 1437x]
ENVIRONMENTAL REVIEWS.

(a) IN GENERAL.—

(1) RELEASE OF FUNDS.—In order to assure that the policies of the National Environmental Policy Act of 1969 and other provisions of law which further the purposes of such Act (as specified in regulations issued by the Secretary) are most effectively implemented in connection with the expenditure of funds under this title, and to assure to the public undiminished protection of the environment, the Secretary may, under such regulations, in lieu of the environmental protection procedures otherwise applicable, provide for the release of funds for projects or activities under this title, as specified by the Secretary upon the request of a public housing agency under this section, if the State or unit of general local government, as designated by the Secretary in accordance with regulations, assumes all of the responsibilities for environmental review, decisionmaking, and action pursuant to such Act, and such other provisions of law as the regulations of the Secretary may specify, which would otherwise apply to the Secretary with respect to the release of funds.

(2) IMPLEMENTATION.—The Secretary, after consultation with the Council on Environmental Quality, shall issue such regulations as may be necessary to carry out this section. Such regulations shall specify the programs to be covered.

(b) PROCEDURE.—The Secretary shall approve the release of funds subject to the procedures authorized by this section only if, not less than 15 days prior to such approval and prior to any commitment of funds to such projects or activities, the public housing agency has submitted to the Secretary a request for such release accompanied by a certification of the State or unit of general local government which meets the requirements of subsection (c). The Secretary's approval of any such certification shall be deemed to satisfy the Secretary's responsibilities under the National Environmental Policy Act of 1969 and such other provisions of law as the

regulations of the Secretary specify insofar as those responsibilities relate to the release of funds which are covered by such certification.

(c) CERTIFICATION.—A certification under the procedures authorized by this section shall—

(1) be in a form acceptable to the Secretary;

(2) be executed by the chief executive officer or other officer of the State or unit of general local government who qualifies under regulations of the Secretary;

(3) specify that the State or unit of general local government under this section has fully carried out its responsibilities as described under subsection (a); and

(4) specify that the certifying officer—

(A) consents to assume the status of a responsible Federal official under the National Environmental Policy Act of 1969 and each provision of law specified in regulations issued by the Secretary insofar as the provisions of such Act or other such provision of law apply pursuant to subsection (a); and

(B) is authorized and consents on behalf of the State or unit of general local government and himself or herself to accept the jurisdiction of the Federal courts for the purpose of enforcement of his or her responsibilities as such an official.

(d) APPROVAL BY STATES.—In cases in which a unit of general local government carries out the responsibilities described in subsection (c), the Secretary may permit the State to perform those actions of the Secretary described in subsection (b) and the performance of such actions by the State, where permitted by the Secretary, shall be deemed to satisfy the Secretary's responsibilities referred to in the second sentence of subsection (b).

Sec. 27. [42 U.S.C. 1437y]
PROVISION OF INFORMATION TO LAW ENFORCEMENT AND OTHER AGENCIES.

Notwithstanding any other provision of law, the Secretary shall, at least 4 times annually and upon request of the Immigration and Naturalization Service (hereafter in this section referred to as the "Service"), furnish the Service with the name and address of, and other identifying information on, any individual who the Secretary knows is not lawfully present in the United States, and shall ensure that each contract for assistance entered into under section 6 or 8 of this Act with a public housing agency provides that the public housing agency shall furnish such information at such times with respect to any individual who the public housing agency knows is not lawfully present in the United States.

Sec. 28. [42 U.S.C. 1437z]
EXCHANGE OF INFORMATION WITH LAW ENFORCEMENT AGENCIES.

Notwithstanding any other provision of law, each public housing agency that enters into a contract for assistance under section 6 or 8 of this Act with the Secretary shall furnish any Federal, State, or local law enforcement officer, upon the request of the officer, with the current address, Social Security number, and photograph (if applicable) of any recipient of assistance under this Act, if the officer—

(1) furnishes the public housing agency with the name of the recipient; and

(2) notifies the agency that—

(A) such recipient—

(i) is fleeing to avoid prosecution, or custody or confinement after conviction, under the laws of the place from which the individual flees, for a crime, or attempt to commit a crime, which is a felony under the laws of the place from which the individual flees, or which, in the case of the State of New Jersey, is a high misdemeanor under the laws of such State; or

(ii) is violating a condition of probation or parole imposed under Federal or State law; or

(iii) has information that is necessary for the officer to conduct the officer's official duties;

(B) the location or apprehension of the recipient is within such officer's official duties; and

(C) the request is made in the proper exercise of the officer's official duties.

Sec. 29. [42 U.S.C. 1437z-1]
CIVIL MONEY PENALTIES AGAINST SECTION 8 OWNERS.

(a) IN GENERAL.—

(1) EFFECT ON OTHER REMEDIES.—The penalties set forth in this section shall be in addition to any other available civil remedy or any available criminal penalty, and may be imposed regardless of whether the Secretary imposes other administrative sanctions.

(2) FAILURE OF SECRETARY.—The Secretary may not impose penalties under this section for a violation, if a material cause of the violation is the failure of the Secretary, an agent of the Secretary, or a public housing agency to comply with an existing agreement.

(b) VIOLATIONS OF HOUSING ASSISTANCE PAYMENT CONTRACTS FOR WHICH PENALTY MAY BE IMPOSED.—

(1) LIABLE PARTIES.—The Secretary may impose a civil money penalty under this section on—

(A) any owner of a property receiving project-based assistance under section 8;

(B) any general partner of a partnership owner of that property; and

(C) any agent employed to manage the property that has an identity of interest with the owner or the general partner of a partnership owner of the property.

(2) VIOLATIONS.—A penalty may be imposed under this section for a knowing and material breach of a housing assistance payments contract, including the following—

(A) failure to provide decent, safe, and sanitary housing pursuant to section 8; or

(B) knowing or willful submission of false, fictitious, or fraudulent statements or requests for housing assistance payments to the Secretary or to any department or agency of the United States.

(3) AMOUNT OF PENALTY.—The amount of a penalty imposed for a violation under this subsection, as determined by the Secretary, may not exceed $25,000 per violation.

(c) AGENCY PROCEDURES.—

(1) ESTABLISHMENT.—The Secretary shall issue regulations establishing standards and procedures governing the imposition of civil money penalties under subsection (b). These standards and procedures—

(A) shall provide for the Secretary or other department official to make the determination to impose the penalty;

(B) shall provide for the imposition of a penalty only after the liable party has received notice and the opportunity for a hearing on the record; and

(C) may provide for review by the Secretary of any determination or order, or interlocutory ruling, arising from a hearing and judicial review, as provided under subsection (d).

(2) FINAL ORDERS.—

(A) IN GENERAL.—If a hearing is not requested before the expiration of the 15-day period beginning on the date on which the notice of opportunity for hearing is received, the imposition of a penalty under subsection (b) shall constitute a final and unappealable determination.

(B) EFFECT OF REVIEW.—If the Secretary reviews the determination or order, the Secretary may affirm, modify, or reverse that determination or order.

(C) FAILURE TO REVIEW.—If the Secretary does not review that determination or order before the expiration of the 90-day period beginning on the date on which the determination or order is issued, the determination or order shall be final.

(3) FACTORS IN DETERMINING AMOUNT OF PENALTY.—In determining the amount of a penalty under subsection (b), the Secretary shall take into consideration—

(A) the gravity of the offense;

(B) any history of prior offenses by the violator (including offenses occurring before the enactment of this section);

(C) the ability of the violator to pay the penalty;

(D) any injury to tenants;

(E) any injury to the public;

(F) any benefits received by the violator as a result of the violation;

(G) deterrence of future violations; and

(H) such other factors as the Secretary may establish by regulation.

(4) PAYMENT OF PENALTY.—No payment of a civil money penalty levied under this section shall be payable out of project income.

(d) JUDICIAL REVIEW OF AGENCY DETERMINATION.—Judicial review of determinations made under this section shall be carried out in accordance with section 537(e) of the National Housing Act.

(e) REMEDIES FOR NONCOMPLIANCE.—

(1) JUDICIAL INTERVENTION.—

(A) IN GENERAL.—If a person or entity fails to comply with the determination or order of the Secretary imposing a civil money penalty under subsection (b), after the determination or order is no longer subject to review as provided by subsections (c) and (d), the Secretary may request the Attorney General of the United States to bring an action in an appropriate United States district court to obtain a monetary judgment against that person or entity and such other relief as may be available.

(B) FEES AND EXPENSES.—Any monetary judgment awarded in an action brought under this paragraph may, in the discretion of the court, include the attorney's fees and other expenses incurred by the United States in connection with the action.

(2) NONREVIEWABILITY OF DETERMINATION OR ORDER.—In an action under this subsection, the validity and appropriateness of the determination or order of the Secretary imposing the penalty shall not be subject to review.

(f) SETTLEMENT BY SECRETARY.—The Secretary may compromise, modify, or remit any civil money penalty which may be, or has been, imposed under this section.

(g) DEPOSIT OF PENALTIES.—

(1) IN GENERAL.—Notwithstanding any other provision of law, if the mortgage covering the property receiving assistance under section 8 is insured or was formerly insured by the Secretary, the Secretary shall apply all civil money penalties collected under this section to the appropriate insurance fund or funds established under this Act, as determined by the Secretary.

(2) EXCEPTION.—Notwithstanding any other provision of law, if the mortgage covering the property receiving assistance under section 8 is neither insured nor formerly insured by the Secretary, the Secretary shall make all civil money penalties collected under this section available for use by the appropriate office within the Department for administrative costs related to enforcement of the requirements of the various programs administered by the Secretary.

(h) DEFINITIONS.—In this section—

(1) the term "agent employed to manage the property that has an identity of interest" means an entity—

(A) that has management responsibility for a project;

(B) in which the ownership entity, including its general partner or partners (if applicable), has an ownership interest; and

(C) over which such ownership entity exerts effective control; and

(2) the term "knowing" means having actual knowledge of or acting with deliberate ignorance of or reckless disregard for the prohibitions under this section.

Sec. 30. [42 U.S.C. 1437z-2]
PUBLIC HOUSING MORTGAGES AND SECURITY INTERESTS.

(a) GENERAL AUTHORIZATION.—The Secretary may, upon such terms and conditions as the Secretary may prescribe, authorize a public housing agency to mortgage or otherwise grant a security interest in any public housing project or other property of the public housing agency.

(b) TERMS AND CONDITIONS.—In making any authorization under subsection (a), the Secretary may consider—

(1) the ability of the public housing agency to use the proceeds of the mortgage or security interest for low-income housing uses;

(2) the ability of the public housing agency to make payments on the mortgage or security interest; and

(3) such other criteria as the Secretary may specify.

(c) NO FEDERAL LIABILITY.—No action taken under this section shall result in any liability to the Federal Government.

Sec. 31. [42 U.S.C. 1437z-3]
PET OWNERSHIP IN PUBLIC HOUSING.

(a) OWNERSHIP CONDITIONS.—A resident of a dwelling unit in public housing (as such term is defined in subsection (c)) may own 1 or more common household pets or have 1 or more common household pets present in the dwelling unit of such resident, subject to the reasonable requirements of the public housing agency, if the resident maintains each pet responsibly and in accordance with applicable State and local public health, animal control, and animal anti-cruelty laws and regulations and with the policies established in the public housing agency plan for the agency.

(b) REASONABLE REQUIREMENTS.—The reasonable requirements referred to in subsection (a) may include—

(1) requiring payment of a nominal fee, a pet deposit, or both, by residents owning or having pets present, to cover the reasonable operating costs to the project relating to the presence of pets and to establish an escrow account for additional costs not otherwise covered, respectively;

(2) limitations on the number of animals in a unit, based on unit size;

(3) prohibitions on—

(A) types of animals that are classified as dangerous; and

(B) individual animals, based on certain factors, including the size and weight of the animal; and

(4) restrictions or prohibitions based on size and type of building or project, or other relevant conditions.

(c) PET OWNERSHIP IN PUBLIC HOUSING DESIGNATED FOR OCCUPANCY BY ELDERLY OR HANDICAPPED FAMILIES.—For purposes of this section, the term ‘public housing’ has the meaning given the term in section 3(b), except that such term does not include any public housing that is federally assisted rental housing for the elderly or handicapped, as such term is defined in section 227(d) of the Housing and Urban-Rural Recovery Act of 1983 (12 U.S.C. 1701r-1(d)).

(d) REGULATIONS.—This section shall take effect upon the date of the effectiveness of regulations issued by the Secretary to carry out this section. Such regulations shall be issued after notice and opportunity for public comment in accordance with the procedure under section 553 of title 5, United States Code, applicable to substantive rules (notwithstanding subsections (a)(2), (b)(B), and (d)(3) of such section).

Sec. 32. [42 U.S.C. 1437z-4]
RESIDENT HOMEOWNERSHIP PROGRAMS.

(a) IN GENERAL.—A public housing agency may carry out a homeownership program in accordance with this section and the public housing agency plan of the agency to make public housing dwelling units, public housing projects, and other housing projects available for purchase by low-income families for use only as principal residences for such families. An agency may transfer a unit pursuant to a homeownership program only if the program is authorized under this section and approved by the Secretary.

(b) PARTICIPATING UNITS.—A program under this section may cover any existing public housing dwelling units or projects, and may include other dwelling units and housing owned, assisted, or operated, or otherwise acquired for use under such program, by the public housing agency.

(c) ELIGIBLE PURCHASERS.—

(1) LOW-INCOME REQUIREMENT.—Only low-income families assisted by a public housing agency, other low-income families, and entities formed to facilitate such sales by purchasing units for resale to low-income families shall be eligible to purchase housing under a homeownership program under this section.

(2) OTHER REQUIREMENTS.—A public housing agency may establish other requirements or limitations for families to purchase housing under a homeownership program under this section, including requirements or limitations regarding employment or participation in employment counseling or training activities, criminal activity, participation in homeownership counseling programs, evidence of regular income, and other requirements. In the case of purchase by an entity for resale to low-income families, the entity shall sell the units to low-income families within 5 years from the date of its acquisition of the units. The entity shall use any net proceeds from the resale and from managing the units, as determined in accordance with guidelines of the Secretary, for housing purposes, such as funding resident organizations and reserves for capital replacements.

(d) RIGHT OF FIRST REFUSAL.—In making any sale under this section, the public housing agency shall initially offer the public housing unit at issue to the resident or residents occupying that unit, if any, or to an organization serving as a conduit for sales to any such resident.

(e) PROTECTION OF NONPURCHASING RESIDENTS.—If a public housing resident does not exercise the right of first refusal under subsection (d) with respect to the public housing unit in which the resident resides, the public housing agency—

(1) shall notify the resident residing in the unit 90 days prior to the displacement date except in cases of imminent threat to health or safety, consistent with any guidelines issued by the Secretary governing such notifications, that—

(A) the public housing unit will be sold;

(B) the transfer of possession of the unit will occur until the resident is relocated; and

(C) each resident displaced by such action will be offered comparable housing—

(i) that meets housing quality standards;

(ii) that is located in an area that is generally not less desirable than the location of the displaced resident's housing; and

(iii) which may include—

(I) tenant-based assistance, except that the requirement under this subclause regarding offering of comparable housing shall be fulfilled by use of tenant-based assistance only upon the relocation of such resident into such housing;

(II) project-based assistance; or

(III) occupancy in a unit owned, operated, or assisted by the public housing agency at a rental rate paid by the resident that is comparable to the rental rate applicable to the unit from which the resident is vacated;

(2) shall provide for the payment of the actual and reasonable relocation expenses of the resident to be displaced;

(3) shall ensure that the displaced resident is offered comparable housing in accordance with the notice under paragraph (1);

(4) shall provide any necessary counseling for the displaced resident; and

(5) shall not transfer possession of the unit until the resident is relocated.

(f) FINANCING AND ASSISTANCE.—A homeownership program under this section may provide financing for acquisition of housing by families purchasing under the program, or for acquisition of housing by the public housing agency for sale under the program, in any manner considered appropriate by the agency (including sale to a resident management corporation).

(g) DOWNPAYMENT REQUIREMENT.—

(1) IN GENERAL.—Each family purchasing housing under a homeownership program under this section shall be required to provide from its own resources a downpayment in connection with any loan for acquisition of the housing, in an amount determined by the public housing agency. Except as provided in paragraph (2), the agency shall permit the family to use grant amounts, gifts from relatives, contributions from private sources, and similar amounts as downpayment amounts in such purchase.

(2) DIRECT FAMILY CONTRIBUTION.—In purchasing housing pursuant to this section, each family shall contribute an amount of the downpayment, from resources of the family other than grants, gifts, contributions, or other similar amounts referred to in paragraph (1), that is not less than 1 percent of the purchase price.

(h) OWNERSHIP INTERESTS.—A homeownership program under this section may provide for sale to the purchasing family of any ownership interest that the public housing agency considers appropriate under the program, including ownership in fee simple, a condominium interest, an interest in a limited dividend cooperative, a shared appreciation interest with a public housing agency providing financing.

(i) RESALE.—

(1) AUTHORITY AND LIMITATION.—A homeownership program under this section shall permit the resale of a dwelling unit purchased under the program by an eligible family, but shall provide such limitations on resale as the agency considers appropriate (whether the family purchases directly from the agency or from another entity) for the agency to recapture—

(A) some or all of the economic gain derived from any such resale occurring during the 5-year period beginning upon purchase of the dwelling unit by the eligible family; and

(B) after the expiration of such 5-year period, only such amounts as are equivalent to the assistance provided under this section by the agency to the purchaser.

(2) CONSIDERATIONS.—The limitations referred to in paragraph (1)(A) may provide for consideration of the aggregate amount of assistance provided under the program to the family, the

contribution to equity provided by the purchasing eligible family, the period of time elapsed between purchase under the homeownership program and resale, the reason for resale, any improvements to the property made by the eligible family, any appreciation in the value of the property, and any other factors that the agency considers appropriate.

(j) NET PROCEEDS.—The net proceeds of any sales under a homeownership program under this section remaining after payment of all costs of the sale shall be used for purposes relating to low-income housing and in accordance with the public housing agency plan of the agency carrying out the program.

(k) HOMEOWNERSHIP ASSISTANCE.—From amounts distributed to a public housing agency under the Capital Fund under section 9(d), or from other income earned by the public housing agency, the public housing agency may provide assistance to public housing residents to facilitate the ability of those residents to purchase a principal residence, including a residence other than a residence located in a public housing project.

(l) INAPPLICABILITY OF DISPOSITION REQUIREMENTS.—The provisions of section 18 shall not apply to disposition of public housing dwelling units under a homeownership program under this section.

Sec. 33. [42 U.S.C. 1437z-5][163]

REQUIRED CONVERSION OF DISTRESSED PUBLIC HOUSING TO TENANT-BASED ASSISTANCE.

(a) IDENTIFICATION OF UNITS.—Each public housing agency shall identify all public housing projects of the public housing agency that meet all of the following requirements:

(1) The project is on the same or contiguous sites.

(2) The project is determined by the public housing agency to be distressed, which determination shall be made in accordance with guidelines established by the Secretary, which guidelines shall take into account the criteria established in the Final Report of the National Commission on Severely Distressed Public Housing (August 1992).

(3) The project—

(A) is identified as distressed housing under paragraph (2) for which the public housing agency cannot assure the long-term viability as public housing through reasonable modernization expenses, density reduction, achievement of a broader range of family income, or other measures; or

(B) has an estimated cost, during the remaining useful life of the project, of continued operation and modernization as public housing that exceeds the estimated cost, during the remaining useful life of the project, of providing tenant-based assistance under section 8 for all families in occupancy, based on appropriate indicators of cost (such as the percentage of total development costs required for modernization).

(b) CONSULTATION.—Each public housing agency shall consult with the appropriate public housing residents and the appropriate unit of general local government in identifying any public housing projects under subsection (a).

(c) PLAN FOR REMOVAL OF UNITS FROM INVENTORIES OF PHA'S.—

(1) DEVELOPMENT.—Each public housing agency shall develop and carry out a 5-year plan in conjunction with the Secretary for the removal of public housing units identified under subsection (a) from the inventory of the public housing agency and the annual contributions contract.

(2) APPROVAL.—Each plan required under paragraph (1) shall—

(A) be included as part of the public housing agency plan;

(B) be certified by the relevant local official to be in accordance with the comprehensive housing affordability strategy under title I of the Housing and Community Development Act of 1992; and

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[163] Section 537(a) of the Quality Housing and Work Responsibility Act of 1998, title V of Public Law 105-276, approved October 21, 1998, amended this section to read as shown.

Subsection (b) of section 537 of such Act repealed section 202 of the Departments of Veterans Affairs and Housing and Urban Development, and Independent Agencies Appropriations Act, 1996 (Public Law 104-134; 110 Stat. 1321-279), which required public housing agencies to carry out a program for conversion of certain public housing to vouchers.

Subsection (c)(2) of section 537 of such Act provides as follows:

"(2) Savings provision.—Notwithstanding the amendments made by this section, section 202 of the Departments of Veterans Affairs and Housing and Urban Development, and Independent Agencies Appropriations Act, 1996 (42 U.S.C. 14371 note) and any regulations implementing such section, as in effect immediately before the enactment of this Act, shall continue to apply to public housing developments identified by the Secretary or a public housing agency for conversion pursuant to that section or for assessment of whether such conversion is required prior to enactment of this Act.".

(C) include a description of any disposition and demolition plan for the public housing units.

(3) EXTENSIONS.—The Secretary may extend the 5-year deadline described in paragraph (1) by not more than an additional 5 years if the Secretary makes a determination that the deadline is impracticable.

(4) REVIEW BY SECRETARY.—

(A) FAILURE TO IDENTIFY PROJECTS.—If the Secretary determines, based on a plan submitted under this subsection, that a public housing agency has failed to identify 1 or more public housing projects that the Secretary determines should have been identified under subsection (a), the Secretary may designate the public housing projects to be removed from the inventory of the public housing agency pursuant to this section.

(B) ERRONEOUS IDENTIFICATION OF PROJECTS.—If the Secretary determines, based on a plan submitted under this subsection, that a public housing agency has identified 1 or more public housing projects that should not have been identified pursuant to subsection (a), the Secretary shall—

(i) require the public housing agency to revise the plan of the public housing agency under this subsection; and

(ii) prohibit the removal of any such public housing project from the inventory of the public housing agency under this section.

(d) CONVERSION TO TENANT-BASED ASSISTANCE.—

(1) IN GENERAL.—To the extent approved in advance in appropriations Acts, the Secretary shall make budget authority available to a public housing agency to provide assistance under this Act to families residing in any public housing project that, pursuant to this section, is removed from the inventory of the agency and the annual contributions contract of the agency.

(2) CONVERSION REQUIREMENTS.—Each agency carrying out a plan under subsection (c) for removal of public housing dwelling units from the inventory of the agency shall—

(A) notify each family residing in a public housing project to be converted under the plan 90 days prior to the displacement date, except in cases of imminent threat to health or safety, consistent with any guidelines issued by the Secretary governing such notifications, that—

(i) the public housing project will be removed from the inventory of the public housing agency; and

(ii) each family displaced by such action will be offered comparable housing—

(I) that meets housing quality standards; and

(II) which may include—

(aa) tenant-based assistance, except that the requirement under this clause regarding offering of comparable housing shall be fulfilled by use of tenant-based assistance only upon the relocation of such family into such housing;

(bb) project-based assistance; or

(cc) occupancy in a unit operated or assisted by the public housing agency at a rental rate paid by the family that is comparable to the rental rate applicable to the unit from which the family is vacated.

(B) provide any necessary counseling for families displaced by such action;

(C) ensure that, if the project (or portion) converted is used as housing after such conversion, each resident may choose to remain in their dwelling unit in the project and use the tenant-based assistance toward rent for that unit;

(D) ensure that each displaced resident is offered comparable housing in accordance with the notice under subparagraph (A); and

(E) provide any actual and reasonable relocation expenses for families displaced by such action.

(e) CESSATION OF UNNECESSARY SPENDING.—Notwithstanding any other provision of law, if, in the determination of the Secretary, a project or projects of a public housing agency meet or are likely to meet the criteria set forth in subsection (a), the Secretary may direct the agency to cease additional spending in connection with such project or projects until the Secretary determines or approves an appropriate course of action with respect to such project or projects under this section, except to the extent that failure to expend such amounts would endanger the health or safety of residents in the project or projects.

(f) USE OF BUDGET AUTHORITY.—Notwithstanding any other provision of law, if a project or projects are identified pursuant to subsection (a), the Secretary may authorize or direct the transfer, to the tenant-based assistance program of such agency or to appropriate site revitalization or other capital improvements approved by the Secretary, of—

(1) in the case of an agency receiving assistance under the comprehensive improvement assistance program, any amounts obligated by the Secretary for the modernization of such project or projects pursuant to section 14 of the United States Housing Act of 1937 (as in effect immediately before the effective date under section 503(a) of the Quality Housing and Work Responsibility Act of 1998[164]);

(2) in the case of an agency receiving public housing modernization assistance by formula pursuant to such section 14, any amounts provided to the agency which are attributable pursuant to the formula for allocating such assistance to such project or projects;

(3) in the case of an agency receiving assistance for the major reconstruction of obsolete projects, any amounts obligated by the Secretary for the major reconstruction of such project or projects pursuant to section 5(j)(2) of the United States Housing Act of 1937, as in effect immediately before the effective date under section 503(a) of the Quality Housing and Work Responsibility Act of 1998[165]; and

(4) in the case of an agency receiving assistance pursuant to the formulas under section 9, any amounts provided to the agency which are attributable pursuant to the formulas for allocating such assistance to such project or projects.

(g) REMOVAL BY SECRETARY.—The Secretary shall take appropriate actions to ensure removal of any public housing project identified under subsection (a) from the inventory of a public housing agency, if the public housing agency fails to adequately develop a plan under subsection (c) with respect to that project, or fails to adequately implement such plan in accordance with the terms of the plan.

(h) ADMINISTRATION.—

(1) IN GENERAL.—The Secretary may require a public housing agency to provide to the Secretary or to public housing residents such information as the Secretary considers to be necessary for the administration of this section.

(2) APPLICABILITY OF SECTION 18.—Section 18 shall not apply to the demolition of public housing projects removed from the inventory of the public housing agency under this section.

Sec. 34. [42 U.S.C. 1437z-6]
SERVICES FOR PUBLIC AND INDIAN HOUSING RESIDENTS.

(a) IN GENERAL.—To the extent that amounts are provided in advance in appropriations Acts, the Secretary may make grants to public housing agencies on behalf of public housing residents, recipients under the Native American Housing Assistance and Self-Determination Act of 1996 (notwithstanding section 502 of such Act) on behalf of residents of housing assisted under such Act, or directly to resident management corporations, resident councils, or resident organizations (including nonprofit entities supported by residents), for the purposes of providing a program of supportive services and resident empowerment activities to provide supportive services to public housing residents and residents of housing assisted under such Act or assist such residents in becoming economically self-sufficient.

(b) ELIGIBLE ACTIVITIES.—Grantees under this section may use such amounts only for activities on or near the property of the public housing agency or public housing project or the property of a recipient under such Act or housing assisted under such Act that are designed to promote the self-sufficiency of public housing residents or residents of housing assisted under such Act or provide supportive services for such residents, including activities relating to—

(1) physical improvements to a public housing project or residents of housing assisted under such Act in order to provide space for supportive services for residents;

(2) the provision of service coordinators or a congregate housing services program for elderly individuals, elderly disabled individuals, nonelderly disabled individuals, or temporarily disabled individuals;

(3) the provision of services related to work readiness, including education, job training and counseling, job search skills, business development training and planning, tutoring, mentoring, adult

[164] The effective date under section 503 of such Act (112 Stat. 2521; 42 U.S.C. 1437 note) was October 1, 1999, except to the extent otherwise specifically provided in such Act or to the extent that the Secretary, by notice, implemented any provision of such Act before such date.
[165] The effective date under section 503 of such Act (112 Stat. 2521; 42 U.S.C. 1437 note) was October 1, 1999, except to the extent otherwise specifically provided in such Act or to the extent that the Secretary, by notice, implemented any provision of such Act before such date.

literacy, computer access, personal and family counseling, health screening, work readiness health services, transportation, and child care;

(4) economic and job development, including employer linkages and job placement, and the start-up of resident microenterprises, community credit unions, and revolving loan funds, including the licensing, bonding, and insurance needed to operate such enterprises;

(5) resident management activities and resident participation activities; and

(6) other activities designed to improve the economic self-sufficiency of residents.

(c) FUNDING DISTRIBUTION.—

(1) IN GENERAL.—Except for amounts provided under subsection (d), the Secretary may distribute amounts made available under this section on the basis of a competition or a formula, as appropriate.

(2) FACTORS FOR DISTRIBUTION.—Factors for distribution under paragraph (1) shall include—

(A) the demonstrated capacity of the applicant to carry out a program of supportive services or resident empowerment activities;

(B) the ability of the applicant to leverage additional resources for the provision of services; and

(C) the extent to which the grant will result in a high quality program of supportive services or resident empowerment activities.

(d) MATCHING REQUIREMENT.—The Secretary may not make any grant under this section to any applicant unless the applicant supplements amounts made available under this section with funds from sources other than this section in an amount equal to not less than 25 percent of the grant amount. Such supplemental amounts may include—

(1) funds from other Federal sources;

(2) funds from any State, local, or tribal government sources;

(3) funds from private contributions; and

(4) the value of any in-kind services or administrative costs provided to the applicant.

(e) FUNDING FOR RESIDENT ORGANIZATIONS.—To the extent that there are a sufficient number of qualified applications for assistance under this section, not less than 25 percent of any amounts appropriated to carry out this section shall be provided directly to resident councils, resident organizations, and resident management corporations. In any case in which a resident council, resident organization, or resident management corporation lacks adequate expertise, the Secretary may require the council, organization, or corporation to utilize other qualified organizations as contract administrators with respect to financial assistance provided under this section.

Sec. 35. [42 U.S.C. 1437z-7]
MIXED FINANCE PUBLIC HOUSING.

(a) AUTHORITY.—A public housing agency may own, operate, assist, or otherwise participate in 1 or more mixed-finance projects in accordance with this section.

(b) ASSISTANCE.—

(1) FORMS.—A public housing agency may provide to a mixed-finance project assistance from the Operating Fund under section 9, assistance from the Capital Fund under such section, or both forms of assistance. A public housing agency may, in accordance with regulations established by the Secretary, provide capital assistance to a mixed-finance project in the form of a grant, loan, guarantee, or other form of investment in the project, which may involve drawdown of funds on a schedule commensurate with construction draws for deposit into an interest-bearing escrow account to serve as collateral or credit enhancement for bonds issued by a public agency, or for other forms of public or private borrowings, for the construction or rehabilitation of the development.

(2) USE.—To the extent deemed appropriate by the Secretary, assistance used in connection with the costs associated with the operation and management of mixed-finance projects may be used for funding of an operating reserve to ensure affordability for low-income and very low-income families in lieu of the availability of operating funds for public housing units in a mixed-finance project.

(c) COMPLIANCE WITH PUBLIC HOUSING REQUIREMENTS.—The units assisted with capital or operating assistance in a mixed-finance project shall be developed, operated, and maintained in accordance with the requirements of this Act relating to public housing during the period required by under this Act, unless otherwise specified in this section. For purposes of this Act, any reference to public housing owned or operated by a public

housing agency shall include dwelling units in a mixed finance project that are assisted by the agency with capital or operating assistance.

(d) MIXED-FINANCE PROJECTS.—

(1) IN GENERAL.—For purposes of this section, the term 'mixed-finance project' means a project that meets the requirements of paragraph (2) and is financially assisted by private resources, which may include low-income housing tax credits, in addition to amounts provided under this Act.

(2) TYPES OF PROJECTS.—The term includes a project that is developed—

(A) by a public housing agency or by an entity affiliated with a public housing agency;

(B) by a partnership, a limited liability company, or other entity in which the public housing agency (or an entity affiliated with a public housing agency) is a general partner, managing member, or otherwise participates in the activities of that entity;

(C) by any entity that grants to the public housing agency the right of first refusal and first option to purchase, after the close of the compliance period, of the qualified low-income building in which the public housing units exist in accordance with section 42(i)(7) of the Internal Revenue Code of 1986; or

(D) in accordance with such other terms and conditions as the Secretary may prescribe by regulation.

(e) STRUCTURE OF PROJECTS.—Each mixed-finance project shall be developed—

(1) in a manner that ensures that public housing units are made available in the project, by regulatory and operating agreement, master contract, individual lease, condominium or cooperative agreement, or equity interest;

(2) in a manner that ensures that the number of public housing units bears approximately the same proportion to the total number of units in the mixed-finance project as the value of the total financial commitment provided by the public housing agency bears to the value of the total financial commitment in the project, or shall not be less than the number of units that could have been developed under the conventional public housing program with the assistance, or as may otherwise be approved by the Secretary; and

(3) in accordance with such other requirements as the Secretary may prescribe by regulation.

(f) TAXATION.—

(1) IN GENERAL.—A public housing agency may elect to exempt all public housing units in a mixed-finance project—

(A) from the provisions of section 6(d), and instead subject such units to local real estate taxes; and

(B) from the finding of need and cooperative agreement provisions under section 5(e)(1)(ii) and 5(e)(2), but only if the development of the units is not inconsistent with the jurisdiction's comprehensive housing affordability strategy.

(2) LOW-INCOME HOUSING TAX CREDIT.—With respect to any unit in a mixed-finance project that is assisted pursuant to the low-income housing tax credit under section 42 of the Internal Revenue Code of 1986, the rents charged to the residents may be set at levels not to exceed the amounts allowable under that section, provided that such levels for public housing residents do not exceed the amounts allowable under section 3.

(g) USE OF SAVINGS.—Notwithstanding any other provision of this Act, to the extent deemed appropriate by the Secretary, to facilitate the establishment of socioeconomically mixed communities, a public housing agency that uses assistance from the Capital Fund for a mixed-finance project, to the extent that income from such a project reduces the amount of assistance used for operating or other costs relating to public housing, may use such resulting savings to rent privately developed dwelling units in the neighborhood of the mixed-finance project. Such units shall be made available for occupancy only by low-income families eligible for residency in public housing.

(h) EFFECT OF CERTAIN CONTRACT TERMS.—If an entity that owns or operates a mixed-finance project, that includes a significant number of units other than public housing units enters into a contract with a public housing agency, the terms of which obligate the entity to operate and maintain a specified number of units in the project as public housing units in accordance with the requirements of this Act for the period required by law, such contractual terms may provide that, if, as a result of a reduction in appropriations under section 9 or any other change in applicable law, the public housing agency is unable to fulfill its contractual obligations with respect to those public housing units, that entity may deviate, under procedures and requirements developed through regulations by the Secretary, from otherwise applicable restrictions under this Act regarding rents, income

eligibility, and other areas of public housing management with respect to a portion or all of those public housing units, to the extent necessary to preserve the viability of those units while maintaining the low-income character of the units to the maximum extent practicable.

Sec. 36. [42 U.S.C. 1437z-8]
COLLECTION OF INFORMATION ON TENANTS IN TAX CREDIT PROJECTS.

(a) IN GENERAL.—Each State agency administering tax credits under section 42 of the Internal Revenue Code of 1986 (26 U.S.C. 42) shall furnish to the Secretary of Housing and Urban Development, not less than annually, information concerning the race, ethnicity, family composition, age, income, use of rental assistance under section 8(o) of the United States Housing Act of 1937 or other similar assistance, disability status, and monthly rental payments of households residing in each property receiving such credits through such agency. Such State agencies shall, to the extent feasible, collect such information through existing reporting processes and in a manner that minimizes burdens on property owners. In the case of any household that continues to reside in the same dwelling unit, information provided by the household in a previous year may be used if the information is of a category that is not subject to change or if information for the current year is not readily available to the owner of the property.

(b) STANDARDS.—The Secretary shall establish standards and definitions for the information collected under subsection (a), provide States with technical assistance in establishing systems to compile and submit such information, and, in coordination with other Federal agencies administering housing programs, establish procedures to minimize duplicative reporting requirements for properties assisted under multiple housing programs.

(c) PUBLIC AVAILABILITY.—The Secretary shall, not less than annually, compile and make publicly available the information submitted to the Secretary pursuant to subsection (a).

(d) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated for the cost of activities required under subsections (b) and (c) $2,500,000 for fiscal year 2009 and $900,000 for each of fiscal years 2010 through 2013.

Sec. 37. [42 U.S.C. 1437z-9]
DATA EXCHANGE STANDARDS FOR IMPROVED INTEROPERABILITY.

(a) DESIGNATION.—The Secretary shall, in consultation with an interagency work group established by the Office of Management and Budget, and considering State government perspectives, designate data exchange standards to govern, under this Act—

(1) necessary categories of information that State agencies operating related programs are required under applicable law to electronically exchange with another State agency; and

(2) Federal reporting and data exchange required under applicable law.

(b) REQUIREMENTS.—The data exchange standards required by subsection (a) shall, to the maximum extent practicable—

(1) incorporate a widely accepted, nonproprietary, searchable, computer-readable format, such as the eXtensible Markup Language;

(2) contain interoperable standards developed and maintained by intergovernmental partnerships, such as the National Information Exchange Model;

(3) incorporate interoperable standards developed and maintained by Federal entities with authority over contracting
and financial assistance;

(4) be consistent with and implement applicable accounting principles;

(5) be implemented in a manner that is cost-effective and improves program efficiency and effectiveness; and

(6) be capable of being continually upgraded as necessary.

(c) RULES OF CONSTRUCTION.—Nothing in this section requires a change to existing data exchange standards for Federal reporting found to be effective and efficient.

[TITLE II–ASSISTED HOUSING FOR INDIANS AND ALASKA NATIVES]

[Note.—Title II of the United States Housing Act of 1937 established low-income housing programs for Indians and Alaska Natives. Title II was repealed by section 501(a) of the Native American Housing Assistance and Self-

Determination Act of 1996 (Public Law 104-330). For provisions regarding termination of assistance under such programs see sections 502, 503, and 507 of such Act, set forth, post, in Part VII of this compilation.]

TITLE III–HOPE FOR PUBLIC HOUSING HOMEOWNERSHIP
42 U.S.C. 1437aaa—1437aaa-8

Sec. 301. [42 U.S.C. 1437aaa]
PROGRAM AUTHORITY.

(a) IN GENERAL.—The Secretary is authorized to make—

(1) planning grants to help applicants to develop homeownership programs in accordance with this title; and

(2) implementation grants to carry out homeownership programs in accordance with this title.

(b) AUTHORITY TO RESERVE HOUSING ASSISTANCE.—In connection with a grant under this title, the Secretary may reserve authority to provide assistance under section 8 of this Act to the extent necessary to provide replacement housing and rental assistance for a nonpurchasing tenant who resides in the project on the date the Secretary approves the application for an implementation grant, for use by the tenant in another project.

Sec. 302. [42 U.S.C. 1437aaa-1]
PLANNING GRANTS.

(a) GRANTS.—The Secretary is authorized to make planning grants to applicants for the purpose of developing homeownership programs under this title. The amount of a planning grant under this section may not exceed $200,000, except that the Secretary may for good cause approve a grant in a higher amount.

(b) ELIGIBLE ACTIVITIES.—Planning grants may be used for activities to develop homeownership programs (which may include programs for cooperative ownership), including—

(1) development of resident management corporations and resident councils;

(2) training and technical assistance for applicants related to development of a specific homeownership program;

(3) studies of the feasibility of a homeownership program;

(4) inspection for lead-based paint hazards, as required by section 302(a) of the Lead-Based Paint Poisoning Prevention Act;

(5) preliminary architectural and engineering work;

(6) tenant and homebuyer counseling and training;

(7) planning for economic development, job training, and self-sufficiency activities that promote economic self-sufficiency of homebuyers and homeowners under the homeownership program;

(8) development of security plans; and

(9) preparation of an application for an implementation grant under this title.

(c) APPLICATION.—

(1) FORM AND PROCEDURES.—An application for a planning grant shall be submitted by an applicant in such form and in accordance with such procedures as the Secretary shall establish.

(2) MINIMUM REQUIREMENTS.—The Secretary shall require that an application contain at a minimum—

(A) a request for a planning grant, specifying the activities proposed to be carried out, the schedule for completing the activities, the personnel necessary to complete the activities, and the amount of the grant requested;

(B) a description of the applicant and a statement of its qualifications;

(C) identification and description of the public housing project or projects involved, and a description of the composition of the tenants, including family size and income;

(D) a certification by the public official responsible for submitting the comprehensive housing affordability strategy under section 105 of the Cranston-Gonzalez National Affordable Housing Act that the proposed activities are consistent with the approved housing strategy of the State or unit of general local government within which the project is located (or, during the first 12 months after enactment of the Cranston-Gonzalez National Affordable Housing Act,[166] that the application is consistent with such other existing State or local housing plan or strategy that the Secretary shall determine to be appropriate); and

[166] The date of enactment was November 28, 1990.

(E) a certification that the applicant will comply with the requirements of the Fair Housing Act, title VI of the Civil Rights Act of 1964, section 504 of the Rehabilitation Act of 1973, and the Age Discrimination Act of 1975, and will affirmatively further fair housing.

(d) SELECTION CRITERIA.—The Secretary shall, by regulation, establish selection criteria for a national competition for assistance under this section, which shall include—

(1) the qualifications or potential capabilities of the applicant;

(2) the extent of tenant interest in the development of a homeownership program for the project;

(3) the potential of the applicant for developing a successful and affordable homeownership program and the suitability of the project for homeownership;

(4) national geographic diversity among projects for which applicants are selected to receive assistance; and

(5) such other factors that the Secretary shall require that (in the determination of the Secretary) are appropriate for purposes of carrying out the program established by this title in an effective and efficient manner.

Sec. 303. [42 U.S.C. 1437aaa-2]
IMPLEMENTATION GRANTS.

(a) GRANTS.—The Secretary is authorized to make implementation grants to applicants for the purpose of carrying out homeownership programs approved under this title.

(b) ELIGIBLE ACTIVITIES.—Implementation grants may be used for activities to carry out homeownership programs (including programs for cooperative ownership) that meet the requirements under this subtitle, including the following activities:

(1) Architectural and engineering work.

(2) Implementation of the homeownership program, including acquisition of the public housing project from a public housing agency for the purpose of transferring ownership to eligible families in accordance with a homeownership program that meets the requirements under this title.

(3) Rehabilitation of any public housing project covered by the homeownership program, in accordance with standards established by the Secretary.

(4) Abatement of lead-based paint hazards, as required by section 302(a) of the Lead-Based Paint Poisoning Prevention Act.

(5) Administrative costs of the applicant, which may not exceed 15 percent of the amount of assistance provided under this section.

(6) Development of resident management corporations and resident management councils, but only if the applicant has not received assistance under section 302 for such activities.

(7) Counseling and training of homebuyers and homeowners under the homeownership program.

(8) Relocation of tenants who elect to move.

(9) Any necessary temporary relocation of tenants during rehabilitation.

(10) Funding of operating expenses and replacement reserves of the project covered by the homeownership program, except that the amount of assistance for operating expenses shall not exceed the amount the project would have received if it had continued to receive such assistance from the Operating Fund, with adjustments comparable to those that would have been made under section 9.[167]

(11) Implementation of a replacement housing plan.

(12) Legal fees.

(13) Defraying costs for the ongoing training needs of the recipient that are related to developing and carrying out the homeownership program.

(14) Economic development activities that promote economic self-sufficiency of homebuyers, residents, and homeowners under the homeownership program.

(c) MATCHING FUNDING.—

(1) IN GENERAL.—Each recipient shall assure that contributions equal to not less than 25 percent of the grant amount made available under this section, excluding any amounts provided for post-

[167] Section 181(g)(1)(B) of the Housing and Community Development Act of 1992, Public Law 102-550, provides as follows:
"(B) Operating subsidies.—Section 303(b)(9) of the Cranston-Gonzalez National Affordable Housing Act (42 U.S.C. 1437aaa-2(b)(9)) is amended by inserting before the period at the end the following: ', and except that implementation grants may not be used under this paragraph to fund operating expenses for scattered site public housing acquired under a homeownership program.".
The amendment could not be executed and was probably intended to be made to this paragraph of the United States Housing Act of 1937.

sale operating expenses and replacement housing, shall be provided from non-Federal sources to carry out the homeownership program.

(2) FORM.—Such contributions may be in the form of—

(A) cash contributions from non-Federal resources, which may not include Federal tax expenditures or funds from a grant made under section 106(b) or section 106(d) of the Housing and Community Development Act of 1974;

(B) payment of administrative expenses, as defined by the Secretary, from non-Federal resources, including funds from a grant made under section 106(b) or section 106(d) of the Housing and Community Development Act of 1974;

(C) the value of taxes, fees, or other charges that are normally and customarily imposed but are waived, foregone, or deferred in a manner that facilitates the implementation of a homeownership program assisted under this subtitle;

(D) the value of land or other real property as appraised according to procedures acceptable to the Secretary;

(E) the value of investment in on-site and off-site infrastructure required for a homeownership program assisted under this subtitle; or

(F) such other in-kind contributions as the Secretary may approve.

Contributions for administrative expenses shall be recognized only up to an amount equal to 7 percent of the total amount of grants made available under this section.

(3) REDUCTION OF REQUIREMENT.—The Secretary shall reduce the matching requirement for homeownership programs carried out under this section in accordance with the formula established under section 220(d) of the Cranston-Gonzalez National Affordable Housing Act.

(d) APPLICATION.—

(1) FORM AND PROCEDURE.—An application for an implementation grant shall be submitted by an applicant in such form and in accordance with such procedures as the Secretary shall establish.

(2) MINIMUM REQUIREMENTS.—The Secretary shall require that an application contain at a minimum—

(A) a request for an implementation grant, specifying the amount of the grant requested and its proposed uses;

(B) if applicable, an application for assistance under section 8 of this Act, which shall specify the proposed uses of such assistance and the period during which the assistance will be needed;

(C) a description of the qualifications and experience of the applicant in providing housing for low-income families;

(D) a description of the proposed homeownership program, consistent with section 304 and the other requirements of this title, which shall specify the activities proposed to be carried out and their estimated costs, identifying reasonable schedules for carrying it out, and demonstrating that the program will comply with the affordability requirements under section 304(b);

(E) identification and description of the public housing project or projects involved, and a description of the composition of the tenants, including family size and income;

(F) a description of and commitment for the resources that are expected to be made available to provide the matching funding required under subsection (c) and of other resources that are expected to be made available in support of the homeownership program;

(G) identification and description of the financing proposed for any (i) rehabilitation and (ii) acquisition (I) of the property, where applicable, by a resident council or other entity for transfer to eligible families, and (II) by eligible families of ownership interests in, or shares representing, units in the project;

(H) if the applicant is not a public housing agency, the proposed sales price, if any, the basis for such price determination, and terms to the applicant;

(I) the estimated sales prices, if any, and terms to eligible families;

(J) any proposed restrictions on the resale of units under a homeownership program;

(K) identification and description of the entity that will operate and manage the property;

(L) a certification by the public official responsible for submitting the comprehensive housing affordability strategy under section 105 of the Cranston-Gonzalez National Affordable Housing Act that the proposed activities are consistent with the approved housing strategy of the State or unit of general local government within which the project is located (or, during the first 12

months after enactment of the Cranston-Gonzalez National Affordable Housing Act,[168] that the application is consistent with such other existing State or local housing plan or strategy that the Secretary shall determine to be appropriate); and

(M) a certification that the applicant will comply with the requirements of the Fair Housing Act, title VI of the Civil Rights Act of 1964, section 504 of the Rehabilitation Act of 1973, and the Age Discrimination Act of 1975, and will affirmatively further fair housing.

(e) SELECTION CRITERIA.—The Secretary shall establish selection criteria for a national competition for assistance under this section, which shall include—

(1) the ability of the applicant to develop and carry out the proposed homeownership program, taking into account the quality of any related ongoing program of the applicant, and the extent of tenant interest in the development of a homeownership program and community support;

(2) the feasibility of the homeownership program;

(3) the extent to which current tenants and other eligible families will be able to afford the purchase;

(4) the quality and viability of the proposed homeownership program, including the viability of the economic self-sufficiency plan;

(5) the extent to which funds for activities that do not qualify as eligible activities will be provided in support of the homeownership program;

(6) whether the approved comprehensive housing affordability strategy for the jurisdiction within which the public housing project is located includes the proposed homeownership program as one of the general priorities identified pursuant to section 105(b)(7) of the Cranston-Gonzalez National Affordable Housing Act;

(7) national geographic diversity among housing for which applicants are selected to receive assistance; and

(8) the extent to which a sufficient supply of affordable rental housing exists in the locality, so that the implementation of the homeownership program will not reduce the number of such rental units available to residents currently residing in such units or eligible for residency in such units.

(f) LOCATION WITHIN PARTICIPATING JURISDICTIONS.—The Secretary may approve applications for grants under this title only for public housing projects located within the boundaries of jurisdictions—

(1) which are participating jurisdictions under title III of the Cranston-Gonzalez National Affordable Housing Act; or

(2) on behalf of which the agency responsible for affordable housing has submitted a housing strategy or plan.

(g) APPROVAL.—The Secretary shall notify each applicant, not later than 6 months after the date of the submission of the application, whether the application is approved or not approved. The Secretary may approve the application for an implementation grant with a statement that the application for the section 8 assistance for replacement housing and for residents of the project not purchasing units is conditionally approved, subject to the availability of appropriations in subsequent fiscal years.

Sec. 304. [42 U.S.C. 1437aaa-3]
HOMEOWNERSHIP PROGRAM REQUIREMENTS.

(a) IN GENERAL.—A homeownership program under this title shall provide for acquisition by eligible families of ownership interests in, or shares representing, at least one-half of the units in a public housing project under any arrangement determined by the Secretary to be appropriate, such as cooperative ownership (including limited equity cooperative ownership) and fee simple ownership (including condominium ownership), for occupancy by the eligible families.

(b) AFFORDABILITY.—A homeownership program under this title shall provide for the establishment of sales prices (including principal, insurance, taxes, and interest and closing costs) for initial acquisition of the property from the public housing agency if the applicant is not a public housing agency, and for sales to eligible families, such that an eligible family shall not be required to expend more than 30 percent of the adjusted income of the family per month to complete a sale under the homeownership program.

(c) PLAN.—A homeownership program under this title shall provide, and include a plan, for—

(1) identifying and selecting eligible families to participate in the homeownership program;

(2) providing relocation assistance to families who elect to move;

[168] The date of enactment was November 28, 1990.

(3) ensuring continued affordability by tenants, homebuyers, and homeowners in the project;

(4) providing ongoing training and counseling for homebuyers and homeowners; and

(5) replacing units in eligible projects covered by a homeownership program.

(d) ACQUISITION AND REHABILITATION LIMITATIONS.—Acquisition or rehabilitation of public housing projects under a homeownership program under this title may not consist of acquisition or rehabilitation of less than the whole public housing project in a project consisting of more than 1 building. The provisions of this subsection may be waived upon a finding by the Secretary that the sale of less than all the buildings in a project is feasible and will not result in a hardship to any tenants of the project who are not included in the homeownership program.

(e) FINANCING.—

(1) IN GENERAL.—The application shall identify and describe the proposed financing for (A) any rehabilitation, and (B) acquisition (i) of the project, where applicable, by an entity other than the public housing agency for transfer to eligible families, and (ii) by eligible families of ownership interests in, or shares representing, units in the project. Financing may include use of the implementation grant, sale for cash, or other sources of financing (subject to applicable requirements), including conventional mortgage loans and mortgage loans insured under title II of the National Housing Act.

(2) PROHIBITION AGAINST PLEDGES.—Property transferred under this title shall not be pledged as collateral for debt or otherwise encumbered except when the Secretary determines that—

(A) such encumbrance will not threaten the long-term availability of the property for occupancy by low-income families;

(B) neither the Federal Government nor the public housing agency will be exposed to undue risks related to action that may have to be taken pursuant to paragraph (3);

(C) any debt obligation can be serviced from project income, including operating assistance; and

(D) the proceeds of such encumbrance will be used only to meet housing standards in accordance with subsection (f) or to make such additional capital improvements as the Secretary determines to be consistent with the purposes of this title.

(3) OPPORTUNITY TO CURE.—Any lender that provides financing in connection with a homeownership program under this subtitle shall give the public housing agency, resident management corporation, individual owner, or other appropriate entity a reasonable opportunity to cure a financial default before foreclosing on the property, or taking other action as a result of the default.

(f) HOUSING QUALITY STANDARDS.—The application shall include a plan ensuring that the unit—

(1) will be free from any defects that pose a danger to health or safety before transfer of an ownership interest in, or shares representing, a unit to an eligible family; and

(2) will, not later than 2 years after the transfer to an eligible family, meet minimum housing standards established by the Secretary for the purposes of this title.

[(g) [Repealed.]**]**

(h) PROTECTION OF NON-PURCHASING FAMILIES.—

(1) IN GENERAL.—No tenant residing in a dwelling unit in a public housing project on the date the Secretary approves an application for an implementation grant may be evicted by reason of a homeownership program approved under this title.

(2) REPLACEMENT ASSISTANCE.—If the tenant decides not to purchase a unit, or is not qualified to do so, the recipient shall, during the term of any operating assistance under the implementation grant, permit each otherwise qualified tenant to continue to reside in the project at rents that do not exceed levels consistent with section 3(a) of this Act or, if an otherwise qualified tenant chooses to move (at any time during the term of such operating assistance contract), the public housing agency shall, to the extent approved in appropriations Acts, offer such tenant (A) a unit in another public housing project, or (B) section 8 assistance for use in other housing.

(3) RELOCATION ASSISTANCE.—The recipient shall also inform each such tenant that if the tenant chooses to move, the recipient will pay relocation assistance in accordance with the approved homeownership program.

(4) OTHER RIGHTS.—Tenants renting a unit in a project transferred under this title shall have all rights provided to tenants of public housing under this Act.

Sec. 305. 42 U.S.C. 1437aaa-4]
OTHER PROGRAM REQUIREMENTS.

(a) SALE BY PUBLIC HOUSING AGENCY To Applicant or Other Entity Required.—Where the Secretary approves an application providing for the transfer of the eligible project from the public housing agency to another applicant, the public housing agency shall transfer the project to such other applicant, in accordance with the approved homeownership program.

(b) PREFERENCES.—In selecting eligible families for homeownership, the recipient shall give a first preference to otherwise qualified current tenants and a second preference to otherwise qualified eligible families who have completed participation in an economic self-sufficiency program specified by the Secretary.

(c) COST LIMITATIONS.—The Secretary may establish cost limitations on eligible activities under this title, subject to the provisions of this title.

(d) ANNUAL CONTRIBUTIONS.—Notwithstanding the purchase of a public housing project under this section, or the purchase of a unit in a public housing project by an eligible family, the Secretary shall continue to pay annual contributions with respect to the project. Such contributions may not exceed the maximum contributions authorized in section 5(a).

(e) OPERATING SUBSIDIES.—Amounts from an allocation from the Operating Fund under section 9 of this Act shall not be available with respect to a public housing project after the date of its sale by the public housing agency.

(f) USE OF PROCEEDS FROM SALES TO ELIGIBLE FAMILIES.—The entity that transfers ownership interests in, or shares representing, units to eligible families, or another entity specified in the approved application, shall use the proceeds, if any, from the initial sale for costs of the homeownership program, including operating expenses, improvements to the project, business opportunities for low-income families, supportive services related to the homeownership program, additional homeownership opportunities, and other activities approved by the Secretary.

(g) RESTRICTIONS ON RESALE BY HOMEOWNERS.—

(1) IN GENERAL.—

(A) TRANSFER PERMITTED.—A homeowner under a homeownership program may transfer the homeowner's ownership interest in, or shares representing, the unit, except that a homeownership program may establish restrictions on the resale of units under the program.

(B) RIGHT TO PURCHASE.—Where a resident management corporation, resident council, or cooperative has jurisdiction over the unit, the corporation, council, or cooperative shall have the right to purchase the ownership interest in, or shares representing, the unit from the homeowner for the amount specified in a firm contract between the homeowner and a prospective buyer. If such an entity does not have jurisdiction over the unit or elects not to purchase and if the prospective buyer is not a low-income family, the public housing agency or the implementation grant recipient shall have the right to purchase the ownership interest in, or shares representing, the unit for the same amount.

(C) PROMISSORY NOTE REQUIRED.—The homeowner shall execute a promissory note equal to the difference between the market value and the purchase price, payable to the public housing agency or other entity designated in the homeownership plan, together with a mortgage securing the obligation of the note.

(2) 6 YEARS OR LESS.—In the case of a transfer within 6 years of the acquisition under the program, the homeownership program shall provide for appropriate restrictions to assure that an eligible family may not receive any undue profit. The plan shall provide for limiting the family's consideration for its interest in the property to the total of—

(A) the contribution to equity paid by the family;

(B) the value, as determined by such means as the Secretary shall determine through regulation, of any improvements installed at the expense of the family during the family's tenure as owner; and

(C) the appreciated value determined by an inflation allowance at a rate which may be based on a cost-of-living index, an income index, or market index as determined by the Secretary through regulation and agreed to by the purchaser and the entity that transfers ownership interests in, or shares representing, units to eligible families (or another entity specified in the approved application), at the time of initial sale, and applied against the contribution to equity.

Such an entity may, at the time of initial sale, enter into an agreement with the family to set a maximum amount which this appreciation may not exceed.

(3) 6-20 YEARS.—In the case of a transfer during the period beginning 6 years after the acquisition and ending 20 years after the acquisition, the homeownership program shall provide for the

recapture by the Secretary or the program of an amount equal to the amount of the declining balance on the note described in paragraph (1)(C).

(4) USE OF RECAPTURED FUNDS.—Fifty percent of any portion of the net sales proceeds that may not be retained by the homeowner under the plan approved pursuant to this subsection shall be paid to the entity that transferred ownership interests in, or shares representing, units to eligible families, or another entity specified in the approved application, for use for improvements to the project, business opportunities for low-income families, supportive services related to the homeownership program, additional homeownership opportunities, and other activities approved by the Secretary. The remaining 50 percent shall be returned to the Secretary for use under this subtitle, subject to limitations contained in appropriations Acts. Such entity shall keep and make available to the Secretary all records necessary to calculate accurately payments due the Secretary under this subsection.

(h) THIRD PARTY RIGHTS.—The requirements under this title regarding quality standards, resale, or transfer of the ownership interest of a homeowner shall be judicially enforceable against the grant recipient with respect to actions involving rehabilitation, and against purchasers of property under this subsection or their successors in interest with respect to other actions by affected low-income families, resident management corporations, resident councils, public housing agencies, and any agency, corporation, or authority of the United States Government. The parties specified in the preceding sentence shall be entitled to reasonable attorney fees upon prevailing in any such judicial action.

(i) DOLLAR LIMITATION ON ECONOMIC DEVELOPMENT ACTIVITIES.—Not more than an aggregate of $250,000 from amounts made available under sections 302 and 303 may be used for economic development activities under sections 302(b)(6)[169] and 303(b)(9) for any project.

(j) TIMELY HOMEOWNERSHIP.—Recipients shall transfer ownership of the property to tenants within a specified period of time that the Secretary determines to be reasonable. During the interim period when the property continues to be operated and managed as rental housing, the recipient shall utilize written tenant selection policies and criteria that are consistent with the public housing program and that are approved by the Secretary as consistent with the purpose of improving housing opportunities for low-income families. The recipient shall promptly notify in writing any rejected applicant of the grounds for any rejection.

(k) CAPABILITY OF RESIDENT MANAGEMENT CORPORATIONS AND RESIDENT COUNCILS.—To be eligible to receive a grant under section 303, a resident management corporation or resident council shall demonstrate to the Secretary its ability to manage public housing by having done so effectively and efficiently for a period of not less than 3 years or by arranging for management by a qualified management entity.

(l) RECORDS AND AUDIT OF RECIPIENTS OF ASSISTANCE.—

(1) IN GENERAL.—Each recipient shall keep such records as may be reasonably necessary to fully disclose the amount and the disposition by such recipient of the proceeds of assistance received under this title (and any proceeds from financing obtained in accordance with subsection (b) or sales under subsections (f) and (g)(4)), the total cost of the homeownership program in connection with which such assistance is given or used, and the amount and nature of that portion of the program supplied by other sources, and such other sources as will facilitate an effective audit.

(2) ACCESS BY THE SECRETARY.—The Secretary shall have access for the purpose of audit and examination to any books, documents, papers, and records of the recipient that are pertinent to assistance received under this title.

(3) ACCESS BY THE COMPTROLLER GENERAL.—The Comptroller General of the United States, or any of the duly authorized representatives of the Comptroller General, shall also have access for the purpose of audit and examination to any books, documents, papers, and records of the recipient that are pertinent to assistance received under this title.

Sec. 306. [42 U.S.C. 1437aaa-5]
DEFINITIONS.

For purposes of this title:

(1) The term "applicant" means the following entities that may represent the tenants of the project:

(A) A public housing agency.

(B) A resident management corporation, established in accordance with requirements of the Secretary under section 20.

(C) A resident council.

[169] So in law. Probably intended to refer to section 302(b)(7).

(D) A cooperative association.

(E) A public or private nonprofit organization.

(F) A public body, including an agency or instrumentality thereof.

(2) The term "eligible family" means—

(A) a family or individual who is a tenant in the public housing project on the date the Secretary approves an implementation grant;

(B) a low-income family; or

(C) a family or individual who is assisted under a housing program administered by the Secretary or the Secretary of Agriculture (not including any non-low income families assisted under any mortgage insurance program administered by either Secretary).

(3) The term "homeownership program" means a program for homeownership meeting the requirements under this title.

(4) The term "recipient" means an applicant approved to receive a grant under this title or such other entity specified in the approved application that will assume the obligations of the recipient under this title.

(5) The term "resident council" means any incorporated nonprofit organization or association that—

(A) is representative of the tenants of the housing;

(B) adopts written procedures providing for the election of officers on a regular basis; and

(C) has a democratically elected governing board, elected by the tenants of the housing.

Sec. 307. [42 U.S.C. 1437aaa-6]
RELATIONSHIP TO OTHER HOMEOWNERSHIP OPPORTUNITIES.

The program authorized under this title shall be in addition to any other public housing homeownership and management opportunities, including opportunities under section 5(h)[170] of this Act.

Sec. 308. [42 U.S.C. 1437aaa-7]
LIMITATION ON SELECTION CRITERIA.

In establishing criteria for selecting applicants to receive assistance under this title, the Secretary may not establish any selection criterion or criteria that grant or deny such assistance to an applicant (or have the effect of granting or denying assistance) based on the implementation, continuation, or discontinuation of any public policy, regulation, or law of any jurisdiction in which the applicant or project is located.

Sec. 309. [42 U.S.C. 1437aaa-8]
ANNUAL REPORT.

The Secretary shall annually submit to the Congress a report setting forth—

(1) the number, type, and cost of public housing units sold pursuant to this title;

(2) the income, race, gender, children, and other characteristics of families participating (or not participating) in homeownership programs funded under this title;

(3) the amount and type of financial assistance provided under and in conjunction with this title;

(4) the amount of financial assistance provided under this title that was needed to ensure continued affordability and meet future maintenance and repair costs; and

(5) the recommendations of the Secretary for statutory and regulatory improvements to the program.

TITLE IV–HOME RULE FLEXIBLE GRANT DEMONSTRATION
42 U.S.C. 1437bbb-bbb-9

Sec. 401. [42 U.S.C. 1437bbb]
PURPOSE.

The purpose of this title is to demonstrate the effectiveness of authorizing local governments and municipalities, in coordination with the public housing agencies for such jurisdictions—

[170] Section 518(a) of the Quality Housing and Work Responsibility Act of 1998, title V of Public Law 105-276, approved October 21, 1998, struck section 5(h) of the United States Housing Act of 1937. Subsection (a)(2)(C) of such section 518 amended this section by striking "section 5(h) and". The amendment could not be executed as written.

(1) to receive and combine program allocations of covered housing assistance; and

(2) to design creative approaches for providing and administering Federal housing assistance based on the particular needs of the jurisdictions that—

(A) provide incentives to low-income families with children whose head of the household is employed, seeking employment, or preparing for employment by participating in a job training or educational program, or any program that otherwise assists individuals in obtaining employment and attaining economic self-sufficiency;

(B) reduce costs of Federal housing assistance and achieve greater cost-effectiveness in Federal housing assistance expenditures;

(C) increase the stock of affordable housing and housing choices for low-income families;

(D) increase homeownership among low-income families;

(E) reduce geographic concentration of assisted families;

(F) reduce homelessness through providing permanent housing solutions;

(G) improve program management; and

(H) achieve such other purposes with respect to low-income families, as determined by the participating local governments and municipalities in coordination with the public housing agencies;[171]

Sec. 402. [42 U.S.C. 1437bbb-1]
FLEXIBLE GRANT PROGRAM.

(a) AUTHORITY AND USE.—The Secretary shall carry out a demonstration program in accordance with the purposes under section 401 and the provisions of this title. A jurisdiction approved by the Secretary for participation in the program may receive and combine and enter into performance-based contracts for the use of amounts of covered housing assistance, in the manner determined appropriate by the participating jurisdiction, during the period of the jurisdiction's participation—

(1) to provide housing assistance and services for low-income families in a manner that facilitates the transition of such families to work;

(2) to reduce homelessness through providing permanent housing solutions;

(3) to increase homeownership among low-income families; or

(4) for other housing purposes for low-income families determined by the participating jurisdiction.

(b) PERIOD OF PARTICIPATION.—A jurisdiction may participate in the demonstration program under this title for a period consisting of not less than 1 nor more than 5 fiscal years.

(c) PARTICIPATING JURISDICTIONS.—

(1)[172] IN GENERAL.—Subject to paragraph (2), during the 4-year period consisting of fiscal years 1999 through 2002, the Secretary may approve for participation in the program under this title not more than an aggregate of 100 jurisdictions over the entire term of the demonstration program. A jurisdiction that was approved for participation in the demonstration program under this title in a fiscal year and that is continuing such participation in any subsequent fiscal year shall count as a single jurisdiction for purposes of the numerical limitation under this paragraph.

(2) EXCLUSION OF HIGH PERFORMING AGENCIES.—Notwithstanding any other provision of this title other than paragraph (4) of this subsection, the Secretary may approve for participation in the demonstration program under this title only jurisdictions served by public housing agencies that—

(A) are not designated as high-performing agencies, pursuant to their most recent scores under the public housing management assessment program under section 6(j)(2) (or any successor assessment program for public housing agencies), as of the time of approval; and

(B) have a most recent score under the public housing management assessment program under section 6(j)(2) (or any successor assessment program for public housing agencies), as of the time of approval, that is among the lowest 40 percent of the scores of all agencies.

(3) LIMITATION ON TROUBLED AND NON-TROUBLED PHAS.—Of the jurisdictions approved by the Secretary for participation in the demonstration program under this title—

[171] So in law.
[172] Indented so in law.

(A) not more than 55 may be jurisdictions served by a public housing agency that, at the time of approval, is designated as a troubled agency under the public housing management assessment program under section 6(j)(2) (or any successor assessment program for public housing agencies); and

(B) not more than 45 may be jurisdictions served by a public housing agency that, at the time of approval, is not designated as a troubled agency under the public housing management assessment program under section 6(j)(2) (or any successor assessment program for public housing agencies).

(4) EXCEPTION.—If the City of Indianapolis, Indiana submits an application for participation in the program under this title and, upon review of the application under section 406(b), the Secretary determines that such application is approvable under this title, the Secretary shall approve such application, notwithstanding the second sentence of section 406(b)(2). Such City shall count for purposes of the numerical limitations on jurisdictions under paragraphs (1) and (3) of section 402(c), but the provisions of section 402(c)(2) (relating to exclusion of high-performing agencies) shall not apply to such City.

SEC. 403. [42 U.S.C. 1437bbb-2]
PROGRAM ALLOCATION AND COVERED HOUSING ASSISTANCE.

(a) PROGRAM ALLOCATION.—In each fiscal year, the amount made available to each participating jurisdiction under the demonstration program under this title shall be equal to the sum of the amounts of covered housing assistance that would otherwise be made available under the provisions of this Act to the public housing agency for the jurisdiction.

(b) COVERED HOUSING ASSISTANCE.—For purposes of this title, the term "covered housing assistance" means—

(1) operating assistance under section 9 (as in effect before the effective date under section 503(a) of the Quality Housing and Work Responsibility Act of 1998[173]);

(2) modernization assistance under section 14 (as in effect before the effective date under section 503(a) of the Quality Housing and Work Responsibility Act of 1998);

(3) assistance for the certificate and voucher programs under section 8 (as in effect before the effective date under section 503(a) of the Quality Housing and Work Responsibility Act of 1998);

(4) assistance from the Operating Fund under section 9(e);

(5) assistance from the Capital Fund under section 9(d); and

(6) tenant-based assistance under section 8 (as amended by the Quality Housing and Work Responsibility Act of 1998).

Sec. 404. [42 U.S.C. 1437bbb-3]
APPLICABILITY OF REQUIREMENTS UNDER PROGRAMS FOR COVERED HOUSING ASSISTANCE.

(a) IN GENERAL.—In each fiscal year of the demonstration program under this title, amounts made available to a participating jurisdiction under the demonstration program shall be subject to the same terms and conditions as such amounts would be subject to if made available under the provisions of this Act pursuant to which covered housing assistance is otherwise made available under this Act to the public housing agency for the jurisdiction, except that—

(1) the Secretary may waive any such term or condition identified by the jurisdiction to the extent that the Secretary determines such action to be appropriate to carry out the purposes of the demonstration program under this title; and

(2) the participating jurisdiction may combine the amounts made available and use the amounts for any activity eligible under the programs under sections 8 and 9.

(b) NUMBER OF FAMILIES ASSISTED.—In carrying out the demonstration program under this title, each participating jurisdiction shall assist substantially the same total number of eligible low-income families as would have otherwise been served by the public housing agency for the jurisdiction had the jurisdiction not participated in the demonstration program under this title.

[173] The effective date under section 503 of such Act (112 Stat. 2521; 42 U.S.C. 1437 note) was October 1, 1999, except to the extent otherwise specifically provided in such Act or to the extent that the Secretary, by notice, implemented any provision of such Act before such date.

(c) PROTECTION OF RECIPIENTS.—This title may not be construed to authorize the termination of assistance to any recipient receiving assistance under this Act before the date of the enactment of this title[174] as a result of the implementation of the demonstration program under this title.

(d) EFFECT ON ABILITY TO COMPETE FOR OTHER PROGRAMS.—This title may not be construed to affect the ability of any applying or participating jurisdiction (or a public housing agency for any such jurisdiction) to compete or otherwise apply for or receive assistance under any other housing assistance program administered by the Secretary.

Sec. 405. [42 U.S.C. 1437bbb-4]
PROGRAM REQUIREMENTS.

(a) APPLICABILITY OF CERTAIN PROVISIONS.—Notwithstanding section 404(a)(1), the Secretary may not waive, with respect to any participating jurisdiction, any of the following provisions:

(1) The first sentence of paragraph (1) of section 3(a) (relating to eligibility of low-income families).

(2) Section 16 (relating to income eligibility and targeting of assistance).

(3) Paragraph (2) of section 3(a) (relating to rental payments for public housing families).

(4) Paragraphs (2) and (3) of section 8(o) (to the extent such paragraphs limit the amount of rent paid by families assisted with tenant-based assistance).

(5) Section 18 (relating to demolition or disposition of public housing).

(b) COMPLIANCE WITH ASSISTANCE PLAN.—A participating jurisdiction shall provide assistance using amounts received pursuant to this title in the manner set forth in the plan of the jurisdiction approved by the Secretary under section 406(a)(2).

Sec. 406. [42 U.S.C. 1437bbb-5]
APPLICATION.

(a) IN GENERAL.—The Secretary shall provide for jurisdictions to submit applications for approval to participate in the demonstration program under this title. An application—

(1) shall be submitted only after the jurisdiction provides for citizen participation through a public hearing and, if appropriate, other means;

(2) shall include a plan for the provision of housing assistance with amounts received pursuant to this title that—

(A) is developed by the jurisdiction;

(B) takes into consideration comments from the public hearing, any other public comments on the proposed program, and comments from current and prospective residents who would be affected; and

(C) identifies each term or condition for which the jurisdiction is requesting waiver under section 404 (a)(1);

(3) shall describe how the plan for use of amounts will assist in meeting the purposes of, and be used in accordance with, sections 401 and 402(a), respectively;

(4) shall propose standards for measuring performance in using assistance provided pursuant to this title based on the performance standards under subsection (b)(4);

(5) shall propose the length of the period for participation of the jurisdiction is[175] in the demonstration program under this title;

(6) shall—

(A) in the case of the application of any jurisdiction within whose boundaries are areas subject to any other unit of general local government, include the signed consent of the appropriate executive official of such unit to the application; and

(B) in the case of the application of a consortia of units of general local government (as provided under section 409(1)(B)), include the signed consent of the appropriate executive officials of each unit included in the consortia;

(7) shall include information sufficient, in the determination of the Secretary—

(A) to demonstrate that the jurisdiction has or will have management and administrative capacity sufficient to carry out the plan under paragraph (2), including a demonstration that the

[174] October 21, 1998.
[175] So in law.

applicant has a history of effectively administering amounts provided under other programs of the Department of Housing and Urban Development, such as the community development block grant program, the HOME investment partnerships program, and the programs for assistance for the homeless under the Stewart B. McKinney Homeless Assistance Act[176];

(B) to demonstrate that carrying out the plan will not result in excessive duplication of administrative efforts and costs, particularly with respect to activities performed by public housing agencies operating within the boundaries of the jurisdiction;

(C) to describe the function and activities to be carried out by such public housing agencies affected by the plan; and

(D) to demonstrate that the amounts received by the jurisdiction will be maintained separate from other funds available to the jurisdiction and will be used only to carry out the plan;

(8) shall include information describing how the jurisdiction will make decisions regarding asset management of housing for low-income families under programs for covered housing assistance or assisted with grant amounts under this title;

(9) shall—

(A) clearly identify any State or local laws that will affect implementation of the plan under paragraph (2) and any contractual rights and property interests that may be affected by the plan;

(B) describe how the plan will be carried out with respect to such laws, rights, and interests; and

(C) contain a legal memorandum sufficient to describe how the plan will comply with such laws and how the plan will be carried out without violating or impairing such rights and interests; and

(10) shall identify procedures for how the jurisdiction shall return to providing covered assistance for the jurisdiction under the provisions of title I, in the case of determination under subsection (b)(4)(B).

A plan required under paragraph (2) to be included in the application may be contained in a memorandum of agreement or other document executed by a jurisdiction and public housing agency, if such document is submitted together with the application.

(b) REVIEW, APPROVAL, AND PERFORMANCE STANDARDS.—

(1) REVIEW.—The Secretary shall review each application for participation in the demonstration program under this title and shall determine and notify the jurisdiction submitting the application, not later than 90 days after its submission, of whether the application is approvable under this title. If the Secretary determines that the application of a jurisdiction is approvable under this title, the Secretary shall provide affected public housing agencies an opportunity to review and to provide written comments on the application for a period of not less than 30 days after notification under the preceding sentence. If the Secretary determines that an application is not approvable under this title, the Secretary shall notify the jurisdiction submitting the application of the reasons for such determination. Upon making a determination of whether an application is approvable or nonapprovable under this title, the Secretary shall make such determination publicly available in writing together with a written statement of the reasons for such determination.

(2) APPROVAL.—The Secretary may approve jurisdictions for participation in the demonstration program under this title, but only from among applications that the Secretary has determined under paragraph are approvable under this title and only in accordance with section 402(c). The Secretary shall base the selection of jurisdictions to approve on the potential success, as evidenced by the application, in—

(A) achieving the goals set forth in the performance standards under paragraph (4)(A); and

(B) increasing housing choices for low-income families.

(3) AGREEMENT.—The Secretary shall offer to enter into an agreement with each jurisdiction approved for participation in the program under this title providing for assistance pursuant to this title for a period in accordance with section 402(b) and incorporating a requirement that the jurisdiction achieve a particular level of performance in each of the areas for which performance standards are established under paragraph (4)(A) of this subsection. If the Secretary and the jurisdiction enter into an agreement, the

[176] Public Law 106-400, enacted on October 30, 2000, renamed the Stewart B. McKinney Homeless Assistance Act as the McKinney-Vento Homeless Assistance Act. Section 2 of such Act (42 U.S.C. 11301 note) provides that "[a]ny reference in any law, regulation, document, paper, or other record of the United States to the Stewart B. McKinney Homeless Assistance Act shall be deemed to be a reference to the 'McKinney-Vento Homeless Assistance Act'".

Secretary shall provide any covered housing assistance for the jurisdiction in the manner authorized under this title. The Secretary may not provide covered housing assistance for a jurisdiction in the manner authorized under this title unless the Secretary and jurisdiction enter into an agreement under this paragraph.

(4) PERFORMANCE STANDARDS.—

(A) ESTABLISHMENT.—The Secretary and each participating jurisdiction may collectively establish standards for evaluating the performance of the participating jurisdiction in meeting the purposes under section 401 of this title, which may include standards for—

(i) moving dependent low-income families to economic self-sufficiency;

(ii) reducing the per-family cost of providing housing assistance;

(iii) expanding the stock of affordable housing and housing choices for low-income families;

(iv) improving program management;

(v) increasing the number of homeownership opportunities for low-income families;

(vi) reducing homelessness through providing permanent housing resources;

(vii) reducing geographic concentration of assisted families; and

(viii) any other performance goals that the Secretary and the participating jurisdiction may establish.

(B) FAILURE TO COMPLY.—If, at any time during the participation of a jurisdiction in the program under this title, the Secretary determines that the jurisdiction is not sufficiently meeting, or making progress toward meeting, the levels of performance incorporated into the agreement of the jurisdiction pursuant to subparagraph (A), the Secretary shall terminate the participation of the jurisdiction in the program under this title and require the implementation of the procedures included in the application of the jurisdiction pursuant to subsection (a)(10).

(5) TROUBLED AGENCIES.—The Secretary may establish requirements for the approval of applications under this section submitted by public housing agencies designated under section 6(j)(2) as troubled, which may include additional or different criteria determined by the Secretary to be more appropriate for such agencies.

(c) STATUS OF PHAS.—This title may not be construed to require any change in the legal status of any public housing agency or in any legal relationship between a jurisdiction and a public housing agency as a condition of participation in the program under this title.

(d) PHA PLANS.—In carrying out this title, the Secretary may provide for a streamlined public housing agency plan and planning process under section 5A for participating jurisdictions.

Sec. 407. [42 U.S.C. 1437bbb-6]
TRAINING.

The Secretary, in consultation with representatives of public and assisted housing interests, may provide training and technical assistance relating to providing assistance under this title and may conduct detailed evaluations of up to 30 jurisdictions for the purpose of identifying replicable program models that are successful at carrying out the purposes of this title.

Sec. 408. [42 U.S.C. 1437bbb-7]
ACCOUNTABILITY.

(a) MAINTENANCE OF RECORDS.—Each participating jurisdiction shall maintain such records as the Secretary may require to—

(1) document the amounts received by the jurisdiction under this Act and the disposition of such amounts under the demonstration program under this title;

(2) ensure compliance by the jurisdiction with this title; and

(3) evaluate the performance of the jurisdiction under the demonstration program under this title.

(b) REPORTS.—Each participating jurisdiction shall annually submit to the Secretary a report in a form and at a time specified by the Secretary, which shall include—

(1) documentation of the use of amounts made available to the jurisdiction under this title;

(2) any information as the Secretary may request to assist the Secretary in evaluating the demonstration program under this title; and

(3) a description and analysis of the effect of assisted activities in addressing the objectives of the demonstration program under this title.

(c) ACCESS TO DOCUMENTS BY SECRETARY AND COMPTROLLER GENERAL.—The Secretary and the Comptroller General of the United States, or any duly authorized representative of the Secretary or the Comptroller General, shall have access for the purpose of audit and examination to any books, documents, papers, and records maintained by a participating jurisdiction that relate to the demonstration program under this title.

(d) PERFORMANCE REVIEW AND EVALUATION.—

(1) PERFORMANCE REVIEW.—Based on the performance standards established under section 406(b)(4), the Secretary shall monitor the performance of participating jurisdictions in providing assistance under this title.

(2) STATUS REPORT.—Not later than 60 days after the conclusion of the second year of the demonstration program under this title, the Secretary shall submit to Congress an interim report on the status of the demonstration program and the progress each participating jurisdiction in achieving the purposes of the demonstration program under section 401.

Sec. 409. [42 U.S.C. 1437bbb-8]
DEFINITIONS.

For purposes of this title, the following definitions shall apply:

(1) JURISDICTION.—The term "jurisdiction" means—

(A) a unit of general local government (as such term is defined in section 104 of the Cranston-Gonzalez National Affordable Housing Act) that has boundaries, for purposes of carrying out this title, that—

(i) wholly contain the area within which a public housing agency is authorized to operate; and

(ii) do not contain any areas contained within the boundaries of any other participating jurisdiction; and

(B) a consortia of such units of general local government, organized for purposes of this title.

(2) PARTICIPATING JURISDICTION.—The term "participating jurisdiction" means, with respect to a period for which such an agreement is made, a jurisdiction that has entered into an agreement under section 406(b)(3) to receive assistance pursuant to this title for such fiscal year.

Sec. 410. [42 U.S.C. 1437bbb-9]
TERMINATION AND EVALUATION.

(a) TERMINATION.—The demonstration program under this title shall terminate not less than 2 and not more than 5 years after the date on which the demonstration program is commenced.

(b) EVALUATION.—Not later than 6 months after the termination of the demonstration program under this title, the Secretary shall submit to the Congress a final report, which shall include—

(1) an evaluation[177] the effectiveness of the activities carried out under the demonstration program; and

(2) any findings and recommendations of the Secretary for any appropriate legislative action.

Sec. 411. [42 U.S.C. 1437bbb note]
APPLICABILITY.

This title shall take effect on the date of the enactment of the Quality Housing and Work Responsibility Act of 1998.[178]

END OF STATUTE

[177] So in law. Should probably insert the word "of" after evaluation.
[178] October 21, 1998.

REPEAL OF SECTION 8 NEW CONSTRUCTION

HOUSING AND URBAN-RURAL RECOVERY ACT OF 1983
[Public Law 98-181; 97 Stat. 1183; 42 U.S.C. 1437f note]

Sec. 209. [42 U.S.C. 1437f note]

(a) The United States Housing Act of 1937 is amended as follows:

(1) Section 8(a) is amended by striking out ", newly constructed, and substantially rehabilitated".

(2) Section 8(b)(2) is repealed.

(3) Section 8(e) of such Act is amended by striking out paragraphs (1), (2), and (3) and by redesignating paragraphs (4) and (5) as paragraphs (1) and (2), respectively.

(4) Section 8(i) of such Act is repealed.

(5) Section 8 of such Act is amended by striking out subsections (l) and (m).

(6) Section 8(n) of such Act is amended by striking out "(e)(5) and subsection (i)" and inserting in lieu thereof "(e)(2)".

(b) The amendments made by subsection (a) shall take effect on October 1, 1983, except that the provisions repealed shall remain in effect—

(1) with respect to any funds obligated for a viable project under section 8 of the United States Housing Act of 1937 prior to January 1, 1984; and

(2) with respect to any project financed under section 202 of the Housing Act of 1959.

UNITED STATES HOUSING ACT OF 1937-PRIOR TO NOVEMBER 30, 1983

Sec. 8.

(a) * * *

(b)(1) * * *

(2) To the extent of annual contributions authorizations under section 5(c) of this Act, the Secretary is authorized to make assistance payments pursuant to contracts with owners or prospective owners who agree to construct or substantially rehabilitate housing in which some or all of the units shall be available for occupancy by lower-income families in accordance with the provisions of this section. To increase housing opportunities for very low-income families, the Secretary shall assure that newly constructed housing to be assisted under this section is modest in design. The Secretary may also enter into annual contributions contracts with public housing agencies pursuant to which such agencies may enter into contracts to make assistance payments to such owners or prospective owners. Each contract to make assistance payments for newly constructed or substantially rehabilitated housing assisted under this section entered into after the date of enactment of the Housing and Community Development Amendments of 1981 shall provide that during the term of the contract the owner shall make available for occupancy by families which are eligible for assistance under this section, at the time of their initial occupancy, the number of units for which assistance is committed under the contract.

* * * * * * *

(e)(1) The Secretary shall not contract to make assistance payments with respect to a newly constructed or substantially rehabilitated dwelling unit for a term of less than two hundred and forty months or more than three hundred and sixty months, except that such term may not exceed two hundred and forty months in the case of a project financed with assistance of a loan made by, or insured, guaranteed or intended for purchase by, the Federal Government, other than pursuant to section 244 of the National Housing Act. Notwithstanding the preceding sentence, in the case of a project owned by, or financed by a loan or loan guarantee from, a State or local agency or the Farmers' Home Administration, the term may not exceed four hundred and eighty months.

(2) The contract between the Secretary and the owner with respect to newly constructed or substantially rehabilitated dwelling units shall provide that all ownership, management, and maintenance responsibilities, including the selection of tenants and the termination of tenancy, shall be assumed by the owner (or any entity, including a public housing agency, approved by the Secretary, with which the owner may contract for the performance of such responsibilities), except that the tenant selection criteria shall give preference to families which occupy substandard housing or are involuntarily displaced at the time they are seeking housing assistance under this section. In approving any public housing agency to assume all the management and maintenance responsibilities of any dwelling unit under the preceding sentence,

the Secretary may do so without regard to whether such agency administers the housing assistance payment contract for that unit.

(3) The construction or substantial rehabilitation of dwelling units to be assisted under this section shall be eligible for financing with mortgages insured under the National Housing Act. Assistance with respect to such dwelling units shall not be withheld or made subject to preferences by reason of the availability of mortgage insurance pursuant to section 244 of such Act or by reason of the tax-exempt status of the bonds or other obligations to be used to finance such construction or rehabilitation.

* * * * * * *

(i) In entering into contracts under this section with respect to substantially rehabilitated dwelling units, the Secretary shall provide that—

(1) the maximum monthly rent permitted for the assisted units be not greater than the amount permitted under subsection (c) or a lesser amount which the Secretary determines is appropriate taking into consideration the investment of the owner in the assisted units and such other factors as the Secretary determines to be relevant;

(2) the assisted units be rehabilitated to a level which meets but does not exceed applicable codes and standards for decent, safe, and sanitary housing which are prescribed by the Secretary;

(3) all the dwelling units in the housing structure in which the assisted units are located meet applicable codes and standards prescribed by the Secretary for decent, safe, and sanitary housing;

(4) the term of any such contract does not exceed the maximum term permitted under subsection (e)(1) or a shorter term which the Secretary determines is appropriate taking into consideration the amount of investment of the owner in the assisted units and such other factors as the Secretary determines to be relevant; and

(5) the assisted units meet cost-effective energy efficiency standards prescribed by the Secretary.

* * * * * * *

(l) After selection of a proposal involving newly constructed or substantially rehabilitated units for assistance under this section, the Secretary shall limit cost and rent increases, except for adjustment in rent pursuant to section 8(c)(2), to those approved by the Secretary. The Secretary may approve those increases only for unforeseen factors beyond the owner's control, design changes required by the Secretary or the local government, or changes in financing approved by the Secretary.

(m) For the purpose of achieving the lowest cost in providing units in newly constructed projects assisted under this section, the Secretary shall give a preference in entering into contracts under this section for projects which are to be located on specific tracts of land provided by States or units of local government if the Secretary determines that the tract of land is suitable for such housing, and that affording such preference will be cost effective.

CRANSTON-GONZALEZ NATIONAL AFFORDABLE HOUSING ACT
[Public Law 101-625; 104 Stat. 4220, 4233; 42 U.S.C. 1437f note]

Sec. 555. [42 U.S.C. 1437f note]
INCOME ELIGIBILITY FOR TENANCY IN NEW CONSTRUCTION UNITS.

Any dwelling units in any housing constructed or substantially rehabilitated pursuant to assistance provided under section 8(b)(2) of the United States Housing Act of 1937, as such section existed before October 1, 1983, and with a contract for assistance under such section, shall be reserved for occupancy by low-income families and very low-income families.

BALANCED BUDGET DOWNPAYMENT ACT
[Public Law 104-99; 110 Stat. 42]

Sec. 402.
REPEAL OF FEDERAL TENANT PREFERENCES.

(a) [Repealed.]

* * * * * * *

(d) REPEAL OF FEDERAL PREFERENCES.—

* * * * * * *

(4) SECTION 8 NEW CONSTRUCTION AND SUBSTANTIAL REHABILITATION.—

(A) REPEAL.— * * *

(B) PROHIBITION.—Notwithstanding any other provision of law, no Federal tenant selection preferences under the United States Housing Act of 1937 shall apply with respect to—

(i) housing constructed or substantially rehabilitated pursuant to assistance provided under section 8(b)(2) of the United States Housing Act of 1937 (as such section existed on the day before October 1, 1983); or

(ii) projects financed under section 202 of the Housing Act of 1959 (as such section existed on the day before the date of enactment of the Cranston-Gonzalez National Affordable Housing Act).

* * * * * * *

END OF STATUTE

FUNDING FOR SECTION 8 TENANT-BASED ASSISTANCE

QUALITY HOUSING AND WORK RESPONSIBILITY ACT OF 1998
[Public Law 105-276; 112 Stat. 2614]

Sec. 558.
AUTHORIZATIONS OF APPROPRIATIONS.

(a) IN GENERAL.—There is authorized to be appropriated for providing public housing agencies with tenant-based housing assistance under section 8 of the United States Housing Act of 1937—

(1) to provide amounts for incremental assistance under such section 8—

(A) for each of fiscal years 2000 and 2001, the amount necessary to assist 100,000 incremental dwelling units in each such fiscal year; and

(B) for each of fiscal years 1999, 2002, and 2003, such sums as may be necessary; and

(2) such sums as may be necessary for each of fiscal years 1999, 2000, 2001, 2002, and 2003, for—

(A) relocation and replacement housing for units that are demolished and disposed of from the public housing inventory (in addition to other amounts that may be available for such purposes);

(B) relocation of residents of properties that are owned by the Secretary and being disposed of or that are discontinuing section 8 project-based assistance;

(C) the conversion of section 23 projects to assistance under section 8;

(D) carrying out the family unification program;

(E) relocation of witnesses in connection with efforts to combat crime in public and assisted housing pursuant to a request from a law enforcement or prosecution agency;

(F) nonelderly disabled families affected by the designation of a public housing development under section 7 of the United States Housing Act of 1937, the establishment of preferences in accordance with section 651 of the Housing and Community Development Act of 1992, or the restriction of occupancy to elderly families in accordance with section 658 of such Act, and to the extent the Secretary determines that such amount is not needed to fund applications for such affected families, to other nonelderly disabled families;

(G) housing vouchers for homeless individuals; and

(H) housing vouchers to compensate public housing agencies which issue vouchers to families that move into or out of the jurisdiction of the agency under portability procedures.

(b) ASSISTANCE FOR DISABLED FAMILIES.—

(1) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated, for tenant-based assistance under section 8 of the United States Housing Act of 1937, to be used in accordance with paragraph (2), $50,000,000 for fiscal year 2000, and such sums as may be necessary for each subsequent fiscal year.

(2) USE.—The Secretary shall provide amounts made available under paragraph (1) to public housing agencies only for use to provide tenant-based assistance under section 8 of the United States Housing Act of 1937 for nonelderly disabled families (including such families relocating pursuant to designation of a public housing development under 7 of such Act or to the establishment of occupancy restrictions in accordance with section 658 of the Housing and Community Development Act of 1992, and other nonelderly disabled families who have applied to the agency for assistance under such section 8).

(3) ALLOCATION OF AMOUNTS.—The Secretary shall allocate and provide amounts made available under paragraph (1) to public housing agencies as the Secretary determines appropriate based on the relative levels of need among the authorities for assistance for families described in paragraph (1).

(c) EFFECTIVE DATE.—This section shall take effect on the date of the enactment of this Act.[179]

END OF STATUTE

[179] October 21, 1998.

MOVING TO WORK DEMONSTRATION

DEPARTMENTS OF VETERANS AFFAIRS AND HOUSING AND URBAN DEVELOPMENT, AND INDEPENDENT AGENCIES APPROPRIATIONS ACT, 1996 (AS CONTAINED IN SECTION 101(e) OF OMNIBUS CONSOLIDATED RESCISSIONS AND APPROPRIATIONS ACT OF 1996) [Public Law 104-134; 110 Stat. 1321-281; 42 U.S.C. 1437f note]

Sec. 204. [42 U.S.C. 1437f note]

(a) PURPOSE.—The purpose of this demonstration is to give public housing agencies and the Secretary of Housing and Urban Development the flexibility to design and test various approaches for providing and administering housing assistance that: reduce cost and achieve greater cost effectiveness in Federal expenditures; give incentives to families with children where the head of household is working, seeking work, or is preparing for work by participating in job training, educational programs, or programs that assist people to obtain employment and become economically self-sufficient; and increase housing choices for low-income families.

(b) PROGRAM AUTHORITY.—The Secretary of Housing and Urban Development shall conduct a demonstration program under this section beginning in fiscal year 1996 under which up to 30 public housing agencies (including Indian housing authorities) administering the public or Indian housing program and the section 8 housing assistance payments program may be selected by the Secretary to participate. The Secretary shall provide training and technical assistance during the demonstration and conduct detailed evaluations of up to 15 such agencies in an effort to identify replicable program models promoting the purpose of the demonstration. Under the demonstration, notwithstanding any provision of the United States Housing Act of 1937 except as provided in subsection (e), an agency may combine operating assistance provided under section 9 of the United States Housing Act of 1937, modernization assistance provided under section 14 of such Act, and assistance provided under section 8 of such Act for the certificate and voucher programs, to provide housing assistance for low-income families, as defined in section 3(b)(2) of the United States Housing Act of 1937, and services to facilitate the transition to work on such terms and conditions as the agency may propose and the Secretary may approve.

(c) APPLICATION.—An application to participate in the demonstration—

(1) shall request authority to combine assistance under sections 8, 9, and 14 of the United States Housing Act of 1937;

(2) shall be submitted only after the public housing agency provides for citizen participation through a public hearing and, if appropriate, other means;

(3) shall include a plan developed by the agency that takes into account comments from the public hearing and any other public comments on the proposed program, and comments from current and prospective residents who would be affected, and that includes criteria for—

(A) families to be assisted, which shall require that at least 75 percent of the families assisted by participating demonstration public housing authorities shall be very low-income families, as defined in section 3(b)(2) of the United States Housing Act of 1937;

(B) establishing a reasonable rent policy, which shall be designed to encourage employment and self-sufficiency by participating families, consistent with the purpose of this demonstration, such as by excluding some or all of a family's earned income for purposes of determining rent;

(C) continuing to assist substantially the same total number of eligible low-income families as would have been served had the amounts not been combined;

(D) maintaining a comparable mix of families (by family size) as would have been provided had the amounts not been used under the demonstration; and

(E) assuring that housing assisted under the demonstration program meets housing quality standards established or approved by the Secretary; and

(4) may request assistance for training and technical assistance to assist with design of the demonstration and to participate in a detailed evaluation.

(d) SELECTION.—In selecting among applications, the Secretary shall take into account the potential of each agency to plan and carry out a program under the demonstration, the relative performance by an agency under

the public housing management assessment program under section 6(j) of the United States Housing Act of 1937, and other appropriate factors as determined by the Secretary.

(e) APPLICABILITY OF 1937 ACT PROVISIONS.—

(1) Section 18 of the United States Housing Act of 1937 shall continue to apply to public housing notwithstanding any use of the housing under this demonstration.

(2) Section 12 of such Act shall apply to housing assisted under the demonstration, other than housing assisted solely due to occupancy by families receiving tenant-based assistance.

(f) EFFECT ON SECTION 8, OPERATING SUBSIDIES, AND COMPREHENSIVE GRANT PROGRAM ALLOCATIONS.—The amount of assistance received under section 8, section 9, or pursuant to section 14 by a public housing agency participating in the demonstration under this part shall not be diminished by its participation.

(g) RECORDS, REPORTS, AND AUDITS.—

(1) KEEPING OF RECORDS.—Each agency shall keep such records as the Secretary may prescribe as reasonably necessary to disclose the amounts and the disposition of amounts under this demonstration, to ensure compliance with the requirements of this section, and to measure performance.

(2) REPORTS.—Each agency shall submit to the Secretary a report, or series of reports, in a form and at a time specified by the Secretary. Each report shall—

(A) document the use of funds made available under this section;

(B) provide such data as the Secretary may request to assist the Secretary in assessing the demonstration; and

(C) describe and analyze the effect of assisted activities in addressing the objectives of this part.

(3) ACCESS TO DOCUMENTS BY THE SECRETARY.—The Secretary shall have access for the purpose of audit and examination to any books, documents, papers, and records that are pertinent to assistance in connection with, and the requirements of, this section.

(4) ACCESS TO DOCUMENTS BY THE COMPTROLLER GENERAL.—The Comptroller General of the United States, or any of the duly authorized representatives of the Comptroller General, shall have access for the purpose of audit and examination to any books, documents, papers, and records that are pertinent to assistance in connection with, and the requirements of, this section.

(h) EVALUATION AND REPORT.—

(1) CONSULTATION WITH PHA AND FAMILY REPRESENTATIVES.—In making assessments throughout the demonstration, the Secretary shall consult with representatives of public housing agencies and residents.

(2) REPORT TO CONGRESS.—Not later than 180 days after the end of the third year of the demonstration, the Secretary shall submit to the Congress a report evaluating the programs carried out under the demonstration. The report shall also include findings and recommendations for any appropriate legislative action.

(i) FUNDING FOR TECHNICAL ASSISTANCE AND EVALUATION.—From amounts appropriated for assistance under section 14 of the United States Housing Act of 1937 for fiscal years 1996, 1997, and 1998, the Secretary may use up to a total of $5,000,000—

(1) to provide, directly or by contract, training and technical assistance—

(A) to public housing agencies that express an interest to apply for training and technical assistance pursuant to subsection (c)(4), to assist them in designing programs to be proposed for the demonstration; and

(B) to up to 10 agencies selected to receive training and technical assistance pursuant to subsection (c)(4), to assist them in implementing the approved program; and

(2) to conduct detailed evaluations of the activities of the public housing agencies under paragraph (1)(B), directly or by contract.

(j) CAPITAL AND OPERATING FUND ASSISTANCE.—With respect to any public housing agency participating in the demonstration under this section that receives assistance from the Capital or Operating Fund under section 9 of the United States Housing Act of 1937 (as amended by the Quality Housing and Work Responsibility Act of 1998), for purposes of this section—

(1) any reference to assistance under section 9 of the United States Housing Act of 1937 shall be considered to refer also to assistance provided from the Operating Fund under section 9(e) of such Act (as so amended); and

(2) any reference to assistance under section 14 of the United States Housing Act of 1937 shall be considered to refer also to assistance provided from the Capital Fund under section 9(d) of such Act (as so amended).

END OF STATUTE

TRANSPORTATION, HOUSING AND URBAN DEVELOPMENT, AND RELATED AGENCIES
APPROPRIATIONS ACT, 2016
[Public Law 114-113; 129 Stat. 2242; 42 U.S.C. 1437f note]

Sec. 239. [42 U.S.C. 1437f note]

The Secretary of Housing and Urban Development shall increase, pursuant to this section, the number of Moving to Work agencies authorized under section 204, title II, of the Departments of Veterans Affairs and Housing and Urban Development and Independent Agencies Appropriations Act, 1996 (Public Law 104–134; 110 Stat. 1321) by adding to the program 100 public housing agencies that are designated as high performing agencies under the Public Housing Assessment System (PHAS) or the Section Eight Management Assessment Program (SEMAP). No public housing agency shall be granted this designation through this section that administers in excess of 27,000 aggregate housing vouchers and public housing units. Of the agencies selected under this section, no less than 50 shall administer 1,000 or fewer aggregate housing voucher and public housing units, no less than 47 shall administer 1,001-6,000 aggregate housing voucher and public housing units, and no more than 3 shall administer 6,001–27,000 aggregate housing voucher and public housing units. Of the 100 agencies selected under this section, five shall be agencies with portfolio awards under the Rental Assistance Demonstration that meet the other requirements of this section, including current designations as high performing agencies or such designations held immediately prior to such portfolio awards. Selection of agencies under this section shall be based on ensuring the geographic diversity of Moving to Work agencies. In addition to the preceding selection criteria, agencies shall be designated by the Secretary over a 7-year period. The Secretary shall establish a research advisory committee which shall advise the Secretary with respect to specific policy proposals and methods of research and evaluation for the demonstration. The advisory committee shall include program and research experts from the Department, a fair representation of agencies with a Moving to Work designation, and independent subject matter experts in housing policy research. For each cohort of agencies receiving a designation under this heading, the Secretary shall direct one specific policy change to be implemented by the agencies, and with the approval of the Secretary, such agencies may implement additional policy changes. All agencies designated under this section shall be evaluated through rigorous research as determined by the Secretary, and shall provide information requested by the Secretary to support such oversight and evaluation, including the targeted policy changes. Research and evaluation shall be coordinated under the direction of the Secretary, and in consultation with the advisory committee, and findings shall be shared broadly. The Secretary shall consult the advisory committee with respect to policy changes that have proven successful and can be applied more broadly to all public housing agencies, and propose any necessary statutory changes. The Secretary may, at the request of a Moving to Work agency and one or more adjacent public housing agencies in the same area, designate that Moving to Work agency as a regional agency. A regional Moving to Work agency may administer the assistance under sections 8 and 9 of the United States Housing Act of 1937 (42 U.S.C. 1437f and g) for the participating agencies within its region pursuant to the terms of its Moving to Work agreement with the Secretary. The Secretary may agree to extend the term of the agreement and to make any necessary changes to accommodate regionalization. A Moving to Work agency may be selected as a regional agency if the Secretary determines that unified administration of assistance under sections 8 and 9 by that agency across multiple jurisdictions will lead to efficiencies and to greater housing choice for low-income persons in the region. For purposes of this expansion, in addition to the provisions of the Act retained in section 204, section 8®(1) of the Act shall continue to apply unless the Secretary determines that waiver of this section is necessary to implement comprehensive rent reform and occupancy policies subject to evaluation by the Secretary, and the waiver contains, at a minimum, exceptions for requests to port due to employment, education, health and safety. No public housing agency granted this designation through this section shall receive more funding under sections 8 or 9 of the United States Housing Act of 1937 than it otherwise would have received absent this designation. The Secretary shall extend the current Moving to Work agreements of previously designated participating agencies until the end of each such agency's fiscal year 2028 under the same terms and conditions of such current agreements, except for any changes to such terms or conditions otherwise mutually agreed upon by the Secretary and any such agency and such extension agreements shall prohibit any statutory offset of any reserve balances equal to 4 months of operating expenses. Any such reserve balances that exceed such amount shall remain available to any such agency for all permissible purposes under such agreement unless subject to a statutory offset. In addition to other reporting requirements, all Moving to Work agencies shall report financial data to the Department of Housing and Urban Development as specified by the Secretary, so that the effect of Moving to Work policy changes can be measured.

END OF STATUTE

SECTION 8 ADMINISTRATIVE FEES

DEPARTMENTS OF VETERANS AFFAIRS AND HOUSING AND URBAN DEVELOPMENT, AND INDEPENDENT AGENCIES APPROPRIATIONS ACT, 1997
[Public Law 104-204; 110 Stat. 2893; 42 U.S.C. 1437f note]

Sec. 202. [42 U.S.C. 1437f note]
ADMINISTRATIVE FEES.—Notwithstanding section 8(q) of the United States Housing Act of 1937, as amended—

(a) The Secretary shall establish fees for the cost of administering the certificate, voucher and moderate rehabilitation programs.

(1)(A) For fiscal year 1997, the fee for each month for which a dwelling unit is covered by an assistance contract shall be 7.5 percent of the base amount, adjusted as provided herein, in the case of an agency that, on an annual basis, is administering a program of no more than 600 units, and 7 percent of the base amount, adjusted as provided herein, for each additional unit above 600.

(B) The base amount shall be the higher of—

(i) the fair market rental for fiscal year 1993 for a 2-bedroom existing rental dwelling unit in the market area of the agency; and

(ii) such fair market rental for fiscal year 1994, but not more than 103.5 percent of the amount determined under clause (i).

(C) The base amount shall be adjusted to reflect changes in the wage data or other objectively measurable data that reflect the costs of administering the program during fiscal year 1996; except that the Secretary may require that the base amount be not less than a minimum amount and not more than a maximum amount.

(2) For subsequent fiscal years, the Secretary shall publish a notice in the Federal Register, for each geographic area, establishing the amount of the fee that would apply for the agencies administering the program, based on changes in wage data or other objectively measurable data that reflect the cost of administering the program, as determined by the Secretary.

(3) The Secretary may increase the fee if necessary to reflect higher costs of administering small programs and programs operating over large geographic areas.

(4) The Secretary may decrease the fee for PHA-owned units.

(b) Beginning in fiscal year 1997 and thereafter, the Secretary shall also establish reasonable fees (as determined by the Secretary) for—

(1) the costs of preliminary expenses, in the amount of $500, for a public housing agency, but only in the first year it administers a tenant-based assistance program under the United States Housing Act of 1937 and only if, immediately before the effective date of this Act, it was not administering a tenant-based assistance program under the 1937 Act (as in effect immediately before the effective date of this Act), in connection with its initial increment of assistance received;

(2) the costs incurred in assisting families who experience difficulty (as determined by the Secretary) in obtaining appropriate housing under the program; and

(3) extraordinary costs approved by the Secretary.

END OF STATUTE

SECTION 8 CONTRACT RENEWALS

BALANCED BUDGET DOWNPAYMENT ACT
[Public Law 104-99; 110 Stat. 44; 42 U.S.C. 1437f note]

Sec. 405. [42 U.S.C. 1437f note]
SECTION 8 CONTRACT RENEWALS.

(a) Notwithstanding part 24 of title 24 of the Code of Federal Regulations, for fiscal year 1996 and henceforth, the Secretary of Housing and Urban Development may use amounts available for the renewal of assistance under section 8 of the United States Housing Act of 1937, upon termination or expiration of a contract for assistance under section 8 of such Act of 1937 (other than a contract for tenant-based assistance and notwithstanding section 8(v) of such Act for loan management assistance), to provide assistance under section 8 of such Act, subject to the Section 8 Existing Fair Market Rents, for the eligible families assisted under the contracts at expiration or termination, which assistance shall be in accordance with terms and conditions prescribed by the Secretary.

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END OF STATUTE

MULTIFAMILY HOUSING MORTGAGE & ASSISTANCE RESTRUCTURING

MULTIFAMILY ASSISTED HOUSING REFORM AND AFFORDABILITY ACT OF 1997
[Public Law 105-65; 111 Stat. 1384; 42 U.S.C. 1437f note][180]

TITLE V–HUD MULTIFAMILY HOUSING REFORM

Sec. 510. [12 U.S.C. 1701 note]
SHORT TITLE.

This title may be cited as the "Multifamily Assisted Housing Reform and Affordability Act of 1997".

Subtitle A—FHA-Insured Multifamily Housing Mortgage and Housing Assistance Restructuring181

Sec. 511. [42 U.S.C. 1437f note]
FINDINGS AND PURPOSES.

(a) FINDINGS.—Congress finds that—

(1) there exists throughout the Nation a need for decent, safe, and affordable housing;

(2) as of the date of enactment of this Act,[182] it is estimated that—

(A) the insured multifamily housing portfolio of the Federal Housing Administration consists of 14,000 rental properties, with an aggregate unpaid principal mortgage balance of $38,000,000,000; and

(B) approximately 10,000 of these properties contain housing units that are assisted with project-based rental assistance under section 8 of the United States Housing Act of 1937;

(3) FHA-insured multifamily rental properties are a major Federal investment, providing affordable rental housing to an estimated 2,000,000 low- and very low-income families;

(4) approximately 1,600,000 of these families live in dwelling units that are assisted with project-based rental assistance under section 8 of the United States Housing Act of 1937;

(5) a substantial number of housing units receiving project-based assistance have rents that are higher than the rents of comparable, unassisted rental units in the same housing rental market;

(6) many of the contracts for project-based assistance will expire during the several years following the date of enactment of this Act;[183]

(7) it is estimated that—

(A) if no changes in the terms and conditions of the contracts for project-based assistance are made before fiscal year 2000, the cost of renewing all expiring rental assistance contracts under section 8 of the United States Housing Act of 1937 for both project-based and tenant-based rental assistance will increase from approximately $3,600,000,000 in fiscal year 1997 to over $14,300,000,000 by fiscal year 2000 and some $22,400,000,000 in fiscal year 2006;

(B) of those renewal amounts, the cost of renewing project-based assistance will increase from $1,200,000,000 in fiscal year 1997 to almost $7,400,000,000 by fiscal year 2006; and

(C) without changes in the manner in which project-based rental assistance is provided, renewals of expiring contracts for project-based rental assistance will require an increasingly

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[180] Enacted as part of the Departments of Veterans Affairs and Housing and Urban Development, and Independent Agencies Appropriations Act, 1998.

[181] Section 621(1) of the Mark-to-Market Extension Act of 2001 (Public Law 107-116; 115 Stat. 2226; enacted January 10, 2002) amended section 579(a) of the Multifamily Assisted Housing Reform and Affordability Act of 1997 in its entirety. Before the enactment of Public Law 107-116, section 579(a) read as follows:

"(a) REPEAL.—Subtitle A (except for section 524) and subtitle D (except for this section) are repealed effective October 1, 2001.".

This title is shown as if the provisions of subtitles A and D were not repealed by such section 579(a) (see the date of enactment of Public Law 107-116 above) and the amendments made to this title by Public Law 107-116 were executed to those provisions.

Paragraphs (1) and (2) of section 579(a), as amended (set forth, post, this part) provide for repeal of subtitle A (except for section 524) effective October 1, 2011 and repealed subtitle D (except for section 579) effective October 1, 2004.

[182] October 27, 1997.

[183] October 27, 1997.

larger portion of the discretionary budget authority of the Department of Housing and Urban Development in each subsequent fiscal year for the foreseeable future;

(8) absent new budget authority for the renewal of expiring rental contracts for project-based assistance, many of the FHA-insured multifamily housing projects that are assisted with project-based assistance are likely to default on their FHA-insured mortgage payments, resulting in substantial claims to the FHA General Insurance Fund and Special Risk Insurance Fund;

(9) more than 15 percent of federally assisted multifamily housing projects are physically or financially distressed, including a number which suffer from mismanagement;

(10) due to Federal budget constraints, the downsizing of the Department of Housing and Urban Development, and diminished administrative capacity, the Department lacks the ability to ensure the continued economic and physical well-being of the stock of federally insured and assisted multifamily housing projects;

(11) the economic, physical, and management problems facing the stock of federally insured and assisted multifamily housing projects will be best served by reforms that—

(A) reduce the cost of Federal rental assistance, including project-based assistance, to these projects by reducing the debt service and operating costs of these projects while retaining the low-income affordability and availability of this housing;

(B) address physical and economic distress of this housing and the failure of some project managers and owners of projects to comply with management and ownership rules and requirements; and

(C) transfer and share many of the loan and contract administration functions and responsibilities of the Secretary to and with capable State, local, and other entities; and

(12) the authority and duties of the Secretary, not including the control by the Secretary of applicable accounts in the Treasury of the United States, may be delegated to State, local or other entities at the discretion of the Secretary, to the extent the Secretary determines, and for the purpose of carrying out this title, so that the Secretary has the discretion to be relieved of processing and approving any document or action required by these reforms.

(b) PURPOSES.—Consistent with the purposes and requirements of the Government Performance and Results Act of 1993, the purposes of this subtitle are—

(1) to preserve low-income rental housing affordability and availability while reducing the long-term costs of project-based assistance;

(2) to reform the design and operation of Federal rental housing assistance programs, administered by the Secretary, to promote greater multifamily housing project operating and cost efficiencies;

(3) to encourage owners of eligible multifamily housing projects to restructure their FHA-insured mortgages and project-based assistance contracts in a manner that is consistent with this subtitle before the year in which the contract expires;

(4) to reduce the cost of insurance claims under the National Housing Act related to mortgages insured by the Secretary and used to finance eligible multifamily housing projects;

(5) to streamline and improve federally insured and assisted multifamily housing project oversight and administration;

(6) to resolve the problems affecting financially and physically troubled federally insured and assisted multifamily housing projects through cooperation with residents, owners, State and local governments, and other interested entities and individuals;

(7) to protect the interest of project owners and managers, because they are partners of the Federal Government in meeting the affordable housing needs of the Nation through the section 8 rental housing assistance program;

(8) to protect the interest of tenants residing in the multifamily housing projects at the time of the restructuring for the housing; and

(9) to grant additional enforcement tools to use against those who violate agreements and program requirements, in order to ensure that the public interest is safeguarded and that Federal multifamily housing programs serve their intended purposes.

Sec. 512. [42 U.S.C. 1437f note]
DEFINITIONS.

In this subtitle:

(1) COMPARABLE PROPERTIES.—The term "comparable properties" means properties in the same market areas, where practicable, that—

(A) are similar to the eligible multifamily housing project as to neighborhood (including risk of crime), type of location, access, street appeal, age, property size, apartment mix, physical configuration, property and unit amenities, utilities, and other relevant characteristics; and

(B) are not receiving project-based assistance.

(2) ELIGIBLE MULTIFAMILY HOUSING PROJECT.—The term "eligible multifamily housing project" means a property consisting of more than 4 dwelling units—

(A) with rents that, on an average per unit or per room basis, exceed the rent of comparable properties in the same market area, determined in accordance with guidelines established by the Secretary;

(B) that is covered in whole or in part by a contract for project-based assistance under—

(i) the new construction or substantial rehabilitation program under section 8(b)(2) of the United States Housing Act of 1937 (as in effect before October 1, 1983);

(ii) the property disposition program under section 8(b) of the United States Housing Act of 1937;

(iii) the moderate rehabilitation program under section 8(e)(2) of the United States Housing Act of 1937;

(iv) the loan management assistance program under section 8 of the United States Housing Act of 1937;

(v) section 23 of the United States Housing Act of 1937 (as in effect before January 1, 1975);

(vi) the rent supplement program under section 101 of the Housing and Urban Development Act of 1965; or

(vii) section 8 of the United States Housing Act of 1937, following conversion from assistance under section 101 of the Housing and Urban Development Act of 1965; and

(C) financed by a mortgage insured or held by the Secretary under the National Housing Act.

Such term does not include any project with an expiring contract described in paragraph (1) or (2) of section 524(e), but does include a project described in section 524(e)(3). Notwithstanding any other provision of this title, the Secretary may treat a project as an eligible multifamily housing project for purposes of this title if (I) the project is assisted pursuant to a contract for project-based assistance under section 8 of the United States Housing Act of 1937 renewed under section 524 of this Act, (II) the owner consents to such treatment, and (III) the project met the requirements of the first sentence of this paragraph for eligibility as an eligible multifamily housing project before the initial renewal of the contract under section 524.

(3) EXPIRING CONTRACT.—The term "expiring contract" means a project-based assistance contract attached to an eligible multifamily housing project which, under the terms of the contract, will expire.

(4) EXPIRATION DATE.—The term "expiration date" means the date on which an expiring contract expires.

(5) FAIR MARKET RENT.—The term "fair market rent" means the fair market rental established under section 8(c) of the United States Housing Act of 1937.

(6) LOW-INCOME FAMILIES.—The term "low-income families" has the same meaning as provided under section 3(b)(2) of the United States Housing Act of 1937.

(7) MORTGAGE RESTRUCTURING AND RENTAL ASSISTANCE SUFFICIENCY PLAN.—The term "mortgage restructuring and rental assistance sufficiency plan" means the plan as provided under section 514.

(8) NONPROFIT ORGANIZATION.—The term "nonprofit organization" means any private nonprofit organization that—

(A) is organized under State or local laws;

(B) has no part of its net earnings inuring to the benefit of any member, founder, contributor, or individual; and

(C) has a long-term record of service in providing or financing quality affordable housing for low-income families through relationships with public entities.

(9) PORTFOLIO RESTRUCTURING AGREEMENT.—The term "portfolio restructuring agreement" means the agreement entered into between the Secretary and a participating administrative entity, as provided under section 513.

(10) PARTICIPATING ADMINISTRATIVE ENTITY.—The term "participating administrative entity" means a public agency (including a State housing finance agency or a local housing agency), a nonprofit

organization, or any other entity (including a law firm or an accounting firm) or a combination of such entities, that meets the requirements under section 513(b).

(11) PROJECT-BASED ASSISTANCE.—The term "project-based assistance" means rental assistance described in paragraph (2)(B) of this section that is attached to a multifamily housing project.

(12) RENEWAL.—The term "renewal" means the replacement of an expiring Federal rental contract with a new contract under section 8 of the United States Housing Act of 1937, consistent with the requirements of this subtitle.

(13) SECRETARY.—The term "Secretary" means the Secretary of Housing and Urban Development.

(14) STATE.—The term "State" has the same meaning as in section 104 of the Cranston-Gonzalez National Affordable Housing Act.

(15) TENANT-BASED ASSISTANCE.—The term "tenant-based assistance" has the same meaning as in section 8(f) of the United States Housing Act of 1937.

(16) UNIT OF GENERAL LOCAL GOVERNMENT.—The term "unit of general local government" has the same meaning as in section 104 of the Cranston-Gonzalez National Affordable Housing Act.

(17) VERY LOW-INCOME FAMILY.—The term "very low-income family" has the same meaning as in section 3(b) of the United States Housing Act of 1937.

(18) QUALIFIED MORTGAGEE.—The term "qualified mortgagee" means an entity approved by the Secretary that is capable of servicing, as well as originating, FHA-insured mortgages, and that—

(A) is not suspended or debarred by the Secretary;

(B) is not suspended or on probation imposed by the Mortgagee Review Board; and

(C) is not in default under any Government National Mortgage Association obligation.

(19) OFFICE.—The term "Office" means the Office of Multifamily Housing Assistance Restructuring established under section 571.

Sec. 513. [42 U.S.C. 1437f note]
AUTHORITY OF PARTICIPATING ADMINISTRATIVE ENTITIES.

(a) PARTICIPATING ADMINISTRATIVE ENTITIES.—

(1) IN GENERAL.—Subject to subsection (b)(3), the Secretary shall enter into portfolio restructuring agreements with participating administrative entities for the implementation of mortgage restructuring and rental assistance sufficiency plans to restructure multifamily housing mortgages insured or held by the Secretary under the National Housing Act, in order to—

(A) reduce the costs of expiring contracts for assistance under section 8 of the United States Housing Act of 1937;

(B) address financially and physically troubled projects; and

(C) correct management and ownership deficiencies.

(2) PORTFOLIO RESTRUCTURING AGREEMENTS.—Each portfolio restructuring agreement entered into under this subsection shall—

(A) be a cooperative agreement to establish the obligations and requirements between the Secretary and the participating administrative entity;

(B) identify the eligible multifamily housing projects or groups of projects for which the participating administrative entity is responsible for assisting in developing and implementing approved mortgage restructuring and rental assistance sufficiency plans under section 514;

(C) require the participating administrative entity to review and certify to the accuracy and completeness of the evaluation of rehabilitation needs required under section 514(e)(3) for each eligible multifamily housing project included in the portfolio restructuring agreement, in accordance with regulations promulgated by the Secretary;

(D) identify the responsibilities of both the participating administrative entity and the Secretary in implementing a mortgage restructuring and rental assistance sufficiency plan, including any actions proposed to be taken under section 516 or 517;

(E) require each mortgage restructuring and rental assistance sufficiency plan to be prepared in accordance with the requirements of section 514 for each eligible multifamily housing project;

(F) include other requirements established by the Secretary, including a right of the Secretary to terminate the contract immediately for failure of the participating administrative entity to comply with any applicable requirement;

(G) if the participating administrative entity is a State housing finance agency or a local housing agency, indemnify the participating administrative entity against lawsuits and penalties for actions taken pursuant to the agreement, excluding actions involving willful misconduct or negligence;

(H) include compensation for all reasonable expenses incurred by the participating administrative entity necessary to perform its duties under this subtitle; and

(I) include, where appropriate, incentive agreements with the participating administrative entity to reward superior performance in meeting the purposes of this title.

(b) SELECTION OF PARTICIPATING ADMINISTRATIVE ENTITY.—

(1) SELECTION CRITERIA.—The Secretary shall select a participating administrative entity based on whether, in the determination of the Secretary, the participating administrative entity—

(A) has demonstrated experience in working directly with residents of low-income housing projects and with tenants and other community-based organizations;

(B) has demonstrated experience with and capacity for multifamily restructuring and multifamily financing (which may include risk-sharing arrangements and restructuring eligible multifamily housing properties under the fiscal year 1997 Federal Housing Administration multifamily housing demonstration program);

(C) has a history of stable, financially sound, and responsible administrative performance (which may include the management of affordable low-income rental housing);

(D) has demonstrated financial strength in terms of asset quality, capital adequacy, and liquidity;

(E) has demonstrated that it will carry out the specific transactions and other responsibilities under this subtitle in a timely, efficient, and cost-effective manner; and

(F) meets other criteria, as determined by the Secretary.

(2) SELECTION.—If more than 1 interested entity meets the qualifications and selection criteria for a participating administrative entity, the Secretary may select the entity that demonstrates, as determined by the Secretary, that it will—

(A) provide the most timely, efficient, and cost-effective—

(i) restructuring of the mortgages covered by the portfolio restructuring agreement; and

(ii) administration of the section 8 project-based assistance contract, if applicable; and

(B) protect the public interest (including the long-term provision of decent low-income affordable rental housing and protection of residents, communities, and the American taxpayer).

(3) PARTNERSHIPS.—For the purposes of any participating administrative entity applying under this subsection, participating administrative entities are encouraged to develop partnerships with each other and with nonprofit organizations, if such partnerships will further the participating administrative entity's ability to meet the purposes of this title.

(4) ALTERNATIVE ADMINISTRATORS.—With respect to any eligible multifamily housing project for which a participating administrative entity is unavailable, or should not be selected to carry out the requirements of this subtitle with respect to that multifamily housing project for reasons relating to the selection criteria under paragraph (1), the Secretary shall—

(A) carry out the requirements of this subtitle with respect to that eligible multifamily housing project; or

(B) contract with other qualified entities that meet the requirements of paragraph (1) to provide the authority to carry out all or a portion of the requirements of this subtitle with respect to that eligible multifamily housing project.

(5) PRIORITY FOR PUBLIC AGENCIES AS PARTICIPATING ADMINISTRATIVE ENTITIES.—The Secretary shall provide a reasonable period during which the Secretary will consider proposals only from State housing finance agencies or local housing agencies, and the Secretary shall select such an agency without considering other applicants if the Secretary determines that the agency is qualified. The period shall be of sufficient duration for the Secretary to determine whether any State housing finance agencies or local housing agencies are interested and qualified. Not later than the end of the period, the Secretary shall notify the State housing finance agency or the local housing agency regarding the status of the proposal and, if the proposal is rejected, the reasons for the rejection and an opportunity for the applicant to respond.

(6) STATE AND LOCAL PORTFOLIO REQUIREMENTS.—

(A) IN GENERAL.—If the housing finance agency of a State is selected as the participating administrative entity, that agency shall be responsible for such eligible multifamily housing projects in that State as may be agreed upon by the participating administrative entity and the Secretary. If a local housing agency is selected as the participating administrative entity, that agency shall be responsible for such eligible multifamily housing projects in the jurisdiction of the agency as may be agreed upon by the participating administrative entity and the Secretary.

(B) NONDELEGATION.—Except with the prior approval of the Secretary, a participating administrative entity may not delegate or transfer responsibilities and functions under this subtitle to 1 or more entities.

(7) PRIVATE ENTITY REQUIREMENTS.—

(A) IN GENERAL.—If a for-profit entity is selected as the participating administrative entity, that entity shall be required to enter into a partnership with a public purpose entity (including the Department).

(B) PROHIBITION.—No private entity shall share, participate in, or otherwise benefit from any equity created, received, or restructured as a result of the portfolio restructuring agreement.

Sec. 514. [42 U.S.C. 1437f note]
MORTGAGE RESTRUCTURING AND RENTAL ASSISTANCE SUFFICIENCY PLAN.

(a) IN GENERAL.—

(1) DEVELOPMENT OF PROCEDURES AND REQUIREMENTS.—The Secretary shall develop procedures and requirements for the submission of a mortgage restructuring and rental assistance sufficiency plan for each eligible multifamily housing project with an expiring contract.

(2) TERMS AND CONDITIONS.—Each mortgage restructuring and rental assistance sufficiency plan submitted under this subsection shall be developed by the participating administrative entity, in cooperation with an owner of an eligible multifamily housing project and any servicer for the mortgage that is a qualified mortgagee, under such terms and conditions as the Secretary shall require.

(3) CONSOLIDATION.—Mortgage restructuring and rental assistance sufficiency plans submitted under this subsection may be consolidated as part of an overall strategy for more than 1 property.

(b) NOTICE REQUIREMENTS.—The Secretary shall establish notice procedures and hearing requirements for tenants and owners concerning the dates for the expiration of project-based assistance contracts for any eligible multifamily housing project.

(c) EXTENSION OF CONTRACT TERM.—Subject to agreement by a project owner, the Secretary may extend the term of any expiring contract or provide a section 8 contract with rent levels set in accordance with subsection (g) for a period sufficient to facilitate the implementation of a mortgage restructuring and rental assistance sufficiency plan, as determined by the Secretary.

(d) TENANT RENT PROTECTION.—If the owner of a project with an expiring Federal rental assistance contract does not agree to extend the contract, not less than 12 months prior to terminating the contract, the project owner shall provide written notice to the Secretary and the tenants and the Secretary shall make tenant-based assistance available to tenants residing in units assisted under the expiring contract at the time of expiration. In addition, if after giving the notice required in the first sentence, an owner determines to terminate a contract, an owner shall provide an additional written notice with respect to the termination, in a form prescribed by the Secretary, not less than 120 days prior to the termination. In the event the owner does not provide the 120-day notice required in the preceding sentence, the owner may not evict the tenants or increase the tenants' rent payment until such time as the owner has provided the 120-day notice and such period has elapsed. The Secretary may allow the owner to renew the terminating contract for a period of time sufficient to give tenants 120 days of advance notice in accordance with section 524 of this Act.

(e) MORTGAGE RESTRUCTURING AND RENTAL ASSISTANCE SUFFICIENCY PLAN.—Each mortgage restructuring and rental assistance sufficiency plan shall—

(1) except as otherwise provided, restructure the project-based assistance rents for the eligible multifamily housing project in a manner consistent with subsection (g), or provide for tenant-based assistance in accordance with section 515;

(2) allow for rent adjustments by applying an operating cost adjustment factor established under guidelines established by the Secretary;

(3) require the owner or purchaser of an eligible multifamily housing project to evaluate the rehabilitation needs of the project, in accordance with regulations of the Secretary, and notify the participating administrative entity of the rehabilitation needs;

(4) require the owner or purchaser of the project to provide or contract for competent management of the project;

(5) require the owner or purchaser of the project to take such actions as may be necessary to rehabilitate, maintain adequate reserves, and to maintain the project in decent and safe condition, based on housing quality standards established by—

(A) the Secretary; or

(B) local housing codes or codes adopted by public housing agencies that—

(i) meet or exceed housing quality standards established by the Secretary; and

(ii) do not severely restrict housing choice;

(6) require the owner or purchaser of the project to maintain affordability and use restrictions in accordance with regulations promulgated by the Secretary, for a term of not less than 30 years which restrictions shall be—

(A) contained in a legally enforceable document recorded in the appropriate records; and

(B) consistent with the long-term physical and financial viability and character of the project as affordable housing;

(7) include a certification by the participating administrative entity that the restructuring meets subsidy layering requirements established by the Secretary by regulation for purposes of this subtitle;

(8) require the owner or purchaser of the project to meet such other requirements as the Secretary determines to be appropriate; and

(9) prohibit the owner from refusing to lease a reasonable number of units to holders of certificates and vouchers under section 8 of the United States Housing Act of 1937 because of the status of the prospective tenants as certificate and voucher holders.

(f) TENANT AND OTHER PARTICIPATION AND CAPACITY BUILDING.—

(1) PROCEDURES.—

(A) IN GENERAL.—The Secretary shall establish procedures to provide an opportunity for tenants of the project, residents of the neighborhood, the local government, and other affected parties to participate effectively and on a timely basis in the restructuring process established by this subtitle.

(B) COVERAGE.—These procedures shall take into account the need to provide tenants of the project, residents of the neighborhood, the local government, and other affected parties timely notice of proposed restructuring actions and appropriate access to relevant information about restructuring activities. To the extent practicable and consistent with the need to accomplish project restructuring in an efficient manner, the procedures shall give all such parties an opportunity to provide comments to the participating administrative entity in writing, in meetings, or in another appropriate manner (which comments shall be taken into consideration by the participating administrative entity).

(2) REQUIRED CONSULTATION.—The procedures developed pursuant to paragraph (1) shall require consultation with tenants of the project, residents of the neighborhood, the local government, and other affected parties, in connection with at least the following:

(A) the mortgage restructuring and rental assistance sufficiency plan;

(B) any proposed transfer of the project; and

(C) the rental assistance assessment plan pursuant to section 515(c).

(3) FUNDING.—

(A) IN GENERAL.—The Secretary shall make available not more than $10,000,000 annually in funding, which amount shall be in addition to any amounts made available under this subparagraph and carried over from previous years, from which the Secretary may make obligations to tenant groups, nonprofit organizations, and public entities for building the capacity of tenant organizations, for technical assistance in furthering any of the purposes of this subtitle (including transfer of developments to new owners), for technical assistance for preservation of low-income housing for which project-based rental assistance is provided at below market rent levels and may not be renewed (including transfer of developments to tenant groups, nonprofit organizations, and public entities), for tenant services, and for tenant groups, nonprofit organizations, and public entities described in section 517(a)(5), from those amounts made

available under appropriations Acts for implementing this subtitle or previously made available for technical assistance in connection with the preservation of affordable rental housing for low-income persons.

(B) MANNER OF PROVIDING.—Notwithstanding any other provision of law restricting the use of preservation technical assistance funds, the Secretary may provide any funds made available under subparagraph (A) through existing technical assistance programs pursuant to any other Federal law, including the Low-Income Housing Preservation and Resident Homeownership Act of 1990 and the Multifamily Housing Property Disposition Reform Act of 1994, or through any other means that the Secretary considers consistent with the purposes of this subtitle, without regard to any set-aside requirement otherwise applicable to those funds.

(C) PROHIBITION.—None of the funds made available under subparagraph (A) may be used directly or indirectly to pay for any personal service, advertisement, telegram, telephone, letter, printed or written matter, or other device, intended or designed to influence in any manner a Member of Congress, to favor or oppose, by vote or otherwise, any legislation or appropriation by Congress, whether before or after the introduction of any bill or resolution proposing such legislation or appropriation.

(g) RENT LEVELS.—

(1) IN GENERAL.—Except as provided in paragraph (2), each mortgage restructuring and rental assistance sufficiency plan pursuant to the terms, conditions, and requirements of this subtitle shall establish for units assisted with project-based assistance in eligible multifamily housing projects adjusted rent levels that—

(A) are equivalent to rents derived from comparable properties, if—

(i) the participating administrative entity makes the rent determination within a reasonable period of time; and

(ii) the market rent determination is based on not less than 2 comparable properties; or

(B) if those rents cannot be determined, are equal to 90 percent of the fair market rents for the relevant market area.

(2) EXCEPTIONS.—

(A) IN GENERAL.—A contract under this section may include rent levels that exceed the rent level described in paragraph (1) at rent levels that do not exceed 120 percent of the fair market rent for the market area (except that the Secretary may waive this limit for not more than five percent of all units subject to portfolio restructuring agreements, based on a finding of special need), if the participating administrative entity—

(i) determines that the housing needs of the tenants and the community cannot be adequately addressed through implementation of the rent limitation required to be established through a mortgage restructuring and rental assistance sufficiency plan under paragraph (1); and

(ii) follows the procedures under paragraph (3).

(B) EXCEPTION RENTS.—In any fiscal year, a participating administrative entity may approve exception rents on not more than 20 percent of all units covered by the portfolio restructuring agreement with expiring contracts in that fiscal year, except that the Secretary may waive this ceiling upon a finding of special need.

(3) RENT LEVELS FOR EXCEPTION PROJECTS.—For purposes of this section, a project eligible for an exception rent shall receive a rent calculated on the actual and projected costs of operating the project, at a level that provides income sufficient to support a budget-based rent that consists of—

(A) the debt service of the project;

(B) the operating expenses of the project, as determined by the participating administrative entity, including—

(i) contributions to adequate reserves;

(ii) the costs of maintenance and necessary rehabilitation; and

(iii) other eligible costs permitted under section 8 of the United States Housing Act of 1937;

(C) an adequate allowance for potential operating losses due to vacancies and failure to collect rents, as determined by the participating administrative entity;

(D) an allowance for a reasonable rate of return to the owner or purchaser of the project, as determined by the participating administrative entity, which may be established to provide incentives for owners or purchasers to meet benchmarks of quality for management and housing quality; and

(E) other expenses determined by the participating administrative entity to be necessary for the operation of the project.

(h) EXEMPTIONS FROM RESTRUCTURING.—The following categories of projects shall not be covered by a mortgage restructuring and rental assistance sufficiency plan if—

(1) the primary financing or mortgage insurance for the multifamily housing project that is covered by that expiring contract was provided by a unit of State government or a unit of general local government (or an agency or instrumentality of a unit of a State government or unit of general local government) and the financing involves mortgage insurance under the National Housing Act, such that the implementation of a mortgage restructuring and rental assistance sufficiency plan under this subtitle is in conflict with applicable law or agreements governing such financing;

(2) the project is a project financed under section 202 of the Housing Act of 1959 or section 515 of the Housing Act of 1949, or refinanced pursuant to section 811 of the American Homeownership and Economic Opportunity Act of 2000 (12 U.S.C. 1701q note); or

(3) the project has an expiring contract under section 8 of the United States Housing Act of 1937 entered into pursuant to section 441 of the Stewart B. McKinney Homeless Assistance Act[184].

Sec. 515. [42 U.S.C. 1437f note]
SECTION 8 RENEWALS AND LONG-TERM AFFORDABILITY COMMITMENT BY OWNER OF PROJECT.

(a) SECTION 8 RENEWALS OF RESTRUCTURED PROJECTS.—

(1) PROJECT-BASED ASSISTANCE.—Subject to the availability of amounts provided in advance in appropriations Acts, and to the control of the Secretary of applicable accounts in the Treasury of the United States, with respect to an expiring section 8 contract on an eligible multifamily housing project to be renewed with project-based assistance (based on a determination under subsection (c)), the Secretary shall enter into contracts with participating administrative entities pursuant to which the participating administrative entity shall offer to renew or extend the contract, or the Secretary shall offer to renew such contract, and the owner of the project shall accept the offer, if the initial renewal is in accordance with the terms and conditions specified in the mortgage restructuring and rental assistance sufficiency plan and the rental assistance assessment plan.

(2) TENANT-BASED ASSISTANCE.—Subject to the availability of amounts provided in advance in appropriations Acts and to the control of the Secretary of applicable accounts in the Treasury of the United States, with respect to an expiring section 8 contract on an eligible multifamily housing project to be renewed with tenant-based assistance (based on a determination under subsection (c)), the Secretary shall enter into contracts with participating administrative entities pursuant to which the participating administrative entity shall provide for the renewal of section 8 assistance on an eligible multifamily housing project with tenant-based assistance, or the Secretary shall provide for such renewal, in accordance with the terms and conditions specified in the mortgage restructuring and rental assistance sufficiency plan and the rental assistance assessment plan.

(b) REQUIRED COMMITMENT.—After the initial renewal of a section 8 contract pursuant to this section, the owner shall accept each offer made pursuant to subsection (a) to renew the contract, for the term of the affordability and use restrictions required by section 514(e)(6), if the offer to renew is on terms and conditions specified in the mortgage restructuring and rental assistance sufficiency plan.

(c) DETERMINATION OF WHETHER TO RENEW WITH PROJECT-BASED OR TENANT-BASED ASSISTANCE.—

(1) MANDATORY RENEWAL OF PROJECT-BASED ASSISTANCE.—Section 8 assistance shall be renewed with project-based assistance, if—

(A) the project is located in an area in which the participating administrative entity determines, based on housing market indicators, such as low vacancy rates or high absorption

[184] Public Law 106-400, enacted on October 30, 2000, renamed the Stewart B. McKinney Homeless Assistance Act as the McKinney-Vento Homeless Assistance Act. Section 2 of such Act provides that "[a]ny reference in any law, regulation, document, paper, or other record of the United States to the Stewart B. McKinney Homeless Assistance Act shall be deemed to be a reference to the 'McKinney-Vento Homeless Assistance Act'".

rates, that there is not adequate available and affordable housing or that the tenants of the project would not be able to locate suitable units or use the tenant-based assistance successfully;

(B) a predominant number of the units in the project are occupied by elderly families, disabled families, or elderly and disabled families; or

(C) the project is held by a nonprofit cooperative ownership housing corporation or nonprofit cooperative housing trust.

(2) RENTAL ASSISTANCE ASSESSMENT PLAN.—

(A) IN GENERAL.—With respect to any project that is not described in paragraph (1), the participating administrative entity shall, after consultation with the owner of the project, develop a rental assistance assessment plan to determine whether to renew assistance for the project with tenant-based assistance or project-based assistance.

(B) RENTAL ASSISTANCE ASSESSMENT PLAN REQUIREMENTS.—Each rental assistance assessment plan developed under this paragraph shall include an assessment of the impact of converting to tenant-based assistance and the impact of extending project-based assistance on—

(i) the ability of the tenants to find adequate, available, decent, comparable, and affordable housing in the local market;

(ii) the types of tenants residing in the project (such as elderly families, disabled families, large families, and cooperative homeowners);

(iii) the local housing needs identified in the comprehensive housing affordability strategy, and local market vacancy trends;

(iv) the cost of providing assistance, comparing the applicable payment standard to the project's adjusted rent levels determined under section 514(g);

(v) the long-term financial stability of the project;

(vi) the ability of residents to make reasonable choices about their individual living situations;

(vii) the quality of the neighborhood in which the tenants would reside; and

(viii) the project's ability to compete in the marketplace.

(C) REPORTS TO DIRECTOR.—Each participating administrative entity shall report regularly to the Director as defined in subtitle D, as the Director shall require, identifying—

(i) each eligible multifamily housing project for which the entity has developed a rental assistance assessment plan under this paragraph that determined that the tenants of the project generally supported renewal of assistance with tenant-based assistance, but under which assistance for the project was renewed with project-based assistance; and

(ii) each project for which the entity has developed such a plan under which the assistance is renewed using tenant-based assistance.

(3) ELIGIBILITY FOR TENANT-BASED ASSISTANCE.—Subject to paragraph (4), with respect to any project that is not described in paragraph (1), if a participating administrative entity approves the use of tenant-based assistance based on a rental assistance assessment plan developed under paragraph (2), tenant-based assistance shall be provided to each assisted family (other than a family already receiving tenant-based assistance) residing in the project at the time the assistance described in section 512(2)(B) terminates.

(4) ASSISTANCE THROUGH ENHANCED VOUCHERS.—In the case of any family described in paragraph (3) that resides in a project described in section 512(2)(B), the tenant-based assistance provided shall be enhanced voucher assistance under section 8(t) of the United States Housing Act of 1937 (42 U.S.C. 1437f(t)).

(5) INAPPLICABILITY OF CERTAIN PROVISION.—If a participating administrative entity approves renewal with project-based assistance under this subsection, section 8(d)(2) of the United States Housing Act of 1937 shall not apply.

Sec. 516. [42 U.S.C. 1437f note]
PROHIBITION ON RESTRUCTURING.

(a) Prohibition on Restructuring.—The Secretary may elect not to consider any mortgage restructuring and rental assistance sufficiency plan or request for contract renewal if the Secretary or the participating administrative entity determines that—

(1)(A) the owner or purchaser of the project has engaged in material adverse financial or managerial actions or omissions with regard to such project; or

(B) the owner or purchaser of the project has engaged in material adverse financial or managerial actions or omissions with regard to other projects of such owner or purchaser that are federally assisted or financed with a loan from, or mortgage insured or guaranteed by, an agency of the Federal Government;

(2) material adverse financial or managerial actions or omissions include—

(A) materially violating any Federal, State, or local law or regulation with regard to this project or any other federally assisted project, after receipt of notice and an opportunity to cure;

(B) materially breaching a contract for assistance under section 8 of the United States Housing Act of 1937, after receipt of notice and an opportunity to cure;

(C) materially violating any applicable regulatory or other agreement with the Secretary or a participating administrative entity, after receipt of notice and an opportunity to cure;

(D) repeatedly and materially violating any Federal, State, or local law or regulation with regard to the project or any other federally assisted project;

(E) repeatedly and materially breaching a contract for assistance under section 8 of the United States Housing Act of 1937;

(F) repeatedly and materially violating any applicable regulatory or other agreement with the Secretary or a participating administrative entity;

(G) repeatedly failing to make mortgage payments at times when project income was sufficient to maintain and operate the property;

(H) materially failing to maintain the property according to housing quality standards after receipt of notice and a reasonable opportunity to cure; or

(I) committing any actions or omissions that would warrant suspension or debarment by the Secretary;

(3) the owner or purchaser of the property materially failed to follow the procedures and requirements of this subtitle, after receipt of notice and an opportunity to cure; or

(4) the poor condition of the project cannot be remedied in a cost effective manner, as determined by the participating administrative entity.

The term "owner" as used in this subsection, in addition to it having the same meaning as in section 8(f) of the United States Housing Act of 1937, also means an affiliate of the owner. The term "purchaser" as used in this subsection means any private person or entity, including a cooperative, an agency of the Federal Government, or a public housing agency, that, upon purchase of the project, would have the legal right to lease or sublease dwelling units in the project, and also means an affiliate of the purchaser. The terms "affiliate of the owner" and "affiliate of the purchaser" means any person or entity (including, but not limited to, a general partner or managing member, or an officer of either) that controls an owner or purchaser, is controlled by an owner or purchaser, or is under common control with the owner or purchaser. The term "control" means the direct or indirect power (under contract, equity ownership, the right to vote or determine a vote, or otherwise) to direct the financial, legal, beneficial or other interests of the owner or purchaser.

(b) OPPORTUNITY TO DISPUTE FINDINGS.—

(1) IN GENERAL.—During the 30-day period beginning on the date on which the owner or purchaser of an eligible multifamily housing project receives notice of a rejection under subsection (a) or of a mortgage restructuring and rental assistance sufficiency plan under section 514, the Secretary or participating administrative entity shall provide that owner or purchaser with an opportunity to dispute the basis for the rejection and an opportunity to cure.

(2) AFFIRMATION, MODIFICATION, OR REVERSAL.—

(A) IN GENERAL.—After providing an opportunity to dispute under paragraph (1), the Secretary or the participating administrative entity may affirm, modify, or reverse any rejection under subsection (a) or rejection of a mortgage restructuring and rental assistance sufficiency plan under section 514.

(B) REASONS FOR DECISION.—The Secretary or the participating administrative entity, as applicable, shall identify the reasons for any final decision under this paragraph.

(C) REVIEW PROCESS.—The Secretary shall establish an administrative review process to appeal any final decision under this paragraph.

(c) FINAL DETERMINATION.—Any final determination under this section shall not be subject to judicial review.

(d) DISPLACED TENANTS.—

(1) NOTICE TO CERTAIN RESIDENTS.—The Office shall notify any tenant that is residing in a project or receiving assistance under section 8 of the United States Housing Act of 1937 (42 U.S.C. 1437f) at the time of rejection under this section, of such rejection, except that the Office may delegate the responsibility to provide notice under this paragraph to the participating administrative entity.

(2) ASSISTANCE AND MOVING EXPENSES.—Subject to the availability of amounts provided in advance in appropriations Acts, for any low-income tenant that is residing in a project or receiving assistance under section 8 of the United States Housing Act of 1937 at the time of rejection under this section, that tenant shall be provided with tenant-based assistance and reasonable moving expenses, as determined by the Secretary.

(e) TRANSFER OF PROPERTY.—For properties disqualified from the consideration of a mortgage restructuring and rental assistance sufficiency plan under this section in accordance with paragraph (1) or (2) of subsection (a) because of actions by an owner or purchaser, the Secretary shall establish procedures to facilitate the voluntary sale or transfer of a property as part of a mortgage restructuring and rental assistance sufficiency plan, with a preference for tenant organizations and tenant-endorsed community-based nonprofit and public agency purchasers meeting such reasonable qualifications as may be established by the Secretary.

Sec. 517. [42 U.S.C. 1437f note]
RESTRUCTURING TOOLS.

(a) MORTGAGE RESTRUCTURING.—

(1) In this subtitle, an approved mortgage restructuring and rental assistance sufficiency plan shall include restructuring mortgages in accordance with this subsection to provide—

(A) a restructured or new first mortgage that is sustainable at rents at levels that are established in section 514(g); and

(B) a second mortgage that is in an amount equal to not more than the greater of—

(i) the full or partial payment of claim made under this subtitle; or

(ii) the difference between the restructured or new first mortgage and the indebtedness under the existing insured mortgage immediately before it is restructured or refinanced, provided that the amount of the second mortgage shall be in an amount that the Secretary or participating administrative entity determines can reasonably be expected to be repaid.

(2) The second mortgage shall bear interest at a rate not to exceed the applicable Federal rate as defined in section 1274(d) of the Internal Revenue Code of 1986. The term of the second mortgage shall be equal to the term of the restructured or new first mortgage.

(3) Payments on the second mortgage shall be deferred when the first mortgage remains outstanding, except to the extent there is excess project income remaining after payment of all reasonable and necessary operating expenses (including deposits in a reserve for replacement), debt service on the first mortgage, and any other expenditures approved by the Secretary. At least 75 percent of any excess project income shall be applied to payments on the second mortgage, and the Secretary or the participating administrative entity may permit up to 25 percent to be paid to the project owner if the Secretary or participating administrative entity determines that the project owner meets benchmarks for management and housing quality.

(4) The full amount of the second mortgage shall be immediately due and payable if—

(A) the first mortgage is terminated or paid in full, except as otherwise provided by the holder of the second mortgage;

(B) the project is purchased and the second mortgage is assumed by any subsequent purchaser in violation of guidelines established by the Secretary; or

(C) the Secretary provides notice to the project owner that such owner has failed to materially comply with any requirements of this section or the United States Housing Act of 1937 as those requirements apply to the project, with a reasonable opportunity for such owner to cure such failure.

(5) The Secretary may modify the terms of the second mortgage, assign the second mortgage to the acquiring organization or agency, or forgive all or part of the second mortgage if the Secretary holds the second mortgage and if the project is acquired by a tenant organization or tenant-endorsed community-based nonprofit or public agency, pursuant to guidelines established by the Secretary.

(6) The second mortgage under this section may be a first mortgage if no restructured or new first mortgage will meet the requirement of paragraph (1)(A).

(b) RESTRUCTURING TOOLS.—In addition to the requirements of subsection (a) and to the extent these actions are consistent with this section and with the control of the Secretary of applicable accounts in the Treasury of the United States, an approved mortgage restructuring and rental assistance sufficiency plan under this subtitle may include one or more of the following actions:

(1) FULL OR PARTIAL PAYMENT OF CLAIM.—Making a full payment of claim or partial payment of claim under section 541(b) of the National Housing Act, as amended by section 523(b) of this Act. Any payment under this paragraph shall not require the approval of a mortgagee.

(2) REFINANCING OF DEBT.—Refinancing of all or part of the debt on a project. If the refinancing involves a mortgage that will continue to be insured under the National Housing Act, the refinancing shall be documented through amendment of the existing insurance contract and not through a new insurance contract.

(3) MORTGAGE INSURANCE.—Providing FHA multifamily mortgage insurance, reinsurance or other credit enhancement alternatives, including multifamily risk-sharing mortgage programs, as provided under section 542 of the Housing and Community Development Act of 1992. The Secretary shall use risk-shared financing under section 542(c) of the Housing and Community Development Act of 1992 for any mortgage restructuring, rehabilitation financing, or debt refinancing included as part of a mortgage restructuring and rental assistance sufficiency plan if the terms and conditions are considered to be the best available financing in terms of financial savings to the FHA insurance funds and will result in reduced risk of loss to the Federal Government. Any limitations on the number of units available for mortgage insurance under section 542 shall not apply to eligible multifamily housing projects. Any credit subsidy costs of providing mortgage insurance shall be paid from the Liquidating Accounts of the General Insurance Fund or the Special Risk Insurance Fund and shall not be subject to any limitation on appropriations.

(4) CREDIT ENHANCEMENT.—Providing any additional State or local mortgage credit enhancements and risk-sharing arrangements that may be established with State or local housing finance agencies, the Federal Housing Finance Agency, the Federal National Mortgage Association, and the Federal Home Loan Mortgage Corporation, to a modified or refinanced first mortgage.

(5) COMPENSATION OF THIRD PARTIES.—Consistent with the portfolio restructuring agreement, entering into agreements, incurring costs, or making payments, including incentive agreements designed to reward superior performance in meeting the purposes of this Act, as may be reasonably necessary, to compensate the participation of participating administrative entities and other parties in undertaking actions authorized by this subtitle. Upon request to the Secretary, participating administrative entities that are qualified under the United States Housing Act of 1937 to serve as contract administrators shall be the contract administrators under section 8 of the United States Housing Act of 1937 for purposes of any contracts entered into as part of an approved mortgage restructuring and rental assistance sufficiency plan. Subject to the availability of amounts provided in advance in appropriations Acts for administrative fees under section 8 of the United States Housing Act of 1937, such amounts may be used to compensate participating administrative entities for compliance monitoring costs incurred under section 519.

(6) USE OF PROJECT ACCOUNTS.—Applying any residual receipts, replacement reserves, and any other project accounts not required for project operations, to maintain the long-term affordability and physical condition of the property or of other eligible multifamily housing projects. The participating administrative entity may expedite the acquisition of residual receipts, replacement reserves, or other such accounts, by entering into agreements with owners of housing covered by an expiring contract to provide an owner with a share of the receipts, not to exceed 10 percent, in accordance with guidelines established by the Secretary.

(c) REHABILITATION NEEDS AND ADDITION OF SIGNIFICANT FEATURES.—

(1) REHABILITATION NEEDS.—

(A) IN GENERAL.—Rehabilitation may be paid from the residual receipts, replacement reserves, or any other project accounts not required for project operations, or, as provided in appropriations Acts and subject to the control of the Secretary of applicable accounts in the Treasury of the United States, from budget authority provided for increases in the budget authority for assistance contracts under section 8 of the United States Housing Act of 1937, the rehabilitation grant program established under section 236 of the National Housing Act, as amended by section 531 of subtitle B of this Act, or through the debt restructuring transaction. Rehabilitation under this paragraph shall only be for the purpose of restoring the project to a non-

luxury standard adequate for the rental market intended at the original approval of the project-based assistance.

(B) CONTRIBUTION.—Each owner or purchaser of a project to be rehabilitated under an approved mortgage restructuring and rental assistance sufficiency plan shall contribute, from non-project resources, not less than 25 percent of the amount of rehabilitation assistance received, except that the participating administrative entity may provide an exception from the requirement of this subparagraph for housing cooperatives.

(2) ADDITION OF SIGNIFICANT FEATURES.—

(A) AUTHORITY.—An approved mortgage restructuring and rental assistance sufficiency plan may require the improvement of the project by the addition of significant features that are not necessary for rehabilitation to the standard provided under paragraph (1), such as air conditioning, an elevator, and additional community space. The Secretary shall establish guidelines regarding the inclusion of requirements regarding such additional significant features under such plans.

(B) FUNDING.—Significant features added pursuant to an approved mortgage restructuring and rental assistance sufficiency plan may be paid from the funding sources specified in the first sentence of paragraph (1)(A).

(C) LIMITATION ON OWNER CONTRIBUTION.—An owner of a project may not be required to contribute from non-project resources, toward the cost of any additional significant features required pursuant to this paragraph, more than 25 percent of the amount of any assistance received for the inclusion of such features.

(D) APPLICABILITY.—This paragraph shall apply to all eligible multifamily housing projects, except projects for which the Secretary and the project owner executed a mortgage restructuring and rental assistance sufficiency plan on or before the date of the enactment of the Mark-to-Market Extension Act of 2001.[185]

(d) PROHIBITION ON EQUITY SHARING BY THE SECRETARY.—The Secretary is prohibited from participating in any equity agreement or profit-sharing agreement in conjunction with any eligible multifamily housing project.

(e) CONFLICT OF INTEREST GUIDELINES.—The Secretary may establish guidelines to prevent conflicts of interest by a participating administrative entity that provides, directly or through risk-sharing arrangements, any form of credit enhancement or financing pursuant to subsections (b)(3) or (b)(4) or to prevent conflicts of interest by any other person or entity under this subtitle.

Sec. 518. [42 U.S.C. 1437f note]
MANAGEMENT STANDARDS.

Each participating administrative entity shall establish management standards, including requirements governing conflicts of interest between owners, managers, contractors with an identity of interest, pursuant to guidelines established by the Secretary and consistent with industry standards.

Sec. 519. [42 U.S.C. 1437f note]
MONITORING OF COMPLIANCE.

(a) COMPLIANCE AGREEMENTS.—(1) Pursuant to regulations issued by the Secretary under section 522(a), each participating administrative entity, through binding contractual agreements with owners and otherwise, shall ensure long-term compliance with the provisions of this subtitle. Each agreement shall, at a minimum, provide for—

(A) enforcement of the provisions of this subtitle; and

(B) remedies for the breach of those provisions.

(2) If the participating administrative entity is not qualified under the United States Housing Act of 1937 to be a section 8 contract administrator or fails to perform its duties under the portfolio restructuring agreement, the Secretary shall have the right to enforce the agreement.

(b) PERIODIC MONITORING.—

(1) IN GENERAL.—Not less than annually, each participating administrative entity that is qualified to be the section 8 contract administrator shall review the status of all multifamily housing projects for which a mortgage restructuring and rental assistance sufficiency plan has been implemented.

[185] January 10, 2002.

(2) INSPECTIONS.—Each review under this subsection shall include onsite inspection to determine compliance with housing codes and other requirements as provided in this subtitle and the portfolio restructuring agreements.

(3) ADMINISTRATION.—If the participating administrative entity is not qualified under the United States Housing Act of 1937 to be a section 8 contract administrator, either the Secretary or a qualified State or local housing agency shall be responsible for the review required by this subsection.

(c) AUDIT BY THE SECRETARY.—The Comptroller General of the United States, the Secretary, and the Inspector General of the Department of Housing and Urban Development may conduct an audit at any time of any multifamily housing project for which a mortgage restructuring and rental assistance sufficiency plan has been implemented.

Sec. 520. [42 U.S.C. 1437f note]
REPORTS TO CONGRESS.

(a) ANNUAL REVIEW.—In order to ensure compliance with this subtitle, the Secretary shall conduct an annual review and report to the Congress on actions taken under this subtitle and the status of eligible multifamily housing projects.

(b) SEMIANNUAL REVIEW.—Not less than semiannually during the 2-year period beginning on the date of the enactment of this Act and not less than annually thereafter, the Secretary shall submit reports to the Committee on Financial Services of the House of Representatives and the Committee on Banking, Housing, and Urban Affairs of the Senate stating, for such periods, the total number of projects identified by participating administrative entities under each of clauses (i) and (ii) of section 515(c)(2)(C).

Sec. 521. [42 U.S.C. 1437f note]
GAO AUDIT AND REVIEW.

(a) INITIAL AUDIT.—Not later than 18 months after the effective date of final regulations promulgated under this subtitle, the Comptroller General of the United States shall conduct an audit to evaluate eligible multifamily housing projects and the implementation of mortgage restructuring and rental assistance sufficiency plans.

(b) REPORT.—

(1) IN GENERAL.—Not later than 18 months after the audit conducted under subsection (a), the Comptroller General of the United States shall submit to Congress a report on the status of eligible multifamily housing projects and the implementation of mortgage restructuring and rental assistance sufficiency plans.

(2) CONTENTS.—The report submitted under paragraph (1) shall include—

(A) a description of the initial audit conducted under subsection (a); and

(B) recommendations for any legislative action to increase the financial savings to the Federal Government of the restructuring of eligible multifamily housing projects balanced with the continued availability of the maximum number of affordable low-income housing units.

Sec. 522. [42 U.S.C. 1437f note]
REGULATIONS.

(a) RULEMAKING AND IMPLEMENTATION.—

(1) INTERIM REGULATIONS.—The Director shall issue such interim regulations as may be necessary to implement this subtitle and the amendments made by this subtitle with respect to eligible multifamily housing projects covered by contracts described in section 512(2)(B) that expire in fiscal year 1999 or thereafter. If, before the expiration of such period, the Director has not been appointed, the Secretary shall issue such interim regulations.

(2) FINAL REGULATIONS.—The Director shall issue final regulations necessary to implement this subtitle and the amendments made by this subtitle with respect to eligible multifamily housing projects covered by contracts described in section 512(2)(B) that expire in fiscal year 1999 or thereafter before the later of: (A) the expiration of the 12-month period beginning upon the date of the enactment of this Act; and (B) the 3-month period beginning upon the appointment of the Director under subtitle D.

(3) FACTORS FOR CONSIDERATION.—Before the publication of the final regulations under paragraph (2), in addition to public comments invited in connection with publication of the interim rule, the Secretary shall—

(A) seek recommendations on the implementation of sections 513(b) and 515(c)(1) from organizations representing—

(i) State housing finance agencies and local housing agencies;

(ii) other potential participating administering entities;

(iii) tenants;

(iv) owners and managers of eligible multifamily housing projects;

(v) States and units of general local government; and

(vi) qualified mortgagees; and

(B) convene not less than 3 public forums at which the organizations making recommendations under subparagraph (A) may express views concerning the proposed disposition of the recommendations.

(b) TRANSITION PROVISION FOR CONTRACTS EXPIRING IN FISCAL YEAR 1998.—Notwithstanding any other provision of law, the Secretary shall apply all the terms of section 211 and section 212 of the Departments of Veterans Affairs and Housing and Urban Development, and Independent Agencies Appropriations Act, 1997 (except for section 212(h)(1)(G) and the limitation in section 212(k)) contracts for project-based assistance that expire during fiscal year 1998 (in the same manner that such provisions apply to expiring contracts defined in section 212(a)(3) of such Act), except that section 517(a) of the Act shall apply to mortgages on projects subject to such contracts.

Sec. 523. [42 U.S.C. 1437f note]
TECHNICAL AND CONFORMING AMENDMENTS.

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Sec. 524. [42 U.S.C. 1437f note]
RENEWAL OF EXPIRING PROJECT-BASED SECTION 8 CONTRACTS.

(a) IN GENERAL.—

(1) RENEWAL.—Subject to paragraph (2), upon termination or expiration of a contract for project-based assistance under section 8 for a multifamily housing project (and notwithstanding section 8(v) of the United States Housing Act of 1937 for loan management assistance), the Secretary shall, at the request of the owner of the project and to the extent sufficient amounts are made available in appropriation Acts, use amounts available for the renewal of assistance under section 8 of such Act to provide such assistance for the project. The assistance shall be provided under a contract having such terms and conditions as the Secretary considers appropriate, subject to the requirements of this section. This section shall not require contract renewal for a project that is eligible under this subtitle for a mortgage restructuring and rental assistance sufficiency plan, if there is no approved plan for the project and the Secretary determines that such an approved plan is necessary.

(2) PROHIBITION ON RENEWAL.—Notwithstanding part 24 of title 24 of the Code of Federal Regulations, the Secretary may elect not to renew assistance for a project otherwise required to be renewed under paragraph (1) or provide comparable benefits under paragraph (1) or (2) of subsection (e) for a project described in either such paragraph, if the Secretary determines that a violation under paragraphs (1) through (4) of section 516(a) has occurred with respect to the project. For purposes of such a determination, the provisions of section 516 shall apply to a project under this section in the same manner and to the same extent that the provisions of such section apply to eligible multifamily housing projects, except that the Secretary shall make the determination under section 516(a)(4).

(3) CONTRACT TERM FOR MARK-UP-TO-MARKET CONTRACTS.—In the case of an expiring or terminating contract that has rent levels less than comparable market rents for the market area, if the rent levels under the renewal contract under this section are equal to comparable market rents for the market area, the contract shall have a term of not less than 5 years, subject to the availability of sufficient amounts in appropriation Acts.

(4) RENEWAL RENTS.—Except as provided in subsection (b), the contract for assistance shall provide assistance at the following rent levels:

(A) MARKET RENTS.—At the request of the owner of the project, at rent levels equal to the lesser of comparable market rents for the market area or 150 percent of the fair market rents, in the case only of a project that—

(i) has rent levels under the expiring or terminating contract that do not exceed such comparable market rents;

(ii) does not have a low- and moderate-income use restriction that can not be eliminated by unilateral action by the owner;

(iii) is decent, safe, and sanitary housing, as determined by the Secretary;

(iv) is not—

(I) owned by a nonprofit entity;

(II) subject to a contract for moderate rehabilitation assistance under section 8(e)(2) of the United States Housing Act of 1937, as in effect before October 1, 1991; or

(III) a project for which the public housing agency provided voucher assistance to one or more of the tenants after the owner has provided notice of termination of the contract covering the tenant's unit; and

(v) has units assisted under the contract for which the comparable market rent exceeds 110 percent of the fair market rent.

The Secretary may adjust the percentages of fair market rent (as specified in the matter preceding clause (i) and in clause (v)), but only upon a determination and written notification to the Congress within 10 days of making such determination, that such adjustment is necessary to ensure that this subparagraph covers projects with a high risk of nonrenewal of expiring contracts for project-based assistance.

(B) REDUCTION TO MARKET RENTS.—In the case of a project that has rent levels under the expiring or terminating contract that exceed comparable market rents for the market area, at rent levels equal to such comparable market rents.

(C) RENTS NOT EXCEEDING MARKET RENTS.—In the case of a project that is not subject to subparagraph (A) or (B), at rent levels that—

(i) are not less than the existing rents under the terminated or expiring contract, as adjusted by an operating cost adjustment factor established by the Secretary (which shall not result in a negative adjustment), if such adjusted rents do not exceed comparable market rents for the market area; and

(ii) do not exceed comparable market rents for the market area.

In determining the rent level for a contract under this subparagraph, the Secretary shall approve rents sufficient to cover budget-based cost increases and shall give greater consideration to providing rent at a level up to comparable market rents for the market area based on the number of the criteria under clauses (i) through (iii) of subparagraph (D) that the project meets. Notwithstanding any other provision of law, the Secretary shall include in such budget-based cost increases costs relating to the project as a whole (including costs incurred with respect to units not covered by the contract for assistance), but only (I) if inclusion of such costs is requested by the owner or purchaser of the project, (II) if inclusion of such costs will permit capital repairs to the project or acquisition of the project by a nonprofit organization, and (III) to the extent that inclusion of such costs (or a portion thereof) complies with the requirement under clause (ii).

(D) WAIVER OF 150 PERCENT LIMITATION.—Notwithstanding subparagraph (A), at rent levels up to comparable market rents for the market area, in the case of a project that meets the requirements under clauses (i) through (v) of subparagraph (A) and—

(i) has residents who are a particularly vulnerable population, as demonstrated by a high percentage of units being rented to elderly families, disabled families, or large families;

(ii) is located in an area in which tenant-based assistance would be difficult to use, as demonstrated by a low vacancy rate for affordable housing, a high turnback rate for vouchers, or a lack of comparable rental housing; or

(iii) is a high priority for the local community, as demonstrated by a contribution of State or local funds to the property.

In determining the rent level for a contract under this subparagraph, the Secretary shall approve rents sufficient to cover budget-based cost increases and shall give greater consideration to providing rent at a level up to comparable market rents for the market area based on the number of the criteria under clauses (i) through (iv) that the project meets.

(5) COMPARABLE MARKET RENTS AND COMPARISON WITH FAIR MARKET RENTS.—The Secretary shall prescribe the method for determining comparable market rent by comparison with rents charged for comparable properties (as such term is defined in section 512), which may include

appropriate adjustments for utility allowances and adjustments to reflect the value of any subsidy (other than section 8 assistance) provided by the Department of Housing and Urban Development.

(b) EXCEPTION RENTS.—

(1) RENEWAL.—In the case of a multifamily housing project described in paragraph (2), pursuant to the request of the owner of the project, the contract for assistance for the project pursuant to subsection (a) shall provide assistance at the lesser of the following rent levels:

(A) ADJUSTED EXISTING RENTS.—The existing rents under the expiring contract, as adjusted by an operating cost adjustment factor established by the Secretary (which shall not result in a negative adjustment).

(B) BUDGET-BASED RENTS.—Subject to a determination by the Secretary that a rent level under this subparagraph is appropriate for a project, a rent level that provides income sufficient to support a budget-based rent (including a budget-based rent adjustment if justified by reasonable and expected operating expenses).

(2) PROJECTS COVERED.—A multifamily housing project described in this paragraph is a multifamily housing project that—

(A) is not an eligible multifamily housing project under section 512(2); or

(B) is exempt from mortgage restructuring under this subtitle pursuant to section 514(h).

(3) MODERATE REHABILITATION PROJECTS.—In the case of a project with a contract under the moderate rehabilitation program, other than a moderate rehabilitation contract under section 441 of the Stewart B. McKinney Homeless Assistance Act[186], pursuant to the request of the owner of the project, the contract for assistance for the project pursuant to subsection (a) shall provide assistance at the lesser of the following rent levels:

(A) ADJUSTED EXISTING RENTS.—The existing rents under the expiring contract, as adjusted by an operating cost adjustment factor established by the Secretary (which shall not result in a negative adjustment).

(B) FAIR MARKET RENTS.—Fair market rents (less any amounts allowed for tenant-purchased utilities).

(C) MARKET RENTS.—Comparable market rents for the market area.

(c) RENT ADJUSTMENTS AFTER RENEWAL OF CONTRACT.—

(1) REQUIRED.—After the initial renewal of a contract for assistance under section 8 of the United States Housing Act of 1937 pursuant to subsection (a), (b)(1), or (e)(2), the Secretary shall annually adjust the rents using an operating cost adjustment factor established by the Secretary (which shall not result in a negative adjustment) or, upon the request of the owner and subject to approval of the Secretary, on a budget basis. In the case of projects with contracts renewed pursuant to subsection (a) or pursuant to subsection (e)(2) at rent levels equal to comparable market rents for the market area, at the expiration of each 5-year period, the Secretary shall compare existing rents with comparable market rents for the market area and may make any adjustments in the rent necessary to maintain the contract rents at a level not greater than comparable market rents or to increase rents to comparable market rents.

(2) DISCRETIONARY.—In addition to review and adjustment required under paragraph (1), in the case of projects with contracts renewed pursuant to subsection (a) or pursuant to subsection (e)(2) at rent levels equal to comparable market rents for the market area, the Secretary may, at the discretion of the Secretary but only once within each 5-year period referred to in paragraph (1), conduct a comparison of rents for a project and adjust the rents accordingly to maintain the contract rents at a level not greater than comparable market rents or to increase rents to comparable market rents.

(d) ENHANCED VOUCHERS UPON CONTRACT EXPIRATION.—

(1) IN GENERAL.—In the case of a contract for project-based assistance under section 8 for a covered project that is not renewed under subsection (a) or (b) of this section (or any other authority), to the extent that amounts for assistance under this subsection are provided in advance in appropriation Acts, upon the date of the expiration of such contract the Secretary shall make enhanced voucher assistance under section 8(t) of the United States Housing Act of 1937 (42 U.S.C. 1437f(t)) available on behalf of each low-income family who, upon the date of such expiration, is residing in an assisted dwelling unit in the covered project.

[186] Public Law 106-400, enacted on October 30, 2000, renamed the Stewart B. McKinney Homeless Assistance Act as the McKinney-Vento Homeless Assistance Act. Section 2 of such Act provides that "[a]ny reference in any law, regulation, document, paper, or other record of the United States to the Stewart B. McKinney Homeless Assistance Act shall be deemed to be a reference to the 'McKinney-Vento Homeless Assistance Act'".

(2) DEFINITIONS.—For purposes of this subsection, the following definitions shall apply:

(A) ASSISTED DWELLING UNIT.—The term "assisted dwelling unit" means a dwelling unit that—

(i) is in a covered project; and

(ii) is covered by rental assistance provided under the contract for project-based assistance for the covered project.

(B) COVERED PROJECT.—The term "covered project" means any housing that—

(i) consists of more than four dwelling units;

(ii) is covered in whole or in part by a contract for project-based assistance under—

(I) the new construction or substantial rehabilitation program under section 8(b)(2) of the United States Housing Act of 1937 (as in effect before October 1, 1983);

(II) the property disposition program under section 8(b) of the United States Housing Act of 1937;

(III) the moderate rehabilitation program under section 8(e)(2) of the United States Housing Act of 1937 (as in effect before October 1, 1991);

(IV) the loan management assistance program under section 8 of the United States Housing Act of 1937;

(V) section 23 of the United States Housing Act of 1937 (as in effect before January 1, 1975);

(VI) the rent supplement program under section 101 of the Housing and Urban Development Act of 1965; or

(VII) section 8 of the United States Housing Act of 1937, following conversion from assistance under section 101 of the Housing and Urban Development Act of 1965,

which contract will (under its own terms) expire during the period consisting of fiscal years 2000 through 2004; and

(iii) is not housing for which residents are eligible for enhanced voucher assistance as provided, pursuant to the "Preserving Existing Housing Investment" account in the Departments of Veterans Affairs and Housing and Urban Development, and Independent Agencies Appropriations Act, 1997 (Public Law 104-204; 110 Stat. 2884) or any other subsequently enacted provision of law, in lieu of any benefits under section 223 of the Low-Income Housing Preservation and Resident Homeownership Act of 1990 (12 U.S.C. 4113).

(4) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated for each of fiscal years 2000, 2001, 2002, 2003, and 2004 such sums as may be necessary for enhanced voucher assistance under this subsection.

(e) CONTRACTUAL COMMITMENTS UNDER PRESERVATION LAWS.—Except as provided in subsection (a)(2) and notwithstanding any other provision of this subtitle, the following shall apply:

(1) PRESERVATION PROJECTS.—Upon expiration of a contract for assistance under section 8 for a project that is subject to an approved plan of action under the Emergency Low Income Housing Preservation Act of 1987 (12 U.S.C. 1715l note) or the Low-Income Housing Preservation and Resident Homeownership Act of 1990 (12 U.S.C. 4101 et seq.), to the extent amounts are specifically made available in appropriation Acts, the Secretary shall provide to the owner benefits comparable to those provided under such plan of action, including distributions, rent increase procedures, and duration of low-income affordability restrictions. This paragraph shall apply to projects with contracts expiring before, on, or after the date of the enactment of this section.

(2) DEMONSTRATION PROJECTS.—

(A) IN GENERAL.—Upon expiration of a contract for assistance under section 8 for a project entered into pursuant to any authority specified in subparagraph (B) for which the Secretary determines that debt restructuring is inappropriate, the Secretary shall, at the request of the owner of the project and to the extent sufficient amounts are made available in appropriation Acts, provide benefits to the owner comparable to those provided under such contract, including annual distributions, rent increase procedures, and duration of low-income affordability restrictions. This paragraph shall apply to projects with contracts expiring before, on, or after the date of the enactment of this section.

(B) DEMONSTRATION PROGRAMS.—The authority specified in this subparagraph is the authority under—

(i) section 210 of the Departments of Veterans Affairs and Housing and Urban Development, and Independent Agencies Appropriations Act, 1996 (Public Law 104-134; 110 Stat. 1321-285; 42 U.S.C. 1437f note);

(ii) section 212 of the Departments of Veterans Affairs and Housing and Urban Development, and Independent Agencies Appropriations Act, 1997 (Public Law 104-204; 110 Stat. 2897; 42 U.S.C. 1437f note); and

(iii) either of such sections, pursuant to any provision of this title.

(3) MORTGAGE RESTRUCTURING AND RENTAL ASSISTANCE SUFFICIENCY PLANS.—Notwithstanding paragraph (1), the owner of the project may request, and the Secretary may consider, mortgage restructuring and rental assistance sufficiency plans to facilitate sales or transfers of properties under this subtitle, subject to an approved plan of action under the Emergency Low Income Housing Preservation Act of 1987 (12 U.S.C. 1715l note) or the Low-Income Housing Preservation and Resident Homeownership Act of 1990 (12 U.S.C. 4101 et seq.), which plans shall result in a sale or transfer of those properties.

(f) PREEMPTION OF CONFLICTING STATE LAWS LIMITING DISTRIBUTIONS.—

(1) IN GENERAL.—Except as provided in paragraph (2), no State or political subdivision of a State may establish, continue in effect, or enforce any law or regulation that limits or restricts, to an amount that is less than the amount provided for under the regulations of the Secretary establishing allowable project distributions to provide a return on investment, the amount of surplus funds accruing after the date of the enactment of this section that may be distributed from any multifamily housing project assisted under a contract for rental assistance renewed under any provision of this section (except subsection (b)) to the owner of the project.

(2) EXCEPTION AND WAIVER.—Paragraph (1) shall not apply to any law or regulation to the extent such law or regulation applies to—

(A) a State-financed multifamily housing project; or

(B) a multifamily housing project for which the owner has elected to waive the applicability of paragraph (1).

(3) TREATMENT OF LOW-INCOME USE RESTRICTIONS.—This subsection may not be construed to provide for, allow, or result in the release or termination, for any project, of any low- or moderate-income use restrictions that can not be eliminated by unilateral action of the owner of the project.

(g) APPLICABILITY.—Except to the extent otherwise specifically provided in this section, this section shall apply with respect to any multifamily housing project having a contract for project-based assistance under section 8 that terminates or expires during fiscal year 2000 or thereafter.

Sec. 525. [42 U.S.C. 1437f note]
CONSISTENCY OF RENT LEVELS UNDER ENHANCED VOUCHER ASSISTANCE AND RENT RESTRUCTURINGS.

(a) IN GENERAL.—The Secretary shall examine the standards and procedures for determining and establishing the rent standards described under subsection (b). Pursuant to such examination, the Secretary shall establish procedures and guidelines that are designed to ensure that the amounts determined by the various rent standards for the same dwelling units are reasonably consistent and reflect rents for comparable unassisted units in the same area as such dwelling units.

(b) RENT STANDARDS.—The rent standards described in this subsection are as follows:

(1) ENHANCED VOUCHERS.—The payment standard for enhanced voucher assistance under section 8(t) of the United States Housing Act of 1937 (42 U.S.C. 1437f(t)).

(2) MARK-TO-MARKET.—The rents derived from comparable properties, for purposes of section 514(g) of this Act.

(3) CONTRACT RENEWAL.—The comparable market rents for the market area, for purposes of section 524(a)(4) of this Act.

Subtitle B—Miscellaneous Provisions

Sec. 531.
REHABILITATION GRANTS FOR CERTAIN INSURED PROJECTS.

Section 236 of the National Housing Act (12 U.S.C. 1715z-1) is amended by adding at the end the following:

* * * * * * *

Sec. 532. [42 U.S.C. 1437f note]
GAO REPORT ON SECTION 8 RENTAL ASSISTANCE FOR MULTIFAMILY HOUSING PROJECTS.

Not later than the expiration of the 18-month period beginning on the date of the enactment of this Act, the Comptroller General of the United States shall submit a report to the Congress analyzing—

(1) the housing projects for which project-based assistance is provided under section 8 of the United States Housing Act of 1937, but which are not subject to a mortgage insured or held by the Secretary under the National Housing Act;

(2) how State and local housing finance agencies have benefited financially from the rental assistance program under section 8 of the United States Housing Act of 1937, including any benefits from fees, bond financings, and mortgage refinancings; and

(3) the extent and effectiveness of State and local housing finance agencies oversight of the physical and financial management and condition of multifamily housing projects for which project-based assistance is provided under section 8 of the United States Housing Act of 1937.

Subtitle C—Enforcement Provisions

Sec. 541. [42 U.S.C. 1437f note]
IMPLEMENTATION.

(a) ISSUANCE OF NECESSARY REGULATIONS.—Notwithstanding section 7(o) of the Department of Housing and Urban Development Act or part 10 of title 24, Code of Federal Regulations (as in existence on the date of enactment of this Act[187]), the Secretary shall issue such regulations as the Secretary determines to be necessary to implement this subtitle and the amendments made by this subtitle in accordance with section 552 or 553 of title 5, United States Code, as determined by the Secretary.

(b) USE OF EXISTING REGULATIONS.—In implementing any provision of this subtitle, the Secretary may, in the discretion of the Secretary, provide for the use of existing regulations to the extent appropriate, without rulemaking.

Sec. 542.
INCOME VERIFICATION.

(a) REINSTITUTION OF REQUIREMENTS REGARDING HUD ACCESS TO CERTAIN INFORMATION OF STATE AGENCIES.—

(1) IN GENERAL.—Section 303(i) of the Social Security Act is amended by striking paragraph (5).

(2) EFFECTIVE DATE.—The amendment made by this subsection shall apply to any request for information made after the date of the enactment of this Act.

(b) REPEAL OF TERMINATION REGARDING HOUSING ASSISTANCE PROGRAMS.—Section 6103(l)(7)(D) of the Internal Revenue Code of 1986 is amended by striking the last sentence.

PART 1—FHA SINGLE FAMILY AND MULTIFAMILY HOUSING

Sec. 551.
AUTHORIZATION TO IMMEDIATELY SUSPEND MORTGAGEES.

Section 202(c)(3)(C) of the National Housing Act (12 U.S.C. 1708(c)(3)(C)) is amended

* * * * * * *

[187] October 27, 1997.

Sec. 552.
EXTENSION OF EQUITY SKIMMING TO OTHER SINGLE FAMILY AND MULTIFAMILY HOUSING PROGRAMS.

Section 254 of the National Housing Act (12 U.S.C. 1715z-19) is amended to read as follows:

* * * * * * *

Sec. 553.
CIVIL MONEY PENALTIES AGAINST MORTGAGEES, LENDERS, AND OTHER PARTICIPANTS IN FHA PROGRAMS.

(a) CHANGE TO SECTION TITLE.—Section 536 of the National Housing Act (12 U.S.C. 1735f-14) is amended by striking the section heading and the section designation and inserting the following:

* * * * * * *

(b) EXPANSION OF PERSONS ELIGIBLE FOR PENALTY.—Section 536(a) of the National Housing Act (12 U.S.C. 1735f-14(a)) is amended—

* * * * * * *

(c) ADDITIONAL VIOLATIONS FOR MORTGAGEES, LENDERS, AND OTHER PARTICIPANTS IN FHA PROGRAMS.—Section 536(b) of the National Housing Act (12 U.S.C. 1735f-14(b)) is amended—

* * * * * * *

(d) CONFORMING AND TECHNICAL AMENDMENTS.—Section 536 of the National Housing Act (12 U.S.C. 1735f-14) is amended—

* * * * * * *

PART 2—FHA MULTIFAMILY PROVISIONS

Sec. 561.
CIVIL MONEY PENALTIES AGAINST GENERAL PARTNERS, OFFICERS, DIRECTORS, AND CERTAIN MANAGING AGENTS OF MULTIFAMILY PROJECTS.

(a) CIVIL MONEY PENALTIES AGAINST MULTIFAMILY MORTGAGORS.—Section 537 of the National Housing Act (12 U.S.C. 1735f-15) is amended—

* * * * * * *

(b) 42 U.S.C. 1437f-15 note] IMPLEMENTATION.—

(1) PUBLIC COMMENT.—The Secretary shall implement the amendments made by this section by regulation issued after notice and opportunity for public comment. The notice shall seek comments primarily as to the definitions of the terms “ownership interest in” and “effective control”, as those terms are used in the definition of the terms “agent employed to manage the property that has an identity of interest” and “identity of interest agent”.

(2) TIMING.—A proposed rule implementing the amendments made by this section shall be published not later than 1 year after the date of enactment of this Act.[188]

(c) [42 U.S.C. 1437f-15 note] APPLICABILITY OF AMENDMENTS.—The amendments made by subsection (a) shall apply only with respect to—

(1) violations that occur on or after the effective date of the final regulations implementing the amendments made by this section; and

(2) in the case of a continuing violation (as determined by the Secretary of Housing and Urban Development), any portion of a violation that occurs on or after that date.

[188] The date of enactment was October 27, 1997.

Sec. 562.
CIVIL MONEY PENALTIES FOR NONCOMPLIANCE WITH SECTION 8 HAP CONTRACTS.

(a) BASIC AUTHORITY.—Title I of the United States Housing Act of 1937 (42 U.S.C. 1437 et seq.) is amended—

* * * * * * *

(b) [42 U.S.C. 1437z-1 note] APPLICABILITY.—The amendments made by subsection (a) shall apply only with respect to—

(1) violations that occur on or after the effective date of final regulations implementing the amendments made by this section; and

(2) in the case of a continuing violation (as determined by the Secretary of Housing and Urban Development), any portion of a violation that occurs on or after such date.

(c) 42 [U.S.C. 1437z-1 note] IMPLEMENTATION.—

(1) REGULATIONS.—

(A) IN GENERAL.—The Secretary shall implement the amendments made by this section by regulation issued after notice and opportunity for public comment.

(B) COMMENTS SOUGHT.—The notice under subparagraph (A) shall seek comments as to the definitions of the terms "ownership interest in" and "effective control", as such terms are used in the definition of the term "agent employed to manage such property that has an identity of interest".

(2) TIMING.—A proposed rule implementing the amendments made by this section shall be published not later than 1 year after the date of enactment of this Act.[189]

Sec. 563.
EXTENSION OF DOUBLE DAMAGES REMEDY.

Section 421 of the Housing and Community Development Act of 1987 (12 U.S.C. 1715z-4a) is amended—

* * * * * * *

Sec. 564.
OBSTRUCTION OF FEDERAL AUDITS.

Section 1516(a) of title 18, United States Code, is amended by inserting after "under a contract or subcontract," the following: "or relating to any property that is security for a mortgage note that is insured, guaranteed, acquired, or held by the Secretary of Housing and Urban Development pursuant to any Act administered by the Secretary,".

Sec. 579. [42 U.S.C. 1437f note][190]
TERMINATION.

(a) REPEALS.—

(1) MARK-TO-MARKET PROGRAM.—Subtitle A (except for section 524) is repealed effective October 1, 2015.

(2) OMHAR.—Subtitle D (except for this section) is repealed effective October 1, 2004.

(b) EXCEPTION.—Notwithstanding the repeal under subsection (a), the provisions of subtitle A (as in effect immediately before such repeal) shall apply with respect to projects and programs for which binding commitments have been entered into under this Act before October 1, 2017.

(c) TERMINATION OF DIRECTOR AND OFFICE.—The Office of Multifamily Housing Assistance Restructuring and the position of Director of such Office shall terminate at the end of September 30, 2004.

(d) TRANSFER OF AUTHORITY.—Effective upon the repeal of subtitle D under subsection (a)(2) of this section, all authority and responsibilities to administer the program under subtitle A are transferred to the Secretary.

END OF STATUTE

[189] The date of enactment was October 27, 1997.
[190] So in law. Subtitle D of this title, consisting of sections 571 through 578 and the heading for the subtitle, was repealed by this section.

SECTION 8 RENT ANNUAL ADJUSTMENT FACTORS

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT REFORM ACT OF 1989 [Public Law 101-235; 103 Stat. 1987; 42 U.S.C. 1437f note]

TITLE VIII–SECTION 8 RENT ADJUSTMENTS

Sec. 801. [42 U.S.C. 1437f note]
ANNUAL ADJUSTMENT FACTORS FOR SECTION 8 RENTS.

(a) EFFECT OF PRIOR COMPARABILITY STUDIES.—

(1) IN GENERAL.—In any case in which, in implementing section 8(c)(2) of the United States Housing Act of 1937—

(A) the use of comparability studies by the Secretary of Housing and Urban Development or the appropriate State agency as an independent limitation on the amount of rental adjustments resulting from the application of an annual adjustment factor under such section has resulted in the reduction of the maximum monthly rent for units covered by the contract or the failure to increase such contract rent to the full amount otherwise permitted under the annual adjustment factor, or

(B) an assistance contract requires a project owner to make a request before becoming eligible for a rent adjustment under the annual adjustment factor and the project owner certifies that such a request was not made because of anticipated negative adjustment to the project rents,

for fiscal year 1980, and annually thereafter until regulations implementing this section take effect, rental adjustments shall be calculated as an amount equal to the annual adjustment factor multiplied by a figure equal to the contract rent minus the amount of contract rent attributable to debt service. Upon the request of the project owner, the Secretary shall pay to the project owner the amount, if any, by which the total rental adjustment calculated under the preceding sentence exceeds the total adjustments the Secretary or appropriate State agency actually approved, except that solely for purposes of calculating retroactive payments under this subsection, in no event shall any project owner be paid an amount less than 30 percent of a figure equal to the aggregate of the annual adjustment factor multiplied by the full contract rent for each year on or after fiscal year 1980, minus the sum of the rental payments the Secretary or appropriate State agency actually approved for those years. The method provided by this subsection shall be the exclusive method by which retroactive payments, whether or not requested, may be made for projects subject to this subsection for the period from fiscal year 1980 until the regulations issued under subsection (e) take effect. For purposes of this paragraph, "debt service" shall include interest, principal, and mortgage insurance premium if any.

(2) APPLICABILITY.—

(A) IN GENERAL.—Subsection (a) shall apply with respect to any use of comparability studies referred to in such subsection occurring before the effective date of the regulations issued under subsection (e).

(B) FINAL LITIGATION.—Subsection (a) shall not apply to any project with respect to which litigation regarding the authority of the Secretary to use comparability studies to limit rental adjustments under section 8(c)(2) of the United State Housing Act of 1937 has resulted in a judgment before the effective date of this Act[191] that is final and not appealable (including any settlement agreement).

(b) 3-YEAR PAYMENTS.—The Secretary shall provide the amounts under subsection (a) over the 3-year period beginning on the effective date of the regulations issued under subsection (e). The Secretary shall provide the payments authorized under subsection (a) only to the extent approved in subsequent appropriations Acts. There are authorized to be appropriated such sums as may be necessary for this purpose.

(c) COMPARABILITY STUDIES.—Section 8(c)(2)(C) of the United States Housing Act of 1937 (42 U.S.C. 1437f(c)(2)(C) is amended by inserting after the period at the end of the first sentence the following:

* * *

(d) DETERMINATION OF CONTRACT RENT.—(1) The Secretary shall upon the request of the project owner, make a one-time determination of the contract rent for each project owner referred to in subsection (a). The contract rent shall be the greater of the contract rent—

[191] The date of enactment was December 15, 1989.

(A) currently approved by the Secretary under section 8(c)(2) of the United States Housing Act of 1937, or

(B) calculated in accordance with the first sentence of subsection (a)(1).

(2) All adjustments in contract rents under section 8(c)(2) of the United States Housing Act of 1937, including adjustments involving projects referred to in subsection (a), that occur beginning with the first anniversary date of the contract after the regulations issued under subsection (e) take effect shall be made in accordance with the annual adjustment and comparability provisions of sections (8)(c)(2)(A) and 8(c)(2)(C) of such Act, respectively, using the one-time contract rent determination under paragraph (1).

(e) REGULATIONS.—The Secretary shall issue regulations to carry out this section and the amendments made by this section, including the amendments made by subsection (c) with regard to annual adjustment factors and comparability studies. The Secretary shall issue such regulations not later than the expiration of the 180-day period beginning on the date of the enactment of this Act.[192]

(f) REPORT.—Not later than March 1, 1990, the Secretary shall report to the Congress on the feasibility and desirability, and the budgetary, legal, and administrative aspects, of adjusting contract rents under section 8(c)(2)(C) of the United States Housing Act of 1937 on the basis of any alternative methodologies that are simpler in application than individual project comparability studies.

(g) TECHNICAL AMENDMENT.—The first sentence of section 8(c)(2)(C) of the United States Housing Act of 1937 is amended by inserting

* * * * * * *

END OF STATUTE

[192] The date of enactment was December 15, 1989.

SECTION 8 EXCESSIVE RENT BURDEN DATA

CRANSTON-GONZALEZ NATIONAL AFFORDABLE HOUSING ACT
[Public Law 101-625; 104 Stat. 4222; 42 U.S.C. 1437f note]

Sec. 550. [42 U.S.C. 1437f note]
REVISIONS TO VOUCHER PROGRAM

* * * * * * *

(b) DOCUMENTATION OF EXCESSIVE RENT BURDENS.—

(1) DATA.—The Secretary of Housing and Urban Development shall collect and maintain, in an automated system, data describing the characteristics of families assisted under the certificate and voucher programs established under section 8 of the United States Housing Act of 1937, which data shall include the share of family income paid toward rent.

(2) REPORT.—Not less than annually, the Secretary shall submit a report to the Congress setting forth, for each of the certificate program and the voucher program, the percentage of families participating in the program who are paying for rent more than the amount determined under section 3(a)(1) of such Act. The report shall set forth data in appropriate categories, such as various areas of the country, types and sizes of public housing agencies, types of families, and types of markets. The data shall identify the jurisdictions in which more than 10 percent of the families assisted under section 8 of such Act pay for rent more than the amount determined under section 3(a)(1) of such Act and the report shall include an examination of whether the fair market rent for such areas is appropriate. The report shall also include any recommendations of the Secretary for legislative and administrative actions appropriate as a result of analysis of the data.

(3) AVAILABILITY OF DATA.—The Secretary shall make available to each public housing agency administering assistance under the certificate or voucher program any data maintained under this subsection that relates to the public housing agency.

END OF STATUTE

SECTION 8 DISASTER RELIEF ASSISTANCE

CRANSTON-GONZALEZ NATIONAL AFFORDABLE HOUSING ACT
[Public Law 101-625; 104 Stat. 4403; 42 U.S.C. 1437c note]

Sec. 931. [42 U.S.C. 1437c note]
SECTION 8 CERTIFICATES AND VOUCHERS.

The budget authority available under section 5(c) of the United States Housing Act of 1937 (42 U.S.C. 1437c(c)) for tenant-based assistance under section 8 of the United States Housing Act of 1937 is authorized to be increased in any fiscal year in which a major disaster is declared by the President under the Robert T. Stafford Disaster Relief and Emergency Assistance Act in such amounts as may be necessary to provide assistance under such programs for individuals and families whose housing has been damaged or destroyed as a result of such disaster, except that in implementing this section, the Secretary shall evaluate the natural hazards to which any permanent replacement housing is exposed and shall take appropriate action to mitigate such hazards.

Sec. 932. [42 U.S.C. 1437c note]
MODERATE REHABILITATION.

The budget authority available under section 5(c) of the United States Housing Act of 1937 (42 U.S.C. 1437c(c)) for assistance under the moderate rehabilitation program under section 8(e)(2) of such Act is authorized to be increased in any fiscal year in which a major disaster is declared by the President under the Robert T. Stafford Disaster Relief and Emergency Assistance Act in such amount as may be necessary to provide assistance under such program for individuals and families whose housing has been damaged or destroyed as a result of such disaster, except that in implementing this section, the Secretary shall evaluate the natural hazards to which any permanent replacement housing is exposed and shall take appropriate action to mitigate such hazards.

END OF STATUTE

SECTION 8 HOMEOWNERSHIP DEMONSTRATION

QUALITY HOUSING AND WORK RESPONSIBILITY ACT OF 1998
[Public Law 105-276; 112 Stat. 2613; 42 U.S.C. 1437f note]

Sec. 555. [42 U.S.C. 1437f note]
HOMEOWNERSHIP OPTION.

* * * * * * *

(b) DEMONSTRATION PROGRAM.—

(1) IN GENERAL.—With the consent of the affected public housing agencies, the Secretary may carry out (or contract with 1 or more entities to carry out) a demonstration program under section 8(y) of the United States Housing Act of 1937 (42 U.S.C. 1437f(y)) to expand homeownership opportunities for low-income families.

(2) REPORT.—The Secretary shall report annually to Congress on activities conducted under this subsection.

(c) APPLICABILITY.—This section shall take effect on, and the amendments made by this section are made on, and shall apply beginning upon, the date of the enactment of this Act.[193]

AMERICAN HOMEOWNERSHIP AND ECONOMIC OPPORTUNITY ACT OF 2000
[Public Law 106-569; 114 Stat. 2955]

Sec. 303.
FUNDING FOR PILOT PROGRAMS.

(a) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated such sums as may be necessary for fiscal year 2001 for assistance in connection with the existing homeownership pilot programs carried out under the demonstration program authorized under section 555(b) of the Quality Housing and Work Responsibility Act of 1998 (Public Law 105-276; 112 Stat. 2613).

(b) USE.—Subject to subsection (c), amounts made available pursuant to this section shall be used only through such homeownership pilot programs to provide, on behalf of families participating in such programs, amounts for downpayments in connection with dwellings purchased by such families using assistance made available under section 8(y) of the United States Housing Act of 1937 (42 U.S.C. 1437f(y)). No such downpayment grant may exceed 20 percent of the appraised value of the dwelling purchased with assistance under such section 8(y).

(c) MATCHING REQUIREMENT.—The amount of assistance made available under this section for any existing homeownership pilot program may not exceed twice the amount donated from sources other than this section for use under the program for assistance described in subsection (b). Amounts donated from other sources may include amounts from State housing finance agencies and Neighborhood Housing Services of America.

END OF STATUTE

[193] October 21, 1998.

SECTION 8 HOMEOWNERSHIP ASSISTANCE PILOT PROGRAM FOR DISABLED FAMILIES

AMERICAN HOMEOWNERSHIP AND ECONOMIC OPPORTUNITY ACT OF 2000
[Public Law 106-569; 114 Stat. 2953; 42 U.S.C. 1437f note]

Sec. 302. [42 U.S.C. 1437f note]
PILOT PROGRAM FOR HOMEOWNERSHIP ASSISTANCE FOR DISABLED FAMILIES.

(a) IN GENERAL.—A public housing agency providing tenant-based assistance on behalf of an eligible family under section 8 of the United States Housing Act of 1937 (42 U.S.C. 1437f) may provide assistance for a disabled family that purchases a dwelling unit (including a dwelling unit under a lease-purchase agreement) that will be owned by one or more members of the disabled family and will be occupied by the disabled family, if the disabled family—

(1) purchases the dwelling unit before the expiration of the 3-year period beginning on the date that the Secretary first implements the pilot program under this section;

(2) demonstrates that the disabled family has income from employment or other sources (including public assistance), as determined in accordance with requirements of the Secretary, that is not less than twice the payment standard established by the public housing agency (or such other amount as may be established by the Secretary);

(3) except as provided by the Secretary, demonstrates at the time the disabled family initially receives tenant-based assistance under this section that one or more adult members of the disabled family have achieved employment for the period as the Secretary shall require;

(4) participates in a homeownership and housing counseling program provided by the agency; and

(5) meets any other initial or continuing requirements established by the public housing agency in accordance with requirements established by the Secretary.

(b) DETERMINATION OF AMOUNT OF ASSISTANCE.—

(1) IN GENERAL.

(A) MONTHLY EXPENSES NOT EXCEEDING PAYMENT STANDARD.—If the monthly homeownership expenses, as determined in accordance with requirements established by the Secretary, do not exceed the payment standard, the monthly assistance payment shall be the amount by which the homeownership expenses exceed the highest of the following amounts, rounded to the nearest dollar:

(i) Thirty percent of the monthly adjusted income of the disabled family.

(ii) Ten percent of the monthly income of the disabled family.

(iii) If the disabled family is receiving payments for welfare assistance from a public agency, and a portion of those payments, adjusted in accordance with the actual housing costs of the disabled family, is specifically designated by that agency to meet the housing costs of the disabled family, the portion of those payments that is so designated.

(B) MONTHLY EXPENSES EXCEED PAYMENT STANDARD.—If the monthly homeownership expenses, as determined in accordance with requirements established by the Secretary, exceed the payment standard, the monthly assistance payment shall be the amount by which the applicable payment standard exceeds the highest of the amounts under clauses (i), (ii), and (iii) of subparagraph (A).

(2) CALCULATION OF AMOUNT.—

(A) LOW-INCOME FAMILIES.—A disabled family that is a low-income family shall be eligible to receive 100 percent of the amount calculated under paragraph (1).

(B) INCOME BETWEEN 81 AND 89 PERCENT OF MEDIAN.—A disabled family whose income is between 81 and 89 percent of the median for the area shall be eligible to receive 66 percent of the amount calculated under paragraph (1).

(C) INCOME BETWEEN 90 AND 99 PERCENT OF MEDIAN.—A disabled family whose income is between 90 and 99 percent of the median for the area shall be eligible to receive 33 percent of the amount calculated under paragraph (1).

(D) INCOME MORE THAN 99 PERCENT OF MEDIAN.—A disabled family whose income is more than 99 percent of the median for the area shall not be eligible to receive assistance under this section.

(c) INSPECTIONS AND CONTRACT CONDITIONS.—

(1) IN GENERAL.—Each contract for the purchase of a dwelling unit to be assisted under this section shall—

(A) provide for pre-purchase inspection of the dwelling unit by an independent professional; and

(B) require that any cost of necessary repairs be paid by the seller.

(2) ANNUAL INSPECTIONS NOT REQUIRED.—The requirement under subsection (o)(8)(A)(ii) of section 8 of the United States Housing Act of 1937 for annual inspections shall not apply to dwelling units assisted under this section.

(d) OTHER AUTHORITY OF THE SECRETARY.—The Secretary may—

(1) limit the term of assistance for a disabled family assisted under this section;

(2) provide assistance for a disabled family for the entire term of a mortgage for a dwelling unit if the disabled family remains eligible for such assistance for such term; and

(3) modify the requirements of this section as the Secretary determines to be necessary to make appropriate adaptations for lease-purchase agreements.

(e) ASSISTANCE PAYMENTS SENT TO LENDER.—The Secretary shall remit assistance payments under this section directly to the mortgagee of the dwelling unit purchased by the disabled family receiving such assistance payments.

(f) INAPPLICABILITY OF CERTAIN PROVISIONS.—Assistance under this section shall not be subject to the requirements of the following provisions:

(1) Subsection (c)(3)(B) of section 8 of the United States Housing Act of 1937.

(2) Subsection (d)(1)(B)(i) of section 8 of the United States Housing Act of 1937.

(3) Any other provisions of section 8 of the United States Housing Act of 1937 governing maximum amounts payable to owners and amounts payable by assisted families.

(4) Any other provisions of section 8 of the United States Housing Act of 1937 concerning contracts between public housing agencies and owners.

(5) Any other provisions of the United States Housing Act of 1937 that are inconsistent with the provisions of this section.

(g) REVERSION TO RENTAL STATUS.—

(1) NON-FHA MORTGAGES.—If a disabled family receiving assistance under this section defaults under a mortgage not insured under the National Housing Act, the disabled family may not continue to receive rental assistance under section 8 of the United States Housing Act of 1937 unless it complies with requirements established by the Secretary.

(2) ALL MORTGAGES.—A disabled family receiving assistance under this section that defaults under a mortgage may not receive assistance under this section for occupancy of another dwelling unit owned by one or more members of the disabled family.

(3) EXCEPTION.—This subsection shall not apply if the Secretary determines that the disabled family receiving assistance under this section defaulted under a mortgage due to catastrophic medical reasons or due to the impact of a federally declared major disaster or emergency.

(h) REGULATIONS.—Not later than 90 days after the date of the enactment of this Act,[194] the Secretary shall issue regulations to implement this section. Such regulations may not prohibit any public housing agency providing tenant-based assistance on behalf of an eligible family under section 8 of the United States Housing Act of 1937 from participating in the pilot program under this section.

(i) DEFINITION OF DISABLED FAMILY.—For the purposes of this section, the term “disabled family” has the meaning given the term “person with disabilities” in section 811(k)(2) of the Cranston-Gonzalez National Affordable Housing Act (42 U.S.C. 8013(k)(2)).

END OF STATUTE

[194] The date of enactment was December 27, 2000.

CONVERSION OF HUD CONTRACTS TO PROJECT-BASED SECTION 8 CONTRACTS

HOUSING AND ECONOMIC RECOVERY ACT OF 2008
[Public Law 110-289; 122 Stat. 2654; 42 U.S.C. 1437f note]

Sec. 1603. [42 U.S.C. 1437f note]
CONVERSION OF HUD CONTRACTS.

(a) IN GENERAL.—Notwithstanding any other provision of law, the Secretary may, at the request of an owner of a multifamily housing project that exceeds 5,000 units to which a contract for project-based rental assistance under section 8 of the United States Housing Act of 1937 ("Act") (42 U.S.C. 1437f) and a Rental Assistance Payment contract is subject, convert such contracts to a contract for project-based rental assistance under section 8 of the Act.

(b) INITIAL RENEWAL.—

(1) At the request of an owner under subsection (a) made no later than 90 days prior to a conversion, the Secretary may, to the extent sufficient amounts are made available in appropriation Acts and notwithstanding any other law, treat the contemplated resulting contract as if such contract were eligible for initial renewal under section 524(a) of the Multifamily Assisted Housing Reform and Affordability Act of 1997 (42 U.S.C. 1437f note) ("MAHRA") (42 U.S.C. 1437f note).

(2) A request by an owner pursuant to paragraph (1) shall be upon such terms and conditions as the Secretary may require.

(c) RESULTING CONTRACT.—The resulting contract shall—

(1) be subject to section 524(a) of MAHRA (42 U.S.C. 1437f note);

(2) be considered for all purposes a contract that has been renewed under section 524(a) of MAHRA (42 U.S.C. 1437f note) for a term not to exceed 20 years;

(3) be subsequently renewable at the request of an owner, under any renewal option for which the project is eligible under MAHRA (42 U.S.C. 1437f note);

(4) contain provisions limiting distributions, as the Secretary determines appropriate, not to exceed 10 percent of the initial investment of the owner;

(5) be subject to the availability of sufficient amounts in appropriation Acts; and

(6) be subject to such other terms and conditions as the Secretary considers appropriate.

(d) INCOME TARGETING.—To the extent that assisted dwelling units, subject to the resulting contract under subsection (a), serve low-income families, as defined in section 3(b)(2) of the Act (42 U.S.C. 1437a(b)(2)) the units shall be considered to be in compliance with all income targeting requirements under the Act (42 U.S.C. 1437 et seq).

(e) TENANT ELIGIBILITY.—Notwithstanding any other provision of law, each family residing in an assisted dwelling unit on the date of conversion of a contract under this section, subject to the resulting contract under subsection (a), shall be considered to meet the applicable requirements for income eligibility and occupancy.

(f) DEFINITIONS.—As used in this section—

(1) the term "Secretary" means the Secretary of Housing and Urban Development;

(2) the term "conversion" means the action under which a contract for project-based rental assistance under section 8 of the Act and a Rental Assistance Payment contract become a contract for project-based rental assistance under section 8 of the Act (42 U.S.C. 1437f) pursuant to subsection (a);

(3) the term "resulting contract" means the new contract after a conversion pursuant to subsection (a); and

(4) the term "assisted dwelling unit" means a dwelling unit in a multifamily housing project that exceeds 5,000 units that, on the date of conversion of a contract under this section, is subject to a contract for project-based rental assistance under section 8 of the Act (42 U.S.C. 1437f) or a Rental Assistance Payment contract.

END OF STATUTE

SECTION 8 COMMUNITY INVESTMENT DEMONSTRATION

HUD DEMONSTRATION ACT OF 1993
[Public Law 103-120; 107 Stat. 1148; 42 U.S.C. 1437f note]

Sec. 6. [42 U.S.C. 1437f note]
SECTION 8 COMMUNITY INVESTMENT DEMONSTRATION PROGRAM.

(a) DEMONSTRATION PROGRAM.—The Secretary shall carry out a demonstration program to attract pension fund investment in affordable housing through the use of project-based rental assistance under section 8 of the United States Housing Act of 1937.

(b) FUNDING REQUIREMENTS.—In carrying out this section, the Secretary shall ensure that not less than 50 percent of the funds appropriated for the demonstration program each year are used in conjunction with the disposition of either—

(1) multifamily properties owned by the Department; or

(2) multifamily properties securing mortgages held by the Department.

(c) CONTRACT TERMS.—

(1) IN GENERAL.—Project-based assistance under this section shall be provided pursuant to a contract entered into by the Secretary and the owner of the eligible housing that—

(A) provides assistance for a term of not less than 60 months and not greater than 180 months; and

(B) provides for contract rents, to be determined by the Secretary, which shall not exceed contract rents permitted under section 8 of the United States Housing Act of 1937, taking into consideration any costs for the construction, rehabilitation, or acquisition of the housing.

(2) Amendment to section 203.—Section 203 of the Housing and Community Development Amendments of 1978 (12 U.S.C. 1701z-11) is amended by adding at the end the following new subsection:

"(l) Project-based assistance in connection with the disposition of a multifamily housing project may be provided for a contract term of less than 15 years if such assistance is provided—

"(1) under a contract authorized under section 6 of the HUD Demonstration Act of 1993; and

"(2) pursuant to a disposition plan under this section for a project that is determined by the Secretary to be otherwise in compliance with this section.".

(d) LIMITATION.—(1) The Secretary may not provide (or make a commitment to provide) more than 50 percent of the funding for housing financed by any single pension fund, except that this limitation shall not apply if the Secretary, after the end of the 6-month period beginning on the date notice is issued under subsection (e)—

(A) determines that—

(i) there are no expressions of interest that are likely to result in approvable applications in the reasonably foreseeable future; or

(ii) any such expressions of interest are not likely to use all funding under this section; and

(B) so informs the Committee on Banking, Finance and Urban Affairs of the House of Representatives[195] and the Committee on Banking, Housing, and Urban Affairs of the Senate.

(2) If the Secretary determines that there are expressions of interest referred to in paragraph (1)(A)(ii), the Secretary may reserve funding sufficient in the Secretary's determination to fund such applications and may use any remaining funding for other pension funds in accordance with this section.

(e) IMPLEMENTATION.—The Secretary shall by notice establish such requirements as may be necessary to carry out the provisions of this section. The notice shall take effect upon issuance.

(f) APPLICABILITY OF ERISA.—Notwithstanding section 514(d) of the Employee Retirement Income Security Act of 1974, nothing in this section shall be construed to authorize any action or failure to act that would constitute a violation of such Act.

[195] Section 1(a) of Public Law 104-14, 109 Stat. 186, provides, in part, that "any reference in any provision of law enacted before January 4, 1995, to ... the Committee on Banking, Finance and Urban Affairs of the House of Representatives shall be treated as referring to the Committee on Banking and Financial Services of the House of Representatives". However, H. Res. 5, 107th Congress, agreed to on January 3, 2001, abolished the Committee on Banking and Financial Services and established the Committee on Financial Services, which has jurisdiction over many of the areas previously under the jurisdiction of the Committee on Banking and Financial Services.

(g) REPORT.—Not later than 3 months after the last day of each fiscal year, the Secretary shall submit to the Committee on Banking, Finance and Urban Affairs of the House of Representatives[196] and the Committee on Banking, Housing, and Urban Affairs of the Senate a report summarizing the activities carried out under this section during that fiscal year.

(h) ESTABLISHMENT OF STANDARDS.—Mortgages secured by housing assisted under this demonstration shall meet such standards regarding financing and securitization as the Secretary may establish.

(i) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated $100,000,000 for fiscal year 1994 to carry out this section.

(j) [Repealed.]

(k) TERMINATION DATE.—The Secretary shall not enter into any new commitment to provide assistance under this section after September 30, 1998.

END OF STATUTE

[196] Section 1(a) of Public Law 104-14, 109 Stat. 186, provides, in part, that "any reference in any provision of law enacted before January 4, 1995, to ... the Committee on Banking, Finance and Urban Affairs of the House of Representatives shall be treated as referring to the Committee on Banking and Financial Services of the House of Representatives". However, H. Res. 5, 107th Congress, agreed to on January 3, 2001, abolished the Committee on Banking and Financial Services and established the Committee on Financial Services, which has jurisdiction over many of the areas previously under the jurisdiction of the Committee on Banking and Financial Services.

USE OF FUNDS RECAPTURED FROM REFINANCING STATE AND LOCAL FINANCE PROJECTS

STEWART B. MCKINNEY HOMELESS ASSISTANCE AMENDMENTS ACT OF 1988 [Public Law 102-550; 106 Stat. 3722; 42 U.S.C. 1437f note]

Sec. 1012. [42 U.S.C. 1437f note]
USE OF FUNDS RECAPTURED FROM REFINANCING STATE AND LOCAL FINANCE PROJECTS.

(a) DEFINITION OF QUALIFIED PROJECT.—For purposes of this section, the term "qualified project" means any State financed project or local government or local housing agency financed project, that—

(1) was—

(A) provided a financial adjustment factor under section 8 of the United States Housing Act of 1937; or

(B) constructed or substantially rehabilitated pursuant to assistance provided under a contract under section 8(b)(2) of the United States Housing Act of 1937 (as in effect on September 30, 1983) entered into during any of calendar years 1979 through 1984; and

(2) is being refinanced.

(b) AVAILABILITY OF FUNDS.—The Secretary shall make available to the State housing finance agency in the State in which a qualified project is located, or the local government or local housing agency initiating the refinancing of the qualified project, as applicable, an amount equal to 50 percent of the amounts recaptured from the project (as determined by the Secretary on a project-by-project basis). Notwithstanding any other provision of law, such amounts shall be used only for providing decent, safe, and sanitary housing affordable for very low-income families and persons.

(c) APPLICABILITY AND BUDGET COMPLIANCE.—

(1) RETROACTIVITY.—This section shall apply to refinancings of projects for which settlement occurred or occurs before, on, or after the date of the enactment of the Housing and Community Development Act of 1992, subject to the provisions of paragraph (2).

(2) BUDGET COMPLIANCE.—This section shall apply only to the extent or in such amounts as are provided in appropriation Acts.

END OF STATUTE

ACCESS TO PUBLIC HOUSING AGENCIES' BOOKS

HOUSING ACT OF 1954
[Public Law 560, 83d Congress; 68 Stat. 647; 42 U.S.C. 1435]

Sec. 816. [42 U.S.C. 1435]
ACCESS TO BOOKS, DOCUMENTS, ETC., FOR PURPOSE OF AUDIT.

Every contract for loans or annual contributions under the United States Housing Act of 1937, as amended, shall provide that the Secretary of Housing and Urban Development and the Comptroller General of the United States, or any of their duly authorized representatives, shall, for the purpose of audit and examination, have access to any books, documents, papers, and records of the public housing agency entering into such contract that are pertinent to its operations with respect to financial assistance under the United States Housing Act of 1937, as amended.

END OF STATUTE

MISCELLANEOUS PROVISIONS

HOUSING AND COMMUNITY DEVELOPMENT AMENDMENTS OF 1981[197]
[Public Law 97-35; 95 Stat. 406; 42 U.S.C. 1437f note; 12 U.S.C. 2294a]

Sec. 326. [42 U.S.C. 1437f note]

* * * * * * *

(d) RENTAL ASSISTANCE FRAUD RECOVERIES.—

(1) AUTHORITY TO RETAIN RECOVERED AMOUNTS.—The Secretary of Housing and Urban Development shall permit public housing agencies administering the housing assistance payments program under section 8 of the United States Housing Act of 1937 to retain, out of amounts obtained by the agencies from tenants that are due as a result of fraud and abuse, an amount (determined in accordance with regulations issued by the Secretary) equal to the greater of—

(A) 50 percent of the amount actually collected, or

(B) the actual, reasonable, and necessary expenses related to the collection, including costs of investigation, legal fees, and collection agency fees.

(2) USE.—Amounts retained by an agency shall be made available for use in support of the affected program or project, in accordance with regulations issued by the Secretary. Where the Secretary is the principal party initiating or sustaining an action to recover amounts from families or owners, the provisions of this section shall not apply.

(3) RECOVERY.—Amounts may be recovered under this paragraph—

(A) by an agency through a lawsuit (including settlement of the lawsuit) brought by the agency or through court-ordered restitution pursuant to a criminal proceeding resulting from an agency's investigation where the agency seeks prosecution of a family or where an agency seeks prosecution of an owner; or

(B) through administrative repayment agreements with a family or owner entered into as a result of an administrative grievance procedure conducted by an impartial decisionmaker in accordance with section 6(k) of the United States Housing Act of 1937.

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Sec. 329E. [12 U.S.C. 2294a]
CONTRACTS FOR PERIODIC PAYMENTS TO OFFSET COSTS OF PURCHASE OF OBLIGATIONS OF LOCAL PUBLIC HOUSING AGENCIES.

In addition to any authority provided before October 1, 1981, the Secretary of Housing and Urban Development may, on and after October 1, 1981, enter into contracts for periodic payments to the Federal Financing Bank to offset the costs to the Bank of purchasing obligations (as described in the first sentence of section 16(b) of the Federal Financing Bank Act of 1973) issued by local public housing agencies for purposes of financing public housing projects authorized by section 5(c) of the United States Housing Act of 1937. Notwithstanding any other provision of law, such contracts may be entered into only to the extent approved in appropriation Acts, and the aggregate amount which may be obligated over the duration of such contracts may not exceed $400,000,000. There are hereby authorized to be appropriated any amounts necessary to provide for such payments. The authority to enter into contracts under this subsection shall be in lieu of any authority (except for authority provided specifically to the Secretary before October 1, 1981) of the Secretary to enter into contracts for such purposes under section 16(b) of the Federal Financing Bank Act of 1973.

END OF STATUTE

[197] Enacted in Title III of the Omnibus Budget Reconciliation Act of 1981.

USE OF PUBLIC HOUSING CAPITAL AND OPERATING FUNDS FOR CENTRAL OFFICE COSTS

CONSOLIDATED APPROPRIATIONS ACT, 2010
[Public Law 111-117; 123 Stat. 3034; 42 U.S.C. 1437g note]

DIVISION A

* * * * * * *

TITLE II

* * * * * * *

Sec. 224. [42 USC 1437g note]

With respect to the use of amounts provided in this Act and in future Acts for the operation, capital improvement and management of public housing as authorized by sections 9(d) and 9(e) of the United States Housing Act of 1937 (42 U.S.C. 1437g(d) and (e)), the Secretary shall not impose any requirement or guideline relating to asset management that restricts or limits in any way the use of capital funds for central office costs pursuant to section 9(g)(1) or 9(g)(2) of the United States Housing Act of 1937 (42 U.S.C. 1437g(g)(1), (2)): Provided, That a public housing agency may not use capital funds authorized under section 9(d) for activities that are eligible under section 9(e) for assistance with amounts from the operating fund in excess of the amounts permitted under section 9(g)(1) or 9(g)(2).

END OF STATUTE

PROCUREMENT OF INSURANCE BY PUBLIC HOUSING AGENCIES

DEPARTMENTS OF VETERANS AFFAIRS AND HOUSING AND URBAN DEVELOPMENT, AND INDEPENDENT AGENCIES APPROPRIATIONS ACT, 1992 [Public Law 102-139; 105 Stat. 758; 42 U.S.C. 1436c]

* * * * * * *

Administrative Provisions [42 USC 1436c]

Hereafter, notwithstanding any other provision of State or Federal law, regulation or other requirement, any public housing agency or Indian housing authority that purchases any line of insurance from a nonprofit insurance entity, owned and controlled by public housing agencies or Indian housing authorities, and approved by the Secretary, may purchase such insurance without regard to competitive procurement.

Hereafter, the Secretary shall establish standards as set forth herein, by regulation, adopted after notice and comment rulemaking pursuant to the Administrative Procedures Act, which will become effective not later than one year from the effective date of this Act.[198]

Hereafter, in establishing standards for approval of such nonprofit insurance entities, the Secretary shall be assured that such entities have sufficient surplus capital to meet reasonably expected losses, reliable accounting systems, sound actuarial projections, and employees experienced in the insurance industry. The Secretary shall not place restrictions on the investment of funds of any such entity that is regulated by the insurance department of any State that describes the types of investments insurance companies licensed in such State may make. With regard to such entities that are not so regulated, the Secretary shall establish investment guidelines that are comparable to State law regulating the investments of insurance companies.

Hereafter, the Secretary shall not approve additional nonprofit insurance entities until such standards have become final, nor shall the Secretary revoke the approval of any nonprofit insurance entity previously approved by the Department unless for cause and after a due process hearing.

Hereafter, until the Department of Housing and Urban Development has adopted regulations specifying the nature and quality of insurance covering the potential personal injury liability exposure of public housing authorities and Indian housing authorities (and their contractors, including architectural and engineering services) as a result of testing and abatement of lead-based paint in federally subsidized public and Indian housing units, said authorities shall be permitted to purchase insurance for such risk, as an allowable expense against amounts available for capital improvements (modernization): Provided, That such insurance is competitively selected and that coverage provided under such policies, as certified by the authority, provides reasonable coverage for the risk of liability exposure, taking into consideration the potential liability concerns inherent in the testing and abatement of lead-based paint, and the managerial and quality assurance responsibilities associated with the conduct of such activities.

END OF STATUTE

[198] The date of enactment was October 28, 1991.

TRANSITIONAL CEILING RENTS FOR PUBLIC HOUSING

QUALITY HOUSING AND WORK RESPONSIBILITY ACT OF 1998
[Public Law 105-276; 112 Stat. 2561; 42 U.S.C. 1437a note]

Sec. 519. [42 USC 1437a note]
PUBLIC HOUSING CAPITAL AND OPERATING FUNDS.

* * * * * * *

(d) TRANSITIONAL CEILING RENTS.—Notwithstanding section 3(a)(1) of the United States Housing Act of 1937 (42 U.S.C. 1437a(1)), during the period ending upon the later of the implementation of the formulas established pursuant to subsections (d)(2) and (e)(2) of such Act (as amended by this section) and October 1, 1999, a public housing agency may take any of the following actions with respect to public housing:

(1) NEW PROVISIONS.—An agency may—

(A) adopt and apply ceiling rents that reflect the reasonable market value of the housing, but that are not less than—

(i) for housing other than housing predominantly for elderly or disabled families (or both), 75 percent of the monthly cost to operate the housing of the agency;

(ii) for housing predominantly for elderly or disabled families (or both), 100 percent of the monthly cost to operate the housing of the agency; and

(iii) the monthly cost to make a deposit to a replacement reserve (in the sole discretion of the public housing agency); and

(B) allow families to pay ceiling rents referred to in subparagraph (A), unless, with respect to any family, the ceiling rent established under this paragraph would exceed the amount payable as rent by that family under paragraph (1).

(2) CEILING RENTS FROM BALANCED BUDGET ACT, I.—An agency may utilize the authority under section 3(a)(2) of the United States Housing Act of 1937 (42 U.S.C. 1437a(a)(2)), as in effect immediately before the enactment of this Act[199], notwithstanding any amendment to such section made by this Act.

(3) TRANSITIONAL CEILING RENTS FOR BALANCED BUDGET ACT, I.—An agency may utilize the authority with respect to ceiling rents under section 402(b)(2) of The Balanced Budget Downpayment Act, I (42 U.S.C. 1437a note), notwithstanding any other provision of law (including the expiration of the applicability of such section or the repeal of such section).

* * * * * * *

(g) EFFECTIVE DATE.—Subsections (d), (e), and (f) shall take effect upon the date of the enactment of this Act.

END OF STATUTE

[199] October 21, 1998.

PHA PURCHASE OF ENERGY-EFFICIENT APPLIANCES

ENERGY POLICY ACT OF 2005
[Public Law 109-58; 119 Stat. 594; 42 U.S.C. 15841-15842]

Sec. 152. [42 U.S.C. 15841]
ENERGY-EFFICIENT APPLIANCES.

In purchasing appliances, a public housing agency shall purchase energy-efficient appliances that are Energy Star products or FEMP-designated products, as such terms are defined in section 553 of the National Energy Conservation Policy Act, unless the purchase of energy-efficient appliances is not cost-effective to the agency.

Sec. 153.
ENERGY EFFICIENCY STANDARDS.

Section 109 of the Cranston-Gonzalez National Affordable Housing Act (42 U.S.C. 12709) is amended—

* * * * * * *

Sec. 154. [42 U.S.C. 15842]
ENERGY STRATEGY FOR HUD.

The Secretary of Housing and Urban Development shall develop and implement an integrated strategy to reduce utility expenses through cost-effective energy conservation and efficiency measures and energy efficient design and construction of public and assisted housing. The energy strategy shall include the development of energy reduction goals and incentives for public housing agencies. The Secretary shall submit a report to Congress, not later than 1 year after the date of the enactment of this Act, on the energy strategy and the actions taken by the Department of Housing and Urban Development to monitor the energy usage of public housing agencies and shall submit an update every 2 years thereafter on progress in implementing the strategy.

END OF STATUTE

MENTAL HEALTH ACTION PLANS

QUALITY HOUSING AND WORK RESPONSIBILITY ACT OF 1998
[Public Law 105-276; 112 Stat. 2550; 42 U.S.C. 1437 note]

Sec. 517. [42 U.S.C. 1437 note]
MENTAL HEALTH ACTION PLAN.

The Secretary of Housing and Urban Development, in consultation with the Secretary of Health and Human Services, the Secretary of Labor, and appropriate State and local officials and representatives, shall—

(1) develop an action plan and list of recommendations for the improvement of means of providing severe mental illness treatment to families and individuals receiving housing assistance under the United States Housing Act of 1937, including public housing residents, residents of multifamily housing assisted with project-based assistance under section 8 of such Act, and recipients of tenant-based assistance under such section; and

(2) develop and disseminate a list of current practices among public housing agencies and owners of assisted housing that serve to benefit persons in need of mental health care.”.[200]

END OF STATUTE

[200] So in law.

ANNUAL REPORT REGARDING 1998 ACT

QUALITY HOUSING AND WORK RESPONSIBILITY ACT OF 1998
[Public Law 105-276; 112 Stat. 2643; 42 U.S.C. 1437 note]

Sec. 581. [42 U.S.C. 1437 note]
ANNUAL REPORT.

(a) IN GENERAL.—Not later than 1 year after the date of the enactment of this Act, and annually thereafter, the Secretary shall submit a report to the Congress on—

(1) the impact of the amendments made by this Act on—

(A) the demographics of public housing residents and families receiving tenant-based assistance under the United States Housing Act of 1937; and

(B) the economic viability of public housing agencies; and

(2) the effectiveness of the rent policies established by this Act and the amendments made by this Act on the employment status and earned income of public housing residents.

(b) EFFECTIVE DATE.—This section shall take effect on the date of the enactment of this Act.[201]

END OF STATUTE

[201] October 21, 1998.

CONSULTATION WITH AFFECTED AREAS IN SETTLEMENT OF LITIGATION

QUALITY HOUSING AND WORK RESPONSIBILITY ACT OF 1998
[Public Law 105-276; 112 Stat. 2668; 42 U.S.C. 1436d]

Sec. 599H. [42 USC 1436d]
ASSISTANCE FOR CERTAIN LOCALITIES.

* * * * * * *

(b) CONSULTATION WITH AFFECTED AREAS IN SETTLEMENT OF LITIGATION.—In negotiating any settlement of, or consent decree for, significant litigation regarding public housing or section 8 tenant-based assistance that involves the Secretary and any public housing agency or any unit of general local government, the Secretary shall seek the views of any units of general local government and public housing agencies having jurisdictions that are adjacent to the jurisdiction of the public housing agency involved, if the resolution of such litigation would involve the acquisition or development of public housing dwelling units or the use of vouchers under section 8 of the United States Housing Act of 1937 in jurisdictions that are adjacent to the jurisdiction of the public housing agency involved in the litigation.

* * * * * * *

(m) EFFECTIVE DATE.—This section shall take effect on, and the amendments made by this section are made on, and shall apply beginning upon, the date of the enactment of this Act.[202]

END OF STATUTE

[202] October 21, 1998.

PART III—SUPPORTIVE HOUSING

SUPPORTIVE HOUSING FOR THE ELDERLY

HOUSING ACT OF 1959
[Public Law 101-625; 104 Stat. 4297; 12 U.S.C. 1701q-1701q-2]

TITLE II–HOUSING FOR THE ELDERLY OR HANDICAPPED

* * * * * * *

Sec. 202. [12 U.S.C. 1701q]
SUPPORTIVE HOUSING FOR THE ELDERLY.

(a) PURPOSE.—The purpose of this section is to enable elderly persons to live with dignity and independence by expanding the supply of supportive housing that—

(1) is designed to accommodate the special needs of elderly persons; and

(2) provides a range of services that are tailored to the needs of elderly persons occupying such housing.

(b) GENERAL AUTHORITY.—The Secretary is authorized to provide assistance to private nonprofit organizations and consumer cooperatives to expand the supply of supportive housing for the elderly. Such assistance shall be provided as (1) capital advances in accordance with subsection (c)(1), and (2) contracts for project rental assistance in accordance with subsection (c)(2). Such assistance may be used to finance the construction, reconstruction, or moderate or substantial rehabilitation of a structure or a portion of a structure, or the acquisition of a structure, to be used as supportive housing for the elderly in accordance with this section. Assistance may also cover the cost of real property acquisition, site improvement, conversion, demolition, relocation, and other expenses that the Secretary determines are necessary to expand the supply of supportive housing for the elderly.

(c) FORMS OF ASSISTANCE.—

(1) CAPITAL ADVANCES.—A capital advance provided under this section shall bear no interest and its repayment shall not be required so long as the housing remains available for very low-income elderly persons in accordance with this section. Such advance shall be in an amount calculated in accordance with the development cost limitation established in subsection (h).

(2) PROJECT RENTAL ASSISTANCE.—Contracts for project rental assistance shall obligate the Secretary to make monthly payments to cover any part of the costs attributed to units occupied (or, as approved by the Secretary, held for occupancy) by very low-income elderly persons that is not met from project income. The annual contract amount for any project shall not exceed the sum of the initial annual project rentals for all units so occupied and any initial utility allowances for such units, as approved by the Secretary. Any contract amounts not used by a project in any year shall remain available to the project until the expiration of the contract. The Secretary may adjust the annual contract amount if the sum of the project income and the amount of assistance payments available under this paragraph are inadequate to provide for reasonable project costs.

(3) TENANT RENT CONTRIBUTION.—A very low-income person shall pay as rent for a dwelling unit assisted under this section the highest of the following amounts, rounded to the nearest dollar: (A) 30 percent of the person's adjusted monthly income, (B) 10 percent of the person's monthly income, or (C) if the person is receiving payments for welfare assistance from a public agency and a part of such payments, adjusted in accordance with the person's actual housing costs, is specifically designated by such agency to meet the person's housing costs, the portion of such payments which is so designated.

(d) TERM OF COMMITMENT.—

(1) USE LIMITATIONS.—All units in housing assisted under this section shall be made available for occupancy by very low-income elderly persons for not less than 40 years.

(2) CONTRACT TERMS.—The initial term of a contract entered into under subsection (c)(2) shall be 240 months. The Secretary shall, to the extent approved in appropriation Acts, extend any expiring contract for a term of not less than 60 months. In order to facilitate the orderly extension of expiring

contracts, the Secretary is authorized to make commitments to extend expiring contracts during the year prior to the date of expiration.

(e) APPLICATIONS.—Funds made available under this section shall be allocated by the Secretary among approvable applications submitted by private nonprofit organizations. Applications for assistance under this section shall be submitted by an applicant in such form and in accordance with such procedures as the Secretary shall establish. Such applications shall contain—

(1) a description of the proposed housing;

(2) a description of the assistance the applicant seeks under this section;

(3) a description of the resources that are expected to be made available in compliance with subsection (h);

(4) a description of (A) the category or categories of elderly persons the housing is intended to serve; (B) the supportive services, if any, to be provided to the persons occupying such housing; (C) the manner in which such services will be provided to such persons, including, in the case of frail elderly persons, evidence of such residential supervision as the Secretary determines is necessary to facilitate the adequate provision of such services; and (D) the public or private sources of assistance that can reasonably be expected to fund or provide such services;

(5) a certification from the public official responsible for submitting a housing strategy for the jurisdiction to be served in accordance with section 105 of the Cranston-Gonzalez National Affordable Housing Act that the proposed project is consistent with the approved housing strategy; and

(6) such other information or certifications that the Secretary determines to be necessary or appropriate to achieve the purposes of this section.

The Secretary shall not reject an application on technical grounds without giving notice of that rejection and the basis therefor to the applicant and affording the applicant an opportunity to respond.

(f) INITIAL SELECTION CRITERIA AND PROCESSING.—[203] (1) Selection criteria.—The Secretary shall establish selection criteria for assistance under this section, which shall include—

(A) the ability of the applicant to develop and operate the proposed housing;

(B) the need for supportive housing for the elderly in the area to be served;[204], taking into consideration the availability of public housing for the elderly and vacancy rates in such facilities

(C) the extent to which the proposed size and unit mix of the housing will enable the applicant to manage and operate the housing efficiently and ensure that the provision of supportive services will be accomplished in an economical fashion;

(D) the extent to which the proposed design of the housing will meet the special physical needs of elderly persons;

(E) the extent to which the applicant has demonstrated that the supportive services identified in subsection (e)(4) will be provided on a consistent, long-term basis;

(F) the extent to which the applicant has ensured that a service coordinator will be employed or otherwise retained for the housing, who has the managerial capacity and responsibility for carrying out the actions described in subparagraphs (A) and (B) of subsection (g)(2);

(G) the extent to which the proposed design of the housing will accommodate the provision of supportive services that are expected to be needed, either initially or over the useful life of the housing, by the category or categories of elderly persons the housing is intended to serve; and

(H) such other factors as the Secretary determines to be appropriate to ensure that funds made available under this section are used effectively.

(2) DELEGATED PROCESSING.—

(A) The Secretary shall establish procedures to delegate the award, review and processing of projects, selected by the Secretary in a national competition, 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;

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[203] Extra space so in law.

[204] So in law. Section 602(c) of the Housing and Community Development Act of 1992, Pub. L. 102-550, amended this paragraph by "adding at the end" the matter that follows the semicolon. The matter was probably intended to be inserted before the semicolon at the end.

(iii) may or may not be providing low-income housing tax credits in combination with the funding under this section,[205] and

(iv) agrees to issue a firm commitment within 12 months of delegation.

(B) The Secretary shall retain the authority to process funding under this section in cases in which no State or local housing agency has applied 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 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.

(D) Assistance under subsection (c)(2) may be provided for projects which identify in the application for assistance a defined health and other supportive services program including sources of financing the services for eligible residents and memoranda of understanding with service provision agencies and organizations to provide such services for eligible residents at their request. Such supportive services plan and memoranda of understating shall--

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

(ii) set forth methods for outreach and referral;

(iii) identify the health and other supportive services to be provided; and

(iv) identify the terms under which such services will be made available to residents of the project.

(E) Under such delegated system, the Secretary shall retain the authority to approve rents and development costs and to execute a funding under this section 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 funding under this section and such reductions shall be subject to appeal.

(g) PROVISIONS[206] OF SERVICES.—

(1) IN GENERAL.—In carrying out the provisions of this section, the Secretary shall ensure that housing assisted under this section provides a range of services tailored to the needs of the category or categories of elderly persons (including frail elderly persons) occupying such housing. Such services may include (A) meal service adequate to meet nutritional need; (B) housekeeping aid; (C) personal assistance; (D) transportation services; (E) health-related services; (F) providing education and outreach regarding telemarketing fraud, in accordance with the standards issued under section 671(f) of the Housing and Community Development Act of 1992; and (G)[207] such other services as the Secretary deems essential for maintaining independent living. The Secretary may permit the provision of services to elderly persons who are not residents if the participation of such persons will not adversely affect the cost-effectiveness or operation of the program or add significantly to the need for assistance under this Act.

(2) LOCAL COORDINATION OF SERVICES.—The Secretary shall ensure that owners have the managerial capacity to—

(A) assess on an ongoing basis the service needs of residents;

(B) coordinate the provision of supportive services and tailor such services to the individual needs of residents; and

(C) seek on a continuous basis new sources of assistance to ensure the long-term provision of supportive services.

Any cost associated with this subsection shall be an eligible cost under subsection (c)(2).

(3) SERVICE COORDINATORS.—Any cost associated with employing or otherwise retaining a service coordinator in housing assisted under this section shall be considered an eligible cost under subsection (c)(2). If a project is receiving congregate housing services assistance under section 802 of the

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[205] Comma so in law.

[206] So in law.

[207] Section 851(c)(1) of the American Homeownership and Economic Opportunity Act of 2000 (P.L. 106-569; 114 Stat. 3024), provides as follows:

(1) Supportive housing for the elderly.—The first sentence of section 202(g)(1) of the Housing Act of 1959 (12 U.S.C. 1701q(g)(1)) is amended by striking "and (F)" and inserting the following: "(F) providing education and outreach regarding telemarketing fraud, in accordance with the standards issued under section 671(f) of the Housing and Community Development Act of 1992 (42 U.S.C. 13631(f)); and (G)".

The amendment could not be executed and probably should have been made to the second sentence.

Cranston-Gonzalez National Affordable Housing Act, the amount of costs provided under subsection (c)(2) for the project service coordinator may not exceed the additional amount necessary to cover the costs of providing for the coordination of services for residents of the project who are not eligible residents under such section 802. To the extent that amounts are available pursuant to subsection (c)(2) for the costs of carrying out this paragraph within a project, an owner of housing assisted under this section shall provide a service coordinator for the housing to coordinate the provision of services under this subsection within the housing.

(h) DEVELOPMENT COST LIMITATIONS.—

(1) IN GENERAL.—The Secretary shall periodically establish reasonable development cost limitations by market area for various types and sizes of supportive housing for the elderly by publishing a notice of the cost limitations in the Federal Register. The cost limitations shall reflect—

(A) the cost of construction, reconstruction, or rehabilitation of supportive housing for the elderly that meets applicable State and local housing and building codes;

(B) the cost of movables necessary to the basic operation of the housing, as determined by the Secretary;

(C) the cost of special design features necessary to make the housing accessible to elderly persons;

(D) the cost of special design features necessary to make individual dwelling units meet the physical needs of elderly project residents;

(E) the cost of congregate space necessary to accommodate the provision of supportive services to elderly project residents;

(F) if the housing is newly constructed, the cost of meeting the energy efficiency standards promulgated by the Secretary in accordance with section 109 of the Cranston-Gonzalez National Affordable Housing Act; and

(G) the cost of land, including necessary site improvement.

In establishing development cost limitations for a given market area under this subsection, the Secretary shall use data that reflect currently prevailing costs of construction, reconstruction, or rehabilitation, and land acquisition in the area. For purposes of this paragraph, the term “congregate space” shall include space for cafeterias or dining halls, community rooms or buildings, workshops, adult day health facilities, or other outpatient health facilities, or other essential service facilities. Neither this section nor any other provision of law may be construed as prohibiting or preventing the location and operation, in a project assisted under this section, of commercial facilities for the benefit of residents of the project and the community in which the project is located, except that assistance made available under this section may not be used to subsidize any such commercial facility.

(2) ACQUISITION.—In the case of existing housing and related facilities to be acquired, the cost limitations shall include—

(A) the cost of acquiring such housing,

(B) the cost of rehabilitation, alteration, conversion, or improvement, including the moderate rehabilitation thereof, and

(C) the cost of the land on which the housing and related facilities are located.

(3) ANNUAL ADJUSTMENTS.—The Secretary shall adjust the cost limitation not less than once annually to reflect changes in the general level of construction, reconstruction, or rehabilitation costs.

(4) INCENTIVES FOR SAVINGS.—

(A) SPECIAL HOUSING ACCOUNT.—The Secretary shall use the development cost limitations established under paragraph (1) or (2) to calculate the amount of financing to be made available to individual owners. Owners which incur actual development costs that are less than the amount of financing shall be entitled to retain 50 percent of the savings in a special housing account. Such percentage shall be increased to 75 percent for owners which add energy efficiency features which—

(i) exceed the energy efficiency standards promulgated by the Secretary in accordance with section 109 of the Cranston-Gonzalez National Affordable Housing Act;

(ii) substantially reduce the life-cycle cost of the housing;

(iii) reduce gross rent requirements; and

(iv) enhance tenant comfort and convenience.

(B) USES.—The special housing account established under subparagraph (A) may be used (i) to supplement services provided to residents of the housing or funds set aside for replacement reserves, or (ii) for such other purposes as determined by the Secretary.

(5) DESIGN FLEXIBILITY.—The Secretary shall, to the extent practicable, give owners the flexibility to design housing appropriate to their location and proposed resident population within broadly defined parameters.

(6) USE OF FUNDS FROM OTHER SOURCES.—An owner shall be permitted voluntarily to provide funds from sources other than this section for amenities and other features of appropriate design and construction suitable for supportive housing for the elderly if the cost of such amenities is (A) not financed with the advance, and (B) is not taken into account in determining the amount of Federal assistance or of the rent contribution of tenants. Notwithstanding any other provision of law, assistance amounts provided under this section may be treated as amounts not derived from a Federal grant.

(i) TENANT SELECTION.—

(1) IN GENERAL.—An owner shall adopt written tenant selection procedures that are satisfactory to the Secretary as (A) consistent with the purpose of improving housing opportunities for very low-income elderly persons; and (B) reasonably related to program eligibility and an applicant's ability to perform the obligations of the lease. Such tenant selection procedures shall comply with subtitle C of title VI of the Housing and Community Development Act of 1992 and any regulations issued under such subtitle. Owners shall promptly notify in writing any rejected applicant of the grounds for any rejection.

(2) INFORMATION REGARDING HOUSING UNDER THIS SECTION.—The Secretary shall provide to an appropriate agency in each area (which may be the applicable Area Agency on the Aging) information regarding the availability of housing assisted under this section.

(j) MISCELLANEOUS PROVISIONS.—

(1) TECHNICAL ASSISTANCE.—The Secretary shall make available appropriate technical assistance to assure that applicants having limited resources, particularly minority applicants, are able to participate more fully in the program carried out under this section.

(2) CIVIL RIGHTS COMPLIANCE.—Each owner shall certify, to the satisfaction of the Secretary, that assistance made available under this section will be conducted and administered in conformity with title VI of the Civil Rights Act of 1964, the Fair Housing Act, and other Federal, State, and local laws prohibiting discrimination and promoting equal opportunity.

(3) OWNER DEPOSIT.—

(A) IN GENERAL.—The Secretary shall require an owner to deposit an amount not to exceed $25,000 in a special escrow account to assure the owner's commitment to the housing. Such amount shall be used only to cover operating deficits during the first 3 years of operations and shall not be used to cover construction shortfalls or inadequate initial project rental assistance amounts.

(B) REDUCTION OF REQUIREMENT.—The Secretary may reduce or waive the owner deposit specified under paragraph (1) for individual applicants if the Secretary finds that such waiver or reduction is necessary to achieve the purposes of this section and the applicant demonstrates to the satisfaction of the Secretary that it has the capacity to manage and maintain the housing in accordance with this section. The Secretary shall reduce or waive the requirement of the owner deposit under paragraph (1) in the case of a nonprofit applicant that is not affiliated with a national sponsor, as determined by the Secretary.

(4) NOTICE OF APPEAL.—The Secretary shall notify an owner not less than 30 days prior to canceling any reservation of assistance provided under this section. During the 30-day period following the receipt of a notice under the preceding sentence, an owner may appeal the proposed cancellation of loan authority. Such appeal, including review by the Secretary, shall be completed not later than 45 days after the appeal is filed.

(5) LABOR.—

(A) IN GENERAL.—The Secretary shall take such action as may be necessary to ensure that all laborers and mechanics employed by contractors and subcontractors in the construction of housing with 12 or more units assisted under this section shall be paid wages at rates not less than the rates prevailing in the locality involved for the corresponding classes of laborers and mechanics employed on construction of a similar character, as determined by the Secretary of

Labor in accordance with the Act of March 3, 1931 (commonly known as the Davis-Bacon Act[208]).

(B) EXEMPTION.—Subparagraph (A) shall not apply to any individual who—

(i) performs services for which the individual volunteered;

(ii)(I) does not receive compensation for such services; or

(II) is paid expenses, reasonable benefits, or a nominal fee for such services; and

(iii) is not otherwise employed at any time in the construction work.

(6) ACCESS TO RESIDUAL RECEIPTS.—The Secretary shall authorize the owner of a project assisted under this section to use any residual receipts held for the project in excess of $500 per unit (or in excess of such other amount prescribed by the Secretary based on the needs of the project) for activities to retrofit and renovate the project described under section 802(d)(3) of the Cranston-Gonzalez National Affordable Housing Act, to provide a service coordinator for the project as described in section 802(d)(4) of such Act, or to provide supportive services (as such term is defined in section 802(k) of such Act) to residents of the project. Any owner that uses residual receipts under this paragraph shall submit to the Secretary a report, not less than annually, describing the uses of the residual receipts. In determining the amount of project rental assistance to be provided to a project under subsection (c)(2) of this section, the Secretary may take into consideration the residual receipts held for the project only if, and to the extent that, excess residual receipts are not used under this paragraph.

(7) COMPLIANCE WITH HOUSING AND COMMUNITY DEVELOPMENT ACT OF 1992.—Each owner shall operate housing assisted under this section in compliance with subtitle C of title VI of the Housing and Community Development Act of 1992 and any regulations issued under such subtitle.

(8) USE OF PROJECT RESERVES.—Amounts for project reserves for a project assisted under this section may be used for costs, subject to reasonable limitations as the Secretary determines appropriate, for reducing the number of dwelling units in the project. Such use shall be subject to the approval of the Secretary to ensure that the use is designed to retrofit units that are currently obsolete or unmarketable.

(k) DEFINITIONS.—

(1) The term "elderly person" means a household composed of one or more persons at least one of whom is 62 years of age or more at the time of initial occupancy.

(2) The term "frail elderly" means an elderly person who is unable to perform at least 3 activities of daily living adopted by the Secretary for purposes of this program. Owners may establish additional eligibility requirements (acceptable to the Secretary) based on the standards in local supportive services programs.

(3) The term "owner" means a private nonprofit organization that receives assistance under this section to develop and operate supportive housing for the elderly.

(4) The term "private nonprofit organization" means—

(A) any incorporated private institution or foundation—

(i) no part of the net earnings of which inures to the benefit of any member, founder, contributor, or individual;

(ii) which has a governing board—

(I) the membership of which is selected in a manner to assure that there is significant representation of the views of the community in which such housing is located; and

(II) which is responsible for the operation of the housing assisted under this section, except that, in the case of a nonprofit organization that is the sponsoring organization of multiple housing projects assisted under this section, the Secretary may determine the criteria or conditions under which financial, compliance and other administrative responsibilities exercised by a single-entity private nonprofit organization that is the owner corporation responsible for the operation of an individual housing project may be shared or transferred to the governing board of such sponsoring organization; and

(iii) which is approved by the Secretary as to financial responsibility; and

[208] Such Act is now codified in subchapter IV of chapter 31 of title 40, United States Code. See Public Law 107-217. Section 5(c) of such Public Law, 116 Stat. 1303, provides that "[a] reference to a law replaced by section 1 or 2 of this Act, including a reference in a regulation, order, or other law, is deemed to refer to the corresponding provision enacted by this Act".

(B) a for-profit limited partnership the sole general partner of which is—

(i) an organization meeting the requirements under subparagraph (A);

(ii) a for-profit corporation wholly owned and controlled by one or more organizations meeting the requirements under subparagraph (A); or

(iii) a limited liability company wholly owned and controlled by one or more organizations meeting the requirements under subparagraph (A).

(5) The term "State" includes the several States, the District of Columbia, the Commonwealth of Puerto Rico, and the possessions of the United States.

(6) The term "Secretary" means the Secretary of Housing and Urban Development.

(7) The term "supportive housing for the elderly" means housing that is designed (A) to meet the special physical needs of elderly persons and (B) to accommodate the provision of supportive services that are expected to be needed, either initially or over the useful life of the housing, by the category or categories of elderly persons that the housing is intended to serve.

(8) The term "very low-income" has the same meaning as given the term "very low-income families" under section 3(b)(2) of the United States Housing Act of 1937.

(l) ALLOCATION OF FUNDS.—

(1) CAPITAL ADVANCES.—Of any amounts made available for assistance under this section, such sums as may be necessary shall be available for funding capital advances in accordance with subsection (c)(1). Such amounts, the repayments from such advances, and the proceeds from notes or obligations issued under this section prior to the enactment of the Cranston-Gonzalez National Affordable Housing Act[209] shall constitute a revolving fund to be used by the Secretary in carrying out this section.

(2) PROJECT RENTAL ASSISTANCE.—Of any amounts made available for assistance under this section, such sums as may be necessary shall be available for funding project rental assistance in accordance with subsection (c)(2).

(3) NONMETROPOLITAN ALLOCATION.—Not less than 20 percent[210] of the funds made available for assistance under this section shall be allocated by the Secretary on a national basis for nonmetropolitan areas. In complying with this paragraph, the Secretary shall either operate a national competition for the nonmetropolitan funds or make allocations to regional offices of the Department of Housing and Urban Development.

(m) Authorization of Appropriations.—There is authorized to be appropriated for providing assistance under this section $710,000,000 for fiscal year 2000.

(m)[211] Authorization of Appropriations.—There are authorized to be appropriated for providing assistance under this section such sums as may be necessary for each of fiscal years 2001, 2002, and 2003.

Sec. 202a. [12 U.S.C. 1701q-1]

CIVIL MONEY PENALTIES AGAINST SECTION 202 MORTGAGORS.

(a) IN GENERAL.—The penalties set forth in this section shall be in addition to any other available civil remedy or criminal penalty, and may be imposed whether or not the Secretary imposes other administrative sanctions. The Secretary may not impose penalties under this section for violations a material cause of which are the failure of the Department, an agent of the Department, or a public housing agency to comply with existing agreements.

(b) PENALTY FOR VIOLATION OF AGREEMENT AS CONDITION OF TRANSFER OF PHYSICAL ASSETS, FLEXIBLE SUBSIDY LOAN, CAPITAL IMPROVEMENT LOAN, MODIFICATION OF MORTGAGE TERMS, OR WORKOUT AGREEMENT.—

(1) IN GENERAL.—Whenever a mortgagor of property that includes 5 or more living units and that has a mortgage held pursuant to section 202, who has agreed in writing, as a condition of a transfer of physical assets, a flexible subsidy loan, a capital improvement loan, a modification of the mortgage terms, or a workout agreement, to use nonproject income to make cash contributions for payments due under the note and mortgage, for payments to the reserve for replacements, to restore the project to good physical condition, or to pay other project liabilities, knowingly and materially fails to comply with any of these

[209] The date of enactment was November 28, 1990.

[210] Section 602(g) of the Housing and Community Development Act of 1992, Pub. L. 102-550, amended "[s]ection 202(l)(4) of the Housing Act of 1959 (12 U.S.C. 1701q(l)(3))...by striking '20 percent' and inserting '15 percent'". The amendment was probably intended to be made to section 202(l)(3).

[211] The second subsection (m) was added by section 821 of the American Homeownership and Economic Opportunity Act of 2000 (P.L. 106-569; 114 Stat. 3020). The amendment probably should have been to amend such subsection "to read as follows:".

commitments, the Secretary may impose a civil money penalty on the mortgagor in accordance with the provisions of this section.

(2) AMOUNT.—The amount of the penalty, as determined by the Secretary, for a violation of this subsection may not exceed the amount of the loss the Secretary would incur at a foreclosure sale, or sale after foreclosure, with respect to the property involved.

(c) VIOLATIONS OF REGULATORY AGREEMENT.—

(1) IN GENERAL.—The Secretary may also impose a civil money penalty on a mortgagor or property that includes 5 or more living units and that has a mortgage held pursuant to section 202 for any knowing and material violation of the regulatory agreement executed by the mortgagor, as follows:

(A) Conveyance, transfer, or encumbrance of any of the mortgaged property, or permitting the conveyance, transfer, or encumbrance of such property, without the prior written approval of the Secretary.

(B) Assignment, transfer, disposition, or encumbrance of any personal property of the project, including rents, or paying out any funds, except for reasonable operating expenses and necessary repairs, without the prior written approval of the Secretary.

(C) Conveyance, assignment, or transfer of any beneficial interest in any trust holding title to the property, or the interest of any general partner in a partnership owning the property, or any right to manage or receive the rents and profits from the mortgaged property, without the prior written approval of the Secretary.

(D) Remodeling, adding to, reconstructing, or demolishing any part of the mortgaged property or subtracting from any real or personal property of the project, without the prior written approval of the Secretary.

(E) Requiring, as a condition of the occupancy or leasing of any unit in the project, any consideration or deposit other than the prepayment of the first month's rent, plus a security deposit in an amount not in excess of 1 month's rent, to guarantee the performance of the covenants of the lease.

(F) Not holding any funds collected as security deposits separate and apart from all other funds of the project in a trust account, the amount of which at all times equals or exceeds the aggregate of all outstanding obligations under the account.

(G) Payment for services, supplies, or materials which exceeds $500 and substantially exceeds the amount ordinarily paid for such services, supplies, or materials in the area where the services are rendered or the supplies or materials furnished.

(H) Failure to maintain at any time the mortgaged property, equipment, buildings, plans, offices, apparatus, devices, books, contracts, records, documents, and other related papers (including failure to keep copies of all written contracts or other instruments which affect the mortgaged property) in reasonable condition for proper audit and for examination and inspection at any reasonable time by the Secretary or any duly authorized agents of the Secretary.

(I) Failure to maintain the books and accounts of the operations of the mortgaged property and of the project in accordance with requirements prescribed by the Secretary.

(J) Failure to furnish the Secretary, by the expiration of the 60-day period beginning on the 1st day after the completion of each fiscal year, with a complete annual financial report based upon an examination of the books and records of the mortgagor prepared in accordance with requirements prescribed by the Secretary, and prepared and certified to by an independent public accountant or a certified public accountant and certified to by an officer of the mortgagor, unless the Secretary has approved an extension of the 60-day period in writing. The Secretary shall approve an extension where the mortgagor demonstrates that failure to comply with this subparagraph is due to events beyond the control of the mortgagor.

(K) At the request of the Secretary, the agents of the Secretary, the employees of the Secretary, or the attorneys of the Secretary, failure to furnish monthly occupancy reports or failure to provide specific answers to questions upon which information is sought relative to income, assets, liabilities, contracts, the operation and condition of the property, or the status of the mortgage.

(L) Failure to make promptly all payments due under the note and mortgage, including tax and insurance escrow payments, and payments to the reserve for replacements when there is adequate project income available to make such payments.

(M) Amending the articles of incorporation or bylaws, other than as permitted under the terms of the articles of incorporation as approved by the Secretary, without the prior written approval of the Secretary.

(2) AMOUNT OF PENALTY.—A penalty imposed for a violation under this subsection, as determined by the Secretary, may not exceed $25,000 for a violation of any of the subparagraphs of paragraph (1).

(d) AGENCY PROCEDURES.—

(1) ESTABLISHMENT.—The Secretary shall establish standards and procedures governing the imposition of civil money penalties under subsections (b) and (c). These standards and procedures—

(A) shall provide for the Secretary or other department official (such as the Assistant Secretary for Housing) to make the determination to impose a penalty;

(B) shall provide for the imposition of a penalty only after the mortgagor has been given an opportunity for a hearing on the record; and

(C) may provide for review by the Secretary of any determination or order, or interlocutory ruling, arising from a hearing.

(2) FINAL ORDERS.—If no hearing is requested within 15 days of receipt of the notice of opportunity for hearing, the imposition of the penalty shall constitute a final and unappealable determination. If the Secretary reviews the determination or order, the Secretary may affirm, modify, or reverse that determination or order. If the Secretary does not review the determination or order within 90 days of the issuance of the determination or order, the determination or order shall be final.

(3) FACTORS IN DETERMINING AMOUNT OF PENALTY.—In determining the amount of a penalty under subsection (b) or (c), consideration shall be given to such factors as the gravity of the offense, any history of prior offenses (including offenses occurring before enactment of this section), ability to pay the penalty, injury to the tenants, injury to the public, benefits received, deterrence of future violations, and such other factors as the Secretary may determine in regulations to be appropriate.

(4) REVIEWABILITY OF IMPOSITION OF PENALTY.—The Secretary's determination or order imposing a penalty under subsection (b) or (c) shall not be subject to review, except as provided in subsection (e).

(e) JUDICIAL REVIEW OF AGENCY DETERMINATION.—

(1) IN GENERAL.—After exhausting all administrative remedies established by the Secretary under subsection (d)(1), a mortgagor against whom the Secretary has imposed a civil money penalty under subsection (b) or (c) may obtain a review of the penalty and such ancillary issues as may be addressed in the notice of determination to impose a penalty under subsection (d)(1)(A) in the appropriate court of appeals of the United States, by filing in such court, within 20 days after the entry of such order or determination, a written petition praying that the Secretary's order or determination be modified or be set aside in whole or in part.

(2) OBJECTIONS NOT RAISED IN HEARING.—The court shall not consider any objection that was not raised in the hearing conducted pursuant to subsection (d)(1) unless a demonstration is made of extraordinary circumstances causing the failure to raise the objection. If any party demonstrates to the satisfaction of the court that additional evidence not presented at such hearing is material and that there were reasonable grounds for the failure to present such evidence at the hearing, the court shall remand the matter to the Secretary for consideration of such additional evidence.

(3) SCOPE OF REVIEW.—The decisions, findings, and determinations of the Secretary shall be reviewed pursuant to section 706 of title 5, United States Code.

(4) ORDER TO PAY PENALTY.—Notwithstanding any other provision of law, in any such review, the court shall have the power to order payment of the penalty imposed by the Secretary.

(f) ACTION TO COLLECT PENALTY.—If a mortgagor fails to comply with the Secretary's determination or order imposing a civil money penalty under subsection (b) or (c), after the determination or order is no longer subject to review as provided by subsections (d)(1) and (e), the Secretary may request the Attorney General of the United States to bring an action in an appropriate United States district court to obtain a monetary judgment against the mortgagor and such other relief as may be available. The monetary judgment may, in the court's discretion, include the attorneys fees and other expenses incurred by the United States in connection with the action. In an action under this subsection, the validity and appropriateness of the Secretary's determination or order imposing the penalty shall not be subject to review.

(g) SETTLEMENT BY SECRETARY.—The Secretary may compromise, modify, or remit any civil money penalty which may be, or has been, imposed under this section.

(h) DEFINITION OF KNOWINGLY.—The term "knowingly" means having actual knowledge of or acting with deliberate ignorance of or reckless disregard for the prohibitions under this section.

(i) REGULATIONS.—The Secretary shall issue such regulations as the Secretary deems appropriate to implement this section.

(j) DEPOSIT OF PENALTIES IN INSURANCE FUNDS.—Notwithstanding any other provision of law, all civil money penalties collected under this section shall be deposited in the fund established under section 201(j) of the Housing and Community Development Amendments of 1978.

Sec. 202b. [12 U.S.C. 1701q-2]
GRANTS FOR CONVERSION OF ELDERLY HOUSING TO ASSISTED LIVING FACILITIES AND OTHER PURPOSES.

(a) GRANT AUTHORITY.—The Secretary of Housing and Urban Development may make grants in accordance with this section to owners of eligible projects described in subsection (b) for one or both of the following activities:

(1) REPAIRS.—Substantial capital repairs to projects that are needed to rehabilitate, modernize, or retrofit aging structures, common areas, or individual dwelling units.

(2) CONVERSION.—

(A) ASSISTED LIVING FACILITIES.—Activities designed to convert dwelling units in the eligible project to assisted living facilities for elderly persons.

(B) SERVICE-ENRICHED HOUSING.—Activities designed to convert dwelling units in the eligible project to service-enriched housing for elderly persons.

(b) ELIGIBLE PROJECTS.—An eligible project described in this subsection is a multifamily housing project that is—

(1)(A) described in subparagraph (B), (C), (D), (E), (F), or (G) of section 683(2) of the Housing and Community Development Act of 1992 (42 U.S.C. 13641(2)), or (B) only to the extent amounts of the Department of Agriculture are made available to the Secretary of Housing and Urban Development for such grants under this section for such projects, subject to a loan made or insured under section 515 of the Housing Act of 1949 (42 U.S.C. 1485);

(2) owned by a private nonprofit organization (as such term is defined in section 202); and

(3) designated primarily for occupancy by elderly persons.

Notwithstanding any other provision of this subsection or this section, an unused or underutilized commercial property may be considered an eligible project under this subsection, except that the Secretary may not provide grants under this section for more than three such properties. For any such projects, any reference under this section to dwelling units shall be considered to refer to the premises of such properties.

(c) APPLICATIONS.—Applications for grants under this section shall be submitted to the Secretary in accordance with such procedures as the Secretary shall establish. Such applications shall contain—

(1) a description of the substantial capital repairs or the proposed conversion activities for either an assisted living facility or service-enriched housing for which a grant under this section is requested;

(2) the amount of the grant requested to complete the substantial capital repairs or conversion activities;

(3) a description of the resources that are expected to be made available, if any, in conjunction with the grant under this section; and

(4) such other information or certifications that the Secretary determines to be necessary or appropriate.

(d) REQUIREMENTS FOR SERVICES.—

(1) SUFFICIENT EVIDENCE OF FIRM FUNDING COMMITMENTS.—The Secretary may not make a grant under this section for conversion activities unless an application for a grant submitted pursuant to subsection (c) contains sufficient evidence, in the determination of the Secretary, of firm commitments for the funding of services to be provided in the assisted living facility or service-enriched housing, which may be provided by third parties.

(2) REQUIRED EVIDENCE.—The Secretary shall require evidence that each recipient of a grant for service-enriched housing under this section provides relevant and timely disclosure of information to residents or potential residents of such housing relating to—

(A) the services that will be available at the property to each resident, including—

(i) the right to accept, decline, or choose such services and to have the choice of provider;

(ii) the services made available by or contracted through the grantee;

(iii) the identity of, and relevant information for, all agencies or organizations providing any services to residents, which agencies or organizations shall provide information regarding all procedures and requirements to obtain services, any charges or rates for the services, and the rights and responsibilities of the residents related to those services;

(B) the availability, identity, contact information, and role of the service coordinator; and

(C) such other information as the Secretary determines to be appropriate to ensure that residents are adequately informed of the services options available to promote resident independence and quality of life.

(e) SELECTION CRITERIA.—The Secretary shall select applications for grants under this section based upon selection criteria, which shall be established by the Secretary and shall include—

(1) in the case of a grant for substantial capital repairs, the extent to which the project to be repaired is in need of such repair, including such factors as the age of improvements to be repaired, and the impact on the health and safety of residents of failure to make such repairs;

(2) in the case of a grant for conversion activities, the extent to which the conversion is likely to provide assisted living facilities or service-enriched housing that are needed or are expected to be needed by the categories of elderly persons that the assisted living facility service-enriched housing is intended to serve, with a special emphasis on very low-income elderly persons who need assistance with activities of daily living;

(3) the inability of the applicant to fund the repairs or conversion activities from existing financial resources, as evidenced by the applicant's financial records, including assets in the applicant's residual receipts account and reserves for replacement account;

(4) the extent to which the applicant has evidenced community support for the repairs or conversion, by such indicators as letters of support from the local community for the repairs or conversion and financial contributions from public and private sources;

(5) in the case of a grant for conversion activities, the extent to which the applicant demonstrates a strong commitment to promoting the autonomy and independence of the elderly persons that the assisted living facility or service-enriched housing is intended to serve;

(6) in the case of a grant for conversion activities, the quality, completeness, and managerial capability of providing the services which the assisted living facility or service-enriched housing intends to provide to elderly residents, especially in such areas as meals, 24-hour staffing, and on-site health care; and

(7) such other criteria as the Secretary determines to be appropriate to ensure that funds made available under this section are used effectively.

(f) SECTION 8 PROJECT-BASED ASSISTANCE.—

(1) ELIGIBILITY.—Notwithstanding any other provision of law, a multifamily project which includes one or more dwelling units that have been converted to assisted living facilities or service-enriched housing using grants made under this section shall be eligible for project-based assistance under section 8 of the United States Housing Act of 1937, in the same manner in which the project would be eligible for such assistance but for the assisted living facilities or service-enriched housing in the project.

(2) CALCULATION OF RENT.—For assistance pursuant to this subsection, the maximum monthly rent of a dwelling unit that is an assisted living facility or service-enriched housing with respect to which assistance payments are made shall not include charges attributable to services relating to assisted living.

(g) DEFINITIONS.—For purposes of this section—

(1) the term "assisted living facility" has the meaning given such term in section 232(b) of the National Housing Act (1715w(b));

(2) the term "service-enriched housing" means housing that—

(A) makes available through licensed or certified third party service providers supportive services to assist the residents in carrying out activities of daily living, such as bathing, dressing, eating, getting in and out of bed or chairs, walking, going outdoors, using the toilet, laundry, home management, preparing meals, shopping for personal items, obtaining and taking medication, managing money, using the telephone, or performing light or heavy housework, and which may make available to residents home health care services, such as nursing and therapy;

(B) includes the position of service coordinator, which may be funded as an operating expense of the property;

(C) provides separate dwelling units for residents, each of which contains a full kitchen and bathroom and which includes common rooms and other facilities appropriate for the provision of supportive services to the residents of the housing; and

(D) provides residents with control over health care and supportive services decisions, including the right to accept, decline, or choose such services, and to have the choice of provider; and

(3) the definitions in section 1701(q)(k) of this title shall apply.

(h) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated for providing grants under this section such sums as may be necessary for fiscal year 2000.

END OF STATUTE

HOUSING ACT OF 1959—PRIOR TO OCTOBER 1, 1991
[Public Law 86-372; 73 Stat. 667]

Sec. 202[212]
LOAN PROGRAM.

(a)(1) The purpose of this section is to assist private nonprofit corporations, limited profit sponsors, consumer cooperatives or public bodies or agencies to provide housing and related facilities for elderly or handicapped families.

(2) In order to carry out the purpose of this section, the Secretary may make loans to any corporation (as defined in subsection (d)(2)), to any limited profit sponsor approved by the Secretary, to any consumer cooperatives, or to any public body or agency for the provisions of rental or cooperative housing related facilities for elderly or handicapped families, except that (A) no such loan shall be made unless the applicant shows that it is unable to secure the necessary funds from other sources upon terms and conditions equally as favorable as the terms and conditions applicable to loans under this section (B) no such loan shall be made unless the Secretary finds that the construction will be undertaken in an economical manner and that it will not be of elaborate or extravagant design or materials, and (C) no such loan shall be made to a public body or agency unless it certifies that it is not receiving financial assistance from the United States exclusively pursuant to the United States Housing Act of 1937.

(3)(A) A loan under this section may be in an amount not exceeding that total development cost (as defined in subsection (d)(3)), as determined by the Secretary, except that in the case of other than a corporation, consumer cooperative, or public body or agency the amount of the loan shall not exceed 90 per centum of the development cost; shall be secured in such manner and be repaid within such period, not exceeding fifty years, as may be determined by him; and shall bear an interest rate which is not more than a rate determined by the Secretary taking into consideration the average yield, during the 3-month period immediately preceding the fiscal year in which the loan is made, on the most recently issued 30-year marketable obligations of the United States, adjusted to the nearest one-eighth of 1 per centum, plus an allowance adequate in the judgment of the Secretary to cover administrative costs and probable losses under the program, except that such interest rate plus such allowance shall not exceed 9.25 per centum per annum.

(B) At the option of the borrower, a loan under this section may be made and may be processed for a conditional or firm commitment either (i) at an interest rate not to exceed a rate and allowance determined by the Secretary in accordance with subparagraph (A) using the 1-month period immediately prior to the month in which the request for a commitment is submitted; or (ii) at an interest rate not to exceed a rate and allowance determined by the Secretary in accordance with subparagraph (A) using the 3-month period immediately preceding the fiscal year in which the request for a commitment is submitted.

(4)(A) There is authorized to be appropriated for the purposes of this section not to exceed $500,000,000, which amount shall be increased by $150,000,000 on July 1, 1969. Amounts so appropriated, and the proceeds from notes or other obligations issued under subparagraph (B), shall constitute a revolving fund to be used by the Secretary in carrying out this section.

(B)(i) To carry out the purposes of this section, the Secretary is authorized to issue to the Secretary of the Treasury notes or other obligations in an aggregate amount not to exceed $1,475,000,000, which amount shall be increased to $2,387,500,000 on October 1, 1977, to $3,300,000,000 on October 1, 1978, to $3,827,500,000 on October 1, 1979, to $4,777,500,000 on October 1, 1980, to $5,752,500,000 on October 1, 1981, to $6,400,000,000 on October 1, 1983, to such sum as may be approved in an appropriation Act on October 1, 1984, and to such sums as may[213] *approved in appropriation Acts for fiscal years 1988 and 1989, in such forms and denominations, bearing such maturities, and subject to such terms and conditions as may be prescribed by the Secretary of the Treasury. Such notes or other obligations shall bear interest at a rate determined by the Secretary of the Treasury taking into consideration the average yield, during the 3-month period immediately preceding the fiscal year in which the loan is made, on the most recently issued 30-year marketable obligations of the United States. The Secretary of the*

[212] Section 801(a) of the Cranston-Gonzalez National Affordable Housing Act, Pub. L. 101-625, amended this section in its entirety, which is set forth in this part.
[213] So in law.

Treasury is authorized and directed to purchase any notes and other obligations issued hereunder and for that purpose he is authorized to use as a public debt transaction the proceeds from the sale of any securities issued under chapter 31 of title 31, United States Code; and the purposes for which securities may be issued under such chapter are extended to include any purchase of such notes and obligations. The Secretary of the Treasury may at any time sell any of the notes or other obligations acquired by him under this section. All redemptions, purchases, and sales by the Secretary of the Treasury of such notes or other obligations shall be treated as public debt transactions of the United States. The Secretary may not issue notes or other obligations to the Secretary of the Treasury pursuant to this section in an aggregate amount exceeding $800,000,000 except as approved in appropriation Acts.

(ii) The receipt and disbursements of the fund shall not be included in the total of the Budget of the United States Government and shall be exempt from any limitation on annual expenditure or net lending.

(C) Amounts in the fund shall be available to the Secretary for the purpose of making loans under this section and for paying interest on obligations issued under subparagraph (B). The aggregate loans made under this section shall not exceed the limits on such lending authority established in appropriation Acts. For fiscal year 1991, not more than $714,200,000 may be approved in appropriation Acts for such loans.

(5) To the maximum extent practicable, the Secretary shall use the services and facilities of the private mortgage industry in servicing mortgage loans made under this section.

(6) In reviewing applications for loans under this section, the Secretary may consider the extent to which such loans—

(A) will assist in stabilizing, conserving, and revitalizing neighborhoods and communities;

(B) will assist in providing housing for elderly and handicapped families in neighborhoods and communities in which they are experiencing significant displacement due to public or private investment; or

(C) will assist in the substantial rehabilitation, in an economical manner, of structures having architectural, historical or cultural significance.

(7) The Secretary may make available appropriate technical and training assistance to assure that applicants having limited resources, particularly minority applicants, are able to participate more fully in the program carried out under this section.

(8) In reviewing applications for loans under this section, the Secretary shall give a priority to any project that will provide housing designed to replace a structure that is owned by a public housing agency, contains not less than 100 dwelling units, is used for housing only elderly families, and is to be demolished. The requirements of this paragraph shall not apply after September 30, 1988.

(9) The Secretary may reserve loan authority under this section and budget authority under section 8 of the United States Housing Act of 1937 for a project before acquisition of the project (or before an offer or option to purchase is made on the project) from the Resolution Trust Corporation under section 21A(c) of the Federal Home Loan Bank Act, if the Secretary determines there is a reasonable likelihood that the project will be acquired from the Resolution Trust Corporation under section 21A(c).

(b) In the performance of, and with respect to, the functions, powers, and duties vested in him by this section the Secretary shall (in addition to any authority otherwise vested in him) have the functions, powers, and the duties set forth in section 402 (except subsection (c)(2)) of the Housing Act of 1950.

(c)(1) Housing constructed with a loan made under this section shall not be used for transient or hotel purposes while such loan is outstanding

(2) As used in paragraph (1), the term "transient or hotel purposes" shall have such meaning as may be prescribed by the Secretary, but rental for any period less than thirty days shall in any event constitute use for such purposes. The provisions of subsection (f) through (j) of section 513 of the National Housing Act (as added by section 132 of the Housing Act of 1954) shall apply in the case of violations of paragraph (1) as though the housing described in such subsection were multifamily housing (as defined in section 513(e)(2) of the National Housing Act) with respect to which a mortgage is insured under such Act.

(3)(A) The Secretary shall take such action as may be necessary to insure that all laborers and mechanics employed by contractors and subcontractors in the construction of housing assisted under this section and designed for dwelling use by 12 or more elderly or handicapped families shall be paid wages at rates not less than those prevailing in the locality involved for the corresponding classes of laborers and

mechanics employed on construction of a similar character, as determined by the Secretary of Labor in accordance with the Act of March 3, 1931, as amended (the Davis-Bacon Act[214]).

(B) Subparagraph (A) shall not apply to any individual that—

(i) performs services for which the individual volunteered;

(ii)(I) does not receive compensation for such services; or

(II) is paid expenses, reasonable benefits, or a nominal fee for such services; and

(iii) is not otherwise employed at any time in the construction work.

(d) As used in this section—

(1) The term "housing" means structures suitable for dwelling use by elderly or handicapped families which are (A) new structures, or (B) provided by rehabilitation, alteration, conversion, or improvement of existing structures which are otherwise inadequate for proposed dwelling use by such families.

(2) The term "corporation" means any incorporated private institution or foundation—

(A) no part of the net earnings of which inures to the benefit of any member, founder, contributor, or individual;

(B) which has a governing board (i) the membership of which is selected in a manner to assure that there is significant representation of the views of the community in which such project is located, and (ii) which is responsible for the operation of the housing project assisted under this section; and

(C) which is approved by the Secretary as to financial responsibility.

(3) The term "development cost" means cost of construction of housing and of other related facilities, the cost of movables necessary to the basic operation of the project, as determined by the Secretary, and of the land on which it is located, including necessary site improvement, which cost shall be determined without regard to mortgage limits applicable to housing projects subject to mortgages insured under section 231 of the National Housing Act. In the case of housing to meet the needs of handicapped (primarily nonelderly) persons, such term also means the cost of acquiring existing housing and related facilities, the cost of rehabilitation, alteration, conversion, or improvement, including the moderate rehabilitation thereof, and the cost of the land on which the housing and related facilities are located. The term also means the cost of acquiring existing housing and related facilities from the Resolution Trust Corporation under section 21A(c) of the Federal Home Loan Bank Act, the cost of rehabilitation, alteration, conversion, or improvements, including the moderate rehabilitation thereof, and the cost of the land on which the housing and related facilities are located.

(4) The term "elderly or handicapped families" means families which consist of two or more persons and the head of which (or his spouse) is sixty-two years of age or over or is handicapped, and such term also means a single person who is sixty-two years of age or over or is handicapped. A person shall be considered handicapped if such person is determined, pursuant to regulations issued by the Secretary, to have an impairment which (A) is expected to be of long-continued and indefinite duration, (B) substantially impedes his ability to live independently, and (C) is of such a nature that such ability could be improved by more suitable housing conditions. A person shall also be considered handicapped if such person has a developmental disability as defined in section 102(7) of the Developmental Disabilities Assistance and Bill of Rights Act (42 U.S.C. 6001(7)). The Secretary shall prescribe such regulations as may be necessary to prevent abuses in determining, under the definitions contained in this paragraph, the eligibility of families and persons for admission to and occupancy of housing constructed with assistance under this section. Notwithstanding the preceding provisions of this paragraph, the term "elderly or handicapped families" includes two or more elderly or handicapped persons living together, one or more such persons living with another person who is determined (under regulations prescribed by the Secretary) to be essential to their care or well-being, and the surviving member or members of any family described in the first sentence of this paragraph who were living, in a unit assisted under this section, with the deceased member of the family at the time of his or her death.

(5) The term "State" includes the several States, the District of Columbia, the Commonwealth of Puerto Rico, and the possessions of the United States.

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[214] Such Act is now codified in subchapter IV of chapter 31 of title 40, United States Code. See Public Law 107-217. Section 5(c) of such Public Law, 116 Stat. 1303, provides that "[a] reference to a law replaced by section 1 or 2 of this Act, including a reference in a regulation, order, or other law, is deemed to refer to the corresponding provision enacted by this Act".

(6) The term "Secretary" means the Secretary of Housing and Urban Development.

(7) The term "construction" means erection of new structures or rehabilitation, alteration, conversion, or improvement of existing structures.

(8) The term "related facilities" means (A) new structures suitable for use by elderly or handicapped families residing in the project or in the area as cafeterias or dining halls, community rooms or buildings, workshops, adult day health facilities, or other outpatient health facilities, or other essential service facilities, and (B) structures suitable for the above uses provided by rehabilitation, alteration, conversion, or improvement of existing structures which are otherwise inadequate for such uses.

(9) The term "housing for handicapped families" means housing and related facilities to be occupied by handicapped families who are primarily nonelderly handicapped families.

(10) The term "nonelderly handicapped families" means elderly or handicapped families, the head of which (and spouse, if any) is less than 62 years of age at the time of initial occupancy of a project assisted under this section.

(e) Nothing in this section or in regulations promulgated under this section shall prevent a corporation or consumer cooperative from obtaining a loan under this section for the provision of housing and related facilities for elderly or handicapped families, notwithstanding the fact that such corporation or cooperative has theretofore obtained a commitment from the Federal Housing Administration for mortgage insurance under section 231 of the National Housing Act with respect to the housing involved, if (1) such corporation or cooperative is otherwise eligible for such loan under this section, (2) such commitment was obtained prior to the date of enactment of the Housing Act of 1961 and (3) the Secretary determines that the financing of such housing through a loan under this section rather than through mortgage insurance under such section 231 is necessary or desirable in order to avoid hardship for the elderly or handicapped families who are the prospective tenants of such housing.

(f)(1) In carrying out the provisions of this section, the Secretary shall seek to assure, pursuant to applicable regulations, that housing and related facilities assisted under this section will be in appropriate support of, and supported by, applicable State and local plans which respond to Federal program requirements by providing an assured range of necessary services for individuals occupying such housing (which services may include, among others, health (including adult day health services), continuing education, welfare informational, recreational, homemaker, counseling, and referral services, transportation where necessary to facilitate access to social services, and services designed to encourage and assist recipients to use the services and facilities available to them), including plans approved by the Secretary of Health and Human Services pursuant to section 133 of the Mental Retardation Facilities and Community Mental Health Center Construction Act of 1963 or pursuant to title III of the Older Americans Act of 1965.

(2) Each applicant for a loan under this section for housing and related facilities shall submit with the application a supportive services plan describing—

(A) the category or categories of families such housing and facilities are intended to serve;

(B) the range of necessary services to be provided to the families occupying such housing;

(C) the manner in which such services will be provided to such families; and

(D) the extent of State and local funds available to assist in the provision of such services.

(g)(1) In carrying out the provisions of this section and section 8 of the United States Housing Act of 1937, the Secretary shall issue and implement regulations, as soon as practicable after the date of enactment of Housing and Community Development Act of 1977, which shall provide that the processing of any application for a loan for a project under this section and the processing of any application for assistance under such section 8 with respect to housing units in the same such project shall be coordinated in an economical and efficient manner. At the time of settlement on permanent financing with respect to a project under this section, the Secretary shall make an appropriate adjustment in the amount of any assistance to be provided under a contract for annual contributions pursuant to section 8 of the United States Housing Act of 1937 in order to reflect fully any difference between the interest rate which will actually be charged in connection with such permanent financing and the interest rate which was in effect at the time of the reservation of assistance in connection with the project. In the case of existing housing and related facilities acquired from the Resolution Trust Corporation under section 21A(c) of the Federal Home Loan Bank Act, the term of the contract pursuant to such section 8 shall be 240 months.

(2) In determining the amount of assistance to be provided for a project pursuant to such section 8, subject to the availability of appropriations for contract amendments for the purpose of this paragraph the Secretary may also consider (and annually adjust for) the costs of—

(A) the expenses of a management staff member of the project to coordinate the provision of any services within the project provided through any agency of the Federal Government or any other public or private department, agency, or organization to elderly, especially those who are frail, or handicapped residents of the project to enable such residents to live independently and prevent placement in nursing homes or institutions, including services under subsection (f) and subparagraph (B) of this subsection[215]; and

(B) expenses for the provision of services for elderly, especially those who are frail, and handicapped residents of the project that enable residents to live independently and prevent placement in nursing homes or institutions, which may include meal services, housekeeping and chore assistance, personal care, laundry assistance, transportation services, and health-related services,

except that not more than 15 percent of the cost of the provision of such services may be considered under this subsection for purposes of determining the amount of assistance provided. This paragraph shall not apply in the case of a project assisted under the congregate housing services program.

(h)(1) Of the amounts made available in appropriation Acts for loans under subsection (a)(4)(C) for any fiscal year commencing after September 30, 1987, not less than 15 percent shall be available for loans for the development costs of housing for handicapped families. If the amount required for any such fiscal year for approvable applications for loan[216] under this subsection is less than the amount available under this paragraph, the balance shall be made available for loans under other provisions of this section.

(2) The Secretary shall take such actions as may be necessary to ensure that—

(A) funds made available under this subsection will be used to support a variety of methods of meeting the needs primarily of nonelderly handicapped families by providing a variety of housing options, ranging from small group homes to independent living complexes; and

(B) housing for handicapped families assisted under this subsection will provide families occupying units in such housing with an assured range of services specified in subsection (f), will provide such families with opportunities for optimal independent living and participation in normal daily activities, and will facilitate access by such families to the community at large and to suitable employment opportunities within such community.

(3)(A) In allocating funds under this subsection, and in processing applications for loans under this section and assistance payments under paragraph (4), the Secretary shall adopt such distinct standards and procedures as the Secretary determines appropriate due to differences between housing for handicapped families and other housing assisted under this section. In adopting such standards, the Secretary shall ensure adequate participation by representatives of the disability community through the provisions available under the Federal Advisory Committee Act.

(B) The Secretary may, on a demonstration basis, determine the feasibility and desirability of reducing processing time and costs for housing for handicapped families by limiting project design to a small number of prototype designs. Any such demonstration shall be limited to the 3-year period following the date of the enactment of the Housing and Community Development Act of 1987,[217] may only involve projects whose sponsors consent to participation in such demonstration, and shall be described in a report submitted by the Secretary to the Congress following completion of such demonstration.

(4)(A)[218] The Secretary shall, to the extent approved in appropriation Acts, enter into contracts with owners of housing for handicapped families receiving loans under, or meeting the requirements of, this section to make monthly payments to cover any part of the costs attributed to units occupied (or, as approved by the Secretary, held for occupancy) by lower income families that is not met from project income. The annual contract amount for any project shall not exceed the sum of the initial annual project rentals for all units and any initial utility allowances for such units, as approved by the Secretary. Any contract amounts not used by a project in any year shall remain available to the project until the expiration of the contract. The term of a contract entered into under this subparagraph shall be 240 months. The annual contract amount may be adjusted by the Secretary if the sum of the project income and the amount of assistance payments available under this subparagraph are inadequate to provide for reasonable project

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[215] So in law. Probably intended to refer to this paragraph.
[216] So in law.
[217] The date of enactment was February 5, 1988.
[218] See section 162(d) of the Housing and Community Development Act of 1987, Pub. L. 100-242, which is set forth, post, this part and provides for the termination of rental assistance payments under section 8 of the United States Housing Act of 1937 for projects for the handicapped.

costs. In the case of an intermediate care facility in which there reside families assisted under title XIX of the Social Security Act, project income under this subparagraph shall include the same amount as if such families were being assisted under title XVI of the Social Security Act.

(B) The Secretary shall approve initial project rentals for any project assisted under this subsection based on the determination of the Secretary of the total actual necessary and reasonable costs of developing and operating the project, excluding the costs of the assured range of services under subsection (f), taking into consideration the need to contain costs to the extent practicable and consistent with the purposes of the project and this section.

(C) The Secretary shall require that, during the term of each contract entered into under subparagraph (A), all units in a project assisted under this subsection shall be made available for occupancy by lower income families, as such term is defined in section 3(b)(2) of the United States Housing Act of 1937. The rent payment required of a lower income family shall be determined in accordance with section 3(a) of such Act, except that the gross income of a family occupying an intermediate care facility assisted under title XIX of the Social Security Act shall be the same amount as if the family were being assisted under title XVI of the Social Security Act.

(D) The Secretary shall coordinate the processing of an application for a loan for housing for handicapped families under this section and the processing of an application for assistance payments under this paragraph for such housing.

(i)(1) Unless otherwise requested by the sponsor, a maximum of 25 per centum of the units in a project financed under this section may be efficiency units, subject to a determination by the Secretary that such units are appropriate for the elderly or handicapped population residing in the vicinity of such project or to be served by such project.

(2) The Secretary may require a sponsor of a housing project financed with a loan under this section to deposit an amount not to exceed $10,000 in a special escrow account to assure the commitment and long-term management capabilities of such sponsor.

(3) In establishing per unit cost limitations for purposes of this section, the Secretary shall take into account design features necessary to meet the needs of elderly and handicapped residents, and such limitations shall reflect the cost of providing such features. The Secretary shall adjust the per unit cost limitations in effect on January 1, 1983, not less than once annually to reflect changes in the general level of construction costs.

(j)(1) The Secretary may not approve the prepayment of any loan made under this section, or transfer such loan, unless such prepayment or transfer is made as part of a transaction that will ensure that the project involved will continue to operate until the original maturity date of such loan in a manner that will provide rental housing for the elderly and handicapped on terms at least as advantageous to existing and future tenants as the terms required by the original loan agreement entered into under this section and any other loan agreements entered into under other provisions of law.

(2) The Secretary may not sell any mortgage held by the Secretary as security for a loan made under this section.

(k)(1) In the process of selecting projects for loans under this section, the Secretary shall assure the inclusion of special design features and congregate space if necessary to meet the special needs of elderly and handicapped residents.

(2) The Secretary shall encourage the provision of small and scattered site group homes and independent living facilities for nonelderly handicapped persons and families.

(3) In considering applications for assistance under section 202, the Secretary shall not reject an application on technical grounds without giving notice of that rejection and the basis therefor to the applicant and affording the applicant on opportunity to respond.

(l) The basis for selection of a contractor to be employed in the development or construction of a project assisted under this section shall be determined by the project sponsor or borrower if the development cost of the project is less than $2,000,000, if the project rentals will be less than 110 per centum of the fair market rent applicable to projects financed under this section, or if the sponsor of the project is a labor organization. The Secretary shall not impose different requirements or standards with respect to construction change orders, increases in loan amount to cover change orders, errors in plans and specifications, and use of contingency funds, because of the method of contractor selection used by the sponsor or borrower.

(m) Nothing in this section authorizes the Secretary to prohibit any sponsor from voluntarily providing funds from other sources for amenities and other features of appropriate design and construction suitable for

inclusion in such project if the cost of such amenities is (1) not financed with the loan, and (2) not taken into account in determining the amount of Federal subsidy or of the rent contribution of tenants.

(n) The Secretary shall notify the project sponsor not less than 30 days prior to canceling any loan authority provided under this section. During the 30-day period following the receipt of a notice under paragraph (1), a sponsor may appeal the proposed cancellation of loan authority. Such appeal, including review by the Secretary, shall be completed not later than 45 days after the appeal is filed.

(p)[219] *The Secretary shall provide to an appropriate agency in each area (which may be the applicable Area Agency on the Aging) information regarding the availability of housing assisted under this section.*

END OF STATUTE

[219] So in law. There is no subsection (o).

SECTION 8 PAYMENTS FOR SECTION 202 PROJECTS

HOUSING AND COMMUNITY DEVELOPMENT ACT OF 1974
[Public Law 93-383; 88 Stat. 671; 12 U.S.C. 1701q note]

Sec. 210. [12 U.S.C. 1701q note]
REVISION OF SECTION 202 PROGRAM FOR ELDERLY AND HANDICAPPED.

* * * * * * *

(g)(1) [12 U.S.C. 1701q note] In determining the feasibility and marketability of a project under section 202 of the Housing Act of 1959, the Secretary shall consider the availability of monthly assistance payments pursuant to section 8 of the United States Housing Act of 1937 with respect to such a project.

(2) The Secretary shall insure that with the original approval of a project authorized pursuant to section 202 of the Housing Act of 1959, and thereafter at each annual revision of the assistance contract under section 8 of the United States Housing Act of 1937 with respect to such units in such project, the project will serve both low- and moderate-income families in a mix which he determines to be appropriate for the area and for viable operation of the project; except that the Secretary shall not permit maintenance or vacancies to await tenants of one income level where tenants of another income level are available.

HOUSING AND COMMUNITY DEVELOPMENT ACT OF 1987
[Public Law 100-242; 101 Stat. 1859; 12 U.S.C. 1701q note]

Sec. 162. [12 U.S.C. 1701q note]
HOUSING FOR THE HANDICAPPED.

* * * * * * *

(d) [12 U.S.C. 1701q note] TERMINATION OF SECTION 8 ASSISTANCE.—On and after the first date that amounts approved in an appropriation Act for any fiscal year become available for contracts under section 202(h)(4)(A) of the Housing Act of 1959, as amended by subsection (b) of this section, no project for handicapped (primarily nonelderly) families approved for such fiscal year pursuant to section 202 of such Act shall be provided assistance payments under section 8 of the United States Housing Act of 1937, except pursuant to a reservation for a contract to make such assistance payments that was made before the first date that amounts for contracts under such section 202(h)(4)(A) became available.

END OF STATUTE

PREPAYMENT AND REFINANCING OF SECTION 202 LOANS FOR SUPPORTIVE HOUSING FOR ELDERLY PERSONS

AMERICAN HOMEOWNERSHIP AND ECONOMIC OPPORTUNITY ACT OF 2000
[Public Law 106-569; 114 Stat. 3019; 12 U.S.C. 1701q note]

Sec. 811. [12 U.S.C. 1701q note]
PREPAYMENT AND REFINANCING.

(a) APPROVAL OF PREPAYMENT OF DEBT.—Upon request of the project sponsor of a project assisted with a loan under section 202 of the Housing Act of 1959 (as in effect before the enactment of the Cranston-Gonzalez National Affordable Housing Act[220]), for which the Secretary's consent to prepayment is required,,[221] the Secretary shall approve the prepayment of any indebtedness to the Secretary relating to any remaining principal and interest under the loan as part of a prepayment plan under which—

(1) the project sponsor agrees to operate the project until at least 20 years following the maturity date of the original loan under terms at least as advantageous to existing and future tenants as the terms required by the original loan agreement or any project-based rental assistance payments contract under section 8 of the United States Housing Act of 1937 (or any other project-based rental housing assistance programs of the Department of Housing and Urban Development, including the rent supplement program under section 101 of the Housing and Urban Development Act of 1965 (12 U.S.C. 1701s)), or any successor project-based rental assistance program, relating to the project; and

(2) the prepayment may involve refinancing of the loan if such refinancing results in—

(A) a lower interest rate on the principal of the loan for the project and in reductions in debt service related to such loan; or

(B) a transaction in which the project owner will address the physical needs of the project, but only if, as a result of the refinancing—

(i) the rent charges for unassisted families residing in the project do not increase or such families are provided rental assistance under a senior preservation rental assistance contract for the project pursuant to subsection (e); and

(ii) the overall cost for providing rental assistance under section 8 for the project (if any) is not increased, except, upon approval by the Secretary to—

(I) mark-up-to-market contracts pursuant to section 524(a)(3) of the Multifamily Assisted Housing Reform and Affordability Act (42 U.S.C. 1437f note), as such section is carried out by the Secretary for properties owned by nonprofit organizations; or

(II) mark-up-to-budget contracts pursuant to section 524(a)(4) of the Multifamily Assisted Housing Reform and Affordability Act (42 U.S.C. 1437f note), as such section is carried out by the Secretary for properties owned by eligible owners (as such term is defined in section 202(k) of the Housing Act of 1959 (12 U.S.C. 1701q(k)); and

(3) notwithstanding paragraph (2)(A), the prepayment and refinancing authorized pursuant to paragraph (2)(B) involves an increase in debt service only in the case of a refinancing of a project assisted with a loan under such section 202 carrying an interest rate of 6 percent or lower.

(b) SOURCES OF REFINANCING.—In the case of prepayment under this section involving refinancing, the project sponsor may refinance the project through any third party source, including financing by State and local housing finance agencies, use of tax-exempt bonds, multi-family mortgage insurance under the National Housing Act, reinsurance, or other credit enhancements, including risk sharing as provided under section 542 of the Housing and Community Development Act of 1992 (12 U.S.C. 1707 note). For purposes of underwriting a loan insured under the National Housing Act, the Secretary may assume that any section 8 rental assistance contract relating to a project will be renewed for the term of such loan.

(c) USE OF PROCEEDS.—Upon execution of the refinancing for a project pursuant to this section, the Secretary shall ensure that proceeds are used in a manner advantageous to tenants of the project, or are used in the

[220] November 28, 1990.
[221] Two commas so in law. See amendment made by section 201(1) of Public Law 111-372.

provision of affordable rental housing and related social services for elderly persons that are tenants of the project or are tenants of other HUD-assisted senior housing by the private nonprofit organization project owner, private nonprofit organization project sponsor, or private nonprofit organization project developer, including—

(1) not more than 15 percent of the cost of increasing the availability or provision of supportive services, which may include the financing of service coordinators and congregate services, except that upon the request of the non-profit owner, sponsor, or organization and determination of the Secretary, such 15 percent limitation may be waived to ensure that the use of unexpended amounts better enables seniors to age in place;

(2) rehabilitation, modernization, or retrofitting of structures, common areas, or individual dwelling units, including reducing the number of units by reconfiguring units that are functionally obsolete, unmarketable, or not economically viable;

(3) construction of an addition or other facility in the project, including assisted living facilities (or, upon the approval of the Secretary, facilities located in the community where the project sponsor refinances a project under this section, or pools shared resources from more than one such project);

(4) rent reduction of unassisted tenants residing in the project;

(5) rehabilitation of the project to ensure long-term viability; and

(6) the payment to the project owner, sponsor, or third party developer of a developer's fee in an amount not to exceed or duplicate—

(A) in the case of a project refinanced through a State low income housing tax credit program, the fee permitted by the low income housing tax credit program as calculated by the State program as a percentage of acceptable development cost as defined by that State program; or

(B) in the case of a project refinanced through any other source of refinancing, 15 percent of the acceptable development cost.

For purposes of paragraph (6)(B), the term "acceptable development cost" shall include, as applicable, the cost of acquisition, rehabilitation, loan prepayment, initial reserve deposits, and transaction costs.

(d) USE OF CERTAIN PROJECT FUNDS.—The Secretary shall allow a project sponsor that is prepaying and refinancing a project under this section—

(1) to use any residual receipts held for that project in excess of $500 per individual dwelling unit for the cost of activities designed to increase the availability or provision of supportive services;[222] and

(2) to use any reserves for replacement in excess of $1,000 per individual dwelling unit for activities described in paragraphs (2) and (3) of subsection (c).

(e) SENIOR PRESERVATION RENTAL ASSISTANCE CONTRACTS.—Notwithstanding any other provision of law, in connection with a prepayment plan for a project approved under subsection (a) by the Secretary or as otherwise approved by the Secretary to prevent displacement of elderly residents of the project in the case of refinancing or recapitalization and to further preservation and affordability of such project, the Secretary shall provide project-based rental assistance for the project under a senior preservation rental assistance contract, as follows:

(1) Assistance under the contract shall be made available to the private nonprofit organization owner—

(A) for a term of at least 20 years, subject to annual appropriations; and

(B) under the same rules governing project-based rental assistance made available under section 8 of the Housing Act of 1937 or under the rules of such assistance as may be made available for the project.

(2) Any projects for which a senior preservation rental assistance contract is provided shall be subject to a use agreement to ensure continued project affordability having a term of the longer of (A) the term of the senior preservation rental assistance contract, or (B) such term as is required by the new financing.

(f) SUBORDINATION OR ASSUMPTION OF EXISTING DEBT.—In lieu of prepayment under this section of the indebtedness with respect to a project, the Secretary may approve—

(1) in connection with new financing for the project, the subordination of the loan for the project under section 202 of the Housing Act of 1959 (as in effect before the enactment of the Cranston-Gonzalez

[222] Section 203(2) of Public Law 111-372 provides an amendment to paragraph (1) of section 811(d) by inserting before the period at the end the following: "or other purposes approved by the Secretary". The amendment could not be executed because a period does not appear at the end in paragraph (1).

National Affordable Housing Act) and the continued subordination of any other existing subordinate debt previously approved by the Secretary to facilitate preservation of the project as affordable housing; or

(2) the assumption (which may include the subordination described in paragraph (1)) of the loan for the project under such section 202 in connection with the transfer of the project with such a loan to a private nonprofit organization.

(g) FLEXIBLE SUBSIDY DEBT.—The Secretary shall waive the requirement that debt for a project pursuant to the flexible subsidy program under section 201 of the Housing and Community Development Amendments of 1978 (12 U.S.C. 1715z-1a) be prepaid in connection with a prepayment, refinancing, or transfer under this section of a project if the financial transaction or refinancing cannot be completed without the waiver.

(h) TENANT INVOLVEMENT IN PREPAYMENT AND REFINANCING.—The Secretary shall not accept an offer to prepay the loan for any project under section 202 of the Housing Act of 1959 unless the Secretary—

(1) has determined that the owner of the project has notified the tenants of the owner's request for approval of a prepayment; and

(2) has determined that the owner of the project has provided the tenants with an opportunity to comment on the owner's request for approval of a prepayment, including on the description of any anticipated rehabilitation or other use of the proceeds from the transaction, and its impacts on project rents, tenant contributions, or the affordability restrictions for the project, and that the owner has responded to such comments in writing.

(i) DEFINITION OF PRIVATE NONPROFIT ORGANIZATION.—For purposes of this section, the term "private nonprofit organization" has the meaning given such term in section 202(k) of the Housing Act of 1959 (12 U.S.C. 1701q(k)).

END OF STATUTE

INTERGENERATIONAL HOUSING ASSISTANCE

AMERICAN DREAM DOWNPAYMENT ACT
[Public Law 108-186; 117 Stat. 2688; 12 U.S.C. 1701q note]

TITLE II–INTERGENERATIONAL HOUSING ASSISTANCE

Sec. 201. [12 U.S.C. 1701q note]
SHORT TITLE.

This title may be cited as the "Living Equitably: Grandparents Aiding Children and Youth Act of 2003" or the "LEGACY Act of 2003".

Sec. 202. [12 U.S.C. 1701q note]
DEFINITIONS.

In this title:

(1) CHILD.—The term "child" means an individual who—

(A) is not attending school and is not more than 18 years of age; or

(B) is attending school and is not more than 19 years of age.

(2) COVERED FAMILY.—The term "covered family" means a family that—

(A) includes a child; and

(B) has a head of household who is—

(i) a grandparent of the child who is raising the child; or

(ii) a relative of the child who is raising the child.

(3) ELDERLY PERSON.—The term "elderly person" has the same meaning as in section 202(k) of the Housing Act of 1959 (12 U.S.C. 1701q(k)).

(4) GRANDPARENT.—

(A) IN GENERAL.—The term "grandparent" means, with respect to a child, an individual who is a grandparent or stepgrandparent of the child by blood or marriage, regardless of the age of such individual.

(B) CASE OF ADOPTION.—In the case of a child who was adopted, the term includes an individual who, by blood or marriage, is a grandparent or stepgrandparent of the child as adopted.

(5) INTERGENERATIONAL DWELLING UNIT.—The term "intergenerational dwelling unit" means a qualified dwelling unit that is reserved for occupancy only by an intergenerational family.

(6) INTERGENERATIONAL FAMILY.—The term "intergenerational family" means a covered family that has a head of household who is an elderly person.

(7) PRIVATE NONPROFIT ORGANIZATION.—The term "private nonprofit organization" has the same meaning as in section 202(k) of the Housing Act of 1959 (12 U.S.C. 1701q(k)).

(8) QUALIFIED DWELLING UNIT.—The term "qualified dwelling unit" means a dwelling unit that—

(A) has not fewer than 2 separate bedrooms;

(B) is equipped with design features appropriate to meet the special physical needs of elderly persons, as needed; and

(C) is equipped with design features appropriate to meet the special physical needs of young children, as needed.

(9) RAISING A CHILD.—The term "raising a child" means, with respect to an individual, that the individual—

(A) resides with the child; and

(B) is the primary caregiver for the child—

(i) because the biological or adoptive parents of the child do not reside with the child or are unable or unwilling to serve as the primary caregiver for the child; and

(ii) regardless of whether the individual has a legal relationship to the child (such as guardianship or legal custody) or is caring for the child informally and has no such legal relationship with the child.

(10) RELATIVE.—

(A) IN GENERAL.—The term "relative" means, with respect to a child, an individual who—

(i) is not a parent of the child by blood or marriage; and

(ii) is a relative of the child by blood or marriage, regardless of the age of the individual.

(B) CASE OF ADOPTION.—In the case of a child who was adopted, the term "relative" includes an individual who, by blood or marriage, is a relative of the family who adopted the child.

(11) SECRETARY.—The term "Secretary" means the Secretary of Housing and Urban Development.

Sec. 203. [12 U.S.C. 1701q note]
DEMONSTRATION PROGRAM FOR ELDERLY HOUSING FOR INTERGENERATIONAL FAMILIES.

(a) DEMONSTRATION PROGRAM.—The Secretary shall carry out a demonstration program (referred to in this section as the "demonstration program") to provide assistance for intergenerational dwelling units for intergenerational families in connection with the supportive housing program under section 202 of the Housing Act of 1959 (12 U.S.C. 1701q).

(b) INTERGENERATIONAL DWELLING UNITS.—The Secretary shall provide assistance under this section only to private nonprofit organizations selected under subsection (d) for use only for expanding the supply of intergenerational dwelling units, which units shall be provided—

(1) by designating and retrofitting, for use as intergenerational dwelling units, existing dwelling units that are located within a project assisted under section 202 of the Housing Act of 1959 (12 U.S.C. 1701q);

(2) through development of buildings or projects comprised solely of intergenerational dwelling units; or

(3) through the development of an annex or addition to an existing project assisted under section 202 of the Housing Act of 1959 (12 U.S.C. 1701q), that contains intergenerational dwelling units, including through the development of elder cottage housing opportunity units that are small, freestanding, barrier free, energy efficient, removable dwelling units located adjacent to a larger project or dwelling.

(c) PROGRAM TERMS.—Assistance provided pursuant to this section shall be subject to the provisions of section 202 of the Housing Act of 1959 (12 U.S.C. 1701q), except that—

(1) notwithstanding subsection (d)(1) of that section 202 or any provision of that section restricting occupancy to elderly persons, any intergenerational dwelling unit assisted under the demonstration program may be occupied by an intergenerational family;

(2) subsections (e) and (f) of that section 202 shall not apply;

(3) in addition to the requirements under subsection (g) of that section 202, the Secretary shall—

(A) ensure that occupants of intergenerational dwelling units assisted under the demonstration program are provided a range of services that are tailored to meet the needs of elderly persons, children, and intergenerational families; and

(B) coordinate with the heads of other Federal agencies as may be appropriate to ensure the provision of such services; and

(4) the Secretary may waive or alter any other provision of that section 202 necessary to provide for assistance under the demonstration program.

(d) SELECTION.—The Secretary shall—

(1) establish application procedures for private nonprofit organizations to apply for assistance under this section; and

(2) to the extent that amounts are made available pursuant to subsection (f), select not less than 2 and not more than 4 projects that are assisted under section 202 of the Housing Act of 1959 (12 U.S.C. 1701q) for assistance under this section, based on the ability of the applicant to develop and operate intergenerational dwelling units and national geographical diversity among those projects funded.

(e) REPORT.—Not later than 36 months after the date of enactment of this Act[223], the Secretary shall submit a report to Congress that—

(1) describes the demonstration program; and

(2) analyzes the effectiveness of the demonstration program.

[223] The date of enactment was December 16, 2003.

(f) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated $10,000,000 to carry out this section.

(g) SUNSET.—The demonstration program carried out under this section shall terminate 5 years after the date of enactment of this Act[224].

Sec. 204.
TRAINING FOR HUD PERSONNEL REGARDING GRANDPARENT-HEADED AND RELATIVE-HEADED FAMILIES ISSUES.

Section 7 of the Department of Housing and Urban Development Act (42 U.S.C. 3535) is amended by adding at the end the following:

* * * * * * *

Sec. 205. [12 U.S.C. 1701q note]
STUDY OF HOUSING NEEDS OF GRANDPARENT-HEADED AND RELATIVE-HEADED FAMILIES.

(a) IN GENERAL.—The Secretary and the Director of the Bureau of the Census jointly shall—

(1) conduct a study to determine an estimate of the number of covered families in the United States and their affordable housing needs; and

(2) submit a report to Congress regarding the results of the study conducted under paragraph (1).

(b) REPORT AND RECOMMENDATIONS.—The report required under subsection (a) shall—

(1) be submitted to Congress not later than 12 months after the date of enactment of this Act[225]; and

(2) include recommendations by the Secretary and the Director of the Bureau of the Census regarding how the major assisted housing programs of the Department of Housing and Urban Development, including the supportive housing for the elderly program under section 202 of the Housing Act of 1959 (12 U.S.C. 1701q) can be used and, if appropriate, amended or altered, to meet the affordable housing needs of covered families.

END OF STATUTE

[224] The date of enactment was December 16, 2003.
[225] The date of enactment was December 16, 2003.

SUPPORTIVE HOUSING FOR PERSONS WITH DISABILITIES

CRANSTON-GONZALEZ NATIONAL AFFORDABLE HOUSING ACT
[Public Law 101-625; 104 Stat. 4324; 42 U.S.C. 8013]

TITLE VIII–HOUSING FOR PERSONS WITH SPECIAL NEEDS

* * * * * * *

Subtitle B—Supportive Housing for Persons With Disabilities

Sec. 811. [42 U.S.C. 8013]
SUPPORTIVE HOUSING FOR PERSONS WITH DISABILITIES.

(a) PURPOSE.—The purpose of this section is to enable persons with disabilities to live with dignity and independence within their communities by expanding the supply of supportive housing that—

(1) is designed to accommodate the special needs of such persons;

(2) makes available supportive services that address the individual health, mental health, and other needs of such persons; and

(3) promotes and facilitates community integration for people with significant and long-term disabilities.

(b) (b)[226] AUTHORITY TO PROVIDE ASSISTANCE.—The Secretary is authorized to take the following actions:

(1) TENANT-BASED ASSISTANCE.—To provide tenant-based rental assistance to eligible persons with disabilities, in accordance with subsection (d)(4).

(2) CAPITAL ADVANCES.—To provide assistance to private, nonprofit organizations to expand the supply of supportive housing for persons with disabilities, which shall be provided as—

(A) capital advances in accordance with subsection (d)(1), and

(B) contracts for project rental assistance in accordance with subsection (d)(2);

assistance under this paragraph may be used to finance the acquisition, acquisition and moderate rehabilitation, construction, reconstruction, or moderate or substantial rehabilitation of housing, including the acquisition from the Resolution Trust Corporation, to be used as supportive housing for persons with disabilities and may include real property acquisition, site improvement, conversion, demolition, relocation, and other expenses that the Secretary determines are necessary to expand the supply of supportive housing for persons with disabilities.

(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

[226] So in law.

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.

(c) GENERAL REQUIREMENTS.—The Secretary shall take such actions as may be necessary to ensure that—

(1) assistance made available under this section will be used to meet the housing and community-based services needs of persons with disabilities by providing a variety of housing options, ranging from group homes and independent living facilities to dwelling units in multifamily housing developments, condominium housing, and cooperative housing; and

(2) supportive housing for persons with disabilities assisted under this section shall—

(A) make available voluntary supportive services that address the individual needs of persons with disabilities occupying such housing;

(B) provide such persons with opportunities for optimal independent living and participation in normal daily activities; and

(C) facilitate access by such persons to the community at large and to suitable employment opportunities within such community.

(d) FORMS OF ASSISTANCE.—

(1) CAPITAL ADVANCES.—A capital advance provided pursuant to subsection (b)(1)[227] shall bear no interest and its repayment shall not be required so long as the housing remains available for very-low-income persons with disabilities in accordance with this section. Such advance shall be in an amount calculated in accordance with the development cost limitation established in subsection (h).

(2) PROJECT RENTAL ASSISTANCE.—(A) Initial project rental assistance contract.—Contracts for project rental assistance shall comply with subsection (e)(2) and shall obligate the Secretary to make monthly payments to cover any part of the costs attributed to units occupied (or, as approved by the Secretary, held for occupancy) by very low-income persons with disabilities that is not met from project income. The amount provided under the contract for each year covered by the contract for any project shall not exceed the sum of the initial annual project rentals for all units and any initial utility allowances for such units, as approved by the Secretary. Any contract amounts not used by a project in any year shall remain available to the project until the expiration of the contract. The Secretary may adjust the amount provided under the contract for each year covered by the contract if the sum of the project income and the amount of assistance payments available under this paragraph are inadequate to provide for reasonable project costs. In the case of an intermediate care facility which is the residence of persons assisted under title XIX of the Social Security Act, project income under this paragraph shall include the same amount as if such person were being assisted under title XVI of the Social Security Act.

(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.

(3) RENT CONTRIBUTION.—A very low-income person shall pay as rent for a dwelling unit assisted under subsection (b)(2) the higher of the following amounts, rounded to the nearest dollar: (A) 30 percent of the person's adjusted monthly income, (B) 10 percent of the person's monthly income, or (C) if the person is receiving payments for welfare assistance from a public agency and a part of such payments, adjusted in accordance with the person's actual housing costs, is specifically designated by such agency to meet the person's housing costs, the portion of such payments which is so designated; except that the gross income of a person occupying an intermediate care facility assisted under title XIX of the Social Security Act shall be the same amount as if the person were being assisted under title XVI of the Social Security Act.

(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

[227] The reference to "subsection (b)(1)" in subsection (d)(1) probably should be a reference to subsection (b)(2).

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.

(e) PROGRAM REQUIREMENTS.—

(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.

(2) CONTRACT TERMS.—The initial term of a contract entered into under subsection (d)(2) shall be 240 months, 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. The Secretary shall, to the extent approved in appropriation Acts, upon expiration of a contract (or any renewed contract), renew such contract for a term of not less than 60 months. In order to facilitate the orderly extension of expiring contracts, the Secretary is authorized to make commitments to extend expiring contracts during the year prior to the date of expiration.

(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.

(f) APPLICATIONS.—Funds made available under subsection (b)(2) shall be allocated by the Secretary among approvable applications submitted by private nonprofit organizations. Applications for assistance under subsection (b)(2) shall be submitted in such form and in accordance with such procedures as the Secretary shall establish. Such applications shall contain—

(1) a description of the proposed housing;

(2) a description of the assistance the applicant seeks under this section;

(3) a supportive service plan that contains—

(A) a description of the needs of persons with disabilities that the housing is expected to serve;

(B) assurances that persons with disabilities occupying such housing will be offered supportive services based on their individual needs;

(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;

(D) a description of the manner in which such services will be provided to tenants; and

(E) identification of the extent of other Federal, and State and local funds available to assist in the provision of such services;

(4) a certification from the appropriate State or local agency (as determined by the Secretary) that the provision of the services identified in paragraph (3) are well designed to serve the housing and community-based services needs of persons with disabilities;

(5) reasonable assurances that the applicant will own or have control of an acceptable site for the proposed housing not later than 6 months after notification of an award for assistance;

(6) a certification from the public official responsible for submitting a housing strategy for the jurisdiction to be served in accordance with section 105 of the Cranston-Gonzalez National Affordable Housing Act that the proposed housing is consistent with the approved housing strategy; and

(7) such other information or certifications that the Secretary determines to be necessary or appropriate to achieve the purposes of this section.

(g) SELECTION CRITERIA AND PROCESSING.—(1) SELECTION CRITERIA.—The Secretary shall establish selection criteria for assistance under this section[228], which shall include—

(A) the ability of the applicant to develop and operate the proposed housing;

(B) the need for housing for persons with disabilities in the area to be served;

(C) the extent to which the proposed design of the housing will meet the special needs of persons with disabilities;

(D) the extent to which the applicant has demonstrated that appropriate supportive services will be made available on a consistent, long-term basis;

(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;

(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;

(G) the extent to which the applicant has control of the site of the proposed housing; and

(H) such other factors as the Secretary determines to be appropriate to ensure that funds made available under this section are used effectively.

(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—

[228] Section 623(a)(6) of the Housing and Community Development Act of 1992, Pub. L. 102-550, amended this subsection by "striking 'this section' and inserting 'subsection (b)(2)' ". Because the amendment did not specify which occurrence of "this section" to strike, the amendment could not be executed. The amendment was probably intended to apply to the first place such phrase appears.

(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.

(h) DEVELOPMENT COST LIMITATIONS.—

(1) GROUP HOMES.—The Secretary shall periodically establish development cost limitations by market area for group homes of supportive housing for persons with disabilities by publishing a notice of the cost limitations in the Federal Register. The cost limitations shall reflect—

(A) the cost of acquisition, construction, reconstruction, or rehabilitation of supportive housing for persons with disabilities that (i) meets applicable State and local housing and building codes; and (ii) conforms with the design characteristics of the neighborhood in which it is to be located;

(B) the cost of movables necessary to the basic operation of the housing, as determined by the Secretary;

(C) the cost of special design features necessary to make the housing accessible to persons with disabilities;

(D) the cost of special design features necessary to make individual dwelling units meet the special needs of persons with disabilities;

(E) if the housing is newly constructed, the cost of meeting the energy efficiency standards promulgated by the Secretary in accordance with section 109 of the Cranston-Gonzalez National Affordable Housing Act; and

(F) the cost of land, including necessary site improvement.

In establishing development cost limitations for a given market area, the Secretary shall use data that reflect currently prevailing costs of acquisition, construction, reconstruction, or rehabilitation, and land acquisition in the area. Neither this section nor any other provision of law may be construed as prohibiting or preventing the location and operation, in a project assisted under this section, of commercial facilities for the benefit of residents of the project and the community in which the project is located, except that assistance made available under this section may not be used to subsidize any such commercial facility.

(2) RTC PROPERTIES.—In the case of existing housing and related facilities from the Resolution Trust Corporation under section 21A(c) of the Federal Home Loan Bank Act, the cost limitations shall include—

(A) the cost of acquiring such housing,

(B) the cost of rehabilitation, alteration, conversion, or improvement, including the moderate rehabilitation thereof, and

(C) the cost of the land on which the housing and related facilities are located.

(3) ANNUAL ADJUSTMENTS.—The Secretary shall adjust the cost limitation established pursuant to paragraph (1) not less than once annually to reflect changes in the general level of acquisition, construction, reconstruction, or rehabilitation costs.

(4) INCENTIVES FOR SAVINGS.—

(A) SPECIAL PROJECT ACCOUNT.—The Secretary shall use the development cost limitations established under paragraph (1) to calculate the amount of financing to be made available to individual owners. Owners which incur actual development costs that are less than the

amount of financing shall be entitled to retain 50 percent of the savings in a special project account. Such percentage shall be increased to 75 percent for owners which add energy efficiency features which (i) exceed the energy efficiency standards promulgated by the Secretary in accordance with section 109 of the Cranston-Gonzalez National Affordable Housing Act; (ii) substantially reduce the life-cycle cost of the housing; (iii) reduce gross rent requirements; and (iv) enhance tenant comfort and convenience.

(B) USES.—The special project account established under subparagraph (A) may be used (i) to supplement services provided to residents of the housing or funds set-aside for replacement reserves, or (ii) for such other purposes as determined by the Secretary.

(5) FUNDS FROM OTHER SOURCES.—An owner shall be permitted voluntarily to provide funds from sources other than this section for amenities and other features of appropriate design and construction suitable for supportive housing for persons with disabilities if the cost of such amenities is (A) not financed with the advance, and (B) is not taken into account in determining the amount of Federal assistance or of the rent contribution of tenants. Notwithstanding any other provision of law, assistance amounts provided under this section may be treated as amounts not derived from a Federal grant.

(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.

(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.

(j) MISCELLANEOUS PROVISIONS.—

(1) TECHNICAL ASSISTANCE.—The Secretary shall make available appropriate technical assistance to assure that applicants having limited resources, particularly minority applicants, are able to participate more fully in the program carried out under this section.

(2) CIVIL RIGHTS COMPLIANCE.—Each owner shall certify, to the satisfaction of the Secretary, that assistance made available under this section will be conducted and administered in conformity with title VI of the Civil Rights Act of 1964, the Fair Housing Act and other Federal, State, and local laws prohibiting discrimination and promoting equal opportunity;[229]

(3) SITE CONTROL.—An applicant may obtain ownership or control of a suitable site different from the site specified in the initial application. If an applicant fails to obtain ownership or control of the site within 1 year after notification of an award for assistance, the assistance shall be recaptured and reallocated.

(4) NOTICE OF APPEAL.—The Secretary shall notify an owner not less than 30 days prior to canceling any reservation of assistance provided under this section. During the 30-day period following the receipt of a notice under the preceding sentence, an owner may appeal the proposed cancellation. Such appeal, including review by the Secretary, shall be completed not later than 45 days after the appeal is filed.

(5) LABOR STANDARDS.—

(A) IN GENERAL.—The Secretary shall take such action as may be necessary to insure that all laborers and mechanics employed by contractors and subcontractors in the construction of housing with 12 or more units assisted under this section shall be paid wages at rates not less than those prevailing in the locality involved for the corresponding classes of laborers and mechanics employed on construction of a similar character, as determined by the Secretary of Labor in accordance with the Act of March 3, 1931 (commonly known as the Davis-Bacon Act[230]).

(B) EXEMPTION.—Subparagraph (A) shall not apply to any individual who—

(i) performs services for which the individual volunteered;

(ii)(I) does not receive compensation for such services; or

(II) is paid expenses, reasonable benefits, or a nominal fee for such services; and

(iii) is not otherwise employed at any time in the construction work.

(6) USE OF PROJECT RESERVES.—Amounts for project reserves for a project assisted under this section may be used for costs, subject to reasonable limitations as the Secretary determines appropriate, for reducing the number of dwelling units in the project. Such use shall be subject to the approval of the Secretary to ensure that the use is designed to retrofit units that are currently obsolete or unmarketable.

(k) DEFINITIONS.—As used in this section—

(1) The term "group home" means a single family residential structure designed or adapted for occupancy by not more than 8 persons with disabilities, which provides a separate bedroom for each tenant of the residence. The Secretary may waive the project size limitation contained in the previous sentence if the applicant demonstrates that local market conditions dictate the development of a larger project. 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,

[229] So in law.

[230] Such Act is now codified in subchapter IV of chapter 31 of title 40, United States Code. See Public Law 107-217. Section 5(c) of such Public Law, 116 Stat. 1303, provides that "[a] reference to a law replaced by section 1 or 2 of this Act, including a reference in a regulation, order, or other law, is deemed to refer to the corresponding provision enacted by this Act".

together with a detailed explanation of the reason for the waiver. Not more than 1 home may be located on any one site and no such home may be located on a site contiguous to another site containing such a home.

(2) 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. A person shall be considered to have a disability if such person is determined, pursuant to regulations issued by the Secretary to have a physical, mental, or emotional impairment which (A) is expected to be of long-continued and indefinite duration, (B) substantially impedes his or her ability to live independently, and (C) is of such a nature that such ability could be improved by more suitable housing conditions. A person shall also be considered to have a disability if such person has a developmental disability as defined in section 102 of the Developmental Disabilities Assistance and Bill of Rights Act of 2000. The Secretary shall prescribe such regulations as may be necessary to prevent abuses in determining, under the definitions contained in this paragraph, the eligibility of families and persons for admission to and occupancy of housing assisted under this section. Notwithstanding the preceding provisions of this paragraph, the term "person with disabilities" includes two or more persons with disabilities living together, one or more such persons living with another person who is determined (under regulations prescribed by the Secretary) to be important to their care or well-being, and the surviving member or members of any household described in the first sentence of this paragraph who were living, in a unit assisted under this section, with the deceased member of the household at the time of his or her death.

(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.

(4) The term "independent living facility" means a project designed for occupancy by not more than 24 persons with disabilities (or such higher number of persons as permitted under criteria that the Secretary shall prescribe, subject to the limitation under subsection (h)(6)[231]) in separate dwelling units where each dwelling unit includes a kitchen and a bath. 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.

(5) The term "owner" means a private nonprofit organization that receives assistance under this section to develop and operate supportive housing for persons with disabilities.

(6) The term "private nonprofit organization" means any institution or foundation—

(A) that has received, or has temporary clearance to receive, tax-exempt status under section 501(c)(3) of the Internal Revenue Code of 1986;

(B) no part of the net earnings of which inures to the benefit of any member, founder, contributor, or individual;

(C) which has a governing board (i) the membership of which is selected in a manner to assure that there is significant representation of the views of persons with disabilities, and (ii) which is responsible for the operation of the housing assisted under this section; and

(D) which is approved by the Secretary as to financial responsibility.

Such term includes a for-profit limited partnership the sole general partner of which is an organization meeting the requirements under subparagraphs (A), (B), (C), and (D) or a corporation controlled by an organization meeting the requirements under subparagraphs (A), (B), (C), and (D).

(7) The term "State" includes the several States, the District of Columbia, the Commonwealth of Puerto Rico, and the possessions of the United States.

(8) The term "Secretary" means the Secretary of Housing and Urban Development.

(9) The term "very low-income" has the same meaning as given the term "very low-income families" under section 3(b)(2) of the United States Housing Act of 1937.

(l) ALLOCATION OF FUNDS.—

[231] So in law. Probably intended to refer to subsection (l)(4).
Section 3(g)(2)(A) of Public Law 111-374 provides for an amendment to subsection (k)(4) as follows: "by striking 'prescribe, subject to the limitation under subsection (h)(6) of this section)' and inserting 'prescribe)'". The amendment could not be executed because the phrase "of this section" in the matter proposed to be struck does not appear in law.

(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).

(2) CAPITAL ADVANCES.—Of any amounts made available for assistance under subsection (b), such sums as may be necessary shall be available for funding capital advances in accordance with subsection (d)(1). Such amounts, the repayments from such advances, and the proceeds from notes or obligations issued under this section prior to the enactment of this Act shall constitute a revolving fund to be used by the Secretary in carrying out this section.

(3) PROJECT RENTAL ASSISTANCE.—Of any amounts made available for assistance under subsection (b), such sums as may be necessary shall be available for funding project rental assistance in accordance with subsection (d)(2).

(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.

(n) EFFECTIVE DATE AND APPLICABILITY.—

(1) IN GENERAL.—The amendments made by this section shall take effect on October 1, 1991, with respect to projects approved on or after such date. The Secretary shall issue regulations for such purpose after notice and public comment.

(2) EARLIER APPLICABILITY.—The Secretary shall, upon the request of an owner, apply the provisions of this section to any housing for which a loan reservation was made under section 202 of the Housing Act of 1959 before the date of enactment of this Act but for which no loan has been executed and recorded. In the absence of such a request, any housing identified under the preceding sentence shall continue to be subject to the provisions of section 202 of the Housing Act of 1959 as they were in effect when such assistance was made or reserved.

(3) COORDINATION.—When responding to an owner's request under paragraph (1), the Secretary shall, notwithstanding any other provision of law, apply such portion of amounts obligated at the time of loan reservation, including amounts reserved with respect to such housing under section 8 of the United States Housing Act of 1937, as are required for the owner's housing under the provisions of this section and shall make any remaining portion available for other housing under this section.

END OF STATUTE

FUNDING FOR MAINTENANCE AND OPERATION OF SUPPORTIVE HOUSING

APPROPRIATIONS ACT, 2005
[Public Law 108-447; 118 Stat. 3318; 12 U.S.C. 1701q-3]

Sec. 213. [12 U.S.C. 1701q-3]

Notwithstanding any other provision of law, for this fiscal year and every fiscal year thereafter, funds appropriated for housing for the elderly, as authorized by section 202 of the Housing Act of 1959, as amended, and for supportive housing for persons with disabilities, as authorized by section 811 of the Cranston-Gonzalez National Affordable Housing Act, shall be available for the cost of maintaining and disposing of such properties that are acquired or otherwise become the responsibility of the Department.

END OF STATUTE

REVISED CONGREGATE HOUSING SERVICES

CRANSTON-GONZALEZ NATIONAL AFFORDABLE HOUSING ACT
[Public Law 101-625; 104 Stat. 4304; 42 U.S.C. 8011]

Sec. 802. [42 U.S.C. 8011]
REVISED CONGREGATE HOUSING SERVICES PROGRAM.

(a) FINDINGS AND PURPOSES.—

(1) FINDINGS.—The Congress finds that—

(A) the effective provision of congregate services may require the redesign of units and buildings to meet the special physical needs of the frail elderly persons and the creation of congregate space to accommodate services that enhance independent living;

(B) congregate housing, coordinated with the delivery of supportive services, offers an innovative, proven, and cost-effective means of enabling frail older persons and persons with disabilities to maintain their dignity and independence;

(C) independent living with assistance is a preferable housing alternative to institutionalization for many frail older persons and persons with disabilities;

(D) 365,000 persons in federally assisted housing experience some form of frailty, and the number is expected to increase as the general population ages;

(E) an estimated 20 to 30 percent of older adults living in federally assisted housing experience some form of frailty;

(F) a large and growing number of frail elderly residents face premature or unnecessary institutionalization because of the absence of or deficiencies in the availability, adequacy, coordination, or delivery of supportive services;

(G) the support service needs of frail residents of assisted housing are beyond the resources and experience that housing managers have for meeting such needs;

(H) supportive services would promote the invaluable option of independent living for nonelderly persons with disabilities in federally assisted housing;

(I) approximately 25 percent of congregate housing services program sites provide congregate services to young individuals with disabilities;

(J) to the extent that institutionalized older adults do not need the full costly support provided by such care, public moneys could be more effectively spent providing the necessary services in a noninstitutional setting; and

(K) the Congregate Housing Services Program, established by Congress in 1978, and similar programs providing in-home services have been effective in preventing unnecessary institutionalization and encouraging deinstitutionalization.

(2) PURPOSES.—The purposes of this section are—

(A) to provide assistance to retrofit individual dwelling units and renovate public and common areas in eligible housing to meet the special physical needs of eligible residents;

(B) to create and rehabilitate congregate space in or adjacent to such housing to accommodate supportive services that enhance independent living;

(C) to improve the capacity of management to assess the service needs of eligible residents, coordinate the provision of supportive services that meet the needs of eligible residents and ensure the long-term provision of such services;

(D) to provide services in federally assisted housing to prevent premature and inappropriate institutionalization in a manner that respects the dignity of the elderly and persons with disabilities;

(E) to provide readily available and efficient supportive services that provide a choice in supported living arrangements by utilizing the services of an on-site coordinator, with emphasis on maintaining a continuum of care for the vulnerable elderly;

(F) to improve the quality of life of older Americans living in federally assisted housing;

(G) to preserve the viability of existing affordable housing projects for lower-income older residents who are aging in place by assisting managers of such housing with the difficulties and challenges created by serving older residents;

(H) to develop partnerships between the Federal Government and State governments in providing services to the frail elderly and persons with disabilities; and

(I) to utilize Federal and State funds in a more cost-effective and humane way in serving the needs of older adults.

(b) CONTRACTS FOR CONGREGATE SERVICES PROGRAMS.—

(1) IN GENERAL.—The Secretary of Housing and Urban Development and the Secretary of Agriculture (through Administrator of the Farmers Home Administration) shall enter into contracts with States, Indian tribes, units of general local government and local nonprofit housing sponsors, utilizing any amounts appropriated under subsection (n)—

(A) to provide congregate services programs for eligible project residents to promote and encourage maximum independence within a home environment for such residents capable of self-care with appropriate supportive services; or

(B) to adapt housing to better accommodate the physical requirements and service needs of eligible residents.

(2) TERM OF CONTRACTS.—Each contract between the Secretary concerned and a State, Indian tribe, or unit of general local government, or local nonprofit housing sponsor, shall be for a term of 5 years and shall be renewable at the expiration of the term, except as otherwise provided in this section.

(c) RESERVATION OF AMOUNTS.—For each State, Indian tribe, unit of general local government, and nonprofit housing sponsor, receiving a contract under this subsection, the Secretary concerned shall reserve a sum equal to the total approved contract amount from the amount authorized and appropriated for the fiscal year in which the notification date of funding approval occurs.

(d) ELIGIBLE ACTIVITIES.—

(1) IN GENERAL.—A congregate services program under this section shall provide meal and other services for eligible project residents (and other residents and nonresidents, as provided in subsection (e)), as provided in this section, that are coordinated on site.

(2) MEAL SERVICES.—Congregate services programs assisted under this section shall include meal service adequate to meet at least one-third of the daily nutritional needs of eligible project residents, as follows:

(A) FOOD STAMPS[232] AND AGRICULTURAL COMMODITIES.—In providing meal services under this paragraph, each congregate services program—

(i) shall—

(I) apply for approval as a retail food store under section 9 of the Food and Nutrition Act of 2008 (42 U.S.C. 2018); and

(II) if approved under such section, accept benefits as payment from individuals to whom such meal services are provided; and

(ii) shall request, and use to provide such meal services, agricultural commodities made available without charge by the Secretary of Agriculture.

(B) PREFERENCE FOR NUTRITION PROVIDERS.—In contracting for or otherwise providing for meal services under this paragraph, each congregate services program shall give preference to any provider of meal services who—

(i) receives assistance under title III of the Older Americans Act of 1965; or

(ii) has experience, according to standards as the Secretary shall require, in providing meal services in a housing project under the Congregate Housing Services Act of 1978 or any other program for congregate services.

(3) RETROFIT AND RENOVATION.—Assistance under this section may be provided with respect to eligible housing for the elderly for—

(A) retrofitting of individual dwelling units to meet the special physical needs of current or future residents who are or are expected to be eligible residents, which retrofitting may include—

(i) widening of doors to allow passage by persons with disabilities in wheelchairs into and within units in the project;

(ii) placement of light switches, electrical outlets, thermostats and other environmental controls in accessible locations;

[232] The words "Food stamps" in the heading for subsection (d)(2)(A) probably should read "Supplemental nutrition assistance program benefits". The casing was incorrect for the global amendment provided by section 4002(b)(1)(M) of Public Law 110-246.

(iii) installation of grab bars in bathrooms or the placement of reinforcements in bathroom walls to allow later installation of grab bars;

(iv) redesign of usable kitchens and bathrooms to permit a person in a wheelchair to maneuver about the space; and

(v) such other features of adaptive design that the Secretary finds are appropriate to meet the special needs of such residents;

(B) such renovation as is necessary to ensure that public and common areas are readily accessible to and usable by eligible residents;

(C) renovation, conversion, or combination of vacant dwelling units to create congregate space to accommodate the provision of supportive services to eligible residents;

(D) renovation of existing congregate space to accommodate the provision of supportive services to eligible residents; and

(E) construction or renovation of facilities to create conveniently located congregate space to accommodate the provision of supportive services to eligible residents.

For purposes of this paragraph, the term "congregate space" shall include space for cafeterias or dining halls, community rooms or buildings, workshops, adult day health facilities, or other outpatient health facilities, or other essential service facilities.

(4) SERVICE COORDINATOR.—Assistance under this section may be provided with respect to the employment of one or more individuals (hereinafter referred to as "service coordinator") who may be responsible for—

(A) working with the professional assessment committee established under subsection (f)[233] on an ongoing basis to assess the service needs of eligible residents;

(B) working with service providers and the professional assessment committee to tailor the provision of services to the needs and characteristics of eligible residents;

(C) mobilizing public and private resources to ensure that the qualifying supportive services identified pursuant to subsection (d) can be funded over the time period identified under such subsection;

(D) monitoring and evaluating the impact and effectiveness of any supportive service program receiving capital or operating assistance under this section; and

(E) performing such other duties and functions that the Secretary deems appropriate to enable frail elderly persons residing in federally assisted housing to live with dignity and independence.

Such qualifications and standards shall include requiring each service coordinator to be trained in the aging process, elder services, disability services, eligibility for and procedures of Federal and applicable State entitlement programs, legal liability issues relating to providing service coordination, drug and alcohol use and abuse by the elderly, and mental health issues. The Secretary shall establish such minimum qualifications and standards for the position of service coordinator that the Secretary deems necessary to ensure sound management. The Secretary may fund the employment of service coordinators by using amounts appropriated under this section and by permitting owners to use existing sources of funds, including excess project reserves.

(5) OTHER SERVICES.—Congregate services programs assisted under this section may include services for transportation, personal care, dressing, bathing, toileting, housekeeping, chore assistance, nonmedical counseling, assessment of the safety of housing units, group and socialization activities, assistance with medications (in accordance with any applicable State law), case management, personal emergency response, and other services to prevent premature and unnecessary institutionalization of eligible project residents.

(6) DETERMINATION OF NEEDS.—In determining the services to be provided to eligible project residents under a congregate services program assisted under this section, the program shall provide for consideration of the needs and wants of eligible project residents.

(7) FEES.—

(A) ELIGIBLE PROJECT RESIDENTS.—The owner of each eligible housing project shall establish fees for meals and other services provided under a congregate services program to eligible project residents, which shall be sufficient to provide 10 percent of the costs of the services provided. The Secretary concerned shall provide for the waiver of fees under this

[233] So in law. Probably intended to refer to subsection (e).

paragraph for individuals whose incomes are insufficient to provide for any payment. The fees for meals shall be in the following amounts:

(i) FULL MEAL SERVICES.—The fees for residents receiving more than 1 meal per day, 7 days per week, shall be reasonable and shall equal between 10 and 20 percent of the adjusted income of the project resident (as such income is determined under section 3(b) of the United States Housing Act of 1937), or the cost of providing the services, whichever is less.

(ii) LESS THAN FULL MEAL SERVICES.—The fees for residents receiving meal services less frequently than as described in the preceding sentence shall be in an amount equal to 10 percent of such adjusted income of the project resident or the cost of providing the services, whichever is less.

(B) OTHER RESIDENTS AND NONRESIDENTS.—Fees shall be established under this paragraph for residents of eligible housing projects (other than eligible project residents) and for nonresidents that receive services from a congregate services program pursuant to subsection (e). Such fees shall be in an amount equal to the cost of providing the services.

(8) DIRECT AND INDIRECT PROVISION OF SERVICES.—Any State, Indian tribe, unit of general local government, or nonprofit housing sponsor that receives assistance under this section may provide congregate services directly to eligible project residents or may, by contract or lease, provide such services through other appropriate agencies or providers.

(e) ELIGIBILITY FOR SERVICES.—

(1) ELIGIBLE PROJECT RESIDENTS.—Any eligible resident who is a resident of an eligible housing project (or who with deinstitutionalization and appropriate supportive services under this section could become a resident of eligible federally assisted housing) shall be eligible for services under a congregate services program assisted under this section.

(2) ECONOMIC NEED.—In providing services under a congregate services program, the program shall give consideration to serving eligible project residents with the greatest economic need.

(3) IDENTIFICATION.—

(A) IN GENERAL.—A professional assessment committee under subparagraph (B) shall identify eligible project residents under paragraph (1) and shall designate services appropriate to the functional abilities and needs of each eligible project resident. The committee shall utilize procedures that ensure that the process of determining eligibility of individuals for congregate services shall accord such individuals fair treatment and due process and a right of appeal of the determination of eligibility, and shall also ensure the confidentiality of personal and medical records.

(B) PROFESSIONAL ASSESSMENT COMMITTEE.—A professional assessment committee under this section shall consist of not less than 3 individuals, who shall be appointed to the committee by the officials of the eligible housing project responsible for the congregate services program, and shall include qualified medical and other health and social services professionals competent to appraise the functional abilities of the frail elderly and persons with disabilities in relation to the performance of tasks of daily living.

(4) ELIGIBILITY OF OTHER RESIDENTS.—The elderly and persons with disabilities who reside in an eligible housing project other than eligible project residents under paragraph (1) may receive services from a congregate services program under this section if the housing managers, congregate service coordinators, and the professional assessment committee jointly determine that the participation of such individuals will not negatively affect the provision of services to eligible project residents. Residents eligible for services under this paragraph shall pay fees as provided under subsection (d).

(5) ELIGIBILITY OF NONRESIDENTS.—The Secretary may permit the provision of services to elderly persons and persons with disabilities who are not residents if the participation of such persons will not adversely affect the cost-effectiveness or operation of the program or add significantly to the need for assistance under this section.

(f) ELIGIBLE CONTRACT RECIPIENTS AND DISTRIBUTION OF ASSISTANCE.—The Secretary concerned may provide assistance under this section and enter into contracts under subsection (b) with—

(1) owners of eligible housing;

(2) States that submit applications in behalf of owners of eligible housing; and

(3) Indian tribes and units of general local government that submit applications on behalf of owners of eligible housing.

(g) APPLICATIONS.—The funds made available under this section shall be allocated by the Secretary among approvable applications submitted by or on behalf of owners. Applications for assistance under this section shall be submitted in such form and in accordance with such procedures as the Secretary shall establish. Applications for assistance shall contain—

(1) a description of the type of assistance the applicant is applying for;

(2) in the case of an application involving rehabilitation or retrofit, a description of the activities to be carried out, the number of elderly persons to be served, the costs of such activities, and evidence of a commitment for the services to be associated with the project;

(3) a description of qualifying supportive services that can reasonably be expected to be made available to eligible residents over a 5-year period;

(4) a firm commitment from one or more sources of assistance ensuring that some or all of the qualifying supportive services identified under paragraph (3) will be provided for not less than 1 year following the completion of activities assisted under subsection (d);

(5) a description of public or private sources of assistance that are likely to fund or provide qualifying supportive services, including evidence of any intention to provide assistance expressed by State and local governments, private foundations, and other organizations (including for-profit and nonprofit organizations);

(6) a certifications[234] from the appropriate State or local agency (as determined by the Secretary) that—

(A) the provision of the qualifying supportive services identified under paragraph (3) will enable eligible residents to live independently and avoid unnecessary institutionalization,

(B) there is a reasonable likelihood that such services will be funded or provided for the entire period specified under paragraph (3), and

(C) the agency and the applicant will, during the term of the contract, actively seek assistance for such services from other sources;

(7) a description of any fees that would be established pursuant to subsection (d); and

(8) such other information or certifications that the Secretary determines to be necessary or appropriate to achieve the purposes of this section.

The Secretary shall act on each application within 60 days of its submission.

(h) SELECTION AND EVALUATION OF APPLICATIONS AND PROGRAMS.—

(1) IN GENERAL.—Each Secretary concerned shall establish criteria for selecting States, Indian tribes, units of general local government, and local nonprofit housing sponsors to receive assistance under this section, and shall select such entities to receive assistance. The criteria for selection shall include consideration of—

(A) the extent to which the activities described in subsection (d)(3) will foster independent living and the provision of such services;

(B) the types and priorities of the basic services proposed to be provided, the appropriateness of the targeting of services, the methods of providing for deinstitutionalized older individuals and individuals with disabilities, and the relationship of the proposal to the needs and characteristics of the eligible residents of the projects where the services are to be provided;

(C) the schedule for establishment of services following approval of the application;

(D) the degree to which local social services are adequate for the purpose of assisting eligible project residents to maintain independent living and avoid unnecessary institutionalization;

(E) the professional qualifications of the members of the professional assessment committee;

(F) the reasonableness and application of fees schedules established for congregate services;

(G) the adequacy and accuracy of the proposed budgets; and

(H) the extent to which the owner will provide funds from other services in excess of that required by this section.

(2) EVALUATION OF PROVISION OF CONGREGATE SERVICES PROGRAMS.—The Secretary of Housing and Urban Development and the Secretary of Agriculture shall, by regulation under

[234] So in law.

subsection (n),[235] establish procedures for States, Indian tribes, and units of general local government receiving assistance under this section—

(A) to review and evaluate the performance of the congregate services programs of eligible housing projects receiving assistance under this section in such State; and

(B) to submit annually, to the Secretary concerned, a report evaluating the impact and effectiveness of congregate services programs in the entity assisted under this section.

(i) CONGREGATE SERVICES PROGRAM FUNDING.—

(1) COST DISTRIBUTION.—

(A) CONTRIBUTION REQUIREMENT.—In providing contracts under subsection (b), each Secretary concerned shall provide for the cost of providing the congregate services program assisted under this section to be distributed as follows:

(i) Each State, Indian tribe, unit of general government, or nonprofit housing sponsor that receives amounts under a contract under subsection (b) shall supplement any such amount with amounts sufficient to provide 50 percent of the cost of providing the congregate services program. Any monetary or in-kind contributions received by a congregate services program under the Congregate Housing Services Act of 1978 may be considered for purposes of fulfilling the requirement under this clause. The Secretary concerned shall encourage owners to use excess residual receipts to the extent available to supplement funds for retrofit and supportive services under this section.

(ii) The Secretary concerned shall provide 40 percent of the cost, with amounts under contracts under subsection (b).

(iii) Fees under subsection (d)(7) shall provide 10 percent of the cost.

(B) EXCEPTIONS.—

(i) For any congregate services program that was receiving assistance under a contract under the Congregate Housing Services Act of 1978 on the date of the enactment of this Act,[236] the unit of general local government or nonprofit housing sponsor, in coordination with a local government with respect to such program shall not be subject to the requirement to provide supplemental contributions under subparagraph (A)(i) (for such program) for the 6-year period beginning on the expiration of the contract for such assistance. The Secretary concerned shall require each such program to maintain, for such 6-year period, the same dollar amount of annual contributions in support of the services eligible for assistance under this section as were contributed to such program during the year preceding the date of the enactment of this Act.[237]

(ii) To the extent that the limitations under subsection (d)(7) regarding the percentage of income eligible residents may pay for services will result in collected fees for any congregate services program of less than 10 percent of the cost of providing the program, 50 percent of such remaining costs shall be provided by the recipient of amounts under the contract and 50 percent of such remaining costs shall be provided by the Secretary concerned under such contract.

(C) ELIGIBLE SUPPLEMENTAL CONTRIBUTIONS.—If provided by the State, Indian tribe, unit of general local government, or local nonprofit housing sponsor, any salary paid to staff from governmental sources to carry out the program of the recipient and salary paid to residents employed by the program (other than from amounts under a contract under subsection (b)), and any other in-kind contributions from governmental sources shall be considered as supplemental contributions for purposes of meeting the supplemental contribution requirement under subparagraph (A)(i), except that the amount of in-kind contributions considered for purposes of fulfilling such contribution requirement may not exceed 10 percent of the total amount to be provided by the State, Indian tribe, local government, or local nonprofit housing sponsor.

(D) PROHIBITION OF SUBSTITUTION OF FUNDS.—The Secretary concerned shall require each State, Indian tribe, unit of general local government, and local nonprofit housing sponsor, that receives assistance under this section to maintain the same dollar amount of annual contribution that such State, Indian tribe, local government, or sponsor was making, if any, in

[235] So in law. Probably intended to refer to subsection (m).
[236] November 28, 1990.
[237] November 28, 1990.

support of services eligible for assistance under this section before the date of the submission of the application for such assistance.

(E) LIMITATION.—For purposes of complying with the requirement under subparagraph (A)(i), the appropriate Secretary concerned may not consider any amounts contributed or provided by any local government to any State receiving assistance under this section that exceed 10 percent of the amount required of the State under subparagraph (A)(i).

(2) CONSULTATION.—The Secretary shall consult with the Secretary of Health and Human Services regarding the availability of assistance from other Federal programs to support services under this section and shall make information available to applicants for assistance under this section.

(j) MISCELLANEOUS PROVISIONS.—

(1) USE OF RESIDENTS IN PROVIDING SERVICES.—Each housing project that receives assistance under this section shall, to the maximum extent practicable, utilize the elderly and persons with disabilities who are residents of the housing project, but who are not eligible project residents, to participate in providing the services provided under congregate services programs under this section. Such individuals shall be paid wages that shall not be lower than the higher of—

(A) the minimum wage that would be applicable to the employee under the Fair Labor Standards Act of 1938, if section 6(a)(1) of such Act applied to the resident and if the resident were not exempt under section 13 of such Act;

(B) the State of[238] local minimum wage for the most nearly comparable covered employment; or

(C) the prevailing rates of pay for persons employed in similar public occupations by the same employer.

(2) EFFECT OF SERVICES.—Except for wages paid under paragraph (1) of this subsection, services provided to a resident of an eligible housing project under a congregate services program under this section may not be considered as income for the purpose of determining eligibility for or the amount of assistance or aid furnished under any Federal, federally assisted, or State program based on need.

(3) ELIGIBILITY AND PRIORITY FOR 1978 ACT RECIPIENTS.—Notwithstanding any other provision of this section, any public housing agency, housing assisted under section 202 of the Housing Act of 1959, or nonprofit corporation that was receiving assistance under a contract under the Congregate Housing Services Act of 1978 on the date of the enactment of this section[239] shall (subject to approval and allocation of sufficient amounts under the Congregate Housing Services Act of 1978 and appropriations Acts under such Act) receive assistance under the Congregate Housing Services Act of 1978 for the remainder of the term of the contract for assistance for such agency or corporation under such Act, and shall receive priority for assistance under this section after the expiration of such period.

(4) ADMINISTRATIVE COST LIMITATION.—A recipient of assistance under this section may not use more than 10 percent of the sum of such assistance and the contribution amounts required under subsection (i)(1)(A)(i) for administrative costs and shall ensure that any entity to which the recipient distributes amounts from such sum may not expend more than a reasonable amount from such distributed amounts for administrative costs. Administrative costs may not include any capital expenses.

(k) DEFINITIONS.—For purposes of this section:

(1) The term “activity of daily living” means an activity regularly necessary for personal care and includes bathing, dressing, eating, getting in and out of bed and chairs, walking, going outdoors, and using the toilet.

(2) The term “case management” means assessment of the needs of a resident, ensuring access to and coordination of services for the resident, monitoring delivery of services to the resident, and periodic reassessment to ensure that services provided are appropriate to the needs and wants of the resident.

(3) The term “congregate housing” means low-rent housing that is connected to a central dining facility where wholesome and economical meals can be served to the residents.

(4) The term “congregate services” means services described in subsection (d) of this section.

(5) The term “congregate services program” means a program assisted under this section undertaken by an eligible housing project to provide congregate services to eligible residents.

(6) The term “eligible housing project” means—

[238] So in law.
[239] November 28, 1990.

(A) public housing (as such term is defined in section 3(b) of the United States Housing Act of 1937) and lower income housing developed or operated pursuant to a contract between the Secretary of Housing and Urban Development and an Indian housing authority under title II of the United States Housing Act of 1937[240];

(B) housing assisted under section 8 of the United States Housing Act of 1937 with a contract that is attached to the structure under subsection (d)(2) of such section or with a contract entered into in connection with the new construction or moderate rehabilitation of the structure under section 8(b)(2) of the United States Housing Act,[241] as such section existed before October 1, 1983;

(C) housing assisted under section 202 of the Housing Act of 1959;

(D) housing assisted under section 221(d) or 236 of the National Housing Act, with respect to which the owner has made a binding commitment to the Secretary of Housing and Urban Development not to prepay the mortgage or terminate the insurance contract under section 229 of such Act (unless the binding commitments have been made to extend the low-income use restrictions relating to such housing for the remaining useful life of the housing);

(E) housing assisted under section 514 or 515 of the Housing Act of 1949, with respect to which the owner has made a binding commitment to the Secretary of Agriculture not to prepay or refinance the mortgage (unless the binding commitments have been made to extend the low-income use restrictions relating to such housing for not less than the 20-year period under section 502(c)(4) of the Housing Act of 1949); and

(F) housing assisted under section 516 of the Housing Act of 1949.

(7) The term "eligible resident" means a person residing in eligible housing for the elderly who qualifies under the definition of frail elderly, person with disabilities (regardless of whether the person is elderly), or temporarily disabled.

(8) The term "frail elderly" means an elderly person who is unable to perform at least 3 activities of daily living adopted by the Secretary for purposes of this program. Owners may establish additional eligibility requirements (acceptable to the Secretary) based on the standards in local supportive services programs.

(9) The term "Indian tribe" means any Indian tribe, band, nation, or other organized group or community, including any Alaska Native village or regional corporation as defined in or established pursuant to the Alaska Native Claims Settlement Act, that is recognized as eligible for the special programs and services provided by the United States to Indians because of their status as Indians.

(10) The term "instrumental activity of daily living" means a regularly necessary home management activity and includes preparing meals, shopping for personal items, managing money, using the telephone, and performing light or heavy housework.

(11) The term "local nonprofit housing sponsor" includes public housing agencies (as such term is defined in section 3(b)(6))[242] of the United States Housing Act of 1937.

(12) The term "nonprofit", as applied to an organization, means no part of the net earnings of the organization inures, or may lawfully inure, to the benefit of any private shareholder or individual.

(13) The term "elderly person" means a person who is at least 62 years of age.

(14) The term "person with disabilities" has the meaning given the term by section 811 of this Act.

(15) The term "professional assessment committee" means a committee established under subsection (e)(3)(B).

(16) The term "qualifying supportive services" means new or significantly expanded services that the Secretary deems essential to enable eligible residents to live independently and avoid unnecessary institutionalization. Such services may include but not be limited to (A) meal service adequate to meet nutritional need; (B) housekeeping aid; (C) personal assistance (which may include, but is not limited to, aid given to eligible residents in grooming, dressing, and other activities which maintain personal appearance and hygiene); (D) transportation services; (E) health-related services; and (F) personal emergency response systems; the owner may provide the qualifying services directly to eligible residents or may, by contract or lease, provide such services through other appropriate agencies or providers.

(17) The term "Secretary concerned" means—

[240] Section 501(a) of the Native American Housing Assistance and Self-Determination Act of 1996 (P.L. 104-330; 110 Stat. 4041) repealed title II of the United States Housing Act of 1937.

[241] So in law. Probably intended to refer to the United States Housing Act of 1937.

[242] So in law.

(A) the Secretary of Housing and Urban Development, with respect to eligible federally assisted housing administered by such Secretary; and

(B) the Secretary of Agriculture, with respect to eligible federally assisted housing administered by the Administrator of the Farmers Home Administration.

(18) The term "State" means the States of the United States, the District of Columbia, the Commonwealth of Puerto Rico, the Commonwealth of the Northern Mariana Islands, Guam, the Virgin Islands, American Samoa, the Trust Territory of the Pacific Islands, and any other territory or possession of the United States.

(19) The term "temporarily disabled" means having an impairment that—

(A) is expected to be of no more than 6 months duration; and

(B) impedes the ability of the individual to live independently unless the individual receives congregate services.

(20) The term "unit of general local government"—

(A) means any city, town, township, county, parish, village, or other general purpose political subdivision of a State; and

(B) includes a unit of general government acting as an applicant for assistance under this section in cooperation with a nonprofit housing sponsor and a nonprofit housing sponsor acting as an applicant for assistance under this section in cooperation with a unit of general local government, as provided under subsection (g)(1)(B).

(l) REPORTS TO CONGRESS.—

(1) IN GENERAL.—Each Secretary concerned shall submit to the Congress, for each fiscal year for which assistance is provided for congregate services programs under this section, an annual report—

(A) describing the activities being carried out with assistance under this section and the population being served by such activities;

(B) evaluating the effectiveness of the program of providing assistance for congregate services under this section, and a comparison of the effectiveness of the program under this section with the HOPE for Elderly Independence Program under section 803 of this Act; and

(C) containing any other information that the Secretary concerned considers helpful to the Congress in evaluating the effectiveness of this section.

(2) SUBMISSION OF DATA TO SECRETARY CONCERNED.—The Secretary of Housing and Urban Development and the Secretary of Agriculture shall provide, by regulation under subsection (m), for the submission of data by recipients of assistance under this section to be used in the repeat[243] required by paragraph (1).

(m) REGULATIONS.—The Secretary of Housing and Urban Development and the Secretary of Agriculture shall, not later than the expiration of the 180-day period beginning on the date of the enactment of this Act,[244] jointly issue any regulations necessary to carry out this section.

(n) AUTHORIZATION OF APPROPRIATIONS.—

(1) AUTHORIZATION AND USE.—There are authorized to be appropriated to carry out this section $21,000,000 for fiscal year 1993, and $21,882,000 for fiscal year 1994, of which not more than—

(A) the amount of such sums appropriated that, with respect to the total amount appropriated, represents the ratio of the total number of units of eligible federally assisted housing for elderly individuals assisted by programs administered by the Secretary of Housing and Urban Development to the total number of units assisted by programs administered by such Secretary and the Secretary of Agriculture, shall be used for assistance for congregate services programs in eligible federally assisted housing administered by the Secretary of Housing and Urban Development: and

(B) the amount of such sums appropriated that, with respect to the total amount appropriated, represents the ratio of the total number of units of eligible federally assisted housing for elderly individuals assisted by programs administered by the Secretary of Agriculture to the total number of units assisted by programs administered by such Secretary and the Secretary of Housing and Urban Development, shall be used for assistance for congregate services programs in eligible federally assisted housing administered by the Secretary of Agriculture (through the Administrator of the Farmers Home Administration).

[243] So in law. Probably intended to be "report".

[244] The date of enactment was November 28, 1990.

(2) AVAILABILITY.—Any amounts appropriated under this subsection shall remain available until expended.

(o) RESERVE FUND.—The Secretary may reserve not more than 5 percent of the amounts made available in each fiscal year to supplement grants awarded to owners under this section when, in the determination of the Secretary, such supplemental adjustments are required to maintain adequate levels of services to eligible residents.

(p) CONFORMING AMENDMENT.—Section 9(a)(3)(B) of the United States Housing Act of 1937 is amended—

* * * * * * *

END OF STATUTE

FUNDING FOR SERVICE COORDINATORS AND CONGREGATE SERVICES

AMERICAN HOMEOWNERSHIP AND ECONOMIC OPPORTUNITY ACT OF 2000
[Public Law 106-569; 114 Stat. 2953]

Sec. 823.
SERVICE COORDINATORS AND CONGREGATE SERVICES FOR ELDERLY AND DISABLED HOUSING.

There are authorized to be appropriated to the Secretary such sums as may be necessary for each of fiscal years 2001, 2002, and 2003, for the following purposes:

(1) GRANTS FOR SERVICE COORDINATORS FOR CERTAIN FEDERALLY ASSISTED MULTIFAMILY HOUSING.—For grants under section 676 of the Housing and Community Development Act of 1992 (42 U.S.C. 13632) for providing service coordinators.

(2) CONGREGATE SERVICES FOR FEDERALLY ASSISTED HOUSING.—For contracts under section 802 of the Cranston-Gonzalez National Affordable Housing Act (42 U.S.C. 8011) to provide congregate services programs for eligible residents of eligible housing projects under subparagraphs (B) through (D) of subsection (k)(6) of such section.

END OF STATUTE

PET OWNERSHIP

HOUSING AND URBAN-RURAL RECOVERY ACT OF 1983
[Public Law 98-181; 97 Stat. 1195; 12 U.S.C. 1701r-1]

Sec. 227. [12 U.S.C. 1701r-1]
PET OWNERSHIP IN ASSISTED RENTAL HOUSING FOR THE ELDERLY OR HANDICAPPED.

(a) No owner or manager of any federally assisted rental housing for the elderly or handicapped may—

(1) as a condition of tenancy or otherwise, prohibit or prevent any tenant in such housing from owning common household pets or having common household pets living in the dwelling accommodations of such tenant in such housing; or

(2) restrict or discriminate against any person in connection with admission to, or continued occupancy of, such housing by reason of the ownership of such pets by, or the presence of such pets in the dwelling accommodations of, such person.

(b)(1) Not later than the expiration of the twelve-month period following the date of the enactment of this Act,[245] the Secretary of Housing and Urban Development and the Secretary of Agriculture shall each issue such regulations as may be necessary to ensure (A) compliance with the provisions of subsection (a) with respect to any program of assistance referred to in subsection (d) that is administered by such Secretary; and (B) attaining the goal of providing decent, safe, and sanitary housing for the elderly or handicapped.

(2) Such regulations shall establish guidelines under which the owner or manager of any federally assisted rental housing for the elderly or handicapped (A) may prescribe reasonable rules for the keeping of pets by tenants in such housing; and (B) shall consult with the tenants of such housing in prescribing such rules. Such rules may consider factors such as density of tenants, pet size, types or pets, potential financial obligations of tenants, and standards of pet care.

(c) Nothing in this section may be construed to prohibit any owner or manager of federally assisted rental housing for the elderly or handicapped, or any local housing authority or other appropriate authority of the community where such housing is located, from requiring the removal from any such housing of any pet whose conduct or condition is duly determined to constitute a nuisance or a threat to the health or safety of the other occupants of such housing or of other persons in the community where such housing is located.

(d) For purposes of this section, the term "federally assisted rental housing for the elderly or handicapped" means any rental housing project that—

(1) is assisted under section 202 of the Housing Act of 1959; or

(2) is assisted under the United States Housing Act of 1937, the National Housing Act, or title V of the Housing Act of 1949, and is designated for occupancy by elderly or handicapped families, as such term is defined in section 202(d)(4) of the Housing Act of 1959.[246]

END OF STATUTE

[245] The date of enactment was November 30, 1983.
[246] For exemption of Indian housing, see section 201(c) of the United States Housing Act of 1937, which is set forth, ante, in part II of this compilation.

HOUSING FOR PERSONS WITH AIDS

CRANSTON-GONZALEZ NATIONAL AFFORDABLE HOUSING ACT
[Public Law 101-625; 104 Stat. 4375; 42 U.S.C. 12901—12912]

Sec. 851. [42 U.S.C. 12901 note]
SHORT TITLE.

This subtitle may be cited as the "AIDS Housing Opportunity Act".

Sec. 852. [42 U.S.C. 12901]
PURPOSE.

The purpose of this title[247] is to provide States and localities with the resources and incentives to devise long-term comprehensive strategies for meeting the housing needs of persons with acquired immunodeficiency syndrome and families of such persons.

Sec. 853. [42 U.S.C. 12902]
DEFINITIONS.

For purposes of this subtitle:

(1) The term "acquired immunodeficiency syndrome and related diseases" or "AIDS" means the disease of acquired immunodeficiency syndrome or any conditions arising from the etiologic agent for acquired immunodeficiency syndrome.

(2) The term "applicant" means a State, a unit of general local government, or a nonprofit organization eligible to receive assistance under this subtitle.

(3) The term "low-income individual" means any individual or family whose incomes do not exceed 80 percent of the median income for the area, as determined by the Secretary of Housing and Urban Development, with adjustments for smaller and larger families, except that the Secretary may establish income ceilings higher or lower than 80 percent of the median income for the area if the Secretary finds that such variations are necessary because of prevailing levels of construction costs or unusually high or low family incomes.

(4) The term "grantee" means a State or unit of general local government receiving grants from the Secretary under this subtitle.

(5) The term "metropolitan statistical area" means a metropolitan statistical area as established by the Office of Management and Budget. Such term includes the District of Columbia.

(6) The term "locality" means the geographical area within the jurisdiction of a local government.

(7) The term "recipient" means a grantee or other applicant receiving funds under this title.[248]

(8) The term "Secretary" means the Secretary of Housing and Urban Development.

(9) The term "State" means a State of the United States, the District of Columbia, and the Commonwealth of Puerto Rico, or any agency or instrumentality thereof that is established pursuant to legislation and designated by the chief executive to act on behalf of the jurisdiction with regard to provisions of this subtitle.

(10) The term "unit of general local government" has the same meaning as in 104[249] of this Act.

(11) The term "city" has the meaning given the term in section 102(a) of the Housing and Community Development Act of 1974.

(12) The term "eligible person" means a person with acquired immunodeficiency syndrome or a related disease and the family of such person.

(13) The term "nonprofit organization" means any nonprofit organization (including a State or locally chartered, nonprofit organization) that—

(A) is organized under State or local laws;

(B) has no part of its net earnings inuring to the benefit of any member, founder, contributor, or individual;

(C) complies with standards of financial accountability acceptable to the Secretary; and

[247] So in law. Probably intended to refer to this subtitle.
[248] So in law. Probably intended to refer to this subtitle.
[249] So in law. Probably intended to refer to section 104.

(D) has among its purposes significant activities related to providing services or housing to persons with acquired immunodeficiency syndrome or related diseases.

(14) The term "project sponsor" means a nonprofit organization or a housing agency of a State or unit of general local government that contracts with a grantee to receive assistance under this subtitle.

(15) The term "HIV" means infection with the human immunodeficiency virus.

(16) The term "individuals living with HIV or AIDS" means, with respect to the counting of cases in a geographic area during a period of time, the sum of—

(A) the number of living non-AIDS cases of HIV in the area; and

(B) the number of living cases of AIDS in the area.

Sec. 854. [42 U.S.C. 12903]
GENERAL AUTHORITY.

(a) GRANTS AUTHORIZED.—The Secretary shall, to the extent of amounts approved in appropriations Acts under section 863, make grants to States, units of general local government, and nonprofit organizations.

(b) IMPLEMENTATION OF ELIGIBLE ACTIVITIES.—A grantee shall carry out eligible activities under section 855 through project sponsors. Any grantee that is a State that enters into a contract with a nonprofit organization to carry out eligible activities in a locality shall obtain the approval of the unit of general local government for the locality before entering into the contract.

(c) ALLOCATION OF RESOURCES.—

(1) ALLOCATION OF RESOURCES.—

(A) ALLOCATION FORMULA.—The Secretary shall allocate 90 percent of the amount approved in appropriation Acts under section 863 among States and metropolitan statistical areas as follows:

(I)[250] 75 percent of such amounts among—

(I) cities that are the most populous unit of general local government in a metropolitan statistical area having a population greater than 500,000, as determined on the basis of the most recent census, and with more than 2,000 individuals living with HIV or AIDS, using the data specified in subparagraph (B); and

(II) States with more than 2,000 individuals living with HIV or AIDS outside of metropolitan statistical areas.

(ii) 25 percent of such amounts among States and metropolitan statistical areas based on the method described in subparagraph (C).

(B) SOURCE OF DATA.—For purposes of allocating amounts under this paragraph for any fiscal year, the number of individuals living with HIV or AIDS shall be the number of such individuals as confirmed by the Director of the Centers for Disease Control and Prevention, as of December 31 of the most recent calendar year for which such data is available.

(C) ALLOCATION UNDER SUBPARAGRAPH (A)(ii).—For purposes of allocating amounts under subparagraph (A)(ii), the Secretary shall develop a method that accounts for—

(I)[251] differences in housing costs among States and metropolitan statistical areas based on the fair market rental established pursuant to section 8(c) of the United States Housing Act of 1937 (42 U.S.C. 1437f(c)) or another methodology established by the Secretary through regulation; and

(ii) differences in poverty rates among States and metropolitan statistical areas based on area poverty indexes or another methodology established by the Secretary through regulation.

(2) MAINTAINING GRANTS.—

(A) CONTINUED ELIGIBILITY OF FISCAL YEAR 2016 GRANTEES.—A grantee that received an allocation in fiscal year 2016 shall continue to be eligible for allocations under paragraph (1) in subsequent fiscal years, subject to—

(I)[252] the amounts available from appropriations Acts under section 863;

[250] As it appears in the public law. Should be "(i)".
[251] As it appears in the public law. Should be "(i)".
[252] As it appears in the public law. Should be "(i)".

(ii) approval by the Secretary of the most recent comprehensive housing affordability strategy for the grantee approved under section 105; and

(iii) the requirements of subparagraph (C).

(B) ADJUSTMENTS.—Allocations to grantees described in subparagraph (A) shall be adjusted annually based on the administrative provisions included in fiscal year 2016 appropriations Acts.

(C) REDETERMINATION OF CONTINUED ELIGIBILITY.—The Secretary shall redetermine the continued eligibility of a grantee that received an allocation in fiscal year 2016 at least once during the 10-year period following fiscal year 2016.

(D) ADJUSTMENT TO GRANTS.—For each of fiscal years 2017, 2018, 2019, 2020, and 2021, the Secretary shall ensure that a grantee that received an allocation in the prior fiscal year does not receive an allocation that is 5 percent less than or 10 percent greater than the amount allocated to such grantee in the preceding fiscal year.

(3) ALTERNATIVE GRANTEES.—

(A) REQUIREMENTS.—The Secretary may award funds reserved for a grantee eligible under paragraph (1) to an alternative grantee if—

(I)[253] the grantee submits to the Secretary a written agreement between the grantee and the alternative grantee that describes how the alternative grantee will take actions consistent with the applicable comprehensive housing affordability strategy approved under section 105 of this Act;

(ii) the Secretary approves the written agreement described in clause (I) and agrees to award funds to the alternative grantee; and

(iii) the written agreement does not exceed a term of 10 years.

(B) RENEWAL.—An agreement approved pursuant to subparagraph (A) may be renewed by the parties with the approval of the Secretary.

(C) DEFINITION.—In this paragraph, the term ‘alternative grantee’ means a public housing agency (as defined in section 3(b) of the United States Housing Act of 1937 (42 U.S.C. 1437a(b))), a unified funding agency (as defined in section 401 of the McKinney-Vento Homeless Assistance Act (42 U.S.C. 11360)), a State, a unit of general local government, or an instrumentality of State or local government.

(4) REALLOCATIONS.—If a State or metropolitan statistical area declines an allocation under paragraph (1)(A), or the Secretary determines, in accordance with criteria specified in regulation, that a State or metropolitan statistical area that is eligible for an allocation under paragraph (1)(A) is unable to properly administer such allocation, the Secretary shall reallocate any funds reserved for such State or metropolitan statistical area as follows:

(A) For funds reserved for a State—

“(I) [254] to eligible metropolitan statistical areas within the State on a pro rata basis; or

(ii) if there is no eligible metropolitan statistical areas[255] within a State, to metropolitan cities and urban counties within the State that are eligible for grant under section 106 of the Housing and Community Development Act of 1974 (42 U.S.C. 5306), on a pro rata basis.

(B) For funds reserved for a metropolitan statistical area, to the State in which the metropolitan statistical area is located.

(C) If the Secretary is unable to make a reallocation under subparagraph (A) or (B), the Secretary shall make such funds available on a pro rata basis under the formula in paragraph (1)(A).

(5) NONFORMULA ALLOCATION.—

(A) IN GENERAL.—The Secretary shall allocate 10 percent of the amounts appropriated under section 863 among—

(i) States and units of general local government that do not qualify for allocation of amounts under paragraph (1); and

[253] As it appears in the public law. Should be “(i)”.
[254] As it appears in the public law. Should be “(i)”.
[255] As it appears in the public law. It probably should be “area”.

(ii) States, units of general local government, and nonprofit organizations, to fund special projects of national significance.

(B) SELECTION.—In selecting projects under this paragraph, the Secretary shall consider (i) relative numbers of acquired immunodeficiency syndrome cases and per capita acquired immunodeficiency syndrome incidence; (ii) housing needs of eligible persons in the community; (iii) extent of local planning and coordination of housing programs for eligible persons; and (iv) the likelihood of the continuation of State and local efforts.

(C) NATIONAL SIGNIFICANCE PROJECTS.—For the purpose of subparagraph (A)(ii), in selecting projects of national significance the Secretary shall consider (i) the need to assess the effectiveness of a particular model for providing supportive housing for eligible persons; (ii) the innovative nature of the proposed activity; and (iii) the potential replicability of the proposed activity in other similar localities or nationally.

(d) APPLICATIONS.—Funds made available under this section shall be allocated among applications submitted by applicants and approved by the Secretary. Applications for assistance under this section shall be submitted by an applicant in such form and in accordance with such procedures as the Secretary shall establish. Such applications shall contain—

(1) a description of the proposed activities;

(2) a description of the size and characteristics of the population that would be served by the proposed activities;

(3) a description of the public and private resources that are expected to be made available in connection with the proposed activities;

(4) assurances satisfactory to the Secretary that any property purchased, leased, rehabilitated, renovated, or converted with assistance under this section shall be operated for not less than 10 years for the purpose specified in the application, except as otherwise specified in this subtitle;

(5) evidence in a form acceptable to the Secretary that the proposed activities will meet urgent needs that are not being met by available public and private sources; and

(6) such other information or certifications that the Secretary determines to be necessary to achieve the purposes of this section.

(e) ADDITIONAL REQUIREMENT FOR METROPOLITAN AREAS.—In addition to the other requirements of this section, to be eligible for a grant to a metropolitan area under this section, the major city, urban county, and any city with a population of 50,000 or more in that metropolitan area shall establish or designate a governmental agency or organization for receipt and use of amounts received from a grant under this section and shall submit to the Secretary, together with the application under subsection (d) a proposal for the operation of such agency or organization.

(f) ADDITIONAL REQUIREMENT FOR CITY FORMULA GRANTEES.—In addition to the other requirements of this section, to be eligible for a grant pursuant to subsection (c)(1), a city shall provide such assurances as the Secretary may require that any grant amounts received will be allocated among eligible activities in a manner that addresses the needs within the metropolitan statistical area in which the city is located, including areas not within the jurisdiction of the city. Any such city shall coordinate with other units of general local government located within the metropolitan statistical area to provide such assurances and comply with the assurances.

Sec. 855. [42 U.S.C. 12904]
ELIGIBLE ACTIVITIES.

Grants allocated under this subtitle shall be available only for approved activities to carry out strategies designed to prevent homelessness among eligible persons. Approved activities shall include activities that—

(1) enable public and nonprofit organizations or agencies to provide housing information to such persons and coordinate efforts to expand housing assistance resources for such persons under section 857;

(2) facilitate the development and operation of shelter and services for such persons under section 858;

(3) provide rental assistance to such persons under section 859;

(4) facilitate (through project-based rental assistance or other means) the moderate rehabilitation of single room occupancy dwellings (SROs) that would be made available only to such persons under section 860;

(5) facilitate the development of community residences for eligible persons under section 861;

(6) carry out other activities that the Secretary develops in cooperation with eligible States and localities, except that activities developed under this paragraph may be assisted only with amounts provided under section 854(c)(3).

The Secretary shall establish standards and guidelines for approved activities. The Secretary shall permit grantees to refine and adapt such standards and guidelines for individual projects, where such refinements and adaptations are made necessary by local circumstances.

Sec. 856. [42 U.S.C. 12905]
RESPONSIBILITIES OF GRANTEES.

(a) PROHIBITION OF SUBSTITUTION OF FUNDS.—Amounts received from grants under this subtitle may not be used to replace other amounts made available or designated by State or local governments for use for the purposes under this subtitle.

(b) CAPABILITY.—The recipient shall have, in the determination of the grantee or the Secretary, the capacity and capability to effectively administer a grant under this subtitle.

(c) COOPERATION.—The recipient shall agree to cooperate and coordinate in providing assistance under this subtitle with the agencies of the relevant State and local governments responsible for services in the area served by the applicant for eligible persons and other public and private organizations and agencies providing services for such eligible persons.

(d) PROHIBITION OF FEES.—The recipient shall agree that no fee will be charged to any eligible person for any housing or services provided with amounts from a grant under this subtitle.

(e) CONFIDENTIALITY.—The recipient shall agree to ensure the confidentiality of the name of any individual assisted with amounts from a grant under this subtitle and any other information regarding individuals receiving such assistance.

(f) FINANCIAL RECORDS.—The recipient shall agree to maintain and provide the grantee or the Secretary with financial records sufficient, in the determination of the Secretary, to ensure proper accounting and disbursing of amounts received from a grant under this subtitle.

(g) ADMINISTRATIVE EXPENSES.—

(1) GRANTEES.—Notwithstanding any other provision of this subtitle, each grantee may use not more than 3 percent of the grant amount for administrative costs relating to administering grant amounts and allocating such amounts to project sponsors.

(2) PROJECT SPONSORS.—Notwithstanding any other provision of this subtitle, each project sponsor receiving amounts from grants made under this title[256] may use not more than 7 percent of the amounts received for administrative costs relating to carrying out eligible activities under section 855, including the costs of staff necessary to carry out eligible activities.

(h) ENVIRONMENTAL REVIEW.—For purposes of environmental review, a grant under this subtitle shall be treated as assistance for a special project that is subject to section 305(c) of the Multifamily Housing Property Disposition Reform Act of 1994, and shall be subject to the regulations issued by the Secretary to implement such section.

Sec. 857. [42 U.S.C. 12906]
GRANTS FOR AIDS HOUSING INFORMATION AND COORDINATION SERVICES.

Grants under this section may only be used for the following activities:

(1) HOUSING INFORMATION SERVICES.—To provide (or contract to provide) counseling, information, and referral services to assist eligible persons to locate, acquire, finance, and maintain housing and meet their housing needs.

(2) RESOURCE IDENTIFICATION.—To identify, coordinate, and develop housing assistance resources (including conducting preliminary research and making expenditures necessary to determine the feasibility of specific housing-related initiatives) for eligible persons.

Sec. 858. [42 U.S.C. 12907]
AIDS SHORT-TERM SUPPORTED HOUSING AND SERVICES.

(a) USE OF GRANTS.—Any amounts received from grants under this section may only be used to carry out a program to provide (or contract to provide) assistance to eligible persons who are homeless or in need of housing assistance to prevent homelessness, which may include the following activities:

[256] So in law. Probably intended to refer to this subtitle.

(1) SHORT-TERM SUPPORTED HOUSING.—Purchasing, leasing, renovating, repairing, and converting facilities to provide short-term shelter and services.

(2) SHORT-TERM HOUSING PAYMENTS ASSISTANCE.—Providing rent assistance payments for short-term supported housing and rent, mortgage, and utilities payments to prevent homelessness of the tenant or mortgagor of a dwelling.

(3) SUPPORTIVE SERVICES.—Providing supportive services, to eligible persons assisted under paragraphs (1) and (2), including health, mental health, assessment, permanent housing placement, drug and alcohol abuse treatment and counseling, day care, and nutritional services (except that health services under this paragraph may only be provided to eligible persons with acquired immunodeficiency syndrome or related diseases), and providing technical assistance to eligible persons to provide assistance in gaining access to benefits and services for homeless individuals provided by the Federal Government and State and local governments.

(4) OPERATION.—Providing for the operation of short-term supported housing provided under this section, including the costs of security, operation insurance, utilities, furnishings, equipment, supplies, and other incidental costs.

(5) ADMINISTRATION.—Providing staff to carry out the program under this section (subject to the provisions of section 856(g)).

(b) PROGRAM REQUIREMENTS.—

(1) MINIMUM USE PERIOD FOR STRUCTURES.—

(A) IN GENERAL.—Any building or structure assisted with amounts from a grant under this section shall be maintained as a facility to provide short-term supported housing or assistance for eligible persons—

(i) in the case of assistance involving substantial rehabilitation or acquisition of the building, for a period of not less than 10 years; and

(ii) in the case of assistance under paragraph (1), (3), or (4) of subsection (a), for a period of not less than 3 years.

(B) WAIVER.—The Secretary may waive the requirement under subparagraph (A) with respect to any building or structure if the organization or agency that received the grant under which the building was assisted demonstrates, to the satisfaction of the Secretary, that—

(i) the structure is no longer needed to provide short-term supported housing or assistance or the continued operation of the structure for such purposes is no longer feasible; and

(ii) the structure will be used to benefit individuals or families whose incomes do not exceed 80 percent of the median income for the area, as determined by the Secretary, with adjustments for smaller and larger families, except that the Secretary may establish income ceilings higher or lower than 80 percent of the median income for the area if the Secretary finds that such variations are necessary because of prevailing levels of construction costs or unusually high or low family incomes.

(2) RESIDENCY AND LOCATION LIMITATIONS ON SHORT-TERM SUPPORTED HOUSING.—

(A) RESIDENCY.—A short-term supported housing facility assisted with amounts from a grant under this section may not provide shelter or housing at any single time for more than 50 families or individuals.

(B) WAIVER.—The Secretary may, as the Secretary determines appropriate, waive the limitation under subparagraph (A) for any program or short-term supported housing facility.

(3) TERM OF ASSISTANCE.—

(A) SUPPORTED HOUSING ASSISTANCE.—A program assisted under this section may not provide residence in a short-term housing facility assisted under this section to any individual for a sum of more than 60 days during any 6-month period.

(B) HOUSING PAYMENTS ASSISTANCE.—A program assisted under this section may not provide assistance for rent, mortgage, or utilities payments to any individual for rent, mortgage, or utilities costs accruing over a period of more than 21 weeks of any 52-week period.

(C) WAIVER.—Notwithstanding subparagraphs (A) and (B), the Secretary may waive the applicability of the requirements under such subparagraphs with respect to any individual for which the project sponsor has made a good faith effort to acquire permanent housing (in accordance with paragraph (4)) and has been unable to do so.

(4) PLACEMENT.—A program assisted under this section shall provide for any individual who has remained in short-term supported housing assisted under the demonstration program, to the maximum extent practicable, the opportunity for placement in permanent housing or an environment appropriate to the health and social needs of the individual.

(5) PRESUMPTION FOR INDEPENDENT LIVING.—In providing assistance under this section in any case in which the residence of an individual is appropriate to the needs of the individual, a program assisted under this section shall, when reasonable, provide for assistance in a manner appropriate to maintain the individual in such residence.

(6) CASE MANAGEMENT SERVICES.—A program assisted under this section shall provide each individual assisted under the program with an opportunity, if eligible, to receive case management services available from the appropriate social service agencies.

Sec. 859. [42 U.S.C. 12908]
RENTAL ASSISTANCE.

(a) USE OF FUNDS.—

(1) IN GENERAL.—Grants under this section may be used only for assistance to provide rental assistance for low-income eligible persons. Such assistance may be project based or tenant based and shall be provided to the extent practicable in the manner provided for under section 8 of the United States Housing Act of 1937. Grantees shall ensure that the housing provided is decent, safe, and sanitary.

(2) SHARED HOUSING ARRANGEMENTS.—Grants under this section may be used to assist individuals who elect to reside in shared housing arrangements in the manner provided under section 8(p) of the United States Housing Act of 1937 (42 U.S.C. 1437f(p)), except that, notwithstanding such section, assistance under this section may be made available to nonelderly individuals. The Secretary shall issue any standards for shared housing under this paragraph that vary from standards issued under section 8(p) of the United States Housing Act of 1937 only to the extent necessary to provide for circumstances of shared housing arrangements under this paragraph that differ from circumstances of shared housing arrangements for elderly families under section 8(p) of the United States Housing Act of 1937.

(b) LIMITATIONS.—A recipient under this section shall comply with the following requirements:

(1) SERVICES.—The recipient shall provide for qualified service providers in the area to provide appropriate services to the eligible persons assisted under this section.

(2) INTENSIVE ASSISTANCE.—For any individual with acquired immunodeficiency syndrome or related diseases who requires more care than can be provided in housing assisted under this section, the recipient shall provide for the locating of a care provider who can appropriately care for the individual and referral of the individual to the care provider.

(c) ADMINISTRATIVE COSTS.—A project sponsor providing rental assistance under this section may use amounts from any grant received under this section for administrative expenses involved in providing such assistance, subject to the provisions of 856(g)(2).[257]

Sec. 860. [42 U.S.C. 12909]
SINGLE ROOM OCCUPANCY DWELLINGS.

(a) USE OF GRANTS.—Grants under this section may be used to provide project-based rental assistance or grants to facilitate the development of single room occupancy dwellings. To the extent practicable, a program under this section shall be carried out in the manner provided for under section 8(n) of the United States Housing Act of 1937.

(b) LIMITATION.—Recipients under this section shall require the provision to individuals assisted under this section of the following assistance:

(1) SERVICES.—Appropriate services provided by qualified service providers in the area.

(2) INTENSIVE ASSISTANCE.—For any individual with acquired immunodeficiency syndrome or related diseases who requires more care than can be provided in housing assisted under this section, locating a care provider who can appropriately care for the individual and referral of the individual to the care provider.

[257] So in law. Probably intended to refer to section 856(g)(2).

Sec. 861. [42 U.S.C. 12910]
GRANTS FOR COMMUNITY RESIDENCES AND SERVICES.

(a) GRANT AUTHORITY.—The Secretary of Housing and Urban Development may make grants to States and metropolitan areas to develop and operate community residences and provide services for eligible persons.

(b) COMMUNITY RESIDENCES AND SERVICES.—

(1) COMMUNITY RESIDENCES.—

(A) IN GENERAL.—A community residence under this section shall be a multiunit residence designed for eligible persons for the following purposes:

(i) To provide a lower cost residential alternative to institutional care and to prevent or delay the need for institutional care.

(ii) To provide a permanent or transitional residential setting with appropriate services that enhances the quality of life for individuals who are unable to live independently.

(iii) To prevent homelessness among eligible persons by increasing available suitable housing resources.

(iv) To integrate eligible persons into local communities and provide services to maintain the abilities of such eligible persons to participate as fully as possible in community life.

(B) RENT.—Except to the extent that the costs of providing residence are reimbursed or provided by any other assistance from Federal or non-Federal public sources, each resident in a community residence shall pay as rent for a dwelling unit an amount equal to the following:

(i) For low-income individuals, the amount of rent paid under section 3(a) of the United States Housing Act of 1937 (42 U.S.C. 1437a(a)) by a low-income family (as the term is defined in section 3(b)(2) of such Act (42 U.S.C. 1437a(b)(2))) for a dwelling unit assisted under such Act.

(ii) For any resident that is not a low-income resident, an amount based on a formula, which shall be determined by the Secretary, under which rent is determined by the income and resources of the resident.

(C) FEES.—Fees may be charged for any services provided under subsection (c)(2) to residents of a community residence, except that any fees charged shall be based on the income and resources of the resident and the provision of services to any resident of a community residence may not be withheld because of an inability of the resident to pay such fee.

(D) SECTION 8 ASSISTANCE.—Assistance made available under section 8 of the United States Housing Act of 1937 (42 U.S.C. 1437f) may be used in conjunction with a community residence under this subsection for tenant-based assistance.

(2) SERVICES.—Services provided with a grant under this section shall consist of services appropriate in assisting individuals with acquired immunodeficiency syndrome and related diseases to enhance their quality of life, enable such individuals to more fully participate in community life, and delay or prevent the placement of such individuals in hospitals or other institutions.

(c) USE OF GRANTS.—Any amounts received from a grant under this section may be used only as follows:

(1) COMMUNITY RESIDENCES.—For providing assistance in connection with community residences under subsection (b)(1) for the following activities:

(A) PHYSICAL IMPROVEMENTS.—Construction, acquisition, rehabilitation, conversion, retrofitting, and other physical improvements necessary to make a structure suitable for use as a community residence.

(B) OPERATING COSTS.—Operating costs for a community residence.

(C) TECHNICAL ASSISTANCE.—Technical assistance in establishing and operating a community residence, which may include planning and other predevelopment or preconstruction expenses, and expenses relating to community outreach and educational activities regarding acquired immunodeficiency syndrome and related diseases provided for individuals residing in proximity of eligible persons assisted under this subtitle.

(D) IN-HOUSE SERVICES.—Services appropriate for individuals residing in a community residence, which may include staff training and recruitment.

(2) SERVICES.—For providing services under subsection (b)(2) to any individuals assisted under this subtitle.

(3) ADMINISTRATIVE EXPENSES.—For administrative expenses related to the planning and carrying out activities under this section (subject to the provisions of section 856(g)).

(d) LIMITATIONS ON USE OF GRANTS.—

(1) COMMUNITY RESIDENCES.—Any jurisdiction that receives a grant under this section may not use any amounts received under the grant for the purposes under subsection (c)(1), except for planning and other expenses preliminary to construction or other physical improvement under subsection (c)(1)(A), unless the jurisdiction certifies to the Secretary, as the Secretary shall require, the following:

(A) SERVICE AGREEMENT.—That the jurisdiction has entered into a written agreement with service providers qualified to deliver any services included in the proposal under subsection (c) to provide such services to eligible persons assisted by the community residence.

(B) FUNDING AND CAPABILITY.—That the jurisdiction will have sufficient funding for such services and the service providers are qualified to assist individuals with acquired immunodeficiency syndrome and related diseases[258].

(C) ZONING AND BUILDING CODES.—That any construction or physical improvements carried out with amounts received from the grant will comply with any applicable State and local housing codes and licensing requirements in the jurisdiction in which the building or structure is located.

(D) INTENSIVE ASSISTANCE.—That, for any individual with acquired immunodeficiency syndrome or related diseases who resides in a community residence assisted under the grant and who requires more intensive care than can be provided by the community residence, the jurisdiction will locate for and refer the individual to a service provider who can appropriately care for the individual.

(2) SERVICES.—Any jurisdiction that receives a grant under this section may use any amounts received under the grant for the purposes under subsection (c)(2) only for the provision of services by service providers qualified to provide such services to individuals with acquired immunodeficiency syndrome and related diseases[259].

Sec. 862. [42 U.S.C. 12911]
REPORT.

Any organization or agency that receives a grant under this subtitle shall submit to the Secretary, for any fiscal year in which the organization or agency receives a grant under this subtitle, a report describing the use of the amounts received, which shall include the number of individuals assisted, the types of assistance provided, and any other information that the Secretary determines to be appropriate.

Sec. 863. [42 U.S.C. 12912]
AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated to carry out this subtitle $150,000,000 for fiscal year 1993 and $156,300,000 for fiscal year 1994.

END OF STATUTE

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[258] Section 606(j)(11)(E)(ii) of the Housing and Community Development Act of 1992, Pub. L. 102-550, amended this subsection by striking "individuals with acquired immunodeficiency syndrome or related diseases" each place it appears and inserting "eligible persons". Because the matter to be struck does not appear in this subsection, the amendment could not be executed.

[259] Section 606(j)(11)(E)(ii) of the Housing and Community Development Act of 1992, Pub. L. 102-550, amended this subsection by striking "individuals with acquired immunodeficiency syndrome or related diseases" each place it appears and inserting "eligible persons". Because the matter to be struck does not appear in this subsection, the amendment could not be executed.

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PART IV—OTHER FEDERAL HOUSING ASSISTANCE

AFFORDABLE HOUSING STRATEGIES AND INVESTMENT

CRANSTON-GONZALEZ NATIONAL AFFORDABLE HOUSING ACT
[Public Law 101-625; 104 Stat. 4085; 42 U.S.C. 12704-12711]

TITLE I–GENERAL PROVISIONS AND POLICIES

* * * * * * *

Sec. 104. [42 U.S.C. 12704]
DEFINITIONS.

As used in this title and in title II:

(1) The term "unit of general local government" means a city, town, township, county, parish, village, or other general purpose political subdivision of a State; the Federated States of Micronesia and Palau, the Marshall Islands, or a general purpose political subdivision thereof; a consortium of such political subdivisions recognized by the Secretary in accordance with section 216(2) of this Act; and any agency or instrumentality thereof that is established pursuant to legislation and designated by the chief executive to act on behalf of the jurisdiction with regard to provisions of this Act.

(2) The term "State" means any State of the United States, the District of Columbia, the Commonwealth of Puerto Rico, or any agency or instrumentality thereof that is established pursuant to legislation and designated by the chief executive officer to act on behalf of the State with regard to the provisions of this Act.

(3) The term "jurisdiction" means a State or unit of general local government.

(4) The term "participating jurisdiction" means any State or unit of general local government that has been so designated in accordance with section 216 of this Act.

(5) The term "nonprofit organization" means any private, nonprofit organization (including a State or locally chartered, nonprofit organization) that—

(A) is organized under State or local laws,

(B) has no part of its net earnings inuring to the benefit of any member, founder, contributor, or individual,

(C) complies with standards of financial accountability acceptable to the Secretary, and

(D) has among its purposes significant activities related to the provision of decent housing that is affordable to low-income and moderate-income persons.

(6) The term "community housing development organization" means a nonprofit organization as defined in paragraph (5), that—

(A) has among its purposes the provision of decent housing that is affordable to low-income and moderate-income persons;

(B) maintains, through significant representation on the organization's governing board and otherwise, accountability to low-income community residents and, to the extent practicable, low-income beneficiaries with regard to decisions on the design, siting, development, and management of affordable housing;

(C) has a demonstrated capacity for carrying out activities assisted under this Act; and

(D) has a history of serving the local community or communities within which housing to be assisted under this Act is to be located.

In the case of an organization serving more than one county, the Secretary may not require that such organization, to be considered a community housing development organization for purposes of this Act, include as members on the organization's governing board low-income persons residing in each county served.

(7) The term "government-sponsored mortgage finance corporations" means the Federal National Mortgage Association, the Federal Home Loan Mortgage Corporation, and the Federal Agricultural Mortgage Corporation.

(8) The term "housing" includes manufactured housing and manufactured housing lots and elder cottage housing opportunity units that are small, free-standing, barrier-free, energy-efficient, removable, and designed to be installed adjacent to existing 1- to 4-family dwellings.

(9) The term "very low-income families" means low-income families whose incomes do not exceed 50 percent of the median family income for the area, as determined by the Secretary with adjustments for smaller and larger families, except that the Secretary may establish income ceilings higher or lower than 50 percent of the median for the area on the basis of the Secretary's findings that such variations are necessary because of prevailing levels of construction costs or fair market rents, or unusually high or low family incomes.

(10)[260] The term "low-income families" means families whose incomes do not exceed 80 percent of the median income for the area, as determined by the Secretary with adjustments for smaller and larger families, except that the Secretary may establish income ceilings higher or lower than 80 percent of the median for the area on the basis of the Secretary's findings that such variations are necessary because of prevailing levels of construction costs or fair market rents, or unusually high or low family incomes.

(11) The term "families" has the same meaning given that term by section 3 of the United States Housing Act of 1937.

(12) The term "security" has the same meaning as in section 2 of the Securities Act of 1933.

(13) The term "displaced homemaker" means an individual who—

(A) is an adult;

(B) has not worked full-time full-year in the labor force for a number of years but has, during such years, worked primarily without remuneration to care for the home and family; and

(C) is unemployed or underemployed and is experiencing difficulty in obtaining or upgrading employment.

(14) The term "first-time homebuyer" means an individual and his or her spouse who have not owned a home during the 3-year period prior to purchase of a home with assistance under title II, except that—

(A) any individual who is a displaced homemaker may not be excluded from consideration as a first-time homebuyer under this paragraph on the basis that the individual, while a homemaker, owned a home with his or her spouse or resided in a home owned by the spouse;

(B) any individual who is a single parent may not be excluded from consideration as a first-time homebuyer under this paragraph on the basis that the individual, while married, owned a home with his or her spouse or resided in a home owned by the spouse; and

(C) an individual shall not be excluded from consideration as a first-time homebuyer under this paragraph on the basis that the individual owns or owned, as a principal residence during such 3-year period, a dwelling unit whose structure is—

(i) not permanently affixed to a permanent foundation in accordance with local or other applicable regulations, or

(ii) not in compliance with State, local, or model building codes, or other applicable codes, and cannot be brought into compliance with such codes for less than the cost of constructing a permanent structure.

(15) The term "single parent" means an individual who—

(A) is unmarried or legally separated from a spouse; and

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[260] Section 590 of the Quality Housing and Work Responsibility Act of 1998, title V of Public Law 105-276, approved October 21, 1998, provides, in part, as follows:

"SEC. 590. [42 U.S.C. 5301 note] INCOME ELIGIBILITY FOR HOME AND CDBG PROGRAMS.

"(a) IN GENERAL.—The Secretary of Housing and Urban Development shall, for not less than 10 jurisdictions that are metropolitan cities or urban counties for purposes of title I of the Housing and Community Development Act of 1974, grant exceptions not later than 90 days after the date of the enactment of this Act for such jurisdictions that provide that—

"(1) for purposes of the HOME investment partnerships program under title II of the Cranston-Gonzalez National Affordable Housing Act, the limitation based on percentage of median income that is applicable under section 104(10), 214(1)(A), or 215(a)(1)(A) for any area of the jurisdiction shall be the numerical percentage that is specified in such section; and

"(2) * * *

"(b) Effective Date.—This section shall take effect on the date of the enactment of this Act.".

(B)(i) has 1 or more minor children for whom the individual has custody or joint custody; or

(ii) is pregnant.

(16) The term "Secretary" means the Secretary of Housing and Urban Development, unless otherwise specified in this Act.

(17) The term "substantial rehabilitation" means the rehabilitation of residential property at an average cost in excess of $25,000 per dwelling unit.

(18) The term "public housing agency" has the meaning given the term in section 3(b) of the United States Housing Act of 1937 (42 U.S.C. 1437a(b)).

(19) The term "metropolitan city" has the meaning given the term in section 102(a)(4) of the Housing and Community Development Act of 1974 (42 U.S.C. 5302(a)(4)).

(20) The term "urban county" has the meaning given the term in section 102(a)(6) of the Housing and Community Development Act of 1974 (42 U.S.C. 5302(a)(6)).

(21) The term "certification" means a written assertion, based on supporting evidence, which shall be kept available for inspection by the Secretary, the Inspector General and the public, which assertion shall be deemed to be accurate for purposes of this Act, unless the Secretary determines otherwise after inspecting the evidence and providing due notice and opportunity for comment.

(23)[261] The term "to demonstrate to the Secretary" means to submit to the Secretary a written assertion together with supporting evidence that, in the determination of the Secretary, supports the accuracy of the assertion.

(24)[262] The term "insular area" means any of the following: Guam, the Northern Mariana Islands, the Virgin Islands, and American Samoa.

(24) The term "energy efficient mortgage" means a mortgage that provides financing incentives for the purchase of energy efficient homes, or that provides financing incentives to make energy efficiency improvements in existing homes by incorporating the cost of such improvements in the mortgage.

(25) The term "energy efficient mortgage" means a mortgage that provides financing incentives for the purchase of energy efficient homes, or that provides financing incentives to make energy efficiency improvements in existing homes by incorporating the cost of such improvements in the mortgage.

Sec. 105. [42 U.S.C. 12705]
STATE AND LOCAL HOUSING STRATEGIES.

(a) IN GENERAL.—The Secretary shall provide assistance directly to a jurisdiction only if—

(1) the jurisdiction submits to the Secretary a comprehensive housing affordability strategy (hereafter in this section referred to as the "housing strategy");

(2) the jurisdiction submits annual updates of the housing strategy; and

(3) the housing strategy, and any annual update of such strategy, is approved by the Secretary.

The Secretary shall establish such dates and manner for the submission and approval of housing strategies under this section that the Secretary determines will facilitate orderly program management by jurisdictions and provide for timely investment or other use of funds made available under title II of this Act and other programs requiring submission of a housing strategy. If the Secretary finds there is good cause, the Secretary may provide reasonable extensions of any deadlines for submission of a jurisdiction's housing strategy.

(b) CONTENTS.—A housing strategy submitted under this section shall be in a form that the Secretary determines to be appropriate for the assistance the jurisdiction may be provided and shall—

(1) describe the jurisdiction's estimated housing needs projected for the ensuing 5-year period, and the jurisdiction's need for assistance for very low-income, low-income, and moderate-income families, specifying such needs for different types of tenure and for different categories of residents, such as very low-income, low-income, and moderate-income families, the elderly, persons with disabilities, single persons, large families, residents of nonmetropolitan areas, families who are participating in an organized program to achieve economic independence and self-sufficiency, persons with acquired immunodeficiency syndrome, victims of domestic violence, dating violence, sexual assault, and stalking and other categories of persons residing in or expected to reside in the jurisdiction that the Secretary determines to be appropriate;

[261] So in law.
[262] So in law.

(2) describe the nature and extent of homelessness, including rural homelessness, within the jurisdiction, providing an estimate of the special needs of various categories of persons who are homeless or threatened with homelessness, including tabular representation of such information, and a description of the jurisdiction's strategy for (A) helping low-income families avoid becoming homeless; (B) addressing the emergency shelter and transitional housing needs of homeless persons (including a brief inventory of facilities and services that meet such needs within that jurisdiction); and (C) helping homeless persons make the transition to permanent housing and independent living;

(3) describe the significant characteristics of the jurisdiction's housing market, indicating how those characteristics will influence the use of funds made available for rental assistance, production of new units, rehabilitation of old units, or acquisition of existing units;

(4) explain whether the cost of housing or the incentives to develop, maintain, or improve affordable housing in the jurisdiction are affected by public policies, particularly by policies of the jurisdiction, including tax policies affecting land and other property, land use controls, zoning ordinances, building codes, fees and charges, growth limits, and policies that affect the return on residential investment, and describe the jurisdiction's strategy to remove or ameliorate negative effects, if any, of such policies, except that, if a State requires a unit of general local government to submit a regulatory barrier assessment that is substantially equivalent to the information required under this paragraph, as determined by the Secretary, the unit of general local government may submit its assessment submitted to the State to the Secretary and shall be considered to have complied with this paragraph;

(5) explain the institutional structure, including private industry, nonprofit organizations, and public institutions, through which the jurisdiction will carry out its housing strategy, assessing the strengths and gaps in that delivery system and describing what the jurisdiction will do to overcome those gaps;

(6) indicate resources from private and non-Federal public sources that are reasonably expected to be made available to carry out the purposes of this Act, explaining how funds made available will leverage those additional resources and identifying, where the jurisdiction deems it appropriate, publicly owned land or property located within the jurisdiction that may be utilized to carry out the purposes of this Act;

(7) set forth the jurisdiction's plan for investment or other use of housing funds made available under title II of this Act, the United States Housing Act of 1937, the Housing and Community Development Act of 1974, and the Stewart B. McKinney Homeless Assistance Act[263], during the ensuing year or such longer period as the Secretary determines to be appropriate, indicating the general priorities for allocating investment geographically within the jurisdiction and among different activities and housing needs;

(8) describe how the jurisdiction's plan will address the housing needs identified pursuant to subparagraphs (1) and (2),[264] describe the reasons for allocation priorities, and identify any obstacles to addressing underserved needs;

(9) describe the means of cooperation and coordination among the State and any units of general local government in the development, submission, and implementation of their housing strategies;

(10) in the case of a unit of local government, describe the number of public housing units in the jurisdiction, the physical condition of such units, the restoration and revitalization needs of public housing projects within the jurisdiction, the public housing agency's strategy for improving the management and operation of such public housing, and the public housing agency's strategy for improving the living environment of low- and very-low-income families residing in public housing;

(11) describe the manner in which the plan of the jurisdiction will help address the needs of public housing;

(12) in the case of a State, describe the strategy to coordinate the Low-Income Tax Credit with development of housing, including public housing, that is affordable to very low-income and low-income families;

(13) describe the jurisdiction's activities to encourage public housing residents to become more involved in management and participate in homeownership;

(14) describe the standards and procedures according to which the jurisdiction will monitor activities authorized under this Act and ensure long-term compliance with the provisions of this Act;

(15) include a certification that the jurisdiction will affirmatively further fair housing;

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[263] Public Law 106-400, enacted on October 30, 2000, renamed the Stewart B. McKinney Homeless Assistance Act as the McKinney-Vento Homeless Assistance Act. Section 2 of such Act (42 U.S.C. 11301 note) provides that "[a]ny reference in any law, regulation, document, paper, or other record of the United States to the Stewart B. McKinney Homeless Assistance Act shall be deemed to be a reference to the 'McKinney-Vento Homeless Assistance Act'".

[264] So in law. Probably intended to refer to paragraphs (1) and (2).

(16) include a certification that the jurisdiction has in effect and is following a residential antidisplacement and relocation assistance plan that, in any case of any such displacement in connection with any activity assisted with amounts provided under title II, requires the same actions and provides the same rights as required and provided under a residential antidisplacement and relocation assistance plan under section 104(d) of the Housing and Community Development Act of 1974 in the event of displacement in connection with a development project assisted under section 106 or 119 of such Act;

(17) estimate the number of housing units within the jurisdiction that are occupied by low-income families or very low-income families and that contain lead-based paint hazards, as defined in section 1004 of the Residential Lead-Based Paint Hazard Reduction Act of 1992, outline the actions proposed or being taken to evaluate and reduce lead-based paint hazards, and describe how lead-based paint hazard reduction will be integrated into housing policies and programs;

(18) include the number of families to whom the jurisdiction will provide affordable housing as defined in section 215 using funds made available;

(19) for any housing strategy submitted for fiscal year 1994 or any fiscal year thereafter and taking into consideration factors over which the jurisdiction has control, describe the jurisdiction's goals, programs, and policies for reducing the number of households with incomes below the poverty line (as defined by the Office of Management and Budget and revised annually), and, in consultation with other appropriate public and private agencies, state how the jurisdiction's goals, programs, and policies for producing and preserving affordable housing set forth in the housing strategy will be coordinated with other programs and services for which the jurisdiction is responsible and the extent to which they will reduce (or assist in reducing) the number of households with incomes below the poverty line; and

(20) describe the jurisdictions activities to enhance coordination between public and assisted housing providers and private and governmental health, mental health, and service agencies.

The Secretary may provide for the submission of abbreviated housing strategies by jurisdictions that are not otherwise expected to be participating jurisdictions under title II of this Act. Such an abbreviated housing strategy shall be appropriate to the types and amounts of assistance the jurisdiction is to receive as determined by the Secretary.

(c) APPROVAL.—

(1) IN GENERAL.—The Secretary shall review the housing strategy upon receipt. Not later than 60 days after receipt by the Secretary, the housing strategy shall be approved unless the Secretary determines before that date that (A) the housing strategy is inconsistent with the purposes of this Act, or (B) the information described in subsection (b) has not been provided in a substantially complete manner. For the purpose of the preceding sentence, the adoption or continuation of a public policy identified pursuant to subsection (b)(4) shall not be a basis for the Secretary's disapproval of a housing strategy. During the 18-month period following enactment of this Act, the Secretary may extend the review period to not longer than 90 days.

(2) ACTIONS IN CASE OF DISAPPROVAL.—If the Secretary disapproves the housing strategy, the Secretary shall immediately notify the jurisdiction of such disapproval. Not later than 15 days after the Secretary's disapproval, the Secretary shall inform the jurisdiction in writing of (A) the reasons for disapproval, and (B) actions that the jurisdiction could take to meet the criteria for approval. If the Secretary fails to inform the jurisdiction of the reasons for disapproval within such 15-day period, the housing strategy shall be deemed to have been approved.

(3) AMENDMENTS AND RESUBMISSION.—The Secretary shall, for a period of not less than 45 days following the date of first disapproval, permit amendments to, or the resubmission of, any housing strategy that is disapproved. The Secretary shall approve or disapprove a housing strategy not less than 30 days after receipt of such amendments or resubmission.

(d) COORDINATION OF STATE AND LOCAL HOUSING STRATEGIES.—The Secretary may establish such requirements as the Secretary deems appropriate to encourage coordination between and among the housing strategies of a State and any participating jurisdictions within the State, except that a unit of general local government shall not be required to have elements of its housing strategy approved by the State.

(e) CONSULTATION WITH SOCIAL SERVICE AGENCIES.—

(1) IN GENERAL.—When preparing a housing strategy for submission under this section, a jurisdiction shall make reasonable efforts to confer with appropriate social service agencies regarding the housing needs of children, elderly persons, persons with disabilities, homeless persons, and other persons served by such agencies.

(2) LEAD-BASED PAINT HAZARDS.—When preparing that portion of a housing strategy required by subsection (b)(16), a jurisdiction shall consult with State or local health and child welfare agencies and examine existing data related to lead-based paint hazards and poisonings, including health department data on the addresses of housing units in which children have been identified as lead poisoned.

(f) BARRIER REMOVAL.—Not later than 4 months after completion of the final report of the Secretary's Advisory Commission on Regulatory Barriers to Affordable Housing, the Secretary shall submit to the Congress a written report outlining the Secretary's recommendations for legislative and administrative actions to facilitate the removal or modification of excessive, duplicative, or unnecessary regulations or other requirements of Federal, State, or local governments that (1) inflate the costs of or otherwise inhibit the construction, rehabilitation, or management of housing, particularly housing that otherwise could be affordable to low-income and moderate-income families, or (2) contribute to economic or racial discrimination.

(g) TREATMENT OF TROUBLED PUBLIC HOUSING AGENCIES.—

(1) EFFECT OF TROUBLED STATUS ON CHAS.—The comprehensive housing affordability strategy (or any consolidated plan incorporating such strategy) for the State or unit of general local government in which any troubled public housing agency is located shall not be considered to comply with the requirements under this section unless such plan includes a description of the manner in which the State or unit will provide financial or other assistance to such troubled agency in improving its operations to remove such designation.

(2) DEFINITION.—For purposes of this subsection, the term "troubled public housing agency" means a public housing agency that, upon the effective date of the Quality Housing and Work Responsibility Act of 1998, is designated under section 6(j)(2) of the United States Housing Act of 1937 as a troubled public housing agency.

Sec. 106. [42 U.S.C. 12706]
CERTIFICATION.

The Secretary shall, by regulation or otherwise, as deemed by the Secretary to be appropriate, require any application for housing assistance under title II of this Act, assistance under the Housing and Community Development Act of 1974, or assistance under the Stewart B. McKinney Homeless Assistance Act[265], to contain or be accompanied by a certification by an appropriate State or local public official that the proposed housing activities are consistent with the housing strategy of the jurisdiction to be served.

Sec. 107. [42 U.S.C. 12707]
CITIZEN PARTICIPATION.

(a) IN GENERAL.—Before submitting a housing strategy under this section, a jurisdiction shall—

(1) make available to its citizens, public agencies, and other interested parties information concerning the amount of assistance the jurisdiction expects to receive and the range of investment or other uses of such assistance that the jurisdiction may undertake;

(2) publish a proposed housing strategy in a manner that, in the determination of the Secretary, affords affected citizens, public agencies, and other interested parties a reasonable opportunity to examine its content and to submit comments on the proposed housing strategy;

(3) hold one or more public hearings to obtain the views of citizens, public agencies, and other interested parties on the housing needs of the jurisdiction; and

(4) provide citizens, public agencies, and other interested parties with reasonable access to records regarding any uses of any assistance the jurisdiction may have received during the preceding 5 years.

(b) NOTICE AND COMMENT.—Before submitting any performance report or substantial amendment to a housing strategy under this section, a participating jurisdiction shall provide citizens with reasonable notice of, and opportunity to comment on, such performance report or substantial amendment prior to its submission.

(c) CONSIDERATION OF COMMENTS.—A participating jurisdiction shall consider any comments or views of citizens in preparing a final housing strategy, amendment to a housing strategy or performance report for submission. A summary of such comments or views shall be attached when a housing strategy, amendment to a housing strategy or performance report is submitted. The submitted housing strategy, amendment, or report shall be made available to the public.

[265] Public Law 106-400, enacted on October 30, 2000, renamed the Stewart B. McKinney Homeless Assistance Act as the McKinney-Vento Homeless Assistance Act. Section 2 of such Act (42 U.S.C. 11301 note) provides that "[a]ny reference in any law, regulation, document, paper, or other record of the United States to the Stewart B. McKinney Homeless Assistance Act shall be deemed to be a reference to the 'McKinney-Vento Homeless Assistance Act'".

(d) REGULATIONS.—The Secretary shall by regulation establish procedures appropriate and practicable for providing a fair hearing and timely resolution of citizen complaints related to housing strategies or performance reports.

Sec. 108. [42 U.S.C. 12708]
COMPLIANCE.

(a) PERFORMANCE REPORTS.—

(1) IN GENERAL.—Each participating jurisdiction shall annually review and report, in a form acceptable to the Secretary, on the progress it has made in carrying out its housing strategy, which report shall include an evaluation of the jurisdiction's progress in meeting its goal established in section 105(b)(15) of this Act,[266] and information on the number and types of households served, including the number of very low-income, low-income, and moderate-income persons served and the racial and ethnic status of persons served that will be assisted with funds made available.

(2) SUBMISSION.—The Secretary shall (A) establish dates for submission of reports under this subsection, and (B) review such reports and make such recommendations as the Secretary deems appropriate to carry out the purposes of this Act.

(3) FAILURE TO REPORT.—If a jurisdiction fails to submit a report satisfactory to the Secretary in a timely manner, assistance to the jurisdiction under title II of this Act or the other programs referred to in section 106 may be—

(A) suspended until a report satisfactory to the Secretary is submitted; or

(B) withdrawn and reallocated if the Secretary finds, after notice and opportunity for a hearing, that the jurisdiction will not submit a satisfactory report.

(b) PERFORMANCE REVIEW BY SECRETARY.—

(1) IN GENERAL.—The Secretary shall ensure that activities of each jurisdiction required to submit a housing strategy under section 105 are reviewed not less frequently than annually. Such review shall include, insofar as practicable, on-site visits by employees of the Department of Housing and Urban Development and shall include an assessment of the jurisdiction's—

(A) management of funds made available under programs administered by the Secretary;

(B) compliance with its housing strategy;

(C) accuracy in the preparation of performance reports under subsection (a); and

(D) efforts to ensure that housing assisted under programs administered by the Secretary are in compliance with contractual agreements and the requirements of law.

(2) REPORT BY THE SECRETARY.—The Secretary shall report on the performance review in writing. The Secretary shall give the jurisdiction not less than 30 days to review and comment on the report. After taking into consideration the comments of the jurisdiction, the Secretary may revise the report and shall make the jurisdiction's comments and the report, with any revisions, readily available to the public within 30 days after receipt of the jurisdiction's comments.

(c) REVIEW BY COURTS.—The adequacy of information submitted under section 105(b)(4) shall not be reviewable by any Federal, State, or other court. Review of a housing strategy by any Federal, State, or other court shall be limited to determining whether the process of development and the content of the strategy are in substantial compliance with the requirements of this Act. During the pendency of any action challenging the adequacy of a housing strategy or the action of the Secretary in approving a strategy, the court shall not have the authority to enjoin activities taken by the jurisdiction to implement an approved housing strategy. Any housing assisted during the pendency of such action shall not be subject to any order of the court resulting from such action.

Sec. 109. [42 U.S.C. 12709]
ENERGY EFFICIENCY STANDARDS.

(a) Establishment.—

(1) IN GENERAL.—The Secretary of Housing and Urban Development and the Secretary of Agriculture shall, not later than September 30, 2006, jointly establish, by rule, energy efficiency standards for—

(A) new construction of public and assisted housing and single family and multifamily residential housing (other than manufactured homes) subject to mortgages insured under the National Housing Act;

[266] Probably should refer to paragraph (18) of section 105(b) (relating to the number of families who are provided affordable housing).

(B) new construction of single family housing (other than manufactured homes) subject to mortgages insured, guaranteed, or made by the Secretary of Agriculture under title V of the Housing Act of 1949; and

(C) rehabilitation and new construction of public and assisted housing funded by HOPE VI revitalization grants under section 24 of the United States Housing Act of 1937 (42 U.S.C. 1437v).

(2) CONTENTS.—Such standards shall meet or exceed the requirements of the 2006 International Energy Conservation Code (hereafter in this section referred to as "the 2006 IECC"), or, in the case of multifamily high rises, the requirements of the American Society of Heating, Refrigerating, and Air-Conditioning Engineers Standard 90.1-2004 (hereafter in this section referred to as "ASHRAE Standard 90.1-2004"), and shall be cost-effective with respect to construction and operating costs on a life-cycle cost basis. In developing such standards, the Secretaries shall consult with an advisory task force composed of homebuilders, national, State, and local housing agencies (including public housing agencies), energy agencies, building code organizations and agencies, energy efficiency organizations, utility organizations, low-income housing organizations, and other parties designated by the Secretaries.

(b) INTERNATIONAL ENERGY CONSERVATION CODE.—If the Secretaries have not, by September 30, 2006, established energy efficiency standards under subsection (a), all new construction and rehabilitation of housing specified in such subsection shall meet the requirements of the 2006 IECC, or, in the case of multifamily high rises, the requirements of ASHRAE Standard 90.1-2004.

(c) REVISIONS OF THE INTERNATIONAL ENERGY CONSERVATION CODE.—If the requirements of the 2006 IECC, or, in the case of multifamily high rises, ASHRAE Standard 90.1-2004, are revised at any time, the Secretaries shall, not later than 1 year after such revision, amend the standards established under subsection (a) to meet or exceed the requirements of such revised code or standard unless the Secretaries determine that compliance with such revised code or standard would not result in a significant increase in energy efficiency or would not be technologically feasible or economically justified.

(d) FAILURE TO AMEND THE STANDARDS.—If the Secretary of Housing and Urban Development and the Secretary of Agriculture have not, within 1 year after the requirements of the 2006 IECC or the ASHRAE Standard 90.1-2004 are revised, amended the standards or made a determination under subsection (c), all new construction and rehabilitation of housing specified in subsection (a) shall meet the requirements of the revised code or standard if—

(1) the Secretary of Housing and Urban Development or the Secretary of Agriculture make a determination that the revised codes do not negatively affect the availability or affordability of new construction of assisted housing and single family and multifamily residential housing (other than manufactured homes) subject to mortgages insured under the National Housing Act (12 U.S.C. 1701 et seq.) or insured, guaranteed, or made by the Secretary of Agriculture under title V of the Housing Act of 1949 (42 U.S.C. 1471 et seq.), respectively; and

(2) the Secretary of Energy has made a determination under section 304 of the Energy Conservation and Production Act (42 U.S.C. 6833) that the revised code or standard would improve energy efficiency.

Sec. 110. [42 U.S.C. 12710]
CAPACITY STUDY.

(a) IN GENERAL.—The Secretary shall ensure that the Department of Housing and Urban Development has adequate capacity and resources, including staff and training programs, to carry out its mission and responsibilities to implement the provisions of this Act, including the ability of the Department to carry out the multifamily mortgage insurance program, and the ability to respond to areas identified as "material weaknesses" by the Office of the Inspector General in financial audits or other reports.

(b) REPORT.—Not later than 60 days after the date of enactment of this Act,[267] and annually thereafter, the Secretary shall prepare and submit to the Committee on Banking, Housing, and Urban Affairs of the Senate and the Committee on Banking, Finance and Urban Affairs of the House of Representatives a study detailing the Department's plan to maintain such capacity, together with any recommendations for legislative and administrative action as the Secretary determines to be appropriate.

[267] The date of enactment was November 28, 1990.

Sec. 111. [42 U.S.C. 12711]
PROTECTION OF STATE AND LOCAL AUTHORITY.

Notwithstanding any other provision of this title or title II, the Secretary shall not establish any criteria for allocating or denying funds made available under programs administered by the Secretary based on the adoption, continuation, or discontinuation by a jurisdiction of any public policy, regulation, or law that is (1) adopted, continued, or discontinued in accordance with the jurisdiction's duly established authority, and (2) not in violation of any Federal law.

HOME INVESTMENT PARTNERSHIPS ACT[268]
[Public Law 101-625; 104 Stat. 4085; 42 U.S.C. 12721-12756]

Sec. 201. [42 U.S.C. 12701 note]
SHORT TITLE.

This title may be cited as the "HOME Investment Partnerships Act".

Sec. 202. [42 U.S.C. 12721]
FINDINGS.

The Congress finds that—

(1) the Nation has not made adequate progress toward the goal of national housing policy, as set out in the Housing Act of 1949 and reaffirmed in the Housing and Urban Development Act of 1968, which would provide decent, safe, sanitary, and affordable living environments for all Americans;

(2) the supply of affordable rental housing is diminishing;

(3) the Tax Reform Act of 1986 removed major tax incentives for the production of affordable rental housing;

(4) the living environments of an increasing number of Americans have deteriorated over the past several years as a result of reductions in Federal assistance to low-income and moderate-income families;

(5) many Americans face the possibility of homelessness unless Federal, State, and local governments work together with the private sector to develop and rehabilitate the housing stock of the Nation to provide decent, safe, sanitary, and affordable housing for very low-income and low-income families;

(6) reliable Federal leadership is needed to achieve an adequate supply of affordable housing for all Americans;

(7) to achieve the goal of national housing policy, there is a need to strengthen nationwide a cost-effective community-based housing partnership designed to—

(A) expand the supply of rental housing that is affordable to very low-income and low-income families,

(B) improve homeownership opportunities for low-income families,

(C) carry out comprehensive housing strategies tailored to local housing market conditions, and

(D) protect the Federal, State, and local investment in low-income housing to ensure affordability of the housing for the remaining useful life of the property;

(8) direct assistance to expand the supply of affordable rental housing should be provided in a way that is more cost-effective and targeted than tax incentives;

(9) much of the Nation's housing system works very well and provides a strong base on which national housing policy should build;

(10) an increasing number of States and local governments have been successful in producing cost-effective low-income and moderate-income housing by working in partnership with the private sector, including nonprofit community development corporations, community action agencies, neighborhood housing services corporations, trade unions, groups sponsored by religious organizations, limited equity cooperatives, and other tenant organizations;

(11) during the 1980's, nonprofit community housing development organizations, despite severe obstacles caused by inadequate funding, have played an increasingly important role in the production and rehabilitation of affordable housing in communities across the Nation;

[268] Enacted as Title II of the Cranston-Gonzalez National Affordable Housing Act

(12) additional financial resources and technical skills must be made available in local communities if the Nation is to mobilize the capacity of the private sector, including nonprofit community housing development organizations, to provide a more adequate supply of decent, safe, and sanitary housing that is affordable to very low-income, low-income, and moderate-income families and meets the need for large family units and other additional units that are available to very low-income families receiving rental assistance payments from Federal, State, and local governments; and

(13) the long-term success of efforts to provide more affordable housing depends upon tenants and homeowners being fiscally responsible and able managers.

Sec. 203. [42 U.S.C. 12722]
PURPOSES.

The purposes of this title are—

(1) to expand the supply of decent, safe, sanitary, and affordable housing, with primary attention to rental housing, for very low-income and low-income Americans;

(2) to mobilize and strengthen the abilities of States and units of general local government throughout the United States to design and implement strategies for achieving an adequate supply of decent, safe, sanitary, and affordable housing;

(3) to provide participating jurisdictions, on a coordinated basis, with the various forms of Federal housing assistance, including capital investment, mortgage insurance, rental assistance, and other Federal assistance, needed—

(A) to expand the supply of decent, safe, sanitary, and affordable housing;

(B) to make new construction, rehabilitation, substantial rehabilitation, and acquisition of such housing feasible; and

(C) to promote the development of partnerships among the Federal Government, States and units of general local government, private industry, and nonprofit organizations able to utilize effectively all available resources to provide more of such housing;

(4) to make housing more affordable for very low-income and low-income families through the use of tenant-based rental assistance;

(5) to develop and refine, on an ongoing basis, a selection of model programs incorporating the most effective methods for providing decent, safe, sanitary, and affordable housing, and accelerate the application of such methods where appropriate throughout the United States to achieve the prudent and efficient use of funds made available under this title;

(6) to expand the capacity of nonprofit community housing development organizations to develop and manage decent, safe, sanitary, and affordable housing;

(7) to ensure that Federal investment produces housing stock that is available and affordable to low-income families for the property's remaining useful life, is appropriate to the neighborhood surroundings, and, wherever appropriate, is mixed income housing;

(8) to increase the investment of private capital and the use of private sector resources in the provision of decent, safe, sanitary, and affordable housing;

(9) to allocate Federal funds for investment in affordable housing among participating jurisdictions by formula allocation;

(10) to leverage those funds insofar as practicable with State and local matching contributions and private investment;

(11) to establish for each participating jurisdiction a HOME Investment Trust Fund with a line of credit for investment in affordable housing, with repayments back to its HOME Investment Trust Fund being made available for reinvestment by the jurisdiction;

(12) to provide credit enhancement for affordable housing by utilizing the capacities of existing agencies and mortgage finance institutions when most efficient and supplementing their activities when appropriate; and

(13) to assist very low-income and low-income families to obtain the skills and knowledge necessary to become responsible homeowners and tenants.

Sec. 204. [42 U.S.C. 12723]
COORDINATED FEDERAL SUPPORT FOR HOUSING STRATEGIES.

The Secretary shall make assistance under this title available to participating jurisdictions, through the Office of the Assistant Secretary for Housing-FHA Commissioner of the Department of Housing and Urban

Development, to the maximum extent practicable, in coordination with mortgage insurance, rental assistance, and other housing assistance appropriate to the efficient and timely completion of activities under this title.

Sec. 205. [42 U.S.C. 12724]
AUTHORIZATION.

There are authorized to be appropriated to carry out this title $2,086,000,000 for fiscal year 1993, and $2,173,612,000 for fiscal year 1994, of which—

(1) not more than $14,000,000 for fiscal year 1993, and $25,000,000 for fiscal year 1994, shall be for community housing partnership activities authorized under section 233; and

(2) not more than $11,000,000 for fiscal year 1993, and $22,000,000 for fiscal year 1994, shall be for activities in support of State and local housing strategies authorized under subtitle C.

Sec. 206. [42 U.S.C. 12725]
NOTICE.

The Secretary shall issue regulations to implement the provisions of this title after notice and an opportunity for comment pursuant to section 553 of title 5, United States Code. Such regulations shall become effective not later than 180 days after the date of enactment of this Act.[269]

Subtitle A—HOME Investment Partnerships

Sec. 211. [42 U.S.C. 12741]
AUTHORITY.

The Secretary is authorized to make funds available to participating jurisdictions for investment to increase the number of families served with decent, safe, sanitary, and affordable housing and expand the long-term supply of affordable housing in accordance with provisions of this subtitle.

Sec. 212. [42 U.S.C. 12742]
ELIGIBLE USES OF INVESTMENT.

(a) HOUSING USES.—

(1) IN GENERAL.—Funds made available under this subtitle may be used by participating jurisdictions to provide incentives to develop and support affordable rental housing and homeownership affordability through the acquisition, new construction, reconstruction, or moderate or substantial rehabilitation of affordable housing, including real property acquisition, site improvement, conversion, demolition, and other expenses, including financing costs, relocation expenses of any displaced persons, families, businesses, or organizations, to provide for the payment of reasonable administrative and planning costs, to provide for the payment of operating expenses of community housing development organizations, and to provide tenant-based rental assistance. For the purpose of this subtitle, the term "affordable housing" includes permanent housing for disabled homeless persons, transitional housing, and single room occupancy housing.

(2) PREFERENCE TO REHABILITATION.—A participating jurisdiction shall give preference to rehabilitation of substandard housing unless the jurisdiction determines that—

(A) such rehabilitation is not the most cost effective way to meet the jurisdiction's need to expand the supply of affordable housing; and

(B) the jurisdiction's housing needs cannot be met through rehabilitation of the available stock.

The Secretary shall not restrict a participating jurisdiction's choice of rehabilitation, substantial rehabilitation, new construction, reconstruction, acquisition, or other eligible housing use unless such restriction is explicitly authorized under section 223(2).

(3) TENANT-BASED RENTAL ASSISTANCE.—

(A) IN GENERAL.—A participating jurisdiction may use funds provided under this subtitle for tenant-based rental assistance only if—

(i) the jurisdiction certifies that the use of funds under this subtitle for tenant-based rental assistance is an essential element of the jurisdiction's annual housing strategy for expanding the supply, affordability, and availability of decent, safe, sanitary,

[269] The date of enactment was November 28, 1990.

and affordable housing, and specifies the local market conditions that lead to the choice of this option; and

(ii) the tenant-based rental assistance is provided in accordance with written tenant selection policies and criteria that are consistent with the purposes of providing housing to very low- and low-income families and are reasonably related to preference rules established under section 6(c)(4)(A) of the Housing Act of 1937.[270]

(B) FAIR SHARE NOT AFFECTED.—A jurisdiction's section 8 fair share allocation shall be unaffected by the use of assistance under this title.

(C) 24-MONTH CONTRACTS.—Rental assistance contracts made available with assistance under this title shall be for not more than 24 months, except that assistance to a family may be renewed.

(D) USE OF SECTION 8 ASSISTANCE.—In any case where assistance under section 8 of the United States Housing Act of 1937 becomes available to a participating jurisdiction, recipients of rental assistance under this title shall qualify for tenant selection preferences to the same extent as when they received the rental assistance under this title. A rental assistance program under this title shall meet minimum criteria prescribed by the Secretary, such as housing quality standards and standards regarding the reasonableness of the rent.

(E) SECURITY DEPOSIT ASSISTANCE.—A jurisdiction using funds provided under this subtitle for tenant-based rental assistance may use such funds to provide loans or grants to very low- and low-income families for security deposits for rental of dwelling units. Assistance under this subparagraph does not preclude assistance under any other provision of this paragraph.

(5)[271] LEAD-BASED PAINT HAZARDS.—A participating jurisdiction may use funds provided under this subtitle for the evaluation and reduction of lead-based paint hazards, as defined in section 1004 of the Residential Lead-Based Paint Hazard Reduction Act of 1992.

(b) INVESTMENTS.—Participating jurisdictions shall have discretion to invest funds made available under this subtitle as equity investments, interest-bearing loans or advances, noninterest-bearing loans or advances, interest subsidies or other forms of assistance that the Secretary has determined to be consistent with the purposes of this title. Each participating jurisdiction shall have the right to establish the terms of assistance.

(c) ADMINISTRATIVE COSTS.—In each fiscal year, each participating jurisdiction may use not more than 10 percent of the funds made available under this subtitle to the jurisdiction for such year for any administrative and planning costs of the jurisdiction in carrying out this subtitle, including the costs of the salaries of persons engaged in administering and managing activities assisted with funds made available under this subtitle.

(d) PROHIBITED USES.—Funds made available under this subtitle may not be used to—

(1) defray any administrative cost of a participating jurisdiction that exceed the amount specified under subsection (c),

(2) provide tenant-based rental assistance for the special purposes of the existing section 8 program, including replacing public housing that is demolished or disposed of, preserving federally assisted housing, assisting in the disposition of housing owned or held by the Secretary, preventing displacement from rental rehabilitation projects, or extending or renewing tenant-based assistance under section 8 of the United States Housing Act of 1937,

(3) provide non-Federal matching contributions required under any other Federal program,

(4) provide assistance authorized under section 9 of the United States Housing Act of 1937,

(5) carry out activities authorized under section 9(d)(1) of the Housing Act of 1937[272], or

(6) provide assistance to eligible low-income housing under the Emergency Low Income Housing Preservation Act of 1987 or the Low-Income Housing Preservation and Resident Homeownership Act of 1990.

(e) COST LIMITS.—

(1) IN GENERAL.—The Secretary shall establish limits on the amount of funds under this subtitle that may be invested on a per unit basis. For multifamily housing, such limits shall not be less than the per unit dollar amount limitations set forth in section 221(d)(3)(ii) of the National Housing Act, as such limitations may be adjusted in accordance therewith, except that for purposes of this subsection the Secretary shall, by regulation, increase the per unit dollar amount limitations in any geographical area by an

[270] So in law. Probably intended to refer to the United States Housing Act of 1937.
[271] So in law.
[272] So in law. Probably intended to refer to the United States Housing Act of 1937.

amount, not to exceed 140 percent, that equals the amount by which the costs of multifamily housing construction in the area exceed the national average of such costs. The limits shall be established on a market-by-market basis, with adjustments made for number of bedrooms, and shall reflect the actual cost of new construction, reconstruction, or rehabilitation of housing that meets applicable State and local housing and building codes and the cost of land, including necessary site improvements. Adjustments shall be made annually to reflect inflation. Separate limits may be set for different eligible activities.

(2) CRITERIA.—In calculating per unit limits, the Secretary shall take into account that assistance under this title is intended to—

(A) provide nonluxury housing with suitable amenities;

(B) operate effectively in all jurisdictions;

(C) facilitate mixed-income housing; and

(D) reflect the costs associated with meeting the special needs of tenants or homeowners that the housing is designed to serve.

(3) CONSULTATION.—In calculating cost limits, the Secretary shall consult with organizations that have expertise in the development of affordable housing, including national nonprofit organizations and national organizations representing private development firms and State and local governments.

(f) CERTIFICATION OF COMPLIANCE.—The requirements of section 102(d) of the Department of Housing and Urban Development Reform Act of 1989 shall be satisfied by a certification by a participating jurisdiction to the Secretary that the combination of Federal assistance provided to any housing project shall not be any more than is necessary to provide affordable housing.

(g) LIMITATION ON OPERATING ASSISTANCE.—A participating jurisdiction may not use more than 5 percent of its allocation under this subtitle for the payment of operating expenses for community housing development organizations.

Sec. 213. [42 U.S.C. 12743]
DEVELOPMENT OF MODEL PROGRAMS.

(a) IN GENERAL.—The Secretary shall—

(1) in cooperation with participating jurisdictions, government-sponsored mortgage finance corporations, nonprofit organizations, the private sector, and other appropriate parties, develop, test, evaluate, refine, and, as necessary, replace a selection of model programs designed to carry out the purposes of this title;

(2) make available to participating jurisdictions alternative model programs, which shall include suggested guidelines, procedures, forms, legal documents and such other elements as the Secretary determines to be appropriate;

(3) assure, insofar as is feasible, the availability of an appropriate variety of model programs designed for local market conditions, housing problems, project characteristics, and managerial capacities as they differ among participating jurisdictions;

(4) negotiate and enter into agreements with agencies of the Federal Government, participating jurisdictions, private financial institutions, government-sponsored mortgage finance corporations, nonprofit organizations, and other entities to provide such services, products, or financing as may be required for the implementation of a model program;

(5) provide detailed information on model programs as requested by participating jurisdictions, private financial institutions, developers, nonprofit organizations, and other interested parties; and

(6) encourage the use of such model programs to achieve efficiency, economies of scale, and effectiveness in the investment of funds made available under this subtitle through third-party training, printed materials, and such other means of support as the Secretary determines will achieve the purpose of this title.

(b) ADOPTION OF PROGRAMS.—Except as provided in section 223(2), each participating jurisdiction shall have the discretion to adopt one or more model programs, adapt one or more model programs to its own requirements, design additional forms of assistance by itself or in cooperation with other participating jurisdictions, and suggest additional model programs for adoption by the Secretary as the participating jurisdiction may deem appropriate, and the Secretary may assist a participating jurisdiction in adopting, adapting, or designing one or more model programs.

(c) SUBTITLE D PROGRAMS.—The selection of model programs to be made available for adoption or adaptation shall include programs meeting the criteria set forth in subtitle D.

Sec. 214. [42 U.S.C. 12744]
INCOME TARGETING.

Each participating jurisdiction shall invest funds made available under this subtitle within each fiscal year so that—

(1) with respect to rental assistance and rental units—

(A) not less than 90 percent of (i) the families receiving such rental assistance are families whose incomes do not exceed 60 percent of the median family income for the area, as determined by the Secretary with adjustments for smaller and larger families, (except that the Secretary may establish income ceilings higher or lower than 60 percent of the median for the area on the basis of the Secretary's findings that such variations are necessary because of prevailing levels of construction cost or fair market rent, or unusually high or low family income) at the time of occupancy or at the time funds are invested, whichever is later, or (ii) the dwelling units assisted with such funds are occupied by families having such incomes; and

(B) the remainder of (i) the families receiving such rental assistance are households that qualify as low-income families (other than families described in subparagraph (A)) at the time of occupancy or at the time funds are invested, whichever is later, or (ii) the dwelling units assisted with such funds are occupied by such households;

(2) with respect to homeownership assistance, 100 percent of such funds are invested with respect to dwelling units that are occupied by households that qualify as low-income families; and

(3) all such funds are invested with respect to housing that qualifies as affordable housing under section 215.

Sec. 215. [42 U.S.C. 12745]
QUALIFICATION AS AFFORDABLE HOUSING.

(a) RENTAL HOUSING.—

(1) QUALIFICATION.—Housing that is for rental shall qualify as affordable housing under this title only if the housing—

(A) bears rents not greater than the lesser of (i) the existing fair market rent for comparable units in the area as established by the Secretary under section 8 of the United States Housing Act of 1937, or (ii) a rent that does not exceed 30 percent of the adjusted income of a family whose income equals 65 percent of the median income for the area, as determined by the Secretary, with adjustment for number of bedrooms in the unit, except that the Secretary may establish income ceilings higher or lower than 65 percent of the median for the area on the basis of the Secretary's findings that such variations are necessary because of prevailing levels of construction costs or fair market rents, or unusually high or low family incomes;

(B) has not less than 20 percent of the units (i) occupied by very low-income families who pay as a contribution toward rent (excluding any Federal or State rental subsidy provided on behalf of the family) not more than 30 percent of the family's monthly adjusted income as determined by the Secretary, or (ii) occupied by very low-income families and bearing rents not greater than the gross rent for rent-restricted residential units as determined under section 42(g)(2) of the Internal Revenue Code of 1986;

(C) is occupied only by households that qualify as low-income families;

(D) is not refused for leasing to a holder of a voucher or certificate of eligibility under section 8 of the United States Housing Act of 1937 because of the status of the prospective tenant as a holder of such voucher or certificate of eligibility;

(E) will remain affordable, according to binding commitments satisfactory to the Secretary, for the remaining useful life of the property, as determined by the Secretary, without regard to the term of the mortgage or to transfer of ownership, or for such other period that the Secretary determines is the longest feasible period of time consistent with sound economics and the purposes of this Act, except upon a foreclosure by a lender (or upon other transfer in lieu of foreclosure) if such action (i) recognizes any contractual or legal rights of public agencies, nonprofit sponsors, or others to take actions that would avoid termination of low-income affordability in the case of foreclosure or transfer in lieu of foreclosure, and (ii) is not for the purpose of avoiding low income affordability restrictions, as determined by the Secretary; and

(F) if newly constructed, meets the energy efficiency standards promulgated by the Secretary in accordance with section 109 of this Act.

(2) ADJUSTMENT OF QUALIFYING RENT.—The Secretary may adjust the qualifying rent established for a project under subparagraph (A) of paragraph (1), only if the Secretary finds that such adjustment is necessary to support the continued financial viability of the project and only by such amount as the Secretary determines is necessary to maintain continued financial viability of the project.

(3) INCREASES IN TENANT INCOME.—Housing shall qualify as affordable housing despite a temporary noncompliance with subparagraph (B) or (C) of paragraph (1) if such noncompliance is caused by increases in the incomes of existing tenants and if actions satisfactory to the Secretary are being taken to ensure that all vacancies are filled in accordance with paragraph (1) until such noncompliance is corrected. Tenants who no longer qualify as low-income families shall pay as rent the lesser of the amount payable by the tenant under State or local law or 30 percent of the family's adjusted monthly income, as recertified annually. The preceding sentence shall not apply with respect to funds made available under this Act for units that have been allocated a low-income housing tax credit by a housing credit agency pursuant to section 42 of the Internal Revenue Code 1986.

(4) MIXED-INCOME PROJECT.—Housing that accounts for less than 100 percent of the dwelling units in a project shall qualify as affordable housing if such housing meets the criteria of this section.

(5) MIXED-USE PROJECT.—Housing in a project that is designed in part for uses other than residential use shall qualify as affordable housing if such housing meets the criteria of this section.

(6) WAIVER OF QUALIFYING RENT.—

(A) IN GENERAL.—For the purpose of providing affordable housing appropriate for families described in subparagraph (B), the Secretary may, upon the application of the project owner, waive the applicability of subparagraph (A) of paragraph (1) with respect to a dwelling unit if—

(i) the unit is occupied by such a family, on whose behalf tenant-based assistance is provided under section 8 of the United States Housing Act of 1937 (42 U.S.C. 1437f);

(ii) the rent for the unit is not greater than the existing fair market rent for comparable units in the area, as established by the Secretary under section 8 of the United States Housing Act of 1937; and

(iii) the Secretary determines that the waiver, together with waivers under this paragraph for other dwelling units in the project, will result in the use of amounts described in clause (iii) in an effective manner that will improve the provision of affordable housing for such families.

(B) ELIGIBLE FAMILIES.—A family described in this subparagraph is a family that consists of at least one elderly person (who is the head of household) and one or more of such person's grand children, great grandchildren, great nieces, great nephews, or great great grandchildren (as defined by the Secretary), but does not include any parent of such grandchildren, great grandchildren, great nieces, great nephews, or great great grandchildren. Such term includes any such grandchildren, great grandchildren, great nieces, great nephews, or great great grandchildren who have been legally adopted by such elderly person.

(b)[273] HOMEOWNERSHIP.—Housing that is for homeownership shall qualify as affordable housing under this title only if the housing—

(1) has an initial purchase price that does not exceed 95 percent of the median purchase price for the area, as determined by the Secretary with such adjustments for differences in structure, including whether the housing is single-family or multifamily, and for new and old housing as the Secretary determines to be appropriate;

(2) is the principal residence of an owner whose family qualifies as a low-income family—

(A) in the case of a contract to purchase existing housing, at the time of purchase;

(B) in the case of a lease-purchase agreement for existing housing or for housing to be constructed, at the time the agreement is signed; or

[273] The FY 2016 Appropriations Act (Public Law 114-113, 129 Stat. 2242) contained the following proviso, found at 42 U.S.C. 12745 note: *Provided further*, That with respect to funds made available under this heading pursuant to such Act and funds provided in prior and subsequent appropriations acts that were or are used by community land trusts for the development of affordable homeownership housing pursuant to section 215(b) of such Act, such community land trusts, notwithstanding section 215(b)(3)(A) of such Act, may hold and exercise purchase options, rights of first refusal or other preemptive rights to purchase the housing to preserve affordability, including but not limited to the right to purchase the housing in lieu of foreclosure . . . .

(C) in the case of a contract to purchase housing to be constructed, at the time the contract is signed;

(3) is subject to resale restrictions that are established by the participating jurisdiction and determined by the Secretary to be appropriate to—

(A) allow for subsequent purchase of the property only by persons who meet the qualifications specified under paragraph (2), at a price which will—

(i) provide the owner with a fair return on investment, including any improvements,[274] and

(ii) ensure that the housing will remain affordable to a reasonable range of low-income homebuyers; or

(B) recapture the investment provided under this title in order to assist other persons in accordance with the requirements of this title, except where there are no net proceeds or where the net proceeds are insufficient to repay the full amount of the assistance; and

(4) if newly constructed, meets the energy efficiency standards promulgated by the Secretary in accordance with section 109 of this Act.

Sec. 216. [42 U.S.C. 12746]
PARTICIPATION BY STATES AND LOCAL GOVERNMENTS.

The Secretary shall designate a State or unit of general local government to be a participating jurisdiction when it complies with procedures that the Secretary shall establish by regulation, which procedures shall only provide for the following:

(1) ALLOCATION.—Not later than 20 days after funds to carry out this subtitle become available (or, during the first year after enactment of this Act,[275] not later than 20 days after (A) funds to carry out this subtitle are provided in an appropriations Act, or (B) regulations to implement this subtitle are promulgated, whichever is later), the Secretary shall allocate funds in accordance with section 217 and promptly notify each jurisdiction receiving a formula allocation of its allocation amount. If a jurisdiction is not already a participating jurisdiction, the Secretary shall inform the jurisdiction in writing how the jurisdiction may become a participating jurisdiction.

(2) CONSORTIA.—A consortium of geographically contiguous units of general local government shall be deemed to be a unit of general local government for purposes of this title if the Secretary determines that the consortium—

(A) has sufficient authority and administrative capability to carry out the purposes of this title on behalf of its member jurisdictions, and

(B) will, according to a written certification by the State (or States, if the consortium includes jurisdictions in more than one State), direct its activities to alleviation of housing problems within the State or States.

(3) ELIGIBILITY.—(A) Except as provided in paragraph (10), a jurisdiction receiving a formula allocation under section 217 shall be eligible to become a participating jurisdiction if its formula allocation is $750,000 or greater, or if the Secretary finds that—

(i) the jurisdiction has a local housing authority and has demonstrated a capacity to carry out provisions of this subtitle, and

(ii) the State has authorized the Secretary to transfer to the jurisdiction a portion of the State's allocation that is equal to or greater than the difference between the jurisdiction's formula allocation and $750,000, or the State or jurisdiction has made available from the State's or jurisdiction's own sources an equal amount for use by the jurisdiction in conformance with the provisions of this subtitle.

(B) If a jurisdiction has met the requirements of subparagraph (A), the jurisdiction's formula allocation for a fiscal year shall subsequently be deemed to equal the sum of the jurisdiction's allocation under section 217(a)(1) and the amount made available to the jurisdiction under subparagraph (A)(ii).

(4) NOTIFICATION.—If an eligible jurisdiction notifies the Secretary in writing, not later than 30 days after receiving notification under paragraph (1), of its intention to become a participating jurisdiction, the Secretary shall reserve an amount equal to the jurisdiction's allocation (plus any reallocations for which

[274] So in law.
[275] The date of enactment was November 28, 1990.

the jurisdiction is eligible under section 217(d)(1)) pending the jurisdiction's designation as a participating jurisdiction. The Secretary shall reallocate, in accordance with paragraph (6) of this section, any funds reserved under the previous sentence if the Secretary determines that the jurisdiction will not meet the requirements for designation as a participating jurisdiction within a reasonable period of time.

(5) SUBMISSION OF STRATEGY.—Not later than 90 days after providing notification under paragraph (4), an eligible jurisdiction shall submit to the Secretary a comprehensive housing affordability strategy in accordance with section 105.

(6) REALLOCATION.—If the Secretary determines that a jurisdiction has failed to meet the requirements of the previous 3 paragraphs or if the Secretary, after providing for amendments and resubmissions in accordance with section 105(c)(3), disapproves the jurisdiction's comprehensive housing affordability strategy, the Secretary shall reallocate any funds reserved for the jurisdiction as follows:

(A) STATE.—If a State has failed to meet the requirements, the Secretary shall—

(i) make any funds reserved for the State available by direct reallocation among applications submitted by units of general local government within the State or consortia that include units of general local government within the State, insofar as approvable applications meeting the selection criteria under section 217(c) are received within 12 months after the funds become available for the direct reallocation, and

(ii) reallocate the remainder by formula in accordance with section 217(b).

(B) LOCAL.—If a unit of general local government has failed to meet the requirements and is located in a State that is a participating jurisdiction, the Secretary shall reallocate to the State any funds reserved for the locality, with preference going to the provision of affordable housing within the locality.

(C) DIRECT REALLOCATION.—If a unit of general local government has failed to meet the requirements and is located in a State that is not a participating jurisdiction, the Secretary shall—

(i) make any funds reserved for the locality available for use within the State by direct reallocation among units of general local government and community housing development organizations, insofar as approvable applications meeting the selection criteria under section 217(c) are received within 12 months after the funds become available for the direct reallocation with priority going to applications for affordable housing within the locality, and

(ii) reallocate the remainder in accordance with section 217(b).

(D) CERTAIN JURISDICTIONS DEEMED TO BE PARTICIPATING JURISDICTIONS.—If a State or unit of general local government is meeting the requirements of paragraphs (3), (4), and (5), it shall be deemed to be a participating jurisdiction for purposes of reallocation under this paragraph.

(7) DESIGNATION.—The Secretary shall designate an eligible jurisdiction to be a participating jurisdiction as soon as its comprehensive housing affordability strategy is approved in accordance with section 105.

(8) CONTINUOUS DESIGNATION.—Once a State or unit of general local government is designated a participating jurisdiction, it shall remain a participating jurisdiction for subsequent fiscal years, except as provided in paragraph (9). The provisions of paragraphs (3) through (6) shall not apply to participating jurisdictions.

(9) REVOCATION.—The Secretary may revoke a jurisdiction's designation as a participating jurisdiction if—

(A) the Secretary finds, after reasonable notice and opportunity for hearing, that the jurisdiction is unwilling or unable to carry out the provisions of this title, or

(B) the jurisdiction's allocation falls below $750,000 for 3 consecutive years, below $625,000 for 2 consecutive years, or the jurisdiction does not receive a formula allocation of $500,000 or more in any 1 year, except as provided in paragraph (10).

If a jurisdiction's designation as a participating jurisdiction is revoked, any remaining line of credit in the jurisdiction's HOME Investment Trust Fund established under section 218 shall be reallocated in accordance with paragraph (6) of this section.

(10) THRESHOLD REDUCTION.—[276]If the amount appropriated pursuant to section 205 for any fiscal year is less than $1,500,000,000, then this section shall be applied during that year—

(A) by substituting "$500,000" for '"$750,000" both places it appears in paragraph (3); and

(B) by substituting "$500,000", "$410,000", and "$335,000" for "$750,000", "$625,000", and "$500,000", respectively, where they appear in paragraph (9).

Sec. 217. [42 U.S.C. 12747]
ALLOCATION OF RESOURCES.

(a) IN GENERAL.—

(1) STATES AND UNITS OF GENERAL LOCAL GOVERNMENT.—After reserving amounts under paragraph (3) for the insular areas, the Secretary shall allocate funds approved in an appropriation Act to carry out this title by formula as provided in subsection (b). Of the ¯funds made available under the preceding sentence, the Secretary shall initially allocate 60 percent among units of general local government and 40 percent among States.

[(2) [Repealed.]]

(3) INSULAR AREAS.—For each fiscal year, of any amounts approved in appropriation Acts to carry out this title, the Secretary shall reserve for grants to the insular areas the greater of (A) $750,000, or (B) 0.2 percent of the amounts appropriated under such Acts. The Secretary shall provide for the distribution of amounts reserved under this paragraph among the insular areas pursuant to specific criteria for such distribution, which shall be contained in a regulation issued by the Secretary.

(3)[277] INSULAR AREAS.—For each fiscal year, of any amounts approved in appropriations Acts to carry out this title, the Secretary shall reserve for grants to the insular areas the greater of (A) $750,000, or (B) 0.2 percent of the amounts appropriated under such Acts. The Secretary shall provide for the distribution of amounts reserved under this paragraph among the insular areas pursuant to specific criteria for such distribution. The criteria shall be contained in a regulation promulgated by the Secretary after notice and public comment.

(b) FORMULA ALLOCATION.—

(1) IN GENERAL.—

(A) BASIC FORMULA.—The Secretary shall establish in regulation an allocation formula that reflects each jurisdiction's share of total need among eligible jurisdiction for an increased supply of affordable housing for very low-income and low-income families of different size, as identified by objective measures of inadequate housing supply, substandard housing, the number of low-income families in housing likely to be in need of rehabilitation, the costs of producing housing, poverty, and the relative fiscal incapacity of the jurisdiction to carry out housing activities eligible under section 212 without Federal assistance. Allocation among units of general local government shall take into account the housing needs of metropolitan cities, urban counties, and approved consortia of units of general local government.

(B) SOURCE OF DATA.—The data to be used for formula allocation of funds within a fiscal year shall be data obtained from a standard source that are available to the Secretary 90 days prior to the beginning of that fiscal year.

(C) USE OF BASIC FORMULA.—The basic formula established under subparagraph (A) shall be used for all formula allocations and reallocations provided for in this subtitle.

(D) WEIGHTS.—When allocation is made among States, the Secretary shall apply the formula in subparagraph (A) giving 20 percent weight to measures of need for the whole State and 80 percent weight to measures of need among units of general local government that are not receiving an allocation under section 216(1).

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[276] Section 202(a) of the Housing and Community Development Act of 1992, Pub. L. 102-550, approved October 28, 1992, amended this section by adding this paragraph and the references to this paragraph. Subsection (c) of such section 202 provides as follows:

"(c) APPLICABILITY.—[42 U.S.C. 12746 note] Notwithstanding any other provision of law, the grant thresholds provided for in section 216, as amended by this section, and the grant thresholds provided for in section 217(b) of the Cranston-Gonzalez National Affordable Housing Act, as amended by this section, shall apply.".

[277] So in law. The Departments of Veterans Affairs and Housing and Urban Development, and Independent Agencies Appropriations Act, 1993, Pub. L. 102-389, 106 Stat. 1582, added this paragraph.

Subsequently, section 211(a)(2) of the Housing and Community Development Act of 1992, Pub. L. 102-550, approved October 28, 1992, amended this subsection by "adding after paragraph (2)" the preceding paragraph (also designated as paragraph (3)).

(E) ADJUSTMENTS.—In developing the basic formula in subparagraph (A), the Secretary shall (i) avoid the allocation of an excessively large share of amounts made available under this subtitle to any one State or unit of general local government, and (ii) take into account the need for a geographic distribution of amounts made available under this subtitle that appropriately reflects the housing need in each region of the Nation.

(F) CONSULTATION.—The Secretary shall develop the formula in subparagraph (A) in ongoing consultation with (i) the Subcommittee on Housing and Urban Affairs of the Committee on Banking, Housing, and Urban Affairs of the Senate, (ii) the Subcommittee on Housing and Community Development of the Committee on Banking, Finance and Urban Affairs of the House of Representatives[278], and (iii) organizations representing States and units of general local government. Not less than 60 days prior to publishing a formula for comment, the Secretary shall submit to the Committee on Banking, Housing, and Urban Affairs of the Senate and the Committee on Banking, Finance and Urban Affairs of the House of Representatives a copy of the formula the Secretary intends to propose.

(2) MINIMUM STATE ALLOCATION.—

(A) IN GENERAL.—If the formula, when applied to funds approved under this section in appropriations Acts for a fiscal year, would allocate less than $3,000,000 to any State, the allocation for such State shall be $3,000,000, and the increase shall be deducted pro rata from the allocations of other States.

(B) INCREASED MINIMUM ALLOCATION.—If no unit of general local government within a State receives an allocation under paragraph (3), the State's allocation shall be increased by $500,000. Priority for use of such increased allocation shall go to the provision of affordable housing within the boundaries of metropolitan cities, urban counties, and approved consortia within the State, based on the need for such funds. The increased allocation to a State under the preceding sentence shall be derived by a pro rata deduction from the allocations to units of general local government in all States, except that such pro rata deduction shall not reduce the allocation of any unit of general local government below $500,000.

(3) MINIMUM LOCAL ALLOCATION.—The Secretary shall allocate funds available for formula allocation to units of general local government that, as of the end of the previous fiscal year, qualified as metropolitan cities, urban counties, and consortia approved by the Secretary in accordance with section 216(2) so that, when all such funds are initially allocated by formula, jurisdictions that are allocated an amount of $500,000 or more, and participating jurisdictions (other than consortia that fail to renew the membership of all of their member jurisdictions) that are allocated an amount less than $500,000, shall receive an allocation. Prior to announcing initial allocations, the Secretary shall successively recalculate the allocations to jurisdictions under this subsection so that the maximum number of such jurisdictions can receive initial allocations, except as provided in paragraph (4).

(4) THRESHOLD REDUCTION.—[279]If the amount appropriated pursuant to section 205 for any fiscal year is less than $1,500,000,000, then this section shall be applied during that year by substituting "$335,000" for "$500,000" where it appears in paragraph (3).

(c) CRITERIA FOR DIRECT REALLOCATION.—The Secretary shall establish objective criteria for making direct reallocations to any participating jurisdiction and other eligible entities. A jurisdiction shall be eligible for a direct reallocation under this subsection only if the jurisdiction, in a form acceptable to the Secretary, submits an application that demonstrates to the satisfaction of the Secretary that the jurisdiction is engaged, or has made good faith efforts to engage, in cooperative efforts between the State and appropriate participating jurisdictions within the State to develop, coordinate, and implement housing strategies under this title. The Secretary shall by regulation establish objective selection criteria for such direct reallocations, which criteria shall take into account—

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[278] Section 1(a) of Public Law 104-14, 109 Stat. 186, provides, in part, that "any reference in any provision of law enacted before January 4, 1995, to . . . the Committee on Banking, Finance and Urban Affairs of the House of Representatives shall be treated as referring to the Committee on Banking and Financial Services of the House of Representatives". At the beginning of the 104th Congress, the Subcommittee on Housing and Community Development was renamed the Subcommittee on Housing and Community Opportunity. However, H. Res. 5, 107th Congress, agreed to on January 3, 2001, abolished the Committee on Banking and Financial Services and established the Committee on Financial Services, which has jurisdiction over many of the areas previously under the jurisdiction of the Committee on Banking and Financial Services.

[279] Section 202(b) of the Housing and Community Development Act of 1992, Pub. L. 102-550, approved October 28, 1992, amended this subsection by adding this paragraph and the references to this paragraph. Subsection (c) of such section 202 provides as follows:
"(c) Applicability.—[42 U.S.C. 12746 note] Notwithstanding any other provision of law, the grant thresholds provided for in section 216, as amended by this section, and the grant thresholds provided for in section 217(b) of the Cranston-Gonzalez National Affordable Housing Act, as amended by this section, shall apply.".

(1) the applicant's demonstrated commitment to expand the supply of affordable rental housing, including units developed by public housing agencies, as indicated by the additional number of units of affordable housing made available through production or rehabilitation within the previous 2 years, making adjustment for regional variations in construction and rehabilitation costs and giving special consideration to the number of additional units made available under this title through production or rehabilitation, including units developed by public housing agencies, in relation to the amounts made available under this program;

(2) the applicant's actions that—

(A) direct funds made available under this subtitle to benefit very low-income families, with a range of incomes, in amounts that exceed the income targeting requirements of section 214, with extra consideration given for activities that expand the supply of affordable housing for very low-income families whose incomes do not exceed 30 percent of the median family income for the area, as determined by the Secretary;

(B) apply the tenant selection preference categories applicable under section 8 of the United States Housing Act of 1937 to the selection of tenants for housing assisted under this subtitle;

(C) provide matching resources in excess of funds required under section 220; and

(D) stimulate a high degree of investment and participation in development by the private sector, including nonprofit organizations; and

(3) the degree to which the applicant is pursuing policies that—

(A) make existing housing more affordable;

(B) remove or ameliorate any negative effects that public policies identified by the applicant pursuant to section 105(b)(4) may have on the cost of housing or the incentives to develop, maintain, or improve affordable housing in the jurisdiction;

(C) preserve the affordability of privately-owned housing that is vulnerable to conversion, demolition, disinvestment, or abandonment;

(D) increase the supply of housing that is affordable to very low-income and low-income persons, particularly in areas that are accessible to expanding job opportunities; and

(E) remedy the effects of discrimination and improve housing opportunities for disadvantaged minorities.

(d) REALLOCATIONS.—

(1) IN GENERAL.—The Secretary shall make any reallocations periodically throughout each fiscal year so as to ensure that all funds to be reallocated are made available to eligible jurisdictions as soon as possible, consistent with orderly program administration. Jurisdictions eligible for such reallocations shall include participating jurisdictions and jurisdictions meeting the requirements of paragraphs (3), (4), and (5) of section 216.

(2) COMMITMENTS.—The Secretary shall establish procedures according to which participating jurisdictions may make commitments to invest funds made available under this section. Such procedures shall provide for appropriate stages of commitment of funds to a project from initial reservation through binding commitment. Notwithstanding any other provision of this title, funds that the Secretary determines are needed to fulfill binding commitments shall not be available for reallocation.

(3) LIMITATION.—Unless otherwise specified in this subtitle, any reallocation of funds from a State shall be made only among all participating States, and any reallocation of funds from units of general local government shall be made only among all participating units of general local government.

Sec. 218. [42 U.S.C. 12748]
HOME INVESTMENT TRUST FUNDS.

(a) ESTABLISHMENT.—The Secretary shall establish for each participating jurisdiction a HOME Investment Trust Fund, which shall be an account (or accounts as provided in section 219(c)) for use solely to invest in affordable housing within the participating jurisdiction's boundaries or within the boundaries of contiguous jurisdictions in joint projects which serve residents from both jurisdictions in accordance with the provisions of this subtitle.

(b) LINE OF CREDIT.—The Secretary shall establish a line of credit in the HOME Investment Trust Fund of each participating jurisdiction, which line of credit shall include—

(1) funds allocated or reallocated to the participating jurisdiction under section 217, and

(2) any payment or repayment made pursuant to section 219.

(c) REDUCTIONS.—A participating jurisdiction's line of credit shall be reduced by—

(1) funds drawn from the HOME Investment Trust Fund by the participating jurisdiction,

(2) funds expiring under subsection (g), and

(3) any penalties assessed by the Secretary under section 224.[280]

(d) CERTIFICATION.—A participating jurisdiction may draw funds from its HOME Investment Trust Fund, but not to exceed the remaining line of credit, only after providing certification that the funds shall be used pursuant to the participating jurisdiction's approved housing strategy and in compliance with all requirements of this title. When such certification is received, the Secretary shall immediately disburse such funds in accordance with the form of the assistance determined by the participating jurisdiction.

(e) INVESTMENT WITHIN 15 DAYS.—The participating jurisdiction shall, not later than 15 days after funds are drawn from the jurisdiction's HOME Investment Trust Fund, invest such funds, together with any interest earned thereon, in the affordable housing for which the funds were withdrawn.

(f) NO INTEREST OR FEES.—The Secretary shall not charge any interest or levy any other fee with regard to funds in a HOME Investment Trust Fund.

(g) EXPIRATION OF RIGHT TO DRAW FUNDS.—If any funds becoming available to a participating jurisdiction under this title are not placed under binding commitment to affordable housing within 24 months after the last day of the month in which such funds are deposited in the jurisdiction's HOME Investment Trust Fund, the jurisdiction's right to draw such funds from the HOME Investment Trust Fund shall expire. The Secretary shall reduce the line of credit in the participating jurisdiction's HOME Investment Trust Fund by the expiring amount and shall reallocate the funds by formula in accordance with section 217(d).

(h) ADMINISTRATIVE PROVISION.—The Secretary shall keep each participating jurisdiction informed of the status of its HOME Investment Trust Fund, including the status of amounts under various stages of commitment.

Sec. 219. [42 U.S.C. 12749]
REPAYMENT OF INVESTMENT.

(a) IN GENERAL.—Any repayment of funds drawn from a jurisdiction's HOME Investment Trust Fund, and any payment of interest or other return on the investment of such funds, shall be deposited in such jurisdiction's HOME Investment Trust Fund, except that, if the jurisdiction is not a participating jurisdiction when such payment or repayment is made, the amount of such payment or repayment shall be reallocated in accordance with section 217(d).

(b) ASSURANCE OF REPAYMENT.—Each participating jurisdiction shall enter into an agreement with the Secretary ensuring that funds invested in affordable housing under this subtitle are repayable when the housing no longer qualifies as affordable housing. Any repayment under the previous sentence shall be for deposit in the HOME Investment Trust Fund of the jurisdiction making the investment; except that if such jurisdiction is not a participating jurisdiction when such repayment is made, the amount of such repayment shall be reallocated in accordance with section 217(d).

(c) AVAILABILITY.—The Secretary shall take such actions as are necessary to ensure that any repayments deposited in a HOME Investment Trust Fund in accordance with this section shall be immediately available to the participating jurisdiction for investment subject to the provisions of this subtitle that apply to funds that are allocated under section 217. Actions authorized under the preceding sentence may include authorizing the establishment for a participating jurisdiction of a HOME Investment Trust Fund account outside of the Federal Government that, under arrangements satisfactory to the Secretary, shall be used solely to invest in affordable housing within the participating jurisdiction's boundaries in accordance with the provisions of this title. Such accounts shall be established in such a manner that repayments are not receipts or collections of the Federal Government.

Sec. 220. [42 U.S.C. 12750]
MATCHING REQUIREMENTS.

(a) CONTRIBUTION.—Each participating jurisdiction shall make contributions to housing that qualifies as affordable housing under this title that total, throughout a fiscal year, not less than 25 percent of the funds drawn from the jurisdiction's HOME Investment Trust Fund in such fiscal year. Such contributions shall be in addition to any amounts made available under section 216(3)(A)(ii).

(b) RECOGNITION.—

[280] So in law. Probably intended to refer to section 223.

(1) IN GENERAL.—A contribution shall be recognized for purposes of subsection (a) only if it—

(A) is made with respect to housing that qualifies as affordable housing under section 215; or

(B) is made with respect to any portion of a project not less than 50 percent of the units of which qualify as affordable housing under section 215.

(2) ADMINISTRATIVE EXPENSES.—Contributions for administrative expenses may not be recognized for purposes of subsection (a).

(c) FORM.—Such contributions may be in the form of—

(1) cash contributions from non-Federal resources, which may not include funds from a grant made under section 106(b) or section 106(d) of the Housing and Community Development Act of 1974;

(2) the value of taxes, fees, or other charges that are normally and customarily imposed but are waived, foregone, or deferred in a manner that achieves affordability of housing assisted under this title;

(3) the value of land or other real property as appraised according to procedures acceptable to the Secretary; and[281]

(4) the value of investment in on-site and off-site infrastructure directly required for affordable housing assisted under this title.[282]

(6)[283] up to—

(A) 50 percent of proceeds from bond financing validly issued by a State or local government, agency or instrumentality thereof, or political subdivision thereof, and repayable with revenues derived from a multifamily affordable housing project financed, and

(B) 25 percent of proceeds from bond financing validly issued by a State or local government, agency or instrumentality thereof, or political subdivision thereof, and repayable with revenues derived from a single-family project financed,

but not more than 25 percent of the contribution required under subsection (a) may be derived from these sources;

(7) the reasonable value of any site-preparation and construction materials and any donated or voluntary labor in connection with the site-preparation for, or construction or rehabilitation of, affordable housing; and

(8) such other contributions to affordable housing as the Secretary considers appropriate.

(d) REDUCTION OF REQUIREMENT.—

(1) IN GENERAL.—The Secretary shall reduce the matching requirement under subsection (a) with respect to any funds drawn from a jurisdiction's HOME Investment Trust Fund Account during a fiscal year by—

(A) 50 percent for a jurisdiction that certifies that it is in fiscal distress; and

(B) 100 percent for a jurisdiction that certifies that it is in severe fiscal distress.

(2) DEFINITIONS.—For purposes of this section—

(A) "fiscal distress" means a jurisdiction other than a State that satisfies 1 of the distress criteria set forth in paragraph (3); and

(B) "severe fiscal distress" means a jurisdiction other than a State that satisfies both of the distress criteria set forth in paragraph (3).

(3) DISTRESS CRITERIA.—For purposes of a jurisdiction other than a State certifying that it is distressed, the following criteria shall apply:

(A) POVERTY RATE.—The average poverty rate in the jurisdiction for the calendar year immediately preceding the year in which its fiscal year begins was equal to or greater than 125 percent of the average national poverty rate during such calendar year (as determined according to information of the Bureau of the Census).

(B) PER CAPITA INCOME.—The average per capita income in the jurisdiction for the calendar year immediately preceding the year in which its fiscal year begins was less than 75 percent of the average national per capita income during such calendar year (as determined according to information of the Bureau of the Census).

(4) STATES.—In determining the degree to which a jurisdiction that is a State is distressed, the Secretary shall take into consideration the State's fiscal capacity and expenditure needs as determined by a national organization which compiles the relevant data.

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[281] So in law.
[282] So in law.
[283] So in law. There is no paragraph (5).

(5) WAIVER IN DISASTER AREAS.—If a participating jurisdiction is located in an area in which a declaration of a disaster pursuant to the Robert T. Stafford Disaster Relief and Emergency Assistance Act is in effect for any part of a fiscal year, the Secretary may reduce the matching requirement for that fiscal year under subsection (a) with respect to any funds drawn from a jurisdiction's HOME Investment Trust Fund Account during that fiscal year by up to 100 percent.

Sec. 221. [42 U.S.C. 12751]
PRIVATE-PUBLIC PARTNERSHIP.

Each participating jurisdiction shall make all reasonable efforts, consistent with the purposes of this title, to maximize participation by the private sector, including nonprofit organizations and for-profit entities, in the implementation of the jurisdiction's housing strategy, including participation in the financing, development, rehabilitation and management of affordable housing. Nothing in the previous sentence shall preclude public housing authorities from fully participating in the implementation of a jurisdiction's housing strategy.

Sec. 222. [42 U.S.C. 12752]
DISTRIBUTION OF ASSISTANCE.

(a) LOCAL.—Each participating jurisdiction shall, insofar as is feasible, distribute assistance under this subtitle geographically within its boundaries and among different categories of housing need, according to the priorities of housing need identified in the jurisdiction's approved housing strategy.

(b) STATE.—Participating States shall be responsible for distributing assistance throughout the State according to the State's assessment of the geographical distribution of the housing need within the State, as identified in the State's approved housing strategy. Participating States shall distribute assistance to rural areas in amounts that take into account the nonmetropolitan share of the State's total population and objective measures of rural housing need, such as poverty and substandard housing, as set forth in the State's housing strategy approved under section 105 of this Act. To the extent the need is within the boundaries of a participating unit of general local government, the State and the unit of general local government shall coordinate activities to address that need.

Sec. 223. [42 U.S.C. 12753]
PENALTIES FOR MISUSE OF FUNDS.

If the Secretary finds after reasonable notice and opportunity for hearing that a participating jurisdiction has failed to comply substantially with any provision of this subtitle and until the Secretary is satisfied that there is no longer any such failure to comply, the Secretary shall reduce the line of credit in the participating jurisdiction's HOME Investment Trust Fund by the amount of any expenditures that were not in accordance with the requirements of this title, and the Secretary may—

(1) prevent withdrawals from the participating jurisdiction's HOME Investment Trust Fund for activities affected by such failure to comply;

(2) restrict the participating jurisdiction's activities under this title to activities that conform to one or more model programs made available under section 213; or

(3) remove the participating jurisdiction from participation in allocations or reallocations of funds made available under this subtitle.

Sec. 224. [42 U.S.C. 12754]
LIMITATION ON JURISDICTIONS UNDER COURT ORDER.

(a) IN GENERAL.—Notwithstanding any other provision of this Act, the Secretary shall ensure that funds provided under this subtitle are not employed to carry out housing remedies or to pay fines, penalties, or costs associated with an action in which—

(1) a participating jurisdiction has been adjudicated, by a Federal, State, or local court, to be in violation of title VI of the Civil Rights Act of 1964, the Fair Housing Act, or any other Federal, State, or local law promoting fair housing or prohibiting discrimination, or

(2) a settlement has been entered into in any case where claims of such violations have been asserted against a participating jurisdiction, except to the extent permitted by subsection (b).

(b) REMEDIAL USE OF FUNDS PERMITTED.—In the case of settlement described in subsection (a)(2), a jurisdiction may use funds provided under this Act to carry out housing remedies with eligible activities.

Sec. 225. [42 U.S.C. 12755]
TENANT AND PARTICIPANT PROTECTIONS.

(a) LEASE.—The lease between a tenant and an owner of affordable housing assisted under this title for rental shall be for not less than one year, unless by mutual agreement between the tenant and the owner, and shall contain such terms and conditions as the Secretary shall determine to be appropriate.

(b) TERMINATION OF TENANCY.—An owner shall not terminate the tenancy or refuse to renew the lease of a tenant of rental housing assisted under this title except 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. Any termination or refusal to renew must be preceded by not less than 30 days by the owner's service upon the tenant of a written notice specifying the grounds for the action.

(c) MAINTENANCE AND REPLACEMENT.—The owner of rental housing assisted under this title shall maintain the premises in compliance with all applicable housing quality standards and local code requirements.

(d) TENANT SELECTION.—The owner of rental housing assisted under this title shall adopt written tenant selection policies and criteria that—

(1) are consistent with the purpose of providing housing for very low-income and low-income families,

(2) are reasonably related to program eligibility and the applicant's ability to perform the obligations of the lease,

(3) give reasonable consideration to the housing needs of families that would have a preference under section 6(c)(4)(A) of the United States Housing Act of 1937 (42 U.S.C. 1437d(c)(4)(A)), and

(4) provide for (A) the selection of tenants from a written waiting list in the chronological order of their application, insofar as is practicable, and (B) for the prompt notification in writing of any rejected applicant of the grounds for any rejection.

Sec. 226. [42 U.S.C. 12756]
MONITORING OF COMPLIANCE.

(a) ENFORCEABLE AGREEMENTS.—Each participating jurisdiction, through binding contractual agreements with owners and otherwise, shall ensure long-term compliance with the provisions of this title. Such measures shall provide for (1) enforcement of the provisions of this title by the jurisdiction or by the intended beneficiaries, and (2) remedies for the breach of such provisions.

(b) PERIODIC MONITORING.—Each participating jurisdiction, not less frequently than annually, shall review the activities of owners of affordable housing assisted under this title for rental to assess compliance with the requirements of this title. Such review shall include on-site inspection to determine compliance with housing codes and other applicable regulations. The results of each review shall be included in the jurisdiction's performance report submitted to the Secretary under section 108(a) and made available to the public.

(c) SPECIAL PROCEDURES FOR CERTAIN PROJECTS.—In the case of small-scale or scattered site housing, the Secretary may provide for such streamlined procedures for achieving the purposes of this section as the Secretary determines to be appropriate.

Subtitle B—Community Housing Partnership

Sec. 231. [42 U.S.C. 12771]
SET-ASIDE FOR COMMUNITY HOUSING DEVELOPMENT ORGANIZATIONS.

(a) IN GENERAL.—For a period of 24 months after funds under subtitle A are made available to a jurisdiction, the jurisdiction shall reserve not less than 15 percent of such funds for investment only in housing to be developed, sponsored, or owned by community housing development organizations. Each participating jurisdiction shall make reasonable efforts to identify community housing development organizations that are capable or can reasonably be expected to become capable of carrying out elements of the jurisdiction's housing strategy and to encourage such community housing development organizations to do so. If during the first 24 months of its participation under this title, a participating jurisdiction is unable to identify a sufficient number of capable community housing development organizations, then up to 20 percent of the funds allocated to that jurisdiction under this section, but not to exceed $150,000, may be made available to carry out activities that develop the capacity of community housing development organizations in that jurisdiction. A participating jurisdiction is authorized to enter into contracts with community housing development organizations to carry out this section.

(b) RECAPTURE AND REUSE.—If any funds reserved under subsection (a) remain uninvested for a period of 24 months, then the Secretary shall deduct such funds from the line of credit in the participating jurisdiction's HOME Investment Trust Fund and make such funds available by direct reallocation (1) to other

participating jurisdictions for affordable housing developed, sponsored or owned by community housing development organizations, or (2) to nonprofit intermediary organizations to carry out activities that develop the capacity of community housing development organizations consistent with section 233, with preference to community housing development organizations serving the jurisdiction from which the funds were recaptured.

(c) DIRECT REALLOCATION CRITERIA.—Insofar as practicable, direct reallocations under this section shall be made according to the selection criteria established under section 217(c).

Sec. 232. [42 U.S.C. 12772]
PROJECT-SPECIFIC ASSISTANCE TO COMMUNITY HOUSING DEVELOPMENT ORGANIZATIONS.

(a) IN GENERAL.—Amounts reserved under section 231 may be used for activities eligible under section 212 and, in amounts not to exceed 10 percent of the amounts so reserved, for other activities specified under this section.

(b) PROJECT-SPECIFIC TECHNICAL ASSISTANCE AND SITE CONTROL LOANS.—

(1) In general.—Amounts reserved under the previous section may be used to provide technical assistance and site control loans to community housing development organizations in the early stages of site development for an eligible project. Such loans shall not exceed amounts that the jurisdiction determines to be customary and reasonable project preparation costs allowable under paragraph (2).

(2) ALLOWABLE EXPENSES.—A loan under this subsection may be provided to cover project expenses necessary to determine project feasibility (including costs of an initial feasibility study), consulting fees, costs of preliminary financial applications, legal fees, architectural fees, engineering fees, engagement of a development team, site control and title clearance.

(3) REPAYMENT.—A community housing development organization that receives a loan under this subsection shall repay the loan to the participating jurisdiction's HOME Investment Trust Fund from construction loan proceeds or other project income. The participating jurisdiction may waive repayment of the loan, in part or in whole, if there are impediments to project development that the participating jurisdiction determines are reasonably beyond the control of the borrower.

(c) PROJECT-SPECIFIC SEED MONEY LOANS.—

(1) IN GENERAL.—Amounts reserved under the previous section may be used to provide loans to community housing development organizations to cover preconstruction project costs that the jurisdiction determines to be customary and reasonable, including, but not limited to the costs of obtaining firm construction loan commitments, architectural plans and specifications, zoning approvals, engineering studies, and legal fees.

(2) ELIGIBLE SPONSORS.—A loan under this subsection may be provided only to a community housing development organization that has, with respect to the project concerned, site control, a preliminary financial commitment, and a capable development team.

(3) REPAYMENT.—A community housing development organization that receives a loan under this subsection shall repay the loan to the jurisdiction's HOME Investment Trust Fund from construction loan proceeds or other project income. The participating jurisdiction may waive repayment of the loan, in whole or in part, if there are impediments to project development that the participating jurisdiction determines are reasonably beyond the control of the borrower.

Sec. 233. [42 U.S.C. 12773]
HOUSING EDUCATION AND ORGANIZATIONAL SUPPORT.

(a) IN GENERAL.—The Secretary is authorized to provide education and organizational support assistance, in conjunction with other assistance made available under this subtitle—

(1) to facilitate the education of low-income homeowners and tenants;

(2) to promote the ability of community housing development organizations, including community land trusts, to maintain, rehabilitate and construct housing for low-income and moderate-income families in conformance with the requirements of this title; and

(3) to achieve the purposes under paragraphs (1) and (2) by helping women who reside in low- and moderate-income neighborhoods rehabilitate and construct housing in the neighborhoods.

(b) ELIGIBLE ACTIVITIES.—Assistance under this section may be used only for the following eligible activities:

(1) ORGANIZATIONAL SUPPORT.—Organizational support assistance may be made available to community housing development organizations to cover operational expenses and to cover expenses for

training and technical, legal, engineering and other assistance to the board of directors, staff, and members of the community housing development organization.

(2) HOUSING EDUCATION.—Housing education assistance may be made available to community housing development organizations to cover expenses for providing or administering programs for educating, counseling, or organizing homeowners and tenants who are eligible to receive assistance under other provisions of this title.

(3) PROGRAM-WIDE SUPPORT OF NONPROFIT DEVELOPMENT AND MANAGEMENT.—Technical assistance, training, and continuing support may be made available to eligible community housing development organizations for managing and conserving properties developed under this title.

(4) BENEVOLENT LOAN FUNDS.—Technical assistance may be made available to increase the investment of private capital in housing for very low-income families, particularly by encouraging the establishment of benevolent loan funds through which private financial institutions will accept deposits at below-market interest rates and make those funds available at favorable rates to developers of low-income housing and to low-income homebuyers.

(5) COMMUNITY DEVELOPMENT BANKS AND CREDIT UNIONS.—Technical assistance may be made available to establish privately owned, local community development banks and credit unions to finance affordable housing.

(6) COMMUNITY LAND TRUSTS.—Organizational support, technical assistance, education, training, and continuing support under this subsection may be made available to community land trusts (as such term is defined in subsection (f)) and to community groups for the establishment of community land trusts.

(7) FACILITATING WOMEN IN HOMEBUILDING PROFESSIONS.—Technical assistance may be made available to businesses, unions, and organizations involved in construction and rehabilitation of housing in low- and moderate-income areas to assist women residing in the area to obtain jobs involving such activities, which may include facilitating access by such women to, and providing, apprenticeship and other training programs regarding nontraditional skills, recruiting women to participate in such programs, providing continuing support for women at job sites, counseling and educating businesses regarding suitable work environments for women, providing information to such women regarding opportunities for establishing small housing construction and rehabilitation businesses, and providing materials and tools for training such women (in an amount not exceeding 10 percent of any assistance provided under this paragraph). The Secretary shall give priority under this paragraph to providing technical assistance for organizations rehabilitating single family or multifamily housing owned or controlled by the Secretary pursuant to title II of the National Housing Act and which have women members in occupations in which women constitute 25 percent or less of the total number of workers in the occupation (in this section referred to as "nontraditional occupations").

(c) DELIVERY OF ASSISTANCE.—The Secretary shall provide this assistance only through contract—

(1) with a nonprofit intermediary organization that, in the determination of the Secretary—

(A) customarily provides, in more than one community, services related to the provision of decent housing that is affordable to low-income and moderate-income persons or the revitalization of deteriorating neighborhoods;

(B) has demonstrated experience in providing a range of assistance (such as financing, technical assistance, construction and property management assistance, capacity building and training) to community housing development organizations or similar organizations that engage in community revitalization;

(C) has demonstrated the ability to provide technical assistance and training for community-based developers of affordable housing;

(D) has described the uses to which such assistance will be put and the intended beneficiaries of the assistance; and

(E) in the case of activities under subsection (b)(7), is a community-based organization (as such term is defined in section 4 of the Job Training Partnership Act) or public housing agency, which has demonstrated experience in preparing women for apprenticeship training in construction or administering programs for training women for construction or other nontraditional occupations (and such organizations may use assistance for activities under such subsection to employ women in housing construction and rehabilitation activities to the extent that the organization has the capacity to conduct such activities); or

(2) with another organization, if a participating jurisdiction demonstrates that the organization is qualified to carry out eligible activities and that the jurisdiction would not be served in a timely manner by intermediaries specified under paragraph (1).

Contracts under paragraph (2) shall be for activities specified in an application from the participating jurisdiction, which application shall include a certification that the activities are necessary to the effective implementation of the participating jurisdiction's housing strategy.

(d) Limitations.—Contracts under this section with any one contractor for a fiscal year may not—

(1) exceed 40 percent of the amount appropriated for this section for such fiscal year; or

(2) provide more than 20 percent of the operating budget (which shall not include funds that are passed through to community housing development organizations) of the contracting organization for any one year.

(e) SINGLE-STATE CONTRACTORS.—Not less than 25 percent of the funds made available for this section in an appropriations Act in any fiscal year shall be made available for eligible contractors that have worked primarily in one State. The Secretary shall provide assistance under this section, to the extent applications are submitted and approved, to contractors in each of the geographic regions having a regional office of the Department of Housing and Urban Development.

(f) DEFINITION OF COMMUNITY LAND TRUST.—For purposes of this section, the term "community land trust" means a community housing development organization (except that the requirements under subparagraphs (C) and (D) of section 104(6) shall not apply for purposes of this subsection)—

(1) that is not sponsored by a for-profit organization;

(2) that is established to carry out the activities under paragraph (3);

(3) that—

(A) acquires parcels of land, held in perpetuity, primarily for conveyance under long-term ground leases;

(B) transfers ownership of any structural improvements located on such leased parcels to the lessees; and

(C) retains a preemptive option to purchase any such structural improvement at a price determined by formula that is designed to ensure that the improvement remains affordable to low- and moderate-income families in perpetuity;

(4) whose corporate membership that is open to any adult resident of a particular geographic area specified in the bylaws of the organization; and

(5) whose board of directors—

(A) includes a majority of members who are elected by the corporate membership; and

(B) is composed of equal numbers of (i) lessees pursuant to paragraph (3)(B), (ii) corporate members who are not lessees, and (iii) any other category of persons described in the bylaws of the organization.

Sec. 234. [42 U.S.C. 12774]
OTHER REQUIREMENTS.

(a) TENANT PARTICIPATION PLAN.—A community housing development organization that receives assistance under this subtitle shall provide a plan for and follow a program of tenant participation in management decisions and shall adhere to a fair lease and grievance procedure approved by the participating jurisdiction.

(b) LIMITATION ON ASSISTANCE.—A community housing development organization may not receive assistance under this title for any fiscal year in an amount that provides more than 50 percent of the organization's total operating budget in the fiscal year or $50,000 annually, whichever is greater.

(c) ADJUSTMENTS OF OTHER ASSISTANCE.—The Secretary shall take account of assistance provided to a project under this subtitle when adjusting other assistance to be provided to the project as required by section 102(d) of the Department of Housing and Urban Development Reform Act of 1989.

Subtitle C—Other Support for State and Local Housing Strategies

Sec. 241. [42 U.S.C. 12781]
AUTHORITY.

The Secretary shall, insofar as is feasible through contract with eligible organizations, develop the capacity of participating jurisdictions, State and local housing finance agencies, nonprofit organizations and for-profit

corporations, working in partnership, to identify and meet needs for an increased supply of decent, affordable housing.

Sec. 242. [42 U.S.C. 12782]
PRIORITIES FOR CAPACITY DEVELOPMENT.

To carry out section 241, the Secretary shall provide assistance under this subtitle to—

(1) facilitate the exchange of information that would help participating jurisdictions carry out the purposes of this title, including information on program design, housing finance, land use controls, and building construction techniques;

(2) improve the ability of States and units of general local government to design and implement comprehensive housing affordability strategies, particularly those States and units of general local government that are relatively inexperienced in the development of affordable housing;

(3) encourage private lenders and for-profit developers of low-income housing to participate in public-private partnerships to achieve the purposes of this title;

(4) improve the ability of States and units of general local government, community housing development organizations, private lenders, and for-profit developers of low-income housing to incorporate energy efficiency into the planning, design, financing, construction, and operation of affordable housing;

(5) facilitate the establishment and efficient operation of employer-assisted housing programs through research, technical assistance and demonstration projects; and

(6) facilitate the establishment and efficient operation of land bank programs, under which title to vacant and abandoned parcels of real estate located in or causing blighted neighborhoods is cleared for use consistent with the purposes of this title.

Sec. 243. [42 U.S.C. 12783]
CONDITIONS OF CONTRACTS.

(a) ELIGIBLE ORGANIZATIONS.—The Secretary shall carry out this subtitle insofar as is practicable through contract with—

(1) a participating jurisdiction or agency thereof;

(2) a public purpose organization established pursuant to State or local legislation and responsible to the chief elected official of a participating jurisdiction;

(3) an agency or authority established by two or more participating jurisdictions to carry out activities consistent with the purposes of this title;

(4) a national or regional nonprofit organization that has a membership comprised predominantly of entities or officials of entities that qualify under paragraph (1), (2), or (3); or

(5) a professional and technical services company or firm that has demonstrated capacity to provide services under this subtitle.

(b) CONTRACT TERMS.—Contracts under this subtitle shall be for not more than 3 years and shall provide not more than 20 percent of the operating budget of the contracting organization in any one year. Within any fiscal year, contracts with any one organization may not be entered into for a total of more than 40 percent of the funds appropriated under this subtitle in that fiscal year.

Sec. 244. [42 U.S.C. 12784]
RESEARCH IN HOUSING AFFORDABILITY.

The Secretary is authorized to support, through contracts with eligible organizations and otherwise, such research and to publish such reports as will assist in the achievement of the purposes of this title. Activities authorized by the previous sentence may include an ongoing analysis of the impact of public policies at the Federal, State, and local levels, both individually and in the aggregate, on the incentives to expand and maintain the supply of energy-efficient affordable housing in the United States, particularly in areas with severe problems of housing affordability, through the use of cost-saving innovative building technology and construction techniques. For purposes of this section, agencies of the United States, government-sponsored mortgage finance corporations, and qualified research organizations shall be included as eligible organizations in addition to eligible organizations specified under section 243.

Sec. 245. [42 U.S.C. 12785]
REACH: ASSET RECYCLING INFORMATION DISSEMINATION.

(a) IN GENERAL.—The Secretary shall make available upon request by any participating jurisdiction a list of eligible properties that are located within the jurisdiction and that are owned or controlled by the Department of Housing and Urban Development to facilitate the purchase, development, or rehabilitation of such properties with assistance made available under this title.

(b) ELIGIBLE PROPERTIES.—An eligible property under this section shall—

(1) be an unoccupied single-family or multifamily dwelling, such that acquisition and rehabilitation of the dwelling would not result in the displacement of any residents of the dwelling; and

(2) have an appraised value that does not exceed (A) in the case of a 1- to 4-family dwelling, 95 percent of the median purchase price for the area for such dwellings, as determined by the Secretary, or (B) in the case of a dwelling with more than 4 units, the applicable maximum dollar amount limitation under section 221(d)(3)(ii) of the National Housing Act (12 U.S.C. 1715l(d)(3)(ii)) for elevator-type structures.

Subtitle D—Specified Model Programs

Sec. 251. [42 U.S.C. 12801]
GENERAL AUTHORITY.

Among the alternative model programs that the Secretary shall make available for use by participating jurisdictions under the provisions of section 213 shall be model programs specified in this subtitle. The Secretary shall keep these specified model programs under review and submit to Congress such recommendations for change as the Secretary determines to be appropriate.

Sec. 252. [42 U.S.C. 12802]
RENTAL HOUSING PRODUCTION.

(a) REPAYABLE ADVANCES.—

(1) IN GENERAL.—The Secretary shall make available a model program under which repayable advances may be made to public and private project sponsors in constructing, acquiring, or substantially rehabilitating projects to be used as affordable rental housing, including limited equity cooperatives and mutual housing.

(2) MAXIMUM AMOUNT OF ADVANCE.—An advance under this model program shall not exceed 50 percent of the total costs associated with the construction, acquisition, or substantial rehabilitation of the project, as determined by the participating jurisdiction.

(3) TERMS OF REPAYMENT.—

(A) INTEREST PAYMENTS.—

(i) IN GENERAL.—Under the model program, advances shall be repaid with interest calculated at a rate of not more than 3 percent per year, as determined by the participating jurisdiction to be appropriate. Interest shall begin to accrue 1 year after the completion of the construction, acquisition, or substantial rehabilitation of the project and shall be payable in annual installments.

(ii) EXCEPTION.—Interest and any accrued interest shall be payable only from the surplus cash flow of the project, after a minimum return on equity determined by the participating jurisdiction to be appropriate. As used in the previous sentence, the term "surplus cash flow" means the cash flow of the project after the payment of all amounts due under the first mortgage, operating expenses, and required replacement reserves, as determined by the participating jurisdiction.

(B) ADDITIONAL INTEREST PAYMENTS.—Under the model program, for any year in which the sum of the surplus cash flow of a project and the return on equity exceeds all interest payments due under subparagraph (A), 50 percent of the excess surplus cash flow shall be paid to the participating jurisdiction's HOME Investment Trust Fund as additional interest.

(C) PRINCIPAL AND UNPAID INTEREST.—The principal amount of an advance under the model program, and any interest remaining unpaid pursuant to subparagraph (A)(ii) shall be repayable when the housing no longer qualifies as affordable housing in accordance with section 219(b).

(b) SELECTION GUIDELINES.—

(1) IN GENERAL.—The Secretary shall establish guidelines for the selection of projects by participating jurisdictions for assistance under the model program. Such guidelines shall be designed to

select projects in areas and for markets demonstrating the greatest need for the production of affordable rental housing.

(2) SPECIFIC REQUIREMENTS.—The selection guidelines may include—

(A) the extent of the shortage of rental housing in the area that is available to low-income families;

(B) the extent large families with children will be served by the project;

(C) the extent to which the project provides congregate facilities and has available supportive services that will permit elderly or handicapped residents who become frail and are in need of assistance in living to continue to reside in the project;

(D) the extent of very low-income and low-income occupancy in excess of the income targeting requirements in section 214;

(E) the extent of the project sponsor's commitment of equity to the project (except that this criterion shall not apply to or affect the selection of applications submitted by public housing agencies and nonprofit entities);

(F) the extent of the project sponsor's commitment of equity to the project in comparison to the value of all public assistance for the project, including assistance under this title, other Federal assistance and financing, and State and local government contributions (except that this criterion shall not apply to or affect the selection of applications submitted by public housing agencies and nonprofit entities);

(G) the extent of non-Federal public or private assistance to the project;

(H) the extent to which the project provides supportive services for persons with disabilities; and

(I) any other factor determined by the Secretary to be appropriate.

(c) GUIDELINES.—The Secretary shall publish guidelines for the model program under this section not later than 180 days after enactment of this Act.[284]

Sec. 253. [42 U.S.C. 12803]
RENTAL REHABILITATION.

(a) IN GENERAL.—The Secretary shall make available a model program to support the rehabilitation of privately owned rental housing located in neighborhoods where the median income does not exceed 80 percent of the area median as determined by the Secretary and where rents can reasonably be expected not to change materially over an extended period of time.

(b) AMOUNT OF SUBSIDY.—The amount of the rehabilitation subsidy shall be moderate and shall generally not exceed 50 percent of the total costs associated with the rehabilitation of the housing.

(c) ADDITIONAL RESTRICTIONS.—The guidelines of the model program shall generally comport with the additional protections and restrictions specified under section 17(c) of the United States Housing Act of 1937.

Sec. 254. [42 U.S.C. 12804]
REHABILITATION LOANS.

(a) IN GENERAL.—The Secretary shall make available a model program to provide direct loans to finance the rehabilitation of low and moderate income single family and multifamily residential properties.

(b) CONDITION OF LOANS.—The Secretary shall establish terms and conditions to ensure that such loans are acceptable risks, taking into consideration the need for rehabilitation, the security for the loan and the ability of the borrower to repay the loan. The Secretary may establish the interest rate for loans under the model program, which shall include special interest rates for loans to borrowers with incomes below 80 percent of the area median income.

(c) ADDITIONAL RESTRICTIONS.—Guidelines for the model program may require that the property—

(1) be located in an area that contains a substantial number of dwellings in need of rehabilitation;

(2) the property is residential and owner-occupied; and

(3) the property is in need of rehabilitation or concentrated code enforcement within a reasonable time, and the rehabilitation of such property is consistent with a local plan for rehabilitation or code enforcement.

Additional guidelines for the model program shall generally comport with the additional protections and restrictions specified under section 312 of the Housing Act of 1964.

[284] The date of enactment was November 28, 1990.

Sec. 255. [42 U.S.C. 12805]
SWEAT EQUITY MODEL PROGRAM.

(a) IN GENERAL.—The Secretary shall make available a model program to provide grants to public and private nonprofit organizations and community housing development organizations to provide technical and supervisory assistance to low-income and very low-income families, including the homeless, in acquiring, rehabilitating, and constructing housing by the self-help housing method.

(b) REHABILITATION OF PROPERTIES.—The program shall target for rehabilitation properties which have been acquired by the Federal, State, or local governments.

(c) HOMEOWNERSHIP OPPORTUNITIES THROUGH SWEAT EQUITY.—

(1) The program shall utilize the skilled or unskilled labor of eligible families in exchange for acquisition of the property.

(2) Training shall be provided to eligible families in building and home maintenance skills.

(d) RENTAL OPPORTUNITIES THROUGH SWEAT EQUITY.—(1) The program shall include rental opportunities for eligible families which will help expand the stock of affordable housing which is most appropriate for the target group.

(2) The use of the tenant's skilled or unskilled labor shall be encouraged in lieu of or as a supplement to rent payments by the tenant.

(e) DEFINITION.—The term "self-help housing" means the same as in section 523 of the Housing Act of 1949.

(f) ADDITIONAL RESTRICTIONS.—The guidelines for the model program shall generally comport with the additional protections and restrictions specified under section 523 of the Housing Act of 1949.

Sec. 256. [42 U.S.C. 12806]
HOME REPAIR SERVICES GRANTS FOR OLDER AND DISABLED HOMEOWNERS.

(a) IN GENERAL.—The Secretary shall make available a model program to provide home repair services for older homeowners and disabled homeowners, including such services as the examination of homes, repair services, and follow-up to ensure the continued effectiveness of the repairs provided.

(b) ELIGIBLE RECIPIENTS.—Home repair services shall be provided to homeowners who—

(1) own and reside in the dwellings for which services are provided;

(2) are older or disabled; and

(3) are members of low-income families.

(c) PERMITTED RESTRICTIONS.—Guidelines for the model program shall require that—

(1) assisted dwelling units be the primary residence of the homeowner for whom services are provided;

(2) preferences be provided for (A) very low-income families, and (B) individuals with intense need characterized by noneconomic factors such as physical and mental disabilities, language barriers, and cultural, social, or geographical isolation caused by racial or ethnic status that restricts the ability of an individual to perform normal daily tasks or that threatens the capacity of the individual to live independently;

(3) any fees charged be based on the income of the individual receiving the home repair services.

Sec. 257. [42 U.S.C. 12807]
LOW-INCOME HOUSING CONSERVATION AND EFFICIENCY GRANT PROGRAMS.

(a) IN GENERAL.—The Secretary shall make available a model program to provide safe, energy-efficient affordable housing for low-income persons.

(b) ACTIVITIES.—The model program shall provide for—

(1) identification of housing that is—

(A) owned and occupied by low-income families who have received, are currently receiving, or are scheduled to receive assistance under the weatherization assistance for low-income persons program under part A of title IV of the Energy Conservation and Production Act (or a comparable Federal or State program);

(B) in danger of becoming uninhabitable within a 5-year period because of structural weaknesses or problems; and

(C) not sufficiently sound to permit energy conservation improvements without other repair or rehabilitation measures to protect such energy investments;

(2) repairs that will significantly prolong the habitability of units identified under paragraph (1), including roofing, electrical, plumbing, furnace, and foundation repairs or replacement that will prolong the use of the unit as a safe and energy-efficient residence for low-income persons; and (3) reasonable steps to ensure that any units so repaired will remain occupied by persons or families eligible for assistance under this title.

Sec. 258. [42 U.S.C. 12808]
SECOND MORTGAGE ASSISTANCE FOR FIRST-TIME HOMEBUYERS.

(a) IN GENERAL.—The Secretary shall make available a model program under which units of general local government provide loans (secured by second mortgages) with deferred payment of interest and principal to first-time homebuyers.

(b) HOMEOWNERSHIP COUNSELING.—The program under this section shall provide for homeownership counseling to first-time homebuyers assisted, which shall include—

(1) counseling before and after purchase of the property;

(2) assisting first-time homebuyers in identifying the most suitable and affordable properties;

(3) providing homebuyers with financial management assistance;

(4) assisting homebuyers in understanding mortgage transactions and home sales contracts; and

(5) assisting homebuyers with eliminating any credit problems that may prevent the homebuyers from purchasing the property.

(c) ELIGIBILITY REQUIREMENTS.—Deferred payment loans secured by second mortgages may be provided under the model program under this section if—

(1) the homebuyer assisted is a first-time homebuyer;

(2) the property secured by the second mortgage is a single-family residence and is the principal residence of the homebuyer; and

(3) the principal obligation of the deferred payment loan secured by a second mortgage does not exceed 30 percent of the acquisition price of the residence to the homebuyer.

(d) PAYMENT TERMS.—

(1) PERIOD OF DEFERRAL.—The payment of any principal and interest on a loan under this section shall be deferred for not less than the 5-year period beginning on the date of the acquisition of the residence by the homebuyer.

(2) INTEREST RATE.—The interest rate on the unpaid balance of a loan under this section shall be at least 4 percent.

(3) REPAYMENT PERIOD.—A deferred payment loan secured by a second mortgage shall be repayable over the 15-year period beginning at the end of the deferral period.

(e) SECURITY.—A deferred payment loan assisted with amount provided under a grant under this section shall be secured by a lien on the property involved, which lien shall be subordinate to the first mortgage on the property.

Sec. 259. [42 U.S.C. 12809]
REHABILITATION OF STATE AND LOCAL GOVERNMENT IN REM PROPERTIES.

(a) IN GENERAL.—The Secretary shall make available a model program under which States and units of general local government may convert in rem properties to provide affordable permanent housing for the homeless by leasing such properties to nonprofit organizations and permitting such organizations to rehabilitate the properties.

(b) TARGET.—The program shall target vacant properties for rehabilitation by nonprofit organizations.

Sec. 260. [42 U.S.C. 12810]
COST-SAVING BUILDING TECHNOLOGIES AND CONSTRUCTION TECHNIQUES.

(a) IN GENERAL.—The Secretary shall make available a model program to utilize cost-saving building technologies and construction techniques for purposes of providing homeownership and rental opportunities under this title.

(b) SELECTION CRITERIA.—The Secretary shall establish criteria for participating jurisdictions to select projects for assistance under the model program which may include—

(1) the extent to which innovative, cost-saving building and construction technologies are utilized;

(2) the extent to which innovative, cost-saving construction techniques are utilized;

(3) the extent to which units will be made available to low-income families and individuals;

(4) the extent to which non-Federal public or private assistance is utilized; and

(5) any other factor, determined by the Secretary to be appropriate.

(c) GUIDELINES.—The Secretary shall publish guidelines for the model program under this section not later than 180 days after the date of the enactment of the Housing and Community Development Act of 1992.[285]

(d) REPORT.—The Secretary shall submit a biennial report to the Congress on the utilization of the model program under this section.

Subtitle E—Other Assistance

Sec. 271. [42 U.S.C. 12821]
DOWNPAYMENT ASSISTANCE INITIATIVE.

(a) DEFINITIONS.—In this section:

(1) DOWNPAYMENT ASSISTANCE.—The term "downpayment assistance" means assistance to help a family acquire a principal residence.

(2) HOME REPAIRS.—The term "home repairs" means capital improvements or repairs that—

(A) are identified in an appraisal or home inspection completed in conjunction with a home purchase; or

(B) are completed within 1 year of the purchase of a home, and are necessary to bring the housing into compliance with health and safety housing codes of the unit of general local government in which the housing is located, including the remediation of lead paint or other home health hazards.

(3) PARTICIPATING JURISDICTION.—The term "participating jurisdiction" means a State or unit of general local government designated under section 216.

(4) STATE.—The term "State" means any State of the United States and the District of Columbia.

(b) GRANT AUTHORITY.—The Secretary may award grants to participating jurisdictions to assist low-income families to achieve homeownership, in accordance with this section.

(c) ELIGIBLE ACTIVITIES.—

(1) IN GENERAL.—

(A) DOWNPAYMENT ASSISTANCE.—Subject to subparagraph (B), grants awarded under this section may be used only for downpayment assistance toward the purchase of single family housing (including 1 to 4 unit family dwelling units, condominium units, cooperative units, and manufactured housing units which are located on land which is owned by the manufactured housing unit owner, owned as a cooperative, or is subject to a leasehold interest with a term equal to at least the term of the mortgage financing on the unit, and manufactured housing lots) by low-income families who are first-time home-buyers.

(B) HOME REPAIRS.—Not more than 20 percent of the grant funds provided under subsection (d) to a participating jurisdiction may be used to provide assistance to low-income, first-time home-buyers for home repairs.

(2) LIMITATIONS.—

(A) AMOUNT OF ASSISTANCE.—The amount of assistance provided to any low-income families under paragraph (1) shall not exceed the greater of—

(i) 6 percent of the purchase price of a single family housing unit; or

(ii) $10,000.

(B) PARTICIPATION.—A participating jurisdiction may not use any amount of a grant awarded under this section to provide funding to an entity or organization that provides downpayment assistance if the activities of that entity or organization are financed in whole or in part, directly or indirectly, by contributions, service fees, or other payments from the sellers of housing.

(d) FORMULA ALLOCATION.—

(1) IN GENERAL.—For each fiscal year, the Secretary shall allocate any amounts made available for assistance under this section to each State that is a participating jurisdiction in an amount equal to a percentage of the total allocation that is equal to the percentage of the national total of low-income households residing in rental housing in the State, as determined on the basis of the most recent census data compiled by the Bureau of the Census.

(2) PARTICIPATING JURISDICTIONS OTHER THAN STATES.—

[285] The date of enactment was October 28, 1992.

(A) IN GENERAL.—Subject to subparagraph (B), for each fiscal year, of the amount allocated to each State under paragraph (1), the Secretary shall further allocate from such amount to each participating jurisdiction located within such State an amount equal to the percentage of the allocation made to the State under paragraph (1) that is equal to the percentage of the State-wide total of low-income households residing in rental housing in such participating jurisdiction, as determined on the basis of the most recent census data compiled by the Bureau of the Census.

(B) LIMITATION.—

(i) IN GENERAL.—Direct allocations made under subparagraph (A) shall be made to a local participating jurisdiction only if—

(I) the participating jurisdiction has a total population of 150,000 individuals or more, as determined on the basis of the most recent census data compiled by the Bureau of the Census; or

(II) the participating jurisdiction would receive an allocation of $50,000 or more.

(ii) REVERSION.—Any allocation that would have otherwise been made to a participating jurisdiction that does not meet the requirements of clause (i) shall revert back to the State in which the participating jurisdiction is located.

(e) REALLOCATION.—If any amounts allocated to a participating jurisdiction under this section become available for reallocation, the amounts shall be reallocated to other participating jurisdictions in accordance with subsection (d).

(f) APPLICABILITY OF OTHER PROVISIONS.—

(1) IN GENERAL.—Except as otherwise provided in this section, grants made under this section shall not be subject to the provisions of this title.

(2) APPLICABLE PROVISIONS.—In addition to the requirements of this section, grants made under this section shall be subject to the provisions of title I, sections 215(b), 218, 219, 221, 223, 224, and 226(a) of subtitle A of this title, and subtitle F of this title.

(3) REFERENCES.—In applying the requirements of subtitle A referred to in paragraph (2)—

(A) any references to funds under subtitle A shall be considered to refer to amounts made available for assistance under this section; and

(B) any references to funds allocated or reallocated under section 217 or 217(d) shall be considered to refer to amounts allocated or reallocated under subsection (d) or (e) of this section, respectively.

(g) HOUSING STRATEGY.—To be eligible to receive a grant under this section in any fiscal year, a participating jurisdiction shall include in its comprehensive housing affordability strategy developed under section 105 of the Cranston-Gonzalez National Affordable Housing Act (42 U.S.C. 12705) for such fiscal year—

(1) a description of the anticipated use of any grant received under this section;

(2) a plan for conducting targeted outreach to residents and tenants of public housing, trailer parks, and manufactured housing, and to other families assisted by public housing agencies, for the purpose of ensuring that grant amounts provided under this section to a participating jurisdiction are used for downpayment assistance for such residents, tenants, and families; and

(3) a description of the actions to be taken to ensure the suitability of families receiving downpayment assistance under this section to undertake and maintain homeownership.

(h) REPORT.—Not later than June 30, 2006, the Comptroller General of the United States shall submit a report containing a State-by-State analysis of the impact of grants awarded under this section to—

(1) the Committee on Banking, Housing, and Urban Affairs of the Senate; and

(2) the Committee on Financial Services of the House of Representatives.

(i) SUNSET.—The Secretary shall have no authority to make grants under this section after December 31, 2011.

(j) RELOCATION ASSISTANCE AND DOWNPAYMENT ASSISTANCE.—The Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 (84 Stat. 1894) shall not apply to downpayment assistance under this section.

(k) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out this section $200,000,000 for each of fiscal years 2004 through 2007.

Subtitle F—General Provisions

Sec. 281. [42 U.S.C. 12831]
EQUAL OPPORTUNITY.

(a) SOLICITATION OF CONTRACTS.—Each participating jurisdiction shall prescribe procedures acceptable to the Secretary to establish and oversee a minority outreach program within each such jurisdiction to ensure the inclusion, to the maximum extent possible, of minorities and women, and entities owned by minorities and women, including, without limitation, real estate firms, construction firms, appraisal firms, management firms, financial institutions, investment banking firms, underwriters, accountants, and providers of legal services, in all contracts, entered into by the participating jurisdiction with such persons or entities, public and private, in order to facilitate the activities of the participating jurisdiction to provide affordable housing authorized under this Act or any other Federal housing law applicable to such jurisdiction.

(b) REPORT TO CONGRESS.—Before the end of the 180-day period beginning on the date the first allocation of funds is made under section 217, the Secretary shall submit to the Congress a report containing a description of the actions taken by each participating jurisdiction pursuant to subsection (a) and such recommendations for administrative and legislative action as the Secretary may determine to be appropriate to carry out the purposes of such subsection.

Sec. 282. [42 U.S.C. 12832]
NONDISCRIMINATION.

No person in the United States shall on the grounds of race, color, national origin, religion, or sex be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity funded in whole or in part with funds made available under this title. Any prohibition against discrimination on the basis of age under the Age Discrimination Act of 1975 or with respect to an otherwise qualified handicapped individual as provided in section 504 of the Rehabilitation Act of 1973 shall also apply to any such program or activity. The Secretary may waive this section in connection with the use of funds made available under this title on lands set aside under the Hawaiian Homes Commission Act, 1920 (42 Stat. 108).

Sec. 283. [42 U.S.C. 12833]
AUDITS BY COMPTROLLER GENERAL.

(a) AUDITS OF THE HOME INVESTMENT PARTNERSHIPS PROGRAM.—The Comptroller General, when the Comptroller General deems it to be appropriate or when requested by the Committee on Banking, Housing, and Urban Affairs of the Senate or the Committee on Banking, Finance and Urban Affairs of the House of Representatives[286], shall conduct a full financial audit of the records of the HOME Investment Partnerships program for any fiscal year. The report of the Comptroller General shall be submitted promptly to the Secretary and the Congress and shall be published.

(b) AUDITS OF RECIPIENTS.—The financial transactions of participating jurisdictions and of other recipients of funds provided under this title may, insofar as they relate to funds provided under this title, be audited by the General Accounting Office[287] under such rules and regulations as may be prescribed by the Comptroller General of the United States. The representatives of the General Accounting Office shall have access to all books, accounts, records, reports, files, and other papers, things, or property belonging to or in use by such recipients pertaining to such financial transactions and necessary to facilitate the audit.

Sec. 284. [42 U.S.C. 12834]
UNIFORM RECORDKEEPING AND REPORTS TO THE CONGRESS.

(a) UNIFORM REQUIREMENTS.—The Secretary shall develop and establish uniform recordkeeping, performance reporting, and auditing requirements for use by participating jurisdictions.

(b) REPORT TO THE CONGRESS.—Not later than 120 days after the end of each fiscal year, the Secretary shall make an annual report to the Congress that summarizes and assesses the results of reports provided

[286] Section 1(a) of Public Law 104-14, 109 Stat. 186, provides, in part, that "any reference in any provision of law enacted before January 4, 1995, to . . . the Committee on Banking, Finance and Urban Affairs of the House of Representatives shall be treated as referring to the Committee on Banking and Financial Services of the House of Representatives". However, H. Res. 5, 107th Congress, agreed to on January 3, 2001, abolished the Committee on Banking and Financial Services and established the Committee on Financial Services, which has jurisdiction over many of the areas previously under the jurisdiction of the Committee on Banking and Financial Services.

[287] Section 8(a) of the GAO Human Capital Reform Act, Public Law 108-271, 118 Stat. 814, approved July 7, 2004, 31 U.S.C. 702 note, redesignated the General Accounting Office as the Government Accountability Office. Subsection (b) of such section provides that "[a]ny reference to the General Accounting Office in any law, rule, regulation, certificate, directive, instruction, or other official paper in force on the date of enactment of this Act shall be considered to refer and apply to the Government Accountability Office.".

under this section. Such report shall include a description of actions taken by each participating jurisdiction pursuant to section 281(a) and such recommendations for administrative and legislative action as may be appropriate to carry out the purposes of such section.

Sec. 285. [42 U.S.C. 12835]
CITIZEN PARTICIPATION.

The Secretary shall ensure that each participating jurisdiction, and each jurisdiction seeking to become a participating jurisdiction, complies with the requirements of section 107 of this Act.

Sec. 286. [42 U.S.C. 12836]
LABOR.

(a) IN GENERAL.—Any contract for the construction of affordable housing with 12 or more units assisted with funds made available under this subtitle shall contain a provision requiring that not less than the wages prevailing in the locality, as predetermined by the Secretary of Labor pursuant to the Davis-Bacon Act (40 U.S.C. 276a—276a-5), shall be paid to all laborers and mechanics employed in the development of affordable housing involved, and participating jurisdictions shall require certification as to compliance with the provisions of this section prior to making any payment under such contract.

(b) WAIVER.—Subsection (a) shall not apply if the individual receives no compensation or is paid expenses, reasonable benefits, or a nominal fee to perform the services for which the individual volunteered and such persons are not otherwise employed at any time in the construction work.

Sec. 287. [42 U.S.C. 12837]
INTERSTATE AGREEMENTS.

The consent of the Congress is hereby given to any two or more States to enter into agreements or compacts, not in conflict with any law of the United States, for cooperative efforts and mutual assistance in support of activities authorized under this title as they pertain to interstate areas and to localities within such States, and to establish such agencies, joint or otherwise, as they may deem desirable for making such agreements and compacts effective.

Sec. 288. [42 U.S.C. 12838]
ENVIRONMENTAL REVIEW.

(a) IN GENERAL.—In order to assure that the policies of the National Environmental Policy Act of 1969 and other provisions of law which further the purposes of such Act (as specified in regulations issued by the Secretary) are most effectively implemented in connection with the expenditure of funds under this title, and to assure to the public undiminished protection of the environment, the Secretary, in lieu of the environmental protection procedures otherwise applicable, may under regulations provide for the release of funds for particular projects to jurisdictions or insular areas under this title who assume all of the responsibilities for environmental review, decisionmaking, and action pursuant to such Act, and such other provisions of law as the regulations of the Secretary specify, that would apply to the Secretary were he to undertake such projects as Federal projects. The Secretary shall issue regulations to carry out this section only after consultation with the Council on Environmental Quality. The regulations shall provide—

(1) for the monitoring of the environmental reviews performed under this section;

(2) in the discretion of the Secretary, to facilitate training for the performance of such reviews; and

(3) for the suspension or termination of the assumption under this section.

The Secretary's duty under the preceding sentence shall not be construed to limit or reduce any responsibility assumed by a State or unit of general local government with respect to any particular release of funds.

(b) PROCEDURE.—The Secretary shall approve the release of funds subject to the procedures authorized by this section only if, at least 15 days prior to such approval and prior to any commitment of funds to such projects the jurisdiction or insular area has submitted to the Secretary a request for such release accompanied by a certification which meets the requirements of subsection (c). The Secretary's approval of any such certification shall be deemed to satisfy his responsibilities under the National Environmental Policy Act of 1969 and such other provisions of law as the regulations of the Secretary specify insofar as those responsibilities relate to the releases of funds for projects to be carried out pursuant thereto which are covered by such certification.

(c) CERTIFICATION.—A certification under the procedures authorized by this section shall—

(1) be in a form acceptable to the Secretary,

(2) be executed by the chief executive officer or other officer of the recipient of assistance under this title qualified under regulations of the Secretary,

(3) specify that the recipient of assistance under this title has fully carried out its responsibilities as described under subsection (a), and

(4) specify that the certifying officer (A) consents to assume the status of a responsible Federal official under the National Environmental Policy Act of 1969 and each provision of law specified in regulations issued by the Secretary insofar as the provisions of such Act or other such provision of law apply pursuant to subsection (a), and (B) is authorized and consents on behalf of the jurisdiction or insular area and himself to accept the jurisdiction of the Federal courts for the purpose of enforcement of his responsibilities as such an official.

(d) ASSISTANCE TO UNITS OF GENERAL LOCAL GOVERNMENT FROM A STATE.—In the case of assistance to units of general local government from a State, the State shall perform those actions of the Secretary described in subsection (b) and the performance of such actions shall be deemed to satisfy the Secretary's responsibilities referred to in the second sentence of such subsection.

Sec. 289. [42 U.S.C. 12839]
TERMINATION OF EXISTING HOUSING PROGRAMS.

(a) IN GENERAL.—Except with respect to projects and programs for which binding commitments have been entered into prior to October 1, 1991, no new grants or loans shall be made after October 1, 1991, under—

(1) section 17 of the United States Housing Act of 1937;

(2) section 312 of the Housing Act of 1964;

(3) title VI of the Housing and Community Development Act of 1987;

(4) section 8(e)(2) of the United States Housing Act of 1937, except for funds allocated under such section for single room occupancy dwellings as authorized by title IV of the Stewart B. McKinney Homeless Assistance Act[288]; and

(5) section 810 of the Housing and Community Development Act of 1974.

(b) REPEALS.—

(1) IN GENERAL.—Except as provided in paragraph (2), effective on October 1, 1991, the provisions of law referred to in subsection (a) are repealed.

(2) NO EFFECT ON SRO PROGRAM.—The provision of law referred to in subsection (a)(4) shall remain in effect with respect to single room occupancy dwellings as authorized by title IV of the Stewart B. McKinney Homeless Assistance Act1.

(c) DISPOSITION OF REPAYMENTS.—Any amounts received on or after October 1, 1991, as repayments or recaptures in connection with the programs referred to in subsection (a) and any other amounts for such programs that remain or become unobligated on or after such date, shall be paid into the general fund of the Treasury.

Sec. 290. [42 U.S.C. 12840]
SUSPENSION OF REQUIREMENTS FOR DISASTER AREAS.

For funds designated under this title by a recipient to address the damage in an area for which the President has declared a disaster under title IV of the Robert T. Stafford Disaster Relief and Emergency Assistance Act, the Secretary may suspend all statutory requirements for purposes of assistance under this title for that area, except for those related to public notice of funding availability, nondiscrimination, fair housing, labor standards, environmental standards, and low-income housing affordability.

END OF STATUTE

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[288] Public Law 106-400, enacted on October 30, 2000, renamed the Stewart B. McKinney Homeless Assistance Act as the McKinney-Vento Homeless Assistance Act. Section 2 of such Act (42 U.S.C. 11301 note) provides that "[a]ny reference in any law, regulation, document, paper, or other record of the United States to the Stewart B. McKinney Homeless Assistance Act shall be deemed to be a reference to the `McKinney-Vento Homeless Assistance Act'".

RENT SUPPLEMENTS

HOUSING AND URBAN DEVELOPMENT ACT OF 1965
[Public Law 89-117; 79 Stat. 451; 12 U.S.C. 1701s]

Sec. 101. [12 U.S.C. 1701s]
RENT SUPPLEMENT PAYMENTS FOR QUALIFIED LOWER INCOME FAMILIES.

(a) The Secretary of Housing and Urban Development (hereinafter referred to as the "Secretary") is authorized to make, and contract to make, annual payments to a "housing owner" on behalf of "qualified tenants", as those terms are defined herein, in such amounts and under such circumstances as are prescribed in or pursuant to this section. In no case shall a contract provide for such payments with respect to any housing for a period exceeding forty years.[289] The aggregate amount of the contracts to make such payments shall not exceed amounts approved in appropriation Acts and payments pursuant to such contracts shall not exceed $150,000,000 per annum prior to July 1, 1969, which maximum dollar amount shall be increased by $40,000,000, on July 1, 1969, by $100,000,000 on July 1, 1970, and by $40,000,000 on July 1, 1971.

(b) As used in this section, the term "housing owner" means a private nonprofit corporation or other private nonprofit legal entity, a limited dividend corporation or other limited dividend legal entity, or a cooperative housing corporation, which is a mortgagor under section 221(d)(3) of the National Housing Act and which, after the enactment of this section, has been approved for mortgage insurance thereunder and has been approved for receiving the benefits of this section: Provided, That, except as provided in subsection (j), no payments under this section may be made with respect to any property financed with a mortgage receiving the benefits of the interest rate provided for in the proviso in section 221(d)(5) of that Act. Such term also includes a private nonprofit corporation or other private nonprofit legal entity, a limited dividend corporation or other limited dividend legal entity, or a cooperative housing corporation, which is the owner of a rental or cooperative housing project financed under a State or local program providing assistance through loans, loan insurance, or tax abatement and which may involve either new or existing construction and which is approved for receiving the benefits of this section. Subject to the limitations provided in subsection (j), the term "housing owner" also has the meaning prescribed in such subsection.

Nothing in this section shall be construed as preventing payments to a housing owner with respect to projects in which all or part of the dwelling units do not contain kitchen facilities; but of the total amount of contracts to make annual payments approved in appropriation Acts pursuant to subsection (a) after the date of the enactment of Housing and Urban Development Act of 1970, not more than 10 per centum in the aggregate shall be made with respect to such projects.

(c) As used in this section, the term—

(1) "qualified tenant" means any individual or family having an income which would qualify such individual or family for assistance under section 8 of the United States Housing Act of 1937, except that such term shall also include any individual or family who was receiving assistance under this section on the day preceding the date of the enactment of the Housing and Community Development Amendments of 1979, so long as such individual or family continues to meet the conditions for such assistance which were in effect on such day; and

(2) "income" means income from all sources of each member of the household, as determined in accordance with criteria prescribed by the Secretary. In determining amounts to be excluded from income, the Secretary may, in the Secretary's discretion, take into account the number of minor children in the household and such other factors as the Secretary may determine are appropriate.

The terms "qualified tenant" and "tenant" including a member of a cooperative who satisfies the foregoing requirements and who, upon resale of his membership to the cooperative, will not be reimbursed for any equity increment accumulated through payments under this section. With respect to members of a cooperative, the term "rental" and "rental charges" mean the charges under the occupancy agreements between such members and the cooperative.

[289] The Transportation, Treasury, Housing and Urban Development, the Judiciary, the District of Columbia, and Independent Agencies Appropriations Act, 2006, title III of division A of Public Law 109-115, 119 Stat. 2453, 12 U.S.C. 1701s note, under heading Rental Housing Assistance—Other Assisted Housing Programs provides: "[t]hat amendments to such contracts hereafter may be for a period less than the term of the respective contracts".

(d) The amount of the annual payment with respect to any dwelling unit shall be the lesser of (1) 70 per centum of the fair market rent, or (2) the amount by which the fair market rental for such unit exceeds 30 per centum of the tenant's adjusted income.

(e)(1) For purposes of carrying out the provisions of this section, the Secretary shall establish criteria and procedures for determining the eligibility of occupants and rental charges, including criteria and procedures with respect to periodic review of tenant incomes and periodic adjustment of rental charges.

(2) Procedures adopted by the Secretary hereunder shall provide for recertifications of the incomes of occupants no less frequently than annually for the purpose of adjusting rental charges and annual payments on the basis of occupants' incomes, but in no event shall rental charges adjusted under this section for any dwelling exceed the fair market rental of the dwelling.

(3) The Secretary may enter into agreements, or authorize housing owners to enter into agreements, with public or private agencies for services required in the selection of qualified tenants, including those who may be approved, on the basis of the probability of future increases in their incomes, as lessees under an option to purchase (which will give such approved qualified tenants an exclusive right to purchase at a price established or determined as provided in the option) dwellings, and in the establishment of rentals. The Secretary is authorized (without limiting his authority under any other provision of law) to delegate to any such public or private agency his authority to issue certificates pursuant to this subsection.

(4) No payments under this section may be made with respect to any property for which the costs of operation (including wages and salaries) are determined by the Secretary to be greater than similar costs of operation of similar housing in the community where the property is situated.

(f) * * *

(g) The Secretary is authorized to make such rules and regulations, to enter into such agreements, and to adopt such procedures as He may deem necessary or desirable to carry out the provisions of this section. Nothing contained in this section shall affect the authority of the Secretary of Housing and Urban Development with respect to any housing assisted under this section, section 221(d)(3), section 231(c)(3), or section 236 of the National Housing Act, or section 202 of the Housing Act of 1959, including the authority to prescribe occupancy requirements under other provisions of law or to determine the portion of any such housing which may be occupied by qualified tenants. To ensure that qualified tenants occupying that number of units with respect to which assistance was being provided under this section immediately prior to the date of enactment of this sentence[290] receive the benefit of assistance contracted for under this section, the Secretary shall offer annually to amend contracts entered into with owners of projects assisted under this section but not subject to mortgages insured under title II of the National Housing Act to provide sufficient payments to cover 100 percent of the necessary rent increases and changes in the incomes of qualified tenants, subject to the availability of authority for such purpose under section 5(c) of the United States Housing Act of 1937. The Secretary shall take such actions as may be necessary to ensure that payments, including payments that reflect necessary rent increases and changes in the incomes of tenants, are made on a timely basis for all units covered by contracts entered into under this section.

(h) There are authorized to be appropriated such sums as may be necessary to carry out the provisions of this section, including, but not limited to, such sums as may be necessary to make annual payments as prescribed in this section, pay for services provided under (or pursuant to agreements entered into under) subsection (e), and provide administrative expenses.

(i) * * *

(j)(1) For the purpose of assisting housing under this section on an experimental basis, subject to the limitations of this subsection, the term "housing owner" (in addition to the meaning prescribed in subsection (b)) includes—

(A) a private nonprofit corporation on other private nonprofit legal entity, a limited dividend corporation or other limited dividend legal entity, or a cooperative housing corporation, which is a mortgagor under a mortgage which receives the benefits of the interest rate provided for in the proviso in section 221(d)(5) of the National Housing Act and which, after the date of the enactment of this Act, has been approved for mortgage insurance under section 221(d)(3) of the National Housing Act and has been approved for receiving the benefits of this section;

(B) a private nonprofit corporation or other private nonprofit legal entity which is a mortgagor under a mortgage insured under section 231(c)(3) of the National Housing Act and

[290] The date of enactment was November 30, 1983.

which, after the date of the enactment of this Act, has obtained final endorsement of such mortgage for mortgage insurance and has been approved for receiving the benefits of this section;

(C) a private nonprofit corporation, a public body or agency, or a cooperative housing corporation, which is a borrower under section 202 of the Housing Act of 1959 and has been approved for receiving the benefits of this section: Provided, That with respect to properties financed with loans under such section made on or before the date of the enactment of this Act, payments shall not be made with respect to more than 20 per centum of the dwelling units in any property so financed; and

(D) a private nonprofit corporation or other private nonprofit legal entity, a limited dividend corporation or other limited dividend legal entity, or a cooperative housing corporation, which is assisted under section 236 of the National Housing Act and which has been approved for receiving the benefits of this section: Provided, That payments shall not be made with respect to more than 20 per centum of the dwelling units in any property so financed, except that the foregoing limitation may be increased to 40 per centum of the dwelling units in any such property if the Secretary determines that such increase is necessary and desirable in order to provide additional housing for individuals and families meeting the requirements of subsection (c).

(2) Of the amounts approved in appropriation Acts pursuant to subsection (a) for payments under this section in any year, not more than 5 per centum in the aggregate shall be paid with respect to properties of housing owners as defined in paragraph (1)(A) of this subsection, and not more than 5 per centum in the aggregate shall be paid with respect to properties of housing owners as defined in paragraphs (1)(B) and (1)(C) of this subsection.

(k)[291] In selecting individuals or families to be assisted under this section in accordance with the eligibility criteria and procedures established under subsection (e)(1), the project owner shall give preference to individuals and families who are occupying substandard housing, are paying more than 50 percent of family income for rent, or are involuntarily displaced at the time they are seeking housing or assistance under this section.

(l) Notwithstanding the provisions of subsection (a) and any other provision of law, the Secretary may utilize additional authority under section 5(c) of the United States Housing Act of 1937 made available by appropriation Acts on or after October 1, 1979, to supplement assistance authority available under this section. The Secretary shall utilize, to the extent necessary after September 30, 1984, any authority under this section that is recaptured either as the result of the conversion of housing projects covered by assistance under this section to contracts for assistance under section 8 of the United States Housing Act of 1937 or otherwise (1) for the purpose of making assistance payments, including amendments as provided in subsection (g), with respect to housing projects assisted under this section, but not subject to mortgages insured under the National Housing Act, that remain covered by assistance under this section; and (2) if not required to provide assistance under this section, and notwithstanding any other provision of law, for the purpose of contracting for assistance payments under section 236(f)(2) of the National Housing Act.

(m) The Secretary shall, not later than 45 days after receipt of an application by the mortgagee, provide interest reduction and rental assistance payments for the benefit of projects assisted under this section whose mortgages were made by State or local housing finance agencies or State or local government agencies for a term equal to the remaining mortgage term to maturity on projects assisted under this section to the extent of—

(1) unexpended balances of amounts of authority as set forth in certain letter agreements between the Department of Housing and Urban Development and such State or local housing finance agencies or State or local government agencies, and

(2) existing allocation under section 236 contracts on projects whose mortgages were made by State or local housing finance agencies or State or local government agencies which are not being funded, to the extent of such excess allocation, for any purposes permitted under the provisions of this section.

An application shall be eligible for assistance under the previous sentence only if the mortgagee submits the application within 548 days after the effective date of this subsection, along with a certification of the mortgagee that amounts hereunder are to be utilized hereunder for the purpose of either (A) reducing rents or rent increases to tenants, or (B) making repairs or otherwise increasing the economic viability of a related project. Unexpended balances referred to in the first sentence of this subsection which remain after disposition of all such applications is

[291] Section 514(d) of the Quality Housing and Work Responsibility Act of 1998 (Public Law 105-276; 112 Stat. 2548) provided that '[s]ubsection (k) of section 1010 of the Housing and Urban Development Act of 1965 (12 U.S.C. 1701s(k)) is hereby repealed.". Such section 514(d) probably intended to repeal this subsection.

favorably concluded shall be rescinded. The authority conferred by this subsection to provide interest reduction and rental assistance payments shall be available only to the extent approved in appropriation Acts.

END OF STATUTE

SECTION 236 RENTAL ASSISTANCE

NATIONAL HOUSING ACT
[Public Law 90-448; 82 Stat. 498; 12 U.S.C. 1715z-1]

Sec. 236. [12 U.S.C. 1715z-1]
RENTAL AND COOPERATIVE HOUSING FOR LOWER INCOME FAMILIES

(a) For the purpose of reducing rentals for lower income families, the Secretary is authorized to make, and to contract to make, periodic interest reduction payments on behalf of the owner of a rental housing project designed for occupancy by lower income families, which shall be accomplished through payments to mortgagees holding mortgages meeting the special requirements specified in this section.

(b) Interest reduction payments with respect to a project shall only be made during such time as the project is operated as a rental housing project and is subject to a mortgage which meets the requirements of, and is insured under, subsection (j) of this section: Provided, That the Secretary is authorized to continue making such interest reduction payments where the mortgage has been assigned to the Secretary: Provided further, That interest reduction payments may be made with respect to a mortgage or part thereof on a rental or cooperative housing project owned by a private nonprofit corporation or other private nonprofit entity, a limited dividend corporation or other limited dividend entity, public entity, or a cooperative housing corporation, which is financed under a State or local program providing assistance through loans, loan insurance, or tax abatements, and which may involve either new or existing construction and which is approved for receiving the benefits of this section. The term "mortgage insurance premiums," when used in this section in relation to a project financed by a loan under a State or local program, means such fees and charges, approved by the Secretary, as are payable by the mortgagor to the State or local agency mortgagee to meet reserve requirements and administrative expenses of such agency.

(c) The interest reduction payments to a mortgagee by the Secretary on behalf of a project owner shall be in an amount not exceeding the difference between the monthly payments for principal, interest, and mortgage insurance premium which the project owner as a mortgagor is obliged to pay under the mortgage and the monthly payment for principal and interest such project owner would be obligated to pay if the mortgage were to bear interest at the rate of 1 per centum per annum.

(d) The Secretary may include in the payment to the mortgagee such amount, in addition to the amount computed under subsection (c), as he deems appropriate to reimburse the mortgagee for its expenses in handling the mortgage.

(e)(1) As a condition for receiving the benefits of interest reduction payments, the project owner shall operate the project in accordance with such requirements with respect to tenant eligibility and rents as the Secretary may prescribe. Procedures shall be adopted by the Secretary for review of tenant incomes at intervals of one year (or at shorter intervals where the Secretary deems it desirable).

(2) A project for which interest reduction payments are made under this section and for which the mortgage on the project has been refinanced shall continue to receive the interest reduction payments under this section under the terms of the contract for such payments, but only if the project owner enters into such binding commitments as the Secretary may require (which shall be applicable to any subsequent owner) to ensure that the owner will continue to operate the project in accordance with all low-income affordability restrictions for the project in connection with the Federal assistance for the project for a period having a duration that is not less than the term for which such interest reduction payments are made plus an additional 5 years.

(f)(1)(A)(i) For each dwelling unit there shall be established, with the approval of the Secretary, a basic rental charge and fair market rental charge.

(ii) The basic rental charge shall be—

(I) the amount needed to operate the project with payments of principal and interest due under a mortgage bearing interest at the rate of 1 percent per annum; or

(II) an amount greater than that determined under clause (ii)(I), but not greater than the market rent for a comparable unassisted unit, reduced by the value of the interest reduction payments subsidy.

(iii) The fair market rental charge shall be—

(I) the amount needed to operate the project with payments of principal, interest, and mortgage insurance premium which the mortgagor is obligated to pay under the mortgage covering the project; or

(II) an amount greater than that determined under clause (iii)(I), but not greater than the market rent for a comparable unassisted unit.

(iv) The Secretary may approve a basic rental charge and fair market rental charge for a unit that exceeds the minimum amounts permitted by this subparagraph for such charges only if—

(I) the approved basic rental charge and fair market rental charges each exceed the applicable minimum charge by the same amount; and

(II) the project owner agrees to restrictions on project use or mortgage prepayment that are acceptable to the Secretary.

(v) The Secretary may approve a basic rental charge and fair market rental charge under this paragraph for a unit with assistance under section 8 of the United States Housing Act of 1937 (42 U.S.C. 1437f) that differs from the basic rental charge and fair market rental charge for a unit in the same project that is similar in size and amenities but without such assistance, as needed to ensure equitable treatment of tenants in units without such assistance.

(B)(i) The rental charge for each dwelling unit shall be at the basic rental charge or such greater amount, not exceeding the fair market rental charge determined pursuant to subparagraph (A), as represents 30 percent of the tenant's adjusted income, except as otherwise provided in this subparagraph.

(ii) In the case of a project which contains more than 5000 units, is subject to an interest reduction payments contract, and is financed under a State or local project, the Secretary may reduce the rental charge ceiling, but in no case shall the rental charge be below the basic rental charge set forth in subparagraph (A)(ii)(I).

(iii) For plans of action approved for capital grants under the Low-Income Housing Preservation and Resident Homeownership Act of 1990 or the Emergency Low Income Housing Preservation Act of 1987, the rental charge for each dwelling unit shall be at the minimum basic rental charge set forth in subparagraph (A)(ii)(I) or such greater amount, not exceeding the lower of: (I) the fair market rental charge set forth in subparagraph (A)(iii)(I); or (II) the actual rent paid for a comparable unit in comparable unassisted housing in the market area in which the housing assisted under this section is located, as represents 30 percent of the tenant's adjusted income.

(C) With respect to those projects which the Secretary determines have separate utility metering paid by the tenants for some or all dwelling units, the Secretary may—

(i) permit the basic rental charge and the fair market rental charge to be determined on the basis of operating the project without the payment of the cost of utility services used by such dwelling units; and

(ii) permit the charging of a rental for such dwelling units at such an amount less than 30 percent of a tenant's adjusted income as the Secretary determines represents a proportionate decrease for the utility charges to be paid by such tenant, but in no case shall rental be lower than 25 percent of a tenant's adjusted income.

(2) With respect to 20 per centum of the dwelling units in any project made subject to a contract under this section after the date of enactment of the Housing and Community Development Act of 1974, the Secretary shall make, and contract to make, additional assistance payments to the project owner on behalf of tenants whose incomes are too low for them to afford the basic rentals (including the amount allowed for utilities in the case of a project with separate utility metering) with 30 per centum of this adjusted income. The additional assistance payments authorized by this paragraph with respect to any dwelling unit shall be the amount required to reduce the rental payment (including the amount allowed for utilities in the case of a project with separate utility metering) by the tenant to the highest of the following amounts, rounded to the nearest dollar:

(A) 30 per centum of the tenant's monthly adjusted income;

(B) 10 per centum of the tenant's monthly income; or

(C) if the family is receiving payments for welfare assistance from a public agency and a part of such payments, adjusted in accordance with the family's actual housing costs, is

specifically designated by such agency to meet the family's housing costs, the portion of such payments which is so designated.

Notwithstanding the foregoing provisions of this paragraph, the Secretary may—

(A) reduce such 20 per centum requirements in the case of any project if be determines that such action is necessary to assure the economic viability of the project; or

(B) increase such 20 per centum requirement in the case of any project if he determines that such action is necessary and feasible in order to assure, insofar as is practicable, that there is in the project a reasonable range in the income levels of tenants, or that such action is to be taken to meet the housing needs of elderly or handicapped families.

(3) The Secretary shall utilize amounts credited to the fund described in subsection (g) for the sole purpose of carrying out the purposes of section 201 of the Housing and Community Development Amendments of 1978. No payments may be made from such fund unless approved in an appropriation Act. No amount may be so approved for any fiscal year beginning after September 30, 1994.

(4) To ensure that eligible tenants occupying that number of units with respect to which assistance was being provided under this subsection immediately prior to the date of enactment of this sentence[292] receive the benefit of assistance contracted for under paragraph (2), the Secretary shall offer annually to amend contracts, entered into under this subsection with owners of projects assisted but not subject to mortgages insured under this section to provide sufficient payments to cover 100 percent of the necessary rent increases and changes in the incomes of eligible tenants, subject to the availability of authority for such purpose under section 5(c) of the United States Housing Act of 1937. The Secretary shall take such actions as may be necessary to ensure that payments, including payments that reflect necessary rent increases and changes in the incomes of tenants, are made on a timely basis for all units covered by contracts entered into under paragraph (2).

(5)(A) In order to induce advances by owners for capital improvements (excluding any owner contributions that may be required by the Secretary as a condition for assistance under section 201 of the Housing and Community Development Amendments of 1978) to benefit projects assisted under this section, in establishing basic rental charges and fair market rental charges under paragraph (1) the Secretary may include an amount that would permit a return of such advances with interest to the owner out of project income, on such terms and conditions as the Secretary may determine. Any resulting increase in rent contributions shall be—

(i) to a level not exceeding the lower of 30 percent of the adjusted income of the tenant or the published existing fair market rent for comparable housing established under section 8(c) of the United States Housing Act of 1937;

(ii) phased in equally over a period of not less than 3 years, if such increase is 30 percent or more; and

(iii) limited to not more than 10 percent per year if such increase is more than 10 percent but less than 30 percent.

(B) Assistance under section 8 of the United States Housing Act of 1937 shall be provided, to the extent available under appropriations Acts, if necessary to mitigate any adverse effects on income-eligible tenants.

(7)[293] The Secretary shall determine whether and under what conditions the provisions of this subsection shall apply to mortgages sold by the Secretary on a negotiated basis.

(g)(1) The project owner shall, as required by the Secretary, accumulate, safeguard, and periodically pay the Secretary or such other entity as determined by the Secretary and upon such terms and conditions as the Secretary deems appropriate, all rental charges collected on a unit-by-unit basis in excess of the basic rental charges. Unless otherwise directed by the Secretary, such excess charges shall be credited to a reserve used by the Secretary to make additional assistance payments as provided in paragraph (3) of subsection (f).

(2) Notwithstanding any other requirements of this subsection, a project owner may retain some or all of such excess charges for project use if authorized by the Secretary.[294] Such excess charges shall be

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[292] November 30, 1983.

[293] So in law. There is no paragraph (6).

[294] Section 861(b) of the American Homeownership and Economic Opportunity Act of 2000, Pub. L. 106-569, approved December 27, 2000,12 U.S.C. 1715z-1 note, provides as follows:

"(b) TREATMENT OF EXCESS CHARGES PREVIOUSLY COLLECTED.—Any excess charges that a project owner may retain pursuant to the amendments made by subsections (b) and (c) of section 532 of the Departments of Veterans Affairs and Housing and Urban Development, and Independent Agencies Appropriations Act, 2000 (Public Law 106-74; 113 Stat. 1116) that have been collected by such owner

used for the project and upon terms and conditions established by the Secretary, unless the Secretary permits the owner to retain funds for non-project use after a determination that the project is well-maintained housing in good condition and that the owner has not engaged in material adverse financial or managerial actions or omissions as described in section 516 of the Multifamily Assisted Housing Reform and Affordability Act of 1997. In connection with the retention of funds for non-project use, the Secretary may require the project owner to enter into a binding commitment (which shall be applicable to any subsequent owner) to ensure that the owner will continue to operate the project in accordance with all low-income affordability restrictions for the project in connection with the Federal assistance for the project for a period having a duration of not less than the term of the existing affordability restrictions plus an additional 5 years.

(3) The Secretary shall not withhold approval of the retention by the owner of such excess charges because of the existence of unpaid excess charges if such unpaid amount is being remitted to the Secretary over a period of time in accordance with a workout agreement with the Secretary, unless the Secretary determines that the owner is in violation of the workout agreement.

(h) In addition to establishing the requirements specified in subsection (e), the Secretary is authorized to make such rules and regulations, to enter into such agreements, and to adopt such procedures as he may deem necessary or desirable to carry out the provisions of this section.

(i)(1) There are authorized to be appropriated such sums as may be necessary to carry out the provisions of this section, including such sums as may be necessary to make interest reduction payments under contracts entered into by the Secretary under this section. The aggregate amount of outstanding contracts to make such payments shall not exceed amounts approved in appropriation Acts, and payments pursuant to such contracts shall not exceed $75,000,000 per annum prior to July 1, 1969, which maximum dollar amount shall be increased by $125,000,000 on July 1, 1969, $150,000,000 on July 1, 1970, by $200,000,000 on July 1, 1971, and by $75,000,000 on July 1, 1974. The Secretary shall utilize, to the extent necessary after September 30, 1984, any authority under this section that is recaptured either as the result of the conversion of housing projects covered by assistance under subsection (f)(2) to contracts for assistance under section 8 of the United States Housing Act of 1937 or otherwise for the purpose of making assistance payments, including amendments as provided in subsection (f)(4), with respect to housing projects assisted, but not subject to mortgages insured, under the section that remain covered by assistance under subsection (f)(2).

(2) Contracts for assistance payments under this section may be entered into only with respect to tenants whose incomes do not exceed 80 per centum of the median family income for the area, as determined by the Secretary with adjustments for smaller and larger families, except that the Secretary may establish income ceilings higher or lower than 80 per centum of the median for the area on the basis of his findings that such variations are necessary because of prevailing levels of construction costs, unusually high or low family incomes, or other factors.

(3) Not less than 10 per centum of the total amount of contracts for assistance payments authorized by appropriation Acts to be made after June 30, 1974, shall be available for use only with respect to dwellings, or dwelling units in projects, which are approved by the Secretary prior to rehabilitation.

(4) At least 20 per centum of the total amount of contracts for assistance payments authorized in appropriation Acts to be made after June 30, 1974, shall be available for use only with respect to projects which are planned in whole or in part for occupancy by elderly or handicapped families. As used in this paragraph the term "elderly families" means families which consist of two or more persons the head of which (or his spouse) is sixty-two years of age or over or is handicapped. Such term also means a single person who is sixty-two years of age or over or is handicapped. A person shall be considered handicapped if such person is determined pursuant to regulations issued by the Secretary to have an impairment which

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since the date of the enactment of such appropriations Act and that such owner has not remitted to the Secretary of Housing and Urban Development may be retained by such owner unless such Secretary otherwise provides. To the extent that a project owner has remitted such excess charges to the Secretary since such date of the enactment, the Secretary may return to the relevant project owner any such excess charges remitted. Notwithstanding any other provision of law, amounts in the Rental Housing Assistance Fund, or heretofore or subsequently transferred from the Rental Housing Assistance Fund to the Flexible Subsidy Fund, shall be available to make such return of excess charges previously remitted to the Secretary, including the return of excess charges referred to in section 532(e) of such appropriations Act.".

Paragraphs (2) and (3) of this subsection were added by subsections (b) and (c) of section 532 of such Appropriations Act.

The Departments of Veterans Affairs and Housing and Urban Development, and Independent Agencies Appropriations Act, 2008, enacted as Division K of the Consolidated Appropriations Act, 2008, Public Law 110-161, 121 Stat. 2425, 12 U.S.C. 1715z-1 note, provides that "[f]rom the Rental Housing Assistance Fund, all uncommitted balances of excess rental charges as of September 30, 2007, and any collections made during fiscal year 2008 and all subsequent fiscal years, shall be transferred to the Flexible Subsidy Fund, as authorized by section 236(g) of the National Housing Act, as amended".

(A) is expected to be of long-continued and indefinite duration, (B) substantially impedes his ability to live independently, and (C) is of such a nature that such ability could be improved by more suitable housing conditions.

(j)(1) The Secretary is authorized, upon application by the mortgagee, to insure a mortgage (including advances on such mortgage during construction) which meets the requirements of this subsection.[295] Commitments for the insurance of such mortgages may be issued by the Secretary prior to the date of their execution or disbursement thereon, upon such terms and conditions as he may prescribe.

(2) As used in this subsection—

(A) the terms "family" and "families" shall have the same meaning as in section 221;

(B) the term "elderly or handicapped families" shall have the same meaning as in section 202 of the Housing Act of 1959; and

(C) the terms "mortgage", "mortgagee", and "mortgagor" shall have the same meaning as in section 201.

(3) To be eligible for insurance under this subsection, a mortgage shall meet the requirements specified in subsections (d)(1) and (d)(3) of section 221, except as such requirements are modified by this subsection. In the case of a project financed with a mortgage insured under this subsection which involves a mortgagor other than a cooperative or a private nonprofit corporation or association and which is sold to a cooperative or a nonprofit corporation or association, the Secretary is further authorized to insure under this subsection a mortgage given by such purchaser in an amount not exceeding the appraised value of the property at the time of purchase, which value shall be based upon a mortgage amount on which the debt service can be met from the income of the property when operated on a nonprofit basis, after payment of all operating expenses, taxes and required reserves.

(4) A mortgage to be insured under this subsection shall—

(A) be executed by a mortgagor eligible under subsection (d)(3) or (e) of section 221;

(B) bear interest at a rate not to exceed such percent per annum on the amount of the principal obligation outstanding at any time as the Secretary determines is necessary to meet the mortgage market, taking into consideration the yields on mortgages in the primary and secondary markets; and

(C) provide for complete amortization by periodic payments within such term as the Secretary may prescribe.

(5) The property or project shall—

(A) comply with such standards and conditions as the Secretary may prescribe to establish the acceptability of the property for mortgage insurance and may include such nondwelling facilities as the Secretary deems adequate and appropriate to serve the occupants and the surrounding neighborhood: Provided, That the project shall be predominantly residential and any nondwelling facility included in the mortgage shall be found by the Secretary to contribute to the economic feasibility of the project, and the Secretary shall give due consideration to the possible effect of the project on other business enterprises in the community: Provided further, That in the case of a project designed primarily for occupancy by elderly or handicapped families, the project may include related facilities for use by elderly or handicapped families, including cafeterias or dining halls, community rooms, workshops, infirmaries, or other inpatient or outpatient health facilities, and other essential service facilities;

(B) include five or more dwelling units, but such units, in the case of a project designed primarily for occupancy by displaced, elderly, or handicapped families, need not, with the approval of the Secretary, contain kitchen facilities; and

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[295] Subsections (c) and (d) of section 201 of the Housing and Urban Development Act of 1968, Pub. L. 90-448, approved August 1, 1968, 12 U.S.C. 1715z-1 note, provide as follows:

"(c) The Secretary of Housing and Urban Development is authorized, upon such terms and conditions as he may prescribe, to transfer to section 236(j) of the National Housing Act the insurance of a mortgage which has not be [sic] finally endorsed for insurance under section 221(d)(3) of such Act and which has been approved for the below-market interest rate prescribed in the proviso of section 221(d)(5) of such Act.

"(d) The Secretary of Housing and Urban Development is authorized, upon such terms and conditions as he may prescribe, to insure under section 236(j) of the National Housing Act a mortgage meeting the requirements of such section which is given to refinance a mortgage loan made under section 202 of the Housing Act of 1959: Provided, That the application for such insurance is filed with the Secretary on or before the date of project completion, or within such reasonable time thereafter as the Secretary may permit.".

Section 201(e)(3) of the Housing and Urban Development Act of 1968 also amended section 101 of the Housing and Urban Development Act of 1965 to permit up to 20 percent of the units in any one project to be occupied by tenants receiving rent supplement benefits under section 101 of the 1965 Act.

(C) be designed primarily for use as a rental project to be occupied by lower income families or by elderly or handicapped families: Provided, That lower income persons who are less than sixty-two years of age shall be eligible for occupancy in such a project.

In any case in which it is determined in accordance with regulations of the Secretary that facilities in existence or under construction on the date of enactment of the Housing and Urban Development Act of 1970 which could appropriately be used for classroom purposes are available in any such property or project and that public schools in the community are overcrowed due in part to the attendance at such schools of residents of the property or project, such facilities may be used for such purposes to the extent permitted in such regulations (without being subject to any of the requirements of the first proviso in subparagraph (A) except the requirement that the project be predominantly residential).

(6) With the approval of the Secretary, the mortgagor may sell the individual dwelling units to lower income or elderly or handicapped purchasers. The Secretary may consent to the release of the mortgagor from his liability under the mortgage and the credit instrument secured thereby, or consent to the release of parts of the mortgaged property from the lien of the mortgage, upon such terms and conditions as he may prescribe, and the mortgage may provide for such release.

(k) As used in this section the term “tenant” includes a member of a cooperative; the term “rental housing project” includes a cooperative housing project; and the terms “rental” and “rental charge” mean, with respect to members of a cooperative, the charges under the occupancy agreements between such members and the cooperative.

(l) The Secretary shall from time to time allocate and transfer to the Secretary of Agriculture, for use (in accordance with the terms and conditions of this section) in rural areas and small towns, a reasonable portion of the total authority to contract to make periodic interest reduction payments as approved in appropriation Acts under subsection (i).

(m) For the purpose of this section the term “income” means income from all sources of each member of the household, as determined in accordance with criteria prescribed by the Secretary, except that any amounts not actually received by the family may not be considered as income under this subsection. In determining amounts to be excluded from income, the Secretary may, in the Secretary’s discretion, take into account the number of minor children in the household and such other factors as the Secretary may determine are appropriate.

(n) No mortgage shall be insured under this section after November 30, 1983, except pursuant to a commitment to insure before that date. A mortgage may be insured under this section after the date in the preceding sentence in order to refinance a mortgage insured under this section or to finance pursuant to subsection (j)(3) the purchase, by a cooperative or nonprofit corporation or association, of a project assisted under this section.

(o) The Secretary is authorized to enter into agreements with any State or agency thereof under which such State or agency thereof contracts to make interest reduction payments, subject to all the terms and conditions specified in this section and in rules, regulations and procedures adopted by the Secretary under this section, with respect to all or a part of a project covered by a mortgage insured under this section. Any funds provided by a State or agency thereof for the purpose of making interest reduction payments shall be administered, disbursed and accounted for by the Secretary in accordance with the agreements entered into by the Secretary with the State or agency thereof and for such fees as shall be specified therein. Before entering into any agreements pursuant to this subsection the Secretary shall require assurances satisfactory to him that the State or agency thereof is able to provide sufficient funds for the making of interest reduction payments for the full period specified in the interest reduction contract.

(p) The Secretary is authorized to enter into contracts with State or local agencies approved by him to provide for the monitoring and supervision by such agencies of the management by private sponsors of projects assisted under this section. Such contracts shall require that such agencies promptly report to the Secretary any deficiencies in the management of such projects in order to enable the Secretary to take corrective action at the earliest practicable time.

(q) The Secretary may provide assistance under section 8 of the United States Housing Act of 1937 with respect to residents of units in a project assisted under this section. In entering into contracts under section 5(c) of such Act with respect to the additional authority provided on October 1, 1980, the Secretary shall not utilize more than $20,000,000 of such additional authority to provide assistance for elderly or handicapped families which, at the time of applying for assistance under such section 8, are residents of a project assisted under this section and are expending more than 50 percent of their income on rental payments.

(r) The Secretary shall, not later than 45 days after receipt of an application by the mortgagee, provide interest reduction and rental assistance payments for the benefit of projects assisted under this section whose mortgages were made by State or local housing finance agencies or State or local government agencies for a term equal to the remaining mortgage term to maturity on projects assisted under this section to the extent of—

(1) unexpended balances of amounts of authority as set forth in certain letter agreements between the Department of Housing and Urban Development and such State or local housing finance agencies or State or local government agencies, and

(2) existing allocation under section 236 contracts on projects whose mortgages were made by State or local housing finance agencies or State or local government agencies which are not being funded, to the extent of such excess allocation, for any purposes permitted under the provisions of this section, including without limitation rent supplement and rental assistance payment unit increases and mortgage increases for any eligible purpose under this section, including without limitation operating deficit loans.

An application shall be eligible for assistance under the previous sentence only if the mortgagee submits the application within 548 days after the effective date of this subsection, along with a certification of the mortgagee that amounts hereunder are to be utilized only for the purpose of either (A) reducing rents or rent increases to tenants, or (B) making repairs or otherwise increasing the economic viability of a related project. Unexpended balances referred to in the first sentence of this subsection which remain after disposition of all such applications is favorably concluded shall be rescinded. The calculation of the amount of assistance to be provided under an interest reduction contract pursuant to this subsection shall be made on the basis of an assumed mortgage term equal to the lesser of a 40-year amortization period or the term of that part of the mortgage which relates to the additional assistance provided under this subsection, even though the additional assistance may be provided for a shorter period. The authority conferred by this subsection to provide interest reduction and rental assistance payments shall be available only to the extent approved in appropriation Acts.

(s) GRANTS AND LOANS FOR REHABILITATION OF MULTIFAMILY PROJECTS.—

(1) IN GENERAL.—The Secretary may make grants and loans for the capital costs of rehabilitation to owners of projects that meet the eligibility and other criteria set forth in, and in accordance with, this subsection.

(2) PROJECT ELIGIBILITY.—A project may be eligible for capital assistance under this subsection under a grant or loan only—

(A) if—

(i) the project is or was insured under any provision of title II of the National Housing Act;

(ii) the project was assisted under section 8 of the United States Housing Act of 1937 on the date of enactment of the Multifamily Assisted Housing Reform and Affordability Act of 1997; and

(iii) the project mortgage was not held by a State agency as of the date of enactment of the Multifamily Assisted Housing Reform and Affordability Act of 1997;

(B) if the project owner agrees to maintain the housing quality standards as required by the Secretary;

(C) the project owner enters into such binding commitments as the Secretary may require (which shall be applicable to any subsequent owner) to ensure that the owner will continue to operate the project in accordance with all low-income affordability restrictions for the project in connection with the Federal assistance for the project for a period having a duration that is not less than the period referred to in paragraph (5)(C);

(D)(i) if the Secretary determines that the owner or purchaser of the project has not engaged in material adverse financial or managerial actions or omissions with regard to such project; or

(ii) if the Secretary elects to make such determination, that the owner or purchaser of the project has not engaged in material adverse financial or managerial actions or omissions with regard to other projects of such owner or purchaser that are federally assisted or financed with a loan from, or mortgage insured or guaranteed by, an agency of the Federal Government;

(iii) material adverse financial or managerial actions or omissions, as the terms are used in this subparagraph, include—

(I) materially violating any Federal, State, or local law or regulation with regard to this project or any other federally assisted project, after receipt of notice and an opportunity to cure;

(II) materially breaching a contract for assistance under section 8 of the United States Housing Act of 1937, after receipt of notice and an opportunity to cure;

(III) materially violating any applicable regulatory or other agreement with the Secretary or a participating administrative entity, after receipt of notice and an opportunity to cure;

(IV) repeatedly failing to make mortgage payments at times when project income was sufficient to maintain and operate the property;

(V) materially failing to maintain the property according to housing quality standards after receipt of notice and a reasonable opportunity to cure; or

(VI) committing any act or omission that would warrant suspension or debarment by the Secretary; and

(iv) the term "owner" as used in this subparagraph, in addition to it having the same meaning as in section 8(f) of the United States Housing Act of 1937, also means an affiliate of the owner; the term "purchaser" as used in this subsection means any private person or entity, including a cooperative, an agency of the Federal Government, or a public housing agency, that, upon purchase of the project, would have the legal right to lease or sublease dwelling units in the project, and also means an affiliate of the purchaser; the terms "affiliate of the owner" and "affiliate of the purchaser" means any person or entity (including, but not limited to, a general partner or managing member, or an officer of either) that controls an owner or purchaser, is controlled by an owner or purchaser, or is under common control with the owner or purchaser; the term "control" means the direct or indirect power (under contract, equity ownership, the right to vote or determine a vote, or otherwise) to direct the financial, legal, beneficial or other interests of the owner or purchaser; and

(E) if the project owner demonstrates to the satisfaction of the Secretary—

(i) using information in a comprehensive needs assessment, that capital assistance under this subsection from a grant or loan (as appropriate) is needed for rehabilitation of the project; and

(ii) that project income is not sufficient to support such rehabilitation.

(3) ELIGIBLE USES.—Amounts from a grant or loan under this subsection may be used only for projects eligible under paragraph (2) for the purposes of—

(A) payment into project replacement reserves;

(B) debt service payments on non-Federal rehabilitation loans; and

(C) payment of nonrecurring maintenance and capital improvements, under such terms and conditions as are determined by the Secretary.

(4) GRANT AND LOAN AGREEMENTS.—

(A) IN GENERAL.—The Secretary shall provide in any grant or loan agreement under this subsection that the grant or loan shall be terminated if the project fails to meet housing quality standards, as applicable on the date of enactment of the Multifamily Assisted Housing Reform and Affordability Act of 1997, or any successor standards for the physical conditions of projects, as are determined by the Secretary.

(B) AFFORDABILITY AND USE CLAUSES.—The Secretary shall include in a grant or loan agreement under this subsection a requirement for the project owners to maintain such affordability and use restrictions as the Secretary determines to be appropriate and consistent with paragraph (2)(C).

(C) OTHER TERMS.—The Secretary may include in a grant or loan agreement under this subsection such other terms and conditions as the Secretary determines to be necessary.

(5) LOAN TERMS.—A loan under this subsection—

(A) shall provide amounts for the eligible uses under paragraph (3) in a single loan disbursement of loan principal;

(B) shall be repaid, as to principal and interest, on behalf of the borrower using amounts recaptured from contracts for interest reduction payments pursuant to clause (i) or (ii) of paragraph (7)(A);

(C) shall have a term to maturity of a duration not shorter than the remaining period for which the interest reduction payments for the insured mortgage or mortgages that fund repayment of the loan would have continued after extinguishment or writedown of the mortgage (in accordance with the terms of such mortgage in effect immediately before such extinguishment or writedown);

(D) shall bear interest at a rate, as determined by the Secretary of the Treasury, that is based upon the current market yields on outstanding marketable obligations of the United States having comparable maturities; and

(E) shall involve a principal obligation of an amount not exceeding the amount that can be repaid using amounts described in subparagraph (B) over the term determined in accordance with subparagraph (C), with interest at the rate determined under subparagraph (D).

(6) DELEGATION.—

(A) IN GENERAL.—In addition to the authorities set forth in subsection (p), the Secretary may delegate to State and local governments the responsibility for the administration of grants1 under this subsection. Any such government may carry out such delegated responsibilities directly or under contracts.

(B) ADMINISTRATION COSTS.—In addition to other eligible purposes, amounts of grants[296] under this subsection may be made available for costs of administration under subparagraph (A).

(7) FUNDING.—

(A) IN GENERAL.—For purposes of carrying out this subsection, the Secretary may make available amounts that are unobligated amounts for contracts for interest reduction payments—

(i) that were previously obligated for contracts for interest reduction payments under this section until the insured mortgage under this section was extinguished;

(ii) that become available as a result of the outstanding principal balance of a mortgage having been written down;

(iii) that are uncommitted balances within the limitation on maximum payments that may have been, before the date of enactment of the Multifamily Assisted Housing Reform and Affordability Act of 1997, permitted in any fiscal year; or

(iv) that become available from any other source.

(B) LIQUIDATION AUTHORITY.—The Secretary may liquidate obligations entered into under this subsection under section 1305(10) of title 31, United States Code.

(C) CAPITAL GRANTS.—In making capital grants under the terms of this subsection, using the amounts that the Secretary has recaptured from contracts for interest reduction payments, the Secretary shall ensure that the rates and amounts of outlays do not at any time exceed the rates and amounts of outlays that would have been experienced if the insured mortgage had not been extinguished or the principal amount had not been written down, and the interest reduction payments that the Secretary has recaptured had continued in accordance with the terms in effect immediately prior to such extinguishment or write-down.

(D) LOANS.—In making loans under this subsection using the amounts that the Secretary has recaptured from contracts for interest reduction payments pursuant to clause (i) or (ii) of paragraph (7)(A)—

(i) the Secretary may use such recaptured amounts for costs (as such term is defined in section 502 of the Congressional Budget Act of 1974) of such loans; and

(ii) the Secretary may make loans in any fiscal year only to the extent or in such amounts that amounts are used under clause (i) to cover costs of such loans.

END OF STATUTE

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[296] Section 535(a)(5) of the Departments of Veterans Affairs and Housing and Urban Development, and Independent Agencies Appropriations Act, 2000, Pub. L. 106-74, 113 Stat. 1119, provides that this paragraph is amended by inserting "or loan" after "grant" each place it appears. Because the term 'grant' does not appear in this paragraph, the amendment could not be executed.

FLEXIBLE SUBSIDY PROGRAM

HOUSING AND COMMUNITY DEVELOPMENT AMENDMENTS OF 1978
[Public Law 95-557; 92 Stat. 2084; 12 U.S.C. 1715z-1a]

Sec. 201. [12 U.S.C. 1715z-1a]
ASSISTANCE FOR TROUBLED MULTIFAMILY HOUSING PROJECTS.

(a) The purposes of this section are to provide assistance to restore or maintain the financial soundness, to assist in the improvement of the management, to permit capital improvements to be made to maintain certain projects as decent, safe, and sanitary housing, and to maintain the low- to moderate-income character of certain projects assisted or approved for assistance under the National Housing Act, the United States Housing Act of 1937, the Housing Act of 1959, or the Housing and Urban Development Act of 1965, without regard to whether such projects are insured under the National Housing Act.

(b) The Secretary of Housing and Urban Development (hereinafter referred to in this section as the "Secretary") may make available, and contract to make available, to such extent and in such amounts as may be approved in appropriation Acts, financial assistance to owners of rental or cooperative housing projects meeting the requirements of this section. Such assistance shall be made on an annual basis and in accordance with the provisions of this section, without regard to whether such projects are insured under the National Housing Act.

(c) A rental or cooperative housing project is eligible for assistance under this section only if such project—

(1)(A) is assisted under section 236 or the proviso of section 221(d)(5) of the National Housing Act, or under section 101 of the Housing and Urban Development Act of 1965, or received a loan under section 202 of the Housing Act of 1959 more than 15 years before the date on which assistance is made available under this section;

(B) is assisted under section 23 of the United States Housing Act of 1937, as in effect immediately before January 1, 1975, section 8 of the United States Housing Act of 1937 following conversion to such assistance from assistance under section 236 of the National Housing Act or section 101 of the Housing and Urban Development Act of 1965; or

(C) met the criteria specified in subparagraph (A) of this paragraph before the acquisition of such project by the Secretary and has been sold by the Secretary, subject to a mortgage insured or held by the Secretary and subject to an agreement (in effect during the period of assistance under this section) which provides that the low- and moderate-income character of the project will be maintained; except that, with respect to projects sold after October 1, 1978, assistance shall be available for a period not to exceed three years; and

(2) meets such other requirements consistent with the purposes of this section as the Secretary may prescribe.

(d) No assistance may be made available under this section unless the Secretary has determined that—

(1) such assistance, when considered with other resources available to the project, is necessary and, in the determination of the Secretary, will restore or maintain the financial or physical soundness of the project and maintain the low- and moderate-income character of the project, and the owner has agreed to maintain the low- and moderate-income character of such project for a period at least equal to the remaining term of the project mortgage;

(2) the assistance which could reasonably be expected to be provided over the useful life of the project will be less costly to the Federal Government than other reasonable alternatives by which the Secretary could maintain the low- and moderate-income character of the project;

(3) the owner of the project, together with the mortgagee in the case of a project not insured under the National Housing Act, has provided or has agreed to provide assistance to the project in such manner as the Secretary may determine;

(4) the project is or can reasonably be made structurally sound, as determined on the basis of information obtained as a result of an onsite inspection of the project;

(5) the management of the project is being conducted by persons who meet minimum levels of competency and experience prescribed by the Secretary; and[297]

[297] Section 405(a)(1) of the Housing and Community Development Act of 1992, Pub. L. 102-550, amended this paragraph "by striking 'and'". Because such section did not specify which occurrence of the word to strike, the amendment could not be executed. The amendment was probably intended to be made to the last occurrence of such word.

(6) the project is being operated and managed in accordance with a management-improvement-and-operating plan which is designed to reduce the operating costs of the project, which has been approved by the Secretary, and which includes the following: (A) a detailed maintenance schedule; (B) a schedule for correcting past deficiencies in maintenance, repairs, and replacements; (C) a plan to upgrade the project to meet cost-effetive energy efficiency standards prescribed by the Secretary; (D) a plan to improve financial and management control systems; (E) a detailed annual operating budget taking into account such standards for operating costs in the area as may be determined by the Secretary; and (F) such other requirements as the Secretary may determine; except that the Secretary may excuse an owner from compliance with the plan requirement set forth in this paragraph in any case in which such owner seeks only assistance for capital improvements under this section;

(7) all reasonable attempts have been made to take all appropriate actions and provide suitable housing for project residents;

(8) the project has a feasible plan to involve the residents in project decisions;

(9) the affirmative fair housing marketing plan meets applicable requirements; and

(10) the owner certifies that it will comply with various equal opportunity statutes.

(e) Prior to making assistance available to a project, the Secretary shall consult with the appropriate officials of the unit of local government in which such project is located and seek assurances that—

(1) the community in which the project is located is or will provide essential services to the project in keeping with the community's general level of such services;

(2) the real estate taxes on the project are or will be no greater than would be the case if the property were assessed in a manner consistent with normal property assessment procedures for the community; and

(3) assistance to the project under this section would not be inconsistent with local plans and priorities.

(f)(1) The Secretary may, with respect to any year, provide assistance under this section, and make commitments to provide such assistance, with respect to any project (except a project assisted only for capital improvements) in any amount which the Secretary determines is consistent with the project's management-improvement-and-operating plan described in subsection (d)(6) and which does not exceed the sum of—

(A) an amount determined by the Secretary to be necessary to correct deficiencies in the project which exist at the beginning of the first year with respect to which assistance is made available for the project under this section, which were caused by the deferral of regularly scheduled maintenance and repairs or the failure to make necessary and timely replacements of equipment and other components of the project, and for which payment has not previously been made;

(B) an amount determined by the Secretary to be necessary to maintain the low- and moderate-income character of the project by reducing deficiencies, which exist at the beginning of the first year with respect to which assistance is made available for the project under this section and for which payment has not previously been made, in the reserve funds established by the project owner for the purpose of replacing capital items;

(C) an amount not greater than the amount by which the estimated operating expenses (as described in paragraph (2) of this subsection) for the year with respect to which such assistance is made available exceeds the estimated revenues to be received (as described in paragraph (2) of this subsection) by the project during such year; and

(D) an amount determined by the Secretary to be necessary to carry out a plan to upgrade the project to meet cost-effective energy efficiency standards prescribed by the Secretary.

(2) The estimated revenues for any project under paragraph (1) (C) of this subsection with respect to any year shall be equal to the sum of—

(A) the estimated amount of rent which is to be expended by the tenants of such project during such year, as determined by the Secretary without regard to section 236(f)(1) of the National Housing Act;

(B) the estimated amount of rental assistance payments to be made on behalf of such tenants during such year, other than assistance made under this section;

(C) the estimated amount of assistance payments to be made on behalf of the owner of such project under section 212(d)(5) or section 236 of the National Housing Act during such year; and

(D) other income attributable to the project as determined by the Secretary;

except that—

(E) in computing the estimated amount of rent to be expended by tenants, the Secretary shall provide that (i) at least 25 percent (or such lesser percentage as is provided for under any other Federal housing assistance program in which such tenant is participating) of the income of each such tenant is included, or (ii) in the case of a tenant paying his or her own utilities, a percentage of income which is less than 25 percent and which takes into account the reasonable costs of such utilities; except that no amount shall be provided for any tenant under clause (i) or (ii) which exceeds the fair market rental charge as determined pursuant to section 236(f)(1) of the National Housing Act for such tenant; and

(F) in computing the estimated amount of rent to be expended by tenants and the estimated amount of rental assistance payments to be made on behalf of such tenants, the Secretary may permit a delinquency-and-vacancy allowance of not more than 6 per centum of the estimated amount of such rent and payments computed without regard to such allowance; except that, with respect to the first three years in which assistance is provided to a project under this section, the Secretary may permit such allowance for such project to exceed such 6 percent by an amount which the Secretary determines is appropriate to carry out the purposes of this section.

For purposes of computing estimated operating expenses of any such project with respect to any year, the Secretary shall include all estimated operating costs which the Secretary determines to be necessary and consistent with the management-improvement-and-operating plan for the project for such year, including, but not limited to taxes, utilities, maintenance and repairs (except for maintenance and repairs which should have been performed in previous years), management, insurance, debt service, and payments made by the owner for the purpose of establishing or maintaining a reserve fund for replacement costs. The Secretary may not include in such estimated operating expenses any return on the equity investment of the owner in such project.

(3) In order to carry out the purposes of this section, the Secretary may, notwithstanding the provisions of section 236(f)(1) of the National Housing Act, provide that, for purposes of establishing a rental charge under such section, there may be excluded from the computation of the cost of operating a project an amount equivalent to the amount of assistance payments made for the project under this section.

(4) Any assistance payments made pursuant to this section with respect to any project shall be made on an annual basis, payable at such intervals, but at least quarterly, as the Secretary may determine, and may be in any amount (which the Secretary determines to be consistent with the purpose of this section), except that the sum of such assistance payments for any year for a project (other than a project receiving assistance only for capital improvements) may not exceed the amount computed pursuant to paragraph (1) of this subsection. The Secretary shall review the operations of the project at the time of such payments to determine that such operations are consistent with the management-improvement-and-operating plan.

(g) The project owner shall, as required by the Secretary, accumulate, safeguard, and periodically pay the Secretary or such other entity as determined by the Secretary and upon such terms and conditions as the Secretary deems appropriate, all rental charges collected on a unit-by-unit basis in excess of the basic rental charges. Unless otherwise directed by the Secretary, such excess charges shall be credited to a reserve used by the Secretary to make additional assistance payments as provided in paragraph (3) of subsection (f). Notwithstanding any other requirements of this subsection, an owner of a project with a mortgage insured under this section, or a project previously assisted under subsection (b) but without a mortgage insured under this section if the project mortgage was insured under section 207 of this Act before July 30, 1998 pursuant to section 223(f) of this Act and assisted under subsection (b), may retain some or all of such excess charges for project use if authorized by the Secretary and upon such terms and conditions as established by the Secretary.

(h) The Secretary may not use any of the assistance available under this section during any fiscal year beginning on or after October 1, 1981, to supplement any contract to make rental assistance payments which was made pursuant to section 101 of the Housing and Urban Development Act of 1965.

[(i) [Repealed.]]

(j)(1) For purposes of carrying out the provisions of this section, there is hereby established in the Treasury of the United States a revolving fund, to be known as the Flexible Subsidy Fund. The Fund shall, to the extent approved in appropriation Acts, be available to the Secretary to provide assistance under this section (including

assistance for capital improvements) and shall not (except as provided in Public Law 100-4-4[298] (102 Stat. 1018), as in effect on October 1, 1988) be available for any other purpose.

(2) The Fund shall consist of (A) any amount appropriated to carry out the purposes of this section; (B) any amount repaid on any assistance provided under this section; (C) any amounts credited to the reserve fund described in section 236(g) of the National Housing Act; (D) any other amount received by the Secretary under this section (including any amount realized under paragraph (3)), and (E) any amount received by the Secretary pursuant to section 537 of the National Housing Act and section 202a of the Housing Act of 1959.

(3) Any amounts in the Fund determined by the Secretary to be in excess of the amounts currently required to carry out the provisions of this section shall be invested by the Secretary in obligations of, or obligations guaranteed as to both principal and interest by, the United States or any agency of the United States.

(4) The Secretary shall, to the extent of approvable applications and subject to paragraph (1), use not less than $30,000,000 or 40 percent (whichever is less) of the amounts available from the Fund in any fiscal year for purposes of providing assistance for capital improvements in accordance with this section. Any amount reserved under this paragraph for assistance for capital improvements that is not used before the last 60 days of a fiscal year shall become available for other assistance under this section.

(5) There is authorized to be appropriated for assistance under the flexible subsidy fund not to exceed $52,200,000 for fiscal year 1993 and $54,392,400 for fiscal year 1994.

(k)(1) Assistance for capital improvements under this section shall include assistance for any major repair or replacement of a capital item in a multifamily housing project, including any such repair or replacement required as a result of deferred or inadequate maintenance. Capital improvements do not include maintenance of any such item. Assistance for capital improvements under this section shall be in the form of a loan.

(2) The owner of a project receiving assistance for capital improvements shall agree to contribute assistance to such project in such amounts, from such sources, and in such manner as the Secretary determines to be appropriate.

(3) The Secretary may provide assistance for capital improvements under this section if the Secretary finds that the reserve funds established by the owner of a project for the purpose of making capital improvements are insufficient to finance both the capital improvements for which such assistance is to be used and other capital improvements that are reasonably expected to be required in the near future, and such insufficiency is not the result of the failure of such owner to comply with any standard established by the Secretary for management of such reserve funds.

(l)(1) The principal amount of any assistance for capital improvements under this section that is provided to the owner of a project shall not exceed the difference between the contribution made by the owner in accordance with subsection (k)(2) and the sum of—

(A) the amount determined by the Secretary to be necessary for such owner to make capital improvements with respect to capital items that have failed, or are likely to deteriorate seriously or fail in the near future, in such projects;

(B) the amount determined by the Secretary to be necessary to carry out a plan to upgrade the capital items being improved, and any other capital items determined by the Secretary to be associated with such capital items being improved and to require upgrading, to meet cost-effective energy efficiency standards prescribed by the Secretary; and

(C) the amount determined by the Secretary to be necessary to comply with the requirements of section 504 of the Rehabilitation Act of 1973 (29 U.S.C. 794).

(2)(A) The term of any assistance for capital improvements in the form of a loan under this section shall not exceed the remaining term of the mortgage of the project with respect to which such loan is provided.

(B) Each loan for capital improvements provided under this section shall bear interest at a rate determined by the Secretary to be appropriate, except that—

(i) such rate shall not be more than 3 percentage points below a rate determined by the Secretary of the Treasury taking into consideration the average interest rate on all interest bearing obligations of the United States then forming a part of the public debt, computed at the end of the fiscal year next preceding date on which the loan is made,

[298] So in law. Probably intended to refer to the Department of Housing and Urban Development—Independent Agencies Appropriations Act, 1989, Pub. L. 101-404, approved August 19, 1988.

adjusted to the nearest 1/8 of 1 percent, plus an allowance adequate in the judgment of the Secretary of Housing and Urban Development to cover administrative costs and probable losses under the program; and

(ii) such interest rate plus such allowance shall not exceed 6 percent per annum nor be less than 3 percent per annum.

(C) Each loan for capital improvements provided under this section shall be considered to be a liability of the project involved, and shall not be dischargeable in any bankruptcy proceeding under section 727, 1141, or 1328(b) of title 11, United States Code.

(D) The Secretary may establish such additional conditions on loans provided under this section as the Secretary determines to be appropriate. The Secretary may require owners receiving assistance for capital improvements under this section to retain the housing as housing affordable for very low-income families or persons, low-income families or persons and moderate-income families or persons for the remaining useful life of the housing. For purposes of this section, the term "remaining useful life" means, with respect to housing assisted under this section, the period during which the physical characteristics of the housing remain in a condition suitable for occupancy, assuming normal maintenance and repairs are made and major systems and capital components are replaced as becomes necessary.

(E) The Secretary may provide more than one loan or assistance in any other form to any project under this section, if each loan or other assistance complies with the provisions of this section.

(m)(1) Increases in rental payments that may occur as a result of the debt service and other expenses of a loan for capital improvements provided under this section for a project subject to a plan of action approved under subtitle B of the Emergency Low Income Housing Preservation Act of 1987 shall be governed by the rent agreements entered into under such subtitle.

(2) In order to minimize any increases in rental payments that may occur as a result of the debt service and other expenses of a loan for capital improvements provided under this section for a project and that would be incurred by lower income residents of the project involved whose rental payments are, or would as a result of such expenses be, in excess of the amount allowable if section 3(a) of the United States Housing Act of 1937 were applicable to such residents, or where appropriate to implement a plan of action under subtitle B of the Emergency Low Income Housing Preservation Act of 1987, the Secretary may take any or all of the following actions:

(A) Provide assistance with respect to such project under section 8 of the United States Housing Act of 1937, to the extent amounts are available for such assistance and without regard to section 16 of such Act.

(B) Notwithstanding subsection (l)(2)(B), reduce the rate of interest charged on such loan to a rate of not less than 1 percent.

(C) Increase the term of such loan to a term that does not exceed the remaining term of the mortgage on such project.

(D) Increase the amount of assistance to be provided by the owner of such project under subsection (k)(2), if applicable, to an amount not to exceed 30 percent of the total estimated cost of the capital improvements involved.

(E) Permit repayment of the debt service to be deferred as long as the low and moderate income character of the project is maintained in accordance with subsection (d).

(n) ALLOCATION OF ASSISTANCE.—

(1) SET-ASIDE.—In providing, and contracting to provide, assistance for capital improvements under this section, in each fiscal year the Secretary shall set aside an amount, as determined by the Secretary, for projects that are eligible for incentives under section 224(b) of the Emergency Low Income Housing Preservation Act of 1987, as such section existed before the date of enactment of the Cranston-Gonzalez National Affordable Housing Act.[299] The Secretary may make such assistance available on a noncompetitive basis.

(2) GENERAL RULES FOR ALLOCATION.—Except as provided in paragraph (3), with respect to assistance under this section not set aside for projects under paragraph (1), the Secretary—

(A) may award assistance on a noncompetitive basis; and

(B) shall award assistance to eligible projects on the basis of—

[299] November 28, 1990.

(i) the extent to which the project is physically or financially troubled, as evidenced by the comprehensive needs assessment submitted in accordance with title IV of the Housing and Community Development Act of 1992; and

(ii) the extent to which such assistance is necessary and reasonable to prevent the default of federally insured mortgages.

(3) EXCEPTIONS.—The Secretary may make exceptions to selection criteria set forth in paragraph (2)(B) to permit the provision of assistance to eligible projects based upon—

(A) the extent to which such assistance is necessary to prevent the imminent foreclosure or default of a project whose owner has not submitted a comprehensive needs assessment pursuant to title IV of the Housing and Community Development Act of 1992;

(B) the extent to which the project presents an imminent threat to the life, health, and safety of project residents; or

(C) such other criteria as the Secretary may specify by regulation or by notice printed in the Federal Register.

(4) CONSIDERATIONS.—In providing assistance under this section, the Secretary shall take into consideration—

(A) the extent to which there is evidence that there will be significant opportunities for residents (including a resident council or resident management corporation, as appropriate) to be involved in the management of the project (except that this paragraph shall have no application to projects that are owned as cooperatives); and

(B) the extent to which there is evidence that the project owner has provided competent management and complied with all regulatory and administrative requirements.

(o) The Secretary shall coordinate the allocation of assistance under this section with assistance made available under section 8(v) of the United States Housing Act of 1937 and section 203 of this Act to enhance the cost effectiveness of the Federal response to troubled multifamily housing.

(p) ENHANCED VOUCHER ELIGIBILITY.—Notwithstanding any other provision of law, any project that receives or has received assistance under this section and which is the subject of a transaction under which the project is preserved as affordable housing, as determined by the Secretary, shall be considered eligible low-income housing under section 229 of the Low-Income Housing Preservation and Resident Homeownership Act of 1990 (12 U.S.C. 4119) for purposes of eligibility of residents of such project for enhanced voucher assistance provided under section 8(t) of the United States Housing Act of 1937 (42 U.S.C. 1437f (t)) (pursuant to section 223(f) of the Low-Income Housing Preservation and Resident Homeownership Act of 1990 (12 U.S.C. 4113(f))).

END OF STATUTE

MULTIFAMILY HOUSING PLANNING AND INVESTMENT STRATEGIES

HOUSING AND COMMUNITY DEVELOPMENT ACT OF 1992
[Public Law 102-550; 106 Stat. 3773; 12 U.S.C. 1715z-1a note]

Sec. 401. [12 U.S.C. 1715z-1a note]
DEFINITIONS.

For purposes of this title:

(1) COVERED MULTIFAMILY HOUSING PROPERTY.—The term "covered multifamily housing property" means any housing—

(A) that is—

(i) reserved for occupancy by very low-income elderly persons pursuant to section 202(d)(1) of the Housing Act of 1959;

(ii) assisted under the provisions of section 202 of the Housing Act of 1959 (as such section existed before the effectiveness of the amendment made by section 801(a) of the Cranston-Gonzalez National Affordable Housing Act);

(iii) financed by a loan or mortgage insured, assisted, or held by the Secretary or a State or State agency under section 236 of the National Housing Act; or

(iv) financed by a loan or mortgage insured or held by the Secretary pursuant to section 221(d)(3) of the National Housing Act; and

(B) that is not eligible for assistance under—

(i) the Low-Income Housing Preservation and Resident Homeownership Act of 1990;

(ii) the provisions of the Emergency Low Income Housing Preservation Act of 1987 (as in effect immediately before the date of the enactment of the Cranston-Gonzalez National Affordable Housing Act[300]); or

(iii) the HOME Investment Partnerships Act.

(2) COVERED MULTIFAMILY HOUSING PROPERTY FOR THE ELDERLY.—The term "covered multifamily housing property for the elderly" means any multifamily housing project that was designed or designated to serve, or is serving, elderly persons or families and is assisted under a program administered by the Secretary.

(3) SECRETARY.—The term "Secretary" means the Secretary of Housing and Urban Development.

Sec. 402. [12 U.S.C. 1715z-1a note]
REQUIRED SUBMISSION.

(a) IN GENERAL.—The owner of each covered multifamily housing property, and the owner of each covered multifamily housing property for the elderly, shall submit to the Secretary of Housing and Urban Development a comprehensive needs assessment of the property under this title. The assessment shall be prepared by an entity that does not have an identity of interest with the owner.

(b) TIMING.—To ensure that assessments for all covered multifamily housing properties will be submitted on or before the conclusion of fiscal year 1997, the Secretary shall require the owners of such properties, including covered multifamily housing properties for the elderly, to submit the assessments for the properties in accordance with the following schedule:

(1) For fiscal year 1994, 10 percent of the aggregate number of such properties.

(2) For each of fiscal years 1995, 1996, and 1997, an additional 30 percent of the aggregate number of such properties.

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Sec. 403. [12 U.S.C. 1715z-1a note]
CONTENTS.

(a) IN GENERAL.—Each comprehensive needs assessment submitted under this title for a covered multifamily housing property or a covered multifamily housing property for the elderly shall contain the following information with respect to the property:

(1) A description of any financial or other assistance currently needed for the property to ensure that the property is maintained in a livable condition and to ensure the financial viability of the project.

(2) A description of any financial or other assistance for the property that, at the time of the assessment, is reasonably foreseeable as necessary to ensure that the property is maintained in a livable condition and to ensure the financial viability of the project, during the remaining useful life of the property.

(3) A description of any resources available for meeting the current and future needs of the property described under paragraphs (1) and (2) and the likelihood of obtaining such resources.

(4) A description of any assistance needed for the property under programs administered by the Secretary.

(b) PROJECTS FOR THE ELDERLY.—Each comprehensive needs assessment for a covered multifamily housing property for the elderly shall include, in addition to the information required under subsection (a), the following information with respect to the property:

(1) A description of the supportive service needs of such residents and any supportive services provided to elderly residents of the property.

(2) A description of any modernization needs and activities for the property.

(3) A description of any personnel needs for the property.

Sec. 404. [12 U.S.C. 1715z-1a note]
SUBMISSION AND REVIEW.

(a) FORM.—The Secretary shall establish the form and manner of submission of the comprehensive needs assessments under this title.

(b) RESIDENT REVIEW.—The Secretary shall require each owner of a covered multifamily housing property and each owner of a covered multifamily housing property for the elderly to make available to the residents of the property the comprehensive needs assessment that is to be submitted to the Secretary. The Secretary shall require each owner to provide for such residents to submit comments and opinions regarding the assessment to the owner before the submission of the assessment.

(c) STATE HOUSING FINANCE AGENCY REVIEW.—To the extent that a covered multifamily housing property or a covered multifamily housing property for the elderly is financed or assisted by a State housing finance agency (as such term is defined in section 802 of the Housing and Community Development Act of 1974), the Secretary shall require the owner of the property to submit the comprehensive needs assessment for the property to the State housing finance agency upon submitting the assessment to the Secretary.

(d) REVIEW.—

(1) IN GENERAL.—The Secretary shall review each comprehensive needs assessment for completeness and adequacy before the expiration of the 90-day period beginning on the receipt of the assessment and shall notify the owner of the property for which the assessment was submitted of the findings of such review.

(2) Incomplete or inadequate assessments.—If the Secretary determines that the assessment is substantially incomplete or inadequate, the Secretary shall—

(A) notify the owner of the portion or portions of the assessment requiring completion or other revision; and

(B) require the owner to submit an amended assessment to the Secretary not later than 30 days after such notification.

(e) COST OF PREPARATION OF STRATEGY.—The Secretary shall consider any costs relating to preparing a comprehensive needs assessment under this title for a covered multifamily housing property that do not exceed $5,000 for the property as an eligible project expense for the property. The Secretary shall provide that an owner may not increase the rental charge for any unit in a covered multifamily housing property to provide for the cost of preparing a comprehensive needs assessment.

(f) PUBLICATION OF METHOD FOR RECEIVING CAPITAL NEEDS ASSESSMENT.—The Secretary shall cause to be published in the Federal Register the method by which the Secretary determines which

capital needs assessments will be received each year in accordance with section 402(b) and subsection (d) of this section.

(g) ANNUAL REVIEW AND REPORT OF FUNDING AND TARGETING FOR COVERED MULTIFAMILY PROPERTIES FOR THE ELDERLY.—

(1) REVIEW.—The Secretary shall annually conduct a comprehensive review of—

(A) the funding levels required to fully address the needs of covered multifamily housing properties for the elderly identified in the comprehensive needs assessments under section 403(b), specifically identifying any expenses necessary to make substantial repairs and add features (such as congregate dining facilities and commercial kitchens) resulting from development of a property in compliance with cost-containment requirements established by the Secretary;

(B) the adequacy of the geographic targeting of resources provided under programs of the Department with respect to covered multifamily housing properties for the elderly, based on information acquired pursuant to section 403(b); and

(C) local housing markets throughout the United States, with respect to the need, availability, and cost of housing for elderly persons and families, which shall include review of any information and plans relating to housing for elderly persons and families included in comprehensive housing affordability strategies submitted by jurisdictions pursuant to section 105 of the Cranston-Gonzalez National Affordable Housing Act.

(2) REPORT.—The Secretary of Housing and Urban Development shall submit a report to the Congress annually describing the results of the annual comprehensive needs assessments under section 402 for covered multifamily housing properties for the elderly and the annual review conducted under paragraph (1) of this subsection, which shall contain a description of the methods used by project owners and by the Secretary to acquire the information described in section 402(b) and any findings and recommendations of the Secretary pursuant to the review.

Sec. 405.
TROUBLED MULTIFAMILY HOUSING.

(a) MANDATORY ELEMENTS.—Section 201(d) of the Housing and Community Development Amendments of 1978 (12 U.S.C. 1715z-1a(d)) is amended—

* * * * * * *

(b) SELECTION CRITERIA.—

(1) REPEAL OF SECTION 201(k)(4).—Section 201(k)(4) of the Housing and Community Development Amendments of 1978 (12 U.S.C. 1715z-1a(k)(4)) is repealed.

(2) NEW CRITERIA.—Section 201 of the Housing and Community Development Amendments of 1978 is amended by adding at the end the following new subsection:

* * * * * * *

(c) LOW-INCOME AFFORDABILITY RESTRICTIONS.—Section 201(l)(2)(D) of the Housing and Community Development Amendments of 1978 (12 U.S.C. 1715z-1a(l)(2)(D)) is amended by adding at the end the following: “The Secretary may require owners receiving assistance for capital improvements under this section to retain the housing as housing affordable for very low-income families or persons, low-income families or persons and moderate-income families or persons for the remaining useful life of the housing. For purposes of this section, the term ‘remaining useful life’ means, with respect to housing assisted under this section, the period during which the physical characteristics of the housing remain in a condition suitable for occupancy, assuming normal maintenance and repairs are made and major systems and capital components are replaced as becomes necessary.”.

(d) EXCLUSIVITY OF ASSISTANCE.—Section 201 of the Housing and Community Development Amendments of 1978, as amended by this section, is further amended by adding at the end the following new subsection:

* * * * * * *

(e) OWNER CONTRIBUTIONS.—Section 201(k)(2) of the Housing and Community Development Amendments of 1978 is amended—

* * * * * * *

(f) COORDINATION OF ASSISTANCE.—Section 201 of the Housing and Community Development Amendments of 1978, as amended by this section, is further amended by adding at the end the following new subsection:

* * * * * * *

Sec. 406.
FLEXIBLE SUBSIDY PROGRAM.

Section 201(d)(6) of the Housing and Community Development Amendments of 1978 (12 U.S.C. 1715z-1a(d)(6)) is amended by inserting before the period at the end the following: "; and except that the Secretary shall review and approve or disapprove each plan not later than the expiration of the 30-day period beginning upon the date of submission of the plan to the Secretary by the owner, but if the Secretary fails to inform the owner of approval or disapproval of the plan within such period the plan shall be considered to have been approved".

Sec. 407.
CAPACITY STUDY.

Section 110(a) of the Cranston-Gonzalez National Affordable Housing Act (42 U.S.C. 12710(a)) is amended—

* * * * * * *

Sec. 408.
FLEXIBLE SUBSIDY PROGRAM.

(a) AUTHORIZATION OF APPROPRIATIONS.—Section 201(j)(5) of the Housing and Community Development Amendments of 1978 (12 U.S.C. 1715z-1a(j)(5)) is amended to read as follows:

* * * * * * *

(b) USE OF SECTION 236 RENTAL ASSISTANCE FUND AMOUNTS FOR FLEXIBLE SUBSIDY PAYMENTS.—Section 236(f)(3) of the National Housing Act (12 U.S.C. 1715z-1a(f)(3)) is amended by striking "September 30, 1992" and inserting "September 30, 1994".

Sec. 409. [12 U.S.C. 1715z-1a note]
FUNDING.

(a) ALLOCATION OF ASSISTANCE.—Based upon needs identified in comprehensive needs assessments, and subject to otherwise applicable program requirements, including selection criteria, the Secretary may allocate the following assistance to owners of covered multifamily housing projects and may provide such assistance on a noncompetitive basis:

(1) Operating assistance and capital improvement assistance for troubled multifamily housing projects pursuant to section 201 of the Housing and Community Development Amendments of 1978, except for assistance set aside under section 201(n)(1).

(2) Loan management assistance available pursuant to section 8 of the United States Housing Act of 1937.

(b) OPERATING ASSISTANCE AND CAPITAL IMPROVEMENT ASSISTANCE.—In providing assistance under subsection (a) the Secretary shall use the selection criteria set forth in section 201(n) of the Housing and Community Development Amendments of 1978.

(c) AMOUNT OF ASSISTANCE.—The Secretary may fund all or only a portion of the needs identified in the capital needs assessment of an owner selected to receive assistance under this section.

END OF STATUTE

TENANT PARTICIPATION IN MULTIFAMILY HOUSING

HOUSING AND COMMUNITY DEVELOPMENT AMENDMENTS OF 1978
[Public Law 95-557; 92 Stat. 2088; 12 U.S.C. 1715z-1b]

Sec. 202. [12 U.S.C. 1715z-1b]
TENANT PARTICIPATION IN MULTIFAMILY HOUSING PROJECTS.

(a) The purpose of this section is to recognize the importance and benefits of cooperation and participation of tenants in creating a suitable living environment in multifamily housing projects and in contributing to the successful operation of such projects, including their good physical condition, proper maintenance, security, energy efficiency, and control of operating costs. For the purpose of this section, the term "multifamily housing project" means a project which is eligible for assistance as described in section 201(c) of this Act or section 202 of the Housing Act of 1959, or a project which receives project-based assistance under section 8 of the United States Housing Act of 1937 (42 U.S.C. 1437f) or enhanced vouchers under the Low-Income Housing Preservation and Resident Homeownership Act of 1990, the provisions of the Emergency Low Income Housing Preservation Act of 1987, or the Multifamily Assisted Housing Reform and Affordability Act of 1997.

(b) The Secretary shall assure that—

(1) where the Secretary's written approval is required with respect to an owner's request for rent increase, conversion of residential rental units to any other use (including commercial use or use as a unit in any condominium or cooperative project), partial release of security, or major physical alterations, or where the Secretary proposes to sell a mortgage secured by a multifamily housing project, tenants have adequate notice of, reasonable access to relevant information about, and an opportunity to comment on such actions (and in the case of a project owned by the Secretary, any proposed disposition of the project) and that such comments are taken into consideration by the Secretary;

(2) project owners not interfere with the efforts of tenants to obtain rent subsidies or other public assistance;

(3) leases approved by the Secretary provide that tenants may not be evicted without good cause or without adequate notice of the reasons therefor and do not contain unreasonable terms and conditions; and

(4) project owners do not impede the reasonable efforts of resident tenant organizations to represent their members or the reasonable efforts of tenants to organize.

(c) The Secretary shall promulgate regulations to carry out the provisions of this section not later than 90 days after the date of enactment of this Act.

END OF STATUTE

ANTI-DRUG ABUSE ACT OF 1988

ANTI-DRUG ABUSE ACT OF 1988
[Public Law 100-690; 102 Stat. 4295; 42 U.S.C. 11901—11925]

TITLE V−USER ACCOUNTABILITY

* * * * *

Subtitle C—Preventing Drug Abuse in Public Housing

* * * * *

Chapter 2—Public and Assisted Housing Drug Elimination

Sec. 5121. [42 U.S.C. 11901 note]
SHORT TITLE.

This chapter may be cited as the "Public and Assisted Housing Drug Elimination Act of 1990".

Sec. 5122. [42 U.S.C. 11901]
CONGRESSIONAL FINDINGS.

The Congress finds that—

(1) the Federal Government has a duty to provide public and other federally assisted low-income housing that is decent, safe, and free from illegal drugs;

(2) public and other federally assisted low-income housing in many areas suffers from rampant drug-related or violent crime;

(3) drug dealers are increasingly imposing a reign of terror on public and other federally assisted low-income housing tenants;

(4) the increase in drug-related and violent crime not only leads to murders, muggings, and other forms of violence against tenants, but also to a deterioration of the physical environment that requires substantial government expenditures;

(5) local law enforcement authorities often lack the resources to deal with the drug problem in public and other federally assisted low-income housing, particularly in light of the recent reductions in Federal aid to cities;

(6) the Federal Government should provide support for effective safety and security measures to combat drug-related and violent crime, primarily in and around public housing projects with severe crime problems;

(7) closer cooperation should be encouraged between public and assisted housing managers, local law enforcement agencies, and residents in developing and implementing anti-crime programs; and

(8) anti-crime strategies should be improved through the expansion of community-oriented policing initiatives.

Sec. 5123. [42 U.S.C. 11902]
AUTHORITY TO MAKE GRANTS.

(a) IN GENERAL.—The Secretary of Housing and Urban Development, in accordance with the provisions of this chapter, may make grants to public housing agencies, public housing resident management corporations that are principally managing, as determined by the Secretary, public housing projects owned by public housing agencies, recipients of assistance under the Native American Housing Assistance and Self-Determination Act of 1996, Indian tribes and private, for-profit and nonprofit owners of federally assisted low-income housing for use in eliminating drug-related and violent crime.

(b) CONSORTIA.—Subject to terms and conditions established by the Secretary, public housing agencies may form consortia for purposes of applying for grants under this chapter.

Sec. 5124. [42 U.S.C. 11903]
ELIGIBLE ACTIVITIES.

(a) PUBLIC AND ASSISTED HOUSING.—Grants under this chapter may be used in public housing or other federally assisted low-income housing projects for—

(1) the employment of security personnel;

(2) reimbursement of local law enforcement agencies for additional security and protective services;

(3) physical improvements which are specifically designed to enhance security;

(4) the employment of one or more individuals—

(A) to investigate drug-related or violent crime in and around the real property comprising any public or other federally assisted low-income housing project; and

(B) to provide evidence relating to such crime in any administrative or judicial proceeding;

(5) the provision of training, communications equipment, and other related equipment for use by voluntary tenant patrols acting in cooperation with local law enforcement officials;

(6) programs designed to reduce use of drugs in and around public or other federally assisted low-income housing projects, including drug-abuse prevention, intervention, referral, and treatment programs;

(7) where a public housing agency, an Indian tribe, or recipient of assistance under the Native American Housing Assistance and Self-Determination Act of 1996 receives a grant, providing funding to nonprofit resident management corporations and resident councils to develop security and drug abuse prevention programs involving site residents; and

(8) sports programs and sports activities that serve primarily youths from public or other federally assisted low-income housing projects and are operated in conjunction with, or in furtherance of, an organized program or plan designed to reduce or eliminate drugs and drug-related problems in and around such projects.

(b) OTHER PHA-OWNED HOUSING.—Notwithstanding any other provision of this chapter, grants under this chapter may be used to eliminate drug-related crime in and around housing owned by public housing agencies that is not public housing assisted under the United States Housing Act of 1937 and is not otherwise federally assisted, for the activities described in paragraphs (1) through (7) of subsection (a), but only if—

(1) the housing is located in a high intensity drug trafficking area designated pursuant to section 1005 of this Act; and

(2) the public housing agency owning the housing demonstrates, to the satisfaction of the Secretary, that drug-related or violent activity in or around the housing has a detrimental effect on or about the real property comprising any public or other federally assisted low-income housing.

Sec. 5125. [42 U.S.C. 11904]
APPLICATIONS.

(a) IN GENERAL.—To receive a grant under this chapter, a public housing agency, a public housing resident management corporation, an Indian tribe[301] a recipient of assistance under the Native American Housing Assistance and Self-Determination Act of 1996, or an owner of federally assisted low-income housing shall submit an application to the Secretary, at such time, in such manner, and accompanied by such additional information as the Secretary may reasonably require. Such application shall include a plan for addressing the problem of drug-related or violent crime in and around of[302] the housing administered or owned by the applicant for which the application is being submitted, which plan shall be coordinated with and may be included in the public housing agency plan submitted to the Secretary pursuant to section 5A of the United States Housing Act of 1937.

(b) One-Year Renewable Grants.—[303]

(1) IN GENERAL.—An eligible applicant that is a public housing agency may apply for a 1-year grant under this chapter that, subject to the availability of appropriated amounts, shall be renewed annually for a period of not more than 4 additional years, except that such renewal shall be contingent upon the Secretary finding, upon an annual or more frequent review, that the grantee agency is performing under the terms of the grant and applicable laws in a satisfactory manner and meets such other requirements as the

[301] So in law. There is no comma.
[302] So in law.
[303] Typeface so in law.

Secretary may prescribe. The Secretary may adjust the amount of any grant received or renewed under this paragraph to take into account increases or decreases in amounts appropriated for these purposes or such other factors as the Secretary determines to be appropriate.

(2) ELIGIBILITY AND PREFERENCE.—The Secretary may not provide assistance under this chapter to an applicant that is a public housing agency unless—

(A) the agency will use the grants to continue or expand activities eligible for assistance under this chapter, as in effect immediately before the effective date under section 503(a) of the Quality Housing and Work Responsibility Act of 1998[304], in which case the Secretary shall provide preference to such applicant; except that preference under this subparagraph shall not preclude selection by the Secretary of other meritorious applications that address urgent or serious crime problems nor be construed to require continuation of activities determined by the Secretary to be unworthy of continuation; or

(B) the agency is in the class established under paragraph (3).

(3) PHA'S HAVING URGENT OR SERIOUS CRIME PROBLEMS.—The Secretary shall, by regulations issued after notice and opportunity for public comment, set forth criteria for establishing a class of public housing agencies that have urgent or serious crime problems. The Secretary may reserve a portion of the amount appropriated to carry out this chapter in each fiscal year only for grants for public housing agencies in such class, except that any amounts from such portion reserved that are not obligated to agencies in the class shall be made available only for agencies that are subject to a preference under paragraph (2)(A).

(4) INAPPLICABILITY TO FEDERALLY ASSISTED LOW-INCOME HOUSING.—The provisions of this subsection shall not apply to federally assisted low-income housing.

(c) CRITERIA.—The Secretary shall approve applications under subsection (b) that are not subject to a preference under subsection (b)(2)(A) on the basis of thresholds or criteria such as—

(1) the extent of the drug-related or violent crime problem in and around the public or federally assisted low-income housing project or projects proposed for assistance;

(2) the quality of the plan to address the crime problem in the public or federally assisted low-income housing project or projects proposed for assistance, including the extent to which the plan includes initiatives that can be sustained over a period of several years;

(3) the capability of the applicant to carry out the plan; and

(4) the extent to which tenants, the local government and the local community support and participate in the design and implementation of the activities proposed to be funded under the application.

(d) FEDERALLY ASSISTED LOW-INCOME HOUSING.—In addition to the selection criteria specified in subsection (c), the Secretary may establish other criteria for the evaluation of applications submitted by owners of federally assisted low-income housing, except that such additional criteria shall be designed only to reflect—

(1) relevant differences between the financial resources and other characteristics of public housing authorities and owners of federally assisted low-income housing, or

(2) relevant differences between the problem of drug-related or violent crime in public housing and the problem of drug-related or violent crime in federally assisted low-income housing.

(e) HIGH INTENSITY DRUG TRAFFICKING AREAS.—In evaluating the extent of the drug-related crime problem pursuant to subsection (c), the Secretary may consider whether housing projects proposed for assistance are located in a high intensity drug trafficking area designated pursuant to section 1005 of the Anti-Drug Abuse Act of 1988.

Sec. 5126. [42 U.S.C. 11905]
DEFINITIONS.

For the purposes of this chapter:

(1) CONTROLLED SUBSTANCE.—The term controlled substance" has the meaning given such term in section 102 of the Controlled Substance Act (21 U.S.C. 802).

(2) DRUG-RELATED CRIME.—The term "drug-related crime" means the illegal manufacture, sale, distribution, use, or possession with intent to manufacture, sell, distribute, or use a controlled substance.

[304] The effective date under section 503 of such Act (112 Stat. 2521; 42 U.S.C. 1437 note) was October 1, 1999, except to the extent otherwise specifically provided in such Act or to the extent that the Secretary, by notice, implemented any provision of such Act before such date.

(3) SECRETARY.—The term "Secretary" means the Secretary of Housing and Urban Development.

(4) FEDERALLY ASSISTED LOW-INCOME HOUSING.—The term "federally assisted low-income housing" means housing assisted under—

(A) section 221(d)(3), section 221(d)(4), or 236 of the National Housing Act;

(B) section 101 of the Housing and Urban Development Act of 1965; or

(C) section 8 of the United States Housing Act of 1937; or[305]

(5) RECIPIENT.—The term "recipient", when used in reference to the Native American Housing Assistance and Self-Determination Act of 1996, has the meaning given such term in section 4 of such Act.

(6) INDIAN TRIBE.—The term "Indian tribe" has the meaning given the term in section 4(12) of the Native American Housing Assistance and Self Determination Act of 1996, 25 U.S.C. 4103(12).

Sec. 5127. [42 U.S.C. 11906]
REPORTS.

(a) GRANTEE REPORTS.—The Secretary shall require grantees under this chapter to provide periodic reports that include the obligation and expenditure of grant funds, the progress made by the grantee in implementing the plan described in section 5125(a), and any change in the incidence of drug-related crime in projects assisted under this chapter.

(b) HUD REPORTS.—The Secretary shall submit a report to the Congress not later than 18 months after the date of the enactment of the Quality Housing and Work Responsibility Act of 1998[306] describing the system used to distribute funding to grantees under this section, which shall include descriptions of—

(1) the methodology used to distribute amounts made available under this chapter among public housing agencies, including provisions used to provide for renewals of ongoing programs funded under this chapter; and

(2) actions taken by the Secretary to ensure that amounts made available under this chapter are not used to fund baseline local government services, as described in section 5128(b).

(c) NOTICE OF FUNDING AWARDS.—The Secretary shall cause to be published in the Federal Register notice of all grant awards made pursuant to this chapter, which shall identify the grantees and the amount of the grants. Such notice shall be published not less frequently than annually.

Sec. 5128. [42 U.S.C. 11907]
MONITORING.

(a) IN GENERAL.—The Secretary shall audit and monitor the programs funded under this chapter to ensure that assistance provided under this chapter is administered in accordance with the provisions of this chapter.

(b) PROHIBITION OF FUNDING BASELINE SERVICES.—

(1) IN GENERAL.—Amounts provided under this chapter may not be used to reimburse or support any local law enforcement agency or unit of general local government for the provision of services that are included in the baseline of services required to be provided by any such entity pursuant to a local cooperation agreement under section 5(e)(2) of the United States Housing Act of 1937 or any provision of an annual contributions contract for payments in lieu of taxation pursuant to section 6(d) of such Act.

(2) DESCRIPTION.—Each public housing agency that receives grant amounts under this chapter shall describe, in the report under section 5127(a), such baseline of services for the unit of general local government in which the jurisdiction of the agency is located.

(c) ENFORCEMENT.—The Secretary shall provide for the effective enforcement of this section, which may include the use of on-site monitoring, independent public audit requirements, certification by local law enforcement or local government officials regarding the performance of baseline services referred to in subsection (b), and entering into agreements with the Attorney General to achieve compliance, and verification of compliance, with the provisions of this chapter.

Sec. 5129. [42 U.S.C. 11908]
AUTHORIZATION OF APPROPRIATIONS.

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[305] So in law. Section 227(a)(2) of the Departments of Veterans Affairs and Housing and Urban Development, and Independent Agencies Appropriations Act, 2000 (Public Law 106-74), as added by section 175(d) of Public Law 106-113, 113 Stat. 1534, provides that this subparagraph is amended "by striking '1937: or' and inserting '1937.'". Because the matter to be struck does not appear, the amendment could not be executed.

[306] The date of enactment was October 21, 1998. So in law. There is no paragraph (6).

(a) IN GENERAL.—There are authorized to be appropriated to carry out this chapter $310,000,000 for fiscal year 1999, and such sums as may be necessary for fiscal years 2000, 2001, 2002, and 2003.

(b) SET-ASIDE FOR FEDERALLY ASSISTED LOW-INCOME HOUSING.—Of any amounts made available in any fiscal year to carry out this chapter not more than 6.25 percent shall be available for grants for federally assisted low-income housing.

(c) SET-ASIDE FOR TECHNICAL ASSISTANCE AND PROGRAM OVERSIGHT.—Of any amounts appropriated in any fiscal year to carry out this chapter, amounts shall be available to the extent provided in appropriations Acts to provide training, technical assistance, contract expertise, program oversight, program assessment, execution, and other assistance for or on behalf of public housing agencies, recipients of assistance under the Native American Housing Assistance and Self-Determination Act of 1996, resident organizations, and officials and employees of the Department (including training and the cost of necessary travel for participants in such training, by or to officials and employees of the Department and of public housing agencies, and to residents and to other eligible grantees). Assistance and other activities carried out using amounts made available under this subsection may be provided directly or indirectly by grants, contracts, or cooperative agreements.

Chapter 3—Drug-Free Public Housing

Sec. 5141. [42 U.S.C. 11901 note]
SHORT TITLE.

This chapter may be cited as the "Drug-Free Public Housing Act of 1988".

Sec. 5142. [42 U.S.C. 11921]
STATEMENT OF PURPOSE.

The purpose of this chapter is to reaffirm the principle that decent affordable shelter is a basic necessity, and the general welfare of the Nation and the health and living standards of its people require better coordination and training in drug prevention programs among the public officials and agencies responsible for administering the public housing programs of the Nation.

Sec. 5143. [42 U.S.C. 11922]
CLEARINGHOUSE ON DRUG ABUSE IN PUBLIC HOUSING.

(a) ESTABLISHMENT.—The Secretary of Housing and Urban Development shall establish, in the Office of Public Housing in the Department of Housing and Urban Development, a clearinghouse to receive, collect, process, and assemble information regarding the abuse of controlled substances in public housing projects.

(b) FUNCTIONS.—The clearinghouse established under subsection (a) shall—

(1) respond to inquiries by members of the public requesting assistance in investigating, studying, and working on the problem of the abuse of controlled substances; and

(2) receive, collect, process, assemble, and provide information on programs, authorities, institutions, and agencies, that may further assist members of the public requesting information from the clearinghouse.

Sec. 5144. [42 U.S.C. 11923]
REGIONAL TRAINING PROGRAM ON DRUG ABUSE IN PUBLIC HOUSING.

(a) ESTABLISHMENT.—The Secretary shall establish a regional training program for the training of public housing officials, to better prepare and educate the officials to confront the widespread abuse of controlled substances in the communities in which the officials work.

(b) OPERATION.—The regional training program established under subsection (a) shall be conducted within 12 months after the date of the enactment of this Act[307] by a national training unit established by the Secretary.

Sec. 5145. [42 U.S.C. 11924]
DEFINITIONS.

For purposes of this chapter:

(1) CONTROLLED SUBSTANCE.—The term "controlled substance" has the meaning given such term in section 102 of the Controlled Substances Act (21 U.S.C. 802).

[307] The date of enactment was November 18, 1988.

(2) SECRETARY.—The term "Secretary" means the Secretary of Housing and Urban Development.

Sec. 5146. [42 U.S.C. 11925]
REGULATIONS.

Not later than 6 months after the date of the enactment of this Act, the Secretary shall issue any regulations necessary to carry out this chapter.

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END OF STATUTE

STANDARDS FOR RESIDENCY, OCCUPANCY PREFERENCES, AND SERVICE COORDINATORS IN FEDERALLY ASSISTED HOUSING

HOUSING AND COMMUNITY DEVELOPMENT ACT OF 1992
[Public Law 102-550; 106 Stat. 3820; 42 U.S.C. 13601—13643]

TITLE VI—HOUSING FOR ELDERLY PERSONS AND PERSONS WITH DISABILITIES

* * * * * * *

Subtitle C—Standards and Obligations of Residency in Federally Assisted Housing

Sec. 641. [42 U.S.C. 13601]
COMPLIANCE BY OWNERS AS CONDITION OF FEDERAL ASSISTANCE.

The Secretary of Housing and Urban Development shall require owners of federally assisted housing (as such term is defined in section 683(2)), as a condition of receiving housing assistance for such housing, to comply with the procedures and requirements established under this subtitle.

Sec. 642. [42 U.S.C. 13602]
COMPLIANCE WITH CRITERIA FOR OCCUPANCY AS REQUIREMENT FOR TENANCY.

In selecting tenants for occupancy of units in federally assisted housing, an owner of such housing shall utilize the criteria for occupancy in federally assisted housing established by the Secretary, by regulation, under section 643. If an owner determines that an applicant for occupancy in the housing does not meet such criteria, the owner may deny such applicant occupancy.

Sec. 643. [42 U.S.C. 13603]
ESTABLISHMENT OF CRITERIA FOR OCCUPANCY.

(a) TASK FORCE.—

(1) ESTABLISHMENT.—To assist the Secretary in establishing reasonable criteria for occupancy in federally assisted housing, the Secretary shall establish a task force to review all rules, policy statements, handbooks, technical assistance memoranda, and other relevant documents issued by the Department of Housing and Urban Development on the standards and obligations governing residency in federally assisted housing and make recommendations to the Secretary for the establishment of such criteria for occupancy.

(2) MEMBERS.—The Secretary shall appoint members to the task force, which shall include individuals representing the interests of owners, managers, and tenants of federally assisted housing, public housing agencies, owner and tenant advocacy organizations, persons with disabilities and disabled families, organizations assisting homeless individuals, and social service, mental health, and other nonprofit servicer providers who serve federally assisted housing.

(3) COMPENSATION.—Members of the task force shall not receive compensation for serving on the task force.

(4) DUTIES.—The task force shall—

(A) review all existing standards, regulations, and guidelines governing occupancy and tenant selection policies in federally assisted housing;

(B) review all existing standards, regulations, and guidelines governing lease provisions and other rules of occupancy for federally assisted housing;

(C) determine whether the standards, regulations, and guidelines reviewed under subparagraphs (A) and (B) provide sufficient guidance to owners and managers of federally assisted housing to—

(i) develop procedures for preselection inquiries sufficient to determine the capacity of applicants to comply with reasonable lease terms and conditions of occupancy;

(ii) utilize leases that prohibit behavior which endangers the health or safety of other tenants or violates the rights of other tenants to peaceful enjoyment of the premises;

(iii) assess the need to provide, and appropriate measures for providing, reasonable accommodations required under the Fair Housing Act and section 504 of the Rehabilitation Act of 1973 for persons with various types of disabilities; and

(iv) comply with civil rights laws and regulations;

(D) propose criteria for occupancy in federally assisted housing, standards for the reasonable performance and behavior of tenants of federally assisted housing, compliance standards consistent with the reasonable accommodation of the requirements of the Fair Housing Act and section 504 of the Rehabilitation Act of 1973, standards for compliance with other civil rights laws, and procedures for the eviction of tenants not complying with such standards consistent with sections 6 and 8 of the United States Housing Act of 1937; and

(E) report to the Congress and the Secretary of Housing and Urban Development pursuant to paragraph (7).

(5) PROCEDURE.—In carrying out its duties, the task force shall hold public hearings and receive written comments for a period of not less than 60 days.

(6) SUPPORT.—The Secretary of Housing and Urban Development shall cooperate fully with the task force and shall provide support staff and office space to assist the task force in carrying out its duties.

(7) REPORTS.—Not later than 3 months after the date of enactment of this Act1, the task force shall submit to the Secretary and the Congress a preliminary report describing its initial actions. Not later than 6 months after the date of enactment of this Act[308], the task force shall submit a report to the Secretary and the Congress, which shall include—

(A) a description of its findings; and

(B) recommendations to revise such standards, regulations, and guidelines to provide accurate and complete guidance to owners and managers of federally assisted housing as determined necessary under paragraph (4).

(b) RULEMAKING.—

(1) AUTHORITY.—The Secretary shall, by regulation, establish criteria for selection of tenants for occupancy in federally assisted housing and lease provisions for such housing.

(2) STANDARDS.—The criteria shall provide sufficient guidance to owners and managers of federally assisted housing to enable them to (A) select tenants capable of complying with reasonable lease terms, (B) utilize leases prohibiting behavior which endangers the health or safety of others or violates the right of other tenants to peaceful enjoyment of the premises, (C) comply with legal requirements to make reasonable accommodations for persons with disabilities, and (D) comply with civil rights laws. The criteria shall be consistent with the requirements under subsections (k) and (l) of section 6 and section 8(d)(1) of the United States Housing Act of 1937 and any similar contract and lease requirements for federally assisted housing. In establishing the criteria, the Secretary shall take into consideration the report of the task force under subsection (a)(7).

(3) PROCEDURE.—Not later than 90 days after the submission of the final report under subsection (a)(7), the Secretary shall issue a notice of proposed rulemaking of the regulations under this subsection providing for notice and opportunity for public comment regarding the regulations, pursuant to the provisions of section 553 of title 5, United States Code (notwithstanding subsections (a)(2), (b)(B), and (d)(3) of such section). The duration of the period for public comment under such section 553 shall not be less than 60 days. The Secretary shall issue final regulations under this subsection not later than the expiration of the 60-day period beginning upon the conclusion of the comment period, which shall take effect upon issuance.

SEC. 644. [42 U.S.C. 13604] ASSISTED APPLICATIONS.

(a) AUTHORITY.—The Secretary shall provide that any individual or family applying for occupancy in federally assisted housing may include in the application for the housing the name, address, phone number, and other relevant information of a family member, friend, or social, health, advocacy, or other organization, and that the owner shall treat such information as confidential.

(b) MAINTENANCE OF INFORMATION.—The Secretary shall require the owner of any federally assisted housing receiving an application including such information to maintain such information for any applicants who become tenants of the housing, for the purposes of facilitating contact by the owner with such person or

[308] The date of enactment was October 28, 1992.

organization to assist in providing any services or special care for the tenant and assist in resolving any relevant tenancy issues arising during the tenancy of such tenant.

(c) LIMITATIONS.—An owner of federally assisted housing may not require any individual or family applying for occupancy in the housing to provide the information described in subsection (a).

Subtitle D—Authority To Provide Preferences for Elderly Residents and Units for Disabled Residents in Certain Section 8 Assisted Housing

Sec. 651. [42 U.S.C. 13611]
AUTHORITY.

Notwithstanding any other provision of law, an owner of a covered section 8 housing project (as such term is defined in section 659) designed primarily for occupancy by elderly families may, in selecting tenants for units in the project that become available for occupancy, give preference to elderly families who have applied for occupancy in the housing, subject to the requirements of this subtitle.

Sec. 652. [42 U.S.C. 13612]
RESERVATION OF UNITS FOR DISABLED FAMILIES.

(a) REQUIREMENT.—Notwithstanding any other provision of law, for any project for which an owner gives preference in occupancy to elderly families pursuant to section 651, such owner shall (subject to sections 653, 654, and 655) reserve units in the project for occupancy only by disabled families who are not elderly or near-elderly families (and who have applied for occupancy in the housing) in the number determined under subsection (b).

(b) NUMBER OF UNITS.—Each owner required to reserve units in a project for occupancy under subsection (a) shall reserve a number of units in the project that is not less than the lesser of—

(1) the number of units equivalent to the higher of—

(A) the percentage of units in the project that were occupied by such disabled families upon the date of the enactment of this Act; or

(B) the percentage of units in the project that were occupied by such families upon January 1, 1992; or

(2) 10 percent of the number of units in the project.

Sec. 653. [42 U.S.C. 13613]
SECONDARY PREFERENCES.

(a) INSUFFICIENT ELDERLY FAMILIES.—If an owner of a covered section 8 housing project in which elderly families are given a preference for occupancy pursuant to section 651 determines (in accordance with regulations established by the Secretary) that there are insufficient numbers of elderly families who have applied for occupancy in the housing to fill all the units in the project not reserved under section 652, the owner may give preference for occupancy of such units to disabled families who are near-elderly families and have applied for occupancy in the housing.

(b) INSUFFICIENT NON-ELDERLY DISABLED FAMILIES.—If an owner of a covered section 8 housing project in which elderly families are given a preference for occupancy pursuant to section 651 determines (in accordance with regulations established by the Secretary) that there are insufficient numbers of disabled families who are not elderly or near-elderly families and have applied for occupancy in the housing to fill all the units in the project reserved under section 652, the owner may give preference for occupancy of units so reserved to disabled families who are near-elderly families and have applied for occupancy in the housing.

Sec. 654. [42 U.S.C. 13614]
GENERAL AVAILABILITY OF UNITS.

If an owner of a covered section 8 housing project in which disabled families who are near-elderly families are given a preference for occupancy pursuant to subsection (a) or (b) of section 653 determines (in accordance with regulations established by the Secretary) that there are an insufficient number of such families to fill all the units in the project for which the preference is applicable, the owner shall make such units generally available for occupancy by families who have applied, and are eligible, for occupancy in the housing, without regard to the preferences established pursuant to this subtitle.

Sec. 655. [42 U.S.C. 13615]
PREFERENCE WITHIN GROUPS.

Among disabled families qualifying for occupancy in units reserved under section 652, and among elderly families and near-elderly families qualifying for preference for occupancy pursuant to section 651 or 653, preference for occupancy in units that are assisted under section 8 of the United States Housing Act of 1937 shall be given to disabled families according to any preferences established under any system established under section 8(d)(1)(A) by the public housing agency.

Sec. 656. [42 U.S.C. 13616]
PROHIBITION OF EVICTIONS.

Any tenant who, except for reservation of a percentage of the units of a project pursuant to section 652 or any preference for occupancy established pursuant to this subtitle, is lawfully residing in a dwelling unit in a covered section 8 housing project, may not be evicted or otherwise required to vacate such unit because of the reservation or preferences or because of any action taken by the Secretary of Housing and Urban Development or the owner of the project pursuant to this subtitle.

Sec. 657. [42 U.S.C. 13617]
TREATMENT OF COVERED SECTION 8 HOUSING NOT SUBJECT TO ELDERLY PREFERENCE.

If an owner of any covered section 8 housing project designed primarily for occupancy by elderly families does not give preference in occupancy to elderly families as authorized in this subtitle, then elderly families (as such term was defined in section 3 of the United States Housing Act of 1937 before the date of the enactment of this Act) shall be eligible for occupancy in such housing to the same extent that such families were eligible before the date of the enactment of this Act.

Sec. 658. [42 U.S.C. 13618]
TREATMENT OF OTHER FEDERALLY ASSISTED HOUSING.

(a) RESTRICTED OCCUPANCY.—An owner of any federally assisted project (or portion of a project) as described in subparagraphs (D), (E), and (F) of section 683(2) that was designed for occupancy by elderly families may continue to restrict occupancy in such project (or portion) to elderly families in accordance with the rules, standards, and agreements governing occupancy in such housing in effect at the time of the development of the housing.

(b) PROHIBITION OF EVICTIONS.—Any tenant who is lawfully residing in a dwelling unit in a housing project described in subsection (a) may not be evicted or otherwise required to vacate such unit because of any reservation or preferences under this subtitle or because of any action taken by the Secretary of Housing and Urban Development or the owner of the project pursuant to this subtitle.

Sec. 659. [42 U.S.C. 13619]
COVERED SECTION 8 HOUSING.

For purposes of this subtitle, the term "covered section 8 housing" means housing described in section 683(2)(G) that was originally designed for occupancy by elderly families.

Sec. 660.
SECTION 8 PREFERENCE.

Section 8(d) of the United States Housing Act of 1937 (42 U.S.C. 1437f(d)) is amended by adding at the end the following new paragraph:

"(4) A public housing agency that serves more than one unit of general local government may, at the discretion of the agency, in allocating assistance under this section, give priority to disabled families that are not elderly families.".

Sec. 661. [42 U.S.C. 13620]
STUDY.

The Secretary of Housing and Urban Development shall conduct a study to determine the extent to which Federal housing programs serve elderly families, disabled families, and families with children, in relation to the need of such families who are eligible for assistance under such programs. The Secretary shall submit a report to the

Congress describing the study and the findings of the study not later than the expiration of the 1-year period beginning on the date of the enactment of this Act.[309]

Subtitle E—Service Coordinators for Elderly and Disabled Residents of Federally Assisted Housing

Sec. 671. [42 U.S.C. 13631]
REQUIREMENT TO PROVIDE SERVICE COORDINATORS.

(a) IN GENERAL.—To the extent that amounts are made available for providing service coordinators under this section, the Secretary shall require owners of covered federally assisted housing projects (as such term is defined in subsection (d)) receiving such amounts to provide for employing or otherwise retaining the services of one or more individuals to coordinate the provision of supportive services for elderly and disabled families residing in the projects (in this section referred to as a "service coordinator"). No such elderly or disabled family may be required to accept services.

(b) RESPONSIBILITIES.—Each service coordinator of a covered federally assisted housing project provided pursuant to this subtitle or the amendments made by this subtitle—

(1) shall consult with the owner of the housing, tenants, any tenant organizations, any resident management organizations, service providers, and any other appropriate persons, to identify the particular needs and characteristics of elderly and disabled families who reside in the project and any supportive services related to such needs and characteristics;

(2) shall manage and coordinate the provision of such services for residents of the project;

(3) may provide training to tenants of the project in the obligations of tenancy or coordinate such training;

(4) shall meet the minimum qualifications and standards required under section 802(d)(4) of the Cranston-Gonzalez National Affordable Housing Act; and

(5) may carry out other appropriate activities for residents of the project.

(c) INCLUDED SERVICES.—Supportive services referred to under subsection (b)(1) may include health-related services, mental health services, services for nonmedical counseling, meals, transportation, personal care, bathing, toileting, housekeeping, chore assistance, safety, group and socialization activities, assistance with medications (in accordance with any applicable State laws), case management, personal emergency response, education and outreach regarding telemarketing fraud in accordance with the standards issued under subsection (f), and other appropriate services. The services may be provided through any agency of the Federal Government or any other public or private department, agency, or organization.

(d) COVERED FEDERALLY ASSISTED HOUSING.—For purposes of this subtitle, the term "covered federally assisted housing" means housing that is federally assisted housing (as such term is defined in section 683(2)), except that such term does not include housing described in subparagraphs (C) and (D) of such section.

(e) SERVICES FOR LOW-INCOME ELDERLY OR DISABLED FAMILIES RESIDING IN VICINITY OF CERTAIN PROJECTS.—To the extent only that this section applies to service coordinators for covered federally assisted housing described in subparagraphs (B), (C), (D), (E), (F), and (G) of section 683(2), any reference in this section to elderly or disabled residents of a project shall be construed to include low-income elderly or disabled families living in the vicinity of such project.

(f) PROTECTION AGAINST TELEMARKETING FRAUD.—

(1) IN GENERAL.—The Secretary, in coordination with the Secretary of Health and Human Services, shall establish standards for service coordinators in federally assisted housing who are providing education and outreach to elderly persons residing in such housing regarding telemarketing fraud. The standards shall be designed to ensure that such education and outreach informs such elderly persons of the dangers of telemarketing fraud and facilitates the investigation and prosecution of telemarketers engaging in fraud against such residents.

(2) CONTENTS.—The standards established under this subsection shall require that any such education and outreach be provided in a manner that—

(A) informs such residents of—

(i) the prevalence of telemarketing fraud targeted against elderly persons;

(ii) how telemarketing fraud works;

(iii) how to identify telemarketing fraud;

[309] The date of enactment was October 28, 1992.

(iv) how to protect themselves against telemarketing fraud, including an explanation of the dangers of providing bank account, credit card, or other financial or personal information over the telephone to unsolicited callers;

(v) how to report suspected attempts at telemarketing fraud; and

(vi) their consumer protection rights under Federal law;

(B) provides such other information as the Secretary considers necessary to protect such residents against fraudulent telemarketing; and

(C) disseminates the information provided by appropriate means, and in determining such appropriate means, the Secretary shall consider on-site presentations at federally assisted housing, public service announcements, a printed manual or pamphlet, an Internet website, and telephone outreach to residents whose names appear on "mooch lists" confiscated from fraudulent telemarketers.

Sec. 672.
REQUIRED TRAINING OF SERVICE COORDINATORS.

Section 802(d)(4) of the Cranston-Gonzalez National Affordable Housing Act (42 U.S.C. 8011(d)(4)) is amended * * * * *

Sec. 673.
COSTS OF PROVIDING SERVICE COORDINATORS IN PUBLIC HOUSING.

Section 9(a)(1)(B) of the United States Housing Act of 1937 (42 U.S.C. 1437g(a)(1)(B)) is amended—

* * * * * * *

Sec. 674.
COSTS OF PROVIDING SERVICE COORDINATORS IN PROJECT-BASED SECTION 8 HOUSING.

Section 8(d)(2) of the United States Housing Act of 1937 (42 U.S.C. 1437f(d)(2)) is amended by adding at the end the following new subparagraph:

* * * * * * *

Sec. 675.
COSTS OF PROVIDING SERVICE COORDINATORS FOR FAMILIES RECEIVING FEDERAL TENANT-BASED ASSISTANCE.

Section 8(q) of the United States Housing Act of 1937 (42 U.S.C. 1437f(q)) is amended—

* * * * * * *

Sec. 676. [42 U.S.C. 13632]
GRANTS FOR COSTS OF PROVIDING SERVICE COORDINATORS IN CERTAIN FEDERALLY ASSISTED HOUSING.

(a) AUTHORITY.—The Secretary may make grants under this section to owners of federally assisted housing projects described in subparagraphs (B), (C), (D), (E), (F), and (G) of section 683(2). Any grant amounts shall be used for the costs of employing or otherwise retaining the services of one or more service coordinators under section 671 to coordinate the provision of any services within the project for residents of the project who are elderly families and disabled families (as such terms are defined in section 683 of this Act). A service coordinator funded with a grant under this section for a project may provide services to low-income elderly or disabled families living in the vicinity of such project.

(b) APPLICATION AND SELECTION.—The Secretary shall provide for the form and manner of applications for grants under this section and for selection of applicants to receive such grants.

(c) ELIGIBLE PROJECT EXPENSE.—For any federally assisted housing project described in subparagraph (B), (C), (D), (E), (F), or (G) of section 683(2) that does not receive a grant under this section, the cost of employing or otherwise retaining the services of one or more service coordinators under section 671 and not more than 15 percent of the cost of providing services to the residents of the project shall be considered an eligible project expense, but only to the extent that amounts are available from project rent and other income for such costs.

Sec. 677. [12 U.S.C. 1701q note]
EXPANDED RESPONSIBILITIES OF SERVICE COORDINATORS IN SECTION 202 HOUSING.

* * * * * * *

(b) OLD SECTION 202 PROJECTS.—

(1) AVAILABILITY OF SECTION 8 ASSISTANCE.—Subject to the availability of appropriations for contract amendments for the purpose of this paragraph, in determining the amount of assistance under section 8 of the United States Housing Act of 1937 to be provided for a project assisted under section 202 of the Housing Act of 1959, as in effect before the effectiveness of the amendments made by section 801 of the Cranston-Gonzalez National Affordable Housing Act, the Secretary shall consider (and annually adjust for) the costs of—

(A) employing or otherwise retaining the services of one or more service coordinators under section 661 of this Act to coordinate the provision of any services within the project for residents of the project who are elderly families and disabled families; and

(B) expenses for the provision of such services.

Not more than 15 percent of the cost of the provision of services under subparagraph (B) may be considered under this paragraph for purposes of determining the amount of assistance provided.

(2) INAPPLICABILITY OF HUD REFORM ACT PROVISIONS.—Notwithstanding section 102 of the Department of Housing and Urban Development Reform Act of 1989, the provisions of paragraphs (1), (2), and (3) of subsection (a) of such section shall not apply to amendments to contracts under section 8 of the United States Housing Act of 1937 made to carry out the purposes of paragraph (1) of this subsection.

(3) LIMITATION.—If a project is receiving congregate housing services assistance under the Congregate Housing Services Act of 1978 or section 802 of the Cranston-Gonzalez National Affordable Housing Act, the amount of costs provided pursuant to paragraph (1) for the project may not exceed the additional amount necessary to cover the costs of providing for the coordination of services for residents of the project who are not eligible residents under such section 802 or eligible project residents under the Congregate Housing Services Act of 1978, as applicable.

Subtitle F—General Provisions

Sec. 681.
COMPREHENSIVE HOUSING AFFORDABILITY STRATEGIES.

Section 105(b) of the Cranston-Gonzalez National Affordable Housing Act (42 U.S.C. 12705(b)) is amended—

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Sec. 682.
CONFORMING AMENDMENTS.

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Sec. 683. [42 U.S.C. 13641]
DEFINITIONS.

For purposes of this title:

(1) ELDERLY, DISABLED, AND NEAR-ELDERLY FAMILIES.—The terms “elderly family”, “disabled family”, and “near-elderly family” have the meanings given the terms under section 3(b)(3) of the United States Housing Act of 1937.

(2) FEDERALLY ASSISTED HOUSING.—The terms “federally assisted housing” and “project” mean—

(A) a public housing project (as such term is defined in section 3(b) of the United States Housing Act of 1937);

(B) housing for which project-based assistance is provided under section 8 of the United States Housing Act of 1937;

(C) housing that is assisted under section 202 of the Housing Act of 1959 (as amended by section 801 of the Cranston-Gonzalez National Affordable Housing Act);

(D) housing that is assisted under section 202 of the Housing Act of 1959, as such section existed before the enactment of the Cranston-Gonzalez National Affordable Housing Act;

(E) housing financed by a loan or mortgage insured under section 221(d)(3) of the National Housing Act that bears interest at a rate determined under the proviso of section 221(d)(5) of such Act;

(F) housing insured, assisted, or held by the Secretary or a State or State agency under section 236 of the National Housing Act;

(G) housing constructed or substantially rehabilitated pursuant to assistance provided under section 8(b)(2) of the United States Housing Act of 1937, as in effect before October 1, 1983, that is assisted under a contract for assistance under such section; and

(H) housing that is assisted under section 811 of the Cranston-Gonzalez Affording Housing Act (42 U.S.C. 8013).

(3) HOUSING ASSISTANCE.—The term "housing assistance" means, with respect to federally assisted housing, the grant, contribution, capital advance, loan, mortgage insurance, or other assistance provided for the housing under the provisions of law referred to in paragraph (2). The term also includes any related assistance provided for the housing by the Secretary, including any rental assistance for low-income occupants.

(4) OWNER.—The term "owner" means, with respect to federally assisted housing, the entity or private person, including a cooperative or public housing agency, that has the legal right to lease or sublease dwelling units in such housing.

(5) SECRETARY.—The term "Secretary" means the Secretary of Housing and Urban Development.

Sec. 684. [42 U.S.C. 13642]
APPLICABILITY.

Except as otherwise provided in subtitles B through F of this title and the amendments made by such subtitles, such subtitles and the amendments made by such subtitles shall apply upon the expiration of the 6-month period beginning on the date of the enactment of this Act.[310]

Sec. 685. [42 U.S.C. 13643]
REGULATIONS.

The Secretary shall issue regulations necessary to carry out subtitles B through F of this title and the amendments made by such subtitles not later than the expiration of the 6-month period beginning on the date of the enactment of this Act.1 The regulations shall be issued after notice and opportunity for public comment pursuant to the provisions of section 553 of title 5, United States Code (notwithstanding subsections (a)(2), (b)(B), and (d)(3) of such section).

END OF STATUTE

[310] The date of enactment was October 28, 1992.

SAFETY AND SECURITY IN PUBLIC AND ASSISTED HOUSING

QUALITY HOUSING AND WORK RESPONSIBILITY ACT OF 1998
[Public Law 105-276; 112 Stat. 2634; 42 U.S.C. 13661—13664]

TITLE V—PUBLIC HOUSING AND TENANT-BASED ASSISTANCE REFORM

* * * * * * *

Subtitle F—Safety and Security in Public and Assisted Housing

* * * * * * *

Sec. 576. [42 U.S.C. 13661]
SCREENING OF APPLICANTS FOR FEDERALLY ASSISTED HOUSING.

(a) INELIGIBILITY BECAUSE OF EVICTION FOR DRUG CRIMES.—Any tenant evicted from federally assisted housing by reason of drug-related criminal activity (as such term is defined in section 3(b) of the United States Housing Act of 1937 (42 U.S.C. 1437a(b)) shall not be eligible for federally assisted housing during the 3-year period beginning on the date of such eviction, unless the evicted tenant successfully completes a rehabilitation program approved by the public housing agency (which shall include a waiver of this subsection if the circumstances leading to eviction no longer exist).

(b) INELIGIBILITY OF ILLEGAL DRUG USERS AND ALCOHOL ABUSERS.—

(1) IN GENERAL.—Notwithstanding any other provision of law, a public housing agency or an owner of federally assisted housing, as determined by the Secretary, shall establish standards that prohibit admission to the program or admission to federally assisted housing for any household with a member—

(A) who the public housing agency or owner determines is illegally using a controlled substance; or

(B) with respect to whom the public housing agency or owner determines that it has reasonable cause to believe that such household member's illegal use (or pattern of illegal use) of a controlled substance, or abuse (or pattern of abuse) of alcohol, may interfere with the health, safety, or right to peaceful enjoyment of the premises by other residents.

(2) CONSIDERATION OF REHABILITATION.—In determining whether, pursuant to paragraph (1)(B), to deny admission to the program or federally assisted housing to any household based on a pattern of illegal use of a controlled substance or a pattern of abuse of alcohol by a household member, a public housing agency or an owner may consider whether such household member—

(A) has successfully completed a supervised drug or alcohol rehabilitation program (as applicable) and is no longer engaging in the illegal use of a controlled substance or abuse of alcohol (as applicable);

(B) has otherwise been rehabilitated successfully and is no longer engaging in the illegal use of a controlled substance or abuse of alcohol (as applicable); or

(C) is participating in a supervised drug or alcohol rehabilitation program (as applicable) and is no longer engaging in the illegal use of a controlled substance or abuse of alcohol (as applicable).

(c) AUTHORITY TO DENY ADMISSION TO CRIMINAL OFFENDERS.—Except as provided in subsections (a) and (b) of this section and in addition to any other authority to screen applicants, in selecting among applicants for admission to the program or to federally assisted housing, if the public housing agency or owner of such housing (as applicable) determines that an applicant or any member of the applicant's household is or was, during a reasonable time preceding the date when the applicant household would otherwise be selected for admission, engaged in any drug-related or violent criminal activity or other criminal activity which would adversely affect the health, safety, or right to peaceful enjoyment of the premises by other residents, the owner, or public housing agency employees, the public housing agency or owner may—

(1) deny such applicant admission to the program or to federally assisted housing; and

(2) after the expiration of the reasonable period beginning upon such activity, require the applicant, as a condition of admission to the program or to federally assisted housing, to submit to the

public housing agency or owner evidence sufficient (as the Secretary shall by regulation provide) to ensure that the individual or individuals in the applicant's household who engaged in criminal activity for which denial was made under paragraph (1) have not engaged in any criminal activity during such reasonable period.

(d) CONFORMING AMENDMENTS.—The United States Housing Act of 1937 is amended—

(1) in section 6—

(A) by striking subsection (r); and

(B) by redesignating subsections (s), (t), and (u) (as added by the preceding provisions of this Act) as subsections (r), (s), and (t), respectively; and

(2) in section 16 (42 U.S.C. 1437n), by striking subsection (e).

Sec. 577. [42 U.S.C. 13662]
TERMINATION OF TENANCY AND ASSISTANCE FOR ILLEGAL DRUG USERS AND ALCOHOL ABUSERS IN FEDERALLY ASSISTED HOUSING.

(a) IN GENERAL.—Notwithstanding any other provision of law, a public housing agency or an owner of federally assisted housing (as applicable), shall establish standards or lease provisions for continued assistance or occupancy in federally assisted housing that allow the agency or owner (as applicable) to terminate the tenancy or assistance for any household with a member—

(1) who the public housing agency or owner determines is illegally using a controlled substance; or

(2) whose illegal use (or pattern of illegal use) of a controlled substance, or whose abuse (or pattern of abuse) of alcohol, is determined by the public housing agency or owner to interfere with the health, safety, or right to peaceful enjoyment of the premises by other residents.

(b) CONSIDERATION OF REHABILITATION.—In determining whether, pursuant to subsection (a)(2), to terminate tenancy or assistance to any household based on a pattern of illegal use of a controlled substance or a pattern of abuse of alcohol by a household member, a public housing agency or an owner may consider whether such household member—

(1) has successfully completed a supervised drug or alcohol rehabilitation program (as applicable) and is no longer engaging in the illegal use of a controlled substance or abuse of alcohol (as applicable);

(2) has otherwise been rehabilitated successfully and is no longer engaging in the illegal use of a controlled substance or abuse of alcohol (as applicable); or

(3) is participating in a supervised drug or alcohol rehabilitation program (as applicable) and is no longer engaging in the illegal use of a controlled substance or abuse of alcohol (as applicable).

Sec. 578. [42 U.S.C. 13663]
INELIGIBILITY OF DANGEROUS SEX OFFENDERS FOR ADMISSION TO PUBLIC HOUSING.

(a) IN GENERAL.—Notwithstanding any other provision of law, an owner of federally assisted housing shall prohibit admission to such housing for any household that includes any individual who is subject to a lifetime registration requirement under a State sex offender registration program.

(b) OBTAINING INFORMATION.—As provided in regulations issued by the Secretary to carry out this section—

(1) a public housing agency shall carry out criminal history background checks on applicants for federally assisted housing and make further inquiry with State and local agencies as necessary to determine whether an applicant for federally assisted housing is subject to a lifetime registration requirement under a State sex offender registration program; and

(2) State and local agencies responsible for the collection or maintenance of criminal history record information or information on persons required to register as sex offenders shall comply with requests of public housing agencies for information pursuant to this section.

(c) REQUESTS BY OWNERS FOR PHA'S TO OBTAIN INFORMATION.—A public housing agency may take any action under subsection (b) regarding applicants for, or tenants of, federally assisted housing other than federally assisted housing described in subparagraph (A) or (B) of section 579(a)(2), but only if the housing is located within the jurisdiction of the agency and the owner of such housing has requested that the agency take such action on behalf of the owner. Upon such a request by the owner, the agency shall take the action requested under subsection (b). The agency may not make any information obtained pursuant to the action under subsection (b) available to the owner but shall perform determinations for the owner regarding screening, lease enforcement, and eviction based on criteria supplied by the owner.

(d) OPPORTUNITY TO DISPUTE.—Before an adverse action is taken with respect to an applicant for federally assisted housing on the basis that an individual is subject to a lifetime registration requirement under a State sex offender registration program, the public housing agency obtaining the record shall provide the tenant or applicant with a copy of the registration information and an opportunity to dispute the accuracy and relevance of that information.

(e) FEE.—A public housing agency may be charged a reasonable fee for taking actions under subsection (b). In the case of a public housing agency taking actions on behalf of another owner of federally assisted housing pursuant to subsection (c), the agency may pass such fee on to the owner making the request and may charge an additional reasonable fee for making the request on behalf of the owner.

(f) RECORDS MANAGEMENT.—Each public housing agency shall establish and implement a system of records management that ensures that any criminal record or information regarding a lifetime registration requirement under a State sex offender registration program that is obtained under this section by the public housing agency is—

(1) maintained confidentially;

(2) not misused or improperly disseminated; and

(3) destroyed, once the purpose for which the record was requested has been accomplished.

Sec. 579. [42 U.S.C. 13664]
DEFINITIONS.

(a) DEFINITIONS.—For purposes of this subtitle, the following definitions shall apply:

(1) DRUG-RELATED CRIMINAL ACTIVITY.—The term "drug-related criminal activity" has the meaning given the term in section 3(b) of the United States Housing Act of 1937 (42 U.S.C. 1437a(b)).

(2) FEDERALLY ASSISTED HOUSING.—The term "federally assisted housing" means a dwelling unit—

(A) in public housing (as such term is defined in section 3(b) of the United States Housing Act of 1937 (42 U.S.C. 1437a));

(B) assisted with tenant-based assistance under section 8 of the United States Housing Act of 1937;

(C) in housing that is provided project-based assistance under section 8 of the United States Housing Act of 1937, including new construction and substantial rehabilitation projects;

(D) in housing that is assisted under section 202 of the Housing Act of 1959 (as amended by section 801 of the Cranston-Gonzalez National Affordable Housing Act);

(E) in housing that is assisted under section 202 of the Housing Act of 1959, as such section existed before the enactment of the Cranston-Gonzalez National Affordable Housing Act;

(F) in housing that is assisted under section 811 of the Cranston-Gonzalez National Affordable Housing Act;

(G) in housing financed by a loan or mortgage insured under section 221(d)(3) of the National Housing Act that bears interest at a rate determined under the proviso of section 221(d)(5) of such Act;

(H) in housing insured, assisted, or held by the Secretary or a State or State agency under section 236 of the National Housing Act; or

(I) in housing assisted under section 514 or 515 of the Housing Act of 1949.

(3) OWNER.—The term "owner" means, with respect to federally assisted housing, the entity or private person (including a cooperative or public housing agency) that has the legal right to lease or sublease dwelling units in such housing.

END OF STATUTE

REMOVAL OF REGULATORY BARRIERS TO AFFORDABLE HOUSING

HOUSING AND COMMUNITY DEVELOPMENT ACT OF 1992
[Public Law 102-550; 106 Stat. 3938; 42 U.S.C. 12705a—d]

TITLE XII—REMOVAL OF REGULATORY BARRIERS TO AFFORDABLE HOUSING

Sec. 1201. [42 U.S.C. 12705a note]
SHORT TITLE.

This title may be cited as the "Removal of Regulatory Barriers to Affordable Housing Act of 1992".

Sec. 1202. [42 U.S.C. 12705a]
PURPOSES.

The purposes of this title are—

(1) to encourage State and local governments to further identify and remove regulatory barriers to affordable housing (including barriers that are excessive, unnecessary, duplicative, or exclusionary) that significantly increase housing costs and limit the supply of affordable housing; and

(2) to strengthen the connection between Federal housing assistance and State and local efforts to identify and eliminate regulatory barriers.

SEC. 1203. [42 U.S.C. 12705b]
DEFINITION OF REGULATORY BARRIERS TO AFFORDABLE HOUSING.

For purposes of this title, the terms "regulatory barriers to affordable housing" and "regulatory barriers" mean any public policies (including policies embodied in statutes, ordinances, regulations, or administrative procedures or processes) required to be identified by a jurisdiction in connection with its comprehensive housing affordability strategy under section 105(b)(4) of the Cranston-Gonzalez National Affordable Housing Act. Such terms do not include policies relating to rents imposed on a structure by a jurisdiction or policies that have served to create or preserve, or can be shown to create or preserve, housing for low- and very low-income families, including displacement protections, demolition controls, replacement housing requirements, relocation benefits, housing trust funds, dedicated funding sources, waiver of local property taxes and builder fees, inclusionary zoning, rental zoning overlays, long-term use restrictions, and rights of first refusal.

Sec. 1204. [42 U.S.C. 12705c]
GRANTS FOR REGULATORY BARRIER REMOVAL STRATEGIES AND IMPLEMENTATION.

(a) FUNDING.—There is authorized to be appropriated for grants under subsections (b) and (c) such sums as may be necessary for each of fiscal years 2001, 2002, 2003, 2004, and 2005.

(b) GRANT AUTHORITY.—The Secretary may make grants to States and units of general local government (including consortia of such governments) for the costs of developing and implementing strategies to remove regulatory barriers to affordable housing, including the costs of—

(1) identifying, assessing, and monitoring State and local regulatory barriers;

(2) identifying State and local policies (including laws and regulations) that permit or encourage regulatory barriers;

(3) developing legislation to provide State, local, or regional programs to reduce regulatory barriers and developing a strategy for adoption of such legislation;

(4) developing model State or local standards and ordinances to reduce regulatory barriers and assisting in the adoption and use of the standards and ordinances;

(5) carrying out the simplification and consolidation of administrative procedures and processes constituting regulatory barriers to affordable housing, including the issuance of permits; and

(6) providing technical assistance and information to units of general local government for implementation of legislative and administrative reform programs to remove regulatory barriers to affordable housing.

[(c) [Repealed.]]

(d) DEFINITION.—For purposes of this section, the terms "regulatory barriers to affordable housing" and "regulatory barriers" have the meaning given such terms in section 1203.

(e) APPLICATION AND SELECTION.—The Secretary shall provide for the form and manner of applications for grants under this section, which shall describe how grant amounts will assist the State or unit of general local government in developing and implementing strategies to remove regulatory barriers to affordable housing. The Secretary shall establish criteria for approval of applications under this subsection and such criteria shall require that grant amounts be used in a manner consistent with the strategy contained in the comprehensive housing affordability strategy for the jurisdiction pursuant to section 105(b)(4) of the Cranston-Gonzalez National Affordable Housing Act.

(f) SELECTION OF GRANTEES.—To the extent amounts are made available to carry out this section, the Secretary shall provide grants on a competitive basis to eligible grantees based on the proposed uses of such amounts, as provided in applications under subsection (e).

(g) COORDINATION WITH CLEARINGHOUSE.—Each State and unit of general local government receiving a grant under this section, shall consult, coordinate, and exchange information with the clearinghouse established under section 1205.

(h) REPORTS TO SECRETARY.—Each State and unit of general local government receiving a grant under this section shall submit a report to the Secretary, not less than 12 months after receiving the grant, describing any activities carried out with the grant amounts. The report shall contain an assessment of the impact of any regulatory barriers identified by the grantee on the housing patterns of minorities.

(i) CONFORMING AMENDMENTS.—The first sentence of section 106(d)(1) of the Housing and Community Development Act of 1974 (42 U.S.C. 5306(d)(1)) is amended by striking "for grants" and all that follows through "(2))" and inserting "that remains after allocations pursuant to paragraphs (1) and (2) of subsection (a)".

Sec. 1205. [42 U.S.C. 12705d]
REGULATORY BARRIERS CLEARINGHOUSE.

(a) ESTABLISHMENT.—The Secretary of Housing and Urban Development shall establish a clearinghouse to serve as a national repository to receive, collect, process, assemble, and disseminate information regarding—

(1) State and local laws, regulations, and policies affecting the development, maintenance, improvement, availability, or cost of affordable housing (including tax policies affecting land and other property, land use controls, zoning ordinances, building codes, fees and charges, growth limits, and policies that affect the return on investment in residential property), and the prevalence and effects on affordable housing of such laws, regulations, and policies;

(2) State and local activities, strategies, and plans to remove or ameliorate the negative effects, if any, of such laws, regulations, and policies, including particularly innovative or successful activities, strategies, and plans; and

(3) State and local strategies, activities and plans that promote affordable housing and housing desegregation, including particularly innovative or successful strategies, activities, and plans.

(b) FUNCTIONS.—The clearinghouse established under subsection (a) shall—

(1) respond to inquiries from State and local governments, other organizations, and individuals requesting information regarding State and local laws, regulations, policies, activities, strategies, and plans described in subsection (a);

(2) provide assistance in identifying, examining, and understanding such laws, regulations, policies, activities, strategies, and plans; and

(3) by making available through a World Wide Web site of the Department, by electronic mail, or otherwise, provide to each housing agency of a unit of general local government that serves an area having a population greater than 100,000, an index of all State and local strategies and plans submitted under subsection (a) to the clearinghouse, which—

(A) shall describe the types of barriers to affordable housing that the strategy or plan was designed to ameliorate or remove; and

(B) shall, not later than 30 days after submission to the clearinghouse of any new strategy or plan, be updated to include the new strategy or plan submitted.

(c) ORGANIZATION.—The clearinghouse under this section shall be established within the Office of Policy Development of the Department of Housing and Urban Development and shall be under the direction of the Assistant Secretary for Policy Development and Research.

(d) TIMING.—The clearinghouse under this section (as amended by section 103 of the Housing Affordability Barrier Removal Act of 2000) shall be established and commence carrying out the functions of the clearinghouse under this section not later than 1 year after the date of the enactment of such Act.[311] The Secretary of Housing and Urban Development may comply with the requirements under this section by reestablishing the clearinghouse that was originally established to comply with this section and updating and improving such clearinghouse to the extent necessary to comply with the requirements of this section as in effect pursuant to the enactment of such Act.

END OF STATUTE

[311] The date of enactment was December 27, 2000.

DISPOSITION OF HUD-OWNED PROJECTS

DEPARTMENTS OF VETERANS AFFAIRS AND HOUSING AND URBAN DEVELOPMENT, AND INDEPENDENT AGENCIES APPROPRIATIONS ACT, 1997
[Public Law 104-204; 110 Stat. 2894; 12 U.S.C. 1715z-11a]

Sec. 204. [12 U.S.C. 1715z-11a]
DISPOSITION OF HUD-OWNED PROPERTIES.

(a) FLEXIBLE AUTHORITY FOR MULTIFAMILY PROJECTS.—During fiscal year 1997 and fiscal years thereafter, the Secretary may manage and dispose of multifamily properties owned by the Secretary, including, for fiscal years 1997, 1998, 1999, 2000, and thereafter, the provision of grants and loans from the General Insurance Fund (12 U.S.C. 1735(c)) for the necessary costs of rehabilitation, demolition, or construction on the properties (which shall be eligible whether vacant or occupied) and multifamily mortgages held by the Secretary on such terms and conditions as the Secretary may determine, notwithstanding any other provision of law. A grant provided under this subsection during fiscal years 2006 through 2010 shall be available only to the extent that appropriations are made in advance for such purposes and shall not be derived from the General Insurance Fund.

(b) **TRANSFER OF UNOCCUPIED AND SUBSTANDARD HOUSING TO LOCAL GOVERNMENTS AND COMMUNITY DEVELOPMENT CORPORATIONS.—**

(1) TRANSFER AUTHORITY.—Notwithstanding the authority under subsection (a) and the last sentence of section 204(g) of the National Housing Act (12 U.S.C. 1710(g)), the Secretary of Housing and Urban Development shall transfer ownership of any qualified HUD property, subject to the requirements of this section, to a unit of general local government having jurisdiction for the area in which the property is located or to a community development corporation which operates within such a unit of general local government in accordance with this subsection, but only to the extent that units of general local government and community development corporations consent to transfer and the Secretary determines that such transfer is practicable.

(2) QUALIFIED HUD PROPERTIES.—For purposes of this subsection, the term "qualified HUD property" means any property for which, as of the date that notification of the property is first made under paragraph (3)(B), not less than 6 months have elapsed since the later of the date that the property was acquired by the Secretary or the date that the property was determined to be unoccupied or substandard, that is owned by the Secretary and is—

(A) an unoccupied multifamily housing project;

(B) a substandard multifamily housing project; or

(C) an unoccupied single family property that—

(i) has been determined by the Secretary not to be an eligible asset under section 204(h) of the National Housing Act (12 U.S.C. 1710(h)); or

(ii) is an eligible asset under such section 204(h), but—

(I) is not subject to a specific sale agreement under such section; and

(II) has been determined by the Secretary to be inappropriate for continued inclusion in the program under such section 204(h) pursuant to paragraph (10) of such section.

(3) TIMING.—The Secretary shall establish procedures that provide for—

(A) time deadlines for transfers under this subsection;

(B) notification to units of general local government and community development corporations of qualified HUD properties in their jurisdictions;

(C) such units and corporations to express interest in the transfer under this subsection of such properties;

(D) a right of first refusal for transfer of qualified HUD properties to units of general local government and community development corporations, under which—

(i) the Secretary shall establish a period during which the Secretary may not transfer such properties except to such units and corporations;

(ii) the Secretary shall offer qualified HUD properties that are single family properties for purchase by units of general local government at a cost of $1 for each property, but only to the extent that the costs to the Federal Government of disposal at

such price do not exceed the costs to the Federal Government of disposing of property subject to the procedures for single family property established by the Secretary pursuant to the authority under the last sentence of section 204(g) of the National Housing Act (12 U.S.C. 1710(g));

(iii) the Secretary may accept an offer to purchase a property made by a community development corporation only if the offer provides for purchase on a cost recovery basis; and

(iv) the Secretary shall accept an offer to purchase such a property that is made during such period by such a unit or corporation and that complies with the requirements of this paragraph; and

(E) a written explanation, to any unit of general local government or community development corporation making an offer to purchase a qualified HUD property under this subsection that is not accepted, of the reason that such offer was not acceptable.

(4) OTHER DISPOSITION.—With respect to any qualified HUD property, if the Secretary does not receive an acceptable offer to purchase the property pursuant to the procedure established under paragraph (3), the Secretary shall dispose of the property to the unit of general local government in which property is located or to community development corporations located in such unit of general local government on a negotiated, competitive bid, or other basis, on such terms as the Secretary deems appropriate.

(5) SATISFACTION OF INDEBTEDNESS.—Before transferring ownership of any qualified HUD property pursuant to this subsection, the Secretary shall satisfy any indebtedness incurred in connection with the property to be transferred, by canceling the indebtedness.

(6) DETERMINATION OF STATUS OF PROPERTIES.—To ensure compliance with the requirements of this subsection, the Secretary shall take the following actions:

(A) UPON ENACTMENT.—Upon the enactment of this subsection, the Secretary shall promptly assess each residential property owned by the Secretary to determine whether such property is a qualified HUD property.

(B) UPON ACQUISITION.—Upon acquiring any residential property, the Secretary shall promptly determine whether the property is a qualified HUD property.

(C) UPDATES.—The Secretary shall periodically reassess the residential properties owned by the Secretary to determine whether any such properties have become qualified HUD properties.

(7) TENANT LEASES.—This subsection shall not affect the terms or the enforceability of any contract or lease entered into with respect to any residential property before the date that such property becomes a qualified HUD property.

(8) USE OF PROPERTY.—Property transferred under this subsection shall be used only for appropriate neighborhood revitalization efforts, including homeownership, rental units, commercial space, and parks, consistent with local zoning regulations, local building codes, and subdivision regulations and restrictions of record.

(9) INAPPLICABILITY TO PROPERTIES MADE AVAILABLE FOR HOMELESS.—Notwithstanding any other provision of this subsection, this subsection shall not apply to any properties that the Secretary determines are to be made available for use by the homeless pursuant to subpart E of part 291 of title 24, Code of Federal Regulations, during the period that the properties are so available.

(10) PROTECTION OF EXISTING CONTRACTS.—This subsection may not be construed to alter, affect, or annul any legally binding obligations entered into with respect to a qualified HUD property before the property becomes a qualified HUD property.

(11) DEFINITIONS.—For purposes of this subsection, the following definitions shall apply:

(A) COMMUNITY DEVELOPMENT CORPORATION.—The term “community development corporation” means a nonprofit organization whose primary purpose is to promote community development by providing housing opportunities for low-income families.

(B) COST RECOVERY BASIS.—The term “cost recovery basis” means, with respect to any sale of a residential property by the Secretary, that the purchase price paid by the purchaser is equal to or greater than the sum of: (i) the appraised value of the property, as determined in accordance with such requirements as the Secretary shall establish; and (ii) the costs incurred by the Secretary in connection with such property during the period beginning on the date on which

the Secretary acquires title to the property and ending on the date on which the sale is consummated.

(C) MULTIFAMILY HOUSING PROJECT.—The term "multifamily housing project" has the meaning given the term in section 203 of the Housing and Community Development Amendments of 1978.

(D) RESIDENTIAL PROPERTY.—The term "residential property" means a property that is a multifamily housing project or a single family property.

(E) SECRETARY.—The term "Secretary" means the Secretary of Housing and Urban Development.

(F) SEVERE PHYSICAL PROBLEMS.—The term "severe physical problems" means, with respect to a dwelling unit, that the unit—

(i) lacks hot or cold piped water, a flush toilet, or both a bathtub and a shower in the unit, for the exclusive use of that unit;

(ii) on not less than three separate occasions during the preceding winter months, was uncomfortably cold for a period of more than 6 consecutive hours due to a malfunction of the heating system for the unit;

(iii) has no functioning electrical service, exposed wiring, any room in which there is not a functioning electrical outlet, or has experienced three or more blown fuses or tripped circuit breakers during the preceding 90-day period;

(iv) is accessible through a public hallway in which there are no working light fixtures, loose or missing steps or railings, and no elevator; or

(v) has severe maintenance problems, including water leaks involving the roof, windows, doors, basement, or pipes or plumbing fixtures, holes or open cracks in walls or ceilings, severe paint peeling or broken plaster, and signs of rodent infestation.

(G) SINGLE FAMILY PROPERTY.—The term "single family property" means a 1- to 4-family residence.

(H) SUBSTANDARD.—The term "substandard" means, with respect to a multifamily housing project, that 25 percent or more of the dwelling units in the project have severe physical problems.

(I) UNIT OF GENERAL LOCAL GOVERNMENT.—The term "unit of general local government" has the meaning given such term in section 102(a) of the Housing and Community Development Act of 1974.

(J) UNOCCUPIED.—The term "unoccupied" means, with respect to a residential property, that the unit of general local government having jurisdiction over the area in which the project is located has certified in writing that the property is not inhabited.

(12) REGULATIONS.—

(A) INTERIM.—Not later than 30 days after the date of the enactment of this subsection[312], the Secretary shall issue such interim regulations as are necessary to carry out this subsection.

(B) FINAL.—Not later than 60 days after the date of the enactment of this subsection, the Secretary shall issue such final regulations as are necessary to carry out this subsection.

HOUSING AND COMMUNITY DEVELOPMENT AMENDMENTS OF 1978
[Public Law 103-233; 108 Stat. 343; 12 U.S.C. 1701z-11—-z-12]

Sec. 203. [12 U.S.C. 1701z-11]
MANAGEMENT AND DISPOSITION OF MULTIFAMILY HOUSING PROJECTS.

(a) GOALS.—The Secretary of Housing and Urban Development shall manage or dispose of multifamily housing projects that are owned by the Secretary or that are subject to a mortgage held by the Secretary in a manner that—

(1) is consistent with the National Housing Act and this section;

(2) will protect the financial interests of the Federal Government; and

(3) will, in the least costly fashion among reasonable available alternatives, address the goals of—

[312] The date of enactment was December 21, 2000.

(A) preserving certain housing so that it can remain available to and affordable by low-income persons;

(B) preserving and revitalizing residential neighborhoods;

(C) maintaining existing housing stock in a decent, safe, and sanitary condition;

(D) minimizing the involuntary displacement of tenants;

(E) maintaining housing for the purpose of providing rental housing, cooperative housing, and homeownership opportunities for low-income persons;

(F) minimizing the need to demolish multifamily housing projects;

(G) supporting fair housing strategies; and

(H) disposing of such projects in a manner consistent with local housing market conditions.

In determining the manner in which a project is to be managed or disposed of, the Secretary may balance competing goals relating to individual projects in a manner that will further the purposes of this section.

(b) DEFINITIONS.—For purposes of this section:

(1) MULTIFAMILY HOUSING PROJECT.—The term "multifamily housing project" means any multifamily rental housing project which is, or prior to acquisition by the Secretary was, assisted or insured under the National Housing Act, or was subject to a loan under section 202 of the Housing Act of 1959.

(2) SUBSIDIZED PROJECT.—The term "subsidized project" means a multifamily housing project that, immediately prior to the assignment of the mortgage on such project to, or the acquisition of such mortgage by, the Secretary, was receiving any of the following types of assistance:

(A) Below market interest rate mortgage insurance under the proviso of section 221(d)(5) of the National Housing Act.

(B) Interest reduction payments made in connection with mortgages insured under section 236 of the National Housing Act.

(C) Direct loans made under section 202 of the Housing Act of 1959.

(D) Assistance in the form of—

(i) rent supplement payments under section 101 of the Housing and Urban Development Act of 1965,

(ii) additional assistance payments under section 236(f)(2) of the National Housing Act,

(iii) housing assistance payments made under section 23 of the United States Housing Act of 1937 (as in effect before January 1, 1975), or

(iv) housing assistance payments made under section 8 of the United States Housing Act of 1937 (excluding payments made for tenant-based assistance under section 8),

if (except for purposes of section 183(c) of the Housing and Community Development Act of 1987) such assistance payments are made to more than 50 percent of the units in the project.

(3) FORMERLY SUBSIDIZED PROJECT.—The term "formerly subsidized project" means a multifamily housing project owned by the Secretary that was a subsidized project immediately prior to its acquisition by the Secretary.

(4) UNSUBSIDIZED PROJECT.—The term "unsubsidized project" means a multifamily housing project owned by the Secretary that is not a subsidized project or a formerly subsidized project.

(5) AFFORDABLE.—A unit shall be considered affordable if—

(A) for units occupied—

(i) by very low-income families, the rent does not exceed 30 percent of 50 percent of the area median income, as determined by the Secretary, with adjustments for smaller and larger families; and

(ii) by low-income families other than very low-income families, the rent does not exceed 30 percent of 80 percent of the area median income, as determined by the Secretary, with adjustments for smaller and larger families; or

(B) the unit, or the family residing in the unit, is receiving assistance under section 8 of the United States Housing Act of 1937.

(6) LOW-INCOME FAMILIES AND VERY LOW-INCOME FAMILIES.—The terms "low-income families" and "very low-income families" shall have the meanings given the terms in section 3(b) of the United States Housing Act of 1937.

(7) PREEXISTING TENANT.—The term "preexisting tenant" means, with respect to a multifamily housing project acquired pursuant to this section by a purchaser other than the Secretary at foreclosure or after sale by the Secretary, a family that resides in a unit in the project immediately before the acquisition of the project by the purchaser.

(8) MARKET AREA.—The term "market area" means a market area determined by the Secretary.

(9) SECRETARY.—The term "Secretary" means the Secretary of Housing and Urban Development.

(c) DISPOSITION OF PROPERTY.—

(1) DISPOSITION TO PURCHASERS.—In carrying out this section, the Secretary may dispose of a multifamily housing project owned by the Secretary on a negotiated, competitive bid, or other basis, on such terms as the Secretary deems appropriate considering the low-income character of the project and consistent with the goals in subsection (a), only to a purchaser determined by the Secretary to be capable of—

(A) satisfying the conditions of the disposition plan developed under paragraph (2) for the project;

(B) implementing a sound financial and physical management program that is designed to enable the project to meet anticipated operating and repair expenses to ensure that the project will remain in decent, safe, and sanitary condition and in compliance with any standards under applicable State or local laws, rules, ordinances, or regulations relating to the physical condition of the housing and any such standards established by the Secretary;

(C) responding to the needs of the tenants and working cooperatively with tenant organizations;

(D) providing adequate organizational, staff, and financial resources to the project; and

(E) meeting such other requirements as the Secretary may determine.

(2) DISPOSITION PLAN.—

(A) IN GENERAL.—Prior to the sale of a multifamily housing project that is owned by the Secretary, the Secretary shall develop an initial disposition plan for the project that specifies the minimum terms and conditions of the Secretary for disposition of the project, the initial sales price that is acceptable to the Secretary, and the assistance that the Secretary plans to make available to a prospective purchaser in accordance with this section.

(B) MARKET-WIDE PLANS.—In developing the initial disposition plan under this subsection for a multifamily housing project located in a market area in which at least 1 other multifamily housing project owned by the Secretary is located, the Secretary may coordinate the disposition of all such multifamily housing projects located within the same market area to the extent and in such manner as the Secretary determines appropriate to carry out the goals under subsection (a).

(C) SALES PRICE.—The initial sales price shall be reasonably related to the intended use of the project after sale, any rehabilitation requirements for the project, the rents for units in the project that can be supported by the market, the amount of rental assistance available for the project under section 8 of the United States Housing Act of 1937, the occupancy profile of the project (including family size and income levels for tenant families), and any other factors that the Secretary considers appropriate.

(D) COMMUNITY AND TENANT INPUT.—In carrying out this section, the Secretary shall develop procedures—

(i) to obtain appropriate and timely input into disposition plans from officials of the unit of general local government affected, the community in which the project is situated, and the tenants of the project; and

(ii) to facilitate, where feasible and appropriate, the sale of multifamily housing projects to existing tenant organizations with demonstrated capacity, to public or nonprofit entities that represent or are affiliated with existing tenant organizations, or to other public or nonprofit entities.

(E) TECHNICAL ASSISTANCE.—To carry out the procedures developed under subparagraph (D), the Secretary may provide technical assistance, directly or indirectly, and may use amounts available for technical assistance under the Emergency Low Income Housing Preservation Act of 1987, subtitle C of the Low-Income Housing Preservation and Resident Homeownership Act of 1990, subtitle B of title IV of the Cranston-Gonzalez National Affordable

Housing Act, or this section, for the provision of technical assistance under this paragraph. Recipients of technical assistance funding under the provisions referred to in this subparagraph shall be permitted to provide technical assistance to the extent of such funding under any of such provisions or under this subparagraph, notwithstanding the source of the funding.

(3) FORECLOSURE SALE.—In carrying out this section, the Secretary shall—

(A) prior to foreclosing on any mortgage held by the Secretary on any multifamily housing project, notify both the unit of general local government in which the property is located and the tenants of the property of the proposed foreclosure sale; and

(B) dispose of a multifamily housing project through a foreclosure sale only to a purchaser that the Secretary determines is capable of implementing a sound financial and physical management program that is designed to enable the project to meet anticipated operating and repair expenses to ensure that the project will remain in decent, safe, and sanitary condition and in compliance with any standards under applicable State or local laws, rules, ordinances, or regulations relating to the physical condition of the housing and any such standards established by the Secretary.

(d) MANAGEMENT AND MAINTENANCE OF PROPERTIES.—

(1) CONTRACTING FOR MANAGEMENT SERVICES.—In carrying out this section, the Secretary may—

(A) contract for management services for a multifamily housing project that is owned by the Secretary (or for which the Secretary is mortgagee in possession) with for-profit and nonprofit entities and public agencies (including public housing authorities) on a negotiated, competitive bid, or other basis at a price determined by the Secretary to be reasonable, with a manager the Secretary has determined is capable of—

(i) implementing a sound financial and physical management program that is designed to enable the project to meet anticipated operating and maintenance expenses to ensure that the project will remain in decent, safe, and sanitary condition and in compliance with any standards under applicable State or local laws, rules, ordinances, or regulations relating to the physical condition of the project and any such standards established by the Secretary;

(ii) responding to the needs of the tenants and working cooperatively with tenant organizations;

(iii) providing adequate organizational, staff, and financial resources to the project; and

(iv) meeting such other requirements as the Secretary may determine; and

(B) require the owner of a multifamily housing project that is subject to a mortgage held by the Secretary to contract for management services for the project in the manner described in subparagraph (A).

(2) MAINTENANCE OF PROJECTS OWNED BY SECRETARY.—In the case of multifamily housing projects that are owned by the Secretary (or for which the Secretary is mortgagee in possession), the Secretary shall—

(A) to the greatest extent possible, maintain all such occupied projects in a decent, safe, and sanitary condition and in compliance with any standards under applicable State or local laws, rules, ordinances, or regulations relating to the physical condition of the housing and any such standards established by the Secretary;

(B) to the greatest extent possible, maintain full occupancy in all such projects; and

(C) maintain all such projects for purposes of providing rental or cooperative housing.

(3) PROJECTS SUBJECT TO A MORTGAGE HELD BY SECRETARY.—In the case of any multifamily housing project that is subject to a mortgage held by the Secretary, the Secretary shall require the owner of the project to carry out the requirements of paragraph (2).

(e) REQUIRED ASSISTANCE.—In disposing of multifamily housing property under this section, consistent with the goal of section 203(a)(3)(A), the Secretary shall take, separately or in combination with other actions under this subsection or subsection (f), one or more of the following actions:

(1) CONTRACT WITH OWNER FOR PROJECT-BASED ASSISTANCE.—In the case of multifamily housing projects that are acquired by a purchaser other than the Secretary at foreclosure or after sale by the Secretary, the Secretary may enter into contracts under section 8 of the United States

Housing Act of 1937 (to the extent budget authority is available) with owners of the projects, subject to the following requirements:

(A) SUBSIDIZED OR FORMERLY SUBSIDIZED PROJECTS RECEIVING MORTGAGE-RELATED ASSISTANCE.—In the case of a subsidized or formerly subsidized project referred to in subparagraphs (A) through (C) of subsection (b)(2)—

(i) the contract shall be sufficient to assist at least all units covered by an assistance contract under any of the authorities referred to in subsection (b)(2)(D) before acquisition or foreclosure, unless the Secretary acts pursuant to the provisions of subparagraph (C);

(ii) the contract shall provide that, when a vacancy occurs in any unit in the project requiring project-based rental assistance pursuant to this subparagraph that is occupied by a family who is not eligible for assistance under such section 8, the owner shall lease the available unit to a family eligible for assistance under such section 8; and

(iii) the Secretary shall take actions to ensure that any unit in any such project that does not otherwise receive project-based assistance under this subparagraph remains available and affordable for the remaining useful life of the project, as defined by the Secretary; to carry out this clause, the Secretary may require purchasers to establish use or rent restrictions maintaining the affordability of such units.

(B) SUBSIDIZED OR FORMERLY SUBSIDIZED PROJECTS RECEIVING RENTAL ASSISTANCE.—In the case of a subsidized or formerly subsidized project referred to in subsection (b)(2)(D) that is not subject to subparagraph (A)—

(i) the contract shall be sufficient to assist at least all units in the project that are covered, or were covered immediately before foreclosure on or acquisition of the project by the Secretary, by an assistance contract under any of the provisions referred to in such subsection, unless the Secretary acts pursuant to provisions of subparagraph (C); and

(ii) the contract shall provide that, when a vacancy occurs in any unit in the project requiring project-based rental assistance pursuant to this subparagraph that is occupied by a family who is not eligible for assistance under such section 8, the owner shall lease the available unit to a family eligible for assistance under such section 8.

(C) EXCEPTIONS.—

(i) AUTHORITY.—In lieu of providing project-based assistance under section 8 of the United States Housing Act of 1937 in accordance with subparagraph (A)(i) or (B)(i) for a project, the Secretary may, for certain units in unsubsidized projects located within the same market area as the project otherwise required to be assisted with such project-based assistance—

(I) require use and rent restrictions providing that such units shall be available to and affordable by very low-income families for the remaining useful life of the project (as defined by the Secretary), or

(II) provide project-based assistance under section 8 for such units to be occupied by only very low-income persons,

but only if the requirements under clause (ii) are met.

(ii) REQUIREMENTS.—The requirements under this clause are that—

(I) upon the disposition of the project otherwise required to be assisted with project-based assistance under subparagraph (A)(i) or (B)(i), the Secretary shall make available tenant-based assistance under section 8 to low-income families residing in units otherwise required to be assisted with such project-based assistance; and

(II) the number of units subject to use restrictions or provided assistance under clause (i) shall be at least equivalent to the number of units otherwise required to be assisted with project-based assistance under section 8 in accordance with subparagraph (A)(i) or (B)(i).

(D) UNSUBSIDIZED PROJECTS.—Notwithstanding actions taken pursuant to subparagraph (C), in the case of unsubsidized projects, the contract shall be sufficient to provide—

(i) project-based rental assistance for all units that are covered, or were covered immediately before foreclosure or acquisition, by an assistance contract under—

(I) the new construction and substantial rehabilitation program under section 8(b)(2) of the United States Housing Act of 1937 (as in effect before October 1, 1983);

(II) the property disposition program under section 8(b) of such Act;

(III) the project-based certificate program under section 8 of such Act;

(IV) the moderate rehabilitation program under section 8(e)(2) of such Act;

(V) section 23 of such Act (as in effect before January 1, 1975);

(VI) the rent supplement program under section 101 of the Housing and Urban Development Act of 1965; or

(VII) section 8 of the United States Housing Act of 1937, following conversion from assistance under section 101 of the Housing and Urban Development Act of 1965; and

(ii) tenant-based assistance under section 8 of the United States Housing Act of 1937 for families that are preexisting tenants of the project in units that, immediately before foreclosure or acquisition of the project by the Secretary, were covered by an assistance contract under the loan management set-aside program under section 8(b) of the United States Housing Act of 1937.

(2) ANNUAL CONTRIBUTION CONTRACTS FOR TENANT-BASED ASSISTANCE.—In the case of multifamily housing projects that are acquired by a purchaser other than the Secretary at foreclosure or after sale by the Secretary, the Secretary may enter into annual contribution contracts with public housing agencies to provide tenant-based assistance under section 8 of the United States Housing Act of 1937 on behalf of all low-income families who are otherwise eligible for assistance in accordance with subparagraph (A), (B), or (D) of paragraph (1) on the date that the project is acquired by the purchaser, subject to the following requirements:

(A) REQUIREMENT OF SUFFICIENT AFFORDABLE HOUSING IN AREA.—The Secretary may not take action under this paragraph unless the Secretary determines that there is available in the area an adequate supply of habitable, affordable housing for very low-income families and other low-income families using tenant-based assistance.

(B) LIMITATION FOR SUBSIDIZED AND FORMERLY SUBSIDIZED PROJECTS.—The Secretary may not take actions under this paragraph in connection with units in subsidized or formerly subsidized projects for more than 10 percent of the aggregate number of units in such projects disposed of by the Secretary in any fiscal year.

(3) OTHER ASSISTANCE.—

(A) IN GENERAL.—In accordance with the authority provided under the National Housing Act, the Secretary may provide other assistance pursuant to subsection (f) to the owners of multifamily housing projects that are acquired by a purchaser other than the Secretary at foreclosure, or after sale by the Secretary, on terms that ensure that—

(i) at least the units in the project otherwise required to receive project-based assistance pursuant to subparagraphs[313] (A), (B), or (D) of paragraph (1) are available to and affordable by low-income persons; and

(ii) for the remaining useful life of the project, as defined by the Secretary, there shall be in force such use or rent restrictions as the Secretary may prescribe.

(B) VERY LOW-INCOME TENANTS.—If, as a result of actions taken pursuant to this paragraph, the rents charged to any very low-income families residing in the project who are otherwise required (pursuant to subparagraph (A), (B), or (D) of paragraph (1)) to receive project-based assistance under section 8 of the United States Housing Act of 1937 exceed the amount payable as rent under section 3(a) of the United States Housing Act of 1937, the Secretary shall provide tenant-based assistance under section 8 of such Act to such families.

(f) DISCRETIONARY ASSISTANCE.—In addition to the actions required under subsection (e) for a subsidized, formerly subsidized, or unsubsidized multifamily housing project, the Secretary may, pursuant to the disposition plan and the goals in subsection (a), take one or more of the following actions:

(1) DISCOUNTED SALES PRICE.—In accordance with the authority provided under the National Housing Act, the Secretary may reduce the selling price of the project. Such reduced sales price

[313] So in law.

shall be reasonably related to the intended use of the property after sale, any rehabilitation requirements for the project, the rents for units in the project that can be supported by the market, the amount of rental assistance available for the project under section 8 of the United States Housing Act of 1937, the occupancy profile of the project (including family size and income levels for tenant families), and any other factors that the Secretary considers appropriate.

(2) USE AND RENT RESTRICTIONS.—The Secretary may require certain units in a project to be subject to use or rent restrictions providing that such units will be available to and affordable by low- and very low-income persons for the remaining useful life of the property, as defined by the Secretary.

(3) SHORT-TERM LOANS.—The Secretary may provide short-term loans to facilitate the sale of a multifamily housing project if—

(A) authority for such loans is provided in advance in an appropriation Act;

(B) such loan has a term of not more than 5 years;

(C) the Secretary determines, based upon documentation provided to the Secretary, that the borrower has obtained a commitment of permanent financing to replace the short-term loan from a lender who meets standards established by the Secretary; and

(D) the terms of such loan are consistent with prevailing practices in the marketplace or the provision of such loan results in no cost to the Government, as defined in section 502 of the Congressional Budget Act of 1974.

(4) UP-FRONT GRANTS.—If the Secretary determines that action under this paragraph is more cost-effective than establishing rents pursuant to subsection (h)(2), the Secretary may utilize the budget authority provided for contracts issued under this section for project-based assistance under section 8 of the United States Housing Act of 1937 to (in addition to providing project-based section 8 rental assistance) provide up-front grants for the necessary cost of rehabilitation and other related development costs. This paragraph shall be effective during fiscal years 2006 through 2010 only to the extent that such budget authority is made available for use under this paragraph in advance in appropriation Acts.

(5) TENANT-BASED ASSISTANCE.—The Secretary may make available tenant-based assistance under section 8 of the United States Housing Act of 1937 to families residing in a multifamily housing project that do not otherwise qualify for project-based assistance.

(6) ALTERNATIVE USES.—

(A) IN GENERAL.—Notwithstanding any other provision of law, after providing notice to and an opportunity for comment by preexisting tenants, the Secretary may allow not more than—

(i) 10 percent of the total number of units in multifamily housing projects that are disposed of by the Secretary during any fiscal year to be made available for uses other than rental or cooperative uses, including low-income homeownership opportunities, or in any particular project, community space, office space for tenant or housing-related service providers or security programs, or small business uses, if such uses benefit the tenants of the project; and

(ii) 5 percent of the total number of units in multifamily housing projects that are disposed of by the Secretary during any fiscal year to be used in any manner, if the Secretary and the unit of general local government or area-wide governing body determine that such use will further fair housing, community development, or neighborhood revitalization goals.

(B) DISPLACEMENT PROTECTION.—The Secretary may take actions under subparagraph (A) only if—

(i) tenant-based rental assistance under section 8 of the United States Housing Act of 1937 is made available to each eligible family residing in the project that is displaced as a result of such actions; and

(ii) the Secretary determines that sufficient habitable, affordable rental housing is available in the market area in which the project is located to ensure use of such assistance.

(7) TRANSFER FOR USE UNDER OTHER PROGRAMS OF SECRETARY.—

(A) IN GENERAL.—Notwithstanding the provisions of subsection (e), the Secretary may, pursuant to an agreement under subparagraph (B), transfer a multifamily housing project—

(i) to a public housing agency for use of the project as public housing; or

(ii) to an entity eligible to own or operate housing assisted under section 202 of the Housing Act of 1959 or under section 811 of the Cranston-Gonzalez National Affordable Housing Act for use as supportive housing under either of such sections.

(B) REQUIREMENTS FOR AGREEMENT.—An agreement providing for the transfer of a project described in subparagraph (A) shall—

(i) contain such terms, conditions, and limitations as the Secretary determines appropriate, including requirements to ensure use of the project as public housing, supportive housing under section 202 of the Housing Act of 1959, or supportive housing under section 811 of the Cranston-Gonzalez National Affordable Housing Act, as applicable; and

(ii) ensure that no tenant of the project will be displaced as a result of actions taken under this paragraph.

(8) REBUILDING.—Notwithstanding any provision of section 8 of the United States Housing Act of 1937, the Secretary may provide project-based assistance in accordance with subsection (e) of this section to support the rebuilding of a multifamily housing project rebuilt or to be rebuilt (in whole or in part and on-site, off-site, or in a combination of both) in connection with disposition under this section, if the Secretary determines that—

(A) the project is not being maintained in a decent, safe, and sanitary condition;

(B) rebuilding the project would be less expensive than substantial rehabilitation;

(C) the unit of general local government in which the project is located approves the rebuilding and makes a financial contribution or other commitment to the project; and

(D) the rebuilding is a part of a local neighborhood revitalization plan approved by the unit of general local government.

The provisions of subsection (j)(2) shall apply to any tenants of the project who are displaced.

(9) EMERGENCY ASSISTANCE FUNDS.—The Secretary may make arrangements with State agencies and units of general local government of States receiving emergency assistance under part A of title IV of the Social Security Act for the provision of assistance under such Act on behalf of eligible families who would reside in any multifamily housing projects.

(g) PROTECTION FOR UNASSISTED VERY LOW-INCOME TENANTS.—For each multifamily housing project disposed of under this section, the Secretary shall require that, for any very low-income family who is a preexisting tenant of the project who (upon disposition) would be required to pay rent in an amount in excess of 30 percent of the adjusted income (as such term is defined in section 3(b) of the United States Housing Act of 1937) of the family—

(1) for a period of 2 years beginning upon the date of the acquisition of the project by the purchaser under such disposition, the rent for the unit occupied by the family may not be increased above the rent charged immediately before acquisition;

(2) such family shall be considered displaced for purposes of any system of preferences established pursuant to section 6(c)(4)(A), 8(d)(1)(A), or 8(o)(6)(A) of the United States Housing Act of 1937; and

(3) notice shall be provided to such family, not later than the date of the acquisition of the project by the purchaser—

(A) of the requirements under paragraphs (1) and (2); and

(B) that, after the expiration of the period under paragraph (1), the rent for the unit occupied by the family may be increased.

(h) CONTRACT REQUIREMENTS.—Contracts for project-based rental assistance under section 8 of the United States Housing Act of 1937 provided pursuant to this section shall be subject to the following requirements:

(1) CONTRACT TERM.—The contract shall have a term of 15 years, except that the term may be less than 15 years—

(A) to the extent that the Secretary finds that, based on the rental charges and financing for the multifamily housing project to which the contract relates, the financial viability of the project can be maintained under a contract having such a term; except that the Secretary shall require that the amount of rent payable by tenants of the project for units assisted under such contract shall not exceed the amount payable for rent under section 3(a) of the United States Housing Act of 1937 for a period of at least 15 years; or

(B) if such assistance is provided—

(i) under a contract authorized under section 6 of the HUD Demonstration Act of 1993; and

(ii) pursuant to a disposition plan under this section for a project that is determined by the Secretary to be otherwise in compliance with this section.

(2) CONTRACT RENT.—The Secretary shall establish the contract rents under such contracts at levels that, together with other resources available to the purchasers, provide sufficient amounts for the necessary costs of rehabilitating and operating the multifamily housing project and do not exceed the percentage of the existing housing fair market rentals for the market area in which the project assisted under the contract is located as determined by the Secretary under section 8(c) of the United States Housing Act of 1937.

(i) RIGHT OF FIRST REFUSAL FOR LOCAL AND STATE GOVERNMENT AGENCIES.—

(1) NOTIFICATION.—Not later than 30 days after the Secretary acquires title to a multifamily housing project, the Secretary shall notify the appropriate unit of general local government (including public housing agencies) and State agency or agencies designated by the chief executive officer of the State in which the project is located of such acquisition of title and that, for a period beginning upon such notification that does not exceed 90 days, such unit of general local government and agency or agencies shall have the exclusive right under this subsection to make bona fide offers to purchase the project.

(2) RIGHT OF FIRST REFUSAL.—During the 90-day period, the Secretary may not sell or offer to sell the multifamily housing project other than to a party notified under paragraph (1), unless the unit of general local government and the designated State agency or agencies notify the Secretary that they will not make an offer to purchase the project. The Secretary shall accept a bona fide offer to purchase the project made during such period if it complies with the terms and conditions of the disposition plan for the project or is otherwise acceptable to the Secretary.

(3) PROCEDURE.—The Secretary shall establish any procedures necessary to carry out this subsection.

(j) DISPLACEMENT OF TENANTS AND RELOCATION ASSISTANCE.—

(1) IN GENERAL.—Whenever tenants will be displaced as a result of the demolition of, repairs to, or conversion in the use of, a multifamily housing project that is owned by the Secretary (or for which the Secretary is mortgagee in possession), the Secretary shall identify tenants who will be displaced, and shall notify all such tenants of their pending displacement and of any relocation assistance that may be available. In the case of a multifamily housing project that is subject to a mortgage held by the Secretary, the Secretary shall require the owner of the project to carry out the requirements of this paragraph, if the Secretary has authorized the demolition of, repairs to, or conversion in the use of such multifamily housing project.

(2) RIGHTS OF DISPLACED TENANTS.—The Secretary shall ensure for any such tenant (who continues to meet applicable qualification standards) the right—

(A) to return, whenever possible, to a repaired or rebuilt unit;

(B) to occupy a unit in another multifamily housing project owned by the Secretary;

(C) to obtain housing assistance under the United States Housing Act of 1937; or

(D) to receive any other available similar relocation assistance as the Secretary determines to be appropriate.

(k) MORTGAGE AND PROJECT SALES.—

(1) IN GENERAL.—The Secretary may not approve the sale of any loan or mortgage held by the Secretary (including any loan or mortgage owned by the Government National Mortgage Association) on any subsidized project or formerly subsidized project, unless such sale is made as part of a transaction that will ensure that such project will continue to operate at least until the maturity date of such loan or mortgage, in a manner that will provide rental housing on terms at least as advantageous to existing and future tenants as the terms required by the program under which the loan or mortgage was made or insured prior to the assignment of the loan or mortgage on such project to the Secretary.

(2) SALE OF CERTAIN PROJECTS.—The Secretary may not approve the sale of any subsidized project—

(A) that is subject to a mortgage held by the Secretary, or

(B) if the sale transaction involves the provision of any additional subsidy funds by the Secretary or a recasting of the mortgage,

unless such sale is made as part of a transaction that will ensure that the project will continue to operate, at least until the maturity date of the loan or mortgage, in a manner that will provide rental housing on terms at least as

advantageous to existing and future tenants as the terms required by the program under which the loan or mortgage was made or insured prior to the proposed sale of the project.

(3) MORTGAGE SALES TO STATE AND LOCAL GOVERNMENTS.—Notwithstanding any provision of law that requires competitive sales or bidding, the Secretary may carry out negotiated sales of mortgages held by the Secretary, without the competitive selection of purchasers or intermediaries, to units of general local government or State agencies, or groups of investors that include at least one such unit of general local government or State agency, if the negotiations are conducted with such agencies, except that—

(A) the terms of any such sale shall include the agreement of the purchasing agency or unit of local government or State agency to act as mortgagee or owner of a beneficial interest in such mortgages, in a manner consistent with maintaining the projects that are subject to such mortgages for occupancy by the general tenant group intended to be served by the applicable mortgage insurance program, including, to the extent the Secretary determines appropriate, authorizing such unit of local government or State agency to enforce the provisions of any regulatory agreement or other program requirements applicable to the related projects; and

(B) the sales prices for such mortgages shall be, in the determination of the Secretary, the best prices that may be obtained for such mortgages from a unit of general local government or State agency, consistent with the expectation and intention that the projects financed will be retained for use under the applicable mortgage insurance program for the life of the initial mortgage insurance contract.

(4) SALE OF MORTGAGES COVERING UNSUBSIDIZED PROJECTS.—Notwithstanding any other provision of law, the Secretary may sell mortgages held on projects that are not subsidized or formerly subsidized projects on such terms and conditions as the Secretary may prescribe.

(5) MORTGAGE SALE DEMONSTRATION.—The Secretary may carry out a demonstration to test the feasibility of restructuring and disposing of troubled multifamily mortgages held by the Secretary through the establishment of partnerships with public, private, and nonprofit entities.

(6) PROJECT SALE DEMONSTRATION.—The Secretary may carry out a demonstration to test the feasibility of disposing of troubled multifamily housing projects that are owned by the Secretary through the establishment of partnerships with public, private, and nonprofit entities.

(l) REPORT TO CONGRESS.—Not later than June 1 of each year, the Secretary shall submit to the Congress a report describing the status of multifamily housing projects owned by or subject to mortgages held by the Secretary, on an aggregate basis, which highlights the differences, if any, between the subsidized and the unsubsidized inventory. The report shall include—

(1) the average and median size of the projects;

(2) the geographic locations of the projects, by State and region;

(3) the years during which projects were assigned to the Department, and the average and median length of time that projects remain in the HUD-held inventory;

(4) the status of HUD-held mortgages;

(5) the physical condition of the HUD-held and HUD-owned inventory;

(6) the occupancy profile of the projects, including the income, family size, race, and ethnic origin of current tenants, and the rents paid by such tenants;

(7) the proportion of units that are vacant;

(8) the number of projects for which the Secretary is mortgagee in possession;

(9) the number of projects sold in foreclosure sales;

(10) the number of HUD-owned projects sold;

(11) a description of actions undertaken pursuant to this section, including a description of the effectiveness of such actions and any impediments to the disposition or management of multifamily housing projects;

(12) a description of the extent to which the provisions of this section and actions taken under this section have displaced tenants of multifamily housing projects;

(13) a description of any of the functions performed in connection with this section that are contracted out to public or private entities or to States; and

(14) a description of the activities carried out under subsection (i) during the preceding year.

Sec. 204. [12 U.S.C. 1701z-12]

The Secretary shall require any purchaser of a multifamily housing project owned by the Secretary which is sold on or after October 1, 1978, to agree not to refuse unreasonably to lease a vacant dwelling unit in the project which rents for an amount not greater than the fair market rent for a comparable unit in the area as determined by the Secretary under section 8 of the United States Housing Act of 1937 to a holder of a certificate of eligibility under that section solely because of such prospective tenant's status as a certificate holder.

END OF STATUTE

HOUSING COUNSELING

HOUSING AND URBAN DEVELOPMENT ACT OF 1968
[Public Law 90-448; 82 Stat. 484, 490; 12 U.S.C. 1701w, 1701x]

Sec. 101. [12 U.S.C. 1701w]
BUDGET, DEBT MANAGEMENT, AND RELATED COUNSELING SERVICES FOR MORTGAGORS; AUTHORIZATION OF APPROPRIATIONS.

* * * * * * *

(e) The Secretary of Housing and Urban Development is authorized to provide, or contract with public or private organizations to provide, such budget, debt management, and related counseling services to mortgagors whose mortgages are insured under section 235(i) or 235(j)(4) of the National Housing Act as he determines to be necessary to assist such mortgagors in meeting the responsibilities of homeownership. There are authorized to be appropriated such sums as may be necessary to carry out the provisions of this subsection.

* * * * * * *

Sec. 106. [12 U.S.C. 1701x]
ASSISTANCE WITH RESPECT TO HOUSING FOR LOW-AND MODERATE INCOME FAMILIES.

(a)(1) The Secretary is authorized to provide, or contract with public or private organizations to provide, information, advice, and technical assistance, including but not limited to—

(i) the assembly, correlation, publication, and dissemination of information with respect to the construction, rehabilitation, and operation of low- and moderate-income housing;

(ii) the provision of advice and technical assistance to public bodies or to nonprofit or cooperative organizations with respect to the construction, rehabilitation, and operation of low- and moderate-income housing, including assistance with respect to self-help and mutual self-help programs;

(iii) counseling and advice to tenants and homeowners with respect to property maintenance, financial management, and such other matters as may be appropriate to assist them in improving their housing conditions and in meeting the responsibilities of tenancy or homeownership; and

(iv) the provision of technical assistance to communities, particularly smaller communities, to assist such communities in planning, developing, and administering Community Development Programs pursuant to title I of the Housing and Community Development Act of 1974.

(2) The Secretary (A) shall provide the services described in clause (iii) of paragraph (1) for homeowners assisted under section 235 of the National Housing Act; (B) shall, in consultation with the Secretary of Agriculture, provide such services for borrowers who are first-time homebuyers with guaranteed loans under section 502(h) of the Housing Act of 1949; and (C) may provide such services for other owners of single family dwelling units insured under title II of the National Housing Act or guaranteed or insured under chapter 37 of title 38, United States Code.

For purposes of this paragraph and clause (iii) of paragraph (1), the Secretary may provide the services described in such clause directly or may enter into contracts with, make grants to, and provide other types of assistance to private or public organizations with special competence and knowledge in counseling low- and moderate-income families to provide such services.

(3) There is authorized to be appropriated for the purposes of this subsection, without fiscal year limitation, such sums as may be necessary, except that for such purposes there are authorized to be appropriated $6,025,000 for fiscal year 1993 and $6,278,050 for fiscal year 1994. Of the amounts appropriated for each of fiscal years 1993 and 1994, up to $500,000 shall be available for use for counseling and other activities in connection with the demonstration program under section 152 of the Housing and Community Development Act of 1992. Any amounts so appropriated shall remain available until expended.

(4)[314] HOMEOWNERSHIP AND RENTAL COUNSELING ASSISTANCE.—

(A) IN GENERAL.—The Secretary shall make financial assistance available under this paragraph to HUD-approved housing counseling agencies and State housing finance agencies.

(B) QUALIFIED ENTITIES.—The Secretary shall establish standards and guidelines for eligibility of organizations (including governmental and nonprofit organizations) to receive assistance under this paragraph, in accordance with subparagraph (D).

(C) DISTRIBUTION.—Assistance made available under this paragraph shall be distributed in a manner that encourages efficient and successful counseling programs and that ensures adequate distribution of amounts for rural areas having traditionally low levels of access to such counseling services, including areas with insufficient access to the Internet. In distributing such assistance, the Secretary may give priority consideration to entities serving areas with the highest home foreclosure rates.

(D) LIMITATION ON DISTRIBUTION OF ASSISTANCE.—

(i) IN GENERAL.—None of the amounts made available under this paragraph shall be distributed to—

(I) any organization which has been convicted for a violation under Federal law relating to an election for Federal office; or

(II) any organization which employs applicable individuals.

(ii) DEFINITION OF APPLICABLE INDIVIDUALS.—In this subparagraph, the term "applicable individual" means an individual who—

(I) is—

(aa) employed by the organization in a permanent or temporary capacity;

(bb) contracted or retained by the organization; or

(cc) acting on behalf of, or with the express or apparent authority of, the organization; and

(II) has been convicted for a violation under Federal law relating to an election for Federal office.

(E) GRANTMAKING PROCESS.—In making assistance available under this paragraph, the Secretary shall consider appropriate ways of streamlining and improving the processes for grant application, review, approval, and award.

(F) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated $45,000,000 for each of fiscal years 2009 through 2012 for—

(i) the operations of the Office of Housing Counseling of the Department of Housing and Urban Development;

(ii) the responsibilities of the Director of Housing Counseling under paragraphs (2) through (5) of subsection (g); and

(iii) assistance pursuant to this paragraph for entities providing homeownership and rental counseling.

(b)(1) The Secretary is authorized to make loans to nonprofit organizations or public housing agencies for the necessary expenses, prior to construction, in planning, and obtaining financing for, the rehabilitation or construction of housing for low- or moderate-income families under section 235 of the National Housing Act or any other federally assisted program. Such loans shall be made without interest and shall not exceed 80 per centum of the reasonable costs expected to be incurred in planning, and in obtaining financing for, such housing prior to the availability of financing, including, but not limited to, preliminary surveys and analyses of market needs, preliminary site engineering and architectural fees, site acquisition, application, and mortgage commitment fees, and construction loan fees and discounts. The Secretary shall require repayment of loans made under this subsection, under such terms and conditions as he may require, upon completion of the project or sooner, and may cancel any part or all of a loan if he determines that it cannot be recovered from the proceeds of any permanent loan made to finance the rehabilitation or construction of the housing.

[314] Section 1444 of Public Law 111-203 provides for an amendment to insert at the end of section 106(a) a new paragraph (4). Section 1495 of such Public Law provides that the amendment is subject to a designated transfer date. See sections 1062 and 1400(c) of such Public Law for effective date (July 21, 2011) and a possible extension of such date.

(2) The Secretary shall determine prior to the making of any loan that the nonprofit organization or public housing agency meets such requirements with respect to financial responsibility and stability as he may prescribe.

(3) There are authorized to be appropriated for the purposes of this subsection not to exceed $7,500,000, for the fiscal year ending June 30, 1969, and not to exceed $10,000,000 for the fiscal year ending June 30, 1970. Any amounts so appropriated shall remain available until expended, and any amounts authorized for any fiscal year under this paragraph but not appropriated may be appropriated for any succeeding fiscal year.

(4) All funds appropriated for the purposes of this subsection shall be deposited in a fund which shall be known as the Low and Moderate Income Sponsor Fund, and which shall be available without fiscal year limitation and be administered by the Secretary as a revolving fund for carrying out the purposes of this subsection. Sums received in repayment of loans made under this subsection shall be deposited in such fund.

(c) GRANTS FOR HOMEOWNERSHIP COUNSELING ORGANIZATIONS.—

(1) IN GENERAL.—The Secretary of Housing and Urban Development may make grants—

(A) to nonprofit organizations experienced in the provision of homeownership counseling to enable the organizations to provide homeownership counseling to eligible homeowners; and

(B) to assist in the establishment of nonprofit homeownership counseling organizations.

(2) PROGRAM REQUIREMENTS.—

(A) Applications for grants under this subsection shall be submitted in the form, and in accordance with the procedures, that the Secretary requires.

(B) The homeownership counseling organizations receiving assistance under this subsection shall use the assistance only to provide homeownership counseling to eligible homeowners.

(C) The homeownership counseling provided by homeownership counseling organizations receiving assistance under this subsection shall include counseling with respect to—

(i) financial management;

(ii) available community resources, including public assistance programs, mortgage assistance programs, home repair assistance programs, utility assistance programs, food programs, and social services; and

(iii) employment training and placement.

(3) AVAILABILITY OF HOMEOWNERSHIP COUNSELING.—The Secretary shall take any action that is necessary—

(A) to ensure the availability throughout the United States of homeownership counseling from homeownership counseling organizations receiving assistance under this subsection, with priority to areas that—

(i) are experiencing high rates of home foreclosure and any other indicators of homeowner distress determined by the Secretary to be appropriate;

(ii) are not already adequately served by homeownership counseling organizations; and

(iii) have a high incidence of mortgages involving principal obligations (including such initial service charges, appraisal, inspection, and other fees as the Secretary shall approve) in excess of 97 percent of the appraised value of the properties that are insured pursuant to section 203 of the National Housing Act; and

(B) to inform the public of the availability of the homeownership counseling.

(4) ELIGIBILITY FOR COUNSELING.—A homeowner shall be eligible for homeownership counseling under this subsection if—

(A) the home loan is secured by property that is the principal residence (as defined by the Secretary) of the homeowner;

(B) the home loan is not assisted under title V of the Housing Act of 1949; and

(C) the homeowner is, or is expected to be, unable to make payments, correct a home loan delinquency within a reasonable time, or resume full home loan payments due to a reduction in the income of the homeowner because of—

(i) an involuntary loss of, or reduction in, the employment of the homeowner, the self-employment of the homeowner, or income from the pursuit of the occupation of the homeowner;

(ii) any similar loss or reduction experienced by any person who contributes to the income of the homeowner;

(iii) a significant reduction in the income of the household due to divorce or death; or

(iv) a significant increase in basic expenses of the homeowner or an immediate family member of the homeowner (including the spouse, child, or parent for whom the homeowner provides substantial care or financial assistance) due to—

(I) an unexpected or significant increase in medical expenses;

(II) a divorce;

(III) unexpected and significant damage to the property, the repair of which will not be covered by private or public insurance; or

(IV) a large property-tax increase; or

(D) the Secretary of Housing and Urban Development determines that the annual income of the homeowner is no greater than the annual income established by the Secretary as being of low- or moderate-income.

(5) NOTIFICATION OF AVAILABILITY OF HOMEOWNERSHIP COUNSELING.—

(A) NOTIFICATION OF AVAILABILITY OF HOMEOWNERSHIP COUNSELING.—

(i) REQUIREMENT.—Except as provided in subparagraph (C), the creditor of a loan (or proposed creditor) shall provide notice under clause (ii) to (I) any eligible homeowner who fails to pay any amount by the date the amount is due under a home loan, and (II) any applicant for a mortgage described in paragraph (4).

(ii) CONTENT.—Notification under this subparagraph shall—

(I) notify the homeowner or mortgage applicant of the availability of any homeownership counseling offered by the creditor (or proposed creditor);

(II) if provided to an eligible mortgage applicant, state that completion of a counseling program is required for insurance pursuant to section 203 of the National Housing Act;

(III)[315] notify the homeowner or mortgage applicant of the availability of homeownership counseling provided by nonprofit organizations approved by the Secretary and experienced in the provision of homeownership counseling, or provide the toll-free telephone number described in subparagraph (D)(i);

(IV) notify the homeowner by a statement or notice, written in plain English by the Secretary of Housing and Urban Development, in consultation with the Secretary of Defense and the Secretary of the Treasury, explaining the mortgage and foreclosure rights of servicemembers, and the dependents of such servicemembers, under the Servicemembers Civil Relief Act (50 U.S.C. App. 501 et seq.), including the toll-free military one source number to call if servicemembers, or the dependents of such servicemembers, require further assistance; and

(V) notify the housing or mortgage applicant of the availability of mortgage software systems provided pursuant to subsection (g)(3).

(B) DEADLINE FOR NOTIFICATION.—The notification required in subparagraph (A) shall be made—

(i) in a manner approved by the Secretary; and

(ii) before the expiration of the 45-day period beginning on the date on which the failure referred to in such subparagraph occurs.

(C) NOTIFICATION.—Notification under subparagraph (A) shall not be required with respect to any loan for which the eligible homeowner pays the amount overdue before the expiration of the 45-day period under subparagraph (B)(ii).

[315] Section 1443(b) of Public Law 111-203 provides for amendments to clauses (III), (IV) and adds following subclause (IV) a new subclause (V) in section 106(c)(5)(A)(ii). Section 1495 of such Public Law provides that these amendments are subject to a designated transfer date. See sections 1062 and 1400(c) of such Public Law for effective date (July 21, 2011) and a possible extension of such date.

(D) ADMINISTRATION AND COMPLIANCE.—The Secretary shall, to the extent of amounts approved in appropriation Acts, enter into an agreement with an appropriate private entity under which the entity will—

(i) operate a toll-free telephone number through which any eligible homeowner can obtain a list of nonprofit organizations, which shall be updated annually, that—

(I) are approved by the Secretary and experienced in the provision of homeownership counseling; and

(II) serve the area in which the residential property of the homeowner is located;

(ii) monitor the compliance of creditors with the requirements of subparagraphs (A) and (B); and

(iii) report to the Secretary not less than annually regarding the extent of compliance of creditors with the requirements of subparagraphs (A) and (B).

(E) REPORT.—The Secretary shall submit a report to the Congress not less than annually regarding the extent of compliance of creditors with the requirements of subparagraphs (A) and (B) and the effectiveness of the entity monitoring such compliance. The Secretary shall also include in the report any recommendations for legislative action to increase the authority of the Secretary to penalize creditors who do not comply with such requirements.

(6) DEFINITIONS.—For purposes of this subsection:

(A) The term "creditor" means a person or entity that is servicing a home loan on behalf of itself or another person or entity.

(B) The term "eligible homeowner" means a homeowner eligible for counseling under paragraph (4).

(C) The term "home loan" means a loan secured by a mortgage or lien on residential property.

(D) The term "homeowner" means a person who is obligated under a home loan.

(E) The term "residential property" means a 1-family residence, including a 1-family unit in a condominium project, a membership interest and occupancy agreement in a cooperative housing project, and a manufactured home and the lot on which the home is situated.

(7) REGULATIONS.—The Secretary shall issue any regulations that are necessary to carry out this subsection.

(8) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this section $7,000,000 for fiscal year 1993 and $7,294,000 for fiscal year 1994, of which amounts $1,000,000 shall be available in each such fiscal year to carry out paragraph (5)(D). Any amount appropriated under this subsection shall remain available until expended.

(d) PREPURCHASE AND FORECLOSURE-PREVENTION COUNSELING DEMONSTRATION.—

(1) PURPOSES.—The purpose of this subsection is—

(A) to reduce defaults and foreclosures on mortgage loans insured under the Federal Housing Administration single family mortgage insurance program;

(B) to encourage responsible and prudent use of such federally insured home mortgages;

(C) to assist homeowners with such federally insured mortgages to retain the homes they have purchased pursuant to such mortgages; and

(D) to encourage the availability and expansion of housing opportunities in connection with such federally insured home mortgages.

(2) AUTHORITY.—The Secretary of Housing and Urban Development shall carry out a program to demonstrate the effectiveness of providing coordinated prepurchase counseling and foreclosure-prevention counseling to first-time homebuyers and homeowners in avoiding defaults and foreclosures on mortgages insured under the Federal Housing Administration single family home mortgage insurance program.

(3) GRANTS.—Under the demonstration program under this subsection, the Secretary shall make grants to qualified nonprofit organizations under paragraph (4) to enable the organizations to provide prepurchase counseling services to eligible homebuyers and foreclosure-prevention counseling services to eligible homeowners, in counseling target areas.

(4) QUALIFIED NONPROFIT ORGANIZATIONS.—The Secretary shall select nonprofit organizations to receive assistance under the demonstration program under this subsection based on the experience and ability of the organizations in providing homeownership counseling and their ability to

provide community-based prepurchase and foreclosure-prevention counseling under paragraphs (5) and (6) in a counseling target area. To be eligible for selection under this paragraph, a nonprofit organization shall submit an application containing a proposal for providing counseling services in the form and manner required by the Secretary.

(5) PREPURCHASE COUNSELING.—

(A) MANDATORY PARTICIPATION.—Under the demonstration program, the Secretary shall require any eligible homebuyer who intends to purchase a home located in a counseling target area and who has applied for (as determined by the Secretary) a qualified mortgage (as such term is defined in paragraph (9)) on such home that involves a downpayment of less than 10 percent of the principal obligation of the mortgage, to receive counseling prior to signing of a contract to purchase the home. The counseling shall include counseling with respect to—

(i) financial management and the responsibilities involved in homeownership;

(ii) fair housing laws and requirements;

(iii) the maximum mortgage amount that the homebuyer can afford; and

(iv) options, programs, and actions available to the homebuyer in the event of actual or potential delinquency or default.

(B) ELIGIBILITY FOR COUNSELING.—A homebuyer shall be eligible for prepurchase counseling under this paragraph if—

(i) the homebuyer has applied for a qualified mortgage;

(ii) the homebuyer is a first-time homebuyer; and

(iii) the home to be purchased under the qualified mortgage is located in a counseling target area.

(6) FORECLOSURE-PREVENTION COUNSELING.—

(A) AVAILABILITY.—Under the demonstration program, the Secretary shall make counseling available for eligible homeowners who are 60 or more days delinquent with respect to a payment under a qualified mortgage on a home located within a counseling target area. The counseling shall include counseling with respect to options, programs, and actions available to the homeowner for resolving the delinquency or default.

(B) NOTIFICATION OF DELINQUENCY.—Under the demonstration program, the Secretary shall require the creditor of any eligible homeowner who is delinquent (as described in subparagraph (A)) to send written notice by registered or certified mail within 5 days (excluding Saturdays, Sundays, and legal public holidays) after the occurrence of such delinquency—

(i) notifying the homeowner of the delinquency and the name, address, and phone number of the counseling organization for the counseling target area; and

(ii) notifying any counseling organization for the counseling target area of the delinquency and the name, address, and phone number of the delinquent homeowner.

(C) COORDINATION WITH EMERGENCY HOMEOWNERSHIP COUNSELING PROGRAM.—The Secretary may coordinate the provision of assistance under subsection (c) with the demonstration program under this subsection.

(D) ELIGIBILITY FOR COUNSELING.—A homeowner shall be eligible for foreclosure-prevention counseling under this paragraph if—

(i) the home owned by the homeowner is subject to a qualified mortgage; and

(ii) such home is located in a counseling target area.

(7) SCOPE OF DEMONSTRATION PROGRAM.—

(A) DESIGNATION OF COUNSELING TARGET AREAS.—The Secretary shall designate 3 counseling target areas (as provided in subparagraph (B)), which shall be located in not less than 2 separate metropolitan areas. The Secretary shall provide for counseling under the demonstration program under this subsection with respect to only such counseling target areas.

(B) COUNSELING TARGET AREAS.—Each counseling target area shall consist of a group of contiguous census tracts—

(i) the population of which is greater than 50,000;

(ii) which together constitute an identifiable neighborhood, area, borough, district, or region within a metropolitan area (except that this clause may not be construed to exclude a group of census tracts containing areas not wholly contained within a single town, city, or other political subdivision of a State);

(iii) in which the average age of existing housing is greater than 20 years; and

(iv) for which (I) the percentage of qualified mortgages on homes within the area that are foreclosed exceeds 5 percent for the calendar year preceding the year in which the area is selected as a counseling target area, or (II) the number of qualified mortgages originated on homes in such area in the calendar year preceding the calendar year in which the area is selected as a counseling target area exceeds 20 percent of the total number of mortgages originated on residences in the area during such year.

(C) MORTGAGE CHARACTERISTICS.—In designating counseling target areas under subparagraph (A), the Secretary shall designate at least 1 such area that meets the requirements of subparagraph (B)(iv)(I) and at least 1 such area that meets the requirements of subparagraph (B)(iv)(II).

(D) EXPANSION OF TARGET AREAS.—The Secretary may expand any counseling target area during the term of the demonstration program, if the Secretary determines that counseling can be adequately provided within such expanded area and the purposes of this subsection will be furthered by such expansion. Any such expansion shall include only groups of census tracts that are contiguous to the counseling target area expanded and such census tract groups shall not be subject to the provisions of subparagraph (B).

(E) DESIGNATION OF CONTROL AREAS.—For purposes of determining the effectiveness of counseling under the demonstration program, the Secretary shall designate 3 control areas, each of which shall correspond to 1 of the counseling target areas designated under subparagraph (A). Each control area shall be located in the metropolitan area in which the corresponding counseling target area is located, shall meet the requirements of subparagraph (B), and shall be similar to such area with respect to size, age of housing stock, median income, and racial makeup of the population. Each control area shall also comply with the requirements of subclause (I) or (II) of subparagraph (B)(iv), according to the subclause with which the corresponding counseling target area complies.

(8) EVALUATION.—Each organization providing counseling under the demonstration program under this subsection shall maintain records with respect to each eligible homebuyer and eligible homeowner counseled and shall provide information with respect to such counseling as the Secretary or the Comptroller General may require.

(9) DEFINITIONS.—For purposes of this subsection:

(A) The term “control area” means an area designated by the Secretary under paragraph (7)(E).

(B) The term “counseling target area” means an area designated by the Secretary under paragraph (7)(A).

(C) The term “creditor” means a person or entity that is servicing a loan secured by a qualified mortgage on behalf of itself or another person or entity.

(D) The term “displaced homemaker” means an individual who—

(i) is an adult;

(ii) has not worked full-time, full-year in the labor force for a number of years, but has during such years, worked primarily without remuneration to care for the home and family; and

(iii) is unemployed or underemployed and is experiencing difficulty in obtaining or upgrading employment.

(E) The term “downpayment” means the amount of purchase price of home required to be paid at or before the time of purchase.

(F) The term “eligible homebuyer” means a homebuyer that meets the requirements under paragraph (5)(B).

(G) The term “eligible homeowner” means a homeowner that meets the requirements under paragraph (6)(D).

(H) The term “first-time homebuyer” means an individual who—

(i) (and whose spouse) has had no ownership in a principal residence during the 3-year period ending on the date of purchase of the home pursuant to which counseling is provided under this subsection;

(ii) is a displaced homemaker who, except for owning a residence with his or her spouse or residing in a residence owned by the spouse, meets the requirements of clause (i); or

(iii) is a single parent who, except for owning a residence with his or her spouse or residing in a residence owned by the spouse while married, meets the requirements of clause (i).

(I) The term "home" includes any dwelling or dwelling unit eligible for a qualified mortgage, and includes a unit in a condominium project, a membership interest and occupancy agreement in a cooperative housing project, and a manufactured home and the lot on which the home is situated.

(J) The term "metropolitan area" means a standard metropolitan statistical area as designated by the Director of the Office of Management and Budget.

(K) The term "qualified mortgage" means a mortgage on a 1- to 4-family home that is insured under title II of the National Housing Act.

(L) The term "Secretary" means the Secretary of Housing and Urban Development.

(M) The term "single parent" means an individual who—

(i) is unmarried or legally separated from a spouse; and

(ii)(I) has 1 or more minor children for whom the individual has custody or joint custody; or

(II) is pregnant.

(10) REGULATIONS.—The Secretary may issue any regulations necessary to carry out this subsection.

(11) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this subsection $365,000 for fiscal year 1993 and $380,330 for fiscal year 1994.

(12) TERMINATION.—The demonstration program under this subsection shall terminate at the end of fiscal year 1994.

(e)[316] CERTIFICATION.—

(1) REQUIREMENT FOR ASSISTANCE.—An organization may not receive assistance for counseling activities under subsection (a)(1)(iii), (a)(2), (a)(4), (c), or (d) of this section, or under section 101(e), unless the organization, or the individuals through which the organization provides such counseling, has been certified by the Secretary under this subsection as competent to provide such counseling.

(2) STANDARDS AND EXAMINATION.—The Secretary shall, by regulation, establish standards and procedures for testing and certifying counselors and for certifying organizations. Such standards and procedures shall require, for certification of an organization, that each individual through which the organization provides counseling shall demonstrate, and, for certification of an individual, that the individual shall demonstrate, by written examination (as provided under subsection (f)(4)), competence to provide counseling in each of the following areas:

(A) Financial management.

(B) Property maintenance.

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[316] Section 1445 of Public Law 111-203 amended subsection (e). Before the enactment of such public law, subsection (e) read as follows:

(e) Certification.—

(1) REQUIREMENT FOR ASSISTANCE.—An organization may not receive assistance for counseling activities under subsection (a)(1)(iii), (a)(2), (c), or (d), unless the organization provides such counseling, to the extent practicable, by individuals who have been certified by the Secretary under this subsection as competent to provide such counseling.

(2) STANDARDS AND EXAMINATION.—The Secretary shall, by regulation, establish standards and procedures for testing and certifying counselors. Such standards and procedures shall require for certification that the individual shall demonstrate, by written examination (as provided under subsection (f)(4)), competence to provide counseling in each of the following areas:

(A) Financial management.

(B) Property maintenance.

(C) Responsibilities of homeownership and tenancy.

(D) Fair housing laws and requirements.

(E) Housing affordability.

(F) Avoidance of, and responses to, rental and mortgage delinquency and avoidance of eviction and mortgage default.

(3) ENCOURAGEMENT.—The Secretary shall encourage organizations engaged in providing homeownership and rental counseling that do not receive assistance under this section to employ individuals to provide such counseling who are certified under this subsection or meet the certification standards established under this subsection.

(C) Responsibilities of homeownership and tenancy.

(D) Fair housing laws and requirements.

(E) Housing affordability.

(F) Avoidance of, and responses to, rental and mortgage delinquency and avoidance of eviction and mortgage default.

(3) REQUIREMENT UNDER HUD PROGRAMS.—Any homeownership counseling or rental housing counseling (as such terms are defined in subsection (g)(1)) required under, or provided in connection with, any program administered by the Department of Housing and Urban Development shall be provided only by organizations or counselors certified by the Secretary under this subsection as competent to provide such counseling.

(4) OUTREACH.—The Secretary shall take such actions as the Secretary considers appropriate to ensure that individuals and organizations providing homeownership or rental housing counseling are aware of the certification requirements and standards of this subsection and of the training and certification programs under subsection (f).

(5) ENCOURAGEMENT.—The Secretary shall encourage organizations engaged in providing homeownership and rental counseling that do not receive assistance under this section to employ organizations and individuals to provide such counseling who are certified under this subsection or meet the certification standards established under this subsection.

(f) HOMEOWNERSHIP AND RENTAL COUNSELOR TRAINING AND CERTIFICATION PROGRAMS.—

(1) ESTABLISHMENT.—To the extent amounts are provided in appropriations Acts under paragraph (7), the Secretary shall contract with an appropriate entity (which may be a nonprofit organization) to carry out a program under this subsection to train individuals to provide homeownership and rental counseling and to administer the examination under subsection (e)(2) and certify individuals under such subsection.

(2) ELIGIBILITY AND SELECTION.—

(A) ELIGIBILITY.—To be eligible to provide the training and certification program under this subsection, an entity shall have demonstrated experience in training homeownership and rental counselors.

(B) SELECTION.—The Secretary shall provide for entities meeting the requirements of subparagraph (A) to submit applications to provide the training and certification program under this subsection. The Secretary shall select an application based on the ability of the entity to—

(i) establish the program as soon as possible on a national basis, but not later than the date under paragraph (6);

(ii) minimize the costs involved in establishing the program; and

(iii) effectively and efficiently carry out the program.

(3) TRAINING.—The Secretary shall require that training of counselors under the program under this subsection be designed and coordinated to prepare individuals for successful completion of the examination for certification under subsection (e)(2). The Secretary, in consultation with the entity selected under paragraph (2)(B), shall establish the curriculum and standards for training counselors under the program.

(4) CERTIFICATION.—The entity selected under paragraph (2)(B) shall administer the examination under subsection (e)(2) and, on behalf of the Secretary, certify individuals successfully completing the examination. The Secretary, in consultation with such entity, shall establish the content and format of the examination.

(5) FEES.—Subject to the approval of the Secretary, the entity selected under paragraph (2)(B) may establish and impose reasonable fees for participation in the training provided under the program and for examination and certification under subsection (e)(2), in an amount sufficient to cover any costs of such activities not covered with amounts provided under paragraph (7).

(6) TIMING.—The entity selected under paragraph (2)(B) to carry out the training and certification program shall establish the program as soon as possible after such selection, and shall make training and certification available under the program on a national basis not later than the expiration of the 1-year period beginning upon such selection.

(7) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this subsection $2,000,000 for fiscal year 1993 and $2,084,000 for 1994.

(g)[317] PROCEDURES AND ACTIVITIES.—

(1) COUNSELING PROCEDURES.—

(A) IN GENERAL.—The Secretary shall establish, coordinate, and monitor the administration by the Department of Housing and Urban Development of the counseling procedures for homeownership counseling and rental housing counseling provided in connection with any program of the Department, including all requirements, standards, and performance measures that relate to homeownership and rental housing counseling.

(B) HOMEOWNERSHIP COUNSELING.—For purposes of this subsection and as used in the provisions referred to in this subparagraph, the term "homeownership counseling" means counseling related to homeownership and residential mortgage loans. Such term includes counseling related to homeownership and residential mortgage loans that is provided pursuant to—

(i) section 105(a)(20) of the Housing and Community Development Act of 1974 (42 U.S.C. 5305(a)(20));

(ii) in the United States Housing Act of 1937—

(I) section 9(e) (42 U.S.C. 1437g(e));

(II) section 8(y)(1)(D) (42 U.S.C. 1437f(y)(1)(D));

(III) section 18(a)(4)(D) (42 U.S.C. 1437p(a)(4)(D));

(IV) section 23(c)(4) (42 U.S.C. 1437u(c)(4));

(V) section 32(e)(4) (42 U.S.C. 1437z-4(e)(4));

(VI) section 33(d)(2)(B) (42 U.S.C. 1437z-5(d)(2)(B));

(VII) sections 302(b)(6) and 303(b)(7) (42 U.S.C. 1437aaa-1(b)(6), 1437aaa-2(b)(7)); and

(VIII) section 304(c)(4) (42 U.S.C. 1437aaa-3(c)(4));

(iii) section 302(a)(4) of the American Homeownership and Economic Opportunity Act of 2000 (42 U.S.C. 1437f note);

(iv) sections 233(b)(2) and 258(b) of the Cranston-Gonzalez National Affordable Housing Act (42 U.S.C. 12773(b)(2), 12808(b));

(v) this section and section 101(e) of the Housing and Urban Development Act of 1968 (12 U.S.C. 1701x, 1701w(e));

(vi) section 220(d)(2)(G) of the Low-Income Housing Preservation and Resident Homeownership Act of 1990 (12 U.S.C. 4110(d)(2)(G));

(vii) sections 422(b)(6), 423(b)(7), 424(c)(4), 442(b)(6), and 443(b)(6) of the Cranston-Gonzalez National Affordable Housing Act (42 U.S.C. 12872(b)(6), 12873(b)(7), 12874(c)(4), 12892(b)(6), and 12893(b)(6));

(viii) section 491(b)(1)(F)(iii) of the McKinney-Vento Homeless Assistance Act (42 U.S.C. 11408(b)(1)(F)(iii));

(ix) sections 202(3) and 810(b)(2)(A) of the Native American Housing and Self-Determination Act of 1996 (25 U.S.C. 4132(3), 4229(b)(2)(A));

(x) in the National Housing Act—

(I) in section 203 (12 U.S.C. 1709), the penultimate undesignated paragraph of paragraph (2) of subsection (b), subsection (c)(2)(A), and subsection (r)(4);

(II) subsections (a) and (c)(3) of section 237 (12 U.S.C. 1715z-2); and

(III) subsections (d)(2)(B) and (m)(1) of section 255 (12 U.S.C. 1715z-20);

(xi) section 502(h)(4)(B) of the Housing Act of 1949 (42 U.S.C. 1472(h)(4)(B));

(xii) section 508 of the Housing and Urban Development Act of 1970 (12 U.S.C. 1701z-7); and

(xiii) section 106 of the Energy Policy Act of 1992 (42 U.S.C. 12712 note).

(C) RENTAL HOUSING COUNSELING.—For purposes of this subsection, the term "rental housing counseling" means counseling related to rental of residential property, which may

[317] Sections 1443(a), 1448, and 1449 of Public Law 111-203 provide for amendments to add at the end of section 106 new subsections (g), (h), and (i), respectively. Section 1495 of such Public Law provides that these amendments are subject to a designated transfer date. See sections 1062 and 1400(c) of such Public Law for effective date (July 21, 2011) and a possible extension of such date.

include counseling regarding future homeownership opportunities and providing referrals for renters and prospective renters to entities providing counseling and shall include counseling related to such topics that is provided pursuant to—

(i) section 105(a)(20) of the Housing and Community Development Act of 1974 (42 U.S.C. 5305(a)(20));

(ii) in the United States Housing Act of 1937—

(I) section 9(e) (42 U.S.C. 1437g(e));

(II) section 18(a)(4)(D) (42 U.S.C. 1437p(a)(4)(D));

(III) section 23(c)(4) (42 U.S.C. 1437u(c)(4));

(IV) section 32(e)(4) (42 U.S.C. 1437z-4(e)(4));

(V) section 33(d)(2)(B) (42 U.S.C. 1437z-5(d)(2)(B)); and

(VI) section 302(b)(6) (42 U.S.C. 1437aaa-1(b)(6));

(iii) section 233(b)(2) of the Cranston-Gonzalez National Affordable Housing Act (42 U.S.C. 12773(b)(2));

(iv) section 106 of the Housing and Urban Development Act of 1968 (12 U.S.C. 1701x);

(v) section 422(b)(6) of the Cranston-Gonzalez National Affordable Housing Act (42 U.S.C. 12872(b)(6));

(vi) section 491(b)(1)(F)(iii) of the McKinney-Vento Homeless Assistance Act (42 U.S.C. 11408(b)(1)(F)(iii));

(vii) sections 202(3) and 810(b)(2)(A) of the Native American Housing and Self-Determination Act of 1996 (25 U.S.C. 4132(3), 4229(b)(2)(A)); and

(viii) the rental assistance program under section 8 of the United States Housing Act of 1937 (42 U.S.C. 1437f).

(2) STANDARDS FOR MATERIALS.—The Secretary, in consultation with the advisory committee established under subsection (g)(4) of the Department of Housing and Urban Development Act, shall establish standards for materials and forms to be used, as appropriate, by organizations providing homeownership counseling services, including any recipients of assistance pursuant to subsection (a)(4).

(3) MORTGAGE SOFTWARE SYSTEMS.—

(A) CERTIFICATION.—The Secretary shall provide for the certification of various computer software programs for consumers to use in evaluating different residential mortgage loan proposals. The Secretary shall require, for such certification, that the mortgage software systems take into account—

(i) the consumer's financial situation and the cost of maintaining a home, including insurance, taxes, and utilities;

(ii) the amount of time the consumer expects to remain in the home or expected time to maturity of the loan; and

(iii) such other factors as the Secretary considers appropriate to assist the consumer in evaluating whether to pay points, to lock in an interest rate, to select an adjustable or fixed rate loan, to select a conventional or government-insured or guaranteed loan and to make other choices during the loan application process.

If the Secretary determines that available existing software is inadequate to assist consumers during the residential mortgage loan application process, the Secretary shall arrange for the development by private sector software companies of new mortgage software systems that meet the Secretary's specifications.

(B) USE AND INITIAL AVAILABILITY.—Such certified computer software programs shall be used to supplement, not replace, housing counseling. The Secretary shall provide that such programs are initially used only in connection with the assistance of housing counselors certified pursuant to subsection (e).

(C) AVAILABILITY.—After a period of initial availability under subparagraph (B) as the Secretary considers appropriate, the Secretary shall take reasonable steps to make mortgage software systems certified pursuant to this paragraph widely available through the Internet and at public locations, including public libraries, senior-citizen centers, public housing sites, offices of public housing agencies that administer rental housing assistance vouchers, and housing counseling centers.

(D) BUDGET COMPLIANCE.—This paragraph shall be effective only to the extent that amounts to carry out this paragraph are made available in advance in appropriations Acts.

(4) NATIONAL PUBLIC SERVICE MULTIMEDIA CAMPAIGNS TO PROMOTE HOUSING COUNSELING.—

(A) IN GENERAL.—The Director of Housing Counseling shall develop, implement, and conduct national public service multimedia campaigns designed to make persons facing mortgage foreclosure, persons considering a subprime mortgage loan to purchase a home, elderly persons, persons who face language barriers, low-income persons, minorities, and other potentially vulnerable consumers aware that it is advisable, before seeking or maintaining a residential mortgage loan, to obtain homeownership counseling from an unbiased and reliable sources and that such homeownership counseling is available, including through programs sponsored by the Secretary of Housing and Urban Development.

(B) CONTACT INFORMATION.—Each segment of the multimedia campaign under subparagraph (A) shall publicize the toll-free telephone number and website of the Department of Housing and Urban Development through which persons seeking housing counseling can locate a housing counseling agency in their State that is certified by the Secretary of Housing and Urban Development and can provide advice on buying a home, renting, defaults, foreclosures, credit issues, and reverse mortgages.

(C) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Secretary, not to exceed $3,000,000 for fiscal years 2009, 2010, and 2011, for the development, implementation, and conduct of national public service multimedia campaigns under this paragraph.

(D) FORECLOSURE RESCUE EDUCATION PROGRAMS.—

(i) IN GENERAL.—Ten percent of any funds appropriated pursuant to the authorization under subparagraph (C) shall be used by the Director of Housing Counseling to conduct an education program in areas that have a high density of foreclosure. Such program shall involve direct mailings to persons living in such areas describing—

(I) tips on avoiding foreclosure rescue scams;

(II) tips on avoiding predatory lending mortgage agreements;

(III) tips on avoiding for-profit foreclosure counseling services; and

(IV) local counseling resources that are approved by the Department of Housing and Urban Development.

(ii) PROGRAM EMPHASIS.—In conducting the education program described under clause (i), the Director of Housing Counseling shall also place an emphasis on serving communities that have a high percentage of retirement communities or a high percentage of low-income minority communities.

(iii) TERMS DEFINED.—For purposes of this subparagraph:

(I) HIGH DENSITY OF FORECLOSURES.—An area has a “high density of foreclosures” if such area is one of the metropolitan statistical areas (as that term is defined by the Director of the Office of Management and Budget) with the highest home foreclosure rates.

(II) HIGH PERCENTAGE OF RETIREMENT COMMUNITIES.—An area has a “high percentage of retirement communities” if such area is one of the metropolitan statistical areas (as that term is defined by the Director of the Office of Management and Budget) with the highest percentage of residents aged 65 or older.

(III) HIGH PERCENTAGE OF LOW-INCOME MINORITY COMMUNITIES.—An area has a “high percentage of low-income minority communities” if such area contains a higher-than-normal percentage of residents who are both minorities and low-income, as defined by the Director of Housing Counseling.

(5) EDUCATION PROGRAMS.—The Secretary shall provide advice and technical assistance to States, units of general local government, and nonprofit organizations regarding the establishment and operation of, including assistance with the development of content and materials for, educational programs to inform and educate consumers, particularly those most vulnerable with respect to residential mortgage loans (such as elderly persons, persons facing language barriers, low-income persons, minorities, and other potentially vulnerable consumers), regarding home mortgages, mortgage refinancing, home equity loans,

home repair loans, and where appropriate by region, any requirements and costs associated with obtaining flood or other disaster-specific insurance coverage.

(h) DEFINITIONS.—For purposes of this section:

(1) NONPROFIT ORGANIZATION.—The term "nonprofit organization" has the meaning given such term in section 104(5) of the Cranston-Gonzalez National Affordable Housing Act (42 U.S.C. 12704(5)), except that subparagraph (D) of such section shall not apply for purposes of this section.

(2) STATE.—The term "State" means each of the several States, the Commonwealth of Puerto Rico, the District of Columbia, the Commonwealth of the Northern Mariana Islands, Guam, the Virgin Islands, American Samoa, the Trust Territories of the Pacific, or any other possession of the United States.

(3) UNIT OF GENERAL LOCAL GOVERNMENT.—The term "unit of general local government" means any city, county, parish, town, township, borough, village, or other general purpose political subdivision of a State.

(4) HUD-APPROVED COUNSELING AGENCY.—The term "HUD-approved counseling agency" means a private or public nonprofit organization that is—

(A) exempt from taxation under section 501(c) of the Internal Revenue Code of 1986; and

(B) certified by the Secretary to provide housing counseling services.

(5) STATE HOUSING FINANCE AGENCY.—The term "State housing finance agency" means any public body, agency, or instrumentality specifically created under State statute that is authorised[318] to finance activities designed to provide housing and related facilities throughout an entire State through land acquisition, construction, or rehabilitation.

(i) ACCOUNTABILITY FOR RECIPIENTS OF COVERED ASSISTANCE.—

(1) TRACKING OF FUNDS.—The Secretary shall—

(A) develop and maintain a system to ensure that any organization or entity that receives any covered assistance uses all amounts of covered assistance in accordance with this section, the regulations issued under this section, and any requirements or conditions under which such amounts were provided; and

(B) require any organization or entity, as a condition of receipt of any covered assistance, to agree to comply with such requirements regarding covered assistance as the Secretary shall establish, which shall include—

(i) appropriate periodic financial and grant activity reporting, record retention, and audit requirements for the duration of the covered assistance to the organization or entity to ensure compliance with the limitations and requirements of this section, the regulations under this section, and any requirements or conditions under which such amounts were provided; and

(ii) any other requirements that the Secretary determines are necessary to ensure appropriate administration and compliance.

(2) MISUSE OF FUNDS.—If any organization or entity that receives any covered assistance is determined by the Secretary to have used any covered assistance in a manner that is materially in violation of this section, the regulations issued under this section, or any requirements or conditions under which such assistance was provided—

(A) the Secretary shall require that, within 12 months after the determination of such misuse, the organization or entity shall reimburse the Secretary for such misused amounts and return to the Secretary any such amounts that remain unused or uncommitted for use; and

(B) such organization or entity shall be ineligible, at any time after such determination, to apply for or receive any further covered assistance.

The remedies under this paragraph are in addition to any other remedies that may be available under law.

(3) COVERED ASSISTANCE.—For purposes of this subsection, the term "covered assistance" means any grant or other financial assistance provided under this section.

END OF STATUTE

[318] So in law.

HOME INSPECTION COUNSELING

DODD-FRANK WALL STREET REFORM AND CONSUMER PROTECTION ACT OF 2010 [Public Law 111-203; 124 Stat. 1376; 12 U.S.C. 1701x-1]

Sec. 1451. [12 U.S.C. 1701x-1]
HOME INSPECTION COUNSELING.

(a) PUBLIC OUTREACH.—

(1) IN GENERAL.—The Secretary of Housing and Urban Development (in this section referred to as the "Secretary") shall take such actions as may be necessary to inform potential homebuyers of the availability and importance of obtaining an independent home inspection. Such actions shall include—

(A) publication of the HUD/FHA form HUD 92564-CN entitled "For Your Protection: Get a Home Inspection", in both English and Spanish languages;

(B) publication of the HUD/FHA booklet entitled "For Your Protection: Get a Home Inspection", in both English and Spanish languages;

(C) development and publication of a HUD booklet entitled "For Your Protection—Get a Home Inspection" that does not reference FHA-insured homes, in both English and Spanish languages; and

(D) publication of the HUD document entitled "Ten Important Questions To Ask Your Home Inspector", in both English and Spanish languages.

(2) AVAILABILITY.—The Secretary shall make the materials specified in paragraph (1) available for electronic access and, where appropriate, inform potential homebuyers of such availability through home purchase counseling public service announcements and toll-free telephone hotlines of the Department of Housing and Urban Development. The Secretary shall give special emphasis to reaching first-time and low-income homebuyers with these materials and efforts.

(3) UPDATING.—The Secretary may periodically update and revise such materials, as the Secretary determines to be appropriate.

(b) REQUIREMENT FOR FHA-APPROVED LENDERS.—Each mortgagee approved for participation in the mortgage insurance programs under title II of the National Housing Act shall provide prospective homebuyers, at first contact, whether upon pre-qualification, pre-approval, or initial application, the materials specified in subparagraphs (A), (B), and (D) of subsection (a)(1).

(c) REQUIREMENTS FOR HUD-APPROVED COUNSELING AGENCIES.—Each counseling agency certified pursuant by the Secretary to provide housing counseling services shall provide each of their clients, as part of the home purchase counseling process, the materials specified in subparagraphs (C) and (D) of subsection (a)(1).

(d) TRAINING.—Training provided the Department of Housing and Urban Development for housing counseling agencies, whether such training is provided directly by the Department or otherwise, shall include—

(1) providing information on counseling potential homebuyers of the availability and importance of getting an independent home inspection;

(2) providing information about the home inspection process, including the reasons for specific inspections such as radon and lead-based paint testing;

(3) providing information about advising potential homebuyers on how to locate and select a qualified home inspector; and

(4) review of home inspection public outreach materials of the Department.

END OF STATUTE

PREPURCHASE COUNSELING DEMONSTRATION

HOUSING AND ECONOMIC RECOVERY ACT OF 2008
[Public Law 110-289; 122 Stat. 2654; 12 U.S.C. 1701x note]

Sec. 2128. [12 U.S.C. 1701x note]
PRE-PURCHASE HOMEOWNERSHIP COUNSELING DEMONSTRATION.

(a) ESTABLISHMENT OF PROGRAM.—For the period beginning on the date of enactment of this title and ending on the date that is 3 years after such date of enactment, the Secretary of Housing and Urban Development shall establish and conduct a demonstration program to test the effectiveness of alternative forms of pre-purchase homeownership counseling for eligible homebuyers.

(b) FORMS OF COUNSELING.—The Secretary of Housing and Urban Development shall provide to eligible homebuyers pre-purchase homeownership counseling under this section in the form of—

(1) telephone counseling;
(2) individualized in-person counseling;
(3) web-based counseling;
(4) counseling classes; or
(5) any other form or type of counseling that the Secretary may, in his discretion, determine appropriate.

(c) SIZE OF PROGRAM.—The Secretary shall make available the pre-purchase homeownership counseling described in subsection (b) to not more than 3,000 eligible homebuyers in any given year.

(d) INCENTIVE TO PARTICIPATE.—The Secretary of Housing and Urban Development may provide incentives to eligible homebuyers to participate in the demonstration program established under subsection (a). Such incentives may include the reduction of any insurance premium charges owed by the eligible homebuyer to the Secretary.

(e) ELIGIBLE HOMEBUYER DEFINED.—For purposes of this section an “eligible homebuyer” means a first-time homebuyer who has been approved for a home loan with a loan-to-value ratio between 97 percent and 98.5 percent.

(f) REPORT TO CONGRESS.—The Secretary of Housing and Urban Development shall report to the Committee on Banking, Housing, and Urban Affairs of the Senate and the Committee on Financial Services of the House of Representative—

(1) on an annual basis, on the progress and results of the demonstration program established under subsection (a); and

(2) for the period beginning on the date of enactment of this title and ending on the date that is 5 years after such date of enactment, on the payment history and delinquency rates of eligible homebuyers who participated in the demonstration program.

END OF STATUTE

LEGAL ASSISTANCE FOR FORECLOSURE-RELATED ISSUES

DODD-FRANK WALL STREET REFORM AND CONSUMER PROTECTION ACT OF 2010 [Public Law 111-203; 124 Stat. 1376; 12 U.S.C. 1701x-2]

Sec. 1498. [12 U.S.C. 1701x-2]
LEGAL ASSISTANCE FOR FORECLOSURE-RELATED ISSUES.

(a) ESTABLISHMENT. —The Secretary of Housing and Urban Development (hereafter in this section referred to as the "Secretary") shall establish a program for making grants for providing a full range of foreclosure legal assistance to low- and moderate-income homeowners and tenants related to home ownership preservation, home foreclosure prevention, and tenancy associated with home foreclosure.

(b) COMPETITIVE ALLOCATION.—The Secretary shall allocate amounts made available for grants under this section to State and local legal organizations on the basis of a competitive process. For purposes of this subsection "State and local legal organizations" are those State and local organizations whose primary business or mission is to provide legal assistance.

(c) PRIORITY TO CERTAIN AREAS.—In allocating amounts in accordance with subsection (b), the Secretary shall give priority consideration to State and local legal organizations that are operating in the 125 metropolitan statistical areas (as that term is defined by the Director of the Office of Management and Budget) with the highest home foreclosure rates.

(d) LEGAL ASSISTANCE.—

(1) IN GENERAL.—Any State or local legal organization that receives financial assistance pursuant to this section may use such amounts only to assist—

(A) homeowners of owner-occupied homes with mortgages in default, in danger of default, or subject to or at risk of foreclosure; and

(B) tenants at risk of or subject to eviction as a result of foreclosure of the property in which such tenant resides.

(2) COMMENCE USE WITHIN 90 DAYS.—Any State or local legal organization that receives financial assistance pursuant to this section shall begin using any financial assistance received under this section within 90 days after receipt of the assistance.

(3) PROHIBITION ON CLASS ACTIONS.—No funds provided to a State or local legal organization under this section may be used to support any class action litigation.

(4) LIMITATION ON LEGAL ASSISTANCE.—Legal assistance funded with amounts provided under this section shall be limited to mortgage-related default, eviction, or foreclosure proceedings, without regard to whether such foreclosure is judicial or nonjudicial.

(5) EFFECTIVE DATE.—Notwithstanding any other provision of this Act, this subsection shall take effect on the date of the enactment of this Act.

(e) LIMITATION ON DISTRIBUTION OF ASSISTANCE.—

(1) IN GENERAL.—None of the amounts made available under this section shall be distributed to—

(A) any organization which has been convicted for a violation under Federal law relating to an election for Federal office; or

(B) any organization which employs applicable individuals.

(2) DEFINITION OF APPLICABLE INDIVIDUALS.—In this subsection, the term "applicable individual" means an individual who—

(A) is—

(i) employed by the organization in a permanent or temporary capacity;

(ii) contracted or retained by the organization; or

(iii) acting on behalf of, or with the express or apparent authority of, the organization; and

(B) has been convicted for a violation under Federal law relating to an election for Federal office.

(f) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Secretary $35,000,000 for each of fiscal years 2011 through 2012 for grants under this section.

END OF STATUTE

STATE HOUSING FINANCE AGENCIES

HOUSING AND COMMUNITY DEVELOPMENT ACT OF 1974
[Public Law 93-383; 88 Stat. 722; 42 U.S.C. 1440]

Sec. 802. [42 U.S.C. 1440]
STATE HOUSING FINANCE AND DEVELOPMENT AGENCIES.

(a) It is the purpose of this section to encourage the formation and effective operation of State housing finance agencies and State development agencies which have authority to finance, to assist in carrying out, or to carry out activities designed to (1) provide housing and related facilities through land acquisition, construction, or rehabilitation, for persons and families of low, moderate, and middle income, (2) promote the sound growth and development of neighborhoods through the revitalization of slum and blighted areas, (3) increase and improve employment opportunities for the unemployed and underemployed through the development and redevelopment of industrial, manufacturing, and commercial facilities, or (4) implement the development aspects of State land use and preservation policies, including the advance acquisition of land where it is consistent with such policies. The Secretary of Housing and Urban Development shall encourage maximum participation by private and nonprofit developers in activities assisted under this section.

(b)(1) A State housing finance or State development agency is eligible for assistance under this section only if the Secretary determines that it is fully empowered and has adequate authority to at least carry out or assist in carrying out the purposes specified in clause (1) of subsection (a).

(2) for the purpose of this section—

(A) the term "State housing finance or State development agency" means any public body or agency, publicly sponsored corporation, or instrumentality of one or more States which is designated by the Governor (or Governors in the case of an interstate development agency) for purposes of this section;

(B) the term "State" means any State of the United States, the District of Columbia, the Commonwealth of Puerto Rico, or any territory or possession of the United States; and

(C) the term "Secretary" means the Secretary of Housing and Urban Development.

(c)(1) The Secretary is authorized to guarantee, and enter into commitments to guarantee, the bonds, debentures, notes, and other obligations issued by State housing finance or State development agencies to finance development activities as determined by him to be in furtherance of the purpose of clause (1) or (2) of subsection (a), except that obligations issued to finance activities solely in furtherance of the purpose of clause (1) of subsection (a) may be guaranteed only if the activities are in connection with the revitalization of slum or blighted areas under title I of this Act or under any other program determined to be acceptable by the Secretary for this purpose.

(2) The Secretary is authorized to make, and to contract to make, grants to or on behalf of a State housing finance or State development agency to cover not to exceed 331/3 per centum of the interest payable on bonds, debentures, notes, and other obligations issued by such agency to finance development activities in furtherance of the purposes of this section.

(3) No obligation shall be guaranteed or otherwise assisted under this section unless the interest income thereon is subject to Federal taxation as provided in subsection (h)(2), except that use of guarantees provided for in this subsection shall not be made a condition to nor preclude receipt of any other Federal assistance.

(4) The full faith and credit of the United States is pledged to the payment of all guarantees made under this section with respect to principal, interest, and any redemption premiums. Any such guarantee made by the Secretary shall be conclusive evidence of the eligibility of the obligation involved for such guarantee, and the validity of any guarantee so made shall be incontestable in the hands of a holder of the guaranteed obligation.

(5) The Secretary is authorized to establish and collect such fees and charges for and in connection with guarantees made under this section as he considers reasonable.

(6) There are authorized to be appropriated such sums as may be necessary to make payments as provided for in contracts entered into by the Secretary under paragraph (2) of this subsection, and payments pursuant to such contracts shall not exceed $50,000,000 per annum prior to July 1, 1975, which maximum dollar amount shall be increased by $60,000,000 on July 1, 1975. The aggregate principal amount of the obligations which may be guaranteed under this section and outstanding at any one time shall not exceed $500,000,000.

(d) The Secretary shall take such steps as he considers reasonable to assure that bonds, debentures, notes, and other obligations which are guaranteed under subsection (c) will—

(1) be issued only to investors approved by, or meeting requirements prescribed by, the Secretary, or, if an offering to the public is contemplated, be underwritten upon terms and conditions approved by the Secretary;

(2) bear interest at a rate satisfactory to the Secretary;

(3) contain or be subject to repayment, maturity, and other provisions satisfactory to the Secretary; and

(4) contain or be subject to provisions with respect to the protection of the security interests of the United States, including any provisions deemed appropriate by the Secretary relating to subrogation, liens, and releases of liens, payment of taxes, cost certification procedures, escrow or trusteeship requirements, or other matters.

(e)(1) The Secretary is authorized to establish a revolving fund to provide for the timely payment of any liabilities incurred as a result of guarantees under subsection (c) and for the payment of obligations issued to the Secretary of the Treasury under paragraph (2) of this subsection. Such revolving fund shall be comprised of (A) receipts from fees and charges; (B) recoveries under security, subrogation, and other rights; (C) repayments, interest income, and any other receipts obtained in connection with guarantees made under subsection (c); (D) proceeds of the obligations issued to the Secretary of the Treasury pursuant to paragraph (2) of this subsection; and (E) such sums, which are hereby authorized to be appropriated, as may be required for such purposes. Money in the revolving fund not currently needed for the purpose of this section shall be kept on hand or on deposit, or invested in obligations of the United States or guaranteed thereby, or in obligations, participations, or other instruments which are lawful investments for fiduciary, trust, or public funds.

(2) The Secretary may issue obligations to the Secretary of the Treasury in an amount sufficient to enable the Secretary to carry out his functions with respect to the guarantees authorized by subsection (c). The obligations issued under this paragraph shall have such maturities and bear such rate or rates of interest as shall be determined by the Secretary of the Treasury. The Secretary of the Treasury is authorized and directed to purchase any obligations so issued, and for that purpose he is authorized to use as a public debt transaction the proceeds from the sale of any securities issued under chapter 31 of title 31, United States Code, and the purposes for which securities may be issued under such chapter are extended to include purchases of the obligations hereunder.

(3) Notwithstanding any other provision of law relating to the acquisition, handling, improvement, or disposal of real and other property by the United States, the Secretary shall have power, for the protection of the interests of the fund authorized under this subsection, to pay out of such fund all expenses or charges in connection with the acquisition, handling, improvement, or disposal of any property, real or personal, acquired by him as a result of recoveries under security, subrogation, or other rights.

(f) The Secretary is authorized to provide, either directly or by contract or other arrangements, technical assistance to State housing finance or State development agencies to assist them in connection with planning and carrying out development activities in furtherance of the purpose of this section.

(g) All laborers and mechanics employed by contractors or subcontractors in housing or development activities assisted under this section shall be paid wages at rates not less than those prevailing on similar work in the locality as determined by the Secretary of Labor in accordance with the Davis-Bacon Act, as amended (40 U.S.C. 276a—276a-5): Provided, That this section shall apply to the construction of residential property only if such property is designed for residential use for eight or more families. No assistance shall be extended under this section with respect to any development activities without first obtaining adequate assurance that these labor standards will be maintained upon the work involved in such activities. The Secretary of Labor shall have, with respect to the labor standards specified in this subsection, the authority and functions set forth in Reorganization Plan Numbered 14 of 1950 (64 Stat. 1267), and section 2 of the Act of June 13, 1934 (40 U.S.C. 276c).

(h)(1) In the performance of, and with respect to, the functions, powers, and duties vested in him by this section, the Secretary, in addition to any authority otherwise vested to him, shall—

(A) have the power, notwithstanding any other provision of law, in connection with any guarantee under this section, whether before or after default, to provide by contract for the extinguishment upon default of any redemption, equitable, legal, or other right, title, or interest of a State housing finance or State development agency in any mortgage, deed, trust, or other instrument held by or on behalf of the Secretary for the protection of the security interests of the United States; and

(B) have the power to foreclose on any property or commence any action to protect or enforce any right conferred upon him by law, contract, or other agreement, and bid for and purchase at any foreclosure or other sale any property in connection with which he has provided a guarantee pursuant to this section. In the event of any such acquisition, the Secretary may, notwithstanding any other provision of law relating to the acquisition, handling, or disposal or real property by the United States, complete, administer, remodel and convert, dispose of, lease, and otherwise deal with, such property. Notwithstanding any other provision of law, the Secretary shall also have power to pursue to final collection by way of compromise or otherwise all claims acquired by him in connection with any security, subrogation, or other rights obtained by him in administering this section.

(2) With respect to any obligation issued by a State housing finance or State development agency for which the issuer has elected to receive the benefits of the assistance provided under this section, the interest paid on such obligation and received by the purchaser thereof (or his successor in interest) shall be included in gross income for the purposes of chapter 1 of the Internal Revenue Code of 1954.

(i)(1) Section 24(a)(2) of the Federal Reserve Act (as amended by section 711 of this Act) is amended by inserting the following before the period at the end thereof: “, or to obligations guaranteed under section 802 of the Housing and Community Development Act of 1974”.

(2) The twelfth paragraph of section 5(c) of the Homeowners’ Loan Act of 1933 is amended by adding in the last sentence immediately after the words “or under part B of the Urban Growth and New Community Development Act of 1970” the following: “or under section 802 of the Housing and Community Development Act of 1974”.

END OF STATUTE

AMENDMENTS AFFECTING TENANT RENTS

HOUSING AND URBAN-RURAL RECOVERY ACT OF 1983
[Public Law 98-181; 97 Stat. 1180; 42 U.S.C. 1437a note]

Sec. 206. [42 U.S.C. 1437a note]
AMENDMENTS AFFECTING TENANT RENTS OR CONTRIBUTIONS.

* * * * * * *

(d)(1) The following provisions of this paragraph apply to determinations of the rent to be paid by or the contribution required of a tenant occupying housing assisted under the authorities amended by this section or subsections (a) through (h) of section 322 of the Housing and Community Development Amendments of 1981 (hereinafter referred to as "assisted housing") on or before the effective date of regulations implementing this section:

(A) Notwithstanding any other provision of this section or subsections (a) through (h) of section 322 of the Housing and Community Development Amendments of 1981, the Secretary of Housing and Urban Development (hereinafter referred to as the "Secretary") may provide for delayed applicability, or for staged implementation, of the procedures for determining rents or contributions, as appropriate, required by such provisions if the Secretary determines that immediate application of such procedures would be impracticable, would violate the terms of existing leases, or would result in extraordinary hardship for any class of tenants.

(B) The Secretary shall provide that the rent or contribution, as appropriate, required to be paid by a tenant shall not increase as a result of the amendments made by this section and subsections (a) through (h) of section 322 of the Housing and Community Development Amendments of 1981, and as a result of any other provision of Federal law or regulation, by more than 10 per centum during any twelve-month period, unless the increase above 10 per centum is attributable to increases in income which are unrelated to such amendments, law, or regulation.

(2) Tenants of assisted housing other than those referred to in paragraph (1) shall be subject to immediate rent payment or contribution determinations in accordance with applicable law and without regard to the provisions of paragraph (1), but the Secretary shall provide that the rent or contribution payable by any such tenant who is occupying assisted housing on the effective date of any provision of Federal law or regulation shall not increase, as a result of any such provision of Federal law or regulation, by more than 10 per centum during any twelve-month period, unless the increase above 10 per centum is attributable to increases in income which are unrelated to such law or regulation.

(3) In the case of tenants receiving rental assistance under section 521(a)(1) of the Housing Act of 1949 on the effective date of this section whose assistance is converted to assistance under section 8 of the United States Housing Act of 1937 on or after such date, the Secretary shall provide that the rent or contribution payable by any such tenant shall not increase, as a result of such conversion, by more than 10 per centum during any twelve-month period, unless the increase above 10 per centum is attributable to increases in income which are unrelated to such conversion or to any provision of Federal law or regulation.

(4)(A) Notwithstanding any other provision of law, in the case of the conversion of any assistance under section 101 of the Housing and Urban Development Act of 1965, section 236(f)(2) of the National Housing Act, or section 23 of the United States Housing Act of 1937 (as in effect before the date of the enactment of the Housing and Community Development Act of 1974) to assistance under section 8 of the United States Housing Act of 1937, any increase in rent payments or contributions resulting from such conversion, and from the amendments made by this section of any tenant benefiting from such assistance who is sixty-two years of age or older may not exceed 10 per centum per annum.

(B) In the case of any such conversion of assistance occurring on or after October 1, 1981, and before the date of the enactment of this section, the rental payments due after such date of enactment by any tenant benefiting from such assistance who was sixty-two years of age or older on the date of such conversion shall be computed as if the tenant's rental payment or contribution had, on the date of conversion, been the lesser of the actual rental payment or contribution required, or 25 per centum of the tenant's income.

(5) The limitations on increases in rent contained in paragraphs (1)(B), (2), (3), and (4) shall remain in effect and may not be changed or superseded except by another provision of law which amends this subsection.

(6) As used in this subsection, the term "contribution" means an amount representing 30 per centum of a tenant's monthly adjusted income, 10 per centum of the tenant's monthly income, or the designated amount of welfare assistance, whichever amount is used to determine the monthly assistance payment for the tenant under section 3(a) of the United States Housing Act of 1937.

(7) The provisions of subsections (a) through (h) of section 322 of the Housing and Community Development Amendments of 1981 shall be implemented and fully applicable to all affected tenants no later than five years following the date of enactment of such amendments, except that the Secretary may extend the time for implementation if the Secretary determines that full implementation would result in extraordinary hardship for any class of tenants.

END OF STATUTE

TREATMENT OF HOUSING ASSISTANCE AS INCOME

HOUSING AUTHORIZATION ACT OF 1976
[Public Law 94-375; 90 Stat. 1068; 42 U.S.C. 1382 note]

Sec. 2. [42 U.S.C. 1382 note]

* * *

(h) Notwithstanding any other provision of law, the value of any assistance paid with respect to a dwelling unit under the United States Housing Act of 1937, the National Housing Act, section 101 of the Housing and Urban Development Act of 1965, or title V of the Housing Act of 1949 may not be considered as income or a resource for the purpose of determining the eligibility of, or the amount of the benefits payable to, any person living in such unit for assistance under title XVI of the Social Security Act. This subsection shall become effective on October 1, 1976.

END OF STATUTE

TREATMENT OF PAYMENTS MADE TO NAZI PERSECUTION VICTIMS

PUBLIC LAW 103-286
[108 Stat. 1450; 42 U.S.C. 1437a note]

Sec. 1. [42 U.S.C. 1437a note]
CERTAIN PAYMENTS MADE TO VICTIMS OF NAZI PERSECUTION DISREGARDED IN DETERMINING ELIGIBILITY FOR AND THE AMOUNT OF NEED-BASED BENEFITS AND SERVICES.

(a) IN GENERAL.—Payments made to individuals because of their status as victims of Nazi persecution shall be disregarded in determining eligibility for and the amount of benefits or services to be provided under any Federal or federally assisted program which provides benefits or services based, in whole or in part, on need.

(b) APPLICABILITY.—Subsection (a) shall apply to determinations made on or after the date of the enactment of this Act[319] with respect to payments referred to in subsection (a) made before, on, or after such date.

(c) PROHIBITION AGAINST RECOVERY OF VALUE OF EXCESSIVE BENEFITS OR SERVICES PROVIDED DUE TO FAILURE TO TAKE ACCOUNT OF CERTAIN PAYMENTS MADE TO VICTIMS OF NAZI PERSECUTION.—No officer, agency, or instrumentality of any government may attempt to recover the value of excessive benefits or services provided before the date of the enactment of this Act under any program referred to in subsection (a) by reason of any failure to take account of payments referred to in subsection (a).

(d) NOTICE TO INDIVIDUALS WHO MAY HAVE BEEN DENIED ELIGIBILITY FOR BENEFITS OR SERVICES DUE TO THE FAILURE TO DISREGARD CERTAIN PAYMENTS MADE TO VICTIMS OF NAZI PERSECUTION.—Any agency of government that has not disregarded payments referred to in subsection (a) in determining eligibility for a program referred to in subsection (a) shall make a good faith effort to notify any individual who may have been denied eligibility for benefits or services under the program of the potential eligibility of the individual for such benefits or services.

(e) REPAYMENT OF ADDITIONAL RENT PAID UNDER HUD HOUSING PROGRAMS BECAUSE OF FAILURE TO DISREGARD REPARATION PAYMENTS.—

(1) AUTHORITY.—To the extent that amounts are provided in appropriation Acts for payments under this subsection, the Secretary of Housing and Urban Development shall make payments to qualified individuals in the amount determined under paragraph (3).

(2) QUALIFIED INDIVIDUALS.—For purposes of this subsection, the term "qualified individual" means an individual who—

(A) has received any payment because of the individual's status as a victim of Nazi persecution;

(B) at any time during the period beginning on February 1, 1993 and ending on April 30, 1993, resided in a dwelling unit in housing assisted under any program for housing assistance of the Department of Housing and Urban Development under which rent payments for the unit were determined based on or taking into consideration the income of the occupant of the unit;

(C) paid rent for such dwelling unit for any portion of the period referred to in subparagraph (B) in an amount determined in a manner that did not disregard the payment referred to in subparagraph (A); and

(D) has submitted a claim for payment under this subsection as required under paragraph (4).

The term does not include the successors, heirs, or estate of an individual meeting the requirements of the preceding sentence.

(3) AMOUNT OF PAYMENT.—The amount of a payment under this subsection for a qualified individual shall be equal to the difference between—

(A) the sum of the amount of rent paid by the individual for rental of the dwelling unit of the individual assisted under a program for housing assistance of the Department of Housing and Urban Development, for the period referred to in paragraph (2)(B), and

[319] August 1, 1994.

(B) the sum of the amount of rent that would have been payable by the individual for rental of such dwelling unit for such period if the payments referred to in paragraph (2)(A) were disregarded in determining the amount of rent payable by the individual for such period.

(4) SUBMISSION OF CLAIMS.—A payment under this subsection for an individual may be made only pursuant to a written claim for such payment by such individual submitted to the Secretary of Housing and Urban Development in the form and manner required by the Secretary before—

(A) in the case of any individual notified by the Department of Housing and Urban Development orally or in writing that such specific individual is eligible for a payment under this subsection, the expiration of the 6-month period beginning on the date of receipt of such notice; and

(B) in the case of any other individual, the expiration of the 12-month period beginning on the date of the enactment of this Act[320].

END OF STATUTE

[320] The date of enactment was August 1, 1994.

FINANCIAL ASSISTANCE IN IMPACTED AREAS

HOUSING AND COMMUNITY DEVELOPMENT ACT OF 1980
[Public Law 96-399; 94 Stat. 1638; 42 U.S.C. 1436b]

Sec. 216. [42 U.S.C. 1436b]
FINANCIAL ASSISTANCE IN IMPACTED AREAS

The Secretary of Housing and Urban Development shall not exclude from consideration for financial assistance under federally assisted housing programs proposals for housing projects solely because the site proposed is located within an impacted area. For the purposes of this section, the term "federally assisted housing programs" means any program authorized by the United States Housing Act of 1937, sections 235 and 236 of the National Housing Act, section 101 of the Housing and Urban Development Act of 1965, or section 202 of the Housing Act of 1959.

END OF STATUTE

RESTRICTIONS ON PUBLIC BENEFITS FOR ALIENS

PERSONAL RESPONSIBILITY AND WORK OPPORTUNITY RECONCILIATION ACT OF 1996
[Public Law 104-193; 110 Stat. 2260; 8 U.S.C. 1601—1646]

TITLE IV—RESTRICTING WELFARE AND PUBLIC BENEFITS FOR ALIENS

Sec. 400. [8 U.S.C. 1601]
STATEMENTS OF NATIONAL POLICY CONCERNING WELFARE AND IMMIGRATION.

The Congress makes the following statements concerning national policy with respect to welfare and immigration:

(1) Self-sufficiency has been a basic principle of United States immigration law since this country's earliest immigration statutes.

(2) It continues to be the immigration policy of the United States that—

(A) aliens within the Nation's borders not depend on public resources to meet their needs, but rather rely on their own capabilities and the resources of their families, their sponsors, and private organizations, and

(B) the availability of public benefits not constitute an incentive for immigration to the United States.

(3) Despite the principle of self-sufficiency, aliens have been applying for and receiving public benefits from Federal, State, and local governments at increasing rates.

(4) Current eligibility rules for public assistance and unenforceable financial support agreements have proved wholly incapable of assuring that individual aliens not burden the public benefits system.

(5) It is a compelling government interest to enact new rules for eligibility and sponsorship agreements in order to assure that aliens be self-reliant in accordance with national immigration policy.

(6) It is a compelling government interest to remove the incentive for illegal immigration provided by the availability of public benefits.

(7) With respect to the State authority to make determinations concerning the eligibility of qualified aliens for public benefits in this title, a State that chooses to follow the Federal classification in determining the eligibility of such aliens for public assistance shall be considered to have chosen the least restrictive means available for achieving the compelling governmental interest of assuring that aliens be self-reliant in accordance with national immigration policy.

Subtitle A—Eligibility for Federal Benefits

Sec. 401. [8 U.S.C. 1611]
ALIENS WHO ARE NOT QUALIFIED ALIENS INELIGIBLE FOR FEDERAL PUBLIC BENEFITS.

(a) IN GENERAL.—Notwithstanding any other provision of law and except as provided in subsection (b), an alien who is not a qualified alien (as defined in section 431) is not eligible for any Federal public benefit (as defined in subsection (c)).

(b) EXCEPTIONS.—

(1) Subsection (a) shall not apply with respect to the following Federal public benefits:

(A) Medical assistance under title XIX of the Social Security Act (or any successor program to such title) for care and services that are necessary for the treatment of an emergency medical condition (as defined in section 1903(v)(3) of such Act) of the alien involved and are not related to an organ transplant procedure, if the alien involved otherwise meets the eligibility requirements for medical assistance under the State plan approved under such title (other than the requirement of the receipt of aid or assistance under title IV of such Act, supplemental security income benefits under title XVI of such Act, or a State supplementary payment).

(B) Short-term, non-cash, in-kind emergency disaster relief.

(C) Public health assistance (not including any assistance under title XIX of the Social Security Act) for immunizations with respect to immunizable diseases and for testing and

treatment of symptoms of communicable diseases whether or not such symptoms are caused by a communicable disease.

(D) Programs, services, or assistance (such as soup kitchens, crisis counseling and intervention, and short-term shelter) specified by the Attorney General, in the Attorney General's sole and unreviewable discretion after consultation with appropriate Federal agencies and departments, which (i) deliver in-kind services at the community level, including through public or private nonprofit agencies; (ii) do not condition the provision of assistance, the amount of assistance provided, or the cost of assistance provided on the individual recipient's income or resources; and (iii) are necessary for the protection of life or safety.

(E) Programs for housing or community development assistance or financial assistance administered by the Secretary of Housing and Urban Development, any program under title V of the Housing Act of 1949, or any assistance under section 306C of the Consolidated Farm and Rural Development Act, to the extent that the alien is receiving such a benefit on the date of the enactment of this Act.

(2) Subsection (a) shall not apply to any benefit payable under title II of the Social Security Act to an alien who is lawfully present in the United States as determined by the Attorney General, to any benefit if nonpayment of such benefit would contravene an international agreement described in section 233 of the Social Security Act, to any benefit if nonpayment would be contrary to section 202(t) of the Social Security Act, or to any benefit payable under title II of the Social Security Act to which entitlement is based on an application filed in or before the month in which this Act becomes law.

(3) Subsection (a) shall not apply to any benefit payable under title XVIII of the Social Security Act (relating to the medicare program) to an alien who is lawfully present in the United States as determined by the Attorney General and, with respect to benefits payable under part A of such title, who was authorized to be employed with respect to any wages attributable to employment which are counted for purposes of eligibility for such benefits.

(4) Subsection (a) shall not apply to any benefit payable under the Railroad Retirement Act of 1974 or the Railroad Unemployment Insurance Act to an alien who is lawfully present in the United States as determined by the Attorney General or to an alien residing outside the United States.

(5) Subsection (a) shall not apply to eligibility for benefits for the program defined in section 402(a)(3)(A) (relating to the supplemental security income program), or to eligibility for benefits under any other program that is based on eligibility for benefits under the program so defined, for an alien who was receiving such benefits on August 22, 1996.

(c) FEDERAL PUBLIC BENEFIT DEFINED.—

(1) Except as provided in paragraph (2), for purposes of this title the term "Federal public benefit" means—

(A) any grant, contract, loan, professional license, or commercial license provided by an agency of the United States or by appropriated funds of the United States; and

(B) any retirement, welfare, health, disability, public or assisted housing, postsecondary education, food assistance, unemployment benefit, or any other similar benefit for which payments or assistance are provided to an individual, household, or family eligibility unit by an agency of the United States or by appropriated funds of the United States.

(2) Such term shall not apply—

(A) to any contract, professional license, or commercial license for a nonimmigrant whose visa for entry is related to such employment in the United States, or to a citizen of a freely associated state, if section 141 of the applicable compact of free association approved in Public Law 99-239 or 99-658 (or a successor provision) is in effect;

(B) with respect to benefits for an alien who as a work authorized nonimmigrant or as an alien lawfully admitted for permanent residence under the Immigration and Nationality Act qualified for such benefits and for whom the United States under reciprocal treaty agreements is required to pay benefits, as determined by the Attorney General, after consultation with the Secretary of State; or

(C) to the issuance of a professional license to, or the renewal of a professional license by, a foreign national not physically present in the United States.

Sec. 402. [8 U.S.C. 1612]
LIMITED ELIGIBILITY OF QUALIFIED ALIENS FOR CERTAIN FEDERAL PROGRAMS.

(a) LIMITED ELIGIBILITY FOR SPECIFIED FEDERAL PROGRAMS.—

(1) IN GENERAL.—Notwithstanding any other provision of law and except as provided in paragraph (2), an alien who is a qualified alien (as defined in section 431) is not eligible for any specified Federal program (as defined in paragraph (3)).

(2) EXCEPTIONS.—

(A) TIME-LIMITED EXCEPTION FOR REFUGEES AND ASYLEES.—With respect to the specified Federal programs described in paragraph (3), paragraph (1) shall not apply to an alien until 7 years after the date—

(i) an alien is admitted to the United States as a refugee under section 207 of the Immigration and Nationality Act;

(ii) an alien is granted asylum under section 208 of such Act;

(iii) an alien's deportation is withheld under section 243(h) of such Act (as in effect immediately before the effective date of section 307 of division C of Public Law 104-208) or section 241(b)(3) of such Act (as amended by section 305(a) of division C of Public Law 104-208);

(iv) an alien is granted status as a Cuban and Haitian entrant (as defined in section 501(e) of the Refugee Education Assistance Act of 1980); or

(v) an alien is admitted to the United States as an Amerasian immigrant pursuant to section 584 of the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1988 (as contained in section 101(e) of Public Law 100-202 and amended by the 9th proviso under migration and refugee assistance in title II of the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1989, Public Law 100-461, as amended).

(B) CERTAIN PERMANENT RESIDENT ALIENS.—Paragraph (1) shall not apply to an alien who—

(i) is lawfully admitted to the United States for permanent residence under the Immigration and Nationality Act; and

(ii)(I) has worked 40 qualifying quarters of coverage as defined under title II of the Social Security Act or can be credited with such qualifying quarters as provided under section 435, and (II) in the case of any such qualifying quarter creditable for any period beginning after December 31, 1996, did not receive any Federal means-tested public benefit (as provided under section 403) during any such period.

(C) VETERAN AND ACTIVE DUTY EXCEPTION.—Paragraph (1) shall not apply to an alien who is lawfully residing in any State and is—

(i) a veteran (as defined in section 101, 1101, or 1301, or as described in section 107 of title 38, United States Code) with a discharge characterized as an honorable discharge and not on account of alienage and who fulfills the minimum active-duty service requirements of section 5303A(d) of title 38, United States Code,

(ii) on active duty (other than active duty for training) in the Armed Forces of the United States, or

(iii) the spouse or unmarried dependent child of an individual described in clause (i) or (ii) or the unremarried surviving spouse of an individual described in clause (i) or (ii) who is deceased if the marriage fulfills the requirements of section 1304 of title 38, United States Code.

(D) TRANSITION FOR ALIENS CURRENTLY RECEIVING BENEFITS.—

(i) SSI.—

(I) IN GENERAL.—With respect to the specified Federal program described in paragraph (3)(A), during the period beginning on the date of the enactment of this Act and ending on September 30, 1998, the Commissioner of Social Security shall redetermine the eligibility of any individual who is receiving benefits under such program as of the date of the enactment of this Act and whose eligibility for such benefits may terminate by reason of the provisions of this subsection.

(II) REDETERMINATION CRITERIA.— With respect to any redetermination under subclause (I), the Commissioner of Social Security shall apply the eligibility criteria for new applicants for benefits under such program.

(III) GRANDFATHER PROVISION.—The provisions of this subsection and the redetermination under subclause (I), shall only apply with respect to the benefits of an individual described in subclause (I) for months beginning on or after September 30, 1998.

(IV) NOTICE.—Not later than March 31, 1997, the Commissioner of Social Security shall notify an individual described in subclause (I) of the provisions of this clause.

(ii) FOOD STAMPS.—

(I) IN GENERAL.—With respect to the specified Federal program described in paragraph (3)(B), ineligibility under paragraph (1) shall not apply until April 1, 1997, to an alien who received benefits under such program on the date of enactment of this Act, unless such alien is determined to be ineligible to receive such benefits under the Food Stamp Act of 1977. The State agency shall recertify the eligibility of all such aliens during the period beginning April 1, 1997, and ending August 22, 1997.

(II) RECERTIFICATION CRITERIA.—With respect to any recertification under subclause (I), the State agency shall apply the eligibility criteria for applicants for benefits under such program.

(III) GRANDFATHER PROVISION.—The provisions of this subsection and the recertification under subclause (I) shall only apply with respect to the eligibility of an alien for a program for months beginning on or after the date of recertification, if on the date of enactment of this Act the alien is lawfully residing in any State and is receiving benefits under such program on such date of enactment.

(E) ALIENS RECEIVING SSI ON AUGUST 22, 1996.—With respect to eligibility for benefits for the program defined in paragraph (3)(A) (relating to the supplemental security income program), paragraph (1) shall not apply to an alien who is lawfully residing in the United States and who was receiving such benefits on August 22, 1996.

(F) DISABLED ALIENS LAWFULLY RESIDING IN THE UNITED STATES ON AUGUST 22, 1996.—With respect to eligibility for benefits for the specified Federal programs described in paragraph (3), paragraph (1) shall not apply to an alien who—

(i) in the case of the specified Federal program described in paragraph (3)(A)—

(I) was lawfully residing in the United States on August 22, 1996; and

(II) is blind or disabled (as defined in paragraph (2) or (3) of section 1614(a) of the Social Security Act (42 U.S.C. 1382c(a))); and

(ii) in the case of the specified Federal program described in paragraph (3)(B), is receiving benefits or assistance for blindness or disability (within the meaning of section 3(j) of the Food Stamp Act of 1977 (7 U.S.C. 2012(r))).

(G) EXCEPTION FOR CERTAIN INDIANS.—With respect to eligibility for benefits for the specified Federal programs described in paragraph (3), section 401(a) and paragraph (1) shall not apply to any individual—

(i) who is an American Indian born in Canada to whom the provisions of section 289 of the Immigration and Nationality Act (8 U.S.C. 1359) apply; or

(ii) who is a member of an Indian tribe (as defined in section 4(e) of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450b(e))).

(H) SSI EXCEPTION FOR CERTAIN RECIPIENTS ON THE BASIS OF VERY OLD APPLICATIONS.—With respect to eligibility for benefits for the program defined in paragraph (3)(A) (relating to the supplemental security income program), paragraph (1) shall not apply to any individual—

(i) who is receiving benefits under such program for months after July 1996 on the basis of an application filed before January 1, 1979; and

(ii) with respect to whom the Commissioner of Social Security lacks clear and convincing evidence that such individual is an alien ineligible for such benefits as a result of the application of this section.

(I) FOOD STAMP EXCEPTION FOR CERTAIN ELDERLY INDIVIDUALS.—With respect to eligibility for benefits for the specified Federal program described in paragraph (3)(B), paragraph (1) shall not apply to any individual who on August 22, 1996—

(i) was lawfully residing in the United States; and

(ii) was 65 years of age or older.

(J) FOOD STAMP EXCEPTION FOR CERTAIN CHILDREN.—With respect to eligibility for benefits for the specified Federal program described in paragraph (3)(B), paragraph (1) shall not apply to any individual who is under 18 years of age.

(K) FOOD STAMP EXCEPTION FOR CERTAIN HMONG AND HIGHLAND LAOTIANS.—With respect to eligibility for benefits for the specified Federal program described in paragraph (3)(B), paragraph (1) shall not apply to—

(i) any individual who—

(I) is lawfully residing in the United States; and

(II) was a member of a Hmong or Highland Laotian tribe at the time that the tribe rendered assistance to United States personnel by taking part in a military or rescue operation during the Vietnam era (as defined in section 101 of title 38, United States Code);

(ii) the spouse, or an unmarried dependent child, of such an individual; or

(iii) the unremarried surviving spouse of such an individual who is deceased.

(L) FOOD STAMP EXCEPTION FOR CERTAIN QUALIFIED ALIENS.—With respect to eligibility for benefits for the specified Federal program described in paragraph (3)(B), paragraph (1) shall not apply to any qualified alien who has resided in the United States with a status within the meaning of the term "qualified alien" for a period of 5 years or more beginning on the date of the alien's entry into the United States.

(M) SSI EXTENSIONS THROUGH FISCAL YEAR 2011.—

(i) TWO-YEAR EXTENSION FOR CERTAIN ALIENS AND VICTIMS OF TRAFFICKING.—

(I) IN GENERAL.—Subject to clause (ii), with respect to eligibility for benefits under subparagraph (A) for the specified Federal program described in paragraph (3)(A) of qualified aliens (as defined in section 1641(b) of this title) and victims of trafficking in persons (as defined in section 7105(b)(1)(C) of Title 22) or as granted status under section 101(a)(15)(T)(ii) of the Immigration and Nationality Act), the 7-year period described in subparagraph (A) shall be deemed to be a 9-year period during fiscal years 2009 through 2011 in the case of such a qualified alien or victim of trafficking who furnishes to the Commissioner of Social Security the declaration required under subclause (IV) (if applicable) and is described in subclause (III).

(II) ALIENS AND VICTIMS WHOSE BENEFITS CEASED IN PRIOR FISCAL YEARS.— Subject to clause (ii), beginning on September 30, 2008, any qualified alien (as defined in section 1641(b) of this title) or victim of trafficking in persons (as defined in section 7105(b)(1)(C) of Title 22 or as granted status under section 101(a)(15)(T)(ii) of the Immigration and Nationality Act) rendered ineligible for the specified Federal program described in paragraph (3)(A) during the period beginning on August 22, 1996, and ending on September 30, 2008, solely by reason of the termination of the 7-year period described in subparagraph (A) shall be eligible for such program for an additional 2-year period in accordance with this clause, if such qualified alien or victim of trafficking meets all other eligibility factors under title XVI of the Social Security Act, furnishes to the Commissioner of Social Security the declaration required under subclause (IV) (if applicable), and is described in subclause (III).

(III) ALIENS AND VICTIMS DESCRIBED.— For purposes of subclauses (I) and (II), a qualified alien or victim of trafficking described in this subclause is an alien or victim who—

(aa) has been a lawful permanent resident for less than 6 years and such status has not been abandoned, rescinded under section 246 of the Immigration and Nationality Act, or terminated through removal proceedings under section 240 of the Immigration and Nationality Act, and the Commissioner of Social Security has verified such status, through procedures established in consultation with the Secretary of Homeland Security;

(bb) has filed an application, within 4 years from the date the alien or victim began receiving supplemental security income benefits, to become a lawful permanent resident with the Secretary of Homeland Security, and the Commissioner of Social Security has verified, through procedures established in consultation with such Secretary, that such application is pending;

(cc) has been granted the status of Cuban and Haitian entrant, as defined in section 501(e) of the Refugee Education Assistance Act of 1980 (Public Law 96-422), for purposes of the specified Federal program described in paragraph (3)(A);

(dd) has had his or her deportation withheld by the Secretary of Homeland Security under section 243(h) of the Immigration and Nationality Act (as in effect immediately before the effective date of section 307 of division C of Public Law 104-208), or whose removal is withheld under section 241(b)(3) of such Act;

(ee) has not attained age 18; or

(ff) has attained age 70.

(IV) DECLARATION REQUIRED.—

(aa) IN GENERAL.—For purposes of subclauses (I) and (II), the declaration required under this subclause of a qualified alien or victim of trafficking described in either such subclause is a declaration under penalty of perjury stating that the alien or victim has made a good faith effort to pursue United States citizenship, as determined by the Secretary of Homeland Security. The Commissioner of Social Security shall develop criteria as needed, in consultation with the Secretary of Homeland Security, for consideration of such declarations.

(bb) EXCEPTION FOR CHILDREN.—A qualified alien or victim of trafficking described in subclause (I) or (II) who has not attained age 18 shall not be required to furnish to the Commissioner of Social Security a declaration described in item (aa) as a condition of being eligible for the specified Federal program described in paragraph (3)(A) for an additional 2-year period in accordance with this clause.

(V) PAYMENT OF BENEFITS TO ALIENS WHOSE BENEFITS CEASED IN PRIOR FISCAL YEARS.—Benefits paid to a qualified alien or victim described in subclause (II) shall be paid prospectively over the duration of the qualified alien's or victim's renewed eligibility.

(ii) SPECIAL RULE IN CASE OF PENDING OR APPROVED NATURALIZATION APPLICATION.— With respect to eligibility for benefits for the specified program described in paragraph (3)(A), paragraph (1) shall not apply during fiscal years 2009 through 2011 to an alien described in one of clauses (i) through (v) of subparagraph (A) or a victim of trafficking in persons (as defined in section 7105(b)(1)(C) of Title 22) or as granted status under section 101(a)(15)(T)(ii) of the Immigration and Nationality Act), if such alien or victim (including any such alien or victim rendered ineligible for the specified Federal program described in paragraph (3)(A) during the period beginning on August 22, 1996, and ending on September 30, 2008, solely by reason of the termination of the 7-year period described in subparagraph

(A)) has filed an application for naturalization that is pending before the Secretary of Homeland Security or a United States district court based on section 336(b) of the Immigration and Nationality Act, or has been approved for naturalization but not yet sworn in as a United States citizen, and the Commissioner of Social Security has verified, through procedures established in consultation with the Secretary of Homeland Security, that such application is pending or has been approved.

(3) SPECIFIED FEDERAL PROGRAM DEFINED.—For purposes of this title, the term "specified Federal program" means any of the following:

(A) SSI.—The supplemental security income program under title XVI of the Social Security Act, including supplementary payments pursuant to an agreement for Federal administration under section 1616(a) of the Social Security Act and payments pursuant to an agreement entered into under section 212(b) of Public Law 93-66.

(B) FOOD STAMPS.—The food stamp program as defined in section 3(l) of the Food Stamp Act of 1977.

(b) LIMITED ELIGIBILITY FOR DESIGNATED FEDERAL PROGRAMS.—

(1) IN GENERAL.—Notwithstanding any other provision of law and except as provided in section 403 and paragraph (2), a State is authorized to determine the eligibility of an alien who is a qualified alien (as defined in section 431) for any designated Federal program (as defined in paragraph (3)).

(2) EXCEPTIONS.—Qualified aliens under this paragraph shall be eligible for any designated Federal program.

(A) TIME-LIMITED EXCEPTION FOR REFUGEES AND ASYLEES.—

(i) MEDICAID.—With respect to the designated Federal program described in paragraph (3)(C), paragraph (1) shall not apply to an alien until 7 years after the date—

(I) an alien is admitted to the United States as a refugee under section 207 of the Immigration and Nationality Act;

(II) an alien is granted asylum under section 208 of such Act;

(III) an alien's deportation is withheld under section 243(h) of such Act (as in effect immediately before the effective date of section 307 of division C of Public Law 104-208) or section 241(b)(3) of such Act (as amended by section 305(a) of division C of Public Law 104-208);

(IV) an alien is granted status as a Cuban and Haitian entrant (as defined in section 501(e) of the Refugee Education Assistance Act of 1980); or

(V) an alien admitted to the United States as an Amerasian immigrant as described in subsection (a)(2)(A)(i)(V) until 5 years after the date of such alien's entry into the United States.

(ii) OTHER DESIGNATED FEDERAL PROGRAMS.—With respect to the designated Federal programs under paragraph (3) (other than subparagraph (C)), paragraph (1) shall not apply to an alien until 5 years after the date—

(I) an alien is admitted to the United States as a refugee under section 207 of the Immigration and Nationality Act;

(II) an alien is granted asylum under section 208 of such Act;

(III) an alien's deportation is withheld under section 243(h) of such Act;

(IV) an alien is granted status as a Cuban and Haitian entrant (as defined in section 501(e) of the Refugee Education Assistance Act of 1980); or

(V) an alien admitted to the United States as an Amerasian immigrant as described in subsection (a)(2)(A)(i)(V) until 5 years after the date of such alien's entry into the United States.

(B) CERTAIN PERMANENT RESIDENT ALIENS.—An alien who—

(i) is lawfully admitted to the United States for permanent residence under the Immigration and Nationality Act; and

(ii)(I) has worked 40 qualifying quarters of coverage as defined under title II of the Social Security Act or can be credited with such qualifying quarters as provided under section 435, and (II) in the case of any such qualifying quarter creditable for any period beginning after December 31, 1996, did not receive any Federal means-tested public benefit (as provided under section 403) during any such period.

(C) VETERAN AND ACTIVE DUTY EXCEPTION.—An alien who is lawfully residing in any State and is—

(i) a veteran (as defined in section 101, 1101, or 1301, or as described in section 107 of title 38, United States Code) with a discharge characterized as an honorable discharge and not on account of alienage and who fulfills the minimum active-duty service requirements of section 5303A(d) of title 38, United States Code,

(ii) on active duty (other than active duty for training) in the Armed Forces of the United States, or

(iii) the spouse or unmarried dependent child of an individual described in clause (i) or (ii) or the unremarried surviving spouse of an individual described in clause (i) or (ii) who is deceased if the marriage fulfills the requirements of section 1304 of title 38, United States Code.

(D) TRANSITION FOR THOSE CURRENTLY RECEIVING BENEFITS.—An alien who on the date of the enactment of this Act is lawfully residing in any State and is receiving benefits under such program on the date of the enactment of this Act shall continue to be eligible to receive such benefits until January 1, 1997.

(E) MEDICAID EXCEPTION FOR CERTAIN INDIANS.—With respect to eligibility for benefits for the program defined in paragraph (3)(C) (relating to the medicaid program), section 401(a) and paragraph (1) shall not apply to any individual described in subsection (a)(2)(G).

(F) MEDICAID EXCEPTION FOR ALIENS RECEIVING SSI.—An alien who is receiving benefits under the program defined in subsection (a)(3)(A) (relating to the supplemental security income program) shall be eligible for medical assistance under a State plan under title XIX of the Social Security Act (42 U.S.C. 1396 et seq.) under the same terms and conditions that apply to other recipients of benefits under the program defined in such subsection.

(3) DESIGNATED FEDERAL PROGRAM DEFINED.—For purposes of this title, the term "designated Federal program" means any of the following:

(A) TEMPORARY ASSISTANCE FOR NEEDY FAMILIES.—The program of block grants to States for temporary assistance for needy families under part A of title IV of the Social Security Act.

(B) SOCIAL SERVICES BLOCK GRANT.—The program of block grants to States for social services under title XX of the Social Security Act.

(C) MEDICAID.—A State plan approved under title XIX of the Social Security Act, other than medical assistance described in section 401(b)(1)(A).

Sec. 403. [8 U.S.C. 1613]
FIVE-YEAR LIMITED ELIGIBILITY OF QUALIFIED ALIENS FOR FEDERAL MEANS-TESTED PUBLIC BENEFIT.

(a) IN GENERAL.—Notwithstanding any other provision of law and except as provided in subsections (b), (c), and (d), an alien who is a qualified alien (as defined in section 431) and who enters the United States on or after the date of the enactment of this Act is not eligible for any Federal means-tested public benefit for a period of 5 years beginning on the date of the alien's entry into the United States with a status within the meaning of the term "qualified alien".

(b) EXCEPTIONS.—The limitation under subsection (a) shall not apply to the following aliens:

(1) EXCEPTION FOR REFUGEES AND ASYLEES.—

(A) An alien who is admitted to the United States as a refugee under section 207 of the Immigration and Nationality Act.

(B) An alien who is granted asylum under section 208 of such Act.

(C) An alien whose deportation is being withheld under section 243(h) of such Act (as in effect immediately before the effective date of section 307 of division C of Public Law 104-208) or section 241(b)(3) of such Act (as amended by section 305(a) of division C of Public Law 104-208).

(D) An alien who is a Cuban and Haitian entrant as defined in section 501(e) of the Refugee Education Assistance Act of 1980.

(E) An alien admitted to the United States as an Amerasian immigrant as described in section 402(a)(2)(A)(i)(V).

(2) VETERAN AND ACTIVE DUTY EXCEPTION.—An alien who is lawfully residing in any State and is—

(A) a veteran (as defined in section 101, 1101, or 1301, or as described in section 107 of title 38, United States Code) with a discharge characterized as an honorable discharge and not on account of alienage and who fulfills the minimum active-duty service requirements of section 5303A(d) of title 38, United States Code,

(B) on active duty (other than active duty for training) in the Armed Forces of the United States, or

(C) the spouse or unmarried dependent child of an individual described in subparagraph (A) or (B) or the unremarried surviving spouse of an individual described in clause (i) or (ii)[321] who is deceased if the marriage fulfills the requirements of section 1304 of title 38, United States Code.

(c) APPLICATION OF TERM FEDERAL MEANS-TESTED PUBLIC BENEFIT.—

(1) The limitation under subsection (a) shall not apply to assistance or benefits under paragraph (2).

(2) Assistance and benefits under this paragraph are as follows:

(A) Medical assistance described in section 401(b)(1)(A).

(B) Short-term, non-cash, in-kind emergency disaster relief.

(C) Assistance or benefits under the Richard B. Russell National School Lunch Act.

(D) Assistance or benefits under the Child Nutrition Act of 1966.

(E) Public health assistance (not including any assistance under title XIX of the Social Security Act) for immunizations with respect to immunizable diseases and for testing and treatment of symptoms of communicable diseases whether or not such symptoms are caused by a communicable disease.

(F) Payments for foster care and adoption assistance under parts B and E of title IV of the Social Security Act for a parent or a child who would, in the absence of subsection (a), be eligible to have such payments made on the child's behalf under such part, but only if the foster or adoptive parent (or parents) of such child is a qualified alien (as defined in section 431).

(G) Programs, services, or assistance (such as soup kitchens, crisis counseling and intervention, and short-term shelter) specified by the Attorney General, in the Attorney General's sole and unreviewable discretion after consultation with appropriate Federal agencies and departments, which (i) deliver in-kind services at the community level, including through public or private nonprofit agencies; (ii) do not condition the provision of assistance, the amount of assistance provided, or the cost of assistance provided on the individual recipient's income or resources; and (iii) are necessary for the protection of life or safety.

(H) Programs of student assistance under titles IV, V, IX, and X of the Higher Education Act of 1965, and titles III, VII, and VIII of the Public Health Service Act.

(I) Means-tested programs under the Elementary and Secondary Education Act of 1965.

(J) Benefits under the Head Start Act.

(K)Benefits under title I of the Workforce Innovation and Opportunity Act.

(L) Assistance or benefits provided to individuals under the age of 18 under the Food Stamp Act of 1977 (7 U.S.C. 2011 et seq.).

(d) BENEFITS FOR CERTAIN GROUPS.—Notwithstanding any other provision of law, the limitations under section 401(a) and subsection (a) shall not apply to—

(1) an individual described in section 402(a)(2)(G), but only with respect to the programs specified in subsections (a)(3) and (b)(3)(C) of section 402; or

(2) an individual, spouse, or dependent described in section 402(a)(2)(K), but only with respect to the specified Federal program described in section 402(a)(3)(B).

Sec. 404. [8 U.S.C. 1614]
NOTIFICATION AND INFORMATION REPORTING.

(a) NOTIFICATION.—Each Federal agency that administers a program to which section 401, 402, or 403 applies shall, directly or through the States, post information and provide general notification to the public and to program recipients of the changes regarding eligibility for any such program pursuant to this subtitle.

[321] So in law. Probably intended to refer to subparagraph (A) or (B).

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Subtitle B—**ELIGIBILITY FOR STATE AND LOCAL PUBLIC BENEFITS PROGRAMS**

Sec. 411. [8 U.S.C. 1621]
ALIENS WHO ARE NOT QUALIFIED ALIENS OR NONIMMIGRANTS INELIGIBLE FOR STATE AND LOCAL PUBLIC BENEFITS.

(a) IN GENERAL.—Notwithstanding any other provision of law and except as provided in subsections (b) and (d), an alien who is not—

(1) a qualified alien (as defined in section 431),

(2) a nonimmigrant under the Immigration and Nationality Act, or

(3) an alien who is paroled into the United States under section 212(d)(5) of such Act for less than one year,

is not eligible for any State or local public benefit (as defined in subsection (c)).

(b) EXCEPTIONS.—Subsection (a) shall not apply with respect to the following State or local public benefits:

(1) Assistance for health care items and services that are necessary for the treatment of an emergency medical condition (as defined in section 1903(v)(3) of the Social Security Act) of the alien involved and are not related to an organ transplant procedure.

(2) Short-term, non-cash, in-kind emergency disaster relief.

(3) Public health assistance for immunizations with respect to immunizable diseases and for testing and treatment of symptoms of communicable diseases whether or not such symptoms are caused by a communicable disease.

(4) Programs, services, or assistance (such as soup kitchens, crisis counseling and intervention, and short-term shelter) specified by the Attorney General, in the Attorney General's sole and unreviewable discretion after consultation with appropriate Federal agencies and departments, which (A) deliver in-kind services at the community level, including through public or private nonprofit agencies; (B) do not condition the provision of assistance, the amount of assistance provided, or the cost of assistance provided on the individual recipient's income or resources; and (C) are necessary for the protection of life or safety.

(c) STATE OR LOCAL PUBLIC BENEFIT DEFINED.—

(1) Except as provided in paragraphs (2) and (3), for purposes of this subtitle the term "State or local public benefit" means—

(A) any grant, contract, loan, professional license, or commercial license provided by an agency of a State or local government or by appropriated funds of a State or local government; and

(B) any retirement, welfare, health, disability, public or assisted housing, postsecondary education, food assistance, unemployment benefit, or any other similar benefit for which payments or assistance are provided to an individual, household, or family eligibility unit by an agency of a State or local government or by appropriated funds of a State or local government.

(2) Such term shall not apply—

(A) to any contract, professional license, or commercial license for a nonimmigrant whose visa for entry is related to such employment in the United States, or to a citizen of a freely associated state, if section 141 of the applicable compact of free association approved in Public Law 99-239 or 99-658 (or a successor provision) is in effect;

(B) with respect to benefits for an alien who as a work authorized nonimmigrant or as an alien lawfully admitted for permanent residence under the Immigration and Nationality Act qualified for such benefits and for whom the United States under reciprocal treaty agreements is required to pay benefits, as determined by the Secretary of State, after consultation with the Attorney General; or

(C) to the issuance of a professional license to, or the renewal of a professional license by, a foreign national not physically present in the United States.

(3) Such term does not include any Federal public benefit under section 401(c).

(d) STATE AUTHORITY TO PROVIDE FOR ELIGIBILITY OF ILLEGAL ALIENS FOR STATE AND LOCAL PUBLIC BENEFITS.—A State may provide that an alien who is not lawfully present in the United States is eligible for any State or local public benefit for which such alien would otherwise be ineligible under subsection

(a) only through the enactment of a State law after the date of the enactment of this Act which affirmatively provides for such eligibility.

Sec. 412. [8 U.S.C. 1622]
STATE AUTHORITY TO LIMIT ELIGIBILITY OF QUALIFIED ALIENS FOR STATE PUBLIC BENEFITS.

(a) IN GENERAL.—Notwithstanding any other provision of law and except as provided in subsection (b), a State is authorized to determine the eligibility for any State public benefits of an alien who is a qualified alien (as defined in section 431), a nonimmigrant under the Immigration and Nationality Act, or an alien who is paroled into the United States under section 212(d)(5) of such Act for less than one year.

(b) EXCEPTIONS.—Qualified aliens under this subsection shall be eligible for any State public benefits.

(1) TIME-LIMITED EXCEPTION FOR REFUGEES AND ASYLEES.—

(A) An alien who is admitted to the United States as a refugee under section 207 of the Immigration and Nationality Act until 5 years after the date of an alien's entry into the United States.

(B) An alien who is granted asylum under section 208 of such Act until 5 years after the date of such grant of asylum.

(C) An alien whose deportation is being withheld under section 243(h) of such Act (as in effect immediately before the effective date of section 307 of division C of Public Law 104-208) or section 241(b)(3) of such Act (as amended by section 305(a) of division C of Public Law 104-208) until 5 years after such withholding.

(D) An alien who is a Cuban and Haitian entrant as defined in section 501(e) of the Refugee Education Assistance Act of 1980 until 5 years after the alien is granted such status.

(E) An alien admitted to the United States as an Amerasian immigrant as described in section 402(a)(2)(A)(i)(V).

(2) CERTAIN PERMANENT RESIDENT ALIENS.—An alien who—

(A) is lawfully admitted to the United States for permanent residence under the Immigration and Nationality Act; and

(B)(i) has worked 40 qualifying quarters of coverage as defined under title II of the Social Security Act or can be credited with such qualifying quarters as provided under section 435, and (ii) in the case of any such qualifying quarter creditable for any period beginning after December 31, 1996, did not receive any Federal means-tested public benefit (as provided under section 403) during any such period.

(3) VETERAN AND ACTIVE DUTY EXCEPTION.—An alien who is lawfully residing in any State and is—

(A) a veteran (as defined in section 101, 1101, or 1301, or as described in section 107 of title 38, United States Code) with a discharge characterized as an honorable discharge and not on account of alienage and who fulfills the minimum active-duty service requirements of section 5303A(d) of title 38, United States Code,

(B) on active duty (other than active duty for training) in the Armed Forces of the United States, or

(C) the spouse or unmarried dependent child of an individual described in subparagraph (A) or (B) or the unremarried surviving spouse of an individual described in clause (i) or (ii)[322] who is deceased if the marriage fulfills the requirements of section 1304 of title 38, United States Code.

(4) TRANSITION FOR THOSE CURRENTLY RECEIVING BENEFITS.—An alien who on the date of the enactment of this Act is lawfully residing in any State and is receiving benefits on the date of the enactment of this Act shall continue to be eligible to receive such benefits until January 1, 1997.

Sec. 413. [8 U.S.C. 1625]
AUTHORIZATION FOR VERIFICATION OF ELIGIBILITY FOR STATE AND LOCAL PUBLIC BENEFITS.

A State or political subdivision of a State is authorized to require an applicant for State and local public benefits (as defined in section 411(c)) to provide proof of eligibility.

[322] So in law. Probably intended to refer to subparagraph (A) or (B).

Subtitle C—Attribution of Income and Affidavits of Support

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Subtitle D—General Provisions

Sec. 431. [8 U.S.C. 1641]
DEFINITIONS.

(a) IN GENERAL.—Except as otherwise provided in this title, the terms used in this title have the same meaning given such terms in section 101(a) of the Immigration and Nationality Act.

(b) QUALIFIED ALIEN.—For purposes of this title, the term "qualified alien" means an alien who, at the time the alien applies for, receives, or attempts to receive a Federal public benefit, is—

(1) an alien who is lawfully admitted for permanent residence under the Immigration and Nationality Act,

(2) an alien who is granted asylum under section 208 of such Act,

(3) a refugee who is admitted to the United States under section 207 of such Act,

(4) an alien who is paroled into the United States under section 212(d)(5) of such Act for a period of at least 1 year,

(5) an alien whose deportation is being withheld under section 243(h) of such Act (as in effect immediately before the effective date of section 307 of division C of Public Law 104-208) or section 241(b)(3) of such Act (as amended by section 305(a) of division C of Public Law 104-208),

(6) an alien who is granted conditional entry pursuant to section 203(a)(7) of such Act as in effect prior to April 1, 1980;[323] or

(7) an alien who is a Cuban and Haitian entrant (as defined in section 501(e) of the Refugee Education Assistance Act of 1980).

(c) TREATMENT OF CERTAIN BATTERED ALIENS AS QUALIFIED ALIENS.—For purposes of this title, the term "qualified alien" includes—

(1) an alien who—

(A) has been battered or subjected to extreme cruelty in the United States by a spouse or a parent, or by a member of the spouse or parent's family residing in the same household as the alien and the spouse or parent consented to, or acquiesced in, such battery or cruelty, but only if (in the opinion of the agency providing such benefits) there is a substantial connection between such battery or cruelty and the need for the benefits to be provided; and

(B) has been approved or has a petition pending which sets forth a prima facie case for—

(i) status as a spouse or a child of a United States citizen pursuant to clause (ii), (iii), or (iv) of section 204(a)(1)(A) of the Immigration and Nationality Act,

(ii) classification pursuant to clause (ii) or (iii) of section 204(a)(1)(B) of the Act (as in effect prior to April 1, 1997),

(iii) suspension of deportation under section 244(a)(3) of the Immigration and Nationality Act (as in effect before the title III-A effective date in section 309 of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996).[324]

(iv) status as a spouse or child of a United States citizen pursuant to clause (i) of section 204(a)(1)(A) of such Act, or classification pursuant to clause (i) of section 204(a)(1)(B) of such Act;

(v) cancellation of removal pursuant to section 240A(b)(2) of such Act;

(2) an alien—

(A) whose child has been battered or subjected to extreme cruelty in the United States by a spouse or a parent of the alien (without the active participation of the alien in the battery or cruelty), or by a member of the spouse or parent's family residing in the same household as the alien and the spouse or parent consented or acquiesced to such battery or cruelty, and the alien did not actively participate in such battery or cruelty, but only if (in the opinion of the agency

[323] So in law.
[324] So in law.

providing such benefits) there is a substantial connection between such battery or cruelty and the need for the benefits to be provided; and

(B) who meets the requirement of subparagraph (B) of paragraph (1); or

(3) an alien child who—

(A) resides in the same household as a parent who has been battered or subjected to extreme cruelty in the United States by that parent's spouse or by a member of the spouse's family residing in the same household as the parent and the spouse consented or acquiesced to such battery or cruelty, but only if (in the opinion of the agency providing such benefits) there is a substantial connection between such battery or cruelty and the need for the benefits to be provided; and

(B) who meets the requirement of subparagraph (B) of paragraph (1); or

(4) an alien who has been granted nonimmigrant status under section 101(a)(15)(T) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(15)(T)) or who has a pending application that sets forth a prima facie case for eligibility for such nonimmigrant status.

This subsection shall not apply to an alien during any period in which the individual responsible for such battery or cruelty resides in the same household or family eligibility unit as the individual subjected to such battery or cruelty.

After consultation with the Secretaries of Health and Human Services, Agriculture, and Housing and Urban Development, the Commissioner of Social Security, and with the heads of such Federal agencies administering benefits as the Attorney General considers appropriate, the Attorney General shall issue guidance (in the Attorney General's sole and unreviewable discretion) for purposes of this subsection and section 421(f), concerning the meaning of the terms "battery" and "extreme cruelty", and the standards and methods to be used for determining whether a substantial connection exists between battery or cruelty suffered and an individual's need for benefits under a specific Federal, State, or local program.

Sec. 432. [8 U.S.C. 1642]
VERIFICATION OF ELIGIBILITY FOR FEDERAL PUBLIC BENEFITS.

(a) IN GENERAL.—(1) Not later than 18 months after the date of the enactment of this Act, the Attorney General of the United States, after consultation with the Secretary of Health and Human Services, shall promulgate regulations requiring verification that a person applying for a Federal public benefit (as defined in section 401(c)), to which the limitation under section 401 applies, is a qualified alien and is eligible to receive such benefit. Such regulations shall, to the extent feasible, require that information requested and exchanged be similar in form and manner to information requested and exchanged under section 1137 of the Social Security Act. Not later than 90 days after the date of the enactment of the Balanced Budget Act of 1997, the Attorney General of the United States, after consultation with the Secretary of Health and Human Services, shall issue interim verification guidance.

(2) Not later than 18 months after the date of the enactment of this Act, the Attorney General, in consultation with the Secretary of Health and Human Services, shall also establish procedures for a person applying for a Federal public benefit (as defined in section 401(c)) to provide proof of citizenship in a fair and nondiscriminatory manner.

(3) Not later than 90 days after the date of the enactment of the Balanced Budget Act of 1997, the Attorney General shall promulgate regulations which set forth the procedures by which a State or local government can verify whether an alien applying for a State or local public benefit is a qualified alien, a nonimmigrant under the Immigration and Nationality Act, or an alien paroled into the United States under section 212(d)(5) of the Immigration and Nationality Act for less than 1 year, for purposes of determining whether the alien is ineligible for benefits under section 411 of this Act.

(b) STATE COMPLIANCE.—Not later than 24 months after the date the regulations described in subsection (a) are adopted, a State that administers a program that provides a Federal public benefit shall have in effect a verification system that complies with the regulations.

(c) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated such sums as may be necessary to carry out the purpose of this section.

(d) NO VERIFICATION REQUIREMENT FOR NONPROFIT CHARITABLE ORGANIZATIONS.—Subject to subsection (a), a nonprofit charitable organization, in providing any Federal public benefit (as defined in section 401(c)) or any State or local public benefit (as defined in section 411(c)), is not required under this title to determine, verify, or otherwise require proof of eligibility of any applicant for such benefits.

Sec. 433. [8 U.S.C. 1643]
STATUTORY CONSTRUCTION.

(a) LIMITATION.—

(1) Nothing in this title may be construed as an entitlement or a determination of an individual's eligibility or fulfillment of the requisite requirements for any Federal, State, or local governmental program, assistance, or benefits. For purposes of this title, eligibility relates only to the general issue of eligibility or ineligibility on the basis of alienage.

(2) Nothing in this title may be construed as addressing alien eligibility for a basic public education as determined by the Supreme Court of the United States under Plyler v. Doe (457 U.S. 202)(1982).

(b) BENEFIT ELIGIBILITY LIMITATIONS APPLICABLE ONLY WITH RESPECT TO ALIENS PRESENT IN THE UNITED STATES.—Notwithstanding any other provision of this title, the limitations on eligibility for benefits under this title shall not apply to eligibility for benefits of aliens who are not residing, or present, in the United States with respect to—

(1) wages, pensions, annuities, and other earned payments to which an alien is entitled resulting from employment by, or on behalf of, a Federal, State, or local government agency which was not prohibited during the period of such employment or service under section 274A or other applicable provision of the Immigration and Nationality Act; or

(2) benefits under laws administered by the Secretary of Veterans Affairs.

(c) NOT APPLICABLE TO FOREIGN ASSISTANCE.—This title does not apply to any Federal, State, or local governmental program, assistance, or benefits provided to an alien under any program of foreign assistance as determined by the Secretary of State in consultation with the Attorney General.

(d) SEVERABILITY.—If any provision of this title or the application of such provision to any person or circumstance is held to be unconstitutional, the remainder of this title and the application of the provisions of such to any person or circumstance shall not be affected thereby.

Sec. 434. [8 U.S.C. 1644]
COMMUNICATION BETWEEN STATE AND LOCAL GOVERNMENT AGENCIES AND THE IMMIGRATION AND NATURALIZATION SERVICE.

Notwithstanding any other provision of Federal, State, or local law, no State or local government entity may be prohibited, or in any way restricted, from sending to or receiving from the Immigration and Naturalization Service information regarding the immigration status, lawful or unlawful, of an alien in the United States.

Sec. 435. [8 U.S.C. 1645]
QUALIFYING QUARTERS.

For purposes of this title, in determining the number of qualifying quarters of coverage under title II of the Social Security Act an alien shall be credited with—

(1) all of the qualifying quarters of coverage as defined under title II of the Social Security Act worked by a parent of such alien before the date on which the alien attains age 18, and

(2) all of the qualifying quarters worked by a spouse of such alien during their marriage and the alien remains married to such spouse or such spouse is deceased.

No such qualifying quarter of coverage that is creditable under title II of the Social Security Act for any period beginning after December 31, 1996, may be credited to an alien under paragraph (1) or (2) if the parent or spouse (as the case may be) of such alien received any Federal means-tested public benefit (as provided under section 403) during the period for which such qualifying quarter of coverage is so credited. Notwithstanding section 6103 of the Internal Revenue Code of 1986, the Commissioner of Social Security is authorized to disclose quarters of coverage information concerning an alien and an alien's spouse or parents to a government agency for the purposes of this title.

Sec. 436. [8 U.S.C. 1646]
DERIVATIVE ELIGIBILITY FOR BENEFITS.

Notwithstanding any other provision of law, an alien who under the provisions of this title is ineligible for benefits under the food stamp program (as defined in section 402(a)(3)(B)) shall not be eligible for such benefits because the alien receives benefits under the supplemental security income program (as defined in section 402(a)(3)(A)).

* * * * * * *

END OF STATUTE

USE OF ASSISTED HOUSING BY ALIENS

HOUSING AND COMMUNITY DEVELOPMENT ACT OF 1980
[Public Law 96-399; 94 Stat. 1614, 1637; 42 U.S.C. 1436a]

Sec. 214. [42 U.S.C. 1436a]
RESTRICTION ON USE OF ASSISTED HOUSING.

(a) Notwithstanding any other provision of law, the applicable Secretary may not make financial assistance available for the benefit of any alien unless that alien is a resident of the United States and is—

(1) an alien lawfully admitted for permanent residence as an immigrant as defined by sections 101(a)(15) and 101(a)(20) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(15) and 8 U.S.C. 1101(a)(20)), excluding, among others, alien visitors, tourists, diplomats, and students who enter the United States temporarily with no intention of abandoning their residence in a foreign country;

(2) an alien who entered the United States prior to June 30, 1948, or such subsequent date as is enacted by law, continuously maintained his or her residence in the United States since then, and is not ineligible for citizenship, but who is deemed to be lawfully admitted for permanent residence as a result of an exercise of discretion by the Attorney General pursuant to section 249 of the Immigration and Nationality Act (8 U.S.C. 1259);

(3) an alien who is lawfully present in the United States pursuant to an admission under section 207 of the Immigration and Nationality Act (8 U.S.C. 1157) or pursuant to the granting of asylum (which has not been terminated) under section 208 of such Act (8 U.S.C. 1158);

(4) an alien who is lawfully present in the United States as a result of an exercise of discretion by the Attorney General for emergent reasons or reasons deemed strictly in the public interest pursuant to section 212(d)(5) of the Immigration and Nationality Act (8 U.S.C. 1182(d)(5));

(5) an alien who is lawfully present in the United States as a result of the Attorney General's withholding deportation pursuant to section 241(b)(3) of the Immigration and Nationality Act (8 U.S.C. 1253(h));

(6) an alien lawfully admitted for temporary or permanent residence under section 245A of the Immigration and Nationality Act; or

(7) an alien who is lawfully resident in the United States and its territories and possessions under section 141 of the Compacts of Free Association between the Government of the United States and the Governments of the Marshall Islands, the Federated States of Micronesia and Palau while the applicable section is in effect: *Provided*, That, within Guam [any][325] any citizen or national of the United States shall be entitled to a preference or priority in receiving financial assistance before any such alien who is otherwise eligible for assistance.

(b)(1) For purposes of this section the term "financial assistance" means financial assistance made available pursuant to the United States Housing Act of 1937, Section 235, or 236 of the National Housing Act, the direct loan program under section 502 of the Housing Act of 1949 or section 502(c)(5)(D), 504, 521(a)(2)(A), or 542 of such Act, subtitle A of title III of the Cranston-Gonzalez National Affordable Housing Act, or section 101 of the Housing and Urban Development Act of 1965.

(2) If the eligibility for financial assistance of at least one member of a family has been affirmatively established under the program of financial assistance and under this section, and the ineligibility of one or more family members has not been affirmatively established under this section, any financial assistance made available to that family by the applicable Secretary shall be prorated, based on the number of individuals in the family for whom eligibility has been affirmatively established under the program of financial assistance and under this section, as compared with the total number of individuals who are members of the family.

(c)(1) If, following completion of the applicable hearing process, financial assistance for any individual receiving such assistance on the date of the enactment of the Housing and Community Development Act of 1987 is to be terminated, the public housing agency or other local governmental entity involved (in the case of public housing or assistance under section 8 of the United States Housing Act of 1937) or the applicable Secretary (in the case of any other financial assistance) shall take one of the following actions:

[325] This is a drafting error. Section 113 of the Housing Opportunity Through Modernization Act (P.L. 114-201, approved July 29, 2016) added a second "any" to this paragraph.

(A) Permit the continued provision of financial assistance, if necessary to avoid the division of a family in which the head of household or spouse is a citizen of the United States, a national of the United States, or an alien resident of the United States described in any of paragraphs (1) through (6) of subsection (a). For purposes of this paragraph, the term "family" means a head of household, any spouse, any parents of the head of household, any parents of the spouse, and any children of the head of household or spouse. Financial assistance continued under this subparagraph for a family may be provided only on a prorated basis, under which the amount of financial assistance is based on the percentage of the total number of members of the family that are eligible for that assistance under the program of financial assistance and under this section.

(B)(i) Defer the termination of financial assistance, if necessary to permit the orderly transition of the individual and any family members involved to other affordable housing.

(ii) Except as provided in clause (iii), any deferral under this subparagraph shall be for a 6-month period and may be renewed by the public housing agency or other entity involved for an aggregate period of 18 months. At the beginning of each deferral period, the public housing agency or other entity involved shall inform the individual and family members of their ineligibility for financial assistance and offer them other assistance in finding other affordable housing.

(iii) The time period described in clause (ii) shall not apply in the case of a refugee under section 207 of the Immigration and Nationality Act or an individual seeking asylum under section 208 of that Act.

(2) Notwithstanding any other provision of law, the applicable Secretary may not make financial assistance available for the benefit of—

(A) any alien who—

(i) has a residence in a foreign country that such alien has no intention of abandoning;

(ii) is a bona fide student qualified to pursue a full course of study; and

(iii) is admitted to the United States temporarily and solely for purposes of pursuing such a course of study at an established institution of learning or other recognized place of study in the United States, particularly designated by such alien and approved by the Attorney General after consultation with the Department of Education of the United States, which institution or place of study shall have agreed to report to the Attorney General the termination of attendance of each nonimmigrant student (and if any such institution of learning or place of study fails to make such reports promptly the approval shall be withdrawn); and

(B) the alien spouse and minor children of any alien described in subparagraph (A), if accompanying such alien or following to join such alien.

(d) The following conditions apply with respect to financial assistance being or to be provided for the benefit of an individual:

(1)(A) There must be a declaration in writing by the individual (or, in the case of an individual who is a child, by another on the individual's behalf), under penalty of perjury, stating whether or not the individual is a citizen or national of the United States, and, if that individual is not a citizen or national of the United States, that the individual is in a satisfactory immigration status. If the declaration states that the individual is not a citizen or national of the United States and that the individual is younger than 62 years of age, the declaration shall be verified by the Immigration and Naturalization Service. If the declaration states that the individual is a citizen or national of the United States, the applicable Secretary, or the agency administering assistance covered by this section, may request verification of the declaration by requiring presentation of documentation that the applicable Secretary considers appropriate, including a United States passport, resident alien card, alien registration card, social security card, or other documentation.

(B) In this subsection, the term "satisfactory immigration status" means an immigration status which does not make the individual ineligible for financial assistance.

(2) If such an individual is not a citizen or national of the United States, is not 62 years of age or older, and is receiving financial assistance on the date of enactment of the Use of Assisted Housing by Aliens Act of 1996[326] or applying for financial assistance on or after that date, there must be presented either—

[326] September 30, 1996.

(A) alien registration documentation or other proof of immigration registration from the Immigration and Naturalization Service that contains the individual's alien admission number or alien file number (or numbers if the individual has more than one number), or

(B) such other documents as the applicable Secretary determines constitutes reasonable evidence indicating a satisfactory immigration status.

In the case of an individual applying for financial assistance on or after the date of enactment of the Use of Assisted Housing by Aliens Act of 19961, the applicable Secretary may not provide any such assistance for the benefit of that individual before documentation is presented and verified under paragraph (3) or (4).

(3) If the documentation described in paragraph (2)(A) is presented, the applicable Secretary shall utilize the individual's alien file or alien admission number to verify with the Immigration and Naturalization Service the individual's immigration status through an automated or other system (designated by the Service for use with States) that—

(A) utilizes the individual's name, file number, admission number, or other means permitting efficient verification, and

(B) protects the individual's privacy to the maximum degree possible.

(4) In the case of such an individual who is not a citizen or national of the United States, is not 62 years of age or older, and is receiving financial assistance on the date of enactment of the Use of Assisted Housing by Aliens Act of 19961 or applying for financial assistance on or after that date, if, at the time of application or recertification for financial assistance, the statement described in paragraph (1) is submitted but the documentation required under paragraph (2) is not presented or if the documentation required under paragraph (2)(A) is presented but such documentation is not verified under paragraph (3)—

(A) the applicable Secretary—

(i) shall provide a reasonable opportunity, not to exceed 30 days, to submit to the applicable Secretary evidence indicating a satisfactory immigration status, or to appeal to the Immigration and Naturalization Service the verification determination of the Immigration and Naturalization Service under paragraph (3),

(ii) in the case of any individual receiving assistance on the date of enactment of the Use of Assisted Housing by Aliens Act of 1996, may not delay, deny, reduce, or terminate the eligibility of that individual for financial assistance on the basis of the immigration status of that individual until the expiration of that 30-day period; and

(iii) in the case of any individual applying for financial assistance on or after the date of enactment of the Use of Assisted Housing by Aliens Act of 1996, may not deny the application for such assistance on the basis of the immigration status of that individual until the expiration of that 30-day period; and

(B) if any documents or additional information are submitted as evidence under subparagraph (A), or if appeal is made to the Immigration and Naturalization Service with respect to the verification determination of the Service under paragraph (3)—

(i) the applicable Secretary shall transmit to the Immigration and Naturalization Service photostatic or other similar copies of such documents or additional information for official verification,

(ii) pending such verification or appeal, the applicable Secretary may not—

(I) in the case of any individual receiving assistance on the date of enactment of the Use of Assisted Housing by Aliens Act of 1996[327], delay, deny, reduce, or terminate the eligibility of that individual for financial assistance on the basis of the immigration status of that individual; and

(II) in the case of any individual applying for financial assistance on or after the date of enactment of the Use of Assisted Housing by Aliens Act of 19961, deny the application for such assistance on the basis of the immigration status of that individual; and

(iii) the applicable Secretary shall not be liable for the consequences of any action, delay, or failure of the Service to conduct such verification.

(5) If the applicable Secretary determines, after complying with the requirements of paragraph (4), that such an individual is not in a satisfactory immigration status, the applicable Secretary shall—

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(A) deny the application of that individual for financial assistance or terminate the eligibility of that individual for financial assistance, as applicable;

(B) provide that the individual may request a fair hearing during the 30-day period beginning upon receipt of the notice under subparagraph (C); and

(C) provide to the individual written notice of the determination under this paragraph, the right to a fair hearing process, and the time limitation for requesting a hearing under subparagraph (C).

(6) The applicable Secretary shall terminate the eligibility for financial assistance of an individual and the members of the household of the individual, for a period of not less than 24 months, upon determining that such individual has knowingly permitted another individual who is not eligible for such assistance to reside in the public or assisted housing unit of the individual. This provision shall not apply to a family if the ineligibility of the ineligible individual at issue was considered in calculating any proration of assistance provided for the family.

For purposes of this subsection, the term "applicable Secretary" means the applicable Secretary, a public housing agency, or another entity that determines the eligibility of an individual for financial assistance.

(e) The applicable Secretary shall not take any compliance, disallowance, penalty, or other regulatory action against an entity with respect to any error in the entity's determination to make an individual eligible for financial assistance based on citizenship or immigration status—

(1) if the entity has provided such eligibility based on a verification of satisfactory immigration status by the Immigration and Naturalization Service,

(2) because the entity, under subsection (d)(4)(A)(ii) (or under any alternative system for verifying immigration status with the Immigration and Naturalization Service authorized in the Immigration Reform and Control Act of 1986 (Public Law 99-603)), was required to provide a reasonable opportunity to submit documentation, or

(3) because the entity, under subsection (d)(4)(B)(ii) (or under any alternative system for verifying immigration status with the Immigration and Naturalization Service authorized in the Immigration Reform and Control Act of 1986 (Public Law 99-603)), was required to wait for the response to the Immigration and Naturalization Service to the entity's request for official verification of the immigration status of the individual, or the response from the Immigration and Naturalization Service to the appeal of that individual.

(f)(1) Notwithstanding any other provision of law, no agency or official of a State or local government shall have any liability for the design or implementation of the Federal verification system described in subsection (d) if the implementation by the State or local agency or official is in accordance with Federal rules and regulations.

(2) The verification system of the Department of Housing and Urban Development shall not supersede or affect any consent agreement entered into or court decree or court order entered prior to the date of the enactment of the Housing and Community Development Act of 1987.

(g) The applicable Secretary is authorized to pay to each public housing agency or other entity an amount equal to 100 percent of the costs incurred by the public housing agency or other entity in implementing and operating an immigration status verification system under subsection (d) (or under any alternative system for verifying immigration status with the Immigration and Naturalization Service authorized in the Immigration Reform and Control Act of 1986 (Public Law 99-603)).

(h) For purposes of this section, the term "applicable Secretary" means—

(1) the Secretary of Housing and Urban Development, with respect to financial assistance administered by such Secretary and financial assistance under subtitle A of title III of the Cranston-Gonzalez National Affordable Housing Act; and

(2) the Secretary of Agriculture, with respect to financial assistance administered by such Secretary.

(i) VERIFICATION OF ELIGIBILITY.—

(1) IN GENERAL.—No individual or family applying for financial assistance may receive such financial assistance prior to the affirmative establishment and verification of eligibility of at least the individual or one family member under subsection (d) by the applicable Secretary or other appropriate entity.

(2) RULES APPLICABLE TO PUBLIC HOUSING AGENCIES.—A public housing agency (as that term is defined in section 3 of the United States Housing Act of 1937)—

(A) may, notwithstanding paragraph (1) of this subsection, elect not to affirmatively establish and verify eligibility before providing financial assistance[328]

(B) in carrying out subsection (d)—

(i) may initiate procedures to affirmatively establish or verify the eligibility of an individual or family under this section at any time at which the public housing agency determines that such eligibility is in question, regardless of whether or not that individual or family is at or near the top of the waiting list of the public housing agency;

(ii) may affirmatively establish or verify the eligibility of an individual or family under this section in accordance with the procedures set forth in section 274A(b)(1) of the Immigration and Nationality Act; and

(iii) shall have access to any relevant information contained in the SAVE system (or any successor thereto) that relates to any individual or family applying for financial assistance.

(3) ELIGIBILITY OF FAMILIES.—For purposes of this subsection, with respect to a family, the term "eligibility" means the eligibility of each family member.

END OF STATUTE

[328] So in law.

IMMIGRATION REFORM

IMMIGRATION AND NATIONALITY ACT
[Public Law 99-603; 100 Stat. 3422; 8 U.S.C. 1255a]

Sec. 245A. [8 U.S.C. 1255a]
ADJUSTMENT OF STATUS OF CERTAIN ENTRANTS BEFORE JANUARY 1, 1982, TO THAT OF PERSON ADMITTED FOR LAWFUL RESIDENCE.

* * * * * * *

(h) TEMPORARY DISQUALIFICATION OF NEWLY LEGALIZED ALIENS FROM RECEIVING CERTAIN PUBLIC WELFARE ASSISTANCE.—

(1) IN GENERAL.—During the five-year period beginning on the date an alien was granted lawful temporary resident status under subsection (a), and notwithstanding any other provision of law—

(A) except as provided in paragraphs (2) and (3), the alien is not eligible for—

(i) any program of financial assistance furnished under Federal law (whether through grant, loan, guarantee, or otherwise) on the basis of financial need, as such programs are identified by the Attorney General in consultation with other appropriate heads of the various departments and agencies of Government (but in any event including the State program of assistance under part A of title IV of the Social Security Act),

(ii) medical assistance under a State plan approved under title XIX of the Social Security Act, and

(iii) assistance under the Food Stamp Act of 1977; and

(B) a State or political subdivision therein may, to the extent consistent with subparagraph (A) and paragraphs (2) and (3), provide that the alien is not eligible for the programs of financial assistance or for medical assistance described in subparagraph (A)(ii) furnished under the law of that State or political subdivision.

Unless otherwise specifically provided by this section or other law, an alien in temporary lawful residence status granted under subsection (a) shall not be considered (for purposes of any law of a State or political subdivision providing for a program of financial assistance) to be permanently residing in the United States under color of law.

(2) EXCEPTIONS.—Paragraph (1) shall not apply—

(A) to a Cuban and Haitian entrant (as defined in paragraph (1) or (2)(A) of section 501(e) of Public Law 96-422, as in effect on April 1, 1983), or

(B) in the case of assistance (other than assistance under a State program funded under part A of title IV of the Social Security Act) which is furnished to an alien who is an aged, blind, or disabled individual (as defined in section 1614(a)(1) of the Social Security Act).

(3) RESTRICTED MEDICAID BENEFITS.—

(A) CLARIFICATION OF ENTITLEMENT.—Subject to the restrictions under subparagraph (B), for the purpose of providing aliens with eligibility to receive medical assistance—

(i) paragraph (1) shall not apply,

(ii) aliens who would be eligible for medical assistance but for the provisions of paragraph (1) shall be deemed, for purposes of title XIX of the Social Security Act, to be so eligible, and

(iii) aliens lawfully admitted for temporary residence under this section, such status not having changed, shall be considered to be permanently residing in the United States under color of law.

(B) RESTRICTION OF BENEFITS.—

(i) LIMITATION TO EMERGENCY SERVICES AND SERVICES FOR PREGNANT WOMEN.—Notwithstanding any provision of title XIX of the Social Security Act (including subparagraphs (B) and (C) of section 1902(a)(10) of such Act), aliens who, but for subparagraph (A), would be ineligible for medical assistance under paragraph (1), are only eligible for such assistance with respect to—

(I) emergency services (as defined for purposes of section 1916(a)(2)(D) of the Social Security Act), and

(II) services described in section 1916(a)(2)(B) of such Act (relating to service for pregnant women).

(ii) NO RESTRICTION FOR EXEMPT ALIENS AND CHILDREN.—The restrictions of clause (i) shall not apply to aliens who are described in paragraph (2) or who are under 18 years of age.

(C) DEFINITION OF MEDICAL ASSISTANCE.—In this paragraph, the term "medical assistance" refers to medical assistance under a State plan approved under title XIX of the Social Security Act.

(4) TREATMENT OF CERTAIN PROGRAMS.—Assistance furnished under any of the following provisions of law shall not be construed to be financial assistance described in paragraph (1)(A)(i):

(A) The Richard B. Russell National School Lunch Act.

(B) The Child Nutrition Act of 1966.

(C) The Carl D. Perkins Career and Technical Education Act of 2006.

(D) Title I of the Elementary and Secondary Education Act of 1965.

(E) The Headstart-Follow Through Act.

(F)Title I of the Workforce Innovation and Opportunity Act.

(G) Title IV of the Higher Education Act of 1965.

(H) The Public Health Service Act.

(I) Titles V, XVI, and XX, and parts B, D, and E of title IV, of the Social Security Act (and titles I, X, XIV, and XVI of such Act as in effect without regard to the amendment made by section 301 of the Social Security Amendments of 1972).

(5) ADJUSTMENT NOT AFFECTING FASCELL-STONE BENEFITS.—For the purpose of section 501 of the Refugee Education Assistance Act of 1980 (Public Law 96-122), assistance shall be continued under such section with respect to an alien without regard to the alien's adjustment of status under this section.

(i) DISSEMINATION OF INFORMATION ON LEGALIZATION PROGRAM.—Beginning not later than the date designated by the Attorney General under subsection (a)(1)(A), the Attorney General, in cooperation with qualified designated entities, shall broadly disseminate information respecting the benefits which aliens may receive under this section and the requirements to obtain such benefits.

END OF STATUTE

SOLAR ENERGY SYSTEMS IN ASSISTED HOUSING

HOUSING AND COMMUNITY DEVELOPMENT AMENDMENTS OF 1978
[Public Law 95-557; 92 Stat. 2095; 12 U.S.C. 1701z-13]

Sec. 209. [12 U.S.C. 1701z-13]
SOLAR ENERGY FOR SINGLE-FAMILY AND MULTIFAMILY HOUSING UNITS.

(a) It is the purpose of this section to promote and extend the application of viable solar energy systems as a desirable source of energy for residential single-family and multifamily housing units.

(b)(1) The Secretary, in carrying out programs and activities under section 312 of the Housing Act of 1964, section 202 of the Housing Act of 1959, and section 8 of the United States Housing Act of 1937, shall permit the installation of solar energy systems which are cost-effective and economically feasible.

(2) For the purpose of this Act, the term "solar energy system" means any addition, alteration, or improvement to an existing or new structure which is designed to utilize wind energy or solar energy either of the active type based on mechanically forced energy transfer or of the passive type based on convective, conductive, or radiant energy transfer or some combination of these types to reduce the energy requirements of that structure from other energy sources, and which is in conformity with such criteria and standards as shall be prescribed by the Secretary in consultation with the Secretary of Energy.

(c) In carrying out subsection (b), the Secretary shall take such steps as may be necessary to encourage the installation of cost-effective and economically feasible solar energy systems in housing assisted under the programs and activities referred to in such subsection taking into account the interests of low-income homeowners and renters, including the implementation of a plan of action to publicize the availability and feasibility of solar energy systems to current or potential recipients of assistance under such programs and activities.

(d) The Secretary shall, in conjunction with the Secretary of Energy, transmit to the Congress, within eighteen months after the date of enactment of this Act, a report setting forth—

(1) the number of solar units which were contracted for or installed or which are on order under the provisions of subsection (b)(1) of this section during the first twelve full calendar months after the date of enactment of this Act; and

(2) an analysis of any problems and benefits related to encouraging the use of solar energy systems in the programs and activities referred to in subsection (b).

END OF STATUTE

ENERGY CONSERVING IMPROVEMENTS FOR ASSISTED HOUSING

NATIONAL ENERGY CONSERVATION POLICY ACT
[Public Law 95-619; 92 Stat. 3235; 42 U.S.C. 8231]

Sec. 251. [42 U.S.C. 8231]
ENERGY-CONSERVING IMPROVEMENTS FOR ASSISTED HOUSING.

* * * * * * *

(b) GRANTS.—(1) The Secretary of Housing and Urban Development is authorized to make grants to finance energy conserving improvements (as defined in subparagraph (2) of the last paragraph of section 2(a) of the National Housing Act) to projects which are financed with loans under section 202 of the Housing Act of 1959, or which are subject to mortgages insured under section 221(d)(3) or section 236 of the National Housing Act. The Secretary shall make assistance available under this subsection on a priority basis to those projects which are in financial difficulty as a result of high energy costs. In carrying out the program authorized by this subsection, the Secretary shall issue regulations requiring that any grant made under this subsection shall be made only on the condition that the recipient of such grant shall take steps (prescribed by the Secretary) to assure that the benefits derived from such grants in terms of lower energy costs shall accrue to tenants in the form of lower operating subsidy if such a subsidy is being paid to such recipient.

(2) The Secretary shall establish minimum standards for energy conserving improvements to multifamily dwelling units to be assisted under this subsection.

(3) There are authorized to be appropriated to carry out the provisions of this subsection not to exceed $25,000,000.

END OF STATUTE

ENERGY EFFICIENCY PLAN

CRANSTON-GONZALEZ NATIONAL AFFORDABLE HOUSING ACT
[Public Law 101-625; 104 Stat. 4416; 42 U.S.C. 12712]

Sec. 945. [42 U.S.C. 12712]
5-YEAR ENERGY EFFICIENCY PLAN.

(a) ESTABLISHMENT.—The Secretary of Housing and Urban Development shall establish a plan for activities to be undertaken and policies to be adopted by the Secretary within the 5-year period beginning upon the submission of the plan to the Congress under subsection (d) to provide for, encourage, and improve energy efficiency in newly constructed, rehabilitated, and existing housing. In developing the plan, the Secretary shall consider, as appropriate, any energy assessments under section 944.

(b) INITIAL PLAN.—The Secretary of Housing and Urban Development shall establish the first plan under this section not later than the expiration of the 1-year period beginning on the date of the enactment of this Act.[329]

(c) UPDATES.—The Secretary of Housing and Urban Development shall revise and update the plan under this section not less than once for each 2-year period, the first such 2-year period beginning on the date of the submission of the initial plan under subsection (b) to the Congress (as provided in subsection (d)). Each such update shall revise the plan for the 5-year period beginning upon the submission of the updated plan to the Congress.

(d) SUBMISSION TO CONGRESS.—The Secretary of Housing and Urban Development shall submit the initial plan established under subsection (b) and any updated plans under subsection (c) to the Congress not later than the date by which such plans are to be established or updated under such paragraphs.

END OF STATUTE

[329] The date of enactment was November 28, 1990.

LOW-INCOME HOUSING PRESERVATION AND RESIDENT HOMEOWNERSHIP ACT OF 1990

HOUSING AND COMMUNITY DEVELOPMENT ACT OF 1987
[As added by Public Law 101-625; 104 Stat. 4249; 12 U.S.C. 4101—4147]

TITLE II—PRESERVATION OF LOW-INCOME HOUSING

Subtitle A—Short Title

Sec. 201. [12 U.S.C. 4101 note]
SHORT TITLE.

This title may be cited as the "Low-Income Housing Preservation and Resident Homeownership Act of 1990".

Subtitle B—Prepayment of Mortgages Insured Under National Housing Act

Sec. 211. [12 U.S.C. 4101]
GENERAL PREPAYMENT LIMITATION.

(a) PREPAYMENT AND TERMINATION.—An owner of eligible low-income housing may prepay, and a mortgagee may accept prepayment of, a mortgage on such housing only in accordance with a plan of action approved by the Secretary under this subtitle or in accordance with section 224. An insurance contract with respect to eligible low-income housing may be terminated pursuant to section 229 of the National Housing Act only in accordance with a plan of action approved by the Secretary under this subtitle or in accordance with section 224.

(b) FORECLOSURE.—A mortgagee may foreclose the mortgage on, or acquire by deed in lieu of foreclosure, any eligible low-income housing project only if the mortgagee also conveys title to the project to the Secretary in connection with a claim for insurance benefits.

(c) EFFECT OF UNAUTHORIZED PREPAYMENT.—Any prepayment of a mortgage on eligible low-income housing or termination of the mortgage insurance on such housing not in compliance with the provisions of this subtitle shall be null and void and any low-income affordability restrictions on the housing shall continue to apply to the housing.

Sec. 212. [12 U.S.C. 4102]
NOTICE OF INTENT.

(a) FILING WITH THE SECRETARY.—An owner of eligible low-income housing that intends to terminate the low-income affordability restrictions through prepayment or voluntary termination in accordance with section 218, extend the low-income affordability restrictions of the housing in accordance with section 219, or transfer the housing to a qualified purchaser in accordance with section 220, shall file with the Secretary a notice indicating such intent in the form and manner as the Secretary shall prescribe.

(b) FILING WITH THE STATE OR LOCAL GOVERNMENT, TENANTS, AND MORTGAGEE.—The owner, upon filing a notice of intent under this section, shall simultaneously file the notice of intent with the chief executive officer of the appropriate State or local government for the jurisdiction within which the housing is located and with the mortgagee, and shall inform the tenants of the housing of the filing.

(c) INELIGIBILITY FOR FILING.—An owner shall not be eligible to file a notice of intent under this section if the mortgage covering the housing—

(1) falls into default on or after the date of the enactment of the Cranston-Gonzalez National Affordable Housing Act[330]; or

(2)(A) fell into default before, but is current as of, such date; and

(B) the owner does not agree to recompense the appropriate Insurance Fund, in the amount the Secretary determines appropriate, for any losses sustained by the Fund as a result of any work-out or other arrangement agreed to by the Secretary and the owner with respect to the defaulted mortgage.

[330] November 28, 1990.

The Secretary shall carry out this subsection in a manner consistent with the provisions of section 203 of the Housing and Community Development Amendments of 1978.

Sec. 213. [12 U.S.C. 4103]
APPRAISAL AND PRESERVATION VALUE OF ELIGIBLE LOW-INCOME HOUSING.

(a) APPRAISAL.—Upon receiving notice of intent regarding an eligible low-income housing project indicating an intent to extend the low-income affordability restrictions under section 219 or transfer the housing under section 220, the Secretary shall provide for determination of the preservation value of the housing, as follows:

(1) APPRAISERS.—The preservation value shall be determined by 2 independent appraisers, one of whom shall be selected by the Secretary and one of whom shall be selected by the owner. The appraisals shall be conducted not later than 4 months after filing the notice of intent under section 212, and the owner shall submit to the Secretary the appraisal made by the owner's selected appraiser not later than 90 days after receipt of the notice under paragraph (2). If the 2 appraisers fail to agree on the preservation value, and the Secretary and the owner also fail to agree on the preservation value, the Secretary and the owner shall jointly select and jointly compensate a third appraiser, whose appraisal shall be binding on the parties.

(2) NOTICE.—Not later than 30 days after the filing of a notice of intent to seek incentives under section 219 or transfer the property under section 220, the Secretary shall provide written notice to the owner filing the notice of intent of—

(A) the need for the owner to acquire an appraisal of the property under paragraph (1);

(B) the rules and guidelines for such appraisals;

(C) the filing deadline for submission of the appraisal under paragraph (1);

(D) the need for an appraiser retained by the Secretary to inspect the housing and project financial records; and

(E) any delegation to the appropriate State agency by the Secretary of responsibilities regarding the appraisal.

(3) TIMELINESS.—The Secretary may approve a plan of action to receive incentives under section 219 or 220 only based upon an appraisal conducted in accordance with this subsection that is not more than 30 months old.

(b) PRESERVATION VALUE.—For purposes of this subtitle, the preservation value of eligible low-income housing appraised under this section shall be—

(1) for purposes of extending the low-income affordability restrictions and receiving incentives under section 219, the fair market value of the property based on the highest and best use of the property as residential rental housing; and

(2) for purposes of transferring the property under section 220 or 221, the fair market value of the housing based on the highest and best use of the property.

(c) GUIDELINES.—The Secretary shall provide written guidelines for appraisals of preservation value, which shall assume repayment of the existing federally assisted mortgage, termination of the existing low-income affordability restrictions, simultaneous termination of any Federal rental assistance, and costs of compliance with any State or local laws of general applicability. The guidelines may permit reliance upon assessments of rehabilitation needs and other conversion costs determined by an appropriate State agency, as determined by the Secretary. The guidelines shall instruct the appraiser to use the greater of actual project operating expenses at the time of the appraisal (based on the average of the actual project operating expenses during the preceding 3 years) or projected operating expenses after conversion in determining preservation value. The guidelines established by the Secretary shall not be inconsistent with customary appraisal standards. The guidelines shall also meet the following requirements:

(1) RESIDENTIAL RENTAL VALUE.—In the case of preservation value determined under subsection (b)(1), the guidelines shall assume conversion of the housing to market-rate rental housing and shall establish methods for (A) determining rehabilitation expenditures that would be necessary to bring the housing up to quality standards required to attract and sustain a market rate tenancy upon conversion, and (B) assessing other costs that the owner could reasonably be expected to incur if the owner converted the property to market-rate multifamily rental housing.

(2) HIGHEST AND BEST USE VALUE.—In the case of preservation value determined under subsection (b)(2), the guidelines shall assume conversion of the housing to highest and best use for the property and shall establish methods for (A) determining any rehabilitation expenditures that would be necessary to convert the housing to such use, and (B) assessing other costs that the owner could reasonably be expected to incur if the owner converted the property to its highest and best use. [12 U.S.C. 4103]

Sec. 214. [12 U.S.C. 4104]
ANNUAL AUTHORIZED RETURN AND PRESERVATION RENTS.

(a) ANNUAL AUTHORIZED RETURN.—Pursuant to an appraisal under section 213, the Secretary shall determine the annual authorized return on the appraised housing, which shall be equal to 8 percent of the preservation equity (as such term is defined in section 229(8)).

(b) PRESERVATION RENTS.—The Secretary shall also determine the aggregate preservation rents under this subsection for each project appraised under section 213. The aggregate preservation rents shall be used solely for the purposes of comparison with Federal cost limits under section 215. Actual rents received by an owner (or a qualified purchaser) shall be determined pursuant to section 219, 220, or 221. The aggregate preservation rents shall be established as follows:

(1) EXTENSION OF AFFORDABILITY LIMITS.—The aggregate preservation rent for purposes of receiving incentives pursuant to extension of the low-income affordability restrictions under section 219 shall be the gross potential income for the project, determined by the Secretary, that would be required to support the following costs:

(A) The annual authorized return determined under subsection (a).

(B) Debt service on any rehabilitation loan for the housing.

(C) Debt service on the federally-assisted mortgage for the housing.

(D) Project operating expenses.

(E) Adequate reserves.

(2) SALE.—The aggregate preservation rent for purposes of receiving incentives pursuant to sale under section 220 or 221 shall be the gross income for the project determined by the Secretary, that would be required to support the following costs:

(A) Debt service on the loan for acquisition of the housing.

(B) Debt service on any rehabilitation loan for the housing.

(C) Debt service on the federally-assisted mortgage for the housing.

(D) Project operating expenses.

(E) Adequate reserves.

(c) FUTURE FINANCING.—Neither this section, nor any plan of action or use agreement implementing this section, shall restrict an owner from obtaining a new loan or refinancing an existing loan secured by the project, or from distributing the proceeds of such a loan; except that, in conjunction with such refinancing—

(1) the owner shall provide for adequate rehabilitation pursuant to a capital needs assessment to ensure long-term sustainability of the property satisfactory to the lender or bond issuance agency;

(2) any resulting budget-based rent increase shall include debt service on the new financing, commercially reasonable debt service coverage, and replacement reserves as required by the lender; and

(3) for tenants of dwelling units not covered by a project- or tenant-based rental subsidy, any rent increases resulting from the refinancing transaction may not exceed 10 percent per year, except that—

(A) any tenant occupying a dwelling unit as of time of the refinancing may not be required to pay for rent and utilities, for the duration of such tenancy, an amount that exceeds the greater of—

(i) 30 percent of the tenant's income; or

(ii) the amount paid by the tenant for rent and utilities immediately before such refinancing; and

(B) this paragraph shall not apply to any tenant who does not provide the owner with proof of income."

Paragraph (3) may not be construed to limit any rent increases resulting from increased operating costs for a project.

Sec. 215. [12 U.S.C. 4105]
FEDERAL COST LIMITS AND LIMITATIONS ON PLANS OF ACTION.

(a) DETERMINATION OF RELATIONSHIP TO FEDERAL COST LIMITS.—

(1) INITIAL DETERMINATION.—For each eligible low-income housing project appraised under section 213(a), the Secretary shall determine whether the aggregate preservation rents for the project determined under paragraph (1) or (2) of section 214(b) exceed the amount determined by multiplying 120 percent of the fair market rental (established under section 8(c) of the United States Housing Act of 1937)

for the market area in which the housing is located by the number of dwelling units in the project (according to appropriate unit sizes).

(2) RELEVANT LOCAL MARKETS.—If the aggregate preservation rents for a project exceeds the amount determined under paragraph (1), the Secretary shall determine whether such aggregate rents exceed the amount determined by multiplying 120 percent of the prevailing rents in the relevant local market area in which the housing is located by the number of units in the project (according to the appropriate unit sizes). A relevant local market area shall be an area geographically smaller than a market area established by the Secretary under section 8(c)(1) of the United States Housing Act of 1937 that is identifiable as a distinct rental market area. The Secretary may rely on the appraisal to determine the relevant local market areas and prevailing rents in such local areas and any other information the Secretary determines is appropriate.

(3) EFFECT.—For purposes of this subtitle, the aggregate preservation rents shall be considered to exceed the Federal cost limits under this subsection only if the aggregate preservation rents exceed the amount determined under paragraph (1) and the amount determined under paragraph (2).

(b) LIMITATIONS ON ACTION PURSUANT TO FEDERAL COST LIMITS.—

(1) HOUSING WITHIN FEDERAL COST LIMITS.—If the aggregate preservation rents for an eligible low-income housing project do not exceed the Federal cost limit, the owner may not prepay the mortgage on the housing or terminate the insurance contract with respect to the housing, except as permitted under section 224. The owner may—

(A) file a plan of action under section 217 to receive incentives under section 219; or

(B) file a second notice of intent under section 216(d) indicating an intention to transfer the housing under section 220 and take actions pursuant to such section.

(2) HOUSING EXCEEDING FEDERAL COST LIMITS.—If the aggregate preservation rents for an eligible low-income housing project exceed the Federal cost limit, the owner may—

(A) file a plan of action under section 217 to receive incentives under section 219 if the owner agrees to accept incentives under such sections in an amount that shall not exceed the Federal cost limit;

(B) file a second notice of intent under section 216(d) indicating an intention to transfer the housing under section 220 and take actions pursuant to such section if the owner agrees to transfer the housing at a price that shall not exceed the Federal cost limit; or

(C) file a second notice of intent under section 216(d) indicating an intention to prepay the mortgage or voluntarily terminate the insurance, subject to the mandatory sale provisions under section 221.

Sec. 216. [12 U.S.C. 4106]
INFORMATION FROM SECRETARY.

(a) INFORMATION TO OWNERS TERMINATING AFFORDABILITY RESTRICTIONS.—The Secretary shall provide each owner who submits a notice of intent to terminate the low-income affordability restrictions on the housing under section 218 with information under this section not later than 6 months after receipt of the notice of intent. The information shall include a description of the criteria for such termination specified under section 218 and the documentation required to satisfy such criteria.

(b) INFORMATION TO OWNERS EXTENDING LOW-INCOME AFFORDABILITY RESTRICTIONS.—The Secretary shall provide each owner who submits notice of intent to extend the low-income affordability restrictions on the housing under section 219 or transfer the housing under section 220 to a qualified purchaser with information under this subsection not later than 9 months after receipt of the notice of intent. The information shall include any information necessary for the owner to prepare a plan of action under section 217, including the following:

(1) PRESERVATION VALUES.—A statement of the preservation value of the housing determined under paragraphs (1) and (2) of section 213(b).

(2) PRESERVATION RENT.—A statement of the preservation rent for the housing as calculated under section 214(b).

(3) FEDERAL COST LIMITS.—A statement of the applicable Federal cost limits for the market area (or relevant local market area, if applicable) in which the housing is located, which shall explain the limitations under sections 219 and 220 of the amount of assistance that the Secretary may provide based on such cost limits.

(4) FEDERAL COST LIMIT ANALYSIS.—A statement of whether the aggregate preservation rents exceed the Federal cost limits and a direction to the owner to file a plan of action under section 217 or submit a second notice of intent under section 216(d), whichever is applicable.

(c) AVAILABILITY TO TENANTS.—The Secretary shall make any information provided to the owner under subsections (a) and (b) available to the tenants of the housing, together with other information relating to the rights and opportunities of the tenants.

(d) SECOND NOTICE OF INTENT.—

(1) FILING.—Each owner of eligible low-income housing that elects to transfer housing under section 220 shall submit to the Secretary, in such form and manner as the Secretary prescribes, notice of intent to sell the housing under section 220. To be eligible to prepay the mortgage or voluntarily terminate the insurance contract on the mortgage, an owner of housing for which the preservation rents exceed the Federal cost limits under section 215(b) shall submit to the Secretary notice of such intent. The provisions of sections 221 and 223 shall apply to any owner submitting a notice under the preceding sentence.

(2) TIMING.—A second notice of intent under this subsection shall be submitted not later than 30 days after receipt of information from the Secretary under this section. If an owner fails to submit such notice within such period, the notice of intent submitted by the owner under section 212 shall be void and ineffective for purposes of this subtitle.

(3) FILING WITH THE STATE OR LOCAL GOVERNMENT, TENANTS, AND MORTGAGEE.—Upon filing a second notice of intent under this subsection, the owner shall simultaneously file such notice of the intent with the chief executive officer of the appropriate State or local government for the jurisdiction within which the housing is located and with the mortgagee, and shall inform the tenants of the housing of the filing.

Sec. 217. [12 U.S.C. 4107]
PLAN OF ACTION.

(a) SUBMISSION TO SECRETARY.—

(1) TIMING.—Not later than 6 months after receipt of the information from the Secretary under section 216 an owner seeking to terminate the low-income affordability restrictions through prepayment of the mortgage or voluntary termination under section 218, or to extend the low-income affordability restriction on the housing under section 219, shall submit a plan of action to the Secretary in such form and manner as the Secretary shall prescribe. Any owner or purchaser seeking a transfer of the housing under section 220 or 221 shall submit a plan of action under this section to the Secretary upon acceptance of a bona fide offer under section 220 (b) or (c) or upon making of any bona fide offer under section 221.

(2) COPIES TO TENANTS.—Each owner submitting a plan of action under this section to the Secretary shall also submit a copy to the tenants of the housing. The owner shall simultaneously submit the plan of action to the office of the chief executive officer of the appropriate State or local government for the jurisdiction within which the housing is located. Each owner and the Secretary shall also, upon request, make available to the tenants of the housing and to the office of the chief executive officer of the appropriate State or local government for the jurisdiction within which the housing is located all documentation supporting the plan of action, but not including any information that the Secretary determines is proprietary information. An appropriate agency of such State or local government shall review the plan and advise the tenants of the housing of any programs that are available to assist the tenants in carrying out the purposes of this title.

(3) FAILURE TO SUBMIT.—If the owner does not submit a plan of action to the Secretary within the 6-month period referred to in paragraph (1) (or the applicable longer period), the notice of intent shall be ineffective for purposes of this subtitle and the owner may not submit another notice of intent under section 212 until 6 months after the expiration of such period.

(b) CONTENTS.—

(1) TERMINATION OF AFFORDABILITY RESTRICTIONS.—If the plan of action proposes to terminate the low-income affordability restrictions through prepayment or voluntary termination in accordance with section 218, the plan shall include—

(A) a description of any proposed changes in the status or terms of the mortgage or regulatory agreement;

(B) a description of any proposed changes in the low-income affordability restrictions;

(C) a description of any change in ownership that is related to prepayment or voluntary termination;

(D) an assessment of the effect of the proposed changes on existing tenants;

(E) an analysis of the effect of the proposed changes on the supply of housing affordable to low- and very low-income families or persons in the community within which the housing is located and in the area that the housing could reasonably be expected to serve; and

(F) any other information that the Secretary determines is necessary to achieve the purposes of this title.

(2) EXTENSION OF AFFORDABILITY RESTRICTIONS.—If the plan of action proposes to extend the low-income affordability restrictions of the housing in accordance with section 219 or transfer the housing to a qualified purchaser in accordance with section 220, the plan shall include—

(A) a description of any proposed changes in the status or terms of the mortgage or regulatory agreement;

(B) a description of the Federal incentives requested (including cash flow projections), and analyses of how the owner will address any physical or financial deficiencies and maintain the low-income affordability restrictions of the housing;

(C) a description of any assistance from State or local government agencies, including low-income housing tax credits, that have been offered to the owner or purchaser or for which the owner or purchaser has applied or intends to apply;

(D) a description of any transfer of the property, including the identity of the transferee and a copy of any documents of sale; and

(E) any other information that the Secretary determines is necessary to achieve the purposes of this title.

(c) REVISIONS.—An owner may from time to time revise and amend the plan of action as may be necessary to obtain approval of the plan under this subtitle. The owner shall submit any revision to the Secretary and to the tenants of the housing and make available to the Secretary and tenants all documentation supporting any revision, but not including any information that the Secretary determines is proprietary information.

Sec. 218. [12 U.S.C. 4108]
PREPAYMENT AND VOLUNTARY TERMINATION.

(a) APPROVAL.—The Secretary may approve a plan of action that provides for termination of the low-income affordability restrictions through prepayment of the mortgage or voluntary termination of the mortgage insurance contract only upon a written finding that—

(1) implementation of the plan of action will not—

(A) materially increase economic hardship for current tenants, and will not in any event result in (i) a monthly rental payment by any current tenant that exceeds 30 percent of the monthly adjusted income of the tenant or an increase in the monthly rental payment in any year that exceeds 10 percent (whichever is lower), or (ii) in the case of a current tenant who already pays more than such percentage, an increase in the monthly rental payment in any year that exceeds the increase in the Consumer Price Index or 10 percent (whichever is lower); or

(B) involuntarily displace current tenants (except for good cause) where comparable and affordable housing is not readily available determined without regard to the availability of Federal housing assistance that would address any such hardship or involuntary displacement; and

(2) the supply of vacant, comparable housing is sufficient to ensure that such prepayment will not materially affect—

(A) the availability of decent, safe, and sanitary housing affordable to low-income and very low-income families or persons in the area that the housing could reasonably be expected to serve;

(B) the ability of low-income and very low-income families or persons to find affordable, decent, safe, and sanitary housing near employment opportunities; or

(C) the housing opportunities of minorities in the community within which the housing is located.

(b) STANDARDS AND PROCEDURE FOR WRITTEN FINDINGS.—

(1) STANDARDS.—A written finding under subsection (a) shall be based on an analysis of the evidence considered by the Secretary in reaching such finding and shall contain documentation of such evidence.

(2) PROCEDURE AND CRITERIA.—The Secretary shall, by regulation, develop (A) a procedure for determining whether the conditions under paragraphs (1) and (2) of subsection (a) exist, (B)

requirements for evidence on which such determinations are based, and (C) criteria on which such determinations are based.

(c) DISAPPROVAL.—If the Secretary determines a plan of action to prepay a mortgage or terminate an insurance contract fails to meet the requirements of subsection (a), the Secretary shall disapprove the plan, the notice of intent filed under section 212 by such owner shall not be effective for purposes of this subtitle, and the owner may, in order to receive incentives under this subtitle, file a new notice of intent under such section.

Sec. 219. [12 U.S.C. 4109]
INCENTIVES TO EXTEND LOW-INCOME USE.

(a) AGREEMENTS BY SECRETARY.—After approving a plan of action from an owner of eligible low-income housing that includes the owner's plan to extend the low-income affordability restrictions of the housing, the Secretary shall, subject to the availability of appropriations for such purpose, enter into such agreements as are necessary to enable the owner to receive (for each year after the approval of the plan of action) the annual authorized return for the housing determined under section 214(a), pay debt service on the federally-assisted mortgage covering the housing, pay debt service on any loan for rehabilitation of the housing, and meet project operating expenses and establish adequate reserves. The Secretary shall take into account the Federal cost limits under section 215(a) for the housing when providing incentives under subsections (b)(2) and (3) of this section. The Secretary shall take such actions as are necessary to ensure that owners receive the annual authorized return for the housing determined under section 214(a) during the period in which rent increases are phased in as provided in section 222(a)(2)(E), including (in order of preference) (1) allowing the owner access to residual receipt accounts (pursuant to subsection (b)(1) of this section), (2) deferring remittance of excess rent payments, and (3) providing an increase in rents permitted under an existing contract under section 8 of the United States Housing Act of 1937 (pursuant to subsection (b)(2) of this section).

(b) PERMISSIBLE INCENTIVES.—Such agreements may include one or more of the following incentives:

(1) Increased access to residual receipts accounts.

(2) Subject to the availability of amounts provided in appropriations Acts—

(A) an increase in the rents permitted under an existing contract under section 8 of the United States Housing Act of 1937, or

(B) additional assistance under section 8 or an extension of any project-based assistance attached to the housing; and[331]

(3) An increase in the rents on units occupied by current tenants as permitted under section 222.

(4) Financing of capital improvements under section 201 of the Housing and Community Development Amendments of 1978.

(5) Financing of capital improvements through provision of insurance for a second mortgage under section 241 of the National Housing Act.

(6) In the case of housing defined in section 229(1)(A)(iii), redirection of the Interest Reduction Payment subsidies to a second mortgage.

(7) Access by the owner to a portion of the preservation equity in the housing through provision of insurance for a second mortgage loan insured under section 241(f) of the National Housing Act or a non-insured mortgage loan approved by the Secretary and the mortgagee.

(8) Other incentives authorized in law.

With respect to any housing with a mortgage insured or otherwise assisted pursuant to section 236 of the National Housing Act, the provisions of subsections (f) and (g) of section 236 of such Act notwithstanding, the fair market rental charge for each unit in such housing may be increased in accordance with this subsection, but the owner shall pay to the Secretary all rental charges collected in excess of the basic rental charges, in an amount not greater than the fair market rental charges as such charges would have been established under section 236(f) of such Act absent the requirements of this paragraph.

Sec. 220. [12 U.S.C. 4110]
INCENTIVES FOR TRANSFER TO QUALIFIED PURCHASERS.

(a) IN GENERAL.—With respect to any eligible low-income housing for which an owner has submitted a second notice of intent under section 216(d) to transfer the housing to a qualified purchaser, the owner shall offer the housing for transfer to qualified purchasers as provided in this section. The Secretary shall issue regulations

[331] So in law.

describing the means by which potential qualified purchasers shall be notified of the availability of the housing for sale. The Secretary shall take into account the Federal cost limits under section 215(a) for the housing when providing incentives under section 219(b)(2) and (b)(3) (pursuant to subsection (d)(3) of this section).

(b) RIGHT OF FIRST OFFER TO PRIORITY PURCHASERS.—

(1) NEGOTIATION PERIOD.—For the 12-month period beginning on the receipt by the Secretary of a second notice of intent under section 216(d) with respect to such housing, the owner may offer to sell and negotiate a sale of the housing only with priority purchasers. The negotiated sale price may not exceed the preservation value of the housing determined under section 213(b)(2). The owner or the purchaser shall submit a plan of action under section 217 for any sale under this subsection, which shall include any request for assistance under this section, upon the acceptance of any bona fide offer meeting the requirements of this paragraph.

(2) EXPRESSION OF INTEREST.—During such period, priority purchasers may submit written notice to the Secretary stating their interest in acquiring the housing. Such notice shall be made in the form and include such information as the Secretary may prescribe.

(3) INFORMATION.—Within 30 days of receipt of an expression of interest by a priority purchaser, the Secretary shall provide such purchaser with information on the assistance available from the Federal Government to facilitate a transfer and the owner shall provide appropriate information on the housing, as determined by the Secretary.

(c) RIGHT OF REFUSAL FOR OTHER QUALIFIED PURCHASERS.—If no bona fide offer to purchase any eligible low-income housing subject to this section that meets the requirements of subsection (b) is made and accepted during the period under such subsection, during the 3-month period beginning upon the expiration of the 12-month period under subsection (b)(1), the owner of the housing may offer to sell and may sell the housing only to qualified purchasers. The negotiated sale price may not exceed the preservation value of the housing determined under section 213(b)(2). The owner or purchaser shall submit a plan of action under section 217 for any sale under this subsection, which shall include any request for assistance under this section, upon the acceptance of any bona fide offer meeting the requirements of this paragraph.[332]

(d) ASSISTANCE.—

(1) APPROVAL.—If the qualified purchaser is a resident council, the Secretary may not approve a plan of action for assistance under this section unless the council's proposed resident homeownership program meets the requirements under section 226. For all other qualified purchasers, the Secretary may not approve the plan unless the Secretary finds that the criteria for approval under section 222 have been satisfied.

(2) AMOUNT.—Subject to the availability of amounts approved in appropriations Acts, the Secretary shall, for approvable plans of action, provide assistance sufficient to enable qualified purchasers (including all priority purchasers other than resident councils acquiring under the homeownership program authorized by section 226) to—

(A) acquire the eligible low-income housing from the current owner for a purchase price not greater than the preservation equity of the housing;

(B) pay the debt service on the federally-assisted mortgage covering the housing;

(C) pay the debt service on any loan for the rehabilitation of the housing;

(D) meet project operating expenses and establish adequate reserves for the housing, and in the case of a priority purchaser, meet project oversight costs;

(E) receive a distribution equal to an 8 percent annual return on any actual cash investment (from sources other than assistance provided under this title) made to acquire or rehabilitate the project;

(F) in the case of a priority purchaser, receive a reimbursement of all reasonable transaction expenses associated with the acquisition, loan closing, and implementation of an approved plan of action; and

(G) in the case of an approved resident homeownership program, cover the costs of training for the resident council, homeownership counseling and training, the fees for the nonprofit entity or public agency working with the resident council and costs related to relocation of tenants who elect to move.

(3) INCENTIVES.—

[332] So in law. Probably intended to refer to this subsection.

(A) IN GENERAL.—For all qualified purchasers of housing under this subsection, the Secretary may provide assistance for an approved plan of action in the form of 1 or more of the incentives authorized under section 219(b), except that the incentive under such section 219(b)(7) may include an acquisition loan under section 241(f) of the National Housing Act.

(B) PRIORITY PURCHASERS.—Where the qualified purchaser is a priority purchaser, the Secretary may provide assistance for an approved plan of action (in the form of a grant) for each unit in the housing in an amount, as determined by the Secretary, that does not exceed the present value of the total of the projected published fair market rentals for existing housing (established by the Secretary under section 8(c) of the United States Housing Act of 1937) for the next 10 years (or such longer period if additional assistance is necessary to cover the costs referred to in paragraph (2)).

Sec. 221. [12 U.S.C. 4111]
MANDATORY SALE FOR HOUSING EXCEEDING FEDERAL COST LIMITS.

(a) IN GENERAL.—With respect to any eligible low-income housing for which the aggregate preservation rents determined under section 214(b) exceed the Federal cost limit, the owner shall offer the housing for sale to qualified purchasers as provided in this section.

(b) RIGHT OF FIRST REFUSAL TO PRIORITY PURCHASERS.—

(1) DURATION AND REQUIRED SALE.—For the 12-month period beginning upon the receipt by the Secretary of the second notice of intent under section 216(d) with respect to such housing, the owner of the housing may offer to sell and may sell the housing only to priority purchasers. If, during such period, a priority purchaser makes a bona fide offer to purchase the housing for a sale price not less than the preservation value of the housing determined under section 213(b)(2), the Secretary shall require the owner to sell the housing pursuant to such offer.

(2) EXPRESSION OF INTEREST.—During the period under paragraph (1), priority purchasers shall have the opportunity to submit written notice to the owner and the Secretary stating their interest in acquiring the housing. Such written notice shall be in such form and include such information as the Secretary may prescribe.

(3) Information from secretary.—Not later than 30 days after receipt of any notice under paragraph (2), the Secretary shall provide such purchaser with information on the assistance available from the Federal Government to facilitate a transfer and the owner shall provide such purchaser with appropriate information on the housing, as determined by the Secretary.

(c) RIGHT OF REFUSAL FOR OTHER QUALIFIED PURCHASERS.—If no bona fide offer to purchase any eligible low-income housing subject to this section that meets the requirements of subsection (b) is made during the period under such subsection, during the 3-month period beginning upon the expiration of the 12-month period under subsection (b)(1), the owner of the housing may offer to sell and may sell the housing only to qualified purchasers. If, during such period, a qualified purchaser makes a bona fide offer to purchase the housing for a sale price not less than the preservation value of the housing determined under section 213(b)(2), the Secretary shall require the owner to sell the housing pursuant to such offer.

(d) ASSISTANCE.—

(1) FEDERAL COST LIMIT.—Subject to the availability of amounts approved in appropriations Acts, the Secretary shall, for approvable plans of action, provide to qualified purchasers assistance under section 8 of the United States Housing Act of 1937 sufficient to produce a gross income potential equal to the amount determined by multiplying 120 percent of the prevailing rents in the relevant local market area in which the housing is located by the number of units in the project (according to appropriate unit sizes), and any other incentives authorized under section 219(b) that would have been provided to a qualified purchaser under section 220.

(2) ADDITIONAL ASSISTANCE.—From amounts made available under section 234(b), the Secretary may make grants to assist in the completion of sales and transfers under this section to any qualified purchasers. Any grant under this paragraph shall be in an amount not exceeding the difference between the preservation value for the housing (determined under section 213(b)(2)) and the level of assistance under paragraph (1) of this subsection.

(3) SECURING STATE AND LOCAL FUNDING.—The Secretary shall assist any qualified purchaser of such housing in securing funding and other assistance (including tax and assessment reductions) from State and local governments to facilitate a sale under this section.

Sec. 222. [12 U.S.C. 4112]
CRITERIA FOR APPROVAL OF PLAN OF ACTION INVOLVING INCENTIVES.

(a) IN GENERAL.—The Secretary may approve a plan of action for extension of the low-income affordability restrictions on any eligible low-income housing or transfer the housing to a qualified purchaser (other than a resident council) only upon finding that—

(1) due diligence has been given to ensuring that the package of incentives is, for the Federal Government, the least costly alternative that is consistent with the full achievement of the purposes of this title;

(2) binding commitments have been made to ensure that—

(A) the housing will be retained as housing affordable for very low-income families or persons, low income[333] families or persons, and moderate-income families or persons for the remaining useful life of such housing (as determined under subsection (c));

(B) throughout such period, adequate expenditures will be made for maintenance and operation of the housing and that the project meets housing standards established by the Secretary under subsection (d), as determined by inspections conducted under such subsection by the Secretary;

(C) current tenants will not be involuntarily displaced (except for good cause);

(D) monthly rent contributions by current and future tenants, including tenants receiving assistance under section 8 of the United States Housing Act of 1937, shall not exceed the lesser of—

(i) 30 percent of the adjusted income of the tenant; or

(ii) 90 percent of the actual rent paid for a comparable unit in comparable unassisted housing in the market area in which the eligible low-income housing is located;

except that the rent contributions of tenants (other than tenants receiving assistance under section 8 of the United States Housing Act of 1937) occupying the housing at the time of any increase may not be reduced under this subparagraph.

(E)(i) any resulting increase in rents for current tenants (except for increases made necessary by increased operating costs)—

(I) shall be phased in equally over a period of not less than 3 years, if such increase is 30 percent or more; and

(II) shall be limited to not more than 10 percent per year if such increase is more than 10 percent but less than 30 percent;

(ii) assistance under section 8 of the United States Housing Act of 1937 shall be provided, to the extent available under appropriation Acts, if necessary to mitigate any adverse effect on current income-eligible very low- and low-income tenants; and[334]

(iii)(I) to retain the tenant occupancy profile required by subparagraph (F)(i), tenants that are determined by the Secretary to be low-income tenants at initial income certification upon occupancy, or at the time of implementation of a plan of action (whichever occurs last), shall pay for rent an amount that is not less than the lesser of—

(aa) 30 percent of 45 percent of median income for the area (as determined by the Secretary and adjusted for family size); or

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[333] So in law.

[334] So in law. The Departments of Veterans Affairs and Housing and Urban Development, and Independent Agencies Appropriations Act, 1995, Pub. L. 103-327, 108 Stat. 2316, approved September 28, 1994, enacted section 601 of the bill S. 2281, 103d Congress, as reported (S. Rep. 103-307), by incorporating such section by reference. Subsection (c) of such section 601 provides as follows:

"(c) SECTION 8 ASSISTANCE.—Section 222(a)(1)(E)(ii) of the Low-Income Housing Preservation and Resident Homeownership Act of 1990 (12 U.S.C. 4112(a)(1)(E)) is amended—

"(1) by striking '; and' at the end and inserting a period; and

"(2) by adding at the end the following: 'For any section 8 assistance provided under this subtitle, whether through the extension of an existing contract or the provision of a new contract for assistance, the Secretary shall have the discretion to adjust contract rents within the limits established under section 215, irrespective of the comparable rent requirements set forth in section 8(c) of the United States Housing Act of 1937. Notwithstanding any provision of law to the contrary, any conflict pertaining to the computation of contract rents arising from differences between this subtitle and section 8 of the United States Housing Act of 1937 shall, subject to the prior approval of the Secretary, be resolved in favor of this subtitle; and'.".

The amendment could not be executed to paragraph (1) of this subsection and was probably intended to be made to this subparagraph.

(bb) 90 percent of the actual rent paid for a comparable unit in comparable unassisted housing in the market area in which the eligible low-income housing is located.

Subject to subclause (II), payment of this minimum rent shall be a condition of continued occupancy and eligibility for section 8 assistance.

(II) Notwithstanding the rents required under subclause (I), a tenant who occupies a unit designated for occupancy by low-income persons and families, and who becomes a very low-income tenant, shall be provided with the next available unit designated for occupancy by very low-income persons and families, and, until such unit becomes available, shall pay for rent not more than the amount chargeable as rent under section 3(a) of the United States Housing Act of 1937. Such tenant shall not be evicted for nonpayment of rent if the rent amounts set forth in this subclause are paid. The costs resulting from the difference between rents required under subclause (I) and the rents permitted under this subclause shall be incorporated into the section 8 contract for units designated for occupancy by low-income persons or families; and[335]

(F)[336](i) rents for units becoming available to new tenants shall be at levels approved by the Secretary that will ensure, to the extent practicable, that the units will be available and affordable to the same proportions of very low-income families or persons, low-income families or persons, and moderate-income families or persons (including families or persons whose incomes are 95 percent or more of area median income) as resided in the housing as of January 1, 1987 (based on the area median income limits established by the Secretary in February 1987), or the date the plan of action is approved, whichever date results in the highest proportion of very low-income families, except that this limitation shall not prohibit a higher proportion of very low-income families from occupying the housing; and

(ii) in approving rents under this paragraph, the Secretary shall take into account any additional incentives provided under this subtitle;

(G) future rent adjustments shall be—

(i) made by applying an annual factor (to be determined by the Secretary) to the portion of rent attributable to operating expenses for the housing and, where the owner is a priority purchaser, to the portion of rent attributable to project oversight costs; and

(ii) subject to a procedure, established by the Secretary, for owners to apply for rent increases not adequately compensated by annual adjustment under clause (i), under which the Secretary may increase rents in excess of the amount determined under clause (i) only if the Secretary determines such increases are necessary to reflect extraordinary necessary expenses of owning and maintaining the housing; and

(H)[337] any savings from reductions in operating expenses due to management efficiencies shall be deposited in project reserves for replacement and the owner shall have periodic access to such reserves, to the extent the Secretary determines that the level

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[335] So in law.

[336] The Departments of Veterans Affairs and Housing and Urban Development, and Independent Agencies Appropriations Act, 1995, Pub. L. 103-327, 108 Stat. 2316, approved September 28, 1994, enacted section 601 of the bill S. 2281, 103d Congress, as reported (S. Rep. 103-307), by incorporating such section by reference. Subsection (d) of such section 601 provides as follows:

"(d) APPLICABILITY OF FEDERAL PREFERENCES.—Section 222(a)(1)(F) of the Low-Income Housing Preservation and Resident Homeownership Act of 1990 (12 U.S.C. 4112(a)(1)(F)) is amended—

"(1) in clause (i)—

"(A) by striking 'rents for units becoming available to new tenants shall be at levels approved by the Secretary that will ensure, to the extent practicable, that the units will be' and inserting 'to the extent practicable, the units becoming available to new tenants shall be'; and

"(B) by striking 'and' at the end;

"(2) by redesignating clause (ii) as clause (iii); and

"(3) by inserting after clause (i) the following new clause:

'(ii) in order to maintain the proportions of very low- and low-income families and persons required by clause (i), owners shall be required to apply any required Federal preference rules only with respect to tenants within each low- or very low-income category, in accordance with the approved tenant profile; and'.".

The amendment could not be executed to paragraph (1)(F) of this subsection and was probably intended to be made to this subparagraph.

[337] Indented so in law.

of reserves is adequate and that the housing is maintained in accordance with the standards established under section 222(d); and

(3) no incentives under section 219 (other than to purchasers under section 220) may be provided until the Secretary determines the project meets housing standards under subsection (d), except that incentives under such section and other incentives designed to correct deficiencies in the project may be provided.

(b) IMPLEMENTATION.—Any agreement to maintain the low-income affordability restrictions for the remaining useful life of the housing may be made through execution of a new regulatory agreement, modifications to the existing regulatory agreement or mortgage, or, in the case of the prepayment of a mortgage or voluntary termination of mortgage insurance, a recorded instrument.

(c) DETERMINATION OF REMAINING USEFUL LIFE.—

(1) DEFINITION.—For purposes of this title, the term "remaining useful life" means, with respect to eligible low-income housing, the period during which the physical characteristics of the housing remain in a condition suitable for occupancy, assuming normal maintenance and repairs are made and major systems and capital components are replaced as becomes necessary.

(2) STANDARDS.—The Secretary shall, by rule under section 553 of title 5, United States Code, establish standards for determining when the useful life of an eligible low-income housing project has expired. The determination shall be made on the record after opportunity for a hearing.

(3) OWNER PETITION.—The Secretary shall establish a procedure under which owners of eligible low-income housing may petition the Secretary for a determination that the useful life of such housing has expired. The procedure shall not permit such a petition before the expiration of the 50-year period beginning upon the approval of a plan of action under this subtitle with respect to such housing. In making a determination pursuant to a petition under this paragraph, the Secretary shall presume that the useful life of the housing has not expired, and the owner shall have the burden of proof in establishing such expiration. The Secretary may not determine that the useful life of any housing has expired if such determination results primarily from failure to make regular and reasonable repairs and replacement, as became necessary.

(4) TENANT AND COMMUNITY COMMENT AND APPEAL.—In making a determination regarding the useful life of any housing pursuant to a petition submitted under paragraph (3), the Secretary shall provide for comment by tenants of the housing and interested persons and organizations with respect to the petition. The Secretary shall also provide the tenants and interested persons and organizations with an opportunity to appeal a determination under this subsection.

(d) HOUSING STANDARDS.—

(1) ESTABLISHMENT AND INSPECTION.—The Secretary shall, by regulation, establish standards regarding the physical condition in which any eligible low income housing project receiving incentives under this subtitle shall be maintained. The Secretary shall inspect each such project not less than annually to ensure that the project is in compliance with such standards.

(2) SANCTIONS.—

(A) IN GENERAL.—The Secretary shall take any action appropriate to require the owner of any housing not in compliance with such standards to bring such housing into compliance with the standards, including—

(i) directing the mortgagee, with respect to an equity take-out loan under section 241(f) of the National Housing Act, to withhold the disbursement to the owner of any escrowed loan proceeds and requiring that such proceeds be used for repair of the housing; and

(ii) reduce the amount of the annual authorized return, as determined by the Secretary, for the period ending upon a determination by the Secretary that the project is in compliance with the standards and requiring that such amounts be used for repair.

(B) CONTINUED COMPLIANCE.—To ensure continued compliance with the standards for a project subject to any action under subparagraph (A), the Secretary may also limit access of the owner to such amounts and use of such amounts for not more than the 2-year period beginning upon the determination that the project is in compliance with the standards.

(C) REMOVAL OF ASSISTANCE.—If, upon inspection, the Secretary determines that any eligible low income housing project has failed to comply with the standards established under this subsection for 2 consecutive years, the Secretary may take 1 or more of the following actions:

(i) Subject to availability of amounts provided in appropriations Acts, provide assistance under sections 8(b) and 8(o) of the United States Housing Act of 1937 (other than project-based assistance attached to the housing) for any tenant eligible for such assistance who desires to terminate occupancy in the housing. For each unit in the housing vacated pursuant to the provision of assistance under this clause, the Secretary may, notwithstanding any other law or contract for assistance, cancel the provision of project-based assistance attached to the housing for 1 dwelling unit, if the housing is receiving such assistance.

(ii) In the case of housing for which an equity take-out loan has been made under section 241(f) of the National Housing Act, declare such loan to be in default and accelerate the maturity date of the loan.

(iii) Declare any rehabilitation loan insured or provided by the Secretary (with respect to the housing) to be in default and accelerate the maturity date of the loan.

(iv) Suspend payments under or terminate any contract for project-based rental assistance under section 8 of the United States Housing Act of 1937.

(v) Take any other action authorized by law or the project regulatory agreement to ensure that the housing will be brought into compliance with the standards established under this subsection.

(e) DISTRIBUTION AND RESIDUAL RECEIPTS.—

(1) AUTHORITY.—After the date of the enactment of this subsection, the owner of a property subject to a plan of action or use agreement pursuant to this section shall be entitled to distribute—

(A) annually, all surplus cash generated by the property, but only if the owner is in material compliance with such use agreement including compliance with prevailing physical condition standards established by the Secretary; and

(B) notwithstanding any conflicting provision in such use agreement, any funds accumulated in a residual receipts account, but only if the owner is in material compliance with such use agreement and has completed, or set aside sufficient funds for completion of, any capital repairs identified by the most recent third party capital needs assessment.

(2) OPERATION OF PROPERTY.—An owner that distributes any amounts pursuant to paragraph (1) shall—

(A) continue to operate the property in accordance with the affordability provisions of the use agreement for the property for the remaining useful life of the property;

(B) as required by the plan of action for the property, continue to renew or extend any project-based rental assistance contract for a term of not less than 20 years; and

(C) if the owner has an existing multi-year project-based rental assistance contract for less than 20 years, have the option to extend the contract to a 20-year term.

Sec. 223. [12 U.S.C. 4113]
ASSISTANCE FOR DISPLACED TENANTS.

(a) SECTION 8 ASSISTANCE.—Each low-income family that is displaced as a result of the prepayment of the mortgage or voluntary termination of an insurance contract on eligible low income housing shall, subject to the availability or[338] amounts provided under appropriations Acts, receive tenant-based assistance under section 8 of the United States Housing Act of 1937. To the extent sufficient amounts are made available under appropriations Acts, in each fiscal year the Secretary shall reserve from amounts made available under section 234(a) of this Act or, if necessary, under section 5(c) of the United States Housing Act of 1937, such amounts as the Secretary determines are necessary to provide assistance payments for low-income families displaced during the fiscal year.

(b) RELOCATION ASSISTANCE.—The Secretary shall coordinate with public housing agencies to ensure that any very low- or low-income family displaced from eligible low-income housing as the result of the prepayment of the mortgage (or termination of the mortgage insurance contract) on such housing is able to acquire a suitable, affordable dwelling unit in the area of the housing from which the family is displaced. The Secretary shall require the owner of such housing to pay 50 percent of the moving expenses of each family relocated, except that such percentage shall be increased to the extent that State or local law of general applicability requires a higher payment by the owner.

(c) CONTINUED OCCUPANCY.—

[338] So in law.

(1) IN GENERAL.—Each owner that prepays the mortgage (or terminates the mortgage insurance contract) on eligible low-income housing shall, as provided in paragraph (3), allow the tenants occupying units in such housing on the date of the submission of notice of intent under section 212 to remain in the housing for a period of 3 years, at rent levels (except for increases necessary for increased operating costs) existing at the time of prepayment.

(2) PROVISION OF ASSISTANCE BY OWNER.—In any case in which the Secretary requires an owner to allow tenants to occupy units under paragraph (1), an owner may fulfill the requirements of such paragraph by providing such assistance necessary for the tenant to rent a decent, safe, and sanitary unit in another project for the same period and at a rental cost to the tenant not in excess of the rental amount the tenant would have been required to pay in the housing of the owner, except that the tenant must freely agree to waive the right to occupy the unit in the owner's housing.

(3) APPLICABILITY TO LOW-VACANCY AREAS AND SPECIAL NEEDS TENANTS.—The provisions of this subsection shall apply only to—

(A) eligible low income housing located in a low-vacancy area (as such term is defined by the Secretary); and

(B) tenants in any eligible low-income housing in any area who have special needs restricting their ability to relocate (including elderly tenants and tenants with disabilities), as determined under regulations established by the Secretary.

(d) REQUIRED ACCEPTANCE OF SECTION 8 ASSISTANCE.—An owner who prepays the mortgage (or terminates the mortgage insurance contract) on eligible low-income housing and maintains the housing for residential rental occupancy may not refuse to rent, refuse to negotiate for the rental of, or otherwise make unavailable or deny the rent of a dwelling unit in such property to any person, or discriminate against any person in the terms, conditions, or privileges of rental of a dwelling (or in the provision of services or facilities in connection therewith), because the person receives assistance under section 8 of United States Housing Act of 1937.

(e) REGIONAL POOLS.—In providing assistance under this section, the Secretary shall allocate the assistance on a regional basis through the regional offices of the Department of Housing and Urban Development. The Secretary shall allocate assistance under this section in a manner so that the total number of assisted units in each such region available for occupancy by, and affordable to, lower income families and persons does not decrease because of the prepayment or payment of a mortgage on eligible low-income housing or the termination of an insurance contract on such housing. (f) Enhanced Voucher Assistance for Certain Tenants.—

(1) AUTHORITY.—In lieu of benefits under subsections (b), (c), and (d), and subject to the availability of appropriated amounts, each family described in paragraph (2) shall be offered enhanced voucher assistance under section 8(t) of the United States Housing Act of 1937 (42 U.S.C. 1437 (t)).

(2) ELIGIBLE FAMILIES.—A family described in this paragraph is a family that is—

(A)(i) a low-income family; or

(ii) a moderate-income family that is: (I) an elderly family; (II) a disabled family; or (III) residing in a low-vacancy area; and

(B) residing in eligible low-income housing on the date of the prepayment of the mortgage or voluntary termination of the insurance contract.

Sec. 224. [12 U.S.C. 4114]
PERMISSIBLE PREPAYMENT OR VOLUNTARY TERMINATION AND MODIFICATION OF COMMITMENTS.

(a) IN GENERAL.—Notwithstanding any limitations on prepayment or voluntary termination under this subtitle, an owner may terminate the low-income affordability restrictions through prepayment or voluntary termination, subject to compliance with the provisions of section 223, under one of the following circumstances:

(1)(A) The Secretary approves a plan of action under section 219(a), but does not provide the assistance approved in such plan during the 15-month period beginning on the date of approval.

(B) After the date that the housing would have been eligible for prepayment pursuant to the terms of the mortgage (notwithstanding this subtitle), the Secretary approves a plan of action under section 220 or 221, but does not provide the assistance approved in such plan before the earlier of (i) the expiration of the 2-month period beginning on the commencement of the 1st fiscal year beginning after such approval, or (ii) the expiration of the 6-month period beginning on the date of approval.

(C) The Secretary approves a plan of action under section 220 or 221 for any eligible low-income housing not covered by subparagraph (B), but does not provide the assistance

approved in such plan before the earlier of (i) the expiration of the 2-month period beginning on the commencement of the 1st fiscal year beginning after such approval, or (ii) the expiration of the 9-month period beginning on the date of approval.

(2) An owner who intended to transfer the housing to a qualified purchaser under section 220 or 221, and fully complied with the provisions of such section, did not receive any bona fide offers from any qualified purchasers within the applicable time periods.

In the event that the purchaser under the plan of action is unable to consummate the purchase for reasons other than the failure of the Secretary to provide incentives, an owner may terminate the low-income affordability restrictions through prepayment or voluntary termination subject to the provisions of sections 220 and 221.

(b) SECTION 8 RENTAL ASSISTANCE.—When providing rental assistance under section 8, the Secretary may enter into a contract with an owner, contingent upon the future availability of appropriations for the purpose of renewing expiring contracts for rental assistance as provided in appropriations Acts, to extend the term of such rental assistance for such additional period or periods necessary to carry out an approved plan of action. The contract and the approved plan of action shall provide that, if the Secretary is unable to extend the term of such rental assistance or is unable to develop a revised package of incentives providing benefits to the owner comparable to those received under the original approved plan of action, the Secretary, upon the request of the owner, shall take the following actions (subject to the limitations under the following paragraphs):

(1) MODIFICATION OF COMMITMENTS.—Modify the binding commitments made pursuant to section 222(a)(2) that are dependent on such rental assistance.

(2) TERMINATION OF PLAN OF ACTION.—Permit the owner to prepay the mortgage and terminate the plan of action and any implementing use agreements or restrictions, but only if the owner agrees in writing to comply with provisions of section 223.

At least 30 days before making a request under this subsection, an owner shall notify the Secretary of the owner's intention to submit the request. The Secretary shall have a period of 90 days following receipt of such notice to take action to extend the rental assistance contract and to continue the binding commitments under section 222(a)(2).

Sec. 225. [12 U.S.C. 4115]
TIMETABLE FOR APPROVAL OF PLAN OF ACTION.

(a) NOTIFICATION OF DEFICIENCIES.—Not later than 60 days after receipt of a plan of action, the Secretary shall notify the owner in writing of any deficiencies that prevent the plan of action from being approved. If deficiencies are found, such notice shall describe alternative ways in which the plan may be revised to meet the criteria for approval.

(b) NOTIFICATION OF APPROVAL.—

(1) IN GENERAL.—Not later than 180 days after receipt of a plan of action, or such longer period as the owner requests, the Secretary shall notify the owner in writing whether the plan of action, including any revisions, is approved. If approval is withheld, the notice shall describe—

(A) the reasons for withholding approval; and

(B) the actions that could be taken to meet the criteria for approval.

(2) OPPORTUNITY TO REVISE.—The Secretary shall subsequently give the owner a reasonable opportunity to revise the plan of action and seek approval.

(c) DELAYED APPROVAL.—If the Secretary does not approve a plan of action within the period under subsection (b), the Secretary shall provide incentives and assistance under this subtitle in the amount that the owner would have received if the Secretary had complied with such time limitations. The preceding sentence shall not apply if the plan of action was not approved because of deficiencies. An owner may bring an action in the appropriate Federal district court to enforce this subsection.

Sec. 226. [12 U.S.C. 4116]
RESIDENT HOMEOWNERSHIP PROGRAM.

(a) FORMATION OF RESIDENT COUNCIL.—Tenants seeking to purchase eligible low-income housing in accordance with section 220 shall organize a resident council for the purpose of developing a resident homeownership program in accordance with standards established by the Secretary. The resident council shall work with a public or private nonprofit organization or a public body (including an agency or instrumentality thereof). Such organization or public body shall have experience to enable it to help the tenants consider their options and to develop the capacity necessary to own and manage the housing, where appropriate, and shall be approved by the Secretary.

(b) OTHER PROGRAM REQUIREMENTS AND LIMITATIONS.—

(1) SALES TO RESIDENTS.—As a condition of approval of a plan of action involving homeownership program under this subtitle, the resident council shall prepare a workable plan acceptable to the Secretary for giving all residents an opportunity to become owners, which plan shall identify—

(A) the price at which the resident council intends to transfer ownership interests in, or shares representing, units in the housing;

(B) the factors that will influence the establishment of such price;

(C) how such price compares to the estimated appraised value of the ownership interests or shares;

(D) the underwriting standard the resident council plans to use (or reasonably expects a public or private lender to use) for potential tenant purchasers;

(E) the financing arrangements the tenants are expected to pursue or be provided; and

(F) a workable schedule of sale (subject to the limitations of paragraph (8)) based on estimated tenant incomes.

(2) APPROVAL OF METHOD OF CONVERSION AND LIMITATION ON CONDITIONS OF APPROVAL.—The Secretary shall approve the method for converting the housing to homeownership, which may involve acquisition of ownership interests in, or shares representing, the units in a project under any arrangement determined by the Secretary to be appropriate, such as cooperative ownership (including limited equity cooperative ownership) and fee simple ownership (including condominium ownership). The Secretary may not require the prepayment of the mortgage on eligible low-income housing for the approval of a plan of action involving a homeownership program for the housing.

(3) REQUIRED CONDITIONS.—The Secretary shall require that the form of homeownership impose appropriate conditions, including conditions to assure that—

(A) the number of initial owners that are very low-income, lower income, or moderate-income persons at initial occupancy meet standards required or approved by the Secretary;

(B) occupancy charges payable by the owners meet requirements established by the Secretary;

(C) the aggregate incomes of initial and subsequent owners and other sources of funds for the project are sufficient to permit occupancy charges to cover the full operating costs of the housing and any debt service;

(D) each initial owner occupies the unit it acquires; and

(E) the low-income affordability restrictions shall continue to apply to any rental units in the housing for any period during which such units remain rental units.

(4) USE OF PROCEEDS FROM SALES TO ELIGIBLE FAMILIES.—The entity that transfers ownership interests in, or shares representing, units to eligible families, or another entity specified in the approved application, may use 50 percent of the proceeds, if any, from the initial sale for costs of the homeownership program, including improvements to the project, operating and replacement reserves for the project, additional homeownership opportunities in the project, and other project-related activities approved by the Secretary. The remaining 50 percent of such proceeds shall be returned to the Secretary for use under section 220, subject to availability under appropriations Acts. Such entity shall keep, and make available to the Secretary, all records necessary to calculate accurately payments due the Secretary under this paragraph.

(5) RESTRICTIONS ON RESALE BY HOMEOWNERS.—

(A) IN GENERAL.—

(i) TRANSFER PERMITTED.—A homeowner under a homeownership program may transfer the homeowner's ownership interest in, or shares representing, the unit, except that a homeownership program may establish restrictions on the resale of units under the program.

(ii) RIGHT TO PURCHASE.—Where a resident management corporation, resident council, or cooperative has jurisdiction over the unit, the corporation, council, or cooperative shall have the right to purchase the ownership interest in, or shares representing, the unit from the homeowner for the amount specified in a firm contract between the homeowner and a prospective buyer.

(iii) PROMISSORY NOTE REQUIRED.—The homeowner shall execute a promissory note equal to the difference, if any, between the market value and the purchase price, payable to the Secretary, together with a mortgage securing the obligation of the note.

(B) 6 YEARS OR LESS.—In the case of a transfer within 6 years of the acquisition under the program, the homeownership program shall provide for appropriate restrictions to assure that an eligible family may not receive any undue profit. The plan shall provide for limiting the family's consideration for its interest in the property to the total of—

(i) the contribution to equity paid by the family;

(ii) the value, as determined by such means as the Secretary shall determine through regulation, of any improvements installed at the expense of the family during the family's tenure as owner; and

(iii) the appreciated value determined by an inflation allowance at a rate which may be based on a cost-of-living index, an income index, or market index as determined by the Secretary through regulation and agreed to by the purchaser and the entity that transfers ownership interests in, or shares representing, units to eligible families (or another entity specified in the approved application), at the time of initial sale, and applied against the contribution to equity.

Such an entity may, at the time of initial sale, enter into an agreement with the family to set a maximum amount which this appreciation may not exceed.

(C) 6-20 YEARS.—In the case of a transfer during the period beginning 6 years after the acquisition and ending 20 years after the acquisition, the homeownership program shall provide for the recapture by the Secretary or the program of an amount equal to the amount of the declining balance on the note described in subparagraph (A)(iii).

(D) USE OF RECAPTURED FUNDS.—Any net sales proceeds that may not be retained by the homeowner under the plan approved pursuant to this paragraph shall be paid to the HOME Investment Trust Fund for the unit of general local government in which the housing is located. If the housing is located in a unit of general local government that is not a participating jurisdiction (as such term is defined in section 104 of the Cranston-Gonzalez National Affordable Housing Act), any such net sales proceeds shall be paid to the HOME Investment Trust Fund for the State in which the housing is located. With respect to any proceeds transferred to a HOME Investment Trust Fund under this subparagraph, the Secretary shall take such actions as are necessary to ensure that the proceeds shall be immediately available for eligible activities to expand the supply of affordable housing under section 212 of the Cranston-Gonzalez National Affordable Housing Act. The Secretary shall require the maintenance of any records necessary to calculate accurately payments due under this paragraph.

(6) PROTECTION OF NONPURCHASING FAMILIES.—

(A) EVICTION.—No tenant residing in a dwelling unit in a property on the date the Secretary approves a plan of action may be evicted by reason of a homeownership program approved under this subtitle.

(B) RENTAL ASSISTANCE.—If a tenant decides not to purchase a unit, or is not qualified to do so, the Secretary shall ensure that rental assistance under section 8 is available for use by each otherwise qualified tenant (that meets the eligibility requirements under such section) in that or another property. Any system for preferences established under section 8(d)(1)(A) or 8(o)(6)(A) of the United States Housing Act of 1937 shall not apply to the provision of assistance to such families.

(C) RELOCATION ASSISTANCE.—The resident council shall also inform each such tenant that if the tenant chooses to move, the owner will pay relocation assistance in accordance with the approved homeownership program.

(7) QUALIFIED MANAGEMENT.—As a condition of approval of a homeownership program under this subtitle, the resident council shall have demonstrated its abilities to manage eligible properties by having done so effectively and efficiently for a period of not less than 3 years or by entering into a contract with a qualified management entity that meets such standards as the Secretary may prescribe to ensure that the property will be maintained in a decent, safe, and sanitary condition.

(8) TIMELY HOMEOWNERSHIP.—Except in the case of limited equity cooperatives, resident councils shall transfer ownership of the property to tenants within a specified period of time that the Secretary determines to be reasonable. During the interim period when the property continues to be operated and managed as rental housing, the resident council shall utilize written tenant selection policies and criteria that are approved by the Secretary as consistent with the purpose of providing housing for very

low-income families. The resident council shall promptly notify in writing any rejected applicant of the grounds for any rejection.

(9) RECORDS AND AUDIT OF RESIDENT COUNCILS.—

(A) MAINTENANCE.—Each resident council shall keep such records as may be reasonably necessary to fully disclose the amount and the disposition by such resident council of the proceeds of assistance received under this subtitle (including any proceeds from sales under paragraphs (4) and (5)(D)), the total cost of the homeownership program in connection with which such assistance is given or used, and the amount and nature of that portion of the program supplied by other sources, and such other sources as will facilitate an effective audit.

(B) ACCESS.—The Secretary shall have access for the purpose of audit and examination to any books, documents, papers, and records of the resident council that are pertinent to assistance received under this subtitle.

(C) AUDIT.—The Comptroller General of the United States, or any of the duly authorized representatives of the Comptroller General, shall also have access for the purpose of audit and examination to any books, documents, papers, and records of the resident council that are pertinent to assistance received under this subtitle.

(10) ASSUMPTION CONDITIONS.—Any entity that assumes a mortgage covering low-income housing in connection with the acquisition of the housing from an owner under this section must comply with any low-income affordability restrictions for the remaining useful life of the housing as determined under section 222(c).

Sec. 227. [12 U.S.C. 4117]
DELEGATED RESPONSIBILITY TO STATE AGENCIES.

(a) IN GENERAL.—In addition to any responsibilities delegated under section 213(c), the Secretary shall delegate some or all responsibility for implementing this subtitle to a State housing agency if such agency submits a preservation plan acceptable to the Secretary.

(b) APPROVAL.—State preservation plans shall be submitted in such form and in accordance with such procedures as the Secretary shall establish. The Secretary may approve plans that contain—

(1) an inventory of low-income housing located within the State that is or will be eligible low-income housing under this subtitle within 5 years;

(2) a description of the agency's experience in the area of multifamily financing and restructuring;

(3) a description of the administrative resources that the agency will commit to the processing of plans of action in accordance with this subtitle;

(4) a description of the administrative resources that the agency will commit to the monitoring of approved plans of action in accordance with this subtitle;

(5) an independent analysis of the performance of the multifamily housing inventory financed or otherwise monitored by the agency;

(6) a certification by the public official responsible for submitting the comprehensive housing affordability strategy under section 105 of the Cranston-Gonzalez National Affordable Housing Act that the proposed activities are consistent with the approved housing strategy of the State within which the eligible low-income housing is located; and

(7) such other certifications or information that the Secretary determines to be necessary or appropriate to achieve the purposes of this subtitle.

(c) IMPLEMENTATION AGREEMENTS.—The Secretary may enter into any agreements necessary to implement an approved State preservation plan, which may include incentives that are authorized under other provisions of this subtitle.

Sec. 228. [12 U.S.C. 4118]
CONSULTATIONS WITH OTHER INTERESTED PARTIES.

The Secretary shall confer with any appropriate State or local government agency to confirm any State or local assistance that is available to achieve the purposes of this title and shall give consideration to the views of any such agency when making determinations under this subtitle. The Secretary shall also confer with appropriate interested parties that the Secretary believes could assist in the development of a plan of action that best achieves the purposes of this subtitle.

Sec. 229. [12 U.S.C. 4119]
DEFINITIONS.

For purposes of this subtitle:

(1) The term "eligible low-income housing" means any housing financed by a loan or mortgage—

(A) that is—

(i) insured or held by the Secretary under section 221(d)(3) of the National Housing Act and receiving loan management assistance under section 8 of the United States Housing Act of 1937 due to a conversion from section 101 of the Housing and Urban Development Act of 1965;

(ii) insured or held by the Secretary and bears interest at a rate determined under the proviso of section 221(d)(5) of the National Housing Act;

(iii) insured, assisted, or held by the Secretary or a State or State agency under section 236 of the National Housing Act; or

(iv) held by the Secretary and formerly insured under a program referred to in clause (i), (ii), or (iii); and

(B) that, under regulation or contract in effect before February 5, 1988, is or will within 24 months become eligible for prepayment without prior approval of the Secretary.

(2) The term "Federal cost limit" means, for any eligible low-income housing, the amount determined under section 215(a).

(3) The term "low-income affordability restrictions" means limits imposed by regulation or regulatory agreement on tenant rents, rent contributions, or income eligibility in eligible low-income housing.

(4)[339](A) The term "low-income tenants" means families or persons with incomes that exceed 50 percent of the median income for the area (as determined by the Secretary with adjustments for family size) but do not exceed 80 percent of the median income for the area (as determined by the Secretary with adjustments for family size).

(B) The term "very low-income tenants" means families or persons with incomes that are less than or equal to 50 percent of the median income for the area (as determined by the Secretary with adjustments for family size).

(5) The term "moderate-income families or persons" means families or persons whose incomes are between 80 percent and 95 percent of the median income for the area, as determined by the Secretary with adjustments for smaller and larger families.

(6) The term "nonprofit organization" means any private, nonprofit organization that—

(A) is organized or chartered under State or local laws;

(B) has no part of its net earnings inuring to the benefit of any member, founder, contributor, or individual;

(C) complies with standards of financial accountability acceptable to the Secretary; and

(D) has among its principal purposes significant activities related to the provision of decent housing that is affordable to very low-, low-, and moderate-income families.

(7) The term "owner" means the current or subsequent owner or owners of eligible low-income housing.

(8) The term "preservation equity" means, for any eligible low-income housing—

(A) for purposes of determining the authorized return under section 214(a) and providing incentives to extend the low-income affordability restrictions on the housing under section 219—

(i) the preservation value of the housing determined under section 213(b)(1); less

(ii) any debt secured by the property; and

(B) for purposes of determining incentives under section 220 and 221 and determining the amount of an acquisition loan under the provisions of section 241(f)(3) of the National Housing Act—

(i) the preservation value of the housing determined under section 213(b)(2); less

[339] This paragraph was amended to read as shown by section 601(e) of the bill S. 2281, 103d Congress, as reported (S. Rep. 103-307), which was enacted by the Departments of Veterans Affairs and Housing and Urban Development, and Independent Agencies Appropriations Act, 1995, Pub. L. 103-327, 108 Stat. 2316, approved September 28, 1994, by incorporating such section 601 by reference. Such Act provides that "the provisions of such section 601 shall be effective only during fiscal year 1995.".

(ii) the outstanding balance of the federally-assisted mortgage or mortgages for the housing.

(9) The term "preservation value" means, for any eligible low-income housing, the applicable value determined under paragraph (1) or (2) of section 213(b).

(10) The term "Secretary" means the Secretary of Housing and Urban Development.

(11) The term "resident council" means any incorporated nonprofit organization or association that—

(A) is representative of the residents of the housing;

(B) adopts written procedures providing for the election of officers on a regular basis; and

(C) has a democratically elected governing board, elected by the residents of the housing.

Sec. 230. [12 U.S.C. 4120]
NOTICE TO TENANTS.

Where a provision of this subtitle requires that information or material be given to tenants of the housing, the requirement may be met by (1) posting a copy of the information or material in readily accessible locations within each affected building, or posting notices in each such location describing the information or material and specifying a location, as convenient to the tenants as is reasonably practical, where a copy may be examined, and (2) supplying a copy of the information or material to a representative of the tenants.

Sec. 231. [12 U.S.C. 4121]
DEFINITIONS OF QUALIFIED AND PRIORITY PURCHASER AND RELATED PARTY RULE.

(a) PRIORITY PURCHASER.—The term "priority purchaser" means (A) a resident council organized to acquire the housing in accordance with a resident homeownership program that meets the requirements of section 231[340]; and (B) any nonprofit organization or State or local agency that agrees to maintain low-income affordability restrictions for the remaining useful life of the housing (as determined under section 222(d)).[341]

(b) QUALIFIED PURCHASER.—The term "qualified purchaser" means any entity that agrees to maintain low-income affordability restrictions for the remaining useful life of the housing (as determined under section 222(c)), and includes for-profit entities and priority purchasers.

(c) RELATED PARTIES.—Except as provided in subsection (d), the terms "qualified purchaser" and "priority purchaser" do not include any entity that, either directly or indirectly, is wholly or partially owned or controlled by the owner of the housing being transferred under this subtitle, is under whole or partial common control with such owner, or has any financial interest in such owner or in which such owner has any financial interest. The Secretary shall issue any regulations appropriate to implement the preceding sentence.

(d) MANAGEMENT EXCEPTION.—A qualified purchaser shall not be precluded from retaining as a property management entity a company that is owned or controlled by the selling owner or a principal thereof if retention of the management company is neither a condition of sale nor part of consideration paid for sale and the property management contract is negotiated by the qualified purchaser on an arm's length basis.

Sec. 232. [12 U.S.C. 4122]
PREEMPTION OF STATE AND LOCAL LAWS.

(a) IN GENERAL.—No State or political subdivision of a State may establish, continue in effect, or enforce any law or regulation that—

(1) restricts or inhibits the prepayment of any mortgage described in section 229(1) (or the voluntary termination of any insurance contract pursuant to section 229 of the National Housing Act) on eligible low income housing;

(2) restricts or inhibits an owner of such housing from receiving the authorized annual return provided under section 214;

(3) is inconsistent with any provision of this subtitle, including any law, regulation, or other restriction that limits or impairs the ability of any owner of eligible low income housing to receive incentives authorized under this subtitle (including authorization to increase rental rates, transfer the housing, obtain secondary financing, or use the proceeds of any of such incentives); or

(4) in its applicability to low-income housing is limited only to eligible low-income housing for which the owner has prepaid the mortgage or terminated the insurance contract.

[340] So in law. Probably intended to refer to section 226.
[341] So in law. Probably intended to refer to section 222(c).

Any law, regulation, or restriction described under paragraph (1), (2), (3), or (4) shall be ineffective and any eligible low-income housing exempt from the law, regulation, or restriction, only to the extent that it violates the provisions of this subsection.

(b) EFFECT.—This section shall not prevent the establishment, continuing in effect, or enforcement of any law or regulation of any State or political subdivision of a State not inconsistent with the provisions of this subtitle, such as any law or regulation relating to building standards, zoning limitations, health, safety, or habitability standards for housing, rent control, or conversion of rental housing to condominium or cooperative ownership, to the extent such law or regulation is of general applicability to both housing receiving Federal assistance and nonassisted housing. This section shall not preempt, annul, or alter any contractual restrictions or obligations existing before the date of the enactment of the Cranston-Gonzalez National Affordable Housing Act[342] that prevent or limit an owner of eligible low-income housing from prepaying the mortgage on the housing (or terminating the insurance contract on the housing).

Sec. 233. [12 U.S.C. 4123]
SEVERABILITY.

If any provision of this subtitle, or the application of such provision with respect to any person or circumstance, is held invalid, the remainder of this Act, and the application of such provision to any other person or circumstance, shall not be affected by such holding.

Sec. 234. [12 U.S.C. 4124]
AUTHORIZATION OF APPROPRIATIONS.

(a) IN GENERAL.—There are authorized to be appropriated for assistance and incentives authorized under this subtitle $638,252,784 for fiscal year 1993 and $665,059,401 for fiscal year 1994.

(b) GRANTS.—Subject to approval in appropriation Acts, not more than $50,000,000 of the amounts made available under subsection (a) for fiscal year 1993, and not more than $50,000,000 of the amounts made available under subsection (a) for fiscal year 1994, shall be available for grants under section 221(d)(2).

Sec. 235. [12 U.S.C. 4101 note]
APPLICABILITY.

Subject to section 605 of the Cranston-Gonzalez National Affordable Housing Act, the requirements of this subtitle shall apply to any project that is eligible low-income housing on or after November 1, 1987.

Subtitle C[343]—Rural Rental Housing Displacement Prevention

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Subtitle D[344]—Other Measures to Preserve Low Income Housing

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Subtitle C[345]—**TECHNICAL ASSISTANCE AND CAPACITY BUILDING**

Sec. 251. [12 U.S.C. 4141]
AUTHORITY.

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[342] November 28, 1990.

[343] Section 312 of the Housing and Community Development Act of 1992, Pub. L. 102-550, approved October 28, 1992, amended "[t]itle II of the Housing and Community Development Act of 1987 . . . by adding at the end" this subtitle C.
However, the Housing and Community Development Act of 1987, Pub. L. 100-242, approved February 5, 1988, included subtitles C and D (relating to rural rental housing displacement prevention and other measures to preserve low-income housing), consisting of sections 241-243 and 261-263.
Therefore, the new subtitle C added by section 312 of Public Law 102-550 is added after subtitle D (after section 263), the subtitle probably should have been designated as subtitle E, and the sections of such subtitle probably should have been designated as sections 271 through 277.
Because the provisions of subtitles C and D of the Public Law 100-242 contained only amendments to other laws, such provisions are not set forth in this compilation. The laws amended by the provisions of such subtitles are, however, set forth in this compilation.

[344] See footnote 1.

[345] See footnote 1.

The Secretary of Housing and Urban Development may provide technical assistance and capacity building to further the preservation program established under this title.

Sec. 252. [12 U.S.C. 4142]
PURPOSES.

The purposes of this subtitle are—

(1) to promote the ability of residents of eligible low-income housing to meaningfully participate in the preservation process established by this title and affect decisions about the future of their housing;

(2) to promote the ability of community-based nonprofit housing developers and resident councils to acquire, rehabilitate, and competently own and manage eligible housing as rental or cooperative housing for low- and moderate-income people; and

(3) to assist the Secretary in discharging the obligation under section 220 to notify potential qualified purchasers of the availability of properties for sale and to otherwise facilitate the coordination and oversight of the preservation program established under this title.

Sec. 253. [12 U.S.C. 4143]
GRANTS FOR BUILDING RESIDENT CAPACITY AND FUNDING PREDEVELOPMENT COSTS.

(a) IN GENERAL.—Assistance made available under this section shall be used for direct assistance grants to resident organizations and community-based nonprofit housing developers and resident councils to assist the acquisition of specific projects (including the payment of reasonable administrative expenses to participating intermediaries).

(b) ALLOCATION.—30 percent of the assistance made available under this section shall be used for resident capacity grants in accordance with subsection (d). The remainder shall be used for predevelopment grants in connection with specific projects in accordance with subsection (e).

(c) LIMITATION ON GRANT AMOUNTS.—A resident capacity grant under subsection (d) may not exceed $30,000 per project and a grant under subsection (e) for predevelopment costs may not exceed $200,000 per project, exclusive of any fees paid to a participating intermediary by the Secretary for administering the program.

(d) RESIDENT CAPACITY GRANTS.—

(1) USE.—Resident capacity grants under this subsection shall be available to eligible applicants to cover expenses for resident outreach, incorporation of a resident organization or council, conducting democratic elections, training, leadership development, legal and other technical assistance to the board of directors, staff and members of the resident organization or council.

(2) Eligible housing.—Grants under this subsection may be provided with respect to eligible low-income housing for which the owner has filed a notice of intent under subtitle B of this title or title II of the Emergency Low Income Housing Preservation Act of 1987 (pursuant to section 604 of the Cranston-Gonzalez National Affordable Housing Act).

(e) PREDEVELOPMENT GRANTS.—

(1) USE.—Predevelopment grants under this subsection shall be made available to community-based nonprofit housing developers and resident councils to cover the cost of organizing a purchasing entity and pursuing an acquisition, including third party costs for training, development consulting, legal, appraisal, accounting, environmental, architectural and engineering, application fees, and sponsor's staff and overhead costs.

(2) ELIGIBLE HOUSING.—Such grants may only be made available with respect to any eligible low-income housing project for which the owner has filed an initial notice of intent to transfer the housing to a qualified purchaser in accordance with section 220 of this title, or has filed a notice of intent and entered into a binding agreement to sell the housing to a resident organization or nonprofit organization.

(3) PHASE-IN OF GRANT PAYMENTS.—Grant payments under this subsection shall be made in phases, based on performance benchmarks established by the Secretary in consultation with intermediaries selected under section 255(b).

(f) GRANT APPLICATIONS.—Grant applications for assistance under subsections (d) and (e) shall be received monthly on a rolling basis and approved or rejected on at least a quarterly basis by intermediaries selected under section 255(b).

(g) APPEAL.—If an application for assistance under subsections (d) or (e) is denied, the applicant shall have the right to appeal the denial to the Secretary and receive a binding determination within 30 days of the appeal.

Sec. 254. [12 U.S.C. 4144]
GRANTS FOR OTHER PURPOSES.
The Secretary may provide grants under this subtitle—

(1) to resident-controlled or community-based nonprofit organizations with experience in resident education and organizing for the purpose of conducting community, city or county wide outreach and training programs to identify and organize residents of eligible low-income housing; and

(2) to State and local government agencies and nonprofit intermediaries for the purpose of carrying out such activities as the Secretary deems appropriate to further the preservation program established under this title.

Sec. 255. [12 U.S.C. 4145]
DELIVERY OF ASSISTANCE THROUGH INTERMEDIARIES.

(a) IN GENERAL.—The Secretary shall approve and disburse assistance under section 253 through eligible intermediaries selected by the Secretary under subsection (b). If the Secretary does not receive an acceptable proposal from an intermediary offering to administer assistance under this section in a given State, the Secretary shall administer the program in such State directly.

(b) SELECTION OF ELIGIBLE INTERMEDIARIES.—

(1) IN GENERAL.—The Secretary shall develop criteria to select eligible intermediaries, through a competitive process, to administer assistance under this subtitle. The process shall include provision for a reasonable administrative fee.

(2) PRIORITY.—With respect to all forms of grants available under section 253, such criteria shall give priority to applications from eligible intermediaries with demonstrated expertise or experience with the program established under this title or under the Emergency Low Income Housing Preservation Act of 1987.

(3) CRITERIA.—The criteria developed under this subsection shall—

(A) not assign any preference or priority to applications from eligible intermediaries based on their previous participation in administering or receiving Federal grants or loans (but may exclude applicants who have failed to perform under prior contracts of a similar nature);

(B) require an applicant to prepare a proposal that demonstrates adequate staffing, qualifications, prior experience, and a plan for participation; and

(C) permit an applicant to serve as the administrator of assistance made available under section 253(d) or (e), based on the applicant's suitability and interest.

(4) GEOGRAPHIC COVERAGE.—The Secretary may select more than 1 State or regional intermediary for a single State or region. The number of intermediaries chosen for each State or region may be based on the number of eligible low-income housing projects in the State or region, provided there is no duplication of geographic coverage by intermediaries in the administration of the direct assistance grant program.

(5) NATIONAL NONPROFIT INTERMEDIARIES.—National nonprofit intermediaries shall be selected to administer the assistance made available under section 253 only with respect to States or regions for which no other eligible intermediary, acceptable to the Secretary, has submitted a proposal to participate.

(6) PREFERENCE.—With respect to assistance made available under section 254, preference shall be given to eligible regional, State, and local intermediaries, over national nonprofit organizations.

(c) CONFLICTS OF INTEREST.—Eligible intermediaries selected under subsection (b) to disburse assistance under section 253 shall certify that they will serve only as delegated program administrators, charged with the responsibility for reviewing and approving grant applications on behalf of the Secretary. Selected intermediaries shall—

(1) establish appropriate procedures for grant administration and fiscal management, pursuant to standards established by the Secretary; and

(2) receive a reasonable administrative fee, except that they may not provide other services to grant recipients with respect to projects that are the subject of the grant application and may not receive payment, directly or indirectly, from the proceeds of grants they have approved.

(d) DEFINITION OF ELIGIBLE INTERMEDIARIES.—For purposes of this section, the term "eligible intermediary" means a State, regional, or national organization (including a quasi-public organization) or a State or local housing agency that—

(1) has as a central purpose the preservation of existing affordable housing and the prevention of displacement;

(2) does not receive direct Federal appropriations for operating support;

(3) in the case of a national nonprofit organization, has been in existence for at least 5 years prior to the date of application and has been classified by the Internal Revenue Service as an exempt organization under section 501(c)(3) of the Internal Revenue Code of 1986;

(4) in the case of a regional or State nonprofit organization, has been in existence for at least 3 years prior to the date of application and has been classified by the Internal Revenue Service as an exempt organization under section 501(c)(3) of the Internal Revenue Code of 1986 or is otherwise a tax-exempt entity;

(5) has a record of service to low-income individuals or community-based nonprofit housing developers in multiple communities and, with respect to intermediaries administering assistance under section 253, has experience with the allocation or administration of grant or loan funds; and

(6) meets standards of fiscal responsibility established by the Secretary.

Sec. 256. [12 U.S.C. 4146]
DEFINITIONS.

For purposes of this subtitle—

(1) the term "community-based nonprofit housing developer" means a nonprofit community development corporation that—

(A) has been classified by the Internal Revenue Service as an exempt organization under section 501(c)(3) of the Internal Revenue Code of 1986;

(B) has been in existence for at least 2 years prior to the date of the grant application;

(C) has a record of service to low- and moderate-income people in the community in which the project is located;

(D) is organized at the neighborhood, city, county or multi-county level; and

(E) in the case of a corporation acquiring eligible housing under subtitle B of this title, agrees to form a purchaser entity that conforms to the definition of a community-based nonprofit organization under such subtitle and agrees to use its best efforts to secure majority tenant consent to the acquisition of the project for which grant assistance is requested; and

(2) the terms "eligible low-income housing", "nonprofit organization", "owner", and "resident council" have the meanings given such terms in section 229.

Sec. 257. [12 U.S.C. 4147]
FUNDING.

The Secretary shall use not more than $25,000,000 of the amounts made available under section 234(a) for fiscal year 1993, and not more than $25,000,000 of the amounts made available under section 234(a) for fiscal year 1994, to carry out this subtitle. Of any amounts made available to carry out this subtitle in any appropriation Act, 90 percent shall be set aside for use in accordance with section 253 and 10 percent shall be set aside for use in accordance with subsection 254.

END OF STATUTE

TRANSITION AND OTHER LOW-INCOME HOUSING PRESERVATION PROVISIONS

CRANSTON-GONZALEZ NATIONAL AFFORDABLE HOUSING ACT
[Public Law 101-625; 104 Stat. 4249; 12 U.S.C. 4101 note]

TITLE VI—PRESERVATION OF AFFORDABLE RENTAL HOUSING

Subtitle A—Prepayment of Mortgages Insured Under National Housing Act

* * * * * * *

Sec. 604. [12 U.S.C. 4101 note]
TRANSITION PROVISIONS.

(a) HOUSING ELIGIBLE FOR ELECTION.—Any owner of housing that becomes eligible low-income housing before January 1, 1991 and who, before such date, filed a notice of intent under section 222 of the Emergency Low Income Housing Preservation Act of 1987 (as such section existed before the date of the enactment of this Act)[346] or under section 212 of such Act (as amended by section 601(a)) may elect to be subject to (1) the provisions of such Act as in effect before the date of the enactment of this Act, or (2) the provisions of the Low-Income Housing Preservation and Resident Homeownership Act of 1990, after the date of the enactment of this Act.1 The Secretary shall establish procedures for owners to make the election under the preceding sentence. An owner that elects to be subject to the provisions of the Emergency Low Income Housing Preservation Act of 1987 shall comply with section 212(b), section 217(a)(2), and section 217(c) of the Low-Income Housing Preservation and Resident Homeownership Act of 1990.

(b) RIGHT OF CONVERSION TO NEW SYSTEM.—Any owner who has filed a plan of action on or before October 11, 1990, shall have the right to convert to the system of incentives and restrictions under this subtitle, with such adjustments as the Secretary determines to be appropriate to compensate for the value of any incentives the owner received under the Emergency Low Income Housing Preservation Act of 1987. Owners filing plans after such date shall not have any right under this subsection.

(c) EFFECTIVENESS OF REPEALED PROVISIONS.—Notwithstanding the amendment made by section 601(a), the provisions of the Emergency Low Income Housing Preservation Act of 1987 (as in effect immediately before the date of the enactment of this Act)1 shall apply with respect to any housing for which the election under subsection (a)(1) is made. With respect to housing for which such an election is made—

(1) in making incentives under section 224 of such Act available to such housing, the Secretary—

(A) shall, for approvable plans of action, provide assistance sufficient to enable a nonprofit organization that has purchased or will purchase an eligible low income housing project to meet project oversight costs; and

(B) may not refuse to offer incentives referred to in such section to any owner who filed a notice of intent under section 222 of such Act before October 15, 1991, based solely on the date of filing of the plan of action for the housing; and

(2) provisions of section 233(1)(A)(i) of such Act shall not apply, and the term "eligible low income housing" shall, for purposes of such Act, shall include housing financed by a loan or mortgage that is insured or held by the Secretary or a State or State agency under section 221(d)(3) of the National Housing Act and receiving loan management assistance under section 8 of the United States Housing Act of 1937 due to a conversion from section 101 of the Housing and Urban Development Act of 1965.

(d) REGULATIONS.—Not later than the expiration of the 90-day period beginning on the date of the enactment of this Act,[347] the Secretary of Housing and Urban Development shall, subject to the provisions of section 553 of title 5, United States Code, publish proposed rules to implement this subtitle and the amendments made by this subtitle. Not later than 45 days after the expiration of the period under the preceding sentence the Secretary shall issue interim or final rules to implement such provisions.

[346] The date of enactment was November 28, 1990.
[347] The date of enactment was November 28, 1990.

Sec. 605. [12 U.S.C. 4101 note]
EFFECTIVE DATE.

This subtitle shall take effect on the date of the enactment of this Act.[348]

Subtitle B—Other Preservation Provisions

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Sec. 613. [12 U.S.C. 4125]
ASSISTANCE TO PREVENT PREPAYMENT UNDER STATE MORTGAGE PROGRAMS.

* * * * * * *

(b) **STATE PRESERVATION PROJECT ASSISTANCE**.—

(1) IN GENERAL.—Upon application by a State or local housing authority (including public housing agencies), the Secretary of Housing and Urban Development may make available, from sources of assistance appropriated to preserve the low and moderate income status of projects with expiring Federal use restrictions, assistance to such State or local housing authorities for use in preventing the loss of housing affordable for low and moderate income families that is assisted under a State program under the terms of which the owner may prepay a State assisted or subsidized mortgage on such housing. The application of the State or local housing authority shall demonstrate to the Secretary that the total amount of incentives provided to the owner to induce the owner to preserve the low and moderate income status of the project shall not exceed the level of incentives which may be provided to a similarly situated project with expiring Federal use restrictions under subtitle B of title II of the Housing and Community Development Act of 1987.

(2) SECTION 8.—Any assistance under section 8 of the United States Housing Act of 1937 made available pursuant to this subsection may be used (i) to supplement any assistance available on existing section 8 contracts, or (ii) to provide additional assistance to structures to ensure that all units occupied by tenants who are lower income families (as such term is defined in section 3(b) of the United States Housing Act of 1937) pay rents not exceeding 30 percent of their adjusted incomes. Any project receiving assistance hereunder shall be subject to standards, inspections and sanctions established by the Secretary under section 222(d) of the Housing and Community Development Act of 1987. Any such section 8 assistance shall be provided for a term and at the fair market rent levels or such higher levels used as applicable for eligible low-income housing that receives incentives under subtitle B of title II of the Housing and Community Development Act of 1987.

(3) RESTRICTION.—Assistance may be provided under this subsection only to State and local housing authorities that require any housing receiving such assistance to remain affordable for lower and moderate income tenants for the period during which assistance under this subsection is received.

END OF STATUTE

[348] The date of enactment was November 28, 1990.

PRESERVING EXISTING HOUSING INVESTMENT

EXCERPT FROM DEPARTMENTS OF VETERANS AFFAIRS AND HOUSING AND URBAN DEVELOPMENT, AND INDEPENDENT AGENCIES APPROPRIATIONS ACT, 1997 [Public Law 104-204; 110 Stat. 2883; 12 U.S.C. 4101 note]

PRESERVING EXISTING HOUSING INVESTMENT

[12 U.S.C. 4101 note]

* * * *Provided further*, That of the total amount provided under this head, $350,000,000 shall be available for use in conjunction with properties that are eligible for assistance under the Low-Income Housing Preservation and Resident Homeownership Act of 1990 (LIHPRHA) or the Emergency Low Income Housing Preservation Act of 1987 (ELIHPA), of which $75,000,000 shall be available for obligation until March 1, 1997 for projects (1) that are subject to a repayment or settlement agreement that was executed between the owner and the Secretary prior to September 1, 1995; (2) whose submissions were delayed as a result of their location in areas that were designated as a Federal disaster area in a Presidential Disaster Declaration; or (3) whose processing was, in fact or in practical effect, suspended, deferred, or interrupted for a period of twelve months or more because of differing interpretations, by the Secretary and an owner or by the Secretary and a State or local rent regulatory agency, concerning the timing of filing eligibility or the effect of a presumptively applicable State or local rent control law or regulation on the determination of preservation value under section 213 of LIHPRHA, as amended, if the owner of such project filed notice of intent to extend the low-income affordability restrictions of the housing, or transfer to a qualified purchaser who would extend such restrictions, on or before November 1, 1993; and of which, up to $100,000,000 may be used for rental assistance to prevent displacement of families residing in projects whose owners prepay their mortgages; and the balance of which shall be available from the effective date of this Act[349] for sales to preferred priority purchasers: *Provided further*, That with the exception of projects described in clauses (1), (2), or (3) of the preceding proviso, the Secretary shall, notwithstanding any other provision of law, suspend further processing of preservation applications which have not heretofore received approval of a plan of action: *Provided further*, That $150,000,000 of amounts recaptured from interest reduction payment contracts for section 236 projects whose owners prepay their mortgages during fiscal year 1997 shall be rescinded: *Provided further*, That an owner of eligible low-income housing may prepay the mortgage or request voluntary termination of a mortgage insurance contract, so long as said owner agrees not to raise rents for sixty days after such prepayment: *Provided further*, That such developments have been determined to have preservation equity at least equal to the lesser of $5,000 per unit or $500,000 per project or the equivalent of eight times the most recently published monthly fair market rent for the area in which the project is located as the appropriate unit size for all of the units in the eligible project: *Provided further*, That the Secretary may modify the regulatory agreement to permit owners and priority purchasers to retain rental income in excess of the basic rental charge in projects assisted under section 236 of the National Housing Act, for the purpose of preserving the low- and moderate-income character of the housing: *Provided further*, That eligible low-income housing shall include properties meeting the requirements of this paragraph with mortgages that are held by a State agency as a result of a sale by the Secretary without insurance, which immediately before the sale would have been eligible low-income housing under LIHPRHA: *Provided further*, That notwithstanding any other provision of law, subject to the availability of appropriated funds, each low-income family, and moderate-income family who is elderly or disabled or is residing in a low-vacancy area, residing in the housing on the date of prepayment or voluntary termination, and whose rent, as a result of a rent increase occurring no later than one year after the date of the prepayment, exceeds 30 percent of adjusted income, shall be offered tenant-based assistance in accordance with section 8 or any successor program, under which the family shall pay no less for rent than it paid on such date: *Provided further*, That any family receiving tenant-based assistance under the preceding proviso may elect (1) to remain in the unit of the housing and if the rent exceeds the fair market rent or payment standard, as applicable, the rent shall be deemed to be the applicable standard, so long as the administering public housing agency finds that the rent is reasonable in comparison with rents charged for comparable unassisted housing units in the market or (2) to move from the housing and the rent will be subject to the fair market rent of[350] the payment standard, as applicable, under existing program rules and procedures: *Provided further*, That the tenant-based assistance made available

[349] October 1, 1996.
[350] So in law. Probably should be "or".

under the preceding two provisos are in lieu of benefits provided in subsections 223(b), (c), and (d) of the Low-Income Housing Preservation and Resident Homeownership Act of 1990: *Provided further*, That any sales shall be funded using the capital grant available under section 220(d)(3)(A) of LIHPRHA: *Provided further*, That any extensions shall be funded using a non-interest-bearing capital (direct) loan by the Secretary not in excess of the amount of the cost of rehabilitation approved in the plan of action plus 65 percent of the property's preservation equity and under such other terms and conditions as the Secretary may prescribe: *Provided further*, That any capital grant shall be limited to seven times, and any capital loan limited to six times, the annual fair market rent for the project, as determined using the fair market rent for fiscal year 1997 for the area in which the project is located, using the appropriate apartment sizes and mix in the eligible project, except where, upon the request of a priority purchaser, the Secretary determines that a greater amount is necessary and appropriate to preserve low-income housing: *Provided further*, That section 241(f) of the National Housing Act is repealed and insurance under such section shall not be offered as an incentive under LIHPRHA and ELIHPA: *Provided further*, That up to $10,000,000 of the amount of $350,000,000 made available by a preceding proviso in this paragraph may be used at the discretion of the Secretary to reimburse owners of eligible properties for which plans of action were submitted prior to the effective date of this Act1, but were not executed for lack of available funds, with such reimbursement available only for documented costs directly applicable to the preparation of the plan of action as determined by the Secretary, and shall be made available on terms and conditions to be established by the Secretary: *Provided further*, That, notwithstanding any other provision of law, a priority purchaser may utilize assistance under the HOME Investment Partnerships Act or the Low Income Housing Tax Credit: *Provided further*, That projects with approved plans of action which exceed the limitations on eligibility for funding imposed by this Act may submit revised plans of action which conform to these limitations by March 1, 1997, and retain the priority for funding otherwise applicable from the original date of approval of their plan of action, subject to securing any additional necessary funding commitments by August 1, 1997.

END OF STATUTE

ASSISTANCE FOR SELF-HELP HOUSING PROVIDERS

HOUSING OPPORTUNITY PROGRAM EXTENSION ACT OF 1996
[Public Law 104-120; 110 Stat. 841; 42 U.S.C. 12805 note]

Sec. 11. [42 U.S.C. 12805 note]
ASSISTANCE FOR SELF-HELP HOUSING PROVIDERS.

(a) GRANT AUTHORITY.—The Secretary of Housing and Urban Development may, to the extent amounts are available to carry out this section and the requirements of this section are met, make grants for use in accordance with this section to national and regional organizations and consortia that have experience in providing or facilitating self-help housing homeownership opportunities.

(b) GOALS AND ACCOUNTABILITY.—In making grants under this section, the Secretary shall take such actions as may be necessary to ensure that—

(1) assistance provided under this section is used to facilitate and encourage innovative homeownership opportunities through the provision of self-help housing, under which the homeowner contributes a significant amount of sweat equity toward the construction of the new dwellings;

(2) assistance provided under this section for land acquisition and infrastructure development results in the development of not less than 4,000 new dwellings;

(3) the dwellings constructed in connection with assistance provided under this section are quality dwellings that comply with local building and safety codes and standards and are available at prices below the prevailing market prices;

(4) the provision of assistance under this section establishes and fosters a partnership between the Federal Government and organizations and consortia, resulting in efficient development of affordable housing with minimal governmental intervention, limited governmental regulation, and significant involvement by private entities;

(5) activities to develop housing assisted pursuant to this section involve community participation in which volunteers assist in the construction of dwellings; and

(6) dwellings are developed in connection with assistance under this section on a geographically diverse basis, which includes areas having high housing costs, rural areas, and areas underserved by other homeownership opportunities that are populated by low-income families unable to otherwise afford housing.

If, at any time, the Secretary determines that the goals under this subsection cannot be met by providing assistance in accordance with the terms of this section, the Secretary shall immediately notify the applicable Committees in writing of such determination and any proposed changes for such goals or this section.

(c) NATIONAL COMPETITION.—The Secretary shall select organizations and consortia referred to in subsection (a) to receive grants through a national competitive process, which the Secretary shall establish.

(d) USE.—

(1) PURPOSE.—Amounts from grants made under this section, including any recaptured amounts, shall be used only for eligible expenses in connection with developing new decent, safe, and sanitary nonluxury dwellings in the United States for families and persons who otherwise would be unable to afford to purchase a dwelling.

(2) ELIGIBLE EXPENSES.—For purposes of paragraph (1), the term “eligible expenses” means costs only for the following activities:

(A) LAND ACQUISITION.—Acquiring land (including financing and closing costs), which may include reimbursing an organization, consortium, or affiliate, upon approval of any required environmental review, for nongrant amounts of the organization, consortium, or affiliate advanced before such review to acquire land.

(B) INFRASTRUCTURE IMPROVEMENT.—Installing, extending, constructing, rehabilitating, or otherwise improving utilities and other infrastructure.

Such term does not include any costs for the rehabilitation, improvement, or construction of dwellings.

(e) ESTABLISHMENT OF GRANT FUND.—

(1) IN GENERAL.—Any amounts from any grant made under this section shall be deposited by the grantee organization or consortium in a fund that is established by such organization or consortium for such amounts, administered by such organization or consortium, and available for use only for the purposes

under subsection (d). Any interest, fees, or other earnings of the fund shall be deposited in the fund and shall be considered grant amounts for purposes of this section.

(2) ASSISTANCE TO AFFILIATES.—Any organization or consortia that receives a grant under this section may use amounts in the fund established for such organization or consortia pursuant to paragraph (1) for the purposes under subsection (d) by providing assistance from the fund to local affiliates of such organization or consortia.

(f) REQUIREMENTS FOR ASSISTANCE.—The Secretary may make a grant to an organization or consortium under subsection (a) only pursuant to—

(1) an expression of interest by such organization or consortia to the Secretary for a grant for such purposes;

(2) a determination by the Secretary that the organization or consortia has the capability and has obtained financial commitments (or has the capacity to obtain financial commitments) necessary to—

(A) develop not less than 30 dwellings in connection with the grant amounts; and

(B) otherwise comply with a grant agreement under subsection (i); and

(3) a grant agreement entered into under subsection (i).

(g) ENERGY EFFICIENCY REQUIREMENTS.—The Secretary may not require any dwelling developed using amounts from a grant made under this section to meet any energy efficiency standards other than the standards applicable at such time pursuant to section 109 of the Cranston-Gonzalez National Affordable Housing Act (42 U.S.C. 12709) to housing specified in subsection (a) of such section.

(h) GEOGRAPHICAL DIVERSITY.—In making grants under subsection (a), the Secretary shall ensure that grants are provided and grant amounts are used in a manner that results in national geographic diversity among housing developed using grant amounts under this section.

(i) GRANT AGREEMENT.—A grant under this section shall be made only pursuant to a grant agreement entered into by the Secretary and the organization or consortia receiving the grant, which shall—

(1) require such organization or consortia to use grant amounts only as provided in this section;

(2) provide for the organization or consortia to develop a specific and reasonable number of dwellings using the grant amounts, which number shall be established taking into consideration costs and economic conditions in the areas in which the dwellings will be developed, but in no case shall be less than 30;

(3) require the organization or consortia to use the grant amounts in a manner that leverages other sources of funding (other than grants under this section), including private or public funds, in developing the dwellings;

(4) require the organization or consortia to comply with the other provisions of this section;

(5) provide that the Secretary shall recapture any grant amounts provided to the organization or consortia that are not used within 24 months after such amounts are first disbursed to the organization or consortia, except that such period shall be 36 months in the case of grant amounts from amounts made available for fiscal year 1996 to carry out this section, and in the case of a grant amounts provided to a local affiliate of the organization or consortia that is developing five or more dwellings in connection with such grant amounts; and

(6) contain such other terms as the Secretary may require to provide for compliance with subsection (b) and the requirements of this section.

(j) FULFILLMENT OF GRANT AGREEMENT.—If the Secretary determines that an organization or consortia awarded a grant under this section has not, within 24 months after grant amounts are first made available to the organization or consortia (or, in the case of grant amounts from amounts made available for fiscal year 1996 to carry out this section and grant amounts provided to a local affiliate of the organization or consortia that is developing five or more dwellings in connection with such grant amounts, within 36 months), substantially fulfilled the obligations under the grant agreement, including development of the appropriate number of dwellings under the agreement, the Secretary shall use any such undisbursed amounts remaining from such grant for other grants in accordance with this section.

(k) RECORDS AND AUDITS.—During the period beginning upon the making of a grant under this section and ending upon close-out of the grant under subsection (l)—

(1) the organization awarded the grant shall keep such records and adopt such administrative practices as the Secretary may require to ensure compliance with the provisions of this section and the grant agreement; and

(2) the Secretary and the Comptroller General of the United States, and any of their duly authorized representatives, shall have access for the purpose of audit and examination to any books,

documents, papers, and records of the grantee organization or consortia and its affiliates that are pertinent to the grant made under this section.

(l) CLOSE-OUT.—The Secretary shall close out a grant made under this section upon determining that the aggregate amount of any assistance provided from the fund established under subsection (e)(1) by the grantee organization or consortium exceeds the amount of the grant. For purposes of this paragraph, any interest, fees, and other earnings of the fund shall be excluded from the amount of the grant.

(m) ENVIRONMENTAL REVIEW.—A grant under this section shall be considered to be funds for a special project for purposes of section 305(c) of the Multifamily Housing Property Disposition Reform Act of 1994.

(n) REPORT TO CONGRESS.—Not later than 90 days after close-out of all grants under this section is completed, the Secretary shall submit a report to the applicable Committees describing the grants made under this section, the grantees, the housing developed in connection with the grant amounts, and the purposes for which the grant amounts were used.

(o) DEFINITIONS.—For purposes of this section, the following definitions shall apply:

(1) Applicable committees.—The term "applicable Committees" means the Committee on Banking and Financial Services of the House of Representatives[351] and the Committee on Banking, Housing, and Urban Affairs of the Senate.

(2) SECRETARY.—The term "Secretary" means the Secretary of Housing and Urban Development.

(3) UNITED STATES.—The term "United States" includes the States of the United States, the District of Columbia, the Commonwealth of Puerto Rico, the Commonwealth of the Northern Mariana Islands, Guam, the Virgin Islands, American Samoa, and any other territory or possession of the United States.

(p) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this section such sums as may be necessary for fiscal year 2001.

(q) REGULATIONS.—The Secretary shall issue any final regulations necessary to carry out this section not later than 30 days after the date of the enactment of this Act[352]. The regulations shall take effect upon issuance and may not exceed, in length, 5 full pages in the Federal Register.

END OF STATUTE

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[351] H. Res. 5, 107th Congress, agreed to on January 3, 2001, abolished the Committee on Banking and Financial Services and established the Committee on Financial Services, which has jurisdiction over many of the areas previously under the jurisdiction of the Committee on Banking and Financial Services.

[352] The date of enactment was March 28, 1996.

SURPLUS PROPERTY DISPOSITION FOR LOW-INCOME HOUSING USE

TITLE 40, UNITED STATES CODE
[Public Law 107-217; 116 Stat. 1094; 40 U.S.C. 550]

Sec. 549. [40 U.S.C. 549]
DONATION OF PERSONAL PROPERTY THROUGH STATE AGENCIES.

(a) DEFINITIONS.—In this section, the following definitions apply:

(1) PUBLIC AGENCY.—The term "public agency" means—

(A) a State;

(B) a political subdivision of a State (including a unit of local government or economic development district);

(C) a department, agency, or instrumentality of a State (including instrumentalities created by compact or other agreement between States or political subdivisions); or

(D) an Indian tribe, band, group, pueblo, or community located on a state reservation.

(2) STATE.—The term "State" means a State of the United States, the District of Columbia, Puerto Rico, the Virgin Islands, Guam, the Northern Mariana Islands, and American Samoa.

(3) STATE AGENCY.—The term "state agency" means an agency designated under state law as the agency responsible for fair and equitable distribution, through donation, of property transferred under this section.

(b) AUTHORIZATION.—

(1) IN GENERAL.—The Administrator of General Services, in the Administrator's discretion and under regulations the Administrator may prescribe, may transfer property described in paragraph (2) to a state agency.

(2) PROPERTY.—

(A) IN GENERAL.—Property referred to in paragraph (1) is any personal property that—

(i) is under the control of an executive agency; and

(ii) has been determined to be surplus property.

(B) SPECIAL RULE.—In determining whether the property is to be transferred for donation under this section, no distinction may be made between property capitalized in a working-capital fund established under section 2208 of title 10 (or similar fund) and any other property.

(3) NO COST.—Transfer of property under this section is without cost, except for any costs of care and handling.

(c) ALLOCATION AND TRANSFER OF PROPERTY.—

(1) IN GENERAL.—The Administrator shall allocate and transfer property under this section in accordance with criteria that are based on need and use and that are established after consultation with state agencies to the extent feasible. The Administrator shall give fair consideration, consistent with the established criteria, to an expression of need and interest from a public agency or other eligible institution within a State. The Administrator shall give special consideration to an eligible recipient's request, transmitted through the state agency, for a specific item of property.

(2) ALLOCATION AMONG STATES.—The Administrator shall allocate property among the States on a fair and equitable basis, taking into account the condition of the property as well as the original acquisition cost of the property.

(3) RECIPIENTS AND PURPOSES.—The Administrator shall transfer to a state agency property the state agency selects for distribution through donation within the State—

(A) to a public agency for use in carrying out or promoting, for residents of a given political area, a public purpose, including conservation, economic development, education, parks and recreation, public health, and public safety;

(B) for purposes of education or public health (including research), to a nonprofit educational or public health institution or organization that is exempt from taxation under section 501 of the Internal Revenue Code of 1986 (26 U.S.C. 501), including—

(i) a medical institution, hospital, clinic, health center, or drug abuse treatment center;

(ii) a provider of assistance to homeless individuals or to families or individuals whose annual incomes are below the poverty line (as that term is defined in section 673 of the Community Services Block Grant Act (42 U.S.C. 9902));

(iii) a school, college, or university;

(iv) a school for the mentally retarded or physically handicapped;

(v) a child care center;

(vi) a radio or television station licensed by the Federal Communications Commission as an educational radio or educational television station;

(vii) a museum attended by the public, and, for purposes of determining whether a museum is attended by the public, the Administrator shall consider a museum to be public if the nonprofit educational or public health institution or organization, at minimum, accedes to any request submitted for access during business hours;

(viii) a library serving free all residents of a community, district, State, or region; or

(ix) a historic light station as defined under section 305101(4) of title 54, including a historic light station conveyed under section 305103 of title 54, notwithstanding the number of hours that the historic light station is open to the public; or

(x) [Deleted]

(C) for purposes of providing services to veterans (as defined in section 101 of title 38), to an organization whose—

(i) membership comprises substantially veterans; and

(ii) representatives are recognized by the Secretary of Veterans Affairs under section 5902 of title 38.

(4) EXCEPTION.—This subsection does not apply to property transferred under subsection (d).

(d) DEPARTMENT OF DEFENSE PROPERTY.—

(1) DETERMINATION.—The Secretary of Defense shall determine whether surplus personal property under the control of the Department of Defense is usable and necessary for educational activities which are of special interest to the armed services, including maritime academies, or military, naval, Air Force, or Coast Guard preparatory schools.

(2) PROPERTY USABLE FOR SPECIAL INTEREST ACTIVITIES.—If the Secretary of Defense determines that the property is usable and necessary for educational activities which are of special interest to the armed services, the Secretary shall allocate the property for transfer by the Administrator to the appropriate state agency for distribution through donation to the educational activities.

(3) PROPERTY NOT USABLE FOR SPECIAL INTEREST ACTIVITIES.—If the Secretary of Defense determines that the property is not usable and necessary for educational activities which are of special interest to the armed services, the property may be disposed of in accordance with subsection (c).

(e) STATE PLAN OF OPERATION.—

(1) IN GENERAL.—Before property may be transferred to a state agency, the State shall develop a detailed state plan of operation, in accordance with this subsection and with state law.

(2) PROCEDURE.—

(A) CONSIDERATION OF NEEDS AND RESOURCES.—In developing and implementing the state plan of operation, the relative needs and resources of all public agencies and other eligible institutions in the State shall be taken into consideration. The Administrator may consult with interested federal agencies to obtain their views concerning the administration and operation of this section.

(B) PUBLICATION AND PERIOD FOR COMMENT.—The state plan of operation, and any major amendment to the plan, may not be filed with the Administrator until 60 days after general notice of the proposed plan or amendment has been published and interested persons have been given at least 30 days to submit comments.

(C) CERTIFICATION.—The chief executive officer of the State shall certify and submit the state plan of operation to the Administrator.

(3) REQUIREMENTS.—

(A) STATE AGENCY.—The state plan of operation shall include adequate assurance that the state agency has—

(i) the necessary organizational and operational authority and capability including staff, facilities, and means and methods of financing; and

(ii) established procedures for accountability, internal and external audits, cooperative agreements, compliance and use reviews, equitable distribution and property disposal, determination of eligibility, and assistance through consultation with advisory bodies and public and private groups.

(B) EQUITABLE DISTRIBUTION.—The state plan of operation shall provide for fair and equitable distribution of property in the State based on the relative needs and resources of interested public agencies and other eligible institutions in the State and their abilities to use the property.

(C) MANAGEMENT CONTROL AND ACCOUNTING SYSTEMS.—The state plan of operation shall require, for donable property transferred under this section, that the state agency use management control and accounting systems of the same type as systems required by state law for state-owned property. However, with approval from the chief executive officer of the State, the state agency may elect to use other management control and accounting systems that are effective to govern the use, inventory control, accountability, and disposal of property under this section.

(D) RETURN AND REDISTRIBUTION FOR NON-USE.—The state plan of operation shall require the state agency to provide for the return and redistribution of donable property if the property, while still usable, has not been placed in use for the purpose for which it was donated within one year of donation or ceases to be used by the donee for that purpose within one year of being placed in use.

(E) REQUEST BY RECIPIENT.—The state plan of operation shall require the state agency, to the extent practicable, to select property requested by a public agency or other eligible institution in the State and, if requested by the recipient, to arrange shipment of the property directly to the recipient.

(F) SERVICE CHARGES.—If the state agency is authorized to assess and collect service charges from participating recipients to cover direct and reasonable indirect costs of its activities, the method of establishing the charges shall be set out in the state plan of operation. The charges shall be fair and equitable and shall be based on services the state agency performs, including screening, packing, crating, removal, and transportation.

(G) TERMS, CONDITIONS, RESERVATIONS, AND RESTRICTIONS.—

(i) IN GENERAL.—The state plan of operation shall provide that the state agency—

(I) may impose reasonable terms, conditions, reservations, and restrictions on the use of property to be donated under subsection (c); and

(II) shall impose reasonable terms, conditions, reservations, and restrictions on the use of a passenger motor vehicle and any item of property having a unit acquisition cost of $ 5,000 or more.

(ii) SPECIAL LIMITATIONS.—If the Administrator finds that an item has characteristics that require special handling or use limitations, the Administrator may impose appropriate conditions on the donation of the property.

(H) UNUSABLE PROPERTY.—

(i) DISPOSAL.—The state plan of operation shall provide that surplus personal property which the state agency determines cannot be used by eligible recipients shall be disposed of--

(I) subject to the disapproval of the Administrator within 30 days after notice to the Administrator, through transfer by the state agency to another state agency or through abandonment or destruction if the property has no commercial value or if the estimated cost of continued care and handling exceeds estimated proceeds from sale; or

(II) under this subtitle, on terms and conditions and in a manner the Administrator prescribes.

(ii) PROCEEDS FROM SALE.—Notwithstanding subchapter IV of this chapter and section 702 of this title, the Administrator, from the proceeds of sale of property described in subsection (b), may reimburse the state agency for expenses that the Administrator considers appropriate for care and handling of the property.

(f) COOPERATIVE AGREEMENTS WITH STATE AGENCIES.—

(1) PARTIES TO THE AGREEMENT.—For purposes of carrying out this section, a cooperative agreement may be made between a state surplus property distribution agency designated under this section and—

(A) the Administrator;

(B) the Secretary of Education, for property transferred under section 550(c) of this title;

(C) the Secretary of Health and Human Services, for property transferred under section 550(d) of this title; or

(D) the head of a federal agency designated by the Administrator, the Secretary of Education, or the Secretary of Health and Human Services.

(2) SHARED RESOURCES.—The cooperative agreement may provide that the property, facilities, personnel, or services of—

(A) a state agency may be used by a federal agency; and

(B) a federal agency may be made available to a state agency.

(3) REIMBURSEMENT.—The cooperative agreement may require payment or reimbursement for the use or provision of property, facilities, personnel, or services. Payment or reimbursement received from a state agency shall be credited to the fund or appropriation against which charges would otherwise be made.

(4) SURPLUS PROPERTY TRANSFERRED TO STATE AGENCY.—

(A) IN GENERAL.—Under the cooperative agreement, surplus property transferred to a state agency for distribution pursuant to subsection (c) may be retained by the state agency for use in performing its functions. Unless otherwise directed by the Administrator, title to the retained property vests in the state agency.

(B) CONDITIONS.—Retention of surplus property under this paragraph is subject to conditions that may be imposed by—

(i) the Administrator;

(ii) the Secretary of Education, for property transferred under section 550(c) of this title; or

(iii) the Secretary of Health and Human Services, for property transferred under section 550(d) of this title.

Sec. 550. [40 U.S.C. 550]
DISPOSAL OF REAL PROPERTY FOR CERTAIN PURPOSES

(a) DEFINITION.—In this section, the term "State" includes the District of Columbia, Puerto Rico, and the territories and possessions of the United States.

(b) ENFORCEMENT AND REVISION OF INSTRUMENTS TRANSFERRING PROPERTY UNDER THIS SECTION.—

(1) IN GENERAL.—Subject to disapproval by the Administrator of General Services within 30 days after notice of a proposed action to be taken under this section, except for personal property transferred pursuant to section 549 of this title, the official specified in paragraph (2) shall determine and enforce compliance with the terms, conditions, reservations, and restrictions contained in an instrument by which a transfer under this section is made. The official shall reform, correct, or amend the instrument if necessary to correct the instrument or to conform the transfer to the requirements of law. The official shall grant a release from any term, condition, reservation or restriction contained in the instrument, and shall convey, quitclaim, or release to the transferee (or other eligible user) any right or interest reserved to the Federal Government by the instrument, if the official determines that the property no longer serves the purpose for which it was transferred or that a release, conveyance, or quitclaim deed will not prevent accomplishment of that purpose. The release, conveyance, or quitclaim deed may be made subject to terms and conditions that the official considers necessary to protect or advance the interests of the Government.

(2) SPECIFIED OFFICIAL.—The official referred to in paragraph (1) is—

(A) the Secretary of Education, for property transferred under subsection (c) for school, classroom, or other educational use;

(B) the Secretary of Health and Human Services, for property transferred under subsection (d) for use in the protection of public health, including research;

(C) the Secretary of the Interior, for property transferred under subsection (e) for public park or recreation area use;

(D) the Secretary of Housing and Urban Development, for property transferred under subsection (f) to provide housing or housing assistance for low-income individuals or families; and

(E) the Secretary of the Interior, for property transferred under subsection (h) for use as a historic monument for the benefit of the public.

* * * * * * *

(f) PROPERTY FOR LOW INCOME HOUSING ASSISTANCE.—

(1) ASSIGNMENT.—The Administrator, in the Administrator's discretion and under regulations that the Administrator may prescribe, may assign to the Secretary of Housing and Urban Development for disposal surplus real property, including buildings, fixtures, and equipment situated on the property, that the Secretary recommends as needed to provide housing or housing assistance for low-income individuals or families.

(2) SALE OR LEASE.—Subject to disapproval by the Administrator within 30 days after notice to the Administrator by the Secretary of Housing and Urban Development of a proposed transfer, the Secretary, to provide housing or housing assistance for low-income individuals or families, may sell or lease property assigned to the Secretary under paragraph (1) to a State, a political subdivision or instrumentality of a State, or a nonprofit organization that exists for the primary purpose of providing housing or housing assistance for low-income individuals or families.

(3) SELF-HELP HOUSING.—

(A) IN GENERAL.—The Administrator shall disapprove a proposed transfer of property under this subsection unless the Administrator determines that the property will be used for low-income housing opportunities through the construction, rehabilitation, or refurbishment of self-help housing, under terms requiring that—

(i) subject to subparagraph (B), an individual or family receiving housing or housing assistance through use of the property shall contribute a significant amount of labor toward the construction, rehabilitation, or refurbishment; and

(ii) dwellings constructed, rehabilitated, or refurbished through use of the property shall be quality dwellings that comply with local building and safety codes and standards and shall be available at prices below prevailing market prices.

(B) GUIDELINES FOR CONSIDERING DISABILITIES.—For purposes of fulfilling self-help requirements under paragraph (3)(A)(i), the Administrator shall ensure that nonprofit organizations receiving property under paragraph (2) develop and use guidelines to consider any disability (as defined in section 3(2) of the Americans with Disabilities Act of 1990 (42 U.S.C. 12102(2)).

(4) FIXING VALUE.—

(A) IN GENERAL.—In fixing the sale or lease value of property disposed of under paragraph (2), the Secretary of Housing and Urban Development shall take into consideration and discount the value for any benefit which has accrued or may accrue to the Government from the use of the property by the State, political subdivision or instrumentality, or nonprofit organization.

(B) AMOUNT OF DISCOUNT.—The amount of the discount under subparagraph (A) is 75 percent of the market value of the property, except that the Secretary of Housing and Urban Development may discount by a greater percentage if the Secretary, in consultation with the Administrator, determines that a higher percentage is justified.

END OF STATUTE

RENTAL ASSISTANCE DEMONSTRATION PROGRAM

CONSOLIDATED AND FURTHER CONTINUING APPROPRIATIONS ACT, 2012 [Public Law 112-55; 125 STAT. 552][353]

To conduct a demonstration designed to preserve and improve public housing and certain other multifamily housing through the voluntary conversion of properties with assistance under section 9 of the United States Housing Act of 1937, (hereinafter, "the Act"), or the moderate rehabilitation program under section 8(e)(2) of the Act, to properties with assistance under a project-based subsidy contract under section 8 of the Act, which shall be eligible for renewal under section 524 of the Multifamily Assisted Housing Reform and Affordability Act of 1997, or assistance under section 8(o)(13) of the Act, the Secretary may transfer amounts provided through contracts under section 8(e)(2) of the Act or under the headings "Public Housing Capital Fund'' and "Public Housing Operating Fund" to the headings "Tenant-Based Rental Assistance" or "Project-Based Rental Assistance": [1][354] *Provided,* That the initial long-term contract under which converted assistance is made available may allow for rental adjustments only by an operating cost factor established by the Secretary, and shall be subject to the availability of appropriations for each year of such term: [2] *Provided further,* That project applications may be received under this demonstration until September 30, 2018: [3] *Provided further,* That any increase in cost for "Tenant-Based Rental Assistance"' or "Project-Based Rental Assistance" associated with such conversion in excess of amounts made available under this heading shall be equal to amounts transferred from ``Public Housing Capital Fund'' and "Public Housing Operating Fund" or other account from which it was transferred: [4] *Provided further,* That not more than 185,000 units currently receiving assistance under section 9 or section 8(e)(2) of the Act shall be converted under the authority provided under this heading: [5] *Provided further,* That tenants of such properties with assistance converted from assistance under section 9 shall, at a minimum, maintain the same rights under such conversion as those provided under sections 6 and 9 of the Act: [6] *Provided further,* That the Secretary shall select properties from applications for conversion as part of this demonstration through a competitive process: [7] *Provided further,* That in establishing criteria for such competition, the Secretary shall seek to demonstrate the feasibility of this conversion model to recapitalize and operate public housing properties (1) in different markets and geographic areas, (2) within portfolios managed by public housing agencies of varying sizes, and (3) by leveraging other sources of funding to recapitalize properties: [8] *Provided further,* That the Secretary shall provide an opportunity for public comment on draft eligibility and selection criteria and procedures that will apply to the selection of properties that will participate in the demonstration: [9] *Provided further,* That the Secretary shall provide an opportunity for comment from residents of properties to be proposed for participation in the demonstration to the owners or public housing agencies responsible for such properties: [10] *Provided further,* That the Secretary may waive or specify alternative requirements for (except for requirements related to fair housing, nondiscrimination, labor standards, and the environment) any provision of section 8(o)(13) or any provision that governs the use of assistance from which a property is converted under the demonstration or funds made available under the headings of "Public Housing Capital Fund", "Public Housing Operating Fund", and "Project-Based Rental Assistance", under this Act or any prior Act or any Act enacted during the period of conversion of assistance under the demonstration for properties with assistance converted under the demonstration, upon a finding by the Secretary that any such waivers or alternative requirements are necessary for the effective conversion of assistance under the demonstration: [11] *Provided further,* That the Secretary shall publish by notice in the Federal Register any waivers or alternative requirements pursuant to the previous proviso no later than 10 days before the effective date of such notice: [12] *Provided further,* That the demonstration may proceed after the Secretary publishes notice of its terms in the Federal Register: [13] *Provided further,* That notwithstanding sections 3 and 16 of the Act, the conversion of assistance under the demonstration shall not be the basis for re-screening or termination of assistance or eviction of any tenant family in a property participating in the demonstration, and such a family shall not be considered a new admission for any purpose, including compliance with income targeting requirements: [14] *Provided further,* That

[353] As amended by: section 239 of the Consolidated Appropriations Act, 2014, Division L—Transportation, Housing and Urban Development, and Related Agencies Appropriations Act, 2014, Title II, Department of Housing and Urban Development (Public Law 113-76; 128 Stat. 5, 635); section 234 of the Consolidated and Further Continuing Appropriations Act, 2015, Division K—Transportation, Housing and Urban Development, and Related Agencies Appropriations Act, 2015, Title II, Department of Housing and Urban Development (Public Laws 113-235; 128 Stat. 2130, 2757, 2758); and section 237 of the Consolidated Appropriations Act, 2016, Division L—Transportation, Housing and Urban Development, and Related Agencies Appropriations Act, 2016, Title II, Department of Housing and Urban Development (Public Law 114-113; 129 Stat. 2897).

[354] Proviso designations are not present in the public law print and added by the editors for ease of review.

in the case of a property with assistance converted under the demonstration from assistance under section 9 of the Act, section 18 of the Act shall not apply to a property converting assistance under the demonstration for all or substantially all of its units, the Secretary shall require ownership or control of assisted units by a public or nonprofit entity except as determined by the Secretary to be necessary pursuant to foreclosure, bankruptcy, or termination and transfer of assistance for material violations or substantial default, in which case the priority for ownership or control shall be provided to a capable public entity, then a capable entity, as determined by the Secretary, shall require long-term renewable use and affordability restrictions for assisted units, and may allow ownership to be transferred to a for-profit entity to facilitate the use of tax credits only if the public housing agency preserves its interest in the property in a manner approved by the Secretary, and upon expiration of the initial contract and each renewal contract, the Secretary shall offer and the owner of the property shall accept renewal of the contract subject to the terms and conditions applicable at the time of renewal and the availability of appropriations each year of such renewal: [15] *Provided further,* That the Secretary may permit transfer of assistance at or after conversion under the demonstration to replacement units subject to the requirements in the previous proviso: [16] *Provided further,* That the Secretary may establish the requirements for converted assistance under the demonstration through contracts, use agreements, regulations, or other means: [17] Provided further, That the Secretary shall assess and publish findings regarding the impact of the conversion of assistance under the demonstration on the preservation and improvement of public housing, the amount of private sector leveraging as a result of such conversion, and the effect of such conversion on tenants: [18] *Provided further,* That for fiscal year 2012 and hereafter, owners of properties assisted under section 101 of the Housing and Urban Development Act of 1965, section 236(f)(2) of the National Housing Act, or section 8(e)(2) of the United States Housing Act of 1937, for which an event after October 1, 2006 has caused or results in the termination of rental assistance or affordability restrictions and the issuance of tenant protection vouchers under section 8(o) of the Act, shall be eligible, subject to requirements established by the Secretary, including but not limited to tenant consultation procedures for conversion of assistance available for such vouchers to assistance under a long term project-based subsidy contract under section 8 of the Act, which shall have a term of no less than 20 years, with rent adjustments only by an operating cost factor established by the Secretary, which shall be eligible for renewal under section 524 of the Multifamily Assisted Housing Reform and Affordability Act of 1997 (42 U.S.C. 1437f note), or, subject to agreement of the administering public housing agency, to assistance under section 8(o)(13) of the Act, to which the limitation under subsection (B) of section 8(o)(13) of the Act shall not apply and for which the Secretary of Housing and Urban Development may waive or alter the provisions of subparagraphs (C) and (D) of section 8(o)(13) of the Act: [19] *Provided further,* That amounts made available under the heading 'Rental Housing Assistance' during the period of conversion under the previous proviso shall be available for project-based subsidy contracts entered into pursuant to the previous proviso: [20] *Provided further,* That amounts, including contract authority, recaptured from contracts following a conversion under the previous two provisos are hereby rescinded and an amount of additional new budget authority, equivalent to the amount rescinded is hereby appropriated, to remain available until expended for such conversions: [21] *Provided further,* That the Secretary may transfer amounts made available under the heading 'Rental Housing Assistance', amounts made available for tenant protection vouchers under the heading 'Tenant-Based Rental Assistance' and specifically associated with any such conversions, and amounts made available under the previous proviso as needed to the account under the 'Project-Based Rental Assistance' heading to facilitate conversion under the three previous provisos and any increase in cost for 'Project-Based Rental Assistance' associated with such conversion shall be equal to amounts so transferred: [22] *Provided further,* That with respect to the previous four provisos the Comptroller General of the United States shall conduct a study of the long-term impact of the fiscal year 2012 and 2013 conversion of tenant protection vouchers to assistance under section 8(o)(13) of the Act on the ratio of tenant-based vouchers to project-based vouchers.

END OF STATUTE

ENERGY AND WATER CONSERVATION IMPROVEMENTS AT MULTIFAMILY RESIDENTIAL UNITS

FIXING AMERICA'S SURFACE TRANPORATION ACT (FAST ACT) [Public Law 114-94, 129 Stat. 1312]

TITLE LXXXI–PRIVATE INVESTMENT IN HOUSING

SEC. 81001. [42 U.S.C. 12712 note]
BUDGET-NEUTRAL DEMONSTRATION PROGRAM FOR ENERGY AND WATER CONSERVATION IMPROVEMENTS AT MULTIFAMILY RESIDENTIAL UNITS.

(a) ESTABLISHMENT.—The Secretary of Housing and Urban Development (in this section referred to as the "Secretary") shall establish a demonstration program under which the Secretary may execute budget-neutral, performance-based agreements in fiscal years 2016 through 2019 that result in a reduction in energy or water costs with such entities as the Secretary determines to be appropriate under which the entities shall carry out projects for energy or water conservation improvements at not more than 20,000 residential units in multifamily buildings participating in—

(1) the project-based rental assistance program under section 8 of the United States Housing Act of 1937 (42 U.S.C. 1437f), other than assistance provided under section 8(o) of that Act;

(2) the supportive housing for the elderly program under section 202 of the Housing Act of 1959 (12 U.S.C. 1701q); or

(3) the supportive housing for persons with disabilities program under section 811(d)(2) of the Cranston-Gonzalez National Affordable Housing Act (42 U.S.C. 8013 (d)(2)).

(b) REQUIREMENTS.—

(1) PAYMENTS CONTINGENT ON SAVINGS.—

(A) IN GENERAL.—The Secretary shall provide to an entity a payment under an agreement under this section only during applicable years for which an energy or water cost savings is achieved with respect to the applicable multifamily portfolio of properties, as determined by the Secretary, in accordance with subparagraph (B).

(B) PAYMENT METHODOLOGY.—

(i) IN GENERAL.—Each agreement under this section shall include a pay-for-success provision that—

(I) shall serve as a payment threshold for the term of the agreement; and

(II) requires that payments shall be contingent on realized cost savings associated with reduced utility consumption in the participating properties.

(ii) LIMITATIONS.—A payment made by the Secretary under an agreement under this section—

(I) shall be contingent on documented utility savings; and

(II) shall not exceed the utility savings achieved by the date of the payment, and not previously paid, as a result of the improvements made under the agreement

(C) THIRD-PARTY VERIFICATION.—Savings payments made by the Secretary under this section shall be based on a measurement and verification protocol that includes at least—

(i) establishment of a weather-normalized and occupancy-normalized utility consumption baseline established pre-retrofit;

(ii) annual third-party confirmation of actual utility consumption and cost for utilities;

(iii) annual third-party validation of the tenant utility allowances in effect during the applicable year and vacancy rates for each unit type; and

(iv) annual third-party determination of savings to the Secretary.

An agreement under this section with an entity shall provide that the entity shall cover costs associated with third-party verification under this subparagraph.

(2) TERMS OF PERFORMANCE-BASED AGREEMENTS.—A performance-based agreement under this section shall include—

(A) the period that the agreement will be in effect and during which payments may be made, which may not be longer than 12 years;

(B) the performance measures that will serve as payment thresholds during the term of the agreement;

(C) an audit protocol for the properties covered by the agreement;

(D) a requirement that payments shall be contingent on realized cost savings associated with reduced utility consumption in the participating properties; and

(E) such other requirements and terms as determined to be appropriate by the Secretary.

(3) ENTITY ELIGIBILITY.—The Secretary shall—

(A) establish a competitive process for entering into agreements under this section; and

(B) enter into such agreements only with entities that, either jointly or individually, demonstrate significant experience relating to—

(i) financing or operating properties receiving assistance under a program identified in subsection (a);

(ii) oversight of energy or water conservation programs, including oversight of contractors; and

(iii) raising capital for energy or water conservation improvements from charitable organizations or private investors.

(4) GEOGRAPHICAL DIVERSITY.—Each agreement entered into under this section shall provide for the inclusion of properties with the greatest feasible regional and State variance.

(5) PROPERTIES.—A property may only be included in the demonstration under this section only if the property is subject to affordability restrictions for at least 15 years after the date of the completion of any conservation improvements made to the property under the demonstration program. Such restrictions may be made through an extended affordability agreement for the property under a new housing assistance payments contract with the Secretary of Housing and Urban Development or through an enforceable covenant with the owner of the property.

(c) PLAN AND REPORTS.—

(1) PLAN.—Not later than 90 days after the date of enactment of this Act, the Secretary shall submit to the Committees on Appropriations and Financial Services of the House of Representatives and the Committees on Appropriations and Banking, Housing, and Urban Affairs of the Senate a detailed plan for the implementation of this section.

(2) REPORTS.—Not later than 1 year after the date of enactment of this Act, and annually thereafter, the Secretary shall—

(A) conduct an evaluation of the program under this section; and

(B) submit to Congress a report describing each evaluation conducted under subparagraph (A).

(d) FUNDING.—For each fiscal year during which an agreement under this section is in effect, the Secretary may use to carry out this section any funds appropriated to the Secretary for the renewal of contracts under a program described in subsection (a).

END OF STATUTE

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PART V—HOMEOWNERSHIP ASSISTANCE

NATIONAL HOMEOWNERSHIP TRUST

NATIONAL HOMEOWNERSHIP TRUST ACT[355]
[Public Law 101-625; 104 Stat. 4129; 42 U.S.C. 12851—12859]

TITLE III—HOMEOWNERSHIP

Subtitle A—National Homeownership Trust Demonstration

Sec. 301. [42 U.S.C. 12851 note]
SHORT TITLE.

This subtitle may be cited as the "National Homeownership Trust Act".

Sec. 302. [42 U.S.C. 12851]
NATIONAL HOMEOWNERSHIP TRUST.

(a) ESTABLISHMENT.—There is established the National Homeownership Trust, which shall be in the Department of Housing and Urban Development and shall provide assistance to first-time homebuyers in accordance with this subtitle.

(b) BOARD OF DIRECTORS.—The Trust shall be governed by a Board of Directors, which shall be composed of—

(1) the Secretary of Housing and Urban Development, who shall be the chairperson of the Board;
(2) the Secretary of the Treasury;
(3) the chairperson of the Board of Directors of the Federal Deposit Insurance Corporation;
(4) the chairperson of the Federal Housing Finance Board;
(5) the chairperson of the Board of Directors of the Federal National Mortgage Association;
(6) the chairperson of the Board of Directors of the Federal Home Loan Mortgage Corporation; and
(7) 1 individual representing consumer interests, who shall be appointed by the President of the United States, by and with the advice and consent of the Senate.

(c) POWERS OF TRUST.—The Trust shall have the same powers as the powers given the Government National Mortgage Association in section 309(a) of the Federal National Mortgage Association Charter Act (12 U.S.C. 1723a(a)).

(d) TRAVEL AND PER DIEM.—Members of the Board of Directors shall receive no additional compensation by reason of service on the Board, but shall be allowed travel expenses, including per diem in lieu of subsistence, as provided for employees of the Federal Government or in the same manner as persons employed intermittently in the Government service are allowed under section 5703 of title 5, United States Code, as appropriate.

(e) DIRECTOR AND STAFF.—

(1) DIRECTOR.—The Board of Directors may appoint an executive director of the Trust and fix the compensation of the executive director, which shall be paid from amounts in the National Homeownership Trust Fund.

(2) STAFF.—Subject to such rules as the Board of Directors may prescribe, the Trust may appoint and hire such staff and provide for offices as may be necessary to carry out its duties. The Trust may fix the compensation of the staff, which shall be paid from amounts in the National Homeownership Trust Fund.

Sec. 303. [42 U.S.C. 12852]
ASSISTANCE FOR FIRST-TIME HOMEBUYERS.

(a) IN GENERAL.—The Trust shall provide assistance payments for first-time homebuyers (including homebuyers buying shares in limited equity cooperatives) in the following manners:

[355] Enacted as Title III of the Cranston-Gonzalez Affordable Housing Act

(1) INTEREST RATE BUYDOWNS.—Assistance payments so that the rate of interest payable on the mortgages by the homebuyers does not exceed 6 percent.

(2) DOWNPAYMENT ASSISTANCE.—Assistance payments to provide amounts for downpayments (including closing costs and other costs payable at the time of closing) on mortgages for such homebuyers.

(3) ASSISTANCE IN CONNECTION WITH MORTGAGE REVENUE BONDS FINANCING.—Interest rate buydowns and downpayment assistance in the manner provided in subsection (e).

(4) SECOND MORTGAGE ASSISTANCE.—Assistance payments to provide loans (secured by second mortgages) with deferred payment of interest and principal; and[356]

(5) CAPITALIZATION OF REVOLVING LOAN FUNDS.—Grants to public organizations or agencies to establish revolving loan funds to provide homeownership assistance to eligible first-time homebuyers consistent with the requirements of this subtitle. Such grants shall be matched by an equal amount of local investment in such revolving loan funds. Any proceeds or repayments from loans made under this paragraph shall be returned to the revolving loan fund established under this paragraph to be used for purposes related to this section.

(b) ELIGIBILITY REQUIREMENTS.—Assistance payments under this subtitle may be made only to homebuyers and for mortgages meeting the following requirements:

(1) FIRST-TIME HOMEBUYER.—The homebuyer is an individual who—

(A) (and whose spouse) has had no ownership in a principal residence during the 3-year period ending on the date of purchase of the property with respect to which assistance payments are made under this subtitle;

(B) is a displaced homemaker who, except for owning a home with his or her spouse or residing in a home owned by the spouse, meets the requirements of subparagraph (A);

(C) is a single parent who, except for owning a home with his or her spouse or residing in a home owned by the spouse while married, meets the requirements of subparagraph (A); or

(D) meets the requirements of subparagraph (A), (B), or (C), except for owning, as a principal residence, a dwelling unit whose structure is—

(i) not permanently affixed to a permanent foundation in accordance with local or other applicable regulations; or

(ii) not in compliance with State, local, or model building codes, or other applicable codes, and cannot be brought into compliance with such codes for less than the cost of constructing a permanent structure.

(2) MAXIMUM INCOME OF HOMEBUYER.—The aggregate annual income of the homebuyer and the members of the family of the homebuyer residing with the homebuyer, for the 12-month period preceding the date of the application of the homebuyer for assistance under this subtitle, does not exceed—

(A) 95 percent of the median income for a family of 4 persons (adjusted by family size) in the applicable metropolitan statistical area (or such other area that the Board of Directors determines for areas outside of metropolitan statistical areas); or

(B) 115 percent of such median income (adjusted by family size) in the case of an area that is subject to a high cost area mortgage limit under title II of the National Housing Act.

The Board of Directors shall provide for certification of such income for purposes of initial eligibility for assistance payments under this subtitle and shall provide for recertification of homebuyers (and families of homebuyers) so assisted not less than every 2 years thereafter.

(3) CERTIFICATION.—The homebuyer (and spouse, where applicable) shall certify that the homebuyer has made a good faith effort to obtain a market rate mortgage and has been denied because the annual income of the homebuyer and the members of the family of the homebuyer residing with the homebuyer is insufficient.

(4) PRINCIPAL RESIDENCE.—The property securing the mortgage is a single-family residence or unit in a cooperative and is the principal residence of the homebuyer.

(5) MAXIMUM MORTGAGE AMOUNT.—The principal obligation of the mortgage does not exceed the principal amount that could be insured with respect to the property under the National Housing Act.

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[356] So in law.

(6) MAXIMUM INTEREST RATE.—The interest payable on the mortgage is established at a fixed rate that does not exceed a maximum rate of interest established by the Trust taking into consideration prevailing interest rates on similar mortgages.

(7) RESPONSIBLE MORTGAGEE.—The mortgage has been made to, and is held by, a mortgagee that is federally insured or that is otherwise approved by the Trust as responsible and able to service the mortgage properly.

(8) MINIMUM DOWNPAYMENT.—For a first-time homebuyer to receive downpayment assistance under subsection (a)(2), the homebuyer shall have paid not less than 1 percent of the cost of acquisition of the property (excluding any mortgage insurance premium paid at the time the mortgage is insured), as such cost is estimated by the Board of Directors.

(c) TERMS OF ASSISTANCE.—

(1) SECURITY.—Assistance payments under this subtitle shall be secured by a lien on the property involved. The lien shall be subordinate to all mortgages existing on the property on the date on which the first assistance payment is made.

(2) REPAYMENT UPON SALE.—Assistance payments under this subtitle shall be repayable from the net proceeds of the sale, without interest, upon the sale of the property for which the assistance payments are made. If the sale results in no net proceeds or the net proceeds are insufficient to repay the amount of the assistance payments in full, the Board of Directors shall release the lien to the extent that the debt secured by the lien remains unpaid.

(3) REPAYMENT UPON INCREASED INCOME.—If the aggregate annual income of the homebuyer (and family of the homebuyer) assisted under this subtitle exceeds the applicable maximum income allowable under subsection (b)(2) for any 2-year period after such assistance is provided, the Board of Directors may provide for the repayment, on a monthly basis, of all or a portion of such assistance payments, based on the amount of assistance provided and the income of the homebuyer (and family of the homebuyer).

(4) REPAYMENT IF PROPERTY CEASES TO BE PRINCIPAL RESIDENCE.—If the property for which assistance payments are made ceases to be the principal residence of the first-time homebuyer (or the family of the homebuyer), the Board of Directors may provide for the repayment of all or a portion of the assistance payments.

(5) AVAILABLE ASSISTANCE.—The Trust may make assistance payments under paragraphs (1) and (2) of subsection (a) with respect to a single mortgage of an eligible homebuyer.

(d) ALLOCATION FORMULA.—Amounts available in any fiscal year for assistance under this subtitle shall be allocated for homebuyers in each State on the basis of the need of eligible first-time homebuyers in each State for such assistance in comparison with the need of eligible first-time homebuyers for such assistance among all States.

(e) ASSISTANCE IN CONNECTION WITH HOUSING FINANCED WITH MORTGAGE REVENUE BONDS.—

(1) AUTHORITY.—The Trust shall provide assistance for first-time homebuyers in the form of interest rate buydowns and downpayment assistance under this subsection. Such assistance shall be available only with respect to mortgages for the purchase of residences (A) financed with the proceeds of a qualified mortgage bond (as such term is defined in section 143 of the Internal Revenue Code of 1986), or (B) for which a credit is allowable under section 25 of such Code.

(2) ELIGIBILITY.—To be eligible for assistance under this subsection, homebuyers and mortgages shall also meet the requirements under subsection (b) of this section, except that—

(A) the certification under subsection (b)(3) shall not be required for assistance under this subsection;

(B) the provisions of subsection (b)(2) shall not apply to assistance under this section; and

(C) the aggregate income of the homebuyer and the members of the family of the homebuyer residing with the homebuyer, for the 12-month period preceding the date of the application of the homebuyer for assistance under this subsection, shall not exceed 80 percent of the median income for a family of 4 persons (as adjusted for family size) in the applicable metropolitan statistical area.

(3) LIMITATION OF ASSISTANCE.—Notwithstanding subsection (a), assistance payments for first-time homebuyers under this subsection shall be provided in the following manners:

(A) INTEREST RATE BUYDOWNS.—Assistance payments to decrease the rate of interest payable on the mortgages by the homebuyers, in an amount not exceeding—

(i) in the first year of the mortgage, 2.0 percent of the total principal obligation of the mortgage;

(ii) in the second year of the mortgage, 1.5 percent of the total principal obligation of the mortgage;

(iii) in the third year of the mortgage, 1.0 percent of the total principal obligation of the mortgage; and

(iv) in the fourth year of the mortgage, 0.5 percent of the total principal obligation of the mortgage.

(B) DOWNPAYMENT ASSISTANCE.—Assistance payments to provide amounts for downpayments on mortgages by the homebuyers, in an amount not exceeding 2.5 percent of the principal obligation of the mortgage.

(3)[357] AVAILABILITY.—The Trust may make assistance payments under subparagraphs (A) and (B) of paragraph (3) with respect to a single mortgage of a homebuyer.

Sec. 304. [42 U.S.C. 12853]
NATIONAL HOMEOWNERSHIP TRUST FUND.

(a) ESTABLISHMENT.—There is established in the Treasury of the United States a revolving fund, to be known as the National Homeownership Trust Fund.

(b) ASSETS.—The Fund shall consist of—

(1) any amount approved in appropriation Acts under section 308 for purposes of carrying out this subtitle;

(2) any amount received by the Trust as repayment for payments made under this subtitle; and

(3) any amount received by the Trust under subsection (d).

(c) USE OF AMOUNTS.—The Fund shall, to the extent approved in appropriations Acts, be available to the Trust for purposes of carrying out this subtitle.

(d) INVESTMENT OF EXCESS AMOUNTS.—Any amounts in the Fund determined by the Trust to be in excess of the amounts currently required to carry out the provisions of this subtitle shall be invested by the Trust in obligations of, or obligations guaranteed as to both principal and interest by, the United States or any agency of the United States.

(e) DEMONSTRATION PROGRAMS.—Using not more than $20,000,000 of any amounts appropriated for the Fund under section 308 in fiscal year 1991, the Secretary shall carry out demonstration programs for combining housing activities and economic development activities, as follows:

(1) In Milwaukee, Wisconsin, in an amount not to exceed $4,200,000, for development, rehabilitation, and revitalization of 2 vacant structures in a blighted minority neighborhood.

(2) In Washington, District of Columbia, in an amount not to exceed $10,000,000, for nonprofit neighborhood-based groups to acquire and rehabilitate vacant public and private housing for resale or rent to low- and moderate-income families and to the extent of and subject to engage in neighborhood-based economic development activities.

(3) In Philadelphia, Pennsylvania, in an amount not to exceed $1,000,000, for technical assistance and organizational support for a community development corporation that is a city-wide public/private partnership engaged in the provision of technical assistance to neighborhood community development corporations.

(4) In other areas, as the Secretary may determine.

Sec. 305. [42 U.S.C. 12854]
DEFINITIONS.

For purposes of this subtitle:

(1) BOARD OF DIRECTORS.—The term “Board of Directors” or “Board” means the Board of Directors of the National Homeownership Trust under section 302(b).

(2) DISPLACED HOMEMAKER.—The term “displaced homemaker” means an individual who—

(A) is an adult;

[357] So in law. Probably should be designated as paragraph (4).

(B) has not worked full-time full-year in the labor force for a number of years, but has during such years, worked primarily without remuneration to care for the home and family; and

(C) is unemployed or underemployed and is experiencing difficulty in obtaining or upgrading employment.

(3) FUND.—The term "Fund" means the National Homeownership Trust Fund established in section 304.

(4) SINGLE PARENT.—The term "single parent" means an individual who—

(A) is unmarried or legally separated from a spouse; and

(B)(i) has 1 or more minor children for whom the individual has custody or joint custody; or

(ii) is pregnant.

(5) STATE.—The term "State" means the States of the United States, the District of Columbia, the Commonwealth of Puerto Rico, the Commonwealth of the Northern Mariana Islands, Guam, the Virgin Islands, American Samoa, the Trust Territory of the Pacific Islands, and any other territory or possession of the United States.

(6) TRUST.—The term "Trust" means the National Homeownership Trust established in section 302.

Sec. 306. [42 U.S.C. 12855]
REGULATIONS.

The Board of Directors shall issue any regulations necessary to carry out this subtitle.

Sec. 307. [42 U.S.C. 12856]
REPORT.

The Board of Directors shall submit to the Congress, not later than the expiration of the 90-day period beginning on the date of the termination of the Trust under section 310, a report containing a description of the activities of the Trust and an analysis of the effectiveness of the Trust in assisting first-time homebuyers.

Sec. 308. [42 U.S.C. 12857]
AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated for assistance payments under this subtitle $520,665,600 for fiscal year 1993 and $542,533,555 for fiscal year 1994, of which such sums as may be necessary shall be available in each such fiscal year for use under section 303(e). Any amount appropriated under this section shall be deposited in the Fund and shall remain available until expended, subject to the provisions of section 311.[358]

Sec. 309. [42 U.S.C. 12858]
TRANSITION.

(a) AUTHORITY OF SECRETARY.—Upon the termination of the Trust as provided in section 310, the Secretary of Housing and Urban Development shall exercise any authority of the Board of Directors and the Trust in accordance with the provisions of this subtitle as may be necessary to provide for the conclusion of the outstanding affairs of the Trust.

(b) APPLICABILITY OF TRUST PROVISIONS.—Any assistance under this subtitle shall, after termination of the Trust, be subject to the provisions of this subtitle that would have applied to such assistance if the termination had not occurred.

(c) CERTIFICATION OF FUND TO TREASURY.—Upon a determination by the Secretary of Housing and Urban Development that the National Homeownership Trust Fund is no longer necessary, the Secretary shall certify any amounts remaining in the Fund to the Secretary of the Treasury and the Secretary of the Treasury shall deposit into the general fund of the Treasury as miscellaneous receipts any amounts remaining in the Fund.

Sec. 310. [42 U.S.C. 12859]
TERMINATION.

The Trust shall terminate on September 30, 1994.

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END OF STATUTE

[358] So in law. Probably intended to refer to section 309.

HOPE HOMEOWNERSHIP PROGRAMS

CRANSTON-GONZALEZ NATIONAL AFFORDABLE HOUSING ACT
[Public Law 101-625; 104 Stat. 4148; 42 U.S.C. 12870—12898]

TITLE IV—HOMEOWNERSHIP AND OPPORTUNITY FOR PEOPLE EVERYWHERE PROGRAMS

Sec. 401. [42 U.S.C. 1437aaa note]
SHORT TITLE.

This title may be cited as the "Homeownership and Opportunity Through HOPE Act".

Sec. 402. [42 U.S.C. 12870]
AUTHORIZATION OF APPROPRIATIONS.

(a) FISCAL YEAR 1993.—There are authorized to be appropriated for grants under this title $855,000,000 for fiscal year 1993, of which—

(1) $285,000,000 shall be available for activities authorized under title III of the United States Housing Act of 1937, of which up to $4,500,000 of any amounts appropriated may be made available for technical assistance to potential applicants, applicants and recipients of assistance under this title;[359]

(2) $285,000,000 shall be available for activities authorized under subtitle B, of which up to $3,250,000 of any amounts appropriated may be made available for technical assistance to potential applicants, applicants and recipients of assistance under this subtitle;[360] and

(3) $285,000,000 shall be available for activities under subtitle C, of which up to $2,250,000 of any amounts appropriated may be made available for technical assistance to potential applicants, applicants and recipients of assistance under this subtitle.[361]

(b) FISCAL YEAR 1994.—There are authorized to be appropriated for grants under this title $883,641,000 for fiscal year 1994, of which—

(1) $294,547,000 shall be available for activities authorized under title III of the United States Housing Act of 1937, up to $4,500,000 of which may be made available for technical assistance to potential applicants, applicants and recipients of assistance under this title;[362]

(2) $294,547,000 shall be available for activities authorized under subtitle B, up to $3,250,000 of which may be made available for technical assistance to potential applicants, applicants and recipients of assistance under this subtitle;[363] and

(3) $294,547,000 shall be available for activities under subtitle C, up to $2,250,000 of which may be made available for technical assistance to potential applicants, applicants and recipients of assistance under this subtitle.[364]

(c) TECHNICAL ASSISTANCE.—Technical assistance made available under title III of the United States Housing Act of 1937 or subtitle B or subtitle C of this title may include, but shall not be limited to, training, clearinghouse services, the collection, processing and dissemination of program information useful for local and national program management, and provision of seed money. Such technical assistance may be made available directly, or indirectly under contracts and grants, as appropriate. In any fiscal year, no single applicant, potential applicant, or recipient under title III of the United States Housing Act of 1937, or subtitle B or subtitle C of this title may receive technical assistance in an amount exceeding 20 percent of the total amount made available for technical assistance under such title or subtitle for the fiscal year.

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Subtitle B—HOPE for Homeownership of Multifamily Units

[359] Probably should refer to "such title", i.e., title III of the United States Housing Act of 1937.
[360] Probably should refer to "such subtitle", i.e., subtitle B of title IV of the Cranston-Gonzalez National Affordable Housing Act.
[361] Probably should refer to "such subtitle", i.e., subtitle C of title IV of the Cranston-Gonzalez National Affordable Housing Act.
[362] Probably should refer to "such title", i.e., title III of the United States Housing Act of 1937.
[363] Probably should refer to "such subtitle", i.e., subtitle B of title IV of the Cranston-Gonzalez National Affordable Housing Act.
[364] Probably should refer to "such subtitle", i.e., subtitle C of title IV of the Cranston-Gonzalez National Affordable Housing Act.

Sec. 421. [42 U.S.C. 12871]
PROGRAM AUTHORITY.

(a) IN GENERAL.—The Secretary is authorized to make—

(1) planning grants to enable applicants to develop homeownership programs; and

(2) implementation grants to enable applicants to carry out homeownership programs.

(b) AUTHORITY TO RESERVE HOUSING ASSISTANCE.—In connection with a grant under this subtitle, the Secretary may reserve authority to provide assistance under section 8 of the United States Housing Act of 1937 to the extent necessary to provide rental assistance for a nonpurchasing tenant who resides in the project on the date the Secretary approves the application for an implementation grant, for use by the tenant in another project.

Sec. 422. [42 U.S.C. 12872]
PLANNING GRANTS.

(a) GRANTS.—The Secretary is authorized to make planning grants to applicants for the purpose of developing homeownership programs under this subtitle. The amount of a planning grant under this section may not exceed $200,000, except that the Secretary may for good cause approve a grant in a higher amount.

(b) ELIGIBLE ACTIVITIES.—Planning grants may be used for activities to develop homeownership programs (which may include programs for cooperative ownership), including—

(1) development of resident management corporations and resident councils;

(2) training and technical assistance of applicants related to the development of a specific homeownership program;

(3) studies of the feasibility of a homeownership program;

(4) inspection for lead-based paint hazards, as required by section 302(a) of the Lead-Based Paint Poisoning Prevention Act;

(5) preliminary architectural and engineering work;

(6) tenant and homebuyer counseling and training;

(7) planning for economic development, job training, and self-sufficiency activities that promote economic self-sufficiency for homebuyers and homeowners under the homeownership program;

(8) development of security plans; and

(9) preparation of an application for an implementation grant under this subtitle.

(c) APPLICATION.—

(1) FORM AND PROCEDURES.—An application for a planning grant shall be submitted by an applicant in such form and in accordance with such procedures as the Secretary shall establish.

(2) MINIMUM REQUIREMENTS.—The Secretary shall require that an application contain at a minimum—

(A) a request for a planning grant, specifying the activities proposed to be carried out, the schedule for completing the activities, the personnel necessary to complete the activities, and the amount of the grant requested;

(B) a description of the applicant and a statement of its qualifications;

(C) identification and description of the eligible property involved, and a description of the composition of the tenants, including family size and income;

(D) a certification by the public official responsible for submitting the comprehensive housing affordability strategy under section 105 of the Cranston-Gonzalez National Affordable Housing Act that the proposed activities are consistent with the approved housing strategy of the State or unit of general local government within which the project is located (or, during the first 12 months after enactment of this Act,[365] that the application is consistent with such other existing State or local housing plan or strategy that the Secretary shall determine to be appropriate); and

(E) a certification that the applicant will comply with the requirements of the Fair Housing Act, title VI of the Civil Rights Act of 1964, section 504 of the Rehabilitation Act of 1973, and the Age Discrimination Act of 1975, and will affirmatively further fair housing.

(d) SELECTION CRITERIA.—The Secretary shall, by regulation, establish selection criteria for a national competition for assistance under this section, which shall include—

(1) the qualifications or potential capabilities of the applicant;

(2) the extent of tenant interest in the development of a homeownership program for the property;

[365] The date of enactment was November 28, 1990.

(3) the potential of the applicant for developing a successful and affordable homeownership program and the suitability of the property for homeownership;

(4) national geographic diversity among housing for which applicants are selected to receive assistance; and

(5) such other factors that the Secretary shall require that (in the determination of the Secretary) are appropriate for purposes of carrying out the program established by this subtitle in an effective and efficient manner.

Sec. 423. [42 U.S.C. 12873]
IMPLEMENTATION GRANTS.

(a) GRANTS.—The Secretary is authorized to make implementation grants to applicants for the purpose of carrying out homeownership programs approved under this subtitle.

(b) ELIGIBLE ACTIVITIES.—Implementation grants may be used for activities to carry out homeownership programs (including programs for cooperative ownership), including the following activities:

(1) Architectural and engineering work.

(2) Acquisition of the eligible property for the purpose of transferring ownership to eligible families in accordance with a homeownership program that meets the requirements under this subtitle.

(3) Rehabilitation of any property covered by the homeownership program, in accordance with standards established by the Secretary.

(4) Abatement of lead-based paint hazards, as required by section 302(a) of the Lead-Based Paint Poisoning Prevention Act.

(5) Administrative costs of the applicant, which may not exceed 15 percent of the amount of the assistance provided under this section.

(6) Development of resident management corporations and resident management councils, but only if the applicant has not received assistance under section 322[366] for such activities.

(7) Counseling and training of homebuyers and homeowners under the homeownership program.

(8) Relocation of tenants who elect to move.

(9) Any necessary temporary relocation of tenants during rehabilitation.

(10) Planning for establishment of for- or not-for-profit small businesses by or on behalf of residents, job training, and other activities that promote economic self-sufficiency of homebuyers and homeowners of the property covered by the homeownership program and economic development of the neighborhood.

(11) Funding of operating expenses and replacement reserves of the property covered by the homeownership program.

(12) Legal fees.

(13) Defraying costs for the ongoing training needs of the recipient that are related to developing and carrying out the homeownership program.

(14) Economic development activities that promote economic self-sufficiency of homebuyers, residents, and homeowners under the homeownership program.

(c) MATCHING FUNDING.—

(1) IN GENERAL.—Each recipient shall assure that contributions equal to not less than 33 percent of the grant amounts made available under this section, excluding any amounts provided for post-sale operating expense, shall be provided from non-Federal sources to carry out the homeownership program.

(2) FORM.—Such contributions may be in the form of—

(A) cash contributions from non-Federal resources, which may not include funds from a grant made under section 106(b) or section 106(d) of the Housing and Community Development Act of 1974;

(B) payment of administrative expenses, as defined by the Secretary, from non-Federal resources, including funds from a grant made under section 106(b) or section 106(d) of the Housing and Community Development Act of 1974;

(C) the value of taxes, fees, or other charges that are normally and customarily imposed but are waived, foregone, or deferred in a manner that facilitates the implementation of a homeownership program assisted under this subtitle;

[366] Probably intended to refer to section 422.

(D) the value of land or other real property as appraised according to procedures acceptable to the Secretary;

(E) the value of investment in on-site and off-site infrastructure required for a homeownership program assisted under this subtitle; or

(F) such other in-kind contributions as the Secretary may approve.

Contributions for administrative expenses shall be recognized only up to an amount equal to 7 percent of the total amount of grants made available under this section.

(d) APPLICATION.—

(1) FORM AND PROCEDURE.—An application for an implementation grant shall be submitted by an applicant in such form and in accordance with such procedures as the Secretary shall establish.

(2) MINIMUM REQUIREMENTS.—The Secretary shall require that an application contain at a minimum—

(A) a request for an implementation grant, specifying the amount of the grant requested and its proposed uses;

(B) if applicable, an application for assistance under section 8 of the United States Housing Act of 1937, specifying the proposed uses of such assistance and the period during which the assistance will be needed;

(C) a description of the qualifications and experience of the applicant in providing low-income housing;

(D) a description of the proposed homeownership program, consistent with section 324[367] and the other requirements of this subtitle, specifying the activities proposed to be carried out and their estimated costs, identifying reasonable schedules for carrying it out, and demonstrating the program will comply with the affordability requirements under section 324(b);[368]

(E) identification and description of the property involved, and a description of the composition of the tenants, including family size and income;

(F) a description of and commitment for the resources that are expected to be made available to provide the matching funding required under subsection (c) and of other resources that are expected to be made available in support of the homeownership program;

(G) identification and description of the financing proposed for any (i) rehabilitation and (ii) acquisition (I) of the property, by an entity for transfer to eligible families, and (II) by eligible families of ownership interests in, or shares representing, units in the project;

(H) the proposed sales price, the basis for such price determination, and terms to an entity, if any, that will purchase the property for resale to eligible families;

(I) the proposed sales prices, if any, and terms to eligible families;

(J) any proposed restrictions on the resale of units under a homeownership program;

(K) identification and description of the entity that will operate and manage the property;

(L) a certification by the public official responsible for submitting the comprehensive housing affordability strategy under section 105 of the Cranston-Gonzalez National Affordable Housing Act that the proposed activities are consistent with the approved housing strategy of the State or unit of general local government within which the project is located (or, during the first 12 months after enactment of this Act,[369] that the application is consistent with such other existing State or local housing plan or strategy that the Secretary shall determine to be appropriate); and

(M) a certification that the applicant will comply with the requirements of the Fair Housing Act, title VI of the Civil Rights Act of 1964, section 504 of the Rehabilitation Act of 1973, and the Age Discrimination Act of 1975, and will affirmatively further fair housing.

(d)[370] SELECTION CRITERIA.—The Secretary shall establish selection criteria for assistance under this section, which shall include—

(1) the qualifications or potential capabilities of the applicant;

(2) the feasibility of the homeownership program;

(3) the extent of tenant interest in the development of a homeownership program for the property;

(4) the potential for developing an affordable homeownership program and the suitability of the property for homeownership;

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[367] So in law. Probably intended to refer to section 424.

[368] So in law. Probably intended to refer to section 424(b).

[369] The date of enactment was November 28, 1990.

[370] So in law. Probably should be designated as subsection (e).

(5) national geographic diversity among housing for which applicants are selected to receive assistance;

(6) the extent to which a sufficient supply of affordable rental housing of the type assisted under this title exists in the locality, so that the implementation of the homeownership program will not appreciably reduce the number of such rental units available to residents currently residing in such units or eligible for residency in such units; and

(7) such other factors as the Secretary determines to be appropriate for purposes of carrying out the program established by the subtitle in an effective and efficient manner.

(e)[371] APPROVAL.—The Secretary shall notify each applicant, not later than 6 months after the date of the submission of the application, whether the application is approved or not approved. The Secretary may approve the application for an implementation grant with a statement that the application for the section 8 assistance for residents of the project not purchasing units is conditionally approved, subject to the availability of appropriations in subsequent fiscal years.

Sec. 424. [42 U.S.C. 12874]
HOMEOWNERSHIP PROGRAM REQUIREMENTS.

(a) IN GENERAL.—A homeownership program under this subtitle shall provide for acquisition by eligible families of ownership interest in, or shares representing, the units in an eligible property under any arrangement determined by the Secretary to be appropriate, such as cooperative ownership (including limited equity cooperative ownership) and fee simple ownership (including condominium ownership), for occupancy by the eligible families.

(b) AFFORDABILITY.—A homeownership program under this subtitle shall provide for the establishment of sales prices (including principal, insurance, taxes, and interest and closing costs) for initial acquisition of the property, and for sales to eligible families, such that the eligible family shall not be required to expend more than 30 percent of the adjusted income of the family per month to complete a sale under the homeownership program.

(c) PLAN.—A homeownership program under this subtitle shall provide, and include a plan, for—

(1) identifying and selecting eligible families to participate in the homeownership program;

(2) providing relocation assistance to families who elect to move;

(3) ensuring continued affordability by tenants, homebuyers, and homeowners in the property; and

(4) providing ongoing training and counseling for homebuyers and homeowners.

(d) ACQUISITION AND REHABILITATION LIMITATION.—Acquisition or rehabilitation of a property under a homeownership program under this subtitle may not consist of acquisition or rehabilitation of less than all of the units in the property. The provisions of this subsection may be waived upon a finding by the Secretary that the sale of less than all the buildings in a project is feasible and will not result in a hardship to any tenants of the project who are not included in the homeownership program.

(e) FINANCING.—

(1) IN GENERAL.—The application shall identify and describe the proposed financing for (A) any rehabilitation, and (B) acquisition (i) of the project, where applicable, by an entity for transfer to eligible families, and (ii) by eligible families of ownership interests in, or shares representing, units in the project. Financing may include use of the implementation grant, sale for cash, or other sources of financing (subject to applicable requirements), including conventional mortgage loans and mortgage loans insured under title II of the National Housing Act.

(2) PROHIBITION AGAINST PLEDGES.—Property transferred under this subtitle shall not be pledged as collateral for debt or otherwise encumbered except when the Secretary determines that—

(A) such encumbrance will not threaten the long-term availability of the property for occupancy by low-income families;

(B) neither the Federal Government nor the public housing agency will be exposed to undue risks related to action that may have to be taken pursuant to paragraph (3);

(C) any debt obligation can be serviced from project income, including operating assistance; and

(D) the proceeds of such encumbrance will be used only to meet housing standards in accordance with subsection (f) or to make such additional capital improvements as the Secretary determines to be consistent with the purposes of this subtitle.

(3) OPPORTUNITY TO CURE.—Any lender that provides financing in connection with a homeownership program under this subtitle shall give the public housing agency, resident management

[371] So in law. Probably should be designated as subsection (f).

corporation, individual owner, or other appropriate entity a reasonable opportunity to cure a financial default before foreclosing on the property, or taking other action as a result of the default.

(f) HOUSING QUALITY STANDARDS.—The application shall include a plan ensuring that the unit—

(1) will be free from any defects that pose a danger to health or safety before transfer of an ownership interest in, or shares representing, a unit to an eligible family; and

(2) will, not later than 2 years after the transfer to an eligible family, meet minimum housing standards established by the Secretary for the purpose of this title.

(g) PROTECTION OF NONPURCHASING FAMILIES.—

(1) IN GENERAL.—No tenant residing in a dwelling unit in a property on the date the Secretary approves an application for an implementation grant may be evicted by reason of a homeownership program approved under this subtitle.

(2) RENTAL ASSISTANCE.—If a tenant decides not to purchase a unit, or is not qualified to do so, the Secretary shall, subject to the availability of appropriations, ensure that rental assistance under section 8[372] is available for use by each otherwise qualified tenant in that or another property.

(3) RELOCATION ASSISTANCE.—The recipient shall also inform each such tenant that if the tenant chooses to move, the recipient will pay relocation assistance in accordance with the approved homeownership program.

Sec. 425. [42 U.S.C. 12875]
OTHER PROGRAM REQUIREMENTS.

(a) PREFERENCES.—In selecting eligible families for homeownership, the recipient shall give a first preference to otherwise qualified current tenants and a second preference to otherwise qualified eligible families who have completed participation in an economic self-sufficiency program specified by the Secretary.

(b) COST LIMITATIONS.—The Secretary may establish cost limitations on eligible activities under this subtitle, subject to the provisions of this subtitle.

(c) USE OF PROCEEDS FROM SALES TO ELIGIBLE FAMILIES.—The entity that transfers ownership interests in, or shares representing, units to eligible families, or another entity specified in the approved application, shall use the proceeds, if any, from the initial sale for costs of the homeownership program, including operating expenses, improvements to the project, business opportunities for low-income families, supportive services related to the homeownership program, additional homeownership opportunities, and other activities approved by the Secretary.

(d) RESTRICTIONS ON RESALE BY HOMEOWNERS.—

(1) IN GENERAL.—

(A) TRANSFER PERMITTED.—A homeowner under a homeownership program may transfer the homeowner's ownership interest in, or shares representing, the unit, except that a homeownership program may establish restrictions on the resale of units under the program.

(B) RIGHT TO PURCHASE.—Where a resident management corporation, resident council, or cooperative has jurisdiction over the unit, the corporation, council, or cooperative shall have the right to purchase the ownership interest in, or shares representing, the unit from the homeowner for the amount specified in a firm contract between the homeowner and a prospective buyer. If such an entity does not have jurisdiction over the unit or elects not to purchase and if the prospective buyer is not a low-income family, the public housing agency or the implementation grant recipient shall have the right to purchase the ownership interest in, or shares representing, the unit for the same amount.

(C) PROMISSORY NOTE REQUIRED.—The homeowner shall execute a promissory note equal to the difference between the market value and the purchase price, payable to the public housing agency or other entity designated in the homeownership plan, together with a mortgage securing the obligation of the note.

(2) 6 YEARS OR LESS.—In the case of a transfer within 6 years of the acquisition under the program, the homeownership program shall provide for appropriate restrictions to assure that an eligible family may not receive any undue profit. The plan shall provide for limiting the family's consideration for its interest in the property to the total of—

(A) the contribution to equity paid by the family;

[372] Probably intended to refer to section 8 of the United States Housing Act of 1937.

(B) the value, as determined by such means as the Secretary shall determine through regulation, of any improvements installed at the expense of the family during the family's tenure as owner; and

(C) the appreciated value determined by an inflation allowance at a rate which may be based on a cost-of-living index, an income index, or market index as determined by the Secretary through regulation and agreed to by the purchaser and the entity that transfers ownership interests in, or shares representing, units to eligible families (or another entity specified in the approved application), at the time of initial sale, and applied against the contribution to equity.

Such an entity may, at the time of initial sale, enter into an agreement with the family to set a maximum amount which this appreciation may not exceed.

(3) 6-20 YEARS.—In the case of a transfer during the period beginning 6 years after the acquisition and ending 20 years after the acquisition, the homeownership program shall provide for the recapture by the Secretary or the program of an amount equal to the amount of the declining balance on the note described in paragraph (1)(C).

(4) USE OF RECAPTURED FUNDS.—Fifty percent of any portion of the net sales proceeds that may not be retained by the homeowner under the plan approved pursuant to this subsection shall be paid to the entity that transferred ownership interests in, or shares representing, units to eligible families, or another entity specified in the approved application, for use for improvements to the project, business opportunities for low-income families, supportive services related to the homeownership program, additional homeownership opportunities, and other activities approved by the Secretary. The remaining 50 percent shall be returned to the Secretary for use under this subtitle, subject to limitations contained in appropriations Acts. Such entity shall keep and make available to the Secretary all records necessary to calculate accurately payments due the Secretary under this subsection.

(e) THIRD PARTY RIGHTS.—The requirements under this subtitle regarding quality standards, resale, or transfer of the ownership interest of a homeowner shall be judicially enforceable against the grant recipient with respect to actions involving rehabilitation, and against purchasers of property under this subsection or their successors in interest with respect to other actions by affected low-income families, resident management corporations, resident councils, public housing agencies, and any agency, corporation, or authority of the United States Government. The parties specified in the preceding sentence shall be entitled to reasonable attorney fees upon prevailing in any such judicial action.

(f) DOLLAR LIMITATION ON ECONOMIC DEVELOPMENT ACTIVITIES.—Not more than an aggregate of $250,000 from amounts made available under sections 422 and 423 may be used for economic development activities under sections 422(b)(6) and 423(b)(9)[373] for any project.

(g) TIMELY HOMEOWNERSHIP.—Recipients shall transfer ownership of the property to tenants within a specified period of time that the Secretary determines to be reasonable. During the interim period when the property continues to be operated and managed as rental housing, the recipient shall utilize written tenant selection policies and criteria that are approved by the Secretary as consistent with the purpose of improving housing opportunities for low-income families. The recipient shall promptly notify in writing any rejected applicant of the grounds for any rejection.

(h) RECORDS AND AUDIT OF RECIPIENTS OF ASSISTANCE.—

(1) IN GENERAL.—Each recipient shall keep such records as may be reasonably necessary to fully disclose the amount and the disposition by such recipient of the proceeds of assistance received under this subtitle (and any proceeds from financing obtained or sales under subsections (c) and (d)), the total cost of the homeownership program in connection with which such assistance is given or used, and the amount and nature of that portion of the program supplied by other sources, and such other sources as will facilitate an effective audit.

(2) ACCESS BY THE SECRETARY.—The Secretary shall have access for the purpose of audit and examination to any books, documents, papers, and records of the recipient that are pertinent to assistance received under this subtitle.

(3) ACCESS BY THE COMPTROLLER GENERAL.—The Comptroller General of the United States, or any of the duly authorized representatives of the Comptroller General, shall also have access for the purpose of audit and examination to any books, documents, papers, and records of the recipient that are pertinent to assistance received under this subtitle.

[373] So in law. Probably intended to refer to sections 422(b)(7) and 423(b)(10).

(i) CERTAIN ENTITIES NOT ELIGIBLE.—Any entity that assumes, as determined by the Secretary, a mortgage covering eligible property in connection with the acquisition of the property from an owner under this section must comply with any low-income affordability restrictions for the remaining term of the mortgage. This requirement shall only apply to an entity, such as a cooperative association, that, as determined by the Secretary, intends to own the housing on a permanent basis.

Sec. 426. [42 U.S.C. 12876]
DEFINITIONS.

For purposes of this subtitle:

(1) The term "applicant" means the following entities that may represent the tenants of the housing:

(A) A resident management corporation established in accordance with the requirements of the Secretary under section 20 of the United States Housing Act of 1937.

(B) A resident council.

(C) A cooperative association.

(D) A public or private nonprofit organization.

(E) A public body (including an agency or instrumentality thereof).

(F) A public housing agency (including an Indian housing authority).

(G) A mutual housing association.

(2) The term "eligible family" means a family or individual—

(A) who is a tenant of the eligible property on the date the Secretary approves an implementation grant; or

(B) whose income does not exceed 80 percent of the median income for the area, as determined by the Secretary with adjustments for smaller and larger families.

(3) The term "eligible property" means a multifamily rental property, containing 5 or more units, that is—

(A) owned or held by the Secretary;

(B) financed by a loan or mortgage held by the Secretary or insured by the Secretary;

(C) determined by the Secretary to have serious physical or financial problems under the terms of an insurance or loan program administered by the Secretary; or

(D) owned or held by the Secretary of Agriculture, the Resolution Trust Corporation, the Federal Deposit Insurance Corporation, the Secretary of Defense, the Secretary of Transportation, the General Services Administration, any other Federal agency, or a State or local government or an agency or instrumentality thereof.

(4) The term "homeownership program" means a program for homeownership under this subtitle.

(5) The term "Indian housing authority" has the meaning given such term in section 3(b)(11)[374] of the United States Housing Act of 1937.

(6) The term "low-income family" has the meaning given such term in section 3(b)(2) of the United States Housing Act of 1937.

(7) The term "public housing agency" has the meaning given such term in section 3(b)(6) of the United States Housing Act of 1937.

(8) The term "recipient" means an applicant approved to receive a grant under this title or such other entity specified in the approved application that will assume the obligations of the recipient under this subtitle.

(9) The term "resident council" means any incorporated nonprofit organization or association that—

(A) is representative of the tenants of the housing;

(B) adopts written procedures providing for the election of officers on a regular basis; and

(C) has a democratically elected governing board, elected by the tenants of the housing.

(10) The term "Secretary" means the Secretary of Housing and Urban Development.

Sec. 427. [42 U.S.C. 12877]
EXEMPTION.

[374] So in law. Section 501(b)(1)(D) of Public Law 104-330, 110 Stat. 4042, struck section 3(b)(11) of the United States Housing Act of 1937, which previously consisted of a definition of the term "Indian housing authority".

Eligible property covered by a homeownership program approved under this subtitle shall not be subject to—

(1) the Low-Income Housing Preservation and Resident Homeownership Act of 1990, or

(2) the requirements of section 203 of the Housing and Community Development Amendments of 1978 applicable to the sale of projects either at foreclosure or after acquisition by the Secretary.

Sec. 428. [42 U.S.C. 12878]
LIMITATION ON SELECTION CRITERIA.

In establishing criteria for selecting applicants to receive assistance under this subtitle, the Secretary may not establish any selection criterion or criteria that grant or deny such assistance to an applicant (or have the effect of granting or denying assistance) based on the implementation, continuation, or discontinuation of any public policy, regulation, or law of any jurisdiction in which the applicant or project is located.

Sec. 429.
AMENDMENT TO NATIONAL HOUSING ACT.

Section 203(b)(9) of the National Housing Act (12 U.S.C. 1709(b)(9)) is amended by inserting after "Housing Act of 1961," the following: *****

Sec. 430. [42 U.S.C. 12879]
IMPLEMENTATION.

Not later than the expiration of the 180-day period beginning on the date that funds authorized under this subtitle first become available for obligation, the Secretary shall by notice establish such requirements as may be necessary to carry out the provisions of this subtitle. Such requirements shall be subject to section 553 of title 5, United States Code. The Secretary shall issue regulations based on the initial notice before the expiration of the 8-month period beginning on the date of the notice.

Sec. 431. [42 U.S.C. 12880]
REPORT.

The Secretary shall no later than December 31, 1995, submit to the Congress a report setting forth—

(1) the number, type and cost of eligible properties transferred pursuant to this subtitle;

(2) the income, race, gender, children and other characteristics of families participating (or not participating) in homeownership programs funded under this subtitle;

(3) the amount and type of financial assistance provided under and in conjunction with this subtitle;

(4) the amount of financial assistance provided under this subtitle that was needed to ensure continued affordability and meet future maintenance and repair costs; and

(5) the recommendations of the Secretary for statutory and regulatory improvements to the program.

Subtitle C—HOPE for Homeownership of Single Family Homes

Sec. 441. [42 U.S.C. 12891]
PROGRAM AUTHORITY.

The Secretary is authorized to make—

(1) planning grants to help applicants develop homeownership programs in accordance with this subtitle; and

(2) implementation grants to enable applicants to carry out homeownership programs in accordance with this subtitle.

Sec. 442. [42 U.S.C. 12892]
PLANNING GRANTS.

(a) GRANTS.—The Secretary is authorized to make planning grants to applicants for the purpose of developing homeownership programs under this subtitle. The amount of a planning grant under this section may not exceed $200,000, except that the Secretary may for good cause approve a grant in a higher amount.

(b) ELIGIBLE ACTIVITIES.—Planning grants may be used for activities to develop homeownership programs (which may include programs for cooperative ownership), including—

(1) identifying eligible properties;

(2) training and technical assistance of applicants related to the development of a specific homeownership program;

(3) studies of the feasibility of specific homeownership programs;

(4) inspection for lead-based paint hazards, as required by section 302(a) of the Lead-Based Paint Poisoning Prevention Act;

(5) preliminary architectural and engineering work;

(6) homebuyer counseling and training;

(7) planning for economic development, job training, and self-sufficiency activities that promote economic self-sufficiency for homebuyers and homeowners under the homeownership program;

(8) development of security plans; and

(9) preparation of an application for an implementation grant under this subtitle.

(c) APPLICATION.—

(1) FORM AND PROCEDURES.—An application for a planning grant shall be submitted by an applicant in such form and in accordance with such procedures as the Secretary shall establish.

(2) MINIMUM REQUIREMENTS.—The Secretary shall require that an application contain at a minimum—

(A) a request for a planning grant, specifying the activities proposed to be carried out, the schedule for completing the activities, the personnel necessary to complete the activities, and the amount of the grant requested;

(B) a description of the applicant and a statement of its qualifications;

(C) identification and description of the eligible properties likely to be involved, and a description of the composition of the potential homebuyers and residents of the areas in which such eligible properties are located, including family size and income;

(D) a certification by the public official responsible for submitting the comprehensive housing affordability strategy under section 105 of the Cranston-Gonzalez National Affordable Housing Act that the proposed activities are consistent with the approved housing strategy of the State or unit of general local government within which the project is located (or, during the first 12 months after enactment of this Act,[375] that the application is consistent with such other existing State or local housing plan or strategy that the Secretary shall determine to be appropriate); and

(E) a certification that the applicant will comply with the requirements of the Fair Housing Act, title VI of the Civil Rights Act of 1964, section 504 of the Rehabilitation Act of 1973, and the Age Discrimination Act of 1975, and will affirmatively further fair housing.

(d) SELECTION CRITERIA.—The Secretary shall, by regulation, establish selection criteria for a national competition for assistance under this section, which shall include—

(1) the qualifications or potential capabilities of the applicant;

(2) the extent of interest in the development of a homeownership program;

(3) the potential of the applicant for developing a successful and affordable homeownership program and the availability and suitability of eligible properties in the applicable geographic area with respect to the application;

(4) national geographic diversity among housing for which applicants are selected to receive assistance; and

(5) such other factors that the Secretary shall require that (in the determination of the Secretary) are appropriate for purposes of carrying out the program established by this subtitle in an effective and efficient manner.

Sec. 443. [42 U.S.C. 12893]
IMPLEMENTATION GRANTS.

(a) GRANTS.—The Secretary is authorized to make implementation grants to applicants for the purpose of carrying out homeownership programs approved under this subtitle.

[375] The date of enactment was November 28, 1990.

(b) ELIGIBLE ACTIVITIES.—Implementation grants may be used for activities to carry out homeownership programs (which may include programs for cooperative ownership), including the following activities:

(1) Architectural and engineering work.

(2) Acquisition of the property for the purpose of transferring ownership to eligible families in accordance with a homeownership program meeting the requirements of this subtitle.

(3) Rehabilitation of the property covered by the homeownership program, in accordance with standards established by the Secretary.

(4) Abatement of lead-based paint hazards, as required by section 302(a) of the Lead-Based Paint Poisoning Prevention Act.

(5) Administrative costs of the applicant, which may not exceed 15 percent of the amount of assistance provided under this section.

(6) Counseling and training of homebuyers and homeowners under the homeownership program.

(7) Relocation of eligible families who elect to move.

(8) Any necessary temporary relocation of homebuyers during rehabilitation.

(9) Legal fees.

(10) Defraying costs for the ongoing training needs of the recipient that are related to developing and carrying out the homeownership program.

(11) Economic development activities that promote economic self-sufficiency of homebuyers and homeowners under the homeownership program.

(c) MATCHING FUNDING.—

(1) IN GENERAL.—Each recipient shall assure that contributions equal to not less than 25 percent of the grant amounts under this section are provided from non-Federal sources to carry out the homeownership program.

(2) FORM.—Such contributions may be in the form of—

(A) cash contributions from non-Federal resources which may not include funds from a grant made under section 106(b) or section 106(d) of the Housing and Community Development Act of 1974;

(B) payment of administrative expenses, as defined by the Secretary, from non-Federal resources, including funds from a grant made under section 106(b) or section 106(d) of the Housing and Community Development Act of 1974;

(C) the value of taxes, fees, or other charges that are normally and customarily imposed but are waived, foregone, or deferred in a manner that facilitates the implementation of a homeownership program assisted under this subtitle;

(D) the value of investment in on-site and off-site infrastructure required for a homeownership program assisted under this subtitle; or

(E) such other in-kind contributions as the Secretary may approve.

Contributions for administrative expenses shall be recognized only up to an amount equal to 7 percent of the total amount of grants made available under this section.

(d) APPLICATION.—

(1) FORM AND PROCEDURE.—An application for an implementation grant shall be submitted by an applicant in such form and in accordance with such procedures as the Secretary shall establish.

(2) MINIMUM REQUIREMENTS.—The Secretary shall require that an application contain at a minimum—

(A) a request for an implementation grant, specifying the amount of the grant requested and its proposed uses;

(B) a description of the qualifications and experience of the applicant in providing low-income housing;

(C) a description of the proposed homeownership program, consistent with section 444 and the other requirements of this subtitle specifying the activities proposed to be carried out and their estimated costs, identifying reasonable schedules for carrying it out, and demonstrating that the program will comply with the affordability requirements under section 444(b);

(D) an identification and description of the properties to be acquired under the homeownership program and a description of the composition of potential eligible families, including family size and income;

(E) a description of and commitment for the resources that are expected to be made available to provide the matching funding required under subsection (c) and of other resources that are expected to be made available in support of the homeownership program;

(F) identification and description of the financing proposed for any (i) rehabilitation and (ii) acquisition (I) of the project, where applicable, by an entity for transfer to eligible families, and (II) by eligible families of ownership interests in, or shares representing, units in the project;

(G) the proposed sales prices for the properties, the basis for such price determinations, and terms to an entity, if any, that will purchase that property for resale to eligible families;

(H) the proposed sales prices, if any, and terms to eligible families;

(I) identification and description of the entity that will operate and manage the property;

(J) a certification by the public official responsible for submitting the comprehensive housing affordability strategy under section 105 of the Cranston-Gonzalez National Affordable Housing Act that the proposed activities are consistent with the approved housing strategy of the State or unit of general local government within which the project is located (or, during the first 12 months after enactment of this Act,[376] that the application is consistent with such other existing State or local housing plan or strategy that the Secretary shall determine to be appropriate); and

(K) a certification that the applicant will comply with the requirements of the Fair Housing Act, title VI of the Civil Rights Act of 1964, section 504 of the Rehabilitation Act of 1973, and the Age Discrimination Act of 1975, and will affirmatively further fair housing.

(e) SELECTION CRITERIA.—The Secretary shall establish selection criteria for assistance under this subtitle, which shall include—

(1) the ability of the applicant to develop and carry out the proposed homeownership program, taking into account the qualifications and experience of the applicant and the quality of any related ongoing program of the applicant;

(2) the feasibility of the homeownership program;

(3) the quality and viability of the proposed homeownership program;

(4) the extent to which suitable eligible property is available for use under the program in the area to be served, and the extent to which the types of property expected to be covered by the proposed homeownership program are federally owned;

(5) whether the approved comprehensive housing affordability strategy for the jurisdiction within which the eligible property is located includes the proposed homeownership program as one of the general priorities identified pursuant to section 105(b)(7) of the Cranston-Gonzalez National Affordable Housing Act;

(6) national geographic diversity among housing for which applicants are selected to receive assistance; and

(7) the extent to which a sufficient supply of affordable rental housing of the type assisted under this subtitle exists in the locality, so that the implementation of the homeownership program will not appreciably reduce the number of such rental units available to residents currently residing in such units or eligible for residency in such units.

(f) APPROVAL.—The Secretary shall notify each applicant, not later than 6 months after the date of the submission of the application, whether the application is approved or not approved.

Sec. 444. [42 U.S.C. 12894]
HOMEOWNERSHIP PROGRAM REQUIREMENTS.

(a) IN GENERAL.—A homeownership program under this subtitle shall provide for acquisition by eligible families of ownership interests in, or shares representing, units in an eligible property under any arrangement determined by the Secretary to be appropriate, such as cooperative ownership (including limited equity cooperative ownership) and fee simple ownership (including condominium ownership), for occupancy by the eligible families.

(b) AFFORDABILITY.—A homeownership program under this subtitle shall provide for the establishment of sales prices (including principal, insurance, taxes, and interest and closing costs) for initial acquisition of the property, and for sales to eligible families, such that the eligible family shall not be required to expend more than 30 percent of the adjusted income of the family per month to complete a sale under the homeownership program.

[376] The date of enactment was November 28, 1990.

(c) ELIGIBLE PROPERTY.—A property may not participate in a homeownership program under this subtitle unless all tenants or occupants of the property (at the time of the application for the implementation grant covering the property is filed with the Secretary) participate in the homeownership program.

(d) PLAN.—A homeownership program under this subtitle shall provide, and include a plan, for—

(1) identifying and selecting eligible families to participate in the homeownership program;

(2) providing relocation assistance to families who elect to move; and

(3) ensuring continued affordability of the property to homebuyers and homeowners.

(e) HOUSING QUALITY STANDARDS.—The application shall include a plan ensuring that the unit—

(1) will be free from any defects that pose a danger to health or safety before transfer of an ownership interest in, or shares representing, a unit to an eligible family; and

(2) will, not later than 2 years after the transfer to an eligible family, meet minimum housing standards established by the Secretary for the purpose of this title.

(f) PREFERENCE FOR ACQUISITION OF VACANT UNITS.—Each homeownership program under this subtitle shall provide that, in making vacant units in eligible properties available for acquisition by eligible families, preference shall be given to eligible families who reside in public or Indian housing.

Sec. 445. [42 U.S.C. 12895]
OTHER PROGRAM REQUIREMENTS.

(a) COST LIMITATIONS.—The Secretary may establish cost limitations on eligible activities under this subtitle, subject to the provisions of this subtitle.

(b) USE OF PROCEEDS FROM SALES TO ELIGIBLE FAMILIES.—Any entity that transfers ownership interests in, or shares representing, units to eligible families, or another entity specified in the approved application, may use the proceeds, if any, from the initial sale for costs of the homeownership program, including operating expenses, improvements to the project, business opportunities for low-income families, supportive services related to the homeownership program, additional homeownership opportunities, and other activities approved by the Secretary.

(c) RESTRICTIONS ON RESALE BY HOMEOWNERS.—

(1) IN GENERAL.—

(A) TRANSFER PERMITTED.—A homeowner under a homeownership program may transfer the homeowner's ownership interest in, or shares representing, the unit, except that a homeownership program may establish restrictions on the resale of units under the program.

(B) RIGHT TO PURCHASE.—Where a resident management corporation, resident council, or cooperative has jurisdiction over the unit, the corporation, council, or cooperative shall have the right to purchase the ownership interest in, or shares representing, the unit from the homeowner for the amount specified in a firm contract between the homeowner and a prospective buyer. If such an entity does not have jurisdiction over the unit or elects not to purchase and if the prospective buyer is not a low-income family, the public housing agency or the implementation grant recipient shall have the right to purchase the ownership interest in, or shares representing, the unit for the same amount.

(C) PROMISSORY NOTE REQUIRED.—The homeowner shall execute a promissory note equal to the difference between the market value and the purchase price, payable to the public housing agency or other entity designated in the homeownership plan, together with a mortgage securing the obligation of the note.

(2) 6 YEARS OR LESS.—In the case of a transfer within 6 years of the acquisition under the program, the homeownership program shall provide for appropriate restrictions to assure that an eligible family may not receive any undue profit. The plan shall provide for limiting the family's consideration for its interest in the property to the total of—

(A) the contribution to equity paid by the family;

(B) the value, as determined by such means as the Secretary shall determine through regulation, of any improvements installed at the expense of the family during the family's tenure as owner; and

(C) the appreciated value determined by an inflation allowance at a rate which may be based on a cost-of-living index, an income index, or market index as determined by the Secretary through regulation and agreed to by the purchaser and the entity that transfers ownership interests in, or shares representing, units to eligible families (or another entity specified in the approved application), at the time of initial sale, and applied against the contribution to equity.

Such an entity may, at the time of initial sale, enter into an agreement with the family to set a maximum amount which this appreciation may not exceed.

(3) 6-20 YEARS.—In the case of a transfer during the period beginning 6 years after the acquisition and ending 20 years after the acquisition, the homeownership program shall provide for the recapture by the Secretary or the program of an amount equal to the amount of the declining balance on the note described in paragraph (1)(C).

(4) USE OF RECAPTURED FUNDS.—Fifty percent of any portion of the net sales proceeds that may not be retained by the homeowner under the plan approved pursuant to this subsection shall be paid to the entity that transferred ownership interests in, or shares representing, units to eligible families, or another entity specified in the approved application, for use for improvements to the project, business opportunities for low-income families, supportive services related to the homeownership program, additional homeownership opportunities, and other activities approved by the Secretary. The remaining 50 percent shall be returned to the Secretary for use under this subtitle, subject to limitations contained in appropriations Acts. Such entity shall keep and make available to the Secretary all records necessary to calculate accurately payments due the Secretary under this subsection.

(d) THIRD PARTY RIGHTS.—The requirements under this subtitle regarding quality standards, resale, or transfer of the ownership interest of a homeowner shall be judicially enforceable against the grant recipient with respect to actions involving rehabilitation, and against purchasers of property under this subsection or their successors in interest with respect to other actions by affected low-income families, resident management corporations, resident councils, public housing agencies, and any agency, corporation, or authority of the United States Government. The parties specified in the preceding sentence shall be entitled to reasonable attorney fees upon prevailing in any such judicial action.

(e) PROTECTION OF NONPURCHASING FAMILIES.—No tenant residing in a dwelling unit in a property on the date the Secretary approves an application for an implementation grant may be evicted by reason of a homeownership program approved under this subtitle.

(h)[377] RECORDS AND AUDIT OF RECIPIENTS OF ASSISTANCE.—

(1) IN GENERAL.—Each recipient shall keep such records as may be reasonably necessary to fully disclose the amount and the disposition by such recipient of the proceeds of assistance received under this subtitle (and any proceeds from financing obtained or sales under subsections (b) and (c)), the total cost of the homeownership program in connection with which such assistance is given or used, and the amount and nature of that portion of the program supplied by other sources, and such other sources as will facilitate an effective audit.

(2) ACCESS BY THE SECRETARY.—The Secretary shall have access for the purpose of audit and examination to any books, documents, papers, and records of the recipient that are pertinent to assistance received under this subtitle.

(3) ACCESS BY THE COMPTROLLER GENERAL.—The Comptroller General of the United States, or any of the duly authorized representatives of the Comptroller General, shall also have access for the purpose of audit and examination to any books, documents, papers, and records of the recipient that are pertinent to assistance received under this subtitle.

Sec. 446. [42 U.S.C. 12896]
DEFINITIONS.

For purposes of this subtitle:

(1) The term “applicant” means a private nonprofit organization, cooperative association, or a public agency (including an agency or instrumentality thereof) in cooperation with a private nonprofit organization.

(2) The term “displaced homemaker” has the same meaning as in section 104.

(3) The term “eligible family” means a family or individual who—

(A) has an income that does not exceed 80 percent of the median income for the area, as determined by the Secretary with adjustments for smaller and larger families; and

(B) is a first-time homebuyer.

(4) The term “eligible property” means a single family property, containing no more than four units, that is owned or held by the Secretary, the Secretary of Veterans Affairs, the Secretary of Agriculture, the Resolution Trust Corporation, the Federal Deposit Insurance Corporation, the Secretary of

[377] So in law. There are no subsections (f) and (g).

Defense, the Secretary of Transportation, the General Services Administration, any other Federal agency, a State or local government (including any in rem property), or a public housing agency or an Indian housing authority (excluding public or Indian housing under the United States Housing Act of 1937 and including properties held by institutions within the jurisdiction of the Resolution Trust Corporation).

(5) The term "first-time homebuyer" has the same meaning as in section 104.

(6) The term "homeownership program" means a program for homeownership under this subtitle.

(7) The term "Indian housing authority" has the meaning given such term in section 3(b)(11)[378] of the United States Housing Act of 1937.

(8) The term "low-income family" has the meaning given such term in section 3(b)(2) of the United States Housing Act of 1937.

(9) The term "public housing agency" has the meaning given such term in section 3(b)(6) of the United States Housing Act of 1937.

(10) The term "recipient" means an applicant approved to receive a grant under this subtitle or such other entity specified in the approved application that will assume the obligations of the recipient under this subtitle.

(11) The term "Secretary" means the Secretary of Housing and Urban Development.

(12) The term "single parent" means an individual who—

(A) is unmarried or legally separated from a spouse; and

(B)(i) has 1 or more minor children for whom the individual has custody or joint custody; or

(ii) is pregnant

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Sec. 447. [42 U.S.C. 12897]
LIMITATION ON SELECTION CRITERIA.

In establishing criteria for selecting applicants to receive assistance under this subtitle, the Secretary may not establish any selection criterion or criteria that grant or deny such assistance to an applicant (or have the effect of granting or denying assistance) based on the implementation, continuation, or discontinuation of any public policy, regulation, or law of any jurisdiction in which the applicant or project is located.

Sec. 448. [42 U.S.C. 12898]
IMPLEMENTATION.

Not later than the expiration of the 180-day period beginning on the date funds authorized under this subtitle first become available for obligation, the Secretary shall by notice establish such requirements as may be necessary to carry out the provisions of this subtitle. Such requirements shall be subject to section 553 of title 5, United States Code. The Secretary shall issue regulations based on the initial notice before the expiration of the 8-month period beginning on the date of the notice.

END OF STATUTE

[378] So in law. Section 501(b)(1)(D) of Public Law 104-330, 110 Stat. 4042, struck section 3(b)(11) of the United States Housing Act of 1937, which previously consisted of a definition of the term "Indian housing authority".

SECTION 235 HOMEOWNERSHIP ASSISTANCE

NATIONAL HOUSING ACT
[Public Law 90-448; 82 Stat. 477; 12 U.S.C. 1715z]

Sec. 235. [12 U.S.C. 1715z][379]
HOMEOWNERSHIP OR MEMBERSHIP IN COOPERATIVE ASSOCIATION FOR LOWER INCOME FAMILIES.

(a)(1) For the purpose of assisting lower-income families in acquiring homeownership or in acquiring membership in a cooperative association operating a housing project, the Secretary is authorized to make, and to contract to make, periodic assistance payments on behalf of such homeowners and cooperative members. The assistance shall be accomplished through payments to mortgagees holding mortgages meeting the special requirements specified in this section or which mortgages are assisted under a State or local program providing assistance through loans, loan insurance or tax abatement. In making such assistance available, the Secretary shall give preference to low-income families who, without such assistance, would be likely to be involuntarily displaced (including those who would be likely to be displaced from rental units which are to be converted into a condominium project or a cooperative project). Such assistance may include the acquisition of a condominium or a membership in a cooperative association.

(2)(A) Notwithstanding any other provision of this section, the Secretary is authorized to make periodic assistance payments under this section on behalf of families whose incomes do not exceed the maximum income limits prescribed pursuant to subsection (h)(2) of this section for the purpose of assisting such families in acquiring ownership of a manufactured home consisting of two or more modules and a lot on which such manufactured home is or will be situated, except that periodic assistance payments pursuant to this paragraph shall not be made with respect to more than 20 per centum of the total number of units with respect to which assistance is approved under this section after January 1, 1976. Assistance payments under this section pursuant to this paragraph shall be accomplished through payments on behalf of an owner of lower income of a manufactured home as described in the preceding sentence to the financial institution which makes the loan, advance of credit, or purchase of an obligation representing the loan or advance of credit to finance the purchase of the manufactured home and the lot on which such manufactured home is or will be situated, but only if insurance under section 2 of this Act covering such loan, advance of credit, or obligation has been granted to such institution.

(B) Notwithstanding the provisions of subsection (c) of this section, assistance payments provided pursuant to this paragraph shall be in an amount not exceeding the lesser of—

(i) the balance of the monthly payment for principal, interest, real and personal property taxes, insurance, and insurance premium chargeable under section 2 of this Act due under the loan or advance of credit remaining unpaid after applying 20 per centum of the manufactured homeowner's income; or

(ii) the difference between the amount of the monthly payment for principal, interest, and insurance premium chargeable under section 2 of this Act which the manufactured homeowner is obligated to pay under the loan or advance of credit and the monthly payment of principal and interest which the owner would be obligated to pay if the loan or advance of credit were to bear interest at a rate derived by subtracting from the interest rate applicable to such loan or advance of credit the interest rate differential

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[379] Section 401(d) of the Housing and Community Development Act of 1987, Pub. L. 100-242, 12 U.S.C. 1715z note, provides as follows:

"(d) TERMINATION OF SECTION 235.—

"(1) IN GENERAL.—Effective on October 1, 1989, the program under section 235 of the National Housing Act shall terminate.

"(2) SAVINGS PROVISION.—The provisions of paragraph (1) shall not affect—

"(A) any mortgage insurance commitment issued; or

"(B) any assistance pursuant to a reservation of funds made;

under section 235 of the National Housing Act prior to October 1, 1989.".

But, section 125(d) of the Department of Housing and Urban Development Reform Act of 1989, Pub. L. 101-235, 12 U.S.C. 1715z note, provides as follows:

"(d) SAVINGS PROVISION.—Notwithstanding the termination of the program under section 235 pursuant to section 401(d) of the Housing and Community Development Act of 1987, the Secretary of Housing and Urban Development shall have authority to insure mortgages under section 235(r), to make assistance payments with respect to such insured mortgages, and to make any other payment or to take any other action related to the refinancing of mortgages insured under section 235.".

between the maximum interest rate plus mortgage insurance premium applicable to mortgages insured under subsection (i) of this section at the time such loan or advance of credit is made and the interest rate which such mortgages are presumed under regulations prescribed by the Secretary, to bear for purposes of subsection (c)(2) of this section.

(b) To qualify for assistance payments, the homeowner or the cooperative member shall be of lower income and satisfy eligibility requirements prescribed by the Secretary, and—

(1) the homeowner shall be a mortgagor under a mortgage which meets the requirements of and is insured under subsection (i) or (j)(4) of this section: Provided, That a mortgage meeting the requirements of subsection (i)(3)(A) of this section but insured under section 237 may qualify for assistance payments if such mortgage was executed by a mortgagor who is determined not to be an acceptable credit risk for mortgage insurance purposes (but otherwise eligible) under subsection (j)(4) of this section or under section 221(d)(2) or 234(c) and accepted as a reasonably satisfactory credit risk under section 237; or

(2) the cooperative association of which the family is a member shall operate (A) a housing project the construction or substantial rehabilitation of which has been financed with a mortgage insured under section 213 or section 221(d)(3) and which has been completed within two years prior to the filing of the application for assistance payments and the dwelling unit has had no previous occupant other than the family: Provided, That if any cooperative member who has received assistance payments transfers his membership and occupancy rights to another person who satisfies the eligibility requirements prescribed by the Secretary and undertakes the obligation to pay occupancy charges, the new cooperative member may qualify for assistance payments upon the filing of an application with respect to the dwelling unit involved to be occupied by him: Provided further, That assistance payments may be made with respect to a dwelling unit in an existing cooperative project which meets such standards as the Secretary may prescribe, if the family qualifies as a displaced family as defined in section 221(f), or a family which includes five or more minor persons, or a family occupying low-rent public housing: Provided further, That the amount of the mortgage attributable to the dwelling unit shall involve a principal obligation not in excess of $40,000 ($47,500 in any geographical area where the Secretary authorizes an increase on the basis of a finding that cost levels so require), except that with respect to any family with five or more persons the foregoing limits shall be $47,500 and $55,000 respectively, or (B) a housing project which is financed under a State or local program providing assistance through loans, loan insurance, or tax abatements, and which prior to completion of construction or rehabilitation is approved for receiving the benefits of this section.

(c)(1) Subject to the second sentence of this paragraph, the assistance payments to a mortgagee by the Secretary on behalf of a mortgagor shall be made during such time as the mortgagor shall continue to occupy the property which secures the mortgage: Provided, That assistance payments may be made on behalf of a homeowner who assumes a mortgage insured under subsection (i) or (j)(4) with respect to which assistance payments have been made on behalf of the previous owner, if the homeowner is approved by the Secretary as eligible for receiving such assistance: Provided further, That the Secretary is authorized to continue making such assistance payments where the mortgage has been assigned to the Secretary. Assistance payments pursuant to any new contract, other than a contract in connection with a refinancing under subsection (r), entered into after September 30, 1983, that utilizes authority approved in appropriation Acts for any fiscal year beginning after such date may not be made for more than a 10-year period. The payments shall be in an amount not exceeding the lesser of—

(A) the balance of the monthly payment for principal, interest, taxes, insurance, and mortgage insurance premium due under the mortgage remaining unpaid after applying 20 per centum of the mortgagor's income; or

(B) the difference between the amount of the monthly payment for principal, interest, and mortgage insurance premium which the mortgagor is obligated to pay under the mortgage and the monthly payment for principal and interest which the mortgagor would be obligated to pay if the mortgage were to bear interest at the rate of 1 per centum per annum (4 per centum per annum in the case of a mortgage described in subsection (o)).

(2)(A) Upon disposition by the homeowner of any property assisted pursuant to this section or where the homeowner rents such a property (or the owner's unit in the case of a two- to four-family property) for a period longer than one year, the Secretary shall provide for the recapture of an amount equal to the lesser of (i) the amount of assistance actually received under this section, other than any amount provided under subsection (e), or (ii) an amount equal to at least 50 per centum of the net appreciation of the property, as determined by the Secretary. For the purpose of this paragraph, the term "net appreciation of the property" means any increase in the value of the property over the original purchase price, less the reasonable costs of sale, the reasonable costs of improvements made to the property, and any increase in the

mortgage amount as of the time of sale over the original mortgage balance due to the mortgage being insured pursuant to section 245. Notwithstanding any other provision of law, any such assistance shall constitute a debt secured by the property to the extent that the Secretary may provide for such recapture.

(B) Subparagraph (A) does not apply to any property with respect to which there is assumption in accordance with paragraph (1) of this subsection or to any property which is subject to a mortgage, loan, or other advance of credit insured pursuant to subsection (q).

(3)(A) There hereby is established in the Treasury of the United States a fund, which, to the extent approved in appropriation Acts, may be used by the Secretary for purposes of carrying out subparagraph (B). There shall be deposited into such fund (i) any amount recaptured under paragraph (2); (ii) any authority to make assistance payments under subsection (a) that is committed for use in a contract but is unused because the mortgage, loan, or advance of credit involved is refinanced[380] or because such assistance payments are terminated or suspended for other reasons before the original termination date of such contract; and (iii) any amount received under subparagraph (C).

(B) In the case of any homeowner whose assistance payments are terminated by reason of the 10-year limitation referred to in paragraph (1), and who is determined by the Secretary to be unable to assume the full payments due under the mortgage, loan, or advance of credit involved, the Secretary shall, to the extent of the availability of amounts in the fund established in subparagraph (A), contract to make, and make, continued assistance payments on behalf of such homeowner. Such continued assistance payments shall be made in an amount determined in accordance with the applicable provisions of paragraph (1) or subsection (a)(2)(B) and for such period as the Secretary determines to be appropriate.

(C) Any amounts in such fund determined by the Secretary to be in excess of the amounts currently required to carry out the provisions of subparagraph (B) shall be invested by the Secretary in obligations of, or obligations guaranteed as to both principal and interest by, the United States or any agency of the United States. Notwithstanding the preceding sentence, any amounts of budget authority or contract authority recaptured from assistance payments contracts relating to mortgages that are being refinanced that are not required for assistance payments contracts relating to mortgages insured under this subsection, shall be rescinded.

(d) Assistance payments to a mortgagee by the Secretary on behalf of a family holding membership in a cooperative association operating a housing project shall be made only during such time as the family is an occupant of such project and shall be in amounts computed on the basis of the formula set forth in subsection (c) applying the cooperative member's proportionate share of the obligations under the project mortgage to the items specified in the formula.

(e) The Secretary may include in the payment to the mortgagee such amount, in addition to the amount computed under subsection (a)(2)(B), (c), (d), (j)(7), or (r), as he deems appropriate to reimburse the mortgagee for its expenses in handling the mortgage.

(f) Procedures shall be adopted by the Secretary for recertifications of the mortgagor's (or cooperative member's) income at intervals of two years (or at shorter intervals where the Secretary deems it desirable) for the purpose of adjusting the amount of such assistance payments within the limits of the formula described in subsection (c).

(g) The Secretary shall prescribe such regulations as he deems necessary to assure that the sales price of, or other consideration paid in connection with, the purchase by a homeowner of the property with respect to which assistance payments are to be made is not increased above the appraised value on which the maximum mortgage which the Secretary will insure is computed.

(h)(1) There are authorized to be appropriated such sums as may be necessary to carry out the provisions of this section, including such sums as may be necessary to make the assistance payments under contracts entered into under this section. The aggregate amount of outstanding contracts to make such payments shall not exceed amounts approved in appropriation Acts, and payments pursuant to such contracts shall not exceed $75,000,000 per annum prior to July 1, 1969, which maximum dollar amount shall be increased by $125,000,000 on July 1, 1969, by $150,000,000 on July 1, 1970, by $200,000,000 on July 1, 1971, by such sums as may be approved in appropriation Acts after June 30, 1974, and prior to July 1, 1976, and by such sums as may be approved in an appropriation Act on or after October 1, 1983 (from the additional authority to enter into contracts made available on such date under the

[380] Section 125(c)(2) of the Department of Housing and Urban Development Reform Act of 1989, Pub. L. 101-235, amended this paragraph by inserting "(except to the extent provided in subsection (r) for mortgages insured under such subsection)" after "refinanced,". The amendment could not be executed.

first sentence of section 5(c)(1) of the United States Housing Act of 1937). The aggregate amount that may be obligated over the duration of the contracts entered into with the authority provided on or after October 1, 1983 (other than obligations in connection with mortgages insured under subsection (r)), may not exceed such sums of new budget authority as may be appropriated after the date of enactment of this sentence.[381] The Secretary shall begin issuing new commitments and reservations to provide mortgage insurance and assistance payments under this section before the expiration of the 30-day period following the approval in any appropriation Act of budget authority for this section after the date of the enactment of this sentence.[382] Upon the expiration of one year following the date of enactment of the Housing and Community Development Act of 1974,[383] the Secretary shall not enter into new contracts for assistance payments under this section utilizing authority approved in appropriation Acts prior to July 1, 1974. The Secretary shall not enter into new contracts for assistance payments under this section (except under subsection (r)) after May 20, 1983, utilizing amounts approved in appropriation Acts before the date of the enactment of the Housing and Urban-Rural Recovery Act of 1983,[384] except (i) pursuant to a firm commitment issued on or before May 20, 1983, (ii) pursuant to other commitments issued by the Secretary prior to June 30, 1981, reserving funds for housing to be assisted under this section where such housing is included in a project pursuant to section 119 of the Housing and Community Development Act of 1974, or (iii) pursuant to other commitments issued on or before September 30, 1981, where housing under this section is to be developed on land which was municipally owned on September 30, 1981, and where a local government contributes at least $1,000 per unit of funds obtained under title I of the Housing and Community Development Act of 1974 and at least $2,000 per unit of additional funds to assist housing under this section. In no event may the Secretary enter into any new contract for assistance payments under this section (other than a contract in connection with a mortgage insured under subsection (r)) after September 30, 1989.

(2) Assistance payments under this section may be made only with respect to a family whose income at the time of initial occupancy does not exceed 95 per centum of the median income for the area, as determined by the Secretary with adjustments for smaller and larger families, except that the Secretary may establish income ceilings higher or lower than 95 per centum of the median for the area on the basis of his findings that such variations are necessary because of prevailing levels of construction costs, unusually high or low median family incomes, or other factors.

(3) Notwithstanding the provisions of subsections (b)(2) and (i)(3)(A) with respect to the prior construction of rehabilitation of a dwelling, or of the project in which there is a dwelling unit, for which assistance payments may be made, and notwithstanding the provisions of subsection (j)(1) authorizing the purchase of housing which is neither deteriorating nor substandard, not more than—

(A) 25 per centum of the total amount of contracts for assistance payments authorized by appropriation Acts to be made prior to July 1, 1969, and

(B) 30 per centum of the total additional amount of contracts for assistance payment authorized by appropriations Acts to be made on or after July 1, 1969,

may be made with respect to existing dwellings, or dwelling units in existing projects. The preceding sentence shall not apply to contracts in connection with mortgages insured under subsection (r).

(4) At least 10 per centum of the total amount of contracts for assistance payments authorized by appropriation Acts to be made after June 30, 1971, shall be available for use only with respect to dwellings, or dwelling units in projects, which are approved by the Secretary prior to substantial rehabilitation.

(i)(1) The Secretary is authorized, upon application by the mortgagee, to insure, a mortgage (including advances with respect to property construction or rehabilitation pursuant to a self-help program) executed by a mortgagor who meets the eligibility requirements for assistance payments prescribed by the Secretary under subsection (b). Commitments for the insurance of such mortgages may be issued by the Secretary prior to the date of their execution or disbursement thereon, upon such terms and conditions as the Secretary may prescribe.

(2) To be eligible for insurance under this subsection, a mortgage shall meet the requirements of section 221(d)(2) or 234(c), except as such requirements are modified by this subsection.

(3) A mortgage to be insured under this subsection shall—

(A) involve a single-family or a two-family dwelling which has been approved by the Secretary prior to the beginning of construction or substantial rehabilitation, or a three-family dwelling which is approved by the Secretary prior to the beginning of substantial rehabilitation, or a one-family unit in a condominium project (together with an undivided interest in the common

[381] November 30, 1983.
[382] August 22, 1974.
[383] November 30, 1983.
[384] November 30, 1983.

areas and facilities serving the project) which is released from a multifamily project, the construction or substantial rehabilitation of which has been completed within two years prior to the filing of the application for assistance payments with respect to such family unit and the unit has had no previous occupant other than the mortgagor: *Provided*, That the mortgage may involve an existing dwelling or a family unit in an existing condominium project which meets such standards as the Secretary may prescribe: *Provided further*, That the mortgage may involve an existing dwelling or a family unit in an existing condominium project if assistance payments have been made on behalf of the previous owner of the dwelling or family unit with respect to a mortgage insured under subsection (j)(4): *Provided further*, That the mortgage may involve a dwelling unit in an existing project covered by a mortgage insured under section 236 or in an existing project receiving the benefits of financial assistance under section 101 of the Housing and Urban Development Act of 1965;

(B) where it is to cover a one-family unit in a condominium project, have a principal obligation not exceeding $40,000 ($47,500 in any geographical area where the Secretary authorizes an increase on the basis of a finding that cost levels so require), except that with respect to any family with five or more persons the foregoing limits shall be $47,500, and $55,000, respectively;

(C) involve, in the case of a dwelling unit other than a condominium or cooperative unit, a principal obligation (including such initial service charges, appraisal, inspection, and other fees as the Secretary shall approve) in an amount not to exceed $40,000 ($47,500 in any geographical area where the Secretary authorizes an increase on the basis of a finding that cost levels so require), except that with respect to any family with five or more persons the foregoing limits shall be $47,500 and $55,000, respectively;

(D) involve, in the case of a two-family or three-family dwelling, a principal obligation (including such initial service charges, appraisal, inspection, and other fees as the Secretary shall approve) in an amount not to exceed $60,000 ($66,250 in any geographical area where the Secretary authorizes an increase on the basis of a finding that cost levels so require);

(E) be executed by a mortgagor who shall have paid in cash or its equivalent, on account of the property, at least an amount equal to 3 per centum of the Secretary's estimate of the cost of acquisition (excluding the mortgage insurance premium paid at the time the mortgage is insured); and

(F) bear interest at a rate not to exceed such percent per annum on the amount of the principal obligation outstanding at any time as the Secretary finds necessary to meet the mortgage market, taking into consideration the yields on mortgages in the primary and secondary markets.

(4) In insuring eligible mortgages under this subsection, the Secretary may not deny insurance on the basis that a mortgage involves a two- to three-family dwelling or is to be used to finance substantial rehabilitation rather than new construction.

(5) As a condition of insuring a mortgage on a two- to three-family dwelling, the Secretary shall require the mortgagor (A) not to discriminate against prospective tenants on the basis of their receipt of or eligibility for housing assistance under any Federal, State or local housing assistance program and (B) to agree that during the term of the mortgage each of the rental units shall be occupied by, or available for occupancy by, persons and families whose incomes do not exceed 100 per centum of the area median income.

(j)(1) In addition to mortgages insured under the provisions of subsection (i), the Secretary is authorized, upon application by the mortgagee, to insure a mortgage (including advances under such mortgage during rehabilitation) which is executed by a nonprofit organization or public body or agency to finance the purchase of housing, and the rehabilitation of such housing if it is deteriorating or substandard, for subsequent resale to lower income home purchasers who meet the eligibility requirements for assistance payments prescribed by the Secretary under subsection (b). Commitments for the insurance of such mortgages may be issued by the Secretary prior to the date of their execution or disbursement thereon, upon such terms and conditions as the Secretary may prescribe.

(2) To be eligible for insurance under paragraph (1) of this subsection, a mortgage shall—

(A) be executed by a private nonprofit organization or public body or agency, approved by the Secretary, for the purpose of financing the purchase (with the intention of subsequent resale) and rehabilitation where the housing involved is deteriorating or substandard, of property comprising one or more tracts or parcels, whether or not contiguous, consisting of (i) four or more single-family dwellings of detached, semidetached, or row construction or (ii) four or more one-

family units in a structure or structures for which a plan of family unit ownership approved by the Secretary is established; except that in a case not involving the rehabilitation of deteriorating or substandard housing the property purchased may consist of one or more such dwellings or units;

(B) be in a principal amount not exceeding the appraised value of the property at the time of its purchase under the mortgage plus the estimated cost of any rehabilitation;

(C) bear interest at a rate not to exceed such percent per annum on the amount of the principal obligation outstanding at any time as the Secretary determines is necessary to meet the mortgage market, taking into consideration the yields on mortgages in the primary and secondary markets;

(D) provide for complete amortization (subject to paragraph (4)(E)) by periodic payments within such term as the Secretary may prescribe; and

(E) provide for the release of individual single-family dwellings from the lien of the mortgage upon their sale in accordance with paragraph (4).

(3) No mortgage shall be insured under paragraph (1) unless the mortgagor shall have demonstrated to the satisfaction of the Secretary that (A) the property involved is located in a neighborhood which is sufficiently stable and contains sufficient public facilities and amenities to support long-term values, or (B) the purchase or rehabilitation of such property plus the mortgagor's related activities and the activities of other owners of housing in the neighborhood, together with actions to be taken by public authorities, will be of such scope and quality as to give reasonable promise that a stable environment will be created in the neighborhood.

(4)(A)[385] No mortgage shall be insured under paragraph (1) unless the mortgagor enters into an agreement, satisfactory to the Secretary, that it will offer to sell the dwellings involved, after purchase and upon completion of any rehabilitation, to lower income individuals or families meeting the eligibility requirements established by the Secretary under subsection (b).

(B) The Secretary is authorized to insure under this paragraph mortgages executed to finance the sale of individual dwellings to lower income purchasers as provided in subparagraph (A). Any such mortgage shall—

(i) be in a principal amount not in excess of that portion of the unpaid principal balance of the blanket mortgage covering the property which is allocable to the individual dwelling involved;

(ii) bear interest at the same rate as the blanket mortgage; and

(iii) provide for complete amortization by periodic payments within a term equal to the remaining term (determined without regard to subparagraph (E)) of such blanket mortgage.

(C) The price for which any individual dwelling is sold under this paragraph shall be in an amount equal to that portion of the unpaid principal balance of the blanket mortgage covering the property which is allocable to the dwelling plus such additional amount, not less than $200 (which may be applied in whole or in part toward closing costs and may be paid in cash or its equivalent), as the Secretary may determine to be reasonable.

(D) Upon the sale under this paragraph of any individual dwelling, such dwelling shall be released from the lien of the blanket mortgage. Until all of the individual dwellings in the property covered by the blanket mortgage have been sold, the mortgagor shall hold and operate the dwellings remaining unsold at any given time, in such manner and under such terms as the Secretary may prescribe, as though they constituted rental units.

(E) Upon the sale under this paragraph of all the individual dwellings in the property covered by the blanket mortgage and the release of all individual dwellings from the lien of the blanket mortgage, the insurance of the blanket mortgage shall be terminated and no adjusted premium charge shall be charged by the Secretary upon such termination.

(5) Where the Secretary has approved a plan of family unit ownership the terms "single-family dwelling", "single-family dwellings", "individual dwelling", and "individual dwellings" shall mean a

[385] Section 101(c)(4) of the Housing and Urban Development Act of 1968, Pub. L. 90-448, approved August 1, 1968, 12 U.S.C. 1715z note, provides as follows:
"(4) The purchase of any individual dwelling, sold by a nonprofit organization pursuant to the provisions of section 221(h)(5) of the National Housing Act after the date of enactment of this section, may be financed with a mortgage insured under the provisions of section 235(j)(4) of such Act, but such mortgage shall bear interest at the rate provided in section 235(j)(2)(C) of such Act.".

family unit or family units, together with the undivided interest (or interests) in the common areas and facilities.

(6) For purposes of this subsection, the terms "single-family dwelling" and "single-family dwellings" (except for purposes of paragraph (5)) shall include a two- to three-family dwelling which has been approved by the Secretary.

(7) In addition to the assistance payments authorized under subsection (b), the Secretary may make such payments to a mortgagee on behalf of a nonprofit organization or public body or agency which is a mortgagor under the provisions of paragraph (1) in an amount not exceeding the difference between the monthly payment for principal, interest, and mortgage insurance premium which the mortgagor is obligated to pay under the mortgage and the monthly payment for principal and interest such mortgagor would be obligated to pay if the mortgage were to bear interest at the rate of 1 per centum per annum.

(8) A mortgage covering property which is not deteriorating or substandard may be insured under this subsection only if it is situated in an area in which mortgages may be insured under section 221(h).

(9) In insuring eligible mortgages under this subsection, the Secretary may not deny insurance on the basis that a mortgage involves a two- to three-family dwelling or is to be used to finance substantial rehabilitation rather than new construction.

(k) The Secretary shall from time to time allocate and transfer to the Secretary of Agriculture, for use (in accordance with the terms and conditions of this section) in rural areas and small towns, a reasonable portion of the total authority to contract to make assistance payments as approved in appropriation Acts under subsection (h)(1).

(l) In determining the income of any person for the purposes of this section, there shall be deducted an amount equal to $300 for each minor person who is a member of the immediate family of such person and living with such family, and the earnings of any such minor person shall not be included in the income of such person or his family.

(m) No mortgage (except a mortgage insured under subsection (r)) shall be insured under this section after September 30, 1989, except pursuant to a commitment to insure before that date.

(n) No mortgage may be insured under this section on a unit in a subdivision, after the effective date of enactment of this subsection, which, when added to any other mortgages insured under this section in that subdivision after such date, represents more than 40 per centum of the total number of units in the subdivision, except that the preceding limitation shall not apply with regard to any rehabilitated unit, or to any unit or subdivision located or to be located in an established urban neighborhood or area, where a sound proposal is involved and where an aggregation of subsidized units is essential to a community sponsored overall redevelopment plan, as determined by the Secretary or to a mortgage insured under subsection (r).

(o) The Secretary may insure a mortgage under this section involving a principal obligation which exceeds, by not more than 20 per centum, the maximum limits specified under subsection (b)(2) or (i)(3) of this section if the mortgage relates to a dwelling in an urban neighborhood where the Secretary determines that a community sponsored program of concentrated redevelopment or revitalization is being undertaken and the Secretary determines that such action is necessary to enable eligible families residing in the area who occupy substandard housing or are being involuntarily displaced to remain in the area in decent, safe, and sanitary housing.

(p) The Secretary may insure a mortgage under this section involving a principal obligation which exceeds, by not more than 10 per centum, the maximum limits specified under subsection (b)(2) or (i)(3) of this section, or, if applicable, the maximum principal obligation insurable pursuant to subsection (o) of this section, if the mortgage relates to a dwelling to be occupied by a physically handicapped person and the Secretary determines that such action is necessary to reflect the cost of making such dwelling accessible to and usable by such person.

(q)(1) Notwithstanding any other provision of this section, except subsection (n), if the Secretary determines that there is a substantial need for emergency stimulation of the housing market, the Secretary is authorized to make and enter into contracts to make periodic assistance payments to the extent of not to exceed 75 per centum of the authority available pursuant to subsection (h)(1), on behalf of homeowners, including owners of manufactured homes, to mortgagees or other lenders holding mortgages, loans, or advances of credit which meet the requirements of this subsection. The Secretary may establish such criteria, terms, and conditions relating to homeowners and mortgages, loans, or advances of credit assisted under this subsection as the Secretary deems appropriate, consistent with the provisions of this subsection. The Secretary is authorized to insure a mortgage which meets the requirements of and is to be assisted under this subsection. The authority to enter into contracts to provide assistance payments and to insure mortgages under this subsection shall terminate on September 30, 1989, or at such earlier date as the Secretary may deem appropriate, upon a determination by the Secretary that the conditions which gave rise to the exercise of authority under this subsection are no longer present, except pursuant to a commitment entered into prior to such date.

(2) Payments under this subsection may be made only on behalf of a homeowner who satisfies such eligibility requirements as may be prescribed by the Secretary and who—

(A)(i) is a mortgagor under a mortgage which meets the requirements of and is insured under this subsection, or (ii) is the original owner of a new manufactured home consisting of two or more modules and a lot on which the manufactured home is situated, where insurance under section 2 of this Act covering the loan, advance of credit, or purchase of an obligation representing such loan or advance of credit to finance the purchase of such manufactured home and lot has been granted to the lender making such loan, advance of credit, or purchase of an obligation; and

(B) has a family income, at the time of initial occupancy, which does not exceed 130 per centum of the area median income for the area (with adjustments for smaller and larger families, unusually high or low median family income, or other factors), as determined by the Secretary.

(3) Assistance payments to a mortgagee or other lender by the Secretary on behalf of a homeowner shall be made only during such time as the homeowner shall continue to occupy the property which secures the mortgage, loan, or advance of credit. The Secretary may, where a mortgage insured under this subsection has been assigned to the Secretary, continue making such assistance payments.

(4) The amount of the assistance payments in the case of a mortgage shall not at any time exceed the lesser of—

(A) the balance of the monthly payment for principal, interest, taxes, insurance, and any mortgage insurance premium due under the mortgage remaining unpaid after applying a minimum of 25 per centum of the mortgagor's income, except that the Secretary may reduce such per centum of income to the extent he deems necessary, but not lower than 20 per centum of the mortgagor's income; or

(B) the difference between the amount of the monthly payment for principal, interest, and any mortgage insurance premium which would be required if the mortgage were a level payment mortgage bearing interest at a rate equal to the maximum interest rate which is applicable to level payment mortgages insured under section 203(b), other than mortgages subject to section 3(a)(2) of Public Law 90-301, and the monthly payment for principal and interest which the mortgagor would be obligated to pay if the mortgage were a level payment mortgage bearing interest at the rate of at least 9\1/2\ per centum per annum.

(5) Assistance payments on behalf of the owner of a manufactured home shall not at any time exceed the lesser of—

(A) the balance of the monthly payment for principal, interest, real and personal property taxes, insurance, and insurance premium chargeable under section 2 of this Act due under the loan or advance of credit remaining unpaid after applying a minimum of 25 per centum of the manufactured homeowner's income, except that the Secretary may reduce such per centum of income to the extent he deems necessary, but not lower than 20 per centum of the mortgagor's income; or

(B) the difference between the amount of the monthly payment for principal, interest, and insurance premium chargeable under section 2 of this Act which the manufactured homeowner is obligated to pay under the loan or advance of credit and the monthly payment of principal and interest which the owner would be obligated to pay if the loan or advance of credit were to bear an interest rate determined by the Secretary which shall not be less than 12 per centum per annum.

(6) The Secretary may include in the payment to the mortgagee or other lender such amount, in addition to the amount computed under paragraph (4) or (5), as the Secretary deems appropriate to reimburse the mortgagee or other lender for its reasonable and necessary expenses in handling the mortgage, loan, or advance of credit.

(7) The Secretary shall prescribe such regulations as the Secretary deems necessary to assure that the sale price of, or other consideration paid in connection with, the purchase by a homeowner of the property with respect to which assistance payments are to be made is not greater than the appraised value as determined by the Secretary.

(8) Assistance payments pursuant to paragraph (5) shall not be made with respect to more than 20 per centum of the total number of units with respect to which assistance is approved under this subsection.

(9) The Secretary may, in addition to mortgages insured under subsection (i) or (j), insure, upon application by the mortgagee, a mortgage executed by a mortgagor who meets the eligibility requirements for assistance payments prescribed by the Secretary under paragraph (2). Commitments for the insurance of

such mortgages may be issued by the Secretary prior to the date of their execution or disbursement thereon, upon such terms and conditions as the Secretary may prescribe.

(10) To be eligible for insurance under this subsection, a mortgage shall—

(A) be a first lien on real estate held in fee simple, or on a leasehold under a lease which meets terms and conditions established by the Secretary;

(B) have been made to, and be held by, a mortgagee approved by the Secretary as responsible and able to service the mortgage properly;

(C) involve a one- to four-family dwelling which has been approved by the Secretary prior to the beginning of construction, or if not so approved, has been completed within one year prior to the filing of the application for insurance and which has never been sold other than to the mortgagor;

(D) involve a principal residence the sales price of which does not exceed 82 per centum of the applicable maximum principal obligation of a mortgage which may be insured in the area pursuant to section 203(b)(2), determined without regard to the last sentence of such section;

(E) have maturity and amortization provisions satisfactory to the Secretary;

(F) bear interest (exclusive of premium charges for insurance, and service charges if any) at not to exceed the applicable maximum rate for mortgages insured pursuant to section 203(b);

(G) be executed by a mortgagor who shall have paid in cash or its equivalent, on account of the property, at least an amount equal to 3 per centum of the Secretary's estimate of the cost of acquisition; and

(H) contain such other terms and conditions as the Secretary may prescribe.

(11) The Secretary shall, to the extent practicable, insure mortgages under this subsection which are secured by properties which contribute to the conservation of land and energy resources.

(12) A mortgage to be assisted under this subsection shall, where the Secretary deems it appropriate, provide for graduated payments pursuant to section 245.

(13) The Secretary shall develop and utilize a system to allocate assistance under this subsection in a manner which assures a reasonable distribution of such assistance among the various regions of the country and which takes into consideration such factors as population, relative decline in building permits, the need for increased housing production, and other factors he deems appropriate. Assistance provided under this subsection shall not be subject to section 213 of the Housing and Community Development Act of 1974.

(14) Upon the disposition by the homeowner of any property assisted pursuant to this subsection, or where the homeowner rents the property (or the owner's unit in the case of a two- to four-family residence) for a period longer than one year, the Secretary shall provide for the recapture of an amount equal to the lesser of (A) the amount of assistance actually received under this subsection, other than any amount provided under paragraph (6), or (B) an amount at least equal to 50 per centum of the net appreciation of the property, as determined by the Secretary. For the purpose of this paragraph, the term "net appreciation of the property" means any increase in the value of the property over the original purchase price, less the reasonable costs of sale, the reasonable costs of improvements made to the property, and any increase in the mortgage balance as of the time of sale over the original mortgage balance due to the mortgage being insured pursuant to section 245. In providing for such recapture, the Secretary shall include incentives for the homeowner to maintain the property in a marketable condition. Notwithstanding any other provision of law, any such assistance shall constitute a debt secured by the property to the extent that the Secretary may provide for such recapture.

(15) Procedures shall be adopted by the Secretary for recertification of the homeowner's income at intervals of two years (or at shorter intervals where the Secretary deems it desirable) for the purpose of adjusting the amount of such assistance payments within the limits of the formula described in paragraph (4) or (5).

(r)(1) The Secretary is authorized, upon application of a mortgagee, to insure under this subsection a mortgage the proceeds of which are used to refinance a mortgage insured under this section.

(2) To be eligible for insurance under this subsection, a mortgage must be executed by a mortgagor meeting the requirements of paragraph (3) and shall—

(A) be a first lien on real estate held in fee simple, or on a leasehold under a lease—

(i) for not less than 99 years which is renewable; or

(ii) having a period of not less than 10 years to run beyond the maturity date of the mortgage;

(B) have been made to, and held by, a mortgagee approved by the Secretary;

(C) be in an amount not exceeding the outstanding principal balance, including any unpaid interest, due on the mortgage being refinanced;

(D) have a maturity not exceeding the unexpired term of the mortgage being refinanced;

(E) bear an interest rate not exceeding such percent per annum on the amount of the principal obligation outstanding at any time as the Secretary finds necessary to meet the mortgage market, taking into consideration the yields on mortgages in the primary and secondary markets; to the extent that the amounts described in paragraphs (4) (A) and (B) are not otherwise paid by the Secretary, the foregoing interest rate may be increased, in the discretion of the Secretary, to compensate the mortgagee for its payment to, or on behalf of, the mortgagor of such amounts; and

(F) meet the criteria for refinancing as determined by the Secretary.

(3) Notwithstanding the provisions of subsection (h)(2), assistance payments in connection with mortgages insured under paragraph (2) shall be made only with respect to a family who is eligible for, and receiving assistance payments with respect to, the insured mortgage being refinanced.

(4) The Secretary is authorized and, to the extent provided in appropriation Acts, may pay to the mortgagor (directly, through the mortgagee, or otherwise)—

(A) an amount, as approved by the Secretary, as an incentive to the mortgagor to refinance a mortgage insured under this section; and

(B) an amount as approved by the Secretary for costs incurred in connection with the refinancing, including but not limited to discounts, loan origination fees, and closing costs.

(5) Amounts of budget authority required for assistance payments contracts with respect to mortgages insured under this subsection shall be derived from amounts recaptured from assistance payments contracts relating to mortgages that are being refinanced. For purposes of subsection (c)(3)(A), the amount of recaptured budget authority that the Secretary commits for assistance payments contracts relating to mortgages insured under this subsection shall not be construed as “unused”.

(6) The Secretary is authorized to take any actions to identify and communicate with any mortgagor of a mortgage insured under this section to implement the refinancing of such mortgages with insurance under this subsection. The Secretary may take such actions directly, or under contract. Notwithstanding the restriction of section 552a(b) of title 5 of the United States Code, upon the request of an approved mortgagee, the Secretary may disclose to such mortgagee the name and address of any mortgagor of a mortgage insured under this section that meets the criteria for refinancing, pursuant to paragraph (2)(F), and the unpaid principal balance and interest rate on such mortgage.

(7) The Secretary shall implement the provisions of this subsection by a notice published in the Federal Register.

END OF STATUTE

ENTERPRISE ZONE HOMEOWNERSHIP OPPORTUNITY GRANTS

HOUSING AND COMMUNITY DEVELOPMENT ACT OF 1992
[Public Law 102-550; 106 Stat. 3748; 42 U.S.C. 12898a]

Sec. 186. [42 U.S.C. 12898a]
ENTERPRISE ZONE HOMEOWNERSHIP OPPORTUNITY GRANTS.

(a) STATEMENT OF PURPOSE.—It is the purpose of this section—

(1) to encourage homeownership by families in the United States who are not otherwise able to afford homeownership;

(2) to encourage the redevelopment of economically depressed areas; and

(3) to provide better housing opportunities in federally approved and equivalent State-approved enterprise zones.

(b) DEFINITIONS.—For purposes of this section the following definitions shall apply:

(1) HOME.—The term "home" means any 1- to 4-family dwelling. Such term includes any dwelling unit in a condominium project or cooperative project consisting of not more than 4 dwelling units, any town house, and any manufactured home.

(2) METROPOLITAN STATISTICAL AREA.—The term "metropolitan statistical area" means a metropolitan statistical area as established by the Office of Management and Budget.

(3) NONPROFIT ORGANIZATION.—The term "nonprofit organization" means a private nonprofit corporation, or other private nonprofit legal entity, that is approved by the Secretary as to financial responsibility.

(4) SECRETARY.—The term "Secretary" means the Secretary of Housing and Urban Development.

(5) STATE.—The term "State" means each of the several States, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, Guam, American Samoa, the Northern Mariana Islands, the Trust Territory of the Pacific Islands, and any other territory or possession of the United States.

(6) UNIT OF GENERAL LOCAL GOVERNMENT.—The term "unit of general local government" means any borough, city, county, parish, town, township, village, or other general purpose political subdivision of a State.

(c) ASSISTANCE TO NONPROFIT ORGANIZATIONS.—

(1) IN GENERAL.—The Secretary may provide assistance to nonprofit organizations to carry out enterprise zone homeownership opportunity programs to promote homeownership in federally approved and equivalent State-approved enterprise zones in accordance with the provisions of this section. Such assistance shall be made in the form of grants.

(2) APPLICATIONS.—Applications for assistance under this section shall be made in such form, and in accordance with such procedures, as the Secretary may prescribe.

(d) ELIGIBLE USES OF ASSISTANCE.—

(1) IN GENERAL.—Any nonprofit organization receiving assistance under this section shall use such assistance to provide loans to families purchasing homes constructed or rehabilitated in accordance with an enterprise zone homeownership opportunity program approved under this section.

(2) SPECIFIC REQUIREMENTS.—Each loan made to a family under this subsection shall—

(A) be secured by a second mortgage held by the Secretary on the property involved;

(B) be in an amount not exceeding $15,000;

(C) bear no interest; and

(D) be repayable to the Secretary upon the sales, lease, or other transfer of such property.

(e) PROGRAM REQUIREMENTS.—

(1) IN GENERAL.—Assistance provided under this section may be used only in connection with an enterprise zone homeownership opportunity program of construction or rehabilitation of homes.

(2) FAMILY NEED.—Each family purchasing a home under this section shall—

(A) have a family income on the date of such purchase that is not more than the median income for a family of 4 persons (adjusted for family size) in the metropolitan statistical area in which a federally approved or equivalent State-approved enterprise zone is located; and

(B) not have owned a home during the 3-year period preceding such purchase.

(3) DOWNPAYMENT.—Each family purchasing a home under this section shall make a downpayment of not less than 5 percent of the sale price of such home.

(4) LEASING PROHIBITION.—No family purchasing a home under this section may lease such home.

(f) TERMS AND CONDITIONS OF ASSISTANCE.—

(1) LOCAL CONSULTATION.—No proposed enterprise zone homeownership opportunity program may be approved by the Secretary under this section unless the applicant involved demonstrates to the satisfaction of the Secretary that—

(A) it has consulted with and received the support of residents of the neighborhood in which such program is to be located; and

(B) it has the approval of each unit of general local government in which such program is to be located.

(2) PROGRAM SCHEDULE.—Each applicant for assistance under this section shall submit to the Secretary an estimated schedule for completion of its proposed enterprise zone homeownership opportunity program, which schedule shall have been agreed to by each unit of general local government in which such program is to be located.

(3) LOCATION.—All homes constructed or rehabilitated under such program will be located in federally approved or equivalent State-approved enterprise zones.

(4) SALES CONTRACTS.—Sales contracts entered into under such program will contain provisions requiring repayment of any loan made under this section upon the sale or other transfer of the home involved, unless the Secretary approves a transfer of such home without repayment (in which case the second mortgage held by the Secretary on such home shall remain in force until such loan is fully repaid).

(g) PROGRAM SELECTION CRITERIA.—

(1) IN GENERAL.—In selecting enterprise zone homeownership opportunity programs for assistance under this section from among eligible programs, the Secretary shall make such selection on the basis of the extent to which—

(A) non-Federal public or private entities will contribute land necessary to make each program feasible;

(B) non-Federal public and private financial or other contributions (including tax abatements, waivers of fees related to development, waivers of construction, development, or zoning requirements, and direct financial contributions) will reduce the cost of home[386] constructed or rehabilitated under each program;

(C) each program will produce the greatest number of units for the least amount of assistance provided under this section, taking into consideration the cost differences among different market areas; and

(D) each program provides for the involvement of local residents in the planning, and construction or rehabilitation, of homes.

(2) EXCEPTION.—To the extent that non-Federal public entities are prohibited by the law of any State from making any form of contribution described in subparagraph (A) or (B) of paragraph (1), the Secretary shall not consider such form of contribution in evaluating such program.

(h) REGULATIONS.—Not later than 180 days after the date of enactment of this section[387], the Secretary shall issue final regulations to carry out the provisions of this title.[388] Any such regulations shall be issued in accordance with section 553 of title 5, United States Code, notwithstanding the provisions of subsection (a)(2) of such section.

(i) FUNDING.—There are authorized to be appropriated to carry out this section $30,000,000 in each of fiscal years 1993 and 1994.

END OF STATUTE

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[386] So in law.
[387] The date of enactment was October 28, 1992.
[388] So in law. Probably intended to refer to this section.

ELIGIBILITY UNDER FIRST-TIME HOMEBUYER PROGRAMS

CRANSTON-GONZALEZ NATIONAL AFFORDABLE HOUSING ACT
[Public Law 101-625; 104 Stat. 4421; 42 U.S.C. 12713]

Sec. 956. [42 U.S.C. 12713]
ELIGIBILITY UNDER FIRST-TIME HOMEBUYER PROGRAMS.

(a) ELIGIBILITY OF DISPLACED HOMEMAKERS AND SINGLE PARENTS FOR FEDERAL ASSISTANCE FOR FIRST-TIME HOMEBUYERS.—

(1) DISPLACED HOMEMAKERS.—No individual who is a displaced homemaker may be denied eligibility under any Federal program to assist first-time homebuyers on the basis that the individual, while a homemaker, owned a home with his or her spouse or resided in a home owned by the spouse.

(2) SINGLE PARENTS.—No individual who is a single parent may be denied eligibility under any Federal program to assist first-time homebuyers on the basis that the individual, while married, owned a home with his or her spouse or resided in a home owned by the spouse.

(b) DEFINITIONS.—For purposes of this section:

(1) DISPLACED HOMEMAKER.—The term "displaced homemaker" means an individual who—

(A) is an adult;

(B) has not worked full-time, full-year in the labor force for a number of years but has, during such years, worked primarily without remuneration to care for the home and family; and

(C) is unemployed or underemployed and is experiencing difficulty in obtaining or upgrading employment.

(2) FIRST-TIME HOMEBUYER.—The term "first-time homebuyer" means an individual who has never, or has not during a specified period of time, had any present ownership interest in a principal residence.

(3) SINGLE PARENT.—The term "single parent" means an individual who—

(A) is unmarried or legally separated from a spouse; and

(B)(i) has 1 or more minor children for whom the individual has custody or joint custody; or

(ii) is pregnant.

(c) APPLICABILITY.—This section shall apply to any Federal program to assist first-time homebuyers, unless the program is exempted from this section by a statute that amends this subsection or explicitly refers to this subsection.

END OF STATUTE

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PART VI—HOUSING FOR THE HOMELESS

McKINNEY-VENTO HOMELESS ASSISTANCE ACT

MCKINNEY-VENTO HOMELESS ASSISTANCE ACT
[Public Law 100-77, 101 Stat. 482; 42 U.S.C. 11301 et seq.]

TITLE I—GENERAL PROVISIONS

Sec. 102. [42 U.S.C. 11301]
FINDINGS AND PURPOSE.

(a) FINDINGS.—The Congress finds that—

(1) the Nation faces an immediate and unprecedented crisis due to the lack of shelter for a growing number of individuals and families, including elderly persons, handicapped persons, families with children, Native Americans, and veterans;

(2) the problem of homelessness has become more severe and, in the absence of more effective efforts, is expected to become dramatically worse, endangering the lives and safety of the homeless;

(3) the causes of homelessness are many and complex, and homeless individuals have diverse needs;

(4) there is no single, simple solution to the problem of homelessness because of the different subpopulations of the homeless, the different causes of and reasons for homelessness, and the different needs of homeless individuals;

(5) due to the record increase in homelessness, States, units of local government, and private voluntary organizations have been unable to meet the basic human needs of all the homeless and, in the absence of greater Federal assistance, will be unable to protect the lives and safety of all the homeless in need of assistance; and

(6) the Federal Government has a clear responsibility and an existing capacity to fulfill a more effective and responsible role to meet the basic human needs and to engender respect for the human dignity of the homeless.

(b) PURPOSE.—It is the purpose of this Act—

(1) to establish the United States Interagency Council on Homelessness;

(2) to use public resources and programs in a more coordinated manner to meet the critically urgent needs of the homeless of the Nation; and

(3) to provide funds for programs to assist the homeless, with special emphasis on elderly persons, handicapped persons, families with children, Native Americans, and veterans.

Sec. 103. [42 U.S.C. 11302]
GENERAL DEFINITION OF HOMELESS INDIVIDUAL.

(a) IN GENERAL.—For purposes of this Act, the terms “homeless”, “homeless individual”, and “homeless person” means—

(1) an individual or family who lacks a fixed, regular, and adequate nighttime residence;

(2) an individual or family with a primary nighttime residence that is a public or private place not designed for or ordinarily used as a regular sleeping accommodation for human beings, including a car, park, abandoned building, bus or train station, airport, or camping ground;

(3) an individual or family living in a supervised publicly or privately operated shelter designated to provide temporary living arrangements (including hotels and motels paid for by Federal, State, or local government programs for low-income individuals or by charitable organizations, congregate shelters, and transitional housing);

(4) an individual who resided in a shelter or place not meant for human habitation and who is exiting an institution where he or she temporarily resided;

(5) an individual or family who—

(A) will imminently lose their housing, including housing they own, rent, or live in without paying rent, are sharing with others, and rooms in hotels or motels not paid for by Federal,

State, or local government programs for low-income individuals or by charitable organizations, as evidenced by—

(i) a court order resulting from an eviction action that notifies the individual or family that they must leave within 14 days;

(ii) the individual or family having a primary nighttime residence that is a room in a hotel or motel and where they lack the resources necessary to reside there for more than 14 days; or

(iii) credible evidence indicating that the owner or renter of the housing will not allow the individual or family to stay for more than 14 days, and any oral statement from an individual or family seeking homeless assistance that is found to be credible shall be considered credible evidence for purposes of this clause;

(B) has no subsequent residence identified; and

(C) lacks the resources or support networks needed to obtain other permanent housing; and

(6) unaccompanied youth and homeless families with children and youth defined as homeless under other Federal statutes who—

(A) have experienced a long term period without living independently in permanent housing,

(B) have experienced persistent instability as measured by frequent moves over such period, and

(C) can be expected to continue in such status for an extended period of time because of chronic disabilities, chronic physical health or mental health conditions, substance addiction, histories of domestic violence or childhood abuse, the presence of a child or youth with a disability, or multiple barriers to employment.

(b) DOMESTIC VIOLENCE AND OTHER DANGEROUS OR LIFE-THREATENING CONDITIONS.—Notwithstanding any other provision of this section, the Secretary shall consider to be homeless any individual or family who is fleeing, or is attempting to flee, domestic violence, dating violence, sexual assault, stalking, or other dangerous or life-threatening conditions in the individual's or family's current housing situation, including where the health and safety of children are jeopardized, and who have no other residence and lack the resources or support networks to obtain other permanent housing.

(c) INCOME ELIGIBILITY.—

(1) IN GENERAL.—A homeless individual shall be eligible for assistance under any program provided by this Act, only if the individual complies with the income eligibility requirements otherwise applicable to such program.

(2) EXCEPTION.—Notwithstanding paragraph (1), a homeless individual shall be eligible for assistance under title I of the Workforce Innovation and Opportunity Act.

(d) EXCLUSION.—For purposes of this Act, the term "homeless" or "homeless individual" does not include any individual imprisoned or otherwise detained pursuant to an Act of the Congress or a State law.

(e) PERSONS EXPERIENCING HOMELESSNESS.—Any references in this Act to homeless individuals (including homeless persons) or homeless groups (including homeless persons) shall be considered to include, and to refer to, individuals experiencing homelessness or groups experiencing homelessness, respectively.

Sec. 104. [42 U.S.C. 11303]
FUNDING AVAILABILITY AND LIMITATIONS.

(a) CALCULATION.—The amounts authorized in this Act shall be in addition to any amount appropriated for the programs involved before the date of the enactment of this Act.[389]

(b) AVAILABILITY UNTIL EXPENDED.—Any amount appropriated under an authorization in this Act shall remain available until expended.

(c) LIMITATION.—Appropriations pursuant to the authorizations in this Act shall be made in accordance with the provisions of the Congressional Budget and Impoundment Control Act of 1974, which prohibits the consideration of any bill that would cause the deficit to exceed the levels established by the Balanced Budget and Emergency Deficit Control Act of 1985, such that it shall not increase the deficit of the Federal Government for fiscal year 1987.

[389] July 22, 1987.

Sec. 105. [42 U.S.C. 11304]
ANNUAL PROGRAM SUMMARY BY COMPTROLLER GENERAL.

The Comptroller General of the United States may evaluate the disbursement and use of the amounts made available by appropriation Acts under the authorizations in titles III and IV.

TITLE II—UNITED STATES INTERAGENCY COUNCIL ON HOMELESSNESS

Sec. 201. [42 U.S.C. 11311]
ESTABLISHMENT.

There is established in the executive branch an independent establishment to be known as the United States Interagency Council on Homelessness whose mission shall be to coordinate the Federal response to homelessness and to create a national partnership at every level of government and with the private sector to reduce and end homelessness in the nation while maximizing the effectiveness of the Federal Government in contributing to the end of homelessness.

Sec. 202. [42 U.S.C. 11312]
MEMBERSHIP.

(a) MEMBERS.—The Council shall be composed of the following members:

(1) The Secretary of Agriculture, or the designee of the Secretary.
(2) The Secretary of Commerce, or the designee of the Secretary.
(3) The Secretary of Defense, or the designee of the Secretary.
(4) The Secretary of Education, or the designee of the Secretary.
(5) The Secretary of Energy, or the designee of the Secretary.
(6) The Secretary of Health and Human Services, or the designee of the Secretary.
(7) The Secretary of Housing and Urban Development, or the designee of the Secretary.
(8) The Secretary of the Interior, or the designee of the Secretary.
(9) The Secretary of Labor, or the designee of the Secretary.
(10) The Secretary of Transportation, or the designee of the Secretary.
(11) The Secretary of Veterans Affairs, or the designee of the Secretary.
(12) The Chief Executive Officer of the Corporation for National and Community Service, or the designee of the Chief Executive Officer.
(13) The Director of the Federal Emergency Management Agency[390], or the designee of the Director.
(14) The Administrator of General Services, or the designee of the Administrator.
(15) The Postmaster General of the United States, or the designee of the Postmaster General.
(16) The Commissioner of Social Security, or the designee of the Commissioner.
(17) The Attorney General of the United States, or the designee of the Attorney General.
(18) The Director of the Office of Management and Budget, or the designee of the Director.
(19) The Director of the Office of Faith-Based and Community Initiatives, or the designee of the Director.
(20) The Director of USA FreedomCorps, or the designee of the Director.
(22)[391] The heads of such other Federal agencies as the Council considers appropriate, or their designees.

(b) CHAIRPERSON.—The Council shall elect a Chairperson and a Vice Chairperson from among its members. The positions of Chairperson and Vice Chairperson shall rotate among its members on an annual basis.

(c) MEETINGS.—The Council shall meet at the call of its Chairperson or a majority of its members, but not less often than four times each year, and the rotation of the positions of Chairperson and Vice Chairperson required under subsection (b) shall occur at the first meeting of each year.

(d) PROHIBITION OF ADDITIONAL PAY.—Members of the Council shall receive no additional pay, allowances, or benefits by reason of their service on the Council.

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[390] Section 611 of Public Law 111-295 provides for the transfer of duties for this entity under the Department of Homeland Security. Section 612(c) of such Public Law provides: "[a]ny reference to the Director of the Federal Emergency Management Agency, in any law, rule, regulation, certificate, directive, instruction, or other official paper shall be considered to refer and apply to the Administrator of the Federal Emergency Management Agency.".

[391] So in law. There is no paragraph (21). See amendments made by section 1004(a)(2)(A) of division B of Public Law 111-22.

(e) ADMINISTRATION.—The Executive Director of the Council shall report to the Chairman of the Council.

Sec. 203. [42 U.S.C. 11313]
FUNCTIONS.

(a) DUTIES.—The Council shall—

(1) not later than 12 months after the date of the enactment of the Homeless Emergency Assistance and Rapid Transition to Housing Act of 2009, develop, make available for public comment, and submit to the President and to Congress a National Strategic Plan to End Homelessness, and shall update such plan annually;

(2) review all Federal activities and programs to assist homeless individuals;

(3) take such actions as may be necessary to reduce duplication among programs and activities by Federal agencies to assist homeless individuals;

(4) monitor, evaluate, and recommend improvements in programs and activities to assist homeless individuals conducted by Federal agencies, State and local governments, and private voluntary organizations;

(5) provide professional and technical assistance, (by not less than 5, but in no case more than 10, regional coordinators employed by the Council, each having responsibility for interaction and coordination of the activities of the Council within the 10 standard Federal regions) to States, local governments, and other public and private nonprofit organizations, in order to enable such governments and organizations to—

(A) interpret regulations and assist in the application process for Federal assistance, including grants;

(B) provide assistance on the ways in which Federal programs, other than those authorized under this Act, may best be coordinated to complement the objectives of this Act;

(C) develop recommendations and program ideas based on regional specific issues in serving the homeless population; and

(D) establish a schedule for biennial regional workshops to be held by the Council in each of the 10 standard Federal regions to further carry out and provide the assistance described in subparagraphs (A), (B), and (C) and other appropriate assistance as necessary, of which—

(i) not less than 5 such workshops shall be held by September 30, 1989; and

(ii) at least 1 such workshop shall be held in each of the 10 Federal regions every 2 years, beginning on September 30, 1988;

(6) encourage the creation of State Interagency Councils on Homelessness and the formulation of jurisdictional 10-year plans to end homelessness at State, city, and county levels;

(7) annually obtain from Federal agencies their identification of consumer-oriented entitlement and other resources for which persons experiencing homelessness may be eligible and the agencies' identification of improvements to ensure access; develop mechanisms to ensure access by persons experiencing homelessness to all Federal, State, and local programs for which the persons are eligible, and to verify collaboration among entities within a community that receive Federal funding under programs targeted for persons experiencing homelessness, and other programs for which persons experiencing homelessness are eligible, including mainstream programs identified by the Government Accountability Office in the reports entitled "Homelessness: Coordination and Evaluation of Programs Are Essential", issued February 26, 1999, and "Homelessness: Barriers to Using Mainstream Programs", issued July 6, 2000;

(8) conduct research and evaluation related to its functions as defined in this section;

(9) develop joint Federal agency and other initiatives to fulfill the goals of the agency;

(9)[392] collect and disseminate information relating to homeless individuals;

(10) prepare the annual reports required in subsection (c)(2);

(11) prepare and distribute to States (including State contact persons), local governments, and other public and private nonprofit organizations, a bimonthly bulletin that describes the Federal resources available to them to assist the homeless, including current information regarding application deadlines and appropriate persons to contact in each Federal agency providing the resources;

[392] Two paragraph (9)'s so in law. See amendments made by subparagraphs (A) and (D) of section 1004(a)(3) of division B of Public Law 111-22.

(12) develop constructive alternatives to criminalizing homelessness and laws and policies that prohibit sleeping, feeding, sitting, resting, or lying in public spaces when there are no suitable alternatives, result in the destruction of a homeless person's property without due process, or are selectively enforced against homeless persons; and

(13) not later than the expiration of the 6-month period beginning upon completion of the study requested in a letter to the Acting Comptroller General from the Chair and Ranking Member of the House Financial Services Committee and several other members regarding various definitions of homelessness in Federal statutes, convene a meeting of representatives of all Federal agencies and committees of the House of Representatives and the Senate having jurisdiction over any Federal program to assist homeless individuals or families, local and State governments, academic researchers who specialize in homelessness, nonprofit housing and service providers that receive funding under any Federal program to assist homeless individuals or families, organizations advocating on behalf of such nonprofit providers and homeless persons receiving housing or services under any such Federal program, and homeless persons receiving housing or services under any such Federal program, at which meeting such representatives shall discuss all issues relevant to whether the definitions of "homeless" under paragraphs (1) through (4) of section 103(a) of the McKinney-Vento Homeless Assistance Act, as amended by section 1003 of the Homeless Emergency Assistance and Rapid Transition to Housing Act of 2009, should be modified by the Congress, including whether there is a compelling need for a uniform definition of homelessness under Federal law, the extent to which the differences in such definitions create barriers for individuals to accessing services and to collaboration between agencies, and the relative availability, and barriers to access by persons defined as homeless, of mainstream programs identified by the Government Accountability Office in the two reports identified in paragraph (7) of this subsection; and shall submit transcripts of such meeting, and any majority and dissenting recommendations from such meetings, to each committee of the House of Representatives and the Senate having jurisdiction over any Federal program to assist homeless individuals or families not later than the expiration of the 60-day period beginning upon conclusion of such meeting.

(b) AUTHORITY.—In carrying out subsection (a), the Council may—

(1) arrange national, regional, State, and local conferences for the purpose of developing and coordinating effective programs and activities to assist homeless individuals and pay for expenses of attendance at meetings which are concerned with the functions or activities for which the appropriation is made;[393]

(2) publish a newsletter concerning Federal, State, and local programs that are effectively meeting the needs of homeless individuals.

(c) REPORTS.—

(1) Within 90 days after the date of the enactment of this Act,[394] and annually thereafter, the head of each Federal agency that is a member of the Council shall prepare and transmit to the Congress and the Council a report that describes—

(A) each program to assist homeless individuals administered by such agency and the number of homeless individuals served by such program;

(B) impediments, including any statutory and regulatory restrictions, to the use by homeless individuals of each such program and to obtaining services or benefits under each such program; and

(C) efforts made by such agency to increase the opportunities for homeless individuals to obtain shelter, food, and supportive services.

(2) The Council shall prepare and transmit to the President and the Congress an annual report that—

(A) assesses the nature and extent of the problems relating to homelessness and the needs of homeless individuals;

(B) provides a comprehensive and detailed description of the activities and accomplishments of the Federal Government in resolving the problems and meeting the needs assessed pursuant to subparagraph (A);

(C) describes the accomplishments and activities of the Council, in working with Federal, State, and local agencies and public and private organizations in order to provide assistance to homeless individuals;

[393] So in law. Probably should read "; and". See amendment made by section 1004(a)(4)(B) of division B of Public Law 111-22.
[394] The date of enactment was July 22, 1987.

(D) assesses the level of Federal assistance necessary to adequately resolve the problems and meet the needs assessed pursuant to subparagraph (A); and

(E) specifies any recommendations of the Council for appropriate and necessary legislative and administrative actions to resolve such problems and meet such needs.

(d) NOTIFICATION OF OTHER FEDERAL AGENCIES.—If, in monitoring and evaluating programs and activities to assist homeless individuals conducted by other Federal agencies, the Council determines that any significant problem, abuse, or deficiency exists in the administration of the program or activity of any Federal agency, the Council shall submit a notice of the determination of the Council to the Inspector General of the Federal agency (or the head of the Federal agency, in the case of a Federal agency that has no Inspector General).

(e) PROGRAM TIMETABLES.—Not later than 90 days after the date of the enactment of the Stewart B. McKinney Homeless Assistance Amendments Act of 1988, the head of each Federal agency that is a member of the Council and responsible for administering a program under this Act shall provide to the Council a timetable regarding program funding availability and application deadlines. The Council shall furnish such information to each State (including the State contact person).

Sec. 203. NOTE [42 U.S.C. 11313 note]
ANNUAL SUPPLEMENTAL REPORT ON VETERANS HOMELESSNESS.[395]

(a) IN GENERAL.—The Secretary of Housing and Urban Development and the Secretary of Veterans Affairs, in coordination with the United States Interagency Council on Homelessness, shall submit annually to the Committees of the Congress specified in subsection (b), together with the annual reports required by such Secretaries under section 203(c)(1) of the McKinney-Vento Homeless Assistance Act (42 U.S.C. 11313(c)(1)), a supplemental report that includes the following information with respect to the preceding year:

(1) The same information, for such preceding year, that was included with respect to 2010 in the report by the Secretary of Housing and Urban Development and the Secretary of Veterans Affairs entitled "Veterans Homelessness: A Supplemental Report to the 2010 Annual Homeless Assessment Report to Congress".

(2) Information regarding the activities of the Department of Housing and Urban Development relating to veterans during such preceding year, as follows:

(A) The number of veterans provided assistance under the housing choice voucher program for Veterans Affairs supported housing under section 8(o)(19) of the United States Housing Act of 1937 (42 U.S.C. 1437f(o)(19)), the socioeconomic characteristics of such homeless veterans, and the number, types, and locations of entities contracted under such section to administer the vouchers.

(B) A summary description of the special considerations made for veterans under public housing agency plans submitted pursuant to section 5A of the United States Housing Act of 1937 (42 U.S.C. 1437c–1) and under comprehensive housing affordability strategies submitted pursuant to section 105 of the Cranston-Gonzalez National Affordable Housing Act (42 U.S.C. 12705).

(C) A description of the activities of the Special Assistant for Veterans Affairs of the Department of Housing and Urban Development.

(D) A description of the efforts of the Department of Housing and Urban Development and the other members of the United States Interagency Council on Homelessness to coordinate the delivery of housing and services to veterans.

(E) The cost to the Department of Housing and Urban Development of administering the programs and activities relating to veterans.

(F) Any other information that the Secretary of Housing and Urban Development and the Secretary of Veterans Affairs consider relevant in assessing the programs and activities of the Department of Housing and Urban Development relating to veterans.

(b) COMMITTEES.—The Committees of the Congress specified in this subsection are as follows:

(1) The Committee on Banking, Housing, and Urban Affairs of the Senate.

(2) The Committee on Veterans' Affairs of the Senate.

(3) The Committee on Appropriations of the Senate.

(4) The Committee on Financial Services of the House of Representatives.

(5) The Committee on Veterans' Affairs of the House of Representatives.

(6) The Committee on Appropriations of the House of Representatives.

[395] Section 404 of the Housing Opportunity Through Modernization Act (P.L. 114-201), signed July 29, 2016.

Sec. 204. [42 U.S.C. 11314]
DIRECTOR AND STAFF.

(a) DIRECTOR.—The Council shall appoint an Executive Director, who shall be compensated at a rate not to exceed the rate of basic pay payable for level V of the Executive Schedule under section 5316 of title 5, United States Code. The Council shall appoint an Executive Director at the first meeting of the Council held under section 202(c).

(b) ADDITIONAL PERSONNEL.—With the approval of the Council, the Executive Director of the Council may appoint and fix the compensation of such additional personnel as the Executive Director considers necessary to carry out the duties of the Council.

(c) DETAILS FROM OTHER AGENCIES.—Upon request of the Council, the head of any Federal agency may detail, on a reimbursable basis, any of the personnel of such agency to the Council to assist the Council in carrying out its duties under this title. Upon request of the Council, the Secretary of Health and Human Services shall detail, on a reimbursable basis, any of the personnel of the Department of Health and Human Services who have served the Federal Task Force on the Homeless of the Department to assist the Council in carrying out its duties under this title.

(d) ADMINISTRATIVE SUPPORT.—The Secretary of Housing and Urban Development shall provide the Council with such administrative and support services as are necessary to ensure that the Council carries out its functions under this title in an efficient and expeditious manner.

(e) EXPERTS AND CONSULTANTS.—With the approval of the Council, the Executive Director of the Council may procure temporary and intermittent services under section 3109(b) of title 5, United States Code.

Sec. 205. [42 U.S.C. 11315]
POWERS.

(a) MEETINGS.—For the purpose of carrying out this title, the Council may hold such meetings, and sit and act at such times and places, as the Council considers appropriate.

(b) DELEGATION.—Any member or employee of the Council may, if authorized by the Council, take any action that the Council is authorized to take in this title.

(c) INFORMATION.—The Council may secure directly from any Federal agency such information as may be necessary to enable the Council to carry out this title. Upon request of the Chairperson of the Council, the head of such agency shall furnish such information to the Council.

(d) DONATIONS.—The Council may accept, use, and dispose of gifts or donations of services or property, both real and personal, public and private, without fiscal year limitation, for the purpose of aiding or facilitating the work of the Council.

(e) MAILS.—The Council may use the United States mails in the same manner and under the same conditions as other Federal agencies.

Sec. 206. [42 U.S.C. 11316]
TRANSFER OF FUNCTIONS.

(a) Transfers From HHS Task Force.—The Council shall be the successor to the Federal Task Force on the Homeless of the Department of Health and Human Services. The property, records, and undistributed program funds of the Task Force shall be transferred to the Council.

(b) Termination of HHS Task Force.—The Secretary of Health and Human Services shall terminate the Federal Task Force on the Homeless of the Department of Health and Human Services as soon as practicable following the first meeting of the Council.

Sec. 207. [42 U.S.C. 11317]
DEFINITIONS.

For purposes of this title:

(1) The term “Council” means the United States Interagency Council on Homelessness established in section 201.

(2) The term “Federal agency” has the meaning given the term “agency” in section 551(1) of title 5, United States Code.

Sec. 208. [42 U.S.C. 11318]
AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated to carry out this title $3,000,000 for fiscal year 2010 and such sums as may be necessary for fiscal years 2011. Any amounts appropriated to carry out this title shall remain available until expended.

Sec. 209. [42 U.S.C. 11319]
TERMINATION.

The Council shall cease to exist, and the requirements of this title shall terminate, on October 1, 2013.

Sec. 210. [42 U.S.C. 11320]
ENCOURAGEMENT OF STATE INVOLVEMENT.

(a) STATE CONTACT PERSONS.—Each State shall designate an individual to serve as a State contact person for the purpose of receiving and disseminating information and communications received from the Council, including the bimonthly bulletin described in section 203(a)(7).

(b) STATE INTERAGENCY COUNCILS AND LEAD AGENCIES.—Each State is encouraged to establish a State interagency council on the homeless or designate a lead agency for the State for the purpose of assuming primary responsibility for coordinating and interacting with the Council and State and local agencies as necessary.

TITLE III—FEDERAL EMERGENCY MANAGEMENT FOOD AND SHELTER PROGRAM

Subtitle A—Administrative Provisions

Sec. 301. [42 U.S.C. 11331]
EMERGENCY FOOD AND SHELTER PROGRAM NATIONAL BOARD.

(a) ESTABLISHMENT.—There is established to carry out the provisions of this title the Emergency Food and Shelter Program National Board. The Director of the Federal Emergency Management Agency2 shall constitute the National Board in accordance with subsection (b) in administering the program under this title.

2Section 611 of Public Law 111-295 provides for the transfer of duties for this entity under the Department of Homeland Security. Section 612(c) of such Public Law provides: "[a]ny reference to the Director of the Federal Emergency Management Agency, in any law, rule, regulation, certificate, directive, instruction, or other official paper shall be considered to refer and apply to the Administrator of the Federal Emergency Management Agency.".

(b) MEMBERS.—The National Board shall consist of the Director and 6 members appointed by the Director. The initial members of the National Board shall be appointed by the Director not later than 30 days after the date of the enactment of this Act.[396] Each such member shall be appointed from among individuals nominated by 1 of the following organizations:

(1) The United Way of America.
(2) The Salvation Army.
(3) The National Council of Churches of Christ in the U.S.A.
(4) Catholic Charities U.S.A.
(5) The Council of Jewish Federations, Inc.
(6) The American Red Cross.

(c) CHAIRPERSON.—The Director shall be the Chairperson of the National Board.

(d) OTHER ACTIVITIES.—Except as otherwise specifically provided in this title, the National Board shall establish its own procedures and policies for the conduct of its affairs.

(e) TRANSFERS FROM PREVIOUS NATIONAL BOARD.—Upon the appointment of members to the National Board under subsection (b)—

(1) the national board constituted under the emergency food and shelter program established pursuant to section 101(g) of Public Law 99-500 or Public Law 99-591 shall cease to exist; and

(2) the personnel, property, records, and undistributed program funds of such national board shall be transferred to the National Board.

[396] The date of enactment was July 22, 1987.

Sec. 302. [42 U.S.C. 11332]
LOCAL BOARDS.

(a) ESTABLISHMENT.—Each locality designated by the National Board shall constitute a local board for the purpose of determining how program funds allotted to the locality will be distributed. The local board shall consist, to the extent practicable, of representatives of the same organizations as the National Board, except that the mayor or other appropriate heads of government will replace the Federal members, and except that each local board administering program funds for a locality within which is located a reservation (as such term is defined in section 3(d) of the Indian Financing Act of 1974 (25 U.S.C. 1452(d)), or a portion thereof, shall include a board member who is a member of an Indian tribe (as such term is defined in section 102(a)(17) of the Housing and Community Development Act of 1974 (42 U.S.C. 5302(a)(17)). The chairperson of the local board shall be elected by a majority of the members of the local board. Local boards are encouraged to expand participation of other private nonprofit organizations on the local board.

(b) RESPONSIBILITIES.—Each local board shall—

(1) determine which private nonprofit organizations or public organizations of the local government in the individual locality shall receive grants to act as service providers;

(2) monitor recipient service providers for program com- pliance;

(3) reallocate funds among service providers;

(4) ensure proper reporting; and

(5) coordinate with other Federal, State, and local government assistance programs available in the locality.

Sec. 303. [42 U.S.C. 11333]
ROLE OF FEDERAL EMERGENCY MANAGEMENT AGENCY.

(a) IN GENERAL.—The Director shall provide the National Board with administrative support and act as Federal liaison to the National Board.

(b) SPECIFIC SUPPORT ACTIVITIES.—The Director shall—

(1) make available to the National Board, upon request, the services of the legal counsel and Inspector General of the Federal Emergency Management Agency;

(2) assign clerical personnel to the National Board on a temporary basis; and

(3) conduct audits of the National Board annually and at such other times as may be appropriate.

Sec. 304. [42 U.S.C. 11334]
RECORDS AND AUDIT OF NATIONAL BOARD AND RECIPIENTS OF ASSISTANCE.

(a) ANNUAL INDEPENDENT AUDIT OF NATIONAL BOARD.—

(1) The accounts of the National Board shall be audited annually in accordance with generally accepted auditing standards by independent certified public accountants or independent licensed public accountants certified or licensed by a regulatory authority of a State or other political subdivision of the United States. The audits shall be conducted at the place or places where the accounts of the National Board are normally kept. All books, accounts, financial records, reports, files, and all other papers, things, or property belonging to or in use by the National Board and necessary to facilitate the audits shall be made available to the person or persons conducting the audits, and full facilities for verifying transactions with any assets held by depositories, fiscal agents, and custodians shall be afforded to such person or persons.

(2) The report of each such independent audit shall be included in the annual report required in section 305. Such report shall set forth the scope of the audit and include such statements as are necessary to present fairly the assets and liabilities of the National Board, surplus or deficit, with an analysis of the changes during the year, supplemented in reasonable detail by a statement of the income and expenses of the National Board during the year, and a statement of the application of funds, together with the opinion of the independent auditor of such statements.

(b) ACCESS TO RECORDS OF RECIPIENTS OF ASSISTANCE.—

(1) Each recipient of assistance under this title shall keep such records as may be reasonably necessary to fully disclose the amount and the disposition by such recipient of the proceeds of such assistance, the total cost of the project or undertaking in connection with which such assistance is given or used, and the amount and nature of that portion of the cost of the project or undertaking supplied by other sources, and such other records as will facilitate an effective audit.

(2) The National Board, or any of its duly authorized representatives, shall have access for the purpose of audit and examination to any books, documents, papers, and records of the recipient that are pertinent to assistance received under this title.

(c) AUTHORITY OF COMPTROLLER GENERAL.—The Comptroller General of the United States, or any of the duly authorized representatives of the Comptroller General, shall also have access to any books, documents, papers, and records of the National Board and recipients for such purpose.

Sec. 305. [42 U.S.C. 11335]
ANNUAL REPORT.

The National Board shall transmit to the Congress an annual report covering each year in which it conducts activities with funds made available under this title.

Subtitle B—Emergency Food and Shelter Grants

Sec. 311. [42 U.S.C. 11341]
GRANTS BY THE DIRECTOR.

Not later than 30 days following the date on which appropriations become available to carry out this subtitle, the Director shall award a grant for the full amount that the Congress appropriates for the program under this subtitle to the National Board for the purpose of providing emergency food and shelter to needy individuals through private nonprofit organizations and local governments in accordance with section 313.

Sec. 312. [42 U.S.C. 11342]
RETENTION OF INTEREST EARNED.

Interest accrued on the balance of any grant to the National Board shall be available to the National Board for reallocation, and total administrative costs shall be determined based on total amount of funds available, including interest and any private contributions that are made to the National Board.

Sec. 313. [42 U.S.C. 11343]
PURPOSES OF GRANTS.

(a) ELIGIBLE ACTIVITIES.—Grants to the National Board may be used—

(1) to supplement and expand ongoing efforts to provide shelter, food, and supportive services for homeless individuals with sensitivity to the transition from temporary shelter to permanent homes, and attention to the special needs of homeless individuals with mental and physical disabilities and illnesses, and to facilitate access for homeless individuals to other sources of services and benefits;

(2) to strengthen efforts to create more effective and innovative local programs by providing funding for them; and

(3) to conduct minimum rehabilitation of existing mass shelter or mass feeding facilities, but only to the extent necessary to make facilities safe, sanitary, and bring them into compliance with local building codes.

(b) LIMITATIONS ON ACTIVITIES.—

(1) The National Board may only provide funding provided under this subtitle for—

(A) programs undertaken by private nonprofit organizations and local governments; and

(B) programs that are consistent with the purposes of this title.

(2) The National Board may not carry out programs directly.

Sec. 314. [42 U.S.C. 11344]
LIMITATION ON CERTAIN COSTS.

Not more than 5 percent of the total amount appropriated for the emergency food and shelter program for each fiscal year may be expended for the costs of administration.

Sec. 315. [42 U.S.C. 11345]
DISBURSEMENT OF FUNDS.

Any amount made available by appropriation Acts under this title shall be disbursed by the National Board before the expiration of the 3-month period beginning on the date on which such amount becomes available.

Sec. 316. [42 U.S.C. 11346]
PROGRAM GUIDELINES.

(a) GUIDELINES.—The National Board shall establish written guidelines for carrying out the program under this subtitle, including—

(1) methods for identifying localities with the highest need for emergency food and shelter assistance;

(2) methods for determining the amount and distribution to such localities;

(3) eligible program costs, including maximum flexibility in meeting currently existing needs;

(4) guidelines specifying the responsibilities and reporting requirements of the National Board, its recipients, and service providers;

(5) guidelines requiring each private nonprofit organization and local government carrying out a local emergency food and shelter program with amounts provided under this subtitle, to the maximum extent practicable, to involve homeless individuals and families, through employment, volunteer services, or otherwise, in providing emergency food and shelter and in otherwise carrying out the local program; and

(6) guidelines requiring each private nonprofit organization and local government carrying out a local emergency food and shelter program with amounts provided under this subtitle to provide for the participation of not less than 1 homeless individual or former homeless individual on the board of directors or other equivalent policy making entity of the organization or governmental agency to the extent that such entity considers and makes policies and decisions regarding the local program of the organization or locality; except that such guidelines may grant waivers to applicants unable to meet such requirement if the organization or government agrees to otherwise consult with homeless or formerly homeless individuals in considering and making such policies and decisions.

(b) PUBLICATION.—Guidelines established under subsection (a) shall be published annually, and whenever modified, in the Federal Register. The National Board shall not be subject to the procedural rulemaking requirements of subchapter II of chapter 5 of title 5, United States Code.

Subtitle C—General Provisions

Sec. 321. [42 U.S.C. 11351]
DEFINITIONS.

For purposes of this title:

(1) The term "Director" means the Director of the Federal Emergency Management Agency[397].

(2) The term "emergency shelter" means a facility all or a part of which is used or designed to be used to provide temporary housing.

(3) The term "local government" means a unit of general purpose local government.

(4) The term "locality" means the geographical area within the jurisdiction of a local government.

(5) The term "National Board" means the Emergency Food and Shelter Program National Board.

(6) The term "private nonprofit organization" means an organization—

(A) no part of the net earnings of which inures to the benefit of any member, founder, contributor, or individual;

(B) that has a voluntary board;

(C) that has an accounting system, or has designated a fiscal agent in accordance with requirements established by the Director; and

(D) that practices nondiscrimination in the provision of assistance.

(7) The term "State" means each of the several States, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, Guam, American Samoa, the Northern Mariana Islands, the Trust Territory of the Pacific Islands, and any other territory or possession of the United States.

Sec. 322. [42 U.S.C. 11352]
AUTHORIZATION OF APPROPRIATIONS.

[397] Section 611 of Public Law 111-295 provides for the transfer of duties for this entity under the Department of Homeland Security. Section 612(c) of such Public Law provides: "[a]ny reference to the Director of the Federal Emergency Management Agency, in any law, rule, regulation, certificate, directive, instruction, or other official paper shall be considered to refer and apply to the Administrator of the Federal Emergency Management Agency.".

There are authorized to be appropriated to carry out this title $180,000,000 for fiscal year 1993 and $187,560,000 for fiscal year 1994.

TITLE IV—HOUSING ASSISTANCE[398]

Subtitle A—General Provisions

Sec. 401. [42 U.S.C. 11360]
DEFINITIONS.

For purposes of this title:

(1) AT RISK OF HOMELESSNESS.—The term "at risk of homelessness" means, with respect to an individual or family, that the individual or family—

(A) has income below 30 percent of median income for the geographic area;

(B) has insufficient resources immediately available to attain housing stability; and

(C)(i) has moved frequently because of economic reasons;

(ii) is living in the home of another because of economic hardship;

(iii) has been notified that their right to occupy their current housing or living situation will be terminated;

(iv) lives in a hotel or motel;

(v) lives in severely overcrowded housing;

(vi) is exiting an institution; or

(vii) otherwise lives in housing that has characteristics associated with instability and an increased risk of homelessness.

Such term includes all families with children and youth defined as homeless under other Federal statutes.

(2) CHRONICALLY HOMELESS.—

(A) IN GENERAL.—The term "chronically homeless" means, with respect to an individual or family, that the individual or family—

(i) is homeless and lives or resides in a place not meant for human habitation, a safe haven, or in an emergency shelter;

(ii) has been homeless and living or residing in a place not meant for human habitation, a safe haven, or in an emergency shelter continuously for at least 1 year or on at least 4 separate occasions in the last 3 years; and

(iii) has an adult head of household (or a minor head of household if no adult is present in the household) with a diagnosable substance use disorder, serious mental illness, developmental disability (as defined in section 102 of the Developmental Disabilities Assistance and Bill of Rights Act of 2000 (42 U.S.C. 15002)), post traumatic stress disorder, cognitive impairments resulting from a brain injury, or chronic physical illness or disability, including the co-occurrence of 2 or more of those conditions.

(B) RULE OF CONSTRUCTION.—A person who currently lives or resides in an institutional care facility, including a jail, substance abuse or mental health treatment facility,

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[398] Section 100261 of the Moving Ahead for Progress in the 21st Century Act (MAP 21) (P. L. 112-141) changed the statutory requirements for programs in title IV of the McKinney-Vento Homeless Assistance Act without amending the Act. The section reads:

HEARTH ACT TECHNICAL CORRECTIONS.

For purposes of title IV of the McKinney-Vento Homeless Assistance Act (42 U.S.C. 11360 et seq.)—

(1) the term "local government" includes an instrumentality of a unit of general purpose local government other than a public housing agency that is established pursuant to legislation and designated by the chief executive to act on behalf of the local government with regard to activities funded under such title IV and includes a combination of general purpose local governments, such as an association of governments, that is recognized by the Secretary of Housing and Urban Development;

(2) the term "State" includes any instrumentality of any of the several States designated by the Governor to act on behalf of the State and does not include the District of Columbia;

(3) for purposes of environmental review, the Secretary of Housing and Urban Development shall continue to permit assistance and projects to be treated as assistance for special projects that are subject to section 305(c) of the Multifamily Housing Property Disposition Reform Act of 1994 (42 U.S.C. 3547), and subject to the regulations issued by the Secretary of Housing and Urban Development to implement such section; and

(4) a metropolitan city and an urban county that each receive an allocation under such title IV and are located within a geographic area that is covered by a single continuum of care may jointly request the Secretary of Housing and Urban Development to permit the urban county or the metropolitan city, as agreed to by such county and city, to receive and administer their combined allocations under a single grant.

hospital or other similar facility, and has resided there for fewer than 90 days shall be considered chronically homeless if such person met all of the requirements described in subparagraph (A) prior to entering that facility.

(3) COLLABORATIVE APPLICANT.—The term "collaborative applicant" means an entity that—

(A) carries out the duties specified in section 402;

(B) serves as the applicant for project sponsors who jointly submit a single application for a grant under subtitle C in accordance with a collaborative process; and

(C) if the entity is a legal entity and is awarded such grant, receives such grant directly from the Secretary.

(4) COLLABORATIVE APPLICATION.—The term "collaborative application" means an application for a grant under subtitle C that—

(A) satisfies section 422; and

(B) is submitted to the Secretary by a collaborative applicant.

(5) CONSOLIDATED PLAN.—The term "Consolidated Plan" means a comprehensive housing affordability strategy and community development plan required in part 91 of title 24, Code of Federal Regulations.

(6) ELIGIBLE ENTITY.—The term "eligible entity" means, with respect to a subtitle, a public entity, a private entity, or an entity that is a combination of public and private entities, that is eligible to directly receive grant amounts under such subtitle.

(7) FAMILIES WITH CHILDREN AND YOUTH DEFINED AS HOMELESS UNDER OTHER FEDERAL STATUTES.—The term "families with children and youth defined as homeless under other Federal statutes" means any children or youth that are defined as "homeless" under any Federal statute other than this subtitle, but are not defined as homeless under section 103, and shall also include the parent, parents, or guardian of such children or youth under subtitle B of title VII[399] this Act (42 U.S.C. 11431 et seq.).

(8) GEOGRAPHIC AREA.—The term "geographic area" means a State, metropolitan city, urban county, town, village, or other nonentitlement area, or a combination or consortia of such, in the United States, as described in section 106 of the Housing and Community Development Act of 1974 (42 U.S.C. 5306).

(9) HOMELESS INDIVIDUAL WITH A DISABILITY.—

(A) IN GENERAL.—The term "homeless individual with a disability" means an individual who is homeless, as defined in section 103, and has a disability that—

(i)(I) is expected to be long-continuing or of indefinite duration;

(II) substantially impedes the individual's ability to live independently;

(III) could be improved by the provision of more suitable housing conditions; and

(IV) is a physical, mental, or emotional impairment, including an impairment caused by alcohol or drug abuse, post traumatic stress disorder, or brain injury;

(ii) is a developmental disability, as defined in section 102 of the Developmental Disabilities Assistance and Bill of Rights Act of 2000 (42 U.S.C. 15002); or

(iii) is the disease of acquired immunodeficiency syndrome or any condition arising from the etiologic agency for acquired immunodeficiency syndrome.

(B) RULE.—Nothing in clause (iii) of subparagraph (A) shall be construed to limit eligibility under clause (i) or (ii) of subparagraph (A).

(10) LEGAL ENTITY.—The term "legal entity" means—

(A) an entity described in section 501(c)(3) of the Internal Revenue Code of 1986 (26 U.S.C. 501(c)(3)) and exempt from tax under section 501(a) of such Code;

(B) an instrumentality of State or local government; or

(C) a consortium of instrumentalities of State or local governments that has constituted itself as an entity.

[399] So in law.

(11) METROPOLITAN CITY; URBAN COUNTY; NONENTITLEMENT AREA.—The terms "metropolitan city", "urban county", and "nonentitlement area" have the meanings given such terms in section 102(a) of the Housing and Community Development Act of 1974 (42 U.S.C. 5302(a)).

(12) NEW.—The term "new" means, with respect to housing, that no assistance has been provided under this title for the housing.

(13) OPERATING COSTS.—The term "operating costs" means expenses incurred by a project sponsor operating transitional housing or permanent housing under this title with respect to—

(A) the administration, maintenance, repair, and security of such housing;

(B) utilities, fuel, furnishings, and equipment for such housing; or

(C) coordination of services as needed to ensure long-term housing stability.

(14) OUTPATIENT HEALTH SERVICES.—The term "outpatient health services" means outpatient health care services, mental health services, and outpatient substance abuse services.

(15) PERMANENT HOUSING.—The term "permanent housing" means community-based housing without a designated length of stay, and includes both permanent supportive housing and permanent housing without supportive services.

(16) PERSONALLY IDENTIFYING INFORMATION.—The term "personally identifying information" means individually identifying information for or about an individual, including information likely to disclose the location of a victim of domestic violence, dating violence, sexual assault, or stalking, including—

(A) a first and last name;

(B) a home or other physical address;

(C) contact information (including a postal, e-mail or Internet protocol address, or telephone or facsimile number);

(D) a social security number; and

(E) any other information, including date of birth, racial or ethnic background, or religious affiliation, that, in combination with any other non-personally identifying information, would serve to identify any individual.

(17) PRIVATE NONPROFIT ORGANIZATION.—The term "private nonprofit organization" means an organization—

(A) no part of the net earnings of which inures to the benefit of any member, founder, contributor, or individual;

(B) that has a voluntary board;

(C) that has an accounting system, or has designated a fiscal agent in accordance with requirements established by the Secretary; and

(D) that practices nondiscrimination in the provision of assistance.

(18) PROJECT.—The term "project" means, with respect to activities carried out under subtitle C, eligible activities described in section 423(a), undertaken pursuant to a specific endeavor, such as serving a particular population or providing a particular resource.

(19) PROJECT-BASED.—The term "project-based" means, with respect to rental assistance, that the assistance is provided pursuant to a contract that—

(A) is between—

(i) the recipient or a project sponsor; and

(ii) an owner of a structure that exists as of the date the contract is entered into; and

(B) provides that rental assistance payments shall be made to the owner and that the units in the structure shall be occupied by eligible persons for not less than the term of the contract.

(20) PROJECT SPONSOR.—The term "project sponsor" means, with respect to proposed eligible activities, the organization directly responsible for carrying out the proposed eligible activities.

(21) RECIPIENT.—Except as used in subtitle B, the term "recipient" means an eligible entity who—

(A) submits an application for a grant under section 422 that is approved by the Secretary;

(B) receives the grant directly from the Secretary to support approved projects described in the application; and

(C)(i) serves as a project sponsor for the projects; or

(ii) awards the funds to project sponsors to carry out the projects.

(22) SECRETARY.—The term "Secretary" means the Secretary of Housing and Urban Development.

(23) SERIOUS MENTAL ILLNESS.—The term "serious mental illness" means a severe and persistent mental illness or emotional impairment that seriously limits a person's ability to live independently.

(24) SOLO APPLICANT.—The term "solo applicant" means an entity that is an eligible entity, directly submits an application for a grant under subtitle C to the Secretary, and, if awarded such grant, receives such grant directly from the Secretary.

(25) SPONSOR-BASED.—The term "sponsor-based" means, with respect to rental assistance, that the assistance is provided pursuant to a contract that—

(A) is between—

(i) the recipient or a project sponsor; and

(ii) an independent entity that—

(I) is a private organization; and

(II) owns or leases dwelling units; and

(B) provides that rental assistance payments shall be made to the independent entity and that eligible persons shall occupy such assisted units.

(26) STATE.—Except as used in subtitle B, the term "State" means each of the several States, the District of Columbia, the Commonwealth of Puerto Rico, the United States Virgin Islands, Guam, American Samoa, the Commonwealth of the Northern Mariana Islands, the Trust Territory of the Pacific Islands, and any other territory or possession of the United States.

(27) SUPPORTIVE SERVICES.—The term "supportive services" means services that address the special needs of people served by a project, including—

(A) the establishment and operation of a child care services program for families experiencing homelessness;

(B) the establishment and operation of an employment assistance program, including providing job training;

(C) the provision of outpatient health services, food, and case management;

(D) the provision of assistance in obtaining permanent housing, employment counseling, and nutritional counseling;

(E) the provision of outreach services, advocacy, life skills training, and housing search and counseling services;

(F) the provision of mental health services, trauma counseling, and victim services;

(G) the provision of assistance in obtaining other Federal, State, and local assistance available for residents of supportive housing (including mental health benefits, employment counseling, and medical assistance, but not including major medical equipment);

(H) the provision of legal services for purposes including requesting reconsiderations and appeals of veterans and public benefit claim denials and resolving outstanding warrants that interfere with an individual's ability to obtain and retain housing;

(I) the provision of—

(i) transportation services that facilitate an individual's ability to obtain and maintain employment; and

(ii) health care; and

(J) other supportive services necessary to obtain and maintain housing.

(28) TENANT-BASED.—The term "tenant-based" means, with respect to rental assistance, assistance that—

(A) allows an eligible person to select a housing unit in which such person will live using rental assistance provided under subtitle C, except that if necessary to assure that the provision of supportive services to a person participating in a program is feasible, a recipient or project sponsor may require that the person live—

(i) in a particular structure or unit for not more than the first year of the participation;

(ii) within a particular geographic area for the full period of the participation, or the period remaining after the period referred to in subparagraph (A); and

(B) provides that a person may receive such assistance and move to another structure, unit, or geographic area if the person has complied with all other obligations of the program and

has moved out of the assisted dwelling unit in order to protect the health or safety of an individual who is or has been the victim of domestic violence, dating violence, sexual assault, or stalking, and who reasonably believed he or she was imminently threatened by harm from further violence if he or she remained in the assisted dwelling unit.

(29) TRANSITIONAL HOUSING.—The term "transitional housing" means housing the purpose of which is to facilitate the movement of individuals and families experiencing homelessness to permanent housing within 24 months or such longer period as the Secretary determines necessary.

(30) UNIFIED FUNDING AGENCY.—The term "unified funding agency" means a collaborative applicant that performs the duties described in section 402(g).

(31) UNDERSERVED POPULATIONS.—The term "underserved populations" includes populations underserved because of geographic location, underserved racial and ethnic populations, populations underserved because of special needs (such as language barriers, disabilities, alienage status, or age), and any other population determined to be underserved by the Secretary, as appropriate.

(32) VICTIM SERVICE PROVIDER.—The term "victim service provider" means a private nonprofit organization whose primary mission is to provide services to victims of domestic violence, dating violence, sexual assault, or stalking. Such term includes rape crisis centers, battered women's shelters, domestic violence transitional housing programs, and other programs.

(33) VICTIM SERVICES.—The term "victim services" means services that assist domestic violence, dating violence, sexual assault, or stalking victims, including services offered by rape crisis centers and domestic violence shelters, and other organizations, with a documented history of effective work concerning domestic violence, dating violence, sexual assault, or stalking.

Sec. 402. [42 U.S.C. 11360a]
COLLABORATIVE APPLICANTS.

(a) ESTABLISHMENT AND DESIGNATION.—A collaborative applicant shall be established for a geographic area by the relevant parties in that geographic area to—

(1) submit an application for amounts under this subtitle; and

(2) perform the duties specified in subsection (f) and, if applicable, subsection (g).

(b) NO REQUIREMENT TO BE A LEGAL ENTITY.—An entity may be established to serve as a collaborative applicant under this section without being a legal entity.

(c) REMEDIAL ACTION.—If the Secretary finds that a collaborative applicant for a geographic area does not meet the requirements of this section, or if there is no collaborative applicant for a geographic area, the Secretary may take remedial action to ensure fair distribution of grant amounts under subtitle C to eligible entities within that area. Such measures may include designating another body as a collaborative applicant, or permitting other eligible entities to apply directly for grants.

(d) CONSTRUCTION.—Nothing in this section shall be construed to displace conflict of interest or government fair practices laws, or their equivalent, that govern applicants for grant amounts under subtitles B and C.

(e) APPOINTMENT OF AGENT.—

(1) IN GENERAL.—Subject to paragraph (2), a collaborative applicant may designate an agent to—

(A) apply for a grant under section 422(c);

(B) receive and distribute grant funds awarded under subtitle C; and

(C) perform other administrative duties.

(2) RETENTION OF DUTIES.—Any collaborative applicant that designates an agent pursuant to paragraph (1) shall regardless of such designation retain all of its duties and responsibilities under this title.

(f) DUTIES.—A collaborative applicant shall—

(1) design a collaborative process for the development of an application under subtitle C, and for evaluating the outcomes of projects for which funds are awarded under subtitle B, in such a manner as to provide information necessary for the Secretary—

(A) to determine compliance with—

(i) the program requirements under section 426; and

(ii) the selection criteria described under section 427; and

(B) to establish priorities for funding projects in the geographic area involved;

(2) participate in the Consolidated Plan for the geographic area served by the collaborative applicant; and

(3) ensure operation of, and consistent participation by, project sponsors in a community-wide homeless management information system (in this subsection referred to as "HMIS") that—

(A) collects unduplicated counts of individuals and families experiencing homelessness;

(B) analyzes patterns of use of assistance provided under subtitles B and C for the geographic area involved;

(C) provides information to project sponsors and applicants for needs analyses and funding priorities; and

(D) is developed in accordance with standards established by the Secretary, including standards that provide for—

(i) encryption of data collected for purposes of HMIS;

(ii) documentation, including keeping an accurate accounting, proper usage, and disclosure, of HMIS data;

(iii) access to HMIS data by staff, contractors, law enforcement, and academic researchers;

(iv) rights of persons receiving services under this title;

(v) criminal and civil penalties for unlawful disclosure of data; and

(vi) such other standards as may be determined necessary by the Secretary.

(g) UNIFIED FUNDING.—

(1) IN GENERAL.—In addition to the duties described in subsection (f), a collaborative applicant shall receive from the Secretary and distribute to other project sponsors in the applicable geographic area funds for projects to be carried out by such other project sponsors, if—

(A) the collaborative applicant—

(i) applies to undertake such collection and distribution responsibilities in an application submitted under this subtitle; and

(ii) is selected to perform such responsibilities by the Secretary; or

(B) the Secretary designates the collaborative applicant as the unified funding agency in the geographic area, after—

(i) a finding by the Secretary that the applicant—

(I) has the capacity to perform such responsibilities; and

(II) would serve the purposes of this Act as they apply to the geographic area; and

(ii) the Secretary provides the collaborative applicant with the technical assistance necessary to perform such responsibilities as such assistance is agreed to by the collaborative applicant.

(2) REQUIRED ACTIONS BY A UNIFIED FUNDING AGENCY.—A collaborative applicant that is either selected or designated as a unified funding agency for a geographic area under paragraph (1) shall—

(A) require each project sponsor who is funded by a grant received under subtitle C to establish such fiscal control and fund accounting procedures as may be necessary to assure the proper disbursal of, and accounting for, Federal funds awarded to the project sponsor under subtitle C in order to ensure that all financial transactions carried out under subtitle C are conducted, and records maintained, in accordance with generally accepted accounting principles; and

(B) arrange for an annual survey, audit, or evaluation of the financial records of each project carried out by a project sponsor funded by a grant received under subtitle C.

(h) CONFLICT OF INTEREST.—No board member of a collaborative applicant may participate in decisions of the collaborative applicant concerning the award of a grant, or provision of other financial benefits, to such member or the organization that such member represents.

Sec. 403. [42 U.S.C. 11361]
HOUSING AFFORDABILITY STRATEGY.

Assistance may be made under this title only if the grantee certifies that it is following—

(1) a consolidated plan which has been approved by the Secretary in accordance with section 105 of the Cranston-Gonzalez National Affordable Housing Act (referred to in such section as a "comprehensive housing affordability strategy"), or

(2) a comprehensive homeless assistance plan which was approved by the Secretary during the 180-day period beginning on the date of enactment of the Cranston-Gonzalez National Affordable Housing Act, or during such longer period as may be prescribed by the Secretary in any case for good cause.

Sec. 404. [42 U.S.C. 11361a]
PREVENTING INVOLUNTARY FAMILY SEPARATION.

(a) IN GENERAL.—After the expiration of the 2-year period that begins upon the date of the enactment of the Homeless Emergency Assistance and Rapid Transition to Housing Act of 2009, and except as provided in subsection (b), any project sponsor receiving funds under this title to provide emergency shelter, transitional housing, or permanent housing to families with children under age 18 shall not deny admission to any family based on the age of any child under age 18.

(b) EXCEPTION.—Notwithstanding the requirement under subsection (a), project sponsors of transitional housing receiving funds under this title may target transitional housing resources to families with children of a specific age only if the project sponsor—

(1) operates a transitional housing program that has a primary purpose of implementing an evidence-based practice that requires that housing units be targeted to families with children in a specific age group; and

(2) provides such assurances, as the Secretary shall require, that an equivalent appropriate alternative living arrangement for the whole family or household unit has been secured.

Sec. 405. [42 U.S.C. 11361b]
TECHNICAL ASSISTANCE.

(a) IN GENERAL.—The Secretary shall make available technical assistance to private nonprofit organizations and other nongovernmental entities, States, metropolitan cities, urban counties, and counties that are not urban counties, to implement effective planning processes for preventing and ending homelessness, to improve their capacity to prepare collaborative applications, to prevent the separation of families in emergency shelter or other housing programs, and to adopt and provide best practices in housing and services for persons experiencing homeless.

(b) RESERVATION.—The Secretary shall reserve not more than 1 percent of the funds made available for any fiscal year for carrying out subtitles B and C, to provide technical assistance under subsection (a).

Sec. 406. [42 U.S.C. 11362]
DISCHARGE COORDINATION POLICY.

The Secretary may not provide a grant under this title for any governmental entity serving as an applicant unless the applicant agrees to develop and implement, to the maximum extent practicable and where appropriate, policies and protocols for the discharge of persons from publicly funded institutions or systems of care (such as health care facilities, foster care or other youth facilities, or correction programs and institutions) in order to prevent such discharge from immediately resulting in homelessness for such persons.

Sec. 407. [42 U.S.C. 11363]
PROTECTION OF PERSONALLY IDENTIFYING INFORMATION BY VICTIM SERVICE PROVIDERS.

In the course of awarding grants or implementing programs under this title, the Secretary shall instruct any victim service provider that is a recipient or subgrantee not to disclose for purposes of the Homeless Management Information System any personally identifying information about any client. The Secretary may, after public notice and comment, require or ask such recipients and subgrantees to disclose for purposes of the Homeless Management Information System non-personally identifying information that has been de-identified, encrypted, or otherwise encoded. Nothing in this section shall be construed to supersede any provision of any Federal, State, or local law that provides greater protection than this subsection for victims of domestic violence, dating violence, sexual assault, or stalking.

Sec. 408. [42 U.S.C. 11364]
AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated to carry out this title $2,200,000,000 for fiscal year 2010 and such sums as may be necessary for fiscal year 2011.

Subtitle B—Emergency Solutions Grants Program

Sec. 411. [42 U.S.C. 11371]
DEFINITIONS.
For purposes of this subtitle:

(1) The term "local government" means a unit of general purpose local government.

(2) The term "locality" means the geographical area within the jurisdiction of a local government.

(3) The term "metropolitan city" has the meaning given such term in section 102 of the Housing and Community Development Act of 1974.

(4) The term "operating costs" means expenses incurred by a recipient operating a facility assisted under this subtitle with respect to—

(A) the administration, maintenance, repair, and security of such housing; and

(B) utilities, fuels, furnishings, and equipment for such housing.

(5) The term "private nonprofit organization" means a secular or religious organization described in section 501(c) of the Internal Revenue Code of 1986 that is exempt from taxation under subtitle A of such Code, has an accounting system and a voluntary board, and practices nondiscrimination in the provision of assistance.

(6) The term "recipient" means any governmental or private nonprofit entity that is approved by the Secretary as to financial responsibility.

(7) The term "Secretary" means the Secretary of Housing and Urban Development.

(8) The term "State" means each of the several States, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, Guam, American Samoa, the Northern Mariana Islands, the Trust Territory of the Pacific Islands, and any other territory or possession of the United States.

(9) The term "urban county" has the meaning given such term in section 102 of the Housing and Community Development Act of 1974.

[(10) [Repealed.]]

Sec. 412. [42 U.S.C. 11372]
GRANT ASSISTANCE.

The Secretary shall make grants to States and local governments (and to private nonprofit organizations providing assistance to persons experiencing homelessness or at risk of homelessness, in the case of grants made with reallocated amounts) for the purpose of carrying out activities described in section 415.

Sec. 413. [42 U.S.C. 11372a]
AMOUNT AND ALLOCATION OF ASSISTANCE.

(a) IN GENERAL.—Of the amount made available to carry out this subtitle and subtitle C for a fiscal year, the Secretary shall allocate nationally 20 percent of such amount for activities described in section 415. The Secretary shall be required to certify that such allocation will not adversely affect the renewal of existing projects under this subtitle and subtitle C for those individuals or families who are homeless.

(b) ALLOCATION.—An entity that receives a grant under section 412, and serves an area that includes 1 or more geographic areas (or portions of such areas) served by collaborative applicants that submit applications under subtitle C, shall allocate the funds made available through the grant to carry out activities described in section 415, in consultation with the collaborative applicants.

Sec. 414. [42 U.S.C. 11373]
ALLOCATION AND DISTRIBUTION OF ASSISTANCE.

(a) IN GENERAL.—The Secretary shall allocate assistance under this subtitle to metropolitan cities, urban counties, and States (for distribution to local governments and private nonprofit organizations in the States) in a manner that ensures that the percentage of the total amount available under this subtitle for any fiscal year that is allocated to any State, metropolitan city, or urban county is equal to the percentage of the total amount available for section 106 of the Housing and Community Development Act of 1974 for such prior fiscal year that is allocated to such State, metropolitan city, or urban county.

(b) MINIMUM ALLOCATION REQUIREMENT.—If, under the allocation provisions applicable under this subtitle, any metropolitan city or urban county would receive a grant of less than 0.05 percent of the amounts appropriated under section 408 and made available to carry out this subtitle for any fiscal year, such amount shall

instead be reallocated to the State, except that any city that is located in a State that does not have counties as local governments, that has a population greater than 40,000 but less than 50,000 as used in determining the fiscal year 1987 community development block grant program allocation, and that was allocated in excess of $1,000,000 in community development block grant funds in fiscal year 1987, shall receive directly the amount allocated to such city under subsection (a).

(c) DISTRIBUTIONS TO NONPROFIT ORGANIZATIONS, PUBLIC HOUSING AGENCIES, AND LOCATION REDEVELOPMENT AUTHORITIES.—Any local government receiving assistance under this subtitle may distribute all or a portion of such assistance to private nonprofit organizations providing assistance to homeless individuals, to public housing agencies (as defined under section 3(b)(6) of the United States Housing Act of 1937), or to local redevelopment authorities (as defined under State law). Any State receiving assistance under this subtitle may distribute all or a portion of such assistance to private nonprofit organizations providing assistance to homeless individuals, if the local government for the locality in which the project is located certifies that it approves of the project.

(d) REALLOCATION OF FUNDS.—

(1) The Secretary shall, not less than once during each fiscal year, reallocate any assistance provided under this subtitle that is unused or returned or that becomes available under subsection (b).

(2) If a city or county eligible for a grant under subsection (a) fails to obtain approval of its comprehensive plan during the 90-day period following the date funds authorized by this subtitle first become available for allocation during any fiscal year, the amount that the city or county would have received shall be available to the State in which the city or county is located if the State has obtained approval of its comprehensive plan. Any amounts that cannot be allocated to a State under the preceding sentence shall be reallocated to other States, counties, and cities that demonstrate extraordinary need or large numbers of homeless individuals, as determined by the Secretary.

(3)[400] If a State or Indian tribe fails to obtain approval of its comprehensive plan during the 90-day period following the date funds authorized by this subtitle first become available for allocation during any fiscal year, the amount that the State or Indian tribe would have received shall be reallocated to other States and to cities and counties as applicable, that demonstrate extraordinary need or large numbers of homeless individuals, as determined by the Secretary.

(e) ALLOCATIONS TO TERRITORIES.—In addition to the other allocations required in this section, the Secretary shall (for amounts appropriated after the date of enactment of this Act) allocate assistance under this subtitle to the Virgin Islands, Guam, American Samoa, the Northern Mariana Islands, the Trust Territory of the Pacific Islands, and any other territory or possession of the United States, in accordance with an allocation formula established by the Secretary.

Sec. 415. [42 U.S.C. 11374]
ELIGIBLE ACTIVITIES.

(a) IN GENERAL.—Assistance provided under section 412 may be used for the following activities:

(1) The renovation, major rehabilitation, or conversion of buildings to be used as emergency shelters.

(2) The provision of essential services related to emergency shelter or street outreach, including services concerned with employment, health, education, family support services for homeless youth, substance abuse services, victim services, or mental health services, if—

(A) such essential services have not been provided by the local government during any part of the immediately preceding 12-month period or the Secretary determines that the local government is in a severe financial deficit; or

(B) the use of assistance under this subtitle would complement the provision of those essential services.

(3) Maintenance, operation, insurance, provision of utilities, and provision of furnishings related to emergency shelter.

(4) Provision of rental assistance to provide short-term or medium-term housing to homeless individuals or families or individuals or families at risk of homelessness. Such rental assistance may include tenant-based or project-based rental assistance.

[400] Section 506(a)(3)(C)(i) of the Native American Housing Assistance and Self-Determination Act of 1996, Pub. L. 104-330, 110 Stat. 4044, provides that this paragraph is amended "by striking `, or Indian tribe' each place it appears". Because the matter to be struck does not appear in this paragraph, the amendment could not be executed. Under section 107 of such Act (110 Stat. 4030; 25 U.S.C. 4101 note), the amendments were to take effect on October 1, 1997.

(5) Housing relocation or stabilization services for homeless individuals or families or individuals or families at risk of homelessness, including housing search, mediation or outreach to property owners, legal services, credit repair, providing security or utility deposits, utility payments, rental assistance for a final month at a location, assistance with moving costs, or other activities that are effective at—

(A) stabilizing individuals and families in their current housing; or

(B) quickly moving such individuals and families to other permanent housing.

(b) MAXIMUM ALLOCATION FOR EMERGENCY SHELTER ACTIVITIES.—A grantee of assistance provided under section 412 for any fiscal year may not use an amount of such assistance for activities described in paragraphs (1) through (3) of subsection (a) that exceeds the greater of—

(1) 60 percent of the aggregate amount of such assistance provided for the grantee for such fiscal year; or

(2) the amount expended by such grantee for such activities during[401] fiscal year most recently completed before the effective date under section 1503 of the Homeless Emergency Assistance and Rapid Transition to Housing Act of 2009.

Sec. 416. [42 U.S.C. 11375]
RESPONSIBILITIES OF RECIPIENTS.

(a) MATCHING AMOUNTS.—

(1) Except as provided in paragraph (2), each recipient under this subtitle shall be required to supplement the assistance provided under this subtitle with an equal amount of funds from sources other than this subtitle. Each recipient shall certify to the Secretary its compliance with this paragraph, and shall include with such certification a description of the sources and amounts of such supplemental funds.

(2) Each recipient under this subtitle that is a State shall be required to supplement the assistance provided under this subtitle with an amount of funds from sources other than this subtitle equal to the difference between the amount received under this subtitle and $100,000. If the amount received by the State is $100,000 or less, the State may not be required to supplement the assistance provided under this subtitle.

(3) In calculating the amount of supplemental funds provided by a recipient under this subtitle, a recipient may include the value of any donated material or building, the value of any lease on a building, any salary paid to staff to carry out the program of the recipient, and the value of the time and services contributed by volunteers to carry out the program of the recipient at a rate determined by the Secretary.

(b) ADMINISTRATION OF ASSISTANCE.—Each recipient shall act as the fiscal agent of the Secretary with respect to assistance provided to such recipient.

(c) CERTIFICATIONS ON USE OF ASSISTANCE.—Each recipient shall certify to the Secretary that—

(1) it will—

(A) in the case of assistance involving major rehabilitation or conversion, maintain any building for which assistance is used under this subtitle as a shelter for homeless individuals and families for not less than a 10-year period;

(B) in the case of assistance involving rehabilitation (other than major rehabilitation or conversion), maintain any building for which assistance is used under this subtitle as a shelter for homeless individuals and families for not less than a 3-year period; or

(C) in the case of assistance involving solely activities described in paragraphs (2) and (3) of section 414(a), provide services or shelter to homeless individuals and families for the period during which such assistance is provided, without regard to a particular site or structure as long as the same general population is served;

(2) any renovation carried out with assistance under this subtitle shall be sufficient to ensure that the building involved is safe and sanitary;

(3) it will assist homeless individuals in obtaining—

(A) appropriate supportive services, including permanent housing, medical and mental health treatment, counseling, supervision, and other services essential for achieving independent living; and

(B) other Federal, State, local, and private assistance available for such individuals;

(4) in the case of a recipient that is a State, it will obtain any matching amounts required under subsection (a) in a manner so that local governments, agencies, and local non-profit organizations receiving

[401] So in law.

assistance from the grant that are least capable of providing the recipient State with such matching amounts receive the benefit of the $100,000 subtrahend under subsection (a)(2);

(5) it will develop and implement procedures to ensure the confidentiality of records pertaining to any individual provided family violence prevention or treatment services under any project assisted under this subtitle and that the address or location of any family violence shelter project assisted under this subtitle will, except with written authorization of the person or persons responsible for the operation of such shelter, not be made public;

(6) activities undertaken by the recipient with assistance under this subtitle are consistent with any housing strategy submitted by the grantee in accordance with section 105 of the Cranston-Gonzalez National Affordable Housing Act; and

(7) to the maximum extent practicable, it will involve, through employment, volunteer services, or otherwise, homeless individuals and families in constructing, renovating, maintaining, and operating facilities assisted under this subtitle, in providing services assisted under this subtitle, and in providing services for occupants of facilities assisted under this subtitle.

(d) PARTICIPATION OF HOMELESS INDIVIDUALS.—The Secretary shall, by regulation, require each recipient that is not a State to provide for the participation of not less than 1 homeless individual or former homeless individual on the board of directors or other equivalent policymaking entity of such recipient, to the extent that such entity considers and makes policies and decisions regarding any facility, services, or other assistance of the recipient assisted under this subtitle. The Secretary may grant waivers to recipients unable to meet the requirement under the preceding sentence if the recipient agrees to otherwise consult with homeless or formerly homeless individuals in considering and making such policies and decisions.

(e) TERMINATION OF ASSISTANCE.—If an individual or family who receives assistance under this subtitle from a recipient violates program requirements, the recipient may terminate assistance in accordance with a formal process established by the recipient that recognizes the rights of individuals affected, which may include a hearing.

(f) PARTICIPATION IN HMIS.—The Secretary shall ensure that recipients of funds under this subtitle ensure the consistent participation by emergency shelters and homelessness prevention and rehousing programs in any applicable community-wide homeless management information system.

Sec. 417. [42 U.S.C. 11376]
ADMINISTRATIVE PROVISIONS.

(a) REGULATIONS.—Not later than 60 days after the date of enactment of this Act,[402] the Secretary shall by notice establish such requirements as may be necessary to carry out the provisions of this subtitle. Such requirements shall be subject to section 553 of title 5, United States Code. The Secretary shall issue requirements based on the initial notice before the expiration of the 12-month period following the date of enactment of this Act. Prior to the issuance of such requirements in final form, the requirements established by the Secretary implementing the provisions of the emergency shelter grants program under the provisions made effective by section 101(g) of Public Law 99-500 or Public Law 99-591 shall govern the emergency shelter grants program under this subtitle.

(b) INITIAL ALLOCATION OF ASSISTANCE.—Not later than the expiration of the 60-day period following the date of enactment of a law providing appropriations to carry out this subtitle, the Secretary shall notify each State, metropolitan city, and urban county that is to receive a direct grant of its allocation of assistance under this subtitle. Such assistance shall be allocated and may be used notwithstanding any failure of the Secretary to issue requirements under subsection (a).

(c) MINIMUM STANDARDS OF HABITABILITY.—The Secretary shall prescribe such minimum standards of habitability as the Secretary determines to be appropriate to ensure that emergency shelters assisted under this section are environments that provide appropriate privacy, safety, and sanitary and other health-related conditions for homeless persons and families. Grantees are authorized to establish standards of habitability in addition to those prescribed by the Secretary.

Sec. 418. [42 U.S.C. 11378]
ADMINISTRATIVE COSTS.

A recipient may use up to 7.5 percent of any annual grant received under this subtitle for administrative purposes. A recipient State shall share the amount available for administrative purposes pursuant to the preceding sentence with local governments funded by the State.

[402] The date of enactment was July 22, 1987.

Subtitle C—Continuum of Care Program

Sec. 421. [42 U.S.C. 11381]
PURPOSES.

The purposes of this subtitle are—

(1) to promote community-wide commitment to the goal of ending homelessness;

(2) to provide funding for efforts by nonprofit providers and State and local governments to quickly rehouse homeless individuals and families while minimizing the trauma and dislocation caused to individuals, families, and communities by homelessness;

(3) to promote access to, and effective utilization of, mainstream programs described in section 203(a)(7) and programs funded with State or local resources; and

(4) to optimize self-sufficiency among individuals and families experiencing homelessness.

Sec. 422. [42 U.S.C. 11382]
CONTINUUM OF CARE APPLICATIONS AND GRANTS.

(a) PROJECTS.—The Secretary shall award grants, on a competitive basis, and using the selection criteria described in section 427, to carry out eligible activities under this subtitle for projects that meet the program requirements under section 426, either by directly awarding funds to project sponsors or by awarding funds to unified funding agencies.

(b) NOTIFICATION OF FUNDING AVAILABILITY.—The Secretary shall release a notification of funding availability for grants awarded under this subtitle for a fiscal year not later than 3 months after the date of the enactment of the appropriate Act making appropriations for the Department of Housing and Urban Development for such fiscal year.

(c) APPLICATIONS.—

(1) SUBMISSION TO THE SECRETARY.—To be eligible to receive a grant under subsection (a), a project sponsor or unified funding agency in a geographic area shall submit an application to the Secretary at such time and in such manner as the Secretary may require, and containing such information as the Secretary determines necessary—

(A) to determine compliance with the program requirements and selection criteria under this subtitle; and

(B) to establish priorities for funding projects in the geographic area.

(2) ANNOUNCEMENT OF AWARDS.—

(A) IN GENERAL.—Except as provided in subparagraph (B), the Secretary shall announce, within 5 months after the last date for the submission of applications described in this subsection for a fiscal year, the grants conditionally awarded under subsection (a) for that fiscal year.

(B) TRANSITION.—For a period of up to 2 years beginning after the effective date under section 1503 of the Homeless Emergency Assistance and Rapid Transition to Housing Act of 2009, the Secretary shall announce, within 6 months after the last date for the submission of applications described in this subsection for a fiscal year, the grants conditionally awarded under subsection (a) for that fiscal year.

(d) OBLIGATION, DISTRIBUTION, AND UTILIZATION OF FUNDS.—

(1) REQUIREMENTS FOR OBLIGATION.—

(A) IN GENERAL.—Not later than 9 months after the announcement referred to in subsection (c)(2), each recipient or project sponsor shall meet all requirements for the obligation of those funds, including site control, matching funds, and environmental review requirements, except as provided in subparagraphs (B) and (C).

(B) ACQUISITION, REHABILITATION, OR CONSTRUCTION.—Not later than 24 months after the announcement referred to in subsection (c)(2), each recipient or project sponsor seeking the obligation of funds for acquisition of housing, rehabilitation of housing, or construction of new housing for a grant announced under subsection (c)(2) shall meet all requirements for the obligation of those funds, including site control, matching funds, and environmental review requirements.

(C) EXTENSIONS.—At the discretion of the Secretary, and in compelling circumstances, the Secretary may extend the date by which a recipient or project sponsor shall meet the requirements described in subparagraphs (A) and (B) if the Secretary determines that compliance with the requirements was delayed due to factors beyond the reasonable control of the recipient or project sponsor. Such factors may include difficulties in obtaining site control for a proposed project, completing the process of obtaining secure financing for the project, obtaining approvals from State or local governments, or completing the technical submission requirements for the project.

(2) OBLIGATION.—Not later than 45 days after a recipient or project sponsor meets the requirements described in paragraph (1), the Secretary shall obligate the funds for the grant involved.

(3) DISTRIBUTION.—A recipient that receives funds through such a grant—

(A) shall distribute the funds to project sponsors (in advance of expenditures by the project sponsors); and

(B) shall distribute the appropriate portion of the funds to a project sponsor not later than 45 days after receiving a request for such distribution from the project sponsor.

(4) EXPENDITURE OF FUNDS.—The Secretary may establish a date by which funds made available through a grant announced under subsection (c)(2) for a homeless assistance project shall be entirely expended by the recipient or project sponsors involved. The date established under this paragraph shall not occur before the expiration of the 24-month period beginning on the date that funds are obligated for activities described under paragraphs[403] (1) or (2) of section 423(a). The Secretary shall recapture the funds not expended by such date. The Secretary shall reallocate the funds for another homeless assistance and prevention project that meets the requirements of this subtitle to be carried out, if possible and appropriate, in the same geographic area as the area served through the original grant.

(e) RENEWAL FUNDING FOR UNSUCCESSFUL APPLICANTS.—The Secretary may renew funding for a specific project previously funded under this subtitle that the Secretary determines meets the purposes of this subtitle, and was included as part of a total application that met the criteria of subsection (c), even if the application was not selected to receive grant assistance. The Secretary may renew the funding for a period of not more than 1 year, and under such conditions as the Secretary determines to be appropriate.

(f) CONSIDERATIONS IN DETERMINING RENEWAL FUNDING.—When providing renewal funding for leasing, operating costs, or rental assistance for permanent housing, the Secretary shall make adjustments proportional to increases in the fair market rents in the geographic area.

(g) MORE THAN 1 APPLICATION FOR A GEOGRAPHIC AREA.—If more than 1 collaborative applicant applies for funds for a geographic area, the Secretary shall award funds to the collaborative applicant with the highest score based on the selection criteria set forth in section 427.

(h) APPEALS.—

(1) IN GENERAL.—The Secretary shall establish a timely appeal procedure for grant amounts awarded or denied under this subtitle pursuant to a collaborative application or solo application for funding.

(2) PROCESS.—The Secretary shall ensure that the procedure permits appeals submitted by entities carrying out homeless housing and services projects (including emergency shelters and homelessness prevention programs), and all other applicants under this subtitle.

(i) SOLO APPLICANTS.—A solo applicant may submit an application to the Secretary for a grant under subsection (a) and be awarded such grant on the same basis as such grants are awarded to other applicants based on the criteria described in section 427, but only if the Secretary determines that the solo applicant has attempted to participate in the continuum of care process but was not permitted to participate in a reasonable manner. The Secretary may award such grants directly to such applicants in a manner determined to be appropriate by the Secretary.

(j) FLEXIBILITY TO SERVE PERSONS DEFINED AS HOMELESS UNDER OTHER FEDERAL LAWS.—

(1) IN GENERAL.—A collaborative applicant may use not more than 10 percent of funds awarded under this subtitle (continuum of care funding) for any of the types of eligible activities specified in paragraphs (1) through (7) of section 423(a) to serve families with children and youth defined as homeless under other Federal statutes, or homeless families with children and youth defined as homeless under section 103(a)(6), but only if the applicant demonstrates that the use of such funds is of an equal or

[403] So in law.

greater priority or is equally or more cost effective in meeting the overall goals and objectives of the plan submitted under section 427(b)(1)(B), especially with respect to children and unaccompanied youth.

(2) LIMITATIONS.—The 10 percent limitation under paragraph (1) shall not apply to collaborative applicants in which the rate of homelessness, as calculated in the most recent point in time count, is less than one-tenth of 1 percent of total population.

(3) TREATMENT OF CERTAIN POPULATIONS.—

(A) IN GENERAL.—Notwithstanding section 103(a) and subject to subparagraph (B), funds awarded under this subtitle may be used for eligible activities to serve unaccompanied youth and homeless families and children defined as homeless under section 103(a)(6) only pursuant to paragraph (1) of this subsection and such families and children shall not otherwise be considered as homeless for purposes of this subtitle.

(B) At risk of homelessness.—Subparagraph (A) may not be construed to prevent any unaccompanied youth and homeless families and children defined as homeless under section 103(a)(6) from qualifying for, and being treated for purposes of this subtitle as, at risk of homelessness or from eligibility for any projects, activities, or services carried out using amounts provided under this subtitle for which individuals or families that are at risk of homelessness are eligible.

Sec. 423. [42 U.S.C. 11383]
ELIGIBLE ACTIVITIES.

(a) IN GENERAL.—Grants awarded under section 422 to qualified applicants shall be used to carry out projects that serve homeless individuals or families that consist of one or more of the following eligible activities:

(1) Construction of new housing units to provide transitional or permanent housing.

(2) Acquisition or rehabilitation of a structure to provide transitional or permanent housing, other than emergency shelter, or to provide supportive services.

(3) Leasing of property, or portions of property, not owned by the recipient or project sponsor involved, for use in providing transitional or permanent housing, or providing supportive services.

(4) Provision of rental assistance to provide transitional or permanent housing to eligible persons. The rental assistance may include tenant-based, project-based, or sponsor-based rental assistance. Project-based rental assistance, sponsor-based rental assistance, and operating cost assistance contracts carried out by project sponsors receiving grants under this section may, at the discretion of the applicant and the project sponsor, have an initial term of 15 years, with assistance for the first 5 years paid with funds authorized for appropriation under this Act, and assistance for the remainder of the term treated as a renewal of an expiring contract as provided in section 429. Project-based rental assistance may include rental assistance to preserve existing permanent supportive housing for homeless individuals and families.

(5) Payment of operating costs for housing units assisted under this subtitle or for the preservation of housing that will serve homeless individuals and families and for which another form of assistance is expiring or otherwise no longer available.

(6) Supportive services for individuals and families who are currently homeless, who have been homeless in the prior six months but are currently residing in permanent housing, or who were previously homeless and are currently residing in permanent supportive housing.

(7) Provision of rehousing services, including housing search, mediation or outreach to property owners, credit repair, providing security or utility deposits, rental assistance for a final month at a location, assistance with moving costs, or other activities that—

(A) are effective at moving homeless individuals and families immediately into housing; or

(B) may benefit individuals and families who in the prior 6 months have been homeless, but are currently residing in permanent housing.

(8) In the case of a collaborative applicant that is a legal entity, performance of the duties described under section 402(f)(3).

(9) Operation of, participation in, and ensuring consistent participation by project sponsors in, a community-wide homeless management information system.

(10) In the case of a collaborative applicant that is a legal entity, payment of administrative costs related to meeting the requirements described in paragraphs (1) and (2) of section 402(f), for which the collaborative applicant may use not more than 3 percent of the total funds made available in the geographic area under this subtitle for such costs.

(11) In the case of a collaborative applicant that is a unified funding agency under section 402(g), payment of administrative costs related to meeting the requirements of that section, for which the unified funding agency may use not more than 3 percent of the total funds made available in the geographic area under this subtitle for such costs, in addition to funds used under paragraph (10).

(12) Payment of administrative costs to project sponsors, for which each project sponsor may use not more than 10 percent of the total funds made available to that project sponsor through this subtitle for such costs.

(b) MINIMUM GRANT TERMS.—The Secretary may impose minimum grant terms of up to 5 years for new projects providing permanent housing.

(c) USE RESTRICTIONS.—

(1) ACQUISITION, REHABILITATION, AND NEW CONSTRUCTION.—A project that consists of activities described in paragraph (1) or (2) of subsection (a) shall be operated for the purpose specified in the application submitted for the project under section 422 for not less than 15 years.

(2) OTHER ACTIVITIES.—A project that consists of activities described in any of paragraphs (3) through (12) of subsection (a) shall be operated for the purpose specified in the application submitted for the project under section 422 for the duration of the grant period involved.

(3) CONVERSION.—If the recipient or project sponsor carrying out a project that provides transitional or permanent housing submits a request to the Secretary to carry out instead a project for the direct benefit of low-income persons, and the Secretary determines that the initial project is no longer needed to provide transitional or permanent housing, the Secretary may approve the project described in the request and authorize the recipient or project sponsor to carry out that project.

(d) REPAYMENT OF ASSISTANCE AND PREVENTION OF UNDUE BENEFITS.—

(1) REPAYMENT.—If a recipient or project sponsor receives assistance under section 422 to carry out a project that consists of activities described in paragraph (1) or (2) of subsection (a) and the project ceases to provide transitional or permanent housing—

(A) earlier than 10 years after operation of the project begins, the Secretary shall require the recipient or project sponsor to repay 100 percent of the assistance; or

(B) not earlier than 10 years, but earlier than 15 years, after operation of the project begins, the Secretary shall require the recipient or project sponsor to repay 20 percent of the assistance for each of the years in the 15-year period for which the project fails to provide that housing.

(2) PREVENTION OF UNDUE BENEFITS.—Except as provided in paragraph (3), if any property is used for a project that receives assistance under subsection (a) and consists of activities described in paragraph (1) or (2) of subsection (a), and the sale or other disposition of the property occurs before the expiration of the 15-year period beginning on the date that operation of the project begins, the recipient or project sponsor who received the assistance shall comply with such terms and conditions as the Secretary may prescribe to prevent the recipient or project sponsor from unduly benefitting from such sale or disposition.

(3) EXCEPTION.—A recipient or project sponsor shall not be required to make the repayments, and comply with the terms and conditions, required under paragraph (1) or (2) if—

(A) the sale or disposition of the property used for the project results in the use of the property for the direct benefit of very low-income persons;

(B) all of the proceeds of the sale or disposition are used to provide transitional or permanent housing meeting the requirements of this subtitle;

(C) project-based rental assistance or operating cost assistance from any Federal program or an equivalent State or local program is no longer made available and the project is meeting applicable performance standards, provided that the portion of the project that had benefitted from such assistance continues to meet the tenant income and rent restrictions for low-income units under section 42(g) of the Internal Revenue Code of 1986; or

(D) there are no individuals and families in the geographic area who are homeless, in which case the project may serve individuals and families at risk of homelessness.

(e) STAFF TRAINING.—The Secretary may allow reasonable costs associated with staff training to be included as part of the activities described in subsection (a).

(f) ELIGIBILITY FOR PERMANENT HOUSING.—Any project that receives assistance under subsection (a) and that provides project-based or sponsor-based permanent housing for homeless individuals or families with a disability, including projects that meet the requirements of subsection (a) and subsection (d)(2)(A) of section 428

may also serve individuals who had previously met the requirements for such project prior to moving into a different permanent housing project.

(g) ADMINISTRATION OF RENTAL ASSISTANCE.—Provision of permanent housing rental assistance shall be administered by a State, unit of general local government, private nonprofit organization, or public housing agency.

Sec. 424. [42 U.S.C. 11384]
INCENTIVES FOR HIGH-PERFORMING COMMUNITIES.

(a) DESIGNATION AS A HIGH-PERFORMING COMMUNITY.—

(1) IN GENERAL.—The Secretary shall designate, on an annual basis, which collaborative applicants represent high-performing communities.

(2) CONSIDERATION.—In determining whether to designate a collaborative applicant as a high-performing community under paragraph (1), the Secretary shall establish criteria to ensure that the requirements described under paragraphs (1)(B) and (2)(B) of subsection (d) are measured by comparing homeless individuals and families under similar circumstances, in order to encourage projects in the geographic area to serve homeless individuals and families with more severe barriers to housing stability.

(3) 2-YEAR PHASE IN.—In each of the first 2 years after the effective date under section 1503 of the Homeless Emergency Assistance and Rapid Transition to Housing Act of 2009, the Secretary shall designate not more than 10 collaborative applicants as high-performing communities.

(4) EXCESS OF QUALIFIED APPLICANTS.—If, during the 2-year period described under paragraph (2), more than 10 collaborative applicants could qualify to be designated as high-performing communities, the Secretary shall designate the 10 that have, in the discretion of the Secretary, the best performance based on the criteria described under subsection (d).

(5) TIME LIMIT ON DESIGNATION.—The designation of any collaborative applicant as a high-performing community under this subsection shall be effective only for the year in which such designation is made. The Secretary, on an annual basis, may renew any such designation.

(b) APPLICATION.—

(1) IN GENERAL.—A collaborative applicant seeking designation as a high-performing community under subsection (a) shall submit an application to the Secretary at such time, and in such manner as the Secretary may require.

(2) CONTENT OF APPLICATION.—In any application submitted under paragraph (1), a collaborative applicant shall include in such application—

(A) a report showing how any money received under this subtitle in the preceding year was expended; and

(B) information that such applicant can meet the requirements described under subsection (d).

(3) PUBLICATION OF APPLICATION.—The Secretary shall—

(A) publish any report or information submitted in an application under this section in the geographic area represented by the collaborative applicant; and

(B) seek comments from the public as to whether the collaborative applicant seeking designation as a high-performing community meets the requirements described under subsection (d).

(c) USE OF FUNDS.—Funds awarded under section 422(a) to a project sponsor who is located in a high-performing community may be used—

(1) for any of the eligible activities described in section 423; or

(2) for any of the eligible activities described in paragraphs (4) and (5) of section 415(a).

(d) DEFINITION OF HIGH-PERFORMING COMMUNITY.—For purposes of this section, the term "high-performing community" means a geographic area that demonstrates through reliable data that all five of the following requirements are met for that geographic area:

(1) TERM OF HOMELESSNESS.—The mean length of episodes of homelessness for that geographic area—

(A) is less than 20 days; or

(B) for individuals and families in similar circumstances in the preceding year was at least 10 percent less than in the year before.

(2) FAMILIES LEAVING HOMELESSNESS.—Of individuals and families—

(A) who leave homelessness, fewer than 5 percent of such individuals and families become homeless again at any time within the next 2 years; or

(B) in similar circumstances who leave homelessness, the percentage of such individuals and families who become homeless again within the next 2 years has decreased by at least 20 percent from the preceding year.

(3) COMMUNITY ACTION.—The communities that compose the geographic area have—

(A) actively encouraged homeless individuals and families to participate in homeless assistance services available in that geographic area; and

(B) included each homeless individual or family who sought homeless assistance services in the data system used by that community for determining compliance with this subsection.

(4) EFFECTIVENESS OF PREVIOUS ACTIVITIES.—If recipients in the geographic area have used funding awarded under section 422(a) for eligible activities described under section 415(a) in previous years based on the authority granted under subsection (c), that such activities were effective at reducing the number of individuals and families who became homeless in that community.

(5) FLEXIBILITY TO SERVE PERSONS DEFINED AS HOMELESS UNDER OTHER FEDERAL LAWS.—With respect to collaborative applicants exercising the authority under section 422(j) to serve homeless families with children and youth defined as homeless under other Federal statutes, effectiveness in achieving the goals and outcomes identified in subsection 427(b)(1)(F) according to such standards as the Secretary shall promulgate.

(e) COOPERATION AMONG ENTITIES.—A collaborative applicant designated as a high-performing community under this section shall cooperate with the Secretary in distributing information about successful efforts within the geographic area represented by the collaborative applicant to reduce homelessness.

Sec. 425. [42 U.S.C. 11385]
SUPPORTIVE SERVICES.

(a) IN GENERAL.—To the extent practicable, each project shall provide supportive services for residents of the project and homeless persons using the project, which may be designed by the recipient or participants.

(b) REQUIREMENTS.—Supportive services provided in connection with a project shall address the special needs of individuals (such as homeless persons with disabilities and homeless families with children) intended to be served by a project.

(c) SERVICES.—Supportive services may include such activities as (A) establishing and operating a child care services program for homeless families, (B) establishing and operating an employment assistance program, (C) providing outpatient health services, food, and case management, (D) providing assistance in obtaining permanent housing, employment counseling, and nutritional counseling, (E) providing security arrangements necessary for the protection of residents of supportive housing and for homeless persons using the housing or project, (F) providing assistance in obtaining other Federal, State, and local assistance available for such residents (including mental health benefits, employment counseling, and medical assistance, but not including major medical equipment), and (G) providing other appropriate services.

(d) PROVISION OF SERVICES.—Services provided pursuant to this section may be provided directly by the recipient or by contract with other public or private service providers. Such services may be provided to homeless individuals who do not reside in supportive housing.

(e) COORDINATION WITH SECRETARY OF HEALTH AND HUMAN SERVICES.—

(1) APPROVAL.—Promptly upon receipt of any application for assistance under this subtitle that includes the provision of outpatient health services, the Secretary of Housing and Urban Development shall consult with the Secretary of Health and Human Services with respect to the proposed outpatient health services. If, within 45 days of such consultation, the Secretary of Health and Human Services determines that the proposal for delivery of the outpatient health services does not meet guidelines for determining the appropriateness of such proposed services, the Secretary of Housing and Urban Development may require resubmission of the application, and the Secretary of Housing and Urban Development may not approve such portion of the application unless and until such portion has been resubmitted in a form that the Secretary of Health and Human Services determines meets such guidelines.

(2) GUIDELINES.—The Secretary of Housing and Urban Development and the Secretary of Health and Human Services shall jointly establish guidelines for determining the appropriateness of proposed outpatient health services under this section. Such guidelines shall include any provisions necessary to enable the Secretary of Housing and Urban Development to meet the time limits under this subtitle for the final selection of applications for assistance.

Sec. 426. [42 U.S.C. 11386]
PROGRAM REQUIREMENTS.

(a) SITE CONTROL.—The Secretary shall require that each application include reasonable assurances that the applicant will own or have control of a site for the proposed project not later than the expiration of the 12-month period beginning upon notification of an award for grant assistance, unless the application proposes providing supportive housing assistance under section 423(a)(3) or housing that will eventually be owned or controlled by the families and individuals served. An applicant may obtain ownership or control of a suitable site different from the site specified in the application. If any recipient or project sponsor fails to obtain ownership or control of the site within 12 months after notification of an award for grant assistance, the grant shall be recaptured and reallocated under this subtitle.

(b) REQUIRED AGREEMENTS.—The Secretary may not provide assistance for a proposed project under this subtitle unless the collaborative applicant involved agrees—

(1) to ensure the operation of the project in accordance with the provisions of this subtitle;

(2) to monitor and report to the Secretary the progress of the project;

(3) to ensure, to the maximum extent practicable, that individuals and families experiencing homelessness are involved, through employment, provision of volunteer services, or otherwise, in constructing, rehabilitating, maintaining, and operating facilities for the project and in providing supportive services for the project;

(4) to require certification from all project sponsors that—

(A) they will maintain the confidentiality of records pertaining to any individual or family provided family violence prevention or treatment services through the project;

(B) that the address or location of any family violence shelter project assisted under this subtitle will not be made public, except with written authorization of the person responsible for the operation of such project;

(C) they will establish policies and practices that are consistent with, and do not restrict the exercise of rights provided by, subtitle B of title VII, and other laws relating to the provision of educational and related services to individuals and families experiencing homelessness;

(D) in the case of programs that provide housing or services to families, they will designate a staff person to be responsible for ensuring that children being served in the program are enrolled in school and connected to appropriate services in the community, including early childhood programs such as Head Start, part C of the Individuals with Disabilities Education Act, and programs authorized under subtitle B of title VII of this Act (42 U.S.C. 11431 et seq.); and

(E) they will provide data and reports as required by the Secretary pursuant to the Act;

(5) if a collaborative applicant is a unified funding agency under section 402(g) and receives funds under subtitle C to carry out the payment of administrative costs described in section 423(a)(11), to establish such fiscal control and fund accounting procedures as may be necessary to assure the proper disbursal of, and accounting for, such funds in order to ensure that all financial transactions carried out with such funds are conducted, and records maintained, in accordance with generally accepted accounting principles;

(6) to monitor and report to the Secretary the provision of matching funds as required by section 430;

(7) to take the educational needs of children into account when families are placed in emergency or transitional shelter and will, to the maximum extent practicable, place families with children as close as possible to their school of origin so as not to disrupt such children's education; and

(8) to comply with such other terms and conditions as the Secretary may establish to carry out this subtitle in an effective and efficient manner.

(c) OCCUPANCY CHARGE.—Each homeless individual or family residing in a project providing supportive housing may be required to pay an occupancy charge in an amount determined by the recipient or project sponsor providing the project, which may not exceed the amount determined under section 3(a) of the United States Housing Act of 1937. Occupancy charges paid may be reserved, in whole or in part, to assist residents in moving to permanent housing.

(d) FLOOD PROTECTION STANDARDS.—Flood protection standards applicable to housing acquired, rehabilitated, constructed, or assisted under this subtitle shall be no more restrictive than the standards applicable under Executive Order No. 11988 (May 24, 1977) to the other programs under this title.

(e) PARTICIPATION OF HOMELESS INDIVIDUALS.—The Secretary shall, by regulation, require each recipient or project sponsor to provide for the participation of not less than 1 homeless individual or former homeless individual on the board of directors or other equivalent policymaking entity of the recipient or project sponsor, to the extent that such entity considers and makes policies and decisions regarding any project, supportive services, or assistance provided under this subtitle. The Secretary may grant waivers to applicants unable to meet the requirement under the preceding sentence if the applicant agrees to otherwise consult with homeless or formerly homeless individuals in considering and making such policies and decisions.

(f) LIMITATION ON USE OF FUNDS.—No assistance received under this subtitle (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 homeless persons.

(g) TERMINATION OF ASSISTANCE.—If an individual or family who receives assistance under this subtitle (not including residents of an emergency shelter) from a recipient violates program requirements, the recipient may terminate assistance in accordance with a formal process established by the recipient that recognizes the rights of individuals receiving such assistance to due process of law, which may include a hearing.

Sec. 427. [42 U.S.C. 11386a]
SELECTION CRITERIA.

(a) IN GENERAL.—The Secretary shall award funds to recipients through a national competition between geographic areas based on criteria established by the Secretary.

(b) REQUIRED CRITERIA.—

(1) IN GENERAL.—The criteria established under subsection (a) shall include—

(A) the previous performance of the recipient regarding homelessness, including performance related to funds provided under section 412 (except that recipients applying from geographic areas where no funds have been awarded under this subtitle, or under subtitles C, D, E, or F of title IV of this Act, as in effect prior to the date of the enactment of the Homeless Emergency Assistance and Rapid Transition to Housing Act of 2009, shall receive full credit for performance under this subparagraph), measured by criteria that shall be announced by the Secretary, that shall take into account barriers faced by individual homeless people, and that shall include—

(i) the length of time individuals and families remain homeless;

(ii) the extent to which individuals and families who leave homelessness experience additional spells of homelessness;

(iii) the thoroughness of grantees in the geographic area in reaching homeless individuals and families;

(iv) overall reduction in the number of homeless individuals and families;

(v) jobs and income growth for homeless individuals and families;

(vi) success at reducing the number of individuals and families who become homeless;

(vii) other accomplishments by the recipient related to reducing homelessness; and

(viii) for collaborative applicants that have exercised the authority under section 422(j) to serve families with children and youth defined as homeless under other Federal statutes, success in achieving the goals and outcomes identified in section 427(b)(1)(F);

(B) the plan of the recipient, which shall describe—

(i) how the number of individuals and families who become homeless will be reduced in the community;

(ii) how the length of time that individuals and families remain homeless will be reduced;

(iii) how the recipient will collaborate with local education authorities to assist in the identification of individuals and families who become or remain homeless and are informed of their eligibility for services under subtitle B of title VII of this Act (42 U.S.C. 11431 et seq.);

(iv) the extent to which the recipient will—

(I) address the needs of all relevant subpopulations;

(II) incorporate comprehensive strategies for reducing homelessness, including the interventions referred to in section 428(d);

(III) set quantifiable performance measures;

(IV) set timelines for completion of specific tasks;

(V) identify specific funding sources for planned activities; and

(VI) identify an individual or body responsible for overseeing implementation of specific strategies; and

(v) whether the recipient proposes to exercise authority to use funds under section 422(j), and if so, how the recipient will achieve the goals and outcomes identified in section 427(b)(1)(F);

(C) the methodology of the recipient used to determine the priority for funding local projects under section 422(c)(1), including the extent to which the priority-setting process—

(i) uses periodically collected information and analysis to determine the extent to which each project has resulted in rapid return to permanent housing for those served by the project, taking into account the severity of barriers faced by the people the project serves;

(ii) considers the full range of opinions from individuals or entities with knowledge of homelessness in the geographic area or an interest in preventing or ending homelessness in the geographic area;

(iii) is based on objective criteria that have been publicly announced by the recipient; and

(iv) is open to proposals from entities that have not previously received funds under this subtitle;

(D) the extent to which the amount of assistance to be provided under this subtitle to the recipient will be supplemented with resources from other public and private sources, including mainstream programs identified by the Government Accountability Office in the two reports described in section 203(a)(7);

(E) demonstrated coordination by the recipient with the other Federal, State, local, private, and other entities serving individuals and families experiencing homelessness and at risk of homelessness in the planning and operation of projects;

(F) for collaborative applicants exercising the authority under section 422(j) to serve homeless families with children and youth defined as homeless under other Federal statutes, program goals and outcomes, which shall include—

(i) preventing homelessness among the subset of such families with children and youth who are at highest risk of becoming homeless, as such term is defined for purposes of this title; or

(ii) achieving independent living in permanent housing among such families with children and youth, especially those who have a history of doubled-up and other temporary housing situations or are living in a temporary housing situation due to lack of available and appropriate emergency shelter, through the provision of eligible assistance that directly contributes to achieving such results including assistance to address chronic disabilities, chronic physical health or mental health conditions, substance addiction, histories of domestic violence or childhood abuse, or multiple barriers to employment; and

(G) such other factors as the Secretary determines to be appropriate to carry out this subtitle in an effective and efficient manner.

(2) ADDITIONAL CRITERIA.—In addition to the criteria required under paragraph (1), the criteria established under paragraph (1) shall also include the need within the geographic area for homeless services, determined as follows and under the following conditions:

(A) NOTICE.—The Secretary shall inform each collaborative applicant, at a time concurrent with the release of the notice of funding availability for the grants, of the pro rata estimated grant amount under this subtitle for the geographic area represented by the collaborative applicant.

(B) AMOUNT.—

(i) FORMULA.—Such estimated grant amounts shall be determined by a formula, which shall be developed by the Secretary, by regulation, not later than the expiration of the 2-year period beginning upon the date of the enactment of the Homeless

Emergency Assistance and Rapid Transition to Housing Act of 2009[404], that is based upon factors that are appropriate to allocate funds to meet the goals and objectives of this subtitle.

(ii) COMBINATIONS OR CONSORTIA.—For a collaborative applicant that represents a combination or consortium of cities or counties, the estimated need amount shall be the sum of the estimated need amounts for the cities or counties represented by the collaborative applicant.

(iii) AUTHORITY OF SECRETARY.—Subject to the availability of appropriations, the Secretary shall increase the estimated need amount for a geographic area if necessary to provide 1 year of renewal funding for all expiring contracts entered into under this subtitle for the geographic area.

(3) HOMELESSNESS COUNTS.—The Secretary shall not require that communities conduct an actual count of homeless people other than those described in paragraphs (1) through (4) of section 103(a) of this Act (42 U.S.C. 11302(a)).

(c) ADJUSTMENTS.—The Secretary may adjust the formula described in subsection (b)(2) as necessary—

(1) to ensure that each collaborative applicant has sufficient funding to renew all qualified projects for at least one year; and

(2) to ensure that collaborative applicants are not discouraged from replacing renewal projects with new projects that the collaborative applicant determines will better be able to meet the purposes of this Act.

Sec. 428. [42 U.S.C. 11386b]
ALLOCATION OF AMOUNTS AND INCENTIVES FOR SPECIFIC ELIGIBLE ACTIVITIES.

(a) MINIMUM ALLOCATION FOR PERMANENT HOUSING FOR HOMELESS INDIVIDUALS AND FAMILIES WITH DISABILITIES.—

(1) IN GENERAL.—From the amounts made available to carry out this subtitle for a fiscal year, a portion equal to not less than 30 percent of the sums made available to carry out subtitle B and this subtitle, shall be used for permanent housing for homeless individuals with disabilities and homeless families that include such an individual who is an adult or a minor head of household if no adult is present in the household.

(2) CALCULATION.—In calculating the portion of the amount described in paragraph (1) that is used for activities that are described in paragraph (1), the Secretary shall not count funds made available to renew contracts for existing projects under section 429.

(3) ADJUSTMENT.—The 30 percent figure in paragraph (1) shall be reduced proportionately based on need under section 427(b)(2) in geographic areas for which subsection (e) applies in regard to subsection (d)(2)(A).

(4) SUSPENSION.—The requirement established in paragraph (1) shall be suspended for any year in which funding available for grants under this subtitle after making the allocation established in paragraph (1) would not be sufficient to renew for 1 year all existing grants that would otherwise be fully funded under this subtitle.

(5) TERMINATION.—The requirement established in paragraph (1) shall terminate upon a finding by the Secretary that since the beginning of 2001 at least 150,000 new units of permanent housing for homeless individuals and families with disabilities have been funded under this subtitle.

(b) SET-ASIDE FOR PERMANENT HOUSING FOR HOMELESS FAMILIES WITH CHILDREN.—From the amounts made available to carry out this subtitle for a fiscal year, a portion equal to not less than 10 percent of the sums made available to carry out subtitle B and this subtitle for that fiscal year shall be used to provide or secure permanent housing for homeless families with children.

(c) TREATMENT OF AMOUNTS FOR PERMANENT OR TRANSITIONAL HOUSING.—Nothing in this Act may be construed to establish a limit on the amount of funding that an applicant may request under this subtitle for acquisition, construction, or rehabilitation activities for the development of permanent housing or transitional housing.

(d) INCENTIVES FOR PROVEN STRATEGIES.—

(1) IN GENERAL.—The Secretary shall provide bonuses or other incentives to geographic areas for using funding under this subtitle for activities that have been proven to be effective at reducing

[404] The enactment date is May 20, 2009.

homelessness generally, reducing homelessness for a specific subpopulation, or achieving homeless prevention and independent living goals as set forth in section 427(b)(1)(F).

(2) RULE OF CONSTRUCTION.—For purposes of this subsection, activities that have been proven to be effective at reducing homelessness generally or reducing homelessness for a specific subpopulation includes—

(A) permanent supportive housing for chronically homeless individuals and families;

(B) for homeless families, rapid rehousing services, short-term flexible subsidies to overcome barriers to rehousing, support services concentrating on improving incomes to pay rent, coupled with performance measures emphasizing rapid and permanent rehousing and with leveraging funding from mainstream family service systems such as Temporary Assistance for Needy Families and Child Welfare services; and

(C) any other activity determined by the Secretary, based on research and after notice and comment to the public, to have been proven effective at reducing homelessness generally, reducing homelessness for a specific subpopulation, or achieving homeless prevention and independent living goals as set forth in section 427(b)(1)(F).

(3) BALANCE OF INCENTIVES FOR PROVEN STRATEGIES.—To the extent practicable, in providing bonuses or incentives for proven strategies, the Secretary shall seek to maintain a balance among strategies targeting homeless individuals, families, and other subpopulations. The Secretary shall not implement bonuses or incentives that specifically discourage collaborative applicants from exercising their flexibility to serve families with children and youth defined as homeless under other Federal statutes.

(e) INCENTIVES FOR SUCCESSFUL IMPLEMENTATION OF PROVEN STRATEGIES.—If any geographic area demonstrates that it has fully implemented any of the activities described in subsection (d) for all homeless individuals and families or for all members of subpopulations for whom such activities are targeted, that geographic area shall receive the bonus or incentive provided under subsection (d), but may use such bonus or incentive for any eligible activity under either section 423 or paragraphs (4) and (5) of section 415(a) for homeless people generally or for the relevant subpopulation.

Sec. 429. [42 U.S.C. 11386c]
RENEWAL FUNDING AND TERMS OF ASSISTANCE FOR PERMANENT HOUSING.

(a) IN GENERAL.—Renewal of expiring contracts for leasing, rental assistance, or operating costs for permanent housing contracts may be funded either—

(1) under the appropriations account for this title; or

(2) the section 8 project-based rental assistance account.

(b) RENEWALS.—The sums made available under subsection (a) shall be available for the renewal of contracts in the case of tenant-based assistance, successive 1-year terms, and in the case of project-based assistance, successive terms of up to 15 years at the discretion of the applicant or project sponsor and subject to the availability of annual appropriations, for rental assistance and housing operation costs associated with permanent housing projects funded under this subtitle, or under subtitle C or F (as in effect on the day before the effective date of the Homeless Emergency Assistance and Rapid Transition to Housing Act of 2009). The Secretary shall determine whether to renew a contract for such a permanent housing project on the basis of certification by the collaborative applicant for the geographic area that—

(1) there is a demonstrated need for the project; and

(2) the project complies with program requirements and appropriate standards of housing quality and habitability, as determined by the Secretary.

(c) CONSTRUCTION.—Nothing in this section shall be construed as prohibiting the Secretary from renewing contracts under this subtitle in accordance with criteria set forth in a provision of this subtitle other than this section.

Sec. 430. [42 U.S.C. 11386d]
MATCHING FUNDING.

(a) IN GENERAL.—A collaborative applicant in a geographic area in which funds are awarded under this subtitle shall specify contributions from any source other than a grant awarded under this subtitle, including renewal funding of projects assisted under subtitles C, D, and F of this title as in effect before the effective date under section 1503 of the Homeless Emergency Assistance and Rapid Transition to Housing Act of 2009[405], that shall be made

[405] Sections 1503 and 1504 of title V of division B of Public Law 111-22 read as follows:

available in the geographic area in an amount equal to not less than 25 percent of the funds provided to recipients in the geographic area, except that grants for leasing shall not be subject to any match requirement.

(b) LIMITATIONS ON IN-KIND MATCH.—The cash value of services provided to the residents or clients of a project sponsor by an entity other than the project sponsor may count toward the contributions in subsection (a) only when documented by a memorandum of understanding between the project sponsor and the other entity that such services will be provided.

(c) COUNTABLE ACTIVITIES.—The contributions required under subsection (a) may consist of—

(1) funding for any eligible activity described under section 423; and

(2) subject to subsection (b), in-kind provision of services of any eligible activity described under section 423.

Sec. 431. [42 U.S.C. 11386e]
APPEAL PROCEDURE.

(a) IN GENERAL.—With respect to funding under this subtitle, if certification of consistency with the consolidated plan pursuant to section 403 is withheld from an applicant who has submitted an application for that certification, such applicant may appeal such decision to the Secretary.

(b) PROCEDURE.—The Secretary shall establish a procedure to process the appeals described in subsection (a).

(c) DETERMINATION.—Not later than 45 days after the date of receipt of an appeal described in subsection (a), the Secretary shall determine if certification was unreasonably withheld. If such certification was unreasonably withheld, the Secretary shall review such application and determine if such applicant shall receive funding under this subtitle.

Sec. 432. [42 U.S.C. 11386f]
GEOGRAPHIC AREAS.

(a) REQUIREMENT TO DEFINE.—For purposes of this subtitle, the term ‘geographic area’ shall have such meaning as the Secretary shall by notice provide.

(b) ISSUANCE OF NOTICE.—Not later than the expiration of the 90-day period beginning on the date of the enactment of the Housing Opportunity Through Modernization Act of 2016,[406] the Secretary shall issue a notice setting forth the definition required by subsection (a).

Sec. 433. [42 U.S.C. 11387]
REGULATIONS.

Not later than the expiration of the 90-day period beginning on the date of the enactment of the Housing and Community Development Act of 1992, the Secretary shall issue interim regulations to carry out this subtitle, which shall take effect upon issuance. The Secretary shall issue final regulations to carry out this subtitle after notice and opportunity for public comment regarding the interim regulations, pursuant to the provisions of section 553 of title 5, United States Code (notwithstanding subsections (a)(2), (b)(B), and (d)(3) of such section). The duration of the period for public comment shall not be less than 60 days, and the final regulations shall be issued not later than the expiration of the 60-day period beginning upon the conclusion of the comment period and shall take effect upon issuance.

Sec. 434. [42 U.S.C. 11388]
REPORTS TO CONGRESS.

“SEC. 1503. [42 U.S.C. 11302 note] EFFECTIVE DATE.

“Except as specifically provided otherwise in this division, this division and the amendments made by this division shall take effect on, and shall apply beginning on—

“(1) the expiration of the 18-month period beginning on the date of the enactment of this division, or

“(2) the expiration of the 3-month period beginning upon publication by the Secretary of Housing and Urban Development of final regulations pursuant to section 1504,

whichever occurs first.

“SEC. 1504. [42 U.S.C. 11301 note] REGULATIONS.

“(a) IN GENERAL.—Not later than 12 months after the date of the enactment of this division, the Secretary of Housing and Urban Development shall promulgate regulations governing the operation of the programs that are created or modified by this division.

“(b) EFFECTIVE DATE.—This section shall take effect on the date of the enactment of this division.”

The enactment date is May 20, 2009.

[406] Enacted on July 29, 2016.

The Secretary shall submit a report to the Congress annually, summarizing the activities carried out under this subtitle and setting forth the findings, conclusions, and recommendations of the Secretary as a result of the activities. The report shall be submitted not later than 4 months after the end of each fiscal year (except that, in the case of fiscal year 1993, the report shall be submitted not later than 6 months after the end of the fiscal year).

Subtitle D—Rural Housing Stability Assistance Program

Sec. 491. [42 U.S.C. 11408]
RURAL HOUSING STABILITY GRANT PROGRAM.

(a) ESTABLISHMENT.—The Secretary of Housing and Urban Development shall establish and carry out a rural housing stability grant program. In carrying out the program, the Secretary may award grants to eligible organizations in lieu of grants under subtitle C in order to pay for the Federal share of the cost of—

(1) rehousing or improving the housing situations of individuals and families who are homeless or in the worst housing situations in the geographic area;

(2) stabilizing the housing of individuals and families who are in imminent danger of losing housing; and

(3) improving the ability of the lowest-income residents of the community to afford stable housing.

(b) USE OF FUNDS.—

(1) IN GENERAL.—An eligible organization may use a grant awarded under subsection (a) to provide, in rural areas—

(A) rent, mortgage, or utility assistance after 2 months of nonpayment in order to prevent eviction, foreclosure, or loss of utility service;

(B) security deposits, rent for the first month of residence at a new location, and relocation assistance;

(C) short-term emergency lodging in motels or shelters, either directly or through vouchers;

(D) construction of new housing units to provide transitional or permanent housing to homeless individuals and families and individuals and families at risk of homelessness;

(E) acquisition or rehabilitation of a structure to provide supportive services or to provide transitional or permanent housing, other than emergency shelter, to homeless individuals and families and individuals and families at risk of homelessness;

(F) leasing of property, or portions of property, not owned by the recipient or project sponsor involved, for use in providing transitional or permanent housing to homeless individuals and families and individuals and families at risk of homelessness, or providing supportive services to such homeless and at-risk individuals and families;

(G) provision of rental assistance to provide transitional or permanent housing to homeless individuals and families and individuals and families at risk of homelessness, such rental assistance may include tenant-based or project-based rental assistance;

(H) payment of operating costs for housing units assisted under this title;

(I) rehabilitation and repairs such as insulation, window repair, door repair, roof repair, and repairs that are necessary to make premises habitable;

(J) development of comprehensive and coordinated support services that use and supplement, as needed, community networks of services, including—

(i) outreach services to reach eligible recipients;
(ii) case management;
(iii) housing counseling;
(iv) budgeting;
(v) job training and placement;
(vi) primary health care;
(vii) mental health services;
(viii) substance abuse treatment;
(ix) child care;
(x) transportation;
(xi) emergency food and clothing;

(xii) family violence services;
(xiii) education services;
(xiv) moving services;
(xv) entitlement assistance; and
(xvi) referrals to veterans services and legal services; and

(K) costs associated with making use of Federal inventory property programs to house homeless families, including the program established under title V of the Stewart B. McKinney Homeless Assistance Act[407] and the Single Family Property Disposition Program established pursuant to section 204(g) of the National Housing Act.

(2) CAPACITY BUILDING ACTIVITIES.—Not more than 20 percent of the funds transferred under subsection (l)(1) for a fiscal year may be used by eligible organizations for capacity building activities, including payment of operating costs and staff retention.

(c) AWARD OF GRANTS.—

(1) COMMUNITIES WITH POPULATIONS OF LESS THAN 10,000.—

(A) SET ASIDE.—In awarding grants under subsection (a) for a fiscal year, the Secretary shall make available not less than 50 percent of the funds transferred under subsection (l)(1) for the fiscal year for grants to eligible organizations serving communities that have populations of less than 10,000.

(B) PRIORITY WITHIN SET ASIDE.—In awarding grants in accordance with subparagraph (A), the Secretary shall give priority to eligible organizations serving communities with populations of less than 5,000.

(2) COMMUNITIES WITHOUT SIGNIFICANT FEDERAL ASSISTANCE.—In awarding grants under subsection (a), including grants awarded in accordance with paragraph (1), the Secretary shall give priority to eligible organizations serving communities not currently receiving significant Federal assistance under this Act.

(3) STATE LIMIT.—In awarding grants under subsection (a) for a fiscal year, the Secretary shall not award to eligible organizations within a State an aggregate sum of more than 10 percent of the funds transferred under subsection (l)(1), for the fiscal year.

(d) APPLICATION.—In order to be eligible to receive a grant under subsection (a), an organization shall submit an application to the Secretary at such time, in such manner, and containing such information as the Secretary may require. The application shall include, at a minimum—

(1) a description of the target population and geographic area to be served;

(2) a description of the types of assistance to be provided;

(3) an assurance that the assistance to be provided is closely related to the identified needs of the target population;

(4) a description of the existing assistance available to the target population, including Federal, State, and local programs, and a description of the manner in which the organization will coordinate with and expand existing assistance or provide assistance not available in the immediate area;

(5) an agreement by the organization that the organization will collect data on the projects conducted by the organization, including assistance provided, number and characteristics of persons served, and causes of homelessness for persons served;

(6) a description of how individuals and families who are homeless or who have the lowest incomes in the community will be involved by the organization through employment, volunteer services, and otherwise, in providing, operating, and rehabilitating housing assisted under this section and in providing services assisted under this section and services for occupants of housing assisted under this section;

(7) a description of consultations that took place within the community to ascertain the most important uses for funding under this section, including the involvement of potential beneficiaries of the project; and

(8) a description of the extent and nature of homelessness and of the worst housing situations in the community.

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[407] Public Law 106-400, enacted on October 30, 2000, renamed the Stewart B. McKinney Homeless Assistance Act as the McKinney-Vento Homeless Assistance Act. Section 2 of such Act (42 U.S.C. 11301 note) provides that "[a]ny reference in any law, regulation, document, paper, or other record of the United States to the Stewart B. McKinney Homeless Assistance Act shall be deemed to be a reference to the 'McKinney-Vento Homeless Assistance Act'".

(e) ELIGIBLE ORGANIZATIONS.—Organizations eligible to receive a grant under subsection (a) shall include private nonprofit entities and county and local governments.

(f) MATCHING FUNDING.—

(1) IN GENERAL.—An organization eligible to receive a grant under subsection (a) shall specify matching contributions from any source other than a grant awarded under this subtitle, that shall be made available in the geographic area in an amount equal to not less than 25 percent of the funds provided for the project or activity, except that grants for leasing shall not be subject to any match requirement.

(2) LIMITATIONS ON IN-KIND MATCH.—The cash value of services provided to the beneficiaries or clients of an eligible organization by an entity other than the organization may count toward the contributions in paragraph (1) only when documented by a memorandum of understanding between the organization and the other entity that such services will be provided.

(3) COUNTABLE ACTIVITIES.—The contributions required under paragraph (1) may consist of—

(A) funding for any eligible activity described under subsection (b); and

(B) subject to paragraph (2), in-kind provision of services of any eligible activity described under subsection (b).

(g) SELECTION CRITERIA.—The Secretary shall establish criteria for selecting recipients of grants under subsection (a), including—

(1) the participation of potential beneficiaries of the project in assessing the need for, and importance of, the project in the community;

(2) the degree to which the project addresses the most harmful housing situations present in the community;

(3) the degree of collaboration with others in the community to meet the goals described in subsection (a);

(4) the performance of the organization in improving housing situations, taking account of the severity of barriers of individuals and families served by the organization;

(5) for organizations that have previously received funding under this section, the extent of improvement in homelessness and the worst housing situations in the community since such funding began;

(6) the need for such funds, as determined by the formula established under section 427(b)(2); and

(7) any other relevant criteria as determined by the Secretary.

(h) EVALUATION.—

(1) IN GENERAL.—Not later than 18 months after funding is first made available pursuant to the amendments made by title IV of the Homeless Emergency Assistance and Rapid Transition to Housing Act of 2009, the Secretary shall conduct an evaluation of the program to—

(A) determine the effectiveness of the program in meeting the goals described in subsection (a) in the area served; and

(B) determine the types of assistance needed to meet the goals described in subsection (a) in rural areas.

(2) REPORT.—Not later than 24 months after funding is first made available pursuant to the amendment made by title IV of the Homeless Emergency Assistance and Rapid Transition to Housing Act of 2009, the Secretary shall submit to Congress the evaluation of the program conducted under paragraph (1), including recommendations for any Federal administrative or legislative changes that may be necessary to improve the ability of rural communities to meet the goals described in subsection (a).

(i) TECHNICAL ASSISTANCE.—The Secretary shall provide technical assistance to eligible organizations in developing programs in accordance with this section, and in gaining access to other Federal resources that may be used to assist homeless persons in rural areas. Such assistance may be provided through regional workshops, and may be provided directly or through grants to, or contracts with, nongovernmental entities.

(j) TERMINATION OF ASSISTANCE.—If an individual or family who receives assistance under this section violates requirements of the assistance program provided by the organization receiving a grant under this section, the organization may terminate assistance in accordance with a formal process established by the organization that recognizes the rights of individuals receiving such assistance to due process of law, which may include a hearing.

(k) DEFINITIONS.— For purposes of this section:

(1) PROGRAM.—The term “program” means the rural housing stability grant program established under this section.

(2) RURAL AREA; RURAL COMMUNITY.—The terms "rural area" and "rural community" mean—

(A) any area or community, respectively, no part of which is within an area designated as a standard metropolitan statistical area by the Office of Management and Budget;

(B) any area or community, respectively, that is—

(i) within an area designated as a metropolitan statistical area or considered as part of a metropolitan statistical area; and

(ii) located in a county where at least 75 percent of the population is rural; or

(C) any area or community, respectively, located in a State that has population density of less than 30 persons per square mile (as reported in the most recent decennial census), and of which at least 1.25 percent of the total acreage of such State is under Federal jurisdiction, provided that no metropolitan city (as such term is defined in section 102 of the Housing and Community Development Act of 1974) in such State is the sole beneficiary of the grant amounts awarded under this section.

(3) SECRETARY.—The term "Secretary" means the Secretary of Housing and Urban Development.

(l) PROGRAM FUNDING.—

(1) IN GENERAL.—The Secretary shall determine the total amount of funding attributable under section 427(b)(2) to meet the needs of any geographic area in the Nation that applies for funding under this section. The Secretary shall transfer any amounts determined under this subsection from the Community Homeless Assistance Program and consolidate such transferred amounts for grants under this section, except that the Secretary shall transfer an amount not less than 5 percent of the amount available under subtitle C for grants under this section. Any amounts so transferred and not used for grants under this section due to an insufficient number of applications shall be transferred to be used for grants under subtitle C.

(2) AVAILABILITY.—Any amount paid to a grant recipient for a fiscal year that remains unobligated at the end of the year shall remain available to the recipient for the purposes for which the payment was made for the next fiscal year. The Secretary shall take such action as may be necessary to recover any amount not obligated by the recipient at the end of the second fiscal year, and shall redistribute the amount to another eligible organization.

(m) DETERMINATION OF FUNDING SOURCE.—For any fiscal year, in addition to funds awarded under subtitle B, funds under this title to be used in a city or county shall only be awarded under either subtitle C or subtitle D.

Sec. 592. [42 U.S.C. 11408a][408]

USE OF FMHA INVENTORY FOR TRANSITIONAL HOUSING FOR HOMELESS PERSONS AND FOR TURNKEY HOUSING.

(a) IN GENERAL.—The Secretary of Agriculture (in this section referred to as the "Secretary") shall, on a priority basis, lease or sell program and nonprogram inventory properties held by the Secretary under title V of the Housing Act of 1949—

(1) to provide transitional housing; and

(2) to provide turnkey housing for tenants of such transitional housing and for eligible families.

(b) PRIORITY.—The priority uses of inventory property under this section shall not have a higher priority than—

(1) the disposition of such property by sale to eligible families; or

(2) the disposition of such property by transfer for use as rental housing by eligible families.

(c) TRANSITIONAL HOUSING.—

(1) LEASES AUTHORIZED.—The Secretary shall lease inventory properties to public agencies and nonprofit organizations to provide transitional housing for homeless families and individuals and to provide such agencies the option to provide turnkey housing opportunities for homeless persons and other inadequately housed families.

(2) RENTAL TO ELIGIBLE FAMILIES.—A public agency or nonprofit organization may rent housing leased to it under paragraph (1) to a family for up to 10 years and may, during that period, assist

[408] So in law. Probably intended to be designated as section 492.

the tenant in obtaining a loan and credit assistance under title V of the Housing Act of 1949 to purchase the housing from the Secretary.

(d) LEASE PROCEDURES.—

(1) IDENTIFICATION OF PROPERTY.—Upon receipt by the Secretary of written notification from a public agency or nonprofit organization that it proposes to lease a property for the purpose of providing transitional housing or for the purpose of providing transitional housing and turnkey housing opportunities, the Secretary shall—

(A) withdraw the property from the market for not more than 30 days for the purpose of negotiations under subparagraph (B);

(B) negotiate a lease agreement with the organization or agency; and

(C) if a lease is agreed to, commence the repairs necessary to make the property meet standards for decent, safe, and sanitary housing.

(2) LEASE TERMS.—A lease of inventory property under this section shall—

(A) be for a period of not more than 10 years;

(B) provide for the payment of $1 for the 10-year lease; and

(C) provide the nonprofit organization or public agency—

(i) the right to use the property for transitional housing; and

(ii) the option to arrange for the sale of the property to an eligible purchaser.

(e) PURCHASE PROCEDURES.—

(1) IDENTIFICATION OF PROPERTY.—Upon receipt by the Secretary of written notification from a public agency or nonprofit organization that it proposes to purchase a property for the purpose of providing transitional housing or for the purpose of providing transitional housing and turnkey housing opportunities, the Secretary shall—

(A) withdraw the property from the market for not more than 30 days for the purpose of negotiations under subparagraph (B);

(B) negotiate a purchase agreement with the organization or agency; and

(C) if a purchase agreement is agreed to, commence the repairs necessary to make the property meet standards for decent, safe, and sanitary housing.

(2) PURCHASE TERMS.—A purchase of inventory property under this section shall provide for a purchase price equal to not more than the fair market value of the property minus 10 percent.

(f) EMPLOYMENT OF HOMELESS INDIVIDUALS.—A public agency or nonprofit organization may lease or purchase property under this section only if the agency or organization, to the maximum extent practicable, involves homeless individuals and families, through employment, volunteer services, or otherwise, in maintaining, operating, and renovating any properties leased or acquired under this section and in providing any services for occupants of properties assisted under this section.

(g) PARTICIPATION OF HOMELESS INDIVIDUALS.—

(1) IN GENERAL.—The Secretary shall, by regulation, require each public agency and nonprofit organization leasing or purchasing property under this section to provide for the participation of not less than 1 homeless individual or former homeless individual on the board of directors or other equivalent policy making entity of such agency or organization, to the extent that such organization or applicant considers and makes policies and decisions regarding any property acquired under this section.

(2) WAIVER.—The Secretary may grant a waiver to a public agency or nonprofit organization that is unable to meet the requirement of paragraph (1), if the agency or organization agrees to otherwise consult with homeless or formerly homeless individuals in considering and making such policies and decisions.

(h) BUDGET COMPLIANCE.—The authority provided to the Secretary under this section shall be effective only to the extent approved in advance in appropriations Acts.

TITLE V—IDENTIFICATION AND USE OF SURPLUS FEDERAL PROPERTY

Sec. 501. [42 U.S.C. 11411]
USE OF UNUTILIZED AND UNDERUTILIZED PUBLIC BUILDINGS AND REAL PROPERTY TO ASSIST THE HOMELESS.

(a) IDENTIFICATION OF SUITABLE PROPERTY.—The Secretary of Housing and Urban Development shall, on a quarterly basis, request information from each landholding agency regarding Federal public buildings and other Federal real properties (including fixtures) that are excess property or surplus property or that are described as

unutilized or underutilized in surveys by the heads of landholding agencies under section 202(b)(2) of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 483(b)(2)). No later than 25 days after receiving a request from the Secretary, the head of each landholding agency shall transmit such information to the Secretary. No later than 30 days after receiving such information, the Secretary shall identify which of those buildings and other properties are suitable for use to assist the homeless.

(b) AVAILABILITY OF PROPERTY.—(1) The Secretary shall promptly notify each Federal agency with respect to any property of that agency that the Secretary has identified under subsection (a). No later than 45 days after receipt of such a notice, the head of the appropriate landholding agency shall transmit to the Secretary the agency's response to property identifications contained in such notification, which shall include—

(A) in the case of unutilized or underutilized property—

(i) a statement of intention to determine the property excess to the agency's needs;

(ii) a statement of intention to make the property available for use to assist the homeless; or

(iii) a statement of the reasons (including a full explanation of the need) the property cannot be determined excess to the agency's needs or made available for use to assist the homeless; and

(B) in the case of excess property—

(i) a statement that there is no other compelling Federal need for the property and, therefore, the property will be determined surplus; or

(ii) a statement that there is further and compelling Federal need for the property (including a full explanation of such need) and that, therefore, the property is not presently available for use to assist the homeless.

(2) All properties identified by the Secretary under subsection (a) shall be available for application—

(A) in the case of property other than surplus property, for use to assist the homeless in accordance with the provisions of this section;

(B) in the case of surplus property, for use to assist the homeless either in accordance with this section or as a public health use in accordance with paragraphs (1) and (4) of section 203(k) of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 484(k) (1) and (4)) ; and

(C) in the case of surplus property, the provision of permanent housing with or without supportive services is an eligible use to assist the homeless under this section.

(3) The Secretary shall maintain a written public record of—

(A) the identification of buildings and other properties by the Secretary under this subsection and the reasons for such identifications; and

(B) the responses of landholding agencies to such identifications.

(c) PUBLICATION OF PROPERTIES.—(1)(A) No later than 15 days after the last day of the 45-day period provided for under subsection (b)(1), the Secretary shall publish on the Web site of the Department of Housing and Urban Development or the General Services Administration—

(i) a list of all properties reviewed by the Secretary under subsection (a); and

(ii) a list of all properties that are available under subsection (b)(2) for application for use to assist the homeless.

(B) Each publication of properties shall include a description and the location of each property (including the address and zip code) and the current classification of each property as unutilized, underutilized, excess property, or surplus property.

(C) The Secretary shall make available to the public upon request all information in the possession of the Department of Housing and Urban Development (other than valuation information), regardless of format, about all properties reviewed and not identified as being suitable for use to assist the homeless, including the reasons such properties were not so identified.

(D) The Secretary shall publish separately, on an annual basis, all properties identified as being suitable for use to assist the homeless, but reported to be unavailable, and the reasons such properties were unavailable.

(2)(A) No later than 15 days after the last day of the 45-day period provided for under subsection (b)(1), the Secretary shall transmit a copy of the list of available properties published under paragraph

(1)(A)(ii) to the United States Interagency Council on Homelessness. The Council shall immediately distribute to all State and regional homeless coordinators area-relevant portions of the list.

(B) The Secretary, the Administrator, and the Secretary of Health and Human Services shall make such efforts as are necessary to ensure the widest possible dissemination of the information on such list.

(C) The Secretary shall establish a toll-free number to provide the public with specific information about properties on such list.

(3) The Secretary shall make available to the public upon request all information (other than valuation information) regardless of format in the possession of the Department of Housing and Urban Development about the properties published under paragraph (1)(A), including environmental assessment data. The Secretary shall maintain a current list of agency contacts for making referrals of inquiries for information about specific properties.

(4)(A) On December 31 of each year, the head of each landholding agency shall report to the Secretary the current availability status and the current classification of each property controlled by the agency, that—

(i) was included in a list published in that year by the Secretary under paragraph (1)(A)(ii); and

(ii) remains available for application for use to assist the homeless or has become available for application during that year.

(B) No later than February 15 each year, the Secretary shall publish in the Federal Register a list of all properties reported under subparagraph (A) for the preceding year and the current classification of the properties.

(C) For purposes of subparagraph (A), property shall not be considered to remain available for application for use to assist the homeless after the 60-day holding period provided under subsection (d) if—

(i) an application for or written expression of interest in the property is made under any law for use of the property for any purpose; or

(ii) the Administrator receives a bona fide offer to purchase the property or advertises for the sale of the property by public auction.

(d) HOLDING PERIOD.—(1) Properties published under subsection (c)(1)(A)(ii) as available for application for use to assist the homeless shall not be available for any other purpose for a period of 30 days beginning on the date of such publication.

(2) If written notice of intent to apply for such a property for use to assist the homeless is received by the Secretary of Health and Human Services within the 30-day period described under paragraph (1), such property may not be made available for any other purpose until the date the Secretary of Health and Human Services or other appropriate landholding agency has completed action on the application submitted under subsection (e) with respect to that written notice of intent.

(3) Property that is reviewed by the Secretary under subsection (a) and that is not identified by the Secretary as being suitable for use to assist the homeless may not be made available for any other purpose for 20 days after the determination of unsuitability to allow for review of the determination at the request of the representative of the homeless. The Secretary shall disseminate immediately this information to the regional offices of the Department of Housing and Urban Development and to the United States Interagency Council on Homelessness. If no such review of the determination is requested within the 20-day period, such property will not be included in subsequent publications unless the landholding agency makes changes to the property (e.g. improvements) that may change the unsuitable determination and the Secretary subsequently determines the property is suitable.

(4)(A) Written notice of intent to apply for a property published under subsection (c)(1)(A)(ii) may be filed at any time after the 60-day period described in paragraph (1) has expired. In such case, an application submitted pursuant to the notice may be approved for disposal for use to assist the homeless only if the property remains available for application for use to assist the homeless. If the property remains available, the use to assist the homeless shall be given priority of consideration over other competing disposal opportunities under section 203 of the Federal Property and Administratives Services Act of 1949 (40 U.S.C. 484), except as provided in subsection (f)(3)(A).

(B) Surplus property for which an application has been approved shall be assigned promptly to the Secretary of Health and Human Services for disposition in accordance with and subject to subsection (f).

(e) APPLICATION FOR PROPERTY.—

(1) A representative of the homeless may submit an application to the Secretary of Health and Human Services for any property that is published under subsection (c)(1)(A)(ii) as available for application for use to assist the homeless.

(2)(A) No later than 75 days after the submission of written notice of intent to apply for a property, an applicant shall submit an initial application to the Secretary of Health and Human Services. The Secretary of Health and Human Services shall, with the concurrence of the appropriate landholding agency, grant reasonable extensions.

(B) An initial application shall set forth—

(i) the services that will be offered;

(ii) the need for the services; and

(iii) the experience of the applicant that demonstrates the ability to provide the services.

(3) No later than 10 days after receipt of an initial application, the Secretary of Health and Human Services shall review, make all determinations, and complete all actions on the application. The Secretary of Health and Human Services shall maintain a written public record of all actions taken in response to an application.

(4) If the Secretary of Health and Human Services approves an initial application, the applicant has 45 days in which to provide a final application that sets forth a reasonable plan to finance the approved program.

(5) No later than 15 days after receipt of the final application, the Secretary of Health and Human Services shall review, make a final determination, and complete all actions on the final application. The Secretary of Health and Human Services shall maintain a public record of all actions taken in response to an application.

(f) MAKING PROPERTY AVAILABLE TO REPRESENTATIVES OF THE HOMELESS.—

(1) Subject to the provisions of this subsection, property for which the Secretary of Health and Human Services has approved an application under subsection (e) shall be made promptly available, at the applicant's discretion, by permit or lease, or by deed as a public health use under paragraphs (1) and (4) of section 203(k) of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 484(k) (1) and (4)), to the representative of the homeless that submitted the application.

(2) Unutilized or underutilized property that is the subject of an agency's statement of intention under subsection (b)(1)(A)(ii) shall be made promptly available by the appropriate landholding agency to the approved applicant by lease or permit for a term of not less than 1 year, unless the applicant requests a shorter term.

(3)(A) In disposing of surplus property by deed or lease under section 203 of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 484), the Administrator and the Secretary of Health and Human Services shall give priority of consideration to uses to assist the homeless, unless the Administrator or the Secretary of Health and Human Services determines that a competing request for the property under section 203(k) of such Act is so meritorious and compelling as to outweigh the needs of the homeless.

(B) Whenever the Administrator or the Secretary of Health and Human Services makes a determination under subparagraph (A), the Administrator or the Secretary of Health and Human Services shall transmit to the appropriate committees of the Congress an explanatory statement detailing the need satisfied by conveyance of the surplus property and the reasons for determining that such need was so meritorious and compelling as to outweigh the needs of the homeless.

(4) For any property made available by lease to a representative of the homeless before the date of the enactment of the Stewart B. McKinney Homeless Assistance Amendments Act of 1990, the Secretary of Health and Human Services may, upon written request by the representative, convey such property by deed to the representative in accordance with, and subject to the requirements of, section 203(k) of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 484(k)). The lease term shall not be affected if a deed is not granted.

(g) RECORDS.—The Secretary shall maintain a written public record of—

(1) the reasons for determinations of the Secretary under this section that property is suitable or unsuitable for use to assist the homeless; and

(2) the responses of landholding agencies under subsection (b)(1).

(h) APPLICABILITY TO PROPERTY UNDER BASE CLOSURE PROCESS.—(1) The provisions of this section shall not apply to buildings and property at military installations that are approved for closure under the Defense Base Closure and Realignment Act of 1990 (part A of title XXIX of Public Law 101-510; 10 U.S.C. 2687 note)[409] after the date of the enactment of this subsection.[410]

(2) For provisions relating to the use to assist the homeless of buildings and property located at certain military installations approved for closure under such Act, or under title II of the Defense Authorization Amendments and Base Closure and Realignment Act (Public Law 100-526; 10 U.S.C. 2687 note), before such date, see section 2(e) of[411] Base Closure Community Redevelopment and Homeless Assistance Act of 1994.[412]

(i) DEFINITIONS.—For purposes of this section—

(1) the term "Administrator" means the Administrator of General Services;

(2) each of the terms "excess property" and "surplus property" has the meaning given that term under section 3 of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 472);

(3) the term "landholding agency" means a Federal department or agency with statutory authority to control real property;

(4) the term "representative of the homeless" means a State or local government agency, or private nonprofit organization, which provides services to the homeless; and

(5) the term "Secretary" means the Secretary of Housing and Urban Development, except as otherwise provided.

Sec. 502. [42 U.S.C. 11412]
MAKING SURPLUS PERSONAL PROPERTY AVAILABLE TO NONPROFIT AGENCIES.

(a) ELIGIBILITY.—Section 203(j)(3)(B) of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 484(j)(3)(B)) is amended by inserting "providers of assistance to homeless individuals" after "health centers,".

(b) REQUIREMENT FOR NOTIFICATION.—Within 90 days after the enactment of this Act, the Administrator of General Services shall require each State agency administering a State plan under section 203(j) of the Federal Property and Administrative Services Act of 1949 to make generally available information about surplus personal property which may be used in the provision of food, shelter, or other services to homeless individuals.

(c) COSTS.—Surplus personal property identified pursuant to this section shall be made available to providers of assistance to homeless individuals by a State agency distributing such property at (1) a nominal cost to such organization or (2) at no cost when the Administrator agrees to reimburse the State agency for the costs of care and handling of such property.

* * * * * * *

END OF STATUTE

[409] Provisions from section 2905 of such Act are set forth, post, in this part.
[410] October 25, 1994.
[411] So in law.
[412] Such section is set forth, post, in this part.

USE FOR THE HOMELESS OF PROPERTY AT CLOSED DEFENSE BASES

DEFENSE BASE CLOSURE AND REALIGNMENT ACT OF 1990
[Public Law 101-510; 104 Stat. 1813; 10 U.S.C. 2687 note]

Sec. 2905. [10 U.S.C. 2687 note]
IMPLEMENTATION.

(a) IN GENERAL.— * * *

(b) MANAGEMENT AND DISPOSAL OF PROPERTY.—

(1) The Administrator of General Services shall delegate to the Secretary of Defense, with respect to excess and surplus real property, facilities, and personal property located at a military installation closed or realigned under this part—

(A) the authority of the Administrator to utilize excess property under subchapter II of chapter 5 of title 40, United States Code;

(B) the authority of the Administrator to dispose of surplus property under subchapter III of chapter 5 of title 40, United States Code;

(C) the authority to dispose of surplus property for public airports under sections 47151 through 47153 of title 49, United States Code; and

(D) the authority of the Administrator to determine the availability of excess or surplus real property for wildlife conservation purposes in accordance with the Act of May 19, 1948 (16 U.S.C. 667b).

(2)(A) Subject to subparagraph (B) and paragraphs (3), (4), (5), and (6), the Secretary of Defense shall exercise the authority delegated to the Secretary pursuant to paragraph (1) in accordance with—

(i) all regulations governing the utilization of excess property and the disposal of surplus property under the Federal Property and Administrative Services Act of 1949; and

(ii) all regulations governing the conveyance and disposal of property under section 13(g) of the Surplus Property Act of 1944 (50 U.S.C. App. 1622(g)).

(B) The Secretary may, with the concurrence of the Administrator of General Services—

(i) prescribe general policies and methods for utilizing excess property and disposing of surplus property pursuant to the authority delegated under paragraph (1); and

(ii) issue regulations relating to such policies and methods, which shall supersede the regulations referred to in subparagraph (A) with respect to that authority.

(C) The Secretary of Defense may transfer real property or facilities located at a military installation to be closed or realigned under this part, with or without reimbursement, to a military department or other entity (including a nonappropriated fund instrumentality) within the Department of Defense or the Coast Guard.

(D) Before any action may be taken with respect to the disposal of any surplus real property or facility located at any military installation to be closed or realigned under this part, the Secretary of Defense shall consult with the Governor of the State and the heads of the local governments concerned for the purpose of considering any plan for the use of such property by the local community concerned.

(E) If a military installation to be closed, realigned, or placed in an inactive status under this part includes a road used for public access through, into, or around the installation, the Secretary of Defense shall consult with the Governor of the State and the heads of the local governments concerned for the purpose of considering the continuing availability of the road for public use after the installation is closed, realigned, or placed in an inactive status.

(3)(A) Not later than 6 months after the date of approval of the closure or realignment of a military installation under this part, the Secretary, in consultation with the redevelopment authority with respect to the installation, shall—

(i) inventory the personal property located at the installation; and

(ii) identify the items (or categories of items) of such personal property that the Secretary determines to be related to real property and anticipates will support the implementation of the redevelopment plan with respect to the installation.

(B) If no redevelopment authority referred to in subparagraph (A) exists with respect to an installation, the Secretary shall consult with—

(i) the local government in whose jurisdiction the installation is wholly located; or

(ii) a local government agency or State government agency designated for the purpose of such consultation by the chief executive officer of the State in which the installation is located.

(C)(i) Except as provided in subparagraphs (E) and (F), the Secretary may not carry out any of the activities referred to in clause (ii) with respect to an installation referred to in that clause until the earlier of—

(I) one week after the date on which the redevelopment plan for the installation is submitted to the Secretary;

(II) the date on which the redevelopment authority notifies the Secretary that it will not submit such a plan;

(III) twenty-four months after the date of approval of the closure or realignment of the installation; or

(IV) ninety days before the date of the closure or realignment of the installation.

(ii) The activities referred to in clause (i) are activities relating to the closure or realignment of an installation to be closed or realigned under this part as follows:

(I) The transfer from the installation of items of personal property at the installation identified in accordance with subparagraph (A).

(II) The reduction in maintenance and repair of facilities or equipment located at the installation below the minimum levels required to support the use of such facilities or equipment for nonmilitary purposes.

(D) Except as provided in paragraph (4), the Secretary may not transfer items of personal property located at an installation to be closed or realigned under this part to another installation, or dispose of such items, if such items are identified in the redevelopment plan for the installation as items essential to the reuse or redevelopment of the installation. In connection with the development of the redevelopment plan for the installation, the Secretary shall consult with the entity responsible for developing the redevelopment plan to identify the items of personal property located at the installation, if any, that the entity desires to be retained at the installation for reuse or redevelopment of the installation.

(E) This paragraph shall not apply to any personal property located at an installation to be closed or realigned under this part if the property—

(i) is required for the operation of a unit, function, component, weapon, or weapons system at another installation;

(ii) is uniquely military in character, and is likely to have no civilian use (other than use for its material content or as a source of commonly used components);

(iii) is not required for the reutilization or redevelopment of the installation (as jointly determined by the Secretary and the redevelopment authority);

(iv) is stored at the installation for purposes of distribution (including spare parts or stock items); or

(v)(I) meets known requirements of an authorized program of another Federal department or agency for which expenditures for similar property would be necessary, and (II) is the subject of a written request by the head of the department or agency.

(F) Notwithstanding subparagraphs (C)(i) and (D), the Secretary may carry out any activity referred to in subparagraph (C)(ii) or (D) if the Secretary determines that the carrying out of such activity is in the national security interest of the United States.

(4)(A) The Secretary may transfer real property and personal property located at a military installation to be closed or realigned under this part to the redevelopment authority with respect to the installation for purposes of job generation on the installation.

(B) With respect to military installations for which the date of approval of closure or realignment is after January 1, 2005, the Secretary shall seek to obtain consideration in connection with any transfer under this paragraph of property located at the installation in an amount equal to the fair market value of the property, as determined by the Secretary. The transfer of property of a

military installation under subparagraph (A) may be without consideration if the redevelopment authority with respect to the installation—

(i) agrees that the proceeds from any sale or lease of the property (or any portion thereof) received by the redevelopment authority during at least the first seven years after the date of the initial transfer of property under subparagraph (A) shall be used to support the economic redevelopment of, or related to, the installation; and

(ii) executes the agreement for transfer of the property and accepts control of the property within a reasonable time after the date of the property disposal record of decision or finding of no significant impact under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.).

(C) For purposes of subparagraph (B)(i), the use of proceeds from a sale or lease described in such subparagraph to pay for, or offset the costs of, public investment on or related to the installation for any of the following purposes shall be considered a use to support the economic redevelopment of, or related to, the installation:

(i) Road construction.

(ii) Transportation management facilities.

(iii) Storm and sanitary sewer construction.

(iv) Police and fire protection facilities and other public facilities.

(v) Utility construction.

(vi) Building rehabilitation.

(vii) Historic property preservation.

(viii) Pollution prevention equipment or facilities.

(ix) Demolition.

(x) Disposal of hazardous materials generated by demolition.

(xi) Landscaping, grading, and other site or public improvements.

(xii) Planning for or the marketing of the development and reuse of the installation.

(D) The Secretary may recoup from a redevelopment authority such portion of the proceeds from a sale or lease described in subparagraph (B) as the Secretary determines appropriate if the redevelopment authority does not use the proceeds to support economic redevelopment of, or related to, the installation for the period specified in subparagraph (B).

(E)[413] (i) The Secretary may transfer real property at an installation approved for closure or realignment under this part (including property at an installation approved for realignment which will be retained by the Department of Defense or another Federal agency after realignment) to the redevelopment authority for the installation if the redevelopment authority agrees to lease, directly upon transfer, one or more portions of the property transferred under this subparagraph to the Secretary or to the head of another department or agency of the Federal Government. Subparagraph (B) shall apply to a transfer under this subparagraph.

(ii) A lease under clause (i) shall be for a term of not to exceed 50 years, but may provide for options for renewal or extension of the term by the department or agency concerned.

(iii) A lease under clause (i) may not require rental payments by the United States.

(iv) A lease under clause (i) shall include a provision specifying that if the department or agency concerned ceases requiring the use of the leased property before the expiration of the term of the lease, the remainder of the lease term may be satisfied by the same or another department or agency of the Federal Government using the property for a use similar to the use under the lease. Exercise of the authority provided by this clause shall be made in consultation with the redevelopment authority concerned.

(v) Notwithstanding clause (iii), if a lease under clause (i) involves a substantial portion of the installation, the department or agency concerned may obtain facility services for the leased property and common area maintenance from the redevelopment

[413] Section 2837(b) of the Military Construction Authorization Act for Fiscal Year 1996 (Public Law 104-106; 110 Stat. 560; 42 U.S.C. 2687 note) provides as follows: "Notwithstanding any other provision of law, a department or agency of the Federal Government that enters into a lease of property under [this subparagraph (C)] may improve the leased property using funds appropriated or otherwise available to the department or agency for such purpose.".

authority or the redevelopment authority's assignee as a provision of the lease. The facility services and common area maintenance shall be provided at a rate no higher than the rate charged to non-Federal tenants of the transferred property. Facility services and common area maintenance covered by the lease shall not include—

(I) municipal services that a State or local government is required by law to provide to all landowners in its jurisdiction without direct charge; or

(II) firefighting or security-guard functions.

(F) The transfer of personal property under subparagraph (A) shall not be subject to the provisions of subchapters II and III of chapter 5 of title 40, United States Code, if the Secretary determines that the transfer of such property is necessary for the effective implementation of a redevelopment plan with respect to the installation at which such property is located.

(G) The provisions of section 120(h) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9620(h)) shall apply to any transfer of real property under this paragraph.

(H)(i) In the case of an agreement for the transfer of property of a military installation under this paragraph that was entered into before April 21, 1999, the Secretary may modify the agreement, and in so doing compromise, waive, adjust, release, or reduce any right, title, claim, lien, or demand of the United States, if—

(I) the Secretary determines that as a result of changed economic circumstances, a modification of the agreement is necessary;

(II) the terms of the modification do not require the return of any payments that have been made to the Secretary;

(III) the terms of the modification do not compromise, waive, adjust, release, or reduce any right, title, claim, lien, or demand of the United States with respect to in-kind consideration; and

(IV) the cash consideration to which the United States is entitled under the modified agreement, when combined with the cash consideration to be received by the United States for the disposal of other real property assets on the installation, are as sufficient as they were under the original agreement to fund the reserve account established under section 204(b)(7)(C) of the Defense Authorization Amendments and Base Closure and Realignment Act, with the depreciated value of the investment made with commissary store funds or nonappropriated funds in property disposed of pursuant to the agreement being modified, in accordance with section 2906(d).

(ii) When exercising the authority granted by clause (i), the Secretary may waive some or all future payments if, and to the extent that, the Secretary determines such waiver is necessary.

(iii) With the exception of the requirement that the transfer be without consideration, the requirements of subparagraphs (B), (C), and (D) shall be applicable to any agreement modified pursuant to clause (i).

(I) In the case of an agreement for the transfer of property of a military installation under this paragraph that was entered into during the period beginning on April 21, 1999, and ending on the date of enactment of the National Defense Authorization Act for Fiscal Year 2000[414], at the request of the redevelopment authority concerned, the Secretary shall modify the agreement to conform to all the requirements of subparagraphs (B), (C), and (D). Such a modification may include the compromise, waiver, adjustment, release, or reduction of any right, title, claim, lien, or demand of the United States under the agreement.

(J) The Secretary may require any additional terms and conditions in connection with a transfer under this paragraph as such Secretary considers appropriate to protect the interests of the United States.

(5)(A) Except as provided in subparagraphs (B) and (C), the Secretary shall take such actions as the Secretary determines necessary to ensure that final determinations under paragraph (1) regarding

[414] October 5, 1999.

whether another department or agency of the Federal Government has identified a use for any portion of a military installation to be closed or realigned under this part, or will accept transfer of any portion of such installation, are made not later than 6 months after the date of approval of closure or realignment of that installation.

(B) The Secretary may, in consultation with the redevelopment authority with respect to an installation, postpone making the final determinations referred to in subparagraph (A) with respect to the installation for such period as the Secretary determines appropriate if the Secretary determines that such postponement is in the best interests of the communities affected by the closure or realignment of the installation.

(C)(i) Before acquiring non-Federal real property as the location for a new or replacement Federal facility of any type, the head of the Federal agency acquiring the property shall consult with the Secretary regarding the feasibility and cost advantages of using Federal property or facilities at a military installation closed or realigned or to be closed or realigned under this part as the location for the new or replacement facility. In considering the availability and suitability of a specific military installation, the Secretary and the head of the Federal agency involved shall obtain the concurrence of the redevelopment authority with respect to the installation and comply with the redevelopment plan for the installation.

(ii) Not later than 30 days after acquiring non-Federal real property as the location for a new or replacement Federal facility, the head of the Federal agency acquiring the property shall submit to Congress a report containing the results of the consultation under clause (i) and the reasons why military installations referred to in such clause that are located within the area to be served by the new or replacement Federal facility or within a 200-mile radius of the new or replacement facility, whichever area is greater, were considered to be unsuitable or unavailable for the site of the new or replacement facility.

(iii) This subparagraph shall apply during the period beginning on the date of the enactment of the National Defense Authorization Act for Fiscal Year 1998[415] and ending on July 31, 2001.

(6)(A) Except as provided in this paragraph, nothing in this section shall limit or otherwise affect the application of the provisions of the McKinney-Vento Homeless Assistance Act (42 U.S.C. 11301 et seq.) to military installations closed under this part. For procedures relating to the use to assist the homeless of buildings and property at installations closed under this part after the date of the enactment of this sentence, see paragraph (7).

(B)(i) Not later than the date on which the Secretary of Defense completes the determination under paragraph (5) of the transferability of any portion of an installation to be closed under this part, the Secretary shall—

(I) complete any determinations or surveys necessary to determine whether any building or property referred to in clause (ii) is excess property, surplus property, or unutilized or underutilized property for the purpose of the information referred to in section 501(a) of such Act (42 U.S.C. 11411(a)); and

(II) submit to the Secretary of Housing and Urban Development information on any building or property that is so determined.

(ii) The buildings and property referred to in clause (i) are any buildings or property located at an installation referred to in that clause for which no use is identified, or of which no Federal department or agency will accept transfer, pursuant to the determination of transferability referred to in that clause.

(C) Not later than 60 days after the date on which the Secretary of Defense submits information to the Secretary of Housing and Urban Development under subparagraph (B)(ii), the Secretary of Housing and Urban Development shall—

(i) identify the buildings and property described in such information that are suitable for use to assist the homeless;

(ii) notify the Secretary of Defense of the buildings and property that are so identified;

[415] November 18, 1997.

(iii) publish in the Federal Register a list of the buildings and property that are so identified, including with respect to each building or property the information referred to in section 501(c)(1)(B) of such Act; and

(iv) make available with respect to each building and property the information referred to in section 501(c)(1)(C) of such Act in accordance with such section 501(c)(1)(C).

(D) Any buildings and property included in a list published under subparagraph (C)(iii) shall be treated as property available for application for use to assist the homeless under section 501(d) of such Act.

(E) The Secretary of Defense shall make available in accordance with section 501(f) of such Act any buildings or property referred to in subparagraph (D) for which—

(i) a written notice of an intent to use such buildings or property to assist the homeless is received by the Secretary of Health and Human Services in accordance with section 501(d)(2) of such Act;

(ii) an application for use of such buildings or property for such purpose is submitted to the Secretary of Health and Human Services in accordance with section 501(e)(2) of such Act; and

(iii) the Secretary of Health and Human Services—

(I) completes all actions on the application in accordance with section 501(e)(3) of such Act; and

(II) approves the application under section 501(e) of such Act.

(F)(i) Subject to clause (ii), a redevelopment authority may express in writing an interest in using buildings and property referred to in subparagraph (D), and buildings and property referred to in subparagraph (B)(ii) which have not been identified as suitable for use to assist the homeless under subparagraph (C), or use such buildings and property, in accordance with the redevelopment plan with respect to the installation at which such buildings and property are located as follows:

(I) If no written notice of an intent to use such buildings or property to assist the homeless is received by the Secretary of Health and Human Services in accordance with section 501(d)(2) of such Act during the 60-day period beginning on the date of the publication of the buildings and property under subparagraph (C)(iii).

(II) In the case of buildings and property for which such notice is so received, if no completed application for use of the buildings or property for such purpose is received by the Secretary of Health and Human Services in accordance with section 501(e)(2) of such Act during the 90-day period beginning on the date of the receipt of such notice.

(III) In the case of buildings and property for which such application is so received, if the Secretary of Health and Human Services rejects the application under section 501(e) of such Act.

(ii) Buildings and property shall be available only for the purpose of permitting a redevelopment authority to express in writing an interest in the use of such buildings and property, or to use such buildings and property, under clause (i) as follows:

(I) In the case of buildings and property referred to in clause (i)(I), during the one-year period beginning on the first day after the 60-day period referred to in that clause.

(II) In the case of buildings and property referred to in clause (i)(II), during the one-year period beginning on the first day after the 90-day period referred to in that clause.

(III) In the case of buildings and property referred to in clause (i)(III), during the one-year period beginning on the date of the rejection of the application referred to in that clause.

(iii) A redevelopment authority shall express an interest in the use of buildings and property under this subparagraph by notifying the Secretary of Defense, in writing, of such an interest.

(G)(i) Buildings and property available for a redevelopment authority under subparagraph (F) shall not be available for use to assist the homeless under section 501 of such Act while so available for a redevelopment authority.

(ii) If a redevelopment authority does not express an interest in the use of buildings or property, or commence the use of buildings or property, under subparagraph (F) within the applicable time periods specified in clause (ii) of such subparagraph, such buildings or property shall be treated as property available for use to assist the homeless under section 501(a) of such Act.

(7)[416](A) The disposal of buildings and property located at installations approved for closure or realignment under this part after October 25, 1994, shall be carried out in accordance with this paragraph rather than paragraph (6).

(B)(i) Not later than the date on which the Secretary of Defense completes the final determinations referred to in paragraph (5) relating to the use or transferability of any portion of an installation covered by this paragraph, the Secretary shall—

(I) identify the buildings and property at the installation for which the Department of Defense has a use, for which another department or agency of the Federal Government has identified a use, or of which another department or agency will accept a transfer;

(II) take such actions as are necessary to identify any building or property at the installation not identified under subclause (I) that is excess property or surplus property;

(III) submit to the Secretary of Housing and Urban Development and to the redevelopment authority for the installation (or the chief executive officer of the State in which the installation is located if there is no redevelopment authority for the installation at the completion of the determination described in the stem of this sentence) information on any building or property that is identified under subclause (II); and

(IV) publish in the Federal Register and in a newspaper of general circulation in the communities in the vicinity of the installation information on the buildings and property identified under subclause (II).

(ii) Upon the recognition of a redevelopment authority for an installation covered by this paragraph, the Secretary of Defense shall publish in the Federal Register and in a newspaper of general circulation in the communities in the vicinity of the installation information on the redevelopment authority.

(C)(i) State and local governments, representatives of the homeless, and other interested parties located in the communities in the vicinity of an installation covered by this paragraph shall submit to the redevelopment authority for the installation a notice of the interest, if any, of such governments, representatives, and parties in the buildings or property, or any portion thereof, at the installation that are identified under subparagraph (B)(i)(II). A notice of interest under this clause shall describe the need of the government, representative, or party concerned for the buildings or property covered by the notice.

(ii) The redevelopment authority for an installation shall assist the governments, representatives, and parties referred to in clause (i) in evaluating buildings and property at the installation for purposes of this subparagraph.

(iii) In providing assistance under clause (ii), a redevelopment authority shall—

(I) consult with representatives of the homeless in the communities in the vicinity of the installation concerned; and

(II) undertake outreach efforts to provide information on the buildings and property to representatives of the homeless, and to other persons or entities interested in assisting the homeless, in such communities.

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[416] Section 2(e) of the Base Closure Community Redevelopment and Homeless Assistance Act of 1994 (Public Law 103-421, approved October 25, 1994) provided that paragraph (7) would apply to an installation approved for closure before October 25, 1994, subject to certain conditions, if the redevelopment authority for the installation submits a request to the Secretary of Defense not later than 60 days after that date.

(iv) It is the sense of Congress that redevelopment authorities should begin to conduct outreach efforts under clause (iii)(II) with respect to an installation as soon as is practicable after the date of approval of closure or realignment of the installation.

(D)(i) State and local governments, representatives of the homeless, and other interested parties shall submit a notice of interest to a redevelopment authority under subparagraph (C) not later than the date specified for such notice by the redevelopment authority.

(ii) The date specified under clause (i) shall be—

(I) in the case of an installation for which a redevelopment authority has been recognized as of the date of the completion of the determinations referred to in paragraph (5), not earlier than 3 months and not later than 6 months after the date of publication of such determination in a newspaper of general circulation in the communities in the vicinity of the installation under subparagraph (B)(i)(IV); and

(II) in the case of an installation for which a redevelopment authority is not recognized as of such date, not earlier than 3 months and not later than 6 months after the date of the recognition of a redevelopment authority for the installation.

(iii) Upon specifying a date for an installation under this subparagraph, the redevelopment authority for the installation shall—

(I) publish the date specified in a newspaper of general circulation in the communities in the vicinity of the installation concerned; and

(II) notify the Secretary of Defense of the date.

(E)(i) In submitting to a redevelopment authority under subparagraph (C) a notice of interest in the use of buildings or property at an installation to assist the homeless, a representative of the homeless shall submit the following:

(I) A description of the homeless assistance program that the representative proposes to carry out at the installation.

(II) An assessment of the need for the program.

(III) A description of the extent to which the program is or will be coordinated with other homeless assistance programs in the communities in the vicinity of the installation.

(IV) A description of the buildings and property at the installation that are necessary in order to carry out the program.

(V) A description of the financial plan, the organization, and the organizational capacity of the representative to carry out the program.

(VI) An assessment of the time required in order to commence carrying out the program.

(ii) A redevelopment authority may not release to the public any information submitted to the redevelopment authority under clause (i)(V) without the consent of the representative of the homeless concerned unless such release is authorized under Federal law and under the law of the State and communities in which the installation concerned is located.

(F)(i) The redevelopment authority for each installation covered by this paragraph shall prepare a redevelopment plan for the installation. The redevelopment authority shall, in preparing the plan, consider the interests in the use to assist the homeless of the buildings and property at the installation that are expressed in the notices submitted to the redevelopment authority under subparagraph (C).

(ii)(I) In connection with a redevelopment plan for an installation, a redevelopment authority and representatives of the homeless shall prepare legally binding agreements that provide for the use to assist the homeless of buildings and property, resources, and assistance on or off the installation. The implementation of such agreements shall be contingent upon the decision regarding the disposal of the buildings and property covered by the agreements by the Secretary of Defense under subparagraph (K) or (L).

(II) Agreements under this clause shall provide for the reversion to the redevelopment authority concerned, or to such other entity or entities as the

agreements shall provide, of buildings and property that are made available under this paragraph for use to assist the homeless in the event that such buildings and property cease being used for that purpose.

(iii) A redevelopment authority shall provide opportunity for public comment on a redevelopment plan before submission of the plan to the Secretary of Defense and the Secretary of Housing and Urban Development under subparagraph (G).

(iv) A redevelopment authority shall complete preparation of a redevelopment plan for an installation and submit the plan under subparagraph (G) not later than 9 months after the date specified by the redevelopment authority for the installation under subparagraph (D).

(G)(i) Upon completion of a redevelopment plan under subparagraph (F), a redevelopment authority shall submit an application containing the plan to the Secretary of Defense and to the Secretary of Housing and Urban Development.

(ii) A redevelopment authority shall include in an application under clause (i) the following:

(I) A copy of the redevelopment plan, including a summary of any public comments on the plan received by the redevelopment authority under subparagraph (F)(iii).

(II) A copy of each notice of interest of use of buildings and property to assist the homeless that was submitted to the redevelopment authority under subparagraph (C), together with a description of the manner, if any, in which the plan addresses the interest expressed in each such notice and, if the plan does not address such an interest, an explanation why the plan does not address the interest.

(III) A summary of the outreach undertaken by the redevelopment authority under subparagraph (C)(iii)(II) in preparing the plan.

(IV) A statement identifying the representatives of the homeless and the homeless assistance planning boards, if any, with which the redevelopment authority consulted in preparing the plan, and the results of such consultations.

(V) An assessment of the manner in which the redevelopment plan balances the expressed needs of the homeless and the need of the communities in the vicinity of the installation for economic redevelopment and other development.

(VI) Copies of the agreements that the redevelopment authority proposes to enter into under subparagraph (F)(ii).

(H)(i) Not later than 60 days after receiving a redevelopment plan under subparagraph (G), the Secretary of Housing and Urban Development shall complete a review of the plan. The purpose of the review is to determine whether the plan, with respect to the expressed interest and requests of representatives of the homeless—

(I) takes into consideration the size and nature of the homeless population in the communities in the vicinity of the installation, the availability of existing services in such communities to meet the needs of the homeless in such communities, and the suitability of the buildings and property covered by the plan for the use and needs of the homeless in such communities;

(II) takes into consideration any economic impact of the homeless assistance under the plan on the communities in the vicinity of the installation;

(III) balances in an appropriate manner the needs of the communities in the vicinity of the installation for economic redevelopment and other development with the needs of the homeless in such communities;

(IV) was developed in consultation with representatives of the homeless and the homeless assistance planning boards, if any, in the communities in the vicinity of the installation; and

(V) specifies the manner in which buildings and property, resources, and assistance on or off the installation will be made available for homeless assistance purposes.

(ii) It is the sense of Congress that the Secretary of Housing and Urban Development shall, in completing the review of a plan under this subparagraph, take into consideration and be receptive to the predominant views on the plan of the communities in the vicinity of the installation covered by the plan.

(iii) The Secretary of Housing and Urban Development may engage in negotiations and consultations with a redevelopment authority before or during the course of a review under clause (i) with a view toward resolving any preliminary determination of the Secretary that a redevelopment plan does not meet a requirement set forth in that clause. The redevelopment authority may modify the redevelopment plan as a result of such negotiations and consultations.

(iv) Upon completion of a review of a redevelopment plan under clause (i), the Secretary of Housing and Urban Development shall notify the Secretary of Defense and the redevelopment authority concerned of the determination of the Secretary of Housing and Urban Development under that clause.

(v) If the Secretary of Housing and Urban Development determines as a result of such a review that a redevelopment plan does not meet the requirements set forth in clause (i), a notice under clause (iv) shall include—

(I) an explanation of that determination; and

(II) a statement of the actions that the redevelopment authority must undertake in order to address that determination.

(I)(i) Upon receipt of a notice under subparagraph (H)(iv) of a determination that a redevelopment plan does not meet a requirement set forth in subparagraph (H)(i), a redevelopment authority shall have the opportunity to—

(I) revise the plan in order to address the determination; and

(II) submit the revised plan to the Secretary of Defense and the Secretary of Housing and Urban Development.

(ii) A redevelopment authority shall submit a revised plan under this subparagraph to such Secretaries, if at all, not later than 90 days after the date on which the redevelopment authority receives the notice referred to in clause (i).

(J)(i) Not later than 30 days after receiving a revised redevelopment plan under subparagraph (I), the Secretary of Housing and Urban Development shall review the revised plan and determine if the plan meets the requirements set forth in subparagraph (H)(i).

(ii) The Secretary of Housing and Urban Development shall notify the Secretary of Defense and the redevelopment authority concerned of the determination of the Secretary of Housing and Urban Development under this subparagraph.

(K)(i) Upon receipt of a notice under subparagraph (H)(iv) or (J)(ii) of the determination of the Secretary of Housing and Urban Development that a redevelopment plan for an installation meets the requirements set forth in subparagraph (H)(i), the Secretary of Defense shall dispose of the buildings and property at the installation.

(ii) For purposes of carrying out an environmental assessment of the closure or realignment of an installation, the Secretary of Defense shall treat the redevelopment plan for the installation (including the aspects of the plan providing for disposal to State or local governments, representatives of the homeless, and other interested parties) as part of the proposed Federal action for the installation.

(iii) The Secretary of Defense shall dispose of buildings and property under clause (i) in accordance with the record of decision or other decision document prepared by the Secretary in accordance with the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.). In preparing the record of decision or other decision document, the Secretary shall give substantial deference to the redevelopment plan concerned.

(iv) The disposal under clause (i) of buildings and property to assist the homeless shall be without consideration.

(v) In the case of a request for a conveyance under clause (i) of buildings and property for public benefit under section 550 of title 40, United States Code, or sections 47151 through 47153 of title 49, United States Code, the sponsoring Federal agency shall use the eligibility criteria set forth in such section or such subchapter (as the case may be) to determine the eligibility of the applicant and use proposed in the request for the public

benefit conveyance. The determination of such eligibility should be made before submission of the redevelopment plan concerned under subparagraph (G).

(L)(i) If the Secretary of Housing and Urban Development determines under subparagraph (J) that a revised redevelopment plan for an installation does not meet the requirements set forth in subparagraph (H)(i), or if no revised plan is so submitted, that Secretary shall—

(I) review the original redevelopment plan submitted to that Secretary under subparagraph (G), including the notice or notices of representatives of the homeless referred to in clause (ii)(II) of that subparagraph;

(II) consult with the representatives referred to in subclause (I), if any, for purposes of evaluating the continuing interest of such representatives in the use of buildings or property at the installation to assist the homeless;

(III) request that each such representative submit to that Secretary the items described in clause (ii); and

(IV) based on the actions of that Secretary under subclauses (I) and (II), and on any information obtained by that Secretary as a result of such actions, indicate to the Secretary of Defense the buildings and property at the installation that meet the requirements set forth in subparagraph (H)(i).

(ii) The Secretary of Housing and Urban Development may request under clause (i)(III) that a representative of the homeless submit to that Secretary the following:

(I) A description of the program of such representative to assist the homeless.

(II) A description of the manner in which the buildings and property that the representative proposes to use for such purpose will assist the homeless.

(III) Such information as that Secretary requires in order to determine the financial capacity of the representative to carry out the program and to ensure that the program will be carried out in compliance with Federal environmental law and Federal law against discrimination.

(IV) A certification that police services, fire protection services, and water and sewer services available in the communities in the vicinity of the installation concerned are adequate for the program.

(iii) Not later than 90 days after the date of the receipt of a revised plan for an installation under subparagraph (J), the Secretary of Housing and Urban Development shall—

(I) notify the Secretary of Defense and the redevelopment authority concerned of the buildings and property at an installation under clause (i)(IV) that the Secretary of Housing and Urban Development determines are suitable for use to assist the homeless; and

(II) notify the Secretary of Defense of the extent to which the revised plan meets the criteria set forth in subparagraph (H)(i).

(iv)(I) Upon notice from the Secretary of Housing and Urban Development with respect to an installation under clause (iii), the Secretary of Defense shall dispose of buildings and property at the installation in consultation with the Secretary of Housing and Urban Development and the redevelopment authority concerned.

(II) For purposes of carrying out an environmental assessment of the closure or realignment of an installation, the Secretary of Defense shall treat the redevelopment plan submitted by the redevelopment authority for the installation (including the aspects of the plan providing for disposal to State or local governments, representatives of the homeless, and other interested parties) as part of the proposed Federal action for the installation. The Secretary of Defense shall incorporate the notification of the Secretary of Housing and Urban Development under clause (iii)(I) as part of the proposed Federal action for the installation only to the extent, if any, that the Secretary of Defense considers such incorporation to be appropriate and consistent with the best and highest use of the installation as a whole, taking into consideration the redevelopment plan submitted by the redevelopment authority.

(III) The Secretary of Defense shall dispose of buildings and property under subclause (I) in accordance with the record of decision or other decision document prepared by the Secretary in accordance with the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.). In preparing the record of decision or other decision document, the Secretary shall give deference to the redevelopment plan submitted by the redevelopment authority for the installation.

(IV) The disposal under subclause (I) of buildings and property to assist the homeless shall be without consideration.

(V) In the case of a request for a conveyance under subclause (I) of buildings and property for public benefit under section 550 of title 40, United States Code, or sections 47151 through 47153 of title 49, United States Code, the sponsoring Federal agency shall use the eligibility criteria set forth in such section or such subchapter (as the case may be) to determine the eligibility of the applicant and use proposed in the request for the public benefit conveyance. The determination of such eligibility should be made before submission of the redevelopment plan concerned under subparagraph (G).

(M)(i) In the event of the disposal of buildings and property of an installation pursuant to subparagraph (K) or (L), the redevelopment authority for the installation shall be responsible for the implementation of and compliance with agreements under the redevelopment plan described in that subparagraph for the installation.

(ii) If a building or property reverts to a redevelopment authority under such an agreement, the redevelopment authority shall take appropriate actions to secure, to the maximum extent practicable, the utilization of the building or property by other homeless representatives to assist the homeless. A redevelopment authority may not be required to utilize the building or property to assist the homeless.

(N) The Secretary of Defense may postpone or extend any deadline provided for under this paragraph in the case of an installation covered by this paragraph for such period as the Secretary considers appropriate if the Secretary determines that such postponement is in the interests of the communities affected by the closure or realignment of the installation. The Secretary shall make such determinations in consultation with the redevelopment authority concerned and, in the case of deadlines provided for under this paragraph with respect to the Secretary of Housing and Urban Development, in consultation with the Secretary of Housing and Urban Development.

(O) For purposes of this paragraph, the term “communities in the vicinity of the installation”, in the case of an installation, means the communities that constitute the political jurisdictions (other than the State in which the installation is located) that comprise the redevelopment authority for the installation.

(P) For purposes of this paragraph, the term “other interested parties”, in the case of an installation, includes any parties eligible for the conveyance of property of the installation under section 550 of title 40, United States Code, or sections 47151 through 47153 of title 49, United States Code, whether or not the parties assist the homeless.

(8)(A) Subject to subparagraph (C), the Secretary may enter into agreements (including contracts, cooperative agreements, or other arrangements for reimbursement) with local governments for the provision of police or security services, fire protection services, airfield operation services, or other community services by such governments at military installations to be closed under this part, or at facilities not yet transferred or otherwise disposed of in the case of installations closed under this part, if the Secretary determines that the provision of such services under such agreements is in the best interests of the Department of Defense.

(B) The Secretary may exercise the authority provided under this paragraph without regard to the provisions of chapter 146 of title 10, United States Code.

(C) The Secretary may not exercise the authority under subparagraph (A) with respect to an installation earlier than 180 days before the date on which the installation is to be closed.

(D) The Secretary shall include in a contract for services entered into with a local government under this paragraph a clause that requires the use of professionals to furnish the

services to the extent that professionals are available in the area under the jurisdiction of such government.

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BASE CLOSURE COMMUNITY REDEVELOPMENT AND HOMELESS ASSISTANCE ACT OF 1994 [Public Law 103-421; 108 Stat. 4352; 10 U.S.C. 2687 note]

Sec. 2. [10 U.S.C. 2687 note]
DISPOSAL OF BUILDINGS AND PROPERTY AT MILITARY INSTALLATIONS APPROVED FOR CLOSURE.

* * * * * * *

(e) APPLICABILITY TO INSTALLATIONS APPROVED FOR CLOSURE BEFORE ENACTMENT OF ACT.—(1)(A) Notwithstanding any provision of the 1988 base closure Act or the 1990 base closure Act, as such provision was in effect on the day before the date of the enactment of this Act[417], and subject to subparagraphs (B) and (C), the use to assist the homeless of building and property at military installations approved for closure under the 1988 base closure Act or the 1990 base closure Act, as the case may be, before such date shall be determined in accordance with the provisions of paragraph (7) of section 2905(b) of the 1990 base closure Act, as amended by subsection (a), in lieu of the provisions of the 1988 base closure Act or the 1990 base closure Act that would otherwise apply to the installations.

(B)(i) The provisions of such paragraph (7) shall apply to an installation referred to in subparagraph (A) only if the redevelopment authority for the installation submits a request to the Secretary of Defense not later than 60 days after the date of the enactment of this Act.

(ii) In the case of an installation for which no redevelopment authority exists on the date of the enactment of this Act, the chief executive officer of the State in which the installation is located shall submit the request referred to in clause (i) and act as the redevelopment authority for the installation.

(C) The provisions of such paragraph (7) shall not apply to any buildings or property at an installation referred to in subparagraph (A) for which the redevelopment authority submits a request referred to in subparagraph (B) within the time specified in such subparagraph (B) if the buildings or property, as the case may be, have been transferred or leased for use to assist the homeless under the 1988 base closure Act or the 1990 base closure Act, as the case may be, before the date of the enactment of this Act.[418]

(2) For purposes of the application of such paragraph (7) to the buildings and property at an installation, the date on which the Secretary receives a request with respect to the installation under paragraph (1) shall be treated as the date on which the Secretary of Defense completes the final determination referred to in subparagraph (B) of such paragraph (7).

(3) Upon receipt under paragraph (1)(B) of a timely request with respect to an installation, the Secretary of Defense shall publish in the Federal Register and in a newspaper of general circulation in the communities in the vicinity of the installation information describing the redevelopment authority for the installation.

(4)(A) The Secretary of Housing and Urban Development and the Secretary of Health and Human Services shall not, during the 60-day period beginning on the date of the enactment of this Act, carry out with respect to any military installation approved for closure under the 1988 base closure Act or the 1990 base closure Act before such date any action required of such Secretaries under the 1988 base closure Act or the 1990 base closure Act, as the case may be, or under section 501 of the McKinney-Vento Homeless Assistance Act (42 U.S.C. 11411).

(B)(i) Upon receipt under paragraph (1)(A) of a timely request with respect to an installation, the Secretary of Defense shall notify the Secretary of Housing and Urban

[417] In subsection (e), the reference to "this Act" means the Base Closure Community Redevelopment and Homeless Assistance Act of 1994, which was enacted on October 25, 1994.
[418] The date of enactment was October 25, 1994.

Development and the Secretary of Health and Human Services that the disposal of buildings and property at the installation shall be determined under such paragraph (7) in accordance with this subsection.

(ii) Upon receipt of a notice with respect to an installation under this subparagraph, the requirements, if any, of the Secretary of Housing and Urban Development and the Secretary of Health and Human Services with respect to the installation under the provisions of law referred to in subparagraph (A) shall terminate.

(iii) Upon receipt of a notice with respect to an installation under this subparagraph, the Secretary of Health and Human Services shall notify each representative of the homeless that submitted to that Secretary an application to use buildings or property at the installation to assist the homeless under the 1988 base closure Act or the 1990 base closure Act, as the case may be, that the use of buildings and property at the installation to assist the homeless shall be determined under such paragraph (7) in accordance with this subsection.

(5) In preparing a redevelopment plan for buildings and property at an installation covered by such paragraph (7) by reason of this subsection, the redevelopment authority concerned shall—

(A) consider and address specifically any applications for use of such buildings and property to assist the homeless that were received by the Secretary of Health and Human Services under the 1988 base closure Act or the 1990 base closure Act, as the case may be, before the date of the enactment of this Act[419] and are pending with that Secretary on that date; and

(B) in the case of any application by representatives of the homeless that was approved by the Secretary of Health and Human Services before the date of enactment of this Act,1 ensure that the plan adequately addresses the needs of the homeless identified in the application by providing such representatives of the homeless with—

(i) properties, on or off the installation, that are substantially equivalent to the properties covered by the application;

(ii) sufficient funding to secure such substantially equivalent properties;

(iii) services and activities that meet the needs identified in the application; or

(iv) a combination of the properties, funding, and services and activities described in clauses (i), (ii), and (iii).

(6) In the case of an installation to which the provisions of such paragraph (7) apply by reason of this subsection, the date specified by the redevelopment authority for the installation under subparagraph (D) of such paragraph (7) shall be not less than 1 month and not more than 6 months after the date of the submittal of the request with respect to the installation under paragraph (1)(B).

(7) For purposes of this subsection:

(A) The term “1988 base closure Act” means title II of the Defense Authorization Amendments and Base Closure and Realignment Act (Public Law 100-526; 10 U.S.C. 2687 note).

(B) The term “1990 base closure Act” means the Defense Base Closure and Realignment Act of 1990 (part A of title XXIX of Public Law 101-510; 10 U.S.C. 2687 note).

END OF STATUTE

[419] October 25, 1994.

FHA SINGLE FAMILY PROPERTY DISPOSITION FOR HOMELESS USE

HOUSING AND COMMUNITY DEVELOPMENT ACT OF 1992
[Public Law 102-550; 106 Stat. 4034]

Sec. 1407.
FHA SINGLE FAMILY PROPERTY DISPOSITION.

(a) 30-DAY MARKETING PERIOD.—Except as provided in subsection (b), in carrying out the program for disposition of single family properties acquired by the Department of Housing and Urban Development for use by the homeless under subpart E of part 291 of title 24, Code of Federal Regulations, the Secretary of Housing and Urban Development may not make any eligible property available for lease under such program that has not been listed and made generally available for sale by the Secretary for a period of at least 30 days.

(b) EXCEPTION.—With respect to any area for which the Secretary determines that there will not be a sufficient quantity of decent, safe, and sanitary affordable housing available for use under the program referred to in subsection (a) if eligible properties located in the area are made generally available for the 30-day period under subsection (a), the Secretary shall reserve for disposition under such program not more than 10 percent of the total number of eligible properties located in the area and shall not market such properties as provided under subsection (a). The Secretary shall consult with the unit of general local government for an area in determining which properties should be reserved for disposition under this subsection.

(c) STATE AND LOCAL TAXES.—

(1) REQUIREMENT TO PROVIDE INFORMATION UPON REQUEST.—In carrying out the program referred to in subsection (a), the Secretary of Housing and Urban Development shall provide the information described in paragraph (2) to any lessee or applicant under the program who requests such information.

(2) CONTENT.—The information referred in paragraph (1) shall identify and describe any exemptions or reductions relating to payment of property taxes under State and local laws (for the jurisdictions for which the lessee or applicant requests such information) that may be applicable to lessees or applicants, or to properties leased, under such program.

(3) EXEMPTION FROM ESCROW REQUIREMENT.—To the extent any lessee of a property under the program referred to in subsection (a) is provided an exemption from any requirement to pay State or local taxes, or a reduction in the amount of any such taxes, the Secretary may not require the lessee to pay or deposit in any escrow account amounts for the payment of such taxes.

END OF STATUTE

PART VII—HOUSING FOR NATIVE AMERICANS AND NATIVE HAWAIIANS

NATIVE AMERICAN HOUSING ASSISTANCE

NATIVE AMERICAN HOUSING ASSISTANCE AND SELF-DETERMINATION ACT OF 1996
[Public Law 104-330; 110 Stat. 40; 25 U.S.C. 4101 et seq.]

Sec. 2. [25 U.S.C. 4101]
CONGRESSIONAL FINDINGS.

The Congress finds that—

(1) the Federal Government has a responsibility to promote the general welfare of the Nation—

(A) by using Federal resources to aid families and individuals seeking affordable homes in safe and healthy environments and, in particular, assisting responsible, deserving citizens who cannot provide fully for themselves because of temporary circumstances or factors beyond their control;

(B) by working to ensure a thriving national economy and a strong private housing market; and

(C) by developing effective partnerships among the Federal Government, State, tribal, and local governments, and private entities that allow government to accept responsibility for fostering the development of a healthy marketplace and allow families to prosper without government involvement in their day-to-day activities;

(2) there exists a unique relationship between the Government of the United States and the governments of Indian tribes and a unique Federal responsibility to Indian people;

(3) the Constitution of the United States invests the Congress with plenary power over the field of Indian affairs, and through treaties, statutes, and historical relations with Indian tribes, the United States has undertaken a unique trust responsibility to protect and support Indian tribes and Indian people;

(4) the Congress, through treaties, statutes, and the general course of dealing with Indian tribes, has assumed a trust responsibility for the protection and preservation of Indian tribes and for working with tribes and their members to improve their housing conditions and socioeconomic status so that they are able to take greater responsibility for their own economic condition;

(5) providing affordable homes in safe and healthy environments is an essential element in the special role of the United States in helping tribes and their members to improve their housing conditions and socioeconomic status;

(6) the need for affordable homes in safe and healthy environments on Indian reservations, in Indian communities, and in Native Alaskan villages is acute and the Federal Government shall work not only to provide housing assistance, but also, to the extent practicable, to assist in the development of private housing finance mechanisms on Indian lands to achieve the goals of economic self-sufficiency and self-determination for tribes and their members; and

(7) Federal assistance to meet these responsibilities shall be provided in a manner that recognizes the right of Indian self-determination and tribal self-governance by making such assistance available directly to the Indian tribes or tribally designated entities under authorities similar to those accorded Indian tribes in Public Law 93-638 (25 U.S.C. 450 et seq.).

Sec. 3. [25 U.S.C. 4102]
ADMINISTRATION THROUGH OFFICE OF NATIVE AMERICAN PROGRAMS.

The Secretary of Housing and Urban Development shall carry out this Act through the Office of Native American Programs of the Department of Housing and Urban Development.

Sec. 4. [25 U.S.C. 4103]
DEFINITIONS.

For purposes of this Act, the following definitions shall apply:

(1) ADJUSTED INCOME.—The term "adjusted income" means the annual income that remains after excluding the following amounts:

(A) YOUTHS, STUDENTS, AND PERSONS WITH DISABILITIES.—$480 for each member of the family residing in the household (other than the head of the household or the spouse of the head of the household)—

(i) who is under 18 years of age; or

(ii) who is—

(I) 18 years of age or older; and

(II) a person with disabilities or a full-time student.

(B) ELDERLY AND DISABLED FAMILIES.—$400 for an elderly or disabled family.

(C) MEDICAL AND ATTENDANT EXPENSES.—The amount by which 3 percent of the annual income of the family is exceeded by the aggregate of—

(i) medical expenses, in the case of an elderly or disabled family; and

(ii) reasonable attendant care and auxiliary apparatus expenses for each family member who is a person with disabilities, to the extent necessary to enable any member of the family (including a member who is a person with disabilities) to be employed.

(D) CHILD CARE EXPENSES.—Child care expenses, to the extent necessary to enable another member of the family to be employed or to further his or her education.

(E) EARNED INCOME OF MINORS.—The amount of any earned income of any member of the family who is less than 18 years of age.

(F) TRAVEL EXPENSES.—Excessive travel expenses, not to exceed $25 per family per week, for employment- or education-related travel.

(G) OTHER AMOUNTS.—Such other amounts as may be provided in the Indian housing plan for an Indian tribe.

(2) AFFORDABLE HOUSING.—The term "affordable housing" means housing that complies with the requirements for affordable housing under title II. The term includes permanent housing for homeless persons who are persons with disabilities, transitional housing, and single room occupancy housing.

(3) DRUG-RELATED CRIMINAL ACTIVITY.—The term "drug-related criminal activity" means the illegal manufacture, sale, distribution, use, or possession with intent to manufacture, sell, distribute, or use, of a controlled substance (as such term is defined in section 102 of the Controlled Substances Act).

(4) ELDERLY FAMILIES AND NEAR-ELDERLY FAMILIES.—The terms "elderly family" and "near-elderly family" mean a family whose head (or his or her spouse), or whose sole member, is an elderly person or a near-elderly person, respectively. Such terms include 2 or more elderly persons or near-elderly persons living together, and 1 or more such persons living with 1 or more persons determined under the Indian housing plan for the agency to be essential to their care or well-being.

(5) ELDERLY PERSON.—The term "elderly person" means a person who is at least 62 years of age.

(6) FAMILY.—The term "family" includes a family with or without children, an elderly family, a near-elderly family, a disabled family, and a single person.

(7) GRANT BENEFICIARY.—The term "grant beneficiary" means the Indian tribe or tribes on behalf of which a grant is made under this Act to a recipient.

(8) HOUSING RELATED COMMUNITY DEVELOPMENT.—

(A) IN GENERAL.—The term "housing related community development" means any facility, community building, business, activity, or infrastructure that—

(i) is owned by an Indian tribe or a tribally designated housing entity;

(ii) is necessary to the provision of housing in an Indian area; and

(iii)(I) would help an Indian tribe or tribally designated housing entity to reduce the cost of construction of Indian housing;

(II) would make housing more affordable, accessible, or practicable in an Indian area; or

(III) would otherwise advance the purposes of this Act.

(B) EXCLUSION.—The term "housing and community development" does not include any activity conducted by any Indian tribe under the Indian Gaming Regulatory Act (25 U.S.C. 2701 et seq.).

(9) INCOME.—The term "income" means income from all sources of each member of the household, as determined in accordance with criteria prescribed by the Secretary, except that the following amounts may not be considered as income under this paragraph:

(A) Any amounts not actually received by the family.

(B) Any amounts that would be eligible for exclusion under section 1613(a)(7) of the Social Security Act.

(C) Any amounts received by any member of the family as disability compensation under chapter 11 of title 38, United States Code, or dependency and indemnity compensation under chapter 13 of such title.

(10) INDIAN.—The term "Indian" means any person who is a member of an Indian tribe.

(11) INDIAN AREA.—The term "Indian area" means the area within which an Indian tribe or a tribally designated housing entity, as authorized by 1 or more Indian tribes, provides assistance under this Act for affordable housing.

(12) INDIAN HOUSING PLAN.—The term "Indian housing plan" means a plan under section 102.

(13) INDIAN TRIBE.—

(A) IN GENERAL.—The term "Indian tribe" means a tribe that is a federally recognized tribe or a State recognized tribe.

(B) FEDERALLY RECOGNIZED TRIBE.—The term "federally recognized tribe" means any Indian tribe, band, nation, or other organized group or community of Indians, including any Alaska Native village or regional or village corporation as defined in or established pursuant to the Alaska Native Claims Settlement Act, that is recognized as eligible for the special programs and services provided by the United States to Indians because of their status as Indians pursuant to the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450 et seq.).

(C) STATE RECOGNIZED TRIBE.—

(i) IN GENERAL.—The term "State recognized tribe" means any tribe, band, nation, pueblo, village, or community—

(I) that has been recognized as an Indian tribe by any State; and

(II) for which an Indian Housing Authority has, before the effective date under section 705, entered into a contract with the Secretary pursuant to the United States Housing Act of 1937 for housing for Indian families and has received funding pursuant to such contract within the 5-year period ending upon such effective date.

(ii) CONDITIONS.—Notwithstanding clause (i)—

(I) the allocation formula under section 302 shall be determined for a State recognized tribe under tribal membership eligibility criteria in existence on the date of the enactment of this Act[420]; and

(II) nothing in this paragraph shall be construed to confer upon a State recognized tribe any rights, privileges, responsibilities, or obligations otherwise accorded groups recognized as Indian tribes by the United States for other purposes.

(14) LOW-INCOME FAMILY.—The term "low-income family" means a family whose income does not exceed 80 percent of the median income for the area, as determined by the Secretary with adjustments for smaller and larger families, except that the Secretary may, for purposes of this paragraph, establish income ceilings higher or lower than 80 percent of the median for the area on the basis of the findings of the Secretary or the agency that such variations are necessary because of prevailing levels of construction costs or unusually high or low family incomes.

(15) MEDIAN INCOME.—The term "median income" means, with respect to an area that is an Indian area, the greater of—

(A) the median income for the Indian area, which the Secretary shall determine; or

(B) the median income for the United States.

(16) NEAR-ELDERLY PERSON.—The term "near-elderly person" means a person who is at least 55 years of age and less than 62 years of age.

(17) NONPROFIT.—The term "nonprofit" means, with respect to an organization, association, corporation, or other entity, that no part of the net earnings of the entity inures to the benefit of any member, founder, contributor, or individual.

(18) PERSON WITH DISABILITIES.—The term "person with disabilities" means a person who—

(A) has a disability as defined in section 223 of the Social Security Act;

[420] October 26, 1996.

(B) is determined, pursuant to regulations issued by the Secretary, to have a physical, mental, or emotional impairment which—

(i) is expected to be of long-continued and indefinite duration;

(ii) substantially impedes his or her ability to live independently; and

(iii) is of such a nature that such ability could be improved by more suitable housing conditions; or

(C) has a developmental disability as defined in section 102 of the Developmental Disabilities Assistance and Bill of Rights Act of 2000.

Such term shall not exclude persons who have the disease of acquired immunodeficiency syndrome or any conditions arising from the etiologic agent for acquired immunodeficiency syndrome. Notwithstanding any other provision of law, no individual shall be considered a person with disabilities, for purposes of eligibility for housing assisted under this Act, solely on the basis of any drug or alcohol dependence. The Secretary shall consult with other appropriate Federal agencies to implement the preceding sentence.

(19) RECIPIENT.—The term "recipient" means an Indian tribe or the entity for one or more Indian tribes that is authorized to receive grant amounts under this Act on behalf of the tribe or tribes.

(20) SECRETARY.—Except as otherwise specifically provided in this Act, the term "Secretary" means the Secretary of Housing and Urban Development.

(21) STATE.—The term "State" means the States of the United States, the District of Columbia, the Commonwealth of Puerto Rico, the Commonwealth of the Northern Mariana Islands, Guam, the Virgin Islands, American Samoa, and any other territory or possession of the United States and Indian tribes.

(22) TRIBALLY DESIGNATED HOUSING ENTITY.—The terms "tribally designated housing entity" and "housing entity" have the following meaning:

(A) EXISTING IHA'S.—With respect to any Indian tribe that has not taken action under subparagraph (B), and for which an Indian housing authority—

(i) was established for purposes of the United States Housing Act of 1937 before the date of the enactment of this Act[421] that meets the requirements under the United States Housing Act of 1937,

(ii) is acting upon such date of enactment as the Indian housing authority for the tribe, and

(iii) is not an Indian tribe for purposes of this Act,

the terms mean such Indian housing authority.

(B) OTHER ENTITIES.—With respect to any Indian tribe that, pursuant to this Act, authorizes an entity other than the tribal government to receive grant amounts and provide assistance under this Act for affordable housing for Indians, which entity is established—

(i) by exercise of the power of self-government of one or more Indian tribes independent of State law, or

(ii) by operation of State law providing specifically for housing authorities or housing entities for Indians, including regional housing authorities in the State of Alaska,

the terms mean such entity.

(C) ESTABLISHMENT.—A tribally designated housing entity may be authorized or established by one or more Indian tribes to act on behalf of each such tribe authorizing or establishing the housing entity.

TITLE I—BLOCK GRANTS AND GRANT REQUIREMENTS

Sec. 101. [25 U.S.C. 4111]
BLOCK GRANTS.

(a) AUTHORITY.—

(1) IN GENERAL.—For each fiscal year, the Secretary shall (to the extent amounts are made available to carry out this Act) make grants under this section on behalf of Indian tribes—

(A) to carry out affordable housing activities under subtitle A of title II; and

(B) to carry out self-determined housing activities for tribal communities programs under subtitle B of that title.

[421] October 26, 1996.

(2) PROVISION OF AMOUNTS.—Under such a grant on behalf of an Indian tribe, the Secretary shall provide the grant amounts for the tribe directly to the recipient for the tribe.

(b) PLAN REQUIREMENT.—

(1) IN GENERAL.—The Secretary may make a grant under this Act on behalf of an Indian tribe for a fiscal year only if—

(A) the Indian tribe has submitted to the Secretary an Indian housing plan for such fiscal year under section 102; and

(B) the plan has been determined under section 103 to comply with the requirements of section 102.

(2) WAIVER.—The Secretary may waive the applicability of the requirements under paragraph (1), in whole or in part, for a period of not more than 90 days, if the Secretary determines that an Indian tribe has not complied with, or is unable to comply with, those requirements due to exigent circumstances beyond the control of the Indian tribe.[422]

(c) LOCAL COOPERATION AGREEMENT.—Notwithstanding any other provision of this Act, grant amounts provided under this Act on behalf of an Indian tribe may not be used for rental or lease-purchase homeownership units that are owned by the recipient for the tribe unless the governing body of the locality within which the property subject to the development activities to be assisted with the grant amounts is or will be situated has entered into an agreement with the recipient for the tribe providing for local cooperation required by the Secretary pursuant to this Act. The Secretary may waive the requirements of this subsection and subsection (d) if the recipient has made a good faith effort to fulfill the requirements of this subsection and subsection (d) and agrees to make payments in lieu of taxes to the appropriate taxing authority in an amount consistent with the requirements of subsection (d)(2) until such time as the matter of making such payments has been resolved in accordance with subsection (d).[423]

(d) EXEMPTION FROM TAXATION.—Notwithstanding any other provision of this Act, grant amounts provided under this Act on behalf of an Indian tribe may not be used for affordable housing activities under this Act for rental or lease-purchase dwelling units developed under the United States Housing Act of 1937 (42 U.S.C. 1437 et seq.) or with amounts provided under this Act that are owned by the recipient for the tribe unless—

(1) such dwelling units (which, in the case of units in a multi-unit project, shall be exclusive of any portions of the project not developed under the United States Housing Act of 1937 or with amounts provided under this Act) are exempt from all real and personal property taxes levied or imposed by any State, tribe, city, county, or other political subdivision; and

(2) the recipient for the tribe makes annual payments of user fees to compensate such governments for the costs of providing governmental services, including police and fire protection, roads, water and sewerage systems, utilities systems and related facilities, or payments in lieu of taxes to such taxing authority, in an amount equal to the greater of $150 per dwelling unit or 10 percent of the difference between the shelter rent and the utility cost, or such lesser amount as—

(A) is prescribed by State, tribal, or local law;

(B) is agreed to by the local governing body in the agreement under subsection (c); or

(C) the recipient and the local governing body agree that such user fees or payments in lieu of taxes shall not be made.

(e) EFFECT OF FAILURE TO EXEMPT FROM TAXATION.—Notwithstanding subsection (d), a grant recipient that does not comply with the requirements under such subsection may receive a block grant under this Act, but only if the tribe, State, city, county, or other political subdivision in which the affordable housing development is located contributes, in the form of cash or tax remission, the amount by which the taxes paid with respect to the development exceed the amounts prescribed in subsection (d)(2).

(f) AMOUNT.—Except as otherwise provided under this Act, the amount of a grant under this section to a recipient for a fiscal year shall be—

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[422] This paragraph was amended to read as shown by section 1003(a)(1) of the Omnibus Indian Advancement Act, Pub. L. 106-568, approved December 27, 2000. Section 503(a)(1) of the American Homeownership and Economic Opportunity Act of 2000, Pub. L. 106-569, enacted on the same day, made an amendment inserting (a second time) language identical to that added by Pub. L. 106-568, but that amendment has not been executed in this compilation.

[423] This sentence was added by section 1003(a)(2) of the Omnibus Indian Advancement Act, Pub. L. 106-568, approved December 27, 2000. Section 503(a)(2) of the American Homeownership and Economic Opportunity Act of 2000, Pub. L. 106-569, enacted on the same day, made an amendment adding (a second time) a sentence identical to that added by Pub. L. 106-568, but that amendment has not been executed in this compilation.

(1) in the case of a recipient whose grant beneficiary is a single Indian tribe, the amount of the allocation under section 301 for the Indian tribe; and

(2) in the case of a recipient whose grant beneficiary is more than 1 Indian tribe, the sum of the amounts of the allocations under section 301 for each such Indian tribe.

(g) USE FOR AFFORDABLE HOUSING ACTIVITIES UNDER PLAN.—Except as provided in subsection (h) of this section and subtitle B of title II, amounts provided under a grant under this section may be used only for affordable housing activities under title II that are consistent with an Indian housing plan approved under section 103.

(h) ADMINISTRATIVE AND PLANNING EXPENSES.—The Secretary shall, by regulation, authorize each recipient to use a percentage of any grant amounts received under this Act for comprehensive housing and community development planning activities and for any reasonable administrative and planning expenses of the recipient relating to carrying out this Act and activities assisted with such amounts, which may include costs for salaries of individuals engaged in administering and managing affordable housing activities assisted with grant amounts provided under this Act and expenses of preparing an Indian housing plan under section 102.

(i) PUBLIC-PRIVATE PARTNERSHIPS.—Each recipient shall make all reasonable efforts, consistent with the purposes of this Act, to maximize participation by the private sector, including nonprofit organizations and for-profit entities, in implementing the approved Indian housing plan.

(j) FEDERAL SUPPLY SOURCES.—For purposes of section 501 of title 40, United States Code, on election by the applicable Indian tribe—

(1) each Indian tribe or tribally designated housing entity shall be considered to be an Executive agency in carrying out any program, service, or other activity under this Act; and

(2) each Indian tribe or tribally designated housing entity and each employee of the Indian tribe or tribally designated housing entity shall have access to sources of supply on the same basis as employees of an Executive agency.

(k) TRIBAL PREFERENCE IN EMPLOYMENT AND CONTRACTING.—Notwithstanding any other provision of law, with respect to any grant (or portion of a grant) made on behalf of an Indian tribe under this Act that is intended to benefit 1 Indian tribe, the tribal employment and contract preference laws (including regulations and tribal ordinances) adopted by the Indian tribe that receives the benefit shall apply with respect to the administration of the grant (or portion of a grant).

Sec. 102. [25 U.S.C. 4112]
INDIAN HOUSING PLANS.

(a) PLAN SUBMISSION.—The Secretary shall provide—

(1)(A) for an Indian tribe to submit to the Secretary, by not later than 75 days before the beginning of each tribal program year, a 1-year housing plan for the Indian tribe; or

(B) for the tribally designated housing entity for the tribe to submit the plan as provided in subsection (c) for the tribe; and

(2) for the review of such plans.

(b) 1-YEAR PLAN REQUIREMENT.—

(1) IN GENERAL.—A housing plan of an Indian tribe under this section shall—

(A) be in such form as the Secretary may prescribe; and

(B) contain the information described in paragraph (2).

(2) REQUIRED INFORMATION.—A housing plan shall include the following information with respect to the tribal program year for which assistance under this Act is made available:

(A) DESCRIPTION OF PLANNED ACTIVITIES.—A statement of planned activities, including—

(i) the types of household to receive assistance;

(ii) the types and levels of assistance to be provided;

(iii) the number of units planned to be produced;

(iv)(I) a description of any housing to be demolished or disposed of;

(II) a timetable for the demolition or disposition; and

(III) any other information required by the Secretary with respect to the demolition or disposition;

(v) a description of the manner in which the recipient will protect and maintain the viability of housing owned and operated by the recipient that was developed under a

contract between the Secretary and an Indian housing authority pursuant to the United States Housing Act of 1937 (42 U.S.C. 1437 et seq.); and

(vi) outcomes anticipated to be achieved by the recipient.

(B) STATEMENT OF NEEDS.—A statement of the housing needs of the low-income Indian families residing in the jurisdiction of the Indian tribe, and the means by which those needs will be addressed during the applicable period, including—

(i) a description of the estimated housing needs and the need for assistance for the low-income Indian families in the jurisdiction, including a description of the manner in which the geographical distribution of assistance is consistent with the geographical needs and needs for various categories of housing assistance; and

(ii) a description of the estimated housing needs for all Indian families in the jurisdiction.

(C) FINANCIAL RESOURCES.—An operating budget for the recipient, in such form as the Secretary may prescribe, that includes—

(i) an identification and description of the financial resources reasonably available to the recipient to carry out the purposes of this Act, including an explanation of the manner in which amounts made available will leverage additional resources; and

(ii) the uses to which those resources will be committed, including eligible and required affordable housing activities under title II and administrative expenses.

(D) CERTIFICATION OF COMPLIANCE.—Evidence of compliance with the requirements of this Act, including, as appropriate—

(i) a certification that, in carrying out this Act, the recipient will comply with the applicable provisions of title II of the Civil Rights Act of 1968 (25 U.S.C. 1301 et seq.) and other applicable Federal laws and regulations;

(ii) a certification that the recipient will maintain adequate insurance coverage for housing units that are owned and operated or assisted with grant amounts provided under this Act, in compliance with such requirements as the Secretary may establish;

(iii) a certification that policies are in effect and are available for review by the Secretary and the public governing the eligibility, admission, and occupancy of families for housing assisted with grant amounts provided under this Act;

(iv) a certification that policies are in effect and are available for review by the Secretary and the public governing rents and homebuyer payments charged, including the methods by which the rents or homebuyer payments are determined, for housing assisted with grant amounts provided under this Act;

(v) a certification that policies are in effect and are available for review by the Secretary and the public governing the management and maintenance of housing assisted with grant amounts provided under this Act; and

(vi) a certification that the recipient will comply with section 104(b).

(c)[424] PARTICIPATION OF TRIBALLY DESIGNATED HOUSING ENTITY.—A plan under this section for an Indian tribe may be prepared and submitted on behalf of the tribe by the tribally designated housing entity for the tribe, but only if such plan contains a certification by the recognized tribal government of the grant beneficiary that such tribe—

(1) has had an opportunity to review the plan and has authorized the submission of the plan by the housing entity; or

(2) has delegated to such tribally designated housing entity the authority to submit a plan on behalf of the tribe without prior review by the tribe.

(d) COORDINATION OF PLANS.—A plan under this section may cover more than 1 Indian tribe, but only if the certification requirements under subsection (c) are complied with by each such grant beneficiary covered.

(e) REGULATIONS.—[425]The requirements relating to the contents of plans under this section shall be established by regulation, pursuant to section 106.

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[424] Section 102(3) of Public Law 110-441, enacted on October 14, 2008, redesignated subsections (d) through (f) as subsections (c) through (e).

[425] Section 1003(c) of the Omnibus Indian Advancement Act, Pub. L. 106-568, approved December 27, 2000, made amendments striking subsection (f) of this section and redesignating then-existing subsection (g) as subsection (f), as shown. Section 503(c) of the American Homeownership and Economic Opportunity Act of 2000, Pub. L. 106-569, enacted on the same day, made amendments to this section identical to those made by Pub. L. 106-568, but those amendments have not been executed in this compilation.

Sec. 103. [25 U.S.C. 4113]
REVIEW OF PLANS.

(a) REVIEW AND NOTICE.—

(1) REVIEW.—The Secretary shall conduct a limited review of each Indian housing plan submitted to the Secretary to ensure that the plan complies with the requirements of section 102. The Secretary shall have the discretion to review a plan only to the extent that the Secretary considers review is necessary.

(2) NOTICE.—The Secretary shall notify each Indian tribe for which a plan is submitted and any tribally designated housing entity for the tribe whether the plan complies with such requirements not later than 60 days after receiving the plan. If the Secretary does not notify the Indian tribe, as required under this subsection and subsection (b), the plan shall be considered, for purposes of this Act, to have been determined to comply with the requirements under section 102 and the tribe shall be considered to have been notified of compliance upon the expiration of such 60-day period.

(b) NOTICE OF REASONS FOR DETERMINATION OF NONCOMPLIANCE.—If the Secretary determines that a plan, as submitted, does not comply with the requirements under section 102, the Secretary shall specify in the notice under subsection (a) the reasons for the noncompliance and any modifications necessary for the plan to meet the requirements under section 102.

(c) REVIEW.—After submission of the Indian housing plan or any amendment or modification to the plan to the Secretary, to the extent that the Secretary considers such action to be necessary to make determinations under this subsection, the Secretary shall review the plan (including any amendments or modifications thereto) to determine whether the contents of the plan—

(1) set forth the information required by section 102 to be contained in an Indian housing plan;

(2) are consistent with information and data available to the Secretary; and

(3) are not prohibited by or inconsistent with any provision of this Act or other applicable law.

If the Secretary determines that any of the appropriate certifications required under section 102(c)(5) are not included in the plan, the plan shall be deemed to be incomplete.

(d) UPDATES TO PLAN.—After a plan under section 102 has been submitted for an Indian tribe for any tribal program year, the tribe may comply with the provisions of such section for any succeeding tribal program year by submitting only such information regarding such changes as may be necessary to update the plan previously submitted.

(e) SELF-DETERMINED ACTIVITIES PROGRAM.—Notwithstanding any other provision of this section, the Secretary—

(1) shall review the information included in an Indian housing plan pursuant to subsections (b)(4)[426] and (c)(7)[427] only to determine whether the information is included for purposes of compliance with the requirement under section 232(b)(2) [428]; and

(2) may not approve or disapprove an Indian housing plan based on the content of the particular benefits, activities, or results included pursuant to subsections (b)(4)[429] and (c)(7)[430].

Sec. 104. [25 U.S.C. 4114]
TREATMENT OF PROGRAM INCOME AND LABOR STANDARDS.

(a) PROGRAM INCOME.—

(1) AUTHORITY TO RETAIN.—Notwithstanding any other provision of this Act, a recipient may retain any program income that is realized from any grant amounts under this Act if—

(A) such income was realized after the initial disbursement of the grant amounts received by the recipient; and

(B) the recipient has agreed that it will utilize such income for housing related activities in accordance with this Act.

[426] So in law. This provisions does not exist.
[427] So in law. This provisions does not exist.
[428] So in law. This provisions does not exist.
[429] So in law. This provisions does not exist.
[430] So in law. This provisions does not exist.

(2) PROHIBITION OF REDUCTION OF GRANT[431].—The Secretary may not restrict access to or reduce the grant amount for any Indian tribe based solely on—

(A) whether the recipient for the tribe retains program income under paragraph (1);

(B) the amount of any such program income retained;

(C) whether the recipient retains reserve amounts described in section 210; or

(D) whether the recipient has expended retained program income for housing-related activities.

(3) EXCLUSION OF AMOUNTS.—The Secretary may, by regulation, exclude from consideration as program income any amounts determined to be so small that compliance with the requirements of this subsection would create an unreasonable administrative burden on the recipient.

(4) EXCLUSION FROM PROGRAM INCOME OF REGULAR DEVELOPER'S FEES FOR LOW-INCOME HOUSING TAX CREDIT PROJECTS.—Notwithstanding any other provision of this Act, any income derived from a regular and customary developer's fee for any project that receives a low-income housing tax credit under section 42 of the Internal Revenue Code of 1986, and that is initially funded using a grant provided under this Act, shall not be considered to be program income if the developer's fee is approved by the State housing credit agency.

(b) LABOR STANDARDS.—

(1) IN GENERAL.—Any contract or agreement for assistance, sale, or lease pursuant to this Act shall contain a provision requiring that not less than the wages prevailing in the locality, as determined or adopted (subsequent to a determination under applicable State, tribal, or local law) by the Secretary, shall be paid to all architects, technical engineers, draftsmen, and technicians employed in the development, and all maintenance laborers and mechanics employed in the operation, of the affordable housing project involved; and shall also contain a provision that not less than the wages prevailing in the locality, as predetermined by the Secretary of Labor pursuant to the Act of March 3, 1931 (commonly known as the Davis-Bacon Act; chapter 411; 46 Stat. 1494; 40 U.S.C. 276a et seq.), shall be paid to all laborers and mechanics employed in the development of the affordable housing involved, and the Secretary shall require certification as to compliance with the provisions of this paragraph before making any payment under such contract or agreement.

(2) EXCEPTIONS.—Paragraph (1) and the provisions relating to wages (pursuant to paragraph (1)) in any contract or agreement for assistance, sale, or lease pursuant to this Act, shall not apply to any individual who receives no compensation or is paid expenses, reasonable benefits, or a nominal fee to perform the services for which the individual volunteered and who is not otherwise employed at any time in the construction work.

(3) APPLICATION OF TRIBAL LAWS.—[432]Paragraph (1) shall not apply to any contract or agreement for assistance, sale, or lease pursuant to this Act, if such contract or agreement is otherwise covered by one or more laws or regulations adopted by an Indian tribe that requires the payment of not less than prevailing wages, as determined by the Indian tribe.

Sec. 105. [25 U.S.C. 4115]
ENVIRONMENTAL REVIEW.

(a) IN GENERAL.—

(1) RELEASE OF FUNDS.—In order to ensure that the policies of the National Environmental Policy Act of 1969 and other provisions of law that further the purposes of such Act (as specified in regulations issued by the Secretary) are most effectively implemented in connection with the expenditure of grant amounts provided under this Act, and to ensure to the public undiminished protection of the environment, the Secretary, in lieu of the environmental protection procedures otherwise applicable, may by regulation provide for the release of amounts for particular projects to tribes which assume all of the responsibilities for environmental review, decisionmaking, and action pursuant to such Act, and such other

[431] Section 5(2)(A) of the Native American Housing Assistance and Self-Determination Reauthorization Act of 2002, Pub. L. 107-292, 116 Stat. 2054, approved November 13, 2002, provided that this paragraph was amended "in the heading, by inserting 'Restricted Access or' before the word 'Reduction'". The amendment could not be executed.

[432] This paragraph was added by section 1003(j) of the Omnibus Indian Advancement Act, Pub. L. 106-568, approved December 27, 2000. Section 503(i) of the American Homeownership and Economic Opportunity Act of 2000, Pub. L. 106-569, enacted on the same day, made an amendment inserting (a second time) a paragraph identical to that added by Pub. L. 106-568, but that amendment has not been executed in this compilation.

provisions of law as the regulations of the Secretary specify, that would apply to the Secretary were the Secretary to undertake such projects as Federal projects.

(2) REGULATIONS.—

(A) IN GENERAL.—The Secretary shall issue regulations to carry out this section only after consultation with the Council on Environmental Quality.

(B) CONTENTS.—The regulations issued under this paragraph shall—

(i) provide for the monitoring of the environmental reviews performed under this section;

(ii) in the discretion of the Secretary, facilitate training for the performance of such reviews; and

(iii) provide for the suspension or termination of the assumption of responsibilities under this section.

(3) EFFECT ON ASSUMED RESPONSIBILITY.—The duty of the Secretary under paragraph (2)(B) shall not be construed to limit or reduce any responsibility assumed by a recipient of grant amounts with respect to any particular release of funds.

(b) PROCEDURE.—The Secretary shall approve the release of funds subject to the procedures authorized by this section only if, not less than 15 days prior to such approval and prior to any commitment of funds to such projects, the tribe has submitted to the Secretary a request for such release accompanied by a certification that meets the requirements of subsection (c). The approval of the Secretary of any such certification shall be deemed to satisfy the responsibilities of the Secretary under the National Environmental Policy Act of 1969 and such other provisions of law as the regulations of the Secretary specify insofar as those responsibilities relate to the releases of funds for projects to be carried out pursuant thereto that are covered by such certification.

(c) CERTIFICATION.—A certification under the procedures authorized by this section shall—

(1) be in a form acceptable to the Secretary;

(2) be executed by the chief executive officer or other officer of the tribe under this Act qualified under regulations of the Secretary;

(3) specify that the tribe has fully carried out its responsibilities as described under subsection (a); and

(4) specify that the certifying officer—

(A) consents to assume the status of a responsible Federal official under the National Environmental Policy Act of 1969 and each provision of law specified in regulations issued by the Secretary insofar as the provisions of such Act or such other provisions of law apply pursuant to subsection (a); and

(B) is authorized and consents on behalf of the tribe and such officer to accept the jurisdiction of the Federal courts for the purpose of enforcement of the responsibilities of the certifying officer as such an official.

(d) ENVIRONMENTAL COMPLIANCE.—[433]The Secretary may waive the requirements under this section if the Secretary determines that a failure on the part of a recipient to comply with provisions of this section—

(1) will not frustrate the goals of the National Environmental Policy Act of 1969 (42 U.S.C. 4331 et seq.) or any other provision of law that furthers the goals of that Act;

(2) does not threaten the health or safety of the community involved by posing an immediate or long-term hazard to residents of that community;

(3) is a result of inadvertent error, including an incorrect or incomplete certification provided under subsection (c)(1); and

(4) may be corrected through the sole action of the recipient.

Sec. 106. [25 U.S.C. 4116]
REGULATIONS.

(a) TRANSITION REQUIREMENTS.—

(1) IN GENERAL.—Not later than 90 days after the date of the enactment of this Act[434], the Secretary shall, by notice issued in the Federal Register, establish any requirements necessary to provide

[433] This subsection was added by section 1003(d) of the Omnibus Indian Advancement Act, Pub. L. 106-568, approved December 27, 2000. Section 503(d) of the American Homeownership and Economic Opportunity Act of 2000, Pub. L. 106-569, enacted on the same day, made an amendment adding (a second time) a subsection identical to that added by Pub. L. 106-568, but that amendment has not been executed in this compilation.

[434] The date of enactment was October 26, 1996.

for the transition (upon the effectiveness of this Act and the amendments made by this Act) from the provision of assistance for Indian tribes and Indian housing authorities under the United States Housing Act of 1937 and other related provisions of law to the provision of assistance in accordance with this Act and the amendments made by this Act.

(2) PUBLIC COMMENTS; GENERAL NOTICE OF PROPOSED RULEMAKING.—The notice issued under paragraph (1) shall—

(A) invite public comments regarding such transition requirements and final regulations to carry out this Act; and

(B) include a general notice of proposed rulemaking (for purposes of section 564(a) of title 5, United States Code) of the final regulations under subsection (b).

(b) FINAL REGULATIONS.—

(1) TIMING.—The Secretary shall issue final regulations necessary to carry out this Act not later than September 1, 1997, and such regulations shall take effect not later than the effective date of this Act.

(2) NEGOTIATED RULEMAKING PROCEDURE.—

(A) IN GENERAL.—Notwithstanding sections 563(a) and 565(a) of title 5, United States Code, all regulations required under this Act, including any regulations that may be required pursuant to amendments made to this Act after the date of enactment of this Act, shall be issued according to a negotiated rulemaking procedure under subchapter III of chapter 5 of title 5, United States Code.

(B) COMMITTEE.—

(i) IN GENERAL.—Not later than 180 days after the date of enactment of the Native American Housing Assistance and Self-Determination Reauthorization Act of 2008 and any other Act to reauthorize this Act, the Secretary shall establish a negotiated rulemaking committee, in accordance with the procedures under that subchapter, for the development of proposed regulations under subparagraph (A).

(ii) ADAPTATION.—In establishing the negotiated rulemaking committee, the Secretary shall—

(I) adapt the procedures under the subchapter described in clause (i) to the unique government-to-government relationship between the Indian tribes and the United States, and shall ensure that the membership of the committee include only representatives of the Federal Government and of geographically diverse small, medium, and large Indian tribes; and

(II) shall not preclude the participation of tribally designated housing entities should tribes elect to be represented by such entities.

(C) SUBSEQUENT NEGOTIATED RULEMAKING.—The Secretary shall—

(i) initiate a negotiated rulemaking in accordance with this section by not later than 90 days after the date of enactment of the Native American Housing Assistance and Self-Determination Reauthorization Act of 2008 and any other Act to reauthorize this Act; and

(ii) promulgate regulations pursuant to this section by not later than 2 years after the date of enactment of the Native American Housing Assistance and Self-Determination Reauthorization Act of 2008 and any other Act to reauthorize this Act.

(D) REVIEW.—Not less frequently than once every 7 years, the Secretary, in consultation with Indian tribes, shall review the regulations promulgated pursuant to this section in effect on the date on which the review is conducted.

(c) EFFECTIVE DATE.—This section shall take effect on the date of the enactment of this Act[435].

Sec. 107. [25 U.S.C. 4101 note]
EFFECTIVE DATE.

Except as otherwise expressly provided in this Act, this Act and the amendments made by this Act shall take effect on October 1, 1997.

[435] October 26, 1996.

Sec. 108. [25 U.S.C. 4117]
AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated for grants under this title such sums as may be necessary for each of fiscal years 2009 through 2013. This section shall take effect on the date of the enactment of this Act[436].

TITLE II—AFFORDABLE HOUSING ACTIVITIES

Subtitle A—General Block Grant Program

Sec. 201. [25 U.S.C. 4131]
NATIONAL OBJECTIVES AND ELIGIBLE FAMILIES.

(a) PRIMARY OBJECTIVE.—The national objectives of this Act are—

(1) to assist and promote affordable housing activities to develop, maintain, and operate affordable housing in safe and healthy environments on Indian reservations and in other Indian areas for occupancy by low-income Indian families;

(2) to ensure better access to private mortgage markets for Indian tribes and their members and to promote self-sufficiency of Indian tribes and their members;

(3) to coordinate activities to provide housing for Indian tribes and their members with Federal, State, and local activities to further economic and community development for Indian tribes and their members;

(4) to plan for and integrate infrastructure resources for Indian tribes with housing development for tribes; and

(5) to promote the development of private capital markets in Indian country and to allow such markets to operate and grow, thereby benefiting Indian communities.

(b) ELIGIBLE FAMILIES.—

(1) IN GENERAL.—Except as provided under paragraphs (2) and (4), and except with respect to loan guarantees under the demonstration program under title VI, assistance under eligible housing activities under this Act shall be limited to low-income Indian families on Indian reservations and other Indian areas.

(2) EXCEPTION TO LOW-INCOME REQUIREMENT.—

(A) EXCEPTION TO REQUIREMENT.—Notwithstanding paragraph (1), a recipient may provide housing or housing assistance through affordable housing activities for which a grant is provided under this Act to any family that is not a low-income family, to the extent that the Secretary approves the activities due to a need for housing for those families that cannot reasonably be met without that assistance.

(B) LIMITS.—The Secretary shall establish limits on the amount of assistance that may be provided under this Act for activities for families who are not low-income families.

(3) ESSENTIAL FAMILIES.—Notwithstanding paragraph (1), a recipient may provide housing or housing assistance provided through affordable housing activities assisted with grant amounts under this Act for a family on an Indian reservation or other Indian area if the recipient determines that the presence of the family on the Indian reservation or other Indian area is essential to the well-being of Indian families and the need for housing for the family cannot reasonably be met without such assistance.

(4) LAW ENFORCEMENT OFFICERS.—[437]A recipient may provide housing or housing assistance provided through affordable housing activities assisted with grant amounts under this Act for a law enforcement officer on an Indian reservation or other Indian area, if—

(A) the officer—

(i) is employed on a full-time basis by the Federal Government or a State, county, or other unit of local government, or lawfully recognized tribal government; and

(ii) in implementing such full-time employment, is sworn to uphold, and make arrests for, violations of Federal, State, county, or tribal law; and

[436] October 26, 1996.

[437] This paragraph (and the references in paragraph (1) to this paragraph and to paragraph (2)) were added by section 1003(e) of the Omnibus Indian Advancement Act, Pub. L. 106-568, approved December 27, 2000. However, section 210 of the Departments of Veterans Affairs and Housing and Urban Development, and Independent Agencies Appropriations Act (enacted by reference by Public Law 106-377) also amended this section by adding paragraph (5), which contains language almost identical to the language in this paragraph.

(B) the recipient determines that the presence of the law enforcement officer on the Indian reservation or other Indian area may deter crime."

(5) LAW ENFORCEMENT OFFICERS.—Notwithstanding paragraph (1), a recipient may provide housing or housing assistance provided through affordable housing activities assisted with grant amounts under this Act to a law enforcement officer on the reservation or other Indian area, who is employed full-time by a Federal, State, county or tribal government, and in implementing such full-time employment is sworn to uphold, and make arrests for violations of Federal, State, county or tribal law, if the recipient determines that the presence of the law enforcement officer on the Indian reservation or other Indian area may deter crime.

(6) PREFERENCE FOR TRIBAL MEMBERS AND OTHER INDIAN FAMILIES.—The Indian housing plan for an Indian tribe may require preference, for housing or housing assistance provided through affordable housing activities assisted with grant amounts provided under this Act on behalf of such tribe, to be given (to the extent practicable) to Indian families who are members of such tribe, or to other Indian families. In any case in which the applicable Indian housing plan for an Indian tribe provides for preference under this paragraph, the recipient for the tribe shall ensure that housing activities that are assisted with grant amounts under this Act for such tribe are subject to such preference.

(6)[438] EXEMPTION.—Title VI of the Civil Rights Act of 1964 and title VIII of the Civil Rights Act of 1968 shall not apply to actions by federally recognized tribes and the tribally designated housing entities of those tribes under this Act.

Sec. 202. [25 U.S.C. 4132]
ELIGIBLE AFFORDABLE HOUSING ACTIVITIES.

Affordable housing activities under this title are activities, in accordance with the requirements of this title, to develop, operate, maintain, or support affordable housing for rental or homeownership, or to provide housing services with respect to affordable housing, through the following activities:

(1) INDIAN HOUSING ASSISTANCE.—The provision of modernization or operating assistance for housing previously developed or operated pursuant to a contract between the Secretary and an Indian housing authority.

(2) DEVELOPMENT.—The acquisition, new construction, reconstruction, or moderate or substantial rehabilitation of affordable housing, which may include real property acquisition, site improvement, development and rehabilitation of utilities, necessary infrastructure, and utility services, conversion, demolition, financing, administration and planning, improvement to achieve greater energy efficiency, mold remediation, and other related activities.

(3) HOUSING SERVICES.—The provision of housing-related services for affordable housing, such as housing counseling in connection with rental or homeownership assistance, establishment and support of resident organizations and resident management corporations, energy auditing, activities related to the provision of self-sufficiency and other services, and other services related to assisting owners, tenants, contractors, and other entities, participating or seeking to participate in other housing activities assisted pursuant to this section.

(4) HOUSING MANAGEMENT SERVICES.—The provision of management services for affordable housing, including preparation of work specifications, loan processing, inspections, tenant selection, management of tenant-based rental assistance, the costs of operation and maintenance of units developed with funds provided under this Act, and management of affordable housing projects.

(5) CRIME PREVENTION AND SAFETY ACTIVITIES.—The provision of safety, security, and law enforcement measures and activities appropriate to protect residents of affordable housing from crime.

(6) MODEL ACTIVITIES.—Housing activities under model programs that are designed to carry out the purposes of this Act and are specifically approved by the Secretary as appropriate for such purpose.

(7) COMMUNITY DEVELOPMENT DEMONSTRATION PROJECT.—

(A) IN GENERAL.—Consistent with principles of Indian self-determination and the findings of this Act, the Secretary shall conduct and submit to Congress a study of the feasibility of establishing a demonstration project in which Indian tribes, tribal organizations, or tribal consortia are authorized to expend amounts received pursuant to the Native American Housing Assistance and Self-Determination Reauthorization Act of 2002 in order to design, implement, and operate community development demonstration projects.

[438] So in law. Probably should be designated as paragraph (7).

(B) STUDY.—Not later than 1 year after the date of enactment of the Native American Housing Assistance and Self-Determination Reauthorization Act of 2002, the Secretary shall submit the study conducted under subparagraph (A) to the Committee on Banking, Housing, and Urban Affairs and the Committee on Indian Affairs of the Senate, and the Committee on Financial Services and the Committee on Resources of the House of Representatives.

(8) SELF-DETERMINATION ACT DEMONSTRATION PROJECT.—

(A) IN GENERAL.—Consistent with the provisions of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450 et seq.), the Secretary shall conduct and submit to Congress a study of the feasibility of establishing a demonstration project in which Indian tribes and tribal organizations are authorized to receive assistance in a manner that maximizes tribal authority and decision-making in the design and implementation of Federal housing and related activity funding.

(B) STUDY.—Not later than 1 year after the date of enactment of the Native American Housing Assistance and Self-Determination Reauthorization Act of 2002, the Secretary shall submit the study conducted under subparagraph (A) to the Committee on Banking, Housing, and Urban Affairs and the Committee on Indian Affairs of the Senate, and the Committee on Financial Services and the Committee on Resources of the House of Representatives.

(9) RESERVE ACCOUNTS.—

(A) IN GENERAL.—Subject to subparagraph (B), the deposit of amounts, including grant amounts under section 101, in a reserve account established for an Indian tribe only for the purpose of accumulating amounts for administration and planning relating to affordable housing activities under this section, in accordance with the Indian housing plan of the Indian tribe.

(B) MAXIMUM AMOUNT.—A reserve account established under subparagraph (A) shall consist of not more than an amount equal to 1/4 of the 5-year average of the annual amount used by a recipient for administration and planning under paragraph (2).

Sec. 203. [25 U.S.C. 4133]
PROGRAM REQUIREMENTS.

(a) RENTS.—

(1) ESTABLISHMENT.—Subject to paragraph (2), each recipient shall develop written policies governing rents and homebuyer payments charged for dwelling units assisted under this Act, including the methods by which such rents and homebuyer payments are determined.

(2) MAXIMUM RENT.—In the case of any low-income family residing in a dwelling unit assisted with grant amounts under this Act, the monthly rent or homebuyer payment (as applicable) for such dwelling unit may not exceed 30 percent of the monthly adjusted income of such family.

(b) MAINTENANCE AND EFFICIENT OPERATION.—Each recipient who owns or operates (or is responsible for funding any entity that owns or operates) housing developed or operated pursuant to a contract between the Secretary and an Indian housing authority pursuant to the United States Housing Act of 1937 shall, using amounts of any grants received under this Act, reserve and use for operating assistance under section 202(1) such amounts as may be necessary to provide for the continued maintenance and efficient operation of such housing. This subsection may not be construed to prevent any recipient (or entity funded by a recipient) from demolishing or disposing of Indian housing referred to in this subsection, pursuant to regulations established by the Secretary.

(c) INSURANCE COVERAGE.—Each recipient shall maintain adequate insurance coverage for housing units that are owned or operated or assisted with grant amounts provided under this Act.

(d) ELIGIBILITY FOR ADMISSION.—Each recipient shall develop written policies governing the eligibility, admission, and occupancy of families for housing assisted with grant amounts provided under this Act.

(e) MANAGEMENT AND MAINTENANCE.—Each recipient shall develop policies governing the management and maintenance of housing assisted with grant amounts under this Act.

(f) USE OF GRANT AMOUNTS OVER EXTENDED PERIODS.—

(1) IN GENERAL.—To the extent that the Indian housing plan for an Indian tribe provides for the use of amounts of a grant under section 101 for a period of more than 1 fiscal year, or for affordable housing activities for which the amounts will be committed for use or expended during a subsequent fiscal year, the Secretary shall not require those amounts to be used or committed for use at any time earlier than otherwise provided for in the Indian housing plan.

(2) CARRYOVER.—Any amount of a grant provided to an Indian tribe under section 101 for a fiscal year that is not used by the Indian tribe during that fiscal year may be used by the Indian tribe during any subsequent fiscal year.

(g) DE MINIMIS EXEMPTION FOR PROCUREMENT OF GOODS AND SERVICES.—Notwithstanding any other provision of law, a recipient shall not be required to act in accordance with any otherwise applicable competitive procurement rule or procedure with respect to the procurement, using a grant provided under this Act, of goods and services the value of which is less than $5,000.

Sec. 204. [25 U.S.C. 4134]
TYPES OF INVESTMENTS.

(a) IN GENERAL.—Subject to section 203 and the Indian housing plan for an Indian tribe, the recipient for that tribe shall have—

(1) the discretion to use grant amounts for affordable housing activities through equity investments, interest-bearing loans or advances, noninterest-bearing loans or advances, interest subsidies, leveraging of private investments, or any other form of assistance that the Secretary has determined to be consistent with the purposes of this Act; and

(2) the right to establish the terms of assistance.

(b) INVESTMENTS.—A recipient may invest grant amounts for the purposes of carrying out affordable housing activities in investment securities and other obligations as approved by the Secretary.

Sec. 205. [25 U.S.C. 4135]
LOW-INCOME REQUIREMENT AND INCOME TARGETING.

(a) IN GENERAL.—Housing shall qualify as affordable housing for purposes of this Act only if—

(1) each dwelling unit in the housing—

(A) in the case of rental housing, is made available for occupancy only by a family that is a low-income family at the time of their initial occupancy of such unit;

(B) in the case of a contract to purchase existing housing, is made available for purchase only by a family that is a low-income family at the time of purchase;

(C) in the case of a lease-purchase agreement for existing housing or for housing to be constructed, is made available for lease-purchase only by a family that is a low-income family at the time the agreement is entered into; and

(D) in the case of a contract to purchase housing to be constructed, is made available for purchase only by a family that is a low-income family at the time the contract is entered into; and

(2) except for housing assisted under section 202 of the United States Housing Act of 1937 (as in effect before the date of the effectiveness of this Act), each dwelling unit in the housing will remain affordable, according to binding commitments satisfactory to the Secretary, for the remaining useful life of the property (as determined by the Secretary) without regard to the term of the mortgage or to transfer of ownership, or for such other period that the Secretary determines is the longest feasible period of time consistent with sound economics and the purposes of this Act, except upon a foreclosure by a lender (or upon other transfer in lieu of foreclosure) if such action—

(A) recognizes any contractual or legal rights of public agencies, nonprofit sponsors, or others to take actions that would avoid termination of low-income affordability in the case of foreclosure or transfer in lieu of foreclosure; and

(B) is not for the purpose of avoiding low-income affordability restrictions, as determined by the Secretary.

(b) EXCEPTION.—Notwithstanding subsection (a), housing assisted pursuant to section 201(b)(2) shall be considered affordable housing for purposes of this Act.

(c) APPLICABILITY.—The provisions of paragraph (2) of subsection (a) regarding binding commitments for the remaining useful life of property shall not apply to a family or household member who subsequently takes ownership of a homeownership unit.

[Sec. 206. [Repealed.]]

Sec. 207. [25 U.S.C. 4137]
LEASE REQUIREMENTS AND TENANT SELECTION.

(a) LEASES.—Except to the extent otherwise provided by or inconsistent with tribal law, in renting dwelling units in affordable housing assisted with grant amounts provided under this Act, the owner or manager of the housing shall utilize leases that—

(1) do not contain unreasonable terms and conditions;

(2) require the owner or manager to maintain the housing in compliance with applicable housing codes and quality standards;

(3) require the owner or manager to give adequate written notice of termination of the lease, which shall be the period of time required under State, tribal, or local law;

(4) specify that, with respect to any notice of eviction or termination, notwithstanding any State, tribal, or local law, a resident shall be informed of the opportunity, prior to any hearing or trial, to examine any relevant documents, records, or regulations directly related to the eviction or termination;

(5) require that the owner or manager may not terminate the tenancy, during the term of the lease, except for serious or repeated violation of the terms or conditions of the lease, violation of applicable Federal, State, tribal, or local law, or for other good cause; and

(6) provide that the owner or manager may terminate the tenancy of a resident for any activity, engaged in by the resident, any member of the household of the resident, or any guest or other person under the control of the resident, that—

(A) threatens the health or safety of, or right to peaceful enjoyment of the premises by, other residents or employees of the owner or manager of the housing;

(B) threatens the health or safety of, or right to peaceful enjoyment of their premises by, persons residing in the immediate vicinity of the premises; or

(C) is criminal activity (including drug-related criminal activity) on or off the premises.

(b) TENANT AND HOMEBUYER SELECTION.—The owner or manager of affordable rental housing assisted with grant amounts provided under this Act shall adopt and utilize written tenant and homebuyer selection policies and criteria that—

(1) are consistent with the purpose of providing housing for low-income families;

(2) are reasonably related to program eligibility and the ability of the applicant to perform the obligations of the lease; and

(3) provide for—

(A) the selection of tenants and homebuyers from a written waiting list in accordance with the policies and goals set forth in the Indian housing plan for the tribe that is the grant beneficiary of such grant amounts; and

(B) the prompt notification in writing to any rejected applicant of that rejection and the grounds for that rejection.

Sec. 208. [25 U.S.C. 4138]
AVAILABILITY OF RECORDS.

(a) PROVISION OF INFORMATION.—Notwithstanding any other provision of law, except as provided in subsection (b), the National Crime Information Center, police departments, and other law enforcement agencies shall, upon request, provide information to Indian tribes or tribally designated housing entities regarding the criminal conviction records of applicants for employment, and of adult applicants for, or tenants of, housing assisted with grant amounts provided to such tribe or entity under this Act for purposes of applicant screening, lease enforcement, and eviction.

(b) EXCEPTION.—A law enforcement agency described in subsection (a) shall provide information under this paragraph relating to any criminal conviction of a juvenile only to the extent that the release of such information is authorized under the law of the applicable State, tribe, or locality.

(c) CONFIDENTIALITY.—An Indian tribe or tribally designated housing entity receiving information under this section may use such information only for the purposes provided in this section and such information may not be disclosed to any person who is not an officer, employee, or authorized representative of the tribe or entity or the owner of housing assisted under this Act, and who has a job-related need to have access to the information for the purposes under this section. For judicial eviction proceedings, disclosures may be made to the extent necessary. The Secretary shall, by regulation, establish procedures necessary to ensure that information provided under this section to any tribe or entity is used, and confidentiality is maintained, as required under this section.

Sec. 209. [25 U.S.C. 4139]
NONCOMPLIANCE WITH AFFORDABLE HOUSING REQUIREMENT.

If a recipient uses grant amounts to provide affordable housing under this title, and at any time during the useful life of the housing the recipient does not comply with the requirement under section 205(a)(2), the Secretary shall take appropriate action under section 401(a).

Sec. 210. [25 U.S.C. 4140]
CONTINUED USE OF AMOUNTS FOR AFFORDABLE HOUSING.

Any funds for programs for low-income housing under the United States Housing Act of 1937 that, on the date of the applicability of this Act to an Indian tribe, are owned by, or in the possession or under the control of, the Indian housing authority for the tribe, including all reserves not otherwise obligated, shall be considered assistance under this Act and subject to the provisions of this Act relating to use of such assistance.

Subtitle B—Self-Determined Housing Activities for Tribal Communities

Sec. 231. [25 U.S.C. 4145]
PURPOSE.

The purpose of this subtitle is to establish a program for self-determined housing activities for the tribal communities to provide Indian tribes with the flexibility to use a portion of the grant amounts under section 101 for the Indian tribe in manners that are wholly self-determined by the Indian tribe for housing activities involving construction, acquisition, rehabilitation, or infrastructure relating to housing activities or housing that will benefit the community served by the Indian tribe.

Sec. 232. [25 U.S.C. 4145a]
PROGRAM AUTHORITY.

(a) DEFINITION OF QUALIFYING INDIAN TRIBE.—In this section, the term "qualifying Indian tribe" means, with respect to a fiscal year, an Indian tribe or tribally designated housing entity—

(1) to or on behalf of which a grant is made under section 101;

(2) that has complied with the requirements of section 102(b)(6)[439]; and

(3) that, during the preceding 3-fiscal-year period, has no unresolved significant and material audit findings or exceptions, as demonstrated in—

(A) the annual audits of that period completed under chapter 75 of title 31, United States Code (commonly known as the "Single Audit Act"); or

(B) an independent financial audit prepared in accordance with generally accepted auditing principles.

(b) AUTHORITY.—Under the program under this subtitle, for each of fiscal years 2009 through 2013, the recipient for each qualifying Indian tribe may use the amounts specified in subsection (c) in accordance with this subtitle.

(c) AMOUNTS.—With respect to a fiscal year and a recipient, the amounts referred to in subsection (b) are amounts from any grant provided under section 101 to the recipient for the fiscal year, as determined by the recipient, but in no case exceeding the lesser of—

(1) an amount equal to 20 percent of the total grant amount for the recipient for that fiscal year; and

(2) $2,000,000.

Sec. 233. [25 U.S.C. 4145b]
USE OF AMOUNTS FOR HOUSING ACTIVITIES.

(a) ELIGIBLE HOUSING ACTIVITIES.—Any amounts made available for use under this subtitle by a recipient for an Indian tribe shall be used only for housing activities, as selected at the discretion of the recipient and described in the Indian housing plan for the Indian tribe pursuant to section 102(b)(6)[440], for the construction, acquisition, or rehabilitation of housing or infrastructure in accordance with section 202 to provide a benefit to families described in section 201(b)(1).

(b) PROHIBITION ON CERTAIN ACTIVITIES.—Amounts made available for use under this subtitle may not be used for commercial or economic development.

Sec. 234. [25 U.S.C. 4145c]
INAPPLICABILITY OF OTHER PROVISIONS.

(a) IN GENERAL.—Except as otherwise specifically provided in this Act, title I, subtitle A of title II, and titles III through VIII shall not apply to—

[439] So in law. There is no section 102(b)(6).
[440] So in law. There is no section 102(b)(6)

(1) the program under this subtitle; or

(2) amounts made available in accordance with this subtitle.

(b) APPLICABLE PROVISIONS.—The following provisions of titles I through VIII shall apply to the program under this subtitle and amounts made available in accordance with this subtitle:

(1) Section 101(c) (relating to local cooperation agreements).

(2) Subsections (d) and (e) of section 101 (relating to tax exemption).

(3) Section 101(j) (relating to Federal supply sources).

(4) Section 101(k) (relating to tribal preference in employment and contracting).

(5) Section 102(b)(4)[441] (relating to certification of compliance).

(6) Section 104 (relating to treatment of program income and labor standards).

(7) Section 105 (relating to environmental review).

(8) Section 201(b) (relating to eligible families).

(9) Section 203(c) (relating to insurance coverage).

(10) Section 203(g) (relating to a de minimis exemption for procurement of goods and services).

(11) Section 206 (relating to treatment of funds).

(12) Section 209 (relating to noncompliance with affordable housing requirement).

(13) Section 401 (relating to remedies for noncompliance).

(14) Section 408 (relating to public availability of information).

(15) Section 702 (relating to 50-year leasehold interests in trust or restricted lands for housing purposes).

Sec. 235. [25 U.S.C. 4145d]
REVIEW AND REPORT.

(a) REVIEW.—During calendar year 2011, the Secretary shall conduct a review of the results achieved by the program under this subtitle to determine—

(1) the housing constructed, acquired, or rehabilitated under the program;

(2) the effects of the housing described in paragraph (1) on costs to low-income families of affordable housing;

(3) the effectiveness of each recipient in achieving the results intended to be achieved, as described in the Indian housing plan for the Indian tribe; and

(4) the need for, and effectiveness of, extending the duration of the program and increasing the amount of grants under section 101 that may be used under the program.

(b) REPORT.—Not later than December 31, 2011, the Secretary shall submit to Congress a report describing the information obtained pursuant to the review under subsection (a) (including any conclusions and recommendations of the Secretary with respect to the program under this subtitle), including—

(1) recommendations regarding extension of the program for subsequent fiscal years and increasing the amounts under section 232(c) that may be used under the program; and

(2) recommendations for—

(A)(i) specific Indian tribes or recipients that should be prohibited from participating in the program for failure to achieve results; and

(ii) the period for which such a prohibition should remain in effect; or

(B) standards and procedures by which Indian tribes or recipients may be prohibited from participating in the program for failure to achieve results.

(c) PROVISION OF INFORMATION TO SECRETARY.—Notwithstanding any other provision of this Act, recipients participating in the program under this subtitle shall provide such information to the Secretary as the Secretary may request, in sufficient detail and in a timely manner sufficient to ensure that the review and report required by this section is accomplished in a timely manner.

TITLE III—ALLOCATION OF GRANT AMOUNTS

Sec. 301. [25 U.S.C. 4151]
ANNUAL ALLOCATION.

441

For each fiscal year, the Secretary shall allocate any amounts made available for assistance under this Act for the fiscal year, in accordance with the formula established pursuant to section 302, among Indian tribes that comply with the requirements under this Act for a grant under this Act.

Sec. 302. [25 U.S.C. 4152]
ALLOCATION FORMULA.

(a) ESTABLISHMENT.—

(1) IN GENERAL.—The Secretary shall, by regulations issued not later than the expiration of the 12-month period beginning on the date of the enactment of this Act[442], in the manner provided under section 106, establish a formula to provide for allocating amounts available for a fiscal year for block grants under this Act among Indian tribes in accordance with the requirements of this section.

(2) STUDY OF NEED DATA.—

(A) IN GENERAL.—The Secretary shall enter into a contract with an organization with expertise in housing and other demographic data collection methodologies under which the organization, in consultation with Indian tribes and Indian organizations, shall—

(i) assess existing data sources, including alternatives to the decennial census, for use in evaluating the factors for determination of need described in subsection (b); and

(ii) develop and recommend methodologies for collecting data on any of those factors, including formula area, in any case in which existing data is determined to be insufficient or inadequate, or fails to satisfy the requirements of this Act.

(B) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated such sums as are necessary to carry out this section, to remain available until expended.

(b) FACTORS FOR DETERMINATION OF NEED.—The formula shall be based on factors that reflect the need of the Indian tribes and the Indian areas of the tribes for assistance for affordable housing activities, including the following factors:

(1)(A) The number of low-income housing dwelling units developed under the United States Housing Act of 1937 (42 U.S.C. 1437 et seq.), pursuant to a contract between an Indian housing authority for the tribe and the Secretary, that are owned or operated by a recipient on the October 1 of the calendar year immediately preceding the year for which funds are provided, subject to the condition that such a unit shall not be considered to be a low-income housing dwelling unit for purposes of this section if—

(i) the recipient ceases to possess the legal right to own, operate, or maintain the unit; or

(ii) the unit is lost to the recipient by conveyance, demolition, or other means.

(B) If the unit is a homeownership unit not conveyed within 25 years from the date of full availability, the recipient shall not be considered to have lost the legal right to own, operate, or maintain the unit if the unit has not been conveyed to the homebuyer for reasons beyond the control of the recipient.

(C) If the unit is demolished and the recipient rebuilds the unit within 1 year of demolition of the unit, the unit may continue to be considered a low-income housing dwelling unit for the purpose of this paragraph.

(D) In this paragraph, the term “reasons beyond the control of the recipient” means, after making reasonable efforts, there remain—

(i) delays in obtaining or the absence of title status reports;

(ii) incorrect or inadequate legal descriptions or other legal documentation necessary for conveyance;

(iii) clouds on title due to probate or intestacy or other court proceedings; or

(iv) any other legal impediment.

(E) Subparagraphs (A) through (D) shall not apply to any claim arising from a formula current assisted stock calculation or count involving an Indian housing block grant allocation for any fiscal year through fiscal year 2008, if a civil action relating to the claim is filed by not later than 45 days after the date of enactment of this subparagraph.

[442] The date of enactment was October 26, 1996.

(2) The extent of poverty and economic distress and the number of Indian families within Indian areas of the tribe.

(3) Other objectively measurable conditions as the Secretary and the Indian tribes may specify.

(c) OTHER FACTORS FOR CONSIDERATION.—In establishing the formula, the Secretary shall consider—

(1) the relative administrative capacities and other challenges faced by the recipient, including, but not limited to geographic distribution within the Indian area and technical capacity; and

(2) the extent to which terminations of assistance under title V will affect funding available to State recognized tribes.

(d) FUNDING FOR PUBLIC HOUSING OPERATION AND MODERNIZATION.—

(1) FULL FUNDING.—The formula[443] shall provide that, if, in any fiscal year, the total amount made available for assistance under this Act is equal to or greater than the total amount made available for fiscal year 1996 for assistance for the operation and modernization of public housing developed or operated pursuant to a contract between the Secretary and an Indian housing authority pursuant to the United States Housing Act of 1937, the amount provided for such fiscal year for each Indian tribe for which such operating or modernization assistance was provided for fiscal year 1996 shall not be less than the total amount of such operating and modernization assistance provided for fiscal year 1996 for such tribe.

(B) CERTAIN INDIAN TRIBES.—[444]With respect to fiscal year 2001 and each fiscal year thereafter, for any Indian tribe with an Indian housing authority that owns or operates fewer than 250 public housing units, the formula shall provide that if the amount provided for a fiscal year in which the total amount made available for assistance under this Act is equal to or greater than the amount made available for fiscal year 1996 for assistance for the operation and modernization of the public housing referred to in subparagraph (A), then the amount provided to that Indian tribe as modernization assistance shall be equal to the average annual amount of funds provided to the Indian tribe (other than funds provided as emergency assistance) under the assistance program under section 14 of the United States Housing Act of 1937 (42 U.S.C. 1437l) for the period beginning with fiscal year 1992 and ending with fiscal year 1997.

(2) PARTIAL FUNDING.—The formula shall provide that, if, in any fiscal year, the total amount made available for assistance under this Act is less than the total amount made available for fiscal year 1996 for assistance for the operation and modernization of public housing developed or operated pursuant to a contract between the Secretary and an Indian housing authority pursuant to the United States Housing Act of 1937, the amount provided for such fiscal year for each Indian tribe for which such operating or modernization assistance was provided for fiscal year 1996 shall not be less than the amount that bears the same ratio to the total amount available for assistance under this Act for such fiscal year that the amount of operating and modernization assistance provided for the tribe for fiscal year 1996 bears to the total amount made available for fiscal year 1996 for assistance for the operation and modernization of such public housing.

(e) Effective Date.—This section shall take effect on the date of the enactment of this Act[445].

TITLE IV—COMPLIANCE, AUDITS, AND REPORTS

Sec. 401. [25 U.S.C. 4161]
REMEDIES FOR NONCOMPLIANCE.

(a) ACTIONS BY SECRETARY AFFECTING GRANT AMOUNTS.—[446]

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[443] Section 1003(g)(1) of the Omnibus Indian Advancement Act, Pub. L. 106-568, approved December 27, 2000, and section 503(f)(1) of the American Homeownership and Economic Opportunity Act of 2000, Pub. L. 106-569, enacted on the same day, each provide that this pargraph is amended by striking "The formula," and inserting the following:

"(A) IN GENERAL.—Except with respect to an Indian tribe described in subparagraph (B), the formula".

Neither amendment could be executed because each included a comma in the matter proposed to be struck.

[444] This subparagraph was added by section 1003(g)(2) of the Omnibus Indian Advancement Act, Pub. L. 106-568, approved December 27, 2000. Section 503(f)(2) of the American Homeownership and Economic Opportunity Act of 2000, Pub. L. 106-569, enacted on the same day, made an amendment adding (a second time) a subparagraph identical to that added by Pub. L. 106-568, but that amendment has not been executed in this compilation.

[445] The date of enactment was October 26, 1996.

[446] This subsection was amended to read as shown by section 1003(h) of the Omnibus Indian Advancement Act, Pub. L. 106-568, approved December 27, 2000. Section 503(g) of the American Homeownership and Economic Opportunity Act of 2000, Pub. L. 106-569, enacted on the same day, also made amendments to this subsection that are identical to the amendments made by Pub. L. 106-568. Both sets of amendments redesignated provisions, inserted new language, and added paragraph (3). The second set of such amendments has not been executed in this compilation.

(1) IN GENERAL.—Except as provided in subsection (b), if the Secretary finds after reasonable notice and opportunity for hearing that a recipient of assistance under this Act has failed to comply substantially with any provision of this Act, the Secretary shall—

(A) terminate payments under this Act to the recipient;

(B) reduce payments under this Act to the recipient by an amount equal to the amount of such payments that were not expended in accordance with this Act;

(C) limit the availability of payments under this Act to programs, projects, or activities not affected by such failure to comply; or

(D) in the case of noncompliance described in section 402(b), provide a replacement tribally designated housing entity for the recipient, under section 402.

(2) SUBSTANTIAL NONCOMPLIANCE.—The failure of a recipient to comply with the requirements of section 302(b)(1) regarding the reporting of low-income dwelling units shall not, in itself, be considered to be substantial noncompliance for purposes of this title.

(3) CONTINUANCE OF ACTIONS.—If the Secretary takes an action under subparagraph (A), (B), or (C) of paragraph (1), the Secretary shall continue such action until the Secretary determines that the failure to comply has ceased.

(4) EXCEPTION FOR CERTAIN ACTIONS.—

(A) IN GENERAL.—Notwithstanding any other provision of this subsection, if the Secretary makes a determination that the failure of a recipient of assistance under this Act to comply substantially with any material provision (as that term is defined by the Secretary) of this Act is resulting, and would continue to result, in a continuing expenditure of Federal funds in a manner that is not authorized by law, the Secretary may take an action described in paragraph (1)(C) before conducting a hearing.

(B) PROCEDURAL REQUIREMENT.—If the Secretary takes an action described in subparagraph (A), the Secretary shall—

(i) provide notice to the recipient at the time that the Secretary takes that action; and

(ii) conduct a hearing not later than 60 days after the date on which the Secretary provides notice under clause (i).

(C) DETERMINATION.—Upon completion of a hearing under this paragraph, the Secretary shall make a determination regarding whether to continue taking the action that is the subject of the hearing, or take another action under this subsection.

(b) NONCOMPLIANCE BECAUSE OF TECHNICAL INCAPACITY.—[447]

(1) IN GENERAL.—If the Secretary makes a finding under subsection (a), but determines that the failure to comply substantially with the provisions of this Act—

(A) is not a pattern or practice of activities constituting willful noncompliance, and

(B) is a result of the limited capability or capacity of the recipient,

the Secretary may provide technical assistance for the recipient (directly or indirectly) that is designed to increase the capability and capacity of the recipient to administer assistance provided under this Act in compliance with the requirements under this Act, if the recipient enters into a performance agreement with the Secretary that specifies the compliance objectives that the recipient will be required to achieve by the termination date of the performance agreement.

(2) PERFORMANCE AGREEMENT.—The period of a performance agreement described in paragraph (1) shall be for 1 year.

(3) REVIEW.—Upon the termination of a performance agreement entered into under paragraph (1), the Secretary shall review the performance of the recipient that is a party to the agreement.

(4) EFFECT OF REVIEW.—If, on the basis of a review under paragraph (3), the Secretary determines that the recipient—

(A) has made a good faith effort to meet the compliance objectives specified in the agreement, the Secretary may enter into an additional performance agreement for the period specified in paragraph (2); and

[447] This subsection was amended to read as shown by section 1003(i) of the Omnibus Indian Advancement Act, Pub. L. 106-568, approved December 27, 2000. Section 503(h) of the American Homeownership and Economic Opportunity Act of 2000, Pub. L. 106-569, enacted on the same day, also made amendments to this subsection that are identical to the amendments made by Pub. L. 106-568. Both sets of amendments redesignated provisions, inserted new language, realigned margins, and added paragraphs (2), (3), and (4). The second set of such amendments has not been executed in this compilation.

(B) has failed to make a good faith effort to meet applicable compliance objectives, the Secretary shall determine the recipient to have failed to comply substantially with this Act, and the recipient shall be subject to an action under subsection (a).

(c) REFERRAL FOR CIVIL ACTION.—

(1) AUTHORITY.—In lieu of, or in addition to, any action authorized by subsection (a), if the Secretary has reason to believe that a recipient has failed to comply substantially with any provision of this Act, the Secretary may refer the matter to the Attorney General of the United States with a recommendation that an appropriate civil action be instituted.

(2) CIVIL ACTION.—Upon such a referral, the Attorney General may bring a civil action in any United States district court having venue thereof for such relief as may be appropriate, including an action to recover the amount of the assistance furnished under this Act that was not expended in accordance with it, or for mandatory or injunctive relief.

(d) REVIEW.—

(1) IN GENERAL.—Any recipient who receives notice under subsection (a) of the termination, reduction, or limitation of payments under this Act—

(A) may, not later than 60 days after receiving such notice, file with the United States Court of Appeals for the circuit in which such State is located, or in the United States Court of Appeals for the District of Columbia, a petition for review of the action of the Secretary; and

(B) upon the filing of any petition under subparagraph (A), shall forthwith transmit copies of the petition to the Secretary and the Attorney General of the United States, who shall represent the Secretary in the litigation.

(2) PROCEDURE.—The Secretary shall file in the court a record of the proceeding on which the Secretary based the action, as provided in section 2112 of title 28, United States Code. No objection to the action of the Secretary shall be considered by the court unless such objection has been urged before the Secretary.

(3) DISPOSITION.—

(A) COURT PROCEEDINGS.—The court shall have jurisdiction to affirm or modify the action of the Secretary or to set it aside in whole or in part. The findings of fact by the Secretary, if supported by substantial evidence on the record considered as a whole, shall be conclusive. The court may order additional evidence to be taken by the Secretary, and to be made part of the record.

(B) SECRETARY.—The Secretary—

(i) may modify the findings of fact of the Secretary, or make new findings, by reason of the new evidence so taken and filed with the court; and

(ii) shall file—

(I) such modified or new findings, which findings with respect to questions of fact shall be conclusive if supported by substantial evidence on the record considered as a whole; and

(II) the recommendation of the Secretary, if any, for the modification or setting aside of the original action of the Secretary.

(4) FINALITY.—Upon the filing of the record with the court, the jurisdiction of the court shall be exclusive and its judgment shall be final, except that such judgment shall be subject to review by the Supreme Court of the United States upon writ of certiorari or certification as provided in section 1254 of title 28, United State Code.

Sec. 402. [25 U.S.C. 4162]
REPLACEMENT OF RECIPIENT.

(a) AUTHORITY.—As a condition of the Secretary making a grant under this Act on behalf of an Indian tribe, the tribe shall agree that, notwithstanding any other provision of law, the Secretary may, only in the circumstances set forth in subsection (b), require that a replacement tribally designated housing entity serve as the recipient for the tribe, in accordance with subsection (c).

(b) CONDITIONS OF REMOVAL.—The Secretary may require such replacement tribally designated housing entity for a tribe only upon a determination by the Secretary on the record after opportunity for a hearing that the recipient for the tribe has engaged in a pattern or practice of activities that constitutes substantial or willful noncompliance with the requirements under this Act.

(c) CHOICE AND TERM OF REPLACEMENT.—If the Secretary requires that a replacement tribally designated housing entity serve as the recipient for a tribe (or tribes)—

(1) the replacement entity shall be an entity mutually agreed upon by the Secretary and the tribe (or tribes) for which the recipient was authorized to act, except that if no such entity is agreed upon before the expiration of the 60-day period beginning upon the date that the Secretary makes the determination under subsection (b), the Secretary shall act as the replacement entity until agreement is reached upon a replacement entity; and

(2) the replacement entity (or the Secretary, as provided in paragraph (1)) shall act as the tribally designated housing entity for the tribe (or tribes) for a period that expires upon—

(A) a date certain, which shall be specified by the Secretary upon making the determination under subsection (b); or

(B) the occurrence of specific conditions, which conditions shall be specified in written notice provided by the Secretary to the tribe upon making the determination under subsection (b).

Sec. 403. [25 U.S.C. 4163]
MONITORING OF COMPLIANCE.

(a) ENFORCEABLE AGREEMENTS.—Each recipient, through binding contractual agreements with owners and otherwise, shall ensure long-term compliance with the provisions of this Act. Such measures shall provide for (1) enforcement of the provisions of this Act by the grant beneficiary or by recipients and other intended beneficiaries, and (2) remedies for the breach of such provisions.

(b) PERIODIC MONITORING.—Not less frequently than annually, each recipient shall review the activities conducted and housing assisted under this Act to assess compliance with the requirements of this Act. Such review shall include an appropriate level of onsite inspection of housing to determine compliance with applicable requirements. The results of each review shall be included in the performance report of the recipient submitted to the Secretary under section 404 and made available to the public.

(c) PERFORMANCE MEASURES.—The Secretary shall establish such performance measures as may be necessary to assess compliance with the requirements of this Act.

Sec. 404. [25 U.S.C. 4164]
PERFORMANCE REPORTS.

(a) REQUIREMENT.—For each fiscal year, each recipient shall—

(1) review the progress it has made during such fiscal year in carrying out the Indian housing plan (or plans) for the Indian tribes for which it administers grant amounts; and

(2) submit a report to the Secretary (in a form acceptable to the Secretary) describing the conclusions of the review.

(b) CONTENT.—Each report under this section for a fiscal year shall—

(1) describe the use of grant amounts provided to the recipient for such fiscal year;

(2) assess the relationship of such use to the planned activities identified in the Indian housing plan of the grant beneficiary; and

(3) indicate the programmatic accomplishments of the recipient.

(c) SUBMISSION.—The Secretary shall establish dates for submission of reports under this section, and review such reports and make such recommendations as the Secretary considers appropriate to carry out the purposes of this Act.

(d) PUBLIC AVAILABILITY.—A recipient preparing a report under this section shall make the report publicly available to the citizens in the jurisdiction of the recipient in sufficient time to permit such citizens to comment on such report prior to its submission to the Secretary, and in such manner and at such times as the recipient may determine. The report shall include a summary of any comments received by the grant beneficiary or recipient from citizens in its jurisdiction regarding its program.

Sec. 405. [25 U.S.C. 4165]
REVIEW AND AUDIT BY SECRETARY.

(a) REQUIREMENTS UNDER CHAPTER 75 OF TITLE 31, UNITED STATES CODE.—An entity designated by an Indian tribe as a housing entity shall be treated, for purposes of chapter 75 of title 31, United States Code, as a non-Federal entity that is subject to the audit requirements that apply to non-Federal entities under that chapter.

(b) ADDITIONAL REVIEWS AND AUDITS.—

(1) IN GENERAL.—In addition to any audit or review under subsection (a), to the extent the Secretary determines such action to be appropriate, the Secretary may conduct an audit or review of a recipient in order to—

(A) determine whether the recipient—

(i) has carried out—

(I) eligible activities in a timely manner; and

(II) eligible activities and certification in accordance with this Act and other applicable law;

(ii) has a continuing capacity to carry out eligible activities in a timely manner; and

(iii) is in compliance with the Indian housing plan of the recipient; and

(B) verify the accuracy of information contained in any performance report submitted by the recipient under section 404.

(2) ON-SITE VISITS.—To the extent practicable, the reviews and audits conducted under this subsection shall include on-site visits by the appropriate official of the Department of Housing and Urban Development.

(c) REVIEW OF REPORTS.—

(1) IN GENERAL.—The Secretary shall provide each recipient that is the subject of a report made by the Secretary under this section notice that the recipient may review and comment on the report during a period of not less than 30 days after the date on which notice is issued under this paragraph.

(2) PUBLIC AVAILABILITY.—After taking into consideration any comments of the recipient under paragraph (1), the Secretary—

(A) may revise the report; and

(B) not later than 30 days after the date on which those comments are received, shall make the comments and the report (with any revisions made under subparagraph (A)) readily available to the public.

(d) EFFECT OF REVIEWS.—Subject to section 401(a), after reviewing the reports and audits relating to a recipient that are submitted to the Secretary under this section, the Secretary may adjust the amount of a grant made to a recipient under this Act in accordance with the findings of the Secretary with respect to those reports and audits.

Sec. 406. [25 U.S.C. 4166]
GAO AUDITS.

To the extent that the financial transactions of Indian tribes and recipients of grant amounts under this Act relate to amounts provided under this Act, such transactions may be audited by the Comptroller General of the United States under such rules and regulations as may be prescribed by the Comptroller General. The representatives of the General Accounting Office[448] shall have access to all books, accounts, records, reports, files, and other papers, things, or property belonging to or in use by such tribes and recipients pertaining to such financial transactions and necessary to facilitate the audit.

Sec. 407. [25 U.S.C. 4167]
REPORTS TO CONGRESS.

(a) IN GENERAL.—Not later than 90 days after the conclusion of each fiscal year in which assistance under this Act is made available, the Secretary shall submit to the Congress a report that contains—

(1) a description of the progress made in accomplishing the objectives of this Act;

(2) a summary of the use of funds available under this Act during the preceding fiscal year; and

(3) a description of the aggregate outstanding loan guarantees under title VI.

(b) RELATED REPORTS.—The Secretary may require recipients of grant amounts under this Act to submit to the Secretary such reports and other information as may be necessary in order for the Secretary to make the report required by subsection (a).

Sec. 408. [25 U.S.C. 4168]
PUBLIC AVAILABILITY OF INFORMATION.

[448] Section 8(a) of the GAO Human Capital Reform Act, Public Law 108-271, 118 Stat. 814, approved July 7, 2004, 31 U.S.C. 702 note, redesignated the General Accounting Office as the Government Accountability Office. Subsection (b) of such section provides that "[a]ny reference to the General Accounting Office in any law, rule, regulation, certificate, directive, instruction, or other official paper in force on the date of enactment of this Act shall be considered to refer and apply to the Government Accountability Office.".

Each recipient shall make any housing plan, policy, or annual report prepared by the recipient available to the general public.

TITLE V—TERMINATION OF ASSISTANCE FOR INDIAN TRIBES UNDER INCORPORATED PROGRAMS

Sec. 501.
REPEAL OF PROVISIONS RELATING TO INDIAN HOUSING ASSISTANCE UNDER UNITED STATES HOUSING ACT OF 1937.

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Sec. 502. [25 U.S.C. 4181]
TERMINATION OF INDIAN HOUSING ASSISTANCE UNDER UNITED STATES HOUSING ACT OF 1937.

(a) TERMINATION OF ASSISTANCE.—After September 30, 1997, financial assistance may not be provided under the United States Housing Act of 1937 or pursuant to any commitment entered into under such Act, for Indian housing developed or operated pursuant to a contract between the Secretary and an Indian housing authority, unless such assistance is provided from amounts made available for fiscal year 1997 and pursuant to a commitment entered into before September 30, 1997. Any housing that is the subject of a contract for tenant-based assistance between the Secretary and an Indian housing authority that is terminated under this section shall, for the following fiscal year and each fiscal year thereafter, be considered to be a dwelling unit under section 302(b)(1).[449]

(b) TERMINATION OF RESTRICTIONS ON USE OF INDIAN HOUSING.—After September 30, 1997, any housing developed or operated pursuant to a contract between the Secretary and an Indian housing authority pursuant to the United States Housing Act of 1937 shall not be subject to any provision of such Act or any annual contributions contract or other agreement pursuant to such Act, but shall be considered and maintained as affordable housing for purposes of this Act.

Sec. 503. [25 U.S.C. 4182]
TERMINATION OF NEW COMMITMENTS FOR RENTAL ASSISTANCE.

After September 30, 1997, financial assistance for rental housing assistance under the United States Housing Act of 1937 may not be provided to any Indian housing authority or tribally designated housing entity, unless such assistance is provided pursuant to a contract for such assistance entered into by the Secretary and the Indian housing authority before such date. Any such assistance provided pursuant to such a contract shall be governed by the provisions of the United States Housing Act of 1937 (as in effect before the date of the effectiveness of this Act) and the provisions of such contract.

Sec. 504.
TERMINATION OF YOUTHBUILD PROGRAM ASSISTANCE.

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Sec. 505.
TERMINATION OF HOME PROGRAM ASSISTANCE.

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[449] This sentence was added by section 1003(k)(3) of the Omnibus Indian Advancement Act, Pub. L. 106-568, approved December 27, 2000. Section 503(j)(3) of the American Homeownership and Economic Opportunity Act of 2000, Pub. L. 106-569, enacted on the same day, made an amendment adding (a second time) a sentence identical to that added by Pub. L. 106-568, but that amendment has not been executed in this compilation.

Sec. 506.
TERMINATION OF HOUSING ASSISTANCE FOR THE HOMELESS.

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Sec. 507. [25 U.S.C. 4183]
SAVINGS PROVISION.

(a) EXISTING RIGHTS AND DUTIES.—Except as provided in sections 502 and 503, this Act may not be construed to affect the validity of any right, duty, or obligation of the United States or other person arising under or pursuant to any commitment or agreement lawfully entered into before October 1, 1997, under the United States Housing Act of 1937, subtitle D of title IV of the Cranston-Gonzalez National Affordable Housing Act, title II of the Cranston-Gonzalez National Affordable Housing Act, title IV of the Stewart B. McKinney Homeless Assistance Act[450], or section 2 of the HUD Demonstration Act of 1993.

(b) OBLIGATIONS UNDER REPEALED PROVISIONS.—Notwithstanding the amendments made by this title, any obligation of the Secretary made under or pursuant to title II of the Cranston-Gonzalez National Affordable Housing Act, title IV of the Stewart B. McKinney Homeless Assistance Act[451], or section 2 of the HUD Demonstration Act of 1993 shall continue to be governed by the provisions of such Acts (as in effect before the date of the effectiveness of the amendments made by this title).

Sec. 508. [25 U.S.C. 4181 note]
EFFECTIVE DATE.

Sections 502, 503, and 507 shall take effect on the date of the enactment of this Act[452].

Sec. 509. [25 U.S.C. 4184]
EFFECT ON HOME INVESTMENT PARTNERSHIPS ACT.

Nothing in this Act or an amendment made by this Act prohibits or prevents any participating jurisdiction (within the meaning of the HOME Investment Partnerships Act (42 U.S.C. 12721 et seq.)) from providing any amounts made available to the participating jurisdiction under that Act (42 U.S.C. 12721 et seq.) to an Indian tribe or a tribally designated housing entity for use in accordance with that Act (42 U.S.C. 12721 et seq.).

TITLE VI—FEDERAL GUARANTEES FOR FINANCING FOR TRIBAL HOUSING ACTIVITIES

Sec. 601. [25 U.S.C. 4191]
AUTHORITY AND REQUIREMENTS.

(a) AUTHORITY.—To such extent or in such amounts as provided in appropriations Acts, the Secretary may, subject to the limitations of this title (including limitations designed to protect and maintain the viability of rental housing units owned or operated by the recipient that were developed under a contract between the Secretary and an Indian housing authority pursuant to the United States Housing Act of 1937), and upon such terms and conditions as the Secretary may prescribe, guarantee and make commitments to guarantee, the notes or other obligations issued by Indian tribes or tribally designated housing entities with tribal approval, for the purposes of financing affordable housing activities described in section 202 and housing related community development activity as consistent with the purposes of this Act.

(b) TERMS OF LOANS.—Notes or other obligations guaranteed pursuant to this title shall be in such form and denominations, have such maturities, and be subject to such conditions as may be prescribed by regulations issued by the Secretary. The Secretary may not deny a guarantee under this title on the basis of the proposed

[450] Public Law 106-400, enacted on October 30, 2000, renamed the Stewart B. McKinney Homeless Assistance Act as the McKinney-Vento Homeless Assistance Act. Section 2 of such Act (42 U.S.C. 11301 note) provides that "[a]ny reference in any law, regulation, document, paper, or other record of the United States to the Stewart B. McKinney Homeless Assistance Act shall be deemed to be a reference to the 'McKinney-Vento Homeless Assistance Act'".

[451] Public Law 106-400, enacted on October 30, 2000, renamed the Stewart B. McKinney Homeless Assistance Act as the McKinney-Vento Homeless Assistance Act. Section 2 of such Act (42 U.S.C. 11301 note) provides that "[a]ny reference in any law, regulation, document, paper, or other record of the United States to the Stewart B. McKinney Homeless Assistance Act shall be deemed to be a reference to the 'McKinney-Vento Homeless Assistance Act'".

[452] October 26, 1996.

repayment period for the note or other obligation, unless the period is more than 20 years or the Secretary determines that the period causes the guarantee to constitute an unacceptable financial risk.

(c) LIMITATION ON OUTSTANDING GUARANTEES.—No guarantee or commitment to guarantee shall be made with respect to any note or other obligation if the total outstanding notes or obligations of the issuer guaranteed under this title (excluding any amount defeased under the contract entered into under section 602(a)(1)) would thereby exceed an amount equal to 5 times the amount of the grant approval for the issuer pursuant to title III.

(d) LIMITATION ON PERCENTAGE.—A guarantee made under this title shall guarantee repayment of 95 percent of the unpaid principal and interest due on the notes or other obligations guaranteed.

Sec. 602. [25 U.S.C. 4192]
SECURITY AND REPAYMENT.

(a) REQUIREMENTS ON ISSUER.—To assure the repayment of notes or other obligations and charges incurred under this title and as a condition for receiving such guarantees, the Secretary shall require the Indian tribe or housing entity issuing such notes or obligations to—

(1) enter into a contract, in a form acceptable to the Secretary, for repayment of notes or other obligations guaranteed under this title;

(2) pledge any grant for which the issuer may become eligible under this Act;

(3) demonstrate that the extent of such issuance and guarantee under this title is within the financial capacity of the tribe and is not likely to impair the ability to use grant amounts under title I, taking into consideration the requirements under section 203(b); and

(4) furnish, at the discretion of the Secretary, such other security as may be deemed appropriate by the Secretary in making such guarantees, including increments in local tax receipts generated by the activities assisted under this Act or disposition proceeds from the sale of land or rehabilitated property.

(b) REPAYMENT FROM GRANT AMOUNTS.—Notwithstanding any other provision of this Act—

(1) the Secretary may apply grants pledged pursuant to subsection (a)(2) to any repayments due the United States as a result of such guarantees; and

(2) grants allocated under this Act for an Indian tribe or housing entity (including program income derived therefrom) may be used to pay principal and interest due (including such servicing, underwriting, and other costs as may be specified in regulations issued by the Secretary) on notes or other obligations guaranteed pursuant to this title.

(c) FULL FAITH AND CREDIT.—The full faith and credit of the United States is pledged to the payment of all guarantees made under this title. Any such guarantee made by the Secretary shall be conclusive evidence of the eligibility of the obligations for such guarantee with respect to principal and interest, and the validity of any such guarantee so made shall be incontestable in the hands of a holder of the guaranteed obligations.

Sec. 603. [25 U.S.C. 4193]
PAYMENT OF INTEREST.

The Secretary may make, and contract to make, grants, in such amounts as may be approved in appropriations Acts, to or on behalf of an Indian tribe or housing entity issuing notes or other obligations guaranteed under this title, to cover not to exceed 30 percent of the net interest cost (including such servicing, underwriting, or other costs as may be specified in regulations of the Secretary) to the borrowing entity or agency of such obligations. The Secretary may also, to the extent approved in appropriations Acts, assist the issuer of a note or other obligation guaranteed under this title in the payment of all or a portion of the principal and interest amount due under the note or other obligation, if the Secretary determines that the issuer is unable to pay the amount because of circumstances of extreme hardship beyond the control of the issuer.

Sec. 604. [25 U.S.C. 4194]
TRAINING AND INFORMATION.

The Secretary, in cooperation with eligible public entities, shall carry out training and information activities with respect to the guarantee program under this title.

Sec. 605. [25 U.S.C. 4195]
LIMITATIONS ON AMOUNT OF GUARANTEES.

(a) AGGREGATE FISCAL YEAR LIMITATION.—Notwithstanding any other provision of law and subject only to the absence of qualified applicants or proposed activities and to the authority provided in this title, to the extent approved or provided in appropriations Acts, the Secretary may enter into commitments to guarantee

notes and obligations under this title with an aggregate principal amount not to exceed $400,000,000 for each of fiscal years 2009 through 2013.

(b) AUTHORIZATION OF APPROPRIATIONS FOR CREDIT SUBSIDY.—There are authorized to be appropriated to cover the costs (as such term is defined in section 502 of the Congressional Budget Act of 1974) of guarantees under this title such sums as may be necessary for each of fiscal years 2009 through 2013.

(c) AGGREGATE OUTSTANDING LIMITATION.—The total amount of outstanding obligations guaranteed on a cumulative basis by the Secretary pursuant to this title shall not at any time exceed $2,000,000,000 or such higher amount as may be authorized to be appropriated for this title for any fiscal year.

(d) FISCAL YEAR LIMITATIONS ON TRIBES.—The Secretary shall monitor the use of guarantees under this title by Indian tribes. If the Secretary finds that 50 percent of the aggregate guarantee authority under subsection (c) has been committed, the Secretary may—

(1) impose limitations on the amount of guarantees any one Indian tribe may receive in any fiscal year of $50,000,000; or

(2) request the enactment of legislation increasing the aggregate outstanding limitation on guarantees under this title.

Sec. 606. [25 U.S.C. 4191 note]
EFFECTIVE DATE.

This title shall take effect on the date of the enactment of this Act[453].

Sec. 606.
DEMONSTRATION PROGRAM FOR GUARANTEED LOANS TO FINANCE TRIBAL COMMUNITY AND ECONOMIC DEVELOPMENT ACTIVITIES[454].

(a) AUTHORITY.—

(1) IN GENERAL.—Subject to paragraph (2), to the extent and in such amounts as are provided in appropriation Acts, subject to the requirements of this section, and in accordance with such terms and conditions as the Secretary may prescribe, the Secretary may guarantee and make commitments to guarantee the notes and obligations issued by Indian tribes or tribally designated housing entities with tribal approval, for the purposes of financing activities carried out on Indian reservations and in other Indian areas that, under the first sentence of section 108(a) of the Housing and Community Development Act of 1974 (42 U.S.C. 5308), are eligible for financing with notes and other obligations guaranteed pursuant to that section.

(2) LIMITATION.—The Secretary may guarantee, or make commitments to guarantee, under paragraph (1) the notes or obligations of not more than 4 Indian tribes or tribally designated housing entities located in each Department of Housing and Urban Development Office of Native American Programs region.

(b) LOW-INCOME BENEFIT REQUIREMENT.—Not less than 70 percent of the aggregate amount received by an Indian tribe or tribally designated housing entity as a result of a guarantee under this section shall be used for the support of activities that benefit low-income families on Indian reservations and other Indian areas.

(c) FINANCIAL SOUNDNESS.—

(1) IN GENERAL.—The Secretary shall establish underwriting criteria for guarantees under this section, including fees for the guarantees, as the Secretary determines to be necessary to ensure that the program under this section is financially sound.

(2) AMOUNTS OF FEES.—Fees for guarantees established under paragraph (1) shall be established in amounts that are sufficient, but do not exceed the minimum amounts necessary, to maintain a negative credit subsidy for the program under this section, as determined based on the risk to the Federal Government under the underwriting requirements established under paragraph (1).

(d) TERMS OF OBLIGATIONS.—

(1) IN GENERAL.—Each note or other obligation guaranteed pursuant to this section shall be in such form and denomination, have such maturity, and be subject to such conditions as the Secretary may prescribe, by regulation.

(2) LIMITATION.—The Secretary may not deny a guarantee under this section on the basis of the proposed repayment period for the note or other obligation, unless—

[453] October 26, 1996.
[454] So in law. Section 601(a) of Public Law 110-411 added a new section 606 at the end of Title VI.

(A) the period is more than 20 years; or

(B) the Secretary determines that the period would cause the guarantee to constitute an unacceptable financial risk.

(e) LIMITATION ON PERCENTAGE.—A guarantee made under this section shall guarantee repayment of 95 percent of the unpaid principal and interest due on the note or other obligation guaranteed.

(f) SECURITY AND REPAYMENT.—

(1) REQUIREMENTS ON ISSUER.—To ensure the repayment of notes and other obligations and charges incurred under this section and as a condition for receiving the guarantees, the Secretary shall require the Indian tribe or housing entity issuing the notes or obligations—

(A) to enter into a contract, in a form acceptable to the Secretary, for repayment of notes or other obligations guaranteed under this section;

(B) to demonstrate that the extent of each issuance and guarantee under this section is within the financial capacity of the Indian tribe; and

(C) to furnish, at the discretion of the Secretary, such security as the Secretary determines to be appropriate in making the guarantees, including increments in local tax receipts generated by the activities assisted by a guarantee under this section or disposition proceeds from the sale of land or rehabilitated property, except that the security may not include any grant amounts received or for which the issuer may be eligible under title I.

(2) FULL FAITH AND CREDIT.—

(A) IN GENERAL.—The full faith and credit of the United States is pledged to the payment of all guarantees made under this section.

(B) TREATMENT OF GUARANTEES.—

(i) IN GENERAL.—Any guarantee made by the Secretary under this section shall be conclusive evidence of the eligibility of the obligations for the guarantee with respect to principal and interest.

(ii) INCONTESTABLE NATURE.—The validity of any such a guarantee shall be incontestable in the hands of a holder of the guaranteed obligations.

(g) TRAINING AND INFORMATION.—The Secretary, in cooperation with Indian tribes and tribally designated housing entities, may carry out training and information activities with respect to the guarantee program under this section.

(h) LIMITATIONS ON AMOUNT OF GUARANTEES.—

(1) AGGREGATE FISCAL YEAR LIMITATION.—Notwithstanding any other provision of law, subject only to the absence of qualified applicants or proposed activities and to the authority provided in this section, and to the extent approved or provided for in appropriations Acts, the Secretary may enter into commitments to guarantee notes and obligations under this section with an aggregate principal amount not to exceed $200,000,000 for each of fiscal years 2009 through 2013.

(2) AUTHORIZATION OF APPROPRIATIONS FOR CREDIT SUBSIDY.—There are authorized to be appropriated to cover the costs (as defined in section 502 of the Congressional Budget Act of 1974 (2 U.S.C. 661a)) of guarantees under this section $1,000,000 for each of fiscal years 2009 through 2013.

(3) AGGREGATE OUTSTANDING LIMITATION.—The total amount of outstanding obligations guaranteed on a cumulative basis by the Secretary pursuant to this section shall not at any time exceed $1,000,000,000 or such higher amount as may be authorized to be appropriated for this section for any fiscal year.

(4) FISCAL YEAR LIMITATIONS ON INDIAN TRIBES.—

(A) IN GENERAL.—The Secretary shall monitor the use of guarantees under this section by Indian tribes.

(B) MODIFICATIONS.—If the Secretary determines that 50 percent of the aggregate guarantee authority under paragraph (3) has been committed, the Secretary may—

(i) impose limitations on the amount of guarantees pursuant to this section that any single Indian tribe may receive in any fiscal year of $25,000,000; or

(ii) request the enactment of legislation increasing the aggregate outstanding limitation on guarantees under this section.

(i) REPORT.—Not later than 4 years after the date of enactment of this section, the Secretary shall submit to Congress a report describing the use of the authority under this section by Indian tribes and tribally designated housing entities, including—

(1) an identification of the extent of the use and the types of projects and activities financed using that authority; and

(2) an analysis of the effectiveness of the use in carrying out the purposes of this section.

(j) TERMINATION.—The authority of the Secretary under this section to make new guarantees for notes and obligations shall terminate on October 1, 2013.

TITLE VII—OTHER HOUSING ASSISTANCE FOR NATIVE AMERICANS

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Sec. 702. [25 U.S.C. 4211]
50-YEAR LEASEHOLD INTEREST IN TRUST OR RESTRICTED LANDS FOR HOUSING PURPOSES.

(a) AUTHORITY TO LEASE.—Notwithstanding any other provision of law, any trust or restricted Indian lands, whether tribally or individually owned, may be leased by the Indian owners, subject to the approval of the affected Indian tribe and the Secretary of the Interior, for housing development and residential purposes.

(b) TERM.—Each lease pursuant to subsection (a) shall be for a term not exceeding 50 years.

(c) RULE OF CONSTRUCTION.—This section may not be construed to repeal, limit, or affect any authority to lease any trust or restricted Indian lands that—

(1) is conferred by or pursuant to any other provision of law; or

(2) provides for leases for any period exceeding 50 years.

(d) SELF-IMPLEMENTATION.—This section is intended to be self-implementing and shall not require the issuance of any rule, regulation, or order to take effect as provided in section 705.

Sec. 703. [25 U.S.C. 4212]
TRAINING AND TECHNICAL ASSISTANCE.

There are authorized to be appropriated for assistance for a national organization representing Native American housing interests for providing training and technical assistance to Indian housing authorities and tribally designated housing entities such sums as may be necessary for each of fiscal years 2009 through 2013.

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Sec. 705. [25 U.S.C. 4211 note]
EFFECTIVE DATE.

This title and the amendments made by this title (but not including the amendments made by section 704) shall take effect on the date of the enactment of this Act[455].

TITLE VIII—HOUSING ASSISTANCE FOR NATIVE HAWAIIANS[456]

Sec. 801. [25 U.S.C. 4221]
DEFINITIONS.

In this title:

(1) DEPARTMENT OF HAWAIIAN HOME LANDS; DEPARTMENT.—The term "Department of Hawaiian Home Lands" or "Department" means the agency or department of the government of the State of Hawaii that is responsible for the administration of the Hawaiian Homes Commission Act, 1920 (42 Stat. 108 et seq.).

(2) DIRECTOR.—The term "Director" means the Director of the Department of Hawaiian Home Lands.

(3) ELDERLY FAMILIES; NEAR-ELDERLY FAMILIES.—

(A) IN GENERAL.—The term "elderly family" or "near-elderly family" means a family whose head (or his or her spouse), or whose sole member, is—

(i) for an elderly family, an elderly person; or

(ii) for a near-elderly family, a near-elderly person.

[455] October 26, 1996.

[456] This title was added by section 203 of the Omnibus Indian Advancement Act, Pub. L. 106-568, approved December 27, 2000. Section 513 of the American Homeownership and Economic Opportunity Act of 2000, Pub. L. 106-569, enacted on the same day, made an amendment adding to this Act (a second time) a title almost identical to that added by Pub. L. 106-568. The later amendment (made by Pub. L. 106-569) is shown in this compilation.

(B) CERTAIN FAMILIES INCLUDED.—The term "elderly family" or "near-elderly family" includes—

(i) two or more elderly persons or near-elderly persons, as the case may be, living together; and

(ii) one or more persons described in clause (i) living with one or more persons determined under the housing plan to be essential to their care or well-being.

(4) HAWAIIAN HOME LANDS.—The term "Hawaiian Home Lands" means lands that—

(A) have the status as Hawaiian home lands under section 204 of the Hawaiian Homes Commission Act, 1920[457] (42 Stat. 110); or

(B) are acquired pursuant to that Act.

(5) HOUSING AREA.—The term "housing area" means an area of Hawaiian Home Lands with respect to which the Department of Hawaiian Home Lands is authorized to provide assistance for affordable housing under this Act.

(6) HOUSING ENTITY.—The term "housing entity" means the Department of Hawaiian Home Lands.

(7) HOUSING PLAN.—The term "housing plan" means a plan developed by the Department of Hawaiian Home Lands.

(8) MEDIAN INCOME.—The term "median income" means, with respect to an area that is a Hawaiian housing area, the greater of—

(A) the median income for the Hawaiian housing area, which shall be determined by the Secretary; or

(B) the median income for the State of Hawaii.

(9) NATIVE HAWAIIAN.—The term "Native Hawaiian" means any individual who is—

(A) a citizen of the United States; and

(B) a descendant of the aboriginal people, who, prior to 1778, occupied and exercised sovereignty in the area that currently constitutes the State of Hawaii, as evidenced by—

(i) genealogical records;

(ii) verification by kupuna (elders) or kamaʼaina (long-term community residents); or

(iii) birth records of the State of Hawaii.

Sec. 802. [25 U.S.C. 4222]

BLOCK GRANTS FOR AFFORDABLE HOUSING ACTIVITIES.

(a) GRANT AUTHORITY.—For each fiscal year, the Secretary shall (to the extent amounts are made available to carry out this title) make a grant under this title to the Department of Hawaiian Home Lands to carry out affordable housing activities for Native Hawaiian families who are eligible to reside on the Hawaiian Home Lands.

(b) PLAN REQUIREMENT.—

(1) IN GENERAL.—The Secretary may make a grant under this title to the Department of Hawaiian Home Lands for a fiscal year only if—

(A) the Director has submitted to the Secretary a housing plan for that fiscal year; and

(B) the Secretary has determined under section 804 that the housing plan complies with the requirements of section 803.

(2) WAIVER.—The Secretary may waive the applicability of the requirements under paragraph (1), in part, if the Secretary finds that the Department of Hawaiian Home Lands has not complied or cannot comply with those requirements due to circumstances beyond the control of the Department of Hawaiian Home Lands.

(c) USE OF AFFORDABLE HOUSING ACTIVITIES UNDER PLAN.—Except as provided in subsection (e), amounts provided under a grant under this section may be used only for affordable housing activities under this title that are consistent with a housing plan approved under section 804.

(d) ADMINISTRATIVE EXPENSES.—

(1) IN GENERAL.—The Secretary shall, by regulation, authorize the Department of Hawaiian Home Lands to use a percentage of any grant amounts received under this title for any reasonable administrative and planning expenses of the Department relating to carrying out this title and activities assisted with those amounts.

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[457] This title as shown was added by section 513 of the American Homeownership and Economic Opportunity Act of 2000, Pub. L. 106-569 approved December 27, 2000. Section 203 of the Omnibus Indian Advancement Act, Pub. L. 106-568, enacted on the same day, made an amendment inserting a title almost identical to that added by Pub. L. 106-569. In such amendment, this paragraph refers to the "Hawaiian Homes Commission Act" without reference to "1920".

(2) ADMINISTRATIVE AND PLANNING EXPENSES.—The administrative and planning expenses referred to in paragraph (1) include—

(A) costs for salaries of individuals engaged in administering and managing affordable housing activities assisted with grant amounts provided under this title; and

(B) expenses incurred in preparing a housing plan under section 803.

(e) PUBLIC-PRIVATE PARTNERSHIPS.—The Director shall make all reasonable efforts, consistent with the purposes of this title, to maximize participation by the private sector, including nonprofit organizations and for-profit entities, in implementing a housing plan that has been approved by the Secretary under section 803.

Sec. 803. [25 U.S.C. 4223]
HOUSING PLAN.

(a) PLAN SUBMISSION.—The Secretary shall—

(1) require the Director to submit a housing plan under this section for each fiscal year; and

(2) provide for the review of each plan submitted under paragraph (1).

(b) FIVE-YEAR PLAN.—Each housing plan under this section shall—

(1) be in a form prescribed by the Secretary; and

(2) contain, with respect to the 5-year period beginning with the fiscal year for which the plan is submitted, the following information:

(A) MISSION STATEMENT.—A general statement of the mission of the Department of Hawaiian Home Lands to serve the needs of the low-income families to be served by the Department.

(B) GOALS AND OBJECTIVES.—A statement of the goals and objectives of the Department of Hawaiian Home Lands to enable the Department to serve the needs identified in subparagraph (A) during the period.

(C) ACTIVITIES PLANS.—An overview of the activities planned during the period including an analysis of the manner in which the activities will enable the Department to meet its mission, goals, and objectives.

(c) ONE-YEAR PLAN.—A housing plan under this section shall—

(1) be in a form prescribed by the Secretary; and

(2) contain the following information relating to the fiscal year for which the assistance under this title is to be made available:

(A) GOALS AND OBJECTIVES.—A statement of the goals and objectives to be accomplished during the period covered by the plan.

(B) STATEMENT OF NEEDS.—A statement of the housing needs of the low-income families served by the Department and the means by which those needs will be addressed during the period covered by the plan, including—

(i) a description of the estimated housing needs and the need for assistance for the low-income families to be served by the Department, including a description of the manner in which the geographical distribution of assistance is consistent with—

(I) the geographical needs of those families; and

(II) needs for various categories of housing assistance; and

(ii) a description of the estimated housing needs for all families to be served by the Department.

(C) FINANCIAL RESOURCES.—An operating budget for the Department of Hawaiian Home Lands, in a form prescribed by the Secretary, that includes—

(i) an identification and a description of the financial resources reasonably available to the Department to carry out the purposes of this title, including an explanation of the manner in which amounts made available will be used to leverage additional resources; and

(ii) the uses to which the resources described in clause (i) will be committed, including—

(I) eligible and required affordable housing activities; and

(II) administrative expenses.

(D) AFFORDABLE HOUSING RESOURCES.—A statement of the affordable housing resources currently available at the time of the submittal of the plan and to be made available during the period covered by the plan, including—

(i) a description of the significant characteristics of the housing market in the State of Hawaii, including the availability of housing from other public sources, private market housing;

(ii) the manner in which the characteristics referred to in clause (i) influence the decision of the Department of Hawaiian Home Lands to use grant amounts to be provided under this title for—

(I) rental assistance;

(II) the production of new units;

(III) the acquisition of existing units; or

(IV) the rehabilitation of units;

(iii) a description of the structure, coordination, and means of cooperation between the Department of Hawaiian Home Lands and any other governmental entities in the development, submission, or implementation of housing plans, including a description of—

(I) the involvement of private, public, and nonprofit organizations and institutions;

(II) the use of loan guarantees under section 184A of the Housing and Community Development Act of 1992; and

(III) other housing assistance provided by the United States, including loans, grants, and mortgage insurance;

(iv) a description of the manner in which the plan will address the needs identified pursuant to subparagraph (C);

(v) a description of—

(I) any existing or anticipated homeownership programs and rental programs to be carried out during the period covered by the plan; and

(II) the requirements and assistance available under the programs referred to in subclause (I);

(vi) a description of—

(I) any existing or anticipated housing rehabilitation programs necessary to ensure the long-term viability of the housing to be carried out during the period covered by the plan; and

(II) the requirements and assistance available under the programs referred to in subclause (I);

(vii) a description of—

(I) all other existing or anticipated housing assistance provided by the Department of Hawaiian Home Lands during the period covered by the plan, including—

(aa) transitional housing;

(bb) homeless housing;

(cc) college housing; and

(dd) supportive services housing; and

(II) the requirements and assistance available under such programs;

(viii)(I) a description of any housing to be demolished or disposed of;

(II) a timetable for that demolition or disposition; and

(III) any other information required by the Secretary with respect to that demolition or disposition;

(ix) a description of the manner in which the Department of Hawaiian Home Lands will coordinate with welfare agencies in the State of Hawaii to ensure that residents of the affordable housing will be provided with access to resources to assist in obtaining employment and achieving self-sufficiency;

(x) a description of the requirements established by the Department of Hawaiian Home Lands to—

(I) promote the safety of residents of the affordable housing;

(II) facilitate the undertaking of crime prevention measures;

(III) allow resident input and involvement, including the establishment of resident organizations; and

(IV) allow for the coordination of crime prevention activities between the Department and local law enforcement officials; and

(xi) a description of the entities that will carry out the activities under the plan, including the organizational capacity and key personnel of the entities.

(E) CERTIFICATION OF COMPLIANCE.—Evidence of compliance that shall include, as appropriate—

(i) a certification that the Department of Hawaiian Home Lands will comply with—

(I) title VI of the Civil Rights Act of 1964 (42 U.S.C. 2000d et seq.) or with the Fair Housing Act[458] (42 U.S.C. 3601 et seq.) in carrying out this title, to the extent that such title is applicable; and

(II) other applicable Federal statutes;

(ii) a certification that the Department will require adequate insurance coverage for housing units that are owned and operated or assisted with grant amounts provided under this title, in compliance with such requirements as may be established by the Secretary;

(iii) a certification that policies are in effect and are available for review by the Secretary and the public governing the eligibility, admission, and occupancy of families for housing assisted with grant amounts provided under this title;

(iv) a certification that policies are in effect and are available for review by the Secretary and the public governing rents charged, including the methods by which such rents or homebuyer payments are determined, for housing assisted with grant amounts provided under this title; and

(v) a certification that policies are in effect and are available for review by the Secretary and the public governing the management and maintenance of housing assisted with grant amounts provided under this title.

(d) APPLICABILITY OF CIVIL RIGHTS STATUTES.—

(1) IN GENERAL.—To the extent that the requirements of title VI of the Civil Rights Act of 1964 (42 U.S.C. 2000d et seq.) or of the Fair Housing Act[459] (42 U.S.C. 3601 et seq.) apply to assistance provided under this title, nothing in the requirements concerning discrimination on the basis of race shall be construed to prevent the provision of assistance under this title—

(A) to the Department of Hawaiian Home Lands on the basis that the Department served Native Hawaiians; or

(B) to an eligible family on the basis that the family is a Native Hawaiian family.

(2) CIVIL RIGHTS.—Program eligibility under this title may be restricted to Native Hawaiians. Subject to the preceding sentence, no person may be discriminated against on the basis of race, color, national origin, religion, sex, familial status, or disability.

(e) USE OF NONPROFIT ORGANIZATIONS.—As a condition of receiving grant amounts under this title, the Department of Hawaiian Home Lands shall, to the extent practicable, provide for private nonprofit organizations experienced in the planning and development of affordable housing for Native Hawaiians to carry out affordable housing activities with those grant amounts.

Sec. 804. [25 U.S.C. 4224]
REVIEW OF PLANS.

(a) REVIEW AND NOTICE.—

(1) REVIEW.—

[458] This title as shown was added by section 513 of the American Homeownership and Economic Opportunity Act of 2000, Pub. L. 106-569, approved December 27, 2000. Section 203 of the Omnibus Indian Advancement Act, Pub. L. 106-568, enacted on the same day, made an amendment inserting a title almost identical to that added by Pub. L. 106-569. In such amendment, this subclause refers to title VIII of the Act popularly known as the "Civil Rights Act of 1968" rather than to the Fair Housing Act.

[459] This title as shown was added by section 513 of the American Homeownership and Economic Opportunity Act of 2000, Pub. L. 106-569, approved December 27, 2000. Section 203 of the Omnibus Indian Advancement Act, Pub. L. 106-568, enacted on the same day, made an amendment inserting a title almost identical to that added by Pub. L. 106-569. In such amendment, this subclause refers to title VIII of the Act popularly known as the "Civil Rights Act of 1968" rather than to the Fair Housing Act.

(A) IN GENERAL.—The Secretary shall conduct a review of a housing plan submitted to the Secretary under section 803 to ensure that the plan complies with the requirements of that section.

(B) LIMITATION.—The Secretary shall have the discretion to review a plan referred to in subparagraph (A) only to the extent that the Secretary considers that the review is necessary.

(2) NOTICE.—

(A) IN GENERAL.—Not later than 60 days after receiving a plan under section 803, the Secretary shall notify the Director of the Department of Hawaiian Home Lands whether the plan complies with the requirements under that section.

(B) EFFECT OF FAILURE OF SECRETARY TO TAKE ACTION.—For purposes of this title, if the Secretary does not notify the Director, as required under this subsection and subsection (b), upon the expiration of the 60-day period described in subparagraph (A)—

(i) the plan shall be considered to have been determined to comply with the requirements under section 803; and

(ii) the Director shall be considered to have been notified of compliance.

(b) NOTICE OF REASONS FOR DETERMINATION OF NONCOMPLIANCE.—If the Secretary determines that a plan submitted under section 803 does not comply with the requirements of that section, the Secretary shall specify in the notice under subsection (a)—

(1) the reasons for noncompliance; and

(2) any modifications necessary for the plan to meet the requirements of section 803.

(c) REVIEW.—

(1) IN GENERAL.—After the Director of the Department of Hawaiian Home Lands submits a housing plan under section 803, or any amendment or modification to the plan to the Secretary, to the extent that the Secretary considers such action to be necessary to make a determination under this subsection, the Secretary shall review the plan (including any amendments or modifications thereto) to determine whether the contents of the plan—

(A) set forth the information required by section 803 to be contained in the housing plan;

(B) are consistent with information and data available to the Secretary; and

(C) are not prohibited by or inconsistent with any provision of this Act or any other applicable law.

(2) INCOMPLETE PLANS.—If the Secretary determines under this subsection that any of the appropriate certifications required under section 803(c)(2)(E) are not included in a plan, the plan shall be considered to be incomplete.

(d) UPDATES TO PLAN.—

(1) IN GENERAL.—Subject to paragraph (2), after a plan under section 803 has been submitted for a fiscal year, the Director of the Department of Hawaiian Home Lands may comply with the provisions of that section for any succeeding fiscal year (with respect to information included for the 5-year period under section 803(b) or for the 1-year period under section 803(c)) by submitting only such information regarding such changes as may be necessary to update the plan previously submitted.

(2) COMPLETE PLANS.—The Director shall submit a complete plan under section 803 not later than 4 years after submitting an initial plan under that section, and not less frequently than every 4 years thereafter.

(e) EFFECTIVE DATE.—This section and section 803 shall take effect on the date provided by the Secretary pursuant to section 807(a) to provide for timely submission and review of the housing plan as necessary for the provision of assistance under this title for fiscal year 2001[460].

Sec. 805. [25 U.S.C. 4225]
TREATMENT OF PROGRAM INCOME AND LABOR STANDARDS.

(a) PROGRAM INCOME.—

(1) AUTHORITY TO RETAIN.—The Department of Hawaiian Home Lands may retain any program income that is realized from any grant amounts received by the Department under this title if—

[460] This title as shown was added by section 513 of the American Homeownership and Economic Opportunity Act of 2000, Pub. L. 106-569, approved December 27, 2000. Section 203 of the Omnibus Indian Advancement Act, Pub. L. 106-568, enacted on the same day, made an amendment inserting a title almost identical to that added by Pub. L. 106-569. In such amendment, this subsection refers to the provision of assistance for "fiscal year 2000".

(A) that income was realized after the initial disbursement of the grant amounts received by the Department; and

(B) the Director agrees to use the program income for affordable housing activities in accordance with the provisions of this title.

(2) PROHIBITION OF REDUCTION OF GRANT.—The Secretary may not reduce the grant amount for the Department of Hawaiian Home Lands based solely on—

(A) whether the Department retains program income under paragraph (1); or

(B) the amount of any such program income retained.

(3) EXCLUSION OF AMOUNTS.—The Secretary may, by regulation, exclude from consideration as program income any amounts determined to be so small that compliance with the requirements of this subsection would create an unreasonable administrative burden on the Department.

(b) LABOR STANDARDS.—

(1) IN GENERAL.—Any contract or agreement for assistance, sale, or lease pursuant to this title shall contain—

(A) a provision requiring that an amount not less than the wages prevailing in the locality, as determined or adopted (subsequent to a determination under applicable State or local law) by the Secretary, shall be paid to all architects, technical engineers, draftsmen, technicians employed in the development and all maintenance, and laborers and mechanics employed in the operation, of the affordable housing project involved; and

(B) a provision that an amount not less than the wages prevailing in the locality, as predetermined by the Secretary of Labor pursuant to the Act commonly known as the "Davis-Bacon Act" (46 Stat. 1494; chapter 411; 40 U.S.C. 276a et seq.) shall be paid to all laborers and mechanics employed in the development of the affordable housing involved.

(2) EXCEPTIONS.—Paragraph (1) and provisions relating to wages required under paragraph (1) in any contract or agreement for assistance, sale, or lease under this title, shall not apply to any individual who performs the services for which the individual volunteered and who is not otherwise employed at any time in the construction work and received no compensation or is paid expenses, reasonable benefits, or a nominal fee for those services.

Sec. 806. [25 U.S.C. 4226]
ENVIRONMENTAL REVIEW.

(a) IN GENERAL.—

(1) RELEASE OF FUNDS.—

(A) IN GENERAL.—The Secretary may carry out the alternative environmental protection procedures described in subparagraph (B) in order to ensure—

(i) that the policies of the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.) and other provisions of law that further the purposes of such Act (as specified in regulations issued by the Secretary) are most effectively implemented in connection with the expenditure of grant amounts provided under this title; and

(ii) to the public undiminished protection of the environment.

(B) ALTERNATIVE ENVIRONMENTAL PROTECTION PROCEDURE.—In lieu of applying environmental protection procedures otherwise applicable, the Secretary may by regulation provide for the release of funds for specific projects to the Department of Hawaiian Home Lands if the Director of the Department assumes all of the responsibilities for environmental review, decisionmaking, and action under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.), and such other provisions of law as the regulations of the Secretary specify, that would apply to the Secretary were the Secretary to undertake those projects as Federal projects.

(2) REGULATIONS.—

(A) IN GENERAL.—The Secretary shall issue regulations to carry out this section only after consultation with the Council on Environmental Quality.

(B) CONTENTS.—The regulations issued under this paragraph shall—

(i) provide for the monitoring of the environmental reviews performed under this section;

(ii) in the discretion of the Secretary, facilitate training for the performance of such reviews; and

(iii) provide for the suspension or termination of the assumption of responsibilities under this section.

(3) EFFECT ON ASSUMED RESPONSIBILITY.—The duty of the Secretary under paragraph (2)(B) shall not be construed to limit or reduce any responsibility assumed by the Department of Hawaiian Home Lands for grant amounts with respect to any specific release of funds.

(b) PROCEDURE.—

(1) IN GENERAL.—The Secretary shall authorize the release of funds subject to the procedures under this section only if, not less than 15 days before that approval and before any commitment of funds to such projects, the Director of the Department of Hawaiian Home Lands submits to the Secretary a request for such release accompanied by a certification that meets the requirements of subsection (c).

(2) EFFECT OF APPROVAL.—The approval of the Secretary of a certification described in paragraph (1) shall be deemed to satisfy the responsibilities of the Secretary under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.) and such other provisions of law as the regulations of the Secretary specify to the extent that those responsibilities relate to the releases of funds for projects that are covered by that certification.

(c) CERTIFICATION.—A certification under the procedures under this section shall—

(1) be in a form acceptable to the Secretary;

(2) be executed by the Director of the Department of Hawaiian Home Lands;

(3) specify that the Department of Hawaiian Home Lands has fully carried out its responsibilities as described under subsection (a); and

(4) specify that the Director—

(A) consents to assume the status of a responsible Federal official under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.) and each provision of law specified in regulations issued by the Secretary to the extent that those laws apply by reason of subsection (a); and

(B) is authorized and consents on behalf of the Department of Hawaiian Home Lands and the Director to accept the jurisdiction of the Federal courts for the purpose of enforcement of the responsibilities of the Director of the Department of Hawaiian Home Lands as such official[461].

Sec. 807. [25 U.S.C. 4227]
REGULATIONS.

The Secretary shall issue final regulations necessary to carry out this title not later than October 1, 2001[462].

Sec. 808. [25 U.S.C. 4221 note]
EFFECTIVE DATE.

Except as otherwise expressly provided in this title, this title shall take effect on the date of the enactment of the American Homeownership and Economic Opportunity Act of 2000[463].

Sec. 809. [25 U.S.C. 4228]
AFFORDABLE HOUSING ACTIVITIES.

(a)[464] NATIONAL OBJECTIVES AND ELIGIBLE FAMILIES.—

(1) PRIMARY OBJECTIVE.—The national objectives of this title are—

[461] This title as shown was added by section 513 of the American Homeownership and Economic Opportunity Act of 2000, Pub. L. 106-569, approved December 27, 2000. Section 203 of the Omnibus Indian Advancement Act, Pub. L. 106-568, enacted on the same day, made an amendment inserting a title almost identical to that added by Pub. L. 106-569. In such amendment, this subparagraph refers to "enforcement of the responsibilities of the Director".

[462] This title as shown was added by section 513 of the American Homeownership and Economic Opportunity Act of 2000, Pub. L. 106-569, approved December 27, 2000. Section 203 of the Omnibus Indian Advancement Act, Pub. L. 106-568, enacted on the same day, made an amendment inserting a title almost identical to that added by Pub. L. 106-569. In such amendment, this section provides for issuance of final regulations not later than "October 1, 2000".

[463] This title as shown was added by section 513 of the American Homeownership and Economic Opportunity Act of 2000, Pub. L. 106-569, approved December 27, 2000. Section 203 of the Omnibus Indian Advancement Act, Pub. L. 106-568, enacted on the same day, made an amendment inserting a title almost identical to that added by Pub. L. 106-569. In such amendment, this section refers (probably incorrectly) to the date of the enactment of the Native American Housing Assistance and Self-Determination Amendments of 2000.

[464] So in law. There is no subsection (b).

(A) to assist and promote affordable housing activities to develop, maintain, and operate affordable housing in safe and healthy environments for occupancy by low-income Native Hawaiian families;

(B) to ensure better access to private mortgage markets and to promote self-sufficiency of low-income Native Hawaiian families;

(C) to coordinate activities to provide housing for low-income Native Hawaiian families with Federal, State, and local activities to further economic and community development;

(D) to plan for and integrate infrastructure resources on the Hawaiian Home Lands with housing development; and

(E) to—

(i) promote the development of private capital markets; and

(ii) allow the markets referred to in clause (i) to operate and grow, thereby benefiting Native Hawaiian communities.

(2) ELIGIBLE FAMILIES.—

(A) IN GENERAL.—Except as provided under subparagraph (B), assistance for eligible housing activities under this title shall be limited to low-income Native Hawaiian families.

(B) EXCEPTION TO LOW-INCOME REQUIREMENT.—

(i) IN GENERAL.—The Director may provide assistance for homeownership activities under—

(I) section 810(b);

(II) model activities under section 810(f); or

(III) loan guarantee activities under section 184A of the Housing and Community Development Act of 1992 to Native Hawaiian families who are not low-income families, to the extent that the Secretary approves the activities under that section to address a need for housing for those families that cannot be reasonably met without that assistance.

(ii) LIMITATIONS.—The Secretary shall establish limitations on the amount of assistance that may be provided under this title for activities for families that are not low-income families.

(C) OTHER FAMILIES.—Notwithstanding paragraph (1), the Director may provide housing or housing assistance provided through affordable housing activities assisted with grant amounts under this title to a family that is not composed of Native Hawaiians if—

(i) the Department determines that the presence of the family in the housing involved is essential to the well-being of Native Hawaiian families; and

(ii) the need for housing for the family cannot be reasonably met without the assistance.

(D) PREFERENCE.—

(i) IN GENERAL.—A housing plan submitted under section 803 may authorize a preference, for housing or housing assistance provided through affordable housing activities assisted with grant amounts provided under this title to be provided, to the extent practicable, to families that are eligible to reside on the Hawaiian Home Lands.

(ii) APPLICATION.—In any case in which a housing plan provides for preference described in clause (i), the Director shall ensure that housing activities that are assisted with grant amounts under this title are subject to that preference.

(E) USE OF NONPROFIT ORGANIZATIONS.—As a condition of receiving grant amounts under this title, the Department of Hawaiian Home Lands, shall to the extent practicable, provide for private nonprofit organizations experienced in the planning and development of affordable housing for Native Hawaiians to carry out affordable housing activities with those grant amounts.

Sec. 810. [25 U.S.C. 4229]
ELIGIBLE AFFORDABLE HOUSING ACTIVITIES.

(a) IN GENERAL.—Affordable housing activities under this section are activities conducted in accordance with the requirements of section 811 to—

(1) develop or to support affordable housing for rental or homeownership; or

(2) provide housing services with respect to affordable housing, through the activities described in subsection (b).

(b) ACTIVITIES.—The activities described in this subsection are the following:

(1) DEVELOPMENT.—The acquisition, new construction, reconstruction, or moderate or substantial rehabilitation of affordable housing, which may include—

(A) real property acquisition;

(B) site improvement;

(C) the development of utilities and utility services;

(D) conversion;

(E) demolition;

(F) financing;

(G) administration and planning; and

(H) other related activities.

(2) HOUSING SERVICES.—The provision of housing-related services for affordable housing, including—

(A) housing counseling in connection with rental or homeownership assistance;

(B) the establishment and support of resident organizations and resident management corporations;

(C) energy auditing;

(D) activities related to the provisions of self-sufficiency and other services; and

(E) other services related to assisting owners, tenants, contractors, and other entities participating or seeking to participate in other housing activities assisted pursuant to this section.

(3) HOUSING MANAGEMENT SERVICES.—The provision of management services for affordable housing, including—

(A) the preparation of work specifications;

(B) loan processing;

(C) inspections;

(D) tenant selection;

(E) management of tenant-based rental assistance; and

(F) management of affordable housing projects.

(4) CRIME PREVENTION AND SAFETY ACTIVITIES.—The provision of safety, security, and law enforcement measures and activities appropriate to protect residents of affordable housing from crime.

(5) MODEL ACTIVITIES.—Housing activities under model programs that are—

(A) designed to carry out the purposes of this title; and

(B) specifically approved by the Secretary as appropriate for the purpose referred to in subparagraph (A).

Sec. 811. [25 U.S.C. 4230]

PROGRAM REQUIREMENTS.

(a) RENTS.—

(1) ESTABLISHMENT.—Subject to paragraph (2), as a condition to receiving grant amounts under this title, the Director shall develop written policies governing rents and homebuyer payments charged for dwelling units assisted under this title, including methods by which such rents and homebuyer payments are determined.

(2) MAXIMUM RENT.—In the case of any low-income family residing in a dwelling unit assisted with grant amounts under this title, the monthly rent or homebuyer payment (as applicable) for that dwelling unit may not exceed 30 percent of the monthly adjusted income of that family.

(b) MAINTENANCE AND EFFICIENT OPERATION.—

(1) IN GENERAL.—The Director shall, using amounts of any grants received under this title, reserve and use for operating under section 810 such amounts as may be necessary to provide for the continued maintenance and efficient operation of such housing.

(2) DISPOSAL OF CERTAIN HOUSING.—This subsection may not be construed to prevent the Director, or any entity funded by the Department, from demolishing or disposing of housing, pursuant to regulations established by the Secretary.

(c) INSURANCE COVERAGE.—As a condition to receiving grant amounts under this title, the Director shall require adequate insurance coverage for housing units that are owned or operated or assisted with grant amounts provided under this title.

(d) ELIGIBILITY FOR ADMISSION.—As a condition to receiving grant amounts under this title, the Director shall develop written policies governing the eligibility, admission, and occupancy of families for housing assisted with grant amounts provided under this title.

(e) MANAGEMENT AND MAINTENANCE.—As a condition to receiving grant amounts under this title, the Director shall develop policies governing the management and maintenance of housing assisted with grant amounts under this title.

Sec. 812. [25 U.S.C. 4231]
TYPES OF INVESTMENTS.

(a) IN GENERAL.—Subject to section 811 and an applicable housing plan approved under section 803, the Director shall have—

(1) the discretion to use grant amounts for affordable housing activities through the use of—

(A) equity investments;

(B) interest-bearing loans or advances;

(C) noninterest-bearing loans or advances;

(D) interest subsidies;

(E) the leveraging of private investments; or

(F) any other form of assistance that the Secretary determines to be consistent with the purposes of this title; and

(2) the right to establish the terms of assistance provided with funds referred to in paragraph (1).

(b) INVESTMENTS.—The Director may invest grant amounts for the purposes of carrying out affordable housing activities in investment securities and other obligations, as approved by the Secretary.

Sec. 813. [25 U.S.C. 4232]
LOW-INCOME REQUIREMENT AND INCOME TARGETING.

(a) IN GENERAL.—Housing shall qualify for affordable housing for purposes of this title only if—

(1) each dwelling unit in the housing—

(A) in the case of rental housing, is made available for occupancy only by a family that is a low-income family at the time of the initial occupancy of that family of that unit; and

(B) in the case of housing for homeownership, is made available for purchase only by a family that is a low-income family at the time of purchase; and

(2) each dwelling unit in the housing will remain affordable, according to binding commitments satisfactory to the Secretary, for—

(A) the remaining useful life of the property (as determined by the Secretary) without regard to the term of the mortgage or to transfer of ownership; or

(B) such other period as the Secretary determines is the longest feasible period of time consistent with sound economics and the purposes of this title, except upon a foreclosure by a lender (or upon other transfer in lieu of foreclosure) if that action—

(i) recognizes any contractual or legal rights of any public agency, nonprofit sponsor, or other person or entity to take an action that would—

(I) avoid termination of low-income affordability, in the case of foreclosure; or

(II) transfer ownership in lieu of foreclosure; and

(ii) is not for the purpose of avoiding low-income affordability restrictions, as determined by the Secretary.

(b) EXCEPTION.—Notwithstanding subsection (a), housing assistance pursuant to section 809(a)(2)(B) shall be considered affordable housing for purposes of this title.

Sec. 814. [25 U.S.C. 4233]
LEASE REQUIREMENTS AND TENANT SELECTION.

(a) LEASES.—Except to the extent otherwise provided by or inconsistent with the laws of the State of Hawaii, in renting dwelling units in affordable housing assisted with grant amounts provided under this title, the Director, owner, or manager shall use leases that—

(1) do not contain unreasonable terms and conditions;

(2) require the Director, owner, or manager to maintain the housing in compliance with applicable housing codes and quality standards;

(3) require the Director, owner, or manager to give adequate written notice of termination of the lease, which shall be the period of time required under applicable State or local law;

(4) specify that, with respect to any notice of eviction or termination, notwithstanding any State or local law, a resident shall be informed of the opportunity, before any hearing or trial, to examine any relevant documents, record, or regulations directly related to the eviction or termination;

(5) require that the Director, owner, or manager may not terminate the tenancy, during the term of the lease, except for serious or repeated violation of the terms and conditions of the lease, violation of applicable Federal, State, or local law, or for other good cause; and

(6) provide that the Director, owner, or manager may terminate the tenancy of a resident for any activity, engaged in by the resident, any member of the household of the resident, or any guest or other person under the control of the resident, that—

(A) threatens the health or safety of, or right to peaceful enjoyment of the premises by, other residents or employees of the Department, owner, or manager;

(B) threatens the health or safety of, or right to peaceful enjoyment of their premises by, persons residing in the immediate vicinity of the premises; or

(C) is criminal activity (including drug-related criminal activity) on or off the premises.

(b) TENANT OR HOMEBUYER SELECTION.—As a condition to receiving grant amounts under this title, the Director shall adopt and use written tenant and homebuyer selection policies and criteria that—

(1) are consistent with the purpose of providing housing for low-income families;

(2) are reasonably related to program eligibility and the ability of the applicant to perform the obligations of the lease; and

(3) provide for—

(A) the selection of tenants and homebuyers from a written waiting list in accordance with the policies and goals set forth in an applicable housing plan approved under section 803; and

(B) the prompt notification in writing of any rejected applicant of the grounds for that rejection.

Sec. 815. [25 U.S.C. 4234]
REPAYMENT.

If the Department of Hawaiian Home Lands uses grant amounts to provide affordable housing under activities under this title and, at any time during the useful life of the housing, the housing does not comply with the requirement under section 813(a)(2), the Secretary shall—

(1) reduce future grant payments on behalf of the Department by an amount equal to the grant amounts used for that housing (under the authority of section 819(a)(2)); or

(2) require repayment to the Secretary of any amount equal to those grant amounts.

Sec. 816. [25 U.S.C. 4235]
ANNUAL ALLOCATION.

For each fiscal year, the Secretary shall allocate any amounts made available for assistance under this title for the fiscal year, in accordance with the formula established pursuant to section 817 to the Department of Hawaiian Home Lands if the Department complies with the requirements under this title for a grant under this title.

Sec. 817. [25 U.S.C. 4236]
ALLOCATION FORMULA.

(a) ESTABLISHMENT.—The Secretary shall, by regulation issued not later than the expiration of the 6-month period beginning on the date of the enactment of the Hawaiian Homelands Homeownership Act of 2000[465], in the manner provided under section 807, establish a formula to provide for the allocation of amounts available for a fiscal year for block grants under this title in accordance with the requirements of this section.

(b) FACTORS FOR DETERMINATION OF NEED.—The formula under subsection (a) shall be based on factors that reflect the needs for assistance for affordable housing activities, including—

[465] The date of enactment was December 27, 2000.

(1) the number of low-income dwelling units owned or operated at the time pursuant to a contract between the Director and the Secretary;

(2) the extent of poverty and economic distress and the number of Native Hawaiian families eligible to reside on the Hawaiian Home Lands; and

(3) any other objectively measurable conditions that the Secretary and the Director may specify.

(c) OTHER FACTORS FOR CONSIDERATION.—In establishing the formula under subsection (a), the Secretary shall consider the relative administrative capacities of the Department of Hawaiian Home Lands and other challenges faced by the Department, including—

(1) geographic distribution within Hawaiian Home Lands; and

(2) technical capacity.

(d) EFFECTIVE DATE.—This section shall take effect on the date of the enactment of the American Homeownership and Economic Opportunity Act of 2000[466].

Sec. 818. [25 U.S.C. 4237]
REMEDIES FOR NONCOMPLIANCE.

(a) ACTIONS BY SECRETARY AFFECTING GRANT AMOUNTS.—

(1) IN GENERAL.—Except as provided in subsection (b), if the Secretary finds after reasonable notice and opportunity for a hearing that the Department of Hawaiian Home Lands has failed to comply substantially with any provision of this title, the Secretary shall—

(A) terminate payments under this title to the Department;

(B) reduce payments under this title to the Department by an amount equal to the amount of such payments that were not expended in accordance with this title; or

(C) limit the availability of payments under this title to programs, projects, or activities not affected by such failure to comply.

(2) ACTIONS.—If the Secretary takes an action under subparagraph (A), (B), or (C) of paragraph (1), the Secretary shall continue that action until the Secretary determines that the failure by the Department to comply with the provision has been remedied by the Department and the Department is in compliance with that provision.

(b) NONCOMPLIANCE BECAUSE OF A TECHNICAL INCAPACITY.—The Secretary may provide technical assistance for the Department, either directly or indirectly, that is designed to increase the capability and capacity of the Director of the Department to administer assistance provided under this title in compliance with the requirements under this title if the Secretary makes a finding under subsection (a), but determines that the failure of the Department to comply substantially with the provisions of this title—

(1) is not a pattern or practice of activities constituting willful noncompliance; and

(2) is a result of the limited capability or capacity of the Department of Hawaiian Home Lands.

(c) REFERRAL FOR CIVIL ACTION.—

(1) AUTHORITY.—In lieu of, or in addition to, any action that the Secretary may take under subsection (a), if the Secretary has reason to believe that the Department of Hawaiian Home Lands has failed to comply substantially with any provision of this title, the Secretary may refer the matter to the Attorney General of the United States with a recommendation that an appropriate civil action be instituted.

(2) CIVIL ACTION.—Upon receiving a referral under paragraph (1), the Attorney General may bring a civil action in any United States district court of appropriate jurisdiction for such relief as may be appropriate, including an action—

(A) to recover the amount of the assistance furnished under this title that was not expended in accordance with this title; or

(B) for mandatory or injunctive relief.

(d) REVIEW.—

(1) IN GENERAL.—If the Director receives notice under subsection (a) of the termination, reduction, or limitation of payments under this Act, the Director—

(A) may, not later than 60 days after receiving such notice, file with the United States Court of Appeals for the Ninth Circuit, or in the United States Court of Appeals for the District of Columbia, a petition for review of the action of the Secretary; and

[466] This title as shown was added by section 513 of the American Homeownership and Economic Opportunity Act of 2000, Pub. L. 106-569, approved December 27, 2000. Section 203 of the Omnibus Indian Advancement Act, Pub. L. 106-568, enacted on the same day, made an amendment inserting a title almost identical to that added by Pub. L. 106-569. In that amendment, this subsection referred to the date of the enactment of the Hawaiian Homelands Homeownership Act of 2000.

(B) upon the filing of any petition under subparagraph (A), shall forthwith transmit copies of the petition to the Secretary and the Attorney General of the United States, who shall represent the Secretary in the litigation.

(2) PROCEDURE.—

(A) IN GENERAL.—The Secretary shall file in the court a record of the proceeding on which the Secretary based the action, as provided in section 2112 of title 28, United States Code.

(B) OBJECTIONS.—No objection to the action of the Secretary shall be considered by the court unless the Department has registered the objection before the Secretary.

(3) DISPOSITION.—

(A) COURT PROCEEDINGS.—

(i) JURISDICTION OF COURT.—The court shall have jurisdiction to affirm or modify the action of the Secretary or to set the action aside in whole or in part.

(ii) FINDINGS OF FACT.—If supported by substantial evidence on the record considered as a whole, the findings of fact by the Secretary shall be conclusive.

(iii) ADDITION.—The court may order evidence, in addition to the evidence submitted for review under this subsection, to be taken by the Secretary, and to be made part of the record.

(B) SECRETARY.—

(i) IN GENERAL.—The Secretary, by reason of the additional evidence referred to in subparagraph (A) and filed with the court—

(I) may—

(aa) modify the findings of fact of the Secretary; or

(bb) make new findings; and

(II) shall file—

(aa) such modified or new findings; and

(bb) the recommendation of the Secretary, if any, for the modification or setting aside of the original action of the Secretary.

(ii) FINDINGS.—The findings referred to in clause (i)(II)(bb) shall, with respect to a question of fact, be considered to be conclusive if those findings are—

(I) supported by substantial evidence on the record; and

(II) considered as a whole.

(4) FINALITY.—

(A) IN GENERAL.—Except as provided in subparagraph (B), upon the filing of the record under this subsection with the court—

(i) the jurisdiction of the court shall be exclusive; and

(ii) the judgment of the court shall be final.

(B) REVIEW BY SUPREME COURT.—A judgment under subparagraph (A) shall be subject to review by the Supreme Court of the United States upon writ of certiorari or certification, as provided in section 1254 of title 28, United States Code.

Sec. 819. [25 U.S.C. 4238]

MONITORING OF COMPLIANCE.

(a) ENFORCEABLE AGREEMENTS.—

(1) IN GENERAL.—The Director, through binding contractual agreements with owners or other authorized entities, shall ensure long-term compliance with the provisions of this title.

(2) MEASURES.—The measures referred to in paragraph (1) shall provide for—

(A) to the extent allowable by Federal and State law, the enforcement of the provisions of this title by the Department and the Secretary; and

(B) remedies for breach of the provisions referred to in paragraph (1).

(b) PERIODIC MONITORING.—

(1) IN GENERAL.—Not less frequently than annually, the Director shall review the activities conducted and housing assisted under this title to assess compliance with the requirements of this title.

(2) REVIEW.—Each review under paragraph (1) shall include onsite inspection of housing to determine compliance with applicable requirements.

(3) RESULTS.—The results of each review under paragraph (1) shall be—

(A) included in a performance report of the Director submitted to the Secretary under section 820; and

(B) made available to the public.

(c) PERFORMANCE MEASURES.—The Secretary shall establish such performance measures as may be necessary to assess compliance with the requirements of this title.

Sec. 820. [25 U.S.C. 4239]
PERFORMANCE REPORTS.

(a) REQUIREMENT.—For each fiscal year, the Director shall—

(1) review the progress the Department has made during that fiscal year in carrying out the housing plan submitted by the Department under section 803; and

(2) submit a report to the Secretary (in a form acceptable to the Secretary) describing the conclusions of the review.

(b) CONTENT.—Each report submitted under this section for a fiscal year shall—

(1) describe the use of grant amounts provided to the Department of Hawaiian Home Lands for that fiscal year;

(2) assess the relationship of the use referred to in paragraph (1) to the goals identified in the housing plan;

(3) indicate the programmatic accomplishments of the Department; and

(4) describe the manner in which the Department would change its housing plan submitted under section 803 as a result of its experiences.

(c) SUBMISSIONS.—The Secretary shall—

(1) establish a date for submission of each report under this section;

(2) review each such report; and

(3) with respect to each such report, make recommendations as the Secretary considers appropriate to carry out the purposes of this title.

(d) PUBLIC AVAILABILITY.—

(1) COMMENTS BY BENEFICIARIES.—In preparing a report under this section, the Director shall make the report publicly available to the beneficiaries of the Hawaiian Homes Commission Act, 1920 (42 Stat. 108 et seq.) and give a sufficient amount of time to permit those beneficiaries to comment on that report before it is submitted to the Secretary (in such manner and at such time as the Director may determine).

(2) SUMMARY OF COMMENTS.—The report shall include a summary of any comments received by the Director from beneficiaries under paragraph (1) regarding the program to carry out the housing plan.

Sec. 821. [25 U.S.C. 4240]
REVIEW AND AUDIT BY SECRETARY.

(a) ANNUAL REVIEW.—

(1) IN GENERAL.—The Secretary shall, not less frequently than on an annual basis, make such reviews and audits as may be necessary or appropriate to determine whether—

(A) the Director has—

(i) carried out eligible activities under this title in a timely manner;

(ii) carried out and made certifications in accordance with the requirements and the primary objectives of this title and with other applicable laws; and

(iii) a continuing capacity to carry out the eligible activities in a timely manner;

(B) the Director has complied with the housing plan submitted by the Director under section 803; and

(C) the performance reports of the Department under section 821 are accurate.

(2) ONSITE VISITS.—Each review conducted under this section shall, to the extent practicable, include onsite visits by employees of the Department of Housing and Urban Development.

(b) REPORT BY SECRETARY.—The Secretary shall give the Department of Hawaiian Home Lands not less than 30 days to review and comment on a report under this subsection. After taking into consideration the comments of the Department, the Secretary may revise the report and shall make the comments of the Department and the report with any revisions, readily available to the public not later than 30 days after receipt of the comments of the Department.

(c) EFFECT OF REVIEWS.—The Secretary may make appropriate adjustments in the amount of annual grants under this title in accordance with the findings of the Secretary pursuant to reviews and audits under this section. The Secretary may adjust, reduce, or withdraw grant amounts, or take other action as appropriate in accordance with the reviews and audits of the Secretary under this section, except that grant amounts already expended on affordable housing activities may not be recaptured or deducted from future assistance provided to the Department of Hawaiian Home Lands.

Sec. 822. [25 U.S.C. 4241]
GENERAL ACCOUNTING OFFICE AUDITS.

To the extent that the financial transactions of the Department of Hawaiian Home Lands involving grant amounts under this title relate to amounts provided under this title, those transactions may be audited by the Comptroller General of the United States under such regulations as may be prescribed by the Comptroller General. The Comptroller General of the United States shall have access to all books, accounts, records, reports, files, and other papers, things, or property belonging to or in use by the Department of Hawaiian Home Lands pertaining to such financial transactions and necessary to facilitate the audit.

Sec. 823. [25 U.S.C. 4242]
REPORTS TO CONGRESS.

(a) IN GENERAL.—Not later than 90 days after the conclusion of each fiscal year in which assistance under this title is made available, the Secretary shall submit to Congress a report that contains—

(1) a description of the progress made in accomplishing the objectives of this title;

(2) a summary of the use of funds available under this title during the preceding fiscal year; and

(3) a description of the aggregate outstanding loan guarantees under section 184A of the Housing and Community Development Act of 1992.

(b) RELATED REPORTS.—The Secretary may require the Director to submit to the Secretary such reports and other information as may be necessary in order for the Secretary to prepare the report required under subsection (a).

Sec. 824. [25 U.S.C. 4243]
AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated to the Department of Housing and Urban Development for grants under this title such sums as may be necessary for each of fiscal years 2001, 2002, 2003, 2004, and 2005.[467]

END OF STATUTE

[467] This title as shown was added by section 513 of the American Homeownership and Economic Opportunity Act of 2000, Pub. L. 106-569, approved December 27, 2000. Section 203 of the Omnibus Indian Advancement Act, Pub. L. 106-568, enacted on the same day, made an amendment inserting a title almost identical to that added by Pub. L. 106-569. In such amendment, this subsection provides authorization of appropriations of such sums as may be necessary "for each of fiscal years 2000, 2001, 2002, 2003, and 2004".
This title was added by section 203 of the Omnibus Indian Advancement Act, Pub. L. 106-568, approved December 27, 2000. Section 513 of the American Homeownership and Economic Opportunity Act of 2000, Pub. L. 106-569, enacted on the same day, made an amendment adding to this Act (a second time) a title almost identical to that added by Pub. L. 106-568. The later amendment (made by Pub. L. 106-569) is shown in this compilation.

WAIVER OF MATCHING FUNDS REQUIREMENTS FOR INDIAN HOUSING PROGRAMS

CRANSTON-GONZALEZ NATIONAL AFFORDABLE HOUSING ACT
[Public Law 101-625; 104 Stat. 4423; 25 U.S.C. 4104]

Sec. 959. [25 U.S.C. 4104]
WAIVER OF MATCHING FUNDS REQUIREMENTS IN INDIAN HOUSING PROGRAMS.

(a) AUTHORIZATION OF WAIVER.—For any housing program that provides assistance through any Indian housing authority, the Secretary of Housing and Urban Development may provide assistance under such program in any fiscal year notwithstanding any other provision of law that requires the Indian housing authority to provide amounts to match or supplement the amounts provided under such program, if the Indian housing authority has not received amounts for such fiscal year under the title I of the Housing and Community Development Act of 1974.

(b) EXTENT OF WAIVER.—The authority under subsection (a) to provide assistance notwithstanding requirements regarding matching or supplemental amounts shall be effective only to the extent provided by the Secretary, which shall not extend beyond the fiscal year in which the waiver is made or beyond the receipt of any amounts by an Indian housing authority under title I of the Housing and Community Development Act of 1974.

(c) DEFINITION OF HOUSING PROGRAM.—For purposes of this section, the term “housing program” means a program under the administration of the Secretary of Housing and Urban Development or the Secretary of Agriculture (through the Administrator of the Farmers Home Administration) that provides assistance in the form of contracts, grants, loans, cooperative agreements, or any other form of assistance (including the insurance or guarantee of a loan, mortgage, or pool of mortgages) for housing.

END OF STATUTE

LOAN GUARANTEES FOR INDIAN AND NATIVE HAWAIIAN HOUSING

HOUSING AND COMMUNITY DEVELOPMENT ACT OF 1992
[Public Law 102-550; 106 Stat. 3739; 12 U.S.C. 1715z-13a, 1715z-13b]

Sec. 184. [12 U.S.C. 1715z-13a]
LOAN GUARANTEES FOR INDIAN HOUSING.

(a) AUTHORITY.—To provide access to sources of private financing to Indian families, Indian housing authorities, and Indian tribes, who otherwise could not acquire housing financing because of the unique legal status of Indian lands, the Secretary may guarantee not to exceed 100 percent of the unpaid principal and interest due on any loan eligible under subsection (b) made to an Indian family, Indian housing authority, or Indian tribe.

(b) ELIGIBLE LOANS.—Loans guaranteed pursuant to this section shall meet the following requirements:

(1) ELIGIBLE BORROWERS.—The loans shall be made only to borrowers who are Indian families, Indian housing authorities, or Indian tribes.

(2) ELIGIBLE HOUSING.—The loan shall be used to construct, acquire, refinance, or rehabilitate 1- to 4-family dwellings that are standard housing and are located on trust land or land located in an Indian or Alaska Native area.

(3) SECURITY.—The loan may be secured by any collateral authorized under existing Federal law or applicable State or tribal law.

(4) LENDERS.—The loan shall be made only by a lender approved by and meeting qualifications established by the Secretary, except that loans otherwise insured or guaranteed by an agency of the Federal Government or made by an organization of Indians from amounts borrowed from the United States shall not be eligible for guarantee under this section. The following lenders are deemed to be approved under this paragraph:

(A) Any mortgagee approved by the Secretary of Housing and Urban Development for participation in the single family mortgage insurance program under title II of the National Housing Act.

(B) Any lender whose housing loans under chapter 37 of title 38, United States Code are automatically guaranteed pursuant to section 1802(d) of such title.

(C) Any lender approved by the Secretary of Agriculture to make guaranteed loans for single family housing under the Housing Act of 1949.

(D) Any other lender that is supervised, approved, regulated, or insured by any agency of the Federal Government.

(5) TERMS.—The loan shall—

(A) be made for a term not exceeding 30 years;

(B) bear interest (exclusive of the guarantee fee under section 404 and service charges, if any) at a rate agreed upon by the borrower and the lender and determined by the Secretary to be reasonable, which may not exceed the rate generally charged in the area (as determined by the Secretary) for home mortgage loans not guaranteed or insured by any agency or instrumentality of the Federal Government;

(C) involve a principal obligation not exceeding—

(i) 97.75 percent of the appraised value of the property as of the date the loan is accepted for guarantee (or 98.75 percent if the value of the property is $50,000 or less); and

(ii) the amount approved by the Secretary under this section; and

(D) involve a payment on account of the property (i) in cash or its equivalent, or (ii) through the value of any improvements to the property made through the skilled or unskilled labor of the borrower, as the Secretary shall provide.

(c) CERTIFICATE OF GUARANTEE.—

(1) APPROVAL PROCESS.—Before the Secretary approves any loan for guarantee under this section, the lender shall submit the application for the loan to the Secretary for examination. If the Secretary approves the loan for guarantee, the Secretary shall issue a certificate under this paragraph as evidence of the guarantee.

(2) STANDARD FOR APPROVAL.—The Secretary may approve a loan for guarantee under this section and issue a certificate under this paragraph only if the Secretary determines there is a reasonable prospect of repayment of the loan.

(3) EFFECT.—A certificate of guarantee issued under this paragraph by the Secretary shall be conclusive evidence of the eligibility of the loan for guarantee under the provisions of this section and the amount of such guarantee. Such evidence shall be incontestable in the hands of the bearer and the full faith and credit of the United States is pledged to the payment of all amounts agreed to be paid by the Secretary as security for such obligations.

(4) FRAUD AND MISREPRESENTATION.—This subsection may not be construed to preclude the Secretary from establishing defenses against the original lender based on fraud or material misrepresentation or to bar the Secretary from establishing by regulations in effect on the date of issuance or disbursement, whichever is earlier, partial defenses to the amount payable on the guarantee.

(d) GUARANTEE FEE.—The Secretary shall establish and collect, at the time of issuance of the guarantee, a fee for the guarantee of loans under this section, in an amount not exceeding 3 percent of the principal obligation of the loan. The Secretary may also establish and collect annual premium payments in an amount not exceeding 1 percent of the remaining guaranteed balance (excluding the portion of the remaining balance attributable to the fee collected at the time of issuance of the guarantee). The Secretary shall establish the amount of the fees and premiums by publishing a notice in the Federal Register. The Secretary shall deposit any fees and premiums collected under this subsection in the Indian Housing Loan Guarantee Fund established under subsection (i).

(e) LIABILITY UNDER GUARANTEE.—The liability under a guarantee provided under this section shall decrease or increase on a pro rata basis according to any decrease or increase in the amount of the unpaid obligation under the provisions of the loan agreement.

(f) TRANSFER AND ASSUMPTION.—Notwithstanding any other provision of law, any loan guaranteed under this section, including the security given for the loan, may be sold or assigned by the lender to any financial institution subject to examination and supervision by an agency of the Federal Government or of any State or the District of Columbia.

(g) DISQUALIFICATION OF LENDERS AND CIVIL MONEY PENALTIES.—

(1) IN GENERAL.—If the Secretary determines that any lender or holder of a guarantee certificate under subsection (c) has failed to maintain adequate accounting records, to adequately service loans guaranteed under this section, to exercise proper credit or underwriting judgment, or has engaged in practices otherwise detrimental to the interest of a borrower or the United States, the Secretary may—

(A) refuse, either temporarily or permanently, to guarantee any further loans made by such lender or holder;

(B) bar such lender or holder from acquiring additional loans guaranteed under this section; and

(C) require that such lender or holder assume not less than 10 percent of any loss on further loans made or held by the lender or holder that are guaranteed under this section.

(2) CIVIL MONEY PENALTIES FOR INTENTIONAL VIOLATIONS.—If the Secretary determines that any lender or holder of a guarantee certificate under subsection (c) has intentionally failed to maintain adequate accounting records, to adequately service loans guaranteed under this section, or to exercise proper credit or underwriting judgment, the Secretary may impose a civil money penalty on such lender or holder in the manner and amount provided under section 536 of the National Housing Act with respect to mortgagees and lenders under such Act.

(3) PAYMENT ON LOANS MADE IN GOOD FAITH.—Notwithstanding paragraphs (1) and (2), the Secretary may not refuse to pay pursuant to a valid guarantee on loans of a lender or holder barred under this subsection if the loans were previously made in good faith.

(h) PAYMENT UNDER GUARANTEE.—

(1) LENDER OPTIONS.—

(A) IN GENERAL.—In the event of default by the borrower on a loan guaranteed under this section, the holder of the guarantee certificate shall provide written notice of the default to the Secretary. Upon providing such notice, the holder of the guarantee certificate shall be entitled to payment under the guarantee (subject to the provisions of this section) and may proceed to obtain payment in one of the following manners:

(i) FORECLOSURE.—The holder of the certificate may initiate foreclosure proceedings (after providing written notice of such action to the Secretary) and upon a

final order by the court authorizing foreclosure and submission to the Secretary of a claim for payment under the guarantee, the Secretary shall pay to the holder of the certificate the pro rata portion of the amount guaranteed (as determined pursuant to subsection (e)) plus reasonable fees and expenses as approved by the Secretary. The Secretary shall be subrogated to the rights of the holder of the guarantee and the lender holder shall assign the obligation and security to the Secretary.

(ii) NO FORECLOSURE.—Without seeking foreclosure (or in any case in which a foreclosure proceeding initiated under clause (i) continues for a period in excess of 1 year), the holder of the guarantee may submit to the Secretary a request to assign the obligation and security interest to the Secretary in return for payment of the claim under the guarantee. The Secretary may accept assignment of the loan if the Secretary determines that the assignment is in the best interests of the United States. Upon assignment, the Secretary shall pay to the holder of the guarantee the pro rata portion of the amount guaranteed (as determined under subsection (e)). The Secretary shall be subrogated to the rights of the holder of the guarantee and the holder shall assign the obligation and security to the Secretary.

(B) REQUIREMENTS.—Before any payment under a guarantee is made under subparagraph (A), the holder of the guarantee shall exhaust all reasonable possibilities of collection. Exhausting all reasonable possibilities of collection by the holder of the guarantee shall include a good faith consideration of loan modification as well as meeting standards for servicing loans in default, as determined by the Secretary. Upon payment, in whole or in part, to the holder, the note or judgment evidencing the debt shall be assigned to the United States and the holder shall have no further claim against the borrower or the United States. The Secretary shall then take such action to collect as the Secretary determines appropriate.

(2) LIMITATIONS ON LIQUIDATION.—In the event of a default by the borrower on a loan guaranteed under this section involving a security interest in restricted Indian land, the mortgagee or the Secretary shall only pursue liquidation after offering to transfer the account to an eligible tribal member, the tribe, or the Indian housing authority serving the tribe or tribes. If the mortgagee or the Secretary subsequently proceeds to liquidate the account, the mortgagee or the Secretary shall not sell, transfer, or otherwise dispose of or alienate the property except to one of the entities described in the preceding sentence.

(i) INDIAN HOUSING LOAN GUARANTEE FUND.—

(1) ESTABLISHMENT.—There is established in the Treasury of the United States the Indian Housing Loan Guarantee Fund for the purpose of providing loan guarantees under this section.

(2) CREDITS.—The Guarantee Fund shall be credited with—

(A) any amounts, claims, notes, mortgages, contracts, and property acquired by the Secretary under this section, and any collections and proceeds therefrom;

(B) any amounts appropriated under paragraph (7);

(C) any guarantee fees collected under subsection (d); and

(D) any interest or earnings on amounts invested under paragraph (4).

(3) USE.—Amounts in the Guarantee Fund shall be available, to the extent provided in appropriation Acts, for—

(A) fulfilling any obligations of the Secretary with respect to loans guaranteed under this section, including the costs (as such term is defined in section 502 of the Congressional Budget Act of 1974) of such loans;

(B) paying taxes, insurance, prior liens, expenses necessary to make fiscal adjustment in connection with the application and transmittal of collections, and other expenses and advances to protect the Secretary for loans which are guaranteed under this section or held by the Secretary;

(C) acquiring such security property at foreclosure sales or otherwise;

(D) paying administrative expenses in connection with this section; and

(E) reasonable and necessary costs of rehabilitation and repair to properties that the Secretary holds or owns pursuant to this section.

(4) INVESTMENT.—Any amounts in the Guarantee Fund determined by the Secretary to be in excess of amounts currently required to carry out this section may be invested in obligations of the United States.

(5) LIMITATION ON COMMITMENTS TO GUARANTEE LOANS AND MORTGAGES.—

(A) REQUIREMENT OF APPROPRIATIONS.—The authority of the Secretary to enter into commitments to guarantee loans under this section shall be effective for any fiscal year to the extent or in such amounts as are or have been provided in appropriations Acts, without regard to the fiscal year for which such amounts were appropriated.

(B) LIMITATIONS ON COSTS OF GUARANTEES.—The authority of the Secretary to enter into commitments to guarantee loans under this section shall be effective for any fiscal year only to the extent that amounts in the Guarantee Fund are or have been made available in appropriation Acts to cover the costs (as such term is defined in section 502 of the Congressional Budget Act of 1974) of such loan guarantees for such fiscal year. Any amounts appropriated pursuant to this subparagraph shall remain available until expended.

(C) LIMITATION ON OUTSTANDING AGGREGATE PRINCIPAL AMOUNT.—Subject to the limitations in subparagraphs (A) and (B), the Secretary may enter into commitments to guarantee loans under this section in each of fiscal years 2008 through 2012 with an aggregate outstanding principal amount not exceeding such amount as may be provided in appropriation Acts for such fiscal year.

(6) LIABILITIES.—All liabilities and obligations of the assets credited to the Guarantee Fund under paragraph (2)(A) shall be liabilities and obligations of the Guarantee Fund.

(7) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Guarantee Fund to carry out this section such sums as may be necessary for each of fiscal years 2008 through 2012.

(j) REQUIREMENTS FOR STANDARD HOUSING.—The Secretary shall, by regulation, establish housing safety and quality standards for use under this section. Such standards shall provide sufficient flexibility to permit the use of various designs and materials in housing acquired with loans guaranteed under this section. The standards shall require each dwelling unit in any housing so acquired to—

(1) be decent, safe, sanitary, and modest in size and design;

(2) conform with applicable general construction standards for the region;

(3) contain a heating system that—

(A) has the capacity to maintain a minimum temperature in the dwelling of 65 degrees Fahrenheit during the coldest weather in the area;

(B) is safe to operate and maintain;

(C) delivers a uniform distribution of heat; and

(D) conforms to any applicable tribal heating code or, if there is no applicable tribal code, an appropriate county, State, or National code;

(4) contain a plumbing system that—

(A) uses a properly installed system of piping;

(B) includes a kitchen sink and a partitional bathroom with lavatory, toilet, and bath or shower; and

(C) uses water supply, plumbing, and sewage disposal systems that conform to any applicable tribal code or, if there is no applicable tribal code, the minimum standards established by the applicable county or State;

(5) contain an electrical system using wiring and equipment properly installed to safely supply electrical energy for adequate lighting and for operation of appliances that conforms to any applicable tribal code or, if there is no applicable tribal code, an appropriate county, State, or National code;

(6) be not less than—

(A)(i) 570 square feet in size, if designed for a family of not more than 4 persons;

(ii) 850 square feet in size, if designed for a family of not less than 5 and not more than 7 persons; and

(iii) 1020 square feet in size, if designed for a family of not less than 8 persons, or

(B) the size provided under the applicable locally adopted standards for size of dwelling units;

except that the Secretary, upon the request of a tribe or Indian housing authority, may waive the size requirements under this paragraph; and

(7) conform with the energy performance requirements for new construction established by the Secretary under section 526(a) of the National Housing Act.

(k) ENVIRONMENTAL REVIEW.—For purposes of environmental,[468] review, decisionmaking, and action under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.) and any other law that furthers the purposes of that Act, a loan guarantee under this section shall—

(1) be treated as a grant under the Native American Housing Assistance and Self-Determination Act of 1996 (25 U.S.C. 4101 et seq.); and

(2) be subject to the regulations promulgated by the Secretary to carry out section 105 of the Native American Housing Assistance and Self-Determination Act of 1996 (25 U.S.C. 4115).

(l) DEFINITIONS.—For purposes of this section:

(1) The term "family" means 1 or more persons maintaining a household, as the Secretary shall by regulation provide.

(2) The term "Guarantee Fund" means the Indian Housing Loan Guarantee Fund established under subsection (i).

(3) The term "Indian" means person recognized as being Indian or Alaska Native by an Indian tribe, the Federal Government, or any State.

(4) The term "Indian area" means the area within which an Indian housing authority or Indian tribe is authorized to provide housing.

(5) The term "Indian housing authority" means any entity that—

(A) is authorized to engage in or assist in the development or operation of—

(i) low-income housing for Indians; or

(ii) housing subject to the provisions of this section; and

(B) is established—

(i) by exercise of the power of self-government of an Indian tribe independent of State law; or

(ii) by operation of State law providing specifically for housing authorities for Indians, including regional housing authorities in the State of Alaska.

The term includes tribally designated housing entities under the Native American Housing Assistance and Self-Determination Act of 1996.

(6) The term "Secretary" means the Secretary of Housing and Urban Development.

(7) The term "standard housing" means a dwelling unit or housing that complies with the requirements established under subsection (j).

(8) TRIBE; INDIAN TRIBE.—The term "tribe" or "Indian tribe" means any Indian tribe, band, nation, or other organized group or community of Indians, including any Alaska Native village or regional or village corporation as defined in or established pursuant to the Alaska Native Claims Settlement Act, that is recognized as eligible for the special programs and services provided by the United States to Indians because of their status as Indians pursuant to the Indian Self-Determination and Education Assistance Act of 1975.

(9) The term "trust land" means land title to which is held by the United States for the benefit of an Indian or Indian tribe or title to which is held by an Indian tribe subject to a restriction against alienation imposed by the United States.

Sec. 184A. [12 U.S.C. 1715z-13b]
LOAN GUARANTEES FOR NATIVE HAWAIIAN HOUSING.[469]

(a) DEFINITIONS.—In this section:

(1) DEPARTMENT OF HAWAIIAN HOME LANDS.—The term "Department of Hawaiian Home Lands" means the agency or department of the government of the State of Hawaii that is responsible for the administration of the Hawaiian Homes Commission Act, 1920 (42 Stat. 108 et seq.).

(2) ELIGIBLE ENTITY.—The term "eligible entity" means a Native Hawaiian family, the Department of Hawaiian Home Lands, the Office of Hawaiian Affairs, and private nonprofit or private for-profit organizations experienced in the planning and development of affordable housing for Native Hawaiians.

[468] So in law.

[469] This section was added by section 204 of the Omnibus Indian Advancement Act, Pub. L. 106-568, approved December 27, 2000. Section 514 of the American Homeownership and Economic Opportunity Act of 2000, Pub. L. 106-569, enacted on the same day, made an amendment adding to this Act (a second time) a section almost identical to that added by Pub. L. 106-568. The later amendment (made by Pub. L. 106-569) is shown in this compilation.

(3) FAMILY.—The term "family" means one or more persons maintaining a household, as the Secretary shall by regulation provide.

(4) GUARANTEE FUND.—The term "Guarantee Fund" means the Native Hawaiian Housing Loan Guarantee Fund established under subsection (j).

(5) HAWAIIAN HOME LANDS.—The term "Hawaiian Home Lands" means lands that—

(A) have the status of Hawaiian Home Lands under section 204 of the Hawaiian Homes Commission Act (42 Stat. 110); or

(B) are acquired pursuant to that Act.

(6) NATIVE HAWAIIAN.—The term "Native Hawaiian" means any individual who is—

(A) a citizen of the United States; and

(B) a descendant of the aboriginal people, who, prior to 1778, occupied and exercised sovereignty in the area that currently constitutes the State of Hawaii, as evidenced by—

(i) genealogical records;

(ii) verification by kupuna (elders) or kamaʼaina (long-term community residents); or

(iii) birth records of the State of Hawaii.

(7) OFFICE OF HAWAIIAN AFFAIRS.—The term "Office of Hawaiian Affairs" means the entity of that name established under the constitution of the State of Hawaii.

(b) AUTHORITY.—To provide access to sources of private financing to Native Hawaiian families who otherwise could not acquire housing financing because of the unique legal status of the Hawaiian Home Lands or as a result of a lack of access to private financial markets, the Secretary may guarantee an amount not to exceed 100 percent of the unpaid principal and interest that is due on an eligible loan under subsection (c).

(c) ELIGIBLE LOANS.—Under this section, a loan is an eligible loan if that loan meets the following requirements:

(1) ELIGIBLE BORROWERS.—The loan is made only to a borrower who is—

(A) a Native Hawaiian family;

(B) the Department of Hawaiian Home Lands;

(C) the Office of Hawaiian Affairs; or

(D) a private nonprofit organization experienced in the planning and development of affordable housing for Native Hawaiians.

(2) ELIGIBLE HOUSING.—

(A) IN GENERAL.—The loan will be used to construct, acquire, or rehabilitate not more than 4-family dwellings that are standard housing and are located on Hawaiian Home Lands for which a housing plan described in subparagraph (B) applies.

(B) HOUSING PLAN.—A housing plan described in this subparagraph is a housing plan that—

(i) has been submitted and approved by the Secretary under section 803 of the Native American Housing Assistance and Self-Determination Act of 1996; and

(ii) provides for the use of loan guarantees under this section to provide affordable homeownership housing on Hawaiian Home Lands.

(3) SECURITY.—The loan may be secured by any collateral authorized under applicable Federal or State law.

(4) LENDERS.—

(A) IN GENERAL.—The loan shall be made only by a lender approved by, and meeting qualifications established by, the Secretary, including any lender described in subparagraph (B), except that a loan otherwise insured or guaranteed by an agency of the Federal Government or made by the Department of Hawaiian Home Lands from amounts borrowed from the United States shall not be eligible for a guarantee under this section.

(B) APPROVAL.—The following lenders shall be considered to be lenders that have been approved by the Secretary:

(i) Any mortgagee approved by the Secretary for participation in the single family mortgage insurance program under title II of the National Housing Act (12 U.S.C.A. 1707 et seq.).

(ii) Any lender that makes housing loans under chapter 37 of title 38, United States Code, that are automatically guaranteed under section 3702(d) of title 38, United States Code.

(iii) Any lender approved by the Secretary of Agriculture to make guaranteed loans for single family housing under the Housing Act of 1949 (42 U.S.C.A. 1441 et seq.).

(iv) Any other lender that is supervised, approved, regulated, or insured by any agency of the Federal Government.

(5) TERMS.—The loan shall—

(A) be made for a term not exceeding 30 years;

(B) bear interest (exclusive of the guarantee fee under subsection (e) and service charges, if any) at a rate agreed upon by the borrower and the lender and determined by the Secretary to be reasonable, but not to exceed the rate generally charged in the area (as determined by the Secretary) for home mortgage loans not guaranteed or insured by any agency or instrumentality of the Federal Government;

(C) involve a principal obligation not exceeding—

(i) 97.75 percent of the appraised value of the property as of the date the loan is accepted for guarantee (or 98.75 percent if the value of the property is $50,000 or less); or

(ii) the amount approved by the Secretary under this section; and

(D) involve a payment on account of the property—

(i) in cash or its equivalent; or

(ii) through the value of any improvements to the property made through the skilled or unskilled labor of the borrower, as the Secretary shall provide.

(d) CERTIFICATE OF GUARANTEE.—

(1) APPROVAL PROCESS.—

(A) IN GENERAL.—Before the Secretary approves any loan for guarantee under this section, the lender shall submit the application for the loan to the Secretary for examination.

(B) APPROVAL.—If the Secretary approves the application submitted under subparagraph (A), the Secretary shall issue a certificate under this subsection as evidence of the loan guarantee approved.

(2) STANDARD FOR APPROVAL.—The Secretary may approve a loan for guarantee under this section and issue a certificate under this subsection only if the Secretary determines that there is a reasonable prospect of repayment of the loan.

(3) EFFECT.—

(A) IN GENERAL.—A certificate of guarantee issued under this subsection by the Secretary shall be conclusive evidence of the eligibility of the loan for guarantee under this section and the amount of that guarantee.

(B) EVIDENCE.—The evidence referred to in subparagraph (A) shall be incontestable in the hands of the bearer.

(C) FULL FAITH AND CREDIT.—The full faith and credit of the United States is pledged to the payment of all amounts agreed to be paid by the Secretary as security for the obligations made by the Secretary under this section.

(4) FRAUD AND MISREPRESENTATION.—This subsection may not be construed—

(A) to preclude the Secretary from establishing defenses against the original lender based on fraud or material misrepresentation; or

(B) to bar the Secretary from establishing by regulations that are on the date of issuance or disbursement, whichever is earlier, partial defenses to the amount payable on the guarantee.

(e) GUARANTEE FEE.—

(1) IN GENERAL.—The Secretary shall fix and collect a guarantee fee for the guarantee of a loan under this section, which may not exceed the amount equal to 1 percent of the principal obligation of the loan.

(2) PAYMENT.—The fee under this subsection shall—

(A) be paid by the lender at time of issuance of the guarantee; and

(B) be adequate, in the determination of the Secretary, to cover expenses and probable losses.

(3) DEPOSIT.—The Secretary shall deposit any fees collected under this subsection in the Native Hawaiian Housing Loan Guarantee Fund established under subsection (j).

(f) LIABILITY UNDER GUARANTEE.—The liability under a guarantee provided under this section shall decrease or increase on a pro rata basis according to any decrease or increase in the amount of the unpaid obligation under the provisions of the loan agreement involved.

(g) TRANSFER AND ASSUMPTION.—Notwithstanding any other provision of law, any loan guaranteed under this section, including the security given for the loan, may be sold or assigned by the lender to any financial institution subject to examination and supervision by an agency of the Federal Government or of any State or the District of Columbia.

(h) DISQUALIFICATION OF LENDERS AND CIVIL MONEY PENALTIES.—

(1) IN GENERAL.—

(A) GROUNDS FOR ACTION.—The Secretary may take action under subparagraph (B) if the Secretary determines that any lender or holder of a guarantee certificate under subsection (d)—

(i) has failed—

(I) to maintain adequate accounting records;

(II) to service adequately loans guaranteed under this section; or

(III) to exercise proper credit or underwriting judgment; or

(ii) has engaged in practices otherwise detrimental to the interest of a borrower or the United States.

(B) ACTIONS.—Upon a determination by the Secretary that a holder of a guarantee certificate under subsection (d) has failed to carry out an activity described in subparagraph (A)(i) or has engaged in practices described in subparagraph (A)(ii), the Secretary may—

(i) refuse, either temporarily or permanently, to guarantee any further loans made by such lender or holder;

(ii) bar such lender or holder from acquiring additional loans guaranteed under this section; and

(iii) require that such lender or holder assume not less than 10 percent of any loss on further loans made or held by the lender or holder that are guaranteed under this section.

(2) CIVIL MONEY PENALTIES FOR INTENTIONAL VIOLATIONS.—

(A) IN GENERAL.—The Secretary may impose a civil monetary penalty on a lender or holder of a guarantee certificate under subsection (d) if the Secretary determines that the holder or lender has intentionally failed—

(i) to maintain adequate accounting records;

(ii) to adequately service loans guaranteed under this section; or

(iii) to exercise proper credit or underwriting judgment.

(B) PENALTIES.—A civil monetary penalty imposed under this paragraph shall be imposed in the manner and be in an amount provided under section 536 of the National Housing Act (12 U.S.C.A. 1735f-1) with respect to mortgagees and lenders under that Act.

(3) PAYMENT ON LOANS MADE IN GOOD FAITH.—Notwithstanding paragraphs (1) and (2), if a loan was made in good faith, the Secretary may not refuse to pay a lender or holder of a valid guarantee on that loan, without regard to whether the lender or holder is barred under this subsection.

(i) PAYMENT UNDER GUARANTEE.—

(1) LENDER OPTIONS.—

(A) IN GENERAL.—

(i) NOTIFICATION.—If a borrower on a loan guaranteed under this section defaults on the loan, the holder of the guarantee certificate shall provide written notice of the default to the Secretary.

(ii) PAYMENT.—Upon providing the notice required under clause (i), the holder of the guarantee certificate shall be entitled to payment under the guarantee (subject to the provisions of this section) and may proceed to obtain payment in one of the following manners:

(I) FORECLOSURE.—

(aa) IN GENERAL.—The holder of the certificate may initiate foreclosure proceedings (after providing written notice of that action to the Secretary).

(bb) PAYMENT.—Upon a final order by the court authorizing foreclosure and submission to the Secretary of a claim for payment under the guarantee, the Secretary shall pay to the holder of the certificate the pro rata portion of the amount guaranteed (as determined pursuant to subsection (f)) plus reasonable fees and expenses as approved by the Secretary.

(cc) SUBROGATION.—The rights of the Secretary shall be subrogated to the rights of the holder of the guarantee. The holder shall assign the obligation and security to the Secretary.

(II) NO FORECLOSURE.—

(aa) IN GENERAL.—Without seeking foreclosure (or in any case in which a foreclosure proceeding initiated under clause (i) continues for a period in excess of 1 year), the holder of the guarantee may submit to the Secretary a request to assign the obligation and security interest to the Secretary in return for payment of the claim under the guarantee. The Secretary may accept assignment of the loan if the Secretary determines that the assignment is in the best interest of the United States.

(bb) PAYMENT.—Upon assignment, the Secretary shall pay to the holder of the guarantee the pro rata portion of the amount guaranteed (as determined under subsection (f)).

(cc) SUBROGATION.—The rights of the Secretary shall be subrogated to the rights of the holder of the guarantee. The holder shall assign the obligation and security to the Secretary.

(B) REQUIREMENTS.—Before any payment under a guarantee is made under subparagraph (A), the holder of the guarantee shall exhaust all reasonable possibilities of collection. Upon payment, in whole or in part, to the holder, the note or judgment evidencing the debt shall be assigned to the United States and the holder shall have no further claim against the borrower or the United States. The Secretary shall then take such action to collect as the Secretary determines to be appropriate.

(2) LIMITATIONS ON LIQUIDATION.—

(A) IN GENERAL.—If a borrower defaults on a loan guaranteed under this section that involves a security interest in restricted Hawaiian Home Land property, the mortgagee or the Secretary shall only pursue liquidation after offering to transfer the account to another eligible Hawaiian family or the Department of Hawaiian Home Lands.

(B) LIMITATION.—If, after action is taken under subparagraph (A), the mortgagee or the Secretary subsequently proceeds to liquidate the account, the mortgagee or the Secretary shall not sell, transfer, or otherwise dispose of or alienate the property described in subparagraph (A) except to another eligible Hawaiian family or to the Department of Hawaiian Home Lands.

(j) HAWAIIAN HOUSING LOAN GUARANTEE FUND.—

(1) ESTABLISHMENT.—There is established in the Treasury of the United States the Hawaiian Housing Loan Guarantee Fund for the purpose of providing loan guarantees under this section.

(2) CREDITS.—The Guarantee Fund shall be credited with—

(A) any amount, claims, notes, mortgages, contracts, and property acquired by the Secretary under this section, and any collections and proceeds therefrom;

(B) any amounts appropriated pursuant to paragraph (7);

(C) any guarantee fees collected under subsection (e); and

(D) any interest or earnings on amounts invested under paragraph (4).

(3) USE.—Amounts in the Guarantee Fund shall be available, to the extent provided in appropriations Acts, for—

(A) fulfilling any obligations of the Secretary with respect to loans guaranteed under this section, including the costs (as that term is defined in section 502 of the Federal Credit Reform Act of 1990 (2 U.S.C. 661a)) of such loans;

(B) paying taxes, insurance, prior liens, expenses necessary to make fiscal adjustment in connection with the application and transmittal of collections, and other expenses and advances to protect the Secretary for loans which are guaranteed under this section or held by the Secretary;

(C) acquiring such security property at foreclosure sales or otherwise;

(D) paying administrative expenses in connection with this section; and

(E) reasonable and necessary costs of rehabilitation and repair to properties that the Secretary holds or owns pursuant to this section.

(4) INVESTMENT.—Any amounts in the Guarantee Fund determined by the Secretary to be in excess of amounts currently required at the time of the determination to carry out this section may be invested in obligations of the United States.

(5) LIMITATION ON COMMITMENTS TO GUARANTEE LOANS AND MORTGAGES.—

(A) REQUIREMENT OF APPROPRIATIONS.—The authority of the Secretary to enter into commitments to guarantee loans under this section shall be effective for any fiscal year to the extent, or in such amounts as are, or have been, provided in appropriations Acts, without regard to the fiscal year for which such amounts were appropriated.

(B) LIMITATIONS ON COSTS OF GUARANTEES.—The authority of the Secretary to enter into commitments to guarantee loans under this section shall be effective for any fiscal year only to the extent that amounts in the Guarantee Fund are or have been made available in appropriations Acts to cover the costs (as that term is defined in section 502 of the Federal Credit Reform Act of 1990 (2 U.S.C. 661a)) of such loan guarantees for such fiscal year. Any amounts appropriated pursuant to this subparagraph shall remain available until expended.

(C) LIMITATION ON OUTSTANDING AGGREGATE PRINCIPAL AMOUNT.—Subject to the limitations in subparagraphs (A) and (B), the Secretary may enter into commitments to guarantee loans under this section for each of fiscal years 2001, 2002, 2003, 2004, and 2005[470] with an aggregate outstanding principal amount not exceeding $100,000,000 for each such fiscal year.

(6) LIABILITIES.—All liabilities and obligations of the assets credited to the Guarantee Fund under paragraph (2)(A) shall be liabilities and obligations of the Guarantee Fund.

(7) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Guarantee Fund to carry out this section such sums as may be necessary for each of fiscal years 2001, 2002, 2003, 2004, and 2005.[471]

(k) REQUIREMENTS FOR STANDARD HOUSING.—

(1) IN GENERAL.—The Secretary shall, by regulation, establish housing safety and quality standards to be applied for use under this section.

(2) STANDARDS.—The standards referred to in paragraph (1) shall—

(A) provide sufficient flexibility to permit the use of various designs and materials in housing acquired with loans guaranteed under this section; and

(B) require each dwelling unit in any housing acquired in the manner described in subparagraph (A) to—

(i) be decent, safe, sanitary, and modest in size and design;

(ii) conform with applicable general construction standards for the region in which the housing is located;

(iii) contain a plumbing system that—

(I) uses a properly installed system of piping;

(II) includes a kitchen sink and a partitional bathroom with lavatory, toilet, and bath or shower; and

(III) uses water supply, plumbing, and sewage disposal systems that conform to any minimum standards established by the applicable county or State;

[470] This section as shown was added by section 514 of the American Homeownership and Economic Opportunity Act of 2000, Pub. L. 106-569, approved December 27, 2000. Section 204 of the Omnibus Indian Advancement Act, Pub. L. 106-568, enacted on the same day, made an amendment inserting a section almost identical to that added by Pub. L. 106-569. In such amendment, this subparagraph provides authority to enter in loan guarantee commitments "for each of fiscal years 2000, 2001, 2002, 2003, and 2004" in the stated amount.

[471] This section as shown was added by section 514 of the American Homeownership and Economic Opportunity Act of 2000, Pub. L. 106-569, approved December 27, 2000. Section 204 of the Omnibus Indian Advancement Act, Pub. L. 106-568, enacted on the same day, made an amendment inserting a section almost identical to that added by Pub. L. 106-569. In such amendment, this paragraph authorizes appropriations of such sums as may be necessary "for each of fiscal years 2000, 2001, 2002, 2003, and 2004".

(iv) contain an electrical system using wiring and equipment properly installed to safely supply electrical energy for adequate lighting and for operation of appliances that conforms to any appropriate county, State, or national code;

(v) be not less than the size provided under the applicable locally adopted standards for size of dwelling units, except that the Secretary, upon request of the Department of Hawaiian Home Lands may waive the size requirements under this paragraph; and

(vi) conform with the energy performance requirements for new construction established by the Secretary under section 526(a) of the National Housing Act (12 U.S.C.A. 1735f-4), unless the Secretary determines that the requirements are not applicable.

(l) APPLICABILITY OF CIVIL RIGHTS STATUTES.—To the extent that the requirements of title VI of the Civil Rights Act of 1964 (42 U.S.C. 2000d et seq.) or of the Fair Housing Act[472] (42 U.S.C.A. 3601 et seq.) apply to a guarantee provided under this subsection, nothing in the requirements concerning discrimination on the basis of race shall be construed to prevent the provision of the guarantee to an eligible entity on the basis that the entity serves Native Hawaiian families or is a Native Hawaiian family.

END OF STATUTE

[472] This title as shown was added by section 514 of the American Homeownership and Economic Opportunity Act of 2000, Pub. L. 106-569, approved December 27, 2000. Section 204 of the Omnibus Indian Advancement Act, Pub. L. 106-568, enacted on the same day, made an amendment inserting a title almost identical to that added by Pub. L. 106-569. In such amendment, this subsection refers to title VIII of the Act popularly known as the "Civil Rights Act of 1968" rather than to the Fair Housing Act.

AUTHORITY TO PROVIDE HOUSING ASSISTANCE TO STATE OF HAWAII

CRANSTON-GONZALEZ NATIONAL AFFORDABLE HOUSING ACT
[Public Law 101-625; 104 Stat. 4423; 42 U.S.C. 1437f note]

Sec. 962. [42 U.S.C. 1437f note]
AUTHORIZATION FOR THE PROVISION OF ASSISTANCE TO PROGRAMS ADMINISTERED BY THE STATE OF HAWAII UNDER THE ACT OF JULY 9, 1921.

(a) ASSISTANCE AUTHORIZED.—The Secretary of Housing and Urban Development is authorized to provide assistance, under any housing assistance program administered by the Secretary, to the State of Hawaii, for use by the State in meeting the responsibilities with which it has been charged under the provisions of the Act of July 9, 1921 (42 Stat. 108).

(b) MORTGAGE INSURANCE.—

(1) IN GENERAL.—Notwithstanding any other provision or limitation of this Act, or the National Housing Act, including those relating to marketability of title, the Secretary of Housing and Urban Development may provide mortgage insurance covering any property on lands set aside under the provisions of the Act of July 9, 1921 (42 Stat. 108), upon which there is or will be located a multifamily residence, for which the Department of the Hawaiian Home Lands of the State of Hawaii—

(A) is the mortgagor or co-mortgagor;

(B) guarantees in writing to reimburse the Secretary for any mortgage insurance claim paid in connection with such property; or

(C) offers other security that is acceptable to the Secretary, subject to appropriate conditions prescribed by the Secretary.

(2) SALE ON DEFAULT.—In the event of a default on a mortgage insured pursuant to paragraph (1), the Department of Hawaiian Home Lands of the State of Hawaii may sell the insured property or housing unit to an eligible beneficiary as defined in the Act of July 9, 1921 (42 Stat. 108).

END OF STATUTE

LANDS TITLE REPORT COMMISSION

AMERICAN HOMEOWNERSHIP AND ECONOMIC OPPORTUNITY ACT OF 2000
[Public Law 106-569; 114 Stat. 2959; 25 U.S.C. 4043 note]

Sec. 501. [25 U.S.C. 4043 note]
LANDS TITLE REPORT COMMISSION.[473]

(a) ESTABLISHMENT.—Subject to sums being provided in advance in appropriations Acts, there is established a Commission to be known as the Lands Title Report Commission (hereafter in this section referred to as the "Commission") to facilitate home loan mortgages on Indian trust lands. The Commission will be subject to oversight by the Committee on Banking and Financial Services of the House of Representatives[474] and the Committee on Banking, Housing, and Urban Affairs of the Senate.

(b) MEMBERSHIP.—

(1) APPOINTMENT.—The Commission shall be composed of 12 members, appointed not later than 90 days after the date of the enactment of this Act[475] as follows:

(A) Four members shall be appointed by the President.

(B) Four members shall be appointed by the Chairperson of the Committee on Banking and Financial Services of the House of Representatives[476].

(C) Four members shall be appointed by the Chairperson of the Committee on Banking, Housing, and Urban Affairs of the Senate.

(2) QUALIFICATIONS.—

(A) MEMBERS OF TRIBES.—At all times, not less than eight of the members of the Commission shall be members of federally recognized Indian tribes.

(B) EXPERIENCE IN LAND TITLE MATTERS.—All members of the Commission shall have experience in and knowledge of land title matters relating to Indian trust lands.

(3) CHAIRPERSON.—The Chairperson of the Commission shall be one of the members of the Commission appointed under paragraph (1)(C), as elected by the members of the Commission.

(4) VACANCIES.—Any vacancy on the Commission shall not affect its powers, but shall be filled in the manner in which the original appointment was made.

(5) TRAVEL EXPENSES.—Members of the Commission shall serve without pay, but each member shall receive travel expenses, including per diem in lieu of subsistence, in accordance with sections 5702 and 5703 of title 5, United States Code.

(c) INITIAL MEETING.—The Chairperson of the Commission shall call the initial meeting of the Commission. Such meeting shall be held within 30 days after the Chairperson of the Commission determines that sums sufficient for the Commission to carry out its duties under this Act have been appropriated for such purpose.

(d) DUTIES.—The Commission shall analyze the system of the Bureau of Indian Affairs of the Department of the Interior for maintaining land ownership records and title documents and issuing certified title status reports relating to Indian trust lands and, pursuant to such analysis, determine how best to improve or replace the system—

(1) to ensure prompt and accurate responses to requests for title status reports;

(2) to eliminate any backlog of requests for title status reports; and

(3) to ensure that the administration of the system will not in any way impair or restrict the ability of Native Americans to obtain conventional loans for purchase of residences located on Indian trust lands, including any actions necessary to ensure that the system will promptly be able to meet future demands for certified title status reports, taking into account the anticipated complexity and volume of such requests.

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[473] Section 1001 of the Omnibus Indian Advancement Act, Pub. L. 106-568, approved on December 27, 2000 (the same day as the Act enacting this section) contains provisions almost identical to this section and is not set forth in this compilation.

[474] H. Res. 5, 107th Congress, agreed to on January 3, 2001, abolished the Committee on Banking and Financial Services and established the Committee on Financial Services, which has jurisdiction over many of the areas previously under the jurisdiction of the Committee on Banking and Financial Services.

[475] The date of enactment was December 27, 2000.

[476] H. Res. 5, 107th Congress, agreed to on January 3, 2001, abolished the Committee on Banking and Financial Services and established the Committee on Financial Services, which has jurisdiction over many of the areas previously under the jurisdiction of the Committee on Banking and Financial Services.

(e) REPORT.—Not later than the date of the termination of the Commission under subsection (h), the Commission shall submit a report to the Committee on Banking and Financial Services of the House of Representatives[477] and the Committee on Banking, Housing, and Urban Affairs of the Senate describing the analysis and determinations made pursuant to subsection (d).

(f) Powers.—

(1) HEARINGS AND SESSIONS.—The Commission may, for the purpose of carrying out this section, hold hearings, sit and act at times and places, take testimony, and receive evidence as the Commission considers appropriate.

(2) STAFF OF FEDERAL AGENCIES.—Upon request of the Commission, the head of any Federal department or agency may detail, on a reimbursable basis, any of the personnel of that department or agency to the Commission to assist it in carrying out its duties under this section.

(3) OBTAINING OFFICIAL DATA.—The Commission may secure directly from any department or agency of the United States information necessary to enable it to carry out this section. Upon request of the Chairperson of the Commission, the head of that department or agency shall furnish that information to the Commission.

(4) MAILS.—The Commission may use the United States mails in the same manner and under the same conditions as other departments and agencies of the United States.

(5) ADMINISTRATIVE SUPPORT SERVICES.—Upon the request of the Commission, the Administrator of General Services shall provide to the Commission, on a reimbursable basis, the administrative support services necessary for the Commission to carry out its duties under this section.

(6) STAFF.—The Commission may appoint personnel as it considers appropriate, subject to the provisions of title 5, United States Code, governing appointments in the competitive service, and shall pay such personnel in accordance with the provisions of chapter 51 and subchapter III of chapter 53 of that title relating to classification and General Schedule pay rates.

(g) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out this section such sums as may be necessary, and any amounts appropriated pursuant to this subsection shall remain available until expended.[478]

(h) TERMINATION—

The Commission shall terminate 1 year after the date of the initial meeting of the Commission.

END OF STATUTE

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[477] H. Res. 5, 107th Congress, agreed to on January 3, 2001, abolished the Committee on Banking and Financial Services and established the Committee on Financial Services, which has jurisdiction over many of the areas previously under the jurisdiction of the Committee on Banking and Financial Services.

[478] Section 1001 of the Omnibus Indian Advancement Act, Pub. L. 106-568, also provides for establishment of a Lands Title Report Commission and is almost identical to this section. But, subsection (g) of such section 1001 provides as follows:

"(g) AUTHORIZATION OF APPROPRIATIONS.—To carry out this section, there is authorized to be appropriated $500,000. Such sums shall remain available until expended.".

PART VIII—MORTGAGE INSURANCE, RELIEF, AND FORECLOSURE AND CREDIT ENHANCEMENT FOR HOUSING

NATIONAL HOUSING ACT

NATIONAL HOUSING ACT
[Public Law 479, 73d Congress; 48 Stat. 1246; 12 U.S.C. 1701 et seq.]

TITLE I—MANUFACTURED HOMES AND HOME IMPROVEMENT LOANS

Section 1. [12 U.S.C. 1702]
ADMINISTRATIVE PROVISIONS.

The powers conferred by this Act shall be exercised by the Secretary of Housing and Urban Development (hereinafter referred to as the "Secretary").

In order to carry out the provisions of this title and titles II, III, V, VI, VII, VIII, IX, and XI, the Secretary may establish such agencies, accept and utilize such voluntary and uncompensated services, utilize such Federal officers and employees, and, with the consent of the State, such State and local officers and employees, and appoint such other officers and employees as he may find necessary, and may prescribe their authorities, duties, responsibilities, and tenure and fix their compensation. The Secretary may delegate any of the functions and powers conferred upon him under this title and titles II, III, V, VI, VII, VIII, IX, and XI, to such officers, agents, and employees as he may designate or appoint and may make such expenditures (including expenditures for personal services and rent at the seat of government and elsewhere for law books and books of reference, and for paper, printing, and binding) as are necessary to carry out the provisions of this title and titles II, III, V, VI, VII, VIII, IX, and XI without regard to any other provisions of law governing the expenditure of public funds. All such compensation, expenses, and allowances shall be paid out of funds made available by this Act: *Provided*, That, notwithstanding any other provisions of law except provisions of law hereafter enacted expressly in limitation hereof, all expenses of the Department of Housing and Urban Development in connection with the examination and insurance of loans or investments under any title of this Act, all properly capitalized expenditures, and other necessary expenses not attributable to general overhead in accordance with generally accepted accounting principles shall be considered nonadministrative and payable from funds made available by this Act, except that, unless made pursuant to specific authorization by the Congress therefor, expenditures made in any fiscal year pursuant to this proviso, other than the payment of insurance claims and other than expenditures (including services on a contract or fee basis, but not including other personal services) in connection with the acquisition, protection, completion, operation, maintenance, improvement, or disposition of real or personal property of the Department acquired under authority of this Act, shall not exceed 35 per centum of the income received by the Department of Housing and Urban Development from premiums and fees during the preceding fiscal year. Except with respect to title III, for the purposes of this section, the term "nonadministrative" shall not include contract expenses that are not capitalized or routinely deducted from the proceeds of sales, and such expenses shall not be payable from funds made available by this Act. The Secretary shall, in carrying out the provisions of this title and titles II, III, V, VI, VII, VIII, IX, and XI be authorized, in his official capacity to sue and be sued in any court of competent jurisdiction, State or Federal.

Sec. 2. [12 U.S.C. 1703]
INSURANCE OF FINANCIAL INSTITUTIONS.

(a) The Secretary is authorized and empowered upon such terms and conditions as he may prescribe, to insure banks, trust companies, personal finance companies, mortgage companies, building and loan associations, installment lending companies, and other such financial institutions, which the Secretary finds to be qualified by experience or facilities and approves as eligible for credit insurance, against losses which they may sustain as a result of loans and advances of credit, and purchases of obligations representing loans and advances of credit, made by them for the purpose of (i) financing alterations, repairs, and improvements upon or in connection with existing

structures or manufactured homes, and the building of new structures, upon urban, suburban, or rural real property (including the restoration, rehabilitation, rebuilding, and replacement of such improvements which have been damaged or destroyed by earthquake, conflagration, tornado, hurricane, cyclone, flood, or other catastrophe), by the owners thereof or by lessees of such real property under a lease expiring not less than six months after the maturity of the loan or advance of credit; and for the purpose of (ii) financing the purchase of a manufactured home to be used by the owner as his principal residence or financing the purchase of a lot on which to place such home and paying expenses reasonably necessary for the appropriate preparation of such lot, including the installation of utility connections, sanitary facilities, and paving, and the construction of a suitable pad, or financing only the acquisition of such a lot either with or without such preparation by an owner of a manufactured home; and for the purpose of financing the preservation of historic structures, and, as used in this section, the term "historic structures" means residential structures which are registered in the National Register of Historic Places or which are certified by the Secretary of the Interior to conform to National Register criteria; and the term "preservation" means restoration or rehabilitation undertaken for such purposes as are approved by the Secretary in regulations issued by him, after consulting with the Secretary of the Interior. Other than in connection with a manufactured home or a lot on which to place such a home (or both), in no case shall the insurance granted by the Secretary under this section to any such financial institution on loans, advances of credit, and purchases made by such financial institution for such purposes exceed 10 per centum of the total amount of such loans, advances of credit, and purchases. With respect to any loan, advance of credit, or purchase, the amount of any claim for loss on any such individual loan, advance of credit, or purchase paid by the Secretary under the provisions of this section to a lending institution shall not exceed 90 per centum of such loss.

After the effective date of the Housing Act of 1954, (i) the Secretary shall not enter into contracts for insurance pursuant to this section except with lending institutions which are subject to the inspection and supervision of a governmental agency required by law to make periodic examinations of their books and accounts, and which the Secretary finds to be qualified by experience or facilities to make and service such loans, advances or purchases, and with such other lending institutions which the Secretary approves as eligible for insurance pursuant to this section on the basis of their credit and their experience or facilities to make and service such loans, advances or purchases; (ii) only such items as substantially protect or improve the basic livability or utility of properties shall be eligible for financing under this section, and therefore the Secretary shall from time to time declare ineligible for financing under this section any item, product, alteration, repair, improvement, or class thereof which he determines would not substantially protect or improve the basic livability or utility of such properties, and he may also declare ineligible for financing under this section any item which he determines is especially subject to selling abuses; and (iii) the Secretary is hereby authorized and directed, by such regulations or procedures as he shall deem advisable, to prevent the use of any financial assistance under this section (1) with respect to new residential structures (other than manufactured homes) that have not been completed and occupied for at least six months, or (2) which would, through multiple loans, result in an outstanding aggregate loan balance with respect to the same structure exceeding the dollar amount limitation prescribed in this subsection for the type of loan involved: *Provided*, That this clause (iii) may in the discretion of the Secretary be waived with respect to the period of occupancy or completion of any such new residential structures. The Secretary is hereby authorized and directed, with respect to manufactured homes to be financed under this section, to (i) prescribe minimum property standards to assure the livability and durability of the manufactured home and the suitability of the site on which the manufactured home is to be located; and (ii) obtain assurances from the borrower that the manufactured home will be placed on a site which complies with the standards prescribed by the Secretary and with local zoning and other applicable local requirements.

The insurance authority provided under this section may be made available with respect to any existing manufactured home that has not been insured under this section if such home was constructed in accordance with the standards issued under the National Manufactured Housing Construction and Safety Standards Act of 1974 and it meets standards similar to the minimum property standards applicable to existing homes insured under title II.

Alterations, repairs, and improvements upon or in connection with existing structures may include the provision of fire safety equipment, energy conserving improvements, or the installation of solar energy systems.[479] As used in this section—

(1) the term "fire safety equipment" means any device or facility which is designed to reduce the risk of personal injury or property damage resulting from fire and is in conformity with such criteria and standards as shall be prescribed by the Secretary;

[479] Section 1012(k)(1)(A) of the Housing and Community Development Act of 1992, Pub. L. 102-550, amended the "fifth paragraph" of this subsection by inserting after the first sentence the following: "Alterations, repairs, and improvements upon or in connection with existing structures may also include the evaluation and reduction of lead-based paint hazards.". The amendment could not be executed and the matter to be inserted by the amendment was probably intended to be inserted after the first sentence of this paragraph (the fourth paragraph).

(2) the term "energy conserving improvements" means the purchase and installation of weatherization material as defined in section 412(9) of the Energy Conservation in Existing Buildings Act of 1976; and[480]

(3) the term "solar energy system" means any addition, alteration, or improvement to an existing or new structure which is designed to utilize wind energy or solar energy either of the active type based on mechanically forced energy transfer or of the passive type based on convective, conductive, or radiant energy transfer or some combination of these types to reduce the energy requirements of that structure from other energy sources, and which is in conformity with such criteria and standards as shall be prescribed by the Secretary in consultation with the Secretary of Energy.2

(4) the terms "evaluation", "reduction", and "lead-based paint hazard" have the same meanings given those terms in section 1004 of the Residential Lead-Based Paint Hazard Reduction Act of 1992.

(b)(1) Except as provided in the last sentence of this paragraph, no insurance shall be granted under this section to any such financial institution with respect to any obligation representing any such loan, advance of credit, or purchase by it if the amount of such loan, advance of credit, or purchase exceeds—

(A)(i) $25,000 if made for the purpose of financing alterations, repairs and improvements upon or in connection with existing single-family structure; and

(ii) $25,090 if made for the purpose of financing alterations, repairs and improvements upon or in connection with existing manufactured homes;

(B) $60,000 or an average amount of $12,000 per family unit if made for the purpose of financing the alteration, repair, improvement, or conversion of an existing structure used or to be used as an apartment house or a dwelling for two or more families;

(C) $69,678 if made for the purpose of financing the purchase of a manufactured home;

(D) $92,904 if made for the purpose of financing the purchase of a manufactured home and a suitably developed lot on which to place the home; and

(E) $23,226 if made for the purpose of financing the purchase, by an owner of a manufactured home which is the principal residence of that owner, of a suitably developed lot on which to place that manufactured home, and if the owner certifies that he or she will place the manufactured home on the lot acquired with such loan within 6 months after the date of such loan.

(F) $15,000 per family unit if made for the purpose of financing the preservation of an historic structure; and

(G) such principal amount as the Secretary may prescribe if made for the purpose of financing fire safety equipment for a nursing home, extended health care facility, intermediate health care facility, or other comparable health care facility.

The[481] Secretary shall, by regulation, annually increase the dollar amount limitations in subparagraphs (A)(ii), (C), (D), and (E) (as such limitations may have been previously adjusted under this sentence) in accordance with the index established pursuant to paragraph (9).

(2) Because of prevailing higher costs, the Secretary may, by regulation, in Alaska, Guam, or Hawaii, increase any dollar amount limitation on manufactured homes or manufactured home lot loans contained in this subsection by not to exceed 40 per centum. In other areas, the maximum dollar amounts specified in subsections (b)(1)(D) and (b)(1)(E) may be increased on an area-by-area basis to the extent the Secretary deems necessary, but in no case may such limits, as so increased, exceed the lesser of (A) 185 percent of the dollar amount specified, or (B) the dollar amount specified as increased by the same percentage by which 95 percent of the median one-family house price in the area (as determined by the Secretary) exceeds $67,500.

(3) No insurance shall be granted under this section to any such financial institution with respect to any obligation representing any such loan, advance of credit, or purchase by it if the term to maturity of such loan, advance of credit or purchase exceeds—

(A)(i) twenty years and thirty-two days if made for the purpose of financing alterations, repairs, and improvements upon or in connection with an existing single-family structure; and

(ii) fifteen years and thirty-two days if made for the purpose of financing alterations, repairs, and improvements upon or in connection with an existing manufactured home;

[480] So in law.
[481] Indent for continuation text so in law.

(B) twenty years and thirty-two days if made for the purpose of financing the alteration, repair, improvement or conversion of an existing structure used or to be used as an apartment house or a dwelling for two or more families;

(C) twenty years and thirty-two days (twenty-three years and thirty-two days in the case of a manufactured home composed of two or more modules) if made for the purpose of financing the purchase of a manufactured home;

(D) twenty years and thirty-two days (twenty-five years and thirty-two days in the case of a manufactured home composed of two or more modules) if made for the purpose of financing the purchase of a manufactured home and a suitably developed lot on which to place the home;

(E) twenty years and thirty-two days if made for the purpose of financing the purchase, by the owner of a manufactured home which is the principal residence of that owner, of a suitably developed lot on which to place that manufactured home;

(F) fifteen years and thirty-two days if made for the purpose of financing the preservation of an historic structure;

(G) such term to maturity as the Secretary may prescribe if made for the purpose of financing the construction of a new structure for use in whole or in part for agricultural purposes; and

(H) such term to maturity as the Secretary may prescribe if made for the purpose of financing fire safety equipment for a nursing home, extended health care facility, intermediate health care facility, or other comparable health care facility.

(4) For the purpose of this subsection—

(A) the term "developed lot" includes an interest in a condominium project (including any interest in the common areas) or a share in a cooperative association;

(B) a loan to finance the purchase of a manufactured home or a manufactured home and lot may also finance the purchase of a garage, patio, carport, or other comparable appurtenance; and

(C) a loan to finance the purchase of a manufactured home or a manufactured home and lot shall be secured by a first lien upon such home or home and lot, its furnishings, equipment, accessories, and appurtenances.

(5) No insurance shall be granted under this section to any such financial institution with respect to any obligation representing any such loan, advance of credit, or purchase by it unless the obligation has such maturity, bears such insurance premium charges, and contains such other terms, conditions, and restrictions as the Secretary shall prescribe, in order to make credit available for the purpose of this title. Any such obligation with respect to which insurance is granted under this section shall bear interest at such rate as may be agreed upon by the borrower and the financial institution.

(6)(A) Any obligation with respect to which insurance is granted under this section may be refinanced and extended in accordance with such terms and conditions as the Secretary may prescribe, but in no event for an additional amount or term in excess of any applicable maximum provided for in this subsection.

(B) The owner of a manufactured home lot purchased without assistance under this section but otherwise meeting the requirements of this section may refinance such lot under this section in connection with the purchase of a manufactured home if the borrower certifies that the home and lot is or will be his or her principal residence within six months after the date of the loan.

(C) The owner-occupant of a manufactured home or a home and lot which was purchased without assistance under this section but which otherwise meets the requirements of this section may refinance such home or home and lot under this section if the home was constructed in accordance with standards established under section 604 of the National Manufactured Housing Construction and Safety Standards Act of 1974.

(7) With respect to the financing of alterations, repairs, and improvements to existing structures or the building of new structures as authorized under clause (i) of the first sentence of section 2(a), any loan broker (as defined by the Secretary) or any other party having a financial interest in the making of such a loan or advance of credit or in providing assistance to the borrower in preparing the loan application or otherwise assisting the borrower in obtaining the loan or advance of credit who knowingly (as defined in section 536(g) of this Act) submits to any such financial institution or to the Secretary false information

shall be subject to a civil money penalty in the amount and manner provided under section 536 with respect to mortgagees and lenders under this Act.

(8) INSURANCE BENEFITS FOR MANUFACTURED HOUSING LOANS.—Any contract of insurance with respect to loans, advances of credit, or purchases in connection with a manufactured home or a lot on which to place a manufactured home (or both) for a financial institution that is executed under this title after the date of the enactment of the FHA Manufactured Housing Loan Modernization Act of 2008 by the Secretary shall be conclusive evidence of the eligibility of such financial institution for insurance, and the validity of any contract of insurance so executed shall be incontestable in the hands of the bearer from the date of the execution of such contract, except for fraud or misrepresentation on the part of such institution.

(9) ANNUAL INDEXING OF MANUFACTURED HOUSING LOANS.—The Secretary shall develop a method of indexing in order to annually adjust the loan limits established in subparagraphs (A)(ii), (C), (D), and (E) of this subsection. Such index shall be based on the manufactured housing price data collected by the United States Census Bureau. The Secretary shall establish such index no later than 1 year after the date of the enactment of the FHA Manufactured Housing Loan Modernization Act of 2008.

(10) FINANCIAL SOUNDNESS OF MANUFACTURED HOUSING PROGRAM.—The Secretary shall establish such underwriting criteria for loans and advances of credit in connection with a manufactured home or a lot on which to place a manufactured home (or both), including such loans and advances represented by obligations purchased by financial institutions, as may be necessary to ensure that the program under this title for insurance for financial institutions against losses from such loans, advances of credit, and purchases is financially sound.

(11) LEASEHOLD REQUIREMENTS.—No insurance shall be granted under this section to any such financial institution with respect to any obligation representing any such loan, advance of credit, or purchase by it, made for the purposes of financing a manufactured home which is intended to be situated in a manufactured home community pursuant to a lease, unless such lease—

(A) expires not less than 3 years after the origination date of the obligation;

(B) is renewable upon the expiration of the original 3 year term by successive 1 year terms; and

(C) requires the lessor to provide the lessee written notice of termination of the lease not less than 180 days prior to the expiration of the current lease term in the event the lessee is required to move due to the closing of the manufactured home community, and further provides that failure to provide such notice to the mortgagor in a timely manner will cause the lease term, at its expiration, to automatically renew for an additional 1 year term.

(c) HANDLING AND DISPOSAL OF PROPERTY.—

(1) AUTHORITY OF SECRETARY.—Notwithstanding any other provision of law, the Secretary may—

(A) deal with, complete, rent, renovate, modernize, insure, or assign or sell at public or private sale, or otherwise dispose of, for cash or credit in the Secretary's discretion, and upon such terms and conditions and for such consideration as the Secretary shall determine to be reasonable, any real or personal property conveyed to or otherwise acquired by the Secretary, in connection with the payment of insurance heretofore or hereafter granted under this title, including any evidence of debt, contract, claim, personal property, or security assigned to or held by him in connection with the payment of insurance heretofore or hereafter granted under this section; and

(B) pursue to final collection, by way of compromise or otherwise, all claims assigned to or held by the Secretary and all legal or equitable rights accruing to the Secretary in connection with the payment of such insurance, including unpaid insurance premiums owed in connection with insurance made available by this title.

(2) ADVERTISEMENTS FOR PROPOSALS.—Section 3709 of the Revised Statutes shall not be construed to apply to any contract of hazard insurance or to any purchase or contract for services or supplies on account of such property if the amount thereof does not exceed $25,000.

(3) DELEGATION OF AUTHORITY.—The power to convey and to execute in the name of the Secretary, deeds of conveyance, deeds of release, assignments and satisfactions of mortgages, and any other written instrument relating to real or personal property or any interest therein heretofore or hereafter acquired by the Secretary pursuant to the provisions of this title may be exercised by an officer appointed by the Secretary without the execution of any express delegation of power or power of attorney. Nothing in

this subsection shall be construed to prevent the Secretary from delegating such power by order or by power of attorney, in the Secretary's discretion, to any officer or agent the Secretary may appoint.

(d) The Secretary is authorized and empowered, under such regulations as he may prescribe, to transfer to any such approved financial institution any insurance in connection with any loans and advances of credit which may be sold to it by another approved financial institution.

(e) The Secretary is authorized to waive compliance with regulations heretofore or hereafter prescribed by him with respect to the interest and maturity of and the terms, conditions, and restrictions under which loans, advances of credit, and purchases may be insured under this section and section 6, if in his judgment the enforcement of such regulations would impose an injustice upon an insured institution which has substantially complied with such regulations in good faith and refunded or credited any excess charge made, and where such waiver does not involve an increase of the obligation of the Secretary beyond the obligation which would have been involved if the regulations had been fully complied with.

(f)(1) PREMIUM CHARGES.—The Secretary shall fix a premium charge for the insurance hereafter granted under this section, but in the case of any obligation representing any loan, advance of credit, or purchase, such premium charge shall not exceed an amount equivalent to 1 per centum per annum of the net proceeds of such loan, advance of credit, or purchase, for the term of such obligation, and such premium charge shall be payable in advance by the financial institution and shall be paid at such time and in such manner as may be prescribed by the Secretary.

(2) MANUFACTURED HOME LOANS.—Notwithstanding paragraph (1), in the case of a loan, advance of credit, or purchase in connection with a manufactured home or a lot on which to place such a home (or both), the premium charge for the insurance granted under this section shall be paid by the borrower under the loan or advance of credit, as follows:

(A) At the time of the making of the loan, advance of credit, or purchase, a single premium payment in an amount not to exceed 2.25 percent of the amount of the original insured principal obligation.

(B) In addition to the premium under subparagraph (A), annual premium payments during the term of the loan, advance, or obligation purchased in an amount not exceeding 1.0 percent of the remaining insured principal balance (excluding the portion of the remaining balance attributable to the premium collected under subparagraph (A) and without taking into account delinquent payments or prepayments).

(C) Premium charges under this paragraph shall be established in amounts that are sufficient, but do not exceed the minimum amounts necessary, to maintain a negative credit subsidy for the program under this section for insurance of loans, advances of credit, or purchases in connection with a manufactured home or a lot on which to place such a home (or both), as determined based upon risk to the Federal Government under existing underwriting requirements.

(D) The Secretary may increase the limitations on premium payments to percentages above those set forth in subparagraphs (A) and (B), but only if necessary, and not in excess of the minimum increase necessary, to maintain a negative credit subsidy as described in subparagraph (C).

(g) Any payment for loss made to an approved financial institution under this section shall be final and incontestable after two years from the date the claim was certified for payment by the Secretary, in the absence of fraud or misrepresentation on the part of such institution, unless a demand for repurchase of the obligation shall have been made on behalf of the United States prior to the expiration of such two-year period.

(h) The Secretary is authorized and directed to make such rules and regulations as may be necessary to carry out the provisions of this title.

(i) For purposes of this section, the term "manufactured home" includes any elder cottage housing opportunity unit that is small, freestanding, barrier-free, energy efficient, removable, and designed to be installed adjacent to an existing 1- to 4-family dwelling.

[Sec. 3. [Repealed.]]

Sec. 4. [42 U.S.C. 1705]
ALLOCATION OF FUNDS.

For the purposes of carrying out the provisions of this title and titles II and III the President, in his discretion, is authorized to provide such funds or any portion thereof by allotment to the Secretary from any funds that are available, or may hereafter be made available, to the President for emergency purposes.

[Sec. 5. [Repealed.]]

[Sec. 6. [Repealed.]]

Sec. 7. [42 U.S.C. 1706b]
TAXATION.

Nothing in this title shall be construed to exempt any real property acquired and held by the Secretary in connection with the payment of insurance heretofore or hereafter granted under this title from taxation by any State or political subdivision thereof, to the same extent, according to its value, as other real property is taxed.
insurance of mortgages

Sec. 8. [12 U.S.C. 1706c]
INSURANCE OF MORTGAGES.

(a) To assist in providing adequate housing for families of low and moderate income, particularly in suburban and outlying areas, this section is designed to supplement systems of mortgage insurance under other provisions of the National Housing Act by making feasible the insurance of mortgages covering properties in areas where it is not practicable to obtain conformity with many of the requirements essential to the insurance of mortgages on housing in built-up urban areas. The Secretary is authorized upon application by the mortgagee, to insure, as hereinafter provided, any mortgage (as defined in section 201 of this Act) offered to him which is eligible for insurance as hereinafter provided, and, upon such terms as the Secretary may prescribe, to make commitments for the insuring of such mortgages prior to the date of their execution or disbursement thereon: *Provided*, That the aggregate amount of principal obligations of all mortgages insured under this section and outstanding at any one time shall not exceed $100,000,000, except that with the approval of the President such aggregate amount may be increased at any time or times by additional amounts aggregating not more than $150,000,000 upon a determination by the President, taking into account the general effect of any such increase upon conditions in the building industry and upon the national economy, that such increase is in the public interest: *And provided further*, That no mortgage shall be insured under this section after the effective date of the Housing Act of 1954, except pursuant to a commitment to insure issued on or before such date.

(b) To be eligible for insurance under this section, a mortgage shall—

(1) have been made to, and be held by, a mortgagee approved by the Secretary as responsible and able to service the mortgage properly;

(2) involve a principal obligation (including such initial service charges, appraisal, inspection, and other fees as the Secretary shall approve) in an amount not to exceed $5,700, and not to exceed 95 per centum of the appraised value, as of the date the mortgage is accepted for insurance, of a property upon which there is located a dwelling designed principally for a single-family resident, and which is approved for mortgage insurance prior to the beginning of construction: *Provided*, That the mortgagor shall be the owner and occupant[482] of the property at the time of insurance and shall have paid on account of the property at least 5 per centum of the Secretary's estimate of the cost of acquisition in cash or its equivalent, or shall be the builder constructing the dwelling, in which case the principal obligation shall not exceed 85 per centum of the appraised value of the property or $5,100: *Provided further*, That the Secretary finds that the project with respect to which the mortgage is executed is an acceptable risk, giving consideration to the need for providing adequate housing for families of low and moderate income particularly in suburban and outlying areas: *And provided further*, That, where the mortgagor is the owner and occupant of the property and establishes (to the satisfaction of the Secretary) that his home, which he occupied as an owner or as a tenant, was destroyed or damaged to such an extent that reconstruction is required as a result of a flood, fire, hurricane, earthquake, storm or other catastrophe, which the President, pursuant to sections 102(2) and

[482] See section 216 of the National Housing Act, which is set forth, *post*, this part.

401 of the Disaster Relief and Emergency Assistance Act[483] has determined to be a major disaster, such maximum dollar limitation may be increased by the Secretary from $5,700 to $7,000, and the percentage limitation may be increased by the Secretary from 95 per centum to 100 per centum of the appraised value;[484]

(3) have a maturity satisfactory to the Secretary but not to exceed thirty years from the date of insurance of the mortgage;

(4) contain complete amortization provisions satisfactory to the Secretary requiring periodic payments by the mortgagor not in excess of his reasonable ability to pay as determined by the Secretary;

(5) bear interest (exclusive of premium charges for insurance and service charges, if any) as not to exceed 5 per centum per annum on the amount of the principal obligation outstanding at any time;

(6) provide, in a manner satisfactory to the Secretary, for the application of the mortgagor's periodic payments (exclusive of the amount allocated to interest and to the premium charge which is required for mortgage insurance as hereinafter provided and to the service charge, if any) to amortization of the principal of the mortgage; and

(7) Contain such terms and provisions with respect to insurance, repairs, alterations, payment of taxes, service charges, default reserves, delinquency charges, foreclosure proceedings, anticipation of maturity, and other matters as the Secretary may in his discretion prescribe.

(c) The Secretary is authorized to fix a premium charge for the insurance of mortgages under this section, but in the case of any mortgage, such charge shall not be less than an amount equivalent to one-half of 1 per centum per annum nor more than an amount equivalent to 1 per centum per annum of the amount of the principal obligation of the mortgage outstanding at any time, without taking into account delinquent payments or prepayments. Such premium charges shall be payable by the mortgagee, either in cash or in debentures issued by the Secretary under this section at par plus accrued interest, in such manner as may be prescribed by the Secretary: *Provided*, That the Secretary may require the payment of one or more such premium charges at the time the mortgage is insured, at such discount rate as he may prescribe not in excess of the interest rate specified in the mortgage. If the Secretary finds, upon the presentation of a mortgage for insurance and the tender of the initial premium charge or charges so require, that the mortgage complies with the provisions of this section, such mortgage may be accepted for insurance by endorsement or otherwise as the Secretary may prescribe. In the event that the principal obligation of any mortgage accepted for insurance under this section is paid in full prior to the maturity date, the Secretary is further authorized, in his discretion, to require the payment by the mortgagee of an adjusted premium charge in such amount as the Secretary determines to be equitable, but not in excess of the aggregate amount of the premium charges that the mortgagee would otherwise have been required to pay if the mortgage had continued to be insured until such maturity date; and in the event that the principal obligation is paid in full as herein set forth, the Secretary is authorized to refund to the mortgagee for the account of the mortgagor all, or such portion as he shall determine to be equitable, of the current unearned premium charges theretofore paid.

(d) The Secretary may, at any time under such terms and conditions as he may prescribe, consent to the release of the mortgagor from his liability under the mortgage or the credit instrument secured thereby, or consent to the release of parts of the mortgaged property from the lien of the mortgage.

(e) Any contract of insurance executed by the Secretary under this section shall be conclusive evidence of the eligibility of the mortgage for insurance, and the validity of any contract of insurance so executed shall be incontestable in the hands of an approved mortgagee from the date of the execution of such contract, except for fraud or misrepresentation on the part of such approved mortgagee.

(f) In any case in which the mortgagee under a mortgage insured under this section shall have foreclosed and taken possession of the mortgaged property in accordance with the regulations of, and within a period to be determined by, the Secretary, or shall, with the consent of the Secretary, have otherwise acquired such property from the mortgagor after default, the mortgagee shall be entitled to receive the benefits of the insurance as provided in section 204(a) of this Act with respect to mortgages insured under section 203(b)(2)(D) of this Act.

(g) Subsections (c), (d), (e), (f), (g), (h), (j), and (k) of section 204 of this Act shall be applicable to mortgages insured under this section except that all references therein to the Mutual Mortgage Insurance Fund or the Fund shall be construed to refer to the General Insurance Fund, and all references therein to section 203 shall be construed to refer to this section: *Provided*, That debentures issued in connection with mortgages insured under this

[483] Section 109 of the Disaster Relief and Emergency Assistance Amendments of 1988, Pub. L. 100-707, approved Nov. 23, 1988, amended this sentence to refer to such sections of the "Disaster Relief and Emergency Assistance Act." Probably intended to refer to the Robert T. Stafford Disaster Relief and Emergency Assistance Act, renamed by section 102(a) of Pub. L. 100-707.

[484] See section 203(h) of the National Housing Act, which is set forth, *post*, this part.

section 8 shall have the same tax exemption as debentures issued in connection with mortgages insured under section 203 of this Act.

Sec. 9. [12 U.S.C. 1706d]
APPLICABILITY.

The provisions of sections 2 and 8 shall be applicable in the several States and Puerto Rico, the District of Columbia, Guam, the Trust Territory of the Pacific Islands, American Samoa, and the Virgin Islands.

Sec. 10. [12 U.S.C. 1706f]
PROHIBITION AGAINST KICKBACKS AND UNEARNED FEES.

(a) IN GENERAL.—Except as provided in subsection (b), the provisions of sections 3, 8, 16, 17, 18, and 19 of the Real Estate Settlement Procedures Act of 1974 (12 U.S.C. 2601 et seq.) shall apply to each sale of a manufactured home financed with an FHA-insured loan or extension of credit, as well as to services rendered in connection with such transactions.

(b) AUTHORITY OF THE SECRETARY.—The Secretary is authorized to determine the manner and extent to which the provisions of sections 3, 8, 16, 17, 18, and 19 of the Real Estate Settlement Procedures Act of 1974 (12 U.S.C. 2601 et seq.) may reasonably be applied to the transactions described in subsection (a), and to grant such exemptions as may be necessary to achieve the purposes of this section.

(c) DEFINITIONS.—For purposes of this section—

(1) the term "federally related mortgage loan" as used in sections 3, 8, 16, 17, 18, and 19 of the Real Estate Settlement Procedures Act of 1974 (12 U.S.C. 2601 et seq.) shall include an FHA-insured loan or extension of credit made to a borrower for the purpose of purchasing a manufactured home that the borrower intends to occupy as a personal residence; and

(2) the term "real estate settlement service" as used in sections 3, 8, 16, 17, 18, and 19 of the Real Estate Settlement Procedures Act of 1974 (12 U.S.C. 2601 et seq.) shall include any service rendered in connection with a loan or extension of credit insured by the Federal Housing Administration for the purchase of a manufactured home.

(d) UNFAIR AND DECEPTIVE PRACTICES.—In connection with the purchase of a manufactured home financed with a loan or extension of credit insured by the Federal Housing Administration under this title, the Secretary shall prohibit acts or practices in connection with loans or extensions of credit that the Secretary finds to be unfair, deceptive, or otherwise not in the interests of the borrower.

TITLE II—MORTGAGE INSURANCE

Sec. 201. [12 U.S.C. 1707]
DEFINITIONS.

As used in section 203 of this title—

(a) The term "mortgage" means (A) a first mortgage on real estate, in fee simple, (B) a first mortgage on a leasehold on real estate (i) under a lease for not less than ninety-nine years which is renewable, or (ii) under a lease having a period of not less than ten years to run beyond the maturity date of the mortgage, or (C) a first mortgage given to secure the unpaid purchase price of a fee interest in, or long-term leasehold interest in, real estate consisting of a one-family unit in a multifamily project, including a project in which the dwelling units are attached, or are manufactured housing units, semi-detached, or detached, and an undivided interest in the common areas and facilities which serve the project; and the term "first mortgage" means such classes of first liens as are commonly given to secure advances on, or the unpaid purchase price of, real estate, under the laws of the State in which the real estate is located, together with the credit instrument, if any, secured thereby.

(b) The term "mortgagee" includes the original lender under a mortgage, and his successors and assigns approved by the Secretary; and the term "mortgagor" includes the original borrower under a mortgage and his successors and assigns.

(c) The term "maturity date" means the date on which the mortgage indebtedness would be extinguished if paid in accordance with periodic payments provided for in the mortgage.

(d) The term "State" includes the several States and Puerto Rico, the District of Columbia, Guam, the Commonwealth of the Northern Mariana Islands, American Samoa, and the Virgin Islands.

(e) The term "family member" means, with respect to a mortgagor under such section, a child, parent, or grandparent of the mortgagor (or the mortgagor's spouse). In determining whether any of the relationships referred to in the preceding sentence exist, a legally adopted son or daughter of an individual (and a child who is a member

of an individual's household, if placed with such individual by an authorized placement agency for legal adoption by such individual), and a foster child of an individual, shall be treated as a child of such individual by blood.

(f) The term "child" means, with respect to a mortgagor under such section, a son, stepson, daughter, or stepdaughter of such mortgagor.

(g) The term "real estate" means land and all natural resources and structures permanently affixed to the land, including residential buildings and stationary manufactured housing. The Secretary may not require, for treatment of any land or other property as real estate for purposes of this title, that such land or property be treated as real estate for purposes of State taxation.

Sec. 202. [12 U.S.C. 1708]
FEDERAL HOUSING ADMINISTRATION OPERATIONS.

(a) MUTUAL MORTGAGE INSURANCE FUND.—

(1) ESTABLISHMENT.—Subject to the provisions of the Federal Credit Reform Act of 1990, there is hereby created a Mutual Mortgage Insurance Fund (in this title referred to as the "Fund"), which shall be used by the Secretary to carry out the provisions of this title with respect to mortgages insured under section 203. The Secretary may enter into commitments to guarantee, and may guarantee, such insured mortgages.

(2) Limit on loan guarantees.—The authority of the Secretary to enter into commitments to guarantee such insured mortgages shall be effective for any fiscal year only to the extent that the aggregate original principal loan amount under such mortgages, any part of which is guaranteed, does not exceed the amount specified in appropriations Acts for such fiscal year.

(3) FIDUCIARY RESPONSIBILITY.—The Secretary has a responsibility to ensure that the Mutual Mortgage Insurance Fund remains financially sound.

(4) ANNUAL INDEPENDENT ACTUARIAL STUDY.—The Secretary shall provide for an independent actuarial study of the Fund to be conducted annually, which shall analyze the financial position of the Fund. The Secretary shall submit a report annually to the Congress describing the results of such study and assessing the financial status of the Fund. The report shall recommend adjustments to underwriting standards, program participation, or premiums, if necessary, to ensure that the Fund remains financially sound. The report shall also include an evaluation of the quality control procedures and accuracy of information utilized in the process of underwriting loans guaranteed by the Fund. Such evaluation shall include a review of the risk characteristics of loans based not only on borrower information and performance, but on risks associated with loans originated or funded by various entities or financial institutions.

(5) QUARTERLY REPORTS.—During each fiscal year, the Secretary shall submit a report to the Congress for each calendar quarter, which shall specify for mortgages that are obligations of the Fund—

(A) the cumulative volume of loan guarantee commitments that have been made during such fiscal year through the end of the quarter for which the report is submitted;

(B) the types of loans insured, categorized by risk;

(C) any significant changes between actual and projected claim and prepayment activity;

(D) projected versus actual loss rates; and

(E) updated projections of the annual subsidy rates to ensure that increases in risk to the Fund are identified and mitigated by adjustments to underwriting standards, program participation, or premiums, and the financial soundness of the Fund is maintained.

The first quarterly report under this paragraph shall be submitted on the last day of the first quarter of fiscal year 2008, or on the last day of the first full calendar quarter following the enactment of the Building American Homeownership Act of 2008, whichever is later.

(6) ADJUSTMENT OF PREMIUMS.—If, pursuant to the independent actuarial study of the Fund required under paragraph (4), the Secretary determines that the Fund is not meeting the operational goals established under paragraph (7) or there is a substantial probability that the Fund will not maintain its established target subsidy rate, the Secretary may either make programmatic adjustments under this title as necessary to reduce the risk to the Fund, or make appropriate premium adjustments.

(7) OPERATIONAL GOALS.—The operational goals for the Fund are—

(A) to minimize the default risk to the Fund and to homeowners by among other actions instituting fraud prevention quality control screening not later than 18 months after the date of enactment of the Building American Homeownership Act of 2008; and

(B) to meet the housing needs of the borrowers that the single family mortgage insurance program under this title is designed to serve.

(b) ADVISORY BOARD.—There is created a Federal Housing Administration Advisory Board ("Board") that shall review operation of the Federal Housing Administration, including the activities of the Mortgagee Review Board, and shall provide advice to the Federal Housing Commissioner with respect to the formulation of general policies of the Federal Housing Administration and such other matters as the Federal Housing Commissioner may deem appropriate. The Advisory Board shall, in all other respects, be subject to the provisions of the Federal Advisory Committee Act.

(1) The Advisory Board shall be composed of 15 members to be appointed from among individuals who have substantial expertise and broad experience in housing and mortgage lending of whom—

(A) 9 shall be appointed by the Secretary;

(B) 3 shall be appointed by the Chairman and Ranking Minority Member of the Subcommittee on Housing and Urban Affairs of the Committee on Banking, Housing, and Urban Affairs of the Senate; and

(C) 3 shall be appointed by the Chairman and Ranking Minority Member of the Subcommittee on Housing and Community Development of the Committee on Banking, Finance and Urban Affairs of the House of Representatives[485].

(2) Membership on the Advisory Board shall include—

(A) not less than 4 persons with distinguished private sector careers in housing finance, lending, management, development or insurance;

(B) not less than 4 persons with outstanding reputations as licensed actuaries, experts in actuarial science, or economics related to housing;

(C) not less than 4 persons with backgrounds of leader-ship in representing the interests of housing consumers;

(D) not less than 1 person with significant experience and a distinguished reputation for work in the enforcement, advocacy, or development of fair housing or civil rights legislation; and

(E) not less than 1 person with a background of leadership in representing rural housing interests.

(3) Members of the Advisory Board shall be selected to ensure, to the greatest extent practicable, geographical representation or[486] every region of the country.

(4) Not more than 8 members of the Advisory Board may be from any one political party.

(5) Membership of the Advisory Board shall not include any person who, during the previous 24-month period, was required to register with the Secretary under section 112(c) of the Department of Housing and Urban Development Reform Act of 1989[487] or employed a person for purposes that required such person to register.

(6) Of the members of the Advisory Board first appointed, 5 shall have terms of 1 year, and 5 shall have terms of 2 years. Their successors and all other appointees shall have terms of 3 years.

(7) The Advisory Board is empowered to confer with, request information of, and make recommendations to the Federal Housing Commissioner. The Commissioner shall promptly provided the Advisory Board with such information as the Board determines to be necessary to carry out its review of the activities and policies of the Federal Housing Administration.

(8)[488] The Board shall, not later than December 31 of each year, submit to the Secretary and the Congress a report of its assessment of the activities of the Federal Housing Administration, including the

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[485] Section 1(a) of Public Law 104-14, 109 Stat. 186, provides, in part, that "any reference in any provision of law enacted before January 4, 1995, to . . . the Committee on Banking, Finance and Urban Affairs of the House of Representatives shall be treated as referring to the Committee on Banking and Financial Services of the House of Representatives". At the beginning of the 104th Congress, the Subcommittee on Housing and Community Development was renamed the Subcommittee on Housing and Community Opportunity. However, H. Res. 5, 107th Congress, agreed to on January 3, 2001, abolished the Committee on Banking and Financial Services and established the Committee on Financial Services, which has jurisdiction over many of the areas previously under the jurisdiction of the Committee on Banking and Financial Services.

[486] So in law.

[487] Probably intended to refer to section 13(c) of the Department of the Housing and Urban Development Act (relating to registration of consultants), which is set forth in part XII of this compilation. Such section was added by section 112 of the Department of Housing and Urban Development Reform Act, Pub. L. 101-235.

[488] Section 3003(a)(1) of the Federal Reports Elimination and Sunset Act of 1995, Pub. L. 104-66, which is set forth post in part XII of this compilation, provides that certain provisions of law requiring submittal to Congress of an annual, semiannual, or other regular periodic report

soundness of underwriting procedures, the adequacy of information systems, the appropriateness of staffing patterns, the effectiveness of the Mortgagee Review Board, and other matters related to the Federal Housing Administration's ability to serve the nation's homebuyers and renters. Such report shall contain the Board's recommendations for improvement and include any minority views.

(9) The Board shall meet in Washington, D.C., not less than twice annually, or more frequently if requested by the Federal Housing Commissioner or a majority of the members. The Board shall elect a chair, vice-chair and secretary and adopt methods of procedure. The Board may establish committees and subcommittees as needed.

(10) Subject to the provisions of Section 7 of the Federal Advisory Committee Act, all members of the Board may be compensated and shall be entitled to reimbursement from the Department for traveling expenses incurred in attendance at meetings of the Board.

(11) The Board shall terminate on January 1, 1995.

(c) MORTGAGEE REVIEW BOARD.—

(1) ESTABLISHMENT.—There is established within the Federal Housing Administration the Mortgagee Review Board ("Board"). The Board is empowered to initiate the issuance of a letter of reprimand, the probation, suspension or withdrawal of any mortgagee found to be engaging in activities in violation of Federal Housing Administration requirements or the non-discrimination requirements of the Equal Credit Opportunity Act, the Fair Housing Act, or Executive Order 11063.

(2) COMPOSITION.—The Board shall consist of—

(A) the Assistant Secretary of Housing/Federal Housing Commissioner;

(B) the General Counsel of the Department;

(C) the President of the Government National Mortgage Association;

(D) the Assistant Secretary for Administration;

(E) the Assistant Secretary for Fair Housing Enforcement (in cases involving violations of nondiscrimination requirements); and

(F) the Chief Financial Officer of the Department;[489]

or their designees.[490]

(3) ACTIONS AUTHORIZED.—When any report, audit, investigation, or other information before the Board discloses that a basis for an administrative action against a mortgagee exists, the Board shall take one of the following administrative actions:

(A) LETTER OF REPRIMAND.—The Board may issue a letter of reprimand only once to a mortgagee without taking action under subparagraphs (B), (C), or (D) of this section. A letter of reprimand shall explain the violation and describe actions the mortgagee should take to correct the violation.

(B) PROBATION.—The Board may place a mortgagee on probation for a specified period of time not to exceed 6 months for the purpose of evaluating the mortgagee's compliance with Federal Housing Administration requirements, the Equal Credit Opportunity Act, the Fair Housing Act, Executive Order 11063, or orders of the Board. During the probation period, the Board may impose reasonable additional requirements on a mortgagee including supervision of the mortgagee's activities by the Federal Housing Administration, periodic reporting to the Federal Housing Commissioner, or submission to Federal Housing Administration audits of internal financial statements, audits by an indpendent certified public accountant or other audits.

(C) SUSPENSION.—The Board may issue an order temporarily suspending a mortgagee's approval for doing business with the Federal Housing Administration if (i) there exists adequate evidence of a violation or violations and (ii) continuation of the mortgagee's approval, pending or at the completion of any audit, investigation, or other review, or such administrative or other legal proceedings as may ensue, would not be in the public interest or in the best interests of the Department. Notwithstanding paragraph (4)(A), a suspension shall be

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shall cease to be effective on May 15, 2000. This paragraph is covered by such provision. However, section 1102 of the American Homeownership and Economic Opportunity Act of 2000, Public Law 106-569, set forth post in part XII of this compilation, provides that such section 3003(a)(1) shall not apply to the report required to be submitted under this paragraph.

[489] So in law. Section 203(a)(1)(B) of Public Law 111-22 amends subparagraph (F) by striking "; and" and inserting "or their designees.". The language proposed to be struck in subparagraph (F) does not appear and therefore that amendment could not be executed.

[490] So in law. Section 209(c)(2) of H.R. 5482 (106th Congress, as introduced in the House of Representatives; 114 Stat. 1441A-25), enacted by section 1(a)(1) of Public Law 106-377 (114 Stat. 1441) amends subparagraph (F) by striking "or their designees." and inserting "and". Paragraph (3) of section 209(c) adds a new subparagraph (G) at the end. The language proposed to be struck in subparagraph (F) does not appear and therefore that amendment could not be executed.

effective upon issuance by the Board if the Board determines that there exists adequate evidence that immediate action is required to protect the financial interests of the Department or the public. A suspension shall last for not less than 6 months, and for not longer than 1 year. The Board may extend the suspension for an additional 6 months if it determines the extension is in the public interest. If the Board and the mortgagee agree, these time limits may be extended. During the period of suspension, the Federal Housing Administration shall not commit to insure any mortgage originated by the suspended mortgagee.

(D) WITHDRAWAL.—The Board may issue an order withdrawing a mortgagee if the Board has made a determination of a serious violation or repeated violations by the mortgagee. The Board shall determine the terms of such withdrawal, but the term shall be not less than 1 year. Where the Board has determined that the violation is egregious or willful, the withdrawal shall be permanent.

(E) SETTLEMENTS.—The Board may at any time enter into a settlement agreement with a mortgagee to resolve any outstanding grounds for an action. Agreements may include provisions such as—

(i) cessation of any violation;

(ii) correction or mitigation of the effects of any violation;

(iii) repayment of any sums of money wrongfully or incorrectly paid to the mortgagee by a mortgagor, by a seller or by the Federal Housing Administration;

(iv) actions to collect sums of money wrongfully or incorrectly paid by the mortgagee to a third party;

(v) indemnification of the Federal Housing Administration for mortgage insurance claims on mortgages originated in violation of Federal Housing Administration requirements;

(vi) modification of the length of the penalty imposed; or

(vii) implementation of other corrective measures acceptable to the Secretary.

Material failure to comply with the provisions of a settlement agreement shall be sufficient cause for suspension or withdrawal.

(4) NOTICE AND HEARING.—

(A) The Board shall issue a written notice to the mortgagee at least 30 days prior to taking any action against the mortgagee under subparagraph (B), (C), or (D) of paragraph (3). The notice shall state the specific violations which have been alleged, and shall direct the mortgagee to reply in writing to the Board within 30 days. If the mortgagee fails to reply during such period, the Board may make a determination without considering any comments of the mortgagee.

(B) If the Board takes action against a mortgagee under subparagraph (B), (C), or (D) of paragraph (3), the Board shall promptly notify the mortgagee in writing of the nature, duration, and specific reasons for the action. If, within 30 days of receiving the notice, the mortgagee requests a hearing, the Board shall hold a hearing on the record regarding the violations within 30 days of receiving the request. If a mortgagee fails to request a hearing within such 30-day period, the right of the mortgagee to a hearing shall be considered waived.

(C) In any case in which the notification of the Board does not result in a hearing (including any settlement by the Board and a mortgagee), any information regarding the nature of the violation and the resolution of the action shall be available to the public.

(5) PUBLICATION.—The Secretary shall establish and publish in the Federal Register a description of and the cause for administrative action against a mortgagee.

(6) CEASE-AND-DESIST ORDERS.—

(A) Whenever the Secretary, upon request of the Mortgagee Review Board, determines that there is reasonable cause to believe that a mortgagee is violating, has violated, or is about to violate, a law, rule or regulation or any condition imposed in writing by the Secretary or the Board, and that such violation could result in significant cost to the Federal Government or the public, the Secretary may issue a temporary order requiring the mortgagee to cease and desist from any such violation and to take affirmative action to prevent such violation or a continuation of such violation pending completion of proceedings of the Board with respect to such violation. Such order shall include a notice of charges in respect thereof and shall become effective upon service to the mortgagee. Such order shall remain effective and enforceable for a period not to exceed 30 days pending the completion of proceedings of the Board with respect to such violation,

unless such order is set aside, limited, or suspended by a court in proceedings authorized by subparagraph (B) of this paragraph. The Board shall provide the mortgagee an opportunity for a hearing on the record, as soon as practicable but not later than 20 days after the temporary cease-and-desist order has been served.

(B) Within 10 days after the mortgagee has been served with a temporary cease-and-desist order, the mortgagee may apply to the United States district court for the judicial district in which the home office of the mortgagee is located, or the United States District Court for the District of Columbia, for an injunction setting aside, limiting or suspending the enforcement, operation, or effectiveness of such order pending the completion of the administrative proceedings pursuant to the notice of charges served upon the mortgagee, and such court shall have jursidiction to issue such injunction.

(C) In the case of violation or threatened violation of, or failure to obey, a temporary cease-and-desist order issued pursuant to this paragraph, the Secretary may apply to the United States district court, or the United States court of any territory, within the jurisdiction of which the home office of the mortgagee is located, for an injunction to enforce such order, and, if the court shall determine that there has been such violation or threatened violation or failure to obey, it shall be the duty of the court to issue such injunction.

(7) DEFINITION OF "MORTGAGEE".—For purposes of this subsection, the term "mortgagee" means—

(A) a mortgagee approved under this Act;

(B) a lender or a loan correspondent approved under title I of this Act;

(C) a branch office or subsidiary of the mortgagee, lender, or loan correspondent; or

(D) a director, officer, employee, agent, or other person participating in the conduct of the affairs of the mortgagee, lender, or loan correspondent.

(8) REPORT REQUIRED.—The Board, in consultation with the Federal Housing Administration Advisory Board, shall annually recommend to the Secretary such amendments to statute or regulation as the Board determines to be appropriate to ensure the long term financial strength of the Federal Housing Administration fund and the adequate support for home mortgage credit.

(9) PROHIBITION AGAINST LIMITATIONS ON MORTGAGEE REVIEW BOARD'S POWER TO TAKE ACTION AGAINST MORTGAGEES.—No State or local law, and no Federal law (except a Federal law enacted expressly in limitation of this subsection after the effective date of this sentence), shall preclude or limit the exercise by the Board of its power to take any action authorized under paragraphs (3) and (6) of this subsection against any mortgagee.

(d) LIMITATIONS ON PARTICIPATION IN ORIGINATION AND MORTGAGEE APPROVAL.—

(1) REQUIREMENT.—Any person or entity that is not approved by the Secretary to serve as a mortgagee, as such term is defined in subsection (c)(7), shall not participate in the origination of an FHA-insured loan except as authorized by the Secretary.

(2) ELIGIBILITY FOR APPROVAL.—In order to be eligible for approval by the Secretary, an applicant mortgagee shall not be, and shall not have any officer, partner, director, principal, manager, supervisor, loan processor, loan underwriter, or loan originator of the applicant mortgagee who is—

(A) currently suspended, debarred, under a limited denial of participation (LDP), or otherwise restricted under part 25 of title 24 of the Code of Federal Regulations, 2 Code of Federal Regulations, part 180 as implemented by part 2424, or any successor regulations to such parts, or under similar provisions of any other Federal agency;

(B) under indictment for, or has been convicted of, an offense that reflects adversely upon the applicant's integrity, competence or fitness to meet the responsibilities of an approved mortgagee;

(C) subject to unresolved findings contained in a Department of Housing and Urban Development or other governmental audit, investigation, or review;

(D) engaged in business practices that do not conform to generally accepted practices of prudent mortgagees or that demonstrate irresponsibility;

(E) convicted of, or who has pled guilty or nolo contendre[491] to, a felony related to participation in the real estate or mortgage loan industry—

[491] So in law. Probably should be "nolo contendere".

(i) during the 7-year period preceding the date of the application for licensing and registration; or

(ii) at any time preceding such date of application, if such felony involved an act of fraud, dishonesty, or a breach of trust, or money laundering;

(F) in violation of provisions of the S.A.F.E. Mortgage Licensing Act of 2008 (12 U.S.C. 5101 et seq.) or any applicable provision of State law; or

(G) in violation of any other requirement as established by the Secretary.

(3) RULEMAKING AND IMPLEMENTATION.—The Secretary shall conduct a rulemaking to carry out this subsection. The Secretary shall implement this subsection not later than the expiration of the 60-day period beginning upon the date of the enactment of this subsection by notice, mortgagee letter, or interim final regulations, which shall take effect upon issuance.

(e) COORDINATION OF GNMA AND FHA WITHDRAWAL ACTION.—

(1) Whenever the Federal Housing Administration or Government National Mortgage Association initiates proceedings that could lead to withdrawing the mortgagee from participating in the program, the initiating agency shall—

(A) within 24 hours notify the other agency in writing of the action taken;

(B) provide to the other agency the factual basis for the action taken; and

(C) if a mortgagee is withdrawn, publish its decision in the Federal Register.

(2) Within 60 days of receipt of a notification of action that could lead to withdrawal under subsection (1), the Federal Housing Administration or the Government National Mortgage Association shall—

(A) conduct and complete its own investigation;

(B) provide written notification to the other agency of its decision, including the factual basis for its decision; and

(C) if a mortgagee is withdrawn, publish its decision in the Federal Register.

(f) Whenever the Secretary has taken any discretionary action to suspend or revoke the approval of any mortgagee to participate in any mortgage insurance program under this title, the Secretary shall provide prompt notice of the action and a statement of the reasons for the action to—

(1) the Secretary of Veterans Affairs;

(2) the chief executive officer of the Federal National Mortgage Association;

(3) the chief executive officer of the Federal Home Loan Mortgage Corporation;

(4) the Secretary of Agriculture;

(5)[492] if the mortgagee is a national bank, or a subsidiary or affiliate of such a bank, the Comptroller of the Currency;

(6) if the mortgagee is a State bank that is a member of the Federal Reserve System or a subsidiary or affiliate of such a bank, or a bank holding company or a subsidiary or affiliate of such a company, the Board of Governors of the Federal Reserve System;

(7) if the mortgagee is a State bank that is not a member of the Federal Reserve System or is a subsidiary or affiliate of such a bank, the Board of Directors of the Federal Deposit Insurance Corporation; and

(8)[493] if the mortgagee is a Federal or State savings association or a subsidiary or affiliate of a savings association, the Director of the Office of Thrift Supervision.

(g) APPRAISAL STANDARDS.—(1) The Secretary shall prescribe standards for the appraisal of all property to be insured by the Federal Housing Administration. Such appraisals shall be performed in accordance

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[492] For version of law for paragraphs (5)-(8) (as amended by section 373 of Public Law 111-203) see note set out at the end paragraph (8).

[493] [Note: Effective on July 21, 2011, section 373 of Public Law 111-203 provides for amendments to section (f)(5)-(8). Section 311 of such Public Law provides for a delayed effective date of one year after the date of enactment of this law subject to a transfer of duties. See section 311(b) of such Public Law for a possible extension of the transfer date. Upon such date, paragraphs (5)-(8) (paragraph (8) is repealed) reads as follows:]

(5) if the mortgagee is a national bank, a subsidiary or affiliate of such bank, a Federal savings association or a subsidiary or affiliate of a savings association, the Comptroller of the Currency;

(6) if the mortgagee is a State bank that is a member of the Federal Reserve System or a subsidiary or affiliate of such a bank, or a bank holding company or a subsidiary or affiliate of such a company, the Board of Governors of the Federal Reserve System; and

(7) if the mortgagee is a State bank or State savings association that is not a member of the Federal Reserve System or is a subsidiary or affiliate of such a bank, the Board of Directors of the Federal Deposit Insurance Corporation.

with uniform standards, by individuals who have demonstrated competence and whose professional conduct is subject to effective supervision. These standards shall require at a minimum—

(A) that the appraisals of properties to be insured by the Federal Housing Administration shall be performed in accordance with generally accepted appraisal standards, such as the appraisal standards promulgated by the Appraisal Foundation a not-for-profit corporation established on November 30, 1987 under the laws of Illinois; and

(B) that each appraisal be a written statement used in connection with a real estate transaction that is independently and impartially prepared by a licensed or certified appraiser setting forth an opinion of defined value of an adequately described property as of a specific date, supported by presentation and analysis of relevant market information.

(2) The Appraisal Subcommittee of the Federal Financial Institutions Examination Council shall include the Secretary or his designee.

(3) DIRECT ENDORSEMENT PROGRAM.—

(A) Any mortgagee that is authorized by the Secretary to process mortgages as a direct endorsement mortgagee (pursuant to the single-family home mortgage direct endorsement program established by the Secretary) may contract with an appraiser chosen at the discretion of the mortgagee for the performance of appraisals in connection with such mortgages. Such appraisers may include appraisal companies organized as corporations, partnerships, or sole proprietorships.

(B) Any appraisal conducted pursuant to subparagraph (A) shall be conducted by an individual who complies with the qualifications or standards for appraisers established by the Secretary pursuant to this subsection.

(C) In conducting an appraisal, such individual may utilize the assistance of others, who shall be under the direct supervision of the individual responsible for the appraisal. The individual responsible for the appraisal shall personally approve and sign any appraisal report.

(4) FEE PANEL APPRAISERS.—

(A) Any individual who is an employee of an appraisal company (including any company organized as a corporation, partnership, or sole proprietorship) and who meets the qualifications or standards for appraisers and inclusion on appraiser fee panels established by the Secretary, shall be eligible for assignment to conduct appraisals for mortgages under this title in the same manner and on the same basis as other approved appraisers.

(B) With respect to any employee of an appraisal company described in subparagraph (A) who is offered an appraisal assignment in connection with a mortgage under this title, the person utilizing the appraiser may contract directly with the appraisal company employing the appraiser for the furnishing of the appraisal services.

(5) ADDITIONAL APPRAISER STANDARDS.—Beginning on the date of enactment of the Federal Housing Finance Regulatory Reform Act of 2008, any appraiser chosen or approved to conduct appraisals for mortgages under this title shall—

(A) be certified—

(i) by the State in which the property to be appraised is located; or

(ii) by a nationally recognized professional appraisal organization; and

(B) have demonstrated verifiable education in the appraisal requirements established by the Federal Housing Administration under this subsection.

(h) USE OF NAME.—The Secretary shall, by regulation, require each mortgagee approved by the Secretary for participation in the FHA mortgage insurance programs of the Secretary—

(1) to use the business name of the mortgagee that is registered with the Secretary in connection with such approval in all advertisements and promotional materials, as such terms are defined by the Secretary, relating to the business of such mortgagee in such mortgage insurance programs; and

(2) to maintain copies of all such advertisements and promotional materials, in such form and for such period as the Secretary requires.

Sec. 203. [12 U.S.C. 1709]
INSURANCE OF MORTGAGES.

(a) The Secretary is authorized, upon application by the mortgagee, to insure as hereinafter provided any mortgage offered to him which is eligible for insurance as hereinafter provided, and, upon such terms as the

Secretary may prescribe, to make commitments for the insuring of such mortgages prior to the date of their execution or disbursement thereon.

(b) To be eligible for insurance under this section a mortgage shall comply with the following:

(1) Have been made to, and be held by, a mortgagee approved by the Secretary as responsible and able to service the mortgage properly.

(2) Involve a principal obligation (including such initial service charges, appraisal, inspection, and other fees as the Secretary shall approve) in an amount—

(A) not to exceed the lesser of—

(i) in the case of a 1-family residence, 115 percent of the median 1-family house price in the area, as determined by the Secretary; and in the case of a 2-, 3-, or 4-family residence, the percentage of such median price that bears the same ratio to such median price as the dollar amount limitation determined under the sixth sentence of section 305(a)(2) of the Federal Home Loan Mortgage Corporation Act (12 U.S.C. 1454(a)(2)) for a 2-, 3-, or 4-family residence, respectively, bears to the dollar amount limitation determined under such section for a 1-family residence; or

(ii) 150 percent of the dollar amount limitation determined under the sixth sentence of such section 305(a)(2) for a residence of applicable size;

except that the dollar amount limitation in effect under this subparagraph for any size residence for any area may not be less than the greater of: (I) the dollar amount limitation in effect under this section for the area on October 21, 1998; or (II) 65 percent of the dollar amount limitation determined under the sixth sentence of such section 305(a)(2) for a residence of the applicable size; and

(B) not to exceed 100 percent of the appraised value of the property.

For[494] purposes of the preceding sentence, the term "area" means a metropolitan statistical area as established by the Office of Management and Budget; and the median 1-family house price for an area shall be equal to the median 1-family house price of the county within the area that has the highest such median price.

Notwithstanding any other provision of this paragraph, the amount which may be insured under this section may be increased by up to 20 percent if such increase is necessary to account for the increased cost of the residence due to the installation of a solar energy system (as defined in subparagraph (3) of the last paragraph of section 2(a) of this Act) therein.

Notwithstanding any other provision of this paragraph, the Secretary may not insure, or enter into a commitment to insure, a mortgage under this section that is executed by a first-time homebuyer and that involves a principal obligation (including such initial service charges, appraisal, inspection, and other fees as the Secretary shall approve) in excess of 97 percent of the appraised value of the property unless the mortgagor has completed a program of counseling with respect to the responsibilities and financial management involved in homeownership that is approved by the Secretary; except that the Secretary may, in the discretion of the Secretary, waive the applicability of this requirement.

(3) Have a maturity satisfactory to the Secretary, but not to exceed, in any event, thirty-five years (or thirty years if such mortgage is not approved for insurance prior to construction) from the date of the beginning of amortization of the mortgage.

(4) Contain complete amortization provisions satisfactory to the Secretary requiring periodic payments by the mortgagor not in excess of his reasonable ability to pay as determined by the Secretary.

(5) Bear interest at such rate as may be agreed upon by the mortgagor and the mortgagee.

(6) Provide, in a manner satisfactory to the Secretary, for the application of the mortgagor's periodic payments (exclusive of the amount allocated to interest and to the premium charge which is required for mortgage insurance as hereinafter provided) to amortization of the principal of the mortgage.

(7) Contain such terms and provisions with respect to insurance, repairs, alterations, payment of taxes, default reserves, delinquency charges, foreclosure proceedings, anticipation of maturity, additional and secondary liens, and other matters as the Secretary may in his discretion prescribe.

[(8) [Repealed.]]

(9) CASH INVESTMENT REQUIREMENT.—

[494] Section 2112(a)(2) of Public Law 110-289 (122 Stat. 2831) amended this paragraph by striking the second sentence and all that followed through "section 3103A(d) of title 38, United States Code". The reference to section 3103A(d) does not appear because section 402(b) of Public Law 103-40 (105 Stat. 239) redesignated such section as section 5303A. Section 402(d)(2) of Public Law 103-40 (105 Stat. 239) deemed any reference in a provision of law other than title 38, United States Code, to refer to the section as redesignated. This paragraph is shown as amended to reflect the probable intent of the Congress.

(A) IN GENERAL.—A mortgage insured under this section shall be executed by a mortgagor who shall have paid, in cash or its equivalent, on account of the property an amount equal to not less than 3.5 percent of the appraised value of the property or such larger amount as the Secretary may determine.

(B) FAMILY MEMBERS.—For purposes of this paragraph, the Secretary shall consider as cash or its equivalent any amounts borrowed from a family member (as such term is defined in section 201), subject only to the requirements that, in any case in which the repayment of such borrowed amounts is secured by a lien against the property, that—

(i) such lien shall be subordinate to the mortgage; and

(ii) the sum of the principal obligation of the mortgage and the obligation secured by such lien may not exceed 100 percent of the appraised value of the property plus any initial service charges, appraisal, inspection, and other fees in connection with the mortgage.

(C) PROHIBITED SOURCES.—In no case shall the funds required by subparagraph (A) consist, in whole or in part, of funds provided by any of the following parties before, during, or after closing of the property sale:

(i) The seller or any other person or entity that financially benefits from the transaction.

(ii) Any third party or entity that is reimbursed, directly or indirectly, by any of the parties described in clause (i).

This subparagraph shall apply only to mortgages for which the mortgagee has issued credit approval for the borrower on or after October 1, 2008.

(c)(1)[495] The Secretary is authorized to fix premium charge for the insurance of mortgages under the separate sections of this title but in the case of any mortgage such charge shall be not less than an amount equivalent to one-fourth of 1 per centum per annum nor more than an amount equivalent to 1 per centum per annum of the amount of the principal obligation of the mortgage outstanding at any time, without taking into account delinquent payments or prepayments: *Provided*, That premium charges fixed for insurance (1) under section 245, 247, 251, 252, or 253, or any other financing mechanism providing alternative methods for repayment of a mortgage that is determined by the Secretary to involve additional risk, or (2) under subsection (n) are not required to be the same as the premium charges for mortgages insured under the other provisions of this section, but in no case shall premium charges under subsection (n) exceed 1 per centum per annum: *Provided*, That any reduced premium charge so fixed and computed may, in the discretion of the Secretary, also be made applicable in such manner as the Secretary shall prescribe to each insured mortgage outstanding under the section or sections involved at the time the reduced premium charge is fixed. Such premium charges shall be payable by the mortgagee, either in cash, or in debentures issued by the Secretary under this title at par plus accrued interest, in such manner as may be prescribed by the Secretary: *Provided*, That debentures presented in payment of premium charges shall represent obligations of the particular insurance fund or account to which such premium charges are to be credited: *Provided further*, That the Secretary may require the payment of one or more such premium charges at the time the mortgage is insured, at such discount rate as he may prescribe not in excess of the interest rate specified in the mortgage. If the Secretary finds upon the presentation of a mortgage for insurance and the tender of the initial premium charge or charges so required that the mortgage complies with the provisions of this section, such mortgage may be accepted for insurance by endorsement or otherwise as the Secretary may prescribe; but no mortgage shall be accepted for insurance under this section unless the Secretary finds that the project with respect to which the mortgage is executed is economically sound. In the event that the principal obligation of any mortgage accepted for insurance under this title is paid in full prior to the maturity date, the Secretary is further authorized in his discretion to require the payment by the mortgagee of an adjusted premium charge in such amount as the Secretary determines to be equitable, but not in excess of the aggregate amount of the premium charges that the mortgagee would otherwise have been required to pay if the mortgage had continued to be insured until such maturity date; and in the event that the principal obligation is paid in full as herein set forth, the Secretary is authorized to refund to the mortgagee for the account of the mortgagor all, or such portion as he shall determine to be equitable, of the current unearned premium charges theretofore paid: *Provided*, That with respect to mortgages (1) for which the Secretary requires, at the time the mortgage is insured, the payment of a single premium charge to cover the total premium obligation for

[495] For provisions regarding premiums on mortgages executed during fiscal years 1991 through 1994, see section 2103(b) of the Omnibus Budget Reconciliation Act of 1990, Pub. L. 101-508 (as amended by section 507(c) of the Housing and Community Development Act of 1992, Pub. L. 102-550).

the insurance of the mortgage, and (2) on which the principal obligation is paid before the number of years on which the premium with respect to a particular mortgage was based, or the property is sold subject to the mortgage or is sold and the mortgage is assumed prior to such time, the Secretary shall provide for refunds, where appropriate, of a portion of the premium paid and shall provide for appropriate allocation of the premium cost among the mortgagors over the term of the mortgage, in accordance with procedures established by the Secretary which take into account sound financial and actuarial considerations.

(2) Notwithstanding any other provision of this section, each mortgage secured by a 1- to 4-family dwelling that is an obligation of the Mutual Mortgage Insurance Fund shall be subject to the following requirements:

(A) The Secretary shall establish and collect, at the time of insurance, a single premium payment in an amount not exceeding 3 percent of the amount of the original insured principal obligation of the mortgage. In the case of a mortgage for which the mortgagor is a first-time homebuyer who completes a program of counseling with respect to the responsibilities and financial management involved in homeownership that is approved by the Secretary, the premium payment under this subparagraph shall not exceed 2.75 percent of the amount of the original insured principal obligation of the mortgage. Upon payment in full of the principal obligation of a mortgage prior to the maturity date of the mortgage, the Secretary shall refund all of the unearned premium charges paid on the mortgage pursuant to this subparagraph, provided that the mortgagor refinances the unpaid principal obligation under title II of this Act[496].

(B) In addition to the premium under subparagraph (A), the Secretary may establish and collect annual premium payments in an amount not exceeding 1.5 percent of the remaining insured principal balance (excluding the portion of the remaining balance attributable to the premium collected under subparagraph (A) and without taking into account delinquent payments or prepayments) for the following periods:

(i) For any mortgage involving an original principal obligation (excluding any premium collected under subparagraph (A)) that is less than 90 percent of the appraised value of the property (as of the date the mortgage is accepted for insurance), for the first 11 years of the mortgage term.

(ii) For any mortgage involving an original principal obligation (excluding any premium collected under subparagraph (A)) that is greater than or equal to 90 percent of such value, for the first 30 years of the mortgage term; except that notwithstanding the matter preceding clause (i), for any mortgage involving an original principal obligation (excluding any premium collected under subparagraph (A)) that is greater than 95 percent of such value, the annual premium collected during the 30-year period under this clause may be in an amount not exceeding 1.55 percent of the remaining insured principal balance (excluding the portion of the remaining balance attributable to the premium collected under subparagraph (A) and without taking into account delinquent payments or prepayments).

(C)[497](i) In addition to the premiums under subparagraphs (A) and (B), the Secretary shall establish and collect annual premium payments for any mortgage for which the Secretary collects an annual premium payment under subparagraph (B), in an amount described in clause (ii).

(ii)(I) Subject to subclause (II), with respect to a mortgage, the amount described in this clause is 10 basis points of the remaining insured principal balance (excluding the portion of the remaining balance attributable to the premium collected under subparagraph (A) and without taking into account delinquent payments or prepayments).

(II) During the 2-year period beginning on the date of enactment of this subparagraph, the Secretary shall increase the number of basis points of the annual premium payment collected under this subparagraph incrementally, as determined

[496] The proviso at the end of this sentence regarding refinancing was added by section 223 of the Departments of Veterans Affairs and Housing and Urban Development, and Independent Agencies Appropriations Act, 2005, enacted as Division I of the Consolidated Appropriations Act, 2005, Public Law 108-447, 118 Stat. 3321, approved December 8, 2004. Such section also provides "[t]his provision shall apply to loans that become insured on or after the date of the enactment of this Act".

[497] The authority in section 203(c)(2)(C), as added by Pub. L. 112-78 on Dec. 23, 2011, sunsets after 10 years, on October 1, 2012. Sec. 402(b) of Pub. L. 112-78 states: "(b) PROSPECTIVE REPEAL.—Section 203(c)(2) of the National Housing Act (12 U.S.C. 1709(c)(2)) is amended by striking subparagraph (C), as added by subsection (a), effective on October 1, 2021."

appropriate by the Secretary, until the number of basis points of the annual premium payment collected under this subparagraph is equal to the number described in subclause (I).

(d)(1) Except as provided in paragraph (2) of this subsection, notwithstanding provision[498] of this title governing maximum mortgage amounts for insuring a mortgage secured by a one- to four-family dwelling, the maximum amount of the mortgage determined under any such provision may be increased by the amount of the mortgage insurance premium paid at the time the mortgage is insured.

(2) The maximum amount of a mortgage determined under subsection (b)(2)(B) of this section may not be increased as provided in paragraph (1).

(e) Any contract of insurance heretofore or hereafter executed by the Secretary under this title shall be conclusive evidence of the eligibility of the loan or mortgage for insurance, and the validity of any contract of insurance so executed shall be incontestable in the hands of an approved financial institution or approved mortgagee from the date of the execution of such contract, except for fraud or misrepresentation on the part of such approved financial institution or approved mortgagee.

(f) DISCLOSURE OF OTHER MORTGAGE PRODUCTS.—

(1) IN GENERAL.—In conjunction with any loan insured under this section, an original lender shall provide to each prospective borrower a disclosure notice that provides a 1-page analysis of mortgage products offered by that lender and for which the borrower would qualify.

(2) NOTICE.—The notice required under paragraph (1) shall include—

(A) a generic analysis comparing the note rate (and associated interest payments), insurance premiums, and other costs and fees that would be due over the life of the loan for a loan insured by the Secretary under subsection (b) with the note rates, insurance premiums (if applicable), and other costs and fees that would be expected to be due if the mortgagor obtained instead other mortgage products offered by the lender and for which the borrower would qualify with a similar loan-to-value ratio in connection with a conventional mortgage (as that term is used in section 305(a)(2) of the Federal Home Loan Mortgage Corporation Act (12 U.S.C. 1454(a)(2)) or section 302(b)(2) of the Federal National Mortgage Association Charter Act (12 U.S.C. 1717(b)(2)), as applicable), assuming prevailing interest rates; and

(B) a statement regarding when the requirement of the mortgagor to pay the mortgage insurance premiums for a mortgage insured under this section would terminate, or a statement that the requirement shall terminate only if the mortgage is refinanced, paid off, or otherwise terminated.

(g)(1) The Secretary may insure a mortgage under this title that is secured by a 1- to 4-family dwelling, or approve a substitute mortgagor with respect to any such mortgage, only if the mortgagor is to occupy the dwelling as his or her principal residence or as a secondary residence, as determined by the Secretary. In making this determination with respect to the occupancy of secondary residences, the Secretary may not insure mortgages with respect to such residences unless the Secretary determines that it is necessary to avoid undue hardship to the mortgagor. In no event may a secondary residence under this subsection include a vacation home, as determined by the Secretary.

(2) The occupancy requirement established in paragraph (1) shall not apply to any mortgagor (or co-mortgagor, as appropriate) that is—

(A) a public entity, as provided in section 214 or 247, or any other State or local government or an agency thereof;

(B) a private nonprofit or public entity, as provided in section 221(h) or 235(j), or other private nonprofit organization that is exempt from taxation under section 501(c)(3) of the Internal Revenue Code of 1986 and intends to sell or lease the mortgage property to low or moderate-income persons, as determined by the Secretary;

(C) an Indian tribe, as provided in section 248;

(D) a serviceperson who is unable to meet such requirement because of his or her duty assignment, as provided in section 216 or subsection (b)(4) or (f) of section 222;

(E) a mortgagor or co-mortgagor under subsection (k); or

(F) a mortgagor that, pursuant to section 223(a)(7), is refinancing an existing mortgage insured under this Act for not more than the outstanding balance of the existing mortgage, if the

[498] So in law. Probably should read "notwithstanding any provision". See amendment made by section 2112(b)(1) of Public Law 110-289.

amount of the monthly payment due under the refinancing mortgage is less than the amount due under the existing mortgage for the month in which the refinancing mortgage is executed.

(3) For purposes of this subsection, the term "substitute mortgagor" means a person who, upon the release by a mortgagee of a previous mortgagor from personal liability on the mortgage note, assumes such liability and agrees to pay the mortgage debt.

(h) Notwithstanding any other provision of this section, the Secretary is authorized to insure any mortgage which involves a principal obligation not in excess of the applicable maximum dollar limit under subsection (b) and not in excess of 100 per centum of the appraised value of a property upon which there is located a dwelling designed principally for a single-family residence, where the mortgagor establishes (to the satisfaction of the Secretary) that his home which he occupied as an owner or as a tenant was destroyed or damaged to such an extent that reconstruction is required as a result of a flood, fire, hurricane, earthquake, storm, or other catastrophe, which the President, pursuant to[499] Robert T. Stafford Disaster Relief and Emergency Assistance Act, has determined to be a major disaster. In any case in which the single family residence to be insured under this subsection is within a jurisdiction in which the President has declared a major disaster to have occurred, the Secretary is authorized, for a temporary period not to exceed 18 months from the date of such Presidential declaration, to enter into agreements to insure a mortgage which involves a principal obligation of up to 100 percent of the dollar limitation determined under section 305(a)(2) of the Federal Home Loan Mortgage Corporation Act for single family residence, and not in excess of 100 percent of the appraised value.[500]

[(i) [Repealed.]]

(j) Loans secured by mortgages insured under this section shall not be taken into account in determining the amount of real estate loans which a national bank may make in relation to its capital and surplus or its time and savings deposits.

(k)(1) The Secretary may, in order to assist in the rehabilitation of one- to four-family structures used primarily for residential purposes, insure and make commitments to insure rehabilitation loans (including advances made during rehabilitation) made by financial institutions. Such commitments to insure and such insurance shall be made upon such terms and conditions which the Secretary may prescribe and which are consistent with the provisions of subsections (b), (c), (e), (i) and (j) of this section, except as modified by the provisions of this subsection.

(2) For the purpose of this subsection—

(A) the term "rehabilitation loan" means a loan, advance of credit, or purchase of an obligation representing a loan or advance of credit, made for the purpose of financing—

(i) the rehabilitation of an existing one- to four-unit structure which will be used primarily for residential purposes;

(ii) the rehabilitation of such a structure and the refinancing of the outstanding indebtedness on such structure and the real property on which the structure is located; or

(iii) the rehabilitation of such a structure and the purchase of the structure and the real property on which it is located; and

(B) the term "rehabilitation" means the improvement (including improvements designed to meet cost-effective energy conservation standards prescribed by the Secretary) or repair of a structure, or facilities in connection with a structure, and may include the provision of such sanitary or other facilities as are required by applicable codes, a community development plan, or a statewide property insurance plan to be provided by the owner or tenant of the project. The term "rehabilitation" may also include measures to evaluate and reduce lead-based paint hazards, as such terms are defined in section 1004 of the Residential Lead-Based Paint Hazard Reduction Act of 1992.

(3) To be eligible for insurance under this subsection, a rehabilitation loan shall—

(A) involve a principal obligation (including such initial service charges, appraisal, inspection, and other fees as the Secretary shall approve) in an amount which does not exceed, when added to any outstanding indebtedness of the borrower which is secured by the structure and the property on which it is located, the amount specified in subsection (b)(2); except that, in

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[499] So in law.

[500] This sentence was added by the Emergency Supplemental Appropriations Act of 1994, Pub. L. 103-211, 108 Stat. 12, approved February 12, 1994. The undesignated paragraph (12 U.S.C. 1709 note) following the paragraph in which this amendment was made provides as follows:

"Eligibility for loans made under the authority granted by the preceding paragraph shall be limited to persons whose principal residence was damaged or destroyed as a result of the January 1994 earthquake in Southern California: Provided, That the provisions under this heading shall be effective only for the 18-month period following the date of enactment of this Act.".

determining the amount of the principal obligation for purposes of this subsection, the Secretary shall establish as the appraised value of the property an amount not to exceed the sum of the estimated cost of rehabilitation and the Secretary's estimate of the value of the property before rehabilitation;

(B) bear interest at such rate as may be agreed upon by the borrower and the financial institution;

(C) be an acceptable risk, as determined by the Secretary; and

(D) comply with such other terms, conditions, and restrictions as the Secretary may prescribe.

(4) Any rehabilitation loan insured under this subsection may be refinanced and extended in accordance with such terms and conditions as the Secretary may prescribe, but in no event for an additional amount or term which exceeds the maximum provided for in this subsection.

(5) All funds received and all disbursements made pursuant to the authority established by this subsection shall be credited or charged as appropriate, to the Mutual Mortgage Insurance Fund, and insurance benefits shall be paid in cash out of such Fund or in debentures executed in the name of such Fund. Insurance benefits paid with respect to loans secured by a first mortgage and insured under this subsection shall be paid in accordance with section 204. Insurance benefits paid with respect to loans secured by a mortgage other than a first mortgage and insured under this subsection shall be paid in accordance with paragraphs (6) and (7) of section 220(h), except that reference to "this subsection" in such paragraphs shall be construed as referring to this subsection.

(6)[501] The Secretary is authorized, for a temporary period not to exceed 18 months from the date on which the President has declared a major disaster to have occurred, to enter into agreements to insure a rehabilitation loan under this subsection which involves a principal obligation of up to 100 percent of the dollar limitation determined under section 305(a)(2) of the Federal Home Loan Mortgage Corporation Act for a residence of the applicable size, if such loan is secured by a structure and property that are within a jurisdiction in which the President has declared such disaster, pursuant to the Robert T. Stafford Disaster Relief and Emergency Assistance Act, and if such loan otherwise conforms to the loan-to-value ratio and other requirements of this subsection.

[(l) [Repealed.]]

[(m) [Repealed.]]

(n)(1) The Secretary is authorized to insure under this section any mortgage meeting the requirements of subsection (b) of this section, except as modified by this subsection. To be eligible, the mortgage shall involve a dwelling unit in a cooperative housing project which is covered by a blanket mortgage insured under this Act or the construction of which was completed more than a year prior to the application for the mortgage insurance. The mortgage amount as determined under the other provisions of subsection (b) of this section shall be reduced by an amount equal to the portion of the unpaid balance of the blanket mortgage covering the project which is attributable (as of the date the mortgage is accepted for insurance) to such unit.

(2) For the purpose of this subsection—

(A) The terms "home mortgage" and "mortgage" include a first or subordinate mortgage or lien given (in accordance with the laws of the State where the property is located and accompanied by such security and other undertakings as may be required under regulations of the Secretary) to secure a loan made to finance the purchase of stock or membership in a cooperative ownership housing corporation the permanent occupancy of the dwelling units of which is restricted to members of such corporation, where the purchase of such stock or membership will entitle the purchaser to the permanent occupancy of one of such units.

(B) The terms "appraised value of the property", "value of the property", and "value" include the appraised value of a dwelling unit in a cooperative housing project of the type described in subparagraph (A) where the purchase of the stock or membership involved will entitle the purchaser to the permanent occupancy of that unit; and the term "property" includes a dwelling unit in such a cooperative project.

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[501] This paragraph was added by the Emergency Supplemental Appropriations Act of 1994, Pub. L. 103-211, 108 Stat. 12, approved February 12, 1994, and the indentation as shown is so in law. The undesignated paragraph (12 U.S.C. 1709 note) following the paragraph in which this amendment was made provides as follows:

"Eligibility for loans made under the authority granted by the preceding paragraph shall be limited to persons whose principal residence was damaged or destroyed as a result of the January 1994 earthquake in Southern California: Provided, That the provisions under this heading shall be effective only for the 18-month period following the date of enactment of this Act.".

(C) The terms "mortgagor" includes a person or persons giving a first or subordinate mortgage or lien (of the type described in subparagraph (A)) to secure a loan to finance the purchase of stock or membership in a cooperative housing corporation.

[(o) [Repealed.]]

[(p) [Repealed.]]

[(q) [Repealed.]]

(r) The Secretary shall take appropriate actions to reduce losses under the single-family mortgage insurance programs carried out under this title. Such actions shall include—

(1) an annual review by the Secretary of the rate of early serious defaults and claims, in accordance with section 533;

(2) requiring that at least one person acquiring ownership of a one- to four-family residential property encumbered by a mortgage insured under this title be determined to be credit-worthy under standards prescribed by the Secretary, whether or not such person assumes personal liability under the mortgage (except that acquisitions by devise or descent shall not be subject to this requirement);

(3) in any case where personal liability under a mortgage is assumed, requiring that the original mortgagor be advised of the procedures by which he or she may be released from liability; and

(4) providing counseling, either directly or through third parties, to delinquent mortgagors whose mortgages are insured under this section 203 (12 U.S.C. 1709), using the Fund to pay for such counseling.

In any case where the homeowner does not request a release from liability, the purchaser and the homeowner shall have joint and several liability for any default for a period of 5 years following the date of the assumption. After the close of such 5-year period, only the purchaser shall be liable for any default on the mortgage unless the mortgage is in default at the time of the expiration of the 5-year period.

[(s) [Transferred.]]

(t)(1) Each mortgagee (or servicer) with respect to a mortgage under this section shall provide each mortgagor of such mortgagee (or servicer) written notice, not less than annually, containing a statement of the amount outstanding for prepayment of the principal amount of the mortgage and describing any requirements the mortgagor must fulfill to prevent the accrual of any interest on such principal amount after the date of any prepayment. This paragraph shall apply to any insured mortgage outstanding on or after the expiration of the 90-day period beginning on the date of effectiveness of final regulations implementing this paragraph.

(2) Each mortgagee (or servicer) with respect to a mortgage under this section shall, at or before closing with respect to any such mortgage, provide the mortgagor with written notice (in such form as the Secretary shall prescribe, by regulation, before the expiration of the 90-day period beginning upon the date of the enactment of the Cranston-Gonzalez National Affordable Housing Act[502]) describing any requirements the mortgagor must fulfill upon prepayment of the principal amount of the mortgage to prevent the accrual of any interest on the principal amount after the date of such prepayment. This paragraph shall apply to any mortgage executed after the expiration of the period under paragraph (1).

(u)(1) No mortgagee may make or hold mortgages insured under this section if the customary lending practices of the mortgagee, as determined by the Secretary pursuant to section 539, provide for a variation in mortgage charge rates that exceeds 2 percent for insured mortgages made by the mortgagee on dwellings located within an area. The Secretary shall ensure that any permissible variations in the mortgage charge rates of any mortgagee are based only on actual variations in fees or costs to the mortgagee to make the loan.

(2) For purposes of this subsection—

(A) the term "area" means a metropolitan statistical area as established by the Office of Management and Budget;

(B) the term "mortgage charges" includes the interest rate, discount points, loan origination fee, and any other amount charged to a mortgagor with respect to an insured mortgage; and

(C) the term "mortgage charge rate" means the amount of mortgage charges for an insured mortgage expressed as a percentage of the initial principal amount of the mortgage.

(v) The insurance of a mortgage under this section in connection with the assistance provided under section 8(y) of the United States Housing Act of 1937 shall be the obligation of the Mutual Mortgage Insurance Fund.

[502] The date of enactment was November 28, 1990.

(w)[503] ANNUAL REPORT.—The Secretary of Housing and Urban Development shall submit to the Congress an annual report on the single family mortgage insurance program under this section. Each report shall set forth—

(1) an analysis of the income groups served by the single family insurance program, including—

(A) the percentage of borrowers whose incomes do not exceed 100 percent of the median income for the area;

(B) the percentage of borrowers whose incomes do not exceed 80 percent of the median income for the area; and

(C) the percentage of borrowers whose incomes do not exceed 60 percent of the median income for the area;

(2) an analysis of the percentage of minority borrowers annually assisted by the program; the percentage of central city borrowers assisted and the percentage of rural borrowers assisted by the program;

(3) the extent to which the Secretary in carrying out the program has employed methods to ensure that needs of low and moderate income families, underserved areas, and historically disadvantaged groups are served by the program; and

(4) the current impediments to having the program serve low and moderate income borrowers; borrowers from central city areas; borrowers from rural areas; and minority borrowers.

(x) MANAGEMENT DEFICIENCIES REPORT.—

(1) IN GENERAL.—Not later than 60 days after the date of the enactment of this subsection[504], and annually thereafter, the Secretary shall submit to Congress a report on the plan of the Secretary to address each material weakness, reportable condition, and noncompliance with an applicable law or regulation (as defined by the Director of the Office of Management and Budget) identified in the most recent audited financial statement of the Federal Housing Administration submitted under section 3515 of title 31, United States Code.

(2) CONTENTS OF ANNUAL REPORT.—Each report submitted under paragraph (1) shall include—

(A) an estimate of the resources, including staff, information systems, and contract assistance, required to address each material weakness, reportable condition, and noncompliance with an applicable law or regulation described in paragraph (1), and the costs associated with those resources;

(B) an estimated timetable for addressing each material weakness, reportable condition, and noncompliance with an applicable law or regulation described in paragraph (1); and

(C) the progress of the Secretary in implementing the plan of the Secretary included in the report submitted under paragraph (1) for the preceding year, except that this subparagraph does not apply to the initial report submitted under paragraph (1).

(y) REQUIREMENTS FOR MORTGAGES FOR CONDOMINIUMS.—

(1) PROJECT RECERTIFICATION REQUIREMENTS.—Notwithstanding any other law, regulation, or guideline of the Secretary, including chapter 2.4 of the Condominium Project Approval and Processing Guide of the FHA, the Secretary shall streamline the project certification requirements that are applicable to the insurance under this section for mortgages for condominium projects so that recertifications are substantially less burdensome than certifications. The Secretary shall consider lengthening the time between certifications for approved properties, and allowing updating of information rather than resubmission.

(2) COMMERCIAL SPACE REQUIREMENTS.—Notwithstanding any other law, regulation, or guideline of the Secretary, including chapter 2.1.3 of the Condominium Project Approval and Processing Guide of the FHA, in providing for exceptions to the requirement for the insurance of a mortgage on a condominium property under this section regarding the percentage of the floor space of a condominium property that may be used for nonresidential or commercial purposes, the Secretary shall provide that—

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[503] Section 3003(a)(1) of the Federal Reports Elimination and Sunset Act of 1995, Pub. L. 104-66, which is set forth post in part XII of this compilation, provides that certain provisions of law requiring submittal to Congress of an annual, semiannual, or other regular periodic report shall cease to be effective on May 15, 2000. This subsection is covered by such provision. However, section 1102 of the American Homeownership and Economic Opportunity Act of 2000, Public Law 106-569, set forth post in part XII of this compilation, provides that such section 3003(a)(1) shall not apply to the report required to be submitted under "section 203(v) of the National Housing Act, as added by section 504 of the Housing and Community Development Act of 1992". This subsection was added by such section 504, was originally designated as subsection (v) and was subsequently redesignated.

[504] The date of enactment was October 21, 1998.

(A) any request for such an exception and the determination of the disposition of such request may be made, at the option of the requester, under the direct endorsement lender review and approval process or under the HUD review and approval process through the applicable field office of the Department; and

(B) in determining whether to allow such an exception for a condominium property, factors relating to the economy for the locality in which such project is located or specific to project, including the total number of family units in the project, shall be considered.

Not later than the expiration of the 90-day period beginning on the date of the enactment of this paragraph,[505] the Secretary shall issue regulations to implement this paragraph, which shall include any standards, training requirements, and remedies and penalties that the Secretary considers appropriate.

(3) TRANSFER FEES.—Notwithstanding any other law, regulation, or guideline of the Secretary, including chapter 1.8.8 of the Condominium Project Approval and Processing Guide of the FHA and section 203.41 of the Secretary's regulations (24 CFR 203.41), existing standards of the Federal Housing Finance Agency relating to encumbrances under private transfer fee covenants shall apply to the insurance of mortgages by the Secretary under this section to the same extent and in the same manner that such standards apply to the purchasing, investing in, and otherwise dealing in mortgages by the Federal National Mortgage Association and the Federal Home Loan Mortgage Corporation. If the provisions of part 1228 of the Director of the Federal Housing Finance Agency's regulations (12 CFR part 1228) are amended or otherwise changed after the date of the enactment of this paragraph, the Secretary of Housing and Urban Development shall adopt any such amendments or changes for purposes of this paragraph, unless the Secretary causes to be published in the Federal Register a notice explaining why the Secretary will disregard such amendments or changes within 90 days after the effective date of such amendments or changes.

(4) OWNER-OCCUPANCY REQUIREMENT.—

(A) ESTABLISHMENT OF PERCENTAGE REQUIREMENT.—Not later than the expiration of the 90-day period beginning on the date of the enactment of this paragraph, the Secretary shall, by rule, notice, or mortgagee letter, issue guidance regarding the percentage of units that must be occupied by the owners as a principal residence or a secondary residence (as such terms are defined by the Secretary), or must have been sold to owners who intend to meet such occupancy requirements, including justifications for the percentage requirements, in order for a condominium project to be acceptable to the Secretary for insurance under this section of a mortgage within such condominium property.

(B) FAILURE TO ACT.—If the Secretary fails to issue the guidance required under subparagraph (A) before the expiration of the 90-day period specified in such clause, the following provisions shall apply:

(i) 35 PERCENT REQUIREMENT.—In order for a condominium project to be acceptable to the Secretary for insurance under this section, at least 35 percent of all family units (including units not covered by FHA-insured mortgages) must be occupied by the owners as a principal residence or a secondary residence (as such terms are defined by the Secretary), or must have been sold to owners who intend to meet such occupancy requirement.

(ii) OTHER CONSIDERATIONS.—The Secretary may increase the percentage applicable pursuant to clause (i) to a condominium project on a project-by-project or regional basis, and in determining such percentage for a project shall consider factors relating to the economy for the locality in which such project is located or specific to project, including the total number of family units in the project.

Sec. 204. [12 U.S.C. 1710]
PAYMENT OF INSURANCE.

(a)[506] IN GENERAL.—

[505] The date of enactment was July 29, 2016.

[506] Section 601(a) of the Departments of Veterans Affairs and Housing and Urban Development, and Independent Agencies Appropriations Act, 1999, Public Law 105-276, approved October 21, 1998, amended this subsection to read as shown. Section 601(b) of such Act (12 U.S.C. 1710 note) provides as follows:

"(b) EFFECTIVE DATE.—The Secretary shall publish a notice in the Federal Register stating the effective date of the terms and conditions prescribed by the Secretary under section 204(a)(1) of the National Housing Act, as amended by subsection (a) of this section. Subsections (a)

(1) AUTHORIZED CLAIMS PROCEDURES.—The Secretary may, in accordance with this subsection and terms and conditions prescribed by the Secretary, pay insurance benefits to a mortgagee for any mortgage insured under section 203 through any of the following methods:

(A) ASSIGNMENT OF MORTGAGE.—The Secretary may pay insurance benefits whenever a mortgage has been in a monetary default for not less than 3 full monthly installments or whenever the mortgagee is entitled to foreclosure for a nonmonetary default. Insurance benefits shall be paid pursuant to this subparagraph only upon the assignment, transfer, and delivery to the Secretary of—

(i) all rights and interests arising under the mortgage;

(ii) all claims of the mortgagee against the mortgagor or others arising out of the mortgage transaction;

(iii) title evidence satisfactory to the Secretary; and

(iv) such records relating to the mortgage transaction as the Secretary may require.

(B) CONVEYANCE OF TITLE TO PROPERTY.—The Secretary may pay insurance benefits if the mortgagee has acquired title to the mortgaged property through foreclosure or has otherwise acquired such property from the mortgagor after a default upon—

(i) the prompt conveyance to the Secretary of title to the property which meets the standards of the Secretary in force at the time the mortgage was insured and which is evidenced in the manner provided by such standards; and

(ii) the assignment to the Secretary of all claims of the mortgagee against the mortgagor or others, arising out of mortgage transaction or foreclosure proceedings, except such claims as may have been released with the consent of the Secretary.

The Secretary may permit the mortgagee to tender to the Secretary a satisfactory conveyance of title and transfer of possession directly from the mortgagor or other appropriate grantor, and may pay to the mortgagee the insurance benefits to which it would otherwise be entitled if such conveyance had been made to the mortgagee and from the mortgagee to the Secretary.

(C) CLAIM WITHOUT CONVEYANCE OF TITLE.—The Secretary may pay insurance benefits upon sale of the mortgaged property at foreclosure where such sale is for at least the fair market value of the property (with appropriate adjustments), as determined by the Secretary, and upon assignment to the Secretary of all claims referred to in clause (ii) of subparagraph (B).

(D) PREFORECLOSURE SALE.—The Secretary may pay insurance benefits upon the sale of the mortgaged property by the mortgagor after default and the assignment to the Secretary of all claims referred to in clause (ii) of subparagraph (B), if—

(i) the sale of the mortgaged property has been approved by the Secretary;

(ii) the mortgagee receives an amount at least equal to the fair market value of the property (with appropriate adjustments), as determined by the Secretary; and

(iii) the mortgagor has received an appropriate disclosure, as determined by the Secretary.

(2) PAYMENT FOR LOSS MITIGATION.—The Secretary may pay insurance benefits to the mortgagee to recompense the mortgagee for all or part of any costs of the mortgagee for taking loss mitigation actions that provide an alternative to foreclosure of a mortgage that is in default or faces imminent default, as defined by the Secretary (including but not limited to actions such as special forbearance, loan modification, support for borrower housing counseling, partial claims, borrower incentives, preforeclosure sale, and deeds in lieu of foreclosure, but not including assignment of mortgages to the Secretary under section subsection[507] (a)(1)(A) or section 230(c)). No actions taken under this paragraph, nor any failure to act under this paragraph, by the Secretary or by a mortgagee shall be subject to judicial review.

(3) DETERMINATION OF CLAIMS PROCEDURE.—The Secretary shall publish guidelines for determining which of the procedures for payment of insurance under paragraph (1) are available to a

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and (k) of section 204 of the National Housing Act, as in effect immediately before such effective date, shall continue to apply to any mortgage insured under section 203 of the National Housing Act before such effective date, except that the Secretary may, at the request of the mortgagee, pay insurance benefits as provided in subparagraphs (A) and (D) of section 204(a)(1) of such Act to calculate insurance benefits in accordance with section 204(a)(5) of such Act.".

[507] So in law. Section 203(c)(3) of Public Law 111-22 amended section 204(a)(2) by striking "204(a)(1)(A)" and inserting "subsection (a)(1)(A) or section 230(c)". Such amendment probably should have struck "section 204(a)(1)(A)".

mortgagee when it claims insurance benefits. At least one of the procedures for payment of insurance benefits specified in paragraph (1)(A) or (1)(B) shall be available to a mortgagee with respect to a mortgage, but the same procedure shall not be required to be available for all of the mortgages held by a mortgagee.

(4) SERVICING OF ASSIGNED MORTGAGES.—If a mortgage is assigned to the Secretary under paragraph (1)(A), the Secretary may permit the assigning mortgagee or its servicer to continue to service the mortgage for reasonable compensation and on terms and conditions determined by the Secretary. Neither the Secretary nor any servicer of the mortgage shall be required to forbear from collection of amounts due under the mortgage or otherwise pursue loss mitigation measures.

(5) CALCULATION OF INSURANCE BENEFITS.—Insurance benefits shall be paid in accordance with section 520 and shall be equal to the original principal obligation of the mortgage (with such additions and deductions as the Secretary determines are appropriate) which was unpaid upon the date of—

(A) assignment of the mortgage to the Secretary;

(B) the institution of foreclosure proceedings;

(C) the acquisition of the property after default other than by foreclosure; or

(D) sale of the mortgaged property by the mortgagor.

(6) FORBEARANCE AND RECASTING AFTER DEFAULT.—The mortgagee may, upon such terms and conditions as the Secretary may prescribe—

(A) extend the time for the curing of the default and the time for commencing foreclosure proceedings or for otherwise acquiring title to the mortgaged property, to such time as the mortgagee determines is necessary and desirable to enable the mortgagor to complete the mortgage payments, including an extension of time beyond the stated maturity of the mortgage, and in the event of a subsequent foreclosure or acquisition of the property by other means the Secretary may include in the amount of insurance benefits an amount equal to any unpaid mortgage interest; or

(B) provide for a modification of the terms of the mortgage for the purpose of recasting, over the remaining term of the mortgage or over such longer period pursuant to guidelines as may be prescribed by the Secretary, the total unpaid amount then due, with the modification to become effective currently or to become effective upon the termination of an agreed-upon extension of the period for curing the default; and the principal amount of the mortgage, as modified, shall be considered the "original principal obligation of the mortgage" for purposes of paragraph (5).

(7) TERMINATION OF PREMIUM OBLIGATION.—The obligation of the mortgagee to pay the premium charges for insurance shall cease upon fulfillment of the appropriate requirements under which the Secretary may pay insurance benefits, as described in paragraph (1). The Secretary may also terminate the mortgagee's obligation to pay mortgage insurance premiums upon receipt of an application filed by the mortgagee for insurance benefits under paragraph (1), or in the event the contract of insurance is terminated pursuant to section 229.

(8) EFFECT ON PAYMENT OF INSURANCE BENEFITS UNDER SECTION 230.—Nothing in this section shall limit the authority of the Secretary to pay insurance benefits under section 230.

(9) TREATMENT OF MORTGAGE ASSIGNMENT PROGRAM.—Notwithstanding any other provision of law, or the Amended Stipulation entered as a consent decree on November 8, 1979, in Ferrell v. Cuomo, No. 73 C 334 (N.D. Ill.), or any other order intended to require the Secretary to operate the program of mortgage assignment and forbearance that was operated by the Secretary pursuant to the Amended Stipulation and under the authority of section 230, prior to its amendment by section 407(b) of The Balanced Budget Downpayment Act, I (Public Law 104-99; 110 Stat. 45), no mortgage assigned under this section may be included in any mortgage foreclosure avoidance program that is the same or substantially equivalent to such a program of mortgage assignment and forbearance.

(b) The Secretary may at any time, under such terms and conditions as he may prescribe, consent to the release of the mortgagor from his liability under the mortgage or the credit instrument secured thereby, or consent to the release of parts of the mortgaged property from the lien of the mortgage.

(c) Debentures issued under this section—

(1) shall be in such form and amounts;

(2) shall be subject to such terms and conditions;

(3) shall include such provisions for redemption, if any, as may be prescribed by the Secretary of Housing and Urban Development, with the approval of the Secretary of the Treasury; and

(4) may be in book entry or certificated registered form, or such other form as the Secretary of Housing and Urban Development may prescribe in regulations.

(d) The debentures issued under this section to any mortgagee with respect to mortgages insured under section 203 shall be issued in the name of the Mutual Mortgage Insurance Fund as obligor and shall be negotiable, and, if in book entry form, transferable, in the manner described by the Secretary in regulations. All such debentures shall be dated as of the date foreclosure proceedings were instituted, or the property was otherwise acquired by the mortgagee after default: *Provided*, That debentures issued pursuant to claims for insurance filed on or after the date of enactment of the Housing Act of 1964[508] shall be dated as of the date of default or as of such later date as the Secretary, in his discretion, may establish by regulation. The debentures shall bear interest from such date at a rate established by the Secretary pursuant to section 224, payable semiannually on the 1st day of January and the 1st day of July of each year, and shall mature twenty years after the date thereof. Such debentures as are issued in exchange for property covered by mortgages insured under section 203 or section 207 prior to the date of enactment of the National Housing Act Amendments of 1938 shall be subject only to such Federal, State, and local taxes as the mortgages in exchange for which they are issued would be subject to in the hands of the holder of the debentures and shall be a liability of the Mutual Mortgage Insurance Fund, but such debentures shall be fully and unconditionally guaranteed as to principal and interest by the United States; but any mortgagee entitled to receive any such debentures may elect to receive in lieu thereof a cash adjustment and debentures issued as hereinafter provided and bearing the current rate of interest. Such debentures as are issued in exchange for property covered by mortgages insured after the date of enactment of the National Housing Act Amendments of 1938 shall be exempt, both as to principal and interest, from all taxation (except surtax, estate, inheritance, and gift taxes) now or hereafter imposed by the United States, by any Territory, dependency, or possession thereof, or by any State, county, municipality, or local taxing authority; and such debentures shall be paid out of the Mutual Mortgage Insurance Fund, which shall be primarily liable therefor, and they shall be fully and unconditionally guaranteed as to principal and interest by the United States, and, in the case of debentures issued in certificated registered form, such guaranty shall be expressed on the face of the debentures. In the event that the Mutual Mortgage Insurance Fund fails to pay upon demand, when due, the principal of or interest on any debentures issued under this section, the Secretary of the Treasury shall pay to the holders the amount thereof which is hereby authorized to be appropriated, out of any money in the Treasury not otherwise appropriated, and thereupon to the extent of the amount so paid the Secretary of the Treasury shall succeed to all the rights of the holders of such debentures.

(e)(1) Subject to paragraph (2) the certificate of claim issued by the Secretary to any mortgagee shall be for an amount which the Secretary determines to be sufficient, when added to the face value of the debentures issued and the cash adjustment paid to the mortgagee, to equal the amount which the mortgagee would have received if, at the time of the conveyance to the Secretary of the property covered by the mortgage, the mortgagor had redeemed the property and paid in full all obligations under the mortgage and a reasonable amount for necessary expenses incurred by the mortgagee in connection with the foreclosure proceedings, or the acquisition of the mortgaged property otherwise, and the conveyance thereof to the Secretary. Each such certificate of claim shall provide that there shall accrue to the holder of such certificate with respect to the face amount of such certificate an increment at the rate of 3 per centum per annum which shall not be compounded. The amount to which the holder of any such certificate shall be entitled shall be determined as provided in subsection (f).

(2) A certificate of claim shall not be issued and the provisions of paragraph (1) of this subsection shall not be applicable in the case of a mortgage accepted for insurance pursuant to a commitment issued on or after the date of enactment of the Housing Act of 1964.[509]

(f)(1) If, after deducting (in such manner and amount as the Secretary shall determine to be equitable and in accordance with sound accounting practice) the expenses incurred by the Secretary, the net amounts realized from any property conveyed to the Secretary under this section and the claims assigned therewith exceed the face value of the debentures issued and the cash paid in exchange for such property plus all interest paid on such debentures, such excess shall be divided as follows:

(i) If such excess is greater than the total amount payable under the certificate of claim issued in connection with such property, the Secretary shall pay to the holder of such certificate the full amount so payable, and any excess remaining thereafter shall be paid to the mortgagor of such property if the mortgage was insured under section 203: *Provided*, That on and after the date of enactment of the Housing Act of 1964,[510] any

[508] September 2, 1964.
[509] September 2, 1964.
[510] September 2, 1964.

excess remaining after payment to the holder of the full amount of the certificate of claim, together with the accrued interest increment thereon, shall be retained by the Secretary and credited to the applicable insurance fund; and

(ii) If such excess is equal to or less than the total amount payable under such certificate of claim, the Secretary shall pay to the holder of such certificate the full amount of such excess.

(2) Notwithstanding any other provisions of this section, the Secretary is authorized with respect to mortgages insured pursuant to commitments for insurance issued after the date of enactment of the Housing Amendments of 1955,[511] and, with the consent of the mortgagee or mortgagor, as the case may be, with respect to mortgages insured pursuant to commitments issued prior to such date, to effect the settlement of certificates of claim and refunds to mortgagors at any time after the sale or transfer of title to the property conveyed to the Secretary under this section and without awaiting the final liquidation of such property for the purpose of determining the net amount to be realized therefrom: *Provided*, That the settlement authority created by the Housing Amendments of 1955 shall be terminated with respect to any certificates of claim outstanding as of the date of enactment of the Housing Act of 1964.

(3) With the consent of the holder thereof, the Secretary is authorized, without awaiting the final liquidation of the Secretary's interest in the property, to settle any certificate of claim issued pursuant to subsection (e), with respect to which settlement had not been effected prior to the date of enactment of the Housing Act of 1964, by making payment in cash to the holder thereof of such amount not exceeding the face amount of the certificate of claim, together with the accrued interest thereon, as the Secretary may consider appropriate: *Provided*, That in any case where the certificate of claim is settled in accordance with the provisions of this paragraph, any amounts realized after the date of enactment of the Housing Act of 1964, in the liquidation of the Secretary's interest in the property, shall be retained by the Secretary and credited to the applicable insurance fund.

(g) Notwithstanding any other provision of law relating to the acquisition, handling, or disposal of real property by the United States, the Secretary shall have power to deal with, complete, rent, renovate, modernize, insure, or sell for cash or credit, in his discretion, any properties conveyed to him in exchange for debentures and certificates of claim as provided in this section; and notwithstanding any other provision of law, the Secretary shall also have power to pursue to final collection, by way of compromise or otherwise, all claims against mortgagors assigned by mortgagees to the Secretary as provided in this section: *Provided*, That section 3709 of the Revised Statutes shall not be construed to apply to any contract for hazard insurance, or to any purchase or contract for services or supplies on account of such property if the amount thereof does not exceed $1,000. The Secretary shall, by regulation, carry out a program of sales of such properties and shall develop and implement appropriate credit terms and standards to be used in carrying out the program. The power to convey and to execute in the name of the Secretary deeds of conveyance, deeds of release, assignments and satisfactions of mortgages, and any other written instrument relating to real or personal property or any interest therein heretofore or hereafter acquired by the Secretary pursuant to the provisions of this Act, may be exercised by an officer appointed by him, without the execution of any express delegation of power or power of attorney: *Provided*, That nothing in this subsection shall be construed to prevent the Secretary from delegating such power by order or by power of attorney, in his discretion, to any officer, agent, or employee he may appoint: *And provided further*, That a conveyance or transfer of title to real or personal property or an interest therein to the Secretary of Housing and Urban Development, his successors and assigns, without identifying the Secretary therein, shall be deemed a proper conveyance or transfer to the same extent and of like effect as if the Secretary were personally named in such conveyance or transfer. The Secretary may sell real and personal property acquired by the Secretary pursuant to the provisions of this Act on such terms and conditions as the Secretary may prescribe.

(h) DISPOSITION OF ASSETS IN REVITALIZATION AREAS.—[512]

(1) IN GENERAL.—The purpose of this subsection is to require the Secretary to carry out a program under which eligible assets (as such term is defined in paragraph (2)) shall be made available for sale in a manner that promotes the revitalization, through expanded homeownership opportunities, of

[511] August 11, 1955.

[512] This subsection was added by section 602 of the Departments of Veterans Affairs and Housing and Urban Development, and Independent Agencies Appropriations Act, 1999, Pub. L. 105-276, approved October 21, 1998. Section 1303 of the 2002 Supplemental Appropriations Act for Further Recovery From and Response To Terrorist Attacks on the United States, Pub. L. 107-206, approved August 2, 2002, 12 U.S.C. 1710 note, provides, in part, that "[t]he Secretary of Housing and Urban Development shall begin to enter into new agreements and contracts pursuant to the Asset Control Area Demonstration Program as provided in section 602 of Public Law 105-276 not later than September 15, 2002: Provided, That any agreement or contract entered into pursuant to such program shall be consistent with the requirements of such section 602".

revitalization areas. Notwithstanding the authority under the last sentence of subsection (g), the Secretary shall dispose of all eligible assets under the program and shall establish the program in accordance with the requirements under this subsection.

(2) ELIGIBLE ASSETS.—For purposes of this subsection, the term "eligible asset" means any of the following categories of assets of the Secretary, unless the Secretary determines at any time that the asset property is economically or otherwise infeasible to rehabilitate or that the best use of the asset property is as open space (including park land):

(A) PROPERTIES.—Any property that—

(i) is designed as a dwelling for occupancy by 1 to 4 families;

(ii) is located in a revitalization area;

(iii) was previously subject to a mortgage insured under the provisions of this Act; and

(iv) is owned by the Secretary pursuant to the payment of insurance benefits under this Act.

(B) MORTGAGES.—Any mortgage that—

(i) is an interest in a property that meets the requirements of clauses (i) and (ii) of subparagraph (A);

(ii) was previously insured under the provisions of this Act except for mortgages insured under or made pursuant to sections 235, 247, or 255; and

(iii) is held by the Secretary pursuant to the payment of insurance benefits under this Act.

For purposes of this subsection, an asset under this subparagraph shall be considered to be located in a revitalization area, or in the asset control area of a preferred purchaser, if the property described in clause (i) is located in such area.

(3) REVITALIZATION AREAS.—The Secretary shall designate areas as revitalization areas for purposes of this subsection. Before designation of an area as a revitalization area, the Secretary shall consult with affected units of general local government, States, and Indian tribes and interested nonprofit organizations. The Secretary may designate as revitalization areas only areas that meet one of the following requirements:[513]

(A) VERY-LOW INCOME AREA.—The median household income for the area is less than 60 percent of the median household income for—

(i) in the case of any area located within a metropolitan area, such metropolitan area; or

(ii) in the case of any area not located within a metropolitan area, the State in which the area is located.

(B) HIGH CONCENTRATION OF ELIGIBLE ASSETS.—A high rate of default or foreclosure for single family mortgages insured under the National Housing Act has resulted, or may result, in the area—

(i) having a disproportionately high concentration of eligible assets, in comparison with the concentration of such assets in surrounding areas; or

(ii) being detrimentally impacted by eligible assets in the vicinity of the area.

(C) LOW HOME OWNERSHIP RATE.—The rate for home ownership of single family homes in the area is substantially below the rate for homeownership in the metropolitan area.

(4) PREFERENCE FOR SALE TO PREFERRED PURCHASERS.—The Secretary shall provide a preference, among prospective purchasers of eligible assets, for sale of such assets to any purchaser who—

(A) is—

(i) the unit of general local government, State, or Indian tribe having jurisdiction with respect to the area in which are located the eligible assets to be sold; or

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[513] Section 142 of the Community Renewal Tax Relief Act of 2000 (H.R. 5662, as introduced in the 106th Congress, enacted by section 1(a)(7) of the Consolidated Appropriations Act, 2001, Pub. L. 106-554) provides as follows:

"SEC. 142. [12 U.S.C. 1710 note] TRANSFER OF HUD ASSETS IN REVITALIZATION AREAS.

"In carrying out the program under section 204(h) of the National Housing Act (12 U.S.C. 1710(h)), upon the request of the chief executive officer of a county or the government of appropriate jurisdiction and not later than 60 days after such request is made, the Secretary of Housing and Urban Development shall designate as a revitalization area all portions of such county that meet the criteria for such designation under paragraph (3) of such section.".

(ii) a nonprofit organization;

(B) in making a purchase under the program under this subsection—

(i) establishes an asset control area, which shall be an area that consists of part or all of a revitalization area; and

(ii) purchases all assets of the Secretary in the category or categories of eligible assets set forth in the sale agreement required under paragraph (7) that, at any time during the period which shall be set forth in the sale agreement—

(I) are or become eligible for purchase under this subsection; and

(II) are located in the asset control area of the purchaser; and

(C) has the capacity to carry out the purchase of the category or categories of eligible assets set forth in the sale agreement under the program under this subsection and under the provisions of this paragraph.

(5) AGREEMENTS REQUIRED FOR PURCHASE.—

(A) PREFERRED PURCHASERS.—Under the program under this subsection, the Secretary may sell an eligible asset as provided in paragraph (4) to a preferred purchaser only pursuant to a binding agreement by the preferred purchaser that the eligible asset will be used in conjunction with a home ownership plan that provides as follows:

(i) The plan has as its primary purpose the expansion of home ownership in, and the revitalization of, the asset control area, established pursuant to paragraph (4)(B)(i) by the purchaser, in which the eligible asset is located.

(ii) Under the plan, the preferred purchaser has established, and agreed to meet, specific performance goals for increasing the rate of home ownership for eligible assets in the asset control area that are under the purchaser's control. The plan shall provide that the Secretary may waive or modify such goals or deadlines only upon a determination by the Secretary that a good faith effort has been made in complying with the goals through the homeownership plan and that exceptional neighborhood conditions prevented attainment of the goal.

(iii) Under the plan, the preferred purchaser has established rehabilitation standards that meet or exceed the standards for housing quality established under subparagraph (B)(iii) by the Secretary, and has agreed that each asset property for an eligible asset purchased will be rehabilitated in accordance with such standards.

(B) NON-PREFERRED PURCHASERS.—Under the program under this subsection, the Secretary may sell an eligible asset to a purchaser who is not a preferred purchaser only pursuant to a binding agreement by the purchaser that complies with the following requirements:

(i) The purchaser has agreed to meet specific performance goals established by the Secretary for home ownership of the asset properties for the eligible assets purchased by the purchaser, except that the Secretary may, by including a provision in the sale agreement required under paragraph (7), provide for a lower rate of home ownership in sales involving exceptional circumstances.

(ii) The purchaser has agreed that each asset property for an eligible asset purchased will be rehabilitated to comply with minimum standards for housing quality established by the Secretary for purposes of the program under this subsection.

(6) DISCOUNT FOR PREFERRED PURCHASERS.—

(A) IN GENERAL.—For the purpose of providing a public purpose discount for the bulk sales of eligible assets made under the program under this subsection by preferred purchasers, each eligible asset sold through the program under this subsection to a preferred purchaser shall be sold at a price that is discounted from the value of the asset, as based on the appraised value of the asset property (as such term is defined in paragraph (8)).

(B) APPRAISALS.—The Secretary shall require that each appraisal of an eligible asset under this paragraph is based upon—

(i) the market value of the asset property in its "as is" physical condition, which shall take into consideration age and condition of major mechanical and structural systems; and

(ii) the value of the property appraised for home ownership.

(C) DISCOUNTS.—The Secretary, in the sole discretion of the Secretary, shall establish the discount under this paragraph for an eligible asset. In determining the discount, the Secretary

may consider the condition of the asset property, the extent of resources available to the preferred purchaser, the comprehensive revitalization plan undertaken by such purchaser, the financial safety and soundness of the Mutual Mortgage Insurance Fund, and any other circumstances the Secretary considers appropriate[514]

(7) SALE AGREEMENT.—The Secretary may sell an eligible asset under this subsection only pursuant to a sale agreement entered into under this paragraph with the purchaser, which shall include the following provisions:

(A) ASSETS.—The sale agreement shall identify the category or categories of eligible assets to be purchased and, based on the purchaser's capacity to manage and dispose of assets, the maximum number of assets owned by the Secretary at the time the sale agreement is executed that shall be sold to the purchaser.

(B) REVITALIZATION AREA AND ASSET CONTROL AREA.—The sale agreement shall identify—

(i) the boundaries of the specific revitalization areas (or portions thereof) in which are located the eligible assets that are covered by the agreement; and

(ii) in the case of a preferred purchaser, the asset control area established pursuant to paragraph (4)(B)(i) that is covered by the agreement.

(C) FINANCING.—The sale agreement shall identify the sources of financing for the purchase of the eligible assets.

(D) BINDING AGREEMENTS.—The sale agreement shall contain binding agreements by the purchaser sufficient to comply with—

(i) in the case of a preferred purchaser, the requirements under paragraph (5)(A), which agreements shall provide that the eligible assets purchased will be used in conjunction with a home ownership plan meeting the requirements of such paragraph, and shall set forth the terms of the homeownership plan, including—

(I) the goals of the plan for the eligible assets purchased and for the asset control area subject to the plan;

(II) the revitalization areas (or portions thereof) in which the homeownership plan is operating or will operate;

(III) the specific use or disposition of the eligible assets under the plan; and

(IV) any activities to be conducted and services to be provided under the plan; or

(ii) in the case of a purchaser who is not a preferred purchaser, the requirements under paragraph (5)(B).

(E) PURCHASE PRICE AND DISCOUNT.—The sale agreement shall establish the purchase price of the eligible assets, which in the case of a preferred purchaser shall provide for a discount in accordance with paragraph (6).

(F) HOUSING QUALITY.—The sale agreement shall provide for compliance of the eligible assets purchased with the rehabilitation standards established under paragraph (5)(A)(iii) or the minimum standards for housing quality established under paragraph (5)(B)(ii), as applicable, and shall specify such standards.

(G) PERFORMANCE GOALS AND SANCTIONS.—The sale agreement shall set forth the specific performance goals applicable to the purchaser, in accordance with paragraph (5), shall set forth any sanctions for failure to meet such goals and deadlines, and shall require the purchaser to certify compliance with such goals.

(H) PERIOD COVERED.—The sale agreement shall establish—

(i) in the case of a preferred purchaser, the time period referred to in paragraph (4)(B)(ii); and

(ii) in the case of a purchaser who is not a preferred purchaser, the time period for purchase of eligible assets that may be covered by the purchase.

(I) OTHER TERMS.—The agreement shall contain such other terms and conditions as may be necessary to require that eligible assets purchased

[514] So in law. Probably should include a period.

under the agreement are used in accordance with the program under this subsection.

(8) DEFINITIONS.—For purposes of this subsection, the following definitions shall apply:

(A) ASSET CONTROL AREA.—The term "asset control area" means the area established by a preferred purchaser pursuant to paragraph (4)(B)(i).

(B) ASSET PROPERTY.—The term "asset property" means—

(i) with respect to an eligible asset that is a property, such property; and

(ii) with respect to an eligible asset that is a mortgage, the property that is subject to the mortgage.

(C) ELIGIBLE ASSET.—The term "eligible asset" means an asset described in paragraph (2).

(D) NONPROFIT ORGANIZATION.—The term "nonprofit organization" means a private organization that—

(i) is organized under State or local laws;

(ii) has no part of its net earnings inuring to the benefit of any member, shareholder, founder, contributor, or individual; and

(iii) complies with standards of financial responsibility that the Secretary may require.

(E) PREFERRED PURCHASER.—The term "preferred purchaser" means a purchaser described in paragraph (4).

(F) UNIT OF GENERAL LOCAL GOVERNMENT.—The term "unit of general local government" means any city, town, township, county, parish, village, or other general purpose political subdivision of a State, and any agency or instrumentality thereof that is established pursuant to legislation and designated by the chief executive officer to act on behalf of the jurisdiction with regard to the provisions of this subsection.

(G) STATE.—The term "State" means any State of the United States, the District of Columbia, the Commonwealth of Puerto Rico, Guam, American Samoa, the Virgin Islands, the Northern Mariana Islands, or any agency or instrumentality thereof that is established pursuant to legislation and designated by the chief executive officer to act on behalf of the State with regard to provisions of this subjection.

(H) INDIAN TRIBE.—The term "Indian tribe" has the same meaning as in section 248(i)(I) of this Act.

(9) SECRETARY'S DISCRETION.—The Secretary shall have the authority to implement and administer the program under this subsection in such manner as the Secretary may determine. The Secretary may, in the sole discretion of the Secretary, enter into contracts to provide for the proper administration of the program with such public or nonprofit entities as the Secretary determines are qualified.

(10) REGULATIONS.—The Secretary shall issue regulations to implement the program under this subsection through rulemaking in accordance with the procedures established under section 553 of title 5, United States Code, regarding substantive rules. Such regulations shall take effect not later than the expiration of the 2-year period beginning on the date of the enactment of the Departments of Veterans Affairs and Housing and Urban Development, and Independent Agencies Appropriations Act, 1999.[515]

(i) No mortgagee or mortgagor shall have, and no certificate of claim shall be construed to give to any mortgagee or mortgagor, any right or interest in any property conveyed to the Secretary or in any claim assigned to him; nor shall the Secretary owe any duty to any mortgagee or mortgagor with respect to the handling or disposal of any such property or the collection of any such claim.

(j) In the event that any mortgagee under a mortgage insured under section 203 (other than a mortgagee receiving insurance benefits under clause (1)(A) of the second sentence of subsection (a)) forecloses on the mortgaged property but does not convey such property to the Secretary in accordance with this section, and the Secretary is given written notice thereof, or in the event that the mortgagor pays the obligation under the mortgage in full prior to the maturity thereof, and the mortgagee pays any adjusted premium charged required under the provisions of section 203(c), and the Secretary is given written notice by the mortgagee of the payment of such obligation, the obligation to pay any subsequent premium charge for insurance shall cease, and all rights of the mortgagee and the mortgagor under this section shall terminate as of the date of such notice.

[515] The date of enactment was October 21, 1998.

[(k) [Repealed.]][516]

(l)(1) Whenever the Secretary or a contract mortgagee (pursuant to its contract with the Secretary) forecloses on a Secretary-held single family mortgage in any Federal or State court or pursuant to a power of sale in a mortgage, the purchaser at the foreclosure sale shall be entitled to receive a conveyance of title to, and possession of, the property, subject to the interests senior to the interests of the Secretary or the contract mortgagee, as the case may be. Notwithstanding any State law to the contrary, there shall be no right of redemption (including in all instances any right to possession based upon any right of redemption) in the mortgagor or any other person subsequent to the foreclosure sale in connection with a Secretary-held single family mortgage. The appropriate State official or the trustee, as the case may be, shall execute and deliver a deed or other appropriate instrument conveying title to the purchaser at the foreclosure sale, consistent with applicable procedures in the jurisdiction and without regard to any such right of redemption.

(2) The following actions shall be taken in order to verify title in the purchaser at the foreclosure sale:

(A) In the case of a judicial foreclosure in any Federal or State court, there shall be included in the petition and in the judgment of foreclosure a statement that the foreclosure is in accordance with this subsection and that there is no right of redemption in the mortgagor or any other person.

(B) In the case of a foreclosure pursuant to a power of sale provision in the mortgage, the statement required in subparagraph (A) shall be included in the advertisement of the sale and either in the recitals of the deed or other appropriate instrument conveying title to the purchaser at the foreclosure sale or in an affidavit or addendum to the deed.

(3) For purposes of this subsection:

(A) The term "contract mortgagee" means a person or entity under a contract with the Secretary that provides for the assignment of a single-family mortgage from the Secretary to the person or entity for the purpose of pursuing foreclosure.

(B) the term "mortgage" means a deed of trust, mortgage, deed to secure debt, security agreement, or any other form of instrument under which any interest in property, real, personal, or mixed, or any interest in property, including leaseholds, life estates, reversionary interests, and any other estates under applicable State law, is conveyed in trust, mortgaged, encumbered, pledged, or otherwise rendered subject to a lien, for the purpose of securing the payment of money or the performance of an obligation.

(C) The term "Secretary-held single family mortgage" means a single-family mortgage held by the Secretary or by a contract mortgagee at the time of initiation of foreclosure that—

(i) was formerly insured by the Secretary under any section of this title; or

(ii) was taken by the Secretary as a purchase money mortgage in connection with the sale or other transfer of Secretary-owned property under any section of this title.

(D) The term "single-family mortgage" means a mort- gage that covers property on which is located a 1-to-4 family residence.

Sec. 205. [12 U.S.C. 1711]
CLASSIFICATION OF MORTGAGES AND INSURANCE FUND.

(a) The Secretary shall establish as of July 1, 1954, in the Mutual Mortgage Insurance Fund a General Surplus Account and a Participating Reserve Account. All of the assets of the General Reinsurance Account shall be transferred to the General Surplus Account whereupon the General Reinsurance Account shall be abolished. There shall be transferred from the various group accounts to the Participating Reserve Account as of July 1, 1954, an amount equal to the aggregate amount which would have been distributed under the provisions of section 205 in effect on June 30, 1954, if all outstanding mortgages in such group accounts had been paid in full on said date. All

[516] Section 601(c) of the Departments of Veterans Affairs and Housing and Urban Development, and Independent Agencies Appropriations Act, 1999, Public Law 105-276, approved October 21, 1998, repealed this subsection. Section 601(b) of such Act (12 U.S.C. 1710 note) provides as follows:

"(b) EFFECTIVE DATE.—The Secretary shall publish a notice in the Federal Register stating the effective date of the terms and conditions prescribed by the Secretary under section 204(a)(1) of the National Housing Act, as amended by subsection (a) of this section. Subsections (a) and (k) of section 204 of the National Housing Act, as in effect immediately before such effective date, shall continue to apply to any mortgage insured under section 203 of the National Housing Act before such effective date, except that the Secretary may, at the request of the mortgagee, pay insurance benefits as provided in subparagraphs (A) and (D) of section 204(a)(1) of such Act to calculate insurance benefits in accordance with section 204(a)(5) of such Act.".

of the remaining balances of said group accounts shall as of said date be transferred to the General Surplus Account whereupon all of said group accounts shall be abolished.

(b) The aggregate net income thereafter received or any net loss thereafter sustained by the Mutual Mortgage Insurance Fund in any semiannual period shall be credited or charged to the General Surplus Account and/or the Participating Reserve Account in such manner and amounts as the Secretary may determine to be in accord with sound actuarial and accounting practice.

(c) Upon termination of the insurance obligation of the Mutual Mortgage Insurance Fund by payment of any mortgage insured thereunder, the Secretary is authorized to distribute to the mortgagor a share of the Participating Reserve Account in such manner and amount as the Secretary shall determine to be equitable and in accordance with sound actuarial and accounting practice: *Provided*, That, in no event, shall any such distributable share exceed the aggregate scheduled annual premiums of the mortgagor to the year of termination of the insurance. The Secretary shall not distribute any share to an eligible mortgagor under this subsection beginning on the date which is 6 years after the date the Secretary first transmitted written notification of eligibility to the last known address of the mortgagor, unless the mortgagor has applied in accordance with procedures prescribed by the Secretary for payment of the share within the 6-year period. The Secretary shall transfer any amounts no longer eligible for distribution under the previous sentence from the Participating Reserve Account to the General Surplus Account.

(d) No mortgagor or mortgagee of any mortgage insured under section 203 shall have any vested right in a credit balance in any such account or be subject to any liability arising out of the mutuality of the Fund and the determination of the Secretary as to the amount to be paid by him to any mortgagor shall be final and conclusive.

(e) In determining whether there is a surplus for distribution to mortgagors under this section, the Secretary shall take into account the actuarial status of the entire Fund.

(f)(1) The Secretary shall ensure that the Mutual Mortgage Insurance Fund attains a capital ratio of not less than 1.25 percent within 24 months after the date of the enactment of this subsection[517] and maintains such ratio thereafter, subject to paragraph (2).

(2) The Secretary shall endeavor to ensure that the Mutual Mortgage Insurance Fund attains a capital ratio of not less than 2.0 percent within 10 years after the date of the enactment of this subsection2, and shall ensure that the Fund maintains at least such capital ratio at all times thereafter.

(3) Upon the expiration of the 24-month period beginning on the date of the enactment of this subsection2, the Secretary shall submit to the Congress a report describing the actions the Secretary will take to ensure that the Mutual Mortgage Insurance Fund attains the capital ratio required under paragraph (2).

(4) For purposes of this subsection:

(A) The term “capital” means the economic net worth of the Mutual Mortgage Insurance Fund, as determined by the Secretary under the annual audit required under section 538.

(B) The term “capital ratio” means the ratio of capital to unamortized insurance-in-force.

(C) The term “economic net worth” means the current cash available to the Fund, plus the net present value of all future cash inflows and outflows expected to result from the outstanding mortgages in the Fund.

(D) The term “unamortized insurance-in-force” means the remaining obligation on outstanding mortgages which are obligations of the Mutual Mortgage Insurance Fund, as estimated by the Secretary.

Sec. 206. [12 U.S.C. 1712]
INVESTMENT OF FUNDS.

Moneys in the Fund not needed for the current operations of the Department of Housing and Urban Development related to insurance under section 203 shall be deposited with the Treasurer of the United States to the credit of the Fund, or invested in bonds or other obligations of, or in bonds or other obligations guaranteed as to principal and interest by the United States or any agency of the United States: Provided, That such moneys shall to the maximum extent feasible be invested in such bonds or other obligations the proceeds of which will be used to directly support the residential mortgage market. The Secretary may, with the approval of the Secretary of the Treasury, purchase in the open market debentures issued under the provisions of section 204. Such purchases shall be made at a price which will provide an investment yield of not less than the yield obtainable from other investments authorized by this section. Debentures so purchased shall be canceled and not reissued, and the several

[517] The date of enactment was November 5, 1990.

group accounts to which such debentures have been charged shall be charged with the amounts used in making such purchases.

Sec. 206A. [12 U.S.C. 1712a]
INDEXING OF FHA MULTIFAMILY HOUSING LOAN LIMITS.

(a) METHOD OF INDEXING.—The dollar amounts set forth in—

(1) section 207(c)(3)(A) (12 U.S.C. 1713(c)(3)(A));
(2) section 213(b)(2)(A) (12 U.S.C. 1715e(b)(2)(A));
(3) section 220(d)(3)(B)(iii)(I) (12 U.S.C. 1715k(d)(3)(B)(iii)(I));
(4) section 221(d)(3)(ii)(I) (12 U.S.C. 1715l(d)(3)(ii)(I));
(5) section 221(d)(4)(ii)(I) (12 U.S.C. 1715l(d)(4)(ii)(I));
(6) section 231(c)(2)(A) (12 U.S.C. 1715v(c)(2)(A)); and
(7) section 234(e)(3)(A) (12 U.S.C. 1715y(e)(3)(A));

(collectively hereinafter referred to as the "Dollar Amounts") shall be adjusted annually (commencing in 2004) on the effective date of the Federal Reserve Board's adjustment of the $400 figure in the Home Ownership and Equity Protection Act of 1994 (HOEPA). The adjustment of the Dollar Amounts shall be calculated using the percentage change in the Consumer Price Index for All Urban Consumers (CPI-U) as applied by the Federal Reserve Board for purposes of the above-described HOEPA adjustment.

(b) NOTIFICATION.—The Federal Reserve Board on a timely basis shall notify the Secretary, or his designee, in writing of the adjustment described in subsection (a) and of the effective date of such adjustment in order to permit the Secretary to undertake publication in the Federal Register of corresponding adjustments to the Dollar Amounts. The dollar amount of any adjustment shall be rounded to the next lower dollar.

Sec. 207. [12 U.S.C. 1713]
RENTAL HOUSING INSURANCE.

(a) As used in this section—

(1) The term "mortgage" means a first mortgage on real estate in fee simple, or on the interest of either the lessor or lessee thereof (A) under a lease for not less than ninety-nine years which is renewable or (B) under a lease having a period of not less than fifty years to run from the date the mortgage was executed, upon which there is located or upon which there is to be constructed a building or buildings designed principally for residential use or upon which there is located or to be constructed facilities for manufactured homes; and the term "first mortgage" means such classes of first liens as are commonly given to secure advances (including but not being limited to advances during construction) on, or the unpaid purchase price of, real estate under the laws of the State in which the real estate is located, together with the credit instrument or instruments, if any, secured thereby, and may be in the form of trust mortgages or mortgage indentures or deeds of trust securing notes, bonds, or other credit instruments.

(2) The term "mortgagee" means the original lender under a mortgage, and its successors and assigns, and includes the holders of credit instruments issued under a trust mortgage or deed of trust pursuant to which such holders act by and through a trustee therein named.

(3) The term "mortgagor" means the original borrower under a mortgage and its successors and assigns.

(4) The term "maturity date" means the date on which the mortgage indebtedness would be extinguished if paid in accordance with the periodic payments provided for in the mortgage.

(5) The term "slum or blighted area" means any area where dwellings predominate which, by reason of dilapidation, overcrowding, faulty arrangement or design, lack of ventilation, light or sanitation facilities, or any combination of these factors, are detrimental to safety, health, or morals.

(6) The term "rental housing" means housing, the occupancy of which is permitted by the owner thereof in consideration of the payment of agreed charges, whether or not, by the terms of the agreement, such payment over a period of time will entitle the occupant to the ownership of the premises or space in a manufactured home court or park properly arranged and equipped to accommodate manufactured homes.

(7) The term "State" includes the several States, and Puerto Rico, the District of Columbia, Guam, the Trust Territory of the Pacific Islands, American Samoa, and the Virgin Islands.

(b) In addition to mortgages insured under section 203, the Secretary is authorized to insure mortgages as defined in this section (including advances on such mortgages during construction) which cover property held by—

(1) Federal or State instrumentalities, municipal corporate instrumentalities of one or more States, or limited dividend or redevelopment or housing corporations restricted by Federal or State laws or

regulations of State banking or insurance departments as to rents, charges, capital structure, rate of return, or methods of operation; or

(2) any other mortgagor approved by the Secretary. The Secretary may, in the Secretary's discretion, require any such mortgagor to be regulated or restricted as to rents or sales, charges, capital structure, rate of return, and methods of operation so as to provide reasonable rentals to tenants and a reasonable return on the investment. Any such regulations or restrictions shall continue for such period or periods as the Secretary, in the Secretary's discretion, may require, including until the termination of all obligations of the Secretary under the insurance and during such further period of time as the Secretary shall be the owner, holder, or reinsurer of the mortgage. The Secretary may make such contracts with and acquire, for not to exceed $100, such stock or interest in the mortgagor as he may deem necessary to render effective any such regulations or restrictions. The stock or interest acquired by the Secretary shall be paid for out of the General Insurance Fund, and shall be redeemed by the mortgagor at par upon the termination of all obligations of the Secretary under the insurance.

The insurance of mortgages under this section is intended to facilitate particularly the production of rental accommodations, at reasonable rents, of design and size suitable for family living. The Secretary is, therefore, authorized in the administration of this section to take action, by regulation or otherwise, which will direct the benefits of mortgage insurance hereunder primarily to those projects which make adequate provision for families with children, and in which every effort has been made to achieve moderate rental charges.

Notwithstanding any other provisions of this section, the Secretary may not insure any mortgage under this section (except a mortgage with respect to a manufactured home park designed exclusively for occupancy by elderly persons) unless the mortgagor certifies under oath that in selecting tenants for the property covered by the mortgage he will not discriminate against any family by reason of the fact that there are children in the family, and that he will not sell the property while the insurance is in effect unless the purchaser so certifies, such certification to be filed with the Secretary. Violation of any such certification shall be a misdemeanor punishable by a fine not to exceed $500.

(c) To be eligible for insurance under this section a mortgage on any property or project shall involve a principal obligation in an amount—

[(1) [Repealed.]]

(2) not to exceed 90 per centum of the estimated value of the property or project (when the proposed improvements are completed): *Provided*, That this limitation shall not apply to mortgages on housing in Alaska, or in Guam, but such a mortgage may involve a principal obligation in an amount not to exceed 90 per centum of the amount which the Secretary estimates will be the replacement cost of the property or project when the proposed improvements are completed (the value of the property or project as such term is used in this paragraph may include the land, the proposed physical improvements, utilities within the boundaries of the property or project, architect's fees, taxes, and interest accruing during construction, and other miscellaneous charges incident to construction and approved by the Secretary). *And provided further*, That nothing contained in this section shall preclude the insurance of mortgages covering existing construction located in slum or blighted areas, as defined in paragraph numbered (5) of subsection (a) of this section, and the Secretary may require such repair or rehabilitation work to be completed as is, in his discretion, necessary to remove conditions detrimental to safety, health, or morals; and

(3)(A) not to exceed, for such part of the property or projects as may be attributable to dwelling use (excluding exterior and land improvements as defined by the Secretary), $38,025 per family unit without bedroom, $42,120 per family unit with one bedroom, $50,310 per family unit with two bedrooms, $62,010 per family unit with three bedrooms, and $70,200 per family unit with four or more bedrooms, or not to exceed $17,460 per space; except that as to projects to consist of elevator-type structures the Secretary may, in his discretion, increase the dollar amount limitations per family unit to not to exceed $43,875 per family unit without a bedroom, $49,140 per family unit with one bedroom, $60,255 per family unit with two bedrooms, $75,465 per family unit with three bedrooms, and $85,328 per family unit with four or more bedrooms, as the case may be, to compensate for the higher costs incident to the construction of elevator type structures of sound standards of construction and design; and except that the Secretary may, by regulation, increase any of the foregoing dollar amount limitations contained in this paragraph[518]

[518] Section 5(b)(1)(B) of the FHA Downpayment Simplification Act of 2002, Pub L. 107-326, 116 Stat. 2794, approved December 24, 2002, amends this paragraph as follows:
"(B) by striking 'and accept that the Secretary' through and including 'in this paragraph' and inserting in lieu thereof:
"(B) the Secretary may, by regulation, increase any of the dollar amount limitations in subparagraph (A) (as such limitations may have been adjusted in accordance with section 206A of this Act)".

by not to exceed 170 percent in any geographical area where the Secretary finds that cost levels so require and by not to exceed 170 percent, or 215 percent in high cost areas, where the Secretary determines it necessary on a project-by-project basis, but in no case may any such increase exceed 90 percent where the Secretary determines that a mortgage purchased or to be purchased by the Government National Mortgage Association in implementing its special assistance functions under section 305 of this Act (as such section existed immediately before November 30, 1983) is involved.

The mortgage shall provide for complete amortization by periodic payments (unless otherwise approved by the Secretary)[519] within such term as the Secretary shall prescribe, and shall bear interest at such rate as may be agreed upon by the mortgagor and the mortgagee. The Secretary may consent to the release of a part or parts of the mortgaged property from the lien of the mortgage upon such terms and conditions as he may prescribe and the mortgage may provide for such release. No mortgage shall be accepted for insurance under this section or section 210 unless the Secretary finds that the property or project, with respect to which the mortgage is executed, is economically sound. Such property or project may include five or more family units and may include such commercial and community facilities as the Secretary deems adequate to serve the occupants.

Notwithstanding any other provision of this paragraph, the amount which may be insured under this section may be increased by up to 20 percent if such increase is necessary to account for the increased cost of the project due to the installation therein of a solar energy system (as defined in subparagraph (3) of the last paragraph of section 2(a) of this Act) or residential energy conservation measures (as defined in section 210(11)(A) through (G) and (I) of Public Law 95-619) in cases where the Secretary determines that such measures are in addition to those required under the minimum property standards and will be cost-effective over the life of the measure.

(d) The Secretary shall collect a premium charge for the insurance of mortgages under this section which shall be payable annually in advance by the mortgagee, either in cash or in debentures issued by the Secretary under any title and section of this Act, except debentures of the Mutual Mortgage Insurance Fund, or of the Cooperative Management Housing Insurance Fund, at par plus accrued interest. In addition to the premium charge herein provided for, the Secretary is authorized to charge and collect such amounts as he may deem reasonable for the appraisal of a property or project offered for insurance and for the inspection of such property or project during construction: *Provided*, That such charges for appraisal and inspection shall not aggregate more than 1 per centum of the original principal face amount of the mortgage.

(e) In the event that the principal obligation of any mortgage accepted for insurance under this section is paid in full prior to the maturity date, the Secretary is authorized in his discretion to require the payment by the mortgagee of an adjusted premium charge in such amount as the Secretary determines to be equitable, but not in excess of the aggregate amount of the premium charges that the mortgagee would otherwise have been required to pay if the mortgage had continued to be insured until such maturity date.

[(f) [Repealed.]]

(g) The failure of the mortgagor to make any payment due under or provided to be paid by the terms of a mortgage insured under this section shall be considered a default under such mortgage and, if such default continues for a period of thirty days, the mortgagee shall be entitled to receive the benefits of the insurance as hereinafter provided, upon assignment, transfer, and delivery to the Secretary, within a period and in accordance with rules and regulations to be prescribed by the Secretary of (1) all rights and interests arising under the mortgage so in default; (2) all claims of the mortgagee against the mortgagor or others, arising out of the mortgage transactions; (3) all policies of title or other insurance or surety bonds or other guaranties and any and all claims thereunder; (4) any balance of the mortgage loan not advanced to the mortgagor; (5) any cash or property held by the mortgagee, or to which it is entitled, as deposits made for the account of the mortgagor and which have not been applied in reduction of the principal of the mortgage indebtedness; and (6) all records, documents, books, papers, and accounts relating to the mortgage transaction. Upon such assignment, transfer, and delivery the obligation of the mortgagee to pay the premium charges for mortgage insurance shall cease, and the Secretary shall issue to the mortgagee a certificate of claim as provided in subsection (h), and debentures having a par value equal to the original principal face amount of the mortgage plus such amount as the mortgagee may have paid for (A) taxes, special assessments, and water rates, which are liens prior to the mortgage; (B) insurance on the property; and (C) reasonable expenses for the completion and preservation of the property and any mortgage insurance premiums paid after default, less the sum of (i) that

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The amendment could not be executed.

[519] Section 446 of the Housing and Urban-Rural Recovery Act of 1983, Pub. L. 98-181, approved November 30, 1983, added this parenthetical in sections 207(c)(3), 220(d)(4), 221(d)(6), and 231(c)(5) of the National Housing Act. Subsection (f) of such section (12 U.S.C. 1713 note) further provides as follows:

"(f) The aggregate number of dwelling units included in properties covered by mortgages insured pursuant to the authority granted in the amendments made by this section in any fiscal year may not exceed 10,000.".

part of the amount of the principal obligation that has been repaid by the mortgagor, (ii) an amount equivalent to 1 per centum of the unpaid amount of such principal obligation, and (iii) any net income received by the mortgagee from the property: *Provided*, That the mortgagee in the event of a default under the mortgage may, at its option and in accordance with regulations of, and in a period to be determined by, the Secretary, proceed to foreclose on and obtain possession of or otherwise acquire such property from the mortgagor after default, and receive the benefits of the insurance as herein provided, upon (1) the prompt conveyance to the Secretary of title to the property which meets the requirements of the rules and regulations of the Secretary in force at the time the mortgage was insured and which is evidenced in the manner prescribed by such rules and regulations, and (2) the assignment to him of all claims of the mortgagee against the mortgagor or others, arising out of the mortgage transaction or foreclosure proceedings, except such claims that may have been released with the consent of the Secretary. Upon such conveyance and assignment, the obligation of the mortgagee to pay the premium charges for insurance shall cease and the mortgagee shall be entitled to receive the benefits of the insurance as provided in this subsection, except that in such event the 1 per centum deduction, set out in (ii) hereof, shall not apply. Notwithstanding any other provision of this Act, upon receipt, after the date of enactment of the Housing Act of 1964,[520] of an application for insurance benefits on a mortgage insured under this Act, the Secretary may terminate the mortgagee's obligation to pay premium charges on the mortgage.

(h) The certificate of claim issued under this section shall be for an amount which the Secretary determines to be sufficient, when added to the face value of the debentures issued and the cash adjustment paid to the mortgagee, to equal the amount which the mortgagee would have received if, on the date of the assignment, transfer and delivery to the Secretary provided for in subsection (g), the mortgagor had extinguished the mortgage indebtedness by payment in full of all obligations under the mortgage and a reasonable amount for necessary expenses incurred by the mortgagee in connection with the foreclosure proceedings, or the acquisition of the mortgaged property otherwise, and the conveyance thereof to the Secretary. Each such certificate of claim shall provide that there shall accrue to the holder of such certificate with respect to the face amount of such certificate, an increment at the rate of 3 per centum per annum which shall not be compounded. If the net amount realized from the mortgage, and all claims in connection therewith, so assigned, transferred, and delivered, and from the property covered by such mortgage and all claims in connection with such property after deducting all expenses incurred by the Secretary in handling, dealing with, acquiring title to, and disposing of such mortgage and property and in collecting such claims, exceeds the face value of the debentures issued and the cash adjustment paid to the mortgagee plus all interest paid on such debentures, such excess shall be divided as follows:

(1) If such excess is greater than the total amount payable under the certificate of claim issued in connection with such property, the Secretary shall pay to the holder of such certificate the full amount so payable, and any excess remaining thereafter shall be retained by the Secretary and credited to the General Insurance Fund; and

(2) If such excess is equal to or less than the total amount payable under such certificate of claim, the Secretary shall pay to the holder of such certificate the full amount of such excess.

(i) Debentures issued under this section shall be executed in the name of the General Insurance Fund as obligor, shall be negotiable, and, if in book entry form, transferable, in the manner described by the Secretary in regulations, and shall be dated as of the date of default as determined in subsection (g) of this section, except that debentures issued pursuant to the provisions of section 220(f), section 221(g), and section 233 may be dated as of the date the mortgage is assigned (or the property is conveyed) to the Secretary and shall bear interest from such date. They shall bear interest at a rate established by the Secretary pursuant to section 224, payable semiannually on the 1st day of January and the 1st day of July of each year, and shall mature twenty years after the date thereof. Such debentures as are issued in exchange for mortgages insured after the date of enactment of the National Housing Act Amendments of 1938 shall be exempt, both as to principal and interest, from all taxation (except surtaxes, estate, inheritance, and gift taxes) now or hereafter imposed by the United States, by any Territory, dependency, or possession thereof, or by any State, county, municipality, or local taxing authority. They shall be paid out of the General Insurance Fund which shall be primarily liable therefor and they shall be fully and unconditionally guaranteed as to principal and interest by the United States, and, in the case of debentures issued in certificated registered form, such guaranty shall be expressed on the face of the debentures. In the event the General Insurance Fund fails to pay upon demand, when due, the principal of or interest on any debentures so guaranteed, the Secretary of the Treasury shall pay to the holders the amount thereof which is hereby authorized to be appropriated, out of any money in the Treasury not otherwise appropriated, and thereupon, to the extent of the amount so paid, the Secretary of the Treasury shall succeed to all the rights of the holders of such debentures.

[520] September 2, 1964.

(j) Debentures issued under this section—

(1) shall be in such form and amounts;

(2) shall be subject to such terms and conditions;

(3) shall include such provisions for redemption, if any, as may be prescribed by the Secretary of Housing and Urban Development, with the approval of the Secretary of the Treasury; and

(4) may be in book entry or certificated registered form, or such other form as the Secretary of Housing and Urban Development may prescribe in regulations.

(k) The Secretary is hereby authorized either to (1) acquire possession of and title to any property, covered by a mortgage insured under this section and assigned to him, by voluntary conveyance in extinguishment of the mortgage indebtedness, or (2) institute proceedings for foreclosure on the property covered by any such insured mortgage and prosecute such proceedings to conclusion. The Secretary at any sale under foreclosure may, in his discretion, for the protection of the General Insurance Fund, bid any sum up to but not in excess of the total unpaid indebtedness secured by the mortgage, plus taxes, insurance, foreclosure costs, fees, and other expenses and may become the purchaser of the property at such sale. In determining the amount to be bid, the Secretary shall act consistently with the goal established in section 203(a)(1) of the Housing and Community Development Amendments of 1978. The Secretary is authorized to pay from the General Insurance Fund such sums as may be necessary to defray such taxes, insurance, costs, fees, and other expenses in connection with the acquisition or foreclosure of property under this section. Pending such acquisition by voluntary conveyance or by foreclosure, the Secretary is authorized, with respect to any mortgage assigned to him under the provisions of subsection (g), to exercise all the rights of a mortgagee under such mortgage, including the right to sell such mortgage, and to take such action and advance such sums as may be necessary to preserve or protect the lien of such mortgage.

(l) Notwithstanding any other provisions of law relating to the acquisition, handling, or disposal of real and other property by the United States, the Secretary shall also have power, for the protection of the interests of the General Insurance Fund, to pay out of the General Insurance Fund all expenses or charges in connection with, and to deal with, complete, reconstruct, rent, renovate, modernize, insure, make contracts for the management of, or establish suitable agencies for the management of, or sell for cash or credit or lease in his discretion, any property acquired by him under this section; and notwithstanding any other provision of law, the Secretary shall also have power to pursue to final collection by way of compromise or otherwise all claims assigned and transferred to him in connection with the assignment, transfer, and delivery provided for in this section, and at any time, upon default, to foreclose on any property secured by any mortgage assigned and transferred to or held by him: *Provided*, That section 3709 of the Revised Statutes shall not be construed to apply to any contract for hazard insurance, or to any purchase or contract for services or supplies on account of such property if the amount thereof does not exceed $1,000.

[(m) [Repealed.]]

(n) In the event that a mortgage insured under this section becomes in default through failure of the mortgagor to make any payment due under or provided to be paid by the terms of the mortgage and such mortgage continues in default for a period of thirty days, but the mortgagee does not foreclose on or otherwise acquire the property, or does not assign and transfer such mortgage and the credit instrument secured thereby to the Secretary, in accordance with subsection (g), and the Secretary is given written notice thereof, or in the event that a mortgagor pays the obligation under the mortgage in full prior to the maturity thereof, and the mortgagee pays any adjusted premium charge required under the provisions of subsection (e), and the Secretary is given written notice by the mortgagee of the payment of such obligation, the obligation to pay the annual premium charge for insurance shall cease, and all rights of the mortgagee and the mortgagor under this section shall terminate as of the date of such notice.

(o) The Secretary, with the consent of the mortgagee and the mortgagor of a mortgage insured under this section prior to the date of enactment of the National Housing Act Amendments of 1938, shall be empowered to reissue such mortgage insurance in accordance with the provisions of this section as amended by such Act, and any such insurance not so reissued shall not be affected by the enactment of such Act.

[(p) [Repealed.]]

[(q) [Repealed.]]

(r) Notwithstanding any other provisions of this Act, the Secretary is authorized to include in any mortgage insured under any title of this Act after the effective date of the Housing Act of 1959[521] a provision requiring the mortgagor to pay a service charge to the Secretary in the event such mortgage is assigned to and held by the

[521] September 23, 1959.

Secretary. Such service charge shall not exceed the amount prescribed by the Secretary for mortgage insurance premiums applicable to such mortgage.

Sec. 208. [12 U.S.C. 1714]
TAXATION PROVISIONS.

Nothing in this title shall be construed to exempt any real property acquired and held by the Secretary under this title from taxation by any State or political subdivision thereof, to the same extent, according to its value, as other real property is taxed.

statistical and economic surveys

Sec. 209. [12 U.S.C. 1715]
STATISTICAL AND ECONOMIC SURVEYS

The Secretary shall cause to be made in connection with the insurance programs such statistical surveys and legal and economic studies as he shall deem useful to guide the development of housing and the creation of a sound mortgage market in the United States, and shall publish from time to time the results of such surveys and studies. Expenses of such studies and surveys, and expenses of publication and distribution of the results of such studies and surveys, shall be charged as a general expense of such insurance fund or funds, as the Secretary shall determine.

[Sec. 210. [Repealed.]]

Sec. 211. [12 U.S.C. 1715b]
RULES AND REGULATIONS.

The Secretary is authorized and directed to make such rules and regulations as may be necessary to carry out the provisions of this title.

labor standards

Sec. 212. [12 U.S.C. 1715c]
LABOR STANDARDS.

(a) The Secretary shall not insure under section 207 or section 210 of this title, or under section 608 of title VI, pursuant to any application for insurance filed subsequent to the effective date of this section, or under section 213 of this title, or under title VII pursuant to any application filed subsequent to sixty days after the date of enactment of the Housing Act of 1950, or under section 803 or 810 of title VIII, or under section 908 of title IX, a mortgage or investment which covers property on which there is or is to be located a dwelling or dwellings, or a housing project, the construction of which was or is to be commenced subsequent to such date, unless the principal contractor files a certificate or certificates (at such times, in course of construction or otherwise, as the Secretary may prescribe) certifying that the laborers and mechanics employed in the construction of the dwelling or dwellings or the housing project involved have been paid not less than the wages prevailing in the locality in which the work was performed for the corresponding classes of laborers and mechanics employed on construction of a similar character, as determined by the Secretary of Labor in accordance with the Davis-Bacon Act, as amended (40 U.S.C. 276a—276a-5), prior to the beginning of construction and after the date of the filing of the application for insurance. The provisions of this section shall also apply to the insurance of any loan or mortgage under section 220 or section 233 which covers property on which there is located a dwelling or dwellings designed principally for residential use for twelve or more families. The provisions of this section shall apply to the insurance under section 221 of any mortgage described in subsection (d)(3) or (d)(4) and (deeming the term "construction" as used in the first sentence of this section to mean rehabilitation) of any mortgage described in subsection (h)(1) or section 235(j)(1) which covers property on which there is located a dwelling or dwellings designed principally for residential use for more than eight families; except that compliance with such provisions may be waived by the Secretary—

(1) with respect to mortgages described in such subsection (d)(3) or (d)(4) in cases or classes of cases where laborers or mechanics (not otherwise employed at any time in the construction of the project) voluntarily donate their services without compensation for the purpose of lowering their housing costs in a cooperative housing project and the Secretary determines that any amounts saved thereby are fully credited to the cooperative undertaking the construction, and

(2) with respect to mortgages described in such subsection (h)(1) or section 235(j)(1), in cases or classes of cases where prospective owners of such dwellings voluntarily donate their services without compensation, or other persons (not otherwise employed at any time in the rehabilitation of the property)

voluntarily donate their services without compensation, and the Secretary determines that any amounts saved thereby are fully credited to the nonprofit organization undertaking the rehabilitation.

The provisions of this section shall also apply to the insurance of any mortgage under section 231, 232, or 236 except that compliance with such provisions may be waived by the Secretary in cases or classes of cases where laborers or mechanics, not otherwise employed at any time on the project, voluntarily donate their services without full compensation for the purpose of lowering the costs of construction and the Secretary determines that any amounts thereby saved are fully credited to the nonprofit corporation, association or other organization undertaking the construction. The provisions of this section shall also apply to the insurance of any mortgage under section 234(d). The provisions of this section shall also apply to the insurance of any mortgage under section 242, except that compliance with such provisions may be waived by the Secretary in cases or classes of cases where laborers or mechanics, not otherwise employed at any time on the project, voluntarily donate their services without compensation for the purpose of lowering the costs of construction and the Secretary determines that any amounts thereby saved are fully credited to the nonprofit corporation, association, or other organization undertaking the construction; and each laborer or mechanic employed on any facility covered by a mortgage insured under section 242 shall receive compensation at a rate not less than one and one-half times his basic rate of pay for all hours worked in any workweek in excess of eight hours in any workday or forty hours in the workweek, as the case may be. The provisions of this section shall also apply to the insurance of any mortgage under title XI; and each laborer or mechanic employed on any facility covered by a mortgage insured under such title shall receive compensation at a rate not less than one and one-half times his basic rate of pay for all hours worked in any workweek in excess of eight hours in any workday or forty hours in the workweek, as the case may be.

(b) The Secretary is authorized to make such rules and regulations as may be necessary to carry out the provisions of this section.

(c) There is hereby authorized to be appropriated for the remainder of the fiscal year ending June 30, 1939, and for each fiscal year thereafter, a sum sufficient to meet all necessary expenses of the Department of Labor in making the determinations provided for in subsection (a).

Sec. 213. [12 U.S.C. 1715e]
COOPERATIVE HOUSING INSURANCE.

(a) In addition to mortgages insured under section 207 of this title, the Secretary is authorized to insure mortgages as defined in section 207(a) of this title (including advances on such mortgages during construction), which cover property held by—

(1) a nonprofit cooperative ownership housing corporation or nonprofit cooperative ownership housing trust, the permanent occupancy of the dwelling of which is restricted to members of such corporation or to beneficiaries of such trust;

(2) a nonprofit corporation or nonprofit trust organized for the purpose of construction of homes for members of the corporation or for beneficiaries of the trust; or

(3) a mortgagor, approved by the Secretary, which (A) has certified to the Secretary, as a condition of obtaining the insurance of a mortgage under this section, that upon completion of the property or project covered by such mortgage it intends to sell such property or project to a nonprofit corporation or nonprofit trust of the character described in paragraph (1) of this subsection at the actual cost of such property or project as certified pursuant to section 227 of this Act and will faithfully and diligently make and carry out all reasonable efforts to consummate such sale, and (B) shall be regulated or restricted by the Secretary as to rents, charges, capital structure, rate of return, and methods of operation during any period while it holds the mortgaged property or project; and for such purpose the Secretary may make such contracts with, and acquire for not to exceed $100 such stock or interest in, any such mortgagor as the Secretary may deem necessary to render effective such restriction or regulation, such stock or interest to be paid for out of the Cooperative Management Housing Insurance Fund and to be redeemed by such mortgagor at par upon the sale of such property or project to such nonproft corporation or nonprofit trust;

which corporations or trusts referred to in paragraphs (1) and (2) of this subsection are regulated or restricted for the purposes and in the manner provided in paragraphs numbered (1) and (2) of subsection (b) of section 207 of this title: Provided, That as applied to mortgages the mortgage insurance for which is the obligation of the Management Fund, the reference to the General Insurance Fund in section 207(b)(2) shall be construed to refer to the Management Fund. Nothing in this section may be construed to prevent membership in a nonprofit housing cooperative from being held in the name of a trust, the beneficiary of which shall occupy the dwelling unit in accordance with rules and regulations prescribed by the Secretary.

(b) To be eligible for insurance under this section a mortgage on any property or project of a corporation or trust of the character described in paragraph numbered (1) of subsection (a) of this section shall involve a principal obligation in an amount—

[(1) [Repealed.]]

(2)(A) not to exceed, for such part of the property or project as may be attributable to dwelling use (excluding exterior land improvements as defined by the Secretary), $41,207 per family unit without a bedroom, $47,511 per family unit with one bedroom, $57,300 per family unit with two bedrooms, $73,343 per family unit with three bedrooms, and $81,708 per family unit with four or more bedrooms, and not to exceed 98 per centum of the amount which the Secretary estimates will be the replacement cost of the property or project when the proposed physical improvements are completed: Provided, That as to projects to consist of elevator-type structures the Secretary may, in his discretion, increase the dollar amount limitations per family unit to not to exceed $43,875 per family unit without a bedroom, $49,710 per family unit with one bedroom, $60,446 per family unit with two bedrooms, $78,197 per family unit with three bedrooms, and $85,836 per family unit with four or more bedrooms, as the case may be, to compensate for the higher cost incident to the construction of elevator-type structures of sound standards of construction and design; (B)(i) the Secretary may, by regulation, increase any of the dollar amount limitations in subparagraph (A) (as such limitations may have been adjusted in accordance with section 206A of this Act) by not to exceed 170 percent in any geographical area where the Secretary finds that cost levels so require and by not to exceed 170 percent, or 215 percent in high cost areas, where the Secretary determines it necessary on a project-by-project basis, but in no case may any such increase exceed 90 percent where the Secretary determines that a mortgage purchased or to be purchased by the Government National Mortgage Association in implementing its special assistance functions under section 305 of this Act (as such section existed immediately before November 30, 1983) is involved; and (ii) in the case of a mortgagor of the character described in paragraph (3) of subsection (a) the mortgage shall involve a principal obligation in an amount not to exceed 90 per centum of the amount which the Secretary estimates will be the replacement cost of the property or project when the proposed physical improvements are completed; and (iii) upon the sale of a property or project by a mortgagor of the character described in paragraph (3) of subsection (a) to a nonprofit cooperative ownership housing corporation or trust within two years after the completion of such property or project the mortgage given to finance such sale shall involve a principal obligation in an amount not to exceed the maximum amount computed in accordance with this subparagraph (B)(i)..[522]

(c) To be eligible for insurance under this section a mortgage on any property or project of a corporation or trust of the character described in paragraph numbered (2) of subsection (a) of this section shall involve a principal obligation in an amount not to exceed a sum computed on the basis of a separate mortgage for each single-family dwelling (irrespective of whether such dwelling has a party wall or is otherwise physically connected with another dwelling or dwellings) comprising the property or project, equal to the total of each of the maximum principal obligations of such mortgages which would meet the requirements of section 203(b)(2) if the mortgagor were the owner and occupant who had made any required payment on account of the property prescribed in such paragraph.

(d) Any mortgage insured under this section shall provide for complete amortization by periodic payments within such term as the Secretary may prescribe but not to exceed 40 years from the beginning of amortization of the mortgage, and shall bear interest at such rate as may be agreed upon by the mortgagor and the mortgagee. The Secretary may consent to the release of a part or parts of the mortgaged property from the lien of the mortgage upon such terms and conditions as he may prescribe and the mortgage may provide for such release, and a mortgage on any project of a corporation or trust of the character described in paragraph numbered (2) of subsection (a) of this section may provide that, at any time after the completion of the construction of the project, such mortgage may be replaced, in whole or in part, by individual mortgages covering each individual dwelling in the project in amounts not to exceed the unpaid balance of the blanket mortgage allocable to the individual property. Each such individual mortgage may be insured under this section. Property covered by a mortgage, insured under this section, on a property or project of a corporation or trust of the character described in paragraph numbered (1) of subsection (a) of this section may include five or more family units and may include such commerical and community facilities as the Secretary deems adequate to serve the occupants. Property held by a corporation or trust of the character described in paragraph numbered (2) of subsection (a) of this section which is covered by a mortgage insured under this section may include such community facilities, and property held by a mortgagor of the character described in

[522] Punctuation so in law.

paragraph numbered (3) of subsection (a) of this section which is covered by a mortgage insured under this section may include such commercial and community facilities, as the Secretary deems adequate to serve the occupants.

(e) The provisions of subsections (d), (e), (g), (h), (i), (j), (k), (l), (m), and (n) of section 207 of this title shall be applicable to mortgages insured under this section except individual mortgages insured pursuant to subsection (d) of this section covering the individual dwellings in the project, and as to such individual mortgages the provisions of subsections (a), (c), (d), (e), (f), (g), (h), (j), and (k) of section 204 shall be applicable: Provided, That as applied to mortgages or loans the insurance for which is the obligation of the Management Fund (1) all references to the General Insurance Fund shall be construed to refer to the Management Fund, and (2) all references to section 207 shall be construed to refer to subsections (a)(1), (a)(3) (if the project involved is acquired by a cooperative corporation), (i) and (j) of this section.

(f) The Secretary is authorized, with respect to mortgages insured or to be insured under this section, to furnish technical advice and assistance in the organization of corporations or trusts of the character described in subsection (a) of this section and in the planning, development, construction, and operation of their housing projects.

(g) Nothing in this Act shall be construed to prevent the insurance of a mortgage under this section covering a housing project designed for occupancy by single persons, and dwelling units in such a project shall constitute family units within the meaning of this section.

(h) In the event that a mortgagor of the character described in paragraph (3) of subsection (a) obtains an insured mortgage loan pursuant to this section and fails to sell the property or project covered by such mortgage to a nonprofit housing corporation or nonprofit housing trust of the character described in paragraph (1) of subsection (a) hereof, the Secretary is authorized to refuse, for such a period of time as he shall deem appropriate under the circumstances, to insure under this section any additional investor-sponsored type mortgage loans made to such mortgagor or to any other investor-sponsored mortgagor where, in the determination of the Secretary, any of its stockholders were identified with such mortgagor.

(i) Nothing in this Act shall be construed to prevent the insurance of a mortgage executed by a mortgagor of the character described in paragraph (1) of subsection (a) of this section covering property upon which dwelling units and related facilities have been constructed prior to the filing of the application for mortgage insurance hereunder: Provided, That the Secretary determines that the consumer interest is protected and that the mortgagor will be a consumer cooperative. In the case of properties other than new construction, the limitations in this section upon the amount of the mortgage shall be based upon the appraised value of the property for continued use as a cooperative rather than upon the Secretary's estimate of the replacement cost. As to any project on which construction was commenced after the effective date of this subsection, the mortgage on such project shall be eligible for insurance under this section only in those cases where the construction was subject to inspection by the Secretary and where there was compliance with the provisions of section 212 of this title. As to any project on which construction was commenced prior to the effective date of this subsection, such inspection, and compliance with the provisions of section 212 of this title, shall not be a prerequisite.

(j)(1) With respect to any property covered by a mortgage insured under this section (or any cooperative housing project covered by a mortgage insured under section 207 as in effect prior to the enactment of the Housing Act of 1950), the Secretary is authorized upon such terms and conditions as he may prescribe, to make commitments to insure and to insure supplementary cooperative loans (including advances during construction or improvement) made by financial institutions approved by the Secretary. The Secretary is further authorized to make commitments to insure and to insure supplementary cooperative loans (including advances during construction or improvement) with respect to any property purchased from the Federal Government by a nonprofit corporation or trust of the character described in paragraph (1) of subsection (a), if the property is covered by an uninsured mortgage representing a part of the purchase price. As used in this subsection "supplementary cooperative loan" means a loan, advance of credit, or purchase of an obligation representing a loan or advance of credit made for the purpose of financing any of the following:

(A) Improvements or repairs of the property covered by such mortgage;[523]

(B) Community facilities necessary to serve the occupants of the property; or[524]

(C) Cooperative purchases and resales of memberships in order to provide necessary refinancing for resales of memberships which involve increases in equity; but in such resales by the cooperative the downpayments by the new members shall not be less than those made on the original sales of such memberships.

(2) To be eligible for insurance under this subsection, a supplementary cooperative loan shall—

[523] So in law.
[524] So in law.

(A) be limited to an amount which, when added to the outstanding mortgage indebtedness on the property, creates a total outstanding indebtedness which does not exceed the original principal obligation of the mortgage; except that, in the case of improvements or additional community facilities, the outstanding indebtedness may be increased by an amount equal to 97 per centum of the amount which the Secretary estimates will be the value of such improvements or facilities, and the new outstanding indebtedness may exceed the original principal obligation of the mortgage if such new outstanding indebtedness does not exceed the limitations imposed by subsection (b);

(B) have a maturity satisfactory to the Secretary but not to exceed the remaining term of the mortgage; except that, in the case of repairs or improvements to a property covered by an uninsured mortgage dated more than twenty years prior to the date of the commitment to insure, of such magnitude that the Secretary deems them to be a major rehabilitation or modernization of such property, the loan may have a maturity date up to ten years in excess of the remaining term of the uninsured mortgage;

(C) be secured in such manner as the Secretary may require;

(D) contain such other terms, conditions, and restrictions as the Secretary may prescribe; and

(E) represent the obligation of a borrower of the character described in paragraph (1) of subsection (a).

(k) There is hereby created a Cooperative Management Housing Insurance Fund (hereinafter referred to as the "Management Fund"). The Management Fund shall be used by the Secretary as a revolving fund for carrying out the provisions of this section with respect to mortgages or loans insured, on or after the date of the enactment of this subsection, under subsections (a)(1), (a)(3) (if the project is acquired by a cooperative corporation, (i) and (j). The Management Fund shall also be used as a revolving fund for mortgages, loans, and commitments transferred to it pursuant to subsection (m). The Secretary is directed to transfer to the Management Fund from the General Insurance Fund an amount equal to the total of the premium payments theretofore made with respect to the insurance of mortgages and loans transferred to the Management Fund pursuant to subsection (m) minus the total of any administrative expenses theretofore incurred in connection with such mortgages and loans, plus such other amounts as the Secretary determines to be necessary and appropriate. General expenses of operation of the Department of Housing and Urban Development relating to mortgages or loans which are the obligation of the Management Fund may be charged to the Management Fund.

(l) The Secretary shall establish in the Management Fund, as of the date of the enactment of this subsection, a General Surplus Account and a Participating Reserve Account. The aggregate net income thereafter received or any net loss thereafter sustained by the Management Fund, in any semiannual period, shall be credited or charged to the General Surplus Account or the Participating Reserve Account or both in such manner and amounts as the Secretary may determine to be in accord with sound actuarial and accounting practice. Upon termination of the insurance obligation of the Management Fund by payment of any mortgage or loan insured under this section, and at such time or times prior to such termination as the Secretary may determine, the Secretary is authorized to distribute to the mortgagor or borrower a share of the Participating Reserve Account in such manner and amount as the Secretary shall determine to be equitable and in accordance with sound actuarial and accounting practice: Provided, That in no event shall the amount of the distributable share exceed the aggregate scheduled annual premiums of the mortgagor or borrower to the year of payment of the share less the total amount of any share or shares previously distributed by the Secretary to the mortgagor or borrower: And provided further, That in no event may a distributable share be distributed until any funds transferred from the General Insurance Fund to the Management Fund pursuant to subsection (o) have been repaid in full to the General Insurance Fund. No mortgagor, mortgagee, borrower, or lender shall have any vested right in a credit balance in any such account or be subject to any liability arising out of the mutuality of the Management Fund. The determination of the Secretary as to the amount to be paid by him to any mortgagor or borrower shall be final and conclusive.

(m) The Secretary is authorized to transfer to the Management Fund commitments for insurance issued under subsection (a)(1), (i), and (j) prior to the date of enactment of this subsection, and to transfer to the Management Fund the insurance of any mortgage or loan insured prior to the date of the enactment of this subsection under subsection (a)(1), (a)(3) (if the project is acquired by a cooperative corporation), (i), or (j): Provided, That the insurance of any mortgage or loan shall not be transferred under the provisions of this subsection if on the date of the enactment of this subsection the mortgage or loan is in default and the mortgagee or lender has notified the Secretary in writing of its intention to file an insurance claim. Any insurance or commitment not so transferred shall continue to be an obligation of the General Insurance Fund.

(n) Notwithstanding the limitations contained in other provisions of this Act, premium charges for mortgages or loans the insurance of which is the obligation of either the Management Fund or the General Insurance Fund may be payable in debentures issued in connection with mortgages or loans transferred to the Management Fund or in connection with mortgages or loans insured pursuant to commitments transferred to the Management Fund, as provided in subsection (m) of this section. Premium charges on the insurance of mortgages or loans transferred to the Management Fund or insured pursuant to commitments transferred to the Management Fund may be payable in debentures which are the obligation of either the Management Fund or the General Insurance Fund.

(o) Notwithstanding any other provision of this Act, the Secretary is authorized to transfer funds between the Cooperative Management Housing Insurance Fund and the General Insurance Fund in such amounts and at such times as he may determine, taking into consideration the requirements of each such Fund, to assist in carrying out effectively the insurance programs for which such Funds were respectively established. Moneys in the Cooperative Management Housing Insurance Fund not needed for current operations of the fund shall be deposited with the Treasurer of the United States to the credit of the Cooperative Management Housing Insurance Fund or invested in bonds or other obligations of, or in bonds or other obligations guaranteed as to a principal and interest by, the United States or any agency of the United States: Provided, That such moneys shall to the maximum extent feasible be invested in such bonds or other obligations the proceeds of which will be used to directly support the residential mortgage market. The Secretary may with the approval of the Secretary of the Treasury, purchase in the open market debentures which are the obligations of the Cooperative Management Housing Insurance Fund. Such purchases shall be made at a price which will provide an investment yield of not less than the yield obtainable from other investments authorized by this subsection. Debentures so purchased shall be canceled and not reissued.

(p) Notwithstanding any other provision of this section, the project mortgage amounts which may be insured under this section may be increased by up to 20 per centum if such increase is necessary to account for the increased cost of the project due to the installation therein of a solar energy system (as defined in subparagraph (3) of the last paragraph of section 2(a) of this Act) or residential energy conservation measures (as defined in section 210(11) (A) through (G) and (I) of Public Law 95-619) in cases where the Secretary determines that such measures are in addition to those required under the minimum property standards and will be cost-effective over the life of the measure.

Sec. 214. [12 U.S.C. 1715d]
INSURANCE OF MORTGAGES ON PROPERTY IN ALASKA, GUAM, HAWAII, AND THE VIRGIN ISLANDS.

If the Secretary of Housing and Urban Development finds that, because of higher costs prevailing in Alaska, Guam, Hawaii, or the Virgin Islands, it is not feasible to construct dwellings or mobile home courts or parks on property located in Alaska, Guam, Hawaii, or the Virgin Islands without sacrifice of sound standards of construction, design or livability, within the limitations as to maximum or maxima mortgage amounts provided in this Act, the Secretary may, by regulations or otherwise, prescribe, with respect to dollar amount, a higher maximum or maxima for the principal obligation of mortgages insured under this Act covering property located in Alaska, Guam, Hawaii or the Virgin Islands in such amounts as he shall find necessary to compensate for such higher costs but not to exceed, in any event, the maximum or maxima otherwise applicable (including increased mortgage amounts in geographical areas where cost levels so require) by more than one-half thereof. No mortgage with respect to a project or property in Alaska, Guam, Hawaii, or the Virgin Islands shall be accepted for insurance under this Act unless the Secretary finds that the project or property is an acceptable risk, giving consideration to the acute housing shortage in Alaska, Guam, Hawaii, or the Virgin Islands: *Provided*, That any such mortgage may be insured or accepted for insurance without regard to any requirement in any other section of this Act that the Secretary finds the project or property to be economically sound or an acceptable risk. Notwithstanding any of the provisions of this Act or any other law, the Alaska Housing Authority or the Government of Guam, the Virgin Islands, or Hawaii or any agency or instrumentality thereof shall be eligible as mortgagor or mortgagee, as the case may be, for any of the purposes of mortgage insurance under the provisions of this Act. Upon application by the mortgagee (1) where the mortgagor is regulated or restricted pursuant to the last sentence of this section or (2) where the Alaska Housing Authority or the Government of Guam, the Virgin Islands, or Hawaii or any agency or instrumentality thereof is the mortgagor or mortgagee, for the insurance of a mortgage under any provisions of this Act, the Secretary is authorized to insure the mortgage (including advances thereon where otherwise authorized), and to make commitments for the insuring of any such mortgages prior to the date of their execution or disbursement thereon, under such provisions (and this section) without regard to any requirement that the mortgagor shall have paid a prescribed amount on account of such property. Without limiting the authority of the Secretary under any other provision of law, the Secretary is hereby authorized, with respect to any mortgagor in such case (except where the

Alaska Housing Authority is the mortgagor or mortgagee) to require the mortgagor to be regulated or restricted as to rents or sales, charges, capital structure, rate of return, and methods of operation to such an extent and in such manner as the Secretary determines advisable to provide reasonable rentals and sales prices and a reasonable return on the investment.

Sec. 215. [12 U.S.C. 1715f]
ISSUANCE OF COMMITMENTS.

The Secretary is hereby authorized to process applications and issue commitments with respect to insurance of mortgages under section 8 of title I, title II, title VI, title VIII, or title IX of this Act, even though the permanent mortgage financing may not be insured under this Act, and in the event the mortgage is not so insured the Secretary is authorized to charge an additional application fee determined by him to be reasonable. The Secretary is authorized to make such rules and regulations as may be necessary to carry out the provisions of this section.

Sec. 216. [12 U.S.C. 1715g]
WAIVER OF OCCUPANCY REQUIREMENTS FOR SERVICEMEN.

The Secretary is hereby authorized to insure any mortgage otherwise eligible for insurance under any of the provisions of this Act without regard to any requirement with respect to the occupancy of the mortgagor of the property at the time of insurance, where the Secretary is satisfied that the inability of the mortgagor to meet such requirement is by reason of his entry on active duty in a uniformed service subsequent to the filing of an application for insurance and the mortgagor expresses an intent to meet such requirement upon his release from active duty.

[Sec. 217. [Repealed.]]

[Sec. 218. [Repealed.]]

[Sec. 219. [Repealed.]]

Sec. 220. [12 U.S.C. 1715k]
REHABILITATION AND NEIGHBORHOOD CONSERVATION HOUSING INSURANCE.

(a) The purpose of this section is to aid in the elimination of slums and blighted conditions and the prevention of the deterioration of residential property by supplementing the insurance of mortgages under sections 203 and 207 of this title with a system of loan and mortgage insurance designed to assist the financing required for the rehabilitation of existing dwelling accommodations and the construction of new dwelling accommodations where such dwelling accommodations are located in an area referred to in paragraph (1) of subsection (d) of the section.

(b) The Secretary is authorized, upon application by the mortgagee, to insure, as hereinafter provided, any mortgage (including advances during construction on mortgages covering property of the character described in paragraph (3)(B) of subsection (d) of this section) which is eligible for insurance as hereinafter provided, and, upon such terms and conditions as he may prescribe, to make commitments for the insurance of such mortgages prior to the date of their execution or disbursement thereon.

(c) As used in this section, the terms “mortgage,” “first mortgage,” “mortgagee,” “mortgagor,” “maturity date,” and “State” shall have the same meaning as in section 201 of this Act.

(d) To be eligible for insurance under this section a mortgage shall meet the following conditions:

(1) The mortgaged property shall—

(A) be located in (i) the area of a slum clearance and urban redevelopment project covered by a Federal-aid contract executed or a prior approval granted, pursuant to title I of the Housing Act of 1949 before the effective date of the Housing Act of 1954, or (ii) an urban renewal area (as defined in title I of the Housing Act of 1949, as amended) or (iii) the area of an urban renewal project assisted under section 111 of the Housing Act of 1949, as amended, or (iv) an area in which a program of concentrated code enforcement activities is being carried out pursuant to section 117 of the Housing Act of 1949, or (v) an area designated by the Secretary, where concentrated housing, physical development, and public service activities are being or will be carried out in a coordinated manner, pursuant to a locally developed strategy for neighborhood improvement, conservation or preservation: *Provided*, That, in the case of an area within the purview of clause (i) or (ii) of this subparagraph, a redevelopment plan or an urban renewal plan (as defined in title I of the Housing Act of 1949, as amended), as the case may be, has been

approved for such area by the governing body of the locality involved and by the Secretary of Housing and Urban Development and the Secretary has determined that such plan conforms to a general plan for the locality as a whole and that there exist the necessary authority and financial capacity to assure the completion of such redevelopment or urban renewal plan: *And provided further*, That, in the case of an area within the purview of clause (iii) of this subparagraph, an urban renewal plan (as required for projects assisted under such section 111) has been approved for such area by such governing body and by the Secretary, and the Secretary has determined that such plan conforms to definite local objectives respecting appropriate land uses, improved traffic, public transportation, public utilities, recreational and community facilities, and other public improvements, and that there exist the necessary authority and financial capacity to assure the completion of such urban renewal plan, and

(B) meet such standards and conditions as the Secretary shall prescribe to establish the acceptability of such property for mortgage insurance under this section.

(2) The mortgaged property shall be held by—

(A) a mortgagor approved by the Secretary, and the Secretary may in his discretion require such mortgagor to be regulated or restricted as to rents or sales, charges, capital structure, rate of return and methods of operation, and for such purpose the Secretary may make such contracts with and acquire for not to exceed $100 stock or interest in any such mortgagor as the Secretary may deem necessary to render effective such restriction or regulations. Such stock or interest shall be paid for out of the General Insurance Fund and shall be redeemed by the mortgagor at par upon the termination of all obligations of the Secretary under the insurance; or

(B) by Federal or State instrumentalities, municipal corporate instrumentalities of one or more States, or limited dividend or redevelopment or housing corporations or other legal entities restricted by or under Federal or State laws or regulations of State banking or insurance departments as to rents, charges, capital structure, rate of return, or methods of operation.

(3) The mortgage shall—

(A)(i) involve a principal obligation (including such initial service charges, appraisal, inspection, and other fees as the Secretary shall approve) in an amount not to exceed the applicable maximum principal obligation which may be insured in the area under section 203(b); or in the case of a dwelling designed principally for residential use for more than four families (but not exceeding such additional number of family units as the Secretary may prescribe) the applicable maximum principal obligation secured by a four-family residence which may be insured in the area under section 203(b) plus not to exceed $9,165 for each additional family unit in excess of four located on such property; and not to exceed an amount equal to the sum to (1) 97 per centum (but, in any case where the dwelling is not approved for mortgage insurance prior to the beginning of construction, unless the construction of the dwelling was completed more than one year prior to the application for mortgage insurance, 90 per centum) of $25,000 of the Secretary's estimate of replacement cost of the property, as of the date the mortgage is accepted for insurance, and (2) 95 per centum of such value in excess of $25,000: *Provided*, That in the case of properties other than new construction, the foregoing limitations upon the amount of the mortgage shall be based upon the sum of the estimated cost of repair and rehabilitation and the Secretary's estimate of the value of the property before repair and rehabilitation rather than upon the Secretary's estimate of the replacement cost: *Provided further*, That if the mortgagor is a veteran and the mortgage to be insured under this section covers property upon which there is located a dwelling designed principally for a one-family residence, the principal obligation may be in an amount equal to the sum of (1) 100 per centum of $25,000 of the Secretary's estimate of replacement cost of the property, as of the date the mortgage is accepted for insurance and (2) 95 per centum of such value in excess of $25,000. As used herein, the term "veteran" means any person who served on active duty in the Armed Forces of the United States for a period of not less than ninety days (or as certified by the Secretary of Defense as having performed extrahazardous service), and who was discharged or released therefrom under conditions other than dishonorable, except that persons enlisting in the armed forces after September 7, 1980, or entering active duty after October 16, 1981, shall have their eligibility determined in accordance with section 3103A(d) of title 38, United States Code; and

(ii) in no case involving refinancing have a principal obligation in an amount exceeding the sum of the estimated cost of repair and rehabilitation and the amount (as

determined by the Secretary) required to refinance existing indebtedness secured by the property or project, plus any existing indebtedness incurred in connection with improving, repairing, or rehabilitating the property; or

(B)[(i) [Repealed.]]

(ii) not exceed 90 per centum of the amount which the Secretary estimates will be the replacement cost of the property or project when the proposed improvements are completed (the replacement cost of the property or project may include the land, the proposed physical improvements, utilities within the boundaries of the property or project, architect's fees, taxes, and interest during construction, and other miscellaneous charges incident to construction and approved by the Secretary, and shall include an allowance for builder's and sponsor's profit and risk of 10 per centum of all of the foregoing items except the land unless the Secretary, after certification that such allowance is unreasonable shall by regulation prescribe a lesser percentage): *Provided*, That in the case of properties other than new construction, the foregoing limitations upon the amount of the mortgage shall be based upon the sum of the estimated cost of repair and rehabilitation and the Secretary's estimate of the value of the property before repair and rehabilitation rather than upon the Secretary's estimate of the replacement cost: *Provided further*, That the mortgage may involve the financing of the purchase of property which has been rehabilitated by a local public agency with Federal assistance pursuant to section 110(c)(8) of the Housing Act of 1949, and, in such case the foregoing limitations upon the amount of the mortgage shall be based upon the appraised value of the property as of the date the mortgage is accepted for insurance;

(iii)(I) not to exceed, for such part of the property or project as may be attributable to dwelling use (excluding exterior land improvements as defined by the Secretary), $38,025 per family unit without a bedroom, $42,120 per family unit with one bedroom, $50,310 per family unit with two bedrooms, $62,010 per family unit with three bedrooms, and $70,200 per family unit with four or more bedrooms, except that as to projects to consist of elevator-type structures the Secretary may, in his discretion, increase the dollar amount limitations per family unit to not to exceed $43,875 per family unit without a bedroom, $49,140 per family unit with one bedroom, $60,255 per family unit with two bedrooms, $75,465 per family unit with three bedrooms, and $85,328 per family unit with four or more bedrooms, as the case may be, to compensate for the higher costs incident to the construction of elevator-type structures of sound standards of construction and design; and (II) with respect to rehabilitation projects involving not more than five family units, the Secretary may by regulation increase by 25 per centum any of the dollar amount limitations in subparagraph (B)(iii)(I) (as such limitations may have been adjusted in accordance with section 206A of this Act) which are applicable to units with two, three, or four or more bedrooms; (III) the Secretary may, by regulation, increase the dollar amount limitations contained in subparagraph (B)(iii)(I) (as such limitations may have been adjusted in accordance with section 206A of this Act) by not to exceed 170 percent in any geographical area where the Secretary finds that cost levels so require and by not to exceed 170 percent, or 215 percent in high cost areas, where the Secretary determines it necessary on a project-by-project basis, but in no case may any such increase exceed 90 percent where the Secretary determines that a mortgage purchased or to be purchased by the Government National Mortgage Association in implementing its special assistance functions under section 305 of this Act (as such section existed immediately before November 30, 1983) is involved); (IV) That[525] nothing contained in this subparagraph (B)(iii)(I) shall preclude the insurance of mortgages covering existing multifamily dwellings to be rehabilitated or reconstructed for the purposes set forth in subsection (a) of this section; (V) the Secretary may further increase any of the dollar limitations which would otherwise apply to such projects by not to exceed 20 per centum if such increase is necessary to account for the increased cost of the project due to the installation therein of a solar energy system (as defined in subparagraph (3) of the last paragraph of section 2(a) of this Act) or residential energy

[525] So in law.

conservation measures (as defined in section 210(11)(A) through (G) and (I) of Public Law 95-619) in cases where the Secretary determines that such measures are in addition to those required under the minimum property standards and will be cost-effective over the life of the measure; and

(iv) include such nondwelling facilities as the Secretary deems desirable and consistent with the urban renewal plan or, where appropriate with the locally developed strategy for neighborhood improvement, conservation or preservation: *Provided*, That the project shall be predominantly residential and any nondwelling facility included in the mortgage shall be found by the Secretary to contribute to the economic feasibility of the project, and the Secretary shall give due consideration to the possible effect of the project on other business enterprises in the community.

(4) The mortgage shall provide for complete amortization by periodic payments (unless otherwise approved by the Secretary)[526] within such terms as the Secretary may prescribe, but as to mortgages coming within the provisions of paragraph (3)(A) of this subsection (d) not to exceed the maximum maturity prescribed by the provisions of section 203(b)(3). The mortgage shall bear interest at such rate as may be agreed upon by the mortgagor and the mortgagee and contain such terms and provisions with respect to the application of the mortgagor's periodic payment to amortization of the principal of the mortgage, insurance, repairs, alterations, payment of taxes, default reserves, delinquency charges, foreclosure proceedings, anticipation of maturity, additional and secondary liens, and other matters as the Secretary may in the Secretary's discretion prescribe.

(e) The Secretary may at any time, under such terms and conditions as he may prescribe, consent to the release of the mortgagor from his liability under the mortgage or the credit instrument secured thereby, or consent to the release of parts of the mortgaged property from the lien of the mortgage.

(f) The mortgagee shall be entitled to receive the benefits of the insurance as hereinafter provided—

(1) as to mortgages meeting the requirements of paragraph (3)(A) of subsection (d) of this section, as provided in section 204(a) of this Act with respect to mortgages insured under section 203; and the provisions of subsections (b), (c), (d), (e), (f), (g), (h), (i), and (k) of section 204 of this Act shall be applicable to such mortgages insured under this section, except that all references therein to the Mutual Mortgage Insurance Fund or the Fund shall be construed to refer to the General Insurance Fund and all references therein to section 203 shall be construed to refer to this section;

(2) as to mortgages meeting the requirements of paragraph (3)(B) of subsection (d) of this section, as provided in section 207(g) of this Act with respect to mortgages insured under said section 207, and the provisions of subsections (h), (i), (j), (k), and (l) of section 207 of this Act shall be applicable to such mortgages insured under this section, and all references therein to the Housing Insurance Fund or the Housing Fund shall be construed to refer to the General Insurance Fund; or

(3) as to mortgages meeting the requirements of this section that are insured or initially endorsed for insurance on or after the date of enactment of the Housing Act of 1961, notwithstanding the provisions of paragraphs (1) and (2) of this subsection, the Secretary in his discretion, in accordance with such regulations as he may prescribe, may make payments pursuant to such paragraphs in cash or in debentures (as provided in the mortgage insurance contract), or may acquire a mortgage loan that is in default and the security therefor upon payment to the mortgagee in cash or in debentures (as provided in the mortgage insurance contract) of a total amount equal to the unpaid principal balance of the loan plus any accrued interest and any advances approved by the Secretary and made previously by the mortgagee under the provisions of the mortgage. After the acquisition of the mortgage by the Secretary the mortgagee shall have no further rights, liabilities, or obligations with respect to the loan or the security for the loan. The appropriate provisions of sections 204 and 207 relating to the rights, liabilities, and obligations of a mortgagee shall apply with respect to the Secretary when he has acquired an insured mortgage under this paragraph, in accordance with and subject to regulations (modifying such provisions to the extent necessary to render their application for such purposes appropriate and effective) which shall be prescribed by the Secretary, except that as applied to mortgages so acquired (A) all references in section 204 to the Mutual Mortgage Insurance Fund or the Fund shall be construed to refer to the General Insurance Fund, and (B) all

[526] Section 446 of the Housing and Urban-Rural Recovery Act of 1983, Pub. L. 98-181, approved November 30, 1983, added this parenthetical in sections 207(c)(3), 220(d)(4), 221(d)(6), and 231(c)(5) of the National Housing Act. Subsection (f) of such section (12 U.S.C. 1713 note) further provides as follows:

"(f) The aggregate number of dwelling units included in properties covered by mortgages insured pursuant to the authority granted in the amendments made by this section in any fiscal year may not exceed 10,000.".

references in section 204 to section 203 shall be construed to refer to this section. If the insurance payment is made in cash, there shall be added to such payment an amount equivalent to the interest which the debentures would have earned, computed to a date to be established pursuant to regulations issued by the Secretary.

[(g) [Repealed.]]

(h)(1) To assist further in the conservation, improvement, repair, and rehabilitation of property located in the area of an urban renewal project, or in an area in which a program of concentrated code enforcement activities is being carried out pursuant to section 117 of the Housing Act of 1949, as provided in paragraph (1) of subsection (d) of this section, the Secretary is authorized upon such terms and conditions as he may prescribe to make commitments to insure and to insure home improvement loans (including advances during construction or improvement) made by financial institutions on and after the date of enactment of the Housing Act of 1961.[527] As used in this subsection—

(A) the term "home improvement loan" means a loan, advance of credit, or purchase of an obligation representing a loan or advance of credit made—

(i) for the purpose of financing the improvement of an existing structure (or in connection with an existing structure) which was constructed not less than ten years prior to the making of such loan, advance of credit, or purchase, and which is used or will be used primarily for residential purposes: *Provided*, That a home improvement loan shall include a loan, advance, or purchase with respect to the improvement of a structure which was constructed less than ten years prior to the making of such loan, advance, or purchase if the proceeds are or will be used primarily for major structural improvements, or to correct defects which were not known at the time of the completion of the structure or which were caused by fire, flood, windstorm, or other causalty; or

(ii) for the purpose of enabling the borrower to pay that part of the cost of the construction or installation of sidewalks, curbs, gutters, street paving, street lights, sewers, or other public improvements, adjacent to or in the vicinity of property owned by him and used primarily for residential purposes, which is assessed against him or for which he is otherwise legally liable as the owner of such property;

(B) the term "improvement" means conservation, repair, restoration, rehabilitation, conversion, alteration, enlargement, or remodeling; and

(C) the term "financial institution" means a lender approved by the Secretary as eligible for insurance under section 2 or a mortgagee approved under section 203(b)(1).

(2) To be eligible for insurance under this subsection, a home improvement loan shall—

(i)[528] not exceed the Secretary's estimate of the cost of improvement, or $12,000 per family unit, whichever is the lesser, and be limited as required by paragraph (11): Provided, That the Secretary may, by regulation, increase such amount by not to exceed 45 per centum in any geographical area where he finds that cost levels so require;

(ii)[529] be limited to an amount which when added to any outstanding indebtedness related to the property (as determined by the Secretary) creates a total outstanding indebtedness which does not exceed the limits provided in subsection (d)(3) for properties (of the same type) other than new construction;

(iii)[530] bear interest at such rate as may be agreed upon by the mortgagor and the mortgagee;

(iv)[531] have a maturity satisfactory to the Secretary, but not to exceed twenty years from the beginning of amortization of the loan;

(v)[532] comply with such other terms, conditions, and restrictions as the Secretary may prescribe; and

[527] June 30, 1961.
[528] So in law. Probably should be designated as subparagraph (A).
[529] So in law. Probably should be designated as subparagraph (B).
[530] So in law. Probably should be designated as subparagraph (C).
[531] So in law. Probably should be designated as subparagraph (D).
[532] So in law. Probably should be designated as subparagraph (E).

(vi)[533] represent the obligation of a borrower who is the owner of the property improved, or a lessee of the property under a lease for not less than 99 years which is renewable or under a lease having an expiration date in excess of 10 years later than the maturity date of the loan.

(3) Any home improvement loan insured under this subsection may be refinanced and extended in accordance with such terms and conditions as the Secretary may prescribe, but in no event for an additional amount or terms in excess of the maximum provided for in this subsection.

[(4) [Repealed.]]

(5) The Secretary is authorized to fix a premium charge for the insurance of home improvement loans under this subsection but in the case of any such loan such charge shall not be less than an amount equivalent to one-half of 1 per centum per annum nor more than an amount equivalent to 1 per centum per annum of the amount of the principal obligation of the loan outstanding at any time, without taking into account delinquent payments or prepayments. Such premium charges shall be payable by the financial institution either in cash or in debentures (at par plus accrued interest) issued by the Secretary as obligations of the General Insurance Fund, in such manner as may be prescribed by the Secretary, and the Secretary may require the payment of one or more such premium charges at the time the loan is insured, at such discount rate as he may prescribe not in excess of the interest rate specified in the loan. If the Secretary finds upon presentation of a loan for insurance and the tender of the initial premium charge or charges so required that the loan complies with the provisions of this subsection, such loan may be accepted for insurance by endorsement or otherwise as the Secretary may prescribe. In the event the principal obligation of any loan accepted for insurance under this subsection is paid in full prior to the maturity date, the Secretary is authorized to refund to the financial institution for the account of the borrower all, or such portions as he shall determine to be equitable, of the current unearned premium charges theretofore paid.

(6) In cases of defaults on loans insured under this subsection, upon receiving notice of default, the Secretary, in accordance with such regulations as he may prescribe, may acquire the loan and any security therefor upon payment to the financial institution in cash or in debentures (as provided in the loan insurance contract) of a total amount equal to the unpaid principal balance of the loan, plus any accrued interest, any advances approved by the Secretary made previously by the financial institution under the provisions of the loan instruments, and reimbursement for such collection costs, court costs, and attorney fees as may be approved by the Secretary. If the insurance payment is made in cash, there shall be added to such payment an amount equivalent to the interest which the debentures would have earned, computed to a date to be established pursuant to regulations issued by the Secretary.

(7) Debentures issued under this subsection shall be executed in the name of the General Insurance Fund as obligor, shall be negotiable, and, if in book entry form, transferable, in the manner described by the Secretary in regulations, and shall be dated as of the date the loan is assigned to the Secretary and shall bear interest from that date. They shall bear interest at a rate, established by the Secretary pursuant to section 224, payable semiannually on the 1st day of January and the 1st day of July of each year, and shall mature ten years after their date of issuance. They shall be exempt from taxation as provided in section 207(i) with respect to debentures issued under that section. They shall be paid out of the General Insurance Fund which shall be primarily liable therefor and they shall be fully and unconditionally guaranteed as to principal and interest by the United States, and, in the case of debentures issued in certificated registered form, the guaranty shall be expressed on the face of the debentures. In the event the General Insurance Fund fails to pay upon demand, when due, the principal of or interest on any debentures so guaranteed, the Secretary of the Treasury shall pay the holders the amount thereof which is hereby authorized to be appropriated out of any money in the Treasury not otherwise appropriated, and thereupon, to the extent of the amount so paid, the Secretary of the Treasury shall succeed to all the rights of the holders of such debentures. Debentures issued under this subsection shall be in such form and amounts; shall be subject to such terms and conditions; and shall include such provisions for redemption, if any, as may be prescribed by the Secretary of Housing and Urban Development, with the approval of the Secretary of the Treasury; and may be in book entry or certificated registered form, or such other form as the Secretary of Housing and Urban Development may prescribe in regulations.

(8) The provisions of subsections (c), (d), and (h) of section 2 shall apply to home improvement loans insured under this subsection and for the purposes of this subsection references in subsections (c), (d), and (h) of section 2 to “this section” or “this title” shall be construed to refer to this subsection.

[533] So in law. Probably should be designated as subparagraph (F).

(9)(A) Notwithstanding any other provisions of this Act, no home improvement loan executed in connection with the improvement of a structure for use as rental accommodations for five or more families shall be insured under this subsection unless the borrower has agreed (i) to certify, upon completion of the improvement and prior to final endorsement of the loan, either that the actual cost of improvement equaled or exceeded the proceeds of the home improvement loan, or the amount by which the proceeds of the loan exceed the actual cost, as the case may be, and (ii) to pay forthwith to the financial institution, for application to the reduction of the principal of the loan, the amount, if any, certified to be in excess of the actual cost of improvement. Upon the Secretary's approval of the borrower's certification as required under this paragraph, the certification shall be final and incontestable, except for fraud or material misrepresentation on the part of the borrower.

(B) As used in subparagraph (A), the term "actual cost" means the cost to the borrower of the improvement, including the amounts paid for labor, materials, construction contracts, off-site public utilities, streets, organization and legal expenses, such allocations of general overhead items as are acceptable to the Secretary, and other items of expense approved by the Secretary, plus a reasonable allowance for builder's profit if the borrower is also the builder, as defined by the Secretary, and excluding the amount of any kickbacks, rebates, or trade discounts received in connection with the improvement.

(10) Notwithstanding any other provisions of this Act, the Secretary is authorized and empowered (i) to make expenditures and advances out of funds made available by this Act to preserve and protect his interest in any security for, or the lien or priority of the lien securing, any loan or other indebtedness owing to, insured by, or acquired by the Secretary or by the United States under this subsection, or section 2 or 203(k); and (ii) to bid for and to purchase at any foreclosure or other sale or otherwise acquire property pledged, mortgaged, conveyed, attached, or levied upon to secure the payment of any loan or other indebtedness owing to or acquired by the Secretary or by the United States under this subsection or section 2 or 203(k). The authority conferred by this paragraph may be exercised as provided in the last sentence of section 204(g).

(11) Notwithstanding any other provision of this Act, no home improvement loan made in whole or in part for the purpose specified in clause (A)(ii) of the second sentence of paragraph (1) shall be insured under this subsection if such loan (or the portion thereof which is attributable to such purpose), when added to the aggregate principal balance of any outstanding loans insured under this subsection or section 203(k) which were made to the same borrower for the purpose so specified (or the portion of such aggregate balance which is attributable to such purpose), would exceed $10,000 or such additional amount as the Secretary has by regulation prescribed in any geographical area where he finds cost levels so required pursuant to the authority vested in him by the proviso in paragraph (2)(i) of this subsection. [12 U.S.C. 1715k]

Sec. 221. [12 U.S.C. 1715l]
HOUSING FOR MODERATE INCOME AND DISPLACED FAMILIES.

(a) This section is designed to assist private industry in providing housing for low and moderate income families and displaced families.

(b) The Secretary is authorized, upon application by the mortgagee, to insure under this section as hereinafter provided any mortgage (including advances during construction on mortgages covering property of the character described in paragraphs (3) and (4) of subsection (d) of this section) which is eligible for insurance as provided herein and, upon such terms and conditions as the Secretary may prescribe, to make commitments for the insurance of such mortgages prior to the date of their execution or disbursement thereon.

(c) As used in this section, the terms "mortgage", "first mortgage", "mortgagee", "mortgagor", "maturity date" and "State" shall have the same meaning as in section 201 of this Act.

(d) To be eligible for insurance under this section, a mortgage shall—

(1) have been made to and be held by a mortgagee approved by the Secretary as responsible and able to service the mortgage properly;

(2) be secured by property upon which there is located a dwelling conforming to applicable standards prescribed by the Secretary under subsection (f) of this section, and meeting the requirements of all State laws, or local ordinances or regulations relating to the public health or safety, zoning, or otherwise, which may be applicable thereto, and shall involve a principal obligation (including such initial service charges appraisal, inspection, and other fees as the Secretary shall approve) in an amount (A) not to exceed (i) $31,000 (or $36,000, if the mortgagor's family includes five or more persons) in the case of a property

upon which there is located a dwelling designed principally for a single-family residence, (ii) $35,000 in the case of a property upon which there is located a dwelling designed principally for a two-family residence, (iii) $48,600 in the case of a property upon which there is located a dwelling designed principally for a three-family residence, or (iv) $59,400 in the case of a property upon which there is located a dwelling designed principally for a four-family residence, except that the Secretary may increase the foregoing amounts to not to exceed $36,000 (or $42,000 if the mortgagor's family includes five or more persons), $45,000, $57,600, and $68,400, respectively, in any geographical area where he finds that cost levels so require; and (B) not to exceed the appraised value of the property (as of the date the mortgage is accepted for insurance): *Provided*, That (i)(1) in the case of a displaced family, he shall have paid on account of the property at least $200 in the case of a single family dwelling, $400 in the case of a two-family dwelling, $600 in the case of a three-family dwelling, and $800 in the case of a four-family dwelling, or (2) in the case of any other family, he shall have paid on account of the property at least 3 per centum of the Secretary's estimate of its acquisition cost (excluding the mortgage insurance premium paid at the time the mortgage is insured), in cash or its equivalent; which amount in either instance may include amounts to cover settlement costs and initial payments for taxes, hazard insurance, and other prepaid expenses; or, (ii) in the case of repair and rehabilitation, the amount of the mortgage shall not exceed the sum of the estimated cost of repair and rehabilitation and the Secretary's estimate of the value of the property before repair and rehabilitation, except that in no case involving refinancing shall such mortgage exceed such estimated cost of repair and rehabilitation and the amount (as determined by the Secretary) required to refinance existing indebtedness secured by the property: *Provided further*, That the mortgagor shall to the maximum extent feasible be given the opportunity to contribute the value of his labor as equity in such dwelling; or

(3) if executed by a mortgagor which is a public body or agency (and, except with respect to a project assisted or to be assisted pursuant to section 8 of the United States Housing Act of 1937, which certifies that it is not receiving financial assistance from the United States exclusively pursuant to such Act), a cooperative (including an investor-sponsor who meets such requirements as the Secretary may impose to assure that the consumer interest is protected), or a limited dividend corporation (as defined by the Secretary), or a private nonprofit corporation or association, or other mortgagor approved by the Secretary, and regulated or supervised under Federal or State laws or by political subdivisions of States, or agencies thereof, or by the Secretary under a regulatory agreement or otherwise, as to rents, charges, and methods of operation, in such form and in such manner as in the opinion of the Secretary will effectuate the purposes of this section—

[(i) [Repealed.]]

(ii)(I) not exceed, for such part of the property or project as may be attributable to dwelling use (excluding exterior land improvements as defined by the Secretary), $42,048 per family unit without a bedroom, $48,481 per family unit with one bedroom, 58,469[534] per family unit with two bedrooms, $74,840 per family unit with three bedrooms, and $83,375 per family unit with four or more bedrooms; except that as to projects to consist of elevator-type structures the Secretary may, in his discretion, increase the dollar amount limitations per family unit to not to exceed $44,250 per family unit without a bedroom, $50,724 per family unit with one bedroom, $61,680 per family unit with two bedrooms, $79,793 per family unit with three bedrooms, and $87,588 per family unit with four or more bedrooms, as the case may be, to compensate for the higher costs incident to the construction of elevator-type structures of sound standards of construction and design; (II) the Secretary may, by regulation, increase any of the dollar amount limitations in subclause (I) (as such limitations may have been adjusted in accordance with section 206A of this Act) by not to exceed 170 percent in any geographical area where the Secretary finds that cost levels so require and by not to exceed 170 percent, or 215 percent in high cost areas, where the Secretary determines it necessary on a project-by-project basis, but in no case may any such increase exceed 90 percent where the Secretary determines that a mortgage purchased or to be purchased by the Government National Mortgage Association in implementing its special assistance functions under section 305 of this Act (as such section existed immediately before November 30, 1983) is involved; and

(iii) not exceed (1) in the case of new construction, the amount which the Secretary estimates will be the replacement cost of the property or project when the proposed improvements

[534] So in law. There is no dollar sign.

are completed (the replacement cost may include the land, the proposed physical improvements, utilities within the boundaries of the land, architect's fees, taxes, incident to construction and approved by the Secretary), or (2) in the case of repair and rehabilitation, the sum of the estimated cost of repair and rehabilitation and the Secretary's estimate of the value of the property before repair and rehabilitation: *Provided*, That the mortgage may involve the financing of the purchase of property which has been rehabilitated by a local public agency with Federal assistance pursuant to section 110(c)(8) of the Housing Act of 1949, and, in such case, the amount of the mortgage shall not exceed the appraised value of the property as of the date the mortgage is accepted for insurance: *Provided further*, That in the case of any mortgagor other than a nonprofit corporation or association, cooperative (including an investor-sponsor), or public body, or a mortgagor meeting the special requirements of subsection (e)(1), the amount of the mortgage shall not exceed 90 per centum of the amount otherwise authorized under this section: *Provided further*, That such property or project, when constructed, or repaired and rehabilitated, shall be for use as a rental or cooperative project, and low and moderate income families or displaced families shall be eligible for occupancy in accordance with such regulations and procedures as may be prescribed by the Secretary and the Secretary may adopt such requirements as he determines to be desirable regarding consultation with local public officials where such consultation is appropriate by reason of the relationship of such project to projects under other local programs; or

(4) if executed by a mortgagor and which is approved by the Secretary—

[(i) [Repealed.]]

(ii)(I) not exceed, or such part of the property or project as may be attributable to dwelling use (excluding exterior land improvements as defined by the Secretary), $37,843 per family unit without a bedroom, $42,954 per family unit with one bedroom, $51,920 per family unit with two bedrooms, $65,169 per family unit with three bedrooms, and $73,846 per family unit with four or more bedrooms; except that as to projects to consist of elevator-type structures the Secretary may, in his discretion, increase the dollar amount limitations per family unit to not to exceed $40,876 per family unit without a bedroom, $46,859 per family unit with one bedroom, $56,979 per family unit with two bedrooms, $73,710 per family unit with three bedrooms, and $80,913 per family unit with four or more bedrooms, as the case may be, to compensate for the higher costs incident to the construction of elevator-type structures of sound standards of construction and design; (II) the Secretary may, by regulation, increase any of the dollar limitations in subclause (I) (as such limitations may have been adjusted in accordance with section 206A of this Act) by not to exceed 170 percent in any geographical area where the Secretary finds that cost levels so require and by not to exceed 170 percent, or 215 percent in high cost areas, where the Secretary determines it necessary on a project-by-project basis, but in no case may any such increase exceed 90 percent where the Secretary determines that a mortgage purchased or to be purchased by the Government National Mortgage Association in implementing its special assistance functions under section 305 of this Act (as such section existed immediately before November 30, 1983) is involved;

(iii) not exceed (in the case of a property or project approved for mortgage insurance prior to the beginning of construction) 90 per centum of the amount which the Secretary estimates will be the replacement cost of the property or project when the proposed improvements are completed (the replacement cost may include the land, the proposed physical improvements, utilities within the boundaries of the land, architect's fees, taxes, interest during construction, and other miscellaneous charges incident to construction and approved by the Secretary, and shall include an allowance for builder's and sponsor's profit and risk of 10 per centum of all of the foregoing items, except the land, unless the Secretary, after certification that such allowance is unreasonable, shall by regulation prescribe a lesser percentage; and

(iv) not exceed 90 per centum of the sum of the estimated cost of repair and rehabilitation (including the cost of evaluating and reducing lead-based paint hazards, as such terms are defined in section 1004 of the Residential Lead-Based Paint Hazard Reduction Act of 1992) and the Secretary's estimate of the value of the property before repair and rehabilitation of the proceeds of the mortgage are to be used for the repair and rehabilitation of a property or project: *Provided*, That the Secretary may, in his discretion, require the mortgagor to be regulated or restricted as to rents or sales, charges, capital structure, rate of return, and methods of operation, and for such purpose the Secretary may make such contracts with and acquire for not to exceed $100 such stock

or interest in any such mortgagor as the Secretary may deem necessary to render effective such restrictions or regulations, with such stock or interest being paid for out of the General Insurance Fund and being required to be redeemed by the mortgage at par upon the termination of all obligations of the Secretary under the insurance;

(5) bear interest at such rate as may be agreed upon by the mortgagor and the mortgagee; and contain such terms and provisions with respect to the application of the mortgagor's periodic payment to amortization of the principal of the mortgage, insurance, repairs, alterations, payment of taxes, default reserves, delinquency charges, foreclosure proceedings, anticipation of maturity, additional and secondary liens, and other matters as the Secretary may in his discretion prescribe: *Provided*, That a mortgage insured under the provisions of subsection (d)(3) shall bear interest (exclusive of any premium charges for insurance and service charge, if any) at not less than the lower of (A) 3 per centum per annum, or (B) the annual rate of interest determined, from time to time by the Secretary of the Treasury at the request of the Secretary, by estimating the average market yield to maturity on all outstanding marketable obligations of the United States, and by adjusting such yield to the nearest one-eighth of 1 per centum, and there shall be no differentiation in the rate of interest charged under this proviso as between mortgagors under subsection (d)(3) on the basis of differences in the types or classes of such mortgagors; and

(6) provide for complete amortization by periodic payments (unless otherwise approved by the Secretary)[535] within such terms as the Secretary may prescribe, but as to mortgages coming within the provisions of subsection (d)(2) not to exceed from the date of the beginning of amortization of the mortgage (i) 40 years in the case of a displaced family, (ii) 35 years in the case of any other family if the mortgage is approved for insurance prior to construction, except that the period in such case may be increased to not more than 40 years where the mortgagor is not able, as determined by the Secretary, to make the required payments under a mortgage having a shorter amortization period, and (iii) 30 years in the case of any other family where the mortgage is not approved for insurance prior to construction.

(e)(1) A mortgagor which may be approved by the Secretary as provided in subsection (d)(3) includes a mortgagor which, as a condition of obtaining insurance of the mortgage and prior to the submission of its application for such insurance, has entered into an agreement (in form and substance satisfactory to the Secretary) with a private nonprofit corporation eligible for an insured mortgage under the provisions of subsection (d)(3), that the mortgagor will sell the project when it is completed to the corporation at the actual cost of the project, as certified pursuant to section 227 of this Act. The mortgagor to whom the property is sold shall be regulated or supervised by the Secretary as provided in subsection (d)(3) to effectuate its purposes.

(2) The Secretary may at any time, under such terms and conditions as he may prescribe, consent to the release of the mortgagor from his liability under the mortgage or the credit instrument secured thereby, or consent to the release of parts of the mortgaged property from the lien of the mortgage.

(f) The property or project shall comply with such standards and conditions as the Secretary may prescribe to establish the acceptability of such property for mortgage insurance and may include such commercial and community facilities as the Secretary deems adequate to serve the occupants: *Provided*, That in the case of any such property or project located in an urban renewal area, the provisions of section 220(d)(3)(B)(iv) shall apply with respect to the nondwelling facilities which may be included in the mortgage: *Provided further*, That in the case of a mortgage which bears interest at the below-market interest rate prescribed in the proviso of subsection (d)(5), the provisions of section 220(d)(3)(B)(iv) shall only apply if the mortgagor waives the right to receive dividends on its equity investment in the portion thereof devoted to commercial facilities.

A property or project covered by a mortgage insured under the provisions of subsection (d)(3) or (d)(4) shall include five or more family units: *Provided*, That such units, in the case of a project designed primarily for occupancy by displaced, elderly, or handicapped families, need not, with the approval of the Secretary, contain kitchen facilities, and such projects may include central dining and other shared facilities. The Secretary is authorized to adopt such procedures and requirements as he determines are desirable to assure that the dwelling accommodations provided under this section are available to displaced families. Notwithstanding any provision of this Act, the Secretary, in order to assist further the provision of housing for low and moderate income families, in his discretion and under such conditions as he may prescribe, may insure a mortgage which meets the requirements of subsection (d)(3) of this section as in effect after the date of enactment of the Housing Act of 1961, or which

[535] Section 446 of the Housing and Urban-Rural Recovery Act of 1983, Pub. L. 98-181, approved November 30, 1983, added this parenthetical in sections 207(c)(3), 220(d)(4), 221(d)(6), and 231(c)(5) of the National Housing Act. Subsection (f) of such section (12 U.S.C. 1713 note) further provides as follows:

"(f) The aggregate number of dwelling units included in properties covered by mortgages insured pursuant to the authority granted in the amendments made by this section in any fiscal year may not exceed 10,000.".

meets the requirements of subsection (h), (i), or (j) with no premium charge, with a reduced premium charge, or with a premium charge for such period or periods during the time the insurance is in effect as the Secretary may determine, and there is hereby authorized to be appropriated, out of any money in the Treasury not otherwise appropriated, such amounts as may be necessary to reimburse the General Insurance Fund for any net losses in connection with such insurance. Any person who is sixty-two years of age or over, or who is a handicapped person within the meaning of section 202 of the Housing Act of 1959, or who is a displaced person, shall be deemed to be a family within the meaning of the terms "family" and "families" as those terms are used in this section. Low- and moderate-income persons who are less than 62 years of age shall be eligible for occupancy of dwelling units in a project financed with a mortgage insured under subsection (d)(3).

In any case in which it is determined in accordance with regulations of the Secretary that facilities in existence or under construction on the date of enactment of the Housing and Urban Development Act of 1970 which could appropriately be used for classroom purposes are available in any such property or project and that public schools in the community are overcrowded due in part to the attendance at such schools of residents of the property or project, such facilities may be used for such purposes to the extent permitted in such regulations (without being subject to any of the requirements of the proviso in section 220(d)(3)(B)(iv) except the requirements that the project be predominantly residential).

As used in this section the terms "displaced family", "displaced families", and "displaced person" shall mean a family or families, or a person, displaced from an urban renewal area, or as a result of governmental action, or as a result of a major disaster as determined by the President pursuant to the Disaster Relief and Emergency Assistance Act.[536]

In order to induce advances by owners for capital improvements (excluding any owner contributions that may be required by the Secretary as a condition for assistance under section 201 of the Housing and Community Development Amendments of 1978) to benefit projects covered by a mortgage under the provisions of subsection (d)(3) that bears a below market interest rate prescribed in the proviso to subsection (d)(5), in establishing the rental charge for the project the Secretary may include an amount that would permit a return of such advances with interest to the owner out of project income, on such terms and conditions as the Secretary may determine. Any resulting increase in rent contributions shall be—

(A) to a level not exceeding the lower of 30 percent of the adjusted income of the tenant or the published existing fair market rent for comparable housing established under section 8(c) of the United States Housing Act of 1937;

(B) phased in equally over a period of not less than 3 years, if such increase is 30 percent or more; and

(C) limited to not more than 10 percent per year if such increase is more than 10 percent but less than 30 percent.

Assistance under section 8 of the United States Housing Act of 1937 shall be provided, to the extent available under appropriations Acts, if necessary to mitigate any adverse effects on income-eligible tenants.

(g) The mortgagee shall be entitled to receive the benefits of the insurance as hereinafter provided—

(1) as to mortgages meeting the requirements of paragraph (2) of subsection (d) of this section, paragraph (5) of subsection (h) of this section, or paragraph (2) of subsection (i) of this section as provided in section 204(a) of this Act with respect to mortgages insured under section 203, and the provisions of subsections (b), (c), (d), (e), (f), (g), (h), (j), and (k) of section 204 of this Act shall be applicable to such mortgages insured under this section, except that all references therein to the Mutual Mortgage Insurance Fund or the Fund shall be construed to refer to the General Insurance Fund and all references therein to section 203 shall be construed to refer to this section; or

(2) as to mortgages meeting the requirements of paragraph (3) or (4) of subsection (d) of this section, paragraph (1) of subsection (h) of this section, or paragraph (2) of subsection (j) of this section, as provided in section 207(g) of this Act with respect to mortgages insured under said section 207, and the provisions of subsections (h), (i), (j), (k), and (l) of section 207 of this Act shall be applicable to such mortgages insured under this section; or

(3) as to mortgages meeting the requirements of this section which are insured or initially endorsed for insurance on or after the date of enactment of the Housing Act of 1961,[537] notwithstanding the provisions of paragraphs (1) and (2) of this subsection, the Secretary in his discretion, in accordance with

[536] Section 109 of the Disaster Relief and Emergency Assistance Amendments of 1988, Pub. L. 100-707, approved Nov. 23, 1988, amended this sentence to refer to such sections of the "Disaster Relief and Emergency Assistance Act." Probably intended to refer to the Robert T. Stafford Disaster Relief and Emergency Assistance Act, renamed by section 102(a) of Pub. L. 100-707.

[537] June 30, 1961.

such regulations as he may prescribe, may make payments pursuant to such paragraphs in cash or in debentures (as provided in the mortgage insurance contract), or may acquire a mortgage loan that is in default and the security therefor upon payment to the mortgagee in cash or in debentures (as provided in the mortgage insurance contract) of a total amount equal to the unpaid principal balance of the loan plus any accrued interest and any advances approved by the Secretary and made previously by the mortgagee under the provisions of the mortgage, and after the acquisition of any such mortgage by the Secretary the mortgagee shall have no further rights, liabilities, or obligations with respect to the loan or the security for the loan. The appropriate provisions of sections 204 and 207 relating to the issuance of debentures shall apply with respect to debentures issued under this paragraph, and the appropriate provisions of sections 204 and 207 relating to the rights, liabilities, and obligations of a mortgagee shall apply with respect to the Secretary when he has acquired an insured mortgage under this paragraph, in accordance with and subject to regulations (modifying such provisions to the extent necessary to render their application for such purposes appropriate and effective) which shall be prescribed by the Secretary, except that as applied to mortgages so acquired (A) all references in section 204 to the Mutual Mortgage Insurance Fund or the fund shall be construed to refer to the General Insurance Fund, and (B) all references in section 204 to section 203 shall be construed to refer to this section. If the insurance is paid in cash, there shall be added to such payment an amount equivalent to the interest which the debentures would have earned, computed to a date to be established pursuant to regulations issued by the Secretary.

(4)(A) In the event any mortgage insured under this section pursuant to a commitment to insure entered into before the effective date of this clause[538] is not in default at the expiration of twenty years from the date the mortgage was endorsed for insurance, the mortgagee shall, within a period thereafter to be determined by the Secretary, have the option to assign, transfer, and deliver to the Secretary the original credit instrument and the mortgage securing the same and receive the benefits of the insurance as hereinafter provided in this paragraph, upon compliance with such requirements and conditions as to the validity of the mortgage as a first lien and such other matters as may be prescribed by the Secretary at the time the loan is endorsed for insurance. Upon such assignment, transfer, and delivery the obligation of the mortgagee to pay the premium charges for insurance shall cease, and the Secretary shall, subject to the cash adjustment provided herein, issue to the mortgagee debentures having a total face value[539] equal to the amount of the original principal obligation of the mortgage which was unpaid on the date of the assignment, plus accrued interest to such date. Debentures issued pursuant to this paragraph shall be issued in the same manner and subject to the same terms and conditions as debentures issued under paragraph (1) of this subsection, except that the debentures issued pursuant to this paragraph shall be dated as of the date the mortgage is assigned to the Secretary, shall mature ten years after such date, and shall bear interest from such date at the going Federal rate determined at the time of issuance. The term "going Federal rate" as used herein means the annual rate of interest which the Secretary of the Treasury shall specify as applicable to the six-month period (consisting of January through June or July through December) which includes the issuance date of such debentures, which applicable rate for each six-month period shall be determined by the Secretary of the Treasury by estimating the average yield to maturity, on the basis of daily closing market bid quotations or prices during the month of May or the month of November, as the case may be, next preceding such six-month period, on all outstanding marketable obligations of the United States having a maturity date of eight to twelve years from the first day of such month of May or November (or, if no such obligations are outstanding, the obligation next shorter than eight years and the obligation next longer than twelve years, respectively, shall be used), and by adjusting such estimated average annual yield to the nearest one-eighth of 1 per centum. The Secretary shall have the same authority with respect to mortgages assigned to him under this paragraph as contained in section 207(k) and section 207(l) as to mortgages insured by the Secretary and assigned to him under section 207 of this Act.

(B) In processing a claim for insurance benefits under this paragraph, the Secretary may direct the mortgagee to assign, transfer, and deliver the original credit instrument and the mortgage securing it directly to the Government National Mortgage Association in lieu of assigning, transferring, and delivering the credit instrument and the mortgage to the Secretary. Upon the

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[538] November 30, 1983.

[539] Section 516(d) of the Housing and Community Development Act of 1992, Pub. L. 102-550, provides as follows:

"(d) Housing for Moderate Income and Displaced Families.—The second sentence of section 221(g)(4)(A) of the National Housing Act (12 U.S.C. 1715l(g)(4)(A)) is amended by striking ", subject to the cash adjustment provided herein, issue to the mortgagee debentures having total face value" and inserting the following: "issue to the mortgagee debentures having a par value".

The amendment could not be executed because the text proposed to be struck does not appear in this subparagraph.

assignment, transfer, and delivery of the credit instrument and the mortgage to the Association, the mortgage insurance contract shall terminate and the mortgagee shall receive insurance benefits as provided in subparagraph (A). The Association is authorized to accept such loan documents in its own name and to hold, service, and sell such loans as agent for the Secretary. The mortgagor's obligation to pay a service charge in lieu of a mortgage insurance premium shall continue as long as the mortgage is held by the Association or by the Secretary. The Secretary shall have the same authority with respect to mortgages assigned to the Secretary or the Association under this subparagraph as provided by section 223(c).

(C)(i) In lieu of accepting assignment of the original credit instrument and the mortgage securing the credit instrument under subparagraph (A) in exchange for receipt of debentures, the Secretary shall arrange for the sale of the beneficial interests in the mortgage loan through an auction and sale of the (I) mortgage loans, or (II) participation certificates, or other mortgage-backed obligations in a form acceptable to the Secretary (in this subparagraph referred to as "participation certificates"). The Secretary shall arrange the auction and sale at a price, to be paid to the mortgagee, of par plus accrued interest to the date of sale. The sale price shall also include the right to a subsidy payment described in clause (iii).

(ii)(I) The Secretary shall conduct a public auction to determine the lowest interest rate necessary to accomplish a sale of the beneficial interests in the original credit instrument and mortgage securing the credit instrument.

(II) A mortgagee who elects to assign a mortgage shall provide the Secretary and persons bidding at the auction a description of the characteristics of the original credit instrument and mortgage securing the original credit instrument, which shall include the principal mortgage balance, original stated interest rate, service fees, real estate and tenant characteristics, the level and duration of applicable Federal subsidies, and any other information determined by the Secretary to be appropriate. The Secretary shall also provide information regarding the status of the property with respect to the provisions of the Emergency Low Income Housing Preservation Act of 1987 or any subsequent Act with respect to eligibility to prepay the mortgage, a statement of whether the owner has filed a notice of intent to prepay or a plan of action under the Emergency Low Income Housing Preservation Act of 1987 or any subsequent Act, and the details with respect to incentives provided under the Emergency Low Income Housing Preservation Act of 1987 or any subsequent Act in lieu of exercising prepayment rights.

(III) The Secretary shall, upon receipt of the information in subclause (II), promptly advertise for an auction and publish such mortgage descriptions in advance of the auction. The Secretary may conduct the auction at any time during the 6-month period beginning upon receipt of the information in subclause (II) but under no circumstances may the Secretary conduct an auction before 2 months after receiving the mortgagee's written notice of intent to assign its mortgage to the Secretary.

(IV) In any auction under this subparagraph, the Secretary shall accept the lowest interest rate bid for purchase that the Secretary determines to be acceptable. The Secretary shall cause the accepted bid to be published in the Federal Register. Settlement for the sale of the credit instrument and the mortgage securing the credit instrument shall occur not later than 30 business days after the date winning bidders are selected in the auction, unless the Secretary determines that extraordinary circumstances require an extension (not to exceed 60 days) of the period.

(V) If no bids are received, the bids that are received are not acceptable to the Secretary, or settlement does not occur within the period under subclause (IV), the mortgagee shall retain all rights (including the right to interest, at a rate to be determined by the Secretary, for the period covering any actions taken under this subparagraph) under this section to assign the mortgage loan to the Secretary.

(iii) As part of the auction process, the Secretary shall agree to provide a monthly interest subsidy payment from the General Insurance Fund to the purchaser under the auction of the original credit instrument or the mortgage securing the credit instrument (and any subsequent holders or assigns who are approved mortgagees). The subsidy payment shall be paid on the first day of each month in an amount equal to the difference between the stated interest due on the mortgage loan and the lowest interest rate necessary to accomplish a sale of the mortgage loan or participation certificates (less the servicing fee, if appropriate) for the then unpaid principal balance plus accrued interest at a rate determined by the Secretary. Each interest subsidy payment shall be treated by the holder of the mortgage as interest paid on the mortgage. The interest subsidy payment shall be provided until the earlier of—

(I) the maturity date of the loan;

(II) prepayment of the mortgage loan in accordance with the Emergency Low Income Housing Preservation Act of 1987 or any subsequent Act, where applicable; or

(III) default and full payment of insurance benefits on the mortgage loan by the Federal Housing Administration.

(iv) The Secretary shall require that the mortgage loans or participation certificates presented for assignment are auctioned as whole loans with servicing rights released and also are auctioned with servicing rights retained by the current servicer.

(v) To the extent practicable, the Secretary shall encourage State housing finance agencies, nonprofit organizations, and organizations representing the tenants of the property securing the mortgage, or a qualified mortgagee participating in a plan of action under the Emergency Low Income Housing Preservation Act of 1987 or subsequent Act to participate in the auction.

(vi) The Secretary shall implement the requirements imposed by this subparagraph within 30 days from the date of enactment of this subparagraph[540] and not be subject to the requirement of prior issuance of regulations in the Federal Register. The Secretary shall issue regulations implementing this section within 6 months of the enactment of this subparagraph.

(vii) Nothing in this subparagraph shall diminish or impair the low income use restrictions applicable to the project under the original regulatory agreement or the revised agreement entered into pursuant to the Emergency Low Income Housing Preservation Act of 1987 or subsequent Act, if any, or other agreements for the provision of Federal assistance to the housing or its tenants.

(viii) This subparagraph shall not apply after December 31, 2002, except that this subparagraph shall continue to apply if the Secretary receives a mortgagee's written notice of intent to assign its mortgage to the Secretary on or before such date. Not later than January 31 of each year (beginning in 1992), the Secretary shall submit to the Congress a report including statements of the number of mortgages auctioned and sold and their value, the amount of subsidies committed to the program under this subparagraph, the ability of the Secretary to coordinate the program with the incentives provided under the Emergency Low Income Housing Preservation Act of 1987 or subsequent Act, and the costs and benefits derived from the program for the Federal Government.

(ix)[541] The authority of the Secretary to conduct multifamily auctions under this paragraph shall be effective for any fiscal year only to the extent and in such amounts as are approved in appropriations Acts for the costs of loan guarantees (as defined in section 502 of the Congressional Budget Act of 1974), including the cost of modifying loans.

(h)(1) In addition to mortgages insured under the provisions of this section, the Secretary is authorized, upon application by the mortgagee, to insure under this subsection as hereinafter provided any mortgage (including advances under such mortgage during rehabilitation) which is executed by a nonprofit organization to finance the

[540] The date of enactment was November 5, 1990.
[541] Indented so in law.

purchase and rehabilitation of deteriorating or substandard housing for subsequent resale to low-income home purchasers and, upon such terms and conditions as the Secretary may prescribe, to make commitments for the insurance of such mortgages prior to the date of their execution or disbursement thereon.

(2) To be eligible for insurance under paragraph (1) of this subsection, a mortgage shall—

(A) be executed by a private nonprofit corporation or association, approved by the Secretary, for financing the purchase and rehabilitation (with the intention of subsequent resale) of property comprising one or more tracts or parcels, whether or not contiguous, upon which there is located deteriorating or substandard housing consisting of (i) four or more single-family dwellings of detached, semidetached, or row construction, or (ii) four or more one-family units in a structure or structures for which a plan of family unit ownership approved by the Secretary is established;

(B) be secured by the property which is to be purchased and rehabilitated with the proceeds thereof;

(C) be in a principal amount not exceeding the appraised value of the property at the time of its purchase under the mortgage plus the estimated cost of the rehabilitation;

(D) bear interest (exclusive of premium charged for insurance and service charge, if any) at the rate in effect under the proviso in subsection (d)(5) at the time of execution;

(E) provide for complete amortization (subject to paragraph (5)(E)) by periodic payments within such term as the Secretary may prescribe; and

(F) provide for the release of individual single-family dwellings from the lien of the mortgage upon the sale of the rehabilitated dwellings in accordance with paragraph (5).

(3) No mortgage shall be insured under paragraph (1) unless the mortgagor shall have demonstrated to the satisfaction of the Secretary that (A) the property to be rehabilitated is located in a neighborhood which is sufficiently stable and contains sufficient public facilities and amenities to support long-term values, or (B) the rehabilitation to be carried out by the mortgagor plus its related activities and the activities of other owners of housing in the neighborhood, together with actions to be taken by public authorities, will be of such scope and quality as to give reasonable promise that a stable environment will be created in the neighborhood.

(4) The aggregate principal balance of all mortgages insured under paragraph (1) and outstanding at any one time shall not exceed $50,000,000.

(5)(A)[542] No mortgage shall be insured under paragraph (1) unless the mortgagor enters into an agreement (in form and substance satisfactory to the Secretary) that it will offer to sell the dwellings involved, upon completion of their rehabilitation, to individuals or families (hereinafter referred to as "low-income purchasers") determined by the Secretary to have incomes below the maximum amount specified (with respect to the area involved) in section 101(c)(1) of the Housing and Urban Development Act of 1965.

(B) The Secretary is authorized to insure under this paragraph mortgages executed to finance the sale of individual dwellings to low-income purchasers as provided in subparagraph (A). Any such mortgage shall— (i) be in a principal amount equal to that portion of the unpaid balance of the principal mortgage covering the property (insured under paragraph (1)) which is allocable to the individual dwelling involved; and (ii) bear interest at the same rate as the principal mortgage or such lower rate, not less than 1 per centum, as the Secretary may prescribe if in his judgment the purchaser's income is sufficiently low to justify the lower rate, and provide for complete amortization within a term equal to the remaining term (determined without regard to subparagraph (E) of such principal mortgage: Provided, That if the rate of interest initially prescribed is less than the rate borne by the principal mortgage and the purchaser's income (as determined on the basis of periodic review) subsequently rises, the rate of interest so prescribed shall be increased (but not above the rate borne by such principal mortgage), under regulations of the Secretary, to the extent appropriate to reflect the increase in such income, and the mortgage shall so provide.

(C) The price for which any individual dwelling is sold to a low-income purchaser under this paragraph shall be the amount of the mortgage covering the sale as determined under

[542] Section 101(c)(4) of the Housing and Urban Development Act of 1968, Pub. L. 90-448, 12 U.S.C. 1715z note) approved August 1, 1968, provides as follows:
"(4) The purchase of any individual dwelling, sold by a nonprofit organization pursuant to the provisions of section 221(h)(5) of the National Housing Act after the date of enactment of this section, may be financed with a mortgage insured under the provisions of section 235(j)(4) of such Act, but such mortgage shall bear interest at the rate provided in section 235(j)(2)(C) of such Act.".

subparagraph (B), except that the purchaser shall in addition thereto be required to pay on account of the property at the time of purchase such amount (which shall not be less than $200, but which may be applied in whole or in part toward closing costs) as the Secretary may determine to be reasonable and appropriate in the circumstances.

(D) Upon the sale under this paragraph of any individual dwelling, such dwelling shall be released from the lien of the principal mortgage, and such mortgage shall thereupon be replaced by an individual mortgage insured under this paragraph to the extent of the portion of its unpaid balance which is allocable to the dwelling covered by such individual mortgage. Until all of the individual dwellings in the property covered by the principal mortgage have been sold, the mortgagor shall hold and operate the dwellings remaining unsold at any given time as though they constituted rental units in a project covered by a mortgage which is insured under subsection (d)(3) (and which receives the benefits of the interest rate provided for in the proviso in subsection (d)(5)).

(E) Upon the sale under this paragraph of all of the individual dwellings in the property covered by the principal mortgage, and the release of all individual dwellings from the lien of the principal mortgage, the insurance of the principal mortgage shall be terminated and no adjusted premium charge shall be charged by the Secretary upon such termination.

(F) Any mortgage insured under this paragraph shall contain a provision that if the low-income mortgagor does not continue to occupy the property the interest rate shall increase to the highest rate permissible under this section and the regulations of the Secretary effective at the time of commitment for insurance of the principal mortgage; except that the increase in interest rate shall not be applicable if the property is sold and the purchaser is (i) the nonprofit organization which executed the principal mortgage (ii) a public housing agency having jurisdiction under the United States Housing Act of 1937 over the area where the dwelling is located, or (iii) a low-income purchaser approved for the purposes of this paragraph by the Secretary.

(6) In addition to the mortgages that may be insured under paragraphs (1) and (5), the Secretary is authorized to insure under this subsection at any time within one year after the date of the enactment of this paragraph, upon such terms and conditions as he may prescribe, mortgages which are executed by individuals or families that meet the income criteria prescribed in paragraph (5)(A) and are executed for the purpose of financing the rehabilitation or improvement of single-family dwellings of detached, semidetached, or row construction that are owned in each instance by a mortgagor who has purchased the dwelling from a nonprofit organization of the type described in this subsection. To be eligible for such insurance, a mortgage shall—

(A) be in principal amount not exceeding the lesser of $18,000 or the sum of the estimated cost of repair and rehabilitation and the Secretary's estimate of the value of the property before repair and rehabilitation, except that in no case involving refinancing shall such mortgage exceed such estimated cost of repair and rehabilitation and the amount (as determined by the Secretary) required to refinance existing indebtedness secured by the property;

(B) bear interest (exclusive of premium charges for insurance and service charge, if any) at 3 per centum per annum or such lower rate, not less than 1 per centum, as the Secretary may prescribe if in his judgment the mortgagor's income is sufficiently low to justify the lower rate: Provided, That, if the rate of interest initially prescribed is less than 3 per centum per annum and the mortgagor's income (as determined on the basis of periodic review) subsequently rises, the rate shall be increased (but not above 3 per centum), under regulations of the Secretary, to the extent appropriate to reflect the increase in such income, and the mortgage shall so provide;

(C) involve a mortgagor that shall have paid on account of the property at the time of the rehabilitation such amount (which shall not be less than $200 in cash or its equivalent, but which may be applied in whole or in part toward closing costs) as the Secretary may determine to be reasonable and appropriate under the circumstances; and

(D) contain a provision that, if the low-income mortgagor does not continue to occupy the property, the interest rate shall increase to the highest rate permissible under this section and the regulations of the Secretary effective at the time the commitment was issued for insurance of the mortgage; except that the increase in interest rate shall not be applicable if the property is sold and the purchaser is (i) a nonprofit organization which has been engaged in purchasing and rehabilitating deteriorating and substandard housing with financing under a mortgage insured under paragraph (1) of this subsection, (ii) a public housing agency having jurisdiction under the

United States Housing Act of 1937 over the area where the dwelling is located, or (iii) a low-income purchaser approved for the purposes of this paragraph by the Secretary.

(7) Where the Secretary approved a plan of family unit ownership, the terms "single-family dwelling," "single-family dwellings," "individual dwelling," and "individual dwellings" shall mean a family unit or family units, together with the undivided interest (or interests) in the common areas and facilities.

(8) For purposes of this subsection, the terms "single-family dwelling" and "single-family dwellings" (except for purposes of paragraph (7)) shall include a two-family dwelling which has been approved by the Secretary.

(i)(1) The Secretary is authorized, with respect to any project involving a mortgage insured under subsection (d)(3) which bears interest at the below-market interest rate prescribed in the proviso of subsection (d)(5), to permit a conversion of the ownership of such project to a plan of family unit ownership. Under such plan, each family unit shall be eligible for individual ownership and provision shall be included for the sale of the family units, together with an undivided interest in the common areas and facilities which serve the project, to low or moderate income purchasers. The Secretary shall obtain such agreements as he determines to be necessary to assure continued maintenance of the common areas and facilities. Upon such sale, the family unit and the undivided interest in the common areas shall be released from the lien of the project mortgage.

(2)(A) The Secretary is authorized, upon application by the mortgagee, to insure under this subsection mortgages financing the purchase of individual family units under the plan prescribed in paragraph (1). Commitments may be issued by the Secretary for the insurance of such mortgages prior to the date of their execution or disbursement thereon, upon such terms and conditions as the Secretary may prescribe. To be eligible for such insurance, the mortgage shall—

(i) be executed by a mortgagor having an income within the limits prescribed by the Secretary for occupants of projects financed with a mortgage insured under subsection (d)(3) which bears interest at the below-market rate prescribed in the proviso of subsection (d)(5);

(ii) involve a principal obligation (including such initial service charges, and such appraisal, inspection, and other fees, as the Secretary shall approve) in an amount not to exceed the Secretary's estimate of the appraised value of the family unit, including the mortgagor's interest in the common areas and facilities, as of the date the mortgage is accepted for insurance;

(iii) bear interest at a rate determined by the Secretary (which may vary in accordance with the regulations of the Secretary promulgated pursuant to the last sentence of paragraph (4) of this subsection) but not less than the below-market rate in effect under the proviso of subsection (d)(5) at the date of the commitment for insurance; and

(iv) provide for complete amortization by periodic payments within such terms as the Secretary may prescribe, but not to exceed forty years from the beginning of amortization of the mortgage.

(B) The price for which the individual family unit is sold to the low or moderate income purchaser shall not exceed the appraised value of the property, as determined under subparagraph (A)(ii), except that the purchaser shall be required to pay on account of the property at the time of purchase at least such amount, in cash or its equivalent (which shall be not less than 3 per centum of such price, but which may be applied in whole or in part toward closing costs), as the Secretary may determine to be reasonable and appropriate.

(3) Upon the sale of all of the family units covered by the project mortgage, and the release of all of the family units (including the undivided interest allocable to each unit in the common areas and facilities) from the lien of the project mortgage, the insurance of the project mortgage shall be terminated and no adjusted premium charge shall be collected by the Secretary upon such termination.

(4) Any mortgage covering an individual family unit insured under this subsection shall contain a provision that, if the original mortgagor does not continue to occupy the property, the interest rate shall increase to the highest rate permissible under this section and the regulations of the Secretary effective at the time the commitment was issued for the insurance of the project mortgage; except that the requirement for an increase in interest rate shall not be applicable if the property is sold and the purchaser is (i) a nonprofit purchaser approved by the Secretary, or (ii) a low- or moderate-income purchaser who has an income within the limits prescribed by the Secretary for occupants of projects financed with a mortgage

insured under subsection (d)(3) which bears interest at the below-market rate prescribed in the proviso of subsection (d)(5). The mortgage shall also contain a provision that, if the Secretary determines that the annual income of the original mortgagor (or a purchaser described in clause (ii) of the preceding sentence) has increased to an amount enabling payment of a greater rate of interest, the interest rate of the individual mortgage may be increased up to the highest rate permissible under the regulations of the Secretary for mortgages insured under this section, effective at the time the commitment was issued for the insurance of the mortgage.

(5) For the purpose of this subsection—

(i)[543] the term "mortgage", when used in relation to a mortgage insured under paragraph (2) of this subsection, includes a first mortgage given to secure the unpaid purchase price of a fee interest in, or a long-term leasehold interest in a one-family unit in a multifamily project and an undivided interest in the common areas and facilities which serve the project; and

(ii)[544] the term "common areas and facilities" includes the land and such commercial, community, and other facilities as are approved by the Secretary.

(j)(1) The Secretary is authorized, with respect to any rental project, involving a mortgage insured under subsection (d)(3) which bears interest at the below-market interest rate prescribed in the proviso of subsection (d)(5), to permit a conversion of the ownership of such project to a cooperative approved by the Secretary. Membership in such cooperative shall be made available only to those families having an income within the limits prescribed by the Secretary for occupants of projects financed with a mortgage insured under subsection (d)(3) which bears interest at such below-market rate: Provided, That families residing in the rental project at the time of its conversion to a cooperative who do not meet such income limits may be permitted to become members in the cooperative under such special terms and conditions as the Secretary may prescribe.

(2) The Secretary is authorized, upon application by the mortgagee, to insure under this subsection cooperative mortgages financing the purchase of projects meeting the requirements of paragraph (1). Commitments may be issued by the Secretary for the insurance of such mortgages prior to the date of their execution or disbursement thereon, upon such terms and conditions as the Secretary may prescribe. To be eligible for such insurance, the mortgage shall—

(i)[545] involve a principal obligation (including such initial service charges and appraisal, inspection, and other fees as the Secretary shall approve) in an amount not exceeding the appraised value of the property for continued use as a cooperative, which value shall be based upon a mortgage amount on which the debt service can be met from the income of the property when operated on a nonprofit basis, after the payment of all operating expenses, taxes, and required reserves;

(ii)[546] bear interest at the below-market rate prescribed in the proviso of subsection (d)(5); and

(iii)[547] provide for complete amortization within such terms as the Secretary may prescribe.

(k) With respect to any project insured under subsection (d)(3) or (d)(4), the Secretary may further increase the dollar amount limitations which would otherwise apply for the purpose of those subsections by up to 20 per centum if such increase is necessary to account for the increased cost of the project due to the installation therein of a solar energy system (as defined in subparagraph (3) of the last paragraph of section 2(a) of this Act) or residential energy conservation measures (as defined in section 210(11) (A) through (G) and (I) of Public Law 95-619) in cases where the Secretary determines that such measures are in addition to those required under the minimum property standards and will be cost-effective over the life of the measure.

(l)(1) Notwithstanding any other provision of law, tenants residing in eligible multifamily housing whose incomes exceed 80 percent of area median income shall pay as rent not more than the lower of the following amounts: (A) 30 percent of the family's adjusted monthly income; or (B) the relevant fair market rental established under section 8(b) of the United States Housing Act of 1937 for the jurisdiction in which the housing is located. An owner shall phase in any increase in rents for current tenants resulting from this subsection.

(2) For purposes of this subsection, the term "eligible multifamily housing" means any housing financed by a loan or mortgage that is (A) insured or held by the Secretary under subsection (d)(3) and

[543] So in law. Probably should be designated as subparagraph (A).
[544] So in law. Probably should be designated as subparagraph (B).
[545] So in law. Probably should be designated as subparagraph (A).
[546] So in law. Probably should be designated as subparagraph (B).
[547] So in law. Probably should be designated as subparagraph (C).

assisted under section 101 of the Housing and Urban Development Act of 1965 or section 8 of the United States Housing Act 1937; or (B) insured or held by the Secretary and bears interest at a rate determined under the proviso of subsection (d)(5).

[Section 222 [Repealed.]]

Sec. 223. [12 U.S.C. 1715n]
MISCELLANEOUS HOUSING INSURANCE.

(a) Notwithstanding any of the provisions of this Act and without regard to limitations upon eligibility contained in any section or title of this Act, other than the limitation in section 203(g), the Secretary is authorized upon application by the mortgagee, to insure or make commitments to insure under any section or title of this Act any mortgage—

(1) executed in connection with the sale by the Government, or any agency or official thereof, of any housing acquired or constructed under Public Law 849, Seventy-sixth Congress, as amended; Public Law 781, Seventy-sixth Congress, as amended or Public Laws 9, 73, or 353, Seventy-seventh Congress, as amended (including any property acquired, held, or constructed in connection with such housing or to serve the inhabitants thereof); or

(2) executed in connection with the sale by the Secretary of Housing and Urban Development, or by any public housing agency with the approval of the Secretary, of any housing (including any property acquired, held, or constructed in connection with such housing or to serve the inhabitants thereof) owned or financially assisted pursuant to the provisions of Public Law 671, Seventy-sixth Congress; or

(3) executed in connection with the sale by the Government, or any agency or official thereof, of any of the so-called Greenbelt towns, or parts thereof, including projects or parts thereof, known as Greenhills, Ohio; Greenbelt, Maryland; and Greendale, Wisconsin, developed under the Emergency Relief Appropriation Act of 1935, or of any of the village properties or employee's housing under the jursidiction of the Tennessee Valley Authority, or of any housing under the jurisdiction of the Department of the Interior located within the town area of Coulee Dam, Washington, acquired by the United States for the construction, operation, and maintenance of Grand Coulee Dam and its appurtenant works: Provided, That for the purpose of the applicant of this title to sales by the Secretary of the Interior pursuant to subsection 3(b)(1) and 3(b)(2) of the Coulee Dam Community Act of 1957, the selling price of the property involved shall be deemed to be the appraised value, or of any permanent housing under the jurisdiction of the Department of the Interior constructed under the Boulder Canyon Project Act of December 21, 1928, as amended and supplemented, located within the Boulder City municipal area: *Provided*, That for purposes of the application of this title to sales by the Secretary of the Interior pursuant to subsection 3(b)(1) and 3(b)(2) of the Boulder City Act of 1958, the selling price of the property involved shall be deemed to be the appraised value; or

(4) executed in connection with the sale by the Government or any agency or official thereof, of any housing (including any property acquired, held, or constructed in connection therewith or to serve the inhabitants thereof) pursuant to the Atomic Energy Community Act of 1955, as amended: Provided, That such insurance shall be issued without regard to any preferences or priorities except those prescribed by this Act or the Atomic Energy Community Act of 1955, as amended; or

(5) executed in connection with the sale by a State or municipality, or an agency, instrumentality, or political subdivision of either, of a project consisting of any permanent housing (including any property acquired, held, or constructed in connection therewith or to serve the inhabitants thereof), constructed by or on behalf of such State, municipality, agency, instrumentality, or political subdivision, for the occupancy of veterans of World War II, or Korean veterans, their families, and others; or

(6) executed in connection with the first resale, within two years from the date of its acquisition from the Government, of any portion of a project or property of the character described in paragraphs (1), (2), (3), and (4) above; or

(7) given to refinance an existing mortgage insured under this Act, or an existing mortgage held by the Secretary that is subject to a mortgage restructuring and rental assistance sufficiency plan pursuant to the Multifamily Assisted Housing Reform and Affordability Act of 1997 (42 U.S.C. 1437f note)[548], provided that—

[548] Section 103(d) of the Multifamily Housing Property Disposition Reform Act of 1994, Pub. L. 103-233, 12 U.S.C. 1715m note, provides as follows:

(A) the principal amount of any such refinancing mortgage shall not exceed the original principal amount or the unexpired term of such existing mortgage and shall bear interest at such rate as may be agreed upon by the mortgagor and the mortgagee, except that (i) the principal amount of any such refinancing mortgage may equal the outstanding balance of an existing mortgage insured pursuant to section 245, if the amount of the monthly payment due under the refinancing mortgage is less than that due under the existing mortgage for the month in which the refinancing mortgage is executed; (ii) a mortgagee may not require a minimum principal amount to be outstanding on the loan secured by the existing mortgage; (iii) in any case involving the refinancing of a loan in which the Secretary determines that the insurance of a mortgage for an additional term will inure to the benefits of the applicable insurance fund, taking into consideration the outstanding insurance liability under the existing insured mortgage, such refinancing mortgage may have a term not more than twelve years in excess of the unexpired term of such existing insured mortgage; and (iv) any multifamily mortgage that is refinanced under this paragraph shall be documented through amendments to the existing insurance contract and shall not be structured through the provisions of a new insurance contract; and

(B) a mortgage of the character described in paragraphs (1) through (6) of this subsection shall have a maturity and a principal obligation not in excess of the maximums prescribed under the applicable section or title of this Act, except that in no case may the principal obligation of a mortgage referred to in paragraph (5) of this subsection exceed 90 per centum of the appraised value of the mortgage property, and shall bear interest at such rate as may be agreed upon by the mortgagor and the mortgagee;[549]

(C) a mortgage that is subject to a mortgage restructuring and rental assistance sufficiency plan pursuant to the Multifamily Assisted Housing Reform and Affordability Act of 1997 (42 U.S.C. 1437f note) and is refinanced under this paragraph may have a term of not more than 30 years; or

(8) executed in connection with the sale by the Government of any housing acquired pursuant to section 1013 of the Demonstration Cities and Metropolitan Development Act of 1966.

(b) Notwithstanding any of the provisions of this title and without regard to limitations upon eligibility contained in section 221, the Secretary may in his discretion insure under section 221(d)(3) any mortgage executed by a mortgagor of the character described therein where such mortgage is given to refinance a mortgage covering an existing property or project (other than a one- to four-family structure) located in an urban renewal area, if the Secretary finds that such insurance will facilitate the occupancy of dwelling units in the property or project by families of low or moderate income or families displaced from an urban renewal area or displaced as a result of governmental action.

(c) The Secretary shall also have authority to insure under this Act any mortgage assigned to the Secretary in connection with payment under a contract of mortgage insurance or executed in connection with the sale by the Secretary, including a sale through another entity acting under authority of the fourth sentence of section 204(g), of any property acquired under any section or title of this Act without regard to any limitations or requirements contained in this Act upon eligibility of the mortgage, upon the payment of insurance premiums, or upon the terms and conditions of insurance settlement and the benefits of the insurance to be included in such settlement.

(d)(1) Notwithstanding any other provision of this Act, the Secretary is authorized to insure loans made to cover the operating losses of certain projects that have existing project mortgages insured by the Secretary. Insurance under this subsection shall be in the Secretary's discretion and upon such terms and conditions as the Secretary may prescribe, and shall be provided in accordance with the provisions of this subsection. For purposes of this subsection, the term "operating loss" means the amount by which the sum of the taxes, interest on the mortgage debt, mortgage insurance premiums, hazard insurance premiums, and the expense of maintenance and operation of the project covered by the mortgage, exceeds the income of the project.

(2) To be eligible for insurance pursuant to this paragraph—

(A) the existing project mortgage (i) shall have been insured by the Secretary at any time before or after the date of enactment of the Housing and Community Development Act of 1987; and (ii) shall cover any property, other than a property upon which there is located a 1- to 4-family dwelling;

"(d) STREAMLINED REFINANCING.—As soon as practicable, the Secretary shall implement a streamlined refinancing program under the authority provided in section 223 of the National Housing Act to prevent the default of mortgages insured by the FHA which cover multifamily housing projects, as defined in section 203(b) of the Housing and Community Development Amendments of 1978.".

[549] So in law.

(B) the operating loss shall have occurred during the first 24 months after the date of completion of the project, as determined by the Secretary; and

(C) the loan shall be in an amount not exceeding the operating loss.

(3) To be eligible for insurance pursuant to this paragraph—

(A) the existing project mortgage (i) shall have been insured by the Secretary at any time before or after the date of enactment of the Housing and Community Development Act of 1987; (ii) shall cover any property, other than a property upon which there is located a 1- to 4-family dwelling; and (iii) shall not cover a subsidized project, as defined by the Secretary;

(B) the loan shall be in an amount not exceeding 80 percent of the unreimbursed cash contributions made on or after March 18, 1987, by the project owner for the use of the project, during any period of consecutive months (not exceeding 24 months) in the first 10 years after the date of completion of the project, as determined by the Secretary, except that in no event may the amount of the loan exceed the operating loss during such period;

(C) the loan shall be made within 10 years after the end of the period of consecutive months referred to in the preceding subparagraph; and

(D) the project shall meet all applicable underwriting and other requirements of the Secretary at the time the loan is to be made.

(4) Any loan insured pursuant to this subsection shall (A) bear interest at such rate as may be agreed upon by the mortgagor and mortgagee; (B) be secured in such manner as the Secretary shall require; (C) be limited to a term not exceeding the unexpired term of the original mortgage; and (D) be insured under the same section as the original mortgage. The Secretary may provide insurance pursuant to paragraph (2) or (3), or pursuant to both such paragraphs, in connection with an existing project mortgage, except that the Secretary may not provide insurance pursuant to both such paragraphs in connection with the same period of months referred to in paragraphs (2)(B) and (3)(B). The Secretary is authorized to collect a premium charge for insurance of loans pursuant to this subsection in an amount computed at the same premium rate as is applicable to the original mortgage. This premium shall be payable in cash or in debentures of the insurance fund under which the loan is insured at par plus accrued interest. In the event of a failure of the borrower to make any payment due under such loan or under the original mortgage, both the loan and original mortgage shall be considered in default, and if such default continues for a period of thirty days, the lender shall be entitled to insurance benefits, computed in the same manner as for the original mortgage, except that in determining the interest rate under section 224 for the debentures representing the portion of the claim applicable to the loan, the date of the commitment to insure the loan and the insurance date of the loan shall be taken into consideration rather than the commitment or insurance date for the original mortgage.

(5) A loan involving a project covered by a mortgage insured under section 213 that is the obligation of the Cooperative Management Housing Insurance Fund shall be the obligation of such fund, and loans involving projects covered by a mortgage insured under section 236 or under any section of this title pursuant to subsection (e) of this section shall be the obligation of the Special Risk Insurance Fund.

(6) In determining the amount of an operating loss loan to be insured pursuant to this subsection, the Secretary shall not reduce such amount solely to reflect any amounts placed in escrow (at the time the existing project mortgage was insured) for initial operating deficits. If an operating loss loan was insured by the Secretary pursuant to this subsection before the date of the enactment of the Housing and Community Development Act of 1992[550] and was reduced solely to reflect the amount placed in escrow for initial operating deficits, the Secretary shall insure, to the extent of the availability of insurance authority provided in appropriation Acts, an increase in the existing loan or a separate loan, in an amount equal to the lesser of (A) the maximum amount permitted under this subsection and the applicable underwriting requirements established by the Secretary and in effect at the time the loan is to be made, or (B) the amount of the escrow for initial operating deficits.

(e) Notwithstanding any of the provisions of this Act except section 212, and without regard to limitations upon eligibility contained in any section of this title or title XI, other than the limitation in section 203(g), the Secretary is authorized, upon application by the mortgagee, to insure under any section of this title or title XI a mortgage executed in connection with the repair, rehabilitation, construction, or purchase of property located in an older, declining urban area in which the conditions are such that one or more of the eligibility requirements applicable to the section or title under which insurance is sought could not be met, if the Secretary finds that (1) the

[550] October 28, 1992.

area is reasonably viable, giving consideration to the need for providing adequate housing or group practice facilities for families of low and moderate income in such area, and (2) the property is an acceptable risk in view of such consideration. The insurance of a mortgage pursuant to this subsection shall be the obligation of the Special Risk Insurance Fund.

(f)(1) Notwithstanding any of the provisions of this Act, the Secretary is authorized, in his discretion, to insure under any section of this title a mortgage executed in connection with the purchase or refinancing of an existing multifamily housing project or the purchase or refinancing of existing debt of an existing hospital (or existing nursing home, existing assisted living facility, existing intermediate care facility, existing board and care home, or any combination thereof).

(2) In the case of the purchase or refinancing under this subsection of a multifamily housing project located in an older, declining urban area, the Secretary shall make available an amount not to exceed $30,000,000 of available purchase authority pursuant to section 305 of this Act to reduce interest rates on low- and moderate-income rental housing in projects having 100 units or less which otherwise could not support refinancing and moderate rehabilitation without causing excessive rent burdens on current tenants due to rent increases. The Secretary shall prescribe such terms and conditions as he deems necessary to assure that—

(A) the refinancing is used to lower the monthly debt service only to the extent necessary to assure the continued economic viability of the project, taking into account any rent reductions to be implemented by the mortgagor; and

(B) during the mortgage term no rental increases shall be made except those which are necessary to offset actual and reasonable operating expense increases or other necessary expense increases and maintain reasonable profit levels approved by the Secretary.

(3) For all insurance authorized by this subsection and provided pursuant to a commitment entered into after the date of enactment of the Housing and Community Development Act of 1980,[551] the Secretary may not accept an offer to prepay or request refinancing of a mortgage secured by rental housing unless the Secretary takes appropriate action that will obligate the borrower (and successors in interest thereof) to utilize the property as a rental property for a period of five years from the date on which the insurance was provided (twenty years in the case of any such mortgage purchased under section 305) unless the Secretary finds that—

(A) the conversion of the property to a cooperative, or condominium form of ownership is sponsored by a bona fide tenants' organization representing a majority of the households in the project;

(B) continuance of the property as rental housing is clearly unnecessary to assure adequate rental housing opportunities for low- and moderate-income people in the community; or

(C) continuance of the property as rental housing would have an undesirable and deleterious effect on the surrounding neighborhood.

(4) In the case of refinancing of an existing hospital (or existing nursing home, existing assisted living facility, existing intermediate care facility, existing board and care home, or any combination thereof) the Secretary shall prescribe such terms and conditions as the Secretary deems necessary to assure that—

(A) the refinancing is employed to lower the monthly debt service costs (taking into account any fees or charges connected with such refinancing) of such existing hospital (or existing nursing home, existing assisted living facility, existing intermediate care facility, existing board and care home, or any combination thereof);

(B) the proceeds of any refinancing will be employed only to retire the existing indebtedness and pay the necessary cost of refinancing on such existing hospital (or existing nursing home, existing assisted living facility, existing intermediate care facility, existing board and care home, or any combination thereof);

(C) such existing hospital (or existing nursing home, existing assisted living facility, existing intermediate care facility, existing board and care home, or any combination thereof) is economically viable; and

(D) the applicable requirements for certificates, studies, and statements of section 232 (for the existing nursing home, existing assisted living facility, intermediate care facility, board

[551] October 8, 1980.

and care home, or any combination thereof, proposed to be refinanced) or of section 242 (for the existing hospital proposed to be refinanced) have been met.

(5) In the case of any purchase or refinancing under this subsection involving property to be rehabilitated or developed under section 17 of the United States Housing Act of 1937, the Secretary may—

(A) include rehabilitation or development costs of not to exceed $20,000 per unit, except that the Secretary may increase such amount by not to exceed 25 per centum for specific properties where cost levels so require;

(B) permit subordinated liens securing up to the full amount of mortgage financing provided by State or local governments or agencies thereof; and

(C) pay such benefits in cash unless the mortgagee submits a written request for debenture payment.

(g) Notwithstanding any other provisions of this Act, the Secretary may, in his discretion, insure a mortgage covering a multifamily housing project including units which are not self-contained.

Sec. 224. [12 U.S.C. 1715o]
DEBENTURE INTEREST RATE.

Notwithstanding any other provisions of this Act, debentures issued under any section of this Act with respect to a loan or mortgage accepted for insurance on or after thirty days following the effective date of the Housing Act of 1954 (except debentures issued pursuant to paragraph (4) of section 221(g)) shall bear interest at the rate in effect on the date the commitment to insure the loan or mortgage was issued, or the date the loan or mortgage was endorsed for insurance, or (when there are two or more insurance endorsements) the date the loan or mortgage was initially endorsed for insurance, whichever rate is the highest, except that debentures issued pursuant to section 220(f), section 220(h)(7), section 221(g), section 233, or section 238 may, at the discretion of the Secretary, bear interest at the rate in effect on the date they are issued. Notwithstanding the preceding sentence and the following paragraph, if an insurance claim is paid in cash for any mortgage that is insured under section 203 or 234 of this Act and is endorsed for mortgage insurance after the date of enactment of this sentence[552], the debenture interest rate for purposes of calculating such a claim shall be the monthly average yield, for the month in which the default on the mortgage occurred, on United States Treasury Securities adjusted to a constant maturity of 10 years.

The Secretary shall from time to time, with the approval of the Secretary of the Treasury, establish such interest rate in an amount not in excess of the annual rate of interest determined by the Secretary of the Treasury, at the request of the Secretary, by estimating the average yield to maturity, on the basis of daily closing market bid quotations or prices during the calendar month next preceding the establishment of such rate of interest, on all outstanding marketable obligations of the United States having a maturity date of fifteen years or more from the first day of such next preceding month, and by adjusting such estimated average annual yield to the nearest one-eight of 1 per centum.

Sec. 225. [12 U.S.C. 1715p]
OPEN-END MORTGAGES.

Notwithstanding any other provisions of this Act, in connection with any mortgage insured pursuant to any section of this Act which covers a property upon which there is located a dwelling designed principally for residential use for not more than four families in the aggregate, the Secretary is authorized upon such terms and conditions as he may prescribe, to insure under said section the amount of any advance for the improvement or repair of such property made to the mortgagor pursuant to an "open-end" provision in the mortgage, and to add the amount of such advance to the original principal obligation in determining the value of the mortgage for the purpose of computing the amounts of debentures and certificate of claim to which the mortgagee may be entitled: *Provided*, That the Secretary may require the payment of such charges, including charges in lieu of insurance premiums, as he may consider appropriate for the insurance of such "open-end" advances: *Provided further*, That only advances for such improvements or repairs as substantially protect or improve the basic livability or utility of the property involved shall be eligible for insurance under this section: *Provided further*, That no such advance shall be insured under this section if the amount thereof plus the amount of the unpaid balance of the original principal obligation of the mortgage would exceed the amount of such original principal obligation unless the mortgagor certifies that the proceeds of such advance will be used to finance the construction of additional rooms or other enclosed space as a part of the dwelling: *And provided further*, That the insurance of "open-end" advances shall not be taken into

[552] January 23, 2004.

account in determining the aggregate amount of principal obligations of mortgages which may be insured under this Act.

Sec. 226. [12 U.S.C. 1715q]
APPRAISAL AVAILABLE TO HOME BUYERS.

The Secretary is hereby authorized and directed to require that, in connection with any property upon which there is located a dwelling designed principally for a single-family residence or a two-family residence and which is approved for mortgage insurance under section 203, 213 with respect to any property or project of a corporation or trust of the character described in paragraph numbered (2) of subsection (a) thereof, 220, 231, 232, 233, 234, 235(i), 237, or 903, of this Act, the seller or builder or such other person as may be designated by the Secretary shall agree to deliver, prior to the sale of the property, to the person purchasing such dwelling for his own occupancy, a written statement setting forth the amount of the appraised value of the property as determined by the Secretary. This section shall not apply in any case where the mortgage involved was insured or the commitment for such insurance was issued prior to the effective date of the Housing Act of 1954. Notwithstanding the first sentence of this section, the Secretary is authorized to require, in connection with any mortgage where the mortgage amount is computed on the basis of the Secretary's estimate of the replacement cost of the property, or on the basis of any other estimates of the Secretary, that a written statement setting forth such estimate or estimates, as the cases may be, be furnished under this section in lieu of a written statement setting forth the amount of the appraised value of the property.

Sec. 227. [12 U.S.C. 1715r]
BUILDER'S COST CERTIFICATION.

(a) REQUIREMENT.—Except as provided in subsection (b) and notwithstanding any other provision of this Act, no mortgage covering new or rehabilitated multifamily housing or a property or project described in title XI shall be insured under this Act unless the mortgagor has agreed (A) to certify, upon completion of the physical improvements on the mortgaged property or project and prior to final endorsement of the mortgage, either (i) that the approved percentage of actual cost (as those terms are herein defined) equaled or exceeded the proceeds of the mortgage loan or (ii) the amount by which the proceeds of the mortgage loan exceeded such approved percentage of actual cost, as the case may be, and (B) to pay forthwith to the mortgagee, for application to the reduction of the principal obligation of such mortgage, the amount, if any, certified to be in excess of such approved percentage of actual cost. Upon the Secretary's approval of the mortgagor's certification as required hereunder, such certification shall be final and incontestable, except for fraud or material misrepresentation on the part of the mortgagor.

(b) EXEMPTION FOR CERTAIN PROJECTS ASSISTED WITH LOW-INCOME HOUSING TAX CREDIT.—In the case of any mortgage insured under any provision of this title that is executed in connection with the construction, rehabilitation, purchase, or refinancing of a multifamily housing project for which equity provided through any low-income housing tax credit pursuant to section 42 of the Internal Revenue Code of 1986 (26 U.S.C. 42), if the Secretary determines at the time of issuance of the firm commitment for insurance that the ratio of the loan proceeds to the actual cost of the project is less than 80 percent, subsection (a) of this section shall not apply.

(c) DEFINITIONS.—For purposes of this section, the following definitions shall apply:

(1) The term "new or rehabilitated multifamily housing" means a project or property approved for mortgage insurance prior to the construction or the repair and rehabilitation involved and covered by a mortgage insured or to be insured (i) under section 207, (ii) under section 213 with respect to any property or project of a corporation or trust of the character described in paragraph numbered (1) of subsection (a) thereof or with respect to any property or project of a mortgagor of the character described in paragraph (3) of subsection (a) thereof, (iii) under section 220 if the mortgage meets the requirements of paragraph (3)(B) of subsection (d) thereof, (iv) under section 221 if the mortgage meets the requirements of paragraph (3) or paragraph (4) of subsection (d) thereof, (v) under section 231, (vi) under section 233 if the mortgage meets the requirements of subsection (b), (vii) under section 810 if the mortgage meets the requirements of subsection (f), (viii) under section 234(d), or (ix) under section 236;

(2) The term "approved percentage" means the percentage figure which, under applicable provisions of this Act, the Secretary is authorized to apply to his estimate of value, cost, or replacement cost, as the case may be, of the property or project in determining the maximum insurable mortgage amount; except that if the mortgage is to assist the financing of repair or rehabilitation and no part of the proceeds will be used to finance the purchase of the land or structure involved, the approval percentage shall be 100 per centum; and

(3) The term "actual cost" has the following meaning: (i) in case the mortgage is to assist the financing of new construction, the term means the actual cost to the mortgagor of such construction,

including amounts paid for labor, materials, construction contracts, off-site public utilities, streets, organizational and legal expenses, such allocations of general overhead items as are acceptable to the Secretary, and other items of expense approved by the Secretary, plus (I) a reasonable allowance for builder's profit if the mortgagor is also the builder as defined by the Secretary, and (II) an amount equal to the Secretary's estimate of the fair market value of any land (prior to the construction of the improvements built as a part of the project) in the property or project owned by the mortgagor in fee (or, in case the land in the property or project is held by the mortgagor under a leasehold or other interest less than a fee, such amount as the mortgagor paid for the acquisition of such leasehold or other interest but in no event in excess of the fair market value of such leasehold or other interest exclusive of the proposed improvements), but excluding the amount of any kickbacks, rebates, or trade discounts received in connection with the construction of the improvements, or (ii) in case the mortgage is to assist the financing of repair or rehabilitation, the term means the actual cost to the mortgagor of such repair or rehabilitation, including the amounts paid for labor, materials, construction contracts, off-site public utilities, streets, organization and legal expenses, such allocations of general overhead items as are acceptable to the Secretary, and other items of expense approved by the Secretary, plus (I) a reasonable allowance for builder's profit if the mortgagor is also the builder as defined by the Secretary, and (II) an additional amount equal to (A) in case the land and improvements are to be acquired by the mortgagor and the purchase price thereof is to be financed with part of the proceeds of the mortgage, the purchase price of such land and improvements prior to such repair or rehabilitation, or (B) in case the land and improvements are owned by the mortgagor subject to an outstanding indebtedness to be refinanced with part of the proceeds of the mortgage, the amount of such outstanding indebtedness secured by such land and improvements, but excluding (for the purpose of this clause (ii)) the amount of any kickbacks, rebates, or trade discounts received in connection with the construction of the improvements: *Provided*, That such additional amount under (A) of this clause (ii) shall in no event exceed the Secretary's estimate of the fair market value of such land and improvements prior to such repair or rehabilitation, and such additional amount under (B) of this clause (ii) shall in no event exceed the approved percentage of the Secretary's estimate of the fair market value of such land and improvements prior to such repair or rehabilitation. In the case of a mortgage insured under section 220, section 221(d)(3), section 221(d)(4), section 231, section 233, or section 236 where the mortgagor is also the builder as defined by the Secretary, there shall be included in the actual cost, in lieu of the allowance for builder's profit under clause (i) or (ii) of the preceding sentence, an allowance for builder's and sponsor's profit and risk of 10 per centum (unless the Secretary, after finding that such allowance is unreasonable, shall by regulation prescribe a lesser percentage) of all other items entering into the term "actual cost" except land or amounts paid for a leasehold and amounts included under either (A) or (B) of clause (ii) of the preceding sentence. In the case of a mortgage insured under section 220, section 221(d)(3), section 221(d)(4), section 231, or section 233, or section 236, where the mortgagor is not also the builder as defined by the Secretary, there shall be included in the actual cost an allowance for sponsor's profit and risk of the said 10 per centum or lesser percentage of all other items entering into the term "actual cost" except land or amounts paid for a leasehold, amounts included under either (A) or (B) of the said clause (ii), and amounts paid by the mortgagor under a general construction contract.

Sec. 228. [12 U.S.C. 1715s][553]
TREATMENT OF MORTGAGES COVERING TAX CREDIT PROJECTS.

(a) DEFINITION.—For purposes of this section, the term "insured mortgage covering a tax credit project" means a mortgage insured under any provision of this title that is executed in connection with the construction, rehabilitation, purchase, or refinancing of a multifamily housing project for which equity1 provided through any low-income housing tax credit pursuant to section 42 of the Internal Revenue Code of 1986 (26 U.S.C. 42).
1So in law. Probably intended to insert "is" here.

(b) ACCEPTANCE OF LETTERS OF CREDIT.—In the case of an insured mortgage covering a tax credit project, the Secretary may not require the escrowing of equity provided by the sale of any low-income housing tax credits for the project pursuant to section 42 of the Internal Revenue Code of 1986, or any other form of security, such as a letter of credit.

(c) ASSET MANAGEMENT REQUIREMENTS.—In the case of an insured mortgage covering a tax credit project for which project the applicable tax credit allocating agency is causing to be performed periodic inspections in compliance with the requirements of section 42 of the Internal Revenue Code of 1986, such project

[553] Previous section 228, entitled "Classification of FHA Employees" was repealed and replaced.

shall be exempt from requirements imposed by the Secretary regarding periodic inspections of the property by the mortgagee. To the extent that other compliance monitoring is being performed with respect to such a project by such an allocating agency pursuant to such section 42, the Secretary shall, to the extent that the Secretary determines such monitoring is sufficient to ensure compliance with any requirements established by the Secretary, accept such agency's evidence of compliance for purposes of determining compliance with the Secretary's requirements.

(d) STREAMLINED PROCESSING PILOT PROGRAM.—

(1) IN GENERAL.—The Secretary shall establish a pilot program to demonstrate the effectiveness of streamlining the review process, which shall include all applications for mortgage insurance under any provision of this title for mortgages executed in connection with the construction, rehabilitation, purchase, or refinancing of a multifamily housing project for which equity[554] provided through any low-income housing tax credit pursuant to section 42 of the Internal Revenue Code of 1986. The Secretary shall issue instructions for implementing the pilot program under this subsection not later than the expiration of the 180-day period beginning upon the date of the enactment of the Housing Tax Credit Coordination Act of 2008.

(2) REQUIREMENTS.—Such pilot program shall provide for—

(A) the Secretary to appoint designated underwriters, who shall be responsible for reviewing such mortgage insurance applications and making determinations regarding the eligibility of such applications for such mortgage insurance in lieu of the processing functions regarding such applications that are otherwise performed by other employees of the Department of Housing and Urban Development;

(B) submission of applications for such mortgage insurance by mortgagees who have previously been expressly approved by the Secretary; and

(C) determinations regarding the eligibility of such applications for such mortgage insurance to be made by the chief underwriter pursuant to requirements prescribed by the Secretary, which shall include requiring submission of reports regarding applications of proposed mortgagees by third-party entities expressly approved by the chief underwriter.

Sec. 229. [12 U.S.C. 1715t]
VOLUNTARY TERMINATION OF INSURANCE.

Notwithstanding any other provision of this Act and with respect to any loan or mortgage heretofore or hereafter insured under this Act, except under section 2 and except as specified under section 250 of this Act and subtitle B of the Emergency Low Income Housing Preservation Act of 1987,,[555] the Secretary is authorized to terminate any insurance contract upon request by the borrower or mortgagor and the financial institution or mortgagee and upon payment of such termination charge as the Secretary determines to be equitable, taking into consideration the necessity of protecting the various insurance Funds. Upon such termination, borrowers and mortgagors and financial institutions and mortgagees shall be entitled to the rights, if any, to which they would be entitled under this Act if the insurance contract were terminated by payment in full of the insured loan or mortgage.

Sec. 230. [12 U.S.C. 1715u][556]
AUTHORITY TO ASSIST MORTGAGORS IN DEFAULT.

(a) Upon default or imminent default, as defined by the Secretary[557] of any mortgage insured under this title, mortgagees shall engage in loss mitigation actions for the purpose of providing an alternative to foreclosure (including but not limited to actions such as special forbearance, loan[558] modification, preforeclosure sale, support

[554] So in law. Probably intended to insert "is" here.
[555] So in law.
[556] Section 407(b) of The Balanced Budget Downpayment Act, I, Pub. L. 104-99, approved January 26, 1996, amended this section to read as shown. Section 407(c) of such Act (12 U.S.C. 1710 note) provides as follows:

"(c) APPLICABILITY OF AMENDMENTS.—Except as provided in subsection (e), the amendments made by subsections (a) and (b) shall apply with respect to mortgages insured under the National Housing Act that are executed before, on, or after October 1, 1997.". Subsection (e) of section 407 of such Act provided that the amendment made by subsection (a) would not take place under certain circumstances, which did not occur.
[557] So in law. Probably should be a comma here.
[558] The amendment made by section 203(d)(1)(B) of division A of Public Law 111-22 amends subsection (a) by striking "loss" and inserting "loan". The term "loss" appeared twice and such amendment did not specify to which occurrence of the word to be carried out; however, it was executed to the second place the word "loss" appears in order to reflect the probable intent of Congress.

for borrower housing counseling, subordinate lien resolution, borrower incentives,[559] and deeds in lieu of foreclosure, as required, but not including assignment of mortgages to the Secretary under section 204(a)(1)(A)) or section 230(c)[560], as provided in regulations by the Secretary.

(b) PAYMENT OF PARTIAL CLAIM.—

(1) ESTABLISHMENT OF PROGRAM.—The Secretary may establish a program for payment of a partial claim to a mortgagee that agrees to apply the claim amount to payment of a mortgage on a 1- to 4-family residence that is in default or faces imminent default, as defined by the Secretary.

(2) PAYMENTS AND EXCEPTIONS.—Any payment of a partial claim under the program established in paragraph (1) to a mortgagee shall be made in the sole discretion of the Secretary and on terms and conditions acceptable to the Secretary, except that—

(A) the amount of the payment shall be in an amount determined by the Secretary, not to exceed an amount equivalent to 30 percent of the unpaid principal balance of the mortgage and any costs that are approved by the Secretary;

(B) the amount of the partial claim payment shall first be applied to any arrearage on the mortgage, and may also be applied to achieve principal reduction;

(C) the mortgagor shall agree to repay the amount of the insurance claim to the Secretary upon terms and conditions acceptable to the Secretary;

(D) the Secretary may permit compensation to the mortgagee for lost income on monthly payments, due to a reduction in the interest rate charged on the mortgage;

(E) expenses related to the partial claim or modification may not be charged to the borrower;

(F) loans may be modified to extend the term of the mortgage to a maximum of 40 years from the date of the modification; and

(G) the Secretary may permit incentive payments to the mortgagee, on the borrower's behalf, based on successful performance of a modified mortgage, which shall be used to reduce the amount of principal indebtedness.

(3) PAYMENTS IN CONNECTION WITH CERTAIN ACTIVITIES.—The Secretary may pay the mortgagee, from the appropriate insurance fund, in connection with any activities that the mortgagee is required to undertake concerning repayment by the mortgagor of the amount owed to the Secretary.

(c)(1) ASSIGNMENT.—

(A) PROGRAM AUTHORITY.—The Secretary may establish a program for assignment to the Secretary, upon request of the mortgagee, of a mortgage on a 1- to 4-family residence insured under this Act.

(B) PROGRAM REQUIREMENTS.—The Secretary may accept assignment of a mortgage under this paragraph only if—

(i) the mortgage was in default or facing imminent default, as defined by the Secretary;

(ii) the mortgagee has modified the mortgage to cure the default and provide for mortgage payments within the reasonable ability of the mortgagor to pay, at interest rates not exceeding current market interest rates; and

(iii) the Secretary arranges for servicing of the assigned mortgage by a mortgagee (which may include the assigning mortgagee) through procedures that the Secretary has determined to be in the best interests of the appropriate insurance fund.

(C) PAYMENT OF INSURANCE BENEFITS.—Upon accepting assignment of a mortgage under a program established under this subsection[561], the Secretary may pay insurance benefits to the mortgagee from the appropriate insurance fund, in an amount that the Secretary determines to be appropriate, not to exceed the amount necessary to compensate the mortgagee for the assignment and any losses and expenses resulting from the mortgage modification.

(2) ASSIGNMENT AND LOAN MODIFICATION.—

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[559] Executed to the probable intent of Congress. Section 203(d)(1)(C) of division A of Public Law 111-22 amends subsection (a) by inserting "preforeclosure sale, support for borrower housing counseling, subordinate lien resolution, borrower incentives," after "loan modification,". See previous footnote.

[560] So in law. The reference to "section 230(c)" probably should be to "subsection (c)". See amendment made by section 203(d)(1)(E) of division A of Public Law 111-22.

[561] Section 203(d)(3)(D) of division A of Public Law 111-22 amends subparagraph (C) by striking "under a program under this subsection" and inserting "under this paragraph". The amendment could not be executed because the text proposed to be struck does not appear.

(A) AUTHORITY.—The Secretary may encourage loan modifications for eligible delinquent mortgages or mortgages facing imminent default, as defined by the Secretary, through the payment of insurance benefits and assignment of the mortgage to the Secretary and the subsequent modification of the terms of the mortgage according to a loan modification approved by the mortgagee.

(B) PAYMENT OF BENEFITS AND ASSIGNMENT.—In carrying out this paragraph, the Secretary may pay insurance benefits for a mortgage, in the amount determined in accordance with section 204(a)(5), without reduction for any amounts modified, but only upon the assignment, transfer, and delivery to the Secretary of all rights, interest, claims, evidence, and records with respect to the mortgage specified in clauses (i) through (iv) of section 204(a)(1)(A).

(C) DISPOSITION.—After modification of a mortgage pursuant to this paragraph, the Secretary may provide insurance under this title for the mortgage. The Secretary may subsequently—

(i) re-assign the mortgage to the mortgagee under terms and conditions as are agreed to by the mortgagee and the Secretary;

(ii) act as a Government National Mortgage Association issuer, or contract with an entity for such purpose, in order to pool the mortgage into a Government National Mortgage Association security; or

(iii) re-sell the mortgage in accordance with any program that has been established for purchase by the Federal Government of mortgages insured under this title, and the Secretary may coordinate standards for interest rate reductions available for loan modification with interest rates established for such purchase.

(D) LOAN SERVICING.—In carrying out this paragraph, the Secretary may require the existing servicer of a mortgage assigned to the Secretary to continue servicing the mortgage as an agent of the Secretary during the period that the Secretary acquires and holds the mortgage for the purpose of modifying the terms of the mortgage, provided that the Secretary compensates the existing servicer appropriately, as such compensation is determined by the Secretary consistent, to the maximum extent possible, with section 203(b). If the mortgage is resold pursuant to subparagraph (C)(iii), the Secretary may provide for the existing servicer to continue to service the mortgage or may engage another entity to service the mortgage.

(d) PROHIBITION OF JUDICIAL REVIEW.—No decision by the Secretary to exercise or forego exercising any authority under this section shall be subject to judicial review.

[(e) [Repealed.]]

(f) APPLICABILITY OF OTHER LAWS.—No provision of this Act, or any other law, shall be construed to require the Secretary to provide an alternative to foreclosure for mortgagees with mortgages on 1- to 4-family residences insured by the Secretary under this Act, or to accept assignments of such mortgages.

Sec. 231. [12 U.S.C. 1715v]
HOUSING FOR ELDERLY PERSONS.

(a) The purpose of this section is to assist in relieving the shortage of housing for elderly persons and to increase the supply of rental housing for elderly persons.

For the purposes of this section—

(1) the term “housing” means eight or more new or rehabilitated living units, not less than 50 per centum of which are specially designed for the use and occupancy of elderly persons;

(2) the term “elderly person” means any person, married or single, who is sixty-two years of age or over; and

(3) the terms “mortgage,” “mortgagee,” “mortgagor,” and “maturity date” shall have the meanings respectively set forth in section 207 of this Act.

(b) The Secretary is authorized to insure any mortgage (including advances on mortgages during construction) in accordance with the provisions of this section upon such terms and conditions as he may prescribe and to make commitments for insurance of such mortgages prior to the date of their execution or disbursement thereon.

(c) To be eligible for insurance under this section, a mortgage to provide housing for elderly persons shall—

[(1) [Repealed.]]

(2)(A) not to exceed, for such part of the property or project as may be attributable to dwelling use (excluding exterior land improvement as defined by the Secretary), $35,978 per family unit without a bedroom, $40,220 per family unit with one bedroom, $48,029 per family unit with two bedrooms, $57,798 per family unit with three bedrooms, and $67,950 per family unit with four or more bedrooms; except that as to projects to consist of elevator-type structures the Secretary may, in his discretion, increase the dollar amount limitations per family unit to not to exceed $40,876 per family unit without a bedroom, $46,859 per family unit with one bedroom, $56,979 per family unit with two bedrooms, $73,710 per family unit with three bedrooms, and $80,913 per family unit with four or more bedrooms, as the case may be, to compensate for the higher costs incident to the construction of elevator-type structures of sound standards of construction and design; (B) the Secretary may, by regulation, increase any of the dollar limitations in subparagraph (A) (as such limitations may have been adjusted in accordance with section 206A of this Act) by not to exceed 170 percent in any geographical area where the Secretary finds that cost levels so require and by not to exceed 170 percent, or 215 percent in high cost areas, where the Secretary determines it necessary on a project-by-project basis, but in no case may any such increase exceed 90 percent where the Secretary determines that a mortgage purchased or to be purchased by the Government National Mortgage Association in implementing its special assistance functions under section 305 of this Act (as such section existed immediately before November 30, 1983) is involved; (C) the Secretary may, by regulation, increase any of the dollar limitations in subparagraph (A) (as such limitations may have been adjusted in accordance with section 206A of this Act) by not to exceed 20 per centum if such increase is necessary to account for the increased cost of the project due to the installation therein of a solar energy system (as defined in subparagraph (3) of the last paragraph of section 2(a) of this Act) or residential energy conservation measures (as defined in section 210(11) (A) through (G) and (I) of Public Law 95-619) in cases where the Secretary determines that such measures are in addition to those required under the minimum property standards and will be cost-effective over the life of the measure;

(3) if executed by a mortgagor which is a public instrumentality or a private nonprofit corporation or association or other acceptable private nonprofit organization regulated or supervised under Federal or State laws or by political subdivisions of States, or agencies, thereof, or by the Secretary under a regulatory agreement or otherwise, as to rents, charges, and methods of operation, in such form and in such manner as, in the opinion of the Secretary, will effectuate the purpose of this section, involve a principal obligation not in excess of the amount which the Secretary estimates will be the replacement cost of the property or project when the proposed improvements are completed (the replacement cost may include the land, the proposed physical improvements, utilities within the boundaries of the land, architect's fees, taxes, interest during construction, and other miscellaneous charges incident to construction and approved by the Secretary): Provided, That in the case of properties other than new construction, the principal obligation shall not exceed the appraised value rather than the Secretary's estimate of the replacement cost;

(4) if executed by a mortgagor which is approved by the Secretary but is not a public instrumentality or a private nonprofit organization, involve a principal obligation not in excess (in the case of a property or project approved for mortgage insurance prior to the beginning of construction) of 90 per centum of the amount which the Secretary estimates will be the replacement cost of the property or project when the proposed improvements are completed (the replacement costs may include the land, the proposed physical improvements, utilities within the boundaries of the land, architect's fees, taxes, interest during construction, and other miscellaneous changes incident to construction and approved by the Secretary, and shall include an allowance for builder's and sponsor's profit and risk of 10 per centum of all of the foregoing items except the land unless the Secretary, after certification that such allowance is unreasonable, shall by regulation prescribe a lesser percentage): Provided, That in the case of properties other than new construction the principal obligation shall not exceed 90 per centum of the Secretary's estimate of the value of the property or project: And provided further, That the Secretary may in his discretion require such mortgagor to be regulated or restricted as to rents or sales, charges, capital structure, rate of return, and methods of operation, and for such purpose the Secretary may make contracts with and acquire for not to exceed $100 such stock or interest in any such mortgagor as the Secretary may deem necessary to render effective such restrictions or regulations; such stock or interest shall be paid for out of the General Insurance Fund and shall be redeemed by the mortgagor at par upon the termination of all obligations of the Secretary under the insurance;

(5) provide for a complete amortization by periodic payments (unless otherwise approved by the Secretary)[562] within such terms as the Secretary shall prescribe;

(6) bear interest at such rate as may be agreed upon by the morgagor and the mortgagee; and

(7) cover a property or project which is approved for mortgage insurance prior to the beginning of construction or rehabilitation, with 50 per centum or more of the units therein specially designed for the use and occupancy of elderly persons in accordance with standards established by the Secretary and which may include such commercial and special facilities as the Secretary deems adequate to serve the occupants.

(d) The Secretary may consent to the release of a part or parts of the mortgaged property or project from the lien of any mortgage insured under this section upon such terms and conditions as he may prescribe, and shall prescribe such procedures as in his judgment are necessary to secure to elderly persons a preference or priority of opportunity to rent the dwelling included in such property or project.

(e) The provisions of subsections (d), (e), (g), (h), (i), (j), (k), (l), and (n) of section 207 shall apply to mortgages insured under this section and all references therein to section 207 shall refer to this section. (f) Notwithstanding any of the provisions of this section, the housing provided under this section may include family units which are specially designed for the use and occupancy of any person or family qualifying as a handicapped family as defined in section 202 of the Housing Act of 1959, and such special facilities as the Secretary deems adequate to serve handicapped families (as so defined). The Secretary may also prescribe procedures to secure to such families preference or priority of opportunity to rent the living units specially designed for their use and occupancy.

Sec. 232. [12 U.S.C. 1715w]
MORTGAGE INSURANCE FOR NURSING HOMES, INTERMEDIATE CARE FACILITIES, AND BOARD AND CARE HOMES.

(a) The purpose of this section is to assist in the provision of facilities for any of the following purposes or for a combination of such purposes:

(1) The development of nursing homes for the care and treatment of convalescents and other persons who are not acutely ill and do not need hospital care but who require skilled nursing care and related medical services, including additional facilities for the nonresident care of elderly individuals and others who are able to live independently but who require care during the day.

(2) The development of intermediate care facilities and board and care homes for the care of persons who, while not in need of nursing home care and treatment, nevertheless are unable to live fully independently and who are in need of minimum but continuous care provided by licensed or trained personnel, including additional facilities for the nonresident care of elderly individuals and others who are able to live independently but who require care during the day.

(3) The development of assisted living facilities for the care of frail elderly persons.

(b) For the purposes of this section—

(1) the term "nursing home" means a public facility, proprietary facility, or facility of a private nonprofit corporation or association, licensed or regulated by the State (or, if there is no State law providing for such licensing and regulation by the State, by the municipality or other political subdivision in which the facility is located), for the accommodation of convalescents or other persons who are not acutely ill and not in need of hospital care but who require skilled nursing care and related medical services, in which such nursing care and medical services are prescribed by, or are performed under the general direction of, persons licensed to provide such care or services in accordance with the laws of the State where the facility is located;

(2) the term "intermediate care facility" means a proprietary facility or facility of a private nonprofit corporation or association licensed or regulated by the State (or, if there is no State law providing for such licensing and regulation by the State, by the municipality or other political subdivision in which the facility is located) for the accommodation of persons who, because of incapacitating infirmities, require minimum but continuous care but are not in need of continuous medical or nursing services;

[562] Section 446 of the Housing and Urban-Rural Recovery Act of 1983, Pub. L. 98-181, approved November 30, 1983, added this parenthetical in sections 207(c)(3), 220(d)(4), 221(d)(6), and 231(c)(5) of the National Housing Act. Subsection (f) of such section (12 U.S.C. 1713 note) further provides as follows:
"(f) The aggregate number of dwelling units included in properties covered by mortgages insured pursuant to the authority granted in the amendments made by this section in any fiscal year may not exceed 10,000.".

(3) the term "a nursing home" or "intermediate care facility" may include such additional facilities as may be authorized by the Secretary for the nonresident care of elderly individuals and others who are able to live independently but who require care during the day;

(4) the term "mortgage" means a first mortgage on real estate in fee simple, or on the interest of either the lessor or lessee thereof (A) under a lease, for not less than ninety-nine years which is renewable, or (B) under a lease having a period of not less than 10 years to run beyond the maturity date of the mortgage. The term "first mortgage" means such classes of first liens as are commonly given to secure advances (including but not limited to advances during construction) on, or the unpaid purchase price of, real estate under the laws of the State in which the real estate is located together with the credit instrument or instruments, if any, secured thereby, and any mortgage may be in the form of one or more trust mortgages or mortgage indentures or deeds of trust, securing notes, bonds, or other credit instruments, and, by the same instrument or by a separate instrument, may create a security interest in initial equipment, whether or not attached to the realty. The term "mortgagor" shall have the meaning set forth in section 207(a) of this Act;

(5) the term "board and care home" means any residential facility providing room, board, and continuous protective oversight that is regulated by a State pursuant to the provisions of section 1616(e) of the Social Security Act, so long as the home is located in a State that, at the time of an application is made for insurance under this section, has demonstrated to the Secretary that it is in compliance with the provisions of such section 1616(e);

(6) the term "assisted living facility" means a public facility, proprietary facility, or facility of a private nonprofit corporation that—

(A) is licensed and regulated by the State (or if there is no State law providing for such licensing and regulation by the State, by the municipality or other political subdivision in which the facility is located);

(B) makes available to residents supportive services to assist the residents in carrying out activities of daily living, such as bathing, dressing, eating, getting in and out of bed or chairs, walking, going outdoors, using the toilet, laundry, home management, preparing meals, shopping for personal items, obtaining and taking medication, managing money, using the telephone, or performing light or heavy housework, and which may make available to residents home health care services, such as nursing and therapy; and

(C) provides separate dwelling units for residents, each of which may contain a full kitchen and bathroom, and which includes common rooms and other facilities appropriate for the provision of supportive services to the residents of the facility; and

(7) the term "frail elderly person" has the meaning given the term in section 802(k) of the Cranston-Gonzalez National Affordable Housing Act.

(c) The Secretary is authorized to insure any mortgage (including advances on such mortgages during construction) in accordance with the provisions of this section upon such terms and conditions as he may prescribe and to make commitments for insurance of such mortgage prior to the date of its execution or disbursement thereon.

(d) In order to carry out the purpose of this section, the Secretary is authorized to insure any mortgage which covers a new or rehabilitated nursing home, assisted living facility, or intermediate care facility, including a new addition to an existing nursing home, assisted living facility, or intermediate care facility and regardless of whether the existing home or facility is being rehabilitated, or any combination of nursing home, assisted living facility, and intermediate care facility or a board and care home including equipment to be used in its operation, subject to the following conditions:

(1) The mortgage shall be executed by a mortgagor approved by the Secretary. The Secretary may in his discretion require any such mortgagor to be regulated or restricted as to charges and methods of financing, and, in addition thereto, if the mortgagor is a corporate entity, as to capital structure and rate of return. As an aid to the regulation or restriction of any mortgagor with respect to any of the foregoing matters, the Secretary may make such contracts with and acquire for not to exceed $100 such stock or interest in such mortgagor as he may deem necessary. Any stock or interest so purchased shall be paid for out of the General Insurance Fund, and shall be redeemed by the mortgagor at par upon the termination of all obligations of the Secretary under the insurance.

(2) The mortgage shall involve a principal obligation in an amount not to exceed 90 per centum of the estimated value of the property or project, or 95 percent of the estimated value of the property or project in the case of a mortgagor that is a private nonprofit corporation or association (under the meaning given such term for purposes of section 221(d)(3) of this Act), including—

(A) equipment to be used in the operation of the home or facility or combined home and facility when the proposed improvements are completed and the equipment is installed; or

(B) a solar energy system (as defined in subparagraph (3) of the last paragraph of section 2(a) of this Act) or residential energy conservation measures (as defined in section 210(11) (A) through (G) and (I) of Public Law 95-619) in cases where the Secretary determines that such measures are in addition to those required under the minimum property standards and will be cost-effective over the life of the measure.

(3) The mortgage shall—

(A) provide for complete amortization by periodic payments within such terms as the Secretary shall prescribe; and

(B) bear interest at such rate as may be agreed upon by the mortgagor and the mortgagee. The Secretary shall not promulgate regulations or establish terms or conditions that interfere with the ability of the mortgagor and mortgagee to determine the interest rate; and[563]

(4)(A) With respect to nursing homes and intermediate care facilities and combined nursing home and intermediate care facilities, the Secretary shall not insure any mortgage under this section unless he has received, from the State agency designated in accordance with section 604(a)(1) or section 1521 of the Public Health Service Act for the State in which is located the nursing home or intermediate care facility or combined nursing home and intermediate care facility covered by the mortgage, a certification that (i) there is a need for such home or facility or combined home and facility, and (ii) there are in force in such State or in the municipality or other political subdivision of the State in which the proposed home or facility or combined home and facility is to be located reasonable minimum standards of licensure and methods of operation governing it. No such mortgage shall be insured under this section unless the Secretary has received such assurance as he may deem satisfactory from the State agency that such standards will be applied and enforced with respect to any home or facility or combined home and facility located in the State for which mortgage insurance is provided under this section. If no such State agency exists, or if the State agency exists but is not empowered to provide a certification that there is a need for the home or facility or combined home and facility as required in clause (i) of the first sentence, the Secretary shall not insure any mortgage under this section unless (i) the State in which the home or facility or combined home and facility is located has conducted or commissioned and paid for the preparation of an independent study of market need and feasibility that (I) is prepared in accordance with the principles established by the American Institute of Certified Public Accountants; (II) assesses, on a marketwide basis, the impact of the proposed home or facility or combined home and facility on, and its relationship to, other health care facilities and services, the percentage of excess beds, demographic projections, alternative health care delivery systems, and the reimbursement structure of the home, facility, or combined home and facility; (III) is addressed to and is acceptable to the Secretary in form and substance; and (IV) in the event the State does not prepare the study, is prepared by a financial consultant who is selected by the State or the applicant for mortgage insurance and is approved by the Secretary; and (ii) the State complies with the other provisions of this subparagraph that would otherwise be required to be met by a State agency designated in accordance with section 604(a)(1) or section 1521 of the Public Health Service Act. The proposed mortgagor may reimburse the State for the cost of the independent feasibility study required in the preceding sentence. In the case of a small intermediate care facility for the mentally retarded or developmentally disabled, or a board and care home housing less than 10 individuals, the State program agency or agencies responsible for licensing, certifying, financing, or monitoring the facility or home may, in lieu of the requirements of clause (i) of the third sentence, provide the Secretary with written support identifying the need for the facility or home.

(B) With respect to board and care homes, the Secretary shall not insure any mortgage under this section unless he has received from the appropriate State licensing agency a statement verifying that the State in which the home is or is to be located is in compliance with the provisions of section 1616(e) of the Social Security Act.

(C) With respect to assisted living facilities or any such facility combined with any other home or facility, the Secretary shall not insure any mortgage under this section unless—

(i) the Secretary determines that the level of financing acquired by the mortgagor and any other resources available for the facility will be sufficient to ensure

[563] So in law.

that the facility contains dwelling units and facilities for the provision of supportive services in accordance with subsection (b)(6);

(ii) the mortgagor provides assurances satisfactory to the Secretary that each dwelling unit in the facility will not be occupied by more than 1 person without the consent of all such occupants; and

(iii) the appropriate State licensing agency for the State, municipality, or other political subdivision in which the facility is or is to be located provides such assurances as the Secretary considers necessary that the facility will comply with any applicable standards and requirements for such facilities.

(e) The Secretary may consent to the release of a part or parts of the mortgaged property or project from the lien of any mortgage insured under this section upon such terms and conditions as he may prescribe.

(f) The provisions of subsections (d), (e), (g), (h), (i), (j), (k), (l), and (n) of section 207 shall apply to mortgages insured under this section and all references therein to section 207 shall refer to this section.

(g) The Secretary shall prescribe such regulations as may be necessary to carry out the provisions of this section relating to intermediate care facilities, after consulting with the Secretary of Health and Human Services with respect to any health or medical aspects of the program which may be involved in such regulations.

(h) The Secretary shall also consult with the Secretary of Health and Human Services as to the need for and the availability of intermediate care facilities in any area for which an intermediate care facility is proposed under this section.

(i)(1) The Secretary is authorized upon such terms and condition as he may prescribe to make commitments to insure and to insure loans made by financial institutions or other approved mortgagees to nursing homes, assisted living facilities, and intermediate care facilities or to board and care homes to provide for the purchase and installation of fire safety equipment necessary for compliance with the 1967 edition of the Life Safety Code of the National Fire Protection Association (or any subsequent edition specified by the Secretary of Health and Human Services) or other such codes or requirements approved by the Secretary of Health and Human Services as conditions of participation for providers of services under title XVIII and title XIX of the Social Security Act or as mandated by a State under the provisions of section 1616(e) of such Act.

(2) To be eligible for insurance under this subsection a loan shall—

(A) not exceed the Secretary's estimate of the reasonable cost of the equipment fully installed;

(B) bear interest at such rate as may be agreed upon by the mortgagor and the mortgagee;

(C) have a maturity satisfactory to the Secretary;

(D) be made by a financial institution or other mortgagee approved by the Secretary as eligible for insurance under section 2 or a mortgagee approved under section 203(b)(1);

(E) comply with other such terms, conditions, and restrictions as the Secretary may prescribe; and

(F) in the case of board and care homes, be made with respect to such a home located in a State with respect to which the Secretary has received from the appropriate State licensing agency a statement verifying that the State in which the home is or is to be located is in compliance with the provisions of section 1616(e) of the Social Security Act.

(3) The provisions of paragraphs (5), (6), (7), (9), and (10) of section 220(h) shall be applicable to loans insured under this subsection, except that all references to "home improvement loans" shall be construed to refer to loans under this subsection.

(4) The provisions of subsections (c), (d), and (h) of section 2 shall apply to loans insured under this subsection, and for the purpose of this subsection references in such subsections to "this section" or "this title" shall be construed to refer to this subsection.

(j) The Secretary shall establish schedules and deadlines for the processing and approval (or provision of notice of disapproval) of applications for mortgage insurance under this section. The Secretary shall submit a report to the Congress annually describing such schedules and deadlines and the extent of compliance by the Department with the schedules and deadlines during the year.

Sec. 233. [12 U.S.C. 1715x]
EXPERIMENTAL HOUSING.

(a)(1) In order to assist in lowering housing costs and improving housing standards, quality, livability, or durability or neighborhood design through the utilization of advanced housing technology, or experimental property standards, the Secretary is authorized to insure and to make commitments to insure, under this section, mortgages

(including home improvement loans, and including advances on mortgages during construction) secured by properties including dwellings involving the utilization and testing of advanced technology in housing design, materials, or construction, or experimental property standards for neighborhood design if the Secretary determines that (A) the property is an acceptable risk, giving consideration to the need for testing advanced housing technology or experimental property standards, (B) the utilization and testing of the advanced technology or experimental property standards involved will provide data or experience which the Secretary deems to be significant in reducing housing costs or improving housing standards, quality, livability, or durability, or improving neighborhood design, and (C) the mortgages are eligible for insurance under the provisions of this section and under any further terms and conditions which may be prescribed by the Secretary to establish the acceptability of the mortgages for insurance.

(2) The Secretary is further authorized to insure and to make commitments to insure, under this section, mortgages (including advances on mortgages during construction) secured by properties in projects to be carried out in accordance with plans approved by the Secretary under section 108 of the Housing and Urban Development Act of 1968.

(b) To be eligible for insurance under this section, a mortgage shall meet the requirements of one of the other sections or titles of this Act; except that, in lieu of determining the appraised value or the replacement cost of the property in cases involving new construction or the estimated cost of repair and rehabilitation or improvement in cases involving existing properties, the Secretary shall estimate the cost of replacing the property using comparable conventional design, materials, and construction, and any limitation upon the maximum mortgage amount available to a nonoccupant owner shall not, in the discretion of the Secretary, be applicable to mortgages insured under this section.

(c) The Secretary may enter into such contracts, agreements, and financial undertakings with the mortgagor and others as he deems necessary or desirable to carry out the purposes of this section, and may expend available funds for such purposes, including the correction (when he determines it necessary to protect the occupants), at any time subsequent to insurance of a mortgage, of defects or failures in the dwellings which the Secretary finds are caused by or related to the advanced housing technology utilized in their design or construction or experimental property standards. Any authority which the Secretary may exercise in connection with a mortgage, or property covered by a mortgage, insured under any other section of this title (including payments to reduce rentals for, or to facilitate homeownership by, lower income families) may be exercised in connection with a mortgage, or property covered by a mortgage, meeting the requirements, of such other section (except as specified in subsection (b)), which is insured under this section to the same extent and in the same manner as if the mortgage insured under this section was insured under such other section.

(d) The Secretary may make such investigations and analyses of data, and publish and distribute such reports, as he determines to be necessary or desirable to assure the most beneficial use of the data and information to be acquired as a result of this section.

(e) Any mortgage or lender under a mortgage insured under subsection (b) shall be entitled to insurance benefits determined in the same manner as such benefits would be determined if such mortgage or loan were insured under the section or title of this Act for which it otherwise would have been eligible except for the experimental feature of the property involved.

(f) Notwithstanding the provisions of subsection (e) of this section, in the case of default on any mortgage insured under this section, the Secretary in his discretion, in accordance with such regulations as he may prescribe, may make payments pursuant to such subsections in cash or in debentures (as provided in the mortgage insurance contract), or may acquire the mortgage loan and the security therefor upon payment to the mortgagee in cash or in debentures (as provided in the mortgage insurance contract) of a total amount equal to the unpaid principal balance of the loan plus any accrued interest and any advances approved by the Secretary made previously by the mortgagee under the provisions of the mortgage. After the acquisition of the mortgage by the Secretary the mortgagee shall have no further rights, liabilities, or obligations with respect to the mortgage. The appropriate provisions of sections 204 and 207 relating to the issuance of debentures shall apply with respect to debentures issued under this subsection, and the appropriate provisions of sections 204 and 207 relating to the rights, liabilities, and obligations of a mortgagee shall apply with respect to the Secretary when he has acquired an insured mortgage under this subsection, in accordance with and subject to regulations (modifying such provisions to the extent necessary to render their application for such purposes appropriate and effective) which shall be prescribed by the Secretary, except that as applied to mortgages insured under this section (1) all references in section 204 to the Mutual Mortgage Insurance Fund or the Fund shall be construed to refer to the General Insurance Fund, and (2) all references in section 204 to section 203 shall be construed to refer to this section (g).

Sec. 234. [12 U.S.C. 1715y]
MORTGAGE INSURANCE FOR CONDOMINIUMS.

(a) The purpose of this section is to provide an additional means of increasing the supply of privately owned dwelling units where, under the laws of the State in which the property is located, real property title and ownership are established with respect to a one-family unit which is part of a multifamily project.

(b) The terms "mortgage," "mortgagee," "mortgagor," "maturity date," and "State" shall have the meanings respectively set forth in section 201, except, that the term "mortgage" for the purpose of subsection (c) may include a first mortgage given to secure the unpaid purchase price of a fee interest in, or long-term leasehold interest in, a one-family unit in a multifamily project, including a project in which the dwelling units are attached, semi-detached, or detached, and an undivided interest in the common areas and facilities which serve the project where the mortgage is determined by the Secretary to be eligible for insurance under this section. The term "common areas and facilities" as used in this section shall be deemed to include the land and such commercial, community, and other facilities as are approved by the Secretary.

(c) The Secretary is authorized, in his discretion and under such terms and conditions as he may prescribe (including the minimum number of family units in the project which shall be offered for sale and provisions for the protection of the consumer and the public interest), to insure any mortgage covering a one-family unit in a multifamily project and an undivided interest in the common areas and facilities which serve the project if (1) the mortgage meets the requirements of this subsection and of section 203(b), except as that section is modified by this subsection, (2) at least 80 percent of the units in the project covered by mortgages insured under this title are occupied by the mortgagors or comortgagors, and (3) the project has a blanket mortgage insured by the Secretary under subsection (d). Any project proposed to be constructed or rehabilitated after the date of enactment of the Housing Act of 1961[564] with the assistance of mortgage insurance under this Act, where the sale of family units is to be assisted with mortgage insurance under this subsection, shall be subject to such requirements as the Secretary may prescribe. To be eligible for insurance pursuant to this subsection, a mortgage shall (A) involve a principal obligation in an amount not to exceed the maximum principal obligation of a mortgage which may be insured in the area pursuant to section 203(b)(2) or pursuant to section 203(h) under the conditions described in section 203(h) or pursuant to section 203(h) under the conditions described in section 203(h)[565], and (B) have a maturity satisfactory to the Secretary, but not to exceed, in any event, thirty-five years from the date of the beginning of amortization of the mortgages. The mortgage shall contain such provisions as the Secretary determines to be necessary for the maintenance of common areas and facilities and the multifamily project. The mortgagor shall have exclusive right to the use of the one-family unit covered by the mortgage and, together with the owners of other units in the multifamily project, shall have the right to the use of the common areas and facilities serving the project and the obligation of maintaining all such common areas and facilities. The Secretary may require that the rights and obligations of the mortgagor and the owners of other dwelling units in the project shall be subject to such controls as he determines to be necessary and feasible to promote and protect individual owners, the multifamily project and its occupants. For the purposes of this subsection, the Secretary is authorized in his discretion and under such terms and conditions as he may prescribe to permit one-family units and interests in common areas and facilities in multifamily projects covered by mortgages insured under any section of this Act other than section 213(a) (1) and (2) to be released from the liens of those mortgages.

(d)[566] In addition to individual mortgages insured under subsection (c), the Secretary is authorized, in his discretion and under such terms and conditions as he may prescribe, to insure blanket mortgages (including advances on such mortgages during construction) which cover multifamily projects to be constructed or rehabilitated in cases where the mortgage is held by a mortgagor, approved by the Secretary, which—

(1) has certified to the Secretary, as a condition of obtaining the insurance of a blanket mortgage under this subsection, that upon completion of the multifamily project covered by such mortgage it intends to commit the ownership of the multifamily project to a plan of family unit ownership under which each family unit would be eligible for individual mortgage insurance under subsection (c) and will faithfully and

[564] June 30, 1961.

[565] The last two references in this sentence to section 203(h) were added by the Emergency Supplemental Appropriations Act of 1994, Pub. L. 103-211, 108 Stat. 12, approved February 12, 1994. The undesignated paragraph (12 U.S.C. 1709 note) following the paragraph in which such amendments were made provides as follows:

"Eligibility for loans made under the authority granted by the preceding paragraph shall be limited to persons whose principal residence was damaged or destroyed as a result of the January 1994 earthquake in Southern California: Provided, That the provisions under this heading shall be effective only for the 18-month period following the date of enactment of this Act.

[566] Insurance is authorized by the Housing Act of 1964 for blanket mortgages to finance the construction or rehabilitation of multifamily projects to be sold as condominiums.

diligently make and carry out all reasonable efforts to establish such plan of family unit ownership and to sell such family units to purchasers approved by the Secretary; and

(2) may, in the Secretary's discretion, be regulated or restricted as to rents, charges, capital structure, rate of return, and methods of operation until the termination of all obligations of the Secretary under the insurance and during such further period of time as the Secretary shall be the owner, holder, or reinsurer of the mortgage. The Secretary may make such contracts with and acquire for not to exceed $100 such stock or interest in such mortgagor as he may deem necessary to render effective any such regulation or restriction of such mortgagor.[567] The stock or interest acquired by the Secretary shall be paid for out of the General Insurance Fund, and shall be redeemed by the mortgagor at par at any time upon the request of the Secretary after the termination of all obligations of the Secretary under the insurance.

(e) To be eligible for insurance, a blanket mortgage on any multi-family project of a mortgagor of the character described in subsection (d) shall involve a principal obligation in an amount—

[(1) [Repealed.]]

(2) not to exceed 90 per centum of the amount which the Secretary estimates will be the replacement cost of the project when the proposed physical improvements are completed;

(3)(A) not to exceed, for such part of the project as may be attributable to dwelling use (excluding exterior land improvements as defined by the Secretary), $42,048 per family unit without a bedroom, $48,481 per family unit with one bedroom, $58,469 per family unit with two bedrooms, $74,840 per family unit with three bedrooms, and $83,375 per family unit with four or more bedrooms; except that as to projects to consist of elevator-type structures the Secretary may, in his discretion, increase the dollar amount limitations per family unit to not to exceed $44,250 per family unit without a bedroom, $50,724 per family unit with one bedroom, $61,680 per family unit with two bedrooms, $79,793 per family unit with three bedrooms, and $87,588 per family unit with four or more bedrooms, as the case may be, to compensate for higher costs incident to the construction of elevator-type structures of sound standards of construction and design; (B) the Secretary may, by regulation, increase any of the dollar limitations in subparagraph (A) (as such limitations may have been adjusted in accordance with section 206A of this Act) by not to exceed 170 percent in any geographical area where the Secretary finds that cost levels so require and by not to exceed 170 percent, or 215 percent in high cost areas, where the Secretary determines it necessary on a project-by-project basis, but in no case may any such increase exceed 90 percent where the Secretary determines that a mortgage purchased or to be purchased by the Government National Mortgage Association in implementing its special assistance functions under section 305 of this Act (as such section existed immediately before November 30, 1983) is involved; and

(4) not to exceed an amount equal to the sum of the unit mortgage amounts determined under the provisions of subsection (c) assuming the mortgagor to be the owner and occupant of each family unit.

(f) Any blanket mortgage insured under subsection (d) shall provide for complete amortization by periodic payments within such terms as the Secretary may prescribe but not to exceed 40 years from the beginning of amortization of the mortgage, and shall bear interest at such rate as may be agreed upon by the mortgagor and the mortgagee. The Secretary may consent to the release of a part or parts of the mortgaged property from the lien of the blanket mortgage upon such terms and conditions as he may prescribe and the blanket mortgage may provide for such release. The project covered by the blanket mortgage may include four or more family units and such commercial and community facilities as the Secretary deems adequate to serve the occupants.

(g) Any mortgagee under a mortgage insured under subsection (c) of this section is entitled to receive the benefits of the insurance as provided in section 204(a) of this Act with respect to mortgages insured under section 203, and the provisions of subsections (b), (c), (d), (e), (f), (g), (h), (j), and (k) of section 204 shall be applicable to the mortgages insured under subsection (c) of this section.

(h) The provisions of subsections (d), (e), (g), (h), (i), (j), (k), (l), and (n) of section 207 shall be applicable to mortgages insured under subsection (d) of this section.

(i) The provisions of sections 225 and 230 shall be applicable to the mortgages insured under subsection (c) of this section.

(j) The Secretary may further increase the dollar amount limitations which would otherwise apply under subsection (e) by not to exceed 20 per centum if such increase is necessary to account for the increased cost of a

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[567] Section 431(b) of the Housing and Urban-Rural Recovery Act of 1983, Pub. L. 98-181, approved November 30, 1983, amended the preceding portion of this paragraph to make the regulation of rents or charges discretionary rather than mandatory. Section 431(c) of such Act (12 U.S.C. 1713 note) further provides as follows:

"(c) The amendments made in this section shall not apply with respect to mortgages insured by the Secretary of Housing and Urban Development before the date of the enactment of this Act.".

project due to the installation therein of a solar energy system (as defined in subparagraph (3) of the last paragraph of section 2(a) of this Act) or residential energy conservation measures (as defined in section 210(11) (A) through (G) and (I) of Public Law 95-619) in cases where the Secretary determines that such measures are in addition to those required under the minimum property standards and will be cost-effective over the life of the measure.

(k) With respect to a unit in any project which was converted from rental housing, no insurance may be provided under this section unless (1) the conversion occurred more than one year prior to the application for insurance, (2) the mortgagor or comortgagor was a tenant of that rental housing, (3) the conversion of the property is sponsored by a bona fide tenants organization representing a majority of the households in the project, or (4) before April 20, 1984 (A) application was made to the Secretary for a commitment to insure a mortgage covering any unit in the project, (B) in the case of direct endorsement, the mortgagee received the case number assigned by the Secretary for any unit in the project, or (C) application was made for approval of the project for guarantee, insurance, or direct loan under chapter 37 of title 38, United States Code.

HOMEOWNERSHIP FOR LOWER INCOME FAMILIES

Sec. 235. [Note.—Section 235 of the National Housing Act establishes a program of homeownership assistance for lower income families, and is set forth in Part V of this compilation.]

RENTAL AND COOPERATIVE HOUSING FOR LOWER INCOME FAMILIES

Sec. 236. [Note.—Section 236 of the National Housing Act establishes a program of rental and cooperative housing assistance for lower income families, and is set forth in Part IV of this compilation.]

[Sec. 237. [Repealed.]]

Sec. 238. [12 U.S.C. 1715z-3]
PAYMENT OF INSURANCE—SPECIAL RISK INSURANCE FUND.

(a)(1) Any mortgagee under a mortgage insured under section 235(i), 235(j)(4), 237, or 243 shall be entitled to receive the benefits of the insurance as provided in section 204(a) with respect to mortgages insured under section 203. The provisions of subsections (b), (c), (d), (g), (j), and (k) of section 204 shall be applicable to mortgages insured under section 235(i), 235(j)(4), 237, or 243, except that all references therein to the "Mutual Mortgage Insurance Fund" shall be construed to refer to the "Special Risk Insurance Fund", and all references therein to section 203 shall be construed to refer to section 235(i), 235(j)(4), 237, or 243, as may be appropriate.

(2) Any mortgage under a mortgage insured under section 235(j)(1) or 236 shall be entitled to receive the benefits of insurance as provided in section 207(g) with respect to mortgages insured under section 207. The provisions of subsections (d), (e), (h), (i), (j), (k), (l), and (n) of section 207 shall be applicable to mortgages insured under section 235(j)(1) or 236, except that all references therein to the "General Insurance Fund" shall be construed to refer to the "Special Risk Insurance Fund" and the premium charged provided in section 207(d) shall be payable only in cash or debentures of the Special Risk Insurance Fund.

(3) In lieu of the amount of insurance benefits computed pursuant to paragraph (1) or (2) of this subsection the Secretary, in his discretion and in accordance with such regulations as he may prescribe, may (with respect to any mortgage loan acquired by him) compute and pay insurance benefits to the mortgagee in a total amount equal to the unpaid principal balance of the loan plus any accrued interest and any advances approved by the Secretary and made previously by the mortgagee under the provisions of the mortgage.

(b) There is hereby created a Special Risk Insurance Fund (hereinafter referred to as the "fund") which shall be used by the Secretary as a revolving fund for carrying out the mortgage insurance obligations of sections 223(e), 233(a)(2), 235, 236, 237, and 243, and the Secretary is hereby authorized to advance to the fund, at such times and in such amounts as he may determine to be necessary, a total sum of $20,000,000 from the General Insurance Fund established pursuant to the provisions of section 519. Such advance shall be repayable at such times and at such rates of interest as the Secretary deems appropriate. Premium charges, adjusted premium charges, inspection and other fees, service charges, and any other income received by the Secretary under sections 223(e), 233(a)(2), 235, 236, and 237, together with all earnings on the assets of the fund, shall be credited to the fund. All payments made pursuant to claims of mortgagees with respect to mortgages insured under sections 233(a)(2), 235, 236, 237, and 243 or pursuant to section 223(e), cash adjustments, the principal of and interest paid on debentures

which are the obligation of the fund, expenses incurred in connection with or as a consequence of the acquisition and disposal of property acquired under such sections, and all administrative expenses in connection with the mortgage insurance operations under such sections shall be paid out of the fund. Moneys in the fund not needed for current operations of the fund shall be deposited with the Treasurer of the United States to the credit of the fund or invested in bonds or obligations of, or in bonds or other obligations guaranteed by, the United States or any agency of the United States: *Provided*, That such moneys shall to the maximum extent feasible be invested in such bonds or other obligations the proceeds of which will be used to directly support the residential mortgage market. The Secretary, with the approval of the Secretary of the Treasury, may purchase in the open market debentures which are the obligation of the fund. Such purchases shall be made at a price which will provide an investment yield of not less than the yield obtained from other investments authorized by this section. Debentures so purchased shall be canceled and not reissued.

(c)(1) Notwithstanding the provisions of this or any other Act, and without regard to limitations upon eligibility contained in any section of this title, the Secretary is authorized, upon application by the mortgagee, to insure under any section of this title a mortgage executed in connection with the construction, repair, rehabilitation, or purchase of property located near any installation of the Armed Forces of the United States in federally impacted areas in which the conditions are such that one or more of the eligibility requirements applicable to the section under which insurance is sought could not be met, if (A) the Secretary finds that the benefits to be derived from such use outweigh the risk of probable cost to the Government, and (B) the Secretary of Defense certifies that there is no intention insofar as can reasonably be foreseen to curtail substantially the personnel assigned or to be assigned to such installation. The insurance of a mortgage pursuant to this subsection shall be the obligation of the Special Risk Insurance Fund.

(2) The Secretary is authorized (A) to establish such premiums and other charges as may be necessary to assure that the mortgage insurance program pursuant to this subsection is made available on a basis which, in the Secretary's judgment, is designed to be actuarially sound and likely to maintain the fiscal integrity of such program, and (B) to prescribe such terms and conditions relating to insurance pursuant to this subsection as may be found by the Secretary to be necessary and appropriate, and which are to the maximum extent possible, consistent with provisions otherwise applicable to mortgage insurance and payment of insurance benefits.

(3) The Secretary shall undertake an annual assessment of the risks associated with each of the insurance programs comprising the Special Risk Insurance Fund, and shall present findings from such review to the Congress in the FHA Annual Management Report.

Sec. 239. [12 U.S.C. 1715z-4]
MODIFICATIONS IN TERMS OF MORTGAGES COVERING MULTIFAMILY PROJECTS.

The Secretary shall not consent to any request for an extension of the time for curing a default under any mortgage covering multifamily housing, as defined in the regulations of the Secretary, or for a modification of the terms of such mortgage, except in conformity with regulations prescribed by the Secretary in accordance with the provisions of this section. Such regulations shall require, as a condition to the granting of any such request, that, during the period of such extension or modification, any part of the rents or other funds derived by the mortgagor from the property covered by the mortgage which is not required to meet actual and necessary expenses arising in connection with the operation of such property, including amortization charges under the mortgage, be held in trust by the mortgagor and distributed only with the consent of the Secretary; except that the Secretary may provide for the granting of consent to any request for an extension of the time for curing a default under any mortgage covering multifamily housing, or for a modification of the terms of such mortgage, without regard to the foregoing requirement, in any case or class of cases in which an exemption from such requirement does not (as determined by the Secretary) jeopardize the interests of the United States.

Sec. 240. [12 U.S.C. 1715z-5]
PURCHASE OF FEE SIMPLE TITLE FROM LESSORS.

(a) The Secretary is authorized, upon such terms and conditions as he may prescribe, to make commitments to insure and to insure loans made by financial institutions for the purpose of financing purchases by homeowners of the fee simple title to property on which their homes are located.

(b) As used in this section—

(1) the term "financial institution" means a lender approved by the Secretary as eligible for insurance under section 2 or a mortgagee approved under section 203(b)(1); and

(2) the term "homeowner" means a lessee under a long-term ground lease.

(c) To be eligible for insurance under this section, a loan shall—

(1) relate to property on which there is located a dwelling designed principally for a one-, two-, three-, or four-family residence;

(2) not exceed the cost of purchasing the fee simple title, or $10,000 ($30,000, if the property is located in Hawaii) per family unit, whichever is the lesser;

(3) be limited to an amount which when added to any outstanding indebtedness related to the property (as determined by the Secretary) creates a total outstanding indebtedness which does not exceed the applicable mortgage limit prescribed in section 203(b);

(4) bear interest at such rate as may be agreed upon by the mortgagor and the mortgagee;

(5) have a maturity satisfactory to the Secretary, but not to exceed twenty years from the beginning of amortization of the loan; and

(6) comply with such other terms, conditions, and restrictions as the Secretary may prescribe.

(d) The provisions of paragraphs (3), (5), (6), (7), (8), and (10) of section 220(h) shall be applicable to loans insured under this section and, as applied to loans insured under this section, references in those paragraphs to "home improvement loans" and "this subsection" shall be construed to refer to loans under this section.

Sec. 241. [12 U.S.C. 1715z-6]
SUPPLEMENTAL LOANS FOR MULTIFAMILY PROJECTS.

(a) With respect to a multifamily project, hospital, or group practice facility covered by a mortgage insured under any section or title of this Act or covered by a mortgage held by the Secretary, the Secretary is authorized, upon such terms and conditions as he may prescribe, to make commitments to insure, and to insure, supplemental loans (including advances during construction or improvement) made by financial institutions approved by the Secretary. As used in this section, "supplemental loan" means a loan, advance of credit, or purchase of an obligation representing a loan or advance of credit made for the purpose of financing improvements or additions to such project, hospital, or facility: Provided, That a loan involving a nursing home, hospital, or a group practice facility may also be made for the purpose of financing equipment to be used in the operation of such nursing home, hospital, or facility.

(b) To be eligible for insurance under this section, a supplemental loan shall—

(1) be limited to 90 per centum of the amount which the Secretary estimates will be the value of such improvements, additions, and equipment, except that such amount when added to the outstanding balance of the mortgage covering the project or facility, shall not exceed the maximum mortgage amount insurable under the section or title pursuant to which the mortgage covering such project or facility is insured or an amount acceptable to the Secretary;

(2) have a maturity satisfactory to the Secretary;

(3) bear interest at such rate as may be agreed upon by the borrower and the financial institution;

(4) be secured in such manner as the Secretary may require;

(5) be governed by the labor standards provisions of section 212 that are applicable to the section or title pursuant to which the mortgage covering the project or facility is insured or pursuant to which the original mortgage covering the project or facility was insured; and

(6) contain such other terms, conditions, and restrictions as the Secretary may prescribe.

(c) The provisions of subsections (d), (e), (g), (h), (i), (j), (k), (l), and (n) of section 207 shall be applicable to loans insured under this section, except that (1) all references to the term "mortgage" shall be construed to refer to the term "loan" as used in this section, (2) loans involving projects covered by a mortgage insured under section 213 that is the obligation of the Cooperative Management Housing Insurance Fund shall be insured under and shall be the obligation of such fund, and (3) loans involving projects covered by a mortgage insured under section 236 shall be insured under and shall be the obligation of the Special Risk Insurance Fund.

(d) Notwithstanding the foregoing, the Secretary may insure a loan for improvements or additions to a multifamily housing project, or a group practice or medical practice facility or hospital or other health facility approved by the Secretary, which is not covered by a mortgage insured under this Act, if he finds that such a loan would assist in preserving, expanding, or improving housing opportunities, or in providing protection against fire or other hazards. Such loans shall have a maturity satisfactory to the Secretary and shall meet such other conditions as the Secretary may prescribe. In no event shall such a loan be insured if it is for an amount in excess of the maximum amount which could be approved if the outstanding indebtedness, if any, covering the property were a mortgage insured under this Act. At any sale under foreclosure of a mortgage on a project or facility which is not insured under this Act but which is senior to a loan assigned to the Secretary pursuant to subsection (c), the Secretary is authorized to bid, in addition to amounts authorized under section 207(k), any sum up to but not in excess of the

total unpaid indebtedness secured by such senior mortgage, plus taxes, insurance, foreclosure costs, fees, and other expenses. In the event that, pursuant to subsection (c), the Secretary acquires title to, or is assigned, a loan covering a project or facility which is subject to a mortgage which is not insured under this Act, the Secretary is authorized to make payments from the General Insurance Fund on the debt secured by such mortgage, and to take such other steps as the Secretary may deem appropriate to preserve or protect the Secretary's interest in the project or facility.

(e)(1) Notwithstanding any other provision of this section, the Secretary may insure a loan for purchasing and installing energy conserving improvements (as defined in subparagraph (2) of the last paragraph of section 2(a) of this Act), for purchasing and installing a solar energy system (as defined in subparagraph (3) of the last paragraph of section 2(a) of this Act), and for purchasing or installing (or both) individual utility meters in a multifamily housing project if such meters are purchased or installed in connection with other energy conserving improvements or with a solar energy system or the project meets minimum standards of energy conservation established by the Secretary, without regard to whether the project is covered by a mortgage under this Act.

(2) Notwithstanding the provisions of subsection (b), a loan insured under this subsection shall—

(A) not exceed an amount which the Secretary determines is necessary for the purchase and installation of individual utility meters plus an amount which the Secretary deems appropriate taking into account amounts which will be saved in operation costs over the period of repayment of the loan by reducing the energy requirements of the project as a result of the installation of energy conserving improvements or a solar energy system therein;

(B) be insured for 90 percent of any loss incurred by the person holding the note for the loan; except that, for cooperative multifamily projects receiving assistance under section 236 or financed with a below market interest rate mortage insured under section 221(d)(3) of this Act, 100 percent of any such loss may be insured;

(C) bear an interest rate not to exceed an amount which the Secretary determines, after consulting with the Secretary of Energy, to be necessary to meet market demands;

(D) have a maturity satisfactory to the Secretary;

(E) be insured pursuant to a premium rate established on a sound actuarial basis to the extent practicable;

(F) be secured in such a manner as the Secretary may require;

(G) be an acceptable risk in that energy conservation or solar energy benefits to be derived outweigh the risks of possible loss to the Federal Government; and

(H) contain such other terms, conditions, and restrictions as the Secretary may prescribe.

(3) The provisions of subsection (c) shall apply to loans insured under this subsection.

(4) The Secretary shall provide that any person obligated on the note for any loan insured under this section be regulated or restricted, until the termination of all obligations of the Secretary under the insurance, by the Secretary as to rents or sales, charges, capital structure, rate of return, and methods of operations of the multifamily project to such an extent and in such manner as to provide reasonable rentals to tenants and a reasonable return on the investment.

[(f) [Repealed.]]

(g)(1) When underwriting a rehabilitation loan under this section in connection with eligible multifamily housing, the Secretary may assume that any rental assistance provided for purposes of servicing the additional debt will be extended for the term of the rehabilitation loan. The Secretary shall exercise prudent underwriting practices in insuring rehabilitation loans under this section. For purposes of this subsection, the term "eligible multifamily housing" means any housing financed by a loan or mortgage that is—

(A) insured or held by the Secretary under section 221(d)(3) of the National Housing Act and assisted under section 101 of the Housing and Urban Development Act of 1965 or section 8 of the United States Housing Act of 1937;

(B) insured or held by the Secretary and bears interest at a rate determined under the proviso of section 221(d)(5) of the National Housing Act; or

(C) insured, assisted or held by the Secretary under section 236 of the National Housing Act.

(2) A mortgagee approved by the Secretary may not withhold consent to a rehabilitation loan insured in connection with eligible multifamily housing on which that mortgagee holds a mortgage.

Sec. 242. [12 U.S.C. 1715z-7]
MORTGAGE INSURANCE FOR HOSPITALS.

(a) The purpose of this section is to assist the provision of urgently needed hospitals for the care and treatment of persons who are acutely ill or who otherwise require medical care and related services of the kind customarily furnished only (or most effectively) by hospitals. Such assistance shall be provided regardless of the amount of public financial or other support a hospital may receive, and the Secretary shall neither require additional security or collateral to guarantee such support, nor impose more stringent eligibility or other requirements on publicly owned or supported hospitals.

(b) For the purposes of this section—

(1) the term "hospital" means a facility—

(A) which provides community service for inpatient medical care of the sick or injured (including obstetrical care);

(B) not more than 50 per centum of the total patient days of which during any year are customarily assignable to the categories of chronic convalescent and rest, drug and alcoholic, epileptic, mentally deficient, mental, nervous and mental, and tuberculosis, unless the facility is a critical access hospital (as that term is defined in section 1861(mm)(1) of the Social Security Act (42 U.S.C. 1395x(mm)(1))); and

(C) which is a public facility, proprietary facility, or facility of a private nonprofit corporation, or association, licensed or regulated by the State (or, if there is no State law providing for such licensing or regulation by the State, by the municipality or other political subdivision in which the facility is located); and

(2) the terms "mortgage" and "mortgagor" shall have the meanings respectfully set forth in section 207(a) of this Act.

(c) The Secretary is authorized to insure any mortgage (including advances on such mortgage during construction) in accordance with the provisions of this section upon such terms and conditions as he may prescribe and to make commitments for insurance of such mortgage prior to the date of its execution or disbursement thereon. No mortgage insurance premium shall be charged with respect to the amount of principal and interest guaranteed by the Department of Health and Human Services under title VII of the Public Health Service Act.

(d) In order to carry out the purpose of this section, the Secretary is authorized to insure any mortgage which covers a new or rehabilitated hospital, including equipment to be used in its operation, subject to the following conditions:

(1) The mortgage shall be executed by a mortgagor approved by the Secretary. The Secretary may in his discretion require any such mortgagor to be regulated or restricted as to charges and methods of financing, and, in addition thereto, if the mortgagor is a corporate entity, as to capital structure and rate of return. As an aid to the regulation or restriction of any mortgagor with respect to any of the foregoing matters, the Secretary may make such contracts with and acquire for not to exceed $100 such stock or interest in such mortgagor as he may deem necessary. Any stock or interest so purchased shall be paid for out of the General Insurance Fund, and shall be redeemed by the mortgagor at par upon the termination of all obligations of the Secretary under the insurance.

(2) The mortgage shall involve a principal obligation in the amount requested by the mortgagor if such amount does not exceed 90 percent of the estimated replacement cost of the property or project including—

(A) equipment to be used in the operation of the hospital, when the proposed improvements are completed and the equipment is installed; and

(B) a solar energy system (as defined in subparagraph (3) of the last paragraph of section 2(a) of this Act) or residential energy conservation measures (as defined in section 210(11) (A) through (G) and (I) of Public Law 95-619) in cases where the Secretary determines that such measures are in addition to those required under the minimum property standards and will be cost-effective over the life of the measure.

(3) The mortgage shall—

(A) provide for complete amortization by periodic payments within such terms as the Secretary shall prescribe; and

(B) bear interest at such rate as may be agreed upon by the mortgagor and the mortgagee.

(4)(A) The Secretary shall require satisfactory evidence that the hospital will be located in a State or political subdivision of a State with reasonable minimum standards of licensure and methods of operation for hospitals and satisfactory assurance that such standards will be applied and enforced with respect to the hospital.

(B) The Secretary shall establish the means for determining need and feasibility for the hospital, if the State does not have an official procedure for determining need for hospitals. If the State has an official procedure for determining need for hospitals, the Secretary shall require that such procedure be followed before the application for insurance is submitted, and the application shall document that need has also been established under that procedure.

(5) The Secretary shall not insure any mortgage or approve any modification of an existing mortgage insured pursuant to this section or section 223(f) if such insurance or modification is to be made in connection with a guarantee, as authorized pursuant to section 306, of a trust certificate or other security which is exempt from Federal taxation or which is to be used to collateralize obligations which are so exempt, except that the Secretary shall not refuse to insure such a mortgage or approve such a modification solely on the basis that such insurance or modification is to be made in connection with a guarantee, as authorized pursuant to section 306, of a trust certificate or other security which is exempt from Federal taxation or which is to be used to collateralize obligations which are so exempt if—

(A) a written application for such insurance or modification submitted at the express direction of the hospital has been submitted to the appropriate office of the Department of Health, Education, and Welfare prior to March 29, 1979; or

(B) in the case of a nonprofit mortgagor which is seeking refinancing or modification of an existing mortgage insured pursuant to this section or section 223(f), the mortgagor (i) had engaged an investment banker for the purpose of obtaining such refinancing or modification, or had undertaken or arranged for the undertaking of a market or feasibility study with respect to the advisability of obtaining such refinancing or modification, and had made written notification of its interest in such refinancing or modification to the Department of Health, Education, and Welfare or the Department of Housing and Urban Development prior to June 7, 1979; and (ii) receives from the programs established under titles XVIII and XIX of the Social Security Act a percentage of its total revenue which is greater than 125 per centum of the national average for hospitals which derive revenue from such titles.

This paragraph shall not limit the authority of the Secretary to approve a mortgage increase on any mortgage eligible for insurance under this paragraph at any time prior to final endorsement of the loan for insurance; except that such mortgage increase may not be approved for the cost of constructing any improvements not included in the original plans and specifications approved by the Department of Health and Human Services unless approved by the Secretary of Housing and Urban Development and by the Secretary of Health and Human Services.

(6) To the extent that a private nonprofit or public facility mortgagor is required by the Secretary to provide cash equity in excess of the amount of the mortgage to complete the project, the mortgagor shall be entitled, at the option of the mortgagee, to fund the excess with a letter of credit. In such event, mortgage proceeds may be advanced to the mortgagor prior to any demand being made on the letter of credit.

(e) The Secretary may consent to the release of a part or parts of the mortgaged property or project from the lien of any mortgage insured under this section upon such terms and conditions as he may prescribe.

(f) The activities and functions provided for in this section shall be carried out by the agencies involved so as to encourage programs that undertake responsibility to provide comprehensive health care, including outpatient and preventive care, as well as hospitalization, to a defined population, and, in the case of public hospitals, to encourage programs that are undertaken to provide essential health care services to all residents of a community regardless of ability to pay. The Secretary shall begin immediately to process applications of public facilities for mortgage insurance under this section in accordance with regulations, guidelines, and procedures applicable to facilities of private nonprofit corporations and associations.

(g)(1) Notwithstanding any of the other provisions of this title, the Secretary may insure under this section a mortgage which provides permanent financing or refinancing of existing mortgage indebtedness in the case of a hospital whose permanent financing is presently lacking, if the construction of such hospital was completed between January 1, 1966, and the date of the enactment of this Act.

(2) The aggregate principal balance of all mortgages insured under paragraph (1) and outstanding at any one time shall not exceed $20,000,000.

(h) The provisions of subsections (d), (e), (g), (h), (i), (j), (k), (l), and (n) of section 207 shall apply to mortgages insured under this section and all references therein to section 207 shall be deemed to refer to this section.

(i) TERMINATION OF EXEMPTION FOR CRITICAL ACCESS HOSPITALS.—

(1) IN GENERAL.—The exemption for critical access hospitals under subsection (b)(1)(B) shall have no effect after July 31, 2016.

(2) REPORT TO CONGRESS.—Not later than 3 years after July 31, 2003, the Secretary shall submit a report to Congress detailing the effects of the exemption of critical access hospitals from the provisions of subsection (b)(1)(B) on—

(A) the provision of mortgage insurance to hospitals under this section; and

(B) the General Insurance Fund established under section 519.

Sec. 243. [12 U.S.C. 1715z-8]
HOMEOWNERSHIP FOR MIDDLE-INCOME FAMILIES.

(a) Whenever he determines such action to be necessary in furtherance of the purposes set forth in section 501 of the Emergency Home Finance Act of 1970, the Secretary is authorized to make, and to contract to make, periodic assistance payments on behalf of families of middle income. The assistance shall be accomplished through interest subsidy payments to the Federal National Mortgage Association or the Federal Home Loan Mortgage Corporation (hereinafter referred to as "the investor") with respect to mortgages meeting the special requirements specified in this section and made after the date of enactment of the Emergency Home Finance Act of 1970.

(b) To qualify for assistance payments a middle-income family shall be a mortgagor under a mortgage which is (1) insured under subsection (j) of this section, (2) guaranteed under chapter 37 of title 38, United States Code, or (3) a conventional mortgage meeting the requirements of subsection (j)(3) of this section. In addition to the foregoing requirement, the Secretary may require that the mortgagor have an income, at the time of acquisition of the property, of not more than the median income for the area in which the property is located, as determined by the Secretary, with appropriate adjustments for smaller and larger families.

(c) The interest subsidy payments authorized by this section shall cease when (1) the mortgagor no longer occupies the property which secures the mortgage, (2) the mortgages are no longer held by the investor, or (3) the rate of interest paid by the mortgagor reaches the rate of interest specified on the mortgage.

(d)(1) Interest subsidy payments shall be on mortgages on which the mortgagor makes monthly payments towards principal and interest equal to an amount which would be required if the mortgage bore an effective interest rate of 7 per centum per annum, including any discounts or charges in the nature of points or otherwise (but not including premiums, if any, for mortgage insurance) or such higher rate (not to exceed the rate specified in the mortgage), which the mortgagor could pay by applying at least 20 per centum of his income towards homeownership expenses. As used in this subsection, the term "monthly homeownership expense" includes the monthly payment for principal, interest, mortgage insurance premium, insurance, and taxes due under the mortgage.

(2) In addition to the mortgages eligible for assistance under paragraph (1) of this subsection, the Secretary is authorized to make periodic assistance payments on behalf of cooperative members of middle income. Such assistance payments shall be accomplished through interest subsidy payments to the investor with respect to mortgages insured (subsequent to the effective date of this section) under section 213 which are executed by cooperatives, the membership in which is limited to middle-income families. For purposes of this paragraph—

(A) the term "mortgagor", when used in subsection (b) in the case of a mortgage covering a cooperative housing project, means a member of the cooperative;

(B) the term "acquisition of the property", when used in subsection (b), means the family's application for a dwelling unit; and

(C) in the case of a cooperative mortgagor, subsection (c) shall not apply and the interest subsidy payments shall cease when the mortgage is no longer held by the investor or the cooperative fails to limit membership to families whose incomes at the time of their application for a dwelling unit meets such requirements as are laid down by the Secretary pursuant to subsection (b).

(e) The interest subsidy payments shall be in an amount equal to the difference, as determined by the Secretary, between the total amount of interest per calendar quarter received by the investor on mortgages assisted under this section and purchased by it and the total amount of interest which the investor would have received if the yield on such mortgages was equal to the sum of (1) the average costs (expressed as an annual percentage rate) to it of all borrowed funds outstanding in the immediately preceding calendar quarter, and (2) such per centum per annum as will provide for administrative and other expenses of the investor and a reasonable economic return, as determined by the Secretary to be necessary and appropriate taking into account the purpose of this section to provide additional mortgage credit at reasonable rates of interest to middle-income families.

(f) Procedures shall be adopted by the Secretary for recertifications of the mortgagor's income at intervals of two years (or at shorter intervals where the Secretary deems it desirable) for the purpose of adjusting the amount of the mortgagor's payments pursuant to subsection (d).

(g) The Secretary shall prescribe such regulations as he deems necessary to assure that the sales price of, or other consideration paid in connection with the purchase by a homeowner of the property with respect to which assistance payments are to be made is not increased above the appraised value on which the maximum mortgage which the Secretary will insure is computed.

(h)(1) There are authorized to be appropriated such sums as may be necessary to enable the Secretary to make interest subsidy payments under contracts entered into under this section. The aggregate amount of contracts to make such payments shall not exceed amounts approved in appropriation Acts, and payments pursuant to such contracts shall not exceed $105,000,000 during the first year of such contracts prior to July 1, 1971, which amount shall be increased by an additional $105,000,000 during the first year of an additional number of such contracts on July 1 of each of the years 1971 and 1972.

(2) No interest subsidy payments under this section shall be made after June 30, 1973, except pursuant to contracts entered into on or before such date.

(i) In determining the income of any family for the purposes of this section, income from all sources of each member of the family in the household shall be included, except that the Secretary shall exclude income earned by any minor person.

(j)(1) The Secretary is authorized upon application by the mortgagee, to insure a mortgage executed by a mortgagor who meets the eligibility requirements for assistance payments prescribed by the Secretary under subsection (b). Commitments for the insurance of such mortgages may be issued by the Secretary prior to the date of their execution or disbursement thereon, upon such terms and conditions as the Secretary may prescribe.

(2) To be eligible for insurance under this subsection, a mortgagee shall meet the requirements of section 221(d)(2) or 234(c), except as such requirements are modified by this subsection: Provided, however, That in the discretion of the Secretary 25 per centum of the authority conferred by this section and subject to all the terms thereof may be used for mortgages on existing housing.

(3) A mortgage to be insured under this section shall—

(i)[568] involve a single-family dwelling which has been approved by the Secretary prior to the beginning of construction, or a one-family unit in a condominium project (together with an undivided interest in the common areas and facilities serving the project) which is released from a multifamily project, the construction of which has been completed within two years prior to the filing of the application for assistance payments with respect to such family unit and the unit shall have had no previous occupant other than the mortgagor;

(ii)[569] involve a single-family dwelling whose appraised value, as determined by the Secretary, is not in excess of $20,000 (which amount may be increased by not more than 50 per centum in any geographical area where the Secretary authorizes an increase on the basis of a finding that the cost level so requires); and

(iii)[570] be executed by a mortgagor who shall have paid in cash or its equivalent on account of the property (A) 3 per centum of the first $15,000 of the appraised value of the property, (B) 10 per centum of such value in excess of $15,000 but not in excess of $25,000, and (C) 20 per centum of such value in excess of $25,000.

Sec. 244. [12 U.S.C. 1715z-9]
CO-INSURANCE.

(a) In addition to providing insurance as otherwise authorized under this Act, and not withstanding any other provision of this Act inconsistent with this section, the Secretary, upon request of any mortgagee and for such mortgage insurance premium as he may prescribe (which premium, or other charges to be paid by the mortgagor, shall not exceed the premium, or other charges, that would otherwise be applicable), may insure and make a commitment to insure under any provision of this title any mortgage, advance, or loan otherwise eligible under such provision, pursuant to a co-insurance contract providing that the mortgagee will—

(1) assume a percentage of any loss on the insured mortgage, advance, or loan in direct proportion to the amount of the co-insurance, which co-insurance shall not be less than 10 per centum, subject to any reasonable limit or limits on the liability of the mortgagee that may be specified in the event of unusual or catastrophic losses that may be incurred by any one mortgagee; and

[568] So in law. Probably should be designated as subparagraph (A).
[569] So in law. Probably should be designated as subparagraph (B).
[570] So in law. Probably should be designated as subparagraph (C).

(2) carry out (under a delegation or otherwise and with or without compensation but subject to audit, exception, or review requirements) such credit approval, appraisal, inspection, commitment, property disposition, or other functions as the Secretary, pursuant to regulations, shall approve as consistent with the purposes of this Act.

Any contract of co-insurance under this section shall contain such provisions relating to the sharing of premiums on a sound actuarial basis, establishment of mortgage reserves, manner of calculating insurance benefits, conditions with respect to foreclosure, handling and disposition of property prior to claim or settlement, rights of assignees (which may elect not to be subject to the loss sharing provisions), and other similar matters as the Secretary may prescribe pursuant to regulations. A mortgagee which enters into a contract of co-insurance under this section shall not by reason of such contract, or its adherence to such contract or applicable regulations of the Secretary, including provisions relating to the retention of risks in the event of sale or assignment of a mortgage, be made subject to any State law regulating the business of insurance.

(b) No insurance shall be granted pursuant to this section with respect to dwellings or projects approved for insurance prior to the beginning of construction unless the inspection of such construction is conducted in accordance with at least the minimum standards and criteria used with respect to dwellings or projects approved for mortgage insurance pursuant to other provisions of this title.

[(c) [Repealed.]]

[(d) [Repealed.]]

(e) The Secretary shall not withdraw, deny, or delay insurance otherwise authorized under any other provision of this Act by reason of the availability of insurance pursuant to this section. The Secretary shall exercise his authority under this section only to the extent that he finds that the continued exercise of such authority will not adversely affect the flow of mortgage credit to older and declining neighborhoods and to the purchasers of older and lower cost housing.

(f)(1) Where the mortgage covers a multifamily housing project, the co-insurance contract may provide that the mortgagee assume (i) the full amount of any loss on the insured mortgage up to an amount equal to a fixed percentage of the outstanding principal balance of the mortgage at the time of claim for insurance benefits, or (ii) the full amount of any losses on insured mortgages in a portfolio of mortgages approved by the Secretary up to an amount equal to a fixed percentage of the outstanding principal balance of all mortgages in such portfolio at the time of claim for insurance benefits on a mortgage in the portfolio, plus a share of any loss in excess of the amount under clause (i) or (ii), whichever is applicable.

(2) The Secretary may make loans, from the applicable insurance fund, to public housing agencies in connection with mortgages which have been insured pursuant to this subsection and which are in default.

(3) The Secretary may insure and make a commitment to insure in connection with a co-insurance contract pursuant to this subsection (A) a mortgage on a project assisted under the second proviso in the first sentence of section 236(b) of this Act, and (B) a mortgage or advance on a mortgage made to a public housing agency on a project under construction which is not approved for insurance prior to construction.

(4) As used in this subsection, the term "public housing agency" has the meaning given such term in section 3(b)(6) of the United States Housing Act of 1937.

(5) Notwithstanding any other provision of this Act, the Secretary may include in the determination of replacement cost of a project to be covered by a mortgage made to a public housing agency and insured pursuant to this subsection, such reserves and development costs, not to exceed 5 per centum of the amount otherwise allowable, as may be established or authorized by the public housing agency consistent with such agency's procedures and underwriting standards.

(h)[571] Notwithstanding any other provision of this section, in the case of a mortgage insured under section 223(f) secured by property which is to be rehabilitated or developed under section 17 of the United States Housing Act of 1937, such co-insurance may include provisions that—

(1) insurance benefits shall equal the sum of (A) 90 per centum of the mortgage on the date of institution of foreclosure proceedings (or on the date of acquisition of the property otherwise after default), and (B) 90 per centum of interest arrears on the date benefits are paid;

(2) the mortgagee shall remit to the Secretary, for credit to the General Insurance Fund, 90 per centum of any proceeds of the property, including sale proceeds, net of the mortgagee's actual and reasonable costs related to the property and the enforcement of security;

(3) payment of such benefits shall be made in cash unless the mortgagee submits a written request for debenture payment; and

[571] So in law. There is no subsection (g).

(4) the underwriter of co-insurance may reinsure 10 per centum of the mortgage amount with a private mortgage insurance company or with a State mortgage insurance agency.

(i) Any mortgagee which enters into a contract of co-insurance under this section shall have the authority to assign its interest in any note or mortgage subject to a contract of co-insurance to a warehouse bank or other financial institution which provides interim funding for a loan co-insured under this section, and to retain the co-insurance risk of such note or mortgage, upon such terms and conditions as the Secretary shall prescribe.

(i)[572] The Secretary shall, by January 15 and July 15 of each year (1) review the adequacy of capital and other requirements for mortgagees under this section, (2) assess the compliance by mortgagees with such requirements, and (3) make such adjustment to such requirements as the Secretary, after providing opportunity for hearing, determines to be appropriate to improve the long-term financial soundness of the Federal Housing Administration funds. Such requirements shall include the minimum capital or net worth of mortgagees; the ratio that mortgagees shall maintain between the mortgagee's capital and the volume of mortgages co-insured by such mortgagee; and such other requirements as the Secretary determines to be appropriate to ensure the long-term financial soundness of the Federal Housing Administration funds. The Secretary shall submit to the Committee on Banking, Housing, and Urban Affairs of the Senate and the Committee on Banking, Finance and Urban Affairs of the House of Representatives[573] a report on the review and assessment under the previous sentence, and an explanation of the Secretary's reasons for making any adjustment in requirements authorized under this section.

[Sec. 245. [Repealed.]]

Sec. 246. [12 U.S.C. 1715z-11]
SALE OF ACQUIRED PROPERTY TO COOPERATIVES.

In any case which the Secretary sells a multifamily housing project acquired as a result of a default on a mortgage which was insured under this Act to a cooperative which will operate it on a nonprofit basis and restrict permanent occupancy of its dwellings to members, or to a nonprofit corporation which operates as a consumer cooperative as defined by the Secretary, the Secretary may accept a purchase money mortgage, or upon application of the mortgagee, insure a mortgage under this section upon such terms and conditions as the Secretary determines are reasonable and appropriate, in a principal amount equal to the value of the property at the time of purchase, which value shall be based upon a mortgage amount on which the debt service can be met from the income of property when operated on a nonprofit basis after payment of all operating expenses, taxes, and required reserves; except that the Secretary may add to the mortgage amount an amount not greater than the amount of prepaid expenses and costs involved in achieving cooperative ownership, or make such other provisions for payment of such expenses and costs as the Secretary deems reasonable and appropriate. Prior to such disposition of a project, funds may be expended by the Secretary for necessary repairs and improvements.

Sec. 247. [12 U.S.C. 1715z-12]
SINGLE-FAMILY MORTGAGE INSURANCE ON HAWAIIAN HOME LANDS.

(a) The Secretary, subject to such conditions as the Secretary may prescribe, may insure under any provision of this title that authorizes such insurance, a mortgage covering a property upon which there is located a one- to four-family residence, without regard to any limitation in this Act relating to marketability of title or any other limitation in this Act that the Secretary determines is contrary to promoting the availability of such insurance on Hawaiian home lands, if—

(1) the mortgage is executed by a native Hawaiian on property located within Hawaiian home lands covered under a homestead lease issued under section 207(a) of the Hawaiian Homes Commission Act, 1920, or under the corresponding provision of the Constitution of the State of Hawaii adopted under section 4 of the Act entitled "An Act to provide for the admission of the State of Hawaii into the Union", approved March 28, 1959 (73 Stat. 5);

(2) the property will be used as the principal residence of the mortgagor; and

[572] So in law.

[573] Section 1(a) of Public Law 104-14, 109 Stat. 186, provides, in part, that "any reference in any provision of law enacted before January 4, 1995, to . . . the Committee on Banking, Finance and Urban Affairs of the House of Representatives shall be treated as referring to the Committee on Banking and Financial Services of the House of Representatives". However, H. Res. 5, 107th Congress, agreed to on January 3, 2001, abolished the Committee on Banking and Financial Services and established the Committee on Financial Services, which has jurisdiction over many of the areas previously under the jurisdiction of the Committee on Banking and Financial Services.

(3) the Department of Hawaiian Home Lands of the State of Hawaii (A) is a comortgagor; (B) guarantees to reimburse the Secretary for any mortgage insurance claim paid in connection with a property on Hawaiian home lands; or (C) offers other security acceptable to the Secretary.

(b) Notwithstanding any other provision of this Act, the Secretary may, with respect to mortgages eligible for insurance under subsection (a), insure and make commitments to insure advances made during construction if the Secretary determines that the proposed construction is otherwise acceptable and that no feasible financing alternative is available.

(c) Notwithstanding any other provision of this Act, the insurance of a mortgage using the authority contained in this section shall be the obligation of the Mutual Mortgage Insurance Fund. The mortgagee shall be eligible to receive the benefits of insurance as provided in section 204 with respect to mortgages insured pursuant to this section, except that all references in section 204 to section 203 shall be construed to refer to the section under which the mortgage is insured.

(d) For purposes of this section:

(1) NATIVE HAWAIIAN.—The term "native Hawaiian" means any descendant of not less than one-half part of the blood of the races inhabiting the Hawaiian Islands before January 1, 1778, or, in the case of an individual who is awarded an interest in a lease of Hawaiian home lands through transfer or succession, such lower percentage as may be established for such transfer or succession under section 208 or 209 of the Hawaiian Homes Commission Act of 1920 (42 Stat. 111), or under the corresponding provision of the Constitution of the State of Hawaii adopted under section 4 of the Act entitled "An Act to provide for the admission of the State of Hawaii into the Union", approved March 18, 1959 (73 Stat. 5).

(2) HAWAIIAN HOME LANDS.—The term "Hawaiian home lands" means all lands given the status of Hawaiian home lands under section 204 of the Hawaiian Homes Commission Act of 1920 (42 Stat. 110), or under the corresponding provision of the Constitution of the State of Hawaii adopted under section 4 of the Act entitled "An Act to provide for the admission of the State of Hawaii into the Union", approved March 18, 1959 (73 Stat. 5).

(e) CERTIFICATION OF ELIGIBILITY FOR EXISTING LESSEES.—Possession of a lease of Hawaiian home lands issued under section 207(a) of the Hawaiian Homes Commission Act of 1920 (42 Stat. 110), shall be sufficient to certify eligibility to receive a mortgage under this section.

Sec. 248. [12 U.S.C. 1715z-13]
SINGLE FAMILY MORTGAGE INSURANCE ON INDIAN RESERVATIONS.

(a) The Secretary, subject to such special conditions as the Secretary may prescribe, may insure under any provision of this title that authorizes such insurance, a mortgage covering a property upon which there is located a one- to four-family residence, without regard to any limitation in this Act relating to marketability of title or any other limitation in this Act that the Secretary determines is contrary to promoting the availability of such insurance on Indian reservations if the mortgage (1) is executed by an Indian tribe and the property is located on trust or otherwise restricted land; or (2) is executed by a member of an Indian tribe who will use the property as a principal residence and the property is on trust or otherwise restricted land.

(b) Notwithstanding any other provision of this Act, with respect to mortgages covering a property upon which there is located a one- to four-family residence—

(1) the Secretary may insure and make commitments to insure under this title pursuant to this section advances made during construction where the Secretary determines that the proposed construction is otherwise acceptable and meets an applicable tribal or national model building code, and that no feasible financing alternative is available;

(2) the applicable percentage limitation on the amount of the principal obligation of a mortgage based on the appraised value or replacement cost, as appropriate, of a one- to four-family owner-occupied residence contained in this title shall apply in the case of all mortgages insured pursuant to this section without regard to whether the residences are owner-occupied where the residences are owned by the tribe; and

(3)(A) the Secretary may require an Indian tribe, only as a condition of insurance made under this title pursuant to this section, to pledge income from tribal resources or income from tribal assets not subject to a restriction by the Secretary of the Interior or pledge grants under title I of the Housing and Community Development Act of 1974 or any other Federal grant program administered by the Secretary of Housing and Urban Development to be used to reimburse the Secretary for any mortgage insurance claims paid in connection with residences insured pursuant to this section; or

(B) in the case of an individual Indian mortgagor, the Secretary may require a pledge of his or her share of distributed income from tribal resources or income from tribal assets, excluding any Federal grants received by the tribe.

(c) The Secretary may not refuse to insure a mortgage under this section to an individual home purchaser because there is no distributed tribal or trust fund income attributable to that purchaser.

(d) Before making any commitment to insure a mortgage under this section with respect to property located on trust or otherwise restricted land, the Secretary shall require a showing by the tribe that it has adopted eviction procedures to be used in the event of a default.

(e) A mortgage insured under this section may be assumed, subject to credit approval by the lender and the consent of the tribe to an assumption of the existing lease or the grant of a new lease, without an adjustment of the interest rate. Any other sale of a property subject to a mortgage insured under this section may be made only if a new lease is granted, except that a sale following a foreclosure may be accompanied by an assumption of the lease with the consent of the tribe.

(f) Notwithstanding any other provision of this Act, the insurance of a mortgage using the authority contained in this section shall be the obligation of the Mutual Mortgage Insurance Fund. The mortgagee shall be eligible to receive the benefits of insurance as provided in section 204 with respect to mortgages insured pursuant to this section, except that all references in section 204 to section 203 shall be construed to refer to the section under which the mortgage is insured.

(g)(1) The Secretary shall make information regarding the status and payment history of loans insured under this section available to local credit bureaus and prospective creditors. Prior to accepting assignment of a mortgage, the Secretary shall require mortgagees to submit documentation that mortgagors have been counseled in a face-to-face interview, informed of the provisions of this subsection or other available assistance, and provided with the names and addresses of officials of the Department of Housing and Urban Development to whom further communications shall be addressed.

(2) Notwithstanding the requirement for conveyance of title under section 204, a mortgagee under this section shall be entitled to receive the benefit of insurance under this section in the case of a mortgage which is more than 90 days in default upon conveyance of the lease agreement and the mortgage documents.

(3) In the event that any default is cured, the Secretary shall seek to reinstate the loan with the mortgagee or another mortgagee. For purposes of this paragraph, the Secretary may provide appropriate financial incentives to reinstate the loan commensurate with sound management of the General Insurance Fund.

(4) If the Secretary determines that a mortgagor is not making a good-faith effort to cure a default, and that trust fund or tribal income is available under subsection (b)(3)(B), the Secretary shall commence proceedings for the garnishment of the mortgagor's distributed share of tribal or trust fund income in order to collect loan payments that are past due. Proceedings under this paragraph may be instituted in a tribal court, court of competent jurisdiction designated by the tribe, or Federal district court.

(5) If the Secretary determines such action is necessary to protect the General Insurance Fund from undue loss, the Secretary may initiate foreclosure proceedings with respect to any mortgage acquired under this subsection. Such proceeding may take place in a tribal court, a court of competent jurisdiction, or Federal district court. Any such court shall have jurisdiction to convey to the Secretary the remaining life of a lease on the real property and to order eviction of the delinquent mortgagor.

(h) In the administration of this section, the Secretary shall establish a premium charge for insurance that will be sufficient to cover the full costs of the mortgage insurance program under this section, except that such charge may not exceed 3 percent per annum of the principal amount of the mortgage outstanding at any time. Not later than September 30, 1984, the Secretary shall determine and report to the Congress on the feasibility of eliminating any excess amount of the premium under this section over the premium under section 203. In the event such premiums are not sufficient to cover the full costs of the mortgage insurance program under this section, the Secretary shall make recommendations to the Congress about changes to the program.

(i) For purposes of this section:

(1) The term "Indian tribe" means any Indian or Alaska native tribe, band, nation, or other organized group or community of Indians or Alaska natives recognized as eligible for the services provided to Indians or Alaska natives by the Secretary of the Interior because of its status as such an entity, or that was an eligible recipient under chapter 67 of title 31, United States Code, prior to the repeal of such chapter.

(2) The term "trust or otherwise restricted land" means (A) that area of land, as defined by the Secretary of the Interior, over which an Indian tribe is recognized by the United States as having governmental jurisdiction; (B) land held in trust for the benefit of any Indian tribe or individual or held by any Indian tribe or individual subject to a restriction by the United States against alienation; or (C) land acquired by Alaska natives under the Alaska Native Claims Settlement Act or any other land acquired by Alaska natives pursuant to statute by virtue of their unique status as Alaska natives.

Sec. 249. [12 U.S.C. 1715z-14]
RISK-SHARING DEMONSTRATION.

(a) The purpose of this section is to authorize a demonstration mortgage risk-sharing program designed to test the feasibility of entering into risk-sharing contracts with private mortgage insurers and with insured community development financial institutions in order to reduce Government risk and administrative costs, and to speed mortgage processing. The Secretary shall limit the demonstration under this section to not more than four administrative regions of the Department of Housing and Urban Development, and shall assure that the program is in the financial interest of the Government and will not result in loss of employment by any employees of the Department of Housing and Urban Development before the expiration of the 5-year period beginning on the date of the enactment of the Community Renewal Tax Relief Act of 2000.[574] The aggregate number of mortgages insured under this section in any administrative region of the Department of Housing and Urban Development in any fiscal year may not exceed 20 percent of the aggregate number of mortgages and loans insured by the Secretary under this title in such region during the preceding fiscal year.[575]

(b) Notwithstanding any other provision of this Act inconsistent with this section, the Secretary is authorized, in providing mortgage insurance with respect to one- to four-family dwellings under sections 203(b), 234, and 245, to enter into risk-sharing contracts with private mortgage insurance companies which have been determined to be qualified insurers under section 302(b)(2)(C) and with insured community development financial institutions. Such contracts shall require private mortgage insurance companies and insured community development financial institutions to—

(1) assume a secondary percentage of loss on any mortgage insured pursuant to section 203(b), 234, or 245 covering a one- to four-family dwelling, which percentage of loss shall be set forth in the risk-sharing contract, with the first percentage of loss to be borne by the Secretary;

(2) perform or delegate underwriting, credit approval, appraisal, inspection, commitment, claims processing, property disposition, or other functions as the Secretary shall approve as consistent with the purposes of this section and shall set forth in the risk-sharing contract.

(c) Any contract for risk-sharing under this section shall contain such provisions relating to the sharing of premiums received by the Secretary with a private mortgage insurer or insured community development financial institution on a sound actuarial basis, establishment of loss reserves, manner of calculating claims on such risk-sharing contract, conditions with respect to foreclosure, handling and disposition of property prior to claim or settlement, rights of assignees, and other similar matters as the Secretary may prescribe pursuant to regulations. Pursuant to a contract under this section, a private mortgage insurance company or insured community development financial institution shall endorse loans for risk-sharing and take such other actions on behalf of the Secretary and in the Secretary's name as the Secretary may authorize.

(d) The Secretary shall require any private mortgage insurance company or insured community development financial institution participating in the program under this section to provide risk-sharing for those mortgages offered by the Secretary for inclusion in the program.

(e) INSURED COMMUNITY DEVELOPMENT FINANCIAL INSTITUTION.—For purposes of this section, the term "insured community development financial institution" means a community development financial institution, as such term is defined in section 103 of Reigle Community Development and Regulatory Improvement Act of 1994 (12 U.S.C. 4702) that is an insured depository institution (as such term is defined in section 3 of the Federal Deposit Insurance Act (12 U.S.C. 1813)) or an insured credit union (as such term is defined in section 101 of the Federal Credit Union Act (12 U.S.C. 1752)).

[574] The date of enactment was December 21, 2000.

[575] Section 143(3)(C)(i) of the Community Renewal Tax Relief Act of 2000 (H.R. 5662, 106th Congress, as introduced in the House of Representatives, enacted by section 1(a)(7) of the Consolidated Appropriations Act, 2001, Pub. L. 106-554) provides that this sentence is amended by striking "insured" and inserting "for which risk of nonpayment is shared". The amendment did not specify which occurrence of "insured" to strike and could not be executed.

Sec. 250. [12 U.S.C. 1715z-15]
LIMITATION ON PREPAYMENT OF MORTGAGES ON MULTIFAMILY RENTAL HOUSING.

(a) During any period in which an owner of a multifamily rental housing project is required to obtain the approval of the Secretary for prepayment of the mortgage, the Secretary shall not accept an offer to prepay the mortgage on such project or permit a termination of an insurance contract pursuant to section 229 of this Act unless—

(1) the Secretary has determined that such project is no longer meeting a need for rental housing for lower income families in the area;

(2) the Secretary (A) has determined that the tenants have been notified of the owner's request for approval of a prepayment; (B) has provided the tenants with an opportunity to comment on the owner's request; and (C) has taken such comments into consideration; and

(3) the Secretary has ensured that there is a plan for providing relocation assistance for adequate, comparable housing for any lower income tenant who will be displaced as a result of the prepayment and withdrawal of the project from the program.

(b) A mortgagee may foreclose the mortgage on, or acquire by deed in lieu of foreclosure, any eligible low-income housing project (as such term is defined in section 229 of the Low-Income Housing Preservation and Resident Homeownership Act of 1990) only if the mortgagee also conveys title to the project to the Secretary in connection with a claim for insurance benefits.

(c) For purposes of this section, the term "lower income families" has the meaning given such term in section 3(b)(2) of the United States Housing Act of 1937.

Sec. 251. [12 U.S.C. 1715z-16]
ADJUSTABLE RATE SINGLE FAMILY MORTGAGES

(a) The Secretary may insure under any provision of this title a mortgage involving property upon which there is located a dwelling designed principally for occupancy by one to four families, where the mortgage provides for periodic adjustments by the mortgagee in the effective rate of interest charged. Such interest rate adjustments may be accomplished through adjustments in the monthly payment amount, the outstanding principal balance, or the mortgage term, or a combination of these factors, except that in no case may any extension of a mortgage term result in a total term in excess of 40 years. Adjustments in the effective rate of interest shall correspond to a specified national interest rate index approved in regulations by the Secretary, information on which is readily accessible to the mortgagors from generally available published sources. Adjustments in the effective rate of interest shall (1) be made on an annual basis; (2) be limited, with respect to any single interest rate increase, to no more than 1 percent on the outstanding loan balance; and (3) be limited to a maximum increase of 5 percentage points above the initial contract interest rate over the term of the mortgage.

(b) The Secretary shall require that the mortgagee make available to the mortgagor, at the time of loan application, a written explanation of the features of an adjustable rate mortgage consistent with the disclosure requirements applicable to variable rate mortgages secured by a principal dwelling under the Truth in Lending Act.

(c) The aggregate number of mortgages and loans insured under this section in any fiscal year may not exceed 30 percent of the aggregate number of mortgages and loans insured by the Secretary under this title during the preceding fiscal year.

(d)(1) The Secretary may insure under this subsection a mortgage that meets the requirements of subsection (a), except that the effective rate of interest—

(A) shall be fixed for a period of not less than the first 3 years of the mortgage term;

(B) shall be adjusted by the mortgagee initially upon the expiration of such period and annually thereafter; and

(C) in the case of the initial interest rate adjustment, is subject to the 1 percent limitation only if the interest rate remained fixed for 3 or fewer years.

(2) The disclosure required under subsection (b) shall be required for a mortgage insured under this subsection.

Sec. 252. [12 U.S.C. 1715z-17]
SHARED APPRECIATION MORTGAGES FOR SINGLE FAMILY HOUSING.

(a) Notwithstanding any provision of this title that is inconsistent with this section, the Secretary may insure, under any provision of this title providing for insurance of mortgages on properties upon which there is located a dwelling designed principally for occupancy by one to four families, a mortgage secured by a first lien on such a property or on the stock allocated to a dwelling unit in a residential cooperative housing corporation, which—

(1) provides for the mortgagee to share in a predetermined percentage of the property's or stock's net appreciated value;

(2) bears interest at a rate which meets criteria prescribed by the Secretary;

(3) provides for amortization over a period of not to exceed 30 years, but the actual term of the mortgage (excluding any refinancing) may be not less than 10 nor more than 30 years, and contains such provisions relating to refinancing of the principal balance of the mortgage and any contingent deferred interest as the Secretary may provide; and

(4) meets such other conditions as the Secretary may require by regulation.

(b) The mortgagee's share of a property's or stock's net appreciated value shall be payable upon sale or transfer (as defined by the Secretary) of the property or stock or payment in full of the mortgage, whichever occurs first. For purposes of this section, the term "net appreciated value" means the amount by which the sales price of the property or stock (less the mortgagor's selling costs) exceeds the value of the property or stock at the time the commitment to insure is issued (with adjustments for capital improvements stipulated in the loan contract). If there has been no sale or transfer at the time the mortgagee's share of net appreciated value becomes payable, the sale price for purposes of this section shall be determined by means of an appraisal conducted in accordance with procedures approved by the Secretary and provided for in the mortgage.

(c) In the event of a default, the mortgagee shall be entitled to receive the benefits of insurance in accordance with section 204(a), but such insurance benefits shall not include the mortgagee's share of net appreciated value. The term "original principal obligation of the mortgage" as used in section 204 shall not include the mortgagee's share of net appreciated value.

(d) Mortgages insured pursuant to this section which contain provisions for sharing appreciation or which otherwise require or permit increases in the outstanding loan balance which are authorized under this section or under applicable regulations shall not be subject to any State constitution, statute, court decree, common law, rule, or public policy limiting or prohibiting increases in the outstanding loan balance after execution of the mortgage.

(e) In carrying out the provisions of this section, the Secretary shall encourage the use of insurance under this section by low and moderate income tenants who would otherwise be displaced by the conversion of their rental housing to condominium or cooperative ownership.

(f) The Secretary shall prescribe adequate consumer protections and disclosure requirements with respect to mortgages insured under this section, and may prescribe such other terms and conditions as may be appropriate to carry out the provisions of this section.

(g) The aggregate number of mortgages and loans insured under this section and section 245(c) in any fiscal year may not exceed 10 percent of the aggregate number of mortgages and loans insured by the Secretary under this title during the preceding fiscal year.

Sec. 253. [12 U.S.C. 1715z-18]
SHARED APPRECIATION MORTGAGES FOR MULTIFAMILY HOUSING.

(a) Notwithstanding any provision of this title that is inconsistent with this section, the Secretary may insure, under any provision of this title providing for insurance of mortgages on properties including 5 or more family units, a mortgage secured by a first lien on the property that (1) provides for the mortgagee to share in a predetermined percentage of the property's net appreciated value; and (2) meets such other conditions, including limitations on the rate of interest which may be charged, as the Secretary may require by regulation.

(b) The mortgagee's share of a property's net appreciated value shall be payable upon maturity or upon payment in full of the loan or sale or transfer (as defined by the Secretary) of the property, whichever occurs first. The term of the mortgage shall not be less than 15 years, and shall be repayable in equal monthly installments of principal and fixed interest during the mortgage term in an amount which would be sufficient to retire a debt with the same principal and fixed interest rate over a period not exceeding 30 years. In the case of a mortgage which will not be completely amortized during the mortgage term, the principal obligation of the mortgage may not exceed 85 percent of the estimated value of the property or project. For purposes of this section, the term "net appreciated value" means the amount by which the sales price of the property (less the mortgagor's selling costs) exceeds the actual project cost after completion, as approved by the Secretary. If there has been no sale or transfer at the time the mortgagee's share of net appreciated value becomes payable, the sales price for purposes of this section shall be determined by means of an appraisal conducted in accordance with procedures approved by the Secretary and provided for in the mortgage.

(c) In the event of a default, the mortgagee shall be entitled to receive the benefits of insurance in accordance with section 207, but such insurance benefits shall not include the mortgagee's share of net appreciated

value. The term "original principal face amount of the mortgage" as used in section 207 shall not include the mortgagee's share of net appreciated value.

(d) The Secretary shall establish by regulation the maximum percentage of net appreciated value which may be payable to a mortgagee as the mortgagee's share. The Secretary shall also establish disclosure requirements applicable to mortgagees making mortgage loans pursuant to this section, to assure that mortgagors are informed of the characteristics of such mortgages.

(e) Mortgages insured pursuant to this section which contain provisions for sharing appreciation or which otherwise require or permit increases in the outstanding loan balance which are authorized under this section or under applicable regulations shall not be subject to any State constitution, statute, court decree, common law, rule, or public policy limiting or prohibiting increases in the outstanding loan balance after execution of the mortgage.

(f) The number of dwelling units included in properties covered by mortgages insured pursuant to this section in any fiscal year may not exceed 5,000.

Sec. 254. [12 U.S.C. 1715z-19]
EQUITY SKIMMING PENALTY.

(a) IN GENERAL.—Whoever, as an owner, agent, or manager, or who is otherwise in custody, control, or possession of a multifamily project or a 1- to 4-family residence that is security for a mortgage note that is described in subsection (b), willfully uses or authorizes the use of any part of the rents, assets, proceeds, income, or other funds derived from property covered by that mortgage note for any purpose other than to meet reasonable and necessary expenses that include expenses approved by the Secretary if such approval is required, in a period during which the mortgage note is in default or the project is in a nonsurplus cash position, as defined by the regulatory agreement covering the property, or the mortgagor has failed to comply with the provisions of such other form of regulatory control imposed by the Secretary, shall be fined not more than $500,000, imprisoned not more than 5 years, or both.

(b) MORTGAGE NOTES DESCRIBED.—For purposes of subsection (a), a mortgage note is described in this subsection if it—

(1) is insured, acquired, or held by the Secretary pursuant to this Act;

(2) is made pursuant to section 202 of the Housing Act of 1959 (including property still subject to section 202 program requirements that existed before the date of enactment of the Cranston-Gonzalez National Affordable Housing Act); or

(3) is insured or held pursuant to section 542 of the Housing and Community Development Act of 1992, but is not reinsured under section 542 of the Housing and Community Development Act of 1992.

Sec. 255. [12 U.S.C. 1715z-20]
INSURANCE OF HOME EQUITY CONVERSION MORTGAGES FOR ELDERLY HOMEOWNERS.

(a) PURPOSE.—The purpose of this section is to authorize the Secretary to carry out a program of mortgage insurance designed—

(1) to meet the special needs of elderly homeowners by reducing the effect of the economic hardship caused by the increasing costs of meeting health, housing, and subsistence needs at a time of reduced income, through the insurance of home equity conversion mortgages to permit the conversion of a portion of accumulated home equity into liquid assets; and

(2) to encourage and increase the involvement of mortgagees and participants in the mortgage markets in the making and servicing of home equity conversion mortgages for elderly homeowners.

(b) DEFINITIONS.—For purposes of this section:

(1) The terms "elderly homeowner" and "homeowner" mean any homeowner who is, or whose spouse is, at least 62 years of age or such higher age as the Secretary may prescribe.

(2) The terms "mortgagee", "mortgagor", "real estate,"[576] and "State" have the meanings given such terms in section 201.

(3) The term "home equity conversion mortgage" means a first mortgage which provides for future payments to the homeowner based on accumulated equity and which a housing creditor (as defined in section 803(2) of the Garn-St Germain Depository Institutions Act of 1982) is authorized to make (A) under any law of the United States (other than section 804 of such Act) or applicable agency regulations

[576] So in law. The comma in the term "real estate" probably should appear outside of the closing quotation marks. See amendment made by section 2122(a)(1) of Public Law 110-289.

thereunder; (B) in accordance with section 804 of such Act, notwithstanding any State constitution, law, or regulation; or (C) under any State constitution, law, or regulation.

(4) MORTGAGE.—The term "mortgage" means a first mortgage or first lien on real estate, in fee simple, a first or subordinate mortgage or lien on all stock allocated to a dwelling unit in a residential cooperative housing corporation, or a first mortgage or first lien on a leasehold—

(A) under a lease for not less than 99 years that is renewable; or

(B) under a lease that has a term that ends no earlier than the minimum number of years, as specified by the Secretary, beyond the actuarial life expectancy of the mortgagor or comortgagor, whichever is the later date.

(5) FIRST MORTGAGE.—The term "first mortgage" means such classes of first liens as are commonly given to secure advances on, or the unpaid purchase price of, real estate or a first or subordinate lien on all stock allocated to a dwelling unit in a residential cooperative housing corporation, under the laws of the State in which the real estate or dwelling unit is located, together with the credit instruments, if any, secured thereby.

(c) INSURANCE AUTHORITY.—The Secretary may, upon application by a mortgagee, insure any home equity conversion mortgage eligible for insurance under this section and, upon such terms and conditions as the Secretary may prescribe, make commitments for the insurance of such mortgages prior to the date of their execution or disbursement to the extent that the Secretary determines such mortgages—

(1) have promise for improving the financial situation or otherwise meeting the special needs of elderly homeowners;

(2) will include appropriate safeguards for mortgagors to offset the special risks of such mortgages; and

(3) have a potential for acceptance in the mortgage market.

(d) ELIGIBILITY REQUIREMENTS.—To be eligible for insurance under this section, a mortgage shall—

(1) have been originated by a mortgagee approved by the Secretary;

(2) have been executed by a mortgagor who—

(A) qualifies as an elderly homeowner;

(B) has received adequate counseling, as provided in subsection (f), by an independent third party that is not, either directly or indirectly, associated with or compensated by a party involved in—

(i) originating or servicing the mortgage;

(ii) funding the loan underlying the mortgage; or

(iii) the sale of annuities, investments, long-term care insurance, or any other type of financial or insurance product;

(C) has received full disclosure, as prescribed by the Secretary, of all costs charged to the mortgagor, including costs of estate planning, financial advice, and other services that are related to the mortgage but are not required to obtain the mortgage, which disclosure shall clearly state which charges are required to obtain the mortgage and which are not required to obtain the mortgage; and

(D) meets any additional requirements prescribed by the Secretary;

(3) be secured by a dwelling that is designed principally for a 1- to 4-family residence in which the mortgagor occupies 1 of the units;

(4) provide that prepayment, in whole or in part, may be made without penalty at any time during the period of the mortgage;

(5) provide for a fixed or variable interest rate or future sharing between the mortgagor and the mortgagee of the appreciation in the value of the property, as agreed upon by the mortgagor and the mortgagee;

(6) contain provisions for satisfaction of the obligation satisfactory to the Secretary;

(7) provide that the homeowner shall not be liable for any difference between the net amount of the remaining indebtedness of the homeowner under the mortgage and the amount recovered by the mortgagee from—

(A) the net sales proceeds from the dwelling that are subject to the mortgage (based upon the amount of the accumulated equity selected by the mortgagor to be subject to the mortgage, as agreed upon by the mortgagor and mortgagee); or

(B) the insurance benefits paid pursuant to subsection (i)(1)(C);

(8) contain such terms and provisions with respect to insurance, repairs, alterations, payment of taxes, default reserve, delinquency charges, foreclosure proceedings, anticipation of maturity, additional and secondary liens, and other matters as the Secretary may prescribe;

(9) provide for future payments to the mortgagor based on accumulated equity (minus any applicable fees and charges), according to the method that the mortgagor shall select from among the methods under this paragraph, by payment of the amount—

(A) based upon a line of credit;

(B) on a monthly basis over a term specified by the mortgagor;

(C) on a monthly basis over a term specified by the mortgagor and based upon a line of credit;

(D) on a monthly basis over the tenure of the mortgagor;

(E) on a monthly basis over the tenure of the mortgagor and based upon a line of credit; or

(F) on any other basis that the Secretary considers appropriate;

(10) provide that the mortgagor may convert the method of payment under paragraph (9) to any other method during the term of the mortgage, except that in the case of a fixed rate mortgage, the Secretary may, by regulation, limit such convertibility; and

(11) have been made with such restrictions as the Secretary determines to be appropriate to ensure that the mortgagor does not fund any unnecessary or excessive costs for obtaining the mortgage, including any costs of estate planning, financial advice, or other related services.

(e) DISCLOSURES BY MORTGAGEE.—The Secretary shall require each mortgagee of a mortgage insured under this section to make available to the homeowner—

(1) at the time of the loan application, a written list of the names and addresses of third-party information sources who are approved by the Secretary as responsible and able to provide the information required by subsection (f);

(2) at least 10 days prior to loan closing, a statement informing the homeowner that the liability of the homeowner under the mortgage is limited and explaining the homeowner's rights, obligations, and remedies with respect to temporary absences from the home, late payments, and payment default by the lender, all conditions requiring satisfaction of the loan obligation, and any other information that the Secretary may require;

(3) on an annual basis (but not later than January 31 of each year), a statement summarizing the total principal amount paid to the homeowner under the loan secured by the mortgage, the total amount of deferred interest added to the principal, and the outstanding loan balance at the end of the preceding year; and

(4) prior to loan closing, a statement of the projected total cost of the mortgage to the homeowner based on the projected total future loan balance (such cost expressed as a single average annual interest rate for at least 2 different appreciation rates for the term of the mortgage) for not less than 2 projected loan terms, as the Secretary shall determine, which shall include—

(A) the cost for a short-term mortgage; and

(B) the cost of a loan term equaling the actuarial life expectance of the mortgagor.

(f) COUNSELING SERVICES AND INFORMATION FOR MORTGAGORS.—The Secretary shall provide or cause to be provided adequate counseling for the mortgagor, as described in subsection (d)(2)(B). Such counseling shall be provided by counselors that meet qualification standards and follow uniform counseling protocols. The qualification standards and counseling protocols shall be established by the Secretary within 12 months of the date of enactment of the Building American Homeownership Act of 2008. The protocols shall require a qualified counselor to discuss with each mortgagor information which shall include—

(1) options other than a home equity conversion mortgage that are available to the homeowner, including other housing, social service, health, and financial options;

(2) other home equity conversion options that are or may become available to the homeowner, such as sale-leaseback financing, deferred payment loans, and property tax deferral;

(3) the financial implications of entering into a home equity conversion mortgage;

(4) a disclosure that a home equity conversion mortgage may have tax consequences, affect eligibility for assistance under Federal and State programs, and have an impact on the estate and heirs of the homeowner; and

(5) any other information that the Secretary may require.

The Secretary shall consult with consumer groups, industry representatives, representatives of counseling organizations, and other interested parties to identify alternative approaches to providing consumer information required by this subsection that may be feasible and desirable for home equity conversion mortgages insured under this section and other types of reverse mortgages. The Secretary may, in lieu of providing the consumer education required by this subsection, adopt alternative approaches to consumer education that may be developed as a result of such consultations, but only if the alternative approaches provide all of the information specified in this subsection.

(g) LIMITATION ON INSURANCE AUTHORITY.—The aggregate number of mortgages insured under this section may not exceed 275,000. In no case may the benefits of insurance under this section exceed the maximum dollar amount limitation established under section 305(a)(2) of the Federal Home Loan Mortgage Corporation Act for a 1-family residence.

(h) ADMINISTRATIVE AUTHORITY.—The Secretary may—

(1) enter into such contracts and agreements with Federal, State, and local agencies, public and private entities, and such other persons as the Secretary determines to be necessary or desirable to carry out the purposes of this section;

(2) make such investigations and studies of data, and publish and distribute such reports, as the Secretary determines to be appropriate; and

(3) establish, by notice or mortgagee letter, any additional or alternative requirements that the Secretary, in the Secretary's discretion, determines are necessary to improve the fiscal safety and soundness of the program authorized by this section, which requirements shall take effect upon issuance.

(i) PROTECTION OF HOMEOWNER AND LENDER.—

(1) Notwithstanding any other provision of law, and in order to further the purposes of the program authorized in this section, the Secretary shall take any action necessary—

(A) to provide any mortgagor under this section with funds to which the mortgagor is entitled under the insured mortgage or ancillary contracts but that the mortgagor has not received because of the default of the party responsible for payment;

(B) to obtain repayment of disbursements provided under subparagraph (A) from any source; and

(C) to provide any mortgagee under this section with funds not to exceed the limitations in subsection (g) to which the mortgagee is entitled under the terms of the insured mortgage or ancillary contracts authorized in this section.

(2) Actions under paragraph (1) may include—

(A) disbursing funds to the mortgagor or mortgagee from the Mutual Mortgage Insurance Fund;

(B) accepting an assignment of the insured mortgage notwithstanding that the mortgagor is not in default under its terms, and calculating the amount and making the payment of the insurance claim on such assigned mortgage;

(C) requiring a subordinate mortgage from the mortgagor at any time in order to secure repayments of any funds advanced or to be advanced to the mortgagor;

(D) requiring a subrogation to the Secretary of the rights of any parties to the transaction against any defaulting parties; and

(E) imposing premium charges.

(j) SAFEGUARD TO PREVENT DISPLACEMENT OF HOMEOWNER.—The Secretary may not insure a home equity conversion mortgage under this section unless such mortgage provides that the homeowner's obligation to satisfy the loan obligation is deferred until the homeowner's death, the sale of the home, or the occurrence of other events specified in regulations of the Secretary. For purposes of this subsection, the term "homeowner" includes the spouse of a homeowner. Section 137(b) of the Truth in Lending Act (15 U.S.C. 1647(b)) and any implementing regulations issued by the Board of Governors of the Federal Reserve System shall not apply to a mortgage insured under this section.

(k) INSURANCE AUTHORITY FOR REFINANCINGS.—

(1) IN GENERAL.—The Secretary may, upon application by a mortgagee, insure under this subsection any mortgage given to refinance an existing home equity conversion mortgage insured under this section.

(2) ANTI-CHURNING DISCLOSURE.—The Secretary shall, by regulation, require that the mortgagee of a mortgage insured under this subsection, provide to the mortgagor, within an appropriate time period and in a manner established in such regulations, a good faith estimate of: (A) the total cost of the refinancing; and (B) the increase in the mortgagor's principal limit as measured by the estimated initial

principal limit on the mortgage to be insured under this subsection less the current principal limit on the home equity conversion mortgage that is being refinanced and insured under this subsection.

(3) WAIVER OF COUNSELING REQUIREMENT.—The mortgagor under a mortgage insured under this subsection may waive the applicability, with respect to such mortgage, of the requirements under subsection (d)(2)(B) (relating to third party counseling), but only if—

(A) the mortgagor has received the disclosure required under paragraph (2);

(B) the increase in the principal limit described in paragraph (2) exceeds the amount of the total cost of refinancing (as described in such paragraph) by an amount to be determined by the Secretary; and

(C) the time between the closing of the original home equity conversion mortgage that is refinanced through the mortgage insured under this subsection and the application for a refinancing mortgage insured under this subsection does not exceed 5 years.

(4) CREDIT FOR PREMIUMS PAID.—Notwithstanding section 203(c)(2)(A), the Secretary may reduce the amount of the single premium payment otherwise collected under such section at the time of the insurance of a mortgage refinanced and insured under this subsection. The amount of the single premium for mortgages refinanced under this subsection shall be determined by the Secretary based on the actuarial study required under paragraph (5).

(5) ACTUARIAL STUDY.—Not later than 180 days after the date of the enactment of the American Homeownership and Economic Opportunity Act of 2000,[577] the Secretary shall conduct an actuarial analysis to determine the adequacy of the insurance premiums collected under the program under this subsection with respect to—

(A) a reduction in the single premium payment collected at the time of the insurance of a mortgage refinanced and insured under this subsection;

(B) the establishment of a single national limit on the benefits of insurance under subsection (g) (relating to limitation on insurance authority); and

(C) the combined effect of reduced insurance premiums and a single national limitation on insurance authority.

(6) FEES.—The Secretary may establish a limit on the origination fee that may be charged to a mortgagor under a mortgage insured under this subsection, except that such limitation shall provide that the origination fee may be fully financed with the mortgage and shall include any fees paid to correspondent mortgagees approved by the Secretary.

(l) FUNDING FOR COUNSELING.—The Secretary may use a portion of the mortgage insurance premiums collected under the program under this section to adequately fund the counseling and disclosure activities required under subsection (f), including counseling for those homeowners who elect not to take out a home equity conversion mortgage, provided that the use of such funds is based upon accepted actuarial principles.

(m) AUTHORITY TO INSURE HOME PURCHASE MORTGAGE.—

(1) IN GENERAL.—Notwithstanding any other provision of this section, the Secretary may insure, upon application by a mortgagee, a home equity conversion mortgage upon such terms and conditions as the Secretary may prescribe, when the home equity conversion mortgage will be used to purchase a 1- to 4-family dwelling unit, one unit of which the mortgagor will occupy as a primary residence, and to provide for any future payments to the mortgagor, based on available equity, as authorized under subsection (d)(9).

(2) LIMITATION ON PRINCIPAL OBLIGATION.—A home equity conversion mortgage insured pursuant to paragraph (1) shall involve a principal obligation that does not exceed the dollar amount limitation determined under section 305(a)(2) of the Federal Home Loan Mortgage Corporation Act for a 1-family residence.

(n) REQUIREMENTS ON MORTGAGE ORIGINATORS.—

(1) IN GENERAL.—The mortgagee and any other party that participates in the origination of a mortgage to be insured under this section shall—

(A) not participate in, be associated with, or employ any party that participates in or is associated with any other financial or insurance activity; or

(B) demonstrate to the Secretary that the mortgagee or other party maintains, or will maintain, firewalls and other safeguards designed to ensure that—

[577] The date of enactment was December 27, 2000.

(i) individuals participating in the origination of the mortgage shall have no involvement with, or incentive to provide the mortgagor with, any other financial or insurance product; and

(ii) the mortgagor shall not be required, directly or indirectly, as a condition of obtaining a mortgage under this section, to purchase any other financial or insurance product.

(2) APPROVAL OF OTHER PARTIES.—All parties that participate in the origination of a mortgage to be insured under this section shall be approved by the Secretary.

(o) PROHIBITION AGAINST REQUIREMENTS TO PURCHASE ADDITIONAL PRODUCTS.—The mortgagor or any other party shall not be required by the mortgagee or any other party to purchase an insurance, annuity, or other similar product as a requirement or condition of eligibility for insurance under subsection (c), except for title insurance, hazard, flood, or other peril insurance, or other such products that are customary and normal under subsection (c), as determined by the Secretary.

(p) STUDY TO DETERMINE CONSUMER PROTECTIONS AND UNDERWRITING STANDARDS.—The Secretary shall conduct a study to examine and determine appropriate consumer protections and underwriting standards to ensure that the purchase of products referred to in subsection (o) is appropriate for the consumer. In conducting such study, the Secretary shall consult with consumer advocates (including recognized experts in consumer protection), industry representatives, representatives of counseling organizations, and other interested parties.

(r)[578] LIMITATION ON ORIGINATION FEES.—The Secretary shall establish limits on the origination fee that may be charged to a mortgagor under a mortgage insured under this section, which limitations shall—

(1) be equal to 2.0 percent of the maximum claim amount of the mortgage, up to a maximum claim amount of $200,000 plus 1 percent of any portion of the maximum claim amount that is greater than $200,000, unless adjusted thereafter on the basis of an analysis of—

(A) the costs to mortgagors; and

(B) the impact on the reverse mortgage market;

(2) be subject to a minimum allowable amount;

(3) provide that the origination fee may be fully financed with the mortgage;

(4) include any fees paid to correspondent mortgagees approved by the Secretary;

(5) have the same effective date as subsection (m)(2) regarding the limitation on principal obligation; and

(6) be subject to a maximum origination fee of $6,000, except that such maximum limit shall be adjusted in accordance with the annual percentage increase in the Consumer Price Index of the Bureau of Labor Statistics of the Department of Labor in increments of $500 only when the percentage increase in such index, when applied to the maximum origination fee, produces dollar increases that exceed $500.

Sec. 256. [12 U.S.C. 1715z-21]
DELEGATION OF INSURING AUTHORITY TO DIRECT ENDORSEMENT MORTGAGEES.

(a) AUTHORITY.—The Secretary may delegate, to one or more mortgagees approved by the Secretary under the direct endorsement program, the authority of the Secretary under this Act to insure mortgages involving property upon which there is located a dwelling designed principally for occupancy by 1 to 4 families.

(b) CONSIDERATIONS.—In determining whether to delegate authority to a mortgagee under this section, the Secretary shall consider the experience and performance of the mortgagee compared to the default rate of all insured mortgages in comparable markets, and such other factors as the Secretary determines appropriate to minimize risk of loss to the insurance funds under this Act.

(c) ENFORCEMENT OF INSURANCE REQUIREMENTS.—

(1) IN GENERAL.—If the Secretary determines that a mortgage insured by a mortgagee pursuant to delegation of authority under this section was not originated in accordance with the requirements established by the Secretary, and the Secretary pays an insurance claim with respect to the mortgage within a reasonable period specified by the Secretary, the Secretary may require the mortgagee approved under this section to indemnify the Secretary for the loss.

[578] So in law. There is no subsection (q) in section 255.

(2) FRAUD OR MISREPRESENTATION.—If fraud or misrepresentation was involved in connection with the origination, the Secretary may require the mortgagee approved under this section to indemnify the Secretary for the loss regardless of when an insurance claim is paid.

(d) TERMINATION OF MORTGAGEE'S AUTHORITY.—If a mortgagee to which the Secretary has made a delegation under this section violates the requirements and procedures established by the Secretary or the Secretary determines that other good cause exists, the Secretary may cancel a delegation of authority under this section to the mortgagee by giving notice to the mortgagee. Such a cancellation shall be effective upon receipt of the notice by the mortgagee or at a later date specified by the Secretary. A decision by the Secretary to cancel a delegation shall be final and conclusive and shall not be subject to judicial review.

(e) REQUIREMENTS AND PROCEDURES.—Before approving a delegation under this section, the Secretary shall issue regulations establishing appropriate requirements and procedures, including requirements and procedures governing the indemnification of the Secretary by the mortgagee.

Sec. 257. [12 U.S.C. 1715z-23]
HOPE FOR HOMEOWNERS PROGRAM.

(a) ESTABLISHMENT.—There is established in the Federal Housing Administration a HOPE for Homeowners Program.

(b) PURPOSE.—The purpose of the HOPE for Homeowners Program is—

(1) to create an FHA program, participation in which is voluntary on the part of homeowners and existing loan holders to insure refinanced loans for distressed borrowers to support long-term, sustainable homeownership;

(2) to allow homeowners to avoid foreclosure by reducing the principle[579] balance outstanding, and interest rate charged, on their mortgages;

(3) to help stabilize and provide confidence in mortgage markets by bringing transparency to the value of assets based on mortgage assets;

(4) to target mortgage assistance under this section to homeowners for their principal residence;

(5) to enhance the administrative capacity of the FHA to carry out its expanded role under the HOPE for Homeowners Program;

(6) to ensure the HOPE for Homeowners Program remains in effect only for as long as is necessary to provide stability to the housing market; and

(7) to provide servicers of delinquent mortgages with additional methods and approaches to avoid foreclosure.

(c) ESTABLISHMENT AND IMPLEMENTATION OF PROGRAM REQUIREMENTS.—

(1) DUTIES OF THE SECRETARY.—In order to carry out the purposes of the HOPE for Homeowners Program, the Secretary, after consultation with the Board, shall—

(A) establish requirements and standards for the program consistent with section 203(b) to the maximum extent possible; and

(B) prescribe such regulations and provide such guidance as may be necessary or appropriate to implement such requirements and standards.

(2) DUTIES OF THE SECRETARY.—In carrying out any of the program requirements or standards established under paragraph (1), the Secretary may issue such interim guidance and mortgagee letters as the Secretary determines necessary or appropriate.

(3) DUTIES OF BOARD.—The Board shall advise the Secretary regarding the establishment and implementation of the HOPE for Homeowners Program.

(d) INSURANCE OF MORTGAGES.—The Secretary is authorized upon application of a mortgagee to make commitments to insure or to insure any eligible mortgage that has been refinanced in a manner meeting the requirements under subsection (e).

(e) REQUIREMENTS OF INSURED MORTGAGES.—To be eligible for insurance under this section, a refinanced eligible mortgage shall comply with all of the following requirements:

(1) BORROWER CERTIFICATION.—

(A) NO INTENTIONAL DEFAULT OR FALSE INFORMATION.—The mortgagor shall provide a certification to the Secretary that the mortgagor has not intentionally defaulted on the existing mortgage or mortgages or any other substantial debt within the last 5 years and has not knowingly, or willfully and with actual knowledge, furnished material information known to be

[579] So in law.

false for the purpose of obtaining the eligible mortgage to be insured and has not been convicted under Federal or State law for fraud during the 10-year period ending upon the insurance of the mortgage under this section.

(B) LIABILITY FOR REPAYMENT.—The mortgagor shall agree in writing that the mortgagor shall be liable to repay to the Secretary any direct financial benefit achieved from the reduction of indebtedness on the existing mortgage or mortgages on the residence refinanced under this section derived from misrepresentations made by the mortgagor in the certifications and documentation required under this paragraph, subject to the discretion of the Secretary.

(C) CURRENT BORROWER DEBT-TO-INCOME RATIO.—As of the date of application for a commitment to insure or insurance under this section, the mortgagor shall have had, or thereafter is likely to have, due to the terms of the mortgage being reset, a ratio of mortgage debt to income, taking into consideration all existing mortgages of that mortgagor at such time, greater than 31 percent (or such higher amount as the Secretary determines appropriate).

(2) DETERMINATION OF PRINCIPAL OBLIGATION AMOUNT.—The principal obligation amount of the refinanced eligible mortgage to be insured shall—

(A) be determined by the reasonable ability of the mortgagor to make his or her mortgage payments, as such ability is determined by the Secretary pursuant to section 203(b)(4) or by any other underwriting standards established by the Secretary; and

(B) not exceed 90 percent of the appraised value of the property to which such mortgage relates (or such higher percentage as the Secretary determines, in the discretion of the Secretary).

(3) REQUIRED WAIVER OF PREPAYMENT PENALTIES AND FEES.—All penalties for prepayment or refinancing of the eligible mortgage, and all fees and penalties related to default or delinquency on the eligible mortgage, shall be waived or forgiven.

(4) EXTINGUISHMENT OF SUBORDINATE LIENS.—

(A) REQUIRED AGREEMENT.—All holders of outstanding mortgage liens on the property to which the eligible mortgage relates shall agree to accept the proceeds of the insured loan and any payments made under this paragraph, as payment in full of all indebtedness under the eligible mortgage, and all encumbrances related to such eligible mortgage shall be removed. The Secretary may take such actions, subject to standards established by the Secretary under subparagraph (B),[580] as may be necessary and appropriate to facilitate coordination and agreement between the holders of the existing senior mortgage and any existing subordinate mortgages, taking into consideration the subordinate lien status of such subordinate mortgages. Such actions may include making payments, which shall be accepted as payment in full of all indebtedness under the eligible mortgage, to any holder of an existing subordinate mortgage, in lieu of any future appreciation payments authorized under subparagraph (B).

(B) SHARED APPRECIATION.—

(i) IN GENERAL.—The Secretary may establish standards and policies that will allow for the payment to the holder of any existing subordinate mortgage of a portion of any future appreciation in the property secured by such eligible mortgage that is owed to the Secretary pursuant to subsection (k).

(ii) FACTORS.—In establishing the standards and policies required under clause (i), the Secretary shall take into consideration—

(I) the status of any subordinate mortgage;

(II) the outstanding principal balance of and accrued interest on the existing senior mortgage and any outstanding subordinate mortgages;

(III) the extent to which the current appraised value of the property securing a subordinate mortgage is less than the outstanding principal balance and accrued interest on any other liens that are senior to such subordinate mortgage; and

(IV) such other factors as the Secretary determines to be appropriate.

[580] Section 202(a)(3)(B) of division A of Public Law 111-22 amends subparagraph (A) by striking “, subject to standards established by the Board under subparagraph (B),”. The amendment could not be executed because the text proposed to be struck does not appear as a result of a global amendment made by paragraph (2) of such section to strike “Board” and inserting “Secretary” throughout section 257(e).

(C) VOLUNTARY PROGRAM.—This paragraph may not be construed to require any holder of any existing mortgage to participate in the program under this section generally, or with respect to any particular loan.

(5) TERM OF MORTGAGE.—The refinanced eligible mortgage to be insured shall—

(A) bear interest at a single rate that is fixed for the entire term of the mortgage; and

(B) have a maturity of not less than 30 years from the date of the beginning of amortization of such refinanced eligible mortgage.

(6) MAXIMUM LOAN AMOUNT.—The principal obligation amount of the eligible mortgage to be insured shall not exceed 132 percent of the dollar amount limitation in effect for 2007 under section 305(a)(2) of the Federal Home Loan Mortgage Corporation Act (12 U.S.C. 1454(a)(2)) for a property of the applicable size.

(7) PROHIBITION ON SECOND LIENS.—A mortgagor may not grant a new second lien on the mortgaged property during the first 5 years of the term of the mortgage insured under this section, except as the Secretary determines to be necessary to ensure the maintenance of property standards.

(8) APPRAISALS.—Any appraisal conducted in connection with a mortgage insured under this section shall—

(A) be based on the current value of the property;

(B) be conducted in accordance with title XI of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989 (12 U.S.C. 3331 et seq.);

(C) be completed by an appraiser who meets the competency requirements of the Uniform Standards of Professional Appraisal Practice;

(D) be wholly consistent with the appraisal standards, practices, and procedures under section 202(e) of this Act that apply to all loans insured under this Act; and

(E) comply with the requirements of subsection (g) of this section (relating to appraisal independence).

(9) DOCUMENTATION AND VERIFICATION OF INCOME.—In complying with the FHA underwriting requirements under the HOPE for Homeowners Program under this section, the mortgagee shall document and verify the income of the mortgagor or non-filing status in accordance with procedures and standards that the Secretary shall establish (provided that such procedures and standards are consistent with section 203(b) to the maximum extent possible) which may include requiring the mortgagee to procure[581] a copy of the income tax returns from the Internal Revenue Service, for the two most recent years for which the filing deadline for such years has passed and by any other method, in accordance with procedures and standards that the Secretary shall establish[582].

(10) MORTGAGE FRAUD.—

(A) PROHIBITION.—The mortgagor shall not have been convicted under Federal or State law for fraud during the 10-year period ending upon the insurance of the mortgage under this section.

(B) DUTY OF MORTGAGEE.—The duty of the mortgagee to ensure that the mortgagor is in compliance with the prohibition under subparagraph (A) shall be satisfied if the mortgagee makes a good faith effort to determine that the mortgagor has not been convicted under Federal or State law for fraud during the period described in subparagraph (A).

(11) PRIMARY RESIDENCE.—The mortgagor shall provide documentation satisfactory in the determination of the Secretary to prove that the residence covered by the mortgage to be insured under this section is occupied by the mortgagor as the primary residence of the mortgagor, and that such residence is the only residence in which the mortgagor has any present ownership interest, except that the Secretary may provide exceptions to such latter requirement (relating to present ownership interest) for any mortgagor who has inherited a property.

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[581] Section 202(a)(3)(D)(i) of division A of Public Law 111-22 amends paragraph (9) by striking "by procuring (A) an income tax return transcript of the income tax return of the mortgagor, or (B)" and inserting "in accordance with procedures and standards that the Secretary shall establish (provided that such procedures and standards are consistent with section 203(b) to the maximum extent possible) which may include requiring the mortgagee to procure". Such amendment was executed by striking "by procuring (A) an income tax return transcript of the income tax return[s] of the mortgagor, or(B)" in order to reflect the probable intent of Congress.

[582] Section 202(a)(3)(D)(ii) of division A of Public Law 111-22 amends subparagraph (A) by striking "and by any other method, in accordance with procedures and standards that the Board shall establish". The amendment could not be executed because the text proposed to be struck does not appear as a result of a global amendment made by paragraph (2) of such section to strike "Board" and inserting "Secretary" throughout section 257(e).

(12) BAN ON MILLIONAIRES.—The mortgagor shall not have a net worth, as of the date the mortgagor first applies for a mortgage to be insured under the Program under this section, that exceeds $1,000,000.

(f) STUDY OF AUCTION OR BULK REFINANCE PROGRAM.—

(1) STUDY.—The Board shall conduct a study of the need for and efficacy of an auction or bulk refinancing mechanism to facilitate refinancing of existing residential mortgages that are at risk for foreclosure into mortgages insured under this section. The study shall identify and examine various options for mechanisms under which lenders and servicers of such mortgages may make bids for forward commitments for such insurance in an expedited manner.

(2) CONTENT.—

(A) ANALYSIS.—The study required under paragraph (1) shall analyze—

(i) the feasibility of establishing a mechanism that would facilitate the more rapid refinancing of borrowers at risk of foreclosure into performing mortgages insured under this section;

(ii) whether such a mechanism would provide an effective and efficient mechanism to reduce foreclosures on qualified existing mortgages;

(iii) whether the use of an auction or bulk refinance program is necessary to stabilize the housing market and reduce the impact of turmoil in that market on the economy of the United States;

(iv) whether there are other mechanisms or authority that would be useful to reduce foreclosure; and

(v) and any other factors that the Board considers relevant.

(B) DETERMINATIONS.—To the extent that the Board finds that a facility of the type described in subparagraph (A) is feasible and useful, the study shall—

(i) determine and identify any additional authority or resources needed to establish and operate such a mechanism;

(ii) determine whether there is a need for additional authority with respect to the loan underwriting criteria established in this section or with respect to eligibility of participating borrowers, lenders, or holders of liens;[583]

(iii) determine whether such underwriting criteria should be established on the basis of individual loans, in the aggregate, or otherwise to facilitate the goal of refinancing borrowers at risk of foreclosure into viable loans insured under this section.

(3) REPORT.—Not later than the expiration of the 60-day period beginning on the date of the enactment of this section, the Board shall submit a report regarding the results of the study conducted under this subsection to the Committee on Financial Services of the House of Representatives and the Committee on Banking, Housing, and Urban Affairs of the Senate. The report shall include a detailed description of the analysis required under paragraph (2)(A) and of the determinations made pursuant to paragraph (2)(B), and shall include any other findings and recommendations of the Board pursuant to the study, including identifying various options for mechanisms described in paragraph (1).

(g) APPRAISAL INDEPENDENCE.—

(1) PROHIBITIONS ON INTERESTED PARTIES IN A REAL ESTATE TRANSACTION.—No mortgage lender, mortgage broker, mortgage banker, real estate broker, appraisal management company, employee of an appraisal management company, nor any other person with an interest in a real estate transaction involving an appraisal in connection with a mortgage insured under this section shall improperly influence, or attempt to improperly influence, through coercion, extortion, collusion, compensation, instruction, inducement, intimidation, nonpayment for services rendered, or bribery, the development, reporting, result, or review of a real estate appraisal sought in connection with the mortgage.

(2) CIVIL MONETARY PENALTIES.—The Secretary may impose a civil money penalty for any knowing and material violation of paragraph (1) under the same terms and conditions as are authorized in section 536(a) of this Act.

(h) STANDARDS TO PROTECT AGAINST ADVERSE SELECTION.—

(1) IN GENERAL.—The Secretary shall, by rule or order, establish standards and policies to require the underwriter of the insured loan to provide such representations and warranties as the Secretary

[583] So in law. There is no “and”.

considers necessary or appropriate to enforce compliance with all underwriting and appraisal standards of the HOPE for Homeowners Program.

(2) EXCLUSION FOR VIOLATIONS.—The Secretary shall not pay insurance benefits to a mortgagee who violates the representations and warranties, as established under paragraph (1), or in any case in which a mortgagor fails to make the first payment on a refinanced eligible mortgage.

(3) OTHER AUTHORITY.—The Secretary may establish such other standards or policies as necessary to protect against adverse selection, including requiring loans identified by the Secretary as higher risk loans to demonstrate payment performance for a reasonable period of time prior to being insured under the program.

(i) PREMIUMS.—

(1) PREMIUMS.—For each refinanced eligible mortgage insured under this section, the Secretary shall establish and collect—

(A) at the time of insurance, a single premium payment in an amount not more than 3 percent of the amount of the original insured principal obligation of the refinanced eligible mortgage, which shall be paid from the proceeds of the mortgage being insured under this section, through the reduction of the amount of indebtedness that existed on the eligible mortgage prior to refinancing; and

(B) in addition to the premium required under paragraph (1), an annual premium in an amount not more than 1.5 percent of the amount of the remaining insured principal balance of the mortgage.

(2) CONSIDERATIONS.—In setting the premium under this subsection, the Secretary shall consider—

(A) the financial integrity of the HOPE for Homeowners Program; and

(B) the purposes of the HOPE for Homeowners Program described in subsection (b).

(j) ORIGINATION FEES AND INTEREST RATE.—The Secretary shall establish—

(1) a reasonable limitation on origination fees for refinanced eligible mortgages insured under this section; and

(2) procedures to ensure that interest rates on such mortgages shall be commensurate with market rate interest rates on such types of loans.

(k) EXIT FEE.—

(1) FIVE-YEAR PHASE-IN FOR EQUITY AS A RESULT OF SALE OR REFINANCING.—For each eligible mortgage insured under this section, the Secretary and the mortgagor of such mortgage shall, upon any sale or disposition of the property to which such mortgage relates, or upon the subsequent refinancing of such mortgage, be entitled to the following with respect to any equity created as a direct result of the mortgage being insured under this section:

(A) If such sale or refinancing occurs during the period that begins on the date that such mortgage is insured and ends 1 year after such date of insurance, the Secretary shall be entitled to 100 percent of such equity.

(B) If such sale or refinancing occurs during the period that begins 1 year after such date of insurance and ends 2 years after such date of insurance, the Secretary shall be entitled to 90 percent of such equity and the mortgagor shall be entitled to 10 percent of such equity.

(C) If such sale or refinancing occurs during the period that begins 2 years after such date of insurance and ends 3 years after such date of insurance, the Secretary shall be entitled to 80 percent of such equity and the mortgagor shall be entitled to 20 percent of such equity.

(D) If such sale or refinancing occurs during the period that begins 3 years after such date of insurance and ends 4 years after such date of insurance, the Secretary shall be entitled to 70 percent of such equity and the mortgagor shall be entitled to 30 percent of such equity.

(E) If such sale or refinancing occurs during the period that begins 4 years after such date of insurance and ends 5 years after such date of insurance, the Secretary shall be entitled to 60 percent of such equity and the mortgagor shall be entitled to 40 percent of such equity.

(F) If such sale or refinancing occurs during any period that begins 5 years after such date of insurance, the Secretary shall be entitled to 50 percent of such equity and the mortgagor shall be entitled to 50 percent of such equity.

(2) APPRECIATION IN VALUE.—For each eligible mortgage insured under this section, the Secretary may, upon any sale or disposition of the property to which the mortgage relates, be entitled to up to 50 percent of appreciation, up to the appraised value of the home at the time when the mortgage being

refinanced under this section was originally made. The Secretary may share any amounts received under this paragraph with or assign the rights of any amounts due to the Secretary to the holder of the existing senior mortgage on the eligible mortgage, the holder of any existing subordinate mortgage on the eligible mortgage, or both.

(l) ESTABLISHMENT OF HOPE FUND.—

(1) IN GENERAL.—There is established in the Federal Housing Administration a revolving fund to be known as the Home Ownership Preservation Entity Fund, which shall be used by the Secretary for carrying out the mortgage insurance obligations under this section.

(2) MANAGEMENT OF FUND.—The HOPE Fund shall be administered and managed by the Secretary, who shall establish reasonable and prudent criteria for the management and operation of any amounts in the HOPE Fund.

(m) LIMITATION ON AGGREGATE INSURANCE AUTHORITY.—The aggregate original principal obligation of all mortgages insured under this section may not exceed $300,000,000,000.

(n) REPORTS BY SECRETARY.—The Secretary shall submit monthly reports to the Congress identifying the progress of the HOPE for Homeowners Program, which shall contain the following information for each month:

(1) The number of new mortgages insured under this section, including the location of the properties subject to such mortgages by census tract.

(2) The aggregate principal obligation of new mortgages insured under this section.

(3) The average amount by which the principle[584] balance outstanding on mortgages insured this section was reduced.

(4) The amount of premiums collected for insurance of mortgages under this section.

(5) The claim and loss rates for mortgages insured under this section.

(6) Any other information that the Secretary considers appropriate.

(o) REQUIRED OUTREACH EFFORTS.—The Secretary shall carry out outreach efforts to ensure that homeowners, lenders, and the general public are aware of the opportunities for assistance available under this section.

(p) ENHANCEMENT OF FHA CAPACITY.—The Secretary shall take such actions as may be necessary to—

(1) contract for the establishment of underwriting criteria, automated underwriting systems, pricing standards, and other factors relating to eligibility for mortgages insured under this section;

(2) contract for independent quality reviews of underwriting, including appraisal reviews and fraud detection, of mortgages insured under this section or pools of such mortgages; and

(3) increase personnel of the Department as necessary to process or monitor the processing of mortgages insured under this section.

(q) GNMA COMMITMENT AUTHORITY.—

(1) GUARANTEES.—The Secretary shall take such actions as may be necessary to ensure that securities based on and backed by a trust or pool composed of mortgages insured under this section are available to be guaranteed by the Government National Mortgage Association as to the timely payment of principal and interest.

(2) GUARANTEE AUTHORITY.—To carry out the purposes of section 306 of the National Housing Act (12 U.S.C. 1721), the Government National Mortgage Association may enter into new commitments to issue guarantees of securities based on or backed by mortgages insured under this section, not exceeding $300,000,000,000. The amount of authority provided under the preceding sentence to enter into new commitments to issue guarantees is in addition to any amount of authority to make new commitments to issue guarantees that is provided to the Association under any other provision of law.

(r) SUNSET.—The Secretary may not enter into any new commitment to insure any refinanced eligible mortgage, or newly insure any refinanced eligible mortgage pursuant to this section before October 1, 2008 or after September 30, 2011.

(s) DEFINITIONS.—For purposes of this section, the following definitions shall apply:

(1) APPROVED FINANCIAL INSTITUTION OR MORTGAGEE.—The term “approved financial institution or mortgagee” means a financial institution or mortgagee approved by the Secretary under section 203 as responsible and able to service mortgages responsibly.

(2) BOARD.—The term “Board” means the Advisory Board for the HOPE for Homeowners Program. The Board shall be composed of the Secretary, the Secretary of the Treasury, the Chairperson of

[584] So in law.

the Board of Governors of the Federal Reserve System, and the Chairperson of the Board of Directors of the Federal Deposit Insurance Corporation, or their designees.

(3) ELIGIBLE MORTGAGE.—The term "eligible mortgage" means a mortgage—

(A) the mortgagor of which—

(i) occupies such property as his or her principal residence; and

(ii) cannot, subject to such standards established by the Secretary, afford his or her mortgage payments; and

(B) originated on or before January 1, 2008.

(4) EXISTING SENIOR MORTGAGE.—The term "existing senior mortgage" means, with respect to a mortgage insured under this section, the existing mortgage that has superior priority.

(5) EXISTING SUBORDINATE MORTGAGE.—The term "existing subordinate mortgage" means, with respect to a mortgage insured under this section, an existing mortgage that has subordinate priority to the existing senior mortgage.

(6) HOPE FOR HOMEOWNERS PROGRAM.—The term "HOPE for Homeowners Program" means the program established under this section.

(7) SECRETARY.—The term "Secretary" means the Secretary of Housing and Urban Development, except where specifically provided otherwise.

(t) REQUIREMENTS RELATED TO THE BOARD.—

(1) COMPENSATION, ACTUAL, NECESSARY, AND TRANSPORTATION EXPENSES.—

(A) FEDERAL EMPLOYEES.—A member of the Board who is an officer or employee of the Federal Government shall serve without additional pay (or benefits in the nature of compensation) for service as a member of the Board.

(B) TRAVEL EXPENSES.—Members of the Board shall be entitled to receive travel expenses, including per diem in lieu of subsistence, equivalent to those set forth in subchapter I of chapter 57 of title 5, United States Code.

(2) BYLAWS.—The Board may prescribe, amend, and repeal such bylaws as may be necessary for carrying out the functions of the Board.

(3) QUORUM.—A majority of the Board shall constitute a quorum.

(4) STAFF; EXPERTS AND CONSULTANTS.—

(A) DETAIL OF GOVERNMENT EMPLOYEES.—Upon request of the Board, any Federal Government employee may be detailed to the Board without reimbursement, and such detail shall be without interruption or loss of civil service status or privilege.

(B) EXPERTS AND CONSULTANTS.—The Board shall procure the services of experts and consultants as the Board considers appropriate.

(u) RULE OF CONSTRUCTION RELATED TO VOLUNTARY NATURE OF THE PROGRAM.—This section shall not be construed to require that any approved financial institution or mortgagee participate in any activity authorized under this section, including any activity related to the refinancing of an eligible mortgage.

(v) RULE OF CONSTRUCTION RELATED TO INSURANCE OF MORTGAGES.—Except as otherwise provided for in this section or by action of the Secretary, the provisions and requirements of section 203(b) shall apply with respect to the insurance of any eligible mortgage under this section. The Secretary shall conform documents, forms, and procedures for mortgages insured under this section to those in place for mortgages insured under section 203(b) to the maximum extent possible consistent with the requirements of this section.

(w) HOPE BONDS.—

(1) ISSUANCE AND REPAYMENT OF BONDS.—Notwithstanding section 504(b) of the Federal Credit Reform Act of 1990 (2 U.S.C. 661d(b)1), the Secretary of the Treasury shall—

1So in law. Probably should refer to 2 U.S.C. 661c(b).

(A) subject to such terms and conditions as the Secretary of the Treasury deems necessary, issue Federal credit instruments, to be known as "HOPE Bonds", that are callable at the discretion of the Secretary of the Treasury and do not, in the aggregate, exceed the amount specified in subsection (m);

(B) provide the subsidy amounts necessary for loan guarantees under the HOPE for Homeowners Program, not to exceed the amount specified in subsection (m), in accordance with the provisions of the Federal Credit Reform Act of 1990 (2 U.S.C. 661 et seq.), except as provided in this paragraph; and

(C) use the proceeds from HOPE Bonds only to pay for the net costs to the Federal Government of the HOPE for Homeowners Program, including administrative costs and payments pursuant to subsection (e)(4)(A).

(2) REIMBURSEMENTS TO TREASURY.—Funds received pursuant to section 1338(b) of the Federal Housing Enterprises Regulatory Reform Act of 1992[585] shall be used to reimburse the Secretary of the Treasury for amounts borrowed under paragraph (1).

(3) USE OF RESERVE FUND.—If the net cost to the Federal Government for the HOPE for Homeowners Program exceeds the amount of funds received under paragraph (2), remaining debts of the HOPE for Homeowners Program shall be paid from amounts deposited into the fund established by the Secretary under section 1337(e) of the Federal Housing Enterprises Financial Safety and Soundness Act of 1992, remaining amounts in such fund to be used to reduce the National debt.

(4) REDUCTION OF NATIONAL DEBT.—Amounts collected under the HOPE for Homeowners Program in accordance with subsections (i) and (k) in excess of the net cost to the Federal Government for such Program shall be used to reduce the National debt.

(x) PAYMENTS TO SERVICERS AND ORIGINATORS.—The Secretary may establish a payment to the—

(1) servicer of the existing senior mortgage or existing subordinate mortgage for every loan insured under the HOPE for Homeowners Program; and

(2) originator of each new loan insured under the HOPE for Homeowners Program.

(y) AUCTIONS.—The Secretary, with the concurrence of the Board, shall, if feasible, establish a structure and organize procedures for an auction to refinance eligible mortgages on a wholesale or bulk basis.

Sec. 258. [12 U.S.C. 1715z-24]
PILOT PROGRAM FOR AUTOMATED PROCESS FOR BORROWERS WITHOUT SUFFICIENT CREDIT HISTORY.

(a) ESTABLISHMENT.—The Secretary shall carry out a pilot program to establish, and make available to mortgagees, an automated process for providing alternative credit rating information for mortgagors and prospective mortgagors under mortgages on 1- to 4-family residences to be insured under this title who have insufficient credit histories for determining their creditworthiness. Such alternative credit rating information may include rent, utilities, and insurance payment histories, and such other information as the Secretary considers appropriate.

(b) SCOPE.—The Secretary may carry out the pilot program under this section on a limited basis or scope, and may consider limiting the program to first-time homebuyers.

(c) LIMITATION.—In any fiscal year, the aggregate number of mortgages insured pursuant to the automated process established under this section may not exceed 5 percent of the aggregate number of mortgages for 1- to 4-family residences insured by the Secretary under this title during the preceding fiscal year.

(d) SUNSET.—After the expiration of the 5-year period beginning on the date of the enactment of the Building American Homeownership Act of 2008, the Secretary may not enter into any new commitment to insure any mortgage, or newly insure any mortgage, pursuant to the automated process established under this section.

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TITLE V—MISCELLANEOUS

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Sec. 512. [12 U.S.C. 1731a]
PENALTIES.

Notwithstanding any other provision of law, the Secretary is authorized to refuse the benefits of participation (either directly as an insured lender or as a borrower, or indirectly as a builder, contractor, or dealer, or salesman or sales agent for a builder, contractor or dealer) under title I, II, VI, VII, IX, or XI of this Act to any person or firm (including but not limited to any individual, partnership, association, trust, or corporation) if the Secretary has determined that such person or firm (1) has knowingly or willfully violated any provision of this Act or of title III of the Servicemen's Readjustment Act of 1944, as amended, or of chapter 37 of title 38, United States Code, or of any regulation issued by the Secretary under this Act or by the Secretary of Veterans Affairs under said title III, or chapter 37, or (2) has, in connection with any construction, alteration, repair or improvement work

[585] So in law. Probably should refer to the Federal Housing Enterprises Financial Safety and Soundness Act of 1992.

financed with assistance under this Act or under said title III, or chapter 37, or in connection with contracts for financing relating to such work, violated any Federal or State penal statute, or (3) has failed materially to properly carry out contractual obligations with respect to the completion of construction, alteration, repair, or improvement work financed with assistance under this Act or under title III of the Servicemen's Readjustment Act of 1944, as amended, or of chapter 37 of title 38, United States Code. Before any such determination is made any person or firm with respect to whom such a determination is proposed shall be notified in writing by the Secretary and shall be entitled, upon making a written request to the Secretary to a written notice specifying charges in reasonable detail and an opportunity to be heard and to be represented by counsel. Determinations made by the Secretary under this section shall be based on the preponderance of the evidence. For the purposes of compliance with this section the Secretary's notice of a proposed determination under this section shall be considered to have been received by the interested person or firm if the notice is properly mailed to the best known address of such person or firm.

Sec. 513. [12 U.S.C. 1731b]
PROHIBITION AGAINST TRANSIENT HOUSING.

(a) The Congress hereby declares that it has been its intent since the enactment of the National Housing Act that housing built with the aid of mortgages insured under this Act is to be used principally for residence use; and that this intent excludes the use of such housing for transient or hotel purposes while such insurance on the mortgage remains outstanding.

(b) Notwithstanding any other provisions of this Act, no new, existing, or rehabilitated multifamily housing with respect to which a mortgage is insured under this Act shall be operated for transient or hotel purposes unless (1) on or before May 28, 1954, the Secretary has agreed in writing to the rental of all or a portion of the accommodations in the project for transient or hotel purposes (in which case no accommodations in excess of the number so agreed to by the Secretary shall be rented on such basis), or (2) the project covered by the insured mortgage is located in an area which the Secretary determines to be a resort area, and the Secretary finds that prior to May 28, 1954, a portion of the accommodations in the project had been made available for rent for transient or hotel purposes (in which case no accommodations in excess of the number of which had been made available for such use shall be rented on such basis).

(c) Notwithstanding any other provision of this Act, no mortgage with respect to multifamily housing shall be insured under this Act (except pursuant to a commitment to insure issued prior to the effective date of the Housing Act of 1954), and (except as to housing coming within the provisions of clause (1) or clause (2) of the preceding subsection) no mortgage with respect to multifamily housing shall be insured for an additional term, unless (1) the mortgagor certifies under oath that while such insurance remains outstanding he will not rent, or permit the rental of, such housing or any part thereof for transient or hotel purposes, and (2) the Secretary has entered into such contract with, or purchased such stock of, the mortgagor as the Secretary deems necessary to enable him to prevent or terminate any use of such property or project for transient or hotel purposes while the mortgage insurance remains outstanding.

(d) The Secretary is hereby authorized and directed to enforce the provisions of this section by all appropriate means at his disposal, as to all existing multifamily housing with respect to which a mortgage was insured under this Act prior to the effective date of the Housing Act of 1954 as well as to all multifamily housing with respect to which a mortgage is hereafter insured under this Act: *Provided*, That no criminal penalty shall, by reason of enactment of this section, be applicable to the rental or operation of any such existing multifamily housing in violation of any provision of subsection (b) of this section at any time prior to the effective date of the Housing Act of 1954.

(e) As used in this section, (1) the term "rental for transient or hotel purposes" shall have such meaning as prescribed by the Secretary but rental for any period less than thirty days shall in any event constitute rental for such purposes, and (2) the term "multifamily housing" shall mean (i) a property held by a mortgagor upon which there are located five or more single family dwellings, or upon which there is located a two-, three-, or four-family dwelling, or (ii) a property or project covered by mortgage insured or to be insured under section 207, under section 213 with respect to any property or project of a corporation or trust of the character described in paragraph numbered (1) of subsection (a) thereof, under section 220 if the mortgage is within the provisions of paragraph (3)(B) of subsection (d) thereof, under section 221 if the mortgage is within the provisions of paragraph (3) of subsection (d) thereof, under section 608, under section 803, or under section 908, or (iii) a project with respect to which an insurance contract to title VII is outstanding.

(f) Promptly after receipt of written notice that any portion of any building is being rented or operated in violation of any provision of this section or of any rule or regulation lawfully issued thereunder, the Secretary shall

investigate the existence of the facts alleged in the written notice and shall order such violation, if found to exist, to cease forthwith.

(g) If such violation does not cease in accordance with such order, the Secretary shall forward the complaint to the Attorney General of the United States for prosecution of such civil or criminal action, if any, which the Attorney General may find to be involved in such violation.

(h) Whenever he finds a violation of any provision of this section has occurred or is about to occur, the Attorney General shall petition the district court of the United States or the district court of any Territory or other place subject to United States jurisdiction within whose jurisdictional limits the person doing or committing the acts or practices constituting the alleged violation of this section shall be found, for an order enjoining such acts or practices, and upon a showing by the Attorney General that such acts or practices constituting such violation have been engaged in or about to be engaged in, a permanent or temporary injunction, restraining order, or other order, with or without such injunctions or restraining order, shall be granted without bond.

(i) Any person owning or operating a hotel within a radius of fifty miles of a place where a violation of any provision of this section has occurred or is about to occur, or any group or association or hotel owners or operators within said fifty-mile radius, at his or their sole charge or cost, may petition any district court of the United States or the district court of any Territory or other place subject to United States jurisdiction within whose jurisdictional limits the person doing or committing the acts or practices constituting the alleged violation of this section shall be found, for an order enjoining such acts or practices, and, upon a showing that such acts or practices constituting such violation have been engaged in or are about to be engaged in, a permanent or temporary injunction, restraining order or other order with or without such injunction, or restraining order, shall be granted.

(j) The several district courts of the United States and the several district courts of the Territories of the United States or other place subject to the United States jurisdiction, within whose jurisdictional limits the person doing or committing the acts or practices constituting the alleged violation shall be found, shall, wheresoever such acts or practices may have been done or committed, have full power and jurisdiction to hear, try, and determine such matter under subsections (h) and (i) of this section.

Sec. 513A. [12 U.S.C. 1732]
SEPARABILITY PROVIISON.

If any provision of this Act, or the application thereof to any person or circumstances, is held invalid, the remainder of the Act, and the application of such provision to other persons or circumstances, shall not be affected thereby.

Sec. 514. [12 U.S.C. 1733]
APPLICABILITY OF OTHER ACTS.

The provisions of section 10(a) 1 and 10b of the Federal Home Loan Bank Act, as amended (49 Stat. 294, 295); paragraph seventh of section 5136 of the Revised Statutes, as amended (49 Stat. 709); section 24 of the Federal Reserve Act, as amended (49 Stat. 706); subsection (n) of section 77B of the Bankruptcy Act, as amended (49 Stat. 664); section 5(c) of the Act approved January 31, 1935, continuing and extending the functions of the Reconstruction Finance Corporation (49 Stat. 1); and all other provisions of law establishing rights under mortgages insured in accordance with the provisions of the National Housing Act, shall be held to apply to such Act, as amended.

Sec. 515. [12 U.S.C. 1734]
AMENDMENT, EXTENSION, OR INCREASE OF COMMITMENT AMOUNTS.

At any time prior to final endorsement for insurance, the Secretary, in his discretion, may amend, extend, or increase the amount of any commitment, provided the mortgage, as finally endorsed for insurance is eligible for insurance under the provisions of this Act, and the rules and regulations, thereunder, in effect at the time the original commitment to insure was issued.

Sec. 516. [12 U.S.C. 1735]
PAYMENT OF CERTAIN FUNDS TO TREASURY.

The following funds shall be deemed an indebtedness to the United States of the particular insurance fund involved, and the Secretary is authorized and directed to pay the amount of such indebtedness to the Secretary of the Treasury, with simple interest thereon from the date the funds were advanced to the date of final payment at a rate

determined by the Secretary of the Treasury, taking into consideration the average rate on outstanding marketable obligations of the United States from the date the funds were advanced until the date of final payment—

(1) funds made available to the Secretary pursuant to the provisions of sections 4 and 202, exclusive of amounts heretofore refunded, (a) for carrying out title II with respect to mortgages insured under section 203 where such funds were credited to the general reinsurance account in the Mutual Mortgage Insurance Fund, and (b) for the payment of salaries and expenses with respect to mortgage insurance under sections 207 and 210 where such funds were credited to the Housing Insurance Fund;

(2) funds made available to the Secretary pursuant to sections 602 and 802; and

(3) funds made available to the Secretary by the Secretary of the Treasury pursuant to section 710.

Payments to the Secretary of the Treasury under this section shall be made in such amounts and at such times as the Secretary determines, after consultations with the Secretary of the Treasury, that funds are available for that purpose, taking into consideration the continued solvency of the funds involved. All payments made pursuant to this section shall be covered into the Treasury as miscellaneous receipts.

Sec. 517. [12 U.S.C. 1735a]
PREPAYMENT OF MORTGAGES BY NONPROFIT EDUCATIONAL INSTITUTIONS.

(a) Notwithstanding any other provision of this Act, no adjusted premium charge shall be collected in connection with the payment in full, prior to maturity, of any mortgage insured under this Act, if the mortgagor certifies to the Secretary that the loan was paid in full by or on behalf of a nonprofit educational institution which intends to use the property for educational purposes.

(b) The Secretary shall refund any adjusted premium charge collected subsequent to July 1, 1962, and prior to the date of the enactment of the Housing Act of 1964,[586] in connection with the payment in full, prior to maturity, of any mortgage insured under this Act, if the mortgagor under such mortgage makes the certification prescribed by subsection (a).

Sec. 518. [12 U.S.C. 1735b]
EXPENDITURES TO CORRECT OR COMPENSATE FOR SUBSTANTIAL DEFECTS IN MORTGAGED HOMES.

(a)[587]

(1) The Secretary is authorized to make expenditures under this subsection with respect to any property that—

(A) is a condominium unit (including common areas) or is improved by a one-to-four family dwelling;

(B) was approved, before the beginning of construction, for mortgage insurance under this Act or for guaranty, insurance, or direct loan under chapter 37 of title 38, United States Code, or was less than a year old at the time of insurance of the mortgage and was covered by a consumer protection or warranty plan acceptable to the Secretary; and

(C) the Secretary finds to have structural defects.

(2) Expenditures under this subsection may be made for (A) correcting such defects, (B) paying the claims of the owner of the property arising from such defects, or (C) acquiring title to the property: Provided, That such authority of the Secretary shall exist only (A) if the owner has requested assistance from the Secretary not later than four years (or such shorter time as the Secretary may prescribe) after insurance of the mortgage, and (B) if the property is encumbered by a mortgage which is insured under this Act after the date of enactment of the Housing Act of 1964.1

(b) The Secretary is authorized to make expenditures to correct, or to reimburse the owner for the correction of, structural or other major defects which so seriously affect use and livability as to create a serious danger to the life or safety of inhabitants of any one, two, three, or four family dwelling which is covered by a mortgage insured under section 235 of this Act or which is located in an older, declining urban area and is covered by a mortgage insured under section 203 or 221 on or after August 1, 1968, but prior to January 1, 1973, and which is more than one year old on the date of the issuance of the insurance commitment, if (1) the owner requests assistance from the Secretary not later than one year after the insurance of the mortgage, or, in the case of a dwelling covered by a mortgage insured under section 203 or 221 the insurance commitment for which was issued on or after August 1, 1968, but prior to January 1, 1973, not more than four months after the date of enactment of the Housing

[586] September 2, 1964.
[587] So in law.

Authorization Act of 1976, and (2) the defect is one that existed on the date of the issuance of the insurance commitment and is one that a proper inspection could reasonable be expected to disclose. The Secretary may require from the seller of any such dwelling an agreement to reimburse him for any payments made pursuant to this subsection with respect to such dwelling. Expenditures pursuant to this subsection shall be made from the insurance fund chargeable for insurance benefits on the mortgage covering the structure to which the expenditures relate. There are hereby authorized to be appropriated such sums as may be necessary to cover the costs of such expenditures not otherwise provided for.

(c) The Secretary shall by regulations prescribe the terms and conditions under which expenditures and payments may be made under the provisions of this section, and his decisions regarding such expenditures or payments, and the terms and conditions under which the same are approved or disapproved, shall be final and conclusive and shall not be subject to judicial review.

(d) The Secretary is authorized to make expenditures to correct or to reimburse the owner for the correction of structural or other major defects which so seriously affect use and livability as to create a serious danger to the life or safety of inhabitants of any one-, two-, three-, or four-family dwelling which is more than one year old on the date of issuance of the insurance commitment, is located in an older, declining urban area, and is covered by a mortgage insured under section 203 or 221 on or after January 1, 1973, but prior to the date of enactment of this subsection if (1) the owner requests assistance from the Secretary not more than one year after the date of enactment of this subsection, and (2) the defect is one that existed on the date of the issuance of the insurance commitment and is one that a proper inspection could reasonably have been expected to have disclosed. The Secretary may require from the seller of any such dwelling an agreement to reimburse him for any payments made pursuant to this subsection with respect to such dwelling. Expenditures pursuant to this subsection shall be made from the insurance fund chargeable for insurance benefits on the mortgage covering the structure to which the expenditures relate. There are hereby authorized to be appropriated such sums as may be necessary to cover the cost of such expenditures not otherwise provided for.

(e) The Secretary of Housing and Urban Development is authorized and directed to conduct a full and complete investigation and study and report to Congress, with recommendations, not later than March 1, 1977, with respect to an effective program for protecting home buyers from hidden or undisclosed defects seriously affecting the use and livability of the home, which would be applicable to existing homes financed with mortgages insured under this Act. In the study and report the Secretary shall particularly investigate the need for, cost and feasible structure of, a national home inspection and warranty program, with respect to such homes, to be operated by the Federal Government out of fees assessed on the home buyer and amortized over a period of two years. The Secretary's report shall also present an analysis of alternative Federal programs to meet these needs, and the cost and means of financing such programs. In the report the Secretary shall also outline administrative steps which can be taken to provide disclosure to purchasers of existing homes financed with mortgages insured under this Act of the actual condition of the home and the types of repairs or replacements likely to be needed within a period of two years, such as repairs or replacement of furnace, roof or major appliances, based on age and useful life expectancy of such appurtenances.

Sec. 519. [12 U.S.C. 1735c]
ESTABLISHMENT OF GENERAL INSURANCE FUND.

(a) There is hereby created a General Insurance Fund which shall be used by the Secretary, on and after the date of the enactment of the Housing and Urban Development Act of 1965, as a revolving fund for carrying out all the insurance provisions of this Act with the exception of those specified in subsection (e). All mortgages or loans insured under this Act pursuant to commitments issued on or after the date of the enactment of the Housing and Urban Development Act of 1965, except those specified in subsection (e), and all loans reported for insurance under section 2 on or after the date of the enactment of the Housing and Urban Development Act of 1965, shall be insured under the General Insurance Fund. The Secretary shall transfer to the General Insurance Fund—

(1) the assets and liabilities of all insurance accounts and funds, except the Mutual Mortgage Insurance Fund, existing under this Act immediately prior to the enactment of the Housing and Urban Development Act of 1965;

(2) all outstanding commitments for insurance issued prior to the date of the enactment of the Housing and Urban Development Act of 1965, except those specified in subsection (e);

(3) the insurance on all mortgages and loans insured prior to the date of the enactment of the Housing and Urban Development Act of 1965, except insurance specified in subsection (e); and

(4) the insurance of all loans made by approved financial institutions pursuant to section 2 prior to the date of the enactment of the Housing and Urban Development Act of 1965.

(b) The general expenses of the operations of the Department of Housing and Urban Development relating to mortgages and loans which are the obligation of the General Insurance Fund may be charged to the General Insurance Fund.

(c) Moneys in the General Insurance Fund not needed for the current operations of the Department of Housing and Urban Development with respect to mortgages and loans which are the obligation of the General Insurance Fund shall be deposited with the Treasurer of the United States to the credit of such Fund, or invested in bonds or other obligations of, or in bonds or other obligations guaranteed as to principal and interest by, the United States or any agency of the United States: *Provided*, That such moneys shall to the maximum extent feasible be invested in such bonds or other obligations the proceeds of which will be used to directly support the residential mortgage market.

The Secretary may, with the approval of the Secretary of the Treasury, purchase in the open market debentures issued as obligations of the General Insurance Fund or issued prior to the enactment of the Housing and Urban Development Act of 1965 under other provisions of this Act, except debentures issued under the Mutual Mortgage Insurance Fund. Such purchases shall be made at a price which will provide an investment yield of not less than the yield obtainable from other investments authorized by this section. Debentures so purchased shall be canceled and not reissued.

(d) Premium charges, adjusted premium charges, and appraisals and other fees received on account of the insurance of any mortgage or loan which is the obligation of the General Insurance Fund, the receipts derived from the property covered by such mortgages and loans and from the claims, debts, contracts, property, and security assigned to the Secretary in connection therewith, and all earnings on the assets of the Fund shall be credited to the General Insurance Fund. The principal of, and interest paid and to be paid on, debentures which are the obligation of such Fund, cash insurance payments and adjustments, and expenses incurred in the handling, management, renovation, and disposal of properties acquired, in connection with mortgages and loans which are the obligation of such Fund, shall be charged to such Fund.

(e) The General Insurance Fund shall not be used for carrying out the provisions of sections[588] 203, except as determined by the Secretary, or the provisions of section 213 to the extent that they involve mortgages the insurance for which is the obligation of the Cooperative Management Housing Insurance Fund created by section 213(k), or the provisions of sections 223(e), 233(a)(2), 235, 236 and 237; and nothing in this section shall apply to or affect mortgages, loans, commitments, or insurance under such provisions.

(f) RISK ASSESSMENT.—The Secretary shall undertake an annual assessment of the risks associated with each of the insurance programs comprising the General Insurance Fund, and shall present findings from such review to the Congress in the FHA Annual Management Report.

Sec. 520. [12 U.S.C. 1735d]
OPTIONAL CASH PAYMENTS OF INSURANCE BENEFITS.

(a) Notwithstanding any other provisions of this Act with respect to the payment of insurance benefits, the Secretary is authorized, in his discretion, to pay in cash or in debentures any insurance claim or part thereof which is paid on or after the date of the enactment of the Housing and Urban Development Act of 1965 on a mortgage or a loan which was insured under any section of this Act either before or after such date. If payment is made in cash, it shall be an amount equivalent to the face amount of the debentures that would otherwise be issued plus an amount equivalent to the interest which the debentures would have earned, computed to a date to be established pursuant to regulations issued by the Secretary.

(b) The Secretary is authorized to borrow from the Treasury from time to time such amounts as the Secretary shall determine are necessary (1) to make payments in cash (in lieu of issuing debentures guaranteed by the United States, as provided in this Act) pursuant to the provisions of this section, and (2) to make payments for reinsured and directly insured losses under title XII of this Act: *Provided, however*, That borrowings to make payments for reinsured and directly insured losses under title XII shall be limited to $250,000,000 or such further sum as the Congress, by joint resolution, may from time to time determine. Notes or other obligations issued by the Secretary in borrowing under this subsection shall be subject to such terms and conditions as the Secretary of the Treasury may prescribe. Each sum borrowed pursuant to this subsection shall bear interest at a rate determined by the Secretary of the Treasury, taking into consideration the average market yield on outstanding marketable obligations of the United States of comparable maturities during the month preceding the issuance of such notes or other obligations.

[588] So in law. Probably should read "section". See amendment made by section 2118(c)(2) of Public Law 110-289.

Sec. 521. [12 U.S.C. 1735e]
APPROVAL OF TECHNICALLY SUITABLE MATERIALS

The Secretary shall adopt a uniform procedure for the acceptance of materials and products to be used in structures approved for mortgages or loans insured under this Act. Under such procedure any material or product which the Secretary finds is technically suitable for the use proposed shall be accepted. Acceptance of a material or product as technically suitable shall not be deemed to restrict the discretion of the Secretary to determine that a structure, with respect to which a mortgage is executed, is economically sound or an acceptable risk.

Sec. 522. [12 U.S.C. 1735f]
WATER AND SEWER FACILITIES.

Notwithstanding any other provision of this Act, no mortgage which covers new construction shall be approved for insurance under this Act (except pursuant to a commitment made prior to the date of the enactment of the Housing and Urban Development Act of 1965) if the mortgaged property includes housing which is not served by a public or adequate community water and sewerage system: *Provided*, That this limitation shall be applicable only to property which is not served by a system approved by the Secretary pursuant to title X of this Act, as such title existed immediately before the date of the enactment of the Department of Housing and Urban Development Reform Act of 1989,[589] and which is situated in an area certified by appropriate local officials to be an area where the establishment of public or adequate community water and sewerage systems is economically feasible: *Provided further*, That for purposes of this section the economic feasibility of establishing such public or adequate community water and sewerage systems shall be determined without regard to whether such establishment is authorized by law or is subject to approval by one or more local governments or public bodies.

Sec. 523. [12 U.S.C. 1735f-1]
WAIVER OF DEDUCTION ON ASSIGNMENT OF PROPERTY TO SECRETARY IN LIEU OF FORECLOSURE.

Notwithstanding any other provision of this Act, from and after the date of the enactment of the Demonstration Cities and Metropolitan Development Act of 1966, the Secretary, under such terms and conditions as he may approve, may waive all or a part of the 1 per centum deduction otherwise made from insurance benefits with respect to multifamily housing or land development mortgages assigned to him, where the assignment is made at his request in lieu of foreclosure of the mortgage.

Sec. 524. [12 U.S.C. 1735f-2]
FHA REHABILITATION STANDARDS FOR HOUSING IN URBAN RENEWAL AREAS.

In determining whether properties should be approved by the Secretary prior to rehabilitation and covered by mortgages insured under title II of this Act, the Secretary shall apply uniform property standards as between properties located outside urban renewal areas and those located within urban renewal areas.

Sec. 525. [12 U.S.C. 1735f-3]
ADVANCES.

The Secretary is authorized to insure mortgage proceeds advanced during construction or rehabilitation or otherwise prior to final endorsement of a project mortgage for the purpose of (1) financing improvements to the property and the purchase of materials and building components delivered to the property, and (2) providing funds to cover the cost of building components where such components have been assembled and specifically identified for incorporation into the property but are located at a site other than the mortgaged property, with such security as the Secretary may require.

Sec. 526. [12 U.S.C. 1735f-4]
MINIMUM PROPERTY STANDARDS.

(a) To the maximum extent feasible, the Secretary of Housing and Urban Development shall promote the use of energy saving techniques through minimum property standards established by him for newly constructed residential housing, other than manufactured homes, subject to mortgages insured under this Act. Such standards shall establish energy performance requirements that will achieve a significant increase in the energy efficiency of new construction. Such requirements shall be implemented as soon as practicable after the date of enactment of this

[589] December 15, 1989.

sentence.[590] Following the effective date of this sentence,[591] the energy performance requirements developed and established by the Secretary under this subsection for newly constructed residential housing, other than manufactured homes, shall be at least as effective in performance as the energy performance requirements incorporated in the minimum property standards that were in effect under this subsection on September 30, 1982.

(b) The Secretary may require that each property, other than a manufactured home, subject to a mortgage insured under this Act shall, with respect to health and safety, comply with one of the nationally recognized model building codes, or with a State or local building code based on one of the nationally recognized model building codes or their equivalent. The Secretary shall be responsible for determining the comparability of the State and local codes to such model codes and for selecting for compliance purposes an appropriate nationally recognized model building code where no such model code has been duly adopted or where the Secretary determines the adopted code is not comparable.

(c) The Secretary may establish an exception to any minimum property standard established under this section in order to address alternative water systems, including cisterns, which meet requirements of State and local building codes that ensure health and safety standards.

Sec. 527. [12 U.S.C. 1735f-5]
PROHIBITION AGAINST DISCRIMINATION ON ACCOUNT OF SEX IN EXTENSION OF MORTGAGE ASSISTANCE.

(a) No federally related mortgage loan, or Federal insurance, guaranty, or other assistance in connection therewith (under this or any other Act), shall be denied to any person on account of sex; and every person engaged in making mortgage loans secured by residential real property shall consider without prejudice the combined income of both husband and wife for the purpose of extending mortgage credit in the form of a federally related mortgage loan to a married couple or either member thereof.

(b) For purposes of subsection (a), the term "federally related mortgage loan" means any loan which—

(1) is secured by residential real property designed principally for the occupancy of from one to four families; and

(2)(A) is made in whole or in part by any lender the deposits or accounts of which are insured by any agency of the Federal Government, or is made in whole or in part by any lender which is itself regulated by any agency of the Federal Government; or

(B) is made in whole or in part, or insured, guaranteed, supplemented, or assisted in any way, by the Secretary of Housing and Urban Development or any other officer or agency of the Federal Government or under or in connection with a housing or urban development program administered by the Secretary of Housing and Urban Development or a housing or related program administered by any other such officer or agency; or

(C) is eligible for purchase by the Federal National Mortgage Association, the Government National Mortgage Association, or the Federal Home Loan Mortgage Corporation, or from any financial institution from which it could be purchased by the Federal Home Loan Mortgage Corporation; or

(D) is made in whole or in part by any "creditor", as defined in section 103(f) of the Consumer Credit Protection Act of 1968 (15 U.S.C. 1602(f)), who makes or invests in residential real estate loans aggregating more than $1,000,000 per year.

Sec. 528. [12 U.S.C. 1735f-6]
SECONDARY MORTGAGES ON INSURED PROPERTIES.

In carrying out the provisions of title II of this Act with respect to insuring mortgages secured by one- to four-family dwelling unit, the Secretary may not deny such insurance for any such mortgage solely because the dwelling unit which secures such mortgage will be subject to a secondary mortgage or loan made or insured, or other secondary lien held, by any State or local governmental agency or instrumentality under terms and conditions approved by the Secretary.

Sec. 529. [12 U.S.C. 1735f-7]
EXEMPTION FROM STATE USURY LAWS.

[590] November 9, 1978.
[591] November 30, 1983.

(a) The provisions of the constitution of any State expressly limiting the rate or amount of interest, discount points, or other charges which may be charged, taken, received, or reserved by lenders and the provisions of any State law expressly limiting the rate or amount of interest, discount points, or other charges which may be charged, taken, received, or reserved shall not apply to any loan, mortgage, or advance which is insured under title I or II of this Act.

(b) The provisions of subsection (a) shall apply to loans, mortgages, or advances made or executed in any State until the effective date (after the date of enactment of this section) of a provision of law of that State limiting the rate or amount of interest, discount points, or other charges on any such loan, mortgage, or advance.

Sec. 530. [12 U.S.C. 1735f-8]
TIME OF PAYMENT OF PREMIUM CHARGES.

In carrying out the provisions of titles I, II, IV, VII, VIII, IX, and XI pertaining to the payment of loan or mortgage insurance premium charges by a financial institution, other mortgagees, or agent thereof to the Federal Government in connection with a loan or mortgage insurance program established pursuant to any of these titles, the Secretary shall require that payment of such premiums be made (1) in the case of loans or mortgages respecting one- to four-family residences, promptly upon their receipt from the borrower, and (2) in any other case, promptly when due to the Secretary; except that the Secretary may approve payment of such premiums within twenty-four months of such receipt or due date, as appropriate, if the financial institution, mortgagee, or agent thereof pays interest, at a rate specified by the Secretary, to the insurance fund for the period beginning twenty days after receipt from the borrower or after the due date, as appropriate, and ending upon payment of the premiums to the Federal Government.

Sec. 531. [12 U.S.C. 1735f-9]
LIMITATION ON COMMITMENTS TO INSURE LOANS AND MORTGAGES.

(a) The authority of the Secretary to enter into commitments to insure loans and mortgages under this Act shall be effective for any fiscal year only to such extent or in such amounts as are or have been provided in appropriation Acts for such fiscal year.

(b) Notwithstanding any other provision of law and subject only to the absence of qualified requests for insurance, to the authority provided in this Act, and to the limitation in subsection (a), the Secretary shall enter into commitments to insure mortgages under this Act with an aggregate principal amount of $110,165,000,000 during fiscal year 1993 and $68,673,868,600 during fiscal year 1994.

Sec. 532. [12 U.S.C. 1735f-10]
CHANGE OF MORTGAGEE STATUS.

(a) NOTIFICATION.—Upon the occurrence of any action described in subsection (b), an approved mortgagee shall immediately submit to the Secretary, in writing, notification of such occurrence.

(b) ACTIONS.—The actions described in this subsection are as follows:

(1) The debarment, suspension or a Limited Denial of Participation (LDP), or application of other sanctions, other exclusions, fines, or penalties applied to the mortgagee or to any officer, partner, director, principal, manager, supervisor, loan processor, loan underwriter, or loan originator of the mortgagee pursuant to applicable provisions of State or Federal law.

(2) The revocation of a State-issued mortgage loan originator license issued pursuant to the S.A.F.E. Mortgage Licensing Act of 2008 (12 U.S.C. 5101 et seq.) or any other similar declaration of ineligibility pursuant to State law.

Sec. 533. [12 U.S.C. 1735f-11]
REVIEW OF MORTGAGEE PERFORMANCE AND AUTHORITY TO TERMINATE.

(a) PERIODIC REVIEW OF MORTGAGEE PERFORMANCE.—To reduce losses in connection with single family mortgage insurance programs under this Act, at least once a year the Secretary shall review the rate of early defaults and claims for insured single family mortgages originated or underwritten by each mortgagee.

(b) COMPARISON WITH OTHER MORTGAGEES.—For each mortgagee, the Secretary shall compare the rate of early defaults and claims for insured single family mortgage loans originated or underwritten by the mortgagee in an area with the rate of early defaults and claims for other mortgagees originating or underwriting insured single family mortgage loans in the area. For purposes of this section, the term “area” means each geographic area in which the mortgagee is authorized by the Secretary to originate insured single family mortgages.

(c) TERMINATION OF MORTGAGEE ORIGINATION APPROVAL.—(1) Notwithstanding section 202(c) of this Act, the Secretary may terminate the approval of a mortgagee to originate or underwrite single family mortgages if the Secretary determines that the mortgage loans originated or underwritten by the mortgagee present an unacceptable risk to the insurance funds. The determination shall be based on the comparison required under subsection (b) and shall be made in accordance with regulations of the Secretary. The Secretary may rely on existing regulations published before this section takes effect.[592]

(2) The Secretary shall give a mortgagee at least 60 days prior written notice of any termination under this subsection. The termination shall take effect at the end of the notice period, unless the Secretary withdraws the termination notice or extends the notice period. If requested in writing by the mortgagee within 30 days of the date of the notice, the mortgagee shall be entitled to an informal conference with the official authorized to issue termination notices on behalf of the Secretary (or a designee of that official). At the informal conference, the mortgagee may present for consideration specific factors that it believes were beyond its control and that caused the excessive default and claim rate.

Sec. 534. [12 U.S.C. 1735f-12]
ASSURANCE OF ADEQUATE PROCESSING OF APPLICATIONS FOR LOAN AND MORTGAGE INSURANCE.

(a) STATE OFFICES.—In order to ensure the adequate processing of applications for insurance of loans and mortgages under this Act, the Secretary shall maintain not less than one office in each State to carry out the provisions of this Act.

(b) EXPEDITED PROCEDURE FOR RTC PROPERTIES.—To assist the Resolution Trust Corporation in disposing of the property to which it acquires title and to ensure the timely processing of applications for insurance of loans and mortgages under this Act that will be used to purchase multifamily residential property from the Resolution Trust Corporation, the Secretary shall establish an expedited procedure for considering such applications.

Sec. 535. [12 U.S.C. 1735f-13]
PROHIBITION OF REQUIREMENT OF MINIMUM PRINCIPAL LOAN AMOUNT.

A mortgagee or lender may not require, as a condition of providing a loan insured under this Act or secured by a mortgage insured under this Act, that the principal amount of the loan exceed a minimum amount established by the mortgagee or lender.

Sec. 536. [12 U.S.C. 1735f-14]
CIVIL MONEY PENALTIES AGAINST MORTGAGEES, LENDERS, AND OTHER PARTICIPANTS IN FHA PROGRAMS.

(a) IN GENERAL.—

(1) AUTHORITY.—If a mortgagee approved under the Act, a lender holding a contract of insurance under title I, or a principal, officer, or employee of such mortgagee or lender, or other person or entity participating in either an insured mortgage or title I loan transaction under this Act or providing assistance to the borrower in connection with any such loan, including sellers of the real estate involved, borrowers, closing agents, title companies, real estate agents, mortgage brokers, appraisers, loan correspondents and dealers, knowingly and materially violates any applicable provision of subsection (b), the Secretary may impose a civil money penalty on the mortgagee or lender, or such other person or entity, in accordance with this section. The penalty under this paragraph shall be in addition to any other available civil remedy or any available criminal penalty, and may be imposed whether or not the Secretary imposes other administrative sanctions. The penalty shall be in addition to any other available civil remedy or any available criminal penalty, and may be imposed whether or not the Secretary imposes other administrative sanctions.

(2) AMOUNT OF PENALTY.—The amount of the penalty, as determined by the Secretary, may not exceed $5,000 for each violation except that the maximum penalty for all violations by any particular mortgagee or lender or such other person or entity during any 1-year period shall not exceed $1,000,000. Each violation of the provisions of subsection (b)(1) shall constitute a separate violation with respect to each mortgage or loan application. In the case of a continuing violation, as determined by the Secretary, each day shall constitute a separate violation.

[592] Section 209 of the Departments of Veterans Affairs and Housing and Urban Development, and Independent Agencies Appropriations Act, 2002, Pub. L. 107-73, 115 Stat. 675, amended this section in its entirety. Such Act was approved on November 26, 2001.

[593]In the case of the mortgagee's failure to engage in loss mitigation activities, as provided in section 536(b)(1)(I), the penalty shall be in the amount of three times the amount of any insurance benefits claimed by the mortgagee with respect to any mortgage for which the mortgagee failed to engage in such loss mitigation actions.

(b) VIOLATIONS FOR WHICH A PENALTY MAY BE IMPOSED.—

(1) VIOLATIONS.—The Secretary may impose a civil money penalty under subsection (a) for any knowing and material violation by a mortgagee or lender or any of its owners, officers, or directors, as follows:

(A) Except where expressly permitted by statute, regulation, or contract approved by the Secretary, transfer of a mortgage insured under this Act to a mortgagee not approved by the Secretary, or transfer of a loan to a transferee that is not holding a contract of insurance under title I of this Act.

(B) Failure of a nonsupervised mortgagee, as defined by the Secretary—

(i) to segregate all escrow funds received from a mortgagor for ground rents, taxes, assessments, and insurance premiums; or

(ii) to deposit these funds in a special account with a depository institution whose accounts are insured by the Federal Deposit Insurance Corporation through the Deposit Insurance Fund, or by the National Credit Union Administration.

(C) Use of escrow funds for any purpose other than that for which they were received.

(D) Submission to the Secretary of information that was false, in connection with any mortgage insured under this Act, or any loan that is covered by a contract of insurance under title I of this Act.

(E) With respect to an officer, director, principal, or employee—

(i) hiring such an individual whose duties will involve, directly or indirectly, programs administered by the Secretary, while that person was under suspension or withdrawal by the Secretary; or

(ii) retaining in employment such an individual who continues to be involved, directly or indirectly, in programs administered by the Secretary, while that person was under suspension or withdrawal by the Secretary.

(F) Falsely certifying to the Secretary or submitting to the Secretary a false certification by another person or entity.

(G) Failure to comply with an agreement, certification, or condition of approval set forth on, or applicable to—

(i) the application of a mortgagee or lender for approval by the Secretary; or

(ii) the notification by a mortgagee or lender to the Secretary concerning establishment of a branch office.

(H) Violation of any provisions of title I or II of this Act, or any implementing regulation, handbook, or mortgagee letter that is issued under this Act.

(I)[594] Failure to engage in loss mitigation actions as provided in section 230(a) of this Act.

(J) Failure to perform a required physical inspection of the mortgaged property.

(K) Violation of section 202(d) of this Act (12 U.S.C. 1708(d)).

(L) Use of "Federal Housing Administration", "Department of Housing and Urban Development", "Government National Mortgage Association", "Ginnie Mae", the acronyms "HUD", "FHA", or "GNMA", or any official seal or logo of the Department of Housing and Urban Development, except as authorized by the Secretary.

(2) The Secretary may impose a civil money penalty under subsection (a) for any knowing and material violation by a principal, officer, or employee of a mortgagee or lender, or other participants in either an insured mortgage or title I loan transaction under this Act or provision of assistance to the borrower in connection with any such loan, including sellers of the real estate involved, borrowers, closing agents, title companies, real estate agents, mortgage brokers, appraisers, loan correspondents, and dealers for—

(A) submission to the Secretary of information that was false, in connection with any mortgage insured under this Act, or any loan that is covered by a contract of insurance under title I of this Act;

[593] Indented so in law.
[594] Indented so in law.

(B) falsely certifying to the Secretary or submitting to the Secretary a false certification by another person or entity;

(C) failure by a loan correspondent or dealer to submit to the Secretary information which is required by regulations or directives in connection with any loan that is covered by a contract of insurance under title I; or

(D) causing or participating in any of the violations set forth in paragraph (1) of this subsection.

(3) PROHIBITION AGAINST MISLEADING USE OF FEDERAL ENTITY DESIGNATION.—The Secretary may impose a civil money penalty, as adjusted from time to time, under subsection (a) for any use of "Federal Housing Administration", "Department of Housing and Urban Development", "Government National Mortgage Association", "Ginnie Mae", the acronyms "HUD", "FHA", or "GNMA", or any official seal or logo of the Department of Housing and Urban Development, by any person, party, company, firm, partnership, or business, including sellers of real estate, closing agents, title companies, real estate agents, mortgage brokers, appraisers, loan correspondents, and dealers, except as authorized by the Secretary.

(c) AGENCY PROCEDURES.—

(1) ESTABLISHMENT.—The Secretary shall establish standards and procedures governing the imposition of civil money penalties under subsection (a). These standards and procedures—

(A) shall provide for the Secretary to make the determination to impose the penalty or to use an administrative entity (such as the Mortgagee Review Board, established pursuant to section 202(c) of the National Housing Act) to make the determination;

(B) shall provide for the imposition of a penalty only after the mortgagee or lender or such other person or entity has been given an opportunity for a hearing on the record; and

(C) may provide for review by the Secretary of any determination or order, or interlocutory ruling, arising from a hearing.

(2) FINAL ORDERS.—If no hearing is requested within 15 days of receipt of the notice of opportunity for hearing, the imposition of the penalty shall constitute a final and unappealable determination. If the Secretary reviews the determination or order, the Secretary may affirm, modify, or reverse that determination or order. If the Secretary does not review the determination or order within 90 days of the issuance of the determination or order, the determination or order shall be final.

(3) FACTORS IN DETERMINING AMOUNT OF PENALTY.—In determining the amount of a penalty under subsection (a), consideration shall be given to such factors as the gravity of the offense, any history of prior offenses (including those before enactment of this section), ability to pay the penalty, injury to the public, benefits received, deterrence of future violations, and such other factors as the Secretary may determine in regulations to be appropriate.

(4) REVIEWABILITY OF IMPOSITION OF PENALTY.—The Secretary's determination or order imposing a penalty under subsection (a) shall not be subject to review, except as provided in subsection (d).

(d) JUDICIAL REVIEW OF AGENCY DETERMINATION.—

(1) IN GENERAL.—After exhausting all administrative remedies established by the Secretary under subsection (c)(1), a mortgagee or lender or such other person or entity against whom the Secretary has imposed a civil money penalty under subsection (a) may obtain a review of the penalty and such ancillary issues (such as any administrative sanctions under 24 C.F.R. parts 24 and 25) as may be addressed in the notice of determination to impose a penalty under subsection (c)(1)(A) in the appropriate court of appeals of the United States, by filing in such court, within 20 days after the entry of such order or determination, a written petition praying that the Secretary's determination or order be modified or be set aside in whole or in part.

(2) OBJECTIONS NOT RAISED IN HEARING.—The court shall not consider any objection that was not raised in the hearing conducted pursuant to subsection (c)(1) unless a demonstration is made of extraordinary circumstances causing the failure to raise the objection. If any party demonstrates to the satisfaction of the court that additional evidence not presented at the hearing is material and that there were reasonable grounds for the failure to present such evidence at the hearing, the court shall remand the matter to the Secretary for consideration of the additional evidence.

(3) SCOPE OF REVIEW.—The decisions, findings, and determinations of the Secretary shall be reviewed pursuant to section 706 of title 5, United States Code.

(4) ORDER TO PAY PENALTY.—Notwithstanding any other provision of law, in any such review, the court shall have the power to order payment of the penalty imposed by the Secretary.

(e) ACTION TO COLLECT PENALTY.—If any mortgagee or lender or such other person or entity fails to comply with the Secretary's determination or order imposing a civil money penalty under subsection (a), after the determination or order is no longer subject to review as provided by subsections (c)(1) and (d), the Secretary may request the Attorney General of the United States to bring an action in an appropriate United States district court to obtain a monetary judgment against the mortgagee or lender or such other person or entity and such other relief as may be available. The monetary judgment may, in the court's discretion, include the attorneys fees and other expenses incurred by the United States in connection with the action. In an action under this subsection, the validity and appropriateness of the Secretary's determination or order imposing the penalty shall not be subject to review.

(f) SETTLEMENT BY SECRETARY.—The Secretary may compromise, modify, or remit any civil money penalty which may be, or has been, imposed under this section.

(g) DEFINITION OF KNOWINGLY.—For purposes of this section, a person acts knowingly when a person has actual knowledge of acts or should have known of the acts.

(h) REGULATIONS.—The Secretary shall issue such regulations as the Secretary deems appropriate to implement this section.

(i) DEPOSIT OF PENALTIES IN INSURANCE FUNDS.—Notwithstanding any other provision of law, all civil money penalties collected under this section shall be deposited in the appropriate insurance fund or funds established under this Act, as determined by the Secretary.

Sec. 537. [12 U.S.C. 1735f-15]
CIVIL MONEY PENALTIES AGAINST MULTIFAMILY MORTGAGORS.

(a) IN GENERAL.—The penalties set forth in this section shall be in addition to any other available civil remedy or any available criminal penalty, and may be imposed whether or not the Secretary imposes other administrative sanctions. The Secretary may not impose penalties under this section for violations a material cause of which are the failure of the Department, an agent of the Department, or a public housing agency to comply with existing agreements.

(b) PENALTY FOR VIOLATION OF AGREEMENT AS CONDITION OF TRANSFER OF PHYSICAL ASSETS, FLEXIBLE SUBSIDY LOAN, CAPITAL IMPROVEMENT LOAN, MODIFICATION OF MORTGAGE TERMS, OR WORK-OUT AGREEMENT.—

(1) AUTHORITY.—Whenever a mortgagor of property that includes 5 or more living units and that has a mortgage insured, co-insured, or held pursuant to this Act, who has agreed in writing, as a condition of a transfer of physical assets, a flexible subsidy loan, a capital improvement loan, a modification of the mortgage terms, or a workout agreement, to use nonproject income to make cash contributions for payments due under the note and mortgage, for payments to the reserve for replacements, to restore the project to good physical condition, or to pay other project liabilities, knowingly and materially fails to comply with any of these commitments, the Secretary may impose a civil money penalty on that mortgagor, on a general partner of a partnership mortgagor, or on any officer or director of a corporate mortgagor in accordance with the provisions of this section.

(2) AMOUNT OF PENALTY.—The amount of the penalty, as determined by the Secretary, for a violation of this subsection may not exceed the amount of the loss the Secretary would experience at a foreclosure sale, or a sale after foreclosure, of the property involved.

(c) OTHER VIOLATIONS.—

(1)[595]

(A) LIABLE PARTIES.—The Secretary may also impose a civil money penalty under this section on—

(i) any mortgagor of a property that includes 5 or more living units and that has a mortgage insured, coinsured, or held pursuant to this Act;

(ii) any general partner of a partnership mortgagor of such property;

(iii) any officer or director of a corporate mortgagor;

(iv) any agent employed to manage the property that has an identity of interest with the mortgagor, with the general partner of a partnership mortgagor, or with any officer or director of a corporate mortgagor of such property; or

[595] So in law.

(v) any member of a limited liability company that is the mortgagor of such property or is the general partner of a limited partnership mortgagor or is a partner of a general partnership mortgagor.

(B) VIOLATIONS.—A penalty may be imposed under this section upon any liable party under subparagraph (A) that knowingly and materially takes any of the following actions:

(i) Conveyance, transfer, or encumbrance of any of the mortgaged property, or permitting the conveyance, transfer, or encumbrance of such property, without the prior written approval of the Secretary.

(ii) Assignment, transfer, disposition, or encumbrance of any personal property of the project, including rents, other revenues, or contract rights, or paying out any funds, except for reasonable operating expenses and necessary repairs, without the prior written approval of the Secretary.

(iii) Conveyance, assignment, or transfer of any beneficial interest in any trust holding title to the property, or the interest of any general partner in a partnership owning the property, or any right to manage or receive the rents and profits from the mortgaged property, without the prior written approval of the Secretary.

(iv) Remodeling, adding to, reconstructing, or demolishing any part of the mortgaged property or subtracting from any real or personal property of the project, without the prior written approval of the Secretary.

(v) Requiring, as a condition of the occupancy or leasing of any unit in the project, any consideration or deposit other than the prepayment of the first month's rent, plus a security deposit in an amount not in excess of 1 month's rent, to guarantee the performance of the covenants of the lease.

(vi) Not holding any funds collected as security deposits separate and apart from all other funds of the project in a trust account, the amount of which at all times equals or exceeds the aggregate of all outstanding obligations under the account.

(vii) Payment for services, supplies, or materials which exceeds $500 and substantially exceeds the amount ordinarily paid for such services, supplies, or materials in the area where the services are rendered or the supplies or materials furnished.

(viii) Failure to maintain at any time the mortgaged property, equipment, buildings, plans, offices, apparatus, devices, books, contracts, records, documents, and other related papers (including failure to keep copies of all written contracts or other instruments which affect the mortgaged property) in reasonable condition for proper audit and for examination and inspection at any reasonable time by the Secretary or any duly authorized agents of the Secretary.

(ix) Failure to maintain the books and accounts of the operations of the mortgaged property and of the project in accordance with requirements prescribed by the Secretary.

(x) Failure to furnish the Secretary, by the expiration of the 90-day period beginning on the first day after the completion of each fiscal year (unless the Secretary has approved an extension of the 90-day period in writing), with a complete annual financial report, in accordance with requirements prescribed by the Secretary, including requirements that the report be—

(I) based upon an examination of the books and records of the mortgagor;

(II) prepared and certified to by an independent public accountant or a certified public accountant (unless the Secretary has waived this requirement in writing); and

(III) certified to by the mortgagor or an authorized representative of the mortgagor.

The Secretary shall approve an extension where the mortgagor demonstrates that failure to comply with this clause is due to events beyond the control of the mortgagor.

(xi) At the request of the Secretary, the agents of the Secretary, the employees of the Secretary, or the attorneys of the Secretary, failure to furnish monthly occupancy reports or failure to provide specific answers to questions upon which information is

sought relative to income, assets, liabilities, contracts, the operation and condition of the property, or the status of the mortgage.

(xii) Failure to make promptly all payments due under the note and mortgage, including mortgage insurance premiums, tax and insurance escrow payments, and payments to the reserve for replacements when there is adequate project income available to make such payments.

(xiii) Failure to maintain the premises, accommodations, any living unit in the project, and the grounds and equipment appurtenant thereto in good repair and condition in accordance with regulations and requirements of the Secretary, except that nothing in this clause shall have the effect of altering the provisions of an existing regulatory agreement or federally insured mortgage on the property.

(xiv) Failure, by a mortgagor, a general partner of a partnership mortgagor, or an officer or director of a corporate mortgagor, to provide management for the project that is acceptable to the Secretary pursuant to regulations and requirements of the Secretary.

(xv) Failure to provide access to the books, records, and accounts related to the operations of the mortgaged property and of the project.

The pay out of surplus cash, as defined by and provided for in the regulatory agreement, shall not constitute a violation of this subsection.

(2) AMOUNT OF PENALTY.—A penalty imposed for a violation under this subsection, as determined by the Secretary, may not exceed $25,000.

(d) AGENCY PROCEDURES.—

(1) ESTABLISHMENT.—The Secretary shall establish standards and procedures governing the imposition of civil money penalties under subsections (b) and (c). These standards and procedures—

(A) shall provide for the Secretary or other department official (such as the Assistant Secretary for Housing) to make the determination to impose a penalty;

(B) shall provide for the imposition of a penalty only after the mortgagor, general partner of a partnership mortgagor, officer or director of a corporate mortgagor, or identity of interest agent employed to manage the property has been given an opportunity for a hearing on the record; and

(C) may provide for review by the Secretary of any determination or order, or interlocutory ruling, arising from a hearing.

(2) FINAL ORDERS.—If no hearing is requested within 15 days of receipt of the notice of opportunity for hearing, the imposition of the penalty shall constitute a final and unappealable determination. If the Secretary reviews the determination or order, the Secretary may affirm, modify, or reverse that determination or order. If the Secretary does not review the determination or order within 90 days of the issuance of the determination or order, the determination or order shall be final.

(3) FACTORS IN DETERMINING AMOUNT OF PENALTY.—In determining the amount of a penalty under subsection (b) or (c), consideration shall be given to such factors as the gravity of the offense, any history of prior offenses (including offenses occurring before enactment of this section), ability to pay the penalty, injury to the tenants, injury to the public, benefits received, deterrence of future violations, and such other factors as the Secretary may determine in regulations to be appropriate.

(4) REVIEWABILITY OF IMPOSITION OF PENALTY.—The Secretary's determination or order imposing a penalty under subsection (b) or (c) shall not be subject to review, except as provided in subsection (e).

(5) PAYMENT OF PENALTY.—No payment of a civil money penalty levied under this section shall be payable out of project income.

(e) JUDICIAL REVIEW OF AGENCY DETERMINATION.—

(1) IN GENERAL.—After exhausting all administrative remedies established by the Secretary under subsection (d)(1), an entity or person against whom the Secretary has imposed a civil money penalty under subsection (b) or (c) may obtain a review of the penalty and such ancillary issues as may be addressed in the notice of determination to impose a penalty under subsection (d)(1)(A) in the appropriate court of appeals of the United States, by filing in such court, within 20 days after the entry of such order or determination, a written petition praying that the Secretary's order or determination be modified or be set aside in whole or in part.

(2) OBJECTIONS NOT RAISED IN HEARING.—The court shall not consider any objection that was not raised in the hearing conducted pursuant to subsection (d)(1) unless a demonstration is made of

extraordinary circumstances causing the failure to raise the objection. If any party demonstrates to the satisfaction of the court that additional evidence not presented at such hearing is material and that there were reasonable grounds for the failure to present such evidence at the hearing, the court shall remand the matter to the Secretary for consideration of such additional evidence.

(3) SCOPE OF REVIEW.—The decisions, findings, and determinations of the Secretary shall be reviewed pursuant to section 706 of title 5, United States Code.

(4) ORDER TO PAY PENALTY.—Notwithstanding any other provision of law, in any such review, the court shall have the power to order payment of the penalty imposed by the Secretary.

(f) CIVIL MONEY PENALTIES AGAINST MULTIFAMILY MORTGAGORS, GENERAL PARTNERS OF PARTNERSHIP MORTGAGORS, OFFICERS AND DIRECTORS OF CORPORATE MORTGAGORS, AND CERTAIN MANAGING AGENTS.—If a mortgagor, general partner of a partnership mortgagor, officer or director of a corporate mortgagor, or identity of interest agent employed to manage the property fails to comply with the Secretary's determination or order imposing a civil money penalty under subsection (b) or (c), after the determination or order is no longer subject to review as provided by subsections (d)(1) and (e), the Secretary may request the Attorney General of the United States to bring an action in an appropriate United States district court to obtain a monetary judgment against the mortgagor, general partner of a partnership mortgagor, officer or director of a corporate mortgagor, or identity of interest agent employed to manage the property and such other relief as may be available. The monetary judgment may, in the court's discretion, include the attorneys fees and other expenses incurred by the United States in connection with the action. In an action under this subsection, the validity and appropriateness of the Secretary's determination or order imposing the penalty shall not be subject to review.

(g) SETTLEMENT BY SECRETARY.—The Secretary may compromise, modify, or remit any civil money penalty which may be, or has been, imposed under this section.

(h) DEFINITION OF KNOWINGLY.—The term "knowingly" means having actual knowledge of or acting with deliberate ignorance of or reckless disregard for the prohibitions under this section.

(i) REGULATIONS.—The Secretary shall issue such regulations as the Secretary deems appropriate to implement this section.

(j) DEPOSIT OF PENALTIES IN INSURANCE FUNDS.—Notwithstanding any other provision of law, all civil money penalties collected under this section shall be deposited in the fund established under section 201(j) of the Housing and Community Development Amendments of 1978.

(k) IDENTITY OF INTEREST MANAGING AGENT.—In this section, the terms "agent employed to manage the property that has an identity of interest" and 'identity of interest agent' mean an entity—

(1) that has management responsibility for a project;

(2) in which the ownership entity, including its general partner or partners (if applicable) and its officers or directors (if applicable), has an ownership interest; and

(3) over which the ownership entity exerts effective control.

Sec. 538. [12 U.S.C. 1735f-16]
ANNUAL AUDITED FINANCIAL STATEMENTS.

With respect to fiscal year 1989 and for every fiscal year thereafter, the Secretary shall make available to the public a financial statement of the insurance funds established under this Act that will present their financial condition on a cash and accrual basis, consistent with generally accepted accounting principles. Each financial statement shall be audited by an independent accounting firm selected by the Secretary and the results of such audit shall be made available to the public.

Sec. 539. [12 U.S.C. 1735f-17]
EXAMINATIONS AND SANCTIONS FOR CERTAIN VIOLATIONS.

(a) EXAMINATIONS AND SANCTIONS.—

(1) In connection with any examination of a mortgagee approved by the Secretary pursuant to this Act, the Secretary shall assess the performance of the mortgagee in meeting the requirements of sections 203(t), 223(a)(7)(B), and 535. Where the Secretary determines that a mortgagee is not in compliance with these requirements, the Secretary shall refer the matter to the Mortgagee Review Board for investigation and appropriate action.

(2) Not later than 180 days after the date of the enactment of the Cranston-Gonzalez National Affordable Housing Act,[596] the Secretary shall by notice establish a procedure under which (A) any person

[596] The date of enactment was November 28, 1990.

may file a request that the Secretary determine whether a mortgagee is in compliance with sections 203(t), 223(a)(7)(B), and 535, (B) the Secretary shall inform the person of the disposition of the request, and (C) the Secretary shall publish in the Federal Register the disposition of any case referred by the Secretary to the Mortgagee Review Board. Such procedures shall be established by regulation under section 553 of title 5, United States Code. The Secretary shall issue regulations based on the initial notice before the expiration of the 8-month period beginning on the date of the notice.

(3) The Secretary shall submit to Congress, not less than annually, a report regarding any actions taken to carry out this section. The report shall include a list of all requests filed pursuant to paragraph (2) and any action taken pursuant to such requests.

(b) MONITORING AND REVIEW.—The Secretary shall continually monitor and undertake a thorough review of the implementation of this section to assess the impact of the section on the lending practices of mortgagees and the availability of mortgages insured under this Act. The Secretary shall monitor the availability of credit, the number and type of lenders participating in the program, whether there is any change in the composition or practices of such lenders and any other factors the Secretary considers appropriate. The Secretary shall submit to the Congress findings detailing the results of such monitoring and review not later than 18 months after the enactment of the Cranston-Gonzalez National Affordable Housing Act.[597]

Sec. 540. [12 U.S.C. 1735f-18]
INFORMATION REGARDING EARLY DEFAULTS AND FORECLOSURES ON INSURED MORTGAGES.

(a) IN GENERAL.—The Secretary of Housing and Urban Development shall collect and maintain information regarding early defaults on mortgages as provided under this section. The Secretary shall make such information available for public inspection upon request. Information shall be collected quarterly with respect to each applicable collection period (as such term is defined in subsection (c)) and shall be available for inspection not more than 30 days after the conclusion of the calendar quarter relating to each such period. Information shall first be made available under this section for the applicable collection period relating to the first calendar quarter ending more than 180 days after the date of the enactment of the Cranston-Gonzalez National Affordable Housing Act.[598]

(b) CONTENTS.—

(1) MORTGAGE LENDER ANALYSIS.—Information collected under this section shall include, for each lender originating mortgages during the applicable collection period that are insured pursuant to section 203 and secured by property in a designated census tract, the following information with respect to such mortgages:

(A) The name of the lender and the number of each designated census tract in which the lender originated 1 or more such mortgages during the applicable collection period.

(B) The total number of such mortgages originated by such lender during the applicable collection period in each designated census tract and the number of mortgages originated each year in each designated census tract.

(C) The total number of defaults and foreclosures on such mortgages during the applicable collection period in each designated census tract and the number of defaults and foreclosures in each designated census tract in each year of the period.

(D) For each designated census tract, the percentage of such lender's total insured mortgages originated during each year of the applicable collection period (with respect to properties within such census tract) on which defaults or foreclosures have occurred during the applicable collection period.

(E) The total of all such originations, defaults, and foreclosures on insured mortgages originated by such lender during the applicable collection period for all designated census tracts and the percentage of the total number of such lender's insured mortgage originations on which defaults or foreclosures have occurred during the applicable collection period.

(2) OTHER INFORMATION.—Information collected under this section shall also include the following:

(A) For each lender referred to under paragraph (1), the total number of insured mortgages originated by the lender secured by properties not located in a designated census tract, the total number of defaults and foreclosures on such mortgages, and the percentage of such

[597] The date of enactment was November 28, 1990.
[598] The date of enactment was November 28, 1990.

mortgages originated on which defaults or foreclosures occurred during the applicable collection period.

(B) For each designated census tract, the total number of mortgages originated during the applicable collection period that are insured pursuant to section 203, the number of defaults and foreclosures occurring on such mortgages during such period, and the percentage of the total insured mortgage originations during the period on which defaults or foreclosures occurred.

(c) ANNUAL REPORTS.—The Secretary shall submit to the Congress annually a report containing the information collected and maintained under subsection (b) for the relevant year.[599]

(d) DEFINITIONS.—For purposes of this section:

(1) APPLICABLE COLLECTION PERIOD.—The term "applicable collection period" means the 5-year period ending on the last day of the calendar quarter for which information under this section is collected.

(2) DESIGNATED CENSUS TRACT.—The term "designated census tract" means a census tract located within a metropolitan statistical area, as defined pursuant to regulations issued by the Secretary of Commerce.

Sec. 541. [12 U.S.C. 1735f-19]
PARTIAL PAYMENT OF CLAIMS ON DEFAULTED MORTGAGES AND IN CONNECTION WITH MORTGAGE RESTRUCTURING.

(a) DEFAULTED MORTGAGES.—Notwithstanding any other provision of law, if the Secretary is requested to accept assignment of a mortgage insured by the Secretary that covers a multifamily housing project (as such term is defined in section 203(b) of the Housing and Community Development Amendments of 1978 or a health care facility (including a nursing home, intermediate care facility, or board and care home (as those terms are defined in section 232 of this Act), a hospital (as that term is defined in section 242 of this Act), or a group practice facility (as that term is defined in section 1106 of this Act)))[600] and the Secretary determines that partial payment would be less costly to the Federal Government than other reasonable alternatives for maintaining the low-income character of the project, or for keeping the health care facility operational to serve community needs, the Secretary may request the mortgagee, in lieu of assignment, to—

(1) accept partial payment of the claim under the mortgage insurance contract; and

(2) recast the mortgage, under such terms and conditions as the Secretary may determine.

(b) EXISTING MORTGAGES.—Notwithstanding any other provision of law, the Secretary, in connection with a mortgage restructuring under section 514 of the Multifamily Assisted Housing Reform and Affordability Act of 1997, may make a one time, nondefault partial or full payment of claim under one or more mortgage insurance contracts, which shall include a determination by the Secretary or the participating administrative entity, in accordance with the Multifamily Assisted Housing Reform and Affordability Act of 1997, of the market value of the project and a restructuring of the mortgage, under such terms and conditions as are permitted by section 517(a) of such Act.

(c) REPAYMENT.—As a condition to a partial claim payment under this section, the mortgagor shall agree to repay to the Secretary the amount of such payment and such obligation shall be secured by a second mortgage on the property on such terms and conditions as the Secretary may determine.

Sec. 542. [12 U.S.C. 1735f-20]
AUTHORIZATION OF APPROPRIATIONS FOR GENERAL AND SPECIAL RISK INSURANCE FUNDS.

There are authorized to be appropriated such sums as may be necessary for each of fiscal years 1994 and 1995, to be allocated in any manner that the Secretary determines appropriate, for the following costs incurred in conjunction with programs authorized under the General Insurance Fund, as provided by section 519, and the Special Risk Insurance Fund, as provided by section 238:

(1) The cost to the Government, as defined in section 502 of the Congressional Budget Act, of new insurance commitments.

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[599] Section 3003(a)(1) of the Federal Reports Elimination and Sunset Act of 1995, Pub. L. 104-66, which is set forth post in part XII of this compilation, provides that certain provisions of law requiring submittal to Congress of an annual, semiannual, or other regular periodic report shall cease to be effective on May 15, 2000. This subsection is covered by such provision. However, section 1102 of the American Homeownership and Economic Opportunity Act of 2000, Public Law 106-569, set forth post in part XII of this compilation, provides that such section 3003(a)(1) shall not apply to the report required to be submitted under this subsection.

[600] So in law.

(2) The cost to the Government, as defined in section 502 of the Congressional Budget Act, of modifications to existing loans, loan guarantees, or insurance commitments.

(3) The cost to the Government, as defined in section 502 of the Congressional Budget Act, of loans provided under section 203(f) of the Housing and Community Development Amendments of 1978.

(4) The costs of the rehabilitation of multifamily housing projects (as defined in section 203(b) of the Housing and Community Development Amendments of 1978) upon disposition by the Secretary.

TITLE VI—WAR HOUSING INSURANCE

[Note.—Title VI of the National Housing Act authorized the Secretary to ensure mortgages for sale and rental housing to relieve the acute housing shortage and provide housing for World War II veterans.]

TITLE VII—INSURANCE FOR INVESTMENTS IN RENTAL HOUSING FOR FAMILIES OF MODERATE INCOME

[Note.—Title VII of the National Housing Act provided a special system of insurance designed to encourage equity investment in rental housing for families of moderate income.]

TITLE VIII—ARMED SERVICES HOUSING MORTGAGE INSURANCE

Sec. 801. [12 U.S.C. 1748]

As used in this title—

(a) The term "mortgage" means a first mortgage on real estate, in fee simple, or on a leasehold (1) under a lease for not less than ninety-nine years which is renewable; or (2) under a lease for a period of not less than fifty years to run from the date the mortgage was executed; and the term "first mortgage" means such classes of first liens as are commonly given to secure advances on, or the unpaid purchase price of, real estate, under the law of the State in which the real estate is located, together with the credit instruments, if any, secured thereby.

(b) The term "mortgagee" includes the original lender under a mortgage, and his successors and assigns approved by the Secretary; and the term "mortgagor" includes the original borrower under a mortgage, his successors and assigns.

(c) The term "maturity date" means the date on which the mortgage indebtedness would be extinguished if paid in accordance with periodic payments provided for in the mortgage.

(d) The term "housing accommodations" means housing designed for occupancy by military personnel and their dependents, assigned to duty at or near the military installation where such housing units are constructed.

(e) The term "personnel" shall include military and civilian personnel approved by the Secretary of Defense, or his designee, and the dependents of all such personnel.

(f) The term "military" includes Army, Navy, Marine Corps, Air Force, and Coast Guard.

(g) The term "State" includes the several States and Puerto Rico, the District of Columbia, Guam, the Virgin Islands, the Canal Zone, and Midway Island.

[Sec. 802. [Repealed.]]

Sec. 803. [12 U.S.C. 1748b]

(a) In order to assist in relieving the acute shortage and urgent need for family housing which now exists at or in areas adjacent to military installations because of uncertainty as to the permanency of such installations and to increase the supply of necessary family housing accommodations for personnel at such installations, the Secretary is authorized, upon application of the mortgagee, to insure mortgages (including advances on such mortgages during construction) which are eligible for insurance as hereinafter provided, and, upon such terms as the Secretary may prescribe, to make commitments for so insuring such mortgages prior to the date of their execution or disbursement thereon: *Provided*, That the aggregate amount of principal obligations of all mortgages insured under this title (except mortgages insured pursuant to the provisions of this title in effect prior to the enactment of the Housing Amendments of 1955) shall not exceed $2,300,000,000: *And provided further*, That the limitation in section 217 of this Act shall not apply to this title: *And provided further*, That no more mortgages shall be insured under this section after October 1, 1962, except pursuant to a commitment to insure before such date, and not more than

twenty-eight thousand family housing units shall be contracted for after June 30, 1959, pursuant to any mortgage insured under this section after such date.

(b) To be eligible for insurance under this title a mortgage shall meet the following conditions:

(1) The mortgaged property shall be held by a mortgagor approved by the Secretary. The Secretary may, in his discretion, require such mortgagor to be regulated or restricted as to capital structure, and methods of operation. The Secretary may make such contracts with, and acquire for not to exceed $100 stock or interest in, any such mortgagor, as the Secretary may deem necessary to render effective such restriction or regulation. Such stock or interest shall be paid for out of the General Insurance Fund, and shall be redeemed by the mortgagor at par upon the termination of all obligations of the Secretary under the insurance.

(2) The mortgaged property shall be designed for use for residential purposes by personnel of the armed services and situated at or near a military installation, and the Secretary of Defense or his designee shall have certified that there is no intention, so far as can reasonably be foreseen, to substantially curtail the personnel assigned or to be assigned to such installation, and (i) shall have determined that for reasons of safety, security, or other essential military requirements, it is necessary that the personnel involved reside in public quarters: *Provided however*, That for the purposes of this subsection housing covered by a mortgage insured, or for which a commitment to insure has been issued, under section 803 prior to the enactment of the "Housing Amendments of 1955" may be considered the same as available quarters, and (ii) with the approval of the Secretary, shall have determined that adequate housing is not available for such personnel at reasonable rentals within reasonable commuting distance of the installation and that the mortgaged property will not, so far as can reasonably be foreseen, substantially curtail occupancy in existing housing covered by mortgages insured under this Act. The housing accommodations shall comply with such standards and conditions as the Secretary may prescribe to establish the acceptability of such property for mortgage insurance, except that the certification of the Secretary of Defense or his designee shall (for purposes of mortgage insurance under this title) be conclusive evidence to the Secretary of the existence of the need for such housing. However, if the Secretary does not concur in the housing needs as certified by the Secretary of Defense, the Secretary may require the Secretary of Defense to guarantee the General Insurance Fund against loss with respect to the mortgage covering such housing. There are hereby authorized to be appropriated such sums as may be necessary to provide for payment to meet losses arising from such guaranty.

(3) The mortgage shall involve a principal obligation in an amount—

(A) not to exceed the amount which the Secretary estimates will be the replacement cost of the property or project when the proposed improvements are completed (the cost of the property or project as such term is used in this paragraph may include the cost of the land, the physical improvements, and utilities within the boundaries of the property or project);

(B) not to exceed an average of $16,500 per family unit for such part of such property or project (including ranges, refrigerators, shades, screens, and fixtures) as may be attributable to dwelling use: *Provided*, That the replacement cost of the property or project as determined by the Secretary, including the estimated value of any usable utilities within the boundaries of the property or project where owned by the United States and not provided for out of the proceeds of the mortgage, shall not exceed an average of $16,500 per family unit: *Provided further*, That should the financing of housing to be constructed pursuant to a single invitation for bids be accomplished by two or more mortgages, the principal obligation of any single mortgage may exceed an average of $16,500 per family unit if the sum of the principal obligations of all mortgages for such housing does not exceed an average of $16,500 per family unit: *And provided further*, That subject to the limitations of this paragraph no family unit included in any mortgaged property shall be contracted for after the date of enactment of the Military Construction Act of 1960[601] if the cost of such unit exceeds $19,800; and

(C) not to exceed the bid of the eligible bidder with respect to the property or project under section 403 of the Housing Amendments of 1955.

The mortgage shall provide for complete amortization by periodic payments within such terms as the Secretary shall prescribe, but not to exceed thirty years from the beginning of amortization of the mortgage, and shall bear interest (exclusive of premium charges for insurance) at not to exceed 41/2 per centum per annum of the amount of the principal obligation outstanding at any time. The Secretary may consent to the release of a part or parts of the

[601] June 8, 1960.

mortgaged property from the lien of the mortgage upon such terms and conditions as he may prescribe and the mortgage may provide for such release. The property or project may include such nondwelling facilities as the Secretary deems adequate to serve the occupants.

(c) The Secretary is authorized to fix a premium charge for the insurance of mortgages under this title but in the case of any mortgage such charge shall not be less than an amount equivalent to one-half of 1 per centum per annum nor more than an amount equivalent to 11/2 per centum per annum of the amount of the principal obligation of the mortgage outstanding at any time, without taking into account delinquent payments or prepayments. Such premium charges shall be payable by the mortgagee, either in cash, or in debentures issued by the Secretary under this title at par plus accrued interest, in such manner as may be prescribed by the Secretary: *Provided*, That the Secretary may require the payment of one or more such premium charges at the time the mortgage is insured, at such discount rate as he may prescribe not in excess of the interest rate specified in the mortgage. If the Secretary finds, upon the presentation of a mortgage for insurance and the tender of the initial premium charge and such other charges as the Secretary may require, that the mortgage complies with the provisions of this title, such mortgage may be accepted for insurance by endorsement or otherwise as the Secretary may prescribe. In the event that the principal obligation of any mortgage accepted for insurance under this title is paid in full prior to the maturity date, the Secretary is authorized to refund to the mortgagee for the account of the mortgagor all, or such portion as he shall determine to be equitable, of the current unearned premium charges theretofore paid. The Secretary may reduce the payment of premiums provided for herein. The Secretary is further authorized to reduce the amount of the premium charge below one-half of 1 per centum per annum with respect to any mortgage on property acquired by the Secretary of Defense or his designee if the mortgage is insured pursuant to the provisions of this title as in effect prior to August 11, 1955.

(d) The failure of the mortgagor to make any payment due under or provided to be paid by the terms of a mortgage insured under this title shall be considered a default under such mortgage, and, if such default continues for a period of thirty days, the mortgagee shall be entitled to receive the benefits of the insurance as hereinafter provided, upon assignment, transfer, and delivery to the Secretary, within a period and in accordance with rules and regulations to be prescribed by the Secretary of (1) all rights and interests arising under the mortgage so in default; (2) all claims of the mortgagee against the mortgagor or others, arising out of the mortgage transactions; (3) all policies of title or other insurance or surety bonds or other guaranties and any and all claims thereunder; (4) any balance of the mortgage loan not advanced to the mortgagor; (5) any cash or property held by the mortgagee, or to which it is entitled, as deposits made for the account of the mortgagor and which have not been applied in reduction of the principal of the mortgage indebtedness; and (6) all records, documents, books, papers, and accounts relating to the mortgage transaction. Upon such assignment, transfer, and delivery, the obligation of the mortgagee to pay the premium charges for mortgage insurance shall cease, and the Secretary shall, subject to the cash adjustment provided for in subsection (e) of this section, issue to the mortgagee debentures having a total face value equal to the value of the mortgage, and a certificate of claim as hereinafter provided. For the purposes of this subsection, the value of the mortgage shall be determined in accordance with rules and regulations prescribed by the Secretary, by adding to the amount of the original principal obligation of the mortgage which was unpaid on the date of default, the amount the mortgagee may have paid for (A) taxes, special assessments, and water rates, which are liens prior to the mortgage; (B) insurance on the property; and (C) reasonable expenses for the completion and preservation of the property and any mortgage insurance premiums paid after default; less the sum of (i) any amount received on account of the mortgage after such date; and (ii) any net income received by the mortgagee from the property after such date.

(e) Debentures issued under this title shall be in such form and denominations in multiples of $50, shall be subject to such terms and conditions, and shall include such provisions for redemption, if any, as may be prescribed by the Secretary with the approval of the Secretary of the Treasury, and may be in coupon or registered form. Any difference between the value of the mortgage determined as herein provided and the aggregate face value of the debentures issued not to exceed $50, shall be adjusted by the payment of cash by the Secretary to the mortgagee from the General Insurance Fund.

(f) Debentures issued under this title shall be executed in the name of the General Insurance Fund as obligor, shall be signed by the Secretary, by either his written or engraved signature, and shall be negotiable. All such debentures shall be dated as of the date of default as determined in accordance with subsection (d) of this section, and shall bear interest from such date at a rate established by the Secretary pursuant to section 224, payable semiannually on the 1st day of January and the 1st day of July each year, and shall mature twenty years after the date thereof. Such debentures shall be exempt, both as to principal and interest, from all taxation (except surtaxes, estate, inheritance, and gift taxes) now or hereafter imposed by any Territory, dependency, or possession of the United States or by the District of Columbia, or by any State, county, municipality, or local taxing authority. They

shall be paid out of the General Insurance Fund, which shall be primarily liable therefor, and they shall be fully and unconditionally guaranteed as to principal and interest by the United States, and such guaranty shall be expressed on the face of the debentures. In the event the General Insurance Fund fails to pay upon demand, when due, the principal of or interest on any debentures so guaranteed, the Secretary of the Treasury shall pay to the holders the amount thereof which is hereby authorized to be appropriated, and thereupon to the extent of the amount so paid the Secretary of the Treasury shall succeed to all the rights of the holders of such debentures.

(g) The certificate of claim issued by the Secretary to any mortgagee in connection with the insurance of mortgages under this title shall be for an amount determined in accordance with subsections (e) and (f) of section 604 of this Act, except that any amount remaining after the payment of the full amount under the certificate of claim shall be retained by the Secretary and credited to the General Insurance Fund.

(h) The provisions of section 207(k) and section 207(l) of this Act shall be applicable to mortgages insured under this title and to property acquired by the Secretary hereunder, except that, as applied to such mortgages and property, the reference in section 207(k) to subsection (g) shall be construed to refer to subsection (d) of this section.

(i) The Secretary shall also have power to insure under this title or title II any mortgage executed in connection with the sale by him of any property acquired under this title without regard to any limit as to eligibility, time or aggregate amount contained in this title or title II.

(j) Any contract of insurance executed by the Secretary under this title shall be conclusive evidence of the eligibility of the mortgage for insurance and the validity of any contract of insurance so executed shall be incontestable in the hands of an approved mortgagee from the date of the execution of such contract, except for fraud or misrepresentation on the part of such approved mortgagee.

(k) The Secretary shall not insure any mortgage under this section unless the principal contractor or contractors engaged in the construction of the project involved file a certificate or certificates (at such times, in the course of construction or otherwise, as the Secretary may prescribe) certifying that the laborers and mechanics employed in the construction of such project have been paid not less than one and one-half times the regular rate of pay for employment in excess of eight hours in any one day or in excess of forty hours in any one week.

[Sec. 804. [Repealed.]]

Sec. 805. [12 U.S.C. 1748d]

Whenever the Secretary of the Army, Navy, or Air Force determines that it is necessary to lease any land held by the United States on or near a military installation to effectuate the purposes of this title, he may lease such land upon such terms and conditions as will, in his opinion, best serve the national interest. The authority conferred by this section shall be in addition to and not in derogation of any other power or authority of the Secretary of the Army, Navy, or Air Force.

Sec. 806. [12 U.S.C. 1748e]

The second sentence of section 214 of the National Housing Act, as amended, relating to housing in the State of Alaska, shall not apply to mortgages insured under this title on property in said State.

Sec. 807. [12 U.S.C. 1748f]

The Secretary is authorized and directed to make such rules and regulations as may be necessary to carryout the provisions of this title.

Sec. 808. [12 U.S.C. 1748g]

Except in the case of mortgages on multifamily rental housing projects insured under section 810, the cost certification required under section 227 of this Act shall not be required with respect to mortgages insured under the provisions of this title as amended by the Housing Amendments of 1955.[602]

Sec. 809. [12 U.S.C. 1748h-1]

(a) Notwithstanding any other provisions of this title and in addition to mortgages insured under section 803, the Secretary may insure any mortgage under this section which meets the eligibility requirements set forth in section 203(b) of this Act: *Provided*, That a mortgage insured under this section shall have been executed by a

[602] Section 4 of Pub. L. 216, 84th Congress, 69 Stat. 448, approved August 3, 1955, amended the Renegotiation Act of 1951 to provide for renegotiation of any contract awarded for the construction of housing financed with a mortgage or mortgages insured under the provisions of title VIII, as amended.

mortgagor who at the time of insurance is the owner of the property and either occupies the property or certifies that his failure to do so is the result of a change in his employment by the Armed Forces or a contractor thereof and to whom the Secretary of Defense or his designee has issued a certificate indicating that such person requires housing and is at the date of the certificate a civilian employee at a research or development installation of one of the military departments of the United States or a contractor thereof and is considered by such military department to be an essential, nontemporary employee at such date. Such certificate shall be conclusive evidence to the Secretary of the employment status of the mortgagor and of the mortgagor's need for housing.

(b) No mortgage shall be insured under this section unless the Secretary of Defense or his designee shall have certified to the Secretary that the housing is necessary to provide adequate housing for such civilians employed in connection with such a research or development installation and that there is no present intention to substantially curtail the number of such civilian personnel assigned or to be assigned to such installation. Such certification shall be conclusive evidence to the Secretary of the need for such housing but if the Secretary determines that insurance of mortgages on such housing is not an acceptable risk, he may require the Secretary of Defense to guarantee the General Insurance Fund from loss with respect to mortgages insured pursuant to this section: *Provided*, That the Secretary shall relieve the Secretary of Defense from any obligation to guarantee the General Insurance Fund from loss with respect to a mortgage assumed by a person ineligible to receive a certificate under subsection (a), if the original mortgagor is issued another certificate with respect to a mortgage insured under this section on property which the Secretary determines is not an acceptable risk. There are hereby authorized to be appropriated such sums as may be necessary to provide for payment to meet losses arising from such guaranty.

(c) The Secretary may accept any mortgage for insurance under this section without regard to any requirement in any other section of this Act, that the project or property be economically sound or an acceptable risk.

(d) Any mortgagee under a mortagage insured under this section is entitled to the benefits of insurance as provided in section 204(a) with respect to mortgages insured under section 203.

(e) The provisions of subsections (b), (c), (d), (e), (f), (g), (h), (j), and (k) of section 204 shall apply to mortgages insured under this section except that as applicable to those mortgages: (1) all references to the "Fund" or "Mutual Mortgage Insurance Fund" shall refer to the "General Insurance Fund" and (2) all references to section 203 shall refer to this section.

(f) The provisions of sections 801, 802, 803(c), 803(i), 803(j), 804(a), 804(b), and 807 and the provisions of section 803(a) relating to the aggregate amount of all mortgages insured under this title, shall be applicable to mortgages insured under this section.

(g)(1) A mortgage secured by property which is intended to provide housing for a person (i) employed or assigned to duty at or in connection with any research or development installation of the National Aeronautics and Space Administration and which is located at or near such installation, or (ii) employed at any research or development installation of the Atomic Energy Commission and which is located at or near such installation, may (if the mortgage otherwise meets the requirements of this section) be insured by the Secretary under the provisions of this section. The Administrator of the National Aeronautics and Space Administration (or his designee), in the case of any mortgage secured by property intended to provide housing for any person employed or assigned to duty at any such installation of the National Aeronautics and Space Administration, or the Chairman of the Atomic Energy Commission (or his designee), in the case of any mortgage secured by property intended to provide housing for any person employed at such installation of the Atomic Energy Commission, is authorized to guarantee and indemnify the General Insurance Fund against loss to the extent required by the Secretary, in accordance with the provisions of subsection (b) of this section.

(2) For purpose of this subsection—

(i)[603] The terms "Armed Forces", "one of the military departments of the United States", "military department", "Secretary of Defense or his designee", and "Secretary", when used in subsections (a) and (b) of this section, shall be deemed to refer to the National Aeronautics and Space Administration (or the Administrator thereof), or the Atomic Energy Commission (or the Chairman thereof), as may be appropriate;

(ii)[604] The term "Secretary of the Army, Navy, or Air Force", when used in section 805, shall be deemed to refer to the National Aeronautics and Space Administration or the Administrator thereof, as may be appropriate;

[603] So in law. Probably should be designated as subparagraph (A).
[604] So in law. Probably should be designated as subparagraph (B).

(iii)[605] The terms "civilian employee", "civilians", and "civilian personnel", as used in this section, shall be deemed to refer to (A) employees of the National Aeronautics and Space Administration or a contractor thereof or to military personnel assigned to duty at an installation of the National Aeronautics and Space Administration, or (B) persons employed at or in connection with any research or development installation of the Atomic Energy Commission, as the case may be; and

(iv)[606] The term "military installation" when used in section 805 shall be deemed to refer to an installation of the National Aeronautics and Space Administration.

Sec. 810. [12 U.S.C. 1748h-2]

(a) Notwithstanding any other provision of this title, the Secretary may insure and make commitments to insure any mortgage under this section which meets the eligibility requirements hereinafter set forth.

(b) No mortgage shall be insured under this section unless (1) the housing which is covered by the insured mortgage is necessary in the interest of national security in order to provide adequate housing for (A) military personnel and essential civilian personnel serving or employed in connection with any installation of one of the armed services of the United States, or (B) essential personnel employed or assigned to duty at or in connection with any research or development installation of the National Aeronautics and Space Administration or of the Atomic Energy Commission, (2) there is no present intention to curtail substantially the number of such personnel assigned or to be assigned to the installation, (3) adequate housing is not available for such personnel at reasonable rentals within reasonable commuting distances of such installations, and (4) the mortgaged property will not so far as can be reasonably foreseen substantially curtail occupancy in any existing housing in the vicinity of the installation which is covered by mortgages insured under this Act.

(c) The Secretary may accept any mortgage for insurance under this section without regard to any requirement in any other section of this Act that the property or project be economically sound.

(d) The Secretary shall require each project covered by a mortgage insured under this section to be held for rental for a period of not less than five years after the project or dwelling is made available for initial occupancy or until he finds that the housing may be released from such rental condition. The Secretary shall prescribe such procedures as in his judgment are necessary to secure reasonable preference or priority in the sale or rental of dwellings covered by a mortgage insured under this section for military personnel and essential civilian employees of the armed services, employees of contractors for the armed services and persons described in clause (1)(B) of subsection (b) of this section.

(e) For the purpose of providing multifamily rental housing projects or housing projects consisting of individual single-family dwellings for sale, the Secretary is authorized to insure mortgages (including advances on such mortgages during construction) which cover property held by a mortgagor approved by the Secretary. Any such mortgagor shall possess powers necessary therefor and incidental thereto and shall until the termination of all obligations of the Secretary under such insurance be regulated or restricted as to rents or sales, charges, capital structure, rate of return, and methods of operation to such extent and in such manner as to provide reasonable rentals to tenants and a reasonable return on the investment. The Secretary may make such contracts with, and acquire for not to exceed $100 such stock or interest in, any such mortgagor as he may deem necessary to render effective such restriction or regulation. Such stock or interest shall be paid for out of the General Insurance Fund, and shall be redeemed by the mortgagor at par upon the termination of all obligations of the Secretary under the insurance.

(f) To be eligible for insurance under this section, a mortgage on any multifamily rental property or project shall involve a principal obligation in an amount not to exceed, for such part of such property or project as may be attributable to dwelling use, $9,000 per family unit without a bedroom, $12,500 per family unit with one bedroom, $15,000 per family unit with two bedrooms, and $18,500 per family unit with three or more bedrooms and not to exceed 90 per centum of the estimated value of the property or project when the proposed physical improvements are completed. The Secretary may, by regulation, increase any of the foregoing dollar amount limitations contained in this paragraph by not to exceed 45 per centum in any geographical area where he finds that cost levels so require.

(g) To be eligible for insurance under this section a mortgage on any property or project constructed for eventual sale or single-family dwellings, shall involve a principal obligation in an amount not to exceed a sum computed on the basis of a separate mortgage for each single-family dwelling (irrespective of whether such dwelling has a party wall or is otherwise physically connected with another dwelling or dwellings) comprising the property, or project equal to the total of each of the maximum principal obligations of such mortgages which would meet the

[605] So in law. Probably should be designated as subparagraph (C).
[606] So in law. Probably should be designated as subparagraph (D).

requirements of section 203(b)(2) of this Act if the mortgagor were the owner and occupant who had made the required payment on account of the property prescribed in such paragraph.

(h) Any mortgage insured under this section shall provide for complete amortization by periodic payments within such terms as the Secretary may prescribe but not to exceed the maximum term applicable to mortgages under section 207 of this Act and shall bear interest at such rate as may be agreed upon by the mortgagor and the mortgagee, except that individual mortgages of the character described in subsection (g) covering the individual dwellings in the project may have a term not in excess of the maximum term applicable to mortgages insured under section 203 of this Act or the unexpired term of the project mortgage at the time of the release of the mortgaged property from such project mortgage, whichever is the greater, and shall bear interest at such rate as may be agreed upon by the mortgagor and the mortgagee. The Secretary may consent to the release of a part or parts of the mortgaged property from the lien of the mortgage upon such terms and conditions as he may prescribe and the mortgage may provide for such release, and a mortgage of the character described in subsection (g) of this section may provide that, at any time after the release of the project from the rental period prescribed by subsection (d), such mortgage may be replaced, in whole or in part, by individual mortgages covering each individual dwelling in the project in amounts not to exceed the unpaid balance of the blanket mortgage allocable to the individual property. Each such individual mortgage may be insured under this section. Property covered by a mortgage insured under this section may include eight or more family units and may include such commercial and community facilities as the Secretary deems adequate to serve the occupants.

(i) The aggregate number of dwelling units (including all units in multifamily projects or individual dwellings) covered by outstanding commitments to insure and mortgages insured under this section shall at no time exceed five thousand dwelling units.

(j) The provisions of subsections (d), (e), (g), (h), (i), (j), (k), (l), and (n) of section 207 of this title shall be applicable to mortgages insured under this section except individual mortgages of the character described in subsection (g) of this section covering the individual dwellings in the project, and as to such individual mortgages the provisions of subsections (a), (c), (d), (e), (f), (g), (h), (j), and (k) of section 204 shall be applicable: *Provided*, That wherever the word “Fund”, or “Mutual Mortgage Insurance Fund” appear in section 204, such reference shall refer to the General Insurance Fund with respect to mortgages insured under this section.

(k) The provisions of sections 801, 802, 803(c), 803(i), 803(j), 804(a), 804(b), and 807 and the provisions of section 803(a) relating to the aggregate amount of all mortgages insured under this title shall be applicable to mortgages insured under this section.

Sec. 811. [12 U.S.C. 1748h-3]

(a) The Secretary is authorized to make payments in lieu of taxes on any real property to which title has been or is hereafter acquired by him in fee under section 803 as effective prior to August 11, 1955, and on which taxes or payments in lieu of such taxes were payable or paid prior to acquisition by the Secretary. Such payments may be made in connection with tax years occurring prior to or subsequent to the date of the enactment of this section. The amount of any such payments shall not exceed taxes on similar property and shall not include interest or penalties. If the Secretary has acquired or hereafter acquires title in fee to real property by foreclosure or by transfer from some other department or agency of the Government or otherwise during a tax year, he may make a payment in lieu of taxes prorated for that portion of the year remaining after his acquisition of title. This subsection shall not authorize any lien against property held by the Secretary, nor the payment of any tax, nor any payment in lieu of any tax, on any interest of the Secretary as lessee or mortgagee.

(b) Nothing in this title shall be construed to exempt any real property which has been or is hereafter acquired and held by the Secretary under section 809 or 810 from taxation by any State or political subdivision thereof, to the same extent, according to its value, as other real property is taxed.

TITLE IX—NATIONAL DEFENSE HOUSING INSURANCE (NOTE)

[Note.—Title IX of the National Housing Act provides a new mortgage insurance program designed to encourage the production of housing in critical defense housing areas.]

[TITLE X—MORTGAGE INSURANCE FOR LAND DEVELOPMENT] (NOTE)

[Note.—Title X of the National Housing Act provided a mortgage insurance program designed to encourage purchase of raw acreage and development of improved buildings and related sites in an orderly and economical manner. Title X was repealed by section 133(a) of Public Law 101-235.[607]]

TITLE XI—MORTGAGE INSURANCE FOR GROUP PRACTICE FACILITIES

Sec. 1101. [12 U.S.C. 1749aaa]
INSURANCE OF MORTGAGES.

(a) The Secretary is authorized (1) to insure mortgages (including advances on such mortgages during construction) upon such terms and conditions as he may prescribe, in accordance with the provisions of this title, and (2) to make commitments for the insuring of such mortgages prior to the date of their execution or disbursement thereon.

(b) To be eligible for insurance under this title, the mortgage shall (1) be executed by a mortgagor that is a group practice unit or organization or other mortgagor, approved by the Secretary, (2) be made to and held by a mortgagee approved by the Secretary as responsible and able to service the mortgage properly, and (3) cover a property or project which is approved for mortgage insurance prior to the beginning of construction or rehabilitation and is designed for use as a group practice facility or medical practice facility which the Secretary finds will be constructed in an economical manner, will not be of elaborate or extravagant design or materials, and will be adequate and suitable for carrying out the purposes of this title. No mortgage shall be insured under this title unless it is shown to the satisfaction of the Secretary that the applicant would be unable to obtain the mortgage loan without such insurance on terms comparable to those specified in subsection (c).

(c) The mortgage shall—

[(1) [Repealed.]]

(2) not exceed 90 per centum of the amount which the Secretary estimates will be the replacement cost of the property or project when construction or rehabilitation is completed. The replacement cost of the property may include the land and the proposed physical improvements, equipment, utilities within the boundaries of the property, a solar energy system (as defined in subparagraph (3) of the last paragraph of section 2(a) of this Act) or residential energy conservation measures (as defined in section 210(11) (A) through (G) and (I) of Public Law 95-619) in cases where the Secretary determines that such measures are in addition to those required under the minimum property standards and will be cost-effective over the life of the measure, architects' fees, taxes, and interest accruing during construction or rehabilitation, and other miscellaneous charges incident to construction or rehabilitation and approved by the Secretary;

(3) have a maturity satisfactory to the Secretary but not to exceed twenty-five years from the beginning of amortization of the mortgage, and provide for complete amortization of the principal obligation by periodic payments within such terms as the Secretary shall prescribe; and

(4) bear interest at such rate as may be agreed upon by the mortgagor and the mortgagee.

(d) Any contract of insurance executed by the Secretary under this title shall be conclusive evidence of the eligibility of the mortgage for insurance, and the validity of any contract for insurance so executed shall be incontestable in the hands of an approved mortgagee from the date of the execution of such contract, except for fraud or misrepresentation on the part of such approved mortgagee.

(e) Each mortgage insured under this title shall contain an undertaking (in accordance with regulations prescribed under this title and in force at the time the mortgage is approved for insurance) to the effect that, except as authorized by the Secretary and the mortgagee, the property will be used as a group practice facility or medical practice facility until the mortgage has been paid in full or the contract of insurance otherwise terminated.

(f) No mortgage shall be insured under this title unless the mortgagor and the mortgagee certify (1) that they will keep such records relating to the mortgage transaction and indebtedness, to the construction of the facility covered by the mortgage, and to the use of such facility as a group practice facility or medical practice facility as are prescribed by the Secretary at the time of such certification, (2) that they will make such reports as may from time to

[607] Subsections (b) and (c) of section 133 of the Department of Housing and Urban Development Reform Act of 1989, Pub. L. 101-235, approved December 15, 1989, 12 U.S.C. 1749aa note, provide as follows:

"(b) APPLICABILITY.—On or after the date of enactment of this Act, no mortgage may be insured under title X, as such title existed immediately before such date, except pursuant to a commitment to insure made before such date.

"(c) SAVINGS PROVISION.—Any contract of insurance entered into under title X before the date of enactment of this Act shall be governed by the provisions of such title as such title existed immediately before such date.".

time be required by the Secretary pertaining to such matters, and (3) that the Secretary shall have access to and the right to examine and audit such records.

Sec. 1102. [12 U.S.C. 1749aaa-1]
PREMIUMS.

The Secretary shall fix premium charges for the insurance of mortgages under this title, but such charges shall not be more than 1 per centum per annum of the amount of the principal obligation of the mortgage outstanding at any time, without taking into account delinquent payments or prepayments. In addition to the premium charge, the Secretary is authorized to charge and collect such amounts as he may deem reasonable for the analysis of a proposed project and the appraisal and inspection of the property and improvements. Where the principal obligation of any mortgage accepted for insurance under this title is paid in full prior to the maturity date, the Secretary is authorized to require the payment by the mortgagee of an adjusted premium charge. This charge shall be in such amount as the Secretary determines to be equitable, but not in excess of the aggregate amount of the premium charges that the mortgagee would otherwise have been required to pay if the mortgage had continued to be insured until the maturity date. Where such prepayment occurs, the Secretary is authorized to refund to the mortgagee for the account of the mortgagor all, or such portion as he shall determine to be equitable, of the current unearned premium charges theretofore paid. Premium charges fixed under this section shall be payable by the mortgagee either in cash, or in debentures which are the obligation of the General Insurance Fund at par plus accrued interest, at such times and in such manner as may be prescribed by the Secretary.

Sec. 1103.[12 U.S.C. 1749aaa-2]
PAYMENT OF INSURANCE BENEFITS.

The mortgagee shall be entitled to receive the benefits of the insurance under this title in the manner provided in subsection (g) of section 207 with respect to mortgages insured under that section. For such purpose the provisions of subsections (g), (h), (i), (j), (k), (l), and (n) of section 207 shall apply to mortgages insured under this title and all references in such subsection to section 207 shall be deemed to refer to this title.

Sec. 1104. [12 U.S.C. 1749aaa-3]
REGULATIONS.

The Secretary shall prescribe such regulations as may be necessary to carry out this title, after consulting with the Secretary of Health and Human Services with respect to any health or medical aspects of the program under this title which may be involved in such regulations.

Sec. 1105. [12 U.S.C. 1749aaa-4]
ADMINISTRATION.

(a) At the request of individuals or organizations operating or contemplating the operation of group practice facilities or medical practice facility (as defined in section 1106), the Secretary may provide or obtain technical assistance in the planning for and construction of such facilities.

(b) With a view to avoiding unnecessary duplication of existing staffs and facilities of the Federal Government, the Secretary is authorized to utilize available services and facilities of any agency of the Federal Government in carrying out the provisions of this title, and to pay for such services and facilities, either in advance or by way of reimbursement, in accordance with an agreement between the Secretary and the head of such agency.

Sec. 1106. [12 U.S.C. 1749aaa-5]
DEFINITIONS.

For the purposes of this title—

(1) The term “group practice facility” means a facility in a State for the provision of preventive, diagnostic, and treatment services to ambulatory patients (in which patient care is under the professional supervision of persons licensed to practice medicine or osteopathy in the State or, in the case of optometric care or treatment, is under the professional supervision of persons licensed to practice optometry in the State, or, in the case of dental diagnosis or treatment, is under the professional supervision of persons licensed to practice dentistry in the State, or, in the case of podiatric care or treatment, is under the professional supervision of persons licensed to practice podiatry in the State) and which is primarily for the provision of such health services by a medical or dental group.

(2) The term “medical practice facility” means an adequately equipped facility in which not more than four persons licensed to practice medicine in the State where the facility is located can provide, as may be appropriate, preventive, diagnostic, and treatment services, and which is situated in a rural area or small town, or in a low-income

section of an urban area, in which there exists, as determined by the Secretary, a critical shortage of physicians. As used in this paragraph—

(A) the term "small town" means any town, village, or city having a population of not more than 10,000 inhabitants according to the most recent available data compiled by the Bureau of the Census; and

(B) the term "low-income section of an urban area" means a section of a larger urban area in which the median family income is substantially lower, as determined by the Secretary, than the median family income for the area as a whole.

(3) The term "medical or dental group" means a partnership or other association or group of persons licensed to practice medicine, osteopathy or surgery in the State, or of persons licensed to practice optometry in the State, or of persons licensed to practice dentistry in the State, or of persons licensed to practice podiatry in the State or of any combination of such persons, who, as their principal professional activity and as a group responsibility, engage or undertake to engage in the coordinated practice of their profession primarily in one or more group practice facilities, and who (in this connection) share common overhead expenses (if and to the extent such expenses are paid by members of the group), medical and other records, and substantial portions of the equipment and the professional, technical, and administrative staffs, and which partnership or association or group is composed of at least such professional personnel and make available at least such health services as may be provided in regulations prescribed under this title.

(4) The term "group practice unit or organization" means—

(A) a private nonprofit agency or organization undertaking to provide, directly or through arrangements with a medical or dental group, comprehensive medical care, osteopathic care, optometric care, dental care, or podiatric care, or any combination thereof, which may include hospitalization, to members or subscribers primarily on a group practice prepayments basis; or

(B) a private nonprofit agency or organization established for the purpose of improving the availability of medical, optometric, osteopathic, or dental or podiatric, care in the community or having some function or functions related to the provision of such care, which will, through lease or other arrangement, make the group practice facility with respect to which assistance has been requested under this title available to a medical or dental group for use by it.

(5) The term "nonprofit organization" means a corporation, association, foundation, trust, or other organization not part of the net earnings of which inures, or may lawfully inure, to the benefit of any private shareholder or individual except, in the case of an organization the purposes of which include the provision of personal health services to its members or subscribers or their dependents under a plan of such organization for the provision of such services to them (which plan may include the provision of other services or insurance benefits to them), through the provision of such health services (or such other services or insurance benefits) to such members or subscribers or dependents under such plan.

(6) The term "State" includes the Commonwealth of Puerto Rico, Guam, the Virgin Islands, American Samoa, and the District of Columbia.

(7) The term "mortgage" means a first mortgage on real estate in fee simple, or on the interest of either the lessor or lessee thereof (A) under a lease for not less than ninety-nine years which is renewable, or (B) under a lease having a period of not less than fifty years to run from the date the mortgage was executed. The term "first mortgage" means such classes of first liens as are commonly given to secure advances (including but not limited to advances during construction) on, or the unpaid purchase price of, real estate under the laws of the State in which the real estate is located, together with the credit instrument or instruments, if any, secured thereby, and any mortgage may be in the form of one or more trust mortgages or mortgage indentures or deeds of trust, securing notes, bonds, or other credit instruments, and, by the same instrument or by a separate instrument, may create a security interest in initial equipment, whether or not attached to the realty.

(8) The term "mortgagee" means the original lender under a mortgage, and his or its successors and assigns, and includes the holders of credit instruments issued under a trust mortgage or deed of trust pursuant to which such holders act by and through a trustee named therein.

(9) The term "mortgagor" means the original borrower under a mortgage and his or its successors and assigns.

TITLE XII—NATIONAL INSURANCE DEVELOPMENT PROGRAM (NOTE)

[Note.—Title XII of the National Housing Act concerns national property and crime insurance and is not included in this compilation.]

END OF STATUTE

ESTIMATES OF USE OF INSURING AUTHORITY

PUBLIC LAW 99-289
[100 Stat. 412; 12 U.S.C. 1721 note]

Sec. 3. [12 U.S.C. 1721 note]
ADMINISTRATIVE PROVISION.

(a) The Secretary of Housing and Urban Development (hereinafter referred to as the "Secretary") shall estimate the rates at which the authority to make commitments to insure mortgages and loans under the National Housing Act, and the authority to make commitments to issue guarantees under section 306(g) of that Act, are likely to be used for the remainder of any fiscal year. The Secretary shall make these estimates at such times as the Secretary deems appropriate, but not less frequently than monthly.

(b) If an estimate under subsection (a) indicates that either limitation on authority to make commitments for a fiscal year referred to in subsection (a) will be reached before the end of that fiscal year, or in any event whenever 75 per centum of either authority to make commitments has been utilized, the Secretary shall promptly so notify the Committee on Appropriations and the Committee on Banking, Housing, and Urban Affairs of the Senate and the Committee on Appropriations and the Committee on Banking, Finance and Urban Affairs of the House of Representatives[608].

END OF STATUTE

[608] Section 1(a) of Public Law 104-14, 109 Stat. 186, provides, in part, that "any reference in any provision of law enacted before January 4, 1995, to . . . the Committee on Banking, Finance and Urban Affairs of the House of Representatives shall be treated as referring to the Committee on Banking and Financial Services of the House of Representatives". However, H. Res. 5, 107th Congress, agreed to on January 3, 2001, abolished the Committee on Banking and Financial Services and established the Committee on Financial Services, which has jurisdiction over many of the areas previously under the jurisdiction of the Committee on Banking and Financial Services.

RIGHT OF REDEMPTION IN CASE OF SUBORDINATE LIENS OF FHA—RESALES OF FHA FINANCED HOUSING

HOUSING ACT OF 1950
[Public Law 475, 81st Congress; 64 Stat. 81; 12 U.S.C. 1701k, 1701l]

* * * * * * *

Sec. 505. [12 U.S.C. 1701k]

The right to redeem provided for by title 28, United States Code, section 2410(c), shall not arise in any case in which the subordinate lien or interest of the United States derives from the issuance of insurance under the National Housing Act, as amended.

* * * * * * *

Sec. 508. [12 U.S.C. 1701l]

It is the intent of Congress that no sale of a dwelling on which a mortgage is insured under the National Housing Act, as amended, shall be financed, while such mortgage is so insured, at an interest rate higher than that prescribed by the Secretary of Housing and Urban Development. It is the further intent of Congress that no such sale shall be made, while such mortgage is so insured, on terms less favorable to the purchaser as to amortization, retirement, foreclosure, or forfeiture than those contained in such mortgage.

END OF STATUTE

FHA ASSET DISPOSITION

DEFICIT REDUCTION ACT OF 2005
[Public Law 109-171; 120 Stat. 4; 12 U.S.C. 1701z-11]

Sec. 2001. [12 U.S.C. 1701z-11 note]
DEFINITIONS.

For purposes of this subtitle, the following definitions shall apply:

(1) The term "affordability requirements" means any requirements or restrictions imposed by the Secretary, at the time of sale, on a multifamily real property or a multifamily loan, such as use restrictions, rent restrictions, and rehabilitation requirements.

(2) The term "discount sale" means the sale of a multifamily real property in a transaction, such as a negotiated sale, in which the sale price is lower than the property market value and is set outside of a competitive bidding process that has no affordability requirements.

(3) The term "discount loan sale" means the sale of a multifamily loan in a transaction, such as a negotiated sale, in which the sale price is lower than the loan market value and is set outside of a competitive bidding process that has no affordability requirements.

(4) The term "loan market value" means the value of a multifamily loan, without taking into account any affordability requirements.

(5) The term "multifamily real property" means any rental or cooperative housing project of 5 or more units owned by the Secretary that prior to acquisition by the Secretary was security for a loan or loans insured under title II of the National Housing Act.

(6) The term "multifamily loan" means a loan held by the Secretary and secured by a multifamily rental or cooperative housing project of 5 or more units that was formerly insured under title II of the National Housing Act.

(7) The term "property market value" means the value of a multifamily real property for its current use, without taking into account any affordability requirements.

(8) The term "Secretary" means the Secretary of Housing and Urban Development.

Sec. 2002. [12 U.S.C. 1701z-11 note]
APPROPRIATED FUNDS REQUIREMENT FOR BELOW-MARKET SALES.

(a) DISCOUNT SALES.—Notwithstanding any other provision of law, except for affordability requirements for the elderly and disabled required by statute, disposition by the Secretary of a multifamily real property during fiscal years 2006 through 2010 through a discount sale under sections 207(l) or 246 of the National Housing Act (12 U.S.C. 1713(l), 1715z-11), section 203 of the Housing and Community Development Amendments of 1978 (12 U.S.C. 1701z-11), or section 204 of the Departments of Veterans Affairs and Housing and Urban Development, and Independent Agencies Appropriations Act, 1997 (12 U.S.C. 1715z-11a), shall be subject to the availability of appropriations to the extent that the property market value exceeds the sale proceeds. If the multifamily real property is sold, during such fiscal years, for an amount equal to or greater than the property market value then the transaction is not subject to the availability of appropriations.

(b) DISCOUNT LOAN SALES.—Notwithstanding any other provision of law and in accordance with the Federal Credit Reform Act of 1990 (2 U.S.C. 661 et seq.), a discount loan sale during fiscal years 2006 through 2010 under section 207(k) of the National Housing Act (12 U.S.C. 1713(k)), section 203(k) of the Housing and Community Development Amendments of 1978 (12 U.S.C. 1701z-11(k)), or section 204(a) of the Departments of Veterans Affairs and Housing and Urban Development, and Independent Agencies Appropriations Act, 1997 (12 U.S.C. 1715z-11a(a)), shall be subject to the availability of appropriations to the extent that the loan market value exceeds the sale proceeds. If the multifamily loan is sold, during such fiscal years, for an amount equal to or greater than the loan market value then the transaction is not subject to the availability of appropriations.

(c) APPLICABILITY.—This section shall not apply to any transaction that formally commences within one year prior to the enactment of this section.

HOUSING AND ECONOMIC RECOVERY ACT OF 2008
[Public Law 110-289; 122 Stat. 2654]

Sec. 2801.
CLARIFICATION OF DISPOSITION OF CERTAIN PROPERTIES.

Notwithstanding any other provision of law, subtitle A of title II of the Deficit Reduction Act of 2005 (12 U.S.C. 1701z-11 note) and the amendments made by such title shall not apply to any transaction regarding a multifamily real property for which—

(1) the Secretary of Housing and Urban Development has received, before the date of the enactment of such Act, written expressions of interest in purchasing the property from both a city government and the housing commission of such city;

(2) after such receipt, the Secretary acquires title to the property at a foreclosure sale; and

(3) such city government and housing commission have resolved a previous disagreement with respect to the disposition of the property.

END OF STATUTE

BUILDERS WARRANTY—FHA HOUSING

HOUSING ACT OF 1954
[Public Law 560, 83d Congress; 68 Stat. 642; 12 U.S.C. 1701j-1]

Sec. 801. [12 U.S.C. 1701j-1]

(a) The Secretary of Housing and Urban Development is hereby authorized and directed to require that, in connection with any property upon which there is located a dwelling designed principally for not more than a four-family residence and which is approved for mortgage insurance prior to the beginning of construction, the seller or builder, and such other person as may be required by the said Secretary to become warrantor, shall deliver to the purchaser or owner of such property a warranty that the dwelling is constructed in substantial conformity with the plans and specifications (including any amendments thereof, or changes and variations therein, which have been approved in writing by the Secretary of Housing and Urban Development) on which the Secretary of Housing and Urban Development based his valuation of the dwelling: *Provided*, That the Secretary of Housing and Urban Development shall deliver to the builder, seller, or other warrantor his written approval (which shall be conclusive evidence of such approval) of any amendment of, or change or variation in, such plans and specifications which the Secretary deems to be a substantial amendment thereof, or change or variation therein, and shall file a copy of such written approval with such plans and specifications: *Provided further*, That such warranty shall apply only with respect to such instances of substantial nonconformity to such approved plans and specifications (including any amendment thereof, or changes or variations therein, which have been approved in writing, as provided herein, by the Secretary of Housing and Urban Development) as to which the purchaser or homeowner has given written notice to the warrantor within one year from the date of conveyance of title to, or initial occupancy of, the dwelling, whichever first occurs: *Provided further*, That such warranty shall be in addition to, and not in derogation of, all other rights and privileges which such purchaser or owner may have under any other law or instrument: *And provided further*, That the provisions of this section shall apply to any such property covered by a mortgage insured by the Secretary of Housing and Urban Development on and after October 1, 1954, unless such mortgage is insured pursuant to a commitment therefor made prior to October 1, 1954.

(b) The Secretary of Housing and Urban Development is further directed to permit copies of the plans and specifications (including written approvals of any amendments thereof, or changes or variations therein, as provided herein) for dwellings in connection with which warranties are required by subsection (a) of this section to be made available in their appropriate local offices for inspection or for copying by any purchaser, homeowner, or warrantor during such hours or periods of time as the said Secretary may determine to be reasonable.

END OF STATUTE

PENALTIES FOR FRAUD

HOUSING AND URBAN DEVELOPMENT ACT OF 1970
[Public Law 91-609; 84 Stat. 1814; 12 U.S.C. 1709-2]

Sec. 912. [12 U.S.C. 1709-2]
EQUITY SKIMMING.

Whoever, with intent to defraud, willfully engages in a pattern or practice of—

(1) purchasing one- to four-family dwellings (including condominiums and cooperatives) which are subject to a loan in default at time of purchase or in default within one year subsequent to the purchase and the loan is secured by a mortgage or deed of trust insured or held by the Secretary of Housing and Urban Development or guaranteed by the Department of Veterans Affairs, or the loan is made by the Department of Veterans Affairs,

(2) failing to make payments under the mortgage or deed of trust as the payments become due, regardless of whether the purchaser is obligated on the loan, and

(3) applying or authorizing the application of rents from such dwellings for his own use,

shall be fined not more than $250,000 or imprisoned not more than 5 years, or both. This section shall apply to a purchaser of such a dwelling, or a beneficial owner under any business organization or trust purchasing such dwelling, or to an officer, director, or agent of any such purchaser. Nothing in this section shall apply to the purchaser of only one such dwelling.

HOUSING AND COMMUNITY DEVELOPMENT ACT OF 1974
[Public Law 93-383; 88 Stat. 740; 12 U.S.C. 1701l-1]

Sec. 819. [12 U.S.C. 1701l-1]
MORTGAGE PROCEEDS FRAUDULENTLY MISAPPROPRIATED BY MORTGAGOR.

The Secretary of Housing and Urban Development shall take action to secure the payment of any deficiency after foreclosure on a mortgage insured or assisted under Federal law where the Secretary has reason to believe that mortgage proceeds have been fraudulently misappropriated by the mortgagor.

HOUSING AND COMMUNITY DEVELOPMENT ACT OF 1987
[Public Law 100-242; 101 Stat. 1913; 12 U.S.C. 1715z-4a]

Sec. 421. [12 U.S.C. 1715z-4a]
DOUBLE DAMAGES REMEDY FOR UNAUTHORIZED USE OF MULTIFAMILY HOUSING PROJECT ASSETS AND INCOME.

(a) ACTION TO RECOVER ASSETS OR INCOME.—

(1) The Secretary of Housing and Urban Development (referred to in this section as the "Secretary") may request the Attorney General to bring an action in a United States district court to recover any assets or income and by any person in violation of (A) a regulatory agreement that applies to a multifamily project, nursing home, intermediate care facility, board and care home, assisted living facility, or hospital whose mortgage is or, at the time of the violations, was insured or held by the Secretary under title II of the National Housing Act; (B) a regulatory agreement that applies to a multifamily project whose mortgage is or, at the time of the violations, was insured or held by the Secretary under section 202 of the Housing Act of 1959 (including property subject to section 202 of such Act as it existed before enactment of the Cranston-Gonzalez National Affordable Housing Act of 1990); (C) a regulatory agreement or such other form of regulatory control as may be imposed by the Secretary that applies to mortgages insured or held or, at the time of the violations, was insured or held by the Secretary under section 542 of the Housing and Community Development Act of 1992, but not reinsured under section 542 of the Housing and Community Development Act of 1992; or (D) any applicable regulation. For purposes of this section, a use of assets or income in violation of the regulatory agreement, or such other form of regulatory control as may be imposed by the Secretary, or any applicable regulation shall include any use for which the documentation in the books and accounts does not establish that the use was made for a reasonable operating expense or necessary repair of the property and has not been maintained in accordance with the requirements of the Secretary and in reasonable condition for proper audit.

(2) For purposes of a mortgage insured or held by the Secretary under title II of the National Housing Act, under section 202 of the Housing Act of 1959 (including section 202 of such Act as it existed before enactment of the Cranston-Gonzalez National Affordable Housing Act of 1990) and under section 542 of the Housing and Community Development Act of 1992, the term "any person" shall mean any person or entity that owns or operates a property, as identified in the regulatory agreement, including but not limited to—

(A) any stockholder holding 25 percent or more interest of a corporation that owns that property;

(B) any beneficial owner of the property under any business or trust;

(C) any officer, director, or partner of an entity owning or controlling the property;

(D) any nursing home lessee or operator;

(E) any hospital lessee or operator;

(F) any other person or entity that controls the property regardless of that person or entity's official relationship to the property; and

(G) any heir, assignee, successor in interest, or agent of any person or entity described in the preceding subparagraphs.

(b) INITIATION OF PROCEEDINGS AND TEMPORARY RELIEF.—The Attorney General, upon request of the Secretary, shall have the exclusive authority to authorize the initiation of proceedings under this section. Pending final resolution of any action under this section, the court may grant appropriate temporary or preliminary relief, including restraining orders, injunctions, and acceptance of satisfactory performance bonds, to protect the interests of the Secretary and to prevent use of assets or income in violation of the regulatory agreement, or such other form of regulatory control as may be imposed by the Secretary, and any applicable regulation and to prevent loss of value of the realty and personalty involved.

(c) AMOUNT RECOVERABLE.—In any judgment favorable to the United States entered under this section, the Attorney General may recover double the value of the assets and income of the property that the court determines to have been used in violation of the regulatory agreement, or such other form of regulatory control as may be imposed by the Secretary, or any applicable regulation, plus all costs relating to the action, including but not limited to reasonable attorney and auditing fees. Notwithstanding any other provision of law, the Secretary may apply the recovery, or any portion of the recovery, to the property or to the applicable insurance fund under the National Housing Act or, in the case of any project for which the mortgage is held by the Secretary under section 202 of the Housing Act of 1959 (including property subject to section 202 of such Act as it existed before enactment of the Cranston-Gonzalez National Affordable Housing Act of 1990), to the project or to the Department for use by the appropriate office within the Department for administrative costs related to enforcement of the requirements of the various programs administered by the Secretary, as appropriate.

(d) TIME LIMITATION.—Notwithstanding any other statute of limitations, the Secretary may request the Attorney General to bring an action under this section at any time up to and including 6 years after the latest date that the Secretary discovers any use of a property's assets and income in violation of the regulatory agreement, or such other form of regulatory control as may be imposed by the Secretary, or any applicable regulation.

(e) CONTINUED AVAILABILITY OF OTHER REMEDIES.—The remedy provided by this section is in addition to any other remedies available to the Secretary or the United States.

END OF STATUTE

INSURANCE OF BMIR AND SECTION 202 MORTGAGES UNDER SECTION 236

HOUSING AND URBAN DEVELOPMENT ACT OF 1968
[Public Law 90-448; 82 Stat. 476; 12 U.S.C. 1715z-1 note]

Sec. 201. [12 U.S.C. 1715z-1 note]
RENTAL AND COOPERATIVE HOUSING FOR LOWER INCOME FAMILIES.

* * * * * * *

(c) The Secretary of Housing and Urban Development is authorized, upon such terms and conditions as he may prescribe, to transfer to section 236(j) of the National Housing Act the insurance of a mortgage which has not be[609] finally endorsed for insurance under section 221(d)(3) of such Act and which has been approved for the below-market interest rate prescribed in the proviso of section 221(d)(5) of such Act.

(d) The Secretary of Housing and Urban Development is authorized, upon such terms and conditions as he may prescribe, to insure under section 236(j) of the National Housing Act a mortgage meeting the requirements of such section which is given to refinance a mortgage loan made under section 202 of the Housing Act of 1959: Provided, That the application for such insurance is filed with the Secretary on or before the date of project completion, or within such reasonable time thereafter as the Secretary may permit.

END OF STATUTE

[609] So in law.

RESIDENTIAL WATER TREATMENT

HOUSING AND COMMUNITY DEVELOPMENT ACT OF 1987
[Public Law 100-242; 101 Stat. 1915; 12 U.S.C. 1701z-15]

Sec. 424. [12 U.S.C. 1701z-15]
APPROVAL OF INDIVIDUAL RESIDENTIAL WATER PURIFICATION OR TREATMENT UNITS.

(a) IN GENERAL.—When the existing water supply does not meet the minimum property standards established by the Department of Housing and Urban Development and a permanent alternative acceptable water supply is not available, a continuous supply of water may be provided through the use of approved residential water treatment equipment or a water purification unit that provides bacterially and chemically safe drinking water.

(b) APPROVAL PROCESS.—A performance-based approval of the equipment or unit and the maintenance, monitoring, and replacement plan for such equipment or unit shall be certified by field offices of the Department of Housing and Urban Development based upon general standards recognized by the Department as modified for local or regional conditions. As a part of such approved plan, a separate monthly escrow account may be required to be established through the lender to cover the cost of the approved yearly maintenance and monitoring schedule and projected replacement of the equipment or unit.

END OF STATUTE

DEREGULATION OF RENTS

HOUSING AND COMMUNITY DEVELOPMENT ACT OF 1987
[Public Law 100-242; 101 Stat. 1915; 12 U.S.C. 1715z-1c]

Sec. 425. [12 U.S.C. 1715z-1c]
REGULATION OF RENTS IN INSURED PROJECTS.

After December 1, 1987, the Secretary of Housing and Urban Development shall control rents and charges as they were controlled prior to April 19, 1983, for any multifamily housing project insured under the National Housing Act if—

(1) during the period of April 19, 1983, through December 1, 1987, the project owner and the Secretary have not executed, and the project owner has not filed a written request with the Secretary to enter into, an amendment to the regulatory agreement pursuant to regulations published by the Secretary on April 19, 1983, or June 4, 1986, electing to deregulate rents or utilize an alternative formula for determining the maximum allowable rents pursuant to regulations published by the Secretary on April 19, 1983, or June 4, 1986; and

(2)(A) the project was, as of December 1, 1987, receiving a housing assistance payment under a contract pursuant to section 8 of the United States Housing Act of 1937 (other than under the existing housing certificate program of section 8(b)(1) of such Act); or

(B) not less than 50 percent of the units in the project are occupied by lower income families (as defined in section 3(a)(2) of the United States Housing Act of 1937).

END OF STATUTE

DELEGATED PROCESSING

CRANSTON-GONZALEZ NATIONAL AFFORDABLE HOUSING ACT
[Public Law 101-625; 104 Stat. 4138; 12 U.S.C. 1713 note]

Sec. 328. [12 U.S.C. 1713 note]
DELEGATION OF PROCESSING.

(a) AUTHORITY.—Not later than the expiration of the 60-day period beginning on the date of enactment of this Act,[610] the Secretary of Housing and Urban Development shall implement a system of mortgage insurance for mortgages insured under section 207, 221, 223, 232, or 241 of the National Housing Act that delegates processing functions to selected approved mortgagees or other individuals and entities expressly approved by the Department of Housing and Urban Development. Under such system, the Secretary shall retain the authority to approve rents, expenses, property appraisals, and mortgage amounts and to execute a firm commitment.

(b) FULL INSURANCE PROGRAM.—Notwithstanding subsection (a), the Secretary shall maintain a viable system for full insurance programs under such Act under which all processing functions are performed by officers and employees of the Department of Housing and Urban Development.

END OF STATUTE

[610] The date of enactment was November 28, 1990.

UP-FRONT MORTGAGE INSURANCE PREMIUM

OMNIBUS BUDGET RECONCILIATION ACT OF 1993
[Public Law 103-66; 107 Stat. 340; 12 U.S.C. 1709 note]

Sec. 3005. [12 U.S.C. 1709 note]
MUTUAL MORTGAGE INSURANCE FUND PREMIUMS.

To improve the actuarial soundness of the Mutual Mortgage Insurance Fund under the National Housing Act, the Secretary of Housing and Urban Development shall increase the rate at which the Secretary earns the single premium payment collected at the time of insurance of a mortgage that is an obligation of such Fund (with respect to the rate in effect on the date of the enactment of this Act). In establishing such increased rate, the Secretary shall consider any current audit findings and reserve analyses and information regarding the expected average duration of mortgages that are obligations of such Fund and may consider any other information that the Secretary determines to be appropriate.

END OF STATUTE

STUDY OF BARRIERS TO MORTGAGES FOR HEALTH CENTERS

HOSPITAL MORTGAGE INSURANCE ACT OF 2003
[Public Law 108-91; 117 Stat. 1159]

Sec. 4.
STUDY OF BARRIERS TO RECEIPT OF INSURED MORTGAGES BY FEDERALLY QUALIFIED HEALTH CENTERS.

(a) IN GENERAL.—The Secretary of Housing and Urban Development shall conduct a study on the barriers to the receipt of mortgage insurance by federally qualified health centers (as defined in section 1905(l)(2)(B) of the Social Security Act (42 U.S.C. 1396d(l)(2)(B))) under section 1101 of the National Housing Act (12 U.S.C. 1749aaa), or other programs under that Act.

(b) REPORT.—Not later than 6 months after the date of enactment of this Act[611], the Secretary of Housing and Urban Development shall submit a report regarding any appropriate legislative and regulatory changes needed to enable federally qualified health centers to access mortgage insurance under section 1101 of the National Housing Act (12 U.S.C. 1749aaa), or other programs under that Act to—

(1) the Committee on Banking, Housing, and Urban Affairs of the Senate; and

(2) the Committee on Financial Services of the House of Representatives.

END OF STATUTE

[611] The date of enactment was October 3, 2003.

EMERGENCY MORTGAGE RELIEF

EMERGENCY HOMEOWNERS' RELIEF ACT[612]
[Public Law 94-50; 89 Stat. 249; 12 U.S.C. 2701—2711]

Sec. 101. [12 U.S.C. 2701 note]
SHORT TITLE.

This title may be cited as the "Emergency Homeowners' Relief Act."

Sec. 102. [12 U.S.C. 2701]
FINDINGS AND PURPOSE.

(a) The Congress finds that—

(1) the Nation is in a severe recession and that the sharp downturn in economic activity has driven large numbers of workers into unemployment and has reduced the incomes of many others;

(2) as a result of these adverse economic conditions the capacity of many homeowners to continue to make mortgage payments has deteriorated and may further deteriorate in the months ahead, leading to the possibility of widespread mortgage foreclosures and distress sales of homes; and

(3) many of these homeowners could retain their homes with temporary financial assistance until economic conditions improve.

(b) It is the purpose of this title to provide a standby authority which will prevent widespread mortgage foreclosures and distress sales of homes resulting from the temporary loss of employment and income through a program of emergency loans and advances and emergency mortgage relief payments to homeowners to defray mortgage expenses.

Sec. 103. [12 U.S.C. 2702]
MORTGAGES ELIGIBLE FOR ASSISTANCE.

No assistance shall be extended with respect to any mortgage under this title unless—

(1) the holder of the mortgage has indicated to the mortgagor its intention to foreclose;

(2) the mortgagor and holder of the mortgage have certified that circumstances make it probable that there will be a foreclosure and that the mortgagor is in need of emergency mortgage relief as authorized by this title;

(4) the mortgagor has incurred a substantial reduction in income as a result of involuntary unemployment or underemployment due to adverse economic conditions or medical conditions and is financially unable to make full mortgage payments;

(5) there is a reasonable prospect that the mortgagor will be able to make the adjustments necessary for a full resumption of mortgage payments; and

(6) the mortgaged property is the principal residence of the mortgagor.

Sec. 104. [12 U.S.C. 2703]
LIMITS OF ASSISTANCE.

(a) Assistance under this title with respect to a mortgage which meets the requirements of section 103 may be provided in the form of emergency mortgage relief loans and advances of credit insured pursuant to section 105 or in the form of emergency mortgage relief payments made by the Secretary pursuant to section 106.

(b) Assistance under this title on behalf of a homeowner may be made available in an amount up to the amount of the principal, interest, taxes, ground rents, hazard insurance, and mortgage insurance premiums due under the homeowner's mortgage. The amount of assistance provided to a homeowner under this title shall be an amount that the Secretary determines is reasonably necessary to supplement such amount as the homeowner is capable of contributing toward such mortgage payment, except that the aggregate amount of such assistance provided for any homeowner shall not exceed $50,000.

(c) Monthly payments may be provided under this title either with the proceeds of an insured loan or advance of credit or with emergency mortgage relief payments for up to twelve months, and, in accordance with criteria prescribed by the Secretary, such monthly payments may be extended once for up to twelve additional months. A mortgagor receiving the benefit of mortgage relief assistance pursuant to this title shall be required, in

[612] Title I of the Emergency Housing Act of 1975

accordance, with criteria prescribed by the Secretary, to report any increase in income which will permit a reduction or termination of such assistance during this period.

(d) Emergency loans or advances of credit made and insured under section 105, and emergency mortgage relief payments made under section 106, shall be repayable by the homeowner upon such terms and conditions as the Secretary shall prescribe, except that—

(1) The rate of interest on any loan or advance of credit insured under this title shall be fixed for the life of the loan or advance of credit and shall not exceed the rate of interest that is generally charged for mortgages on single-family housing insured by the Secretary of Housing and Urban Development under title II of the National Housing Act at the time such loan or advance of credit is made, and

(2) no interest shall be charged on interest which is deferred on a loan or advance of credit made under this title. In establishing rates, terms and conditions for loans or advances of credit made under this title, the Secretary shall take into account a homeowner's ability to repay such loan or advance of credit.

(e) The Secretary may provide for the deferral of the commencement of the repayment of a loan or advance insured under section 105 or emergency mortgage relief payments made under section 106 until one year following the date of the last disbursement of the proceeds of the loan or advance or payments or for such longer period as the Secretary determines would further the purpose of this title. Any eligible homeowner who receives a grant or an advance of credit under this title may repay the loan in full, without penalty, by lump sum or by installment payments at any time before the loan becomes due and payable. The Secretary shall by regulation require such security for the repayment of insured loans or advances of credit or emergency mortgage relief payments as he deems appropriate and may require that such repayment be secured by a lien on the mortgaged property.

Sec. 105. [12 U.S.C. 2704]
EMERGENCY MORTGAGE RELIEF LOANS AND ADVANCES.

(a) The Secretary is authorized, upon such terms and conditions as the Secretary may prescribe, to insure banks, trust companies, finance companies, mortgage companies, savings and loan associations, insurance companies, credit unions, and such other financial institutions, which the Secretary finds to be qualified by experience and facilities and approves as eligible for insurance, against losses which they may sustain as a result of emergency loans or advances of credit made in accordance with the provisions of section 104 and this section with respect to mortgages eligible for assistance under this title.

(b) The Secretary is authorized to fix a premium charge or charges for the insurance granted under this section, but in the case of any loan or advance credit, such charge or charges shall not exceed an amount equivalent to one-half of 1 per centum per annum of the principal obligation of such loan or advance of credit outstanding at any time.

(c) The Secretary is authorized and empowered to waive compliance with any rule or regulation prescribed by the Secretary for the purposes of this section if, in the Secretary's judgment, the enforcement of such rule or regulation would impose an injustice upon an insured lending institution which has substantially complied with such regulations in good faith. Any payment for loss made to an insured financial institution under this section shall be final and incontestable after two years from the date the claim was certified for payment by the Secretary, in the absence of fraud or misrepresentation on the part of such institution unless a demand for repurchase of the obligation shall have been made on behalf of the United States prior to the expiration of such two-year period. The Secretary is authorized to transfer to any financial institution approved for insurance under this title any insurance in connection with any loan which may be sold to it by another insured financial institution.

(d) The aggregate amount of loans and advances insured under this section and emergency mortgage relief payments made under section 106 shall not exceed $3,000,000,000.

(e) The Secretary shall establish underwriting guidelines or procedures to allocate amounts made available for loans and advances insured under this section and for emergency relief payments made under section 106 based on the likelihood that a mortgagor will be able to resume mortgage payments, pursuant to the requirement under section 103(5).

Sec. 106. [12 U.S.C. 2705]
EMERGENCY MORTGAGE RELIEF PAYMENTS.

(a) In the case of any mortgagee which would otherwise be eligible to participate in the program authorized under section 105 but does not qualify for an advance or advances as authorized by section 113 of this title or under section 10, 10b, or 11 of the Federal Home Loan Bank Act or otherwise elects not to participate in the program authorized under section 105, the Secretary is authorized to make repayable emergency mortgage relief payments

directly to such mortgagee on behalf of homeowners whose mortgages are held by such financial institution and who are delinquent in their mortgage payments.

(b) Emergency mortgage relief payments shall be made under this section only with respect to a mortgage which meets the requirements of section 103 and only on such terms and conditions as the Secretary may prescribe, subject to the provisions of section 104.

(c) The Secretary may make such delegations and accept such certifications with respect to the processing of mortgage relief payments provided under this section as he deems appropriate to facilitate the prompt and efficient implementation of the assistance authorized under this section.

Sec. 107. [12 U.S.C. 2706]
EMERGENCY HOMEOWNERS' RELIEF FUND.

To carry out the purposes of this title, the Secretary is authorized to establish in the Treasury of the United States an Emergency Homeowners' Relief Fund (hereinafter in this title referred to as the "fund") which shall be available to the Secretary without fiscal year limitation—

(1) for making payments in connection with defaulted loans or advances of credit insured under section 105 of this title;

(2) for making emergency mortgage relief payments under section 106 of this title;[613]

(3) to pay such administrative expenses (or portion of such expenses) of carrying out the provisions of this title as the Secretary may deem necessary.

Sec. 108. [12 U.S.C. 2707]
AUTHORITY OF THE SECRETARY.

(a) The Secretary is authorized to make such rules and regulations as may be necessary to carry out the provisions of this title.

(b) Notwithstanding any other provision of law relating to the acquisition, handling, improvement, or disposal of real or other property by the United States, the Secretary shall have power, for the protection of the interest of the fund authorized under this title, to pay out of such fund all expenses or charges in connection with the acquisition, handling, improvement, or disposal of any property, real or personal, acquired by the Secretary as a result of recoveries under security, subrogation, or other rights.

(c) In the performance of, with respect to, the functions, powers, and duties vested in the Secretary by this title, the Secretary shall—

(1) have the power, notwithstanding any other provision of law, whether before or after default, to provide by contract or otherwise for the extinguishment upon default of any redemption, equitable, legal, or other right, title in any mortgage, deed, trust, or other instrument held by or held on behalf of the Secretary under the provisions of this title; and

(2) have the power to foreclose on any property or commence any action to protect or enforce any right conferred upon the Secretary by law, contract, or other agreement, and bid for and purchase at any foreclosure or other sale any property in connection with which assistance has been provided pursuant to this title. In the event of any such acquisition, the Secretary may, notwithstanding any other provision of law relating to the acquisition, handling, or disposal of real property by the United States, complete, remodel and convert, dispose of, lease, and otherwise deal with, such property. Notwithstanding any other provision of law, the Secretary also shall have power to pursue to final collection by way of compromise or otherwise all claims acquired by him in connection with any security, subrogation, or other rights obtained by him in administering this title.

(d) Coverage of Existing Programs.—The Secretary shall allow funds to be administered by a State that has an existing program that is determined by the Secretary to provide substantially similar assistance to homeowners. After such determination is made such State shall not be required to modify such program to comply with the provisions of this title.

Sec. 109. [12 U.S.C. 2708]
EXPIRATION DATE.

No loans or advance of credit shall be insured and no emergency mortgage relief payments made under this title after September 30, 2011, except if such loan or advance or such payments are made with respect to a

[613] So in law.

mortgagor receiving the benefit of a loan or advance insured, or emergency mortgage relief payments made, under this title on such date.

Sec. 110. [12 U.S.C. 2711]
NONAPPLICABILITY OF OTHER LAWS.

Notwithstanding any provision of law which limits the nature, amount, term, form, or rate of interest, or the nature, amount, or form of security of loans or advances of credit, loans, or advances of credit may be made in accordance with the provisions of this title without regard to such provision of law.

END OF STATUTE

REPORT ON DELINQUENCIES AND FORECLOSURES

HOUSING AND URBAN-RURAL RECOVERY ACT OF 1983
[Public Law 98-181; 97 Stat. 1237; 12 U.S.C. 1701p-1]

Sec. 469. [12 U.S.C. 1701p-1]
PERIODIC REPORT ON RESIDENTIAL MORTGAGE DELINQUENCIES AND FORECLOSURES.

As soon as practicable following the date of the enactment of this Act, the Secretary of Housing and Urban Development, with the cooperation of the Federal Home Loan Bank Board[614], the Federal Deposit Insurance Corporation, the Board of Governors of the Federal Reserve System, and the Comptroller of the Currency, shall develop a method of accurately reporting to the Congress on a periodic basis with respect to residential mortgage delinquencies and foreclosures. Each such report shall include information with respect to the number of residential mortgage foreclosures, and the number of sixty- and ninety-day residential mortgage delinquencies, in the Nation and in each State.

END OF STATUTE

[614] Effective on July 21, 2011, section 372 of Public Law 111-203 amends section 469 in the first sentence, by striking "Federal Home Loan Bank Board" and inserting "Federal Housing Finance Agency".
Section 311 of such Public Law provides for a delayed effective date of one year after the date of enactment of this law subject to a transfer of duties. See section 311(b) of such Public Law for a possible extension of the transfer date.

DEFAULT AND FORECLOSURE DATABASE

DODD-FRANK WALL STREET REFORM AND CONSUMER PROTECTION ACT OF 2010 [Public Law 111-203; 124 Stat. 1376; 12 U.S.C. 1701p-2]

Sec. 1447. [12 U.S.C. 1701p-2]
DEFAULT AND FORECLOSURE DATABASE.

(a) ESTABLISHMENT.—The Secretary of Housing and Urban Development and the Director of the Bureau, in consultation with the Federal agencies responsible for regulation of banking and financial institutions involved in residential mortgage lending and servicing, shall establish and maintain a database of information on foreclosures and defaults on mortgage loans for one- to four-unit residential properties and shall make such information publicly available, subject to subsection (e).

(b) CENSUS TRACT DATA.—Information in the database may be collected, aggregated, and made available on a census tract basis.

(c) REQUIREMENTS.—Information collected and made available through the database shall include—

(1) the number and percentage of such mortgage loans that are delinquent by more than 30 days;

(2) the number and percentage of such mortgage loans that are delinquent by more than 90 days;

(3) the number and percentage of such properties that are real estate-owned;

(4) number and percentage of such mortgage loans that are in the foreclosure process;

(5) the number and percentage of such mortgage loans that have an outstanding principal obligation amount that is greater than the value of the property for which the loan was made; and

(6) such other information as the Secretary of Housing and Urban Development and the Director of the Bureau consider appropriate.

(d) RULE OF CONSTRUCTION.—Nothing in this section shall be construed to encourage discriminatory or unsound allocation of credit or lending policies or practices.

(e) PRIVACY AND CONFIDENTIALITY.—In establishing and maintaining the database described in subsection (a), the Secretary of Housing and Urban Development and the Director of the Bureau shall—

(1) be subject to the standards applicable to Federal agencies for the protection of the confidentiality of personally identifiable information and for data security and integrity;

(2) implement the necessary measures to conform to the standards for data integrity and security described in paragraph (1); and

(3) collect and make available information under this section, in accordance with paragraphs (5) and (6) of section 1022(c) and the rules prescribed under such paragraphs, in order to protect privacy and confidentiality.

END OF STATUTE

WARNINGS TO HOMEOWNERS OF FORECLOSURE RESCUE SCAMS

DODD-FRANK WALL STREET REFORM AND CONSUMER PROTECTION ACT OF 2010 [Public Law 111-203; 124 Stat. 1376; 42 U.S.C. 8108]

Sec. 1452. [42 U.S.C. 8108]
WARNINGS TO HOMEOWNERS OF FORECLOSURE RESCUE SCAMS.

(a) ASSISTANCE TO NRC.—Notwithstanding any other provision of law, of any amounts made available for any fiscal year pursuant to section 106(a)(4)(F) of the Housing and Urban Development Act of 1968 (12 U.S.C. 1701x(a)(4)(F)) (as added by section 1444), 10 percent shall be used only for assistance to the Neighborhood Reinvestment Corporation for activities, in consultation with servicers of residential mortgage loans, to provide notice to borrowers under such loans who are delinquent with respect to payments due under such loans that makes such borrowers aware of the dangers of fraudulent activities associated with foreclosure.

(b) NOTICE.—The Neighborhood Reinvestment Corporation, in consultation with servicers of residential mortgage loans, shall use the amounts provided pursuant to subsection (a) to carry out activities to inform borrowers under residential mortgage loans—

(1) that the foreclosure process is complex and can be confusing;

(2) that the borrower may be approached during the foreclosure process by persons regarding saving their home and they should use caution in any such dealings;

(3) that there are Federal Government and nonprofit agencies that may provide information about the foreclosure process, including the Department of Housing and Urban Development;

(4) that they should contact their lender immediately, contact the Department of Housing and Urban Development to find a housing counseling agency certified by the Department to assist in avoiding foreclosure, or visit the Department's website regarding tips for avoiding foreclosure; and

(5) of the telephone number of the loan servicer or successor, the telephone number of the Department of Housing and Urban Development housing counseling line, and the Uniform Resource Locators (URLs) for the Department of Housing and Urban Development Web sites for housing counseling and for tips for avoiding foreclosure.

END OF STATUTE

NONJUDICIAL FORECLOSURE OF MORTGAGES FOR SINGLE FAMILY HOUSING

SINGLE FAMILY MORTGAGE FORECLOSURE ACT OF 1994
[Public Law 103-327; 108 Stat. 2316; 12 U.S.C. 3751-3768]

TITLE VIII—NONJUDICIAL FORECLOSURE OF DEFAULTED SINGLE FAMILY MORTGAGES[615]

Sec. 801. [12 U.S.C. 3751 note]
SHORT TITLE.

This title may be cited as the "Single Family Mortgage Foreclosure Act of 1994".

Sec. 802. [12 U.S.C. 3751]
FINDINGS AND PURPOSE.

(a) FINDINGS.—The Congress finds that—

(1) the disparate State laws under which mortgages are foreclosed on behalf of the Secretary covering 1- to 4-family residential properties—

(A) burden certain programs administered by the Secretary;

(B) increase the costs of collecting obligations; and

(C) generally are a detriment to the community in which the properties are located;

(2) the long periods required to complete the foreclosure of such mortgages under certain State laws—

(A) lead to deterioration in the condition of the properties involved;

(B) necessitate substantial Federal holding expenditures;

(C) increase the risk of vandalism, fire loss, depreciation, damage, and waste with respect to the properties; and

(D) adversely affect the neighborhoods in which the properties are located;

(3) these conditions seriously impair the ability of the Secretary to protect the Federal financial interest in the affected properties and frustrate attainment of the objectives of the underlying Federal program authority;

(4) the availability of uniform and more expeditious procedures, with no right of redemption in the mortgagor or others, for the foreclosure of these mortgages by the Secretary will tend to ameliorate these conditions; and

(5) providing the Secretary with a nonjudicial foreclosure procedure will reduce unnecessary litigation by removing many foreclosures from the courts if they contribute to overcrowded calendars.

(b) PURPOSE.—The purpose of this title is to create a uniform Federal foreclosure remedy for single family mortgages that—

(1) are held by the Secretary pursuant to title I or title II of the National Housing Act; or

(2) secure loans obligated by the Secretary under section 312 of the Housing Act of 1964.

Sec. 803. [12 U.S.C. 3752]
DEFINITIONS.

For purposes of this title, the following definitions shall apply:

(1) BONA FIDE PURCHASER.—The term "bona fide purchaser" means a purchaser for value in good faith and without notice of any adverse claim, and who acquires the security property free of any adverse claim.

(2) COUNTY.—The term "county" has the same meaning as in section 2 of title 1, United States Code.

(3) MORTGAGE.—The term "mortgage" means a deed of trust, mortgage, deed to secure debt, security agreement, or any other form of instrument under which any property (real, personal or mixed), or any interest in property (including leaseholds, life estates, reversionary interests, and any other estates under applicable State law), is conveyed in trust, mortgaged, encumbered, pledged, or otherwise rendered subject to a lien for the purpose of securing the payment of money or the performance of an obligation.

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[615] The text of this title consists of title VIII of the bill S. 2281, 103d Congress, as reported (S. Rep. 103-307). The title was enacted by the Departments of Veterans Affairs and Housing and Urban Development, and Independent Agencies Appropriations Act, 1995, approved September 28, 1994, by incorporating such title by reference in such Act.

(4) MORTGAGE AGREEMENT.—The term "mortgage agreement" means the note or debt instrument and the mortgage instrument, deed of trust instrument, trust deed, or instrument or instruments creating the mortgage, including any instrument incorporated by reference therein and any instrument or agreement amending or modifying any of the foregoing.

(5) MORTGAGOR.—The term "mortgagor" means the obligor, grantor, or trustee named in the mortgage agreement and, unless the context otherwise indicates, includes the current owner of record of the security property whether or not such owner is personally liable on the mortgage debt.

(6) OWNER.—The term "owner" means any person who has an ownership interest in property and includes heirs, devises, executors, administrators, and other personal representatives, and trustees of testamentary trusts if the owner of record is deceased.

(7) PERSON.—The term "person" includes any individual, group of individuals, association, partnership, corporation, or organization.

(8) RECORD; RECORDED.—The terms "record" and "recorded" include "register" and "registered" in the instance of registered land.

(9) SECURITY PROPERTY.—The term "security property" means the property (real, personal or mixed) or an interest in property (including leaseholds, life estates, reversionary interests, and any other estates under applicable State law), together with fixtures and other interests subject to the lien of the mortgage under applicable State law.

(10) SINGLE FAMILY MORTGAGE.—The term "single family mortgage" means a mortgage that covers property on which there is located a 1- to 4-family residence, and that—

(A) is held by the Secretary pursuant to title I or title II of the National Housing Act; or

(B) secures a loan obligated by the Secretary under section 312 of the Housing Act of 1964, as it existed before the repeal of that section by section 289 of the Cranston-Gonzalez National Affordable Housing Act (except that a mortgage securing such a loan that covers property containing nonresidential space and a 1- to 4-family dwelling shall not be subject to this title).

(11) STATE.—The term "State" means—

(A) the several States;

(B) the District of Columbia;

(C) the Commonwealth of Puerto Rico;

(D) the United States Virgin Islands;

(E) Guam;

(F) American Samoa;

(G) the Northern Mariana Islands;

(H) the Trust Territory of the Pacific Islands; and

(I) Indian tribes, as defined by the Secretary.

Sec. 804. [12 U.S.C. 3753]
APPLICABILITY.

Single family mortgages encumbering real estate located in any State may be foreclosed by the Secretary in accordance with this title, or pursuant to other foreclosure procedures available, at the option of the Secretary.

Sec. 805. [12 U.S.C. 3754]
DESIGNATION OF FORECLOSURE COMMISSIONER.

(a) IN GENERAL.—The Secretary may designate a person or persons to serve as a foreclosure commissioner or commissioners for the purpose of foreclosing upon a single family mortgage.

(b) POWER OF SALE.—A foreclosure commissioner designated under this section shall have a nonjudicial power of sale.

(c) QUALIFICATIONS.—The foreclosure commissioner, if a natural person, shall be a resident of the State in which the security property is located and, if not a natural person, the foreclosure commissioner must be duly authorized to transact business under laws of the State in which the security property is located. No person shall be designated as a foreclosure commissioner unless that person is responsible, financially sound, and competent to conduct a foreclosure.

(d) DESIGNATION PROCEDURE.—

(1) WRITTEN DESIGNATION.—The Secretary may designate a foreclosure commissioner by executing a written designation stating the name and business or residential address of the commissioner,

except that if a person is designated in his or her capacity as an official or employee of a government or corporate entity, such person may be designated by his or her unique title or position instead of by name.

(2) SUBSTITUTE COMMISSIONERS.—The Secretary may, with or without cause, designate a substitute foreclosure commissioner to replace a previously designated foreclosure commissioner.

(3) NUMBER.—More than 1 foreclosure commissioner may be designated at any time.

Sec. 806. [12 U.S.C. 3755]
PREREQUISITES TO FORECLOSURE.

(a) IN GENERAL.—

(1) UPON BREACH OF COVENANT OR CONDITION.—The Secretary is authorized to foreclose a mortgage under this title upon the breach of a covenant or condition in the mortgage agreement.

(2) NO OTHER PENDING PROCEEDINGS.—

(A) PRIOR TO COMMENCEMENT.—No foreclosure may be commenced under this title unless any previously pending judicial or nonjudicial proceeding that has been separately instituted by the Secretary to foreclose the mortgage (other than under this title), has been withdrawn, dismissed, or otherwise terminated.

(B) AFTER COMMENCEMENT.—No separately instituted foreclosure proceeding on a mortgage which is the subject of a foreclosure proceeding under this title shall be instituted by the Secretary during the pendency of foreclosure pursuant to this title.

(b) OTHER RIGHTS UNAFFECTED.—Nothing in this title shall preclude the Secretary from—

(1) enforcing any right, other than foreclosure, under applicable Federal or State law, including any right to obtain a monetary judgment; or

(2) foreclosing under this title if the Secretary has obtained or is seeking any other remedy available pursuant to Federal or State law, or under the mortgage agreement, including the appointment of a receiver, mortgagee-in-possession status, or relief under an assignment of rents.

Sec. 807. [12 U.S.C. 3756]
COMMENCEMENT OF FORECLOSURE.

(a) REQUEST TO FORECLOSURE COMMISSIONER.—If the Secretary, as holder of a single family mortgage, determines that the prerequisites to foreclosure set forth in section 806 are satisfied, the Secretary may request the foreclosure commissioner to commence foreclosure of a single family mortgage. Upon such request, the foreclosure commissioner shall commence foreclosure of the mortgage, by commencing service of a notice of default and foreclosure sale in accordance with sections 808 and 809.

(b) DESIGNATION OF SUBSTITUTE FORECLOSURE COMMISSIONER.—After commencement of a foreclosure under this title, the Secretary may designate a substitute foreclosure commissioner at any time before the time of the foreclosure sale, and the foreclosure shall continue without prejudice, unless the substitute commissioner, in that commissioner's sole discretion, finds that continuation of the foreclosure sale will unfairly affect the interests of the mortgagor. If the substitute commissioner makes such a finding, the substitute commissioner shall cancel the foreclosure sale, or adjourn such sale in accordance with section 811(c).

(c) WRITTEN NOTICE.—Upon designation of a substitute foreclosure commissioner, a copy of the written notice of such designation described in section 805 shall be served—

(1) by mail, as provided in section 809 (except that the minimum time periods between mailing and the date of foreclosure sale prescribed in such section shall not apply); or

(2) in any other manner which, in the substitute commissioner's sole discretion, is conducive to achieving timely notice of such substitution.

Sec. 808. [12 U.S.C. 3757]
NOTICE OF DEFAULT AND FORECLOSURE SALE.

The notice of default and foreclosure sale to be served in accordance with this title shall set forth—

(1) the name and address of the foreclosure commissioner;

(2) the date on which the notice is issued;

(3) the names of—

(A) the Secretary;

(B) the original mortgagee (if other than the Secretary); and

(C) the original mortgagor;

(4) the street address or a description of the location of the security property, and a description of the security property, sufficient to identify the property to be sold;

(5) the date of the mortgage, the office in which the mortgage is recorded, and the liber number and folio or other appropriate description of the location of recordation of the mortgage;

(6) identification of the failure to make payment, including the due date of the earliest installment payment remaining wholly unpaid as of the date on which the notice is issued upon which the foreclosure is based, or a description of any other default or defaults upon which foreclosure is based, and the acceleration of the secured indebtedness;

(7) the date, time, and location of the foreclosure sale;

(8) a statement that the foreclosure is being conducted pursuant to this title;

(9) a description of the types of costs, if any, to be paid by the purchaser upon transfer of title;

(10) the amount and method of deposit to be required at the foreclosure sale (except that no deposit shall be required of the Secretary) and the time and method of payment of the balance of the foreclosure purchase price; and

(11) any other appropriate terms of sale or information, as the Secretary may determine.

Sec. 809. [12 U.S.C. 3758]

SERVICE OF NOTICE OF FORECLOSURE SALE.

The foreclosure commissioner shall serve the notice of default and foreclosure sale described in section 808 upon the following persons and in the following manner, and no additional notice shall be required to be served, notwithstanding any notice requirements of any State or local law:

(1) TIMING.—Not less than 21 days before the date of the foreclosure sale, the notice of default and foreclosure sale shall be filed in the manner authorized for filing a notice of an action concerning real property according to the law of the State in which the security property is located or, if none, in the manner authorized by section 3201 of title 28, United States Code.

(2) NOTICE BY MAIL.—

(A) IN GENERAL.—The notice of foreclosure sale shall be sent by certified or registered mail, postage prepaid and return receipt requested, to the following:

(i) CURRENT OWNER.—The current security property owner of record, as the record existed 45 days before the date originally set for the foreclosure sale (whether or not the notice describes a sale adjourned).

(ii) MORTGAGORS.—All mortgagors of record or other persons who appear on the basis of the record to be liable for part or all of the mortgage debt, as the record existed 45 days before the date originally set for the foreclosure sale (whether or not the notice describes a sale adjourned).

(iii) DWELLING UNITS.—All dwelling units in the security property (whether or not the notice describes a sale adjourned).

(iv) OTHER LIENHOLDERS.—All persons holding liens of record upon the security property, as the record existed 45 days before the date originally set for the foreclosure sale (whether or not the notice describes a sale adjourned).

(B) TIMING.—

(i) NOTICE UNDER CLAUSES (I) AND (II).—Notice under clauses (i) and (ii) of subparagraph (A) shall be mailed not less than 21 days before the date of the foreclosure sale, and shall be mailed to the current owner and mortgagor at the last known address of the current owner and mortgagor, or, if none, to the address of the security property, or, at the discretion of the foreclosure commissioner, to any other address believed to be that of such current owner and mortgagor.

(ii) NOTICE UNDER CLAUSE (III).—Notice under clause (iii) of subparagraph (A) shall be mailed not less than 21 days before the date of the foreclosure sale. If the names of the occupants of the security property are not known to the Secretary, or the security property has more than 1 dwelling, the notice shall be posted at the security property not less than 21 days before the foreclosure sale.

(iii) NOTICE UNDER CLAUSE (IV).—Notice under clause (iv) of subparagraph (A) shall be mailed not less than 21 days before the date of the foreclosure sale, and shall be mailed to each such lienholder's address of record or, at the discretion

of the foreclosure commissioner, to any other address believed to be that of such lienholder.

(C) EFFECTIVENESS OF NOTICE.—Notice by mail pursuant to this section or section 807(c) shall be deemed duly given upon mailing, whether or not received by the addressee and whether or not a return receipt is received or the notice is returned.

(3) PUBLICATION.—

(A) IN GENERAL.—A copy of the notice of default and foreclosure sale shall be published once a week during 3 successive calendar weeks before the date of the foreclosure sale. Such publication shall be in a newspaper or newspapers having general circulation in the county or counties in which the security property being sold is located. To the extent practicable, the newspaper or newspapers chosen shall be a newspaper or newspapers having circulation conducive to achieving notice of foreclosure by publication. A legal newspaper that is accepted as a newspaper of legal record in the county or counties in which the security property being sold is located shall be considered a newspaper having general circulation for the purposes of this paragraph.

(B) EXCEPTION.—If there is no newspaper published at least weekly which has a general circulation in one of the counties in which the security property being sold is located, copies of the notice of default and foreclosure sale shall be posted not less than 21 days before the date of the foreclosure sale—

(i) at the courthouse of any county or counties in which the security property is located; and

(ii) at the place where the sale is to be held.

Sec. 810. [12 U.S.C. 3759]
PRESALE REINSTATEMENT.

(a) WITHDRAWAL AND CANCELLATION.—

(1) IN GENERAL.—Except as provided in sections 807(b) and 811(c), the foreclosure commissioner shall withdraw the security property from foreclosure and cancel the foreclosure sale only if—

(A) the Secretary directs the foreclosure commissioner to do so before or at the time of the sale;

(B) the foreclosure commissioner finds, upon application of the mortgagor not less than 3 days before the date of the sale, that the default or defaults upon which the foreclosure is based did not exist at the time of service of the notice of default and foreclosure sale; or

(C)(i) in the case of a foreclosure involving a monetary default, there is tendered to the foreclosure commissioner before public auction is completed the entire amount of principal and interest which would be due if payments under the mortgage had not been accelerated;

(ii) in the case of a foreclosure involving a nonmonetary default, the foreclosure commissioner, upon application of the mortgagor before the date of foreclosure sale, finds that such default is cured; and

(iii) there is tendered to the foreclosure commissioner before public auction is completed—

(I) all amounts due under the mortgage agreement (excluding additional amounts which would have been due if mortgage payments had been accelerated);

(II) all amounts of expenditures secured by the mortgage; and

(III) all costs of foreclosure incurred for which payment from the proceeds of foreclosure is provided in section 812.

(2) DISCRETIONARY NONCANCELLATION.—The Secretary may refuse to cancel a foreclosure sale pursuant to paragraph (1)(C) if the current mortgagor or owner of record has, on one or more previous occasions, caused a foreclosure of the mortgage, commenced pursuant to this title or otherwise, to be canceled by curing a default.

(b) OPPORTUNITY OF SECRETARY TO DISPUTE WITHDRAWAL.—Before withdrawing the security property from foreclosure under subparagraph (B) or (C) of subsection (a)(1), the foreclosure commissioner shall afford the Secretary a reasonable opportunity to demonstrate why the security property should not be so withdrawn.

(c) EFFECT OF CANCELLATION.—

(1) MORTGAGE UNAFFECTED.—In any case in which a foreclosure commenced under this title is canceled, the mortgage shall continue in effect as though acceleration had not occurred.

(2) COMMENCEMENT OF NEW FORECLOSURE SALE.—Cancellation of a foreclosure sale under this title shall have no effect on the commencement of a subsequent foreclosure proceeding under this title.

(d) NOTICE OF CANCELLATION.—The foreclosure commissioner shall file a notice of cancellation in the same place and manner provided for filing the notice of default and foreclosure sale in section 809.

Sec. 811. [12 U.S.C. 3760]
CONDUCT OF SALE; ADJOURNMENT.

(a) IN GENERAL.—

(1) MANNER AND TIME.—A foreclosure sale pursuant to this title shall be held at public auction and shall be scheduled to begin between the hours of 9 o'clock ante meridian and 4 o'clock post meridian local time.

(2) LOCATION.—The foreclosure sale shall be held at a location specified in the notice of default and foreclosure sale and such location shall be at a place where foreclosure real estate auctions are customarily held in the county or counties in which the property to be sold is located, or at a courthouse therein, or at or on the property to be sold. Sale of security property situated in two or more counties may be held in any 1 of the counties in which any part of the security property is situated.

(3) SALE OF MULTIPLE PROPERTIES.—The foreclosure commissioner may designate the order in which multiple security properties are sold.

(b) DUTIES OF FORECLOSURE COMMISSIONER.—

(1) CONDUCT OF SALE.—

(A) IN GENERAL.—The foreclosure commissioner shall conduct the foreclosure sale in accordance with the provisions of this title and in a manner fair to both the mortgagor and the Secretary.

(B) WRITTEN BIDS.—Written one-price sealed bids shall be accepted by the foreclosure commissioner from the Secretary and other persons for entry by announcement by the foreclosure commissioner at the sale.

(C) AUCTIONEER.—The foreclosure commissioner may serve as auctioneer, or, in accordance with regulations of the Secretary, may employ an auctioneer to be paid from the commission provided for in section 812(5).

(2) ELIGIBLE PARTICIPANTS.—

(A) IN GENERAL.—The Secretary, and any other person who has submitted a written one-price bid, may bid at the foreclosure sale.

(B) PROHIBITED PARTICIPANTS.—The foreclosure commissioner or any relative, related business entity, or employee of the foreclosure commissioner or a related business entity shall not be permitted to bid in any manner on the security property subject to foreclosure sale, except that the foreclosure commissioner or an auctioneer may be directed by the Secretary to enter a bid on the Secretary's behalf.

(c) ADJOURNMENT OR CANCELLATION OF SALE.—

(1) GENERAL AUTHORITY.—The foreclosure commissioner may, before or at the time of the foreclosure sale, adjourn or cancel the foreclosure sale if the commissioner determines, in the commissioner's discretion, that—

(A) circumstances are not conducive to a sale which is fair to the mortgagor and the Secretary; or

(B) additional time is necessary to determine whether the security property should be withdrawn from foreclosure, as provided in section 810.

(2) ADJOURNMENT TO SAME OR LATER DAY.—The foreclosure commissioner may adjourn a foreclosure sale to a later hour the same day by announcing or posting the new time and place of the foreclosure sale, or may adjourn the foreclosure sale for not less than 9 and not more than 31 days, in which case the commissioner shall serve a notice of default and foreclosure sale revised to recite the fact that the foreclosure sale has been adjourned to a specified date, as well as any other information the foreclosure commissioner deems appropriate. Such notice shall be served by publication and mailing in accordance with section 809, except that publication may be made on any of 3 separate days before the

revised date of foreclosure sale, and mailing may be made at any time not less than 7 days before the date to which the foreclosure sale has been adjourned.

(d) CASH DEPOSITS.—The foreclosure commissioner may require a bidder to make a cash deposit in an amount or percentage set by the foreclosure commissioner and stated in the notice of foreclosure sale before the bid is accepted. A successful bidder at the foreclosure sale who fails to comply with the terms of the sale may be required to forfeit the cash deposit or, at the election of the foreclosure commissioner after consultation with the Secretary, shall be liable to the Secretary for any costs incurred as a result of such failure.

(e) PRESUMPTION OF VALIDITY OF SALE.—Any foreclosure sale held in accordance with this title shall be conclusively presumed to have been conducted in a legal, fair, and reasonable manner. The sale price shall be conclusively presumed to be reasonable and equal to the fair market value of the property.

Sec. 812. [12 U.S.C. 3761]
FORECLOSURE COSTS.

The following foreclosure costs shall be paid from the sale proceeds before satisfaction of any other claim to such sale proceeds:

(1) ADVERTISING AND POSTAGE.—Necessary advertising costs and postage incurred in giving notice pursuant to sections 809 and 811.

(2) MILEAGE.—Mileage (determined by the most reasonable road distance) for posting notices and for the foreclosure commissioner's or auctioneer's attendance at the sale, as provided in section 1821 of title 28, United States Code.

(3) TITLE AND LIEN SEARCH.—Reasonable and necessary costs incurred in connection with any search of title and lien records.

(4) RECORDATION FEES.—Costs incurred to record documents.

(5) COMMISSION.—A commission for the foreclosure commissioner (if the foreclosure commissioner is not an employee of the United States) for the conduct of the foreclosure, to the extent such a commission is authorized by the Secretary.

Sec. 813. [12 U.S.C. 3762]
DISPOSITION OF SALE PROCEEDS.

(a) PRIORITY PAYMENTS.—Money realized from a foreclosure sale shall be made available for obligation and expenditure in the following order:

(1) COSTS OF FORECLOSURE.—To cover the costs of the foreclosure proceeding described in section 812.

(2) TAX LIENS.—To pay valid tax liens or assessments if required by the notice of default and foreclosure sale.

(3) PRIOR LIENS.—To pay any liens recorded before the recording of the mortgage which are required to be paid in conformity with the terms of sale in the notice of default and foreclosure sale.

(4) SERVICE CHARGES AND ADVANCES.—To pay service charges and advances for taxes, assessments, and property insurance premiums.

(5) INTEREST.—To pay any outstanding interest.

(6) PRINCIPAL.—To pay the principal outstanding balance secured by the mortgage (including expenditures for the necessary protection, preservation, and repair of the security property as authorized under the mortgage agreement and interest thereon if provided for in the mortgage agreement).

(7) LATE CHARGES OR FEES.—To pay any late charges or fees.

(b) OTHER PAYMENTS.—

(1) OTHER LIENHOLDERS AND THE MORTGAGOR.—Any surplus of proceeds from a foreclosure sale, after payment of the items described in subsection (a) shall be paid in the following order:

(A) First, to holders of liens recorded after the mortgage in the order of priority under Federal law or the law of the State in which the security property is located.

(B) Second, to the appropriate mortgagor.

(2) DISPUTED CLAIMS.—If the person to whom such surplus is to be paid cannot be located, or if the surplus available is insufficient to pay all claimants and the claimants cannot agree on the allocation of the surplus, or if any person claiming an interest in the mortgage proceeds does not agree that some or all of the sale proceeds should be paid to a claimant as provided in this section, that part of the sale proceeds in question may be deposited by the foreclosure commissioner with an appropriate official or court authorized under law to receive disputed funds in such circumstances. If a procedure for the deposit of disputed funds

is not available, and the foreclosure commissioner files a bill of interpleader or is sued as a stakeholder to determine entitlement to such funds, the foreclosure commissioner's necessary costs incurred in taking or defending such action shall be deductible from the disputed funds.

Sec. 814. [12 U.S.C. 3763]
TRANSFER OF TITLE AND POSSESSION.

(a) DELIVERY OF DEEDS.—The foreclosure commissioner shall, upon delivery of a deed or deeds to the purchaser or purchasers (which shall be without warranty or covenants to the purchaser or purchasers) obtain the balance of the purchase price in accordance with the terms of sale provided in the notice of default and foreclosure sale. Notwithstanding any State law to the contrary, delivery of a deed by the foreclosure commissioner shall be a conveyance of the property, and constitute passage of title to the mortgaged property, and no judicial proceedings shall be required ancillary or supplementary to the procedures provided in this title to assure the validity of the conveyance or confirmation of such conveyance.

(b) RIGHT OF POSSESSION.—A purchaser at a foreclosure sale held pursuant to this title shall be entitled to possession upon passage of title under subsection (a) to the mortgaged property, subject to any interest or interests not barred under section 816. Any person remaining in possession of the mortgaged property after the passage of title shall be deemed a tenant at sufferance subject to eviction under local law.

(c) DEATH OF PURCHASER.—If a purchaser dies before execution and delivery of the deed conveying the property to the purchaser, the foreclosure commissioner shall execute and deliver the deed to a representative of the decedent purchaser's estate upon payment of the purchase price in accordance with the terms of sale. Such delivery to the representative of the purchaser's estate shall have the same effect as if accomplished during the lifetime of the purchaser.

(d) BONA FIDE PURCHASER.—The purchaser of property under this title shall be presumed to be a bona fide purchaser.

(e) NO RIGHT OF REDEMPTION.—

(1) IN GENERAL.—There shall be no right of redemption, or right of possession based upon a right of redemption, in the mortgagor or others subsequent to a foreclosure completed pursuant to this title.

(2) CERTAIN PROVISIONS.—Section 204(l) of the National Housing Act and section 701 of the Department of Housing and Urban Development Reform Act of 1989 shall not apply to mortgages foreclosed under this title.

(f) TAXES.—When a mortgage foreclosed pursuant to this title is conveyed to the Secretary, no tax shall be imposed or collected with respect to the foreclosure commissioner's deed (including any tax customarily imposed upon the deed instrument or upon the conveyance or transfer of title to the property). Failure to collect or pay a tax of the type and under the circumstances stated in the preceding sentence shall not be grounds for refusing to record such a deed, for failing to recognize such recordation as imparting notice, or for denying the enforcement of such a deed and its provisions in any State or Federal court.

Sec. 815. [12 U.S.C. 3764]
RECORD OF FORECLOSURE AND SALE.

(a) STATEMENTS INCLUDED.—To establish a sufficient record of foreclosure and sale, the foreclosure commissioner shall include in the recitals of the deed to the purchaser, or prepare as an affidavit or addendum to the deed, a statement setting forth—

(1) the date, time, and place of the foreclosure sale;

(2) that the mortgage was held by the Secretary, the date of the mortgage, the office in which the mortgage was recorded, and the liber number and folio or other appropriate description of the recordation of the mortgage;

(3) the particulars of the foreclosure commissioner's service of the notice of default and foreclosure sale in accordance with sections 809 and 811;

(4) the date and place of filing the notice of default and foreclosure sale;

(5) that the foreclosure was conducted in accordance with the provisions of this title and with the terms of the notice of default and foreclosure sale; and

(6) the sale amount.

(b) EFFECT OF STATEMENTS.—The items set forth in subsection (a) shall—

(1) be prima facie evidence of the truth of such facts in any Federal or State court; and

(2) evidence a conclusive presumption in favor of bona fide purchasers and encumbrancers for value without notice.

Encumbrancers for value include liens placed by lenders who provide the purchaser with purchase money in exchange for a security interest in the newly-conveyed property.

(c) RECORDATION OF INSTRUMENTS.—The deed executed by the foreclosure commissioner, the foreclosure commissioner's affidavit (if prepared) and any other instruments submitted for recordation in relation to the foreclosure of the security property under this title shall be accepted for recordation by the registrar of deeds or other appropriate official of the county or counties in which the security property is located upon tendering of payment of the usual recording fees for such instruments, and without regard to the compliance of those instruments with any other local filing requirements.

Sec. 816. [12 U.S.C. 3765]
EFFECT OF SALE.

A sale, made and conducted as prescribed in this title to a bona fide purchaser, shall bar all claims upon, or with respect to, the property sold, for each of the following persons:

(1) NOTICE RECIPIENTS.—Any person to whom the notice of default and foreclosure sale was mailed as provided in this title, and the heir, devisee, executor, administrator, successor, or assignee claiming under any such person.

(2) SUBORDINATE CLAIMANTS WITH KNOWLEDGE.—Any person claiming any interest in the property subordinate to that of the mortgage, if such person had actual knowledge of the foreclosure sale.

(3) NONRECORDED CLAIMANTS.—Any person claiming any interest in the property, whose assignment, mortgage, or other conveyance was not duly recorded or filed in the proper place for recording or filing, or whose judgment or decree was not duly docketed or filed in the proper place for docketing or filing, before the date on which the notice of the foreclosure sale was first served by publication, as required by section 809(3), and the executor, administrator, or assignee of such a person.

(4) OTHER PERSONS.—Any person claiming an interest in the property under a statutory lien or encumbrance created subsequent to the recording or filing of the mortgage being foreclosed, and attaching to the title or interest of any person designated in any of the foregoing paragraphs.

Sec. 817. [12 U.S.C. 3766]
COMPUTATION OF TIME.

Periods of time provided for in this title shall be calculated in consecutive calendar days, including the day or days on which the actions or events occur or are to occur for which the period of time is provided and including the day on which an event occurs or is to occur from which the period is to be calculated.

Sec. 818. [12 U.S.C. 3767]
SEVERABILITY.

If any part of this title shall, for any reason, be adjudged by a court of competent jurisdiction to be invalid, or invalid as applied to a class of cases, such judgment shall not affect, impair, or invalidate the remainder thereof, and shall be confined in its operation to the part thereof directly involved in the controversy in which such judgment shall have been rendered.

Sec. 819. [12 U.S.C. 3768]
DEFICIENCY JUDGMENT.

(a) IN GENERAL.—

(1) REFERRAL TO ATTORNEY GENERAL.—If after deducting the payments provided for in section 813 of this title, the price at which the security property is sold at a foreclosure sale is less than the unpaid balance of the debt secured by the security property, resulting in a deficiency, the Secretary may refer the matter to the Attorney General who may commence an action or actions against any or all debtors to recover the deficiency, unless such an action is specifically prohibited by the mortgage.

(2) OTHER RECOVERIES.—In any action instituted pursuant to this section the United States may recover—

(A) any amount authorized by section 3011 of title 28, United States Code; and

(B) the costs of the action.

(b) LIMITATION.—Any action commenced to recover a deficiency under this section must be brought not later than 6 years after the date of the last sale of the security property.

END OF STATUTE

FORECLOSURE OF MORTGAGES FOR MULTIFAMILY HOUSING

HOUSING AND COMMUNITY DEVELOPMENT AMENDMENTS OF 1981
[Public Law 97-35; 95 Stat. 422; 12 U.S.C. 3701—3717]

TITLE III—BANKING, HOUSING, AND RELATED PROGRAMS

Subtitle A—Housing and Community Development

* * * * * * *

PART 6—MULTIFAMILY MORTGAGE FORECLOSURE

Sec. 361. [12 U.S.C. 3701 note]
SHORT TITLE.

This part may be cited as the "Multifamily Mortgage Foreclosure Act of 1981".

Sec. 362. [12 U.S.C. 3701]
FINDINGS AND PURPOSE.

(a) The Congress finds that—

(1) disparate State laws under which the Secretary of Housing and Urban Development forecloses multifamily mortgages burden the programs administered by the Secretary pursuant to these authorities, and cause detriment to the residents of the affected projects and the community generally;

(2) long periods to complete the foreclosure of these mortgages under certain State laws lead to deterioration in the condition of the properties involved; necessitate substantial Federal management and holding expenditures; increase the risk of vandalism, fire loss, depreciation, damage, and waste with respect to the properties; and adversely affect the residents of the projects and the neighborhoods in which the properties are located;

(3) these conditions seriously impair the Secretary's ability to protect the Federal financial interest in the affected properties and frustrate attainment of the objectives of the underlying Federal program authorities, as well as the national housing goal of "a decent home and a suitable living environment for every American family";

(4) application of State redemption periods to these mortgages following their foreclosure would impair the saleability of the properties involved and discourage their rehabilitation and improvement, thereby compounding the problems referred to in clause (3);

(5) the availability of a uniform and more expeditious procedure for the foreclosure of these mortgages by the Secretary and continuation of the practice of not applying postsale redemption periods to such mortgages will tend to ameliorate these conditions; and

(6) providing the Secretary with a nonjudicial foreclosure procedure will reduce unnecessary litigation by removing many foreclosures from the courts where they contribute to overcrowded calendars.

(b) The purpose of this part is to create a uniform Federal foreclosure remedy for multifamily mortgages.

Sec. 363. [12 U.S.C. 3702]
DEFINITIONS.

As used in this part—

(1) "mortgage" means a deed of trust, mortgage, deed to secure debt, security agreement, or any other form of instrument under which any interest in property, real, personal or mixed, or any interest in property including leaseholds, life estates, reversionary interests, and any other estates under applicable State law, is conveyed in trust, mortgaged, encumbered, pledged, or otherwise rendered subject to a lien, for the purpose of securing the payment of money or the performance of an obligation;

(2) "multifamily mortgage" means a mortgage held by the Secretary pursuant to—

(A) section 608 or 801, or title II or X, of the National Housing Act;

(B) section 312 of the Housing Act of 1964, as it existed immediately before its repeal by section 289 of the Cranston-Gonzalez National Affordable Housing Act;

(C) section 202 of the Housing Act of 1959, as it existed immediately before its amendment by section 801 of the Cranston-Gonzalez National Affordable Housing Act;

(D) section 202 of the Housing Act of 1959, as amended by section 801 of the Cranston-Gonzalez National Affordable Housing Act; and

(E) section 811 of the Cranston-Gonzalez National Affordable Housing Act.

(3) "mortgage agreement" means the note or debt instrument and the mortgage instrument, deed of trust instrument, trust deed, or instrument or instruments creating the mortgage, including any instrument incorporated by reference therein (including any applicable regulatory agreement), and any instrument or agreement amending or modifying any of the foregoing;

(4) "mortgagor" means the obligor, grantor, or trustor named in the mortgage agreement and, unless the contest otherwise indicates, includes the current owner of record of the security property whether or not personally liable on the mortgage debt;

(5) "person" includes any individual, group of individuals, association, partnership, corporation, or organization;

(6) "record" and "recorded" include "register" and "registered" in the instance of registered land;

(7) "security property" means the property, real, personal or mixed, or an interest in property, including leaseholds, life estates, reversionary interests, and any other estates under applicable State law, together with fixtures and other interests subject to the lien of the mortgage under applicable State law;

(8) "State" means the several States, the District of Columbia, the Commonwealth of Puerto Rico, the territories and possessions of the United States, and the Trust Territory of the Pacific Islands, and Indian tribes as defined by the Secretary;

(9) "county" means county as defined in section 2 of title I, United States Code; and

(10) "Secretary" means the Secretary of Housing and Urban Development.

Sec. 364. [12 U.S.C. 3703]
APPLICABILITY.

Multifamily mortgages held by the Secretary encumbering real estate located in any State may be foreclosed by the Secretary in accordance with this part, or pursuant to other foreclosure procedures available, at the option of the Secretary. If the Secretary forecloses on any such mortgage pursuant to such other foreclosure procedures available, the provisions of section 367(b) may be applied at the discretion of the Secretary.

Sec. 365. [12 U.S.C. 3704]
DESIGNATION OF FORECLOSURE COMMISSIONER.

A foreclosure commissioner or commissioners designated pursuant to this part shall have a nonjudicial power of sale as provided in this part. Where the Secretary is the holder of a multi-family mortgage, the Secretary may designate a foreclosure commissioner and, with or without cause, may designate a substitute foreclosure commissioner to replace a previously designated foreclosure commissioner, by executing a duly acknowledged, written designation stating the name and business or residential address of the commissioner or substitute commissioner. The designation shall be effective upon execution. Except as provided in section 368(b), a copy of the designation shall be mailed with each copy of the notice of default and foreclosure sale served by mail in accordance with section 369(1). The foreclosure commissioner, if a natural person, shall be a resident of the State in which the security property is located and, if not a natural person, the foreclosure commissioner must be duly authorized to transact business under the laws of the State in which the security property is located. The foreclosure commissioner shall be a person who is responsible, financially sound and competent to conduct the foreclosure. More than one foreclosure commissioner may be designated. If a natural person is designated as foreclosure commissioner or substitute foreclosure commissioner, such person shall be designated by name, except that where such person is designated in his or her capacity as an official or employee of the government of the State or subdivision thereof in which the security property is located, such person may be designated by his or her unique title or position instead of by name. The Secretary shall be a guarantor of payment of any judgment against the foreclosure commissioner for damages based upon the commissioner's failure properly to perform the commissioner's duties. As between the Secretary and the mortgagor, the Secretary shall bear the risk of any financial default by the foreclosure commissioner. In the event that the Secretary makes any payment pursuant to the preceding two sentences, the Secretary shall be fully subrogated to the rights satisfied by such payment.

Sec. 366. [12 U.S.C. 3705]
PREREQUISITES TO FORECLOSURE.

Foreclosure by the Secretary under this part of a multi-family mortgage may be commenced, as provided in section 368, upon the breach of a covenant or condition in the mortgage agreement for which foreclosure is authorized under the mortgage, except that no such foreclosure may be commenced unless any previously pending proceeding, judicial or nonjudicial, separately instituted by the Secretary to foreclose the mortgage other than under this part has been withdrawn, dismissed, or otherwise terminated. No such separately instituted foreclosure proceeding on the mortgage shall be instituted by the Secretary during the pendency of foreclosure pursuant to this part. Nothing in this part shall preclude the Secretary from enforcing any right, other than foreclosure, under applicable State law, including any right to obtain a monetary judgment. Nothing in this part shall preclude the Secretary from foreclosing under this part where the Secretary has obtained or is seeking any other remedy available pursuant to Federal or State law or under the mortgage agreement, including, but not limited to, the appointment of a receiver, mortgagee-in-possesion status, relief under an assignment of rents, or transfer to a nonprofit entity pursuant to section 202 of the Housing Act of 1959 (as amended by section 801 of the Cranston-Gonzalez National Affordable Housing Act) or section 811 of the Cranston-Gonzalez National Affordable Housing Act.

Sec. 367. [12 U.S.C. 3706]
NOTICE OF DEFAULT AND FORECLOSURE SALE.

(a) The notice of default and foreclosure sale to be served in accordance with this part shall be subscribed with the name and address of the foreclosure commissioner and the date on which subscribed, and shall set forth the following information:

(1) the names of the Secretary, the original mortgagee and the original mortgagor;

(2) the street address or a description of the location of the security property, and a description of the security property, or so much thereof as is to be offered for sale, sufficient to identify the property to be sold;

(3) the date of the mortgage, the office in which the mortgage is recorded, and the liber and folio or other description of the location of recordation of the mortgage;

(4) the failure to make payment, including the due date of the earliest installment payment remaining wholly unpaid as of the date the notice is subscribed, or the description of other default or defaults upon which foreclosure is based, and the acceleration of the secured indebtedness;

(5) the date, time, and place of the foreclosure sale;

(6) a statement that the foreclosure is being conducted pursuant to this part;

(7) the types of costs, if any, to be paid by the purchaser upon transfer of title; and

(8) the amount and method of deposit to be required at the foreclosure sale (except that no deposit shall be required of the Secretary), the time and method of payment of the balance of the foreclosure purchase price and other appropriate terms of sale.

(b)(1) Except as provided in paragraph (2)(A), the Secretary may require, as a condition and term of sale, that the purchaser at a foreclosure sale under this part agree to continue to operate the security property in accordance with the terms of the program under which the mortgage insurance or assistance was provided, or any applicable regulatory or other agreement in effect with respect to such property immediately prior to the time of foreclosure sale.

(2)(A) In any case where the majority of the residential units in a property subject to such a sale are occupied by residential tenants at the time of the sale, the Secretary shall require, as a condition and term of sale, any purchaser (other than the Secretary) to operate the property in accordance with such terms, as appropriate, of the programs referred to in paragraph (1).

(B) In any case where the Secretary is the purchaser of a multifamily project, the Secretary shall manage and dispose of such project in accordance with the provisions of section 203 of the Housing and Community Development Amendments of 1978.

Sec. 368. [12 U.S.C. 3707]
COMMENCEMENT OF FORECLOSURE.

(a) If the Secretary as holder of a multifamily mortgage determines that the prerequisites to foreclosure set forth in section 366 are satisfied, the Secretary may request the foreclosure commissioner to commence foreclosure of the mortgage. Upon such request, the foreclosure commissioner shall commence foreclosure of the mortgage, by commencing service of a notice of default and foreclosure sale in accordance with section 369.

(b) Subsequent to commencement of a foreclosure under this part, the Secretary may designate a substitute foreclosure commissioner at any time up to forty-eight hours prior to the time of foreclosure sale, and the foreclosure shall continue without prejudice, unless the substitute commissioner, in his or her sole discretion, finds

that continuation of the foreclosure sale will unfairly affect the interests of the mortgagor. In the event that the substitute commissioner makes such a finding, the substitute commissioner shall cancel the foreclosure sale, or adjourn such sale in the manner provided in section 369B(c). Upon designation of a substitute foreclosure commissioner, a copy of the written notice of such designation referred to in section 365 shall be served upon the persons set forth in section 369(1) of this part (1) by mail as provided in such section 369 (except that the minimum time periods between mailing and the date of foreclosure sale prescribed in such section shall not apply to notice by mail pursuant to this subsection), or (2) in any other manner, which in the substitute commissioner's sole discretion, is conducive to achieving timely notice of such substitution. In the event a substitute foreclosure commissioner is designated less than forty-eight hours prior to the time of the foreclosure sale, the pending foreclosure shall be terminated and a new foreclosure shall be commenced by commencing service of a new notice of default and foreclosure sale.

Sec. 369. [12 U.S.C. 3708]
SERVICE OF NOTICE OF DEFAULT AND FORECLOSURE SALE.

The foreclosure commissioner shall serve the notice of default and foreclosure sale provided for in section 367 upon the following persons and in the following manner, and no additional notice shall be required to be served notwithstanding any notice requirements of any State or local law—

(1) NOTICE BY MAIL.—The notice of default and foreclosure sale, together with the designation required by section 365, shall be sent by certified or registered mail, postage prepaid and return receipt requested, to the following persons:

(A) the current security property owner of record, as the record exists forty-five days prior to the date originally set for foreclosure sale, whether or not the notice describes a sale adjourned as provided in this part;

(B) the original mortgagor and all subsequent mortgagors of record or other persons who appear of record or in the mortgage agreement to be liable for part or all of the mortgage debt, as the record exists forty-five days prior to the date originally set for foreclosure sale, whether or not the notice describes a sale adjourned as provided in this part, except any such mortgagors or persons who have been released; and

(C) all persons holding liens of record upon the security property, as the record exists forty-five days prior to the date originally set for foreclosure sale, whether or not the notice describes a sale adjourned as provided in this part.

Notice under clauses (A) and (B) of this paragraph shall be mailed at least twenty-one days prior to the date of foreclosure sale, and shall be mailed to the owner or mortgagor at the address stated in the mortgage agreement, or, if none, to the address of the security property, or, at the discretion of the foreclosure commissioner, to any other address believed to be that of such owner or mortgagor. Notice under clause (C) of this paragraph shall be mailed at least ten days prior to the date of foreclosure sale, and shall be mailed to each such lienholder's address as stated of record or, at the discretion of the foreclosure commissioner, to any other address believed to be that of such lienholder. Notice by mail pursuant to this subsection or section 368(b) of this part shall be deemed duly given upon mailing, whether or not received by the addressee and whether or not a return receipt is received or the letter is returned.

(2) PUBLICATION.—A copy of the notice of default and foreclosure sale shall be published, as provided herein, once a week during three successive calendar weeks, and the date of last publication shall be not less than four nor more than twelve days prior to the sale date. The information included in the notice of default and foreclosure sale pursuant to section 367(a)(4) may be omitted, in the foreclosure commissioner's discretion, from the published notice. Such publication shall be in a newspaper or newspapers having general circulation in the county or counties in which the security property being sold is located. To the extent practicable, the newspaper or newspapers chosen shall be a newspaper or newspapers, if any is available, having circulation conducive to achieving notice of foreclosure by publication. Should there be no newspaper published at least weekly which has a general circulation in one of the counties in which the security property being sold is located, copies of the notice of default and foreclosure sale shall be posted in at least three public places in each such county at least twenty-one days prior to the date of sale.

(3) POSTING.—A copy of the notice of default and foreclosure sale shall be posted in a prominent place at or on the real property to be sold at least seven days prior to the foreclosure sale, and entry upon the premises for this purpose shall be privileged as against all persons. If the property consists of two or more noncontiguous parcels of land, a copy of the notice of default and foreclosure sale shall be

posted in a prominent place on each such parcel. If the security property consists of two or more separate buildings, a copy of the notice of default and foreclosure sale shall be posted in a prominent place on each such building. Posting at or on the premises shall not be required where the foreclosure commissioner, in the commissioner's sole discretion, finds that the act of posting will likely cause a breach of the peace or that posting may result in an increased risk of vandalism or damage to the property.

Sec. 369A. [12 U.S.C. 3709]
PRESALE REINSTATEMENT.

(a) Except as provided in sections 368(b) and 369B(c) the foreclosure commissioner shall withdraw the security property from foreclosure and cancel the foreclosure sale only if—

(1) the Secretary so directs the commissioner prior to or at the time of sale;

(2) the commissioner finds, upon application of the mortgagor at least three days prior to the date of sale, that the default or defaults upon which the foreclosure is based did not exist at the time of service of the notice of default and foreclosure sale; or

(3)(A) in the case of a foreclosure involving a monetary default, there is tendered to the foreclosure commissioner before public auction is completed the entire amount of principal and interest which would be due if payments under the mortgage had not been accelerated; (B) in the case of a foreclosure involving a nonmonetary default, the foreclosure commissioner, upon application of the mortgagor before the date of foreclosure sale, finds that such default is cured; and (C) there is tendered to the foreclosure commissioner before public auction is completed all amounts due under the mortgage agreement (excluding additional amounts which would have been due if mortgage payments had been accelerated), all amounts of expenditures secured by the mortgagee and all costs of foreclosure incurred for which payment from the proceeds of foreclosure is provided in section 369C, except that the Secretary shall have discretion to refuse to cancel a foreclosure pursuant to this paragraph (3) if the current mortgagor or owner of record has on one or more previous occasions caused a foreclosure of the mortgage, commenced pursuant to this part or otherwise, to be canceled by curing a default.

(b) Prior to withdrawing the security property from foreclosure in the circumstances described in subsection (a)(2) or (a)(3), the foreclosure commissioner shall afford the Secretary a reasonable opportunity to demonstrate why the security property should not be so withdrawn.

(c) In any case in which a foreclosure commenced under this part is canceled, the mortgage shall continue in effect as though acceleration had not occurred.

(d) If the foreclosure commissioner cancels a foreclosure sale under this part a new foreclosure may be subsequently commenced as provided in this part.

Sec. 369B. [12 U.S.C. 3710]
CONDUCT OF SALE; ADJOURNMENT.

(a) The date of foreclosure sale set forth in the notice of default and foreclosure sale shall not be prior to thirty days after the due date of the earliest installment wholly unpaid or the earliest occurrence of any uncured nonmonetary default upon which foreclosure is based. Foreclosure sale pursuant to this part shall be at public auction, and shall be scheduled to begin between the hours of 9 o'clock ante meridian and 4 o'clock post meridian local time on a day other than Sunday or a public holiday as defined by section 6103(a) of title 5, United States Code, or State law. The foreclosure sale shall be held at a location specified in the notice of default and foreclosure sale, which shall be a location where foreclosure real estate auctions are customarily held in the county or one of the counties in which the property to be sold is located, or at a courthouse therein, or at or on the property to be sold. Sale of security property situated in two or more counties may be held in any one of the counties in which any part of the security property is situated.

(b) The foreclosure commissioner shall conduct the foreclosure sale in accordance with the provisions of this part and in a manner fair to both the mortgagor and the Secretary. The foreclosure commissioner shall attend the foreclosure sale in person, or, if there are two or more commissioners, at least one shall attend the foreclosure sale. In the event that no foreclosure commissioner is a natural person, the foreclosure commissioner shall cause its duly authorized employee to attend the foreclosure sale to act on its behalf. Written one-price sealed bids shall be accepted by the foreclosure commissioner from the Secretary and other persons for entry by announcement by the commissioner at the sale. The Secretary and any other person may bid at the foreclosure sale, including the Secretary or any other person who has submitted a written one-price bid, except that the foreclosure commissioner or any relative, related business entity or employee of such commissioner or entity shall not be permitted to bid in any manner on the security property subject to foreclosure sale. The foreclosure commissioner may serve as

auctioneer, or, in accordance with regulations of the Secretary, may employ an auctioneer to be paid from the commission provided for in section 369C(5).

(c) The foreclosure commissioner shall have discretion, prior to or at the time of sale, to adjourn or cancel the foreclosure sale if the commissioner determines, in the commissioner's sole discretion, that circumstances are not conducive to a sale which is fair to the mortgagor and the Secretary or that additional time is necessary to determine whether the security property should be withdrawn from foreclosure as provided in section 369A. The foreclosure commissioner may adjourn a sale to a later hour the same day without the giving of further notice, or may adjourn the foreclosure sale for not less than nine nor more than twenty-four days, in which case the commissioner shall serve a notice of default and foreclosure sale revised to recite that the foreclosure sale has been adjourned to a specified date and to include any corrections the foreclosure commissioner deems appropriate. Such notice shall be served by publication, mailing and posting in accordance with section 369, except that publication may be made on any of three separate days prior to the revised date of foreclosure sale, and mailing may be made at any time at least seven days prior to the date to which the foreclosure sale has been adjourned.

Sec. 369C. [12 U.S.C. 3711]
FORECLOSURE COSTS.

The following foreclosure costs shall be paid from the sale proceeds prior to satisfaction of any other claim to such sale proceeds:

(1) necessary advertising costs and postage incurred in giving notice pursuant to sections 369 and 369B;

(2) mileage for posting notices and for the foreclosure commissioner's attendance at the sale at the rate provided in section 1921 of title 28, United States Code, for mileage by the most reasonable road distance;

(3) reasonable and necessary costs actually incurred in connection with any necessary search of title and lien records;

(4) necessary out-of-pocket costs incurred by the foreclosure commissioner to record documents; and

(5) a commission for the foreclosure commissioner for the conduct of the foreclosure to the extent authorized by regulations issued by the Secretary.

Sec. 369D. [12 U.S.C. 3712]
DISPOSITION OF SALE PROCEEDS.

Money realized from a foreclosure sale shall be made available for obligation and expenditure—

(1) first to cover the costs of foreclosure provided for in section 369C;

(2) then to pay valid tax liens or assessments prior to the mortgage;

(3) then to pay any liens recorded prior to the recording of the mortgage which are required to be paid in conformity with the terms of sale in the notice of default and foreclosure sale;

(4) then to service charges and advancements for taxes, assessments, and property insurance premiums;

(5) then to the interest;

(6) then to the principal balance secured by the mortgage (including expenditures for the necessary protection, preservation, and repair of the security property as authorized under the mortgage agreement and interest thereon if provided for in the mortgage agreement); and

(7) then to late charges.

Any surplus after payment of the foregoing shall be paid to holders of liens recorded after the mortgage and then to the appropriate mortgagor. If the person to whom such surplus is to be paid cannot be located, or if the surplus available is insufficient to pay all claimants and the claimants cannot agree on the allocation of the surplus, or if any person claiming an interest in the mortgage proceeds does not agree that some or all of the sale proceeds should be paid to a claimant as provided in this section, that part of the sale proceeds in question may be deposited by the foreclosure commissioner with an appropriate official or court authorized under law to receive disputed funds in such circumstances. If such a procedure for the deposit of disputed funds is not available, and the foreclosure commissioner files a bill of interpleader or is sued as a stakeholder to determine entitlement to such funds, the foreclosure commissioner's necessary costs in taking or defending such action shall be deductible from the disputed funds.

Sec. 369E. [12 U.S.C. 3713]
TRANSFER OF TITLE AND POSSESSION.

(a) The foreclosure commissioner shall deliver a deed or deeds to the purchaser or purchasers and obtain the balance of the purchase price in accordance with the terms of sale provided in the notice of default and foreclosure sale.

(b) Subject to subsection (c), the foreclosure deed or deeds shall convey all of the right, title, and interest in the security property covered by the deed which the Secretary as holder, the foreclosure commissioner, the mortgagor, and any other persons claiming by, through, or under them, had on the date of execution of the mortgage, together with all of the right, title, and interest thereafter acquired by any of them in such property up to the hour of sale, and no judicial proceeding shall be required ancillary or supplementary to the procedures provided in this part to assure the validity of the conveyance or confirmation of such conveyance.

(c) A purchaser at a foreclosure sale held pursuant to this part shall be entitled to possession upon passage of title to the mortgaged property, subject to an interest or interests senior to that of the mortgage and subject to the terms of any lease of a residential tenant for the remaining term of the lease or for one year, whichever period is shorter. Any other person remaining in possession after the sale and any residential tenant remaining in possession after the applicable period shall be deemed a tenant at sufferance.

(d) There shall be no right of redemption, or right of possession based upon right of redemption, in the mortgagor or others subsequent to a foreclosure pursuant to this part.

(e) When conveyance is made to the Secretary, no tax shall be imposed or collected with respect to the foreclosure commissioner's deed, whether as a tax upon the instrument or upon the privilege of conveying or transferring title to the property. Failure to collect or pay a tax of the type and under the circumstances stated in the preceding sentence shall not be grounds for refusing to record such a deed, for failing to recognize such recordation as imparting notice or for denying the enforcement of such a deed and its provisions in any State or Federal court.

Sec. 369F. [12 U.S.C. 3714]
RECORD OF FORECLOSURE AND SALE.

(a) To establish a sufficient record of foreclosure and sale, the foreclosure commissioner shall include in the recitals of the deed to the purchaser or prepare an affidavit or addendum to the deed stating—

(1) that the mortgage was held by the Secretary;

(2) the particulars of the foreclosure commissioner's service of notice of default and foreclosure sale in accordance with sections 369 and 369B;

(3) that the foreclosure was conducted in accordance with the provisions of this part and with the terms of the notice of default and foreclosure sale;

(4) a correct statement of the costs of foreclosure, calculated in accordance with section 369C; and

(5) the name of the successful bidder and the amount of the successful bid.

(b) The deed executed by the foreclosure commissioner, the foreclosure commissioner's affidavit and any other instruments submitted for recordation in relation to the foreclosure of the security property under this part shall be accepted for recordation by the registrar of deeds or other appropriate official of the county or counties in which the security property is located upon tendering of payment of the usual recording fees for such instruments.

Sec. 369G. [12 U.S.C. 3715]
COMPUTATION OF TIME.

Periods of time provided for in this part shall be calculated in consecutive calendar days including the day or days on which the actions or events occur or are to occur for which the period of time is provided and including the day on which an event occurs or is to occur from which the period is to be calculated.

Sec. 369H. [12 U.S.C. 3716]
SEPARABILITY.

If any clause, sentence, paragraph or part of this part shall, for any reason, be adjudged by a court of competent jurisdiction to be invalid or invalid as applied to a class of cases, such judgment shall not affect, impair, or invalidate the remainder thereof and of this part, but shall be confined in its operation to the clause, sentence, paragraph, or part thereof directly involved in the controversy in which such judgment shall have been rendered.

Sec. 369I. [12 U.S.C. 3717]
REGULATIONS.

The Secretary is authorized to issue such regulations as may be necessary to carry out the provisions of this part.

END OF STATUTE

ENERGY EFFICIENT MORTGAGES PILOT PROGRAM

ENERGY POLICY ACT OF 1992
[Public Law 102-486; 106 Stat. 2792; 12 U.S.C. 1701z-16]

Sec. 106. [12 U.S.C. 1701z-16]
ENERGY EFFICIENT MORTGAGES PILOT PROGRAM.[616]

(a) ESTABLISHMENT OF PILOT PROGRAM.—

(1) IN GENERAL.—Not later than 6 months after the date of enactment of this Act[617], the Secretary of Housing and Urban Development (hereafter referred to as the "Secretary") shall establish an energy efficient mortgage pilot program in 5 States, to promote the purchase of existing energy efficient residential buildings and the installation of cost-effective improvements in existing residential buildings.

(2) PILOT PROGRAM.—The pilot program established under this subsection shall include the following criteria, where applicable:

(A) ORIGINATION.—The lender shall originate a housing loan that is insured under title II of the National Housing Act in accordance with the applicable requirements.

(B) APPROVAL.—The mortgagor's base loan application shall be approved if the mortgagor's income and credit record is found to be satisfactory.

(C) COSTS OF IMPROVEMENTS.—The cost of cost-effective energy efficiency improvements shall not exceed the greater of—

(i) 5 percent of the property value (not to exceed 5 percent of the limit established under section 203(b)(2)(A)) of the National Housing Act (12 U.S.C. 1709(b)(2)(A); or

(ii) 2 percent of the limit established under section 203(b)(2)(B) of such Act.

(D) LIMITATION.—In any fiscal year, the aggregate number of mortgages insured pursuant to this section may not exceed 5 percent of the aggregate number of mortgages for 1- to 4-family residences insured by the Secretary of Housing and Urban Development under title II of the National Housing Act (12 U.S.C. 1707 et seq.) during the preceding fiscal year.

(3) AUTHORITY FOR MORTGAGEES.—In granting mortgages under the pilot program established pursuant to this subsection, the Secretary shall grant mortgagees the authority—

(A) to permit the final loan amount to exceed the loan limits established under title II of the National Housing Act by an amount not to exceed 100 percent of the cost of the cost-effective energy efficiency improvements, if the mortgagor's request to add the cost of such improvements is received by the mortgagee prior to funding of the base loan;

(B) to hold in escrow all funds provided to the mortgagor to undertake the energy efficiency improvements until the efficiency improvements are actually installed; and

(C) to transfer or sell the energy efficient mortgage to the appropriate secondary market agency, after the mortgage is issued, but before the energy efficiency improvements are actually installed.

(4) PROMOTION OF PILOT PROGRAM.—The Secretary shall encourage participation in the energy efficient mortgage pilot program by—

(A) making available information to lending agencies and other appropriate authorities regarding the availability and benefits of energy efficient mortgages;

(B) requiring mortgagees and designated lending authorities to provide written notice of the availability and benefits of the pilot program to mortgagors applying for financing in those States designated by the Secretary as participating under the pilot program; and

(C) requiring each applicant for a mortgage insured under title II of the National Housing Act in those States participating under the pilot program to sign a statement that such applicant has been informed of the program requirements and understands the benefits of energy efficient mortgages.

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[616] Provisions identical to the provisions of this section were enacted as section 513 of the Housing and Community Development Act of 1992, Pub. L. 102-550, approved October 28, 1992.
[617] The date of enactment was October 24, 1992.

(5) TRAINING PROGRAM.—Not later than 9 months after the date of enactment of this Act[618], the Secretary, in consultation with the Secretary of Energy, shall establish and implement a program for training personnel at relevant lending agencies, real estate companies, and other appropriate organizations regarding the benefits of energy efficient mortgages and the operation of the pilot program under this subsection.

(6) REPORT.—Not later than 18 months after the date of enactment of this Act1, the Secretary shall prepare and submit a report to the Congress describing the effectiveness and implementation of the energy efficient mortgage pilot program as described under this subsection, and assessing the potential for expanding the pilot program nationwide.

(b) EXPANSION OF PROGRAM.—Not later than the expiration of the 2-year period beginning on the date of the implementation of the energy efficient mortgage pilot program under this section, the Secretary of Housing and Urban Development shall expand the pilot program on a nationwide basis and shall expand the program to include new residential housing, unless the Secretary determines that either such expansion would not be practicable, in which case the Secretary shall submit to the Congress, before the expiration of such period, a report explaining why either expansion would not be practicable.

(c) DEFINITIONS.—For purposes of this section:

(1) The term "base loan" means any mortgage loan for a residential building eligible for insurance under title II of the National Housing Act or title 38, United States Code, that does not include the cost of cost-effective energy improvements.

(2) The term "cost-effective" means, with respect to energy efficiency improvements to a residential building, improvements that result in the total present value cost of the improvements (including any maintenance and repair expenses) being less than the total present value of the energy saved over the useful life of the improvement, when 100 percent of the cost of improvements is added to the base loan. For purposes of this paragraph, savings and cost-effectiveness shall be determined pursuant to a home energy rating report sufficient for purposes of the Federal National Mortgage Association and the Federal Home Loan Mortgage Corporation, or by other technically accurate methods.

(3) The term "energy efficient mortgage" means a mortgage on a residential building that recognizes the energy savings of a home that has cost-effective energy saving construction or improvements (including solar water heaters, solar-assisted air conditioners and ventilators, super-insulation, and insulating glass and film) and that has the effect of not disqualifying a borrower who, but for the expenditures on energy saving construction or improvements, would otherwise have qualified for a base loan.

(4) The term "residential building" means any attached or unattached single family residence.

(d) RULE OF CONSTRUCTION.—This section may not be construed to affect any other programs of the Secretary of Housing and Urban Development for energy-efficient mortgages. The pilot program carried out under this section shall not replace or result in the termination of such other programs.

(e) REGULATIONS.—The Secretary shall issue any regulations necessary to carry out this section not later than the expiration of the 180-day period beginning on the date of the enactment of this Act[619]. The regulations shall be issued after notice and opportunity for public comment pursuant to the provisions of section 553 of title 5, United States Code (notwithstanding subsections (a)(2), (b)(B), and (d)(3) of such section).

(f) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated such sums as may be necessary to carry out this section.

END OF STATUTE

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[618] The date of enactment was October 24, 1992.
[619] The date of enactment was October 24, 1992.

MULTIFAMILY HOUSING FINANCE IMPROVEMENT PILOT PROGRAMS

HOUSING AND COMMUNITY DEVELOPMENT ACT OF 1992
[Public Law 102-550; 106 Stat. 3794; 12 U.S.C. 1715z-22]

TITLE V−MORTGAGE INSURANCE AND SECONDARY MORTGAGE MARKET

* * * * * * *

Subtitle C—Improvement of Financing for Multifamily Housing

Sec. 541. [12 U.S.C. 1707 note]
SHORT TITLE.

This subtitle may be cited as the "Multifamily Housing Finance Improvement Act".

Sec. 542. [12 U.S.C. 1715z-22]
MULTIFAMILY MORTGAGE CREDIT PROGRAMS.

(a) IN GENERAL.—The Secretary of Housing and Urban Development (hereinafter referred to as the "Secretary") shall carry out programs through the Federal Housing Administration to provide new forms of Federal credit enhancement for multifamily loans. In carrying out the programs, the Secretary shall include an evaluation of the effectiveness of entering into partnerships or other contractual arrangements including reinsurance and risk-sharing agreements with State or local housing finance agencies, the Federal Housing Finance Board, the Federal National Mortgage Association, the Federal Home Loan Mortgage Corporation, qualified financial institutions, and other State or local mortgage insurance companies or bank lending consortia.

(b) RISK-SHARING PROGRAM.—

(1) IN GENERAL.—The Secretary shall carry out a program in conjunction with qualified participating entities to provide Federal credit enhancement for loans for affordable multifamily housing through a system of risk-sharing agreements with such entities.

(2) PROGRAM REQUIREMENTS.—

(A) IN GENERAL.—In carrying out the program under this subsection, the Secretary shall enter into risk-sharing agreements with qualified participating entities.

(B) MORTGAGE INSURANCE AND REINSURANCE.—Agreements under subparagraph (A) may provide for (i) mortgage insurance through the Federal Housing Administration of loans for affordable multifamily housing originated by or through, or purchased by, qualified participating entities, and (ii) reinsurance, including reinsurance of pools of loans, on affordable multifamily housing. In entering into risk-sharing agreements under this subsection covering mortgages, the Secretary may give preference to mortgages that are not already in the portfolios of qualified participating entities.

(C) RISK APPORTIONMENT.—Agreements entered into under this subsection between the Secretary and a qualified participating entity shall specify the percentage of loss that each of the parties to the agreement will assume in the event of default of the insured or reinsured multifamily mortgage. Such agreements shall specify that the qualified participating entity and the Secretary shall share any loss in accordance with the risk-sharing agreement.

(D) REIMBURSEMENT CAPACITY.—Agreements entered into under this subsection between the Secretary and a qualified participating entity shall provide evidence acceptable to the Secretary of the capacity of such entity to fulfill any reimbursement obligations made pursuant to this subsection. Evidence of such capacity which may be considered by the Secretary may include—

(i) a pledge of the full faith and credit of a qualified participating entity to fulfill any obligations entered into by the entity;

(ii) reserves pledged or otherwise restricted by the qualified participating entity in an amount equal to an agreed upon percentage of the loss assumed by the entity under subparagraph (C);

(iii) funds pledged through a State or local guarantee fund; or

(iv) any other form of evidence mutually agreed upon by the Secretary and the qualified participating entity.

(E) UNDERWRITING STANDARDS.—The Secretary shall allow any qualified participating entity to use its own underwriting standards and loan terms and conditions for purposes of underwriting loans to be insured under this subsection, except as provided in this section, without further review by the Secretary, except that the Secretary may impose additional underwriting criteria and loan terms and conditions for contractual agreements where the Secretary retains more than 50 percent of the risk of loss. Any financing permitted on property insured under this subsection other than the first mortgage shall be expressly subordinate to the insured mortgage.

(F) AUTHORITY OF SECRETARY.—The Secretary, upon request of a qualified participating entity, may insure or reinsure and make commitments to insure or reinsure under this section any mortgage, advance, loan, or pool of mortgages otherwise eligible under this section, pursuant to a risk-sharing agreement providing that the qualified participating entity will carry out (under a delegation or otherwise, and with or without compensation, but subject to audit, exception, or review requirements) such credit approval, appraisal, inspection, issuance of commitments, approval of insurance of advances, cost certification, servicing, property disposition, or other functions as the Secretary shall approve as consistent with the purpose of this section. All appraisals of property for mortgage insurance under this section shall be completed by a Certified General Appraiser in accordance with the Uniform Standards of Professional Appraisal Practice.

(G) DISCLOSURE OF RECORDS.—Qualified participating entities shall make available to the Secretary or the Secretary's designee, at the Secretary's request, such financial and other records as the Secretary deems necessary for purposes of review and monitoring for the program under this section.

(3) DEVELOPMENT OF ALTERNATIVES.—The Secretary shall develop and assess a variety of risk-sharing alternatives, including arrangements under which the Secretary assumes an appropriate share of the risk related to long-term mortgage loans on newly constructed or acquired multifamily rental housing, mortgage refinancings, bridge financing for construction, and other forms of multifamily housing mortgage lending that the Secretary deems appropriate to carry out the purposes of this subsection. Such alternatives shall be designed—

(A) to ensure that other parties bear a share of the risk, in percentage amount and in position of exposure, that is sufficient to create strong, market-oriented incentives for other participating parties to maintain sound underwriting and loan management practices;

(B) to develop credit mechanisms, including sound underwriting criteria, processing methods, and credit enhancements, through which resources of the Federal Housing Administration can assist in increasing multifamily housing lending as needed to meet the expected need in the United States;

(C) to provide a more adequate supply of mortgage credit for sound multifamily rental housing projects in underserved urban and rural markets;

(D) to encourage major financial institutions to expand their participation in mortgage lending for sound multifamily housing, through means such as mitigating uncertainties regarding actions of the Federal Government (including the possible failure to renew short-term subsidy contracts);

(E) to increase the efficiency, and lower the costs to the Federal Government, of processing and servicing multifamily housing mortgage loans insured by the Federal Housing Administration; and

(F) to improve the quality and expertise of Federal Housing Administration staff and other resources, as required for sound management of reinsurance and other market-oriented forms of credit enhancement.

(4) ELIGIBILITY STANDARDS.—The Secretary shall establish and enforce standards for eligibility under this subsection of qualified participating entities under this subsection, as the Secretary determines to be appropriate.

(5) INSURANCE AUTHORITY.—Using any authority provided in appropriation Acts to insure mortgages under the National Housing Act, the Secretary may enter into commitments under this subsection for risk-sharing units.

(6) FEES.—The Secretary shall establish and collect premiums and fees under this subsection as the Secretary determines appropriate to (A) achieve the purpose of this subsection, and (B) compensate the Federal Housing Administration for the risks assumed and related administrative costs.

(7) NON-FEDERAL PARTICIPATION.—The Secretary shall carry out this subsection, to the maximum extent practicable, with the participation of well-established residential mortgage originators, financial institutions that invest in multifamily housing mortgages, multifamily housing sponsors, and such other private sector experts in multifamily housing finance as the Secretary determines to be appropriate.

(8) PROHIBITION ON GINNIE MAE SECURITIZATION.—The Government National Mortgage Association shall not securitize any multifamily loans insured or reinsured under this subsection.

(9) QUALIFICATION AS AFFORDABLE HOUSING.—Multifamily housing securing loans insured or reinsured under this subsection shall qualify as affordable only if the housing is occupied by families and bears rents not greater than the gross rent for rent-restricted residential units as determined under section 42(g) of the Internal Revenue Code of 1986.

(10) CERTIFICATION OF SUBSIDY LAYERING COMPLIANCE.—The requirements of section 102(d) of the Department of Housing and Urban Development Reform Act of 1989 may be satisfied in connection with a commitment to insure a mortgage under this subsection by a certification by a housing credit agency (including an entity established by a State that provides mortgage insurance) to the Secretary that the combination of assistance within the jurisdiction of the Secretary and other government assistance provided in connection with a property for which a mortgage is to be insured shall not be any greater than is necessary to provide affordable housing.

(11) IMPLEMENTATION.—The Secretary shall take any administrative actions necessary to initiate the program under this subsection.

(c) HOUSING FINANCE AGENCY PROGRAM.—

(1) IN GENERAL.—The Secretary shall carry out a specific program in conjunction with qualified housing finance agencies (including entities established by States that provide mortgage insurance) to provide Federal credit enhancement for loans for affordable multifamily housing through a system of risk-sharing agreements with such agencies.

(2) program[620] requirements.—

(A) IN GENERAL.—In carrying out the program authorized under this subsection, the Secretary shall enter into risk-sharing agreements with qualified housing finance agencies.

(B) MORTGAGE INSURANCE.—Agreements under subparagraph (A) shall provide for full mortgage insurance through the Federal Housing Administration of the loans for affordable multifamily housing originated by or through qualified housing finance agencies and for reimbursement to the Secretary by such agencies for either all or a portion of the losses incurred on the loans insured.

(C) RISK APPORTIONMENT.—Agreements entered into under this subsection between the Secretary and a qualified housing finance agency shall specify the percentage of loss that each of the parties to the agreement will assume in the event of default of the insured multifamily mortgage. Such agreements shall specify that the qualified housing finance agency and the Secretary shall share any loss in accordance with the risk-sharing agreement.

(D) REIMBURSEMENT CAPACITY.—Agreements entered into under this subsection between the Secretary and a qualified housing finance agency shall provide evidence of the capacity of such agency to fulfill any reimbursement obligations made pursuant to this subsection. Evidence of such capacity may include—

(i) a pledge of the full faith and credit of a qualified State or local agency to fulfill any obligations entered into by the qualified housing finance agency;

(ii) reserves pledged or otherwise restricted by the qualified housing finance agency in an amount equal to an agreed upon percentage of the loss assumed by the housing finance agency under subparagraph (C);

[620] Section 235(5) of H.R. 5482 (106th Congress, as introduced in the House of Representatives; 114 Stat. 1441A-35), enacted by section 1(a)(1) of Public Law 106-377 (114 Stat. 1441) amends section 542 by striking “pilot” and “Pilot” each place such terms appear. The heading for paragraph (2) probably should have been amended by striking “program” and inserting “Program”.

(iii) funds pledged through a State or local guarantee fund; or

(iv) any other form of evidence mutually agreed upon by the Secretary and the qualified housing finance agency.

(E) UNDERWRITING STANDARDS.—The Secretary shall allow any qualified housing finance agency to use its own underwriting standards and loan terms and conditions for purposes of underwriting loans to be insured under this subsection without further review by the Secretary, except that the Secretary may impose additional underwriting criteria and loan terms and conditions for contractual agreements where the Secretary retains more than 50 percent of the risk of loss.

(F) DISCLOSURE OF RECORDS.—Qualified housing finance agencies shall make available to the Secretary such financial and other records as the Secretary deems necessary for program review and monitoring purposes.

(3) MORTGAGE INSURANCE PREMIUMS.—The Secretary shall establish a schedule of insurance premium payments for mortgages insured under this subsection based on the percentage of loss the Secretary may assume. Such schedule shall reflect lower or nominal premiums for qualified housing finance agencies that assume a greater share of the risk apportioned according to paragraph (2)(C).

(4) INSURANCE AUTHORITY.—Using any authority provided in appropriation Acts to insure mortgages under the National Housing Act, the Secretary may enter into commitments under this subsection for risk-sharing units.

(5) IDENTITY OF INTEREST.—Notwithstanding any other provision of law, the Secretary shall not apply identity of interest provisions to agreements entered into with qualified State housing finance agencies under this subsection.

(6) PROHIBITION ON GINNIE MAE SECURITIZATION.—The Government National Mortgage Association shall not securitize any multifamily loans insured under this subsection.

(7) QUALIFICATION AS AFFORDABLE HOUSING.—Multifamily housing securing loans insured under this subsection shall qualify as affordable only if the housing is occupied by families and bears rents not greater than the gross rent for rent-restricted residential units as determined under section 42(g) of the Internal Revenue Code of 1986.

(8) REGULATIONS.—Not later than 90 days after the date of enactment of this Act[621], the Secretary shall issue such regulations as may be necessary to carry out this subsection.

(9) ENVIRONMENTAL AND OTHER REVIEWS.—

(A) ENVIRONMENTAL REVIEWS.—

(i) IN GENERAL.—(I) In order to assure that the policies of the National Environmental Policy Act of 1969 and other provisions of law which further the purposes of such Act (as specified in regulations issued by the Secretary) are most effectively implemented in connection with the insurance of mortgages under subsection (c)(2), and to assure to the public undiminished protection of the environment, the Secretary may, under such regulations, in lieu of the environmental protection procedures otherwise applicable, provide for agreements to endorse for insurance mortgages under subsection (c)(2) upon the request of qualified housing finance agencies under this subsection, if the State or unit of general local government, as designated by the Secretary in accordance with regulations, assumes all of the responsibilities for environmental review, decisionmaking, and action pursuant to such Act, and such other provisions of law as the regulations of the Secretary may specify, that would otherwise apply to the Secretary with respect to the insurance of mortgages on particular properties.

(II) The Secretary shall issue regulations to carry out this subparagraph only after consultation with the Council on Environmental Quality. Such regulations shall, among other matters, provide—

(aa) for the monitoring of the performance of environmental reviews under this subparagraph;

(bb) subject to the discretion of the Secretary, for the provision or facilitation of training for such performance; and

[621] The date of enactment was October 28, 1992.

(cc) subject to the discretion of the Secretary, for the suspension or termination by the Secretary of the qualified housing finance agency's responsibilities under subclause (I).

(III) The Secretary's duty under subclause (II) shall not be construed to limit any responsibility assumed by a State or unit of general local government with respect to any particular property under subclause (I).

(ii) PROCEDURE.—The Secretary shall approve a mortgage for the provision of mortgage insurance subject to the procedures authorized by this paragraph only if, not less than 15 days prior to such approval, prior to any approval, commitment, or endorsement of mortgage insurance on the property on behalf of the Secretary, and prior to any commitment by the qualified housing finance agency to provide financing under the risk-sharing agreement with respect to the property, the qualified housing finance agency submits to the Secretary a request for such approval, accompanied by a certification of the State or unit of general local government that meets the requirements of clause (iii). The Secretary's approval of any such certification shall be deemed to satisfy the Secretary's responsibilities under the National Environmental Policy Act of 1969 and such other provisions of law as the regulations of the Secretary specify insofar as those responsibilities relate to the provision of mortgage insurance on the property that is covered by such certification.

(iii) CERTIFICATION.—A certification under the procedures authorized by this paragraph shall—

(I) be in a form acceptable to the Secretary;

(II) be executed by the chief executive officer or other officer of the State or unit of general local government who qualifies under regulations of the Secretary;

(III) specify that the State or unit of general local government under this section has fully carried out its responsibilities as described under clause (i); and

(IV) specify that the certifying officer consents to assume the status of a responsible Federal official under the National Environmental Policy Act of 1969 and under each provision of law specified in regulations issued by the Secretary insofar as the provisions of such Act or such other provisions of law apply pursuant to clause (i), and is authorized and consents on behalf of the State or unit of general local government and himself or herself to accept the jurisdiction of the Federal courts for the purpose of enforcement of the responsibilities as such an official.

(iv) APPROVAL BY STATES.—In cases in which a unit of general local government carries out the responsibilities described in clause (i), the Secretary may permit the State to perform those actions of the Secretary described in clause (ii) and the performance of such actions by the State, where permitted by the Secretary, shall be deemed to satisfy the Secretary's responsibilities referred to in the second sentence of clause (ii).

(B) LEAD-BASED PAINT POISONING PREVENTION.—In carrying out the requirements of section 302 of the Lead-Based Paint Poisoning Prevention Act, the Secretary may provide by regulation for the assumption of all or part of the Secretary's duties under such Act by qualified housing finance agencies, for purposes of this section.

(C) CERTIFICATION OF SUBSIDY LAYERING COMPLIANCE.—The requirements of section 102(d) of the Department of Housing and Urban Development Reform Act of 1989 may be satisfied in connection with a commitment to insure a mortgage under this subsection by a certification by a housing credit agency (including an entity established by a State that provides mortgage insurance) to the Secretary that the combination of assistance within the jurisdiction of the Secretary and other government assistance provided in connection with a property for which a mortgage is to be insured shall not be any greater than is necessary to provide affordable housing.

(10) DEFINITIONS.—For purposes of this subsection, the following definitions shall apply:

(A) MORTGAGE.—The term "mortgage" means a first mortgage on real estate that is—

(i) owned in fee simple; or

(ii) subject to a leasehold interest that—

(I) has a term of not less than 99 years and is renewable; or

(II) has a remaining term that extends beyond the maturity of the mortgage for a period of not less than 10 years.

(B) FIRST MORTGAGE.—The term "first mortgage" means a single first lien given to secure advances on, or the unpaid purchase price of, real estate, under the laws of the State in which the real estate is located, together with the credit instrument, if any, secured thereby. Any other financing permitted on property insured under this section must be expressly subordinate to the insured mortgage.

(C) UNIT OF GENERAL LOCAL GOVERNMENT; STATE.—The terms "unit of general local government" and "State" have the same meanings as in section 102(a) of the Housing and Community Development Act of 1974.

Sec. 543. [12 U.S.C. 1707 note]

NATIONAL INTERAGENCY TASK FORCE ON MULTIFAMILY HOUSING.

(a) PURPOSE.—The purpose of this section is to establish a National Interagency Task Force on Multifamily Housing to develop recommendations for establishing a national database on multifamily housing loans.

(b) ESTABLISHMENT OF TASK FORCE.—There is established a Task Force known as the National Interagency Task Force on Multifamily Housing (hereafter in this section referred to as the "Task Force").

(c) MEMBERSHIP OF TASK FORCE.—

(1)[622] FEDERAL OFFICIALS.—The Task Force shall be composed of—

(A) the Secretary of Housing and Urban Development;

(B) the Chairperson of the Federal Housing Finance Board;

(C) the Comptroller of the Currency;

(D) the Chairman of the Board of Governors of the Federal Reserve System;

(E) the Director of the Office of Thrift Supervision;

(F) the Chairperson of the Federal Deposit Insurance Corporation;

(G) the Chairperson of the Federal National Mortgage Association; and

(H) the Chairperson of the Federal Home Loan Mortgage Corporation,

(2) APPOINTMENTS BY THE SECRETARY.—The Secretary shall appoint as members of the Task Force—

(A) 1 individual who is a representative of a State housing finance agency;

(B) 1 individual who is a representative of a local housing finance agency;

(C) 1 individual who is a representative of the building industry with experience in multifamily housing; and

(D) 1 individual who is a representative of the life insurance industry with experience in multifamily loan performance data.

(3) APPOINTMENTS BY THE CHAIRPERSON OF THE FHFB.—The Chairman of the Federal Housing Finance Board shall appoint as members of the Task Force—

(A) 1 individual who is a representative from the financial services industry with experience in multifamily housing underwriting;

(B) 1 individual who is a representative from the nonprofit housing development sector with experience in subsidized multifamily housing development; and

(C) 1 individual who is a representative from a nationally recognized rating agency.

(d) ADMINISTRATION.—

(1) CHAIRPERSONS.—The Task Force shall be chaired jointly by the Secretary and the Chairman of the Federal Housing Finance Board.

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[622] [Note: Effective on July 21, 2011, section 371(1) of Public Law 111-203 provides for amendments to repeal subparagraphs (D)-(F) of section 543(c)(1) and redesignate subparagraphs (G) and (H) as subpargraphs (D) and (E), respectively.Section 311 of such Public Law provides for a delayed effective date of one year after the date of enactment of this law subject to a transfer of duties. See section 311(b) of such Public Law for a possible extension of the transfer date. Upon such date, subparagraphs (D)-(H) read as follows:]

(D) the Chairperson of the Federal National Mortgage Association; and

(E) the Chairperson of the Federal Home Loan Mortgage Corporation,

or their designees, and the persons appointed under paragraphs (2) and (3).

(2) MEETINGS.—The Task Force shall meet no less than 4 times, at the call of the Chairpersons of the Task Force.

(3) QUORUM.—A majority of the members of the Task Force shall constitute a quorum for the transaction of business.

(4) VOTING.—Each member of the Task Force shall be entitled to 1 vote, which shall be equal to the vote of every other member of the Task Force.

(5) VACANCIES.—Any vacancy on the Task Force shall not affect its powers, but shall be filled in the manner in which the original appointment was made.

(6) PROHIBITION ON ADDITIONAL PAY.—Members of the Task Force shall serve without compensation, but shall be reimbursed for travel, subsistence, and other necessary expenses incurred in the performance of their duties as members of the Task Force.

(e) FUNCTIONS OF THE TASK FORCE.—

(1) IN GENERAL.—The Task Force shall conduct a multifamily housing financial data project in order to improve the availability and efficiency of financing for multifamily rental housing. The project shall—

(A) analyze available data regarding the performance of multifamily housing mortgage loans in all regions of the country;

(B) prepare a comprehensive national database on the operation and financing of multifamily housing that will provide reliable information appropriate to meet the projected needs of lenders, investors, sponsors, property managers, and public officials;

(C) identify important factors that affect the long-term financial and operational soundness of multifamily housing properties, including factors relating to project credit risk, project underwriting, interest rate risk, real estate market conditions, public subsidies, tax policies, borrower characteristics, program management standards, and government policies;

(D) develop common definitions, standards, and procedures that will improve multifamily housing underwriting and accelerate the development of a strong, competitive, and efficient secondary market for multifamily housing loans; and

(E) make available appropriate information to various organizations in forms that will assist in improving multifamily housing loan underwriting and servicing.

(2) FINAL REPORT.—Not later than 1 year following the enactment of this Act[623], the Task Force shall submit to the Congress a final report which shall contain the information, evaluations, and recommendations specified in paragraph (1).

(f) AUTHORITY OF TASK FORCE.—

(1) RULES AND REGULATIONS.—The Task Force may adopt such rules and regulations as may be necessary to establish its procedures and to govern the manner of its operations, organization and personnel.

(2)[624] ACCESS TO DATA.—The members of the Task Force representing the Comptroller of the Currency, the Office of Thrift Supervision, the Board of Governors of the Federal Reserve System, the Federal Deposit Insurance Corporation, the Secretary of Housing and Urban Development, the Federal Housing Finance Board, the Federal National Mortgage Association, and the Federal Home Loan Mortgage Corporation shall make available to the Task Force a representative sample of multifamily housing mortgage loans in order for the Task Force to make its findings and recommendations, except that—

(A) all information obtained shall be used only for the purposes authorized in this section;

(B) the Task Force shall maintain the confidentiality of all such information obtained in the manner established for the material by the submitting entity, and such data shall not be subject to release under section 552 of title 5, United States Code;

(C) only aggregate data shall be publicly released by the Task Force unless it receives the explicit permission of the mortgage originator or government-sponsored enterprise from which the information is obtained; and

(D) any officer or employee of the Secretary, the Office of Thrift Supervision, the Board of Governors of the Federal Reserve, the Office of the Comptroller of the Currency, the Federal

[623] The date of enactment was October 28, 1992.

[624] Effective on July 21, 2011, section 371(2)(A) of Public Law 111-203 amends section 543(f)(2) by striking "the Office of Thrift Supervision," each place that term appears.

Section 311 of such Public Law provides for a delayed effective date of one year after the date of enactment of this law subject to a transfer of duties. See section 311(b) of such Public Law for a possible extension of the transfer date.

Deposit Insurance Corporation, or the Federal Housing Finance Board shall be subject to the penalties under section 1906 of title 18, United States Code, if—

(i) by virtue of employment or official position, the officer or employee has possession of or access to any book, record, or information made available under this subsection and established as confidential under subparagraph (C); and

(ii) the officer or employee discloses the material in any manner other than to an officer or employee of the same Federal agency employing the officer or employee, or other than pursuant to the exemptions under section 1906.

(3) SAMPLE DATA.—In order to ensure a representative sample of multifamily housing data, the Department of Housing and Urban Development, the Office of Thrift Supervision,[625] the Board of Governors of the Federal Reserve System, the Office of the Comptroller of the Currency, and the Federal Deposit Insurance Corporation are authorized to request loan data from a representative sample of mortgage originators or the government-sponsored enterprises regulated by these agencies, and mortgages originated by housing finance agencies and life insurance companies, except that—

(A) all information obtained shall be used only for the purposes authorized in this section;

(B) the Task Force shall maintain the confidentiality of all such information obtained in the manner established for the material by the submitting entity, and such data shall not be subject to release under section 552 of title 5, United States Code;

(C) only aggregate data shall be publicly released by the Task Force unless it receives the explicit permission of the mortgage originator or government-sponsored enterprise from which the information is obtained; and

(D) any officer or employee of the Secretary, the Office of Thrift Supervision,[626] the Board of Governors of the Federal Reserve, the Office of the Comptroller of the Currency, the Federal Deposit Insurance Corporation, or the Federal Housing Finance Board shall be subject to the penalties under section 1906 of title 18, United States Code, if—

(i) by virtue of employment or official position, the officer or employee has possession of or access to any book, record, or information made available under this subsection and established as confidential under subparagraph (C); and

(ii) the officer or employee discloses the material in any manner other than to an officer or employee of the same Federal agency employing the officer or employee, or other than pursuant to the exemptions under section 1906.

(4) AGENCY RESOURCES.—The Task Force may, with the consent of any Federal agency or department represented on the Task Force, utilize the information, services, staff and facilities of such agency or department on a reimbursable basis, to assist the Task Force in carrying out its duties under this section.

(5) MAILS.—The Task Force may use the United States mails in the same manner and under the same conditions as other Federal agencies.

(6) CONTRACTING.—The Task Force may, to such extent and in such amounts as are provided in appropriations Acts, enter into contracts with private firms, institutions, and individuals for the purpose of discharging its duties under this section.

(7) STAFF.—The Task Force may appoint and fix the compensation of such personnel as it deems advisable, in accordance with the provisions of title 5, United States Code, governing appointments to the competitive service, and the provisions of chapter 51 and subchapter III of chapter 53 of such title, relating to classification of General Schedule pay rates.

(g) INDEPENDENT EVALUATION.—The Comptroller General of the United States shall be authorized to conduct an independent analysis of the findings and recommendations submitted by the Task Force to the Congress under this section.

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[625] Effective on July 21, 2011, section 371(2)(B)(i) of Public Law 111-203 amends section 543(f)(3) in the matter preceding subparagraph (A), by striking "the Office of Thrift Supervision,".
Section 311 of such Public Law provides for a delayed effective date of one year after the date of enactment of this law subject to a transfer of duties. See section 311(b) of such Public Law for a possible extension of the transfer date.

[626] Effective on July 21, 2011, section 371(2)(B)(ii) of Public Law 111-203 amends section 543(f)(3)(D) by striking "Office of Thrift Supervision,".
Section 311 of such Public Law provides for a delayed effective date of one year after the date of enactment of this law subject to a transfer of duties. See section 311(b) of such Public Law for a possible extension of the transfer date.

(h) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this section not to exceed $6,000,000 for fiscal year 1993 and $6,252,000 for fiscal year 1994. Funds appropriated under this subsection shall remain available until expended.

Sec. 544. [12 U.S.C. 1707 note]
DEFINITIONS.

For purposes of this subtitle:

(1) The term "multifamily housing" means housing accommodations on the mortgaged property that are designed principally for residential use, conform to standards satisfactory to the Secretary, and consist of not less than 5 rental units on 1 site. These units may be detached, semidetached, row house, or multifamily structures.

(2) The term "qualified housing finance agency" means any State or local housing finance agency that—

(A) carries the designation of "top tier" or its equivalent, as evaluated by Standard and Poors or any other nationally recognized rating agency;

(B) receives a rating of "A" for its general obligation bonds from a nationally recognized rating agency; or

(C) otherwise demonstrates its capacity as a sound and experienced agency based on, but not limited to, its experience in financing multifamily housing, fund balances, administrative capabilities, investment policy, internal controls and financial management, portfolio quality, and State or local support.

(3) The term "reinsurance agreement" means a contractual obligation under which the Secretary, in exchange for appropriate compensation, agrees to assume a specified portion of the risk of loss that a lender or other party has previously assumed with respect to a mortgage on a multifamily housing property.

(4) The term "Secretary" means the Secretary of Housing and Urban Development.

(5) The term "qualified participating entity" means an entity approved by the Secretary for participation in the pilot program under this subsection, which may include—

(A) the Federal National Mortgage Association;

(B) the Federal Home Loan Mortgage Corporation;

(C) State housing finance and mortgage insurance agencies; and

(D) the Federal Housing Finance Board.

END OF STATUTE

PREVENTING MORTGAGE DEFAULTS ON INSURED MULTIFAMILY HOUSING PROJECTS

MULTIFAMILY HOUSING PROPERTY DISPOSITION REFORM ACT OF 1994

[Public Law 103-233; 108 Stat. 362; 12 U.S.C. 1715z-1a note]

Sec. 103. [12 U.S.C. 1715z-1a note]
PREVENTING MORTGAGE DEFAULTS ON MULTIFAMILY HOUSING PROJECTS.

* * * * * * *

(h) [12 U.S.C. 1715z-1a note] ALTERNATIVE USES FOR PREVENTION OF DEFAULT.—

(1) IN GENERAL.—Subject to notice to and comment by existing tenants, to prevent the imminent default of a multifamily housing project subject to a mortgage insured under title II of the National Housing Act, the Secretary may authorize the mortgagor to use the project for purposes not contemplated by or permitted under the regulatory agreement, if—

(A) such other uses are acceptable to the Secretary;

(B) such other uses would be otherwise insurable under title II of the National Housing Act;

(C) the outstanding principal balance on the mortgage covering such project is not increased;

(D) any financial benefit accruing to the mortgagor shall, subject to the discretion of the Secretary, be applied to project reserves or project rehabilitation; and

(E) such other use serves a public purpose.

(2) DISPLACEMENT PROTECTION.—The Secretary may take actions under paragraph (1) only if—

(A) tenant-based rental assistance under section 8 of the United States Housing Act of 1937 is made available to each eligible family residing in the project that is displaced as a result of such actions; and

(B) the Secretary determines that sufficient habitable, affordable (as such term is defined in section 203(b) of the Housing and Community Development Amendments of 1978) rental housing is available in the market area in which the project is located to ensure use of such assistance.

(3) IMPLEMENTATION.—The Secretary shall, by notice published in the Federal Register, which shall take effect upon publication, establish such requirements as may be necessary to implement the amendments made by this subsection. The notice shall invite public comments and, not later than 12 months after the date on which the notice is published, the Secretary shall issue final regulations based on the initial notice, taking into account any public comments received.

END OF STATUTE

MULTIFAMILY MORTGAGE RESOLUTION PROGRAM

DODD-FRANK WALL STREET REFORM AND CONSUMER PROTECTION ACT OF 2010 [Public Law 111-203; 124 Stat. 1376; 12 U.S.C. 5220b]

Sec. 1481. [12 U.S.C. 5220b]
MULTIFAMILY MORTGAGE RESOLUTION PROGRAM.

(a) ESTABLISHMENT.—The Secretary of Housing and Urban Development shall develop a program under this subsection to ensure the protection of current and future tenants and at-risk multifamily properties, where feasible, based on criteria that may include—

(1) creating sustainable financing of such properties, that may take into consideration such factors as—

(A) the rental income generated by such properties; and

(B) the preservation of adequate operating reserves;

(2) maintaining the level of Federal, State, and city subsidies in effect as of the date of the enactment of this Act;

(3) providing funds for rehabilitation; and

(4) facilitating the transfer of such properties, when appropriate and with the agreement of owners, to responsible new owners and ensuring affordability of such properties.

(b) COORDINATION.—The Secretary of Housing and Urban Development may, in carrying out the program developed under this section, coordinate with the Secretary of the Treasury, the Federal Deposit Insurance Corporation, the Board of Governors of the Federal Reserve System, the Federal Housing Finance Agency, and any other Federal Government agency that the Secretary considers appropriate.

(c) DEFINITION.—For purposes of this section, the term "multifamily properties" means a residential structure that consists of 5 or more dwelling units.

(d) PREVENTION OF QUALIFICATION FOR CRIMINAL APPLICANTS.—

(1) IN GENERAL.—No person shall be eligible to begin receiving assistance from the Making Home Affordable Program authorized under the Emergency Economic Stabilization Act of 2008 (12 U.S.C. 5201 et seq.), or any other mortgage assistance program authorized or funded by that Act, on or after 60 days after the date of the enactment of this Act, if such person, in connection with a mortgage or real estate transaction, has been convicted, within the last 10 years, of any one of the following:

(A) Felony larceny, theft, fraud, or forgery.

(B) Money laundering.

(C) Tax evasion.

(2) PROCEDURES.—The Secretary shall establish procedures to ensure compliance with this subsection.

(3) REPORT.—The Secretary shall report to the Committee on Financial Services of the House of Representatives and the Committee on Banking, Housing, and Urban Affairs of the Senate regarding the implementation of this provision. The report shall also describe the steps taken to implement this subsection.

END OF STATUTE

INCREASING ACCESS AND UNDERSTANDING OF ENERGY EFFICIENT MORTGAGES

HOUSING AND ECONOMIC RECOVERY ACT OF 2008
[Public Law 110-289; 122 Stat. 2654; 12 U.S.C. 1701z-17]

Sec. 2902. [12 U.S.C. 1701z-11]
INCREASING ACCESS AND UNDERSTANDING OF ENERGY EFFICIENT MORTGAGES.

(a) DEFINITION.—As used in this section, the term "energy efficient mortgage" has the same meaning as given that term in paragraph (24) of section 104 of the Cranston-Gonzalez National Affordable Housing Act (42 U.S.C. 12704(24)).

(b) RECOMMENDATIONS TO ELIMINATE BARRIERS TO USE OF ENERGY EFFICIENT MORTGAGES.—

(1) IN GENERAL.—Not later than 180 days after the date of enactment of this section, the Secretary of Housing and Urban Development, in conjunction with the Secretary of Energy and the Administrator of the Environmental Protection Agency, shall consult with the residential mortgage industry and States to develop recommendations to eliminate the barriers that exist to increasing the availability, use, and purchase of energy efficient mortgages, including such barriers as—

(A) the lack of reliable and accessible information on such mortgages, including estimated energy savings and other benefits of energy efficient housing;

(B) the confusion regarding underwriting requirements and differences among various energy efficient mortgage programs;

(C) the complex and time consuming process of securing such mortgages;

(D) the lack of publicly available research on the default risk of such mortgages; and

(E) the availability of certified or accredited home energy rating services.

(2) REPORT TO CONGRESS.—The Secretary of Housing and Urban Development shall submit a report to Congress that—

(A) summarizes the recommendations developed under paragraph (1); and

(B) includes any recommendations for statutory, regulatory, or administrative changes that the Secretary deems necessary to institute such recommendations.

(c) ENERGY EFFICIENT MORTGAGES OUTREACH CAMPAIGN.—

(1) IN GENERAL.—The Secretary of Housing and Urban Development, in consultation and coordination with the Secretary of Energy, the Administrator of the Environmental Protection Agency, and State Energy and Housing Finance Directors, shall carry out an education and outreach campaign to inform and educate consumers, home builders, residential lenders, and other real estate professionals on the availability, benefits, and advantages of—

(A) improved energy efficiency in housing; and

(B) energy efficient mortgages.

(2) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated such sums as are necessary to carry out the education and outreach campaign described under paragraph (1).

END OF STATUTE

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PART IX—SECONDARY MARKET FOR MORTGAGE LOANS

FEDERAL NATIONAL MORTGAGE ASSOCIATION AND GOVERNMENT NATIONAL MORTGAGE ASSOCIATION

FEDERAL NATIONAL MORTGAGE ASSOCIATION CHARTER ACT[627]
[Public Law 479, 73d Congress; 48 Stat. 1252; 12 U.S.C. 1716—1723i]

TITLE III—NATIONAL MORTGAGE ASSOCIATIONS

Sec. 301. [12 U.S.C. 1716]
PURPOSES.

The Congress hereby declares that the purposes of this title are to establish secondary market facilities for residential mortgages, to provide that the operations thereof shall be financed by private capital to the maximum extent feasible, and to authorize such facilities to—

(1) provide stability in the secondary market for residential mortgages;

(2) respond appropriately to the private capital market;

(3) provide ongoing assistance to the secondary market for residential mortgages (including activities relating to mortgages on housing for low- and moderate-income families involving a reasonable economic return that may be less than the return earned on other activities) by increasing the liquidity of mortgage in investments and improving the distribution of investment capital available for residential mortgage financing;

(4) promote access to mortgage credit throughout the Nation (including central cities, rural areas, and underserved areas) by increasing the liquidity of mortgage investments and improving the distribution of investment capital available for residential mortgage financing; and

(5) manage and liquidate federally owned mortgage portfolios in an orderly manner, with a minimum of adverse effect upon the residential mortgage market and minimum loss to the Federal Government.

Sec. 302. [12 U.S.C. 1717]
CREATION OF ASSOCIATION.

(a)(1) There is hereby created a body corporate to be known as the "Federal National Mortgage Association" which shall be in the Department of Housing and Urban Development. The Association shall have succession until dissolved by Act of Congress. It shall maintain its principal office in the District of Columbia and shall be deemed, for purposes of venue in civil actions, to be a resident thereof. Agencies or offices may be established by the Association in such other place or places as it may deem necessary or appropriate in the conduct of its business.

(2) On September 1, 1968, the body corporate described in the foregoing paragraph shall cease to exist in that form and is hereby partitioned into two separate and distinct bodies corporate, each of which shall have continuity and corporate succession as a separated portion of the previously existing body corporate, as follows:

(A) One of such separated portions shall be a body corporate without capital stock to be known as the Government National Mortgage Association (hereinafter referred to as the "Association"), which shall be in the Department of Housing and Urban Development and which shall retain the assets and liabilities acquired and incurred under sections 305 and 306 prior to such date, including any and all liabilities incurred pursuant to section 302(c). The Association shall have succession until dissolved by Act of Congress. It shall maintain its principal office in the District of Columbia or the metropolitan area thereof and shall be deemed, for purposes of jurisdiction and venue in civil actions, to be a District of Columbia corporation. Agencies or

[627] Enacted as Title III of the National Housing Act

offices may be established by the Association in such other place or places as it may deem necessary or appropriate in the conduct of its business.

(B) The other such separated portion shall be a body corporate to be known as Federal National Mortgage Association (hereinafter referred to as the "corporation"), which shall retain the assets and liabilities acquired and incurred under sections 303 and 304 prior to such date. The corporation shall have succession until dissolved by Act of Congress. It shall maintain its principal office in the District of Columbia or the metropolitan area thereof and shall be deemed, for purposes of jurisdiction and venue in civil actions to be a District of Columbia corporation.

(3) The partition transaction effected pursuant to the foregoing paragraph constitutes a reorganization within the meaning of section 368(a)(1)(E) of the Internal Revenue Code of 1954; and for the purposes of such Code, no gain or loss is recognized by the previously existing body corporate's by reason of the partition, and the basis and holding period of the assets of the corporation immediately following such partition are the same as the basis and holding period of such assets immediately prior to such partition.

(b)(1) For the purposes set forth in section 301 and subject to the limitations and restrictions of this title, each of the bodies corporate named in subsection (a)(2) is authorized, pursuant to commitments or otherwise, to purchase, service, sell, or otherwise deal in any mortgages which are insured under the National Housing Act or title V of the Housing Act of 1949, or which are insured or guaranteed under the Servicemen's Readjustment Act of 1944 or chapter 37 of title 38, United States Code; and to purchase, service, sell, or otherwise deal in any loans made or guaranteed under part B of title VI of the Public Health Service Act; and the corporation is authorized to lend on the security of any such mortgages and to purchase, sell, or otherwise deal in any securities guaranteed by the Association under section 306(g): *Provided*, That (1) the Association may not purchase any mortgage at a price exceeding 100 per centum of the unpaid principal amount thereof at the time of purchase, with adjustments for interest and any comparable items; (2) the Association may not purchase any mortgage, except a mortgage insured under title V of the Housing Act of 1949, if it offered by, or covers property held by a State, territorial, or municipal instrumentality; and (3) the Association may not purchase any mortgage under section 305, except a mortgage insured under section 220 or title VIII or section 203(k) or under title X with respect to a new community approved under section 1004 thereof, or insured under section 213 and covering property located in an urban renewal area, or a mortgage covering property located in Alaska, Guam, or Hawaii, if the original principal obligation thereof exceeds or exceeded $55,000 in the case of property upon which is located a dwelling designed principally for a one-family residence; or $60,000 in the case of a two- or three-family residence, or $68,750 in the case of a four-family residence; or in the case of a property containing more than four dwelling units, $38,000 per dwelling unit (or such higher amount not in excess of $45,000 per dwelling unit as the Secretary may by regulation specify in any geographical area where the Secretary finds that cost levels so require) for that part of the property (attributable to dwelling use). Notwithstanding the provisions of clause (3) of the preceding sentence, the Association may purchase a mortgage under section 305 with an original principal obligation which exceeds the otherwise applicable maximum amount per dwelling unit if the mortgage is insured under section 207(c)(3), 213(b)(2), 220(d)(3)(B)(iii), 221(d)(3)(ii), 221(d)(4)(ii), 231(c)(2), 234(e)(3), or 236. For the purposes of this title, the term "mortgages" and "home mortgages" shall be inclusive of any mortgages or other loans insured under any of the provisions of the National Housing Act or title V of the Housing Act of 1949.

(2) For the purposes set forth in section 301(a), the corporation is authorized, pursuant to commitments or otherwise, to purchase, service, sell, lend on the security of, or otherwise deal in mortgages which are not insured or guaranteed as provided in paragraph (1) (such mortgages referred to hereinafter as "conventional mortgages"). No such purchase of a conventional mortgage secured by a property comprising one- to four-family dwelling units shall be made if the outstanding principal balance of the mortgage at the time of purchase exceeds 80 per centum of the value of the property securing the mortgage, unless (A) the seller retains a participation of not less than 10 per centum in the mortgage; (B) for such period and under such circumstances as the corporation may require, the seller agrees to repurchase or replace the mortgage upon demand of the corporation in the event that the mortgage is in default; or (C) that portion of the unpaid principal balance of the mortgage which is in excess of such 80 per centum is guaranteed or insured by a qualified insurer as determined by the corporation. The corporation shall not issue a commitment to purchase a conventional mortgage prior to the date the mortgage is originated, if such mortgage is eligible for purchase under the preceding sentence only by reason of compliance with the requirements of clause (A) of such sentence. The corporation may purchase a conventional mortgage which was originated more than one year prior to the purchase date only if the seller is the Federal Deposit Insurance Corporation, the Resolution Trust Corporation, the National Credit

Union Administration, or any other seller currently engaged in mortgage lending or investing activities. For the purpose of this section, the term "conventional mortgages" shall include a mortgage, lien, or other security interest on the stock or membership certificate issued to a tenant-stockholder or resident-member of a cooperative housing corporation, as defined in section 216 of the Internal Revenue Code of 1954, and on the proprietary lease, occupancy agreement, or right of tenancy in the dwelling unit of the tenant-stockholder or resident-member in such cooperative housing corporation. The corporation shall establish limitations governing the maximum original principal obligation of conventional mortgages that are purchased by it; in any case in which the corporation purchases a participation interest in such a mortgage, the limitation shall be calculated with respect to the total original principal obligation of the mortgage and not merely with respect to the interest purchased by the corporation. Such limitations shall not exceed $417,000 for a mortgage secured by a single-family residence, $533,850 for a mortgage secured by a 2-family residence, $645,300 for a mortgage secured by a 3-family residence, and $801,950 for a mortgage secured by a 4-family residence, except that such maximum limitations shall be adjusted effective January 1 of each year beginning after the effective date of the Federal Housing Finance Regulatory Reform Act of 2008, subject to the limitations in this paragraph. Each adjustment shall be made by adding to each such amount (as it may have been previously adjusted) a percentage thereof equal to the percentage increase, during the most recent 12-month or 4-quarter period ending before the time of determining such annual adjustment, in the housing price index maintained by the Director of the Federal Housing Finance Agency (pursuant to section 1322 of the Federal Housing Enterprises Financial Safety and Soundness Act of 1992 (12 U.S.C. 4541[628])). If the change in such house price index during the most recent 12-month or 4-quarter period ending before the time of determining such annual adjustment is a decrease, then no adjustment shall be made for the next year, and the next adjustment shall take into account prior declines in the house price index, so that any adjustment shall reflect the net change in the house price index since the last adjustment. Declines in the house price index shall be accumulated and then reduce increases until subsequent increases exceed prior declines. The foregoing limitations may be increased by not to exceed 50 per centum with respect to properties located in Alaska, Guam, Hawaii, and the Virgin Islands. Such foregoing limitations shall also be increased, with respect to properties of a particular size located in any area for which 115 percent of the median house price for such size residence exceeds the foregoing limitation for such size residence, to the lesser of 150 percent of such limitation for such size residence or the amount that is equal to 115 percent of the median house price in such area for such size residence.

(3)[629] The corporation is authorized to purchase, service, sell, lend on the security of, and otherwise deal in loans or advances of credit for the purchase and installation of home improvements, including energy conserving improvements or solar energy systems described in the last paragraph of section 2(a) of the National Housing Act and residential energy conservation measures as described in section 210(11) of the National Energy Conservation Policy Act and financed by a public utility in accordance with the requirements of title II of such Act. To be eligible for purchase, any such loan or advance of credit (other than a loan or advance made with respect to energy conserving improvements or solar energy systems or residential energy conservation measures) not insured under title I of the National Housing Act shall be secured by a lien against the property to be improved.

(4)[630] The corporation is authorized to purchase, service, sell, lend on the security of, and otherwise deal in loans or advances of credit secured by mortgages or other liens against manufactured homes.

(5)(A) The corporation is authorized to purchase, service, sell, lend on the security of, and otherwise deal in (i) conventional mortgages that are secured by a subordinate lien against a one-to-four-family residence that is the principal residence of the mortgagor; and (ii) conventional mortgages that are

[628] So in law. Probably should refer to 12 U.S.C. 4542.

[629] Section 246 of the National Energy Conservation Policy Act, Pub. L. 95-619, approved November 9, 1978, added this paragraph. It was amended and rewritten by section 339(a) of the Housing and Community Development Act of 1980, Pub. L. 96-399, approved October 8, 1980. Section 339(a)(2) of such Act provides, in part, as follows: "When the Federal National Mortgage Association submits its proposal to the Secretary of Housing and Urban Development to implement the authority granted by the amendment made by this paragraph, the Secretary of Housing and Urban Development shall, within 75 days, approve such proposal or transmit to the Congress a report explaining why such proposal has not been approved."

[630] Paragraph (4) was added by section 339(b) of the Housing and Community Development Act of 1980, Pub. L. 96-399, approved October 8, 1980, which also provides, in part, as follows: "When the Federal National Mortgage Association submits its proposal to the Secretary of Housing and Urban Development to implement the authority granted by the amendment made by this paragraph, the Secretary of Housing and Urban Development shall, within 75 days, approve such proposal or transmit to the Congress a report explaining why such proposal has not been approved."

secured by a subordinate lien against a property comprising five or more family dwelling units. If the corporation, pursuant to paragraphs (1) through (4), shall have purchased, serviced, sold, or otherwise dealt with any other outstanding mortgage secured by the same residence, the aggregate original amount of such other mortgage and the mortgage authorized to be purchased, serviced, sold, or otherwise dealt with under this paragraph shall not exceed the applicable limitation determined under paragraph (2).

(B) The corporation shall establish limitations governing the maximum original principal obligation of conventional mortgages described in subparagraph (A). In any case in which the corporation purchases a participation interest in such a mortgage, the limitation shall be calculated with respect to the total original principal obligation of such mortgage described in subparagraph (A) and not merely with respect to the interest purchased by the corporation. Such limitations shall not exceed (i) with respect to mortgages described in subparagraph (A)(i), 50 per centum of the single-family residence mortgage limitation determined under paragraph (2); and (ii) with respect to mortgages described in subparagraph (A)(ii), the applicable limitation determined under paragraph (2).

(C) No subordinate mortgage against a one- to four-family residence shall be purchased by the corporation if the total outstanding indebtedness secured by the property as a result of such mortgage exceeds 80 per centum of the value of such property unless (i) that portion of such total outstanding indebtedness that exceeds such 80 per centum is guaranteed or insured by a qualified insurer as determined by the corporation; (ii) the seller retains a participation of not less than 10 per centum in the mortgage; or (iii) for such period and under such circumstances as the corporation may require, the seller agrees to repurchase or replace the mortgage upon demand of the corporation in the event that the mortgage is in default. The corporation shall not issue a commitment to purchase a subordinate mortgage prior to the date the mortgage is originated, if such mortgage is eligible for purchase under the preceding sentence only by reason of compliance with the requirements of clause (ii) of such sentence.

(6) The corporation may not implement any new program (as such term is defined in section 1303 of the Federal Housing Enterprises Financial Safety and Soundness Act of 1992) before obtaining the approval of the Secretary under section 1322 of such Act.

(c)(1) Notwithstanding any other provision of this Act or of any other law, the Association is authorized under section 306 to create, accept, execute, and otherwise administer in all respects such trusts, receiverships, conservatorships, liquidating or other agencies, or other fiduciary and representative undertakings and activities, hereinafter in this subsection called “trusts”, as might be appropriate for financing purposes; and in relation thereto the Association may acquire, hold and manage, dispose of, and otherwise deal in any mortgages or other types of obligations in which any department or agency of the United States listed in paragraph (2) of this subsection may have a financial interest. The Association may join in any such undertakings and activities notwithstanding that it is also serving in a fiduciary or representative capacity; and is authorized to guarantee any participations or other instruments, whether evidence of property rights or debt, issued for such financing purposes. Participations or other instruments issued by the Association pursuant to this subsection shall to the same extent as securities which are direct obligations of or obligations guaranteed as to principal or interest by the United States be deemed to be exempt securities within the meaning of laws administered by the Securities and Exchange Commission. The amounts of any mortgages and other obligations acquired by the Association under section 306, pursuant to this subsection, shall not be included in the total amounts set forth in section 306(c).

(2) Subject to the limitations provided in paragraph (4) of this subsection, one or more trusts may be established as provided in this subsection by each of the following departments or agencies:

(A) The Farmers Home Administration of the Department of Agriculture, but only with respect to operating loans, direct farm ownership loans, direct housing loans, and direct soil and water loans. Such trusts may not be established with respect to loans for housing for the elderly under sections 502 and 515(a) of the Housing Act of 1949, nor with respect to loans for nonfarm recreational development.

(B) The Department of Education, but only with respect to loans made by the Secretary of Education for construction of academic facilities, and loans to help finance student loan programs.

(C) The Department of Housing and Urban Development.

(D) The Department of Veterans Affairs.

(E) The Export-Import Bank.

(F) The Small Business Administration.

The head of each such department or agency, hereinafter in this subsection called the "trustor", is authorized to set aside a part or all of any obligations held by the trustor and subject them to a trust or trusts and, incident thereto, shall guarantee to the trustee timely payment thereof. The trust instrument may provide for the issuance and sale of beneficial interests or participations, by the trustee, in such obligations or in the right to receive interest and principal collections therefrom; and may provide for the substitution or withdrawal of such obligations, or for the substitution of cash for obligations. The trust or trusts shall be exempt from all taxation. The trust instrument may also contain other appropriate provisions in keeping with the purposes of this subsection. The Association shall be named and shall act as trustee of any such trusts and, for the purposes thereof, the title to such obligations shall be deemed to have passed to the Association in trust. The trust instrument shall provide that custody, control, and administration of the obligations shall remain in the trustor subjecting the obligations to the trust, subject to transfer to the trustee in event of default or probable default, as determined by the trustee, in the payment of principal and interest of the beneficial interests or participations. Collections from obligations subject to the trust shall be dealt with as provided in the instrument creating the trust. The trust instrument shall provide that the trustee will promptly pay to the trustor the full net proceeds of any sale of beneficial interests or participations to the extent they are based upon such obligations or collections. Such proceeds shall be dealt with as otherwise provided by law for sales or repayment of such obligations. The effect of both past and future sales of any issue of beneficial interests or participations shall be the same, to the extent of the principal of such issue, as the direct sale with recourse of the obligations subject to the trust. Any trustor creating a trust or trusts hereunder is authorized to purchase, through the facilities of the trustee, outstanding beneficial interests or participations to the extent of the amount of the trustor's responsibility to the trustee on beneficial interests or participations outstanding, and to pay the trustor's proper share of the costs and expenses incurred by the Association as trustee pursuant to the trust instrument.

(3) When any trustor guarantees to the trustee the timely payment of obligations the trustor subjects to a trust pursuant to this subsection, and it becomes necessary for such trustor to meet his responsibilities under such guaranty, the trustor is authorized to fulfill such guaranty.

(4) Beneficial interests or participations shall not be issued for the account of any trustor in an aggregate principal amount greater than is authorized with respect to such trustor in an appropriation Act. Any such authorization shall remain available only for the fiscal year for which it is granted and for the succeeding fiscal year.

(5) The Association, as trustee, is authorized to issue and sell beneficial interests or participations under this subsection, notwithstanding that there may be an insufficiency in aggregate receipts from obligations subject to the related trust to provide for the payment by the trustee (on a timely basis out of current receipts or otherwise) of all interest or principal on such interests or participations (after provision for all costs and expenses incurred by the trustee, fairly prorated among trustors). There are authorized to be appropriated without fiscal year limitation such sums as may be necessary to enable any trustor to pay the trustee such insufficiency as the trustee may require on account of outstanding beneficial interests or participations authorized to be issued pursuant to paragraph (4) of this subsection. Such trustor shall make timely payments to the trustee from such appropriations, subject to and in accord with the trust instrument. In the event that the insufficiency required by the trustee is on account of principal maturities of outstanding beneficial interests or participations authorized to be issued pursuant to paragraph (4) of this subsection, or pursuant hereto, the trustee is authorized to elect to issue additional beneficial interests or participations for refinancing purposes in lieu of requiring any trustor or trustors to make payments to the trustee from appropriated funds or other sources. Each such issue of beneficial interests or participations shall be in an amount determined by the trustee but not in excess of the aggregate amount which the trustee would otherwise require the trustor or trustors to pay from appropriated funds or other sources, and may be issued without regard to the provisions of paragraph (4) of this subsection. All refinancing issues of beneficial interests or participations shall be deemed to have been issued pursuant to the authority contained in the appropriation Act or Acts under which the beneficial interests or participations were originally issued.

Sec. 303. [12 U.S.C. 1718]
CAPITALIZATION—FEDERAL NATIONAL MORTGAGE ASSOCIATION.

(a) The corporation shall have common stock, without par value, which shall be vested with all voting rights, each share being entitled to one vote with rights of cumulative voting at all elections of directors. The corporation may eliminate such rights of cumulative voting by a resolution adopted by its board of directors and approved by the holders of a majority of the shares of common stock voting in person or by proxy at the annual meeting, or other special meeting, at which such resolution is considered. The corporation may have preferred stock

on such terms and conditions as the board of directors shall prescribe. The free transferability of the stock at all times to any person, firm, corporation, or other entity shall not be restricted except that, as to the corporation, it shall be transferable only on the books of the corporation. The corporation may issue shares of common stock in return for appropriate payments into capital or capital and surplus.

(b)(1) The corporation may impose charges or fees, which may be regarded as elements of pricing, with the objective that all costs and expenses of the operations of the corporation should be within its income derived from such operations and that such operations should be fully self-supporting.

(2) All earnings from the operations of the corporation shall annually be transferred to the general surplus account of the corporation. At any time, funds of the general surplus account may, in the discretion of the board of directors, be transferred to reserves.

(c)(1) Except as provided in paragraph (2), the corporation may make such capital distributions (as such term is defined in section 1303 of the Federal Housing Enterprises Financial Safety and Soundness Act of 1992) as may be declared by the board of directors. All capital distributions shall be charged against the general surplus account of the corporation.

(2) The corporation may not make any capital distribution that would decrease the total capital of the corporation (as such term is defined in section 1303 of the Federal Housing Enterprises Financial Safety and Soundness Act of 1992) to an amount less than the risk-based capital level for the corporation established under section 1361 of such Act or that would decrease the core capital of the corporation (as such term is defined in section 1303 of such Act) to an amount less than the minimum capital level for the corporation established under section 1362 of such Act, without prior written approval of the distribution by the Director of the Federal Housing Finance Agency.

(d) Notwithstanding any other provision of law, any institution, including a national bank or State member bank of the Federal Reserve System or any member of the Federal Deposit Insurance Corporation, trust company, or other banking organization, organized under any law of the United States, including the laws relating to the District of Columbia, shall be authorized to purchase shares of common stock of the corporation and to hold or dispose of such stock, subject to the provisions of this title.

Sec. 304. [12 U.S.C. 1719]
SECONDARY MARKET OPERATIONS—FEDERAL NATIONAL MORTGAGE ASSOCIATION.

(a)(1) To carry out the purposes set forth in paragraph (a) of section 301, the operations of the corporation under this section shall be confined so far as practicable, to mortgages which are deemed by the corporation to be of such quality, type, and class as to meet, generally, the purchase standards imposed by private institutional mortgage investors. In the interest of assuring sound operation, the prices to be paid by the corporation for mortgages purchased in its secondary market operations under this section, should be established, from time to time, within the range of market prices for the particular class of mortgages involved, as determined by the corporation.

The volume of the corporation's purchases and sales, and the establishment of the purchase prices, sale prices, and charges or fees, in its secondary market operations under this section, should be determined by the corporation from time to time, and such determinations should be consistent with the objectives that such purchases and sales should be effected only at such prices and on such terms as will reasonably prevent excessive use of the corporation's facilities, and that the operations of the corporation under this section should be within its income derived from such operations and that such operations should be fully self-supporting. Nothing in this title shall prohibit the corporation from purchasing, and making commitments to purchase, any mortgage with respect to which the Secretary of Housing and Urban Development has entered into a contract with the corporation to make interest subsidy payments under section 243 of the National Housing Act.

(2) The volume of the corporation's lending activities and the establishment of its loan ratios, interest rates, maturities, and charges or fees in its secondary market operations under this section, should be determined by the corporation from time to time; and such determinations, in conjunction with determinations made under paragraph (1), should be consistent with the objectives that the lending activities should be conducted on such terms as will reasonably prevent excessive use of the corporation's facilities, and that the operations of the corporation under this section should be within its income derived from such operations and that such operations should be fully self-supporting. The corporation shall not be permitted to use its lending authority (A) to advance funds to a mortgage seller on an interim basis, using mortgage loans as collateral, pending the sale of the mortgages in the secondary market; or (B) to originate mortgage loans. Notwithstanding any Federal, State, or other law to the contrary, the corporation is hereby empowered, in connection with any loan under this section, whether before or after any default, to provide by contract with the borrower for the settlement or extinguishment, upon default, of any redemption,

equitable, legal, or other right, title, or interest of the borrower in any mortgage or mortgages that constitute the security for the loan; and with respect to any such loan, in the event of default and pursuant otherwise to the terms of the contract, the mortgages that constitute such security shall become the absolute property of the corporation.

(b) For the purposes of this section, the corporation is authorized to issue, upon the approval of the Secretary of the Treasury, and have outstanding at any one time obligations having such maturities and bearing such rate or rates of interest as may be determined by the corporation with the approval of the Secretary of the Treasury, to be redeemable at the option of the corporation before maturity in such manner as may be stipulated in such obligations. The corporation shall insert appropriate language in all of its obligations issued under this subsection clearly indicating that such obligations, together with the interest thereon, are not guaranteed by the United States and do not constitute a debt or obligation of the United States or of any agency or instrumentality thereof other than the corporation. The corporation is authorized to purchase in the open market any of its obligations outstanding under this subsection at any time and at any price.

(c) The Secretary of the Treasury is authorized in the Secretary's discretion to purchase any obligations issued pursuant to subsection (b) of this section, as now or hereafter in force, and for such purpose the Secretary of the Treasury is authorized to use as a public debt transaction the proceeds of the sale of any securities hereafter issued under chapter 31 of title 31, United States Code, and the purposes for which securities may be issued under chapter 31 of title 31, United States Code, are extended to include such purchases. The Secretary of the Treasury shall not at any time purchase any obligations under this subsection if such purchase would increase the aggregate principal amount of the Secretary's then outstanding holding of such obligations under this subsection to an amount greater than $2,250,000,000. Each purchase of obligations by the Secretary of the Treasury under this subsection shall be upon such terms and conditions as to yield a return at a rate determined by the Secretary of the Treasury, taking into consideration the current average rate on outstanding marketable obligations of the United States as of the last day of the month preceding the making of such purchase. The Secretary of the Treasury may, at any time, sell, upon such terms and conditions and at such price or prices as the Secretary shall determine, any of the obligations acquired by the Secretary under this subsection. All redemptions, purchases and sales by the Secretary of the Treasury of such obligations under this subsection shall be treated as public debt transactions of the United States.

(d) To provide a greater degree of liquidity to the mortgage investment market and an additional means of financing its operations under this section, the corporation is authorized to set aside any mortgages held by it under this section, and, upon approval of the Secretary of the Treasury, to issue and sell securities based upon the mortgages so set aside. Securities issued under this subsection may be in the form of debt obligations or trust certificates of beneficial interest, or both. Securities issued under this subsection shall have such maturities and bear such rate or rates of interest as may be determined by the corporation with the approval of the Secretary of the Treasury. Securities issued by the corporation under this subsection shall, to the same extent as securities which are direct obligations of or obligations guaranteed as to principal and interest by the United States, be deemed to be exempt securities within the meaning of laws administered by the Securities and Exchange Commission. Mortgages set aside pursuant to this subsection shall at all times be adequate to enable the corporation to make timely principal and interest payments on the securities issued and sold pursuant to this subsection. The corporation shall insert appropriate language in all of the securities issued under this subsection clearly indicating that such securities, together with the interest thereon, are not guaranteed by the United States and do not constitute a debt or obligation of the United States or any agency or instrumentality thereof other than the corporation.

(e) For the purposes of this section, the corporation is authorized to issue, upon the approval of the Secretary of the Treasury, obligations which are subordinated to any or all other obligations of the corporation, including subsequent obligations. The obligations issued under this subsection shall have such maturities and bear such rate or rates of interest as may be determined by the corporation with the approval of the Secretary of the Treasury and may be made redeemable at the option of the corporation before maturity in such manner as may be stipulated in such obligations. Any of such obligations may be made convertible into shares of common stock in such manner, at such price or prices, and at such time or times as may be stipulated therein. Obligations issued by the corporation under this subsection shall, to the same extent as securities which are direct obligations of or obligations guaranteed as to principal or interest by the United States, be deemed to be exempt securities within the meaning of laws administered by the Securities and Exchange Commission. The corporation shall insert appropriate language in all of its obligations issued under this subsection clearly indicating that such obligations, together with the interest thereon, are not guaranteed by the United States and do not constitute a debt or obligation of the United States or of any agency or instrumentality thereof other than the corporation. The corporation is authorized to purchase in the open market any of its obligations outstanding under this subsection at any time and at any price.

(f) Except for fees paid pursuant to section 309(g) of this Act and assessments pursuant to section 1316 of the Federal Housing Enterprises Financial Safety and Soundness Act of 1992, no fee or charge may be assessed or collected by the United States (including any executive department, agency, or independent establishment of the United States) on or with regard to the purchase, acquisition, sale, pledge, issuance, guarantee, or redemption of any mortgage, asset, obligation, trust certificate of beneficial interest, or other security by the corporation. No provision of this subsection shall affect the purchase of any obligation by the Secretary of the Treasury pursuant to subsection (c).

(g) TEMPORARY AUTHORITY OF TREASURY TO PURCHASE OBLIGATIONS AND SECURITIES; CONDITIONS.—

(1) AUTHORITY TO PURCHASE.—

(A) GENERAL AUTHORITY.—In addition to the authority under subsection (c) of this section, the Secretary of the Treasury is authorized to purchase any obligations and other securities issued by the corporation under any section of this Act, on such terms and conditions as the Secretary may determine and in such amounts as the Secretary may determine. Nothing in this subsection requires the corporation to issue obligations or securities to the Secretary without mutual agreement between the Secretary and the corporation. Nothing in this subsection permits or authorizes the Secretary, without the agreement of the corporation, to engage in open market purchases of the common securities of the corporation.

(B) EMERGENCY DETERMINATION REQUIRED.—In connection with any use of this authority, the Secretary must determine that such actions are necessary to—

(i) provide stability to the financial markets;

(ii) prevent disruptions in the availability of mortgage finance; and

(iii) protect the taxpayer.

(C) CONSIDERATIONS.—To protect the taxpayers, the Secretary of the Treasury shall take into consideration the following in connection with exercising the authority contained in this paragraph:

(i) The need for preferences or priorities regarding payments to the Government.

(ii) Limits on maturity or disposition of obligations or securities to be purchased.

(iii) The corporation's plan for the orderly resumption of private market funding or capital market access.

(iv) The probability of the corporation fulfilling the terms of any such obligation or other security, including repayment.

(v) The need to maintain the corporation's status as a private shareholder-owned company.

(vi) Restrictions on the use of corporation resources, including limitations on the payment of dividends and executive compensation and any such other terms and conditions as appropriate for those purposes.

(D) REPORTS TO CONGRESS.—Upon exercise of this authority, the Secretary shall report to the Committees on the Budget, Financial Services, and Ways and Means of the House of Representatives and the Committees on the Budget, Finance, and Banking, Housing, and Urban Affairs of the Senate as to the necessity for the purchase and the determinations made by the Secretary under subparagraph (B) and with respect to the considerations required under subparagraph (C), and the size, terms, and probability of repayment or fulfillment of other terms of such purchase.

(2) RIGHTS; SALE OF OBLIGATIONS AND SECURITIES.—

(A) EXERCISE OF RIGHTS.—The Secretary of the Treasury may, at any time, exercise any rights received in connection with such purchases.

(B) SALE OF OBLIGATION AND SECURITIES.—The Secretary of the Treasury may, at any time, subject to the terms of the security or otherwise upon terms and conditions and at prices determined by the Secretary, sell any obligation or security acquired by the Secretary under this subsection.

(C) DEFICIT REDUCTION.—The Secretary of the Treasury shall deposit in the General Fund of the Treasury any amounts received by the Secretary from the sale of any obligation acquired by the Secretary under this subsection, where such amounts shall be—

(i) dedicated for the sole purpose of deficit reduction; and

(ii) prohibited from use as an offset for other spending increases or revenue reductions.

(D) APPLICATION OF SUNSET TO PURCHASED OBLIGATIONS OR SECURITIES.—The authority of the Secretary of the Treasury to hold, exercise any rights received in connection with, or sell, any obligations or securities purchased is not subject to the provisions of paragraph (4).

(3) FUNDING.—For the purpose of the authorities granted in this subsection, the Secretary of the Treasury may use the proceeds of the sale of any securities issued under chapter 31 of Title 31,[631] and the purposes for which securities may be issued under chapter 31 of Title 31[632] are extended to include such purchases and the exercise of any rights in connection with such purchases. Any funds expended for the purchase of, or modifications to, obligations and securities, or the exercise of any rights received in connection with such purchases under this subsection shall be deemed appropriated at the time of such purchase, modification, or exercise.

(4) TERMINATION OF AUTHORITY.—The authority under this subsection (g), with the exception of paragraphs (2) and (3) of this subsection, shall expire December 31, 2009.

(5) AUTHORITY OF THE DIRECTOR WITH RESPECT TO EXECUTIVE COMPENSATION.—The Director shall have the power to approve, disapprove, or modify the executive compensation of the corporation, as defined under Regulation S-K, 17 C.F.R. 229.

[Sec. 305. [Repealed.]]

Sec. 306. [12 U.S.C. 1721]
MANAGEMENT AND LIQUIDATION FUNCTIONS—GOVERNMENT NATIONAL MORTGAGE ASSOCIATION.

(a) To carry out the purposes set forth in paragraph (c) of section 301, the Association is authorized and directed, as of the close of the cutoff date determined by the Association pursuant to section 303(d) of this title, to establish separate accountability for all of its assets and liabilities (exclusive of capital, surplus, surplus reserves, and undistributed earnings to be evidenced by preferred stock as provided in section 303(d) hereof, but inclusive of all rights and obligations under any outstanding contracts), and to maintain such separate accountability for the management and orderly liquidation of such assets and liabilities as provided in this section.

(b) For the purposes of this section and to assure that, to the maximum extent, and as rapidly as possible, private financing will be substituted for Treasury borrowings otherwise required to carry mortgages held under the aforesaid separate accountability, the Association is authorized to issue, upon the approval of the Secretary of the Treasury, and have outstanding at any one time obligations having such maturities and bearing such rate or rates of interest as may be determined by the Association with the approval of the Secretary of the Treasury, to be redeemable at the option, of the Association before maturity in such manner as may be stipulated in such obligations; but in no event shall any such obligations be issued if, at the time of such proposed issuance, and as a consequence thereof, the resulting aggregate amount of its outstanding obligations under this subsection would exceed the amount of the Association's ownership under the aforesaid separate accountability, free from any liens or encumbrances, of cash, mortgages, and obligations of the United States or guaranteed thereby, or obligations, participations, or other instruments which are lawful investments for fiduciary, trust, or public funds. The proceeds of any private financing effected under this subsection shall be paid to the Secretary of the Treasury in reduction of the indebtedness of the Association to the Secretary of the Treasury under the aforesaid separate accountability. The Association shall insert appropriate language in all of its obligations issued under this subsection clearly indicating that such obligations, together with the interest thereon, are not guaranteed by the United States and do not constitute a debt or obligation of the United States or of any agency or instrumentality thereof other than the Association. The Association is authorized to purchase in the open market any of its obligations outstanding under this subsection at any time and at any price.

(c) No mortgage shall be purchased by the Association in its operations under this section except pursuant to and in accordance with the terms of a contract or commitment to purchase the same made prior to the cutoff date provided for in section 303(d), which contract or commitment became a part of the aforesaid separate accountability, and the total amount of mortgages and commitments held by the Association under this section shall not, in any

[631] So in law. Probably should refer to title 31, United States Code.
[632] So in law. Probably should refer to title 31, United States Code.

event, exceed $3,350,000,000: *Provided*, That such maximum amount shall be progressively reduced by the amount of cash realizations on account of principal of mortgages held under the aforesaid separate accountability and by cancellation of any commitments to purchase mortgages thereunder, as reflected by the books of the Association, with the objective that the entire aforesaid maximum amount shall be eliminated with the orderly liquidation of all mortgages held under the aforesaid separate accountability: *And provided further*, That nothing in this subsection shall preclude the Association from granting such usual and customary increases in the amounts of outstanding commitments (resulting from increased costs or otherwise) as have theretofore been covered by like increases in commitments granted by the agencies of the Federal Government insuring or guaranteeing the mortgages. There shall be excluded from the total amounts set forth in this subsection the amounts of any mortgages which, subsequent to May 31, 1954, are transferred by law to the Association and held under the aforesaid separate accountability.

(d) The Association may issue to the Secretary of the Treasury its obligations in an amount outstanding at any one time sufficient to enable the Association to carry out its functions under this section, such obligations to mature not more than five years from their respective dates of issue, to be redeemable at the option of the Association before maturity in such manner as may be stipulated in such obligations. Each such obligation shall bear interest at a rate determined by the Secretary of the Treasury, taking into consideration the current average rate on outstanding marketable obligations of the United States as of the last day of the month preceding the issuance of the obligation of the Association. The Secretary of the Treasury is authorized to purchase any obligations of the Association to be issued under this section, and for such purpose the Secretary of the Treasury is authorized to use as a public debt transaction the proceeds from the sale of any securities issued under chapter 31 of title 31, United States Code, and the purposes for which securities may be issued under chapter 31 of title 31, United States Code, are extended to include any purchases of the Association's obligations hereunder.

(e) Notwithstanding any other provision of law, the Association is authorized, under the aforesaid separate accountability, to make commitments to purchase, and to purchase, service, or sell any obligations offered to it by the Secretary of Housing and Urban Development, or any mortgages covering residential property offered to it by any Federal instrumentality, or the head thereof.[633] There shall be excluded from the total amounts set forth in subsection (c) the amounts of any obligations or mortgages purchased by the Association pursuant to this subsection.

(f) Notwithstanding any of the provisions of this Act or of any other law, an amount equal to the net decrease for the preceding fiscal year in the aggregate principal amount of all mortgages owned by the Association under this section shall, as of July 1 of each of the years 1961 through 1964, be transferred to and merged with the authority provided under section 305(a), and the amount of such authority as specified in section 305(c) shall be increased by any amounts so transferred.

(g)(1) The Association is authorized, upon such terms and conditions as it may deem appropriate, to guarantee the timely payment of principal of and interest on such trust certificates or other securities as shall (i) be issued by the corporation under section 304(d), or by any other issuer approved for the purposes of this subsection by the Association, and (ii) be based on and backed by a trust or pool composed of mortgages which are insured under the National Housing Act, or which are insured or guaranteed under the Servicemen's Readjustment Act of 1944, title V of the Housing Act of 1949, or chapter 37 of title 38, United States Code; or guaranteed under section 184 of the Housing and Community Development Act of 1992. The Association shall collect from the issuer a reasonable fee for any guaranty under this subsection and shall make such charges as it may determine to be reasonable for the analysis of any trust or other security arrangement proposed by the issuer. In the event the issuer is unable to make any payment of principal of or interest on any security guaranteed under this subsection, the Association shall make such payment as and when due in cash, and thereupon shall be subrogated fully to the rights satisfied by such payment. In any case in which (I) Federal law requires the reduction of the interest rate on any mortgage backing a security guaranteed under this subsection, (II) the mortgagor under the mortgage is a person in the military service, and (III) the issuer of such security fails to receive from the mortgagor the full amount of interest payment due, the Association may make payments of interest on the security in amounts not exceeding the difference between the amount payable under the interest rate on the mortgage and the amount of interest actually

[633] Section 306(b) of the Housing Act of 1959, Pub. L. 86-372, approved September 23, 1959, 12 U.S.C. 1721 note, provides as follows:

"(b) In connection with the sale of any mortgages to the Federal National Mortgage Association pursuant to section 306(e) of the Federal National Mortgage Association Charter Act, the Housing and Home Finance Administrator is authorized and any other official unit, or agency selling such mortgages thereunder is directed, to transfer to the Association from time to time, from authorizations, limitations, and funds available for administrative expenses of such official, unit, or agency in connection with the same mortgages, such amounts thereof as said Administrator determines to be required for administrative expenses of the Association in connection with the purchase, servicing, and sale of such mortgages: Provided, That no such transfer shall be made after a budget estimate of the Association with respect to the same mortgages has been submitted to and finally acted upon by the Congress.".

paid by the mortgagor. The Association is hereby empowered, in connection with any guaranty under this subsection, whether before or after any default, to provide by contract with the issuer for the extinguishment, upon default by the issuer, of any redemption, equitable, legal, or other right, title, or interest of the issuer in any mortgage or mortgages constituting the trust or pool against which the guaranteed securities are issued; and with respect to any issue of guaranteed securities, in the event of default and pursuant otherwise to the terms of the contract, the mortgages that constitute such trust or pool shall become the absolute property of the Association subject only to the unsatisfied rights of the holders of the securities based on and backed by such trust or pool. No State or local law, and no Federal law (except Federal law enacted expressly in limitation of this subsection after the effective date of this sentence), shall preclude or limit the exercise by the Association of (A) its power to contract with the issuer on the terms stated in the preceding sentence, (B) its rights to enforce any such contract with the issuer, or (C) its ownership rights, as provided in the preceding sentence, in the mortgages constituting the trust or pool against which the guaranteed securities are issued. The full faith and credit of the United States is pledged to the payment of all amounts which may be required to be paid under any guaranty under this subsection. There shall be excluded from the total amounts set forth in subsection (c) the amounts of any mortgages acquired by the Association as a result of its operations under this subsection.

(2) Notwithstanding any other provision of law and subject only to the absence of qualified requests for guarantees, to the authority provided in this subsection, and to the extent of or in such amounts as any funding limitation approved in appropriation Acts, the Association shall enter into commitments to issue guarantees under this subsection in an aggregate amount of $110,000,000,000 during fiscal year 1996. There are authorized to be appropriated to cover the costs (as such term is defined in section 502 of the Congressional Budget Act of 1974) of guarantees issued under this Act by the Association such sums as may be necessary for fiscal year 1996.

(3)(A)[634] No fee or charge in excess of 6 basis points may be assessed or collected by the United States (including any executive department, agency, or independent establishment of the United States) on or with regard to any guaranty of the timely payment of principal or interest on securities or notes based on or backed by mortgages that are secured by 1- to 4-family dwellings and (i) insured by the Federal Housing Administration under title II of the National Housing Act; or (ii) insured or guaranteed under the Serviceman's Readjustment Act of 1944, chapter 37 of title 38, United States Code, or title V of the Housing Act of 1949.

(B) The fees charged for the guaranty of securities or on notes based on or backed by mortgages not referred to in subparagraph (A), as authorized by other provisions of law, shall be set by the Association at a level not more than necessary to create reserves sufficient to meet anticipated claims based upon actuarial analysis, and for no other purpose.

(C) Fees or charges for the issuance of commitments or miscellaneous administrative fees of the Association shall not be on a competitive auction basis and shall remain at the level set for such fees or charges as of September 1, 1985, except that such fees or charges may be increased if reasonably related to the cost of administering the program, and for no other purpose.

(D) Not less than 90 days before increasing any fee or charge under subparagraph (B) or (C), the Secretary shall submit to the Congress a certification that such increase is solely for the purpose specified in such subparagraph.

(E)(i) Notwithstanding subparagraphs (A) through (D), fees charged for the guarantee of, or commitment to guarantee, multiclass securities backed by a trust or pool of securities or notes guaranteed by the Association under this subsection, and other related fees shall be charged by the Association in an amount the Association deems appropriate. The Association shall take such action as may be necessary to reasonably assure that such portion of the benefit, resulting from the Association's multiclass securities program, as the Association determines is appropriate accrues to mortgagors who execute eligible mortgages after the date of the enactment of this subparagraph.

(ii) The Association shall provide for the initial implementation of the program for which fees are charged under the first sentence of clause (i) by notice published in the Federal Register. The notice shall be effective upon publication and shall provide an

[634] The Departments of Veterans Affairs and Housing and Urban Development, and Independent Agencies Appropriations Act, 1995, Pub. L. 103-327, 108 Stat. 2315, provides as follows:

"Notwithstanding subsection 306(g)(3) of the National Housing Act, as amended, fees charged for the guaranty of, or commitment to guaranty, multiclass securities backed by a trust or pool of securities or notes guaranteed by the Government National Mortgage Association prior to February 1, 1993, and other related fees, shall be charged in an amount the Association deems appropriate.".

opportunity for public comment. Not later than 12 months after publication of the notice, the Association shall issue regulations for such program based on the notice, comments received, and the experience of the Association in carrying out the program during such period.

(iii) The Association shall consult with persons or entities in such manner as the Association deems appropriate to ensure the efficient commencement and operation of the multiclass securities program.

(iv) No State or local law, and no Federal law (except Federal law enacted expressly in limitation of this clause after the effective date of this subparagraph) shall preclude or limit the exercise by the Association of its power to contract with persons or entities, and its rights to enforce such contracts, for the purpose of ensuring the efficient commencement and continued operation of the multiclass securities program.[635]

Sec. 307. [12 U.S.C. 1722]
SEPARATE ACCOUNTABILITY.

All of the benefits and burdens incident to the administration of the functions and operations of the Association under sections 305 and 306, respectively, of this title, after allowance for related obligations of the Association, its prorated expenses, and the like, including amounts required for the establishment of such reserves as the Secretary of Housing and Urban Development shall deem appropriate, shall inure solely to the Secretary of the Treasury, and such related earnings or other amounts as become available shall be paid annually by the Association to the Secretary of the Treasury for covering into miscellaneous receipts.

Sec. 308. [12 U.S.C. 1723]
MANAGEMENT.

(a) All the powers and duties of the Government National Mortgage Association shall be vested in the Secretary of Housing and Urban Development and the Association shall be administered under the direction of the Secretary. Within the limitations of law, the Secretary shall determine the general policies which shall govern the operations of the Association, and shall have power to adopt, amend, and repeal by laws governing the performance of the powers and duties granted to or imposed upon it by law.

There is hereby established in the Department of Housing and Urban Development the position of President, Government National Mortgage Association, who shall be appointed by the President, by and with the advice and consent of the Senate. The Secretary shall select and effect the appointment of qualified persons to fill the offices of vice president, and such other offices as may be provided for in the bylaws. Persons appointed under the preceding sentence shall perform such executive functions, powers, and duties as may be prescribed by the bylaws or by the Secretary, and such persons shall be executive officers of the Association and shall discharge all such executive functions, powers, and duties.

(b) The Federal National Mortgage Association shall have a board of directors, which shall consist of 13 persons, or such other number that the Director determines appropriate, who shall be elected annually by the common stockholders. Except to the extent that action under section 1377 of the Federal Housing Enterprises Financial Safety and Soundness Act of 1992 temporarily results in a lesser number, the board shall at all times have as members at least one person from the homebuilding industry, at least one person from the mortgage lending industry, at least one person from the real estate industry, and at least one person from an organization that has represented consumer or community interests for not less than 2 years or one person who has demonstrated a career commitment to the provision of housing for low-income households. Each member of the board of directors shall be elected for a term ending on the date of the next annual meeting of the stockholders. Any seat on the board which becomes vacant after the annual election of the directors shall be filled by the board, but only for the unexpired portion of the term. Within the limitations of law and regulation, the board shall determine the general policies which shall govern the operations of the corporation, and shall have power to adopt, amend, and repeal by laws governing the performance of the powers and duties granted to or imposed upon it by law. The board of directors shall select and effect the appointment of qualified persons to fill the offices of president and vice president, and

[635] The Departments of Veterans Affairs and Housing and Urban Development, and Independent Agencies Appropriations Act, 1995, Pub. L. 103-327, 108 Stat. 2315, provides as follows:
"Beginning fiscal year 1995, the Government National Mortgage Association shall permit Ginnie Mae II mortgage-backed securities to be eligible as collateral for multiclass securities that such Association guarantees, in accordance with the Notice published at 59 Fed. Reg. 27290 (May 26, 1994) and successor Notices.".

such other offices as may be provided for in the bylaws. Any member of the board who is a full-time officer or employee of the Federal Government shall not, as such member, receive compensation for his services.

Sec. 309. [12 U.S.C. 1723a]
GENERAL POWERS

(a) Each of the bodies corporate named in section 302(a)(2) shall have power to adopt, alter, and use a corporate seal, which shall be judicially noticed; to enter into and perform contracts, leases, cooperative agreements, or other transactions, on such terms as it may deem appropriate, with any agency or instrumentality of the United States, or with any State, Territory, or possession, or the Commonwealth of Puerto Rico, or with any political subdivision thereof, or with any person, firm, association, or corporation; to execute, in accordance with its bylaws, all instruments necessary or appropriate in the exercise of any of its powers; in its corporate name, to sue and to be sued, and to complain and to defend, in any court of competent jurisdiction, State or Federal, but no attachment, injunction, or other similar process, mesne or final, shall be issued against the property of the Association or against the Association with respect to its property; to conduct its business without regard to any qualification or similar statute in any State of the United States, including the District of Columbia, the Commonwealth of Puerto Rico, and the Territories and possessions of the United States; to lease, purchase, or acquire any property, real, personal, or mixed, or any interest therein, to hold, rent, maintain, modernize, renovate, improve, use, and operate such property, and to sell, for cash or credit, lease, or otherwise dispose of the same, at such time and in such manner as and to the extent that it may deem necessary or appropriate; to prescribe, repeal, and amend or modify, rules, regulations, or requirements governing the manner in which its general business may be conducted; to accept gifts or donations of services, or of property, real, personal, or mixed, tangible, or intangible, in aid of any of its purposes; and to do all things as are necessary or incidental to the proper management of its affairs and the proper conduct of its business.

(b) Except as may be otherwise provided in this title, in chapter 91 of title 31, United States Code, or in other laws specifically applicable to Government corporations, the Association shall determine the necessity for and the character and amount of its obligations and expenditures and the manner in which they shall be incurred, allowed, paid, and accounted for.

(c)(1) The Association, including its franchise, capital, reserves, surplus, mortgages or other security holdings, and income shall be exempt from all taxation now or hereafter imposed by the United States, by any territory, dependency, or possession thereof, or by any State, county, municipality, or local taxing authority, except that any real property of the Association shall be subject to State, territorial, county, municipal, or local taxation to the same extent according to its value as other real property is taxed.

(2) The corporation, including its franchise, capital, reserves, surplus, mortgages or other security holdings, and income, shall be exempt from all taxation now or hereafter imposed by any State, territory, possession, Commonwealth, or dependency of the United States, or by the District of Columbia, or by any county, municipality, or local taxing authority, except that any real property of the corporation shall be subject to State, territorial, county, municipal, or local taxation to the same extent as other real property is taxed.

(d)(1) Subject to the provisions of section 308(a), the Secretary of Housing and Urban Development shall have power to select and appoint or employ such officers, attorneys, employees, and agents of the Association, to vest them with such powers and duties, and to fix and to cause the Association to pay such compensation to them for their services, as he may determine, subject to the civil service and classification laws. With the consent of any Government corporation or Federal Reserve bank, or of any board, commission, independent establishment, or executive department of the Government, the Association may avail itself on a reimbursable basis of the use of information, services, facilities, officers, and employees thereof, including any field service thereof, in carrying out the provisions of this title.

(2) The board of directors of the corporation shall have the power to select and appoint or employ such officers, attorneys, employees, and agents, to vest them with such powers and duties, and to fix and to cause the corporation to pay such compensation to them for their services, as the board of directors determines reasonable and comparable with compensation for employment in other similar businesses (including other publicly held financial institutions or major financial services companies) involving similar duties and responsibilities, except that a significant portion of potential compensation of all executive officers (as such term is defined in paragraph (3)(C)) of the corporation shall be based on the performance of the corporation; and any such action shall be without regard to the Federal civil service and classification laws. Appointments, promotions, and separations so made shall be based on merit and efficiency, and no political tests or qualifications shall be permitted or given consideration. Each officer and employee of the corporation who is employed by the corporation prior to January 31, 1972 and who on

the day previous to the beginning of such employment will have been subject to the civil service retirement law (subch. III of ch. 83 of title 5, United States Code) shall, so long as the employment of such officer or employee by the corporation continues without a break in continuity of service, continue to be subject to such law; and for the purpose of such law the employment of such officer or employee by the corporation without a break in continuity of service shall be deemed to be employment by the Government of the United States. The corporation shall contribute to the Civil Service Retirement and Disability Fund a sum as provided by section 8334(a) of title 5, United States Code, except that such sum shall be determined by applying to the total basic pay (as defined in 5 U.S.C. 8331(3) and except as hereinafter provided) paid to the employees of the corporation who are covered by the civil service retirement law, the per centum rate determined annually by the United States Civil Service Commission to be the excess of the total normal cost per centum rate of the civil service retirement system over the employee deduction rate specified in section 8334(a) of title 5, United States Code. The corporation shall also pay into the Civil Service Retirement and Disability Fund such portion of the cost of administration of the fund as is determined by the United States Civil Service Commission to be attributable to its employees. Notwithstanding the foregoing provisions, there shall not be considered for the purposes of the civil service retirement law that portion of the basic pay in any one year of any officer or employee of the corporation which exceeds the basic pay provided for positions listed in section 5312 of title 5, United States Code, on the last day of such year: *Provided*, That with respect to any person whose employment is made subject to the civil service retirement law by section 806 of the Housing and Community Development Act of 1974, there shall not be considered for the purposes of such law that portion of the basic pay of such person in any one year which exceeds the basic pay provided for positions listed in section 5316 of such title 5 on the last day of such year; except as provided in this subsection, the corporation shall not be subject to the provisions of title 5, United States Code.

(3)(A) Not later than June 30, 1993, and annually thereafter, the corporation shall submit a report to the Committee on Banking, Finance and Urban Affairs of the House of Representatives[636] and the Committee on Banking, Housing, and Urban Affairs of the Senate on (i) the comparability of the compensation policies of the corporation with the compensation policies of other similar businesses, (ii) in the aggregate, the percentage of total cash compensation and payments under employee benefit plans (which shall be defined in a manner consistent with the corporation's proxy statement for the annual meeting of shareholders for the preceding year) earned by executive officers of the corporation during the preceding year that was based on the corporation's performance, and (iii) the comparability of the corporation's financial performance with the performance of other similar businesses. The report shall include a copy of the corporation's proxy statement for the annual meeting of shareholders for the preceding year.

(B) Notwithstanding the first sentence of paragraph (2), after the date of the enactment of the Federal Housing Enterprises Financial Safety and Soundness Act of 1992[637], the corporation may not enter into any agreement or contract to provide any payment of money or other thing of current or potential value in connection with the termination of employment of any executive officer of the corporation, unless such agreement or contract is approved in advance by the Director of the Federal Housing Finance Agency. The Director may not approve any such agreement or contract unless the Director determines that the benefits provided under the agreement or contract are comparable to benefits under such agreements for officers of other public and private entities involved in financial services and housing interests who have comparable duties and responsibilities. For purposes of this subparagraph, any renegotiation, amendment, or change after such date of enactment to any such agreement or contract entered into on or before such date of enactment shall be considered entering into an agreement or contract.

(C) For purposes of this paragraph, the term "executive officer" has the meaning given the term in section 1303 of the Federal Housing Enterprises Financial Safety and Soundness Act of 1992.

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[636] Section 1(a) of Public Law 104-14, 109 Stat. 186, provides, in part, that "any reference in any provision of law enacted before January 4, 1995, to ... the Committee on Banking, Finance and Urban Affairs of the House of Representatives shall be treated as referring to the Committee on Banking and Financial Services of the House of Representatives". However, H. Res. 5, 107th Congress, agreed to on January 3, 2001, abolished the Committee on Banking and Financial Services and established the Committee on Financial Services, which has jurisdiction over many of the areas previously under the jurisdiction of the Committee on Banking and Financial Services.

[637] October 28, 1992.

(4) Notwithstanding any other provision of this section, the corporation shall not transfer, disburse, or pay compensation to any executive officer, or enter into an agreement with such executive officer, without the approval of the Director, for matters being reviewed under section 1318 of the Federal Housing Enterprises Financial Safety and Soundness Act of 1992 (12 U.S.C. 4518).

(e) No individual, association, partnership, or corporation, except the bodies corporate named in section 302(a)(2) of this title, shall hereafter use the words "Federal National Mortgage Association", "Government National Mortgage Association" or any combination of such words, as the name or a part thereof under which the individual, association, partnership, or corporation shall do business. Violations of the foregoing sentence may be enjoined by any court of general jurisdiction at the suit of the proper body corporate. In any such suit, the plaintiff may recover any actual damages flowing from such violation, and, in addition, shall be entitled to punitive damages (regardless of the existence or nonexistence of actual damages) of not exceeding $100 for each day during which such violation is committed or repeated.

(f) In order that the Association may be supplied with such forms of obligations or certificates as it may need for issuance under this title, the Secretary of the Treasury is authorized, upon request of the Association, to prepare such forms as shall be suitable and approved by the Association, to be held in the Treasury subject to delivery, upon order of the Association. The engraved plates, dies, bed-pieces, and other material executed in connection therewith shall remain in the custody of the Secretary of the Treasury. The Association shall reimburse the Secretary of the Treasury for any expenses incurred in the preparation, custody, and delivery of such forms.

(g) The Federal Reserve banks are authorized and directed to act as depositaries, custodians, and fiscal agents for each of the bodies corporate named in section 302(a)(2), for its own account or as fiduciary, and such banks shall be reimbursed for such services in such manner as may be agreed upon; and each of such bodies corporate may itself act in such capacities, for its own account or as fiduciary, and for the account of others.

[(h) [Repealed.]]

[(i) [Repealed.]]

(j)(1) The programs, activities, receipts, expenditures, and financial transactions of the corporation shall be subject to audit by the Comptroller General of the United States under such rules and regulations as may be prescribed by the Comptroller General. The representatives of the General Accounting Office[638] shall have access to such books, accounts, financial records, reports, files, and such other papers, things, or property belonging to or in use by the corporation and necessary to facilitate the audit, and they shall be afforded full facilities for verifying transactions with the balances or securities held by depositories, fiscal agents, and custodians. A report on each such audit shall be made by the Comptroller General to the Congress. The corporation shall reimburse the General Accounting Office[639] for the full cost of any such audit as billed therefor by the Comptroller General.

(2) To carry out this subsection, the representatives of the General Accounting Office[640] shall have access, upon request to the corporation or any auditor for an audit of the corporation under subsection (l), to any books, accounts, financial records, reports, files, or other papers, things, or property belonging to or in use by the corporation and used in any such audit and to any papers, records, files, and reports of the auditor used in such an audit.

(k)(1) The corporation shall submit to the Director of the Federal Housing Finance Agency annual and quarterly reports of the financial condition and operations of the corporation which shall be in such form, contain such information, and be submitted on such dates as the Director shall require.

(2) Each such annual report shall include—

(A) financial statements prepared in accordance with generally accepted accounting principles;

(B) any supplemental information or alternative presentation that the Director may require; and

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[638] Section 8(a) of the GAO Human Capital Reform Act, Public Law 108-271, 118 Stat. 814, approved July 7, 2004, redesignated the General Accounting Office as the Government Accountability Office. Subsection (b) of such section (31 U.S.C. 702 note) provides that "[a]ny reference to the General Accounting Office in any law, rule, regulation, certificate, directive, instruction, or other official paper in force on the date of enactment of this Act shall be considered to refer and apply to the Government Accountability Office.".

[639] Section 8(a) of the GAO Human Capital Reform Act, Public Law 108-271, 118 Stat. 814, approved July 7, 2004, redesignated the General Accounting Office as the Government Accountability Office. Subsection (b) of such section (31 U.S.C. 702 note) provides that "[a]ny reference to the General Accounting Office in any law, rule, regulation, certificate, directive, instruction, or other official paper in force on the date of enactment of this Act shall be considered to refer and apply to the Government Accountability Office.".

[640] Section 8(a) of the GAO Human Capital Reform Act, Public Law 108-271, 118 Stat. 814, approved July 7, 2004, redesignated the General Accounting Office as the Government Accountability Office. Subsection (b) of such section (31 U.S.C. 702 note) provides that "[a]ny reference to the General Accounting Office in any law, rule, regulation, certificate, directive, instruction, or other official paper in force on the date of enactment of this Act shall be considered to refer and apply to the Government Accountability Office.".

(C) an assessment (as of the end of the corporation's most recent fiscal year), signed by the chief executive officer and chief accounting or financial officer of the corporation, of—

(i) the effectiveness of the internal control structure and procedures of the corporation; and

(ii) the compliance of the corporation with designated safety and soundness laws.

(3) The corporation shall also submit to the Director any other reports required by the Director pursuant to section 1314 of the Federal Housing Enterprises Financial Safety and Soundness Act of 1992.

(4) Each report of financial condition shall contain a declaration by the president, vice president, treasurer, or any other officer designated by the board of directors of the corporation to make such declaration, that the report is true and correct to the best of such officer's knowledge and belief.

(l)(1) The corporation shall have an annual independent audit made of its financial statements by an independent public accountant in accordance with generally accepted auditing standards.

(2) In conducting an audit under this subsection, the independent public accountant shall determine and report on whether the financial statements of the corporation (A) are presented fairly in accordance with generally accepted accounting principles, and (B) to the extent determined necessary by the Director, comply with any disclosure requirements imposed under subsection (k)(2)(B).

(m)(1) The corporation shall collect, maintain, and provide to the Director of the Federal Housing Finance Agency, in a form determined by the Director, data relating to its mortgages on housing consisting of 1 to 4 dwelling units. Such data shall include—

(A) the income, census tract location, race, and gender of mortgagors under such mortgages;

(B) the loan-to-value ratios of purchased mortgages at the time of origination;

(C) whether a particular mortgage purchased is newly originated or seasoned;

(D) the number of units in the housing subject to the mortgage and whether the units are owner-occupied; and

(E) any other characteristics that the Secretary considers appropriate, to the extent practicable.

(2) The corporation shall collect, maintain, and provide to the Director of the Federal Housing Finance Agency, in a form determined by the Director, data relating to its mortgages on housing consisting of more than 4 dwelling units. Such data shall include—

(A) census tract location of the housing;

(B) income levels and characteristics of tenants of the housing (to the extent practicable);

(C) rent levels for units in the housing;

(D) mortgage characteristics (such as the number of units financed per mortgage and the amount of loans);

(E) mortgagor characteristics (such as nonprofit, for-profit, limited equity cooperatives);

(F) use of funds (such as new construction, rehabilitation, refinancing);

(G) type of originating institution; and

(H) any other information that the Secretary considers appropriate, to the extent practicable.

(3)(A) Except as provided in subparagraph (B), this subsection shall apply only to mortgages purchased by the corporation after December 31, 1992.

(B) This subsection shall apply to any mortgage purchased by the corporation after the date determined under subparagraph (A) if the mortgage was originated before such date, but only to the extent that the data referred in paragraph (1) or (2), as applicable, is available to the corporation.

(n)(1) The corporation shall submit to the Committee on Banking, Finance and Urban Affairs of the House of Representatives[641], the Committee on Banking, Housing, and Urban Affairs of the Senate, and the Director of the Federal Housing Finance Agency a report on its activities under subpart B of part 2 of subtitle A of the Federal Housing Enterprises Financial Safety and Soundness Act of 1992.

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[641] Section 1(a) of Public Law 104-14, 109 Stat. 186, provides, in part, that "any reference in any provision of law enacted before January 4, 1995, to ... the Committee on Banking, Finance and Urban Affairs of the House of Representatives shall be treated as referring to the Committee on Banking and Financial Services of the House of Representatives". However, H. Res. 5, 107th Congress, agreed to on January 3, 2001, abolished the Committee on Banking and Financial Services and established the Committee on Financial Services, which has jurisdiction over many of the areas previously under the jurisdiction of the Committee on Banking and Financial Services.

(2) The report under this subsection shall—

(A) include, in aggregate form and by appropriate category, statements of the dollar volume and number of mortgages on owner-occupied and rental properties purchased which relate to each of the annual housing goals established under such subpart;

(B) include, in aggregate form and by appropriate category, statements of the number of families served by the corporation, the income class, race, and gender of homebuyers served, the income class of tenants of rental housing (to the extent such information is available), the characteristics of the census tracts, and the geographic distribution of the housing financed;

(C) include a statement of the extent to which the mortgages purchased by the corporation have been used in conjunction with public subsidy programs under Federal law;

(D) include statements of the proportion of mortgages on housing consisting of 1 to 4 dwelling units purchased by the corporation that have been made to first-time homebuyers, as soon as providing such data is practicable, and identifying any special programs (or revisions to conventional practices) facilitating homeownership opportunities for first-time homebuyers;

(E) include, in aggregate form and by appropriate category, the data provided to the Director of the Federal Housing Finance Agency under subsection (m)(1)(B);

(F) compare the level of securitization versus portfolio activity;

(G) assess underwriting standards, business practices, repurchase requirements, pricing, fees, and procedures, that affect the purchase of mortgages for low- and moderate-income families, or that may yield disparate results based on the race of the borrower, including revisions thereto to promote affordable housing or fair lending;

(H) describe trends in both the primary and secondary multifamily housing mortgage markets, including a description of the progress made, and any factors impeding progress toward standardization and securitization of mortgage products for multifamily housing;

(I) describe trends in the delinquency and default rates of mortgages secured by housing for low- and moderate-income families that have been purchased by the corporation, including a comparison of such trends with delinquency and default information for mortgage products serving households with incomes above the median level that have been purchased by the corporation, and evaluate the impact of such trends on the standards and levels of risk of mortgage products serving low- and moderate-income families;

(J) describe in the aggregate the seller and servicer network of the corporation, including the volume of mortgages purchased from minority-owned, women-owned, and community-oriented lenders, and any efforts to facilitate relationships with such lenders;

(K) describe the activities undertaken by the corporation with nonprofit and for-profit organizations and with State and local governments and housing finance agencies, including how the corporation's activities support the objectives of comprehensive housing affordability strategies under section 105 of the Cranston-Gonzalez National Affordable Housing Act; and

(L) include any other information that the Director of the Federal Housing Finance Agency considers appropriate.

(3)(A) The corporation shall make each report under this subsection available to the public at the principal and regional offices of the corporation.

(B) Before making a report under this subsection available to the public, the corporation may exclude from the report information that the Director of the Federal Housing Finance Agency has determined is proprietary information under section 1326 of the Federal Housing Enterprises Financial Safety and Soundness Act of 1992.

(o)(1) Not later than 4 months after the date of enactment of the Federal Housing Enterprises Financial Safety and Soundness Act of 1992, the corporation shall appoint an Affordable Housing Advisory Council to advise the corporation regarding possible methods for promoting affordable housing for low- and moderate-income families.

(2) The Affordable Housing Advisory Council shall consist of 15 individuals, who shall include representatives of community-based and other nonprofit and for-profit organizations and State and local government agencies actively engaged in the promotion, development, or financing of housing for low- and moderate-income families.

Sec. 310. [12 U.S.C. 1723b]
INVESTMENT OF FUNDS.

Moneys of the Association not invested in mortgages or other security holdings or in operating facilities shall be kept in cash on hand or on deposit, or invested in obligations of the United States or guaranteed thereby, or in obligations, participations or other instruments which are lawful investments for fiduciary, trust, or public funds.

Sec. 311. [12 U.S.C. 1723c]
OBLIGATIONS OF ASSOCIATION LEGAL INVESTMENTS.

All obligations, participations, or other instruments issued by either of the bodies corporate named in section 302(a)(2) shall be lawful investments, and may be accepted as security for all fiduciary, trust, and public funds, the investment or deposit of which shall be under the authority and control of the United States or any officer or officers thereof. All stock, obligations, securities, participations, or other instruments issued pursuant to this title shall, to the same extent as securities which are direct obligations of or obligations guaranteed as to principal or interest by the United States, be deemed to be exempt securities within the meaning of laws administered by the Securities and Exchange Commission.

Sec. 312. [12 U.S.C. 1716 note]
SHORT TITLE.

This title III may be referred to as the "Federal National Mortgage Association Charter Act".

[Sec. 313. [Repealed.]]

[Sec. 314. [Repealed.]]

[Sec. 315. [Repealed.]]

[Sec. 316. [Repealed.]]

Sec. 317. [12 U.S.C. 1723i]
CIVIL MONEY PENALTIES AGAINST ISSUERS.

(a) IN GENERAL.—

(1) AUTHORITY.—Whenever an issuer or custodian approved under section 306(g) knowingly and materially violates any provisions of subsection (b), the Secretary of Housing and Urban Development may impose a civil money penalty on the issuer or the custodian in accordance with the provisions of this section. The penalty shall be in addition to any other available civil remedy or any available criminal penalty and may be imposed whether or not the Secretary imposes other administrative sanctions.

(2) AMOUNT OF PENALTY.—The amount of the penalty, as determined by the Secretary, may not exceed $5,000 for each violation, except that the maximum penalty for all violations by a particular issuer or custodian during any one-year period shall not exceed $1,000,000. Each violation of a provision of subsection (b)(1) shall constitute a separate violation with respect to each pool of mortgages. In the case of a continuing violation, as determined by the Secretary, each day shall constitute a separate violation.

(b) VIOLATIONS FOR WHICH A PENALTY MAY BE IMPOSED.—

(1) VIOLATIONS.—The violations by an issuer or a custodian for which the Secretary may impose a civil money penalty under subsection (a) are the following:

(A) Failure to make timely payments of principal and interest to holders of securities guaranteed under section 306(g).

(B) Failure to segregate cash flow from pooled mortgages or to deposit either principal and interest funds or escrow funds into special accounts with a depository institution whose accounts are insured by the National Credit Union Administration or by the Federal Deposit Insurance Corporation through the Deposit Insurance Fund.

(C) Use of escrow funds for any purpose other than that for which they were received.

(D) Transfer of servicing for a pool of mortgages to an issuer not approved under this title, unless expressly permitted by statute, regulation, or contract approved by the Secretary.

(E) Failure to maintain a minimum net worth in accordance with requirements prescribed by the Association.

(F) Failure to promptly notify the Association in writing of any changes that materially affect the business status of an issuer.

(G) Submission to the Association of false information in connection with any securities guaranteed, or mortgages pooled, under section 306(g).

(H) Hiring, or retaining in employment, an officer, director, principal, or employee whose duties involve, directly or indirectly, programs administered by the Association while such person was under suspension or debarment by the Secretary.

(I) Submission to the Association of a false certification either on its own behalf or on behalf of another person or entity.

(J) Failure to comply with an agreement, certification, or condition of approval set forth on, or applicable to, the application for approval as an issuer of securities under section 306(g).

(K) Violation of any provisions of this title or any implementing regulation, handbook, or participant letter issued under authority of this title.

(2) NOTIFICATION TO ATTORNEY GENERAL.—Before taking action to impose a civil money penalty for a violation under paragraph (1)(G) or paragraph (1)(I), the Secretary shall inform the Attorney General of the United States.

(c) AGENCY PROCEDURES.—

(1) ESTABLISHMENT.—The Secretary shall establish standards and procedures governing the imposition of civil money penalties under subsection (a). The standards and procedures—

(A) shall provide for the Secretary to make the determination to impose the penalty;

(B) shall provide for the imposition of a penalty only after an issuer or a custodian has been given notice of, and opportunity for, a hearing on the record; and

(C) may provide for review by the Secretary of any determination or order, or interlocutory ruling, arising from a hearing.

(2) FINAL ORDERS.—If no hearing is requested within 15 days of receipt of a notice of opportunity for hearing, the imposition of a penalty shall constitute a final and unappealable determination. If the Secretary reviews the determination or order, the Secretary may affirm, modify, or reverse that determination or order. If the Secretary does not review the determination or order within 90 days of the issuance of the determination or order, the determination or order shall be final.

(3) FACTORS IN DETERMINING AMOUNT OF PENALTY.—In determining the amount of a penalty under subsection (a), consideration shall be given to such factors as the gravity of the offense, any history of prior offenses (including offenses occurring before enactment of this section), ability to pay the penalty, injury to the public, benefits received, deterrence of future violations, and such other factors as the Secretary may determine by regulations.

(4) REVIEWABILITY OF IMPOSITION OF PENALTY.—The Secretary's determination or order imposing a penalty under subsection (a) shall not be subject to review, except as provided in subsection (d).

(d) JUDICIAL REVIEW OF AGENCY DETERMINATION.—

(1) IN GENERAL.—After exhausting all administrative remedies established by the Secretary under subsection (c)(1), an issuer or a custodian against which the Secretary has imposed a civil money penalty under subsection (a) may obtain a review of the penalty and such ancillary issues as may be addressed in the notice provided under subsection (c)(1)(A) in the appropriate court of appeals of the United States, by filing in such court, within 20 days after the entry of such order or determination, a written petition praying that the Secretary's order or determination be modified or be set aside in whole or in part.

(2) OBJECTIONS NOT RAISED IN HEARING.—A court shall not consider any objection that was not raised in the hearing conducted pursuant to subsection (c)(1) unless a demonstration is made of extraordinary circumstances causing the failure to raise the objection. If any party demonstrates to the satisfaction of the court that additional evidence, which was not presented at such hearing, is material and that there were reasonable grounds for the failure to present such evidence at the hearing, the court shall remand the matter to the Secretary for consideration of such additional evidence.

(3) SCOPE OF REVIEW.—The decisions, findings, and determinations of the Secretary shall be reviewed pursuant to section 706 of title 5, United States Code.

(4) ORDER TO PAY PENALTY.—Notwithstanding any other provision of law, the court shall have the power in any such review to order payment of the penalty imposed by the Secretary.

(e) ACTION TO COLLECT PENALTY.—If any issuer or custodian fails to comply with the Secretary's determination or order imposing a civil money penalty under subsection (a), after the determination or order is no longer subject to review as provided by subsections (c)(1) and (d), the Secretary may request the Attorney General

of the United States to bring an action in an appropriate United States district court to obtain a monetary judgment against the issuer or custodian and such other relief as may be available. The monetary judgment may, in the discretion of the court, include any attorneys fees and other expenses incurred by the United States in connection with the action. In an action under this subsection, the validity and appropriateness of the Secretary's determination or order imposing the penalty shall not be subject to review.

(f) SETTLEMENT BY SECRETARY.—The Secretary may compromise, modify, or remit any civil money penalty which may be, or has been, imposed under this section.

(g) DEFINITION OF KNOWINGLY.—The term "knowingly" means having actual knowledge of or acting with deliberate ignorance of or reckless disregard for the prohibitions under this section.

(h) REGULATIONS.—The Secretary shall issue such regulations as the Secretary deems appropriate to implement this section.

(i) DEPOSIT OF PENALTIES.—The Secretary shall deposit all civil money penalties collected under this section into moneys of the Association pursuant to section 307.

END OF STATUTE

GNMA ADMINISTRATIVE EXPENSES

HOUSING ACT OF 1959
[Public Law 86-372; 73 Stat. 654; 12 U.S.C. 1721 note]

Sec. 306. [12 U.S.C. 1721 note]

* * *

(b) In connection with the sale of any mortgages to the Government National Mortgage Association pursuant to section 306(e) of the Federal National Mortgage Association Charter Act, the Secretary of Housing and Urban Development is authorized and any other official, unit, or agency selling such mortgages thereunder is directed, to transfer to the Association from time to time, from authorizations, limitations, and funds available for administrative expenses of such official, unit, or agency in connection with the same mortgages, such amounts thereof as said Secretary determines to be required for administrative expenses of the Association in connection with the purchase, servicing, and sale of such mortgages: Provided, That no such transfer shall be made after a budget estimate of the Association with respect to the same mortgages has been submitted to and finally acted upon by the Congress.

END OF STATUTE

FNMA AND GNMA—PARTITION

HOUSING AND URBAN DEVELOPMENT ACT OF 1968
[Public Law 90-448; 82 Stat. 536; 12 U.S.C. 1716b]

TITLE VIII—SECONDARY MORTGAGE MARKET

Sec. 801. [12 U.S.C. 1716b]
PURPOSES.

The purposes of this title include the partition of the Federal National Mortgage Association as heretofore existing into two separate and distinct corporations, each of which shall have continuity and corporate succession as a separated portion of the previously existing corporation. One of such corporations, to be known as Federal National Mortgage Association, will be a Government-sponsored private corporation, will retain the assets and liabilities of the previously existing corporation accounted for under section 304 of the Federal National Mortgage Association Charter Act, and will continue to operate the secondary market operations authorized by such section 304. The other to be known as Government National Mortgage Association, will remain in the Government, will retain the assets and liabilities of the previously existing corporation accounted for under sections 305 and 306 of such Act, and will continue to operate the special assistance functions and management and liquidating functions authorized by such sections 305 and 306.

* * * * * * *

END OF STATUTE

FNMA MORTGAGE-BACKED SECURITIES PROGRAM PROPOSAL

HOUSING AND COMMUNITY DEVELOPMENT ACT OF 1980
[Public Law 96-399; 94 Stat. 1652; 12 U.S.C. 1723a note]

Sec. 330. [12 U.S.C. 1723a note]
MORTGAGE-BACKED SECURITIES PROGRAM.

If the Federal National Mortgage Association submits to the Secretary of Housing and Urban Development or the Secretary of the Treasury, after the date of enactment of this section,[642] a proposal with respect to undertaking a mortgage-backed securities program, the Secretary of Housing and Urban Development or the Secretary of the Treasury, as the case may be, shall, within 90 days after submission of such proposal, approve the proposal or transmit to the Congress a report explaining why the proposal has not been approved.

END OF STATUTE

[642] October 8, 1980.

FEDERAL HOUSING ENTERPRISES FINANCIAL SAFETY

FEDERAL HOUSING ENTERPRISES FINANCIAL SAFETY AND SOUNDNESS ACT OF 1992[643644]
[Public Law 102-550; 106 Stat. 3941; 12 U.S.C. 4501 et seq.]

TITLE XIII—GOVERNMENT SPONSORED ENTERPRISES

Sec. 1301. [12 U.S.C. 4501 note]
SHORT TITLE.

This title may be cited as the "Federal Housing Enterprises Financial Safety and Soundness Act of 1992".

* * * * *

Sec. 1313A. [12 U.S.C. 4513a]
FEDERAL HOUSING FINANCE OVERSIGHT BOARD.

(a) IN GENERAL.—There is established the Federal Housing Finance Oversight Board, which shall advise the Director with respect to overall strategies and policies in carrying out the duties of the Director under this title.

(b) LIMITATIONS.—The Board may not exercise any executive authority, and the Director may not delegate to the Board any of the functions, powers, or duties of the Director.

(c) COMPOSITION.—The Board shall be comprised of 4 members, of whom—

(1) 1 member shall be the Secretary of the Treasury;

(2) 1 member shall be the Secretary of Housing and Urban Development;

(3) 1 member shall be the Chairman of the Securities and Exchange Commission; and

(4) 1 member shall be the Director, who shall serve as the Chairperson of the Board.

(d) MEETINGS.—

(1) IN GENERAL.—The Board shall meet upon notice by the Director, but in no event shall the Board meet less frequently than once every 3 months.

(2) SPECIAL MEETINGS.—Either the Secretary of the Treasury, the Secretary of Housing and Urban Development, or the Chairman of the Securities and Exchange Commission may, upon giving written notice to the Director, require a special meeting of the Board.

(e) TESTIMONY.—On an annual basis, the Board shall testify before Congress regarding—

(1) the safety and soundness of the regulated entities;

(2) any material deficiencies in the conduct of the operations of the regulated entities;

(3) the overall operational status of the regulated entities;

(4) an evaluation of the performance of the regulated entities in carrying out their respective missions;

(5) operations, resources, and performance of the Agency; and

(6) such other matters relating to the Agency and its fulfillment of its mission, as the Board determines appropriate.

* * * * *

PART 2—ADDITIONAL AUTHORITIES OF THE DIRECTOR

Subpart A—General Authority

* * * * *

Sec. 1325. [12 U.S.C. 4545]
FAIR HOUSING.

The Secretary of Housing and Urban Development shall—

(1) by regulation, prohibit each enterprise from discriminating in any manner in the purchase of any mortgage because of race, color, religion, sex, handicap, familial status, age, or national origin, including any consideration of the age or location of the dwelling or the age of the neighborhood or census tract where the dwelling is located in a manner that has a discriminatory effect;

(2) by regulation, require each enterprise to submit data to the Secretary to assist the Secretary in investigating whether a mortgage lender with which the enterprise does business has failed to comply with the Fair Housing Act;

(3) by regulation, require each enterprise to submit data to the Secretary to assist in investigating whether a mortgage lender with which the enterprise does business has failed to comply with the Equal Credit Opportunity Act, and shall submit any such information received to the appropriate Federal agencies, as provided in section 704 of the Equal Credit Opportunity Act, for appropriate action;

(4) obtain information from other regulatory and enforcement agencies of the Federal Government and State and local governments regarding violations by lenders of the Fair Housing Act and the Equal Credit Opportunity Act and make such information available to the enterprises;

(5) direct the enterprises to undertake various remedial actions, including suspension, probation, reprimand, or settlement, against lenders that have been found to have engaged in discriminatory lending practices in violation of the Fair Housing Act or the Equal Credit Opportunity Act, pursuant to a final adjudication on the record, and after opportunity for an administrative hearing, in accordance with subchapter II of chapter 5 of title 5, United States Code; and

(6) periodically review and comment on the underwriting and appraisal guidelines of each enterprise to ensure that such guidelines are consistent with the Fair Housing Act and this section.

* * * * *

Subpart B—Housing Goals

* * * * *

Sec. 1338. [12 U.S.C. 4568]
HOUSING TRUST FUND.

(a) ESTABLISHMENT AND PURPOSE.—

(1) IN GENERAL.—The Secretary of Housing and Urban Development (in this section referred to as the "Secretary") shall establish and manage a Housing Trust Fund, which shall be funded with amounts allocated by the enterprises under section 1337 and any amounts as are or may be appropriated, transferred, or credited to such Housing Trust Fund under any other provisions of law. The purpose of the Housing Trust Fund under this section is to provide grants to States (as such term is defined in section 1303) for use—

(A) to increase and preserve the supply of rental housing for extremely low- and very low-income families, including homeless families; and

(B) to increase homeownership for extremely low- and very low-income families.

(2) FEDERAL ASSISTANCE.—For purposes of the application of Federal civil rights laws, all assistance provided from the Housing Trust Fund shall be considered Federal financial assistance.

(b) ALLOCATIONS FOR HOPE BOND PAYMENTS.—

(1) IN GENERAL.—Notwithstanding subsection (c), to help address the mortgage crisis, of the amounts allocated pursuant to clauses (i) and (ii) of section 1337(a)(1)(B) and clauses (i) and (ii) of section 1337(a)(2)(B) in excess of amounts described in section 1337(e)—

(A) 100 percent of such excess shall be used to reimburse the Treasury for payments made pursuant to section 257(w)(1)(C) of the National Housing Act in calendar year 2009;

(B) 50 percent of such excess shall be used to reimburse the Treasury for such payments in calendar year 2010; and

(C) 25 percent of such excess shall be used to reimburse the Treasury for such payments in calendar year 2011.

(2) EXCESS FUNDS.—At the termination of the HOPE for Homeowners Program established under section 257 of the National Housing Act, if amounts used to reimburse the Treasury under paragraph (1) exceed the total net cost to the Government of the HOPE for Homeowners Program, such amounts shall be used for their original purpose, as described in paragraphs (1)(B) and (2)(B) of section 1337(a).

(3) TREASURY FUND.—The amounts referred to in subparagraphs (A) through (C) of paragraph (1) shall be deposited into a fund established in the Treasury of the United States by the Secretary of the Treasury for such purpose.

(c) ALLOCATION FOR HOUSING TRUST FUND IN FISCAL YEAR 2010 AND SUBSEQUENT YEARS.—

(1) IN GENERAL.—Except as provided in subsection (b), the Secretary shall distribute the amounts allocated for the Housing Trust Fund under this section to provide affordable housing as described in this subsection.

(2) PERMISSIBLE DESIGNEES.—A State receiving grant amounts under this subsection may designate a State housing finance agency, housing and community development entity, tribally designated housing entity (as such term is defined in section 4 of the Native American Housing Assistance and Self-Determination Act of 1997[645] (25 U.S.C. 4103)), or any other qualified instrumentality of the State to receive such grant amounts.

(3) DISTRIBUTION TO STATES BY NEEDS-BASED FORMULA.—

(A) IN GENERAL.—The Secretary shall, by regulation, establish a formula within 12 months of the date of enactment of the Federal Housing Finance Regulatory Reform Act of 2008, to distribute amounts made available under this subsection to each State to provide affordable housing to extremely low- and very low-income households.

(B) BASIS FOR FORMULA.—The formula required under subparagraph (A) shall include the following:

(i) The ratio of the shortage of standard rental units both affordable and available to extremely low-income renter households in the State to the aggregate shortage of standard rental units both affordable and available to extremely low-income renter households in all the States.

(ii) The ratio of the shortage of standard rental units both affordable and available to very low-income renter households in the State to the aggregate shortage of standard rental units both affordable and available to very low-income renter households in all the States.

(iii) The ratio of extremely low-income renter households in the State living with either (I) incomplete kitchen or plumbing facilities, (II) more than 1 person per room, or (III) paying more than 50 percent of income for housing costs, to the aggregate number of extremely low-income renter households living with either (IV) incomplete kitchen or plumbing facilities, (V) more than 1 person per room, or (VI) paying more than 50 percent of income for housing costs in all the States.

(iv) The ratio of very low-income renter households in the State paying more than 50 percent of income on rent relative to the aggregate number of very low-income renter households paying more than 50 percent of income on rent in all the States.

(v) The resulting sum calculated from the factors described in clauses (i) through (iv) shall be multiplied by the relative cost of construction in the State. For purposes of this subclause[646], the term "cost of construction"—

(I) means the cost of construction or building rehabilitation in the State relative to the national cost of construction or building rehabilitation; and

(II) shall be calculated such that values higher than 1.0 indicate that the State's construction costs are higher than the national average, a value of 1.0 indicates that the State's construction costs are exactly the same as the national average, and values lower than 1.0 indicate that the State's cost of construction are lower than the national average.

[645] Probably should refer to the Native American Housing Assistance and Self-Determination Act of 1996.
[646] So in law.

(C) PRIORITY.—The formula required under subparagraph (A) shall give priority emphasis and consideration to the factor described in subparagraph (B)(i).

(4) ALLOCATION OF GRANT AMOUNTS.—

(A) NOTICE.—Not later than 60 days after the date that the Secretary determines the formula amounts described in paragraph (3), the Secretary shall caused[647] to be published in the Federal Register a notice that such amounts shall be so available.

(B) GRANT AMOUNT.—In each fiscal year other than fiscal year 2009, the Secretary shall make a grant to each State in an amount that is equal to the formula amount determined under paragraph (3) for that State.

(C) MINIMUM STATE ALLOCATIONS.—If the formula amount determined under paragraph (3) for a fiscal year would allocate less than $3,000,000 to any of the 50 States of the United States or the District of Columbia, the allocation for such State of the United States or the District of Columbia shall be $3,000,000, and the increase shall be deducted pro rata from the allocations made to all other of the States (as such term is defined in section 1303).

(5) ALLOCATION PLANS REQUIRED.—

(A) IN GENERAL.—For each year that a State or State designated entity receives a grant under this subsection, the State or State designated entity shall establish an allocation plan. Such plan shall—

(i) set forth a plan for the distribution of grant amounts received by the State or State designated entity for such year;

(ii) be based on priority housing needs, as determined by the State or State designated entity in accordance with the regulations established under subsection (g)(2)(D);

(iii) comply with paragraph (6); and

(iv) include performance goals that comply with the requirements established by the Secretary pursuant to subsection (g)(2).

(B) ESTABLISHMENT.—In establishing an allocation plan under this paragraph, a State or State designated entity shall—

(i) notify the public of the establishment of the plan;

(ii) provide an opportunity for public comments regarding the plan;

(iii) consider any public comments received regarding the plan; and

(iv) make the completed plan available to the public.

(C) CONTENTS.—An allocation plan of a State or State designated entity under this paragraph shall set forth the requirements for eligible recipients under paragraph (8) to apply for such grant amounts, including a requirement that each such application include—

(i) a description of the eligible activities to be conducted using such assistance; and

(ii) a certification by the eligible recipient applying for such assistance that any housing units assisted with such assistance will comply with the requirements under this section.

(6) SELECTION OF ACTIVITIES FUNDED USING HOUSING TRUST FUND GRANT AMOUNTS.—Grant amounts received by a State or State designated entity under this subsection may be used, or committed for use, only for activities that—

(A) are eligible under paragraph (7) for such use;

(B) comply with the applicable allocation plan of the State or State designated entity under paragraph (5); and

(C) are selected for funding by the State or State designated entity in accordance with the process and criteria for such selection established pursuant to subsection (g)(2)(D).

(7) ELIGIBLE ACTIVITIES.—Grant amounts allocated to a State or State designated entity under this subsection shall be eligible for use, or for commitment for use, only for assistance for—

(A) the production, preservation, and rehabilitation of rental housing, including housing under the programs identified in section 1335(a)(2)(B) and for operating costs, except that not less than 75 percent of such grant amounts shall be used for the benefit only of extremely low-income families or families with incomes at or below the poverty line (as such term is defined in section

[647] So in law.

673 of the Omnibus Budget Reconciliation Act of 1981 (42 U.S.C. 9902), including any revision required by such section) applicable to a family of the size involved, and not more than 25 percent for the benefit only of very low-income families; and

(B) the production, preservation, and rehabilitation of housing for homeownership, including such forms as down payment assistance, closing cost assistance, and assistance for interest rate buy-downs, that—

(i) is available for purchase only for use as a principal residence by families that qualify both as—

(I) extremely low- and very low-income families at the times described in subparagraphs (A) through (C) of section 215(b)(2) of the Cranston-Gonzalez National Affordable Housing Act (42 U.S.C. 12745(b)(2)); and

(II) first-time homebuyers, as such term is defined in section 104 of the Cranston-Gonzalez National Affordable Housing Act (42 U.S.C. 12704), except that any reference in such section to assistance under title II of such Act shall for purposes of this subsection be considered to refer to assistance from affordable housing fund grant amounts;

(ii) has an initial purchase price that meets the requirements of section 215(b)(1) of the Cranston-Gonzalez National Affordable Housing Act;

(iii) is subject to the same resale restrictions established under section 215(b)(3) of the Cranston-Gonzalez National Affordable Housing Act and applicable to the participating jurisdiction that is the State in which such housing is located; and

(iv) is made available for purchase only by, or in the case of assistance under this subsection, is made available only to homebuyers who have, before purchase completed a program of independent financial education and counseling from an eligible organization that meets the requirements of section 132[648] of the Federal Housing Finance Regulatory Reform Act of 2008.

(8) TENANT PROTECTIONS AND PUBLIC PARTICIPATION.—All amounts from the Trust Fund shall be allocated in accordance with, and any eligible activities carried out in whole or in part with grant amounts under this subtitle (including housing provided with such grant amounts) shall comply with and be operated in compliance with—

(A) laws relating to tenant protections and tenant rights to participate in decision making regarding their residences;

(B) laws requiring public participation, including laws relating to Consolidated Plans, Qualified Allocation Plans, and Public Housing Agency Plans; and

(C) fair housing laws and laws regarding accessibility in federally assisted housing, including section 504 of the Rehabilitation Act of 1973.

(9) ELIGIBLE RECIPIENTS.—Grant amounts allocated to a State or State designated entity under this subsection may be provided only to a recipient that is an organization, agency, or other entity (including a for-profit entity or a nonprofit entity) that—

(A) has demonstrated experience and capacity to conduct an eligible activity under paragraph (7), as evidenced by its ability to—

(i) own, construct or rehabilitate, manage, and operate an affordable multifamily rental housing development;

(ii) design, construct or rehabilitate, and market affordable housing for homeownership; or

(iii) provide forms of assistance, such as down payments, closing costs, or interest rate buy-downs for purchasers;

(B) demonstrates the ability and financial capacity to undertake, comply, and manage the eligible activity;

(C) demonstrates its familiarity with the requirements of any other Federal, State, or local housing program that will be used in conjunction with such grant amounts to ensure compliance with all applicable requirements and regulations of such programs; and

(D) makes such assurances to the State or State designated entity as the Secretary shall, by regulation, require to ensure that the recipient will comply with the requirements of this

[648] So in law. Probably should refer to section 1132 of such Act.

subsection during the entire period that begins upon selection of the recipient to receive such grant amounts and ending upon the conclusion of all activities under paragraph (8) that are engaged in by the recipient and funded with such grant amounts.

(10) LIMITATIONS ON USE.—

(A) REQUIRED AMOUNT FOR HOMEOWNERSHIP ACTIVITIES.—Of the aggregate amount allocated to a State or State designated entity under this subsection not more than 10 percent shall be used for activities under subparagraph (B) of paragraph (7).

(B) DEADLINE FOR COMMITMENT OR USE.—Grant amounts allocated to a State or State designated entity under this subsection shall be used or committed for use within 2 years of the date that such grant amounts are made available to the State or State designated entity. The Secretary shall recapture any such amounts not so used or committed for use and reallocate such amounts under this subsection in the first year after such recapture.

(C) USE OF RETURNS.—The Secretary shall, by regulation, provide that any return on a loan or other investment of any grant amount used by a State or State designated entity to provide a loan under this subsection shall be treated, for purposes of availability to and use by the State or State designated entity, as a grant amount authorized under this subsection.

(D) PROHIBITED USES.—The Secretary shall, by regulation—

(i) set forth prohibited uses of grant amounts allocated under this subsection, which shall include use for—

(I) political activities;

(II) advocacy;

(III) lobbying, whether directly or through other parties;

(IV) counseling services;

(V) travel expenses; and

(VI) preparing or providing advice on tax returns;

and for the purposes of this subparagraph, the prohibited use of funds for political activities includes influencing the selection, nomination, election, or appointment of one or more candidates to any Federal, State or local office as codified in section 501 of the Internal Revenue Code of 1986 (26 U.S.C. 501);

(ii) provide that, except as provided in clause (iii), grant amounts of a State or State designated entity may not be used for administrative, outreach, or other costs of—

(I) the State or State designated entity; or

(II) any other recipient of such grant amounts; and

(iii) limit the amount of any grant amounts for a year that may be used by the State or State designated entity for administrative costs of carrying out the program required under this subsection, including home ownership counseling, to a percentage of such grant amounts of the State or State designated entity for such year, which may not exceed 10 percent.

(E) Prohibition of consideration of use for meeting housing goals or duty to serve.—In determining compliance with the housing goals under this subpart and the duty to serve underserved markets under section 1335, the Director may not consider any grant amounts used under this section for eligible activities under paragraph (7). The Director shall give credit toward the achievement of such housing goals and such duty to serve underserved markets to purchases by the enterprises of mortgages for housing that receives funding from such grant amounts, but only to the extent that such purchases by the enterprises are funded other than with such grant amounts.

(d) REDUCTION FOR FAILURE TO OBTAIN RETURN OF MISUSED FUNDS.—If in any year a State or State designated entity fails to obtain reimbursement or return of the full amount required under subsection (e)(1)(B) to be reimbursed or returned to the State or State designated entity during such year—

(1) except as provided in paragraph (2)—

(A) the amount of the grant for the State or State designated entity for the succeeding year, as determined pursuant to this section, shall be reduced by the amount by which such amounts required to be reimbursed or returned exceed the amount actually reimbursed or returned; and

(B) the amount of the grant for the succeeding year for each other State or State designated entity whose grant is not reduced pursuant to subparagraph (A) shall be increased by the amount determined by applying the formula established pursuant to this section to the total

amount of all reductions for all State or State designated entities for such year pursuant to subparagraph (A); or

(2) in any case in which such failure to obtain reimbursement or return occurs during a year immediately preceding a year in which grants under this section will not be made, the State or State designated entity shall pay to the Secretary for reallocation among the other grantees an amount equal to the amount of the reduction for the entity that would otherwise apply under paragraph (1)(A).

(e) ACCOUNTABILITY OF RECIPIENTS AND GRANTEES.—

(1) RECIPIENTS.—

(A) TRACKING OF FUNDS.—The Secretary shall—

(i) require each State or State designated entity to develop and maintain a system to ensure that each recipient of assistance under this section uses such amounts in accordance with this section, the regulations issued under this section, and any requirements or conditions under which such amounts were provided; and

(ii) establish minimum requirements for agreements, between the State or State designated entity and recipients, regarding assistance under this section, which shall include—

(I) appropriate periodic financial and project reporting, record retention, and audit requirements for the duration of the assistance to the recipient to ensure compliance with the limitations and requirements of this section and the regulations under this section; and

(II) any other requirements that the Secretary determines are necessary to ensure appropriate administration and compliance.

(B) MISUSE OF FUNDS.—

(i) REIMBURSEMENT REQUIREMENT.—If any recipient of assistance under this section is determined, in accordance with clause (ii), to have used any such amounts in a manner that is materially in violation of this section, the regulations issued under this section, or any requirements or conditions under which such amounts were provided, the State or State designated entity shall require that, within 12 months after the determination of such misuse, the recipient shall reimburse the State or State designated entity for such misused amounts and return to the State or State designated entity any such amounts that remain unused or uncommitted for use. The remedies under this clause are in addition to any other remedies that may be available under law.

(ii) DETERMINATION.—A determination is made in accordance with this clause if the determination is made by the Secretary or made by the State or State designated entity, provided that—

(I) the State or State designated entity provides notification of the determination to the Secretary for review, in the discretion of the Secretary, of the determination; and

(II) the Secretary does not subsequently reverse the determination.

(2) GRANTEES.—

(A) REPORT.—

(i) IN GENERAL.—The Secretary shall require each State or State designated entity receiving grant amounts in any given year under this section to submit a report, for such year, to the Secretary that—

(I) describes the activities funded under this section during such year with such grant amounts; and

(II) the manner in which the State or State designated entity complied during such year with any allocation plan established pursuant to subsection (c).

(ii) PUBLIC AVAILABILITY.—The Secretary shall make such reports pursuant to this subparagraph publicly available.

(B) MISUSE OF FUNDS.—If the Secretary determines, after reasonable notice and opportunity for hearing, that a State or State designated entity has failed to comply substantially with any provision of this section, and until the Secretary is satisfied that there is no longer any such failure to comply, the Secretary shall—

(i) reduce the amount of assistance under this section to the State or State designated entity by an amount equal to the amount of grant amounts which were not used in accordance with this section;

(ii) require the State or State designated entity to repay the Secretary any amount of the grant which was not used in accordance with this section;

(iii) limit the availability of assistance under this section to the State or State designated entity to activities or recipients not affected by such failure to comply; or

(iv) terminate any assistance under this section to the State or State designated entity.

(f) DEFINITIONS.—For purposes of this section, the following definitions shall apply:

(1) EXTREMELY LOW-INCOME RENTER HOUSEHOLD.—The term "extremely low-income renter household" means a household whose income is not in excess of 30 percent of the area median income, with adjustments for smaller and larger families, as determined by the Secretary.

(2) RECIPIENT.—The term "recipient" means an individual or entity that receives assistance from a State or State designated entity from amounts made available to the State or State designated entity under this section.

(3) SHORTAGE OF STANDARD RENTAL UNITS BOTH AFFORDABLE AND AVAILABLE TO EXTREMELY LOW-INCOME RENTER HOUSEHOLDS.—

(A) IN GENERAL.—The term "shortage of standard rental units both affordable and available to extremely low-income renter households" means for any State or other geographical area the gap between—

(i) the number of units with complete plumbing and kitchen facilities with a rent that is 30 percent or less of 30 percent of the adjusted area median income as determined by the Secretary that are occupied by extremely low-income renter households or are vacant for rent; and

(ii) the number of extremely low-income renter households.

(B) RULE OF CONSTRUCTION.—If the number of units described in subparagraph (A)(i) exceeds the number of extremely low-income households as described in subparagraph (A)(ii), there is no shortage.

(4) SHORTAGE OF STANDARD RENTAL UNITS BOTH AFFORDABLE AND AVAILABLE TO VERY LOW-INCOME RENTER HOUSEHOLDS.—

(A) IN GENERAL.—The term "shortage of standard rental units both affordable and available to very low-income renter households" means for any State or other geographical area the gap between—

(i) the number of units with complete plumbing and kitchen facilities with a rent that is 30 percent or less of 50 percent of the adjusted area median income as determined by the Secretary that are occupied by very low-income renter households or are vacant for rent; and

(ii) the number of very low-income renter households.

(B) RULE OF CONSTRUCTION.—If the number of units described in subparagraph (A)(i) exceeds the number of very low-income households as described in subparagraph (A)(ii), there is no shortage.

(5) VERY LOW-INCOME FAMILY.—The term "very low-income family" has the meaning given such term in section 1303, except that such term includes any family that resides in a rural area that has an income that does not exceed the poverty line (as such term is defined in section 673(2) of the Omnibus Budget Reconciliation Act of 1981 (42 U.S.C. 9902(2)), including any revision required by such section) applicable to a family of the size involved.

(6) VERY LOW-INCOME RENTER HOUSEHOLDS.—The term "very low-income renter households" means a household whose income is in excess of 30 percent but not greater than 50 percent of the area median income, with adjustments for smaller and larger families, as determined by the Secretary.

(g) REGULATIONS.—

(1) IN GENERAL.—The Secretary shall issue regulations to carry out this section.

(2) REQUIRED CONTENTS.—The regulations issued under this subsection shall include—

(A) a requirement that the Secretary ensure that the use of grant amounts under this section by States or State designated entities is audited not less than annually to ensure compliance with this section;

(B) authority for the Secretary to audit, provide for an audit, or otherwise verify a State or State designated entity's activities to ensure compliance with this section;

(C) a requirement that, for the purposes of subparagraphs (A) and (B), any financial statement submitted by a grantee or recipient to the Secretary shall be reviewed by an independent certified public accountant in accordance with Statements on Standards for Accounting and Review Services, issued by the American Institute of Certified Public Accountants;

(D) requirements for a process for application to, and selection by, each State or State designated entity for activities meeting the State or State designated entity's priority housing needs to be funded with grant amounts under this section, which shall provide for priority in funding to be based upon—

(i) geographic diversity;

(ii) ability to obligate amounts and undertake activities so funded in a timely manner;

(iii) in the case of rental housing projects under subsection (c)(7)(A), the extent to which rents for units in the project funded are affordable, especially for extremely low-income families;

(iv) in the case of rental housing projects under subsection (c)(7)(A), the extent of the duration for which such rents will remain affordable;

(v) the extent to which the application makes use of other funding sources; and

(vi) the merits of an applicant's proposed eligible activity;

(E) requirements to ensure that grant amounts provided to a State or State designated entity under this section that are used for rental housing under subsection (c)(7)(A) are used only for the benefit of extremely low- and very low-income families; and

(F) requirements and standards for establishment, by a State or State designated entity, for use of grant amounts in 2009 and subsequent years of performance goals, benchmarks, and timetables for the production, preservation, and rehabilitation of affordable rental and homeownership housing with such grant amounts.

(h) AFFORDABLE HOUSING TRUST FUND.—If, after the date of enactment of the Federal Housing Finance Regulatory Reform Act of 2008, in any year, there is enacted any provision of Federal law establishing an affordable housing trust fund other than under this title for use only for grants to provide affordable rental housing and affordable homeownership opportunities, and the subsequent year is a year referred to in subsection (c), the Secretary shall in such subsequent year and any remaining years referred to in subsection (c) transfer to such affordable housing trust fund the aggregate amount allocated pursuant to subsection (c) in such year. Notwithstanding any other provision of law, assistance provided using amounts transferred to such affordable housing trust fund pursuant to this subsection may not be used for any of the activities specified in clauses (i) through (vi) of subsection (c)(9)(D).

(i) FUNDING ACCOUNTABILITY AND TRANSPARENCY.—Any grant under this section to a grantee by a State or State designated entity, any assistance provided to a recipient by a State or State designated entity, and any grant, award, or other assistance from an affordable housing trust fund referred to in subsection (h) shall be considered a Federal award for purposes of the Federal Funding Accountability and Transparency Act of 2006 (31 U.S.C. 6101 note). Upon the request of the Director of the Office of Management and Budget, the Secretary shall obtain and provide such information regarding any such grants, assistance, and awards as the Director of the Office of Management and Budget considers necessary to comply with the requirements of such Act, as applicable, pursuant to the preceding sentence.

Sec. 1339. [12 U.S.C. 4569]
CAPITAL MAGNET FUND.

(a) ESTABLISHMENT.—There is established in the Treasury of the United States a trust fund to be known as the Capital Magnet Fund, which shall be a special account within the Community Development Financial Institutions Fund.

(b) DEPOSITS TO TRUST FUND.—The Capital Magnet Fund shall consist of—

(1) any amounts transferred to the Fund pursuant to section 1337; and

(2) any amounts as are or may be appropriated, transferred, or credited to such Fund under any other provisions of law.

(c) EXPENDITURES FROM TRUST FUND.—Amounts in the Capital Magnet Fund shall be available to the Secretary of the Treasury to carry out a competitive grant program to attract private capital for and increase investment in—

(1) the development, preservation, rehabilitation, or purchase of affordable housing for primarily extremely low-, very low-, and low-income families; and

(2) economic development activities or community service facilities, such as day care centers, workforce development centers, and health care clinics, which in conjunction with affordable housing activities implement a concerted strategy to stabilize or revitalize a low-income area or underserved rural area.

(d) FEDERAL ASSISTANCE.—For purposes of the application of Federal civil rights laws, all assistance provided using amounts in the Capital Magnet Fund shall be considered Federal financial assistance.

(e) ELIGIBLE GRANTEES.—A grant under this section may be made, pursuant to such requirements as the Secretary of the Treasury shall establish for experience and success in attracting private financing and carrying out the types of activities proposed under the application of the grantee, only to—

(1) a Treasury certified community development financial institution; or

(2) a nonprofit organization having as 1 of its principal purposes the development or management of affordable housing.

(f) ELIGIBLE USES.—Grant amounts awarded from the Capital Magnet Fund pursuant to this section may be used for the purposes described in paragraphs (1) and (2) of subsection (c), including for the following uses:

(1) To provide loan loss reserves.

(2) To capitalize a revolving loan fund.

(3) To capitalize an affordable housing fund.

(4) To capitalize a fund to support activities described in subsection (c)(2).

(5) For risk-sharing loans.

(g) APPLICATIONS.—

(1) IN GENERAL.—The Secretary of the Treasury shall provide, in a competitive application process established by regulation, for eligible grantees under subsection (e) to submit applications for Capital Magnet Fund grants to the Secretary at such time and in such manner as the Secretary shall determine.

(2) CONTENT OF APPLICATION.—The application required under paragraph (1) shall include a detailed description of—

(A) the types of affordable housing, economic, and community revitalization projects that support or sustain residents of an affordable housing project funded by a grant under this section for which such grant amounts would be used, including the proposed use of eligible grants as authorized under this section;

(B) the types, sources, and amounts of other funding for such projects; and

(C) the expected time frame of any grant used for such project.

(h) GRANT LIMITATION.—

(1) IN GENERAL.—Any 1 eligible grantee and its subsidiaries and affiliates may not be awarded more than 15 percent of the aggregate funds available for grants during any year from the Capital Magnet Fund.

(2) GEOGRAPHIC DIVERSITY.—

(A) GOAL.—The Secretary of the Treasury shall seek to fund activities in geographically diverse areas of economic distress, including metropolitan and underserved rural areas in every State.

(B) DIVERSITY DEFINED.—For purposes of this paragraph, geographic diversity includes those areas that meet objective criteria of economic distress developed by the Secretary of the Treasury, which may include—

(i) the percentage of low-income families or the extent of poverty;

(ii) the rate of unemployment or underemployment;

(iii) extent of blight and disinvestment;

(iv) projects that target extremely low-, very low-, and low-income families in or outside a designated economic distress area; or

(v) any other criteria designated by the Secretary of the Treasury.

(3) LEVERAGE OF FUNDS.—Each grant from the Capital Magnet Fund awarded under this section shall be reasonably expected to result in eligible housing, or economic and community development

projects that support or sustain an affordable housing project funded by a grant under this section whose aggregate costs total at least 10 times the grant amount.

(4) COMMITMENT FOR USE DEADLINE.—Amounts made available for grants under this section shall be committed for use within 2 years of the date of such allocation. The Secretary of the Treasury shall recapture into the Capital Magnet Fund any amounts not so used or committed for use and allocate such amounts in the first year after such recapture.

(5) PROHIBITED USES.—The Secretary shall, by regulation, set forth prohibited uses of grant amounts awarded under this section, which shall include use for—

(A) political activities;

(B) advocacy;

(C) lobbying, whether directly or through other parties;

(D) counseling services;

(E) travel expenses; and

(F) preparing or providing advice on tax returns;

and for the purposes of this paragraph, the prohibited use of funds for political activities includes influencing the selection, nomination, election, or appointment of one or more candidates to any Federal, State or local office as codified in section 501[649] of the Internal Revenue Code of 1986 (26 U.S.C. 501).

(6) ADDITIONAL LOBBYING RESTRICTIONS.—No assistance or amounts made available under this section may be expended by an eligible grantee to pay any person to influence or attempt to influence any agency, elected official, officer or employee of a State or local government in connection with the making, award, extension, continuation, renewal, amendment, or modification of any State or local government contract, grant, loan, or cooperative agreement as such terms are defined in section 1352 of title 31, United States Code.

(7) PROHIBITION OF CONSIDERATION OF USE FOR MEETING HOUSING GOALS OR DUTY TO SERVE.—In determining the compliance of the enterprises with the housing goals under this section and the duty to serve underserved markets under section 1335, the Director of the Federal Housing Finance Agency may not consider any Capital Magnet Fund amounts used under this section for eligible activities under subsection (f). The Director of the Federal Housing Finance Agency shall give credit toward the achievement of such housing goals and such duty to serve underserved markets to purchases by the enterprises of mortgages for housing that receives funding from Capital Magnet Fund grant amounts, but only to the extent that such purchases by the enterprises are funded other than with such grant amounts.

(8) ACCOUNTABILITY OF RECIPIENTS AND GRANTEES.—

(A) TRACKING OF FUNDS.—The Secretary of the Treasury shall—

(i) require each grantee to develop and maintain a system to ensure that each recipient of assistance from the Capital Magnet Fund uses such amounts in accordance with this section, the regulations issued under this section, and any requirements or conditions under which such amounts were provided; and

(ii) establish minimum requirements for agreements, between the grantee and the Capital Magnet Fund, regarding assistance from the Capital Magnet Fund, which shall include—

(I) appropriate periodic financial and project reporting, record retention, and audit requirements for the duration of the grant to the recipient to ensure compliance with the limitations and requirements of this section and the regulations under this section; and

(II) any other requirements that the Secretary determines are necessary to ensure appropriate grant administration and compliance.

(B) MISUSE OF FUNDS.—If the Secretary of the Treasury determines, after reasonable notice and opportunity for hearing, that a grantee has failed to comply substantially with any provision of this section and until the Secretary is satisfied that there is no longer any such failure to comply, the Secretary shall—

(i) reduce the amount of assistance under this section to the grantee by an amount equal to the amount of Capital Magnet Fund grant amounts which were not used in accordance with this section;

[649] So in law.

(ii) require the grantee to repay the Secretary any amount of the Capital Magnet Fund grant amounts which were not used in accordance with this section;

(iii) limit the availability of assistance under this section to the grantee to activities or recipients not affected by such failure to comply; or

(iv) terminate any assistance under this section to the grantee.

(i) PERIODIC REPORTS.—

(1) IN GENERAL.—The Secretary of the Treasury shall submit a report, on a periodic basis, to the Committee on Banking, Housing, and Urban Affairs of the Senate and the Committee on Financial Services of the House of Representatives describing the activities to be funded under this section.

(2) REPORTS AVAILABLE TO PUBLIC.—The Secretary of the Treasury shall make the reports required under paragraph (1) publicly available.

(j) REGULATIONS.—

(1) IN GENERAL.—The Secretary of the Treasury shall issue regulations to carry out this section.

(2) REQUIRED CONTENTS.—The regulations issued under this subsection shall include—

(A) authority for the Secretary to audit, provide for an audit, or otherwise verify an enterprise's activities, to ensure compliance with this section;

(B) a requirement that the Secretary ensure that the allocation of each enterprise is audited not less than annually to ensure compliance with this section;

(C) a requirement that, for the purposes of subparagraphs (A) and (B), any financial statement submitted by a grantee to the Secretary shall be reviewed by an independent certified public accountant in accordance with Statements on Standards for Accounting and Review Services, issued by the American Institute of Certified Public Accountants; and

(D) requirements for a process for application to, and selection by, the Secretary for activities to be funded with amounts from the Capital Magnet Fund, which shall provide that—

(i) funds be fairly distributed to urban, suburban, and rural areas; and

(ii) selection shall be based upon specific criteria, including a prioritization of funding based upon—

(I) the ability to use such funds to generate additional investments;

(II) affordable housing need (taking into account the distinct needs of different regions of the country); and

(III) ability to obligate amounts and undertake activities so funded in a timely manner.

Sec. 1355. [12 U.S.C. 4602]

STUDIES OF EFFECTS OF PRIVATIZATION OF FNMA AND FHLMC.

(a) IN GENERAL.—The Comptroller General of the United States, the Secretary of Housing and Urban Development, the Secretary of the Treasury, and the Director of the Congressional Budget Office shall each conduct and submit to the Committee on Banking, Finance and Urban Affairs of the House of Representatives and the Committee on Banking, Housing, and Urban Affairs of the Senate, not later than the expiration of the 2-year period beginning on the date of the enactment of this Act, a study regarding the desirability and feasibility of repealing the Federal charters of the Federal National Mortgage Association and the Federal Home Loan Mortgage Corporation, eliminating any Federal sponsorship of the enterprises, and allowing the enterprises to continue to operate as fully private entities.

(b) REQUIREMENTS.—Each study shall particularly examine the effects of such privatization on—

(1) the requirements applicable to the Federal National Mortgage Association and the Federal Home Loan Mortgage Corporation under Federal law and the costs to the enterprises;

(2) the cost of capital to the enterprises;

(3) housing affordability and availability and the cost of homeownership;

(4) the level of secondary mortgage market competition subsequently available in the private sector;

(5) whether increased amounts of capital would be necessary for the enterprises to continue operation;

(6) the secondary market for residential loans and the liquidity of such loans; and

(7) any other factors that the Comptroller General, the Secretary of Housing and Urban Development, the Secretary of the Treasury, or the Director of the Congressional Budget Office deems appropriate to enable the Congress to evaluate the desirability and feasibility of privatization of the enterprises.

(c) INFORMATION.—The Federal National Mortgage Association and the Federal Home Loan Mortgage Corporation shall provide full and prompt access to the Comptroller General, the Secretary of Housing and Urban Development, the Secretary of the Treasury, and the Director of the Congressional Budget Office to any books, records, and other information requested for the purposes of conducting the studies under this section.

(d) VIEWS OF THE FNMA AND FHLMC.—

(1) CONSIDERATION IN STUDIES.—In conducting the studies under this section, the Comptroller General, the Secretary of Housing and Urban Development, the Secretary of the Treasury, and the Director of the Congressional Budget Office shall each consider the views of the Federal National Mortgage Association and the Federal Home Loan Mortgage Corporation.

(2) DIRECT REPORT.—The Federal National Mortgage Association and the Federal Home Loan Mortgage Corporation may each report directly to the Committee on Banking, Finance and Urban Affairs of the House of Representatives[650] and the Committee on Banking, Housing, and Urban Affairs of the Senate on its own analysis of the desirability and feasibility of repealing the Federal charters of the enterprises, eliminating any Federal sponsorship, and allowing the enterprises to continue to operate as fully private entities.

* * * * * * *

END OF STATUTE

[650] Section 1(a) of Public Law 104-14, 109 Stat. 186, provides, in part, that "any reference in any provision of law enacted before January 4, 1995, to ... the Committee on Banking, Finance and Urban Affairs of the House of Representatives shall be treated as referring to the Committee on Banking and Financial Services of the House of Representatives". However, H. Res. 5, 107th Congress, agreed to on January 3, 2001, abolished the Committee on Banking and Financial Services and established the Committee on Financial Services, which has jurisdiction over many of the areas previously under the jurisdiction of the Committee on Banking and Financial Services.

PART X—REGULATORY PROGRAMS

SETTLEMENT COSTS FOR FHA AND VA

EMERGENCY HOME FINANCE ACT OF 1970
[Public Law 91-351; 84 Stat. 461; 12 U.S.C. 1710 note]

Sec. 701. [12 U.S.C. 1710 note]
SETTLEMENT COSTS IN THE FINANCING OF FEDERAL HOUSING ADMINISTRATION AND VETERANS' ADMINISTRATION ASSISTED HOUSING.

(a) With respect to housing built, rehabilitated, or sold with assistance provided under the National Housing Act or under chapter 37 of title 38, United States Code, the Secretary of Housing and Urban Development and the Administrator of Veterans' Affairs are respectively authorized and directed to prescribe standards governing the amounts of settlement costs allowable in connection with the financing of such housing in any such area. Such standards shall—

(1) be established after consultation between the Secretary and the Administrator;

(2) be consistent in any area for housing assisted under the National Housing Act and housing assisted under chapter 37 of title 38, United States Code; and

(3) be based on the Secretary's and the Administrator's estimates of the reasonable charge for necessary services involved in settlements for particular classes of mortgages and loans.

(b) The Secretary and the Administrator shall undertake a joint study and make recommendations to the Congress not later than one year after the date of enactment of this Act[651] with respect to legislative and administrative actions which should be taken to reduce mortgage settlement costs and to standardize these costs for all geographic areas.

END OF STATUTE

[651] The date of enactment was July 24, 1970.

MANUFACTURED HOME STANDARDS

NATIONAL
MANUFACTURED HOUSING CONSTRUCTION AND SAFETY STANDARDS ACT OF 1974[652]
[Public Law 93-383; 88 Stat. 700; 42 U.S.C. 5401—5426]

Sec. 601. [42 U.S.C. 5401 note]
SHORT TITLE.

This title may be cited as the "National Manufactured Housing Construction and Safety Standards Act of 1974".

Sec. 602. [42 U.S.C. 5401]
FINDINGS AND PURPOSES.

(a) FINDINGS.—Congress finds that—

(1) manufactured housing plays a vital role in meeting the housing needs of the Nation; and

(2) manufactured homes provide a significant resource for affordable homeownership and rental housing accessible to all Americans.

(b) PURPOSES.—The purposes of this title are—

(1) to protect the quality, durability, safety, and affordability of manufactured homes;

(2) to facilitate the availability of affordable manufactured homes and to increase homeownership for all Americans;

(3) to provide for the establishment of practical, uniform, and, to the extent possible, performance-based Federal construction standards for manufactured homes;

(4) to encourage innovative and cost-effective construction techniques for manufactured homes;

(5) to protect residents of manufactured homes with respect to personal injuries and the amount of insurance costs and property damages in manufactured housing, consistent with the other purposes of this section;

(6) to establish a balanced consensus process for the development, revision, and interpretation of Federal construction and safety standards for manufactured homes and related regulations for the enforcement of such standards;

(7) to ensure uniform and effective enforcement of Federal construction and safety standards for manufactured homes; and

(8) to ensure that the public interest in, and need for, affordable manufactured housing is duly considered in all determinations relating to the Federal standards and their enforcement.

Sec. 603. [42 U.S.C. 5402]
DEFINITIONS.

As used in this title, the term—

(1) "manufactured home construction" means all activities relating to the assembly and manufacture of a manufactured home including but not limited to those relating to durability, quality, and safety;

(2) "retailer" means any person engaged in the sale, leasing, or distribution of new manufactured homes primarily to persons who in good faith purchase or lease a manufactured home for purposes other than resale;

(3) "defect" includes any defect in the performance, construction, components, or material of a manufactured home that renders the home or any part thereof not fit for the ordinary use for which it was intended;

(4) "distributor" means any person engaged in the sale and distribution of manufactured homes for resale;

(5) "manufacturer" means any person engaged in manufacturing or assembling manufactured homes, including any person engaged in importing manufactured homes for resale;

(6) "manufactured home" means a structure, transportable in one or more sections, which, in the traveling mode, is eight body feet or more in width or forty body feet or more in length, or, when erected on site, is three hundred twenty or more square feet, and which is built on a permanent chassis and designed to be used as a dwelling with or without a permanent foundation when connected to the required utilities, and includes the plumbing, heating, air-conditioning, and electrical systems contained therein; except that such term shall include any structure which

[652] Enacted as Title VI of the Housing and Community Development Act of 1974

meets all the requirements of this paragraph except the size requirements and with respect to which the manufacturer voluntarily files a certification required by the Secretary and complies with the standards established under this title; and except that such term shall not include any self-propelled recreational vehicle;

(7) "Federal manufactured home construction and safety standard" means a reasonable standard for the construction, design, and performance of a manufactured home which meets the needs of the public including the need for quality, durability, and safety;

(8) "manufactured home safety" means the performance of a manufactured home in such a manner that the public is protected against any unreasonable risk of the occurrence of accidents due to the design or construction of such manufactured home, or any unreasonable risk of death or injury to the user or to the public if such accidents do occur;

(9) "imminent safety hazard" means an imminent and unreasonable risk of death or severe personal injury;

(10) "purchaser" means the first person purchasing a manufactured home in good faith for purposes other than resale;

(11) "Secretary" means the Secretary of Housing and Urban Development;

(12) "State" includes each of the several States, the District of Columbia, the Commonwealth of Puerto Rico, Guam, the Virgin Islands, the Canal Zone, and American Samoa;

(13) "United States district courts" means the Federal district courts of the United States and the United States courts of the Commonwealth of Puerto Rico, Guam, the Virgin Islands, the Canal Zone, and American Samoa;

(14) "administering organization" means the recognized, voluntary, private sector, consensus standards body with specific experience in developing model residential building codes and standards involving all disciplines regarding construction and safety that administers the consensus standards through a development process;

(15) "consensus committee" means the committee established under section 604(a)(3);

(16) "consensus standards development process" means the process by which additions, revisions, and interpretations to the Federal manufactured home construction and safety standards and enforcement regulations shall be developed and recommended to the Secretary by the consensus committee;

(17) "primary inspection agency" means a State agency or private organization that has been approved by the Secretary to act as a design approval primary inspection agency or a production inspection primary inspection agency, or both;

(18) "design approval primary inspection agency" means a State agency or private organization that has been approved by the Secretary to evaluate and either approve or disapprove manufactured home designs and quality control procedures;

(19) "installation standards" means reasonable specifications for the installation of a manufactured home, at the place of occupancy, to ensure proper siting, the joining of all sections of the home, and the installation of stabilization, support, or anchoring systems;

(20) "monitoring" means the process of periodic review of the primary inspection agencies, by the Secretary or by a State agency under an approved State plan pursuant to section 623, in accordance with regulations promulgated under this title, giving due consideration to the recommendations of the consensus committee under section 604(b), which process shall be for the purpose of ensuring that the primary inspection agencies are discharging their duties under this title; and

(21) "production inspection primary inspection agency" means a State agency or private organization that has been approved by the Secretary to evaluate the ability of manufactured home manufacturing plants to comply with approved quality control procedures and with the Federal manufactured home construction and safety standards promulgated hereunder, including the inspection of homes in the plant.

Sec. 604. [42 U.S.C. 5403]
FEDERAL MANUFACTURED HOME CONSTRUCTION AND SAFETY STANDARDS.

(a)[653] ESTABLISHMENT.—

[653] Section 104(c) of the Energy Policy Act of 1992, Pub. L. 102-486, approved October 24, 1992, 42 U.S.C. 5403 note, provides as follows:

"(c) EXCEPTION TO FEDERAL PREEMPTION.—If the Secretary of Housing and Urban Development has not issued, within 1 year after the date of the enactment of this Act, final regulations pursuant to section 604 of the National Manufactured Housing Construction and Safety Standards Act of 1974 (42 U.S.C. 5403) that establish thermal insulation and energy efficiency standards for manufactured housing that take effect before January 1, 1995, then States may establish thermal insulation and energy efficiency standards for manufactured housing if such standards are at least as stringent as thermal performance standards for manufactured housing contained in the Second Public Review Draft of BSR/ASHRAE 90.2P entitled "Energy Efficient Design of Low-Rise Residential Buildings" and all public reviews of Independent Substantive Changes to such document that have been approved on or before the date of the enactment of this Act.".

(1) AUTHORITY.—The Secretary shall establish, by order, appropriate Federal manufactured home construction and safety standards, each of which—

(A) shall—

(i) be reasonable and practical;

(ii) meet high standards of protection consistent with the purposes of this title; and

(iii) be performance-based and objectively stated, unless clearly inappropriate; and

(B) except as provided in subsection (b), shall be established in accordance with the consensus standards development process.

(2) CONSENSUS STANDARDS AND REGULATORY DEVELOPMENT PROCESS.—

(A) INITIAL AGREEMENT.—Not later than 180 days after the date of the enactment of the Manufactured Housing Improvement Act of 2000,[654] the Secretary shall enter into a contract with an administering organization. The contractual agreement shall—

(i) terminate on the date on which a contract is entered into under subparagraph (B); and

(ii) require the administering organization to—

(I) recommend the initial members of the consensus committee under paragraph (3);

(II) administer the consensus standards development process until the termination of that agreement; and

(III) administer the consensus development and interpretation process for procedural and enforcement regulations and regulations specifying the permissible scope and conduct of monitoring until the termination of that agreement.

(B) COMPETITIVELY PROCURED CONTRACT.—Upon the expiration of the 4-year period beginning on the date on which all members of the consensus committee are appointed under paragraph (3), the Secretary shall, using competitive procedures (as such term is defined in section 4 of the Office of Federal Procurement Policy Act), enter into a competitively awarded contract with an administering organization. The administering organization shall administer the consensus process for the development and interpretation of the Federal standards, the procedural and enforcement regulations, and regulations specifying the permissible scope and conduct of monitoring, in accordance with this title.

(C) PERFORMANCE REVIEW.—The Secretary—

(i) shall periodically review the performance of the administering organization; and

(ii) may replace the administering organization with another qualified technical or building code organization, pursuant to competitive procedures, if the Secretary determines in writing that the administering organization is not fulfilling the terms of the agreement or contract to which the administering organization is subject or upon the expiration of the agreement or contract.

(3) CONSENSUS COMMITTEE.—

(A) PURPOSE.—There is established a committee to be known as the "consensus committee", which shall, in accordance with this title—

(i) provide periodic recommendations to the Secretary to adopt, revise, and interpret the Federal manufactured housing construction and safety standards in accordance with this subsection;

(ii) provide periodic recommendations to the Secretary to adopt, revise, and interpret the procedural and enforcement regulations, including regulations specifying the permissible scope and conduct of monitoring in accordance with subsection (b);

(iii) be organized and carry out its business in a manner that guarantees a fair opportunity for the expression and consideration of various positions and for public participation; and

[654] The date of enactment was December 27, 2000.

(iv) be deemed to be an advisory committee not composed of Federal employees.

(B) MEMBERSHIP.—The consensus committee shall be composed of—

(i) twenty-one voting members appointed by the Secretary, after consideration of the recommendations of the administering organization, from among individuals who are qualified by background and experience to participate in the work of the consensus committee; and

(ii) one nonvoting member appointed by the Secretary to represent the Secretary on the consensus committee.

(C) DISAPPROVAL.—The Secretary shall state, in writing, the reasons for failing to appoint any individual recommended under paragraph (2)(A)(ii)(I).

(D) SELECTION PROCEDURES AND REQUIREMENTS.—Each member of the consensus committee shall be appointed in accordance with selection procedures, which shall be based on the procedures for consensus committees promulgated by the American National Standards Institute (or successor organization), except that the American National Standards Institute interest categories shall be modified for purposes of this paragraph to ensure equal representation on the consensus committee of the following interest categories:

(i) PRODUCERS.—Seven producers or retailers of manufactured housing.

(ii) USERS.—Seven persons representing consumer interests, such as consumer organizations, recognized consumer leaders, and owners who are residents of manufactured homes.

(iii) GENERAL INTEREST AND PUBLIC OFFICIALS.—Seven general interest and public official members.

(E) BALANCING OF INTERESTS.—

(i) IN GENERAL.—In order to achieve a proper balance of interests on the consensus committee, the Secretary, in appointing the members of the consensus committee—

(I) shall ensure that all directly and materially affected interests have the opportunity for fair and equitable participation without dominance by any single interest; and

(II) may reject the appointment of any one or more individuals in order to ensure that there is not dominance by any single interest.

(ii) DOMINANCE DEFINED.—In this subparagraph, the term “dominance” means a position or exercise of dominant authority, leadership, or influence by reason of superior leverage, strength, or representation.

(F) ADDITIONAL QUALIFICATIONS.—

(i) FINANCIAL INDEPENDENCE.—No individual appointed under subparagraph (D)(ii) shall have, and three of the individuals appointed under subparagraph (D)(iii) shall not have—

(I) a significant financial interest in any segment of the manufactured housing industry; or

(II) a significant relationship to any person engaged in the manufactured housing industry.

(ii) POST-EMPLOYMENT BAN.—Each individual described in clause (i) shall be subject to a ban disallowing compensation from the manufactured housing industry during the period of, and during the 1-year following, the membership of the individual on the consensus committee.

(G) MEETINGS.—

(i) NOTICE; OPEN TO PUBLIC.—The consensus committee shall provide advance notice of each meeting of the consensus committee to the Secretary and cause to be published in the Federal Register advance notice of each such meeting. All meetings of the consensus committee shall be open to the public.

(ii) REIMBURSEMENT.—Members of the consensus committee in attendance at meetings of the consensus committee shall be reimbursed for their actual expenses as authorized by section 5703 of title 5, United States Code, for persons employed intermittently in Government service.

(H) ADMINISTRATION.—The consensus committee and the administering organization shall—

(i) operate in conformance with the procedures established by the American National Standards Institute for the development and coordination of American National Standards; and

(ii) apply to the American National Standards Institute and take such other actions as may be necessary to obtain accreditation from the American National Standards Institute.

(I) STAFF AND TECHNICAL SUPPORT.—The administering organization shall, upon the request of the consensus committee—

(i) provide reasonable staff resources to the consensus committee; and

(ii) furnish technical support in a timely manner to any of the interest categories described in subparagraph (D) represented on the consensus committee, if—

(I) the support is necessary to ensure the informed participation of the consensus committee members; and

(II) the costs of providing the support are reasonable.

(J) DATE OF INITIAL APPOINTMENTS.—The initial appointments of all the members of the consensus committee shall be completed not later than 90 days after the date on which a contractual agreement under paragraph (2)(A) is entered into with the administering organization.

(4) REVISIONS OF STANDARDS.—

(A) IN GENERAL.—Beginning on the date on which all members of the consensus committee are appointed under paragraph (3), the consensus committee shall, not less than once during each 2-year period—

(i) consider revisions to the Federal manufactured home construction and safety standards; and

(ii) submit proposed revised standards, if approved in a vote of the consensus committee by two-thirds of the members, to the Secretary in the form of a proposed rule, including an economic analysis.

(B) PUBLICATION OF PROPOSED REVISED STANDARDS.—

(i) PUBLICATION BY THE SECRETARY.—The consensus committee shall provide a proposed revised standard under subparagraph (A)(ii) to the Secretary who shall, not later than 30 days after receipt, cause such proposed revised standard to be published in the Federal Register for notice and comment in accordance with section 553 of title 5, United States Code. Unless clause (ii) applies, the Secretary shall provide an opportunity for public comment on such proposed revised standard in accordance with such section 553 and any such comments shall be submitted directly to the consensus committee, without delay.

(ii) PUBLICATION OF REJECTED PROPOSED REVISED STANDARDS.—If the Secretary rejects the proposed revised standard, the Secretary shall cause to be published in the Federal Register the rejected proposed revised standard, the reasons for rejection, and any recommended modifications set forth.

(C) PRESENTATION OF PUBLIC COMMENTS; PUBLICATION OF RECOMMENDED REVISIONS.—

(i) PRESENTATION.—Any public comments, views, and objections to a proposed revised standard published under subparagraph (B) shall be presented by the Secretary to the consensus committee upon their receipt and in the manner received, in accordance with procedures established by the American National Standards Institute.

(ii) PUBLICATION BY THE SECRETARY.—The consensus committee shall provide to the Secretary any revision proposed by the consensus committee, which the Secretary shall, not later than 30 calendar days after receipt, cause to be published in the Federal Register a notice of the recommended revisions of the consensus committee to the standards, a notice of the submission of the recommended revisions to the Secretary, and a description of the circumstances under which the proposed revised standards could become effective.

(iii) PUBLICATION OF REJECTED PROPOSED REVISED STANDARDS.—If the Secretary rejects the proposed revised standard, the Secretary shall cause to be published in the Federal Register the rejected proposed revised standard, the reasons for rejection, and any recommended modifications set forth.

(5) REVIEW BY THE SECRETARY.—

(A) IN GENERAL.—The Secretary shall either adopt, modify, or reject a standard, as submitted by the consensus committee under paragraph (4)(A).

(B) TIMING.—Not later than 12 months after the date on which a standard is submitted to the Secretary by the consensus committee, the Secretary shall take action regarding such standard under subparagraph (C).

(C) PROCEDURES.—If the Secretary—

(i) adopts a standard recommended by the consensus committee, the Secretary shall—

(I) issue a final order without further rulemaking; and

(II) cause the final order to be published in the Federal Register;

(ii) determines that any standard should be rejected, the Secretary shall—

(I) reject the standard; and

(II) cause to be published in the Federal Register a notice to that effect, together with the reason or reasons for rejecting the proposed standard; or

(iii) determines that a standard recommended by the consensus committee should be modified, the Secretary shall—

(I) cause to be published in the Federal Register the proposed modified standard, together with an explanation of the reason or reasons for the determination of the Secretary; and

(II) provide an opportunity for public comment in accordance with section 553 of title 5, United States Code.

(D) FINAL ORDER.—Any final standard under this paragraph shall become effective pursuant to subsection (c).

(6) FAILURE TO ACT.—If the Secretary fails to take final action under paragraph (5) and to cause notice of the action to be published in the Federal Register before the expiration of the 12-month period beginning on the date on which the proposed revised standard is submitted to the Secretary under paragraph (4)(A)—

(A) the Secretary shall appear in person before the appropriate housing and appropriations subcommittees and committees of the House of Representatives and the Senate (referred to in this paragraph as the "committees") on a date or dates to be specified by the committees, but in no event later than 30 days after the expiration of that 12-month period, and shall state before the committees the reasons for failing to take final action as required under paragraph (5); and

(B) if the Secretary does not appear in person as required under subparagraph (A), the Secretary shall thereafter, and until such time as the Secretary does appear as required under subparagraph (A), be prohibited from expending any funds collected under authority of this title in an amount greater than that collected and expended in the fiscal year immediately preceding the date of the enactment of the Manufactured Housing Improvement Act of 2000,[655] indexed for inflation as determined by the Congressional Budget Office.

(b) OTHER ORDERS.—

(1) REGULATIONS.—The Secretary may issue procedural and enforcement regulations and revisions to existing regulations as necessary to implement the provisions of this title. The consensus committee may submit to the Secretary proposed procedural and enforcement regulations and recommendations for the revision of such regulations.

(2) INTERPRETATIVE BULLETINS.—The Secretary may issue interpretative bulletins to clarify the meaning of any Federal manufactured home construction and safety standard or procedural and enforcement regulation. The consensus committee may submit to the Secretary proposed interpretative bulletins to clarify the meaning of any Federal manufactured home construction and safety standard or procedural and enforcement regulation.

[655] December 27, 2000.

(3) REVIEW BY CONSENSUS COMMITTEE.—Before issuing a procedural or enforcement regulation or an interpretative bulletin—

(A) the Secretary shall—

(i) submit the proposed procedural or enforcement regulation or interpretative bulletin to the consensus committee; and

(ii) provide the consensus committee with a period of 120 days to submit written comments to the Secretary on the proposed procedural or enforcement regulation or the interpretative bulletin; and

(B) if the Secretary rejects any significant comment provided by the consensus committee under subparagraph (A), the Secretary shall provide a written explanation of the reasons for the rejection to the consensus committee; and

(C) following compliance with subparagraphs (A) and (B), the Secretary shall—

(i) cause the proposed regulation or interpretative bulletin and the consensus committee's written comments, along with the Secretary's response thereto, to be published in the Federal Register; and

(ii) provide an opportunity for public comment in accordance with section 553 of title 5, United States Code.

(4) REQUIRED ACTION.—Not later than 120 days after the date on which the Secretary receives a proposed regulation or interpretative bulletin submitted by the consensus committee, the Secretary shall—

(A) approve the proposal and cause the proposed regulation or interpretative bulletin to be published for public comment in accordance with section 553 of title 5, United States Code; or

(B) reject the proposed regulation or interpretative bulletin and—

(i) provide to the consensus committee a written explanation of the reasons for rejection; and

(ii) cause to be published in the Federal Register the rejected proposed regulation or interpretive bulletin, the reasons for rejection, and any recommended modifications set forth.

(5) AUTHORITY TO ACT AND EMERGENCY.—If the Secretary determines, in writing, that such action is necessary to address an issue on which the Secretary determines that the consensus committee has not made a timely recommendation following a request by the Secretary, or in order to respond to an emergency that jeopardizes the public health or safety, the Secretary may issue an order that is not developed under the procedures set forth in subsection (a) or in this subsection, if the Secretary—

(A) provides to the consensus committee a written description and sets forth the reasons why action is necessary and all supporting documentation; and

(B) issues the order after notice and an opportunity for public comment in accordance with section 553 of title 5, United States Code, and causes the order to be published in the Federal Register.

(6) CHANGES.—Any statement of policies, practices, or procedures relating to construction and safety standards, regulations, inspections, monitoring, or other enforcement activities that constitutes a statement of general or particular applicability to implement, interpret, or prescribe law or policy by the Secretary is subject to subsection (a) or this subsection. Any change adopted in violation of subsection (a) or this subsection is void.

(7) TRANSITION.—Until the date on which the consensus committee is appointed pursuant to section 604(a)(3), the Secretary may issue proposed orders, pursuant to notice and comment in accordance with section 553 of title 5, United States Code, that are not developed under the procedures set forth in this section for new and revised standards.

(c) Each order establishing a Federal manufactured home construction and safety standard shall specify the date such standard is to take effect, which shall not be sooner than one hundred and eighty days or later than one year after the date such order is issued, unless the Secretary finds, for good cause shown, that an earlier or later effective date is in the public interest, and publishes his reasons for such finding.

(d) Whenever a Federal manufactured home construction and safety standard established under this title is in effect, no State or political subdivision of a State shall have any authority either to establish, or to continue in effect, with respect to any manufactured home covered, any standard regarding construction or safety applicable to the same aspect of performance of such manufactured home which is not identical to the Federal manufactured home construction and safety standard. Federal preemption under this subsection shall be broadly and liberally

construed to ensure that disparate State or local requirements or standards do not affect the uniformity and comprehensiveness of the standards promulgated under this section nor the Federal superintendence of the manufactured housing industry as established by this title. Subject to section 605, there is reserved to each State the right to establish standards for the stabilizing and support systems of manufactured homes sited within that State, and for the foundations on which manufactured homes sited within that State are installed, and the right to enforce compliance with such standards, except that such standards shall be consistent with the purposes of this title and shall be consistent with the design of the manufacturer.

(e) CONSIDERATIONS IN ESTABLISHING AND INTERPRETING STANDARDS AND REGULATIONS.—The consensus committee, in recommending standards, regulations, and interpretations, and the Secretary, in establishing standards or regulations or issuing interpretations under this section, shall—

(1) consider relevant available manufactured home construction and safety data, including the results of the research, development, testing, and evaluation activities conducted pursuant to this title, and those activities conducted by private organizations and other governmental agencies to determine how to best protect the public;

(2) consult with such State or interstate agencies (including legislative committees) as he deems appropriate;

(3) consider whether any such proposed standard is reasonable for the particular type of manufactured home or for the geographic region for which it is prescribed;

(4) consider the probable effect of such standard on the cost of the manufactured home to the public; and

(5) consider the extent to which any such standard will contribute to carrying out the purposes of this title.

(f) The Secretary shall exclude from the coverage of this title any structure which the manufacturer certifies, in a form prescribed by the Secretary, to be:

(1) designed only for erection or installation on a site-built permanent foundation;

(2) not designed to be moved once so erected or installed;

(3) designed and manufactured to comply with a nationally recognized model building code or an equivalent local code, or with a State or local modular building code recognized as generally equivalent to building codes for site-built housing, or with minimum property standards adopted by the Secretary pursuant to title II of the National Housing Act; and

(4) to the manufacturer's knowledge is not intended to be used other than on a site-built permanent foundation.

(g)(1) The Federal manufactured home construction and safety standards established by the Secretary under this section shall include preemptive energy conservation standards in accordance with this subsection.

(2) The energy conservation standards established under this subsection shall be cost-effective energy conservation performance standards designed to ensure the lowest total of construction and operating costs.

(3) The energy conservation standards established under this subsection shall take into consideration the design and factory construction techniques of manufactured homes and shall provide for alternative practices that result in net estimated energy consumption equal to or less than the specified standards.

(h) The Secretary shall develop a new standard for hardboard panel siding on manufactured housing taking into account durability, longevity, consumer's costs for maintenance and any other relevant information pursuant to subsection (e). The Secretary shall consult with the National Manufactured Home Advisory Council and the National Commission on Manufactured Housing in establishing the new standard. The new performance standard developed shall ensure the durability of hardboard sidings for at least a normal life of a mortgage with minimum maintenance required. Not later than 180 days from the date of enactment of this subsection, the Secretary shall update the standards for hardboard siding.

Sec. 605. [42 U.S.C. 5404]
MANUFACTURED HOME INSTALLATION.

(a) PROVISION OF INSTALLATION DESIGN AND INSTRUCTIONS.—A manufacturer shall provide with each manufactured home, design and instructions for the installation of the manufactured home that have been approved by a design approval primary inspection agency. After establishment of model standards under subsection (b)(2), a design approval primary inspection agency may not give such approval unless a design and instruction provides equal or greater protection than the protection provided under such model standards.

(b) MODEL MANUFACTURED HOME INSTALLATION STANDARDS.—

(1) PROPOSED MODEL STANDARDS.—Not later than 18 months after the date on which the initial appointments of all the members of the consensus committee are completed, the consensus committee shall develop and submit to the Secretary proposed model manufactured home installation standards, which shall, to the maximum extent practicable, taking into account the factors described in section 604(e), be consistent with—

(A) the manufactured home designs that have been approved by a design approval primary inspection agency; and

(B) the designs and instructions for the installation of manufactured homes provided by manufacturers under subsection (a).

(2) ESTABLISHMENT OF MODEL STANDARDS.—Not later than 12 months after receiving the proposed model standards submitted under paragraph (1), the Secretary shall develop and establish model manufactured home installation standards, which shall, to the maximum extent practicable, taking into account the factors described in section 604(e), be consistent with—

(A) the manufactured home designs that have been approved by a design approval primary inspection agency; and

(B) the designs and instructions for the installation of manufactured homes provided by manufacturers under subsection (a).

(3) FACTORS FOR CONSIDERATION.—

(A) CONSENSUS COMMITTEE.—In developing the proposed model standards under paragraph (1), the consensus committee shall consider the factors described in section 604(e).

(B) SECRETARY.—In developing and establishing the model standards under paragraph (2), the Secretary shall consider the factors described in section 604(e).

(4) ISSUANCE.—The model manufactured home installation standards shall be issued after notice and an opportunity for public comment in accordance with section 553 of title 5, United States Code.

(c) MANUFACTURED HOME INSTALLATION PROGRAMS.—

(1) PROTECTION OF MANUFACTURED HOUSING RESIDENTS DURING INITIAL PERIOD.—During the 5-year period beginning on the date of the enactment of the Manufactured Housing Improvement Act of 2000,[656] no State or manufacturer may establish or implement any installation standards that, in the determination of the Secretary, provide less protection to the residents of manufactured homes than the protection provided by the installation standards in effect with respect to the State or manufacturer, as applicable, on the date of the enactment of the Manufactured Housing Improvement Act of 2000.[657]

(2) INSTALLATION STANDARDS.—

(A) ESTABLISHMENT OF INSTALLATION PROGRAM.—Not later than the expiration of the 5-year period described in paragraph (1), the Secretary shall establish an installation program that meets the requirements of paragraph (3) for the enforcement of installation standards in each State described in subparagraph (B) of this paragraph.

(B) IMPLEMENTATION OF INSTALLATION PROGRAM.—Beginning on the expiration of the 5-year period described in paragraph (1), the Secretary shall implement the installation program established under subparagraph (A) in each State that does not have an installation program established by State law that meets the requirements of paragraph (3).

(C) CONTRACTING OUT OF IMPLEMENTATION.—In carrying out subparagraph (B), the Secretary may contract with an appropriate agent to implement the installation program established under that subparagraph, except that such agent shall not be a person or entity other than a government, nor an affiliate or subsidiary of such a person or entity, that has entered into a contract with the Secretary to implement any other regulatory program under this title.

(3) REQUIREMENTS.—An installation program meets the requirements of this paragraph if it is a program regulating the installation of manufactured homes that includes—

(A) installation standards that, in the determination of the Secretary, provide protection to the residents of manufactured homes that equals or exceeds the protection provided to those residents by—

[656] The date of enactment was December 27, 2000.
[657] The date of enactment was December 27, 2000.

(i) the model manufactured home installation standards established by the Secretary under subsection (b)(2); or

(ii) the designs and instructions provided by manufacturers under subsection (a), if the Secretary determines that such designs and instructions provide protection to the residents of manufactured homes that equals or exceeds the protection provided by the model manufactured home installation standards established by the Secretary under subsection (b)(2);

(B) the training and licensing of manufactured home installers; and

(C) inspection of the installation of manufactured homes.

Sec. 606. [42 U.S.C. 5405]
JUDICIAL REVIEW OF ORDERS.

(a)(1) In a case of actual controversy as to the validity of any order under section 604, any person who may be adversely affected by such order when it is effective may at any time prior to the sixtieth day after such order is issued file a petition with the United States court of appeals for the circuit wherein such person resides or has his principal place of business, for judicial review of such order. A copy of the petition shall be forthwith transmitted by the clerk of the court to the Secretary or other officer designated by him for that purpose. The Secretary thereupon shall file in the court the record of the proceedings on which the Secretary based his order, as provided in section 2112 of title 28, United States Code.

(2) If the petitioner applies to the court for leave to adduce additional evidence, and shows to the satisfaction of the court that such additional evidence is material and that there were reasonable grounds for the failure to adduce such evidence in the proceeding before the Secretary, the court may order such additional evidence (and evidence in rebuttal thereof) to be taken before the Secretary, and to be adduced upon the hearing, in such manner and upon such terms and conditions as to the court may seem proper. The Secretary may modify his findings as to the facts, or make new findings, by reason of the additional evidence so taken, and he shall file such modified or new findings, and his recommendation, if any, for the modification or setting aside of his original order, with the return of such additional evidence.

(3) Upon the filing of the petition referred to in paragraph (1) of this subsection, the court shall have jurisdiction to review the order in accordance with the provisions of sections 701 through 706 of title 5, United States Code, and to grant appropriate relief.

(4) The judgment of the court affirming or setting aside, in whole or in part, any such order of the Secretary shall be final, subject to review by the Supreme Court of the United States upon certiorari or certification as provided in section 1254 of title 28, United States Code.

(5) Any action instituted under this subsection shall survive, notwithstanding any change in the person occupying the office of Secretary of any vacancy in such office.

(6) The remedies provided for in this subsection shall be in addition to and not in substitution for any other remedies provided by law.

(b) A certified copy of the transcript of the record and proceedings under this section shall be furnished by the Secretary to any interested party at his request and payment of the costs thereof, and shall be admissible in any criminal, exclusion of imports, or other proceedings arising under or in respect of this title, irrespective of whether proceedings with respect to the order have previously been initiated or become final under subsection (a).

Sec. 607. [42 U.S.C. 5406]
PUBLIC INFORMATION.

(a) Whenever any manufacturer is opposed to any action of the Secretary under section 604 or under any other provision of this title on the grounds of increased cost or for other reasons, the manufacturer shall submit to the Secretary such cost and other information (in such detail as the Secretary may by rule or order prescribe) as may be necessary in order to properly evaluate the manufacturer's statement. The Secretary shall submit such cost and other information to the consensus committee for evaluation.

(b) Such information shall be available to the public unless the manufacturer establishes that it contains a trade secret or that disclosure of any portion of such information would put the manufacturer at a substantial competitive disadvantage. Notice of the availability of such information shall be published promptly in the Federal Register. If the Secretary determines that any portion of such information contains a trade secret or that the disclosure of any portion of such information would put the manufacturer at a substantial competitive disadvantage, such portion may be disclosed to the public only in such manner as to preserve the confidentiality of such trade secret or in such combined or summary form so as not to disclose the identity of any individual manufacturer, except

that any such information may be disclosed to other officers or employees concerned with carrying out this title or when relevant in any proceeding under this title. Nothing in this subsection shall authorize the withholding of information by the Secretary or any officer or employee under his control from the duly authorized committees of the Congress.

(c) For purposes of this section, "cost information" means information with respect to alleged cost increases resulting from action by the Secretary, in such a form as to permit the public, the consensus committee, and the Secretary to make an informed judgment on the validity of the manufacturer's statements. Such term includes both the manufacturer's statements. Such term includes both the manufacturer's cost and the cost to retail purchasers.

(d) Nothing in this section shall be construed to restrict the authority of the Secretary to obtain or require submission of information under any other provision of this title.

Sec. 608. [42 U.S.C. 5407]
RESEARCH, TESTING, DEVELOPMENT, AND TRAINING.

(a) The Secretary shall conduct research, testing, development, and training necessary to carry out the purposes of this title, including, but not limited to—

(1) collecting data from any source for the purpose of determining the relationship between manufactured home performance characteristics and (A) accidents involving manufactured homes, and (B) the occurrence of death, personal injury, or damage resulting from such accidents;

(2) procuring (by negotiation or otherwise) experimental and other manufactured homes for research and testing purposes;

(3) selling or otherwise disposing of test manufactured homes and reimbursing the proceeds of such sale or disposal into the current appropriation available for the purpose of carrying out this title;

(4) encouraging the government-sponsored housing entities to actively develop and implement secondary market securitization programs for the FHA manufactured home loans and those of other loan programs, as appropriate, thereby promoting the availability of affordable manufactured homes to increase homeownership for all people in the United States; and

(5) reviewing the programs for FHA manufactured home loans and developing any changes to such programs to promote the affordability of manufactured homes, including changes in loan terms, amortization periods, regulations, and procedures.

(b) The Secretary is authorized to conduct research, testing, development, and training as authorized to be carried out by subsection (a) of this section by contracting for or making grants for the conduct of such research, testing, development, and training to States, interstate agencies, and independent institutions.

(c) DEFINITIONS.—For purposes of this section, the following definitions shall apply:

(1) GOVERNMENT-SPONSORED HOUSING ENTITIES.—The term "government-sponsored housing entities" means the Government National Mortgage Association of the Department of Housing and Urban Development, the Federal National Mortgage Association, and the Federal Home Loan Mortgage Corporation.

(2) FHA MANUFACTURED HOME LOAN.—The term "FHA manufactured home loan" means a loan that—

(A) is insured under title I of the National Housing Act and is made for the purpose of financing alterations, repairs, or improvements on or in connection with an existing manufactured home, the purchase of a manufactured home, the purchase of a manufactured home and a lot on which to place the home, or the purchase only of a lot on which to place a manufactured home; or

(B) is otherwise insured under the National Housing Act and made for or in connection with a manufactured home.

Sec. 609. [42 U.S.C. 5408]
COOPERATION WITH PUBLIC AND PRIVATE AGENCIES.

The Secretary is authorized to advise, assist, and cooperate with other Federal agencies and with State and other interested public and private agencies, in the planning and development of—

(1) manufactured home construction and safety standards; and

(2) methods for inspecting and testing to determine compliance with manufactured home standards.

Sec. 610. [42 U.S.C. 5409]
PROHIBITED ACTS.

(a) No person shall—

(1) make use of any means of transportation or communication affecting interstate or foreign commerce or the mails to manufacture for sale, lease, sell, offer for sale or lease, or introduce or deliver, or import into the United States, any manufactured home which is manufactured on or after the effective date of any applicable Federal manufactured home construction and safety standard under this title and which does not comply with such standard, except as provided in subsection (b), where such manufacture, lease, sale, offer for sale or lease, introduction, delivery, or importation affects commerce;

(2) fail or refuse to permit access to or copying of records, or fail to make reports or provide information, or fail or refuse to permit entry or inspection, as required under section 614;

(3) fail to furnish notification of any defect as required by section 615;

(4) fail to issue a certification required by section 616, or issue a certification to the effect that a manufactured home conforms to all applicable Federal manufactured home construction and safety standards, if such person in the exercise of due care has reason to know that such certification is false or misleading in a material respect;

(5) fail to comply with a final order issued by the Secretary under this title;

(6) issue a certification pursuant to subsection (h) of section 604, if such person in the exercise of due care has reason to know that such certification is false or misleading in a material respect; or

(7) after the expiration of the period specified in section 605(c)(2)(B), fail to comply with the requirements for the installation program required by section 605 in any State that has not adopted and implemented a State installation program.

(b)(1) Paragraph (1) of subsection (a) shall not apply to the sale, the offer for sale, or the introduction or delivery for introduction in interstate commerce of any manufactured home after the first purchase of it in good faith for purposes other than resale.

(2) For purposes of section 611, paragraph (1) of subsection (a) shall not apply to any person who establishes that he did not have reason to know in the exercise of due care that such manufactured home is not in conformity with applicable Federal manufactured home construction and safety standards, or to any person who, prior to such first purchase, holds a certificate issued by the manufacturer or importer of such manufactured home to the effect that such manufactured home conforms to all applicable Federal manufactured home construction and safety standards, unless such person knows that such manufactured home does not so conform.

(3) A manufactured home offered for importation in violation of paragraph (1) of subsection (a) shall be refused admission into the United States under joint regulations issued by the Secretary of the Treasury and the Secretary, except that the Secretary of the Treasury and the Secretary may, by such regulations, provide for authorizing the importation of such manufactured home into the United States upon such terms and conditions (including the furnishing of a bond) as may appear to them appropriate to insure that any such manufactured home will be brought into conformity with any applicable Federal manufactured home construction or safety standard prescribed under this title, or will be exported from, or forfeited to, the United States.

(4) The Secretary of the Treasury and the Secretary may, by joint regulations, permit the importation of any manufactured home after the first purchase of it in good faith for purposes other than resale.

(5) Paragraph (1) of subsection (a) shall not apply in the case of a manufactured home intended solely for export, and so labeled or tagged on the manufactured home itself and on the outside of the container, if any, in which it is to be exported.

(c) Compliance with any Federal manufactured home construction or safety standard issued under this title does not exempt any person from any liability under common law.

Sec. 611. [42 U.S.C. 5410]
CIVIL AND CRIMINAL PENALTY.

(a) Whoever violates any provision of section 610, or any regulation or final order issued thereunder, shall be liable to the United States for a civil penalty of not to exceed $1,000 for each such violation. Each violation of a provision of section 610, or any regulation or order issued thereunder shall constitute, a separate violation with respect to each manufactured home or with respect to each failure or refusal to allow or perform an act required

thereby, except that the maximum civil penalty may not exceed $1,000,000 for any related series of violations occurring within one year from the date of the first violation.

(b) An individual or a director, officer, or agent of a corporation who knowingly and willfully violates section 610 in a manner which threatens the health or safety of any purchaser shall be fined not more than $1,000 or imprisoned not more than one year, or both.

Sec. 612. [42 U.S.C. 5411]
JURISDICTION AND VENUE.

(a) The United States district courts shall have jurisdiction, for cause shown and subject to the provisions of rule 65 (a) and (b) of the Federal Rules of Civil Procedure, to restrain violations of this title, or to restrain the sale, offer for sale, or the importation into the United States, of any manufactured home which is determined, prior to the first purchase of such manufactured home in good faith for purposes other than resale, not to conform to applicable Federal manufactured home construction and safety standards prescribed pursuant to this title or to contain a defect which constitutes an imminent safety hazard, upon petition by the appropriate United States attorney or the Attorney General on behalf of the United States. Whenever practicable, the Secretary shall give notice to any person against whom an action for injunctive relief is contemplated and afford him an opportunity to present his views and the failure to give such notice and afford such opportunity shall not preclude the granting of appropriate relief.

(b) In any proceeding for criminal contempt for violation of an injunction or restraining order issued under this section, which violation also constitutes a violation of this title, trial shall be by the court or, upon demand of the accused, by a jury. Such trial shall be conducted in accordance with the practice and procedure applicable in the case of proceedings subject to the provisions of rule 42(b) of the Federal Rules of Criminal Procedure.

(c) Actions under subsection (a) of this section and section 611 may be brought in the district wherein any act or transaction constituting the violation occurred, or in the district wherein the defendant is found or is an inhabitant or transacts business, and process in such cases may be served in any other district of which the defendant is an inhabitant or wherever the defendant may be found.

(d) In any action brought by the United States under subsection (a) of this section or section 611, subpoenas by the United States for witnesses who are required to attend at United States district court may run into any other district.

(e) It shall be the duty of every manufacturer offering a manufactured home for importation into the United States to designate in writing an agent upon whom service of all administrative and judicial processes, notices, orders, decisions, and requirements may be made for and on behalf of such manufacturer, and to file such designation with the Secretary, which designation may from time to time be changed by like writing, similarly filed. Service of all administrative and judicial processes, notices, orders, decisions, and requirements may be made upon such manufacturer by service upon such designated agent at his office or usual place of residence with like effect as if made personally upon such manufacturer, and in default of such designation of such agent, service of process or any notice, order, requirement, or decision in any proceeding before the Secretary or in any judicial proceeding pursuant to this title may be made by mailing such process, notice, order, requirement, or decision to the Secretary by registered or certified mail.

Sec. 613. [42 U.S.C. 5412]
NONCOMPLIANCE WITH STANDARDS.

(a) If the Secretary or a court of appropriate jurisdiction determines that any manufactured home does not conform to applicable Federal manufactured home construction and safety standards, or that it contains a defect which constitutes an imminent safety hazard, after the sale of such manufactured home by a manufacturer to a distributor or a retailer and prior to the sale of such manufactured home by such distributor or retailer to a purchaser—

(1) the manufacturer shall immediately repurchase such manufactured home from such distributor or retailer at the price paid by such distributor or retailer, plus all transportation charges involved and a reasonable reimbursement of not less than 1 per centum per month of such price paid prorated from the date of receipt by certified mail of notice of such nonconformance to the date of repurchase by the manufacturer; or

(2) the manufacturer, at his own expense, shall immediately furnish the purchasing distributor or retailer the required conforming part or parts or equipment for installation by the distributor or retailer on or in such manufactured home, and for the installation involved the manufacturer shall reimburse such distributor or retailer for the reasonable value of such installation plus a reasonable reimbursement of not less than 1 per centum per month of the manufacturer's or distributor's selling price prorated from the date

of receipt by certified mail of notice of such nonconformance to the date such vehicle is brought into conformance with applicable Federal standards, so long as the distributor or retailer proceeds with reasonable diligence with the installation after the required part or equipment is received.

The value of such reasonable reimbursements as specified in paragraphs (1) and (2) of this subsection shall be fixed by mutual agreement of the parties, or, failing such agreement, by the court pursuant to the provisions of subsection (b).

(b) If any manufacturer fails to comply with the requirements of subsection (a), then the distributor or retailer, as the case may be, to whom such manufactured home has been sold may bring an action seeking a court injunction compelling compliance with such requirements on the part of such manufacturer. Such action may be brought in any district court in the United States in the district in which such manufacturer resides, or is found, or has an agent, without regard to the amount in controversy, and the person bringing the action shall also be entitled to recover any damage sustained by him, as well as all court costs plus reasonable attorneys' fees. Any action brought pursuant to this section shall be forever barred unless commenced within three years after the cause of action shall have accrued.

Sec. 614. [42 U.S.C. 5413]
INSPECTION OF MANUFACTURED HOMES AND RECORDS.

(a) The Secretary is authorized to conduct such inspections and investigations as may be necessary to promulgate or enforce Federal manufactured home construction and safety standards established under this title or otherwise to carry out his duties under this title. He shall furnish the Attorney General and, when appropriate, the Secretary of the Treasury any information obtained indicating noncompliance with such standards for appropriate action.

(b)(1) For purposes of enforcement of this title, persons duly designated by the Secretary, upon presenting appropriate credentials to the owner, operator, or agent in charge, are authorized—

(A) to enter, at reasonable times and without advance notice any factory, warehouse, or establishment in which manufactured homes are manufactured, stored, or held for sale; and

(B) to inspect, at reasonable times and within reasonable limits and in a reasonable manner, any such factory, warehouse, or establishment, and to inspect such books, papers, records, and documents as are set forth in subsection (c). Each such inspection shall be commenced and completed with reasonable promptness.

(2) The Secretary is authorized to contract with State and local governments and private inspection organizations to carry out his functions under this subsection.

(c) For the purpose of carrying out the provisions of this title, the Secretary is authorized—

(1) to hold such hearings, take such testimony, sit and act at such times and places, administer such oaths, and require, by subpoena or otherwise, the attendance and testimony of such witnesses and the production of such books, papers, correspondence, memorandums, contracts, agreements, or other records, as the Secretary or such officer or employee deems advisable. Witnesses summoned pursuant to this subsection shall be paid the same fees and mileage that are paid witnesses in the courts of the United States;

(2) to examine and copy any documentary evidence of any person having materials or information relevant to any function of the Secretary under this title;

(3) to require, by general or special orders, any person to file, in such form as the Secretary may prescribe, reports or answers in writing to specific questions relating to any function of the Secretary under this title. Such reports and answers shall be made under oath or otherwise, and shall be filed with the Secretary within such reasonable period as the Secretary may prescribe;

(4) to request from any Federal agency any information he deems necessary to carry out his functions under this title, and each such agency is authorized and directed to cooperate with the Secretary and to furnish such information upon request made by the Secretary, and the head of any Federal agency is authorized to detail, on a reimbursable basis, any personnel of such agency to assist in carrying out the duties of the Secretary under this title; and

(5) to make available to the public any information which may indicate the existence of a defect which relates to manufactured home construction or safety or of the failure of a manufactured home to comply with applicable manufactured home construction and safety standards. The Secretary shall disclose so much of other information obtained under this subsection to the public as he determines will assist in carrying out this title; but he shall not (under the authority of this sentence) make available or disclose to the public any information which contains or relates to a trade secret or any information the disclosure of

which would put the person furnishing such information at a substantial competitive disadvantage, unless he determines that it is necessary to carry out the purposes of this title.

(d) Any of the district courts of the United States within the jurisdiction of which an inquiry is carried on may, in the case of contumacy or refusal to obey a subpena or order of the Secretary issued under paragraph (1) or paragraph (3) of subsection (c) of this section, issue an order requiring compliance therewith; and any failure to obey such order of the court may be punished by such court as a contempt thereof.

(e) Each manufacturer of manufactured homes shall submit the building plans for every model of such manufactured homes to the Secretary or his designee for the purpose of inspection under this section. The manufacturer must certify that each such building plan meets the Federal construction and safety standards in force at that time before the model involved is produced.

(f) Each manufacturer, distributor, and retailer of manufactured homes shall establish and maintain such records, make such reports, and provide such information as the Secretary may reasonably require to enable him to determine whether such manufacturer, distributor, or retailer has acted or is acting in compliance with this title and Federal manufactured home construction and safety standards prescribed pursuant to this title and shall, upon request of a person duly designated by the Secretary, permit such person to inspect appropriate books, papers, records, and documents relevant to determining whether such manufacturer, distributor, or retailer has acted or is acting in compliance with this title and manufactured home construction and safety standards prescribed pursuant to this title.

(g) Each manufacturer of manufactured homes shall provide to the Secretary such performance data and other technical data related to performance and safety as may be required to carry out the purposes of this title. These shall include records of tests and test results which the Secretary may require to be performed. The Secretary is authorized to require the manufacturer to give notification of such performance and technical data to—

(1) each prospective purchaser of a manufactured home before its first sale for purposes other than resale, at each location where any such manufacturer's manufactured homes are offered for sale by a person with whom such manufacturer has a contractual, proprietary, or other legal relationship and in a manner determined by the Secretary to be appropriate, which may include, but is not limited to, printed matter (A) available for retention by such prospective purchaser, and (B) sent by mail to such prospective purchaser upon his request; and

(2) the first person who purchases a manufactured home for purposes other than resale, at the time of such purchase or in printed matter placed in the manufactured home.

(h) All information reported to or otherwise obtained by the Secretary or his representative pursuant to subsection (b), (c), (f), or (g) which contains or relates to a trade secret, or which, if disclosed would put the person furnishing such information at a substantial competitive disadvantage, shall be considered confidential, except that such information may be disclosed to other officers or employees concerned with carrying out this title or when relevant in any proceeding under this title. Nothing in this section shall authorize the withholding of information by the Secretary or any officer or employee under his control from the duly authorized committees of the Congress.

Sec. 615. [42 U.S.C. 5414]
NOTIFICATION AND CORRECTION OF DEFECTS.

(a) Every manufacturer of manufactured homes shall furnish notification of any defect in any manufactured home produced by such manufacturer which he determines, in good faith, relates to a Federal manufactured home construction or safety standard or contains a defect which constitutes an imminent safety hazard to the purchaser of such manufactured home, within a reasonable time after such manufacturer has discovered such defect.

(b) The notification required by subsection (a) shall be accomplished—

(1) by mail to the first purchaser (not including any retailer or distributor of such manufacturer) of the manufactured home containing the defect, and to any subsequent purchaser to whom any warranty on such manufactured home has been transferred;

(2) by mail to any other person who is a registered owner of such manufactured home and whose name and address has been ascertained pursuant to procedures established under subsection (f); and

(3) by mail or other more expeditious means to the retailer or retailers of such manufacturer to whom such manufactured home was delivered.

(c) The notification required by subsection (a) shall contain a clear description of such defect or failure to comply, an evaluation of the risk to manufactured home occupants' safety reasonably related to such defect, and a statement of the measures needed to repair the defect. The notification shall also inform the owner whether the defect is a construction or safety defect which the manufacturer will have corrected at no cost to the owner of the

manufactured home under subsection (g) or otherwise, or is a defect which must be corrected at the expense of the owner.

(d) Every manufacturer of manufactured homes shall furnish to the Secretary a true or representative copy of all notices, bulletins, and other communications to the retailers of such manufacturer or purchasers of manufactured homes of such manufacturer regarding any defect in any such manufactured home produced by such manufacturer. The Secretary shall disclose to the public so much of the information contained in such notices or other information obtained under section 614 as he deems will assist in carrying out the purposes of this title, but he shall not disclose any information which contains or relates to a trade secret, or which, if disclosed would put such manufacturer at a substantial competitive disadvantage, unless he determines that it is necessary to carry out the purposes of this title.

(e) If the Secretary determines that any manufactured home—

(1) does not comply with an applicable Federal manufactured home construction and safety standard prescribed pursuant to section 604; or

(2) contains a defect which constitutes an imminent safety hazard,

then he shall immediately notify the manufacturer of such manufactured home of such defect or failure to comply. The notice shall contain the findings of the Secretary and shall include all information upon which the findings are based. The Secretary shall afford such manufacturer an opportunity to present his views and evidence in support thereof, to establish that there is no failure of compliance. If after such presentation by the manufacturer the Secretary determines that such manufactured home does not comply with applicable Federal manufactured home construction or safety standards, or contains a defect which constitutes an imminent safety hazard, the Secretary shall direct the manufacturer to furnish the notification specified in subsections (a) and (b) of this section.

(f) Every manufacturer of manufactured homes shall maintain a record of the name and address of the first purchaser of each manufactured home (for purposes other than resale), and, to the maximum extent feasible, shall maintain procedures for ascertaining the name and address of any subsequent purchaser thereof and shall maintain a record of names and addresses so ascertained. Such records shall be kept for each home produced by a manufacturer. The Secretary may establish by order procedures to be followed by manufacturers in establishing and maintaining such records, including procedures to be followed by distributors and retailers to assist manufacturers to secure the information required by this subsection. Such procedures shall be reasonable for the particular type of manufactured home for which they are prescribed.

(g) A manufacturer required to furnish notification of a defect under subsection (a) or (e) shall also bring the manufactured home into compliance with applicable standards and correct the defect or have the defect corrected within a reasonable period of time at no expense to the owner, but only if—

(1) the defect presents an unreasonable risk of injury or death to occupants of the affected manufactured home or homes;[658]

(2) the defect can be related to an error in design or assembly of the manufactured home by the manufacturer.

The Secretary may direct the manufacturer to make such corrections after providing an opportunity for oral and written presentation of views by interested persons. Nothing in this section shall limit the rights of the purchaser or any other person under any contract or applicable law.

(h) The manufacturer shall submit his plan for notifying owners of the defect and for repairing such defect (if required under subsection (g)) to the Secretary for his approval before implementing such plan. Whenever a manufacturer is required under subsection (g) to correct a defect, the Secretary shall approve with or without modification, after consultation with the manufacturer of the manufactured home involved, such manufacturer's remedy plan including the date when, and the method by which, the notification and remedy required pursuant to this section shall be effectuated. Such date shall be the earliest practicable one but shall not be more than sixty days after the date of discovery or determination of the defects or failure to comply, unless the Secretary grants an extension of such period for good cause shown and publishes a notice of such extension in the Federal Register. Such manufacturer is bound to implement such remedy plan as approved by the Secretary.

(i) Where a defect or failure to comply in a manufactured home cannot be adequately repaired within sixty days from the date of discovery or determination of the defect, the Secretary may require that the manufactured home be replaced with a new or equivalent home without charge, or that the purchase price be refunded in full, less a reasonable allowance for depreciation based on actual use if the home has been in the possession of the owner for more than one year.

[658] So in law.

Sec. 616. [42 U.S.C. 5415]
CERTIFICATION OF CONFORMITY WITH CONSTRUCTION AND SAFETY STANDARDS.

Every manufacturer of manufactured homes shall furnish to the distributor or retailer at the time of delivery of each such manufactured home produced by such manufacturer certification that such manufactured home conforms to all applicable Federal construction and safety standards. Such certification shall be in the form of a label or tag permanently affixed to each such manufactured home.

Sec. 617. [42 U.S.C. 5416]
CONSUMER INFORMATION.

The Secretary shall develop guidelines for a consumer's manual to be provided to manufactured home purchasers by the manufacturer. These manuals should identify and explain the purchasers' responsibilities for operation, maintenance, and repair of their manufactured homes.

Sec. 618. [42 U.S.C. 5417]
EFFECT UPON ANTITRUST LAWS.

Nothing contained in this title shall be deemed to exempt from the antitrust laws of the United States any conduct that would otherwise be unlawful under such laws, or to prohibit under the antitrust laws of the United States any conduct that would be lawful under such laws. As used in this section, the term "antitrust laws" includes, but is not limited to, the Act of July 2, 1890, as amended; the Act of October 14, 1914, as amended; the Federal Trade Commission Act (15 U.S.C. 41 et seq.); and sections 73 and 74 of the Act of August 27, 1894, as amended.

Sec. 619. [42 U.S.C. 5418]
USE OF RESEARCH AND TESTING FACILITIES OF PUBLIC AGENCIES.

The Secretary, in exercising the authority under this title, shall utilize the services, research and testing facilities of public agencies and independent testing laboratories to the maximum extent practicable in order to avoid duplication.

Sec. 620. [42 U.S.C. 5419]
AUTHORITY TO COLLECT FEE.

(a) IN GENERAL.—In carrying out inspections under this title, in developing standards and regulations pursuant to section 604, and in facilitating the acceptance of the affordability and availability of manufactured housing within the Department, the Secretary may—

(1) establish and collect from manufactured home manufacturers a reasonable fee, as may be necessary to offset the expenses incurred by the Secretary in connection with carrying out the responsibilities of the Secretary under this title, including—

(A) conducting inspections and monitoring;

(B) providing funding to States for the administration and implementation of approved State plans under section 623, including reasonable funding for cooperative educational and training programs designed to facilitate uniform enforcement under this title, which funds may be paid directly to the States or may be paid or provided to any person or entity designated to receive and disburse such funds by cooperative agreements among participating States, provided that such person or entity is not otherwise an agent of the Secretary under this title;

(C) providing the funding for a noncareer administrator within the Department to administer the manufactured housing program;

(D) providing the funding for salaries and expenses of employees of the Department to carry out the manufactured housing program;

(E) administering the consensus committee as set forth in section 604;

(F) facilitating the acceptance of the quality, durability, safety, and affordability of manufactured housing within the Department; and

(G) the administration and enforcement of the installation standards authorized by section 605 in States in which the Secretary is required to implement an installation program after the expiration of the 5-year period set forth in section 605(c)(2)(B), and the administration and enforcement of a dispute resolution program described in section 623(c)(12) in States in which the Secretary is required to implement such a program after the expiration of the 5-year period set forth in section 623(g)(2); and

(2) subject to subsection (e), use amounts from any fee collected under paragraph (1) of this subsection to pay expenses referred to in that paragraph, which shall be exempt and separate from any limitations on the Department regarding full-time equivalent positions and travel.

(b) CONTRACTORS.—In using amounts from any fee collected under this section, the Secretary shall ensure that separate and independent contractors are retained to carry out monitoring and inspection work and any other work that may be delegated to a contractor under this title.

(c) PROHIBITED USE.—No amount from any fee collected under this section may be used for any purpose or activity not specifically authorized by this title, unless such activity was already engaged in by the Secretary prior to the date of the enactment of the Manufactured Housing Improvement Act of 2000.[659]

(d) MODIFICATION.—Beginning on the date of the enactment of the Manufactured Housing Improvement Act of 2000,[660] the amount of any fee collected under this section may only be modified—

(1) as specifically authorized in advance in an annual appropriations Act; and

(2) pursuant to rulemaking in accordance with section 553 of title 5, United States Code.

(e) APPROPRIATION AND DEPOSIT OF FEES.—

(1) IN GENERAL.—There is established in the Treasury of the United States a fund to be known as the "Manufactured Housing Fees Trust Fund" for deposit of amounts from any fee collected under this section. Such amounts shall be held in trust for use only as provided in this title.

(2) APPROPRIATION.—Amounts from any fee collected under this section shall be available for expenditure only to the extent approved in advance in an annual appropriations Act. Any change in the expenditure of such amounts shall be specifically authorized in advance in an annual appropriations Act.[661]

(3) PAYMENTS TO STATES.—On and after the effective date of the Manufactured Housing Improvement Act of 2000, the Secretary shall continue to fund the States having approved State plans in the amounts which are not less than the allocated amounts, based on the fee distribution system in effect on the day before such effective date.

Sec. 621. [42 U.S.C. 5420]
PENALTIES ON INSPECTIONS.

Any person, other than an officer or employee of the United States, or a person exercising inspection functions under a State plan pursuant to section 623, who knowingly and willfully fails to report a violation of any construction or safety standard established under section 604 may be fined up to $1,000 or imprisoned for up to one year, or both.

Sec. 622. [42 U.S.C. 5421]
PROHIBITION ON WAIVER OF RIGHTS.

The rights afforded manufactured home purchasers under this title may not be waived, and any provision of a contract or agreement entered into after the enactment of this title to the contrary shall be void.

Sec. 623. [42 U.S.C. 5422]
STATE JURISDICTION; STATE PLANS.

(a) Nothing in this title shall prevent any State agency or court from asserting jurisdiction under State law over any manufactured home construction or safety issue with respect to which no Federal manufactured home construction and safety standard has been established pursuant to the provisions of section 604.

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[659] December 27, 2000.

[660] December 27, 2000.

[661] Section 1 of Public Law 107-18, approved July 5, 2001, provides as follows:

"**SECTION 1. [42 U.S.C. 5419 note] MANUFACTURED HOUSING.**

"(a) AVAILABILITY OF FEES.—Notwithstanding section 620(e)(2) of the National Manufactured Housing Construction and Safety Standards Act of 1974 (42 U.S.C. 5419(e)(2)), any fees collected under that Act, including any fees collected before the date of enactment of the American Homeownership and Economic Opportunity Act of 2000 (12 U.S.C. 1701 note) and remaining unobligated on the date of enactment of this Act, shall be available for expenditure to offset the expenses incurred by the Secretary under the National Manufactured Housing Construction and Safety Standards Act of 1974 (42 U.S.C. 5401 et seq.), otherwise in accordance with section 620 of that Act.

"(b) DURATION.—The authority for the use of fees provided for in subsection (a) shall remain in effect during the period beginning in fiscal year 2001 and ending on the effective date of the first appropriations Act referred to in section 620(e)(2) of the National Manufactured Housing Construction and Safety Standards Act of 1974 (42 U.S.C. 5419(e)(2)) that is enacted with respect to a fiscal year after fiscal year 2001.".

The American Homeownership and Economic Opportunity Act of 2000, Pub. L. 106-569, was enacted on December 27, 2000.

(b) Any State which, at any time, desires to assume responsibility for enforcement and manufactured home safety and construction standards relating to any issue with respect to which a Federal standard has been established under section 604, shall submit to the Secretary a State plan for enforcement of such standards.

(c) The Secretary shall approve the plan submitted by a State under subsection (b), or any modification thereof, if such plan in his judgment—

(1) designates a State agency or agencies as the agency or agencies responsible for administering the plan throughout the State;

(2) provides for the enforcement of manufactured home safety and construction standards promulgated under section 604;

(3) provides for a right of entry and inspection of all factories, warehouses, or establishments in such State in which manufactured homes are manufactured and for the review of plans, in a manner which is identical to that provided in section 614;

(4) provides for the imposition of the civil and criminal penalties under section 611;

(5) provides for the notification and correction procedures under section 615;

(6) provides for the payment of inspection fees by manufacturers in amounts adequate to cover the cost of inspections;

(7) contains satisfactory assurances that the State agency or agencies have or will have the legal authority and qualified personnel necessary for the enforcement of such standards;

(8) give satisfactory assurances that such State will devote adequate funds to the administration and enforcement of such standards;

(9) requires manufacturers, distributors, and retailers in such State to make reports to the Secretary in the same manner and to the same extent as if the State plan were not in effect;

(10) provides that the State agency or agencies will make such reports to the Secretary in such form and containing such information as the Secretary shall from time to time require;

(11) with respect to any State plan submitted on or after the expiration of the 5-year period beginning on the date of the enactment of the Manufactured Housing Improvement Act of 2000,[662] provides for an installation program established by State law that meets the requirements of section 605(c)(3);

(12) with respect to any State plan submitted on or after the expiration of the 5-year period beginning on the date of the enactment of the Manufactured Housing Improvement Act of 2000,[663] provides for a dispute resolution program for the timely resolution of disputes between manufacturers, retailers, and installers of manufactured homes regarding responsibility, and for the issuance of appropriate orders, for the correction or repair of defects in manufactured homes that are reported during the 1-year period beginning on the date of installation; and

(13) complies with such other requirements as the Secretary may by regulation prescribe for the enforcement of this title.

(d) If the Secretary rejects a plan submitted under subsection (b), he shall afford the State submitting the plan due notice and opportunity for a hearing before so doing.

(e) After the Secretary approves a State plan submitted under subsection (b), he may, but shall not be required to, exercise his authority under this title with respect to enforcement of manufactured home construction and safety standards in the State involved.

(f) The Secretary shall, on the basis of reports submitted by the designated State agency and his own inspections, make a continuing evaluation of the manner in which each State having a plan approved under this section is carrying out such plan. Such evaluation shall be made by the Secretary at least annually for each State, and the results of such evaluation and the inspection reports on which it is based shall be promptly submitted to the appropriate committees of the Congress. Whenever the Secretary finds, after affording due notice and opportunity for a hearing, that in the administration of the State plan there is a failure to comply substantially with any provision of the State plan or that the State plan has become inadequate, he shall notify the State agency or agencies of his withdrawal of approval of such plan. Upon receipt of such notice by such State agency or agencies such plan shall cease to be in effect, but the State may retain jurisdiction in any case commenced before the withdrawal of the plan in order to enforce manufactured home standards under the plan whenever the issues involved do not relate to the reasons for the withdrawal of the plan.

(g) ENFORCEMENT OF DISPUTE RESOLUTION STANDARDS.—

[662] The date of enactment was December 27, 2000.
[663] The date of enactment was December 27, 2000.

(1) ESTABLISHMENT OF DISPUTE RESOLUTION PROGRAM.—Not later than the expiration of the 5-year period beginning on the date of the enactment of the Manufactured Housing Improvement Act of 2000,[664] the Secretary shall establish a dispute resolution program that meets the requirements of subsection (c)(12) for dispute resolution in each State described in paragraph (2) of this subsection. The order establishing the dispute resolution program shall be issued after notice and opportunity for public comment in accordance with section 553 of title 5, United States Code.

(2) IMPLEMENTATION OF DISPUTE RESOLUTION PROGRAM.—Beginning on the expiration of the 5-year period described in paragraph (1), the Secretary shall implement the dispute resolution program established under paragraph (1) in each State that has not established a dispute resolution program that meets the requirements of subsection (c)(12).

(3) CONTRACTING OUT OF IMPLEMENTATION.—In carrying out paragraph (2), the Secretary may contract with an appropriate agent to implement the dispute resolution program established under paragraph (2), except that such agent shall not be a person or entity other than a government, nor an affiliate or subsidiary of such a person or entity, that has entered into a contract with the Secretary to implement any other regulatory program under this title.

Sec. 624. [42 U.S.C. 5423]
GRANTS TO STATES.

(a) The Secretary is authorized to make grants to the States which have designated a State agency under section 623 to assist them—

(1) in identifying their needs and responsibilities in the area of manufactured home construction and safety standards; or

(2) in developing State plans under section 623.

(b) The Governor of each State shall designate the appropriate State agency for receipt of any grant made by the Secretary under this section.

(c) Any State agency designated by the Governor of a State desiring a grant under this section shall submit an application therefor to the Secretary. The Secretary shall review and either accept or reject such application.

(d) The Federal share for each State grant under subsection (a) of this section may not exceed 90 per centum of the total cost to the State in identifying its needs and developing its plan. In the event the Federal share for all States under such subsection is not the same, the differences among the States shall be established on the basis of objective criteria.

Sec. 625. [42 U.S.C. 5424]
RULES AND REGULATIONS.

The Secretary is authorized to issue, amend, and revoke such rules and regulations as he deems necessary to carry out this title.

Sec. 626. [42 U.S.C. 5426]
AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated such sums as may be necessary to carry out the provisions of this title.

Sec. 627. [42 U.S.C. 5401 note]
E.FFECTIVE DATE

The provisions of this title shall take effect upon the expiration of 180 days following the date of enactment of this title.[665]

END OF STATUTE

[664] The date of enactment was December 27, 2000.
[665] The date of enactment was August 22, 1974.

LEAD-BASED PAINT PREVENTION

LEAD-BASED PAINT POISONING PREVENTION ACT
[Public Law 91-695; 84 Stat. 2078; 42 U.S.C. 4801—4846]

[TITLE I—GRANTS FOR THE DETECTION AND TREATMENT OF LEAD-BASED PAINT POISONING [REPEALED.]]

[TITLE II— GRANTS FOR THE ELIMINATION OF LEAD-BASED PAINT POISONING [REPEALED.]]

TITLE III—FEDERAL DEMONSTRATION AND RESEARCH PROGRAM

Sec. 301. [42 U.S.C. 4821]
FEDERAL DEMONSTRATION AND RESEARCH PROGRAM.

(a) The Secretary of Housing and Urban Development, in consultation with the Secretary of Health, Education, and Welfare, shall develop and carry out a demonstration and research program to determine the nature and extent of the problem of lead-based paint poisoning in the United States, particularly in urban areas, including the methods by which the lead-based paint hazard can most effectively be removed from interior surfaces, porches, and exterior surfaces of residential housing to which children may be exposed.

(b) The Chairman of the Consumer Product Safety Commission shall conduct appropriate research on multiple layers of dried paint film, containing the various lead compounds commonly used, in order to ascertain the safe level of lead in residential paint products. No later than December 31, 1974, the Chairman shall submit to Congress a full and complete report of his findings and recommendations as developed pursuant to such programs, together with a statement of any legislation which should be enacted or any changes in existing law which should be made in order to carry out such recommendations.

Sec. 302. [42 U.S.C. 4822]
REQUIREMENTS FOR HOUSING RECEIVING FEDERAL ASSISTANCE.

(a) GENERAL REQUIREMENTS.—

(1) ELIMINATION OF HAZARDS.—The Secretary of Housing and Urban Development (hereafter in this section referred to as the "Secretary") shall establish procedures to eliminate as far as practicable the hazards of lead-based paint poisoning with respect to any existing housing which may present such hazards and which is covered by an application for mortgage insurance or housing assistance payments under a program administered by the Secretary or otherwise receives more than $5,000 in project-based assistance under a Federal housing program. Beginning on January 1, 1995, such procedures shall apply to all such housing that constitutes target housing, as defined in section 1004 of the Residential Lead-Based Paint Hazard Reduction Act of 1992, and shall provide for appropriate measures to conduct risk assessments, inspections, interim controls, and abatement of lead-based paint hazards. At a minimum, such procedures shall require—

(A) the provision of lead hazard information pamphlets, developed pursuant to section 406 of the Toxic Substances Control Act, to purchasers and tenants;

(B) periodic risk assessments and interim controls in accordance with a schedule determined by the Secretary, the initial risk assessment of each unit constructed prior to 1960 to be conducted not later than January 1, 1996, and, for units constructed between 1960 and 1978—

(i) not less than 25 percent shall be performed by January 1, 1998;

(ii) not less than 50 percent shall be performed by January 1, 2000; and

(iii) the remainder shall be performed by January 1, 2002;

(C) inspection for the presence of lead-based paint prior to federally-funded renovation or rehabilitation that is likely to disturb painted surfaces;

(D) reduction of lead-based paint hazards in the course of rehabilitation projects receiving less than $25,000 per unit in Federal funds;

(E) abatement of lead-based paint hazards in the course of substantial rehabilitation projects receiving more than $25,000 per unit in Federal funds;

(F) where risk assessment, inspection, or reduction activities have been undertaken, the provision of notice to occupants describing the nature and scope of such activities and the actual risk assessment or inspection reports (including available information on the location of any remaining lead-based paint on a surface-by-surface basis); and

(G) such other measures as the Secretary deems appropriate.

(2) ADDITIONAL MEASURES.—The Secretary may establish such other procedures as may be appropriate to carry out the purposes of this section.

(3) DISPOSITION OF FEDERALLY OWNED HOUSING.—

(A) PRE-1960 TARGET HOUSING.—Beginning on January 1, 1995, procedures established under paragraphs (1) and (2) shall require the inspection and abatement of lead-based paint hazards in all federally owned target housing constructed prior to 1960.

(B) TARGET HOUSING CONSTRUCTED BETWEEN 1960 AND 1978.—Beginning on January 1, 1995, procedures established under paragraphs (1) and (2) shall require an inspection for lead-based paint and lead-based paint hazards in all federally owned target housing constructed between 1960 and 1978. The results of such inspections shall be made available to prospective purchasers, identifying the presence of lead-based paint and lead-based paint hazards on a surface-by-surface basis. The Secretary shall have the discretion to waive the requirement of this subparagraph for housing in which a federally funded risk assessment, performed by a certified contractor, has determined no lead-based paint hazards are present.

(C) BUDGET AUTHORITY.—To the extent that subparagraphs (A) and (B) increase the cost to the Government of outstanding direct loan obligations or loan guarantee commitments, such activities shall be treated as modifications under section 504(e) of the Federal Credit Reform Act of 1990 and shall be subject to the availability of appropriations. To the extent that paragraphs (A) and (B) impose additional costs to the Resolution Trust Corporation and the Federal Deposit Insurance Corporation, its requirements shall be carried out only if appropriations are provided in advance in an appropriations Act. In the absence of appropriations sufficient to cover the costs of subparagraphs (A) and (B), these requirements shall not apply to the affected agency or agencies.

(D) DEFINITIONS.—For the purposes of this subsection, the terms “inspection”, “abatement”, “lead-based paint hazard”, “federally owned housing”, “target housing”, “risk assessment”, and “certified contractor” have the same meaning given such terms in section 1004 of the Residential Lead-Based Paint Hazard Reduction Act of 1992.

(4) DEFINITIONS.—For purposes of this subsection, the terms “risk assessment”, “inspection”, “interim control”, “abatement”, “reduction”, and “lead-based paint hazard” have the same meaning given such terms in section 1004 of the Residential Lead-Based Paint Hazard Reduction Act of 1992.

(b) MEASUREMENT CRITERIA.—The procedures established by the Secretary under this section for the risk assessment, interim control, inspection, and abatement of lead-based paint hazards in housing covered by this section shall be based upon guidelines developed pursuant to section 1017 of the Residential Lead-Based Paint Hazard Reduction Act of 1992.

(c) INSPECTION REQUIREMENTS.—The Secretary shall require the inspection of all intact and nonintact interior and exterior painted surfaces of housing subject to this section for lead-based paint using an approved x-ray fluorescence analyzer, atomic absorption spectroscopy, or comparable approved sampling or testing technique. A certified inspector or laboratory shall certify in writing the precise results of the inspection. If the results equal or exceed a level of 1.0 milligrams per centimeter squared or 0.5 percent by weight, the results shall be provided to any potential purchaser or tenant of the housing. The Secretary shall periodically review and reduce the level below 1.0 milligram per centimeter squared or 0.5 percent by weight to the extent that reliable technology makes feasible the detection of a lower level and medical evidence supports the imposition of a lower level. The requirements of this subsection shall apply as provided in subsection (d).

(d) ABATEMENT REQUIRED.—

(1) TRANSITIONAL TESTING AND ABATEMENT IN PUBLIC HOUSING RECEIVING MODERNIZATION ASSISTANCE.—In the case of public housing assisted with capital assistance provided under section 9 of the United States Housing Act of 1937, the Secretary shall require the inspection described in subsection (c) for—

(A) a random sample of dwellings and common areas in all public housing projects assisted under such section; and

(B) each dwelling in any public housing project in which there is a dwelling determined under subparagraph (A) to have lead-based paint hazards, except that the Secretary shall not

require the inspection of each dwelling if the Secretary requires the abatement of the lead-based paint hazards for the surfaces of each dwelling in the public housing project that correspond to the surfaces in the sample determined to have such hazards under subparagraph (A).

The Secretary shall require the inspection of all housing subject to this paragraph in accordance with the modernization schedule. A public housing agency may elect to test for lead-based paint using atomic absorption spectroscopy and may elect to abate lead-based paint and dust containing lead under standards more stringent than that in subsection (c), including the abatement of lead-based paint and dust which exceeds the standard of lead permitted in paints by the Consumer Product Safety Commission under this Act, and such abatement shall qualify for capital assistance provided under section 9 of the United States Housing Act of 1937. The Secretary shall require abatement of lead-based paint and lead-based paint hazards in housing in which the test results equal or exceed the standard established by or under subsection (c). Final inspection and certification after abatement shall be made by a qualified inspector, industrial hygienist, or local public health official.

(2) ABATEMENT DEMONSTRATION PROGRAM.—

(A) ABATEMENT DEMONSTRATION PROGRAM.—In carrying out the requirements of this subsection with respect to single-family and multifamily properties owned by the Department of Housing and Urban Development and public housing, the Secretary shall utilize a sufficient variety of abatement methods in a sufficient number of areas and circumstances to demonstrate their relative cost-effectiveness and their applicability to various types of housing. For purposes of the demonstration, a public housing agency may elect to test for lead-based paint using atomic absorption spectroscopy and may elect to abate lead-based paint and dust containing lead under standards more stringent than that in subsection (c), including the abatement of lead-based paint and dust which exceeds the standard of lead permitted in paints by the Consumer Product Safety Commission under this Act, and such abatement shall qualify for assistance under section 14 of the United States Housing Act of 1937.

(B) REPORT.—Not later than 18 months after the effective date of the regulations issued to carry out this subsection, the Secretary shall transmit to the Congress the findings and recommendations of the Secretary as a result of the demonstration program, including any recommendations of the Secretary for legislation to revise the requirements of this subsection. Based on the demonstration, the Secretary shall prepare and include in the report a comprehensive and workable plan for the cost-effective inspection and abatement of public housing in accordance with paragraph (3), including an estimate of the total cost of abatement in accordance with paragraph (3)(B). In preparing such report, the Secretary shall examine—

(i) the most reliable technology available for detecting lead-based paint, including X-ray fluorescence and atomic absorption spectroscopy;

(ii) the most efficient and cost-effective methods for abatement, including removal, containment, or encapsulation of the contaminated components, procedures which minimize the generation of dust (including the high efficiency vacuum removal of leaded dust), and procedures that provide for offsite disposal of the removed components, in compliance with all applicable regulatory standards and procedures;

(iii) safety considerations in testing, abatement, and worker protection;

(iv) the overall accuracy and reliability of laboratory testing of physical samples, x-ray fluorescence machines, and other available testing procedures;

(v) availability of qualified samplers and testers;

(vi) an estimate of the amount, characteristics, and regional distribution of housing in the United States that contains lead-based paint hazards at differing levels of contamination; and

(vii) the merits of an interim containment protocol for public housing dwellings that are determined to have lead-based paint hazards but for which comprehensive improvement assistance under section 14 of the United States Housing Act of 1937 is not available.

(3) TESTING AND ABATEMENT OF OTHER PUBLIC HOUSING.—

(A) REQUIRED INSPECTION.—The Secretary shall require the inspection described in subsection (c) for—

(i) a random sample of dwellings and common areas in all public housing that is not subject to paragraph (1); and

(ii) each dwelling in any public housing project in which there is a dwelling determined under clause (i) to have lead-based paint hazards, except that the Secretary shall not require the inspection of each dwelling if the Secretary requires the abatement of the lead-based paint hazards for the surfaces of each dwelling in the public housing project that correspond to the surfaces in the sample determined to have such hazards under clause (i).

(B) SCHEDULE.—The Secretary shall require the inspection of all housing subject to this paragraph prior to the expiration of 5 years after the report is required to be transmitted under paragraph (2)(B). The Secretary may prioritize, within such 5-year period, inspections on the basis of vacancy, age of housing, or projected modernization or rehabilitation. The Secretary shall require abatement and final inspection and certification of such housing in accordance with the last two sentences of paragraph (1).

(4) REPORT REQUIRED.—Not later than 9 months after completion of the demonstration required by paragraph (2), the Secretary shall, based on the demonstration, prepare and transmit to the Congress, a comprehensive and workable plan, including any recommendations for changes in legislation, for the prompt and cost effective inspection and abatement of privately owned single family and multifamily housing, including housing assisted under section 8 of the United States Housing Act of 1937. After the expiration of the 9-month period referred to in the preceding sentence, the Secretary may not obligate or expend any funds or otherwise carry out activities related to any other policy development and research project until the report is transmitted.

(e) EXCEPTIONS.—The provisions of this section shall not apply to—

(1) housing for the elderly or handicapped, except for any dwelling in such housing in which any child who is less than 7 years of age resides or is expected to reside;

(2) any project for which an application for insurance is submitted under section 231, 232, 241, or 242 of the National Housing Act; or

(3) any 0-bedroom dwelling.

(f) FUNDING.—The Secretary shall carry out the provisions of this section utilizing available Federal funding sources. The Secretary shall use funds available under the Capital Fund under section 9 of the United States Housing Act of 1937 to carry out this section in public housing. The Secretary shall submit annually to the Congress an estimate of the funds required to carry out the provisions of this section with the reports required by paragraphs (2)(B) and (4).

(g) INTERPRETATION OF SECTION.—This section may not be construed to affect the responsibilities of the Environmental Protection Agency with respect to the protection of the public health from hazards posed by lead-based paint.

TITLE IV—PROHIBITION AGAINST FUTURE USE OF LEAD-BASED PAINT

Sec. 401. [42 U.S.C. 4831]
ROHIBITION AGAINST USE OF LEAD-BASED PAINT IN CONSTRUCTION OF FACILITIES AND THE MANUFACTURE OF CERTAIN TOYS AND UTENSILS.

(a) The Secretary of Health, Education, and Welfare shall take such steps and impose such conditions as may be necessary or appropriate to prohibit the application of lead-based paint to any cooking utensil, drinking utensil, or eating utensil manufactured and distributed after the date of enactment of this Act.[666]

(b) The Secretary of Housing and Urban Development shall take steps and impose such conditions as may be necessary or appropriate to prohibit the use of lead-based paint in residential structures constructed or rehabilitated by the Federal Government, or with Federal assistance in any form after the date of enactment of this Act.

(c) The Consumer Product Safety Commission shall take such steps and impose such conditions as may be necessary or appropriate to prohibit the application of lead-based paint to any toy or furniture article.

TITLE V—GENERAL

Sec. 501. [42 U.S.C. 4841]
DEFINITIONS.

[666] January 13, 1971.

As used in this Act—

(1) The term "State" means the several States, the District of Columbia, the Commonwealth of Puerto Rico, and the territories and possessions of the United States.

(2) The term "units of general local government" means (A) any city, county, township, town, borough, parish, village, or other general purpose political subdivision of a State, (B) any combination of units of general local government in one or more States, (C) an Indian tribe, or (D) with respect to lead-based paint poisoning elimination activities in their urban areas, the territories and possessions of the United States.

(3)(A) Except as provided in subparagraph (B), the term "lead-based paint" means any paint containing more than five-tenths of 1 per centum lead by weight (calculated as lead metal) in the total nonvolatile content of the paint, or the equivalent measure of lead in the dried film of paint already applied, or both.

(B)(i) The Consumer Product Safety Commission shall, during the six-month period beginning on the date of the enactment of the National Health Promotion and Disease Prevention Act of 1976, determine, on the basis of available data and information and after providing opportunity for an oral hearing and considering recommendations of the Secretary of Health, Education, and Welfare (including those of the Centers for Disease Control and Prevention) and of the National Academy of Sciences, whether or not a leval of lead in paint which is greater than six one-hundredth of 1 per centum but not in excess of five-tenths of 1 per centum is safe. If the Commission determines, in accordance with the preceding sentence, that another level of lead is safe, the term "lead-based paint" means, with respect to paint which is manufactured after the expiration of the six-month period beginning on the date of the Commission's determination, paint containing by weight (calculated as lead metal) in the total nonvolatile content of the paint more than the level of lead determined by the Commission to be safe or the equivalent measure of lead in the dried film of paint already applied, or both.

(ii) Unless the definition of the term "lead-based paint" has been established by a determination of the Consumer Product Safety Commission pursuant to clause (i) of this subparagraph, the term "lead-based paint" means, with respect to paint which is manufactured after expiration of the twelve-month period beginning on such date of enactment, paint containing more than six one-hundredths of 1 per centum lead by weight (calculated as lead metal) in the total nonvolatile content of the paint, or the equivalent measure of lead in the dried film of paint already applied, or both.

Sec. 502. [42 U.S.C. 4842]
CONSULTATION WITH OTHER DEPARTMENTS AND AGENCIES.

In carrying out their respective authorities under this Act, the Secretary of Housing and Urban Development and the Secretary of Health, Education, and Welfare shall each cooperate with and seek the advice of the heads of any other departments or agencies regarding any programs under their respective responsibilities which are related to, or would be affected by, such authority.

Sec. 503. [42 U.S.C. 4843]
APPROPRIATIONS.

(a) There are authorized to be appropriated to carry out this Act, $10,000,000 for the fiscal year 1976, $12,000,000 for the fiscal year 1977, and $14,000,000 for the fiscal year 1978.

(b) Any amounts appropriated under this section shall remain available until expended when so provided in appropriation Acts; and any amounts authorized for one fiscal year but not appropriated may be appropriated for the succeeding fiscal year.

Sec. 504. [42 U.S.C. 4846]
EFFECT UPON STATE LAW.

It is hereby expressly declared that it is the intent of the Congress to supersede any and all laws of the States and units of local government insofar as they may now or hereafter provide for a requirement, prohibition, or standard relating to the lead content in paints or other similar surface-coating materials which differs from the provisions of this Act or regulations issued pursuant to this Act. Any law, regulation, or ordinance purporting to establish such different requirement, prohibition, or standard shall be null and void.

END OF STATUTE

RESIDENTIAL LEAD-BASED PAINT HAZARD REDUCTION ACT OF 1992

RESIDENTIAL LEAD-BASED PAINT HAZARD REDUCTION ACT OF 1992[667] [Public Law 102-550; 106 Stat. 3897; 42 U.S.C. 4851—4856]

Sec. 1001. [42 U.S.C. 4851 note]
SHORT TITLE.

This title may be cited as the "Residential Lead-Based Paint Hazard Reduction Act of 1992".

Sec. 1002. [42 U.S.C. 4851]
FINDINGS.

The Congress finds that—

(1) low-level lead poisoning is widespread among American children, afflicting as many as 3,000,000 children under age 6, with minority and low-income communities disproportionately affected;

(2) at low levels, lead poisoning in children causes intelligence quotient deficiencies, reading and learning disabilities, impaired hearing, reduced attention span, hyperactivity, and behavior problems;

(3) pre-1980 American housing stock contains more than 3,000,000 tons of lead in the form of lead-based paint, with the vast majority of homes built before 1950 containing substantial amounts of lead-based paint;

(4) the ingestion of household dust containing lead from deteriorating or abraded lead-based paint is the most common cause of lead poisoning in children;

(5) the health and development of children living in as many as 3,800,000 American homes is endangered by chipping or peeling lead paint, or excessive amounts of lead-contaminated dust in their homes;

(6) the danger posed by lead-based paint hazards can be reduced by abating lead-based paint or by taking interim measures to prevent paint deterioration and limit children's exposure to lead dust and chips;

(7) despite the enactment of laws in the early 1970's requiring the Federal Government to eliminate as far as practicable lead-based paint hazards in federally owned, assisted, and insured housing, the Federal response to this national crisis remains severely limited; and

(8) the Federal Government must take a leadership role in building the infrastructure—including an informed public, State and local delivery systems, certified inspectors, contractors, and laboratories, trained workers, and available financing and insurance—necessary to ensure that the national goal of eliminating lead-based paint hazards in housing can be achieved as expeditiously as possible.

Sec. 1003. [42 U.S.C. 4851a]
PURPOSES.

The purposes of this Act are—

(1) to develop a national strategy to build the infrastructure necessary to eliminate lead-based paint hazards in all housing as expeditiously as possible;

(2) to reorient the national approach to the presence of lead-based paint in housing to implement, on a priority basis, a broad program to evaluate and reduce lead-based paint hazards in the Nation's housing stock;

(3) to encourage effective action to prevent childhood lead poisoning by establishing a workable framework for lead-based paint hazard evaluation and reduction and by ending the current confusion over reasonable standards of care;

(4) to ensure that the existence of lead-based paint hazards is taken into account in the development of Government housing policies and in the sale, rental, and renovation of homes and apartments;

(5) to mobilize national resources expeditiously, through a partnership among all levels of government and the private sector, to develop the most promising, cost-effective methods for evaluating and reducing lead-based paint hazards;

(6) to reduce the threat of childhood lead poisoning in housing owned, assisted, or transferred by the Federal Government; and

(7) to educate the public concerning the hazards and sources of lead-based paint poisoning and steps to reduce and eliminate such hazards.

[667] Enacted as Title X of the Housing and Community Development Act of 1992.

Sec. 1004. [42 U.S.C. 4851b]
DEFINITIONS.

For the purposes of this Act, the following definitions shall apply:

(1) ABATEMENT.—The term "abatement" means any set of measures designed to permanently eliminate lead-based paint hazards in accordance with standards established by appropriate Federal agencies. Such term includes—

(A) the removal of lead-based paint and lead-contaminated dust, the permanent containment or encapsulation of lead-based paint, the replacement of lead-painted surfaces or fixtures, and the removal or covering of lead contaminated soil; and

(B) all preparation, cleanup, disposal, and postabatement clearance testing activities associated with such measures.

(2) ACCESSIBLE SURFACE.—The term "accessible surface" means an interior or exterior surface painted with lead-based paint that is accessible for a young child to mouth or chew.

(3) CERTIFIED CONTRACTOR.—The term "certified contractor" means—

(A) a contractor, inspector, or supervisor who has completed a training program certified by the appropriate Federal agency and has met any other requirements for certification or licensure established by such agency or who has been certified by any State through a program which has been found by such Federal agency to be at least as rigorous as the Federal certification program; and

(B) workers or designers who have fully met training requirements established by the appropriate Federal agency.

(4) CONTRACT FOR THE PURCHASE AND SALE OF RESIDENTIAL REAL PROPERTY.—The term "contract for the purchase and sale of residential real property" means any contract or agreement in which one party agrees to purchase an interest in real property on which there is situated 1 or more residential dwellings used or occupied, or intended to be used or occupied, in whole or in part, as the home or residence of 1 or more persons.

(5) DETERIORATED PAINT.—The term "deteriorated paint" means any interior or exterior paint that is peeling, chipping, chalking or cracking or any paint located on an interior or exterior surface or fixture that is damaged or deteriorated.

(6) EVALUATION.—The term "evaluation" means risk assessment, inspection, or risk assessment and inspection.

(7) FEDERALLY ASSISTED HOUSING.—The term "federally assisted housing" means residential dwellings receiving project-based assistance under programs including—

(A) section 221(d)(3) or 236 of the National Housing Act;

(B) section 1[668] of the Housing and Urban Development Act of 1965;

(C) section 8 of the United States Housing Act of 1937; or

(D) sections 502(a), 504, 514, 515, 516 and 533 of the Housing Act of 1949.

(8) FEDERALLY OWNED HOUSING.—The term "federally owned housing" means residential dwellings owned or managed by a Federal agency, or for which a Federal agency is a trustee or conservator. For the purpose of this paragraph, the term "Federal agency" includes the Department of Housing and Urban Development, the Farmers Home Administration, the Resolution Trust Corporation, the Federal Deposit Insurance Corporation, the General Services Administration, the Department of Defense, the Department of Veterans Affairs, the Department of the Interior, the Department of Transportation, and any other Federal agency.

(9) FEDERALLY SUPPORTED WORK.—The term "federally supported work" means any lead hazard evaluation or reduction activities conducted in federally owned or assisted housing or funded in whole or in part through any financial assistance program of the Department of Housing and Urban Development, the Farmers Home Administration, or the Department of Veterans Affairs.

(10) FRICTION SURFACE.—The term "friction surface" means an interior or exterior surface that is subject to abrasion or friction, including certain window, floor, and stair surfaces.

(11) IMPACT SURFACE.—The term "impact surface" means an interior or exterior surface that is subject to damage by repeated impacts, for example, certain parts of door frames.

(12) INSPECTION.—The term "inspection" means a surface-by-surface investigation to determine the presence of lead-based paint as provided in section 302(c) of the Lead-Based Paint Poisoning Prevention Act and the provision of a report explaining the results of the investigation.

(13) INTERIM CONTROLS.—The term "interim controls" means a set of measures designed to reduce temporarily human exposure or likely exposure to lead-based paint hazards, including specialized cleaning, repairs,

[668] So in law. Probably intended to refer to section 101.

maintenance, painting, temporary containment, ongoing monitoring of lead-based paint hazards or potential hazards, and the establishment and operation of management and resident education programs.

(14) LEAD-BASED PAINT.—The term "lead-based paint" means paint or other surface coatings that contain lead in excess of limits established under section 302(c) of the Lead-Based Paint Poisoning Prevention Act.

(15) LEAD-BASED PAINT HAZARD.—The term "lead-based paint hazard" means any condition that causes exposure to lead from lead-contaminated dust, lead-contaminated soil, lead-contaminated paint that is deteriorated or present in accessible surfaces, friction surfaces, or impact surfaces that would result in adverse human health effects as established by the appropriate Federal agency.

(16) LEAD-CONTAMINATED DUST.—The term "lead-contaminated dust" means surface dust in residential dwellings that contains an area or mass concentration of lead in excess of levels determined by the appropriate Federal agency to pose a threat of adverse health effects in pregnant women or young children.

(17) LEAD-CONTAMINATED SOIL.—The term "lead-contaminated soil" means bare soil on residential real property that contains lead at or in excess of the levels determined to be hazardous to human health by the appropriate Federal agency.

(18) MORTGAGE LOAN.—The term "mortgage loan" includes any loan (other than temporary financing such as a construction loan) that—

(A) is secured by a first lien on any interest in residential real property; and

(B) either—

(i) is insured, guaranteed, made, or assisted by the Department of Housing and Urban Development, the Department of Veterans Affairs, or the Farmers Home Administration, or by any other agency of the Federal Government; or

(ii) is intended to be sold by each originating mortgage institution to any federally chartered secondary mortgage market institution.

(19) ORIGINATING MORTGAGE INSTITUTION.—The term "originating mortgage institution" means a lender that provides mortgage loans.

(20) PRIORITY HOUSING.—The term "priority housing" means target housing that qualifies as affordable housing under section 215 of the Cranston-Gonzalez National Affordable Housing Act (42 U.S.C. 12745), including housing that receives assistance under subsection (b) or (o) of section 8 of the United States Housing Act of 1937 (42 U.S.C. 1437f(b) or (o)).

(21) PUBLIC HOUSING.—The term "public housing" has the same meaning given the term in section 3(b) of the United States Housing Act of 1937 (42 U.S.C. 1437a(b)(1)).

(22) REDUCTION.—The term "reduction" means measures designed to reduce or eliminate human exposure to lead-based paint hazards through methods including interim controls and abatement.

(23) RESIDENTIAL DWELLING.—The term "residential dwelling" means—

(A) a single-family dwelling, including attached structures such as porches and stoops; or

(B) a single-family dwelling unit in a structure that contains more than 1 separate residential dwelling unit, and in which each such unit is used or occupied, or intended to be used or occupied, in whole or in part, as the home or residence of 1 or more persons.

(24) RESIDENTIAL REAL PROPERTY.—The term "residential real property" means real property on which there is situated 1 or more residential dwellings used or occupied, or intended to be used or occupied, in whole or in part, as the home or residence of 1 or more persons.

(25) RISK ASSESSMENT.—The term "risk assessment" means an on-site investigation to determine and report the existence, nature, severity and location of lead-based paint hazards in residential dwellings, including—

(A) information gathering regarding the age and history of the housing and occupancy by children under age 6;

(B) visual inspection;

(C) limited wipe sampling or other environmental sampling techniques;

(D) other activity as may be appropriate; and

(E) provision of a report explaining the results of the investigation.

(26) SECRETARY.—The term "Secretary" means the Secretary of Housing and Urban Development.

(27) TARGET HOUSING.—The term "target housing" means any housing constructed prior to 1978, except housing for the elderly or persons with disabilities (unless any child who is less than 6 years of age resides or is expected to reside in such housing for the elderly or persons with disabilities) or any 0-bedroom dwelling. In the case of jurisdictions which banned the sale or use of lead-based paint prior to 1978, the Secretary, at the Secretary's discretion, may designate an earlier date.

Subtitle A—Lead-Based Paint Hazard Reduction

Sec. 1011. [42 U.S.C. 4852]
GRANTS FOR LEAD-BASED PAINT HAZARD REDUCTION IN TARGET HOUSING.

(a) GENERAL AUTHORITY.—The Secretary is authorized to provide grants to eligible applicants to evaluate and reduce lead-based paint hazards in housing that is not federally assisted housing, federally owned housing, or public housing, in accordance with the provisions of this section. Grants shall only be made under this section to provide assistance for housing which meets the following criteria—

(1) for grants made to assist rental housing, at least 50 percent of the units must be occupied by or made available to families with incomes at or below 50 percent of the area median income level and the remaining units shall be occupied or made available to families with incomes at or below 80 percent of the area median income level, and in all cases the landlord shall give priority in renting units assisted under this section, for not less than 3 years following the completion of lead abatement activities, to families with a child under the age of six years, except that buildings with five or more units may have 20 percent of the units occupied by families with incomes above 80 percent of area median income level;

(2) for grants made to assist housing owned by owner-occupants, all units assisted with grants under this section shall be the principal residence of families with income at or below 80 percent of the area median income level, and not less than 90 percent of the units assisted with grants under this section shall be occupied by a child under the age of six years or shall be units where a child under the age of six years spends a significant amount of time visiting; and

(3) notwithstanding paragraphs (1) and (2), Round II grantees who receive assistance under this section may use such assistance for priority housing.

(b) ELIGIBLE APPLICANTS.—A State or unit of local government that has an approved comprehensive housing affordability strategy under section 105 of the Cranston-Gonzalez National Affordable Housing Act (42 U.S.C. 12705) is eligible to apply for a grant under this section.

(c) FORM OF APPLICATIONS.—To receive a grant under this section, a State or unit of local government shall submit an application in such form and in such manner as the Secretary shall prescribe. An application shall contain—

(1) a copy of that portion of an applicant's comprehensive housing affordability strategy required by section 105(b)(16) of the Cranston-Gonzalez National Affordable Housing Act (42 U.S.C. 12701 et seq.);

(2) a description of the amount of assistance the applicant seeks under this section;

(3) a description of the planned activities to be undertaken with grants under this section, including an estimate of the amount to be allocated to each activity;

(4) a description of the forms of financial assistance to owners and occupants of housing that will be provided through grants under this section; and

(5) such assurances as the Secretary may require regarding the applicant's capacity to carry out the activities.

(d) SELECTION CRITERIA.—The Secretary shall award grants under this section on the basis of the merit of the activities proposed to be carried out and on the basis of selection criteria, which shall include—

(1) the extent to which the proposed activities will reduce the risk of lead-based paint poisoning to children under the age of 6 who reside in housing;

(2) the degree of severity and extent of lead-based paint hazards in the jurisdiction to be served;

(3) the ability of the applicant to leverage State, local, and private funds to supplement the grant under this section;

(4) the ability of the applicant to carry out the proposed activities; and

(5) such other factors as the Secretary determines appropriate to ensure that grants made available under this section are used effectively and to promote the purposes of this Act.

(e) ELIGIBLE ACTIVITIES.—A grant under this section may be used to—

(1) perform risk assessments and inspections in housing;

(2) provide for the interim control of lead-based paint hazards in housing;

(3) provide for the abatement of lead-based paint hazards in housing;

(4) provide for the additional cost of reducing lead-based paint hazards in units undergoing renovation funded by other sources;

(5) ensure that risk assessments, inspections, and abatements are carried out by certified contractors in accordance with section 402 of the Toxic Substances Control Act, as added by section 1021 of this Act;

(6) monitor the blood-lead levels of workers involved in lead hazard reduction activities funded under this section;

(7) assist in the temporary relocation of families forced to vacate housing while lead hazard reduction measures are being conducted;

(8) educate the public on the nature and causes of lead poisoning and measures to reduce exposure to lead, including exposure due to residential lead-based paint hazards;

(9) test soil, interior surface dust, and the blood-lead levels of children under the age of 6 residing in housing after lead-based paint hazard reduction activity has been conducted, to assure that such activity does not cause excessive exposures to lead; and

(10) carry out such other activities that the Secretary determines appropriate to promote the purposes of this Act.

(f) FORMS OF ASSISTANCE.—The applicant may provide the services described in this section through a variety of programs, including grants, loans, equity investments, revolving loan funds, loan funds, loan guarantees, interest write-downs, and other forms of assistance approved by the Secretary.

(g) TECHNICAL ASSISTANCE AND CAPACITY BUILDING.—

(1) IN GENERAL.—The Secretary shall develop the capacity of eligible applicants to carry out the requirements of section 105(b)(16) of the Cranston-Gonzalez National Affordable Housing Act and to carry out activities under this section. In fiscal years 1993 and 1994, the Secretary may make grants of up to $200,000 for the purpose of establishing State training, certification or accreditation programs that meet the requirements of section 402 of the Toxic Substances Control Act, as added by section 1021 of this Act.

(2) SET-ASIDE.—Of the total amount approved in appropriation Acts under subsection (o), there shall be set aside to carry out this subsection $3,000,000 for fiscal year 1993 and $3,000,000 for fiscal year 1994.

(h) MATCHING REQUIREMENT.—Each recipient of a grant under this section shall make contributions toward the cost of activities that receive assistance under this section in an amount not less than 10 percent of the total grant amount under this section.

(i) PROHIBITION OF SUBSTITUTION OF FUNDS.—Grants under this subtitle may not be used to replace other amounts made available or designated by State or local governments for use for the purposes under this subtitle.

(j) LIMITATION ON USE.—An applicant shall ensure that not more than 10 percent of the grant will be used for administrative expenses associated with the activities funded.

(k) FINANCIAL RECORDS.—An applicant shall maintain and provide the Secretary with financial records sufficient, in the determination of the Secretary, to ensure proper accounting and disbursing of amounts received from a grant under this section.

(l) REPORT.—An applicant under this section shall submit to the Secretary, for any fiscal year in which the applicant expends grant funds under this section, a report that—

(1) describes the use of the amounts received;

(2) states the number of risk assessments and the number of inspections conducted in residential dwellings;

(3) states the number of residential dwellings in which lead-based paint hazards have been reduced through interim controls;

(4) states the number of residential dwellings in which lead-based paint hazards have been abated; and

(5) provides any other information that the Secretary determines to be appropriate.

(m) NOTICE OF FUNDING AVAILABILITY.—The Secretary shall publish a Notice of Funding Availability pursuant to this section not later than 120 days after funds are appropriated for this section.

(n) RELATIONSHIP TO OTHER LAW.—Effective 2 years after the date of promulgation of regulations under section 402 of the Toxic Substances Control Act, no grants for lead-based paint hazard evaluation or reduction may be awarded to a State under this section unless such State has an authorized program under section 404 of the Toxic Substances Control Act.

(o) ENVIRONMENTAL REVIEW.—

(1) IN GENERAL.—For purposes of environmental review, decisionmaking, and action pursuant to the National Environmental Policy Act of 1969 and other provisions of law that further the purposes of

such Act, a grant under this section shall be treated as assistance under the HOME Investment Partnership Act[669], established under title II of the Cranston-Gonzalez National Affordable Housing Act, and shall be subject to the regulations promulgated by the Secretary to implement section 288 of such Act.

(2) APPLICABILITY.—This subsection shall apply to—

(A) grants awarded under this section; and

(B) grants awarded to States and units of general local government for the abatement of significant lead-based paint and lead dust hazards in low- and moderate-income owner-occupied units and low-income privately owned rental units pursuant to title II of the Departments of Veterans Affairs and Housing and Urban Development, and Independent Agencies Appropriations Act, 1992 (Public Law 102-139, 105 Stat. 736).

(p) AUTHORIZATION OF APPROPRIATIONS.—For the purposes of carrying out this Act, there are authorized to be appropriated $125,000,000 for fiscal year 1993 and $250,000,000 for fiscal year 1994.

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Sec. 1015. [42 U.S.C. 4852a]
TASK FORCE ON LEAD-BASED PAINT HAZARD REDUCTION AND FINANCING.

(a) IN GENERAL.—The Secretary, in consultation with the Administrator of the Environmental Protection Agency, shall establish a task force to make recommendations on expanding resources and efforts to evaluate and reduce lead-based paint hazards in private housing.

(b) MEMBERSHIP.—The task force shall include individuals representing the Department of Housing and Urban Development, the Farmers Home Administration, the Department of Veterans Affairs, the Federal Home Loan Mortgage Corporation, the Federal National Mortgage Association, the Environmental Protection Agency, employee organizations in the building and construction trades industry, landlords, tenants, primary lending institutions, private mortgage insurers, single-family and multifamily real estate interests, nonprofit housing developers, property liability insurers, public housing agencies, low-income housing advocacy organizations, national, State and local lead-poisoning prevention advocates and experts, and community-based organizations located in areas with substantial rental housing.

(c) RESPONSIBILITIES.—The task force shall make recommendations to the Secretary and the Administrator of the Environmental Protection Agency concerning—

(1) incorporating the need to finance lead-based paint hazard reduction into underwriting standards;

(2) developing new loan products and procedures for financing lead-based paint hazard evaluation and reduction activities;

(3) adjusting appraisal guidelines to address lead safety;

(4) incorporating risk assessments or inspections for lead-based paint as a routine procedure in the origination of new residential mortgages;

(5) revising guidelines, regulations, and educational pamphlets issued by the Department of Housing and Urban Development and other Federal agencies relating to lead-based paint poisoning prevention;

(6) reducing the current uncertainties of liability related to lead-based paint in rental housing by clarifying standards of care for landlords and lenders, and by exploring the "safe harbor" concept;

(7) increasing the availability of liability insurance for owners of rental housing and certified contractors and establishing alternative systems to compensate victims of lead-based paint poisoning; and

(8) evaluating the utility and appropriateness of requiring risk assessments or inspections and notification to prospective lessees of rental housing.

(d) COMPENSATION.—The members of the task force shall not receive Federal compensation for their participation.

Sec. 1016. [42 U.S.C. 4852b]
NATIONAL CONSULTATION ON LEAD-BASED PAINT HAZARD REDUCTION.

In carrying out this Act, the Secretary shall consult on an ongoing basis with the Administrator of the Environmental Protection Agency, the Director of the Centers for Disease Control, other Federal agencies concerned with lead poisoning prevention, and the task force established pursuant to section 1015.

[669] Probably intended to refer to the HOME Investment Partnerships Act.

Sec. 1017. [42 U.S.C. 4852c]
GUIDELINES FOR LEAD-BASED PAINT HAZARD EVALUATION AND REDUCTION ACTIVITIES.

Not later than 12 months after the date of enactment of this Act[670], the Secretary, in consultation with the Administrator of the Environmental Protection Agency, the Secretary of Labor, and the Secretary of Health and Human Services (acting through the Director of the Centers for Disease Control), shall issue guidelines for the conduct of federally supported work involving risk assessments, inspections, interim controls, and abatement of lead-based paint hazards. Such guidelines shall be based upon criteria that measure the condition of the housing (and the presence of children under age 6 for the purposes of risk assessments) and shall not be based upon criteria that measure the health of the residents of the housing.

Sec. 1018. [42 U.S.C. 4852d]
DISCLOSURE OF INFORMATION CONCERNING LEAD UPON TRANSFER OF RESIDENTIAL PROPERTY.

(a) LEAD DISCLOSURE IN PURCHASE AND SALE OR LEASE OF TARGET HOUSING.—

(1) LEAD-BASED PAINT HAZARDS.—Not later than 2 years after the date of enactment of this Act,[671] the Secretary and the Administrator of the Environmental Protection Agency shall promulgate regulations under this section for the disclosure of lead-based paint hazards in target housing which is offered for sale or lease. The regulations shall require that, before the purchaser or lessee is obligated under any contract to purchase or lease the housing, the seller or lessor shall—

(A) provide the purchaser or lessee with a lead hazard information pamphlet, as prescribed by the Administrator of the Environmental Protection Agency under section 406 of the Toxic Substances Control Act;

(B) disclose to the purchaser or lessee the presence of any known lead-based paint, or any known lead-based paint hazards, in such housing and provide to the purchaser or lessee any lead hazard evaluation report available to the seller or lessor; and

(C) permit the purchaser a 10-day period (unless the parties mutually agree upon a different period of time) to conduct a risk assessment or inspection for the presence of lead-based paint hazards.

(2) CONTRACT FOR PURCHASE AND SALE.—Regulations promulgated under this section shall provide that every contract for the purchase and sale of any interest in target housing shall contain a Lead Warning Statement and a statement signed by the purchaser that the purchaser has—

(A) read the Lead Warning Statement and understands its contents;

(B) received a lead hazard information pamphlet; and

(C) had a 10-day opportunity (unless the parties mutually agreed upon a different period of time) before becoming obligated under the contract to purchase the housing to conduct a risk assessment or inspection for the presence of lead-based paint hazards.

(3) CONTENTS OF LEAD WARNING STATEMENT.—The Lead Warning Statement shall contain the following text printed in large type on a separate sheet of paper attached to the contract:

"Every purchaser of any interest in residential real property on which a residential dwelling was built prior to 1978 is notified that such property may present exposure to lead from lead-based paint that may place young children at risk of developing lead poisoning. Lead poisoning in young children may produce permanent neurological damage, including learning disabilities, reduced intelligence quotient, behavioral problems, and impaired memory. Lead poisoning also poses a particular risk to pregnant women. The seller of any interest in residential real property is required to provide the buyer with any information on lead-based paint hazards from risk assessments or inspections in the seller's possession and notify the buyer of any known lead-based paint hazards. A risk assessment or inspection for possible lead-based paint hazards is recommended prior to purchase.".

(4) COMPLIANCE ASSURANCE.—Whenever a seller or lessor has entered into a contract with an agent for the purpose of selling or leasing a unit of target housing, the regulations promulgated under this section shall require the agent, on behalf of the seller or lessor, to ensure compliance with the requirements of this section.

(5) PROMULGATION.—A suit may be brought against the Secretary of Housing and Urban Development and the Administrator of the Environmental Protection Agency under section 20 of the Toxic

[670] The date of enactment was October 28, 1992.
[671] The date of enactment was October 28, 1992.

Substances Control Act to compel promulgation of the regulations required under this section and the Federal district court shall have jurisdiction to order such promulgation.

(b) PENALTIES FOR VIOLATIONS.—

(1) MONETARY PENALTY.—Any person who knowingly violates any provision of this section shall be subject to civil money penalties in accordance with the provisions of section 102 of the Department of Housing and Urban Development Reform Act of 1989 (42 U.S.C. 3545).

(2) ACTION BY SECRETARY.—The Secretary is authorized to take such lawful action as may be necessary to enjoin any violation of this section.

(3) CIVIL LIABILITY.—Any person who knowingly violates the provisions of this section shall be jointly and severally liable to the purchaser or lessee in an amount equal to 3 times the amount of damages incurred by such individual.

(4) COSTS.—In any civil action brought for damages pursuant to paragraph (3), the appropriate court may award court costs to the party commencing such action, together with reasonable attorney fees and any expert witness fees, if that party prevails.

(5) PROHIBITED ACT.—It shall be a prohibited act under section 409 of the Toxic Substances Control Act for any person to fail or refuse to comply with a provision of this section or with any rule or order issued under this section. For purposes of enforcing this section under the Toxic Substances Control Act, the penalty for each violation applicable under section 16 of that Act shall not be more than $10,000.

(c) VALIDITY OF CONTRACTS AND LIENS.—Nothing in this section shall affect the validity or enforceability of any sale or contract for the purchase and sale or lease of any interest in residential real property or any loan, loan agreement, mortgage, or lien made or arising in connection with a mortgage loan, nor shall anything in this section create a defect in title.

(d) EFFECTIVE DATE.—The regulations under this section shall take effect 3 years after the date of the enactment of this title.[672]

Subtitle B—Lead Exposure Reduction

* * * * * * *

Subtitle C—Worker Protection

Sec. 1031. [42 U.S.C. 4853]
WORKER PROTECTION.

Not later than 180 days after the enactment of this Act,[673] the Secretary of Labor shall issue an interim final regulation regulating occupational exposure to lead in the construction industry. Such interim final regulation shall provide employment and places of employment to employees which are as safe and healthful as those which would prevail under the Department of Housing and Urban Development guidelines published at Federal Register 55, page 38973 (September 28, 1990) (Revised Chapter 8). Such interim final regulations shall take effect upon issuance (except that such regulations may include a reasonable delay in the effective date), shall have the legal effect of an Occupational Safety and Health Standard, and shall apply until a final standard becomes effective under section 6 of the Occupational Safety and Health Act of 1970.

Sec. 1032. [42 U.S.C. 4853a]
COORDINATION BETWEEN ENVIRONMENTAL PROTECTION AGENCY AND DEPARTMENT OF LABOR.

The Secretary of Labor, in promulgating regulations under section 1031, shall consult and coordinate with the Administrator of the Environmental Protection Agency for the purpose of achieving the maximum enforcement of title IV of the Toxic Substances Control Act and the Occupational Safety and Health Act of 1970 while imposing the least burdens of duplicative requirements on those subject to such title and Act and for other purposes.

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[672] The date of enactment was October 28, 1992.
[673] The date of enactment was October 28, 1992.

Subtitle D—Research and Development

PART 1—HUD RESEARCH

Sec. 1051. [42 U.S.C. 4854]
RESEARCH ON LEAD EXPOSURE FROM OTHER SOURCES.

The Secretary, in cooperation with other Federal agencies, shall conduct research on strategies to reduce the risk of lead exposure from other sources, including exterior soil and interior lead dust in carpets, furniture, and forced air ducts.

Sec. 1052. [42 U.S.C. 4854a]
TESTING TECHNOLOGIES.

The Secretary, in cooperation with other Federal agencies, shall conduct research to—

(1) develop improved methods for evaluating lead-based paint hazards in housing;
(2) develop improved methods for reducing lead-based paint hazards in housing;
(3) develop improved methods for measuring lead in paint films, dust, and soil samples;
(4) establish performance standards for various detection methods, including spot test kits;
(5) establish performance standards for lead-based paint hazard reduction methods, including the use of encapsulants;
(6) establish appropriate cleanup standards;
(7) evaluate the efficacy of interim controls in various hazard situations;
(8) evaluate the relative performance of various abatement techniques;
(9) evaluate the long-term cost-effectiveness of interim control and abatement strategies; and
(10) assess the effectiveness of hazard evaluation and reduction activities funded by this Act.

Sec. 1053. [42 U.S.C. 4854b]
AUTHORIZATION.

Of the total amount approved in appropriation Acts under section 1011(o)[674], there shall be set aside to carry out this part $5,000,000 for fiscal year 1993, and $5,000,000 for fiscal year 1994.

PART 2—GAO REPORT

Sec. 1056. [42 U.S.C. 4855]
FEDERAL IMPLEMENTATION AND INSURANCE STUDY.

(a) FEDERAL IMPLEMENTATION STUDY.—The Comptroller General of the United States shall assess the effectiveness of Federal enforcement and compliance with lead safety laws and regulations, including any changes needed in annual inspection procedures to identify lead-based paint hazards in units receiving assistance under subsections (b) and (o) of section 8 of the United States Housing Act of 1937.

(b) INSURANCE STUDY.—The Comptroller General of the United States shall assess the availability of liability insurance for owners of residential housing that contains lead-based paint and persons engaged in lead-based paint hazard evaluation and reduction activities. In carrying out the assessment, the Comptroller General shall—

(1) analyze any precedents in the insurance industry for the containment and abatement of environmental hazards, such as asbestos, in federally assisted housing;
(2) provide an assessment of the recent insurance experience in the public housing lead hazard identification and reduction program; and
(3) recommend measures for increasing the availability of liability insurance to owners and contractors engaged in federally supported work.

Subtitle E—Reports

[674] Probably intended to refer to section 1011(p).

Sec. 1061. [42 U.S.C. 4856]
REPORTS OF THE SECRETARY OF HOUSING AND URBAN DEVELOPMENT.[675]

(a) ANNUAL REPORT.—The Secretary shall transmit to the Congress an annual report that—

(1) sets forth the Secretary's assessment of the progress made in implementing the various programs authorized by this title;

(2) summarizes the most current health and environmental studies on childhood lead poisoning, including studies that analyze the relationship between interim control and abatement activities and the incidence of lead poisoning in resident children;

(3) recommends legislative and administrative initiatives that may improve the performance by the Department of Housing and Urban Development in combating lead hazards through the expansion of lead hazard evaluation and reduction activities;

(4) describes the results of research carried out in accordance with subtitle D; and

(5) estimates the amount of Federal assistance annually expended on lead hazard evaluation and reduction activities.

(b) BIENNIAL REPORT.—

(1) IN GENERAL.—24 months after the date of enactment of this Act, The date of enactment was October 28, 1992. and at the end of every 24-month period thereafter, the Secretary shall report to the Congress on the progress of the Department of Housing and Urban Development in implementing expanded lead-based paint hazard evaluation and reduction activities.

(2) CONTENTS.—The report shall—

(A) assess the effectiveness of section 1018 in making the public aware of lead-based paint hazards;

(B) estimate the extent to which lead-based paint hazard evaluation and reduction activities are being conducted in the various categories of housing;

(C) monitor and report expenditures for lead-based paint hazard evaluation and reduction for programs within the jurisdiction of the Department of Housing and Urban Development;

(D) identify the infrastructure needed to eliminate lead-based paint hazards in all housing as expeditiously as possible, including cost-effective technology, standards and regulations, trained and certified contractors, certified laboratories, liability insurance, private financing techniques, and appropriate Government subsidies;

(E) assess the extent to which the infrastructure described in subparagraph (D) exists, make recommendations to correct shortcomings, and provide estimates of the costs of measures needed to build an adequate infrastructure; and

(F) include any additional information that the Secretary deems appropriate.

END OF STATUTE

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[675] Section 3003(a)(1) of the Federal Reports Elimination and Sunset Act of 1995, Pub. L. 104-66, which is set forth post in part XII of this compilation, provides that certain provisions of law requiring submittal to Congress of an annual, semiannual, or other regular periodic report shall cease to be effective on May 15, 2000. This section is covered by such provision. However, section 1102 of the American Homeownership and Economic Opportunity Act of 2000, Public Law 106-569, set forth post in part XII of this compilation, provides that such section 3003(a)(1) shall not apply to the report required to be submitted under this section.

ADJUSTABLE RATE MORTGAGE CAPS

COMPETITIVE EQUALITY BANKING ACT OF 1987
[Public Law 100-86; 100 Stat. 662; 12 U.S.C. 3806]

Sec. 1204. [12 U.S.C. 3806]
ADJUSTABLE RATE MORTGAGE CAPS.

(a) IN GENERAL.—Any adjustable rate mortgage loan originated by a creditor shall include a limitation on the maximum interest rate that may apply during the term of the mortgage loan.

(b) REGULATIONS.—The Board of Governors of the Federal Reserve System shall prescribe regulations to carry out the purposes of this section.

(c) ENFORCEMENT.—Any violation of this section shall be treated as a violation of the Truth in Lending Act and shall be subject to administrative enforcement under section 108 or civil damages under section 130 of such Act, or both.

(d) DEFINITIONS.—For the purpose of this section—

(1) the term "creditor" means a person who regularly extends credit for personal, family, or household purposes; and

(2) the term "adjustable rate mortgage loan" means any consumer loan secured by a lien on a one- to four-family dwelling unit, including a condominium unit, cooperative housing unit, or mobile home, where the loan is made pursuant to an agreement under which the creditor may, from time to time, adjust the rate of interest.

(e) EFFECTIVE DATE.—This section shall take effect upon the expiration of 120 days after the date of enactment of this Act.[676]

END OF STATUTE

[676] The date of enactment was August 10, 1987.

RECOMMENDED POLICY ON RADON

STEWART B. MCKINNEY HOMELESS ASSISTANCE AMENDMENTS ACT OF 1988
[Public Law 100-628; 102 Stat. 3283; 15 U.S.C. 2661 note]

Sec. 1091. [15 U.S.C. 2661 note]
REPORT ON RECOMMENDED POLICY FOR DEALING WITH RADON IN ASSISTED HOUSING.

(a) PURPOSES.—The purposes of this section are—

(1) to require the Department of Housing and Urban Development to develop an effective departmental policy for dealing with radon contamination that utilizes any Environmental Protection Agency guidelines and standards to ensure that occupants of housing covered by this section are not exposed to hazardous levels of radon; and

(2) to require the Department of Housing and Urban Development to assist the Environmental Protection Agency in reducing radon contamination.

(b) PROGRAM.—

(1) APPLICABILITY.—The housing covered by this section is—

(A) multifamily housing owned by the Department of Housing and Urban Development;

(B) public housing and Indian housing assisted under the United States Housing Act of 1937;

(C) housing receiving project-based assistance under section 8 of the United States Housing Act of 1937;

(D) housing assisted under section 236 of the National Housing Act; and

(E) housing assisted under section 221(d)(3) of the National Housing Act.

(2) IN GENERAL.—The Secretary of Housing and Urban Development shall develop and recommend to the Congress a policy for dealing with radon contamination that specifies programs for education, research, testing, and mitigation of radon hazards in housing covered by this section.

(3) STANDARDS.—In developing the policy, the Secretary shall utilize any guidelines, information, or standards established by the Environmental Protection Agency for—

(A) testing residential and nonresidential structures for radon;

(B) identifying elevated radon levels;

(C) identifying when remedial actions should be taken; and

(D) identifying geographical areas that are likely to have elevated levels of radon.

(4) COORDINATION.—In developing the policy, the Secretary shall coordinate the efforts of the Department of Housing and Urban Development with the Environmental Protection Agency, and other appropriate Federal agencies, and shall consult with State and local governments, the housing industry, consumer groups, health organizations, appropriate professional organizations, and other appropriate experts.

(5) REPORT.—The Secretary shall submit a report to the Congress within 1 year after the date of the enactment of this Act that describes the Secretary's recommended policy for dealing with radon contamination and the Secretary's reasons for recommending such policy. The report shall include an estimate of the housing covered by this section that is likely to have hazardous levels of radon.

(c) COOPERATION WITH ENVIRONMENTAL PROTECTION AGENCY.—Within 6 months after the date of the enactment of this Act, the Secretary and the Administrator of the Environmental Protection Agency shall enter into a memorandum of understanding describing the Secretary's plan to assist the Administrator in carrying out the Environmental Protection Agency's authority to assess the extent of radon contamination in the United States and assist in the development of measures to avoid and reduce radon contamination.[677]

(d) DEFINITIONS.—For purposes of this section:

(1) ADMINISTRATOR.—The term "Administrator" means the Administrator of the Environmental Protection Agency.

(2) SECRETARY.—The term "Secretary" means the Secretary of Housing and Urban Development.

[677] For authority of EPA, see title III of the Toxic Substances Control Act (15 U.S.C. 2661 et seq.), as added by Pub. L. 100-551.

(e) AUTHORIZATION.—Funds available for housing covered by this section shall be available to carry out this section with respect to such housing.

END OF STATUTE

SEISMIC SAFETY PROPERTY STANDARDS

CRANSTON-GONZALEZ NATIONAL AFFORDABLE HOUSING ACT
[Public Law 101-625; 104 Stat. 4416; 42 U.S.C. 7704a]

Sec. 947. [42 U.S.C. 7704a]
REPORT ON SEISMIC SAFETY PROPERTY STANDARDS.

(a) AUTHORITY.—The Secretary of Housing and Urban Development (in this section referred to as the "Secretary") shall assess the risk of earthquake-related damage to properties assisted under programs administered by the Secretary and shall develop seismic safety standards for such properties. This section may not be construed to prohibit the Secretary from deferring to local building codes that meet the requirements of the seismic safety standards developed under this section.

(b) STANDARDS.—The standards shall be designed to reduce the risk of loss of life to building occupants to the maximum extent feasible and to reduce the risk of shake-related property damage to the maximum extent practicable.

(c) CONSULTATION.—In carrying out this section, the Secretary shall consult with the Director of the Federal Emergency Management Agency[678] and may utilize the resources under the National Earthquake Hazards Reduction Program (established under the Earthquake Hazards Reduction Act of 1977) and any other resources as may be required to carry out the activities under this section.

(d) REPORTS.—

(1) SUBMISSION AND CONTENTS.—This Secretary shall submit a report to the Congress, not less than biennially, containing a statement of the findings of the risk assessment study conducted under this section, including risk assessment of properties located in seismic risk zones and a compilation of the standards developed pursuant to this section. The report shall also include a statement of the activities undertaken by the Secretary to carry out this section and the amount and sources of any funds expended by the Secretary for such purposes. The report shall also include a statement of the activities undertaken by the Secretary to carry out the requirements of Executive Order No. 12699 (January 5, 1990) and the amount and sources of any funds expended by the Secretary for such purposes.

(2) INITIAL SUBMISSION.—The first report required under this subsection shall be submitted not later than the expiration of the 18-month period beginning on the date of the enactment of this Act.[679]

END OF STATUTE

[678] Section 611 of Public Law 111-295 provides for the transfer of duties for this entity under the Department of Homeland Security. Section 612(c) of such Public Law provides: "[a]ny reference to the Director of the Federal Emergency Management Agency, in any law, rule, regulation, certificate, directive, instruction, or other official paper shall be considered to refer and apply to the Administrator of the Federal Emergency Management Agency.".

[679] The date of enactment was November 28, 1990.

FIRE SAFETY SYSTEMS IN FEDERALLY ASSISTED HOUSING

FEDERAL FIRE PREVENTION AND CONTROL ACT OF 1974
[Public Law 102-522; 106 Stat. 3412; 15 U.S.C. 2227]

Sec. 31. [15 U.S.C. 2227]
FIRE SAFETY SYSTEMS IN FEDERALLY ASSISTED BUILDINGS.

(a) DEFINITIONS.—For purposes of this section, the following definitions apply:

(1) The term "affordable cost" means the cost to a Federal agency of leasing office space in a building that is protected by an automatic sprinkler system or equivalent level of safety, which cost is no more than 10 percent greater than the cost of leasing available comparable office space in a building that is not so protected.

(2) The term "automatic sprinkler system" means an electronically supervised, integrated system of piping to which sprinklers are attached in a systematic pattern, and which, when activated by heat from a fire—

(A) will protect human lives by discharging water over the fire area, in accordance with the National Fire Protection Association Standard 13, 13D, or 13R, whichever is appropriate for the type of building and occupancy being protected, or any successor standard thereto; and

(B) includes an alarm signaling system with appropriate warning signals (to the extent such alarm systems and warning signals are required by Federal, State, or local laws or regulations) installed in accordance with the National Fire Protection Association Standard 72, or any successor standard thereto.

(3) The term "equivalent level of safety" means an alternative design or system (which may include automatic sprinkler systems), based upon fire protection engineering analysis, which achieves a level of safety equal to or greater than that provided by automatic sprinkler systems.

(4) The term "Federal employee office building" means any office building in the United States, whether owned or leased by the Federal Government, that is regularly occupied by more than 25 full-time Federal employees in the course of their employment.

(5) The term "housing assistance"—

(A) means assistance provided by the Federal Government to be used in connection with the provision of housing, that is provided in the form of a grant, contract, loan, loan guarantee, cooperative agreement, interest subsidy, insurance, or direct appropriation; and

(B) does not include assistance provided by the Secretary of Veterans Affairs; the Federal Emergency Management Agency; the Secretary of Housing and Urban Development under the single family mortgage insurance programs under the National Housing Act or the homeownership assistance program under section 235 of such Act; the National Homeownership Trust; the Federal Deposit Insurance Corporation under the affordable housing program under section 40 of the Federal Deposit Insurance Act; or the Resolution Trust Corporation under the affordable housing program under section 21A(c) of the Federal Home Loan Bank Act.

(6) The term "hazardous areas" means those areas in a building referred to as hazardous areas in National Fire Protection Association Standard 101, known as the Life Safety Code, or any successor standard thereto.

(7) The term "multifamily property" means—

(A) in the case of housing for Federal employees or their dependents, a residential building consisting of more than 2 residential units that are under one roof; and

(B) in any other case, a residential building consisting of more than 4 residential units that are under one roof.

(8) The term "prefire plan" means specific plans for fire fighting activities at a property or location.

(9) The term "rebuilding" means the repairing or reconstructing of portions of a multifamily property where the cost of the alterations is 70 percent or more of the replacement cost of the completed multifamily property, not including the value of the land on which the multifamily property is located.

(10) The term "renovated" means the repairing or reconstructing of 50 percent or more of the current value of a Federal employee office building, not including the value of the land on which the Federal employee office building is located.

(11) The term "smoke detectors" means single or multiple station, self-contained alarm devices designed to respond to the presence of visible or invisible particles of combustion, installed in accordance with the National Fire Protection Association Standard 74 or any successor standard thereto.

(12) The term "United States" means the States collectively.

(b) FEDERAL EMPLOYEE OFFICE BUILDINGS.— * * *.

(c) HOUSING.—(1)(A) Except as otherwise provided in this paragraph, no Federal funds may be used for the construction, purchase, lease, or operation by the Federal Government of housing in the United States for Federal employees or their dependents unless—

(i) in the case of a multifamily property acquired or rebuilt by the Federal Government after the date of enactment of this section[680], the housing is protected, before occupancy by Federal employees or their dependents, by an automatic sprinkler system (or equivalent level of safety) and hard-wired smoke detectors; and

(ii) in the case of any other housing, the housing, before—

(I) occupancy by the first Federal employees (or their dependents) who do not occupy such housing as of such date of enactment; or

(II) the expiration of 3 years after such date of enactment,

whichever occurs first, is protected by hard-wired smoke detectors.

(B) Nothing in this paragraph shall be construed to supersede any guidelines or requirements applicable to housing for Federal employees that call for a higher level of fire safety protection than is required under this paragraph.

(C) Housing covered by this paragraph that does not have an adequate and reliable electrical system shall not be subject to the requirement under subparagraph (A) for protection by hard-wired smoke detectors, but shall be protected by battery operated smoke detectors.

(D) If funding has been programmed or designated for the demolition of housing covered by this paragraph, such housing shall not be subject to the fire protection requirements of subparagraph (A), but shall be protected by battery operated smoke detectors.

(2)(A)(i) Housing assistance may not be used in connection with any newly constructed multifamily property, unless after the new construction the multifamily property is protected by an automatic sprinkler system and hard-wired smoke detectors.

(ii) For purposes of clause (i), the term "newly constructed multifamily property" means a multifamily property of 4 or more stories above ground level—

(I) that is newly constructed after the date of enactment of this section[681]; and

(II) for which (a) housing assistance is used for such new construction, or (b) a binding commitment is made, before commencement of such construction, to provide housing assistance for the newly constructed property.

(iii) Clause (i) shall not apply to any multifamily property for which, before such date of enactment, a binding commitment is made to provide housing assistance for the new construction of the property or for the newly constructed property.

(B)(i) Except as provided in clause (ii), housing assistance may not be used in connection with any rebuilt multifamily property, unless after the rebuilding the multifamily property complies with the chapter on existing apartment buildings of National Fire Protection Association Standard 101 (known as the Life Safety Code) or any successor standard to that standard, as in effect at the earlier of (I) the time of any approval by the Department of Housing and Urban Development of the specific plan or budget for rebuilding, or (II) the time that a binding commitment is made to provide housing assistance for the rebuilt property.

(ii) If any rebuilt multifamily property is subject to, and in compliance with, any provision of a State or local fire safety standard or code that prevents compliance with a specific provision of National Fire Protection Association Standard 101 or any successor standard to that standard, the requirement under clause (i) shall not apply with respect to such specific provision.

(iii) For purposes of this subparagraph, the term "rebuilt multifamily property" means a multifamily property of 4 or more stories above ground level—

[680] October 26, 1992.
[681] October 26, 1992.

(I) that is rebuilt after the last day of the second fiscal year that ends after the date of enactment of this section[682]; and

(II) for which (a) housing assistance is used for such rebuilding, or (b) a binding commitment is made, before commencement of such rebuilding, to provide housing assistance for the rebuilt property.

(C) After the expiration of the 180-day period beginning on the date of enactment of this section[683], housing assistance may not be used in connection with any other dwelling unit, unless the unit is protected by a hard-wired or battery-operated smoke detector. For purposes of this subparagraph, housing assistance shall be considered to be used in connection with a particular dwelling unit only if such assistance is provided (i) for the particular unit, in the case of assistance provided on a unit-by-unit basis, or (ii) for the multifamily property in which the unit is located, in the case of assistance provided on a structure-by-structure basis.

(d) REGULATIONS.—The Administrator of General Services, in cooperation with the United States Fire Administration, the National Institute of Standards and Technology, and the Department of Defense, within 2 years after the date of enactment of this section[684], shall promulgate regulations to further define the term "equivalent level of safety", and shall, to the extent practicable, base those regulations on nationally recognized codes.

(e) STATE AND LOCAL AUTHORITY NOT LIMITED.—Nothing in this section shall be construed to limit the power of any State or political subdivision thereof to implement or enforce any law, rule, regulation, or standard that establishes requirements concerning fire prevention and control. Nothing in this section shall be construed to reduce fire resistance requirements which otherwise would have been required.

(f) PREFIRE PLAN.—The head of any Federal agency that owns, leases, or operates a building or housing unit with Federal funds shall invite the local agency or voluntary organization having responsibility for fire protection in the jurisdiction where the building or housing unit is located to prepare, and biennially review, a prefire plan for the building or housing unit.

(g) REPORTS TO CONGRESS.—(1) * * *.

(2) Within 10 years after the date of enactment of this section[685], each Federal agency providing housing to Federal employees or housing assistance shall submit a report to Congress on the progress of that agency in implementing subsection (c) and on plans for continuing such implementation.

(3)(A) The National Institute of Standards and Technology shall conduct a study and submit a report to Congress on the use, in combination, of fire detection systems, fire suppression systems, and compartmentation. Such study shall—

(i) quantify performance and reliability for fire detection systems, fire suppression systems, and compartmentation, including a field assessment of performance and determination of conditions under which a reduction or elimination of 1 or more of those systems would result in an unacceptable risk of fire loss; and

(ii) include a comparative analysis and compartmentation using fire resistive materials and compartmentation using noncombustible materials.

(B) The National Institute of Standards and Technology shall obtain funding from non-Federal sources in an amount equal to 25 percent of the cost of the study required by subparagraph (A). Funding for the National Institute of Standards and Technology for carrying out such study shall be derived from amounts otherwise authorized to be appropriated, for the Building and Fire Research Center at the National Institute of Standards and Technology, not to exceed $750,000. The study shall commence until receipt of all matching funds from non-Federal sources. The scope and extent of the study shall be determined by the level of project funding. The Institute shall submit a report to Congress on the study within 30 months after the date of enactment of this section[686].

(h) RELATION TO OTHER REQUIREMENTS.—In the implementation of this section, the process for meeting space needs in urban areas shall continue to give first consideration to a centralized community business area and adjacent areas of similar character to the extent of any Federal requirement therefor.

END OF STATUTE

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[682] October 26, 1992.
[683] October 26, 1992.
[684] October 26, 1992.
[685] October 26, 1992.
[686] The date of enactment was October 26, 1992.

HOMEOWNERS PROTECTION ACT OF 1998

HOMEOWNERS PROTECTION ACT OF 1998
[Public Law 105-216; 112 Stat. 897; 12 U.S.C. 4901—4910]

Sec. 2. [12 U.S.C. 4901]
DEFINITIONS.

In this Act, the following definitions shall apply:

(1) ADJUSTABLE RATE MORTGAGE.—The term "adjustable rate mortgage" means a residential mortgage that has an interest rate that is subject to change. A residential mortgage that: (A) does not fully amortize over the term of the obligation; and (B) contains a conditional right to refinance or modify the unamortized principal at the maturity date of the term, shall be considered to be an adjustable rate mortgage for purposes of this Act.

(2) CANCELLATION DATE.—The term "cancellation date" means—

(A) with respect to a fixed rate mortgage, at the option of the mortgagor, the date on which the principal balance of the mortgage—

(i) based solely on the initial amortization schedule for that mortgage, and irrespective of the outstanding balance for that mortgage on that date, is first scheduled to reach 80 percent of the original value of the property securing the loan; or

(ii) based solely on actual payments, reaches 80 percent of the original value of the property securing the loan; and

(B) with respect to an adjustable rate mortgage, at the option of the mortgagor, the date on which the principal balance of the mortgage—

(i) based solely on the amortization schedule then in effect for that mortgage, and irrespective of the outstanding balance for that mortgage on that date, is first scheduled to reach 80 percent of the original value of the property securing the loan; or

(ii) based solely on actual payments, first reaches 80 percent of the original value of the property securing the loan.

(3) FIXED RATE MORTGAGE.—The term "fixed rate mortgage" means a residential mortgage that has an interest rate that is not subject to change.

(4) GOOD PAYMENT HISTORY.—The term "good payment history" means, with respect to a mortgagor, that the mortgagor has not—

(A) made a mortgage payment that was 60 days or longer past due during the 12-month period beginning 24 months before the later of (i) the date on which the mortgage reaches the cancellation date, or (ii) the date that the mortgagor submits a request for cancellation under section 3(a)(1); or

(B) made a mortgage payment that was 30 days or longer past due during the 12-month period preceding the later of (i) the date on which the mortgage reaches the cancellation date, or (ii) the date that the mortgagor submits a request for cancellation under section 3(a)(1).

(5) INITIAL AMORTIZATION SCHEDULE.—The term "initial amortization schedule" means a schedule established at the time at which a residential mortgage transaction is consummated with respect to a fixed rate mortgage, showing—

(A) the amount of principal and interest that is due at regular intervals to retire the principal balance and accrued interest over the amortization period of the loan; and

(B) the unpaid principal balance of the loan after each scheduled payment is made.

(6) AMORTIZATION SCHEDULE THEN IN EFFECT.—The term "amortization schedule then in effect" means, with respect to an adjustable rate mortgage, a schedule established at the time at which the residential mortgage transaction is consummated or, if such schedule has been changed or recalculated, is the most recent schedule under the terms of the note or mortgage, which shows—

(A) the amount of principal and interest that is due at regular intervals to retire the principal balance and accrued interest over the remaining amortization period of the loan; and

(B) the unpaid balance of the loan after each such scheduled payment is made.

(7) MIDPOINT OF THE AMORTIZATION PERIOD.—The term "midpoint of the amortization period" means, with respect to a residential mortgage transaction, the point in time that is halfway through the period that begins upon the first day of the amortization period established at the time a residential mortgage transaction is consummated and ends upon the completion of the entire period over which the mortgage is scheduled to be amortized.

(8) MORTGAGE INSURANCE.—The term "mortgage insurance" means insurance, including any mortgage guaranty insurance, against the nonpayment of, or default on, an individual mortgage or loan involved in a residential mortgage transaction.

(9) MORTGAGE INSURER.—The term "mortgage insurer" means a provider of private mortgage insurance, as described in this Act, that is authorized to transact such business in the State in which the provider is transacting such business.

(10) MORTGAGEE.—The term "mortgagee" means the holder of a residential mortgage at the time at which that mortgage transaction is consummated.

(11) MORTGAGOR.—The term "mortgagor" means the original borrower under a residential mortgage or his or her successors or assignees.

(12) ORIGINAL VALUE.—The term "original value", with respect to a residential mortgage transaction, means the lesser of the sales price of the property securing the mortgage, as reflected in the contract, or the appraised value at the time at which the subject residential mortgage transaction was consummated. In the case of a residential mortgage transaction for refinancing the principal residence of the mortgagor, such term means only the appraised value relied upon by the mortgagee to approve the refinance transaction.

(13) PRIVATE MORTGAGE INSURANCE.—The term "private mortgage insurance" means mortgage insurance other than mortgage insurance made available under the National Housing Act, title 38 of the United States Code, or title V of the Housing Act of 1949.

(14) RESIDENTIAL MORTGAGE.—The term "residential mortgage" means a mortgage, loan, or other evidence of a security interest created with respect to a single-family dwelling that is the principal residence of the mortgagor.

(15) RESIDENTIAL MORTGAGE TRANSACTION.—The term "residential mortgage transaction" means a transaction consummated on or after the date that is 1 year after the date of enactment of this Act[687], in which a mortgage, deed of trust, purchase money security interest arising under an installment sales contract, or equivalent consensual security interest is created or retained against a single-family dwelling that is the principal residence of the mortgagor to finance the acquisition, initial construction, or refinancing of that dwelling.

(16) SERVICER.—The term "servicer" has the same meaning as in section 6(i)(2) of the Real Estate Settlement Procedures Act of 1974, with respect to a residential mortgage.

(17) SINGLE-FAMILY DWELLING.—The term "single-family dwelling" means a residence consisting of 1 family dwelling unit.

(18) TERMINATION DATE.—The term "termination date" means—

(A) with respect to a fixed rate mortgage, the date on which the principal balance of the mortgage, based solely on the initial amortization schedule for that mortgage, and irrespective of the outstanding balance for that mortgage on that date, is first scheduled to reach 78 percent of the original value of the property securing the loan; and

(B) with respect to an adjustable rate mortgage, the date on which the principal balance of the mortgage, based solely on the amortization schedule then in effect for that mortgage, and irrespective of the outstanding balance for that mortgage on that date, is first scheduled to reach 78 percent of the original value of the property securing the loan.

Sec. 3. [12 U.S.C. 4902]
TERMINATION OF PRIVATE MORTGAGE INSURANCE.

(a) BORROWER CANCELLATION.—A requirement for private mortgage insurance in connection with a residential mortgage transaction shall be canceled on the cancellation date or any later date that the mortgagor fulfills all of the requirements under paragraphs (1) through (4), if the mortgagor—

(1) submits a request in writing to the servicer that cancellation be initiated;

(2) has a good payment history with respect to the residential mortgage;

(3) is current on the payments required by the terms of the residential mortgage transaction; and

(4) has satisfied any requirement of the holder of the mortgage (as of the date of a request under paragraph (1)) for—

(A) evidence (of a type established in advance and made known to the mortgagor by the servicer promptly upon receipt of a request under paragraph (1)) that the value of the property securing the mortgage has not declined below the original value of the property; and

[687] The date of enactment was July 29, 1998.

(B) certification that the equity of the mortgagor in the residence securing the mortgage is unencumbered by a subordinate lien.

(b) AUTOMATIC TERMINATION.—A requirement for private mortgage insurance in connection with a residential mortgage transaction shall terminate with respect to payments for that mortgage insurance made by the mortgagor—

(1) on the termination date if, on that date, the mortgagor is current on the payments required by the terms of the residential mortgage transaction; or

(2) if the mortgagor is not current on the termination date, on the first day of the first month beginning after the date that the mortgagor becomes current on the payments required by the terms of the residential mortgage transaction.

(c) FINAL TERMINATION.—If a requirement for private mortgage insurance is not otherwise canceled or terminated in accordance with subsection (a) or (b), in no case may such a requirement be imposed on residential mortgage transactions beyond the first day of the month immediately following the date that is the midpoint of the amortization period of the loan if the mortgagor is current on the payments required by the terms of the mortgage.

(d) TREATMENT OF LOAN MODIFICATIONS.—If a mortgagor and mortgagee (or holder of the mortgage) agree to a modification of the terms or conditions of a loan pursuant to a residential mortgage transaction, the cancellation date, termination date, or final termination shall be recalculated to reflect the modified terms and conditions of such loan.

(e) NO FURTHER PAYMENTS.—No payments or premiums may be required from the mortgagor in connection with a private mortgage insurance requirement terminated or canceled under this section—

(1) in the case of cancellation under subsection (a), more than 30 days after the later of—

(A) the date on which a request under subsection (a)(1) is received; or

(B) the date on which the mortgagor satisfies any evidence and certification requirements under subsection (a)(4);

(2) in the case of termination under subsection (b), more than 30 days after the termination date or the date referred to in subsection (b)(2), as applicable; and

(3) in the case of termination under subsection (c), more than 30 days after the final termination date established under that subsection.

(f) RETURN OF UNEARNED PREMIUMS.—

(1) IN GENERAL.—Not later than 45 days after the termination or cancellation of a private mortgage insurance requirement under this section, all unearned premiums for private mortgage insurance shall be returned to the mortgagor by the servicer.

(2) TRANSFER OF FUNDS TO SERVICER.—Not later than 30 days after notification by the servicer of termination or cancellation of private mortgage insurance under this Act with respect to a mortgagor, a mortgage insurer that is in possession of any unearned premiums of that mortgagor shall transfer to the servicer of the subject mortgage an amount equal to the amount of the unearned premiums for repayment in accordance with paragraph (1).

(g) EXCEPTIONS FOR HIGH RISK LOANS.—

(1) IN GENERAL.—The termination and cancellation provisions in subsections (a) and (b) do not apply to any residential mortgage transaction that, at the time at which the residential mortgage transaction is consummated, has high risks associated with the extension of the loan—

(A) as determined in accordance with guidelines published by the Federal National Mortgage Association and the Federal Home Loan Mortgage Corporation, in the case of a mortgage loan with an original principal balance that does not exceed the applicable annual conforming loan limit for the secondary market established pursuant to section 305(a)(2) of the Federal Home Loan Mortgage Corporation Act, so as to require the imposition or continuation of a private mortgage insurance requirement beyond the terms specified in subsection (a) or (b) of section 3; or

(B) as determined by the mortgagee in the case of any other mortgage, except that termination shall occur—

(i) with respect to a fixed rate mortgage, on the date on which the principal balance of the mortgage, based solely on the initial amortization schedule for that mortgage, and irrespective of the outstanding balance for that mortgage on that date, is first scheduled to reach 77 percent of the original value of the property securing the loan; and

(ii) with respect to an adjustable rate mortgage, on the date on which the principal balance of the mortgage, based solely on the amortization schedule then in effect for that mortgage, and irrespective of the outstanding balance for that mortgage on that date, is first scheduled to reach 77 percent of the original value of the property securing the loan.

(2) TERMINATION AT MIDPOINT.—A private mortgage insurance requirement in connection with a residential mortgage transaction described in paragraph (1) shall terminate in accordance with subsection (c).

(3) RULE OF CONSTRUCTION.—Nothing in this subsection may be construed to require a residential mortgage or residential mortgage transaction described in paragraph (1)(A) to be purchased by the Federal National Mortgage Association or the Federal Home Loan Mortgage Corporation.

(4) GAO REPORT.—Not later than 2 years after the date of the enactment of this Act[688], the Comptroller General of the United States shall submit to the Congress a report describing the volume and characteristics of residential mortgages and residential mortgage transactions that, pursuant to paragraph (1) of this subsection, are exempt from the application of subsections (a) and (b). The report shall—

(A) determine the number or volume of such mortgages and transactions compared to residential mortgages and residential mortgage transactions that are not classified as high-risk for purposes of paragraph (1); and

(B) identify the characteristics of such mortgages and transactions that result in their classification (for purposes of paragraph (1)) as having high risks associated with the extension of the loan and describe such characteristics, including—

(i) the income levels and races of the mortgagors involved;

(ii) the amount of the downpayments involved and the downpayments expressed as percentages of the acquisition costs of the properties involved;

(iii) the types and locations of the properties involved;

(iv) the mortgage principal amounts; and

(v) any other characteristics of such mortgages and transactions that may contribute to their classification as high risk for purposes of paragraph (1), including whether such mortgages are purchase-money mortgages or refinancings and whether and to what extent such loans are low-documentation loans.

(h) ACCRUED OBLIGATION FOR PREMIUM PAYMENTS.—The cancellation or termination under this section of the private mortgage insurance of a mortgagor shall not affect the rights of any mortgagee, servicer, or mortgage insurer to enforce any obligation of such mortgagor for premium payments accrued prior to the date on which such cancellation or termination occurred.

Sec. 4. [12 U.S.C. 4903]
DISCLOSURE REQUIREMENTS.

(a) DISCLOSURES FOR NEW MORTGAGES AT TIME OF TRANSACTION.—

(1) DISCLOSURES FOR NON-EXEMPTED TRANSACTIONS.—In any case in which private mortgage insurance is required in connection with a residential mortgage transaction (other than a residential mortgage transaction described in section 3(g)(1)), at the time at which the transaction is consummated, the mortgagee shall provide to the mortgagor—

(A) if the transaction relates to a fixed rate mortgage—

(i) a written initial amortization schedule; and

(ii) written notice—

(I) that the mortgagor may cancel the requirement in accordance with section 3(a) of this Act indicating the date on which the mortgagor may request cancellation, based solely on the initial amortization schedule;

(II) that the mortgagor may request cancellation in accordance with section 3(a) of this Act earlier than provided for in the initial amortization schedule, based on actual payments;

(III) that the requirement for private mortgage insurance will automatically terminate on the termination date in accordance with section 3(b) of this Act, and what that termination date is with respect to that mortgage; and

[688] The date of enactment was July 29, 1998.

(IV) that there are exemptions to the right to cancellation and automatic termination of a requirement for private mortgage insurance in accordance with section 3(g) of this Act, and whether such an exemption applies at that time to that transaction; and

(B) if the transaction relates to an adjustable rate mortgage, a written notice that—

(i) the mortgagor may cancel the requirement in accordance with section 3(a) of this Act on the cancellation date, and that the servicer will notify the mortgagor when the cancellation date is reached;

(ii) the requirement for private mortgage insurance will automatically terminate on the termination date, and that on the termination date, the mortgagor will be notified of the termination or that the requirement will be terminated as soon as the mortgagor is current on loan payments; and

(iii) there are exemptions to the right of cancellation and automatic termination of a requirement for private mortgage insurance in accordance with section 3(g) of this Act, and whether such an exemption applies at that time to that transaction.

(2) DISCLOSURES FOR EXCEPTED TRANSACTIONS.—In the case of a residential mortgage transaction described in section 3(g)(1), at the time at which the transaction is consummated, the mortgagee shall provide written notice to the mortgagor that in no case may private mortgage insurance be required beyond the date that is the midpoint of the amortization period of the loan, if the mortgagor is current on payments required by the terms of the residential mortgage.

(3) ANNUAL DISCLOSURES.—If private mortgage insurance is required in connection with a residential mortgage transaction, the servicer shall disclose to the mortgagor in each such transaction in an annual written statement—

(A) the rights of the mortgagor under this Act to cancellation or termination of the private mortgage insurance requirement; and

(B) an address and telephone number that the mortgagor may use to contact the servicer to determine whether the mortgagor may cancel the private mortgage insurance.

(4) APPLICABILITY.—Paragraphs (1) through (3) shall apply with respect to each residential mortgage transaction consummated on or after the date that is 1 year after the date of enactment of this Act.[689]

(b) DISCLOSURES FOR EXISTING MORTGAGES.—If private mortgage insurance was required in connection with a residential mortgage entered into at any time before the effective date of this Act, the servicer shall disclose to the mortgagor in each such transaction in an annual written statement—

(1) that the private mortgage insurance may, under certain circumstances, be canceled by the mortgagor (with the consent of the mortgagee or in accordance with applicable State law); and

(2) an address and telephone number that the mortgagor may use to contact the servicer to determine whether the mortgagor may cancel the private mortgage insurance.

(c) INCLUSION IN OTHER ANNUAL NOTICES.—The information and disclosures required under subsection (b) and subsection (a)(3) may be provided on the annual disclosure relating to the escrow account made as required under the Real Estate Settlement Procedures Act of 1974, or as part of the annual disclosure of interest payments made pursuant to Internal Revenue Service regulations, and on a form promulgated by the Internal Revenue Service for that purpose.

(d) STANDARDIZED FORMS.—The mortgagee or servicer may use standardized forms for the provision of disclosures required under this section, which disclosures shall relate to the mortgagor's rights under this Act.

Sec. 5. [12 U.S.C. 4904]
NOTIFICATION UPON CANCELLATION OR TERMINATION.

(a) IN GENERAL.—Not later than 30 days after the date of cancellation or termination of a private mortgage insurance requirement in accordance with this Act, the servicer shall notify the mortgagor in writing—

(1) that the private mortgage insurance has terminated and that the mortgagor no longer has private mortgage insurance; and

(2) that no further premiums, payments, or other fees shall be due or payable by the mortgagor in connection with the private mortgage insurance.

(b) NOTICE OF GROUNDS.—

[689] The date of enactment was July 29, 1998.

(1) IN GENERAL.—If a servicer determines that a mortgage did not meet the requirements for termination or cancellation of private mortgage insurance under subsection (a) or (b) of section 3, the servicer shall provide written notice to the mortgagor of the grounds relied on to make the determination (including the results of any appraisal used to make the determination).

(2) TIMING.—Notice required by paragraph (1) shall be provided—

(A) with respect to cancellation of private mortgage insurance under section 3(a), not later than 30 days after the later of—

(i) the date on which a request is received under section 3(a)(1); or

(ii) the date on which the mortgagor satisfies any evidence and certification requirements under section 3(a)(3); and

(B) with respect to termination of private mortgage insurance under section 3(b), not later than 30 days after the scheduled termination date.

Sec. 6. [12 U.S.C. 4905]
DISCLOSURE REQUIREMENTS FOR LENDER PAID MORTGAGE INSURANCE.

(a) DEFINITIONS.—For purposes of this section—

(1) the term "borrower paid mortgage insurance" means private mortgage insurance that is required in connection with a residential mortgage transaction, payments for which are made by the borrower;

(2) the term "lender paid mortgage insurance" means private mortgage insurance that is required in connection with a residential mortgage transaction, payments for which are made by a person other than the borrower; and

(3) the term "loan commitment" means a prospective mortgagee's written confirmation of its approval, including any applicable closing conditions, of the application of a prospective mortgagor for a residential mortgage loan.

(b) EXCLUSION.—Sections 3 through 5 do not apply in the case of lender paid mortgage insurance.

(c) NOTICES TO MORTGAGOR.—In the case of lender paid mortgage insurance that is required in connection with a residential mortgage transaction—

(1) not later than the date on which a loan commitment is made for the residential mortgage transaction, the prospective mortgagee shall provide to the prospective mortgagor a written notice—

(A) that lender paid mortgage insurance differs from borrower paid mortgage insurance, in that lender paid mortgage insurance may not be canceled by the mortgagor, while borrower paid mortgage insurance could be cancelable by the mortgagor in accordance with section 3(a) of this Act, and could automatically terminate on the termination date in accordance with section 3(b) of this Act;

(B) that lender paid mortgage insurance—

(i) usually results in a residential mortgage having a higher interest rate than it would in the case of borrower paid mortgage insurance; and

(ii) terminates only when the residential mortgage is refinanced (under the meaning given such term in the regulations issued by the Board of Governors of the Federal Reserve System to carry out the Truth in Lending Act (15 U.S.C. 1601 et seq.)), paid off, or otherwise terminated; and

(C) that lender paid mortgage insurance and borrower paid mortgage insurance both have benefits and disadvantages, including a generic analysis of the differing costs and benefits of a residential mortgage in the case lender paid mortgage insurance versus borrower paid mortgage insurance over a 10-year period, assuming prevailing interest and property appreciation rates;

(D) that lender paid mortgage insurance may be tax-deductible for purposes of Federal income taxes, if the mortgagor itemizes expenses for that purpose; and

(2) not later than 30 days after the termination date that would apply in the case of borrower paid mortgage insurance, the servicer shall provide to the mortgagor a written notice indicating that the mortgagor may wish to review financing options that could eliminate the requirement for private mortgage insurance in connection with the residential mortgage transaction.

(d) STANDARD FORMS.—The servicer of a residential mortgage transaction may develop and use a standardized form or forms for the provision of notices to the mortgagor, as required under subsection (c).

Sec. 7. [12 U.S.C. 4906]
FEES FOR DISCLOSURES.

No fee or other cost may be imposed on any mortgagor with respect to the provision of any notice or information to the mortgagor pursuant to this Act.

Sec. 8. [12 U.S.C. 4907]
CIVIL LIABILITY.

(a) IN GENERAL.—Any servicer, mortgagee, or mortgage insurer that violates a provision of this Act shall be liable to each mortgagor to whom the violation relates for—

(1) in the case of an action by an individual, or a class action in which the liable party is not subject to section 10, any actual damages sustained by the mortgagor as a result of the violation, including interest (at a rate determined by the court) on the amount of actual damages, accruing from the date on which the violation commences;

(2) in the case of—

(A) an action by an individual, such statutory damages as the court may allow, not to exceed $2,000; and

(B) in the case of a class action—

(i) in which the liable party is subject to section 10, such amount as the court may allow, except that the total recovery under this subparagraph in any class action or series of class actions arising out of the same violation by the same liable party shall not exceed the lesser of $500,000 or 1 percent of the net worth of the liable party, as determined by the court; and

(ii) in which the liable party is not subject to section 10, such amount as the court may allow, not to exceed $1,000 as to each member of the class, except that the total recovery under this subparagraph in any class action or series of class actions arising out of the same violation by the same liable party shall not exceed the lesser of $500,000 or 1 percent of the gross revenues of the liable party, as determined by the court;

(3) costs of the action; and

(4) reasonable attorney fees, as determined by the court.

(b) TIMING OF ACTIONS.—No action may be brought by a mortgagor under subsection (a) later than 2 years after the date of the discovery of the violation that is the subject of the action.

(c) LIMITATIONS ON LIABILITY.—

(1) IN GENERAL.—With respect to a residential mortgage transaction, the failure of a servicer to comply with the requirements of this Act due to the failure of a mortgage insurer or a mortgagee to comply with the requirements of this Act, shall not be construed to be a violation of this Act by the servicer.

(2) RULE OF CONSTRUCTION.—Nothing in paragraph (1) shall be construed to impose any additional requirement or liability on a mortgage insurer, a mortgagee, or a holder of a residential mortgage.

Sec. 9. [12 U.S.C. 4908]
EFFECT ON OTHER LAWS AND AGREEMENTS.

(a) EFFECT ON STATE LAW.—

(1) IN GENERAL.—With respect to any residential mortgage or residential mortgage transaction consummated after the effective date of this Act, and except as provided in paragraph (2), the provisions of this Act shall supersede any provisions of the law of any State relating to requirements for obtaining or maintaining private mortgage insurance in connection with residential mortgage transactions, cancellation or automatic termination of such private mortgage insurance, any disclosure of information addressed by this Act, and any other matter specifically addressed by this Act.

(2) PROTECTION OF EXISTING STATE LAWS.—

(A) IN GENERAL.—The provisions of this Act do not supersede protected State laws, except to the extent that the protected State laws are inconsistent with any provision of this Act, and then only to the extent of the inconsistency.

(B) INCONSISTENCIES.—A protected State law shall not be considered to be inconsistent with a provision of this Act if the protected State law—

(i) requires termination of private mortgage insurance or other mortgage guaranty insurance—

(I) at a date earlier than as provided in this Act; or

(II) when a mortgage principal balance is achieved that is higher than as provided in this Act; or

(ii) requires disclosure of information—

(I) that provides more information than the information required by this Act; or

(II) more often or at a date earlier than is required by this Act.

(C) PROTECTED STATE LAWS.—For purposes of this paragraph, the term "protected State law" means a State law—

(i) regarding any requirements relating to private mortgage insurance in connection with residential mortgage transactions;

(ii) that was enacted not later than 2 years after the date of the enactment of this Act[690]; and

(iii) that is the law of a State that had in effect, on or before January 2, 1998, any State law described in clause (i).

(b) EFFECT ON OTHER AGREEMENTS.—The provisions of this Act shall supersede any conflicting provision contained in any agreement relating to the servicing of a residential mortgage loan entered into by the Federal National Mortgage Association, the Federal Home Loan Mortgage Corporation, or any private investor or note holder (or any successors thereto).

Sec. 10. [12 U.S.C. 4909]
ENFORCEMENT.

(a) IN GENERAL.—Subject to subtitle B of the Consumer Financial Protection Act of 2010, compliance with the requirements imposed under this Act shall be enforced under—

(1) section 8 of the Federal Deposit Insurance Act, by the appropriate Federal banking agency (as defined in section 3(q) of that Act), with respect to—

(A) insured depository institutions (as defined in section 3(c)(2) of that Act);

(B) depository institutions described in clause (i), (ii), or (iii) of section 19(b)(1)(A) of the Federal Reserve Act which are not insured depository institutions (as defined in section 3(c)(2) of the Federal Deposit Insurance Act); and

(C) depository institutions described in clause (v) or (vi) of section 19(b)(1)(A) of the Federal Reserve Act which are not insured depository institutions (as defined in section 3(c)(2) of the Federal Deposit Insurance Act);

(2) the Federal Credit Union Act, by the National Credit Union Administration Board in the case of depository institutions described in clause (iv) of section 19(b)(1)(A) of the Federal Reserve Act;

(3) part C of title V of the Farm Credit Act of 1971 (12 U.S.C. 2261 et seq.), by the Farm Credit Administration in the case of an institution that is a member of the Farm Credit System; and

(4) subtitle E of the Consumer Financial Protection Act of 2010, by the Bureau of Consumer Financial Protection, with respect to any person subject to this Act.

(b) ADDITIONAL ENFORCEMENT POWERS.—

(1) VIOLATION OF THIS ACT TREATED AS VIOLATION OF OTHER ACTS.—For purposes of the exercise by any agency referred to in subsection (a) of such agency's powers under any Act referred to in such subsection, a violation of a requirement imposed under this Act shall be deemed to be a violation of a requirement imposed under that Act.

(2) ENFORCEMENT AUTHORITY UNDER OTHER ACTS.—In addition to the powers of any agency referred to in subsection (a) under any provision of law specifically referred to in such subsection, each such agency may exercise, for purposes of enforcing compliance with any requirement imposed under this Act, any other authority conferred on such agency by law[691].

(c) ENFORCEMENT AND REIMBURSEMENT.—In carrying out its enforcement activities under this section, each agency referred to in subsection (a) shall—

(1) notify the mortgagee or servicer of any failure of the mortgagee or servicer to comply with 1 or more provisions of this Act;

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[690] The date of enactment was July 29, 1998.

[691] Section 1095(2) of Public Law 111-203 provides for an amendment to insert before the period at the end the following: ", subject to subtitle B of the Consumer Financial Protection Act of 2010" in section 10(b)(2). Section 1100H of such Public Law provides that the amendment is subject to a designated transfer date. See section 1062 of such Public Law for effective date (July 21, 2011) and a possible extension of such date.

(2) with respect to each such failure to comply, require the mortgagee or servicer, as applicable, to correct the account of the mortgagor to reflect the date on which the mortgage insurance should have been canceled or terminated under this Act; and

(3) require the mortgagee or servicer, as applicable, to reimburse the mortgagor in an amount equal to the total unearned premiums paid by the mortgagor after the date on which the obligation to pay those premiums ceased under this Act.

Sec. 11. [12 U.S.C. 4910]
CONSTRUCTION.

(a) PMI NOT REQUIRED.—Nothing in this Act shall be construed to impose any requirement for private mortgage insurance in connection with a residential mortgage transaction.

(b) NO PRECLUSION OF CANCELLATION OR TERMINATION AGREEMENTS.—Nothing in this Act shall be construed to preclude cancellation or termination, by agreement between a mortgagor and the holder of the mortgage, of a requirement for private mortgage insurance in connection with a residential mortgage transaction before the cancellation or termination date established by this Act for the mortgage.

Sec. 12.
AMENDMENT TO HIGHER EDUCATION ACT OF 1965.

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Sec. 13. [12 U.S.C. 4901 note]
EFFECTIVE DATE.

This Act, other than section 14, shall become effective 1 year after the date of enactment of this Act.[692]

Sec. 14.
ABOLISHMENT OF THE THRIFT DEPOSITOR PROTECTION OVERSIGHT BOARD.

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END OF STATUTE

[692] The date of enactment was July 29, 1998.

PART XI—ORGANIZATION AND ADMINISTRATION OF DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT ACT

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT ACT
[Public Law 89-174; 79 Stat. 667; 42 U.S.C. 3531—3537c]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Department of Housing and Urban Development Act". **[42 U.S.C. 3531 note]**

Sec. 2. [42 U.S.C. 3531]
DECLARATION OF PURPOSE.

The Congress hereby declares that the general welfare and security of the Nation and the health and living standards of our people require, as a matter of national purpose, sound development of the Nation's communities and metropolitan areas in which the vast majority of its people live and work.

To carry out such purpose, and in recognition of the increasing importance of housing and urban development in our national life, the Congress finds that establishment of an executive department is desirable to achieve the best administration of the principal programs of the Federal Government which provide assistance for housing and for the development of the Nation's communities; to assist the President in achieving maximum coordination of the various Federal activities which have a major effect upon urban community, suburban, or metropolitan development; to encourage the solution of problems of housing, urban development, and mass transportation through State, county, town, village, or other local and private action, including promotion of interstate, regional, and metropolitan cooperation; to encourage the maximum contributions that may be made by vigorous private homebuilding and mortgage lending industries to housing, urban development, and the national economy; and to provide for full and appropriate consideration, at the national level, of the needs and interests of the Nation's communities and of the people who live and work in them.

Sec. 3. [42 U.S.C. 3532]
ESTABLISHMENT OF DEPARTMENT.

(a) There is hereby established at the seat of government an executive department to be known as the Department of Housing and Urban Development (hereinafter referred to as the "Department"). There shall be at the head of the Department a Secretary of Housing and Urban Development (hereinafter referred to as the "Secretary"), who shall be appointed by the President by and with the advice and consent of the Senate. The Department shall be administered under the supervision and direction of the Secretary.

(b) The Secretary shall, among his responsibilities advise the President with respect to Federal programs and activities relating to housing and urban development; develop and recommend to the President policies for fostering the orderly growth and development of the Nation's urban areas; exercise leadership at the direction of the President in coordinating Federal activities affecting housing and urban development; provide technical assistance and information, including a clearinghouse service to aid State, county, town, village, or other local governments in developing solutions to community and metropolitan development problems; consult and cooperate with State Governors and State agencies, including, when appropriate, holding informal public hearings, with respect to Federal and State programs for assisting communities in developing solutions to community and metropolitan development problems and for encouraging effective regional cooperation in the planning and conduct of community and metropolitan development programs and projects; encourage comprehensive planning by the State and local governments with a view to coordinating Federal, State, and local urban and community development activities; encourage private enterprise to serve as large a part of the Nation's total housing and urban development needs as it can and develop the fullest cooperation with private enterprise in achieving the objectives of the

Department; and conduct continuing comprehensive studies, and make available findings, with respect to the problems of housing and urban development.

(c) Nothing in this Act shall be construed to deny or limit the benefits of any program, function, or activity assigned to the Department by this or any other Act to any community on the basis of its population or corporate status, except as may be expressly provided by law.

(d) The Secretary shall—

(1) promote the coordination of all programs under the jurisdiction of the Secretary that are carried on within an enterprise zone designated pursuant to section 701 of the Housing and Community Development Act of 1987;

(2) expedite, to the greatest extent possible, the consideration of applications for programs referred to in paragraph (1) through the consolidation of forms or otherwise; and

(3) provide, whenever possible, for the consolidation of periodic reports required under programs referred to in paragraph (1) into one summary report submitted at such intervals as may be designated by the Secretary.

Sec. 4. [42 U.S.C. 3533
UNDER SECRETARY AND OTHER OFFICERS AND OFFICES.

(a)(1)There shall be in the Department a Deputy Secretary,[693] 7 Assistant Secretaries, and a general counsel, who shall be appointed by the President by and with the advice and consent of the Senate, and who shall perform such functions, powers, and duties as the Secretary shall prescribe from time to time.

(2) There shall be in the Department an Assistant Secretary for Public Affairs, who shall be appointed by the President and shall perform such functions, powers, and duties as the Secretary shall prescribe from time to time.

(b) There shall be in the Department a Federal Housing Commissioner, who shall be one of the Assistant Secretaries, who shall head a Federal Housing Administration within the Department, who shall have such duties and powers as may be prescribed by the Secretary, and who shall administer, under the supervision and direction of the Secretary, departmental programs relating to the private mortgage market. The Secretary shall ensure, to the extent practicable, that managers of Federal Housing Administration programs, at each level of the Department, shall be accountable for program operation, risk management, management of cash and other Federal assets, and program financing related to activities over which such managers have responsibility.

(c) There shall be in the Department a Director of Urban Program Coordination, who shall be designated by the Secretary. He shall assist the Secretary in carrying out his responsibilities to the President with respect to achieving maximum coordination of the programs of the various departments and agencies of the Government which have a major impact on community development. In providing such assistance, the Director shall make such studies of urban and community problems as the Secretary shall request, and shall develop recommendations relating to the administration of Federal programs affecting such problems, particularly with respect to achieving effective cooperation among the Federal, State, and local agencies concerned. Subject to the direction of the Secretary, the Director shall, in carrying out his responsibilities, (1) establish and maintain close liaison with the Federal departments and agencies concerned, and (2) consult with State, local, and regional officials, and consider their recommendations with respect to such programs.

(d) There shall be in the Department an Assistant to the Secretary, designated by the Secretary, who shall be responsible for providing information and advice to nonprofit organizations desiring to sponsor housing projects assisted under programs administered by the Department.

(e)(1)(A) There shall be in the Department a Special Assistant for Indian and Alaska Native Programs, who shall be located in the Office of the Assistant Secretary for Public and Indian Housing. The Special Assistant for Indian and Alaska Native Programs shall be designated by the Secretary not later than 60 days after the date of enactment of this subsection.

(B) The Special Assistant for Indian and Alaska Native Programs shall be appointed based solely on merit and shall be covered under the provisions of title 5, United States Code, governing appointments in the competitive service.

(C) The Special Assistant for Indian and Alaska Native Programs shall be responsible for—

[693] Section 112(a)(4) of the Federal Employees Pay Comparability Act of 1990, which consists of section 529 of Pub. L. 101-509, approved November 5, 1990, replaced "Under Secretary" with "Deputy Secretary". Subsection (b) of such section deemed any reference to the "Under Secretary of Housing and Urban Development" in any statute, reorganization plan, regulation, executive order, or any document issued pursuant thereto in force on the date of enactment of such Act to be a reference to the "Deputy Secretary of Housing and Urban Development".

(i) administering, in coordination with the relevant office in the Department, the provision of housing assistance to Indian tribes or Indian housing authorities under each program of the Department that provides for such assistance;

(ii) administering the community development block grant program for Indian tribes under title I of the Housing and Community Development Act of 1974 and the provision of assistance to Indian tribes under such Act;

(iii) directing, coordinating, and assisting in managing any regional offices of the Department that administer Indian programs to the extent of such programs; and

(iv) coordinating all programs of the Department relating to Indian and Alaska Native housing and community development.

(D) The Secretary shall include in the annual report under section 8 a description of the extent of the housing needs for Indian families and community development needs of Indian tribes in the United States and the activities of the Department, and extent of such activities, in meeting such needs.

(2) The Secretary shall, not later than December 1 of each year, submit to Congress an annual report[694] which shall include—

(A) a description of his actions during the current year and a projection of his activities during the succeeding years;

(B) estimate of the cost of the projected activities for succeeding fiscal years;

(C) a statistical report on the conditions of Indian and Alaska Native housing; and

(D) recommendations for such legislative, administrative, and other actions, as he deems appropriate.

(f) There shall be in the Department a Federal Housing Administration Comptroller, designated by the Secretary, who shall be responsible for overseeing the financial operations of the Federal Housing Administration.[695]

(g) OFFICE OF HOUSING COUNSELING.—

(1) ESTABLISHMENT.—There is established, in the Department, the Office of Housing Counseling.

(2) DIRECTOR.—There is established the position of Director of Housing Counseling. The Director shall be the head of the Office of Housing Counseling and shall be appointed by, and shall report to, the Secretary. Such position shall be a career-reserved position in the Senior Executive Service.

(3) FUNCTIONS.—

(A) IN GENERAL.—The Director shall have primary responsibility within the Department for all activities and matters relating to homeownership counseling and rental housing counseling, including—

(i) research, grant administration, public outreach, and policy development relating to such counseling; and

(ii) establishment, coordination, and administration of all regulations, requirements, standards, and performance measures under programs and laws administered by the Department that relate to housing counseling, homeownership counseling (including maintenance of homes), mortgage-related counseling (including home equity conversion mortgages and credit protection options to avoid foreclosure),

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[694] Section 3003(a)(1) of the Federal Reports Elimination and Sunset Act of 1995, Pub. L. 104-66, which is set forth post in this part, provides that certain provisions of law requiring submittal to Congress of an annual, semiannual, or other regular periodic report shall cease to be effective on May 15, 2000. This paragraph is covered by such provision. However, section 1102 of the American Homeownership and Economic Opportunity Act of 2000, Public Law 106-569, set forth post in this part, provides that such section 3003(a)(1) shall not apply to the report required to be submitted under this paragraph.

[695] The Departments of Veterans Affairs and Housing and Urban Development, and Independent Agencies Appropriations Act, 1992, Pub. L. 102-139, 105 Stat. 753, provides as follows: "That there shall be established, in the Office of the Secretary, an Office of Lead Based Paint Abatement and Poisoning Prevention to be headed by a career Senior Executive Service employee who shall be responsible for all lead-based paint abatement and poisoning prevention activities (including, but not limited to, research, abatement, training regulations and policy development)".

The Departments of Veterans Affairs and Housing and Urban Development, and Independent Agencies Appropriations Act, 1993, Pub. L. 102-389, 106 Stat. 1593, provides as follows:

"Notwithstanding any other provision of this or any other Act with respect to any fiscal year, the Office of Lead-Based Paint Abatement and Poisoning Prevention shall be contained within the Office of the Secretary, and said Office shall have ultimate responsibility within the Department of Housing and Urban Development, except for the Secretary, for all matters related to the abatement of lead in housing, and research related to lead abatement, consistent with the responsibilities outlined for the Office in Senate Report 102-107.".

and rental housing counseling, including the requirements, standards, and performance measures relating to housing counseling.

(B) SPECIFIC FUNCTIONS.—The Director shall carry out the functions assigned to the Director and the Office under this section and any other provisions of law. Such functions shall include establishing rules necessary for—

(i) the counseling procedures under section 106(g)(1) of the Housing and Urban Development Act of 1968 (12 U.S.C. 1701x(h)(1));

(ii) carrying out all other functions of the Secretary under section 106(g) of the Housing and Urban Development Act of 1968, including the establishment, operation, and publication of the availability of the toll-free telephone number under paragraph (2) of such section;

(iii) contributing to the distribution of home buying information booklets pursuant to section 5 of the Real Estate Settlement Procedures Act of 1974 (12 U.S.C. 2604);

(iv) carrying out the certification program under section 106(e) of the Housing and Urban Development Act of 1968 (12 U.S.C. 1701x(e));

(v) carrying out the assistance program under section 106(a)(4) of the Housing and Urban Development Act of 1968, including criteria for selection of applications to receive assistance;

(vi) carrying out any functions regarding abusive, deceptive, or unscrupulous lending practices relating to residential mortgage loans that the Secretary considers appropriate, which shall include conducting the study under section 6 of the Expand and Preserve Home Ownership Through Counseling Act;

(vii) providing for operation of the advisory committee established under paragraph (4) of this subsection;

(viii) collaborating with community-based organizations with expertise in the field of housing counseling; and

(ix) providing for the building of capacity to provide housing counseling services in areas that lack sufficient services, including underdeveloped areas that lack basic water and sewer systems, electricity services, and safe, sanitary housing.

(4) ADVISORY COMMITTEE.—

(A) IN GENERAL.—The Secretary shall appoint an advisory committee to provide advice regarding the carrying out of the functions of the Director.

(B) MEMBERS.—Such advisory committee shall consist of not more than 12 individuals, and the membership of the committee shall equally represent the mortgage and real estate industry, including consumers and housing counseling agencies certified by the Secretary.

(C) TERMS.—Except as provided in subparagraph (D), each member of the advisory committee shall be appointed for a term of 3 years. Members may be reappointed at the discretion of the Secretary.

(D) TERMS OF INITIAL APPOINTEES.—As designated by the Secretary at the time of appointment, of the members first appointed to the advisory committee, 4 shall be appointed for a term of 1 year and 4 shall be appointed for a term of 2 years.

(E) PROHIBITION OF PAY; TRAVEL EXPENSES.—Members of the advisory committee shall serve without pay, but shall receive travel expenses, including per diem in lieu of subsistence, in accordance with applicable provisions under subchapter I of chapter 57 of title 5, United States Code.

(F) ADVISORY ROLE ONLY.—The advisory committee shall have no role in reviewing or awarding housing counseling grants.

(5) SCOPE OF HOMEOWNERSHIP COUNSELING.—In carrying out the responsibilities of the Director, the Director shall ensure that homeownership counseling provided by, in connection with, or pursuant to any function, activity, or program of the Department addresses the entire process of homeownership, including the decision to purchase a home, the selection and purchase of a home, issues arising during or affecting the period of ownership of a home (including refinancing, default and foreclosure, and other financial decisions), and the sale or other disposition of a home.

(h) SPECIAL ASSISTANT FOR VETERANS AFFAIRS.—[696]

(1) POSITION.—There shall be in the Office of the Secretary a Special Assistant for Veterans Affairs, who shall report directly to the Secretary.

(2) APPOINTMENT.—The Special Assistant for Veterans Affairs shall be appointed based solely on merit and shall be covered under the provisions of title 5, United States Code, governing appointments in the competitive service.

(3) RESPONSIBILITIES.—The Special Assistant for Veterans Affairs shall be responsible for—

(A) ensuring veterans have fair access to housing and homeless assistance under each program of the Department providing either such assistance;

(B) coordinating all programs and activities of the Department relating to veterans;

(C) serving as a liaison for the Department with the Department of Veterans Affairs, including establishing and maintaining relationships with the Secretary of Veterans Affairs;

(D) serving as a liaison for the Department, and establishing and maintaining relationships with the United States Interagency Council on Homelessness and officials of State, local, regional, and nongovernmental organizations concerned with veterans;

(E) providing information and advice regarding—

(i) sponsoring housing projects for veterans assisted under programs administered by the Department; or

(ii) assisting veterans in obtaining housing or homeless assistance under programs administered by the Department;

(F) coordinating with the Secretary of Housing and Urban Development and the Secretary of Veterans Affairs in carrying out section 404 of the Housing Opportunity Through Modernization Act of 2016;

(G) collaborating with the Department of Veterans Affairs on making joint recommendations to the Congress, the Secretary of Housing and Urban Development, and the Secretary of Veterans Affairs on how to better coordinate and improve services to veterans under both Department of Housing and Urban Development and Department of Veteran Affairs veterans housing programs, including ways to improve the Independent Living Program of the Department of Veteran Affairs; and

(H) carrying out such other duties as may be assigned to the Special Assistant by the Secretary or by law.

Sec. 5. [42 U.S.C. 3534]
TRANSFERS TO DEPARTMENT.

(a) Except as otherwise provided in subsection (b) of this section, there are hereby transferred to and vested in the Secretary all of the functions, powers, and duties of the Housing and Home Finance Agency, of the Federal Housing Administration and the Public Housing Administration in that Agency, and of the heads, and other officers and offices of said agencies.

(b) The Government National Mortgage Association, together with its functions, powers, and duties, is hereby transferred to the Department. The next to the last sentence of section 308 of the Federal National Mortgage Association Charter Act is hereby repealed.

(c) The President shall undertake studies of the organization of housing and urban development functions and programs within the Federal Government, and he shall provide the Congress with the findings and conclusions of such studies, together with his recommendations regarding the transfer of such functions and programs to or from the Department. Notwithstanding any other provision of this Act, none of the functions of the Secretary of the Interior authorized under the Land and Water Conservation Fund Act of 1965 (78 Stat. 897) or other functions carried out by the Bureau of Outdoor Recreation shall be transferred from the Department of the Interior or in any way be limited geographically unless specifically provided for by reorganization plan pursuant to provisions of the Reorganization Act of 1949 (63 Stat. 203), as amended, or by statute.

[696] Section 403(b) of the Housing Opportunity Through Modernization Act of 2016 (Public Law 114-201):

(b) TRANSFER OF POSITION IN OFFICE OF DEPUTY ASSISTANT SECRETARY FOR SPECIAL NEEDS.—On the date that the initial Special Assistant for Veterans Affairs is appointed pursuant to section 4(h)(2) of the Department of Housing and Urban Development Act, as added by subsection (a) of this section, the position of Special Assistant for Veterans Programs in the Office of the Deputy Assistant Secretary for Special Needs of the Department of Housing and Urban Development shall be terminated.

Sec. 6.
CONFORMING AMENDMENTS.

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Sec. 7. [42 U.S.C. 3535
ADMINISTRATIVE PROVISIONS.

(a) The personnel employed in connection with, and the assets, liabilities, contracts, property, records, and unexpended balances of appropriations, authorizations, allocations, or other funds held, used, arising from, or available or to be made available in connection with, the functions, powers, and duties transferred by section 5 of this Act are hereby transferred with such functions, powers, and duties, respectively.

[(b) [Repealed.]]

(c) The Secretary is authorized, subject to the civil service and classification laws, to select, appoint, employ, and fix the compensation of such officers and employees, including attorneys as shall be necessary to carry out the provisions of this Act and to prescribe their authority and duties: *Provided*, That any other provisions of law to the contrary notwithstanding, the Secretary may fix the compensation for not more than six positions in the Department at the annual rate applicable to positions in level V of the Federal Executive Salary Schedule provided by the Federal Executive Salary Act of 1964.

(d) The Secretary may delegate any of his functions, powers, and duties to such officers and employees of the Department as he may designate, may authorize such successive redelegations of such functions, powers, and duties as he may deem desirable, and may make such rules and regulations as may be necessary to carry out his functions, powers, and duties. The second proviso of section 101(c) of the Housing Act of 1949 is hereby repealed.

(e) The Secretary may obtain services as authorized by section 15 of the Act of August 2, 1946, at rates for individuals not to exceed the per diem equivalent to the highest rate for grade GS-18 of the General Schedule under section 5332 of title 5, United States Code. The Secretary is authorized to enter into contracts with private companies for the provision of such managerial support to the Federal Housing Administration as the Secretary determines to be appropriate, including but not limited to the management of insurance risk and the improvement of the delivery of mortgage insurance.

(f) The Secretary is authorized to establish a working capital fund, to be available without fiscal year limitation, for expenses necessary for the maintenance and operation of such common administrative services as he shall find to be desirable in the interest of economy and efficiency in the Department, including such services as a central supply service for stationery and other supplies and equipment for which adequate stocks may be maintained to meet in whole or in part the requirements of the Department and its agencies; central messenger, mail, telephone, and other communications services; office space; central services for document reproduction and for graphics and visual aids; and a central library service. In addition to amounts appropriated to provide capital for said fund, which appropriations are hereby authorized, the fund shall be capitalized by transfer to it of such stocks of supplies and equipment on hand or on order as the Secretary shall direct. Such funds shall be reimbursed from available funds of agencies and offices in the Department for which services are performed at rates which will return in full all expenses of operation, including reserves for accrued annual leave and for depreciation of equipment.

(g) The Secretary shall cause a seal of office to be made for the Department of such device as he shall approve, and judicial notice shall be taken of such seal.

(h) Except as such authority is otherwise expressly provided in any other Act administered by the Secretary, such financial transactions of the Secretary as the making of loans or grants (and vouchers approved by the Secretary in connection with such financial transactions) shall be final and conclusive upon all officers of the Government. Funds made available to the Secretary pursuant to any provision of law for such financial transactions shall be deposited in a checking account or accounts with the Treasurer of the United States. Such funds and any receipts and assets obtained or held by the Secretary in connection with such financial transactions shall be available, in such amounts as may from year to year be authorized by the Congress, for the administrative expenses of the Secretary in connection with such financial transactions. Notwithstanding the provisions of any other law, the Secretary may, with the approval of the Comptroller General, consolidate into one or more accounts for banking and checking purposes all cash obtained or held in connection with such financial transactions, including amounts appropriated, from whatever source derived.

(i) Except as such authority is otherwise expressly provided in any other Act administered by the Secretary, the Secretary is authorized to—

(1) foreclose on any property or commence any action to protect or enforce any right conferred upon him by any law, contract, or other agreement, and bid for and purchase at any foreclosure or any other

sale any property in connection with which he has made a loan or grant. In the event of any such acquisition, the Secretary may, notwithstanding any other provision of law relating to the acquisition, handling, or disposal of real property by the United States, complete, administer, remodel and convert, dispose of lease, and otherwise deal with, such property: *Provided*, That any such acquisition of real property shall not deprive any State or political subdivision thereof of its civil or criminal jurisdiction in and over such property or impair the civil rights under the State or local laws of the inhabitants on such property: *Provided further*, That section 3709 of the Revised Statutes shall not apply to any contract for services or supplies on account of any property so acquired or owned if the amount of such contract does not exceed $2,500;

(2) enter into agreements to pay annual sums in lieu of taxes to any State or local taxing authority with respect to any real property so acquired or owned;

(3) sell or exchange at public or private sale, or lease, real or personal property, and sell or exchange any securities or obligations, upon such terms as he may fix;

(4) obtain insurance against loss in connection with property and other assets held;

(5) consent to the modification, with respect to the rate of interest, time of payment of any installment of principal or interest, security, or any other term of any contract or agreement to which he is a party or which has been transferred to him; and

(6) include in any contract or instrument such other covenants, conditions, or provisions as he may deem necessary, including any provisions relating to the authority or requirements under paragraph (5).

(j) Notwithstanding any other provision of law the Secretary is authorized to establish fees and charges, chargeable against program beneficiaries and project participants, which shall be adequate to cover over the long run, costs of inspection, project review and financing service, audit by Federal or federally authorized auditors, and other beneficial rights, privileges, licenses, and services. Such fees and charges heretofore or hereafter collected shall be considered nonadministrative and shall remain available for operating expenses of the Department in providing similar services on a consolidated basis.

(k)(1) The Secretary is authorized to accept and utilize voluntary and uncompensated services and accept, hold, administer, and utilize gifts and bequests of property, both real and personal, for the purpose of aiding or facilitating the work of the Department. Gifts and bequests of money and the proceeds from sales of other property received as gifts or bequest shall be deposited in the Treasury in a separate fund and shall be disbursed upon order of the Secretary. Property accepted pursuant to this paragraph, and the proceeds thereof, shall be used as nearly as possible in accordance with the terms of the gift or bequest.

(2) For the purpose of Federal income, estate, and gift taxes, property accepted under paragraph (1) shall be considered as a gift or bequest to or for use of the United States.

(3) Upon the request of the Secretary, the Secretary of the Treasury may invest and reinvest in securities of the United States or in securities guaranteed as to principal and interest by the United States any moneys contained in the fund provided for in paragraph (1). Income accruing from such securities and from any other property held by the Secretary pursuant to paragraph (1) shall be deposited to the credit of the fund and shall be disbursed upon order of the Secretary.

(l) The Secretary is authorized to appoint, without regard to the civil service laws, such advisory committees as shall be appropriate for the purpose of consultation with and advice to the Department in performance of its functions. Members of such committees, other than those regularly employed by the Federal Government, while attending meetings of such committees or otherwise serving at the request of the Secretary, may be paid compensation at rates not exceeding those authorized for individuals under subsection (e) of this section, and while so serving away from their homes or regular places of business, may be allowed travel expenses, including per diem in lieu of subsistence, as authorized by section 5703 of title 5, United States Code, for persons in the Government service employed intermittently.

(m) Whenever he shall determine that, because of location, or other considerations, any rental housing project assisted under title II of the National Housing Act or title I of the Housing and Urban Development Act of 1965 could ordinarily be expected substantially to serve the family housing needs of lower income military personnel serving on active duty, the Secretary is authorized to provide for or approve such preference or priority of occupancy of such project by such military personnel as he shall determine is appropriate to assure that the project will serve their needs on a continuing basis notwithstanding the frequency with which individual members of such personnel may be transferred or reassigned to new duty stations.

(n) Notwithstanding any other provision of law, the Secretary is authorized by contract or otherwise to establish, equip, and operate a day care center facility or facilities, or to assist in establishing, equipping, and operating interagency day care facilities for the purpose of serving children who are members of households of

employees of the Department. The Secretary is authorized to establish or provide for the establishment of appropriate fees and charges to be chargeable against the Department of Housing and Urban Development employees or others who are beneficiaries of services provided by any such day care center. In addition, limited start-up costs may be provided by the Secretary in an amount limited to 3 per centum of the first year's operating budget, but not to exceed $3,500.

(o)(1) Notwithstanding any other provision of law, the Secretary shall transmit to the Committee on Banking, Housing, and Urban Affairs of the Senate and the Committee on Banking, Finance and Urban Affairs of the House of Representatives[697] an agenda of all rules or regulations which are under development or review by the Department. Such an agenda shall be transmitted to such Committees within 30 days of the date of enactment of this subsection and at least semiannually thereafter.[698]

(2)(A) Any rule or regulation which is on any agenda submitted under paragraph (1) may not be published for comment prior to or during the 15-calendar day period beginning on the day after the date on which such agenda was transmitted. If within such period, either Committee notifies the Secretary in writing that it intends to review any rule or regulation or portion thereof which appears on the agenda, the Secretary shall submit to both Committees a copy of any such rule or regulation, in the form it is intended to be proposed, at least 15 calendar days prior to its being published for comment in the Federal Register.

(B) Any rule or regulation which has not been published for comment before the date of enactment of this subsection and which does not appear on an agenda submitted under paragraph (1) shall be submitted to both such Committees at least 15 calendar days prior to its being published for comment.

(3) No rule or regulation may become effective until after the expiration of the 30-calendar day period beginning on the day after the day on which such rule or regulation is published as final. Any regulation implementing any provision of the Department of Housing and Urban Development Reform Act of 1989 that authorizes the imposition of a civil money penalty may not become effective until after the expiration of a public comment period of not less than 60 days.

(4) The provisions of paragraphs (2) and (3) may be waived upon the written request of the Secretary, if agreed to by the Chairmen and Ranking Minority Members of both Committees.

[(5) [Repealed.]]

[(6) [Repealed.]]

(7) The Secretary shall include with each rule or regulation required to be transmitted to the Committees under this subsection a detailed summary of all changes required by the Office of Management and Budget that prohibit, modify, postpone, or disapprove such rule or regulation in whole or part.

(p) A plan for the reorganization of any regional, area, insuring, or other field office of the Department of Housing and Urban Development may take effect only upon the expiration of 90 days after publication in the Federal Register of a cost-benefit analysis of the effects of the plan on each office involved. Such cost-benefit analysis shall include, but not be limited to—

(1) an estimate of cost savings supported by the background information detailing the source and substantiating the amount of the savings;

(2) an estimate of the additional cost which will result from the reorganization;

(3) a study of the impact on the local economy; and

(4) an estimate of the effect of the reorganization on the availability, accessibility, and quality of services provided for recipients of those services.

Where any of the above factors cannot be quantified, the Secretary shall provide a statement on the nature and extent of those factors in the cost-benefit analysis.

(q)(1) Any waiver of regulations of the Department shall be in writing and shall specify the grounds for approving the waiver.

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[697] Section 1(a) of Public Law 104-14, 109 Stat. 186, provides, in part, that "any reference in any provision of law enacted before January 4, 1995, to ... the Committee on Banking, Finance and Urban Affairs of the House of Representatives shall be treated as referring to the Committee on Banking and Financial Services of the House of Representatives". However, H. Res. 5, 107th Congress, agreed to on January 3, 2001, abolished the Committee on Banking and Financial Services and established the Committee on Financial Services, which has jurisdiction over many of the areas previously under the jurisdiction of the Committee on Banking and Financial Services.

[698] Section 3003(a)(1) of the Federal Reports Elimination and Sunset Act of 1995, Pub. L. 104-66, which is set forth post in this part, provides that certain provisions of law requiring submittal to Congress of an annual, semiannual, or other regular periodic report shall cease to be effective on May 15, 2000. This paragraph is covered by such provision. However, section 1102 of the American Homeownership and Economic Opportunity Act of 2000, Public Law 106-569, set forth post in this part, provides that such section 3003(a)(1) shall not apply to the report required to be submitted under this paragraph.

(2) The Secretary may delegate authority to approve a waiver of a regulation only to an individual of Assistant Secretary rank or equivalent rank, who is authorized to issue the regulation to be waived.

(3) The Secretary shall notify the public of all waivers of regulations approved by the Department. The notification shall be included in a notice in the Federal Register published not less than quarterly. Each notification shall cover the period beginning on the day after the last date covered by the prior notification, and shall—

(A) identify the project, activity, or undertaking involved;

(B) describe the nature of the requirement that has been waived and specify the provision involved;

(C) specify the name and title of the official who granted the waiver request;

(D) include a brief description of the grounds for approval of the waiver; and

(E) state how more information about the waiver and a copy of the request and the approval may be obtained.

(4) Any waiver of a provision of a handbook of the Department shall—

(A) be in writing;

(B) specify the grounds for approving the waiver; and

(C) be maintained in indexed form and made available for public inspection for not less than the 3-year period beginning on the date of the waiver.

(r)(1) For the programs listed in paragraph (2), amounts appropriated under this subsection shall be available to the Secretary for evaluating and monitoring of all such programs (including all aspects of the public housing and section 202 programs) and collecting and maintaining data for such purposes. The Secretary shall expend amounts made available under this subsection in accordance with the need and complexity of evaluating and monitoring each such program and collecting and maintaining data for such purposes.

(2) The programs subject to this subsection shall be the programs authorized under—

(A) titles I and II[699] of the United States Housing Act of 1937;

(B) section 202 of the Housing Act of 1959;

(C) section 106 of the Housing and Urban Development Act of 1968;

(D) the Fair Housing Act;

(E) title I and section 810 of the Housing and Community Development Act of 1974;

(F) section 201 of the Housing and Community Development Amendments of 1978;

(G) the Congregate Housing Services Act of 1978;

(H) section 222 of the Housing and Urban-Rural Recovery Act of 1983;

(I) section 561 of the Housing and Community Development Act of 1987;

(J) title IV of the Stewart B. McKinney Homeless Assistance Act[700]; and

(K) titles II, III, and IV and section 811 of the Cranston-Gonzalez National Affordable Housing Act.

(3) In conducting evaluations and monitoring pursuant to the authority under this subsection, and collecting and maintaining data pursuant to the authority under this subsection, the Secretary shall determine any need for additional staff and funding relating to evaluating and monitoring the programs under paragraph (2) and collecting and maintaining data for such purposes.

(4)(A) The Secretary may provide for evaluation and monitoring under this subsection and collecting and maintaining data for such purposes directly or by grants, contracts, or interagency agreements. Not more than 50 percent of the amounts made available under paragraph (1) may be used for grants, contracts, or interagency agreements.

(B) Any amounts not used for grants, contracts, or interagency agreements under subparagraph (A) shall be used in a manner that increases and strengthens the ability of the Department to monitor and evaluate the programs under paragraph (2) and to collect and maintain data for such purposes through officers and employees of the Department.

(5) There are authorized to be appropriated to carry out this subsection such sums as may be necessary for fiscal year 1993 and fiscal year 1994. Such amounts shall remain available until expended.

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[699] Section 501(a) of the Native American Housing Assistance and Self-Determination Act of 1996 (P.L. 104-330; 110 Stat. 4041) repealed title II of the United States Housing Act of 1937.

[700] Public Law 106-400, enacted on October 30, 2000, renamed the Stewart B. McKinney Homeless Assistance Act as the McKinney-Vento Homeless Assistance Act. Section 2 of such Act provides that "[a]ny reference in any law, regulation, document, paper, or other record of the United States to the Stewart B. McKinney Homeless Assistance Act shall be deemed to be a reference to the `McKinney-Vento Homeless Assistance Act'".

(s)(1) Notwithstanding any other provision of law, there is authorized to be appropriated for salaries and expenses to carry out the purposes of this section $988,000,000 for fiscal year 1993 and $1,029,496,000 for fiscal year 1994.

(2) Of the amounts authorized to be appropriated by this section, $96,000,000 shall be available for each of the fiscal years 1993 and 1994, which amounts shall be used to provide staff in regional, field, or zone offices of the Department of Housing and Urban Development to review, process, approve, and service applications for mortgage insurance under title II of the National Housing Act for housing consisting of 5 or more dwelling units.

(3) Of the amounts authorized to be appropriated to carry out this section, not less than $5,000,000 of such amount shall be available for each fiscal year exclusively for the purposes of providing ongoing training and capacity building for Department personnel.

(t) TRAINING REGARDING ISSUES RELATING TO GRANDPARENT-HEADED AND RELATIVE-HEADED FAMILIES.—The Secretary shall ensure that all personnel employed in field offices of the Department who have responsibilities for administering the housing assistance program under section 8 of the United States Housing Act of 1937 (42 U.S.C. 1437f) or the supportive housing program under section 202 of the Housing Act of 1959 (12 U.S.C. 1701q), and an appropriate number of personnel in the headquarters office of the Department who have responsibilities for those programs, have received adequate training regarding how covered families (as that term is defined in section 202 of the LEGACY Act of 2003) can be served by existing affordable housing programs.

Sec. 8.[701] [42 U.S.C. 3536]
ANNUAL REPORT.

The Secretary shall, as soon as practicable after the end of each calendar year, make a report to the President for submission to the Congress on the activities of the Department during the preceding calendar year. The report required under this section shall include the reports required under paragraphs (2) and (6) of section 808(e) of the Civil Rights Act of 1968, the reports required under subsections (a) and (b) of section 1061 of the Housing and Community Development Act of 1992, the report required under section 802 of the Housing Act of 1954, and the report required under section 4(e)(2) of this Act.

Sec. 9. [42 U.S.C. 3531 note]
SAVINGS PROVISIONS.

(a) No cause of action by or against any agency whose functions are transferred by this Act, or by or against any officer of any agency in his official capacity, shall abate by reason of this enactment. Such causes of action may be asserted by or against the United States or such official of the Department as may be appropriate.

(b) No suit, action, or other proceeding commenced by or against any agency whose functions are transferred by this Act, or by or against any officer of any such agency in his official capacity, shall abate by reason of the enactment of this Act. A court may at any time during the pendency of the litigation, on its own motion or that of any party, order that the same may be maintained by or against the United States or such official of the Department as may be appropriate.

(c) Except as may be otherwise expressly provided in this Act, all powers and authorities conferred by this Act shall be cumulative and additional to and not in derogation of any powers and authorities otherwise existing. All rules, regulations, orders, authorizations, delegations, or other actions duly issued, made, or taken by or pursuant to applicable law, prior to the effective date of this Act, by any agency, officer, or office pertaining to any functions, powers, and duties transferred by this Act shall continue in full force and effect after the effective date of this Act until modified or rescinded by the Secretary or such other officer or office of the Department as, in accordance with applicable law, may be appropriate. With respect to any function, power, or duty transferred by or under this Act and exercised hereafter, reference in another Federal law to the Housing and Home Finance Agency or to any officer, office, or agency therein, except the Federal National Mortgage Association and its officers, shall be deemed to mean the Secretary. The positions and agencies heretofore established by law in connection with the functions, powers, and duties transferred under section 5(a) of this Act shall lapse.

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[701] Section 3003(a)(1) of the Federal Reports Elimination and Sunset Act of 1995, Pub. L. 104-66, which is set forth post in this part, provides that certain provisions of law requiring submittal to Congress of an annual, semiannual, or other regular periodic report shall cease to be effective on May 15, 2000. This section is covered by such provision. However, section 1102 of the American Homeownership and Economic Opportunity Act of 2000, Public Law 106-569, set forth post in this part, provides that such section 3003(a)(1) shall not apply to the report required to be submitted under this section.
See, also, sections 802 and 817 of the Housing Act of 1954 and section 166 of the Housing and Community Development Act of 1987, which are set forth, post, this part.

Sec. 10. [42 U.S.C. 3537]
SEPARABILITY.

Notwithstanding any other evidence of the intent of Congress, it is hereby declared to be the intent of Congress that if any provision of this Act, or the application thereof to any persons or circumstances, shall be adjudged by any court of competent jurisdiction to be invalid, such judgment shall not affect, impair, or invalidate the remainder of this Act or its application to other persons and circumstances, but shall be confined in its operation to the provision of this Act, or the application thereof to the persons and circumstances, directly involved in the controversy in which such judgment shall have been rendered.

Sec. 11. [42 U.S.C. 3531 note]
EFFECTIVE DATE AND INTERIM APPOINTMENTS.

(a) The provisions of this Act shall take effect upon the expiration of the first period of sixty calendar days following the date on which this Act is approved by the President,[702] or on such earlier date as the President shall specify by Executive order published in the Federal Register, except that any of the officers provided for in sections 3(a), 4(a) and 4(b) of this Act may be nominated and appointed, as provided in such sections, at any time after the date this Act is approved by the President.

(b) In the event that one or more officers required by this Act to be appointed, by and with the advice and consent of the Senate, shall not have entered upon office on the effective date of this Act, the President may designate any person who was an officer of the Housing and Home Finance Agency immediately prior to said effective date to act in such office until the office is filled as provided in this Act or until the expiration of the first period of sixty days following said effective date, whichever shall first occur. While so acting such persons shall receive compensation at the rates provided by this Act for the respective offices in which they act.

Sec. 12. [42 U.S.C. 3537a]
PROHIBITION OF ADVANCE DISCLOSURE OF FUNDING DECISIONS.

(a) PROHIBITED ACTIONS.—During any selection process, no officer or employee of the Department of Housing and Urban Development shall knowingly disclose any covered selection information regarding such selection, directly or indirectly, to any person other than a person authorized by the Secretary to receive such information.

(b) ADMINISTRATIVE REMEDIES.—If the Secretary receives or obtains information providing a reasonable basis to believe that a violation of subsection (a) has occurred, the Secretary shall—

(1) in the case of a selection that has not been made, determine whether to terminate the selection process or take other appropriate actions; and

(2) in the case of a selection that has been made, determine whether to—

(A) void or rescind the selection, subject to review and determination on the record after opportunity for a hearing;

(B) impose sanctions upon the violating applicant selected, subject to review and determination on the record after opportunity for a hearing;

(C) permit the violating applicant selected to continue to participate in the program; or

(D) take any other actions that the Secretary considers appropriate.

(c) CIVIL MONEY PENALTIES.—

(1) IN GENERAL.—Whenever any employee of the Department knowingly and materially violates the prohibition in subsection (a), the Secretary may impose a civil money penalty on the employee in accordance with the provisions of this subsection. This penalty shall be in addition to any other available civil remedy or any available criminal penalty and may be imposed whether or not the Secretary takes other disciplinary actions.

(2) AMOUNT.—The amount of the penalty, as determined by the Secretary, may not exceed $10,000 for each violation.

(3) AGENCY PROCEDURES.—

(A) ESTABLISHMENT.—The Secretary shall establish standards and procedures governing the imposition of civil money penalties under this subsection. The standards and procedures—

[702] The date of enactment was September 9, 1965.

(i) shall provide for the Secretary or other official of the Department to make the determination to impose a penalty or to use an administrative entity to make the determination;

(ii) shall provide for the imposition of a penalty only after the employee has been given an opportunity for a hearing on the record; and

(iii) may provide for review of any determination or order, or interlocutory ruling, arising from a hearing.

(B) FINAL ORDERS.—If no hearing is requested within 15 days of receipt of the notice of opportunity for hearing, the imposition of the penalty shall constitute a final and unappealable order. If the Secretary reviews the determination or order, the Secretary may affirm, modify, or reverse that determination or order. If the Secretary does not review the determination or order within 90 days of the issuance of the determination or order, the determination or order shall be final.

(C) FACTORS IN DETERMINING AMOUNT OF PENALTY.—In determining the amount of a penalty under paragraph (2), consideration shall be given to such factors as the gravity of the offense, any history of prior disclosures of information on pending funding decisions made after the date of enactment of this section, ability to pay the penalty, injury to the public, benefits received, deterrence of future violations, and such other factors as the Secretary may determine in regulations to be appropriate.

(D) REVIEWABILITY OF IMPOSITION OF A PENALTY.—The Secretary's determination or order imposing a penalty under paragraph (1) shall not be subject to review, except as provided in paragraph (4).

(4) JUDICIAL REVIEW OF AGENCY DETERMINATION.—

(A) IN GENERAL.—After exhausting all administrative remedies established by the Secretary under paragraph (3)(A), an employee against whom the Secretary has imposed a civil money penalty under paragraph (1) may obtain a review of the penalty and such ancillary issues (such as any administrative sanctions under 24 C.F.R. part 25) as may be addressed in the notice of determination to impose a penalty under paragraph (3)(A)(i) in the appropriate court of appeals of the United States, by filing in such court, within 20 days after the entry of such order or determination, a written petition praying that the Secretary's order or determination be modified or be set aside in whole or in part.

(B) OBJECTIONS NOT RAISED IN HEARING.—The court shall not consider any objection that was not raised in the hearing conducted pursuant to paragraph (3)(A) unless a demonstration is made of extraordinary circumstances causing the failure to raise the objection. If any party demonstrates to the satisfaction of the court that additional evidence not presented at such hearing is material and that there were reasonable grounds for the failure to present such evidence at the hearing, the court shall remand the matter to the Secretary for consideration of such additional evidence.

(C) SCOPE OF REVIEW.—The decisions, findings, and determinations of the Secretary shall be reviewed pursuant to section 706 of title 5, United States Code.

(D) ORDER TO PAY PENALTY.—Notwithstanding any other provision of law, in any such review, the court shall have the power to order payment of the penalty imposed by the Secretary.

(5) ACTION TO COLLECT PENALTY.—If any employee fails to comply with the Secretary's determination or order imposing a civil money penalty under paragraph (1), after the determination or order is no longer subject to review as provided by paragraphs (3)(A) and (4), the Secretary may request the Attorney General of the United States to bring an action in an appropriate United States district court to obtain a monetary judgment against the employee and such other relief as may be available. The monetary judgment may, in the court's discretion, include the attorneys' fees and other expenses incurred by the United States in connection with the action. In an action under this subsection, the validity and appropriateness of the Secretary's determination or order imposing the penalty shall not be subject to review.

(6) SETTLEMENT BY SECRETARY.—The Secretary may compromise, modify, or remit any civil money penalty which may be, or has been, imposed under this subsection.

(7) DEPOSIT OF PENALTIES.—The Secretary shall deposit all civil money penalties collected under this subsection into miscellaneous receipts of the Treasury.

(d) CRIMINAL PENALTIES.—Whoever willfully violates subsection (a) by making a disclosure prohibited by subsection (a) to any applicant, or any officer, employee, representative, agent, or consultant of any applicant, shall be imprisoned not more than 5 years, or fined in accordance with title 18, United States Code, or both.

(e) DEFINITIONS.—For purposes of this section:

(1) APPLICANT.—The term "applicant" means any applicant or candidate that is being considered for receiving assistance.

(2) ASSISTANCE.—The term "assistance" means any grant, loan, subsidy, guarantee, or other financial assistance under a program administered by the Secretary that provides by statute, regulation, or otherwise for the competitive distribution of such assistance. The term does not include any mortgage insurance provided under a program administered by the Secretary.

(3) COVERED SELECTION INFORMATION.—The term "covered selection information" means—

(A) any information that is contained in any application or request for assistance, or any information regarding the decision of the Secretary to make available assistance or other information that is determined by the Secretary to be information that is not generally available to the public (not including program requirements and timing of the decision to make assistance available); and

(B) any information that is required by statute, regulation, or order to be confidential.

(4) KNOWINGLY.—The term "knowingly" means having actual knowledge of or acting with deliberate ignorance of or reckless disregard for the prohibitions under this section.

(5) SELECTION.—The term "selection" means the determination of which applicants for assistance are to receive assistance under the program.

(6) SELECTION PROCESS.—The term "selection process" means the period with respect to a selection for assistance that begins with the development, preparation, and issuance of a solicitation or request for applications for the assistance and concludes with the selection of recipients of assistance, and includes the evaluation of applications.

(f) REGULATIONS.—The Secretary shall issue such regulations as the Secretary deems appropriate to implement this section.

(g) APPLICABILITY.—This section shall apply only with respect to violations that occur on or after the date of the enactment of the Department of Housing and Urban Development Reform Act of 1989.

[Sec. 13. [Repealed.]]

Sec. 14. [42 U.S.C. 3537c]
PROHIBITION OF LUMP-SUM PAYMENTS.

In providing relocation assistance in connection with any program administered by the Department of Housing and Urban Development, the Secretary may not make lump-sum payments to any displaced residential tenant, except where necessary to cover—

(1) moving expenses;

(2) a downpayment on the purchase of a replacement residence, including a condominium unit or membership in a cooperative housing association; or

(3) any incidental expenses related to paragraph (1) or (2).

END OF STATUTE

HUD ACCOUNTABILITY AND APPLICANT DISCLOSURES

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT REFORM ACT OF 1989
[Public Law 101-235; 103 Stat. 1987; 42 U.S.C. 3545]

Sec. 102. [42 U.S.C. 3545]
HUD ACCOUNTABILITY.

(a) NOTICE REGARDING ASSISTANCE.—

(1) PUBLICATION OF NOTICE OF AVAILABILITY.—The Secretary shall publish in the Federal Register notice of the availability of any assistance under any program or discretionary fund administered by the Secretary.

(2) PUBLICATION OF APPLICATION PROCEDURES.—The Secretary shall publish in the Federal Register a description of the form and procedures by which application for the assistance may be made, and any deadlines relating to the award or allocation of the assistance. Such description shall be designed to help eligible applicants to apply for such assistance.

(3) PUBLICATION OF SELECTION CRITERIA.—Not less than 30 days before any deadline by which applications or requests for assistance under any program or discretionary fund administered by the Secretary must be submitted, the Secretary shall publish in the Federal Register the criteria by which selection for the assistance will be made. Subject to section 213 of the Housing and Community Development Act of 1974, such criteria shall include any objective measures of housing need, project merit, or efficient use of resources that the Secretary determines are appropriate and consistent with the statute under which the assistance is made available.

(4) DOCUMENTATION OF DECISIONS.—

(A) The Secretary shall award or allocate assistance only in response to a written application in a form approved in advance by the Secretary, except where other award or allocation procedures are specified in statute.

(B) The Secretary shall ensure that documentation and other information regarding each application for assistance is sufficient to indicate the basis on which any award or allocation was made or denied. The preceding sentence shall apply to—

(i) any application for an award or allocation of assistance made by the Secretary to a State, unit of general local government, or other recipient of assistance, and

(ii) any application for a subsequent award or allocation of such assistance by such State, unit of general local government or other recipient.

(C)(i) The Secretary shall notify the public of all funding decisions made by the Department. The Secretary shall require any State or unit of general local government to notify the public of the award or allocation of such funding to subsequent recipients. The notification shall include the following elements for each funding decision:

(I) the name and address of each funding recipient;

(II) the name or other means of identifying the project, activity, or undertaking for each funding recipient;

(III) the dollar amount of the funding for each project, activity, or undertaking;

(IV) the citation to the statutory, regulatory, or other criteria under which the funding decision was made; and

(V) such additional information as the Secretary deems appropriate for a clear and full understanding of the funding decision.

(ii) The notification referred to in clause (i) of this subsection shall be published as a Notice in the Federal Register at least quarterly.

(iii) For purposes of this subparagraph, the term “funding decision” means the decision of the Secretary to make available grants, loans, or any other form of financial assistance to an individual or to an entity, including (but not limited to) a State or local government or agency thereof (including a public housing agency), an Indian tribe, or a nonprofit organization, under any program administered by the Department that provides,

by statute, regulation, or otherwise, for the competitive distribution of financial assistance.

(D) The Secretary shall publish a notice in the Federal Register at least annually informing the public of the allocation of assistance under section 213(d)(1)(A) of the Housing and Community Development Act of 1974.

(E) The Secretary shall ensure that each application and all related documentation and other information referred to in subparagraph (B), including each letter of support, is readily available for public inspection for a period of not less than 5 years, beginning not less than 30 days following the date on which the award or allocation is made.

(5) EMERGENCY EXCEPTION.—The Secretary may waive the requirements of paragraphs (1), (2), and (3) if the Secretary determines that the waiver is required for appropriate response to an emergency. Not less than 30 days after providing a waiver under the preceding sentence, the Secretary shall publish in the Federal Register the Secretary's reasons for so doing.

(b) DISCLOSURES BY APPLICANTS.—The Secretary shall require the disclosure of information with respect to any application for assistance within the jurisdiction of the Department for a project application submitted to the Secretary or to any State or unit of general local government by any applicant who has received or, in the determination of the Secretary, can reasonably be expected to receive assistance within the jurisdiction of the Department in excess of $200,000 in the aggregate during any fiscal year or such lower amount as the Secretary may establish by regulation. Such information shall include the following:

(1) OTHER GOVERNMENT ASSISTANCE.—Information regarding any related assistance from the Federal Government, a State, or a unit of general local government, or any agency or instrumentality thereof, that is expected to be made available with respect to the project or activities for which the applicant is seeking assistance. Such related assistance shall include but not be limited to any loan, grant, guarantee, insurance, payment, rebate, subsidy, credit, tax benefit, or any other form of direct or indirect assistance.

(2) INTERESTED PARTIES.—The name and pecuniary interest of any person who has a pecuniary interest in the project or activities for which the applicant is seeking assistance. Persons with a pecuniary interest in the project or activity shall include but not be limited to any developers, contractors, and consultants involved in the application for assistance or the planning, development, or implementation of the project or activity. For purposes of this paragraph, residency of an individual in housing for which assistance is being sought shall not, by itself, be considered a pecuniary interest.

(3) EXPECTED SOURCES AND USES.—A report satisfactory to the Secretary of the expected sources and uses of funds that are to be made available for the project or activity.

(c) UPDATING OF DISCLOSURE.—During the period when an application is pending or assistance is being provided, the applicant shall update the disclosure required under the previous subsection within 30 days of any substantial change.

(d) LIMITATION OF ASSISTANCE.—The Secretary shall certify that assistance within the jurisdiction of the Department, as such term is defined in subsection (m), except that for purposes of this subsection such term shall not include any mortgage insurance provided pursuant to title II of the National Housing Act (12 U.S.C. 1707 et seq.)[703] to any housing project shall not be more than is necessary to provide affordable housing after taking account of assistance described in subsection (b)(1). The Secretary shall adjust the amount of such assistance awarded or allocated to an applicant to compensate in whole or in part, as the Secretary determines to be appropriate, for any changes reported under subsection (c).[704]

(e) ADMINISTRATIVE REMEDIES.—If the Secretary receives or obtains information providing a reasonable basis to believe that a violation of subsection (b) or (c) has occurred, the Secretary shall—

(1) in the case of a selection that has not been made, determine whether to terminate the selection process or take other appropriate actions; and

(2) in the case of a selection that has been made, determine whether to—

(A) void or rescind the selection, subject to review and determination on the record after opportunity for a hearing;

(B) impose sanctions upon the violator, including debarment, subject to review and determination on the record after opportunity for a hearing;

(C) recapture any funds that have been disbursed;

(D) permit the violating applicant selected to continue to participate in the program; or

[703] So in law. Probably should be a comma.

[704] See section 911 of the Housing and Community Development Act of 1992, Pub. L. 102-550, which is set forth, post, this part.

(E) take any other actions that the Secretary considers appropriate.

The Secretary shall publish in the Federal Register a descriptive statement of each determination made and action taken under this subsection.

(f) CIVIL MONEY PENALTIES.—

(1) IN GENERAL.—Whenever any person knowingly and materially violates any provision of subsection (b) or (c), the Secretary may impose a civil money penalty on that person in accordance with the provisions of this section. This penalty shall be in addition to any other available civil remedy or any available criminal penalty, and may be imposed whether or not the Secretary imposes other administrative sanctions.

(2) AMOUNT OF PENALTY.—The amount of the penalty, as determined by the Secretary, may not exceed $10,000 for each violation.

(g) AGENCY PROCEDURES.—

(1) The Secretary shall establish standards and procedures governing the imposition of civil money penalties under subsection (f). These standards and procedures—

(A) shall provide for the Secretary to make the determination to impose the penalty or to use an administrative entity to make the determination;

(B) shall provide for the imposition of a penalty only after the person has been given an opportunity for a hearing on the record; and

(C) may provide for review by the Secretary of any determination or order, or interlocutory ruling, arising from a hearing.

If no hearing is requested within 15 days of receipt of the notice of opportunity for hearing, the imposition of the penalty shall constitute a final and unappealable determination. If the Secretary reviews the determination or order, the Secretary may affirm, modify, or reverse that determination or order. If the Secretary does not review the determination or order, the determination or order shall be final.

(2) FACTORS IN DETERMINING AMOUNT OF PENALTY.—In determining the amount of a penalty under subsection (f), consideration shall be given to such factors as the gravity of the offense, ability to pay the penalty, injury to the public, benefits received, deterrence of future violations, and such other factors as the Secretary may determine in regulations to be appropriate.

(3) REVIEWABILITY OF IMPOSITION OF A PENALTY.—The Secretary's determination or order imposing a penalty under subsection (f) shall not be subject to review, except as provided in subsection (h).

(h) JUDICIAL REVIEW OF AGENCY DETERMINATION.—

(1) IN GENERAL.—After exhausting all administrative remedies established by the Secretary under subsection (g)(1), a person against whom the Secretary has imposed a civil money penalty under subsection (f) may obtain a review of the penalty and such ancillary issues as may be addressed in the notice of determination to impose a penalty under subsection (g)(1)(A) in the appropriate court of appeals of the United States, by filing in such court, within 20 days after the entry of such order or determination, a written petition praying that the order or determination of the Secretary be modified or be set aside in whole or in part.

(2) OBJECTIONS NOT RAISED IN HEARING.—The court shall not consider any objection that was not raised in the hearing conducted pursuant to subsection (g)(1) unless a demonstration is made of extraordinary circumstances causing the failure to raise the objection. If any party demonstrates to the satisfaction of the court that additional evidence not presented at the hearing is material and that there were reasonable grounds for the failure to present such evidence at the hearing, the court shall remand the matter to the Secretary for consideration of such additional evidence.

(3) SCOPE OF REVIEW.—The decisions, findings, and determinations of the Secretary shall be reviewed pursuant to section 706 of title 5, United States Code.

(4) ORDER TO PAY PENALTY.—Notwithstanding any other provision of law, in any such review, the court shall have the power to order payment of the penalty imposed by the Secretary.

(i) ACTION TO COLLECT THE PENALTY.—If any person fails to comply with the determination or order of the Secretary imposing a civil money penalty under subsection (f), after the determination or order is no longer subject to review as provided by subsections (g)(1) and (h), the Secretary may request the Attorney General of the United States to bring an action in an appropriate United States district court to obtain a monetary judgment against the person and such other relief as may be available. The monetary judgment may, in the court's discretion, include the attorneys' fees and other expenses incurred by the United States in connection with the action. In an

action under this subsection, the validity and appropriateness of the Secretary's determination or order imposing the penalty shall not be subject to review.

(j) SETTLEMENT BY THE SECRETARY.—The Secretary may compromise, modify, or remit any civil money penalty which may be, or has been, imposed under this section.

(k) REGULATIONS.—The Secretary shall issue such regulations as the Secretary deems appropriate to implement this section.

(l) DEPOSIT OF PENALTIES.—The Secretary shall deposit all civil money penalties collected under this section into miscellaneous receipts of the Treasury.

(m) DEFINITIONS.—For the purpose of this section—

(1) The term "Department" means the Department of Housing and Urban Development.

(2) The term "Secretary" means the Secretary of Housing and Urban Development.

(3) The term "person" means an individual (including a consultant, lobbyist, or lawyer), corporation, company, association, authority, firm, partnership, society, State, local government, or any other organization or group of people.

(4) The term "assistance within the jurisdiction of the Department" includes any contract, grant, loan, cooperative agreement, or other form of assistance, including the insurance or guarantee of a loan, mortgage, or pool of mortgages.

(5) The term "knowingly" means having actual knowledge of or acting with deliberate ignorance of or reckless disregard for the prohibitions under this section.

(n) EFFECTIVE DATE.—This section shall take effect on the date specified in regulations implementing this section that are issued by the Secretary after notice and public comment.

END OF STATUTE

SUBSIDY LAYERING REVIEW

HOUSING AND COMMUNITY DEVELOPMENT ACT OF 1992
[Public Law 102-550; 106 Stat. 3875; 42 U.S.C. 3545 note]

Sec. 911. [42 U.S.C. 3545 note]
SUBSIDY LAYERING REVIEW.

(a) CERTIFICATION OF SUBSIDY LAYERING COMPLIANCE.—The requirements of section 102(d) of the Department of Housing and Urban Development Reform Act of 1989 may be satisfied in connection with a project receiving assistance under a program that is within the jurisdiction of the Department of Housing and Urban Development and under section 42 of the Internal Revenue Code of 1986 by a certification by a housing credit agency to the Secretary, submitted in accordance with guidelines established by the Secretary, that the combination of assistance within the jurisdiction of the Secretary and other government assistance provided in connection with a property for which assistance is to be provided within the jurisdiction of the Department of Housing and Urban Development and under section 42 of the Internal Revenue Code of 1986 shall not be any greater than is necessary to provide affordable housing.

(b) IN PARTICULAR.—The guidelines established pursuant to subsection (a) shall—

(1) require that the amount of equity capital contributed by investors to a project partnership is not less than the amount generally contributed by investors in current market conditions, as determined by the housing credit agency; and

(2) require that project costs, including developer fees, are within a reasonable range, taking into account project size, project characteristics, project location and project risk factors, as determined by the housing credit agency.

(c) REVOCATION BY SECRETARY.—If the Secretary determines that a housing credit agency has failed to comply with the guidelines established under subsection (a), the Secretary—

(1) may inform the housing credit agency that the agency may no longer submit certification of subsidy layering compliance under this section; and

(2) shall carry out section 102(d) of the Department of Housing and Urban Development Reform Act of 1989 relating to affected projects allocated a low-income housing tax credit pursuant to section 42 of the Internal Revenue Code of 1986.

(d) APPLICABILITY.—Section 102(d) of the Department of Housing and Urban Development Reform Act of 1989[705] (42 U.S.C. 3545(d)) shall apply only to projects for which an application for assistance or insurance was filed after the date of enactment of the Housing and Urban Development Reform Act.

END OF STATUTE

[705] Probably intended to refer to the Department of Housing and Urban Development Reform Act of 1989, approved December 15, 1989, which is set forth ante, this part.

ENVIRONMENTAL REVIEW REQUIREMENTS FOR HUD SPECIAL PROJECTS

MULTIFAMILY HOUSING PROPERTY DISPOSITION REFORM ACT OF 1994
[Public Law 103-233; 108 Stat. 372; 42 U.S.C. 3547]

Sec. 305. [42 U.S.C. 3547]
ENVIRONMENTAL REVIEW PROVISIONS.

* * * * * * *

(c) SPECIAL PROJECTS.—

(1) IN GENERAL.—

(A) RELEASE OF FUNDS.—In order to assure that the policies of the National Environmental Policy Act of 1969 and other provisions of law which further the purposes of such Act (as specified in regulations issued by the Secretary) are most effectively implemented in connection with the expenditure of funds for special projects appropriated under an appropriations Act for the Department of Housing and Urban Development, such as special projects under the head "Annual Contributions for Assisted Housing" in title II of the Departments of Veterans Affairs and Housing and Urban Development, and Independent Agencies Appropriations Act, 1993, and to assure to the public undiminished protection of the environment, the Secretary of Housing and Urban Development may, under such regulations, in lieu of the environmental protection procedures otherwise applicable, provide for the release of funds for particular special projects upon the request of recipients of special projects assistance, if the State or unit of general local government, as designated by the Secretary in accordance with regulations, assumes all of the responsibilities for environmental review, decisionmaking, and action pursuant to such Act, and such other provisions of law as the regulations of the Secretary specify, that would otherwise apply to the Secretary were the Secretary to undertake such special projects as Federal projects.

(B) IMPLEMENTATION.—The Secretary shall issue regulations to carry out this subsection only after consultation with the Council on Environmental Quality. Such regulations shall—

(i) provide for monitoring of the performance of environmental reviews under this subsection;

(ii) in the discretion of the Secretary, provide for the provision or facilitation of training for such performance; and

(iii) subject to the discretion of the Secretary, provide for suspension or termination by the Secretary of the assumption under subparagraph (A).

(C) RESPONSIBILITIES OF STATE OR UNIT OF GENERAL LOCAL GOVERNMENT.—The Secretary's duty under subparagraph (B) shall not be construed to limit any responsibility assumed by a State or unit of general local government with respect to any particular release of funds under subparagraph (A).

(2) PROCEDURE.—The Secretary shall approve the release of funds for projects subject to the procedures authorized by this subsection only if, not less than 15 days prior to such approval and prior to any commitment of funds to such projects, the recipient submits to the Secretary a request for such release, accompanied by a certification of the State or unit of general local government which meets the requirements of paragraph (3). The Secretary's approval of any such certification shall be deemed to satisfy the Secretary's responsibilities under the National Environmental Policy Act of 1969 and such other provisions of law as the regulations of the Secretary specify insofar as those responsibilities relate to the releases of funds for special projects to be carried out pursuant thereto which are covered by such certification.

(3) CERTIFICATION.—A certification under the procedures authorized by this subsection shall—

(A) be in a form acceptable to the Secretary;

(B) be executed by the chief executive officer or other officer of the State or unit of general local government who qualifies under regulations of the Secretary;

(C) specify that the State or unit of general local government under this subsection has fully carried out its responsibilities as described under paragraph (1); and

(D) specify that the certifying officer—

(i) consents to assume the status of a responsible Federal official under the National Environmental Policy Act of 1969 and each provision of law specified in regulations issued by the Secretary insofar as the provisions of such Act or other such provision of law apply pursuant to paragraph (1); and

(ii) is authorized and consents on behalf of the State or unit of general local government and himself or herself to accept the jurisdiction of the Federal courts for the purpose of enforcement of the responsibilities as such an official.

(4) APPROVAL BY STATES.—In cases in which a unit of general local government carries out the responsibilities described in paragraph (1), the Secretary may permit the State to perform those actions of the Secretary described in paragraph (2) and the performance of such actions by the State, where permitted by the Secretary, shall be deemed to satisfy the Secretary's responsibilities referred to in the second sentence of paragraph (2).

END OF STATUTE

PERFORMANCE GOALS FOR HUD

HOUSING AND COMMUNITY DEVELOPMENT ACT OF 1992
[Public Law 102-550; 106 Stat. 3884; 42 U.S.C. 3536]

Sec. 925. [42 U.S.C. 3536]
PERFORMANCE GOALS.

(a) [42 U.S.C. 3536] PERFORMANCE GOALS FOR THE DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT.—

(1) IN GENERAL.—The Secretary of the Department of Housing and Urban Development (hereafter in this Act referred to as the "Secretary") may establish performance goals for the major programs of the Department of Housing and Urban Development in order to measure progress towards meeting the objectives of national housing policy.

(2) FORM OF GOALS.—The performance goals referred to in paragraph (1) shall be expressed in terms sufficient to measure progress.

(3) REPORT.—The Secretary shall include in the Secretary's annual report to the Congress a description of the progress made in attaining the performance goals for each program, citing the results achieved in each program for the previous year.

(4) FAILURE TO MEET GOALS.—If a performance standard or goal has not been met, the description under paragraph (3) shall include an explanation of why the goal was not met, propose plans for achieving the performance goal, and recommend any legislative or regulatory changes necessary for achievement of the goal.

***[706]

HOUSING OPPORTUNITY THROUGH MODERNIZATION ACT OF 2016
[Public Law 114-201; 130 Stat. 782; 42 U.S.C. 3544 note]

Sec.601 [42 U.S.C. 3536a note]
REPORT ON INTERAGENCY FAMILY ECONOMIC EMPOWERMENT STRATEGIES.

The Secretary of Housing and Urban Development, in consultation with the Secretary of Labor, shall submit a report to the Congress annually that describes—

(1) any interagency strategies of such Departments that are designed to improve family economic empowerment by linking housing assistance with essential supportive services, such as employment counseling and training, financial education and growth, childcare, transportation, meals, youth recreational activities, and other supportive services; and

(2) any actions taken in the preceding year to carry out such strategies and the extent of progress achieved by such actions.

END OF STATUTE

[706] Subsection (b) of this section is set forth, ante, in part X of this compilation.

Coordination of HUD Programs with Low-Income Housing Tax Credits

HOUSING TAX CREDIT COORDINATION ACT OF 2008[707]
[Public Law 110-289; 122 Stat. 2654; 12 U.S.C. 1715s]

Sec. 2832. [12 U.S.C. 1715s]
APPROVALS BY DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT.

(a) ADMINISTRATIVE AND PROCEDURAL CHANGES.—

(1) IN GENERAL.—The Secretary of Housing and Urban Development (in this section referred to as the "Secretary") shall, not later than the expiration of the 6-month period beginning upon after the date of the enactment of this Act, implement administrative and procedural changes to expedite approval of multifamily housing projects under the jurisdiction of the Department of Housing and Urban Development that meet the requirements of the Secretary for such approvals.

(2) PROJECTS.—The multifamily housing projects referred to in paragraph (1) shall include—

(A) projects for which assistance is provided by such Department in conjunction with any low-income housing tax credits under section 42 of the Internal Revenue Code of 1986 or tax-exempt housing bonds; and

(B) existing public housing projects and assisted housing projects, for which approval of the Secretary is necessary for transactions, in conjunction with any such low-income housing tax credits or tax-exempt housing bonds, involving the preservation or rehabilitation of the project.

(3) CHANGES.—The administrative and procedural changes referred to in paragraph (1) shall include all actions necessary to carry out paragraph (1), which may include—

(A) improving the efficiency of approval procedures;

(B) simplifying approval requirements,

(C) establishing time deadlines or target deadlines for required approvals;

(D) modifying division of approval authority between field and national offices;

(E) improving outreach to project sponsors regarding information that is required to be submitted for such approvals;

(F) requesting additional funding for increasing staff, if necessary; and

(G) any other actions which would expedite approvals.

Any such changes shall be made in a manner that provides for full compliance with any existing requirements under law or regulation that are designed to protect families receiving public and assisted housing assistance, including income targeting, rent, and fair housing provisions, and shall also comply with requirements regarding environmental review and protection and wages paid to laborers.

(b) CONSULTATION.—The Secretary shall consult with the Commissioner of the Internal Revenue Service and take such actions as are appropriate in conjunction with such consultation to simplify the coordination of rules, regulations, forms, and approval requirements for multifamily housing projects projects for which assistance is provided by such Department in conjunction with any low-income housing tax credits under section 42 of the Internal Revenue Code of 1986 or tax-exempt housing bonds.

(c) RECOMMENDATIONS.—In implementing the changes required under this section, the Secretary shall solicit recommendations regarding such changes from project owners and sponsors, investors and stakeholders in housing tax credits, State and local housing finance agencies, public housing agencies, tenant advocates, and other stakeholders in such projects.

(d) REPORT.—Not later than the expiration of the 9-month period beginning on the date of the enactment of this Act, the Secretary shall submit a report to the Committee on Financial Services of the House of Representatives and the Committee on Banking, Housing, and Urban Affairs of the Senate that—

(1) identifies the actions taken by the Secretary to comply with this section;

(2) includes information regarding any resulting improvements in the expedited approval for multifamily housing projects;

(3) identifies recommendations made pursuant to subsection (c);

(4) identifies actions taken by the Secretary to implement the provisions in the amendments made by sections 2834 and 2835 of this Act; and

[707] Enacted as Subtitle B of the Housing and Economic Recovery Act of 2008

(5) makes recommendations for any legislative changes that are needed to facilitate prompt approval of assistance for such projects.

END OF STATUTE

RESEARCH AND DEVELOPMENT PROGRAMS

HOUSING AND URBAN DEVELOPMENT ACT OF 1970
[Public Law 91-609; 84 Stat. 1784; 12 U.S.C. 1701z-1—1701z-10a]

Sec. 501. [12 U.S.C. 1701z-1]
RESEARCH AND DEMONSTRATIONS.

The Secretary of Housing and Urban Development is authorized and directed to undertake such programs of research, studies, testing, and demonstration relating to the mission and programs of the Department as he determines to be necessary and appropriate. There is authorized to be appropriated to carry out this title $35,000,000 for fiscal year 1993 and $36,470,000 for fiscal year 1994.

Sec. 502. [12 U.S.C. 1701z-2]
GENERAL PROVISIONS.

(a) The Secretary shall require, to the greatest extent feasible, the employment of new and improved technologies, methods, and materials in housing construction, rehabilitation, and maintenance under programs administered by him with a view to reducing costs, and shall encourage and promote the acceptance and application of such advanced technology, methods, and materials by all segments of the housing industry, communities, industries engaged in urban development activities, and the general public. To the extent feasible, in connection with the construction, major rehabilitation, or maintenance of any housing assisted under section 501, the Secretary shall assure that there is no restraint by contract, building code, zoning ordinance, or practice against the employment of new or improved technologies, techniques, materials, and methods or of preassembled products which may reduce the cost or improve the quality of such construction, rehabilitation, and maintenance, and therefore stimulate expanded production of housing, except where such restraint is necessary to insure safe and healthful working and living conditions.

(b) To encourage large-scale experimentation in the use of new technologies, methods, and materials, with a view toward the ultimate mass production of housing and related facilities, the Secretary shall wherever feasible conduct programs under section 501 in which qualified organizations, public and private, will submit plans for development and production of housing and related facilities using such new advances on Federal land which has been made available or acquired by the Secretary for the purpose of this subsection or on other land where (1) local building regulations permit such experimental construction, or (2) necessary variances from building regulations can be granted. The Secretary may utilize the funds and authority available to him under the provisions of section 501 to assist in the implementation of plans which he approves.

(c) Notwithstanding any other provision of law, the Secretary is authorized, in connection with projects under this title, to acquire, use and dispose of any land and other property required for the project as he deems necessary. Notwithstanding the provisions of the Federal Property and Administrative Services Act of 1949, any land which is excess property within the meaning of such Act and which is determined by the Secretary to be suitable in furtherance of the purposes of subsection (b) may be transferred to the Secretary upon his request.

(d) In order to effectively carry out his activities under section 501, the Secretary is authorized to provide such advice and technical assistance as may be required and to pay for the cost of writing and publishing reports on activities and undertakings financed under section 501, as well as reports on similar activities and undertakings, not so financed, which are of significant value in furthering the purposes of that section. He may disseminate (without regard to the provisions of section 3204 of title 39, United States Code, or section 4154 of such title with respect to any period before the effective date of such section 3204 as provided in section 15(a) of the Postal Reorganization Act) any reports, data, or information acquired or held under this title, including related data and information otherwise available to the Secretary through the operation of the programs and activities of the Department of Housing and Urban Development, in such form as he determines to be most useful to departments, establishments, and agencies of Federal, State, and local governments, to industry, and to the general public.

(e) The Secretary is authorized to carry out the functions authorized in section 501 either directly or, without regard to section 3709 of the Revised Statutes, by contract or by grant. Advance and progress payments may be made under such contracts or grants without regard to the provisions of subsections (a) and (b) of section 3324 of title 31, United States Code, and such contracts or grants may be made for work to continue for not more than four years from the date thereof.

(f) In carrying out activities under section 501, the Secretary shall utilize to the fullest extent feasible the available facilities of other Federal departments and agencies, and shall consult with, and make recommendations to

such departments and agencies. The Secretary may enter into working agreements with such departments and agencies and contract or make grants on their behalf or have such departments and agencies contract or make grants on his behalf and such departments and agencies are hereby authorized to execute such contracts and grants. The Secretary is authorized to make or accept reimbursement for the cost of such activities. The Secretary is further authorized to undertake activities under this title under cooperative agreements with industry and labor, agencies of State or local governments, educational institutions, and other organizations. He may enter into contracts with and receive funds from such agencies, institutions, and organizations, and may exercise any of the other powers vested in him by section 502(c) of the Housing Act of 1948.

(g) The Secretary is authorized to request and receive such information or data as he deems appropriate from private individuals and organizations, and from public agencies. Any such information or data shall be used only for the purposes for which it is supplied, and no publication shall be made by the Secretary whereby the information or data furnished by any particular person or establishment can be identified, except with the consent of such person or establishment.

Sec. 503.
REPEAL OF EXISTING RESEARCH AUTHORITIES.

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Sec. 504. [12 U.S.C. 1701z-3]
HOUSING ALLOWANCES.

(a) The Secretary is authorized to undertake on an experimental basis programs to demonstrate the feasibility of providing housing allowances payments to assist families in meeting rental or homeownership expenses.

(b)(1) No housing allowance payments shall be made after July 1, 1985. After January 1, 1975, the Secretary shall not enter into contracts under the United States Housing Act of 1937 to carry out the purposes of this section. The Secretary may contract with public or private agencies for the performance of administrative functions in connection with the programs authorized by this section.

(2) Notwithstanding the provisions of paragraph (1), the Secretary shall, to the extent approved in appropriation Acts, extend the annual contributions contracts for the experimental housing allowance supply program through September 30, 1989, on the same terms and conditions as the original contracts, for the sole purpose of providing assistance for homeowners participating in such program on June 1, 1983. In extending such contracts, the Secretary may, to the extent approved in appropriation Acts, use authority available under section 5(c) of the United States Housing Act of 1937.

(c) The Secretary shall report to the Congress on his findings pursuant to this section not later than eighteen months after the enactment of the Housing and Community Development Act of 1974.

Sec. 505. [12 U.S.C. 1701z-4]
DEMONSTRATION WITH RESPECT TO ABANDONED PROPERTIES.

(a) In carrying out activities under section 501, the Secretary may undertake programs to demonstrate the most feasible means of providing assistance to localities in which a substantial number of structures are abandoned or are threatened with abandonment for the purpose of arresting the process of housing abandonment in its incipiency or in restoring viability to blighted areas in which abandonment is pervasive. For this purpose, the Secretary is authorized to make grants, subject to the limitations of this section, to assist local public bodies in planning and implementing demonstration projects for prompt and effective action in alleviating and preventing such abandonment in designated demonstration areas.

(b) In administering this section, the Secretary shall give preference to those demonstration projects which in his judgment can reasonably be expected to arrest the process of abandonment in the demonstration area within a period of two years and which provide for innovative approaches to combating the problem of housing abandonment. Such projects may include, but shall not be limited to (1) acquisition by negotiated purchase, lease, receivership, tax lien proceedings, or other means authorized by law and satisfactory to the Secretary, of real property within the demonstration area or areas which is abandoned, deteriorated, or in violation of applicable code standards; (2) the repair of streets, sidewalks, parks, playgrounds, publicly owned utilities, public buildings to meet needs consistent with the revitalization and continued use of the area; (3) the demolition of structures determined to be structurally unsound or unfit for human habitation or which contribute adversely to the physical or social environment of the locality involved; (4) the establishment of recreational or community facilities including public

playgrounds; (5) the improvement of garbage and trash collection, street cleaning and other essential services necessary to the revitalization and maintenance of the area; (6) the rehabilitation of privately and publicly owned real property by the locality; and (7) the establishment and operation of locally controlled, nonprofit housing management corporations and municipal repair programs.

(c) Subject to such conditions as the Secretary may prescribe, real property held as part of a project assisted under this section may be made available to (1) a limited dividend corporation, nonprofit corporation, or association, cooperative or public body or agency, or other approved purchaser or lessee, or (2) a purchaser who would be eligible for a mortgage insured under section 221(d)(3) or (d)(4), section 221(h)(1), section 235(i) or (i)(1), or section 236 of the National Housing Act, for purchase or lease at fair market value for use by such purchaser or lessee, as, or in the provision of, new or rehabilitated housing for occupancy by families or individuals of low or moderate income.

(d) Grants under this section shall be in amounts which do not exceed 90 per centum of the net project cost as determined by the Secretary. There are authorized to be appropriated for demonstration grants under this section not to exceed $20,000,000 for the fiscal year ending June 30, 1971. Any amounts appropriated shall remain available until expended and any amount authorized but not appropriated may be appropriated for any succeeding fiscal year commencing prior to July 1, 1972, Not more than one-third of the aggregate amount of grants made in any fiscal year under this section shall be made with respect to projects undertaken by one locality.

(e) The provisions of sections 106, 114, and 115,[708] of Title I of the Housing Act of 1949, and section 312 of the Housing Act of 1964, may apply to projects assisted under this Act as if such projects were being carried out in urban renewal areas as part of urban renewal projects within the meaning of section 110 of the Housing Act of 1949.

Sec. 506. [12 U.S.C. 1701z-5]
SOLAR ENERGY.

(a) In carrying out activities under section 501, the Secretary may, after consultation with the National Science Foundation, undertake demonstrations to determine the economic and technical feasibility of utilizing solar energy for heating or cooling residential housing (including demonstration of new housing design or structure involving the use of solar energy). Demonstrations carried out under this section should involve both single family and multifamily housing located in areas having distinguishable climatic characteristics in urban as well as rural environments. To carry out the purpose of this section the Secretary is authorized—

(1) to enter into contracts with, to make grants to, and to provide other types of assistance to individuals and entities with special competence and knowledge to contribute to the planning, design, development, and operation of such housing;

(2) to utilize the contract, loan, or mortgage insurance authority of any federally assisted housing program in the actual planning, development, and occupancy of such housing; and

(3) to set aside any development, construction, design, or occupancy requirements for the purpose of any demonstration under this section if he determines that such requirements inhibit such demonstration.

(b) The Secretary shall include in any demonstration under this section an evaluation of the demonstration to cover the full experience involved in all stages of the demonstration.

Sec. 507. [12 U.S.C. 1701z-6]
ADDITIONAL RESEARCH AUTHORITY.

(a) In carrying out activities under section 501, the Secretary may undertake special demonstrations to determine the housing design, the housing structure, and the housing-related facilities, and amenities most effective or appropriate to meet the needs of groups with special housing needs including the elderly, the handicapped, the displaced, single individuals, broken families, and large households. For this purpose, the Secretary is authorized to enter into contracts with, to make grants to, and to provide other types of assistance to individuals and entities with special competence and knowledge to contribute to the planning, development, design, and management of such housing.

(b) In carrying out his functions under this section, the Secretary shall give preferential attention to demonstrations which in his judgment involve areas of housing user needs most neglected in past and current research and demonstration efforts.

[708] Comma so in law.

(c) The Secretary is authorized to undertake demonstrations involving the actual planning, development, and occupancy of housing utilizing the contract and loan authority of any federally assisted housing program. He is also authorized to set aside any development, construction, design, and occupancy requirements, for the purposes of these demonstrations, if in his judgment they inhibit the testing of housing designed to meet the special housing needs.

(d) In carrying out this section, the Secretary shall include, as part of any demonstration, an evaluation of the demonstration to cover the full experience involved in planning, development, and occupancy.

(e) In addition to any other contract or loan authority which the Secretary may utilize under subsection (c), not more than $10,000,000 from amounts approved in appropriation Acts shall be available for research under this section.

Sec. 508. [12 U.S.C. 1701z-7]
COUNSELING TO MORTGAGORS.

(a) In carrying out activities under section 501, the Secretary is directed to undertake programs of studies and demonstrations within at least three standard metropolitan statistical areas to determine to the extent of need for and cost effectiveness of providing pre-purchase, default and delinquency counseling and related services to owners and purchasers of single-family dwellings insured or to be insured under the unsubsidized mortgage insurance programs of the National Housing Act.

(b) Within one year from enactment of this section, the Secretary shall submit an interim report to the Congress with respect to the progress made under such studies and demonstrations, including an estimate as to the date when a final report on the results of such demonstrations will be made available to the Congress.

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Sec. 510. [12 U.S.C. 1701z-9]
CONVERSIONS.

In carrying out activities under section 501, the Secretary is authorized to conduct demonstrations to determine the feasibility of expanding homeownership opportunities in urban areas and encouraging the creation and maintenance of decent, safe, and sanitary housing in such areas by utilizing techniques including, but not limited to, the conversion of multifamily housing properties to condominium or cooperative ownership by individuals and families.

Sec. 511. [12 U.S.C. 1701z-10]
REHABILITATION GUIDELINES.

(a)(1) The Secretary shall develop model rehabilitation guidelines for the voluntary adoption by States and communities to be used in conjunction with existing building codes by State and local officials in the inspection and approval of rehabilitated properties.

(2) Such guidelines shall be developed in consultation with the National Institute of Building Sciences, appropriate national organizations of agencies and officials of State and local governments, representatives of the building industry, and consumer groups, and other interested parties.

(3) The Secretary shall publish such guidelines for public comment not later than one year after the date of enactment of this section, and promulgate them no later than eighteen months after such date of enactment.

(4) The Secretary may furnish technical assistance to State and local governments to facilitate the use and implementation of such guidelines.

(b) The Secretary shall report to Congress not later than thirty-six months after the date of enactment of this section regarding (1) actions taken by State and local governments to adopt guidelines or their equivalents, and (2) recommendations for further action.

Sec. 512. [12 U.S.C. 1701z-10a]
BIENNIAL SURVEY OF ECONOMY AND HOUSING MARKET CONDITIONS.

The Secretary shall, not less than biennially, survey national, regional, and local economic and housing market conditions in a manner that provides data comparable to the data collected in such survey conducted in 1981.

END OF STATUTE

ADMINISTRATIVE AND MISCELLANEOUS PROVISIONS

HOUSING ACT OF 1948
[Public Law 901, 80th Cong.; 62 Stat. 1283; 12 U.S.C. 1701c]

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Sec. 502.

In carrying out their respective functions, powers, and duties—

(a) **[12 U.S.C. 1701c(a)]** The Secretary of Housing and Urban Development may appoint such officers and employees as he may find necessary, which appointments shall be subject to the civil service laws and chapter 51 and subchapter III of chapter 53 of title 5, United States Code. The Secretary may make such expenditures as may be necessary to carry out his functions, powers, and duties, and there are hereby authorized to be appropriated to the Secretary, out of any moneys in the Treasury not otherwise appropriated, such sums as may be necessary to carry out such functions, powers, and duties and for administrative expenses in connection therewith. The Secretary, without in any way relieving himself from final responsibility, may delegate any of his functions and powers to such officers, agents, or employees as he may designate, may authorize such successive redelegations of such functions and powers, as he may deem desirable, and may make such rules and regulations as may be necessary to carry out his functions, powers, and duties.

(b) **[42 U.S.C. 1404a]** The Secretary of Housing and Urban Development may sue and be sued only with respect to its functions under the United States Housing Act of 1937, as amended, and title II of Public Law 671, Seventy-sixth Congress, approved June 28, 1940, as amended. Funds made available for carrying out the functions, powers, and duties of the Secretary of Housing and Urban Development (including appropriations therefor, which are hereby authorized) shall be available in such amounts as may from year to year be authorized by the Congress, for the administrative expenses of the Secretary of Housing and Urban Development. Notwithstanding any other provisions of law except provisions of law hereafter enacted expressly in limitation hereof, the Secretary of Housing and Urban Development, or any State, or local public agency administering a low-rent housing project assisted pursuant to the United States Housing Act of 1937 or title II of Public Law 671, Seventy-sixth Congress, approved June 28, 1940, shall continue to have the right to maintain an action or proceeding to recover possession of any housing accommodations operated by it where such action is authorized by the statute or regulations under which such housing accommodations are administered, and, in determining net income for the purposes of tenant eligibility with respect to low-rent housing projects assisted pursuant to said Acts, the Secretary of Housing and Urban Development is authorized, where it finds such action equitable and in the public interest, to exclude amounts or portions thereof paid by the United States Government for disability or death occurring in connection with military service.

(c) **[12 U.S.C. 1701c(c)]** The Secretary of Housing and Urban Development and the Director of the Office of Thrift Supervision[709], respectively, may, in addition to and not in derogation of any powers and authorities conferred elsewhere in this Act—

(1) with the consent of the agency or organization concerned, accept and utilize equipment, facilities, or the services of employees of any Federal, State, or local public agency or instrumentality, educational institution, or nonprofit agency or organization and, in connection with the utilization of such services, may make payments for transportation while away from their homes or regular places of business and per diem in lieu of subsistence en route and at place of such service, in accordance with the provisions of section 5703 of title 5, United States Code;

(2) utilize, contract with, and act through, without regard to section 3709 of the Revised Statutes, any Federal, State, or local public agency or instrumentality, educational institution or nonprofit agency or organization with the consent of the agency or organization concerned, and any funds available to said officers for carrying out their respective functions, powers, and duties shall be available to reimburse or pay any such agency or organization; and, whenever in the judgment of any such officer necessary, he may make advance, progress, or other payments with respect to such contracts without regard to the provisions of subsections (a) and (b) of section 3324 of title 31, United States Code; and

[709] Effective on July 21, 2011, section 370(1) of Public Law 111-203 amends section 502(c) in the matter preceding paragraph (1), by striking "and the Director of the Office of Thrift Supervision" and inserting ", the Comptroller of the Currency, and the Federal Deposit Insurance Corporation". Section 311 of such Public Law provides for a delayed effective date of one year after the date of enactment of this law subject to a transfer of duties. See section 311(b) of such Public Law for a possible extension of the transfer date.

(3) make expenditures for all necessary expenses, including preparation, mounting, shipping, and installation of exhibits; purchase and exchange of technical apparatus; and such other expenses as may, from time to time, be found necessary in carrying out their respective functions, powers, and duties: *Provided*, That funds made available for administrative expenses in carrying out the functions, powers, and duties imposed upon the Secretary of Housing and Urban Development and the Federal Home Loan Bank Board[710], respectively, by or pursuant to law may at their option be consolidated into single administrative expense fund accounts of such officer or agency for expenditure by them, respectively, in accordance with the provisions hereof.

(d) **[12 U.S.C. 1701c(d)]** The Secretary of Housing and Urban Development may utilize funds made available to him for salaries and expenses for payment in advance for dues or fees for library memberships in organizations (or for membership of the individual librarians in organizations which will not accept library membership) whose publications are available to members only, or to members at a price lower than to the general public, and for payment in advance for publications available only upon that basis or available at a reduced price on prepublication order.

END OF STATUTE

[710] Effective on July 21, 2011, section 370(2) of Public Law 111-203 amends section 502(c)(3) by striking "Board" and inserting "Agency". Section 311 of such Public Law provides for a delayed effective date of one year after the date of enactment of this law subject to a transfer of duties. See section 311(b) of such Public Law for a possible extension of the transfer date.

SPECIAL ASSISTANT COMMISSIONER FOR COOPERATIVE HOUSING

HOUSING AMENDMENTS OF 1955
[Public Law 345, 84th Cong.; 69 Stat. 636; 12 U.S.C. 1715e note]

Sec. 102. [12 U.S.C. 1715e note]

* * * * * * *

(h) In the performance of, and with respect to, the functions powers, and duties vested in him by section 213 of the National Housing Act, section 221(d)(3), section 235, section 236, section 241, section 243, section 246, and section 203(n) of the National Housing Act, and section 101 of the Housing and Urban Development Act of 1965 or section 8 of the United States Housing Act of 1937 (insofar as the provisions of such sections relate to cooperative housing), the Secretary of Housing and Urban Development, notwithstanding the provisions of any other law, shall appoint a Special Assistant for Cooperative Housing, and provide the Special Assistant with adequate staff, whose sole responsibility will be to expedite operations under such sections and to eliminate obstacles to the full utilization of such sections under the direction and supervision of the Commissioner and Assistant Secretary for Housing Management. The person so appointed shall be fully sympathetic with the purposes of such sections.

END OF STATUTE

HUD ANNUAL REPORT

HOUSING ACT OF 1954
[Public Law 560, 83d Congress; 68 Stat. 642; 12 U.S.C. 1701o—1701p]

Sec. 802. [12 U.S.C. 1701o][711]
ANNUAL REPORT OF SECRETARY.

(a) The Secretary of Housing and Urban Development shall, as soon as practicable during each calendar year, make a report to the President for submission to the Congress on all operations and programs (including but not limited to the insurance, urban renewal, public housing, and rent supplement programs) under the jurisdiction of the Department of Housing and Urban Development during the previous calendar year. Such report shall contain recommendations for strengthening or improving such programs, or, when necessary to implement more effectively Congressional policies and purposes, for establishing new or alternative programs.

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Sec. 817. [12 U.S.C.:1701p]
REPORT TO CONGRESS OF INFORMATION ON HOUSING

The annual report made by the Secretary of Housing and Urban Development to the President for submission to the Congress on all operations provided for by section 802 hereof shall contain pertinent information with respect to all projects for which any loan, contribution, or grant has been made by the Department of Housing and Urban Development, including the amount of loans, contributions and grants contracted for.

END OF STATUTE

[711] See also section 8 of the Department of Housing and Urban Development Act, which is set forth, ante, this part.
Section 3003(a)(1) of the Federal Reports Elimination and Sunset Act of 1995, Pub. L. 104-66, which is set forth post in this part of this compilation, provides that certain provisions of law requiring submittal to Congress of an annual, semiannual, or other regular periodic report shall cease to be effective on May 15, 2000. This section is covered by such provision. However, section 1102 of the American Homeownership and Economic Opportunity Act of 2000, Public Law 106-569, which is set forth post in this part of this compilation, provides that such section 3003(a)(1) shall not apply to the report required to be submitted under this section.

ANNUAL REPORT ON CHARACTERISTICS OF FAMILIES IN HUD-ASSISTED HOUSING

HOUSING AND COMMUNITY DEVELOPMENT ACT OF 1987
[Public Law 100-242; 101 Stat. 1864; 42 U.S.C. 3536 note]

Sec. 166. [42 U.S.C. 3536 note]
ANNUAL REPORT ON CHARACTERISTICS OF FAMILIES IN ASSISTED HOUSING.

(a) IN GENERAL.—The Secretary of Housing and Urban Development shall include in the annual report under section 8 of the Housing and Urban Development Act[712] descriptions of the characteristics of families assisted under each of the following programs of assistance: public housing, section 8 of the United States Housing Act of 1937 (other than subsection (o) of such section), section 8(o) of the United States Housing Act of 1937, and section 202 of the Housing Act of 1959.

(b) SPECIFIC REQUIREMENTS.—The descriptions required in subsection (a) shall include information with respect to—

(1) family size, including the number of children;
(2) amount and sources of family income;
(3) the age, race, and sex of family members; and
(4) whether the head of the family (or the spouse of such person) is a member of the armed forces.

(c) COLLECTION AND MAINTENANCE OF DATA.—The Secretary shall collect and maintain data necessary to carry out the purposes of this section and shall coordinate such efforts, to the greatest extent possible, with activities and responsibilities under section 8 of the Department of Housing and Urban Development Act.

END OF STATUTE

[712] So in law. Probably should refer to the Department of Housing and Urban Development Act.

SEMIANNUAL REPORT ON CONTRACTS

1997 EMERGENCY SUPPLEMENTAL APPROPRIATIONS ACT
[Public Law 105-18; 111 Stat. 201; 42 U.S.C. 3548]

Sec. 10001. [42 U.S.C. 3548]

The Secretary shall submit semi-annually to the Committees on Appropriations a list of all contracts and task orders issued under such contracts in excess of $250,000 which were entered into during the prior 6-month period by the Secretary, the Government National Mortgage Association, and the Office of Federal Housing Enterprise Oversight (or by any officer of the Department of Housing and Urban Development, the Government National Mortgage Association, or the Office of Federal Housing Enterprise Oversight acting in his or her capacity to represent the Secretary or these entities). Each listing shall identify the parties to the contract, the term and amount of the contract, and the subject matter and responsibilities of the parties to the contract.

END OF STATUTE

ANNUAL REPORT ON ASSISTED UNITS UNDER LEASE

EXCERPT FROM TRANSPORTATION, TREASURY, HOUSING AND URBAN DEVELOPMENT, THE JUDICIARY, THE DISTRICT OF COLUMBIA, AND INDEPENDENT AGENCIES APPROPRIATIONS ACT, 2006

[Division A of Public Law 109-115; 119 Stat. 2463; 42 U.S.C. 1437 note]

Sec. 314. [42 U.S.C. 1437 note]

The Secretary of Housing and Urban Development shall submit an annual report no later than August 30, 2006, and annually thereafter to the House and Senate Committees on Appropriations regarding the number of Federally assisted units under lease and the per unit cost of these units to the Department of Housing and Urban Development.

END OF STATUTE

ELIMINATION OF REPORTING REQUIREMENTS

FEDERAL REPORTS ELIMINATION AND SUNSET ACT OF 1995
[Public Law 104-66; 109 Stat. 733; 31 U.S.C. 1113 note]

Sec. 3003. [31 U.S.C. 1113 note]
TERMINATION OF REPORTING REQUIREMENTS.

(a) TERMINATION.—

(1) IN GENERAL.—Subject to the provisions of paragraph (2) of this subsection and subsection (d), each provision of law requiring the submittal to Congress (or any committee of the Congress) of any annual, semiannual, or other regular periodic report specified on the list described under subsection (c) shall cease to be effective, with respect to that requirement, May 15, 2000.

(2) EXCEPTION.—The provisions of paragraph (1) shall not apply to any report required under—

(A) the Inspector General Act of 1978 (5 U.S.C. App.); or

(B) the Chief Financial Officers Act of 1990 (Public Law 101-576), including provisions enacted by the amendments made by that Act.

(b) IDENTIFICATION OF WASTEFUL REPORTS.—The President shall include in the first annual budget submitted pursuant to section 1105 of title 31, United States Code, after the date of enactment of this Act[713] a list of reports that the President has determined are unnecessary or wasteful and the reasons for such determination.

(c) LIST OF REPORTS.—The list referred to under subsection (a) is the list prepared by the Clerk of the House of Representatives for the first session of the One Hundred Third Congress under clause 2 of rule III of the Rules of the House of Representatives (House Document No. 103-7).

(d) SPECIFIC REPORTS EXEMPTED.—Subsection (a)(1) shall not apply to any report required under—

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AMERICAN HOMEOWNERSHIP AND ECONOMIC OPPORTUNITY ACT OF 2000
[Public Law 106-569; 114 Stat. 3029; 31 U.S.C. 1113 note]

Sec. 1101.
SHORT TITLE.

This title may be cited as the "Federal Reporting Act of 2000".

Sec. 1102. [31 U.S.C. 1113 note]
PRESERVATION OF CERTAIN REPORTING REQUIREMENTS.

Section 3003(a)(1) of the Federal Reports Elimination and Sunset Act of 1995 (31 U.S.C. 1113 note) shall not apply to any report required to be submitted under any of the following provisions of law:

(1) Section 3 of the Employment Act of 1946 (15 U.S.C. 1022).

(2) Section 723 of the Defense Production Act of 1950.

(3) Section 603 of the Public Works and Economic Development Act of 1965 (42 U.S.C. 3213).

(4) Section 7(o)(1) of the Department of Housing and Urban Development Act (42 U.S.C. 3535(o)(1)).

(5) Section 540(c) of the National Housing Act (12 U.S.C. 1735f-18(c)).

(6) Paragraphs (2) and (6) of section 808(e) of the Civil Rights Act of 1968 (42 U.S.C. 3608(e)).

(7) Section 1061 of the Housing and Community Development Act of 1992 (42 U.S.C. 4856).

(8) Section 203(v) of the National Housing Act (12 U.S.C. 1709(v)), as added by section 504 of the Housing and Community Development Act of 1992 (Public Law 102-550; 106 Stat. 3780).

(9) Section 802 of the Housing Act of 1954 (12 U.S.C. 1701o).

(10) Section 8 of the Department of Housing and Urban Development Act (42 U.S.C. 3536).

(11) Section 1320 of the National Flood Insurance Act of 1968 (42 U.S.C. 4027).

(12) Section 4(e)(2) of the Department of Housing and Urban Development Act (42 U.S.C. 3533(e)(2)).

(13) Section 205(g) of the National Housing Act (12 U.S.C. 1711(g)).

[713] December 21, 1995.

(14) Section 701(c)(1) of the International Financial Institutions Act (22 U.S.C. 262d(c)(1)).
(15) Paragraphs (1) and (2) of section 5302(c) of title 31, United States Code.
(16) Section 18(f)(7) of the Federal Trade Commission Act (15 U.S.C. 57a(f)(7)).
(17) Section 333 of the Revised Statutes of the United States (12 U.S.C. 14).
(18) Section 3(g) of the Home Owners' Loan Act (12 U.S.C. 1462a(g)).
(19) Section 304 of the Appalachian Regional Development Act of 1965 (40 U.S.C. App. 304).
(20) Sections 2(b)(1)(A), 8(a), 8(c), 10(g)(1), and 11(c) of the Export-Import Bank Act of 1945 (12 U.S.C. 635(b)(1)(A), 635g(a), 635g(c), 635i-3(g), and 635i-5(c)).
(21) Section 17(a) of the Federal Deposit Insurance Act (12 U.S.C. 1827(a)).
(22) Section 13 of the Federal Financing Bank Act of 1973 (12 U.S.C. 2292).
(23) Section 2B(d) of the Federal Home Loan Bank Act (12 U.S.C. 1422b(d)).
(24) Section 1002(b) of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989 (12 U.S.C. 1811 note).
(25) Section 8 of the Fair Credit and Charge Card Disclosure Act of 1988 (15 U.S.C. 1637 note).
(26) Section 136(b)(4)(B) of the Truth in Lending Act (15 U.S.C. 1646(b)(4)(B)).
(27) Section 707 of the Equal Credit Opportunity Act (15 U.S.C. 1691f).
(28) Section 114 of the Truth in Lending Act (15 U.S.C. 1613).
(29) The seventh undesignated paragraph of section 10 of the Federal Reserve Act (12 U.S.C. 247).
(30) The tenth undesignated paragraph of section 10 of the Federal Reserve Act (12 U.S.C. 247a).
(31) Section 815 of the Fair Debt Collection Practices Act (15 U.S.C. 1692m).
(32) Section 102(d) of the Federal Credit Union Act (12 U.S.C. 1752a(d)).
(33) Section 21B(i) of the Federal Home Loan Bank Act (12 U.S.C. 1441b(i)).
(34) Section 607(a) of the Housing and Community Development Amendments of 1978 (42 U.S.C. 8106(a)).
(35) Section 708(l) of the Defense Production Act of 1950 (50 U.S.C. App. 2158(l)).
(36) Section 2546 of the Comprehensive Thrift and Bank Fraud Prosecution and Taxpayer Recovery Act of 1990 (28 U.S.C. 522 note).
(37) Section 202(b)(8) of the National Housing Act (12 U.S.C. 1708(b)(8)).

SEC. 1103.
COORDINATION OF REPORTING REQUIREMENTS.

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SEC. 1104.
ELIMINATION OF CERTAIN REPORTING REQUIREMENTS.

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END OF STATUTE

IMPROVED ARCHITECTURAL DESIGN

HOUSING AND URBAN DEVELOPMENT ACT OF 1968
[Public Law 90-448; 82 Stat. 477; 12 U.S.C. 1701v]

Sec. 4. [12 U.S.C. 1701v]
IMPROVED ARCHITECTURAL DESIGN IN GOVERNMENT HOUSING PROGRAMS.

The Congress finds that Federal aids to housing have not contributed fully to improvement in architectural standards. This objective has been contemplated in Federal housing legislation since the establishment of mortgage insurance through the Federal Housing Administration.

The Congress commends the Department of Housing and Urban Development for its recent efforts to improve architectural standards through competitive design awards and in other ways but at the same time recognizes that this important objective requires high priority if Federal aid is to make its full communitywide contribution toward improving our urban environment.

The Congress further finds that even within the necessary budget limitations on housing for low and moderate income families architectural design could be improved not only to make the housing more attractive, but to make it better suited to the needs of occupants.

The Congress declares that in the administration of housing programs which assist in the provision of housing for low and moderate income families, emphasis should be given to encouraging good design as an essential component of such housing and to developing housing which will be of such quality as to reflect its important relationship to the architectural standards of the neighborhood and community in which it is situated, consistent with prudent budgeting.

END OF STATUTE

PAPERWORK REDUCTION

HOUSING AND COMMUNITY DEVELOPMENT AMENDMENTS OF 1978
[Public Law 95-557; 92 Stat. 2126; 42 U.S.C. 3541]

Sec. 905. [42 U.S.C. 3541]
PAPERWORK REDUCTION.

(a) The Congress finds and declares—

(1) that various departments, agencies, and instrumentalities of the Federal Government with responsibilities involving housing and housing finance programs, require, approve, use or otherwise employ a variety of different forms as residential mortgages (or deeds of trust or similar security instruments) as notes secured by those mortgages, and for applications, appraisals and other purposes, and that such duplication of forms constitute a paperwork burden that adds to the costs imposed on the Nation's homeowners and home buyers;

(2) that unnecessary paperwork impairs the effectiveness of Federal housing and housing finance programs;

(3) that both single-family and multi-family programs are affected; and

(4) that simplification of paperwork imposed by Federal housing and housing finance programs would contribute to achieving the Nation's housing goals by reducing housing costs.

(b)(1) Not later than October 1, 1980, the Secretary of Housing and Urban Development, the Secretary of Agriculture, and the Secretary of Veterans Affairs shall, consistent with provisions of law governing the conduct of housing programs, employ in their respective programs—

(A) uniform single-family and multi-family note and mortgage form;

(B) a uniform application form for mortgage approval and commitment for mortgage insurance;

(C) a uniform form for computation of the monthly net effective income of applicants;

(D) a uniform property appraisal form;

(E) a uniform settlement statement which shall satisfy the requirements of the Real Estate Settlement Procedures Act of 1974; and

(F) such other consolidated or simplified forms particularly those which solicit identical or nearly identical information from the same persons in the conduct of two or more such programs, the consolidation or simplification of which the Secretaries of Housing and Urban Development and Agriculture and the Secretary of Veterans Affairs mutually agree would contribute to a reduction in the paperwork and regulatory burden of such programs.

(2) The Secretary of Housing and Urban Development, the Secretary of Agriculture, and the Secretary of Veterans Affairs shall, consistent with provisions of law governing their respective programs, provide by regulation for the elimination of forms which solicit information which is already available for other available sources through indexing or other means of identifying such forms.

(3) Each agency referred to in subsection (b) may employ riders, addenda, or similar forms of modification agreements to adapt such uniform forms to its respective programs and policies, consistent with the goals of minimizing the use and extent of such modification agreements and maximizing the suitability of such forms for the use of all participants, public and private.

(c) The Director of the Office of Management and Budget shall coordinate and monitor the development and implementation by Federal departments and agencies of the efforts required by subsection (b) and shall report to the Congress on such development and implementation and with respect to any provisions of law which unnecessarily prevent such departments and agencies from carrying out the provisions of this section as part of each report required under Public Law 93-556. Such report shall include an estimate of the reduction of the level of paperwork burden hours of the affected agencies as allocated by the Office of Management and Budget.

END OF STATUTE

RECORDS AND AUDITS REQUIRED IN CONNECTION WITH LOANS, ADVANCES, GRANTS, OR CONTRIBUTIONS (BYRD AMENDMENT)

HOUSING ACT OF 1954
[Public Law 560, 83d Congress; 68 Stat. 647; 42 U.S.C. 1434]

Sec. 814. [42 U.S.C. 1434]
RECORDS.

Every contract between the Department of Housing and Urban Development and any person or local body (including any corporation or public or private agency or body) for a loan, advance, grant, or contribution under the United States Housing Act of 1937, as amended, the Housing Act of 1949, as amended, or any other Act shall provide that such person or local body shall keep such records as the Department of Housing and Urban Development shall from time to time prescribe, including records which permit a speedy and effective audit and will fully disclose the amount and disposition by such person or local body of the proceeds of the loan, advance, grant, or contribution, or any supplement thereto, the capital cost of any construction project for which any such loan, advance, grant, or contribution is made, and the amount of any private or other non-Federal funds used or grants-in-aid made for or in connection with any such project. No mortgage covering new or rehabilitated multifamily housing (as defined in section 227 of the National Housing Act, as amended) shall be insured unless the mortgagor certifies that he will keep such records as are prescribed by the Secretary of Housing and Urban Development at the time of the certification and that they will be kept in such form as to permit a speedy and effective audit. The Department of Housing and Urban Development and the Comptroller General of the United States shall have access to and the right to examine and audit such records. This section shall become effective on the first day after the first full calendar month following the date of approval of the Housing Act of 1961.

END OF STATUTE

FRAUD AND FALSE STATEMENTS

TITLE 18, UNITED STATES CODE

Sec. 1001.
STATEMENTS OR ENTRIES GENERALLY.

(a) Except as otherwise provided in this section, whoever, in any matter within the jurisdiction of the executive, legislative, or judicial branch of the Government of the United States, knowingly and willfully—

(1) falsifies, conceals, or covers up by any trick, scheme, or device a material fact;

(2) makes any materially false, fictitious, or fraudulent statement or representation; or

(3) makes or uses any false writing or document knowing the same to contain any materially false, fictitious, or fraudulent statement or entry;

shall be fined under this title, imprisoned not more than 5 years or, if the offense involves international or domestic terrorism (as defined in section 2331), imprisoned not more than 8 years, or both. If the matter relates to an offense under chapter 109A, 109B, 110, or 117, or section 1591, then the term of imprisonment imposed under this section shall be not more than 8 years.

(b) Subsection (a) does not apply to a party to a judicial proceeding, or that party's counsel, for statements, representations, writings or documents submitted by such party or counsel to a judge or magistrate in that proceeding.

(c) With respect to any matter within the jurisdiction of the legislative branch, subsection (a) shall apply only to—

(1) administrative matters, including a claim for payment, a matter related to the procurement of property or services, personnel or employment practices, or support services, or a document required by law, rule, or regulation to be submitted to the Congress or any office or officer within the legislative branch; or

(2) any investigation or review, conducted pursuant to the authority of any committee, subcommittee, commission or office of the Congress, consistent with applicable rules of the House or Senate.

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Sec . 1010.
DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT AND FEDERAL HOUSING ADMINISTRATION TRANSACTIONS.

Whoever, for the purpose of obtaining any loan or advance of credit from any person, partnership, association, or corporation with the intent that such loan or advance of credit shall be offered to or accepted by the Department of Housing and Urban Development for insurance, or for the purpose of obtaining any extension or renewal of any loan, advance of credit, or mortgage insured by such department, or the acceptance, release, or substitution of any security on such a loan, advance of credit, or for the purpose of influencing in any way the action of such Department, makes, passes, utters, or publishes any statement, knowing the same to be false, or alters, forges, or counterfeits any instrument, paper, or document, or utters, publishes, or passes as true any instrument, paper, or document, knowing it to have been altered, forged, or counterfeited, or willfully overvalues any security, asset, or income, shall be fined under this title or imprisoned not more than two years, or both.

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Sec . 1012.
DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT TRANSACTIONS.

Whoever, with intent to defraud, makes any false entry in any book of the Department of Housing and Urban Development or makes any false report or statement to or for such Department; or

Whoever receives any compensation, rebate, or reward, with intent to defraud such Department or with intent unlawfully to defeat its purposes; or

Whoever induces or influences such Department to purchase or acquire any property or to enter into any contract and willfully fails to disclose any interest which he has in such property or in the property to which such contract relates, or any special benefit which he expects to receive as a result of such contract—

Shall be fined under this title or imprisoned not more than one year, or both.

END OF STATUTE

OBSTRUCTION OF JUSTICE

TITLE 18, UNITED STATES CODE
[Public Law 100-690; 102 Stat. 4406]

Sec . 1516.
OBSTRUCTION OF FEDERAL AUDIT.

(a) Whoever, with intent to deceive or defraud the United States, endeavors to influence, obstruct, or impede a Federal auditor in the performance of official duties relating to a person, entity, or program receiving in excess of $100,000, directly or indirectly, from the United States in any 1 year period under a contract or subcontract, grant, or cooperative agreement, or relating to any property that is security for a mortgage note that is insured, guaranteed, acquired, or held by the Secretary of Housing and Urban Development pursuant to any Act administered by the Secretary, or relating to any property that is security for a loan that is made or guaranteed under title V of the Housing Act of 1949, shall be fined under this title, or imprisoned not more than 5 years, or both.

(b) For purposes of this section—

(1) the term “Federal auditor” means any person employed on a full- or part-time or contractual basis to perform an audit or a quality assurance inspection for or on behalf of the United States; and

(2) the term “in any 1 year period” has the meaning given to the term “in any one-year period” in section 666.

END OF STATUTE

PREVENTING FRAUD AND ABUSE

HOUSING AND COMMUNITY DEVELOPMENT ACT OF 1987
[Public Law 100-242; 101 Stat. 1864; 42 U.S.C. 3543]

Sec. 165. [42 U.S.C. 3543]
PREVENTING FRAUD AND ABUSE IN DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT PROGRAMS.

(a) DISCLOSURE OF SOCIAL SECURITY ACCOUNT NUMBER.—As a condition of initial or continuing eligibility for participation in any program of the Department of Housing and Urban Development involving loans, grants, interest or rental assistance of any kind, or mortgage or loan insurance, and to ensure that the level of benefits provided under such programs is proper, the Secretary of Housing and Urban Development may require that an applicant or participant (including members of the household of an applicant or participant) disclose his or her social security account number or employer identification number to the Secretary.

(b) DEFINITIONS.—For purposes of this section, the terms "applicant" and "participant" shall have such meanings as the Secretary of Housing and Urban Development by regulation shall prescribe. Such terms shall not include persons whose involvement is only in their official capacity, such as State or local government officials or officers of lending institutions.

STEWART B. MCKINNEY HOMELESS ASSISTANCE AMENDMENTS ACT OF 1988
[Public Law 100-628; 102 Stat. 3259; 42 U.S.C. 3544]

Sec. 904. [42 U.S.C. 3544]
PREVENTING FRAUD AND ABUSE IN HOUSING AND URBAN DEVELOPMENT PROGRAMS.

(a) DEFINITIONS.—As used in this section:

(1) SECRETARY.—The term "Secretary" means the Secretary of Housing and Urban Development.

(2) APPLICANT; PARTICIPANT.—The terms "applicant" and "participant" shall have such meanings as the Secretary by regulation shall prescribe, except that such terms shall include members of an applicant's or participant's household, and such terms shall not include persons whose involvement is only in their official capacity, such as State or local government officials and officers of lending institutions.

(3) PUBLIC HOUSING AGENCY.—The term "public housing agency" means any agency described in section 3(b)(6) of the United States Housing Act of 1937.

(4) PROGRAM OF THE DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT.—The term "program of the Department of Housing and Urban Development" includes Indian housing programs assisted under title II of the United States Housing Act of 1937[714].

(b) APPLICANT AND PARTICIPANT CONSENT.—As a condition of initial or continuing eligibility for participation in any program of the Department of Housing and Urban Development involving initial and periodic review of an applicant's or participant's income, and to assure that the level of benefits provided under the program is correct, the Secretary may require that an applicant or participant—

(1) sign a consent form approved by the Secretary authorizing the Secretary, the public housing agency, or the owner responsible for determining eligibility for or level of benefits to request current or previous employers to verify salary and wage information pertinent to the applicant's or participant's eligibility or level of benefits;

(2) sign a consent form approved by the Secretary authorizing the Secretary or the public housing agency responsible for determining eligibility or level of benefits to request a State agency charged with the administration of the State unemployment law to release wage information with respect to such applicant or participant or information regarding whether such applicant or participant is receiving, has received, or has made application for, unemployment compensation, and the amount of any such compensation being received (or to be received) by such applicant or participant;

[714] Section 501(a) of the Native American Housing Assistance and Self-Determination Act of 1996 (P.L. 104-330; 110 Stat. 4041) repealed title II of the United States Housing Act of 1937.

(3) sign a consent form approved by the Secretary authorizing the Secretary to request the Commissioner of Social Security and the Secretary of the Treasury to release information pursuant to section 6103(l)(7)(D)(ix) of the Internal Revenue Code of 1986 with respect to such applicant or participant for the sole purpose of the Secretary verifying income information pertinent to the applicant's or participant's eligibility or level of benefits; and

(4) only in the case of an applicant or participant that is a member of a family described in section 3(f)(2) of the United States Housing Act of 1937 (42 U.S.C. 1437a(f)(2)), sign an agreement under which the applicant or participant agrees to provide to the appropriate public housing agency, or the owner responsible for determining the participant's eligibility or level of benefits, the information required under section 3(f)(1) of such Act for the sole purpose of verifying income information pertinent to the applicant's or participant's eligibility or level of benefits, and comply with such agreement.

Except as provided in this subsection, this consent form shall not be used to request taxpayer return information protected by section 6103 of the Internal Revenue Code of 1986.

(c) ACCESS TO RECORDS.—

(1) AMENDMENTS TO SOCIAL SECURITY ACT.—

(A) Section 303 of the Social Security Act (42 U.S.C. 503) is amended by adding at the end the following new subsection:

"(i)[715](1) * * *

(B) Section 304(a)(2) of the Social Security Act (42 U.S.C. 504(a)(2)) is amended by striking "(e), or (h)" and inserting "(e), (h), or (i)".

(2) APPLICANT AND PARTICIPANT PROTECTIONS.—

(A) In order to protect applicants for, and recipients of, benefits under the programs of the Department of Housing and Urban Development from the improper use of information obtained pursuant to the requirements of section 303(i) of the Social Security Act from the State agency charged with the administration of the State unemployment compensation law, pursuant to section 3(d)(1) of the United States Housing Act of 1937 from the applicant or participant, or pursuant to section 6103(l)(7)(D)(ix) of the Internal Revenue Code of 1986 from the Commissioner of Social Security or the Secretary of the Treasury, officers and employees of the Department of Housing and Urban Development and (in the case of information obtained pursuant to such section 303(i) or 3(d)(1)) representatives of public housing agencies may only use such information—

(i) to verify an applicant's or participant's eligibility for or level of benefits; or

(ii) in the case of an owner or public housing agency responsible for determining eligibility for or level of benefits, to inform such owner or public housing agency that an applicant's or participant's eligibility for or level of benefits is uncertain and to request such owner or public housing agency to verify such applicant's or participant's income information.

(B) No Federal, State, or local agency, or public housing agency, or owner responsible for determining eligibility for or level of benefits receiving such information may terminate, deny, suspend, or reduce any benefits of an applicant or participant until such agency or owner has taken appropriate steps to independently verify information relating to—

(i) the amount of the wages, other earnings or income, or unemployment compensation involved,

(ii) whether such applicant or participant actually has (or had) access to such wages, other earnings or income, or benefits for his or her own use, and

(iii) the period or periods when, or with respect to which, the applicant or participant actually received such wages, other earnings or income, or benefits.

(C) Such applicant or participant shall be informed by the agency or owner of the findings made by the agency or owner on the basis of such verified information, and shall be given an opportunity to contest such findings, in the same manner as applies to other information and findings relating to eligibility factors under the program.

(3) PENALTY.—

(A) Any person who knowingly and willfully requests or obtains any information concerning an applicant or participant pursuant to the authority contained in section 303(i) of the

[715] Section 303(i) of the Social Security Act (42 U.S.C. 503(i)) is set forth, post, in this part.

Social Security Act, section 3(d)(1) of the United States Housing Act of 1937, or section 6103(l)(7)(D)(ix) of the Internal Revenue Code of 1986 without consent or agreement, as applicable, pursuant to subsection (b) of this section or under false pretenses, or any person who knowingly and willfully discloses any such information in any manner to any individual not entitled under any law to receive it, shall be guilty of a misdemeanor and fined not more than $5,000. The term "person" as used in this paragraph shall include an officer or employee of the Department of Housing and Urban Development, an officer or employee of any public housing agency, and any owner responsible for determining eligibility for or level of benefits (or employee thereof).

(B) Any applicant or participant affected by (i) a negligent or knowing disclosure of information referred to in this section, section 303(i) of the Social Security Act, section 3(d)(1) of the United States Housing Act of 1937, or section 6103(l)(7)(D)(ix) of the Internal Revenue Code of 1986 about such person by an officer or employee of any public housing agency or owner (or employee thereof), which disclosure is not authorized by this section, such section 303(i), such section 3(d)(1), such section 6103(l)(7)(D)(ix), or any regulation implementing this section, such section 303(i), such section 3(d)(1), or such section 6103(l)(7)(D)(ix), or for which consent, pursuant to subsection (b) of this section, has not been granted, or (ii) any other negligent or knowing action that is inconsistent with this section, such section 303(i), such section 3(d)(1), such section 6103(l)(7)(D)(ix), or any such implementing regulation may bring a civil action for damages and such other relief as may be appropriate against any officer or employee of any public housing agency or owner (or employee thereof) responsible for any such unauthorized action. The district court of the United States in the district in which the affected applicant or participant resides, in which such unauthorized action occurred, or in which the applicant or participant alleged to be responsible for any such unauthorized action resides, shall have jurisdiction in such matters. Appropriate relief that may be ordered by such district courts shall include reasonable attorney's fees and other litigation costs.

(d) EFFECTIVE DATE.—

(1) IN GENERAL.—Except as provided in paragraphs (2) and (3), the provisions of this section shall take effect on September 30, 1989.

(2) OPTIONAL EARLY IMPLEMENTATION.—At the initiative of a State or an agency of the State, and with the approval of the Secretary of Labor, the amendments made by subsection (c)(1) may be made effective in such State on any date before September 30, 1989, which is more than 90 days after the date of the enactment of this section.

(3) REQUIREMENTS FOR STATE AGENCIES.—In the case of any State the legislature of which has not been in session for at least 30 calendar days (whether or not consecutive) between the date of the enactment of this Act and September 30, 1989, the amendments made by subsection (c)(1) shall take effect 30 calendar days after the first day on which such legislature is in session on or after September 30, 1989.

(e) CONDITIONS OF RELEASE OF INFORMATION BY THIRD PARTIES.—An applicant or participant under any program of the Department of Housing and Urban Development may not be required or requested to consent to the release of information by third parties as a condition of initial or continuing eligibility for participation in the program unless—

(1) the request for consent is made, and the information secured is maintained, in accordance with this section,[716] section 552a of title 5, United States Code; and

(2) the consent that is requested is appropriately limited, with respect to time and information relevant and necessary to meet the requirements of this section.[717]

HOUSING OPPORTUNITY THROUGH MODERNIZATION ACT OF 2016
[Public Law 114-201; 130 Stat. 782; 42 U.S.C. 3544 note]

[716] So in law.

[717] Section 903 of the Housing and Community Development Act of 1992, Pub. L. 102-550, approved October 28, 1992, added subsection (e). Subsection (b) of such section provides for the development of a new release form meeting the requirements of section 904 of the Stewart B. McKinney Homeless Assistance Amendments Act of 1988.

Sec. 501. [42 U.S.C. 3544 note]
INCLUSION OF DISASTER HOUSING ASSISTANCE PROGRAM IN CERTAIN FRAUD AND ABUSE PREVENTION MEASURES

The Disaster Housing Assistance Program administered by the Department of Housing and Urban Development shall be considered a "program of the Department of Housing and Urban Development" under section 904 of the Stewart B. McKinney Homeless Assistance Amendments Act of 1988 (42 U.S.C. 3544) for the purpose of income verifications.

SOCIAL SECURITY ACT
[Public Law 100-628; 102 Stat. 3259; 42 U.S.C. 503, 653]

Sec. 303. [42 U.S.C. 503]
PROVISIONS OF STATE LAWS.

* * * * * * *

(i)(1) The State agency charged with the administration of the State law—

(A) shall disclose, upon request and on a reimbursable basis, only to officers and employees of the Department of Housing and Urban Development and to representatives of a public housing agency, any of the following information contained in the records of such State agency with respect to individuals applying for or participating in any housing assistance program administered by the Department who have signed an appropriate consent form approved by the Secretary of Housing and Urban Development—

(i) wage information, and

(ii) whether an individual is receiving, has received, or has made application for, unemployment compensation, and the amount of any such compensation being received (or to be received) by such individual, and

(B) shall establish such safeguards as are necessary (as determined by the Secretary of Labor in regulations) to ensure that information disclosed under subparagraph (A) is used only for purposes of determining an individual's eligibility for benefits, or the amount of benefits, under a housing assistance program of the Department of Housing and Urban Development.

(2) The Secretary of Labor shall prescribe regulations governing how often and in what form information may be disclosed under paragraph (1)(A).

(3) Whenever the Secretary of Labor, after reasonable notice and opportunity for hearing to the State agency charged with the administration of the State law, finds that there is a failure to comply substantially with the requirements of paragraph (1), the Secretary of Labor shall notify such State agency that further payments will not be made to the State until he or she is satisfied that there is no longer any such failure. Until the Secretary of Labor is so satisfied, he or she shall make no future certification to the Secretary of the Treasury with respect to such State.

(4) For purposes of this subsection, the term "public housing agency" means any agency described in section 3(b)(6) of the United States Housing Act of 1937.

* * * * * * *

Sec. 453. [42 U.S.C. 653]
FEDERAL PARENT LOCATOR SERVICE.

* * * * * * *

(j) INFORMATION COMPARISONS AND OTHER DISCLOSURES.—

* * * * * * *

(7) INFORMATION COMPARISONS FOR HOUSING ASSISTANCE PROGRAMS.—

(A) FURNISHING OF INFORMATION BY HUD.—Subject to subparagraph (G), the Secretary of Housing and Urban Development shall furnish to the Secretary, on such periodic basis as determined by the Secretary of Housing and Urban Development in consultation with the Secretary, information in the custody of the Secretary of Housing and Urban Development for comparison with information in the National Directory of New Hires, in order to obtain information in such Directory with respect to individuals who are participating in any program under—

(i) the United States Housing Act of 1937 (42 U.S.C. 1437 et seq.);

(ii) section 202 of the Housing Act of 1959 (12 U.S.C. 1701q);

(iii) section 221(d)(3), 221(d)(5), or 236 of the National Housing Act (12 U.S.C. 1715l(d) and 1715z-1);

(iv) section 811 of the Cranston-Gonzalez National Affordable Housing Act (42 U.S.C. 8013); or

(v) section 101 of the Housing and Urban Development Act of 1965 (12 U.S.C. 1701s).

(B) REQUIREMENT TO SEEK MINIMUM INFORMATION.—The Secretary of Housing and Urban Development shall seek information pursuant to this section only to the extent necessary to verify the employment and income of individuals described in subparagraph (A).

(C) DUTIES OF THE SECRETARY.—

(i) INFORMATION DISCLOSURE.—The Secretary, in cooperation with the Secretary of Housing and Urban Development, shall compare information in the National Directory of New Hires with information provided by the Secretary of Housing and Urban Development with respect to individuals described in subparagraph (A), and shall disclose information in such Directory regarding such individuals to the Secretary of Housing and Urban Development, in accordance with this paragraph, for the purposes specified in this paragraph.

(ii) CONDITION ON DISCLOSURE.—The Secretary shall make disclosures in accordance with clause (i) only to the extent that the Secretary determines that such disclosures do not interfere with the effective operation of the program under this part.

(D) USE OF INFORMATION BY HUD.—The Secretary of Housing and Urban Development may use information resulting from a data match pursuant to this paragraph only—

(i) for the purpose of verifying the employment and income of individuals described in subparagraph (A); and

(ii) after removal of personal identifiers, to conduct analyses of the employment and income reporting of individuals described in subparagraph (A).

(E) DISCLOSURE OF INFORMATION BY HUD.—

(i) PURPOSE OF DISCLOSURE.—The Secretary of Housing and Urban Development may make a disclosure under this subparagraph only for the purpose of verifying the employment and income of individuals described in subparagraph (A).

(ii) DISCLOSURES PERMITTED.—Subject to clause (iii), the Secretary of Housing and Urban Development may disclose information resulting from a data match pursuant to this paragraph only to a public housing agency, the Inspector General of the Department of Housing and Urban Development, and the Attorney General in connection with the administration of a program described in subparagraph (A). Information obtained by the Secretary of Housing and Urban Development pursuant to this paragraph shall not be made available under section 552 of title 5, United States Code.

(iii) CONDITIONS ON DISCLOSURE.—Disclosures under this paragraph shall be—

(I) made in accordance with data security and control policies established by the Secretary of Housing and Urban Development and approved by the Secretary;

(II) subject to audit in a manner satisfactory to the Secretary; and

(III) subject to the sanctions under subsection (l)(2).

(iv) ADDITIONAL DISCLOSURES.—

(I) DETERMINATION BY SECRETARIES.—The Secretary of Housing and Urban Development and the Secretary shall determine whether to

permit disclosure of information under this paragraph to persons or entities described in subclause (II), based on an evaluation made by the Secretary of Housing and Urban Development (in consultation with and approved by the Secretary), of the costs and benefits of disclosures made under clause (ii) and the adequacy of measures used to safeguard the security and confidentiality of information so disclosed.

(II) PERMITTED PERSONS OR ENTITIES.—If the Secretary of Housing and Urban Development and the Secretary determine pursuant to subclause (I) that disclosures to additional persons or entities shall be permitted, information under this paragraph may be disclosed by the Secretary of Housing and Urban Development to a private owner, a management agent, and a contract administrator in connection with the administration of a program described in subparagraph (A), subject to the conditions in clause (iii) and such additional conditions as agreed to by the Secretaries.

(v) RESTRICTIONS ON REDISCLOSURE.—A person or entity to which information is disclosed under this subparagraph may use or disclose such information only as needed for verifying the employment and income of individuals described in subparagraph (A), subject to the conditions in clause (iii) and such additional conditions as agreed to by the Secretaries.

(F) REIMBURSEMENT OF HHS COSTS.—The Secretary of Housing and Urban Development shall reimburse the Secretary, in accordance with subsection (k)(3), for the costs incurred by the Secretary in furnishing the information requested under this paragraph.

(G) CONSENT.—The Secretary of Housing and Urban Development shall not seek, use, or disclose information under this paragraph relating to an individual without the prior written consent of such individual (or of a person legally authorized to consent on behalf of such individual).

CONSOLIDATED APPROPRIATIONS ACT, 2004
[Public Law 108-199; 118 Stat. 394]

DIVISION G—DEPARTMENTS OF VETERANS AFFAIRS AND HOUSING AND URBAN DEVELOPMENT, AND INDEPENDENT AGENCIES APPROPRIATIONS ACT, 2004

Sec. 217.

(a) INFORMATION COMPARISONS FOR PUBLIC AND ASSISTED HOUSING PROGRAMS.—Section 453(j) of the Social Security Act (42 U.S.C. 653(j)) is amended by adding at the end the following new paragraph:

"(7) INFORMATION COMPARISONS FOR HOUSING ASSISTANCE PROGRAMS.—[718]***

* * * * * * *

(b) CONSENT TO INFORMATION COMPARISON AND USE AS CONDITION OF HUD PROGRAM ELIGIBILITY.—As a condition of participating in any program authorized under—

(1) the United States Housing Act of 1937 (42 U.S.C. 1437 et seq.);

(2) section 202 of the Housing Act of 1959 (12 U.S.C. 1701q);

(3) section 221(d)(3), 221(d)(5), or 236 of the National Housing Act (12 U.S.C. 1715l(d) and 1715z-1);

(4) section 811 of the Cranston-Gonzalez National Affordable Housing Act (42 U.S.C. 8013); or

(5) section 101 of the Housing and Urban Development Act of 1965 (12 U.S.C. 1701s),

the Secretary of Housing and Urban Development may require consent by an individual (or by a person legally authorized to consent on behalf of such individual) for such Secretary to obtain, use, and disclose information with respect to such individual in accordance with section 453(j)(7) of the Social Security Act (42 U.S.C. 653(j)(7)).

* * * * * * *

[718] This paragraph of section 453(j) of the Social Security Act is set forth immediately following this section.

END OF STATUTE

INTERNATIONAL HOUSING AND URBAN DEVELOPMENT

HOUSING ACT OF 1957
[Public Law 85-104, 85th Congress; 71 Stat. 305; 12 U.S.C. 1701d-4]

Sec. 604. [12 U.S.C. 1701d-4]
EXCHANGE OF DATA.

(a) The Secretary of Housing and Urban Development may exchange data relating to housing and urban planning and development with other nations and assemble such data from other nations, through participation in international conferences and other means, where such exchange or assembly is deemed by him to be beneficial in carrying out his responsibilities under the Department of Housing and Urban Development Act or other legislation. In carrying out his responsibilities under this subsection the Secretary may—

(1) pay the expenses of participation in activities conducted under authority of this section including, but not limited to, the compensation, travel expenses, and per diem in lieu of subsistence of persons serving in an advisory capacity while away from their homes or regular places of business in connection with attendance at international meetings and conferences or other travel for the purpose of exchange or assembly of data relating to housing and urban planning and development; but such travel expenses shall not exceed those authorized for regular officers and employees traveling in connection with said activities; and

(2) accept from international organizations, foreign countries, and private nonprofit foundations, funds, services, facilities, materials, and other donations to be utilized jointly in carrying out activities under this section.

(b) International programs and activities carried out by the Secretary under the authority provided in subsection (a) shall be subject to the approval of the Secretary of State for the purpose of assuring that such authority shall be exercised in a manner consistent with the foreign policy of the United States.

END OF STATUTE

SECTION 3 ECONOMIC OPPORTUNITIES FOR LOW-INCOME PERSONS

HOUSING AND URBAN DEVELOPMENT ACT OF 1968
[Public Law 102-550; 106 Stat. 3878; 12 U.S.C. 1701u]

Sec. 3. [12 U.S.C. 1701u]
ECONOMIC OPPORTUNITIES FOR LOW- AND VERY LOW-INCOME PERSONS.

(a) FINDINGS.—The Congress finds that—

(1) Federal housing and community development programs provide State and local governments and other recipients of Federal financial assistance with substantial funds for projects and activities that produce significant employment and other economic opportunities;

(2) low- and very low-income persons, especially recipients of government assistance for housing, often have restricted access to employment and other economic opportunities;

(3) the employment and other economic opportunities generated by projects and activities that receive Federal housing and community development assistance offer an effective means of empowering low- and very low-income persons, particularly persons who are recipients of government assistance for housing; and

(4) prior Federal efforts to direct employment and other economic opportunities generated by Federal housing and community development programs to low- and very low-income persons have not been fully effective and should be intensified.

(b) POLICY.—It is the policy of the Congress and the purpose of this section to ensure that the employment and other economic opportunities generated by Federal financial assistance for housing and community development programs shall, to the greatest extent feasible, be directed toward low- and very low-income persons, particularly those who are recipients of government assistance for housing.

(c) EMPLOYMENT.—

(1) PUBLIC AND INDIAN HOUSING PROGRAM.—

(A) IN GENERAL.—The Secretary shall require that public and Indian housing agencies, and their contractors and subcontractors, make their best efforts, consistent with existing Federal, State, and local laws and regulations, to give to low- and very low-income persons the training and employment opportunities generated by development assistance provided pursuant to section 5 of the United States Housing Act of 1937, operating assistance provided pursuant to section 9 of that Act, and modernization grants provided pursuant to section 14 of that Act.

(B) PRIORITY.—The efforts required under subparagraph (A) shall be directed in the following order of priority:

(i) To residents of the housing developments for which the assistance is expended.

(ii) To residents of other developments managed by the public or Indian housing agency that is expending the assistance.

(iii) To participants in YouthBuild programs receiving assistance under section 171 of the Workforce Innovation and Opportunity Act.

(iv) To other low- and very low-income persons residing within the metropolitan area (or nonmetropolitan county) in which the assistance is expended.

(2) OTHER PROGRAMS.—

(A) IN GENERAL.—In other programs that provide housing and community development assistance, the Secretary shall ensure that, to the greatest extent feasible, and consistent with existing Federal, State, and local laws and regulations, opportunities for training and employment arising in connection with a housing rehabilitation (including reduction and abatement of lead-based paint hazards), housing construction, or other public construction project are given to low- and very low-income persons residing within the metropolitan area (or nonmetropolitan county) in which the project is located.

(B) PRIORITY.—Where feasible, priority should be given to low- and very low-income persons residing within the service area of the project or the neighborhood in which the project is located and to participants in YouthBuild programs receiving assistance undersection 171 of the Workforce Innovation and Opportunity Act.

(d) CONTRACTING.—

(1) PUBLIC AND INDIAN HOUSING PROGRAM.—

(A) IN GENERAL.—The Secretary shall require that public and Indian housing agencies, and their contractors and subcontractors, make their best efforts, consistent with existing Federal, State, and local laws and regulations, to award contracts for work to be performed in connection with development assistance provided pursuant to section 5 of the United States Housing Act of 1937, operating assistance provided pursuant to section 9 of that Act, and modernization grants provided pursuant to section 14 of that Act, to business concerns that provide economic opportunities for low- and very low-income persons.

(B) PRIORITY.—The efforts required under subparagraph (A) shall be directed in the following order of priority:

(i) To business concerns that provide economic opportunities for residents of the housing development for which the assistance is provided.

(ii) To business concerns that provide economic opportunities for residents of other housing developments operated by the public and Indian housing agency that is providing the assistance.

(iii) To YouthBuild programs receiving assistance under section171 of the Workforce Innovation and Opportunity Act.

(iv) To business concerns that provide economic opportunities for low- and very low-income persons residing within the metropolitan area (or nonmetropolitan county) in which the assistance is provided.

(2) OTHER PROGRAMS.—

(A) IN GENERAL.—In providing housing and community development assistance pursuant to other programs, the Secretary shall ensure that, to the greatest extent feasible, and consistent with existing Federal, State, and local laws and regulations, contracts awarded for work to be performed in connection with a housing rehabilitation (including reduction and abatement of lead-based paint hazards), housing construction, or other public construction project are given to business concerns that provide economic opportunities for low- and very low-income persons residing within the metropolitan area (or nonmetropolitan county) in which the assistance is expended.

(B) PRIORITY.—Where feasible, priority should be given to business concerns which provide economic opportunities for low- and very low-income persons residing within the service area of the project or the neighborhood in which the project is located and to YouthBuild programs receiving assistance under section 171 of the Workforce Innovation and Opportunity Act.

(e) DEFINITIONS.—For the purposes of this section the following definitions shall apply:

(1) LOW- AND VERY LOW-INCOME PERSONS.—The terms “low-income persons” and “very low-income persons” have the same meanings given the terms “low-income families” and “very low-income families”, respectively, in section 3(b)(2) of the United States Housing Act of 1937.

(2) BUSINESS CONCERN THAT PROVIDES ECONOMIC OPPORTUNITIES.—The term “a business concern that provides economic opportunities” means a business concern that—

(A) provides economic opportunities for a class of persons that has a majority controlling interest in the business;

(B) employs a substantial number of such persons; or

(C) meets such other criteria as the Secretary may establish.

(f) COORDINATION WITH OTHER FEDERAL AGENCIES.—The Secretary shall consult with the Secretary of Labor, the Secretary of Health and Human Services, the Secretary of Commerce, the Administrator of the Small Business Administration, and such other Federal agencies as the Secretary determines are necessary to carry out this section.

(g) REGULATIONS.—Not later than 180 days after the date of enactment of the National Affordable Housing Act Amendments of 1992,[719] the Secretary shall promulgate regulations to implement this section.

END OF STATUTE

[719] Probably intended to refer to the Housing and Community Development Act of 1992, Pub. L. 102-550, approved October 28, 1992.

NOTICE AND COMMENT FOR DEMONSTRATION PROGRAMS

HOUSING AND URBAN-RURAL RECOVERY ACT OF 1983
[Public Law 98-181; 97 Stat. 1237; 42 U.S.C. 3542]

Sec. 470. [42 U.S.C. 3542]
PUBLIC NOTICE AND COMMENT REGARDING DEPARTMENT DEMONSTRATION PROGRAMS

(a) No demonstration program not expressly authorized in law may be commenced by the Secretary of Housing and Urban Development until (1) a description of such demonstration program is published in the Federal Register, which description may be included in a notice of funding availability; and (2) there expires a period of sixty calendar days following the date of such publication, during which period the Secretary shall fully consider any public comments submitted with respect to such demonstration program.

(b) Nothing in this section may be considered to authorize the conducting of any demonstration program by the Secretary of Housing and Urban Development.

END OF STATUTE

USE OF AMERICAN MATERIALS AND PRODUCTS

HOUSING AND COMMUNITY DEVELOPMENT ACT OF 1987
[Public Law 100-242; 101 Stat. 1950; 12 U.S.C. 1735e-1]

Sec. 571. [12 U.S.C. 1735e-1]
USE OF AMERICAN MATERIALS AND PRODUCTS.

In the administration of housing assistance programs, the Secretary of Housing and Urban Development shall encourage the use of materials and products mined and produced in the United States.

HOUSING AND COMMUNITY DEVELOPMENT ACT OF 1992
[Public Law 102-550; 106 Stat. 3883; 42 U.S.C. 3546]

Sec. 920. [42 U.S.C. 3546]
USE OF DOMESTIC PRODUCTS.

(a) PROHIBITION AGAINST FRAUDULENT USE OF "MADE IN AMERICA" LABELS.—A person shall not intentionally affix a label bearing the inscription of "Made in America", or any inscription with that meaning, to any product sold in or shipped to the United States, if that product is not a domestic product.

(b) REPORT.—The Secretary of Housing and Urban Development and the Secretary of Agriculture shall each submit, before January 1, 1994, a report to the Congress on procurements of products that are not domestic products.

(c) DEFINITIONS.—For the purposes of this section, the term "domestic product" means a product—

(1) that is manufactured or produced in the United States; and

(2) at least 50 percent of the cost of the articles, materials, or supplies of which are mined, produced, or manufactured in the United States.

END OF STATUTE

REVOLVING FUND FOR LIQUIDATING PROGRAMS

INDEPENDENT OFFICES APPROPRIATION ACT, 1955
[Public Law 83-428; 68 Stat. 295; 12 U.S.C. 1701g-5]

Office of the Administrator, revolving fund (liquidating programs): There is established as of June 30, 1954, a revolving fund, and the Administrator[720] is authorized to credit said fund with all moneys hereafter obtained or now held by him or by any constituent agency of the Housing and Home Finance Agency[721] by any other official thereof, and to account under said fund for all assets and liabilities, in connection with (1) community facilities provided or assisted under title II of the Lanham Act, as amended (42 U.S.C. 1531-1534), or under title III of the Defense Housing and Community Facilities and Services Act of 1951, as amended (42 U.S.C. 1592-1592n); (2) loans or advances made pursuant to title V of the War Mobilization and Reconversion Act of 1944 (58 Stat. 791), or the Act of October 13, 1949 (40 U.S.C. 451-458); (3) functions transferred under Reorganization Plan No. 23 of 1950 (5 U.S.C. 133z-15, note), or authorized under sections 102, 102a, 102b, and 102c of the Housing Act of 1948, as amended (12 U.S.C. 1701g-1701g-3); (4) notes or other obligations purchased pursuant to the Alaska Housing Act, as amended (48 U.S.C. 484 (a)); (5) subsistence homesteads and greentowns (Acts of June 29, 1936, 49 Stat. 2035, and May 19, 1949, 63 Stat. 68); (6) public war housing under title I of the Lanham Act, as amended (42 U.S.C. 1521-1524), and defense housing under title III of the Defense Housing and Community Facilities and Services Act of 1951, as amended (42 U.S.C. 1592-1592n); and (7) veterans' re-use housing under title V of the Lanham Act, as amended (42 U.S.C. 1571-1575): *Provided*, That said fund shall be available for all necessary expenses (including administrative expenses) in connection with the liquidation of the programs carried out pursuant to the foregoing provisions of law, including operation, maintenance, improvement, or disposition of facilities, and for disbursements pursuant to outstanding commitments against moneys herein authorized to be credited to said fund, repayment of obligations to the Treasury, and refinancing and refunding operations on existing loans: *Provided further*, That any amount in said fund which is determined to be in excess of requirements for the purposes hereof shall be declared and paid as liquidating dividends to the Treasury not less often than annually: *Provided further*, That during the current fiscal year not to exceed $3,940,000 shall be available for administrative expenses (including not to exceed $265,000 for travel) for the foregoing purposes, but this amount shall be exclusive of costs of services performed on a contract or fee basis in connection with termination of contracts and legal services on a contract or fee basis and of payment for services and facilities of the Federal Reserve banks or any member thereof, any servicer approved by the Federal National Mortgage Association, the Federal home-loan banks, and any insured bank within the meaning of the Act of August 23, 1935, as amended, creating the Federal Deposit Insurance Corporation (12 U.S.C. 264) which has been designated by the Secretary of the Treasury as a depository of public money of the United States: *Provided further*, That after the effective date of this Act no additional notes or obligations shall be purchased from funds appropriated pursuant to the Alaska Housing Act, as amended (48 U.S.C. 484 (d)), except for the furtherance or refinancing of an existing loan: *Provided further*, That except for extensions, or refinancing, of existing obligations the authority to issue obligations to the Secretary of the Treasury under section 1 (4) of Reorganization Plan No. 23 of 1950 (5 U.S.C. 1332-15, note), shall terminate on June 30, 1954: *Provided further*, That all expenses, not otherwise specifically limited in this Act, in connection with the programs administered pursuant to the foregoing provisions of law shall not exceed $20,000,000.[722]

END OF STATUTE

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[720] Section 5(a) of the Department of Housing and Urban Development Act, Pub. L. 89-174, approved Sept. 9, 1965, which is set forth, ante, this part, transferred to the Secretary of Housing and Urban Development all functions, powers, and duties of the Housing and Home Finance Agency.

[721] Section 5(a) of the Department of Housing and Urban Development Act, Pub. L. 89-174, approved Sept. 9, 1965, which is set forth, ante, this part, transferred to the Secretary of Housing and Urban Development all functions, powers, and duties of the Housing and Home Finance Agency.

[722] The Departments of Veterans Affairs and Housing and Urban Development, and Independent Agencies Appropriations Act, 1992, Pub. L. 102-139, 105 Stat. 752, provides as follows:
"Notwithstanding section 289(c) of the Cranston-Gonzalez National Affordable Housing Act (Public Law 101-625), the assets and liabilities of the revolving fund established by section 312 of the Housing Act of 1964, as amended (42 U.S.C. 1452b), and any collections, including repayments or recaptured amounts, of such fund shall be transferred to and merged with the Revolving Fund (liquidating programs), established pursuant to title II of the Independent Offices Appropriation Act, 1955, as amended (12 U.S.C 1701g-5), effective October 1, 1991.".
Section 289(c) of the Cranston-Gonzalez National Affordable Housing Act provides for disposition of repayments in connection with the program under section 312 of the Housing Act of 1964 and is set forth in part IV of this compilation.

PUBLIC NOTICE AND COMMENT RULEMAKING

EXCERPT FROM DEPARTMENTS OF VETERANS AFFAIRS AND HOUSING AND URBAN DEVELOPMENT, AND INDEPENDENT AGENCIES APPROPRIATIONS ACT, 1998
[Public Law 105-65; 111 Stat. 1365]

Sec. 208.

REQUIREMENT FOR HUD TO MAINTAIN PUBLIC NOTICE AND COMMENT RULEMAKING.—Notwithstanding any other provision of law, for fiscal year 1998 and for all fiscal years thereafter, the Secretary of Housing and Urban Development shall maintain all current requirements under part 10 of the Department of Housing and Urban Development regulations (24 CFR part 10) with respect to the Department's policies and procedures for the promulgation and issuance of rules, including the use of public participation in the rulemaking process.

END OF STATUTE

HUD HEADQUARTERS BUILDING

PUBLIC LAW 106-162
[Public Law 106-162; 113 Stat. 1777]

SECTION 1.
DESIGNATION OF ROBERT C. WEAVER FEDERAL BUILDING.

In honor of the first Secretary of Housing and Urban Development, the headquarters building of the Department of Housing and Urban Development located at 451 Seventh Street, SW., in Washington, District of Columbia, shall be known and designated as the "Robert C. Weaver Federal Building".

SEC. 2.
REFERENCES.

Any reference in a law, map, regulation, document, paper, or other record of the United States to the building referred to in section 1 shall be deemed to be a reference to the "Robert C. Weaver Federal Building".

END OF STATUTE

HUD CHIEF FINANCIAL OFFICER

DEPARTMENTS OF VETERANS AFFAIRS AND HOUSING AND URBAN DEVELOPMENT, AND INDEPENDENT AGENCIES APPROPRIATIONS ACT, 2003
[Public Law 108-7; 117 Stat. 499; 42 U.S.C. 3549 note]

TITLE II—DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

MANAGEMENT AND ADMINISTRATION

SALARIES AND EXPENSES [42 U.S.C. 3549 NOTE]
(INCLUDING TRANSFER OF FUNDS)

* * * * * * *

Provided further, That of the total amount made available under this heading, not less than $21,000,000 is to be made available to the Chief Financial Officer exclusively for activities to implement appropriate funds control systems, including improvements in automated financial management systems, additional training of departmental employees in proper fund control procedures, and establishment of a division of appropriations law within the Office of the Chief Financial Officer: *Provided further*, That the Chief Financial Officer shall submit a revised departmental funds control handbook to the Committees on Appropriations of the House and Senate no later than 30 days after enactment of this Act: *Provided further*, That no official or employee of the Department shall be designated as an allotment holder unless the Office of the Chief Financial Officer (OCFO) has determined that such allotment holder has implemented an adequate system of funds control and has received training in funds control procedures and directives: *Provided further*, That the Secretary shall, within 30 days of enactment of this Act, permanently transfer no fewer than four appropriations law attorneys from the Legislative Division of the Office of Legislation and Regulations, Office of General Counsel to the OCFO: Provided further, That personnel transferred pursuant to the previous proviso shall report directly to the Chief Financial Officer: *Provided further*, That, notwithstanding any other provision of law, hereafter, the Chief Financial Officer of the Department of Housing and Urban Development shall, in consultation with the Budget Officer, have sole authority to investigate potential or actual violations under the Anti-Deficiency Act (31 U.S.C. 1341 et seq.) and all other statutes and regulations related to the obligation and expenditure of funds made available in this, or any other Act; shall determine whether violations exist; and shall submit final reports on violations to the Secretary, the President, the Office of Management and Budget and the Congress in accordance with applicable statutes and Office of Management and Budget circulars: *Provided further*, That the Chief Financial Officer shall establish positive control of and maintain adequate systems of accounting for appropriations and other available funds as required by 31 U.S.C. 1514: *Provided further*, That for the purpose of determining whether a violation exists under the Anti-Deficiency Act (31 U.S.C. 1341 et seq.), the point of obligation shall be the executed agreement or contract: Provided further, That the Chief Financial Officer shall: (a) appoint qualified personnel to conduct investigations of potential or actual violations; (b) establish minimum training requirements and other qualifications for personnel that may be appointed to conduct investigations; (c) establish guidelines and timeframes for the conduct and completion of investigations; (d) prescribe the content, format and other requirements for the submission of final reports on violations; and (e) prescribe such additional policies and procedures as may be required for conducting investigations of, and administering, processing, and reporting on, potential and actual violations of the Anti-Deficiency Act and all other statutes and regulations governing the obligation and expenditure of funds made available in this or any other Act:

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DIVISION G—DEPARTMENTS OF VETERANS AFFAIRS AND HOUSING AND URBAN DEVELOPMENT, AND INDEPENDENT AGENCIES APPROPRIATIONS ACT, 2004

[Public Law 108-199; 118 Stat. 389; 42 U.S.C.:3549 note]

TITLE II—DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

SALARIES AND EXPENSES [42 U.S.C. 3549 NOTE]]
(INCLUDING TRANSFER OF FUNDS)

* * * * * * *

[42 U.S.C. 3549 note] *Provided further*, That no official or employee of the Department shall be designated as an allotment holder unless the Office of the Chief Financial Officer (OCFO) has determined that such allotment holder has implemented an adequate system of funds control and has received training in funds control procedures and directives: *Provided further*, That the Chief Financial Officer shall establish positive control of and maintain adequate systems of accounting for appropriations and other available funds as required by 31 U.S.C. 1514: *Provided further*, That for purposes of funds control and determining whether a violation exists under the Anti-Deficiency Act (31 U.S.C. 1341 et seq.), the point of obligation shall be the executed agreement or contract, except with respect to insurance and guarantee programs, certain types of salaries and expenses funding, and incremental funding that is authorized under an executed agreement or contract, and shall be designated in the approved funds control plan: *Provided further*, That the Chief Financial Officer shall: (1) appoint qualified personnel to conduct investigations of potential or actual violations; (2) establish minimum training requirements and other qualifications for personnel that may be appointed to conduct investigations; (3) establish guidelines and timeframes for the conduct and completion of investigations; (4) prescribe the content, format and other requirements for the submission of final reports on violations; and (5) prescribe such additional policies and procedures as may be required for conducting investigations of, and administering, processing, and reporting on, potential and actual violations of the Anti-Deficiency Act and all other statutes and regulations governing the obligation and expenditure of funds made available in this or any other Act:

* * * * * * *

42 U.S.C. 3549.
AUTHORITY FOR INVESTIGATION OF VIOLATIONS.

Notwithstanding any other provision of law, on or after February 20, 2003, the Chief Financial Officer of the Department of Housing and Urban Development shall, in consultation with the Budget Officer, have sole authority to investigate potential or actual violations under the Anti-Deficiency Act (31 U.S.C. 1341 et seq.) and all other statutes and regulations related to the obligation and expenditure of funds made available in this, or any other Act; shall determine whether violations exist; and shall submit final reports on violations to the Secretary, the President, the Office of Management and Budget and the Congress in accordance with applicable statutes and Office of Management and Budget circulars.

END OF STATUTE

HUD Notice of Funding Availability (NOFA) Provisions

CONSOLIDATED APPROPRIATIONS ACT, 2010
[Public Law 111-117; 123 Stat. 3034; 42 U.S.C. 3545a]

DIVISION A
TITLE II

Sec. 228.

The Secretary of the Department of Housing and Urban Development shall for Fiscal Year 2010 and subsequent fiscal years, notify the public through the Federal Register and other means, as determined appropriate, of the issuance of a notice of the availability of assistance or notice of funding availability (NOFA) for any program or discretionary fund administered by the Secretary that is to be competitively awarded. Notwithstanding any other provision of law, for Fiscal Year 2010 and subsequent fiscal years, the Secretary may make the NOFA available only on the Internet at the appropriate government website or websites or through other electronic media, as determined by the Secretary.

END OF STATUTE

SECTION 236 INTEREST REDUCTION PAYMENTS ELECTRONIC INVOICES

TRANSPORTATION, TREASURY, HOUSING AND URBAN DEVELOPMENT, THE JUDICIARY, THE DISTRICT OF COLUMBIA, AND INDEPENDENT AGENCIES APPROPRIATIONS ACT, 2006
[Public Law 109-115; 119 Stat. 2466; 12 U.S.C. 1715z-1 note]

DIVISION A
TITLE II

Sec. 325. [12 U.S.C. 1715z-1 note]

Notwithstanding any other provision of law, for fiscal year 2006 and thereafter, all mortgagees receiving interest reduction payments under section 236 of the National Housing Act (12 U.S.C. 1715z-1) shall submit only electronic invoices to the Department of Housing and Development in order to receive such payments. The mortgagees shall comply with this requirement no later than 90 days from the date of enactment of this provision.

END OF STATUTE

USE OF FHA SAVINGS FOR IMPROVEMENTS IN FHA TECHNOLOGIES, PROCEDURES, PROCESSES, PROGRAM PERFORMANCE, STAFFING, AND SALARIES

HOUSING AND ECONOMIC RECOVERY ACT OF 2008
[Public Law 110-289; 122 Stat. 2654]

Sec. 2126.
USE OF FHA SAVINGS FOR IMPROVEMENTS IN FHA TECHNOLOGIES, PROCEDURES, PROCESSES, PROGRAM PERFORMANCE, STAFFING, AND SALARIES.

(a) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated for each of fiscal years 2009 through 2013, $25,000,000, from negative credit subsidy for the mortgage insurance programs under title II of the National Housing Act, to the Secretary of Housing and Urban Development for increasing funding for the purpose of improving technology, processes, program performance, eliminating fraud, and for providing appropriate staffing in connection with the mortgage insurance programs under title II of the National Housing Act.

(b) CERTIFICATION.—The authorization under subsection (a) shall not be effective for a fiscal year unless the Secretary of Housing and Urban Development has, by rulemaking in accordance with section 553 of title 5, United States Code (notwithstanding subsections (a)(2), (b)(B), and (d)(3) of such section), made a determination that—

(1) premiums being, or to be, charged during such fiscal year for mortgage insurance under title II of the National Housing Act are established at the minimum amount sufficient to—

(A) comply with the requirements of section 205(f) of such Act (relating to required capital ratio for the Mutual Mortgage Insurance Fund); and

(B) ensure the safety and soundness of the other mortgage insurance funds under such Act; and

(2) any negative credit subsidy for such fiscal year resulting from such mortgage insurance programs adequately ensures the efficient delivery and availability of such programs.

(c) STUDY AND REPORT.—The Secretary of Housing and Urban Development shall conduct a study to obtain recommendations from participants in the private residential (both single family and multifamily) mortgage lending business and the secondary market for such mortgages on how best to update and upgrade processes and technologies for the mortgage insurance programs under title II of the National Housing Act so that the procedures for originating, insuring, and servicing of such mortgages conform with those customarily used by secondary market purchasers of residential mortgage loans. Not later than the expiration of the 12-month period beginning on the date of the enactment of this title, the Secretary shall submit a report to the Congress describing the progress made and to be made toward updating and upgrading such processes and technology, and providing appropriate staffing for such mortgage insurance programs.

END OF STATUTE

PRESERVATION APPROVAL PROCESS IMPROVEMENT

PRESERVATION APPROVAL PROCESS IMPROVEMENT ACT OF 2007
[Public Law 110-35; 121 Stat. 225]

An Act To suspend the requirements of the Department of Housing and Urban Development regarding electronic filing of previous participation certificates and regarding filing of such certificates with respect to certain low-income housing investors.

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

SECTION 1.
SHORT TITLE.
This Act may be cited as the "Preservation Approval Process Improvement Act of 2007".

SEC. 2.
SUSPENSION OF ELECTRONIC FILING REQUIREMENT.
The Secretary of Housing and Urban Development shall—

(1) suspend mandatory processing of Previous Participation Certificates (form HUD-2530) under the Department of Housing and Urban Development's Automated Partners Performance System (APPS) and permit paper filings of such certificates until such time that the Secretary--

(A) revises the December 2006 draft proposed regulations under subpart H of part 200 of title 24, Code of Federal Regulations, to eliminate the unnecessary burdens and disincentives for program participants; and

(B) submits such revised draft proposed regulations to the Committee on Financial Services of the House of Representatives and the Committee on Banking, Housing, and Urban Affairs of the Senate for review by such Committees; and

(2) suspend immediately all filing requirements under the Previous Participation Certificate process with respect to limited liability corporate investors who own or expect to own an interest in entities which are allowed or are expected to be allowed low-income housing tax credits under section 42 of the Internal Revenue Code of 1986.

END OF STATUTE

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PART XII—OTHER RELATED PROVISIONS OF LAW

FAIR HOUSING ACT

FAIR HOUSING ACT[723]
[Public Law 90-284; 42 U.S.C. 3601—3619]

Sec. 800. [42 U.S.C. 3601 note]
SHORT TITLE.

This title may be cited as the "Fair Housing Act."

Sec. 801. [42 U.S.C. 3601]
DECLARATION OF POLICY.

It is the policy of the United States to provide, within constitutional limitations, for fair housing throughout the United States.

Sec. 802. [42 U.S.C. 3602]
DEFINITIONS.

As used in this subchapter—

(a) "Secretary" means the Secretary of Housing and Urban Development.

(b) "Dwelling" means any building, structure, or portion thereof which is occupied as, or designed or intended for occupancy as, a residence by one or more families, and any vacant land which is offered for sale or lease for the construction or location thereon of any such building, structure, or portion thereof.

(c) "Family" includes a single individual.

(d) "Person" includes one or more individuals, corporations, partnerships, associations, labor organizations, legal representatives, mutual companies, joint-stock companies, trusts, unincorporated organizations, trustees, trustees in cases under Title 11, receivers, and fiduciaries.

(e) "To rent" includes to lease, to sublease, to let and otherwise to grant for a consideration the right to occupy premises not owned by the occupant.

(f) "Discriminatory housing practice" means an act that is unlawful under section 3604, 3605, 3606, or 3617 of this title.

(g) "State" means any of the several States, the District of Columbia, the Commonwealth of Puerto Rico, or any of the territories and possessions of the United States.

(h) "Handicap" means, with respect to a person—

(1) a physical or mental impairment which substantially limits one or more of such person's major life activities,

(2) a record of having such an impairment, or

(3) being regarded as having such an impairment,

but such term does not include current, illegal use of or addiction to a controlled substance (as defined in section 802 of Title 21).

(i) "Aggrieved person" includes any person who—

(1) claims to have been injured by a discriminatory housing practice; or

(2) believes that such person will be injured by a discriminatory housing practice that is about to occur.

(j) "Complainant" means the person (including the Secretary) who files a complaint under section 3610 of this title.

(k) "Familial status" means one or more individuals (who have not attained the age of 18 years) being domiciled with—

[723] Enacted as Title VIII of the Civil Rights Act of 1968

(1) a parent or another person having legal custody of such individual or individuals; or

(2) the designee of such parent or other person having such custody, with the written permission of such parent or other person.

The protections afforded against discrimination on the basis of familial status shall apply to any person who is pregnant or is in the process of securing legal custody of any individual who has not attained the age of 18 years.

(l) "Conciliation" means the attempted resolution of issues raised by a complaint, or by the investigation of such complaint, through informal negotiations involving the aggrieved person, the respondent, and the Secretary.

(m) "Conciliation agreement" means a written agreement setting forth the resolution of the issues in conciliation.

(n) "Respondent" means—

(1) the person or other entity accused in a complaint of an unfair housing practice; and

(2) any other person or entity identified in the course of investigation and notified as required with respect to respondents so identified under section 3610(a) of this title.

(o) "Prevailing party" has the same meaning as such term has in section 1988 of this title.

Sec. 803. [42 U.S.C. 3603]
EFFECTIVE DATES OF CERTAIN PROHIBITIONS.

(a) APPLICATION TO CERTAIN DESCRIBED DWELLINGS.—Subject to the provisions of subsection (b) of this section and section 3607 of this title, the prohibitions against discrimination in the sale or rental of housing set forth in section 3604 of this title shall apply:

(1) Upon enactment of this subchapter, to—

(A) dwellings owned or operated by the Federal Government;

(B) dwellings provided in whole or in part with the aid of loans, advances, grants, or contributions made by the Federal Government, under agreements entered into after November 20, 1962, unless payment due thereon has been made in full prior to April 11, 1968;

(C) dwellings provided in whole or in part by loans insured, guaranteed, or otherwise secured by the credit of the Federal Government, under agreements entered into after November 20, 1962, unless payment thereon has been made in full prior to April 11, 1968: Provided, That nothing contained in subparagraphs (B) and (C) of this subsection shall be applicable to dwellings solely by virtue of the fact that they are subject to mortgages held by an FDIC or FSLIC institution; and

(D) dwellings provided by the development or the redevelopment of real property purchased, rented, or otherwise obtained from a State or local public agency receiving Federal financial assistance for slum clearance or urban renewal with respect to such real property under loan or grant contracts entered into after November 20, 1962.

(2) After December 31, 1968, to all dwellings covered by paragraph (1) and to all other dwellings except as exempted by subsection (b) of this section.

(b) EXEMPTIONS.—Nothing in section 3604 of this title (other than subsection (c)) shall apply to—

(1) any single-family house sold or rented by an owner: Provided, That such private individual owner does not own more than three such single-family houses at any one time: Provided further, That in the case of the sale of any such single-family house by a private individual owner not residing in such house at the time of such sale or who was not the most recent resident of such house prior to such sale, the exemption granted by this subsection shall apply only with respect to one such sale within any twenty-four month period: Provided further, That such bona fide private individual owner does not own any interest in, nor is there owned or reserved on his behalf, under any express or voluntary agreement, title to or any right to all or a portion of the proceeds from the sale or rental of, more than three such single-family houses at any one time: Provided further, That after December 31, 1969, the sale or rental of any such single-family house shall be excepted from the application of this subchapter only if such house is sold or rented (A) without the use in any manner of the sales or rental facilities or the sales or rental services of any real estate broker, agent, or salesman, or of such facilities or services of any person in the business of selling or renting dwellings, or of any employee or agent of any such broker, agent, salesman, or person and (B) without the publication, posting or mailing, after notice, of any advertisement or written notice in violation of section 3604(c) of this title; but nothing in this proviso shall prohibit the use of attorneys, escrow agents, abstractors, title companies, and other such professional assistance as necessary to perfect or transfer the title, or

(2) rooms or units in dwellings containing living quarters occupied or intended to be occupied by no more than four families living independently of each other, if the owner actually maintains and occupies one of such living quarters as his residence.

(c) BUSINESS OF SELLING OR RENTING DWELLINGS DEFINED.—For the purposes of subsection (b) of this section, a person shall be deemed to be in the business of selling or renting dwellings if—

(1) he has, within the preceding twelve months, participated as principal in three or more transactions involving the sale or rental of any dwelling or any interest therein, or

(2) he has, within the preceding twelve months, participated as agent, other than in the sale of his own personal residence in providing sales or rental facilities or sales or rental services in two or more transactions involving the sale or rental of any dwelling or any interest therein, or

(3) he is the owner of any dwelling designed or intended for occupancy by, or occupied by, five or more families.

Sec. 804. [42 U.S.C. 3604]
DISCRIMINATION IN THE SALE OR RENTAL OF HOUSING AND OTHER PROHIBITED PRACTICES.

As made applicable by section 3603 of this title and except as exempted by sections 3603(b) and 3607 of this title, it shall be unlawful—

(a) To refuse to sell or rent after the making of a bona fide offer, or to refuse to negotiate for the sale or rental of, or otherwise make unavailable or deny, a dwelling to any person because of race, color, religion, sex, familial status, or national origin.

(b) To discriminate against any person in the terms, conditions, or privileges of sale or rental of a dwelling, or in the provision of services or facilities in connection therewith, because of race, color, religion, sex, familial status, or national origin.

(c) To make, print, or publish, or cause to be made, printed, or published any notice, statement, or advertisement, with respect to the sale or rental of a dwelling that indicates any preference, limitation, or discrimination based on race, color, religion, sex, handicap, familial status, or national origin, or an intention to make any such preference, limitation, or discrimination.

(d) To represent to any person because of race, color, religion, sex, handicap, familial status, or national origin that any dwelling is not available for inspection, sale, or rental when such dwelling is in fact so available.

(e) For profit, to induce or attempt to induce any person to sell or rent any dwelling by representations regarding the entry or prospective entry into the neighborhood of a person or persons of a particular race, color, religion, sex, handicap, familial status, or national origin.

(f)(1) To discriminate in the sale or rental, or to otherwise make unavailable or deny, a dwelling to any buyer or renter because of a handicap of—

(A) that buyer or renter,[724]

(B) a person residing in or intending to reside in that dwelling after it is so sold, rented, or made available; or

(C) any person associated with that buyer or renter.

(2) To discriminate against any person in the terms, conditions, or privileges of sale or rental of a dwelling, or in the provision of services or facilities in connection with such dwelling, because of a handicap of—

(A) that person; or

(B) a person residing in or intending to reside in that dwelling after it is so sold, rented, or made available; or

(C) any person associated with that person.

(3) For purposes of this subsection, discrimination includes—

(A) a refusal to permit, at the expense of the handicapped person, reasonable modifications of existing premises occupied or to be occupied by such person if such modifications may be necessary to afford such person full enjoyment of the premises except that, in the case of a rental, the landlord may where it is reasonable to do so condition permission for a modification on the renter agreeing to restore the interior of the premises to the condition that existed before the modification, reasonable wear and tear excepted.[725]

[724] So in original. The comma probably should be a semicolon.
[725] So in law. The period probably should be a semicolon.

(B) a refusal to make reasonable accommodations in rules, policies, practices, or services, when such accommodations may be necessary to afford such person equal opportunity to use and enjoy a dwelling; or

(C) in connection with the design and construction of covered multifamily dwellings for first occupancy after the date that is 30 months after September 13, 1988, a failure to design and construct those dwellings in such a manner that—

(i) the public use and common use portions of such dwellings are readily accessible to and usable by handicapped persons;

(ii) all the doors designed to allow passage into and within all premises within such dwellings are sufficiently wide to allow passage by handicapped persons in wheelchairs; and

(iii) all premises within such dwellings contain the following features of adaptive design:

(I) an accessible route into and through the dwelling;

(II) light switches, electrical outlets, thermostats, and other environmental controls in accessible locations;

(III) reinforcements in bathroom walls to allow later installation of grab bars; and

(IV) usable kitchens and bathrooms such that an individual in a wheelchair can maneuver about the space.

(4) Compliance with the appropriate requirements of the American National Standard for buildings and facilities providing accessibility and usability for physically handicapped people (commonly cited as "ANSI A117.1") suffices to satisfy the requirements of paragraph (3)(C)(iii).

(5)(A) If a State or unit of general local government has incorporated into its laws the requirements set forth in paragraph (3)(C), compliance with such laws shall be deemed to satisfy the requirements of that paragraph.

(B) A State or unit of general local government may review and approve newly constructed covered multifamily dwellings for the purpose of making determinations as to whether the design and construction requirements of paragraph (3)(C) are met.

(C) The Secretary shall encourage, but may not require, States and units of local government to include in their existing procedures for the review and approval of newly constructed covered multifamily dwellings, determinations as to whether the design and construction of such dwellings are consistent with paragraph (3)(C), and shall provide technical assistance to States and units of local government and other persons to implement the requirements of paragraph (3)(C).

(D) Nothing in this subchapter shall be construed to require the Secretary to review or approve the plans, designs or construction of all covered multifamily dwellings, to determine whether the design and construction of such dwellings are consistent with the requirements of paragraph 3(C).

(6)(A) Nothing in paragraph (5) shall be construed to affect the authority and responsibility of the Secretary or a State or local public agency certified pursuant to section 3610(f)(3) of this title to receive and process complaints or otherwise engage in enforcement activities under this subchapter.

(B) Determinations by a State or a unit of general local government under paragraphs (5)(A) and (B) shall not be conclusive in enforcement proceedings under this subchapter.

(7) As used in this subsection, the term "covered multifamily dwellings" means—

(A) buildings consisting of 4 or more units if such buildings have one or more elevators; and

(B) ground floor units in other buildings consisting of 4 or more units.

(8) Nothing in this subchapter shall be construed to invalidate or limit any law of a State or political subdivision of a State, or other jurisdiction in which this subchapter shall be effective, that requires dwellings to be designed and constructed in a manner that affords handicapped persons greater access than is required by this subchapter.

(9) Nothing in this subsection requires that a dwelling be made available to an individual whose tenancy would constitute a direct threat to the health or safety of other individuals or whose tenancy would result in substantial physical damage to the property of others.

Sec. 805. [42 U.S.C. 3605]
DISCRIMINATION IN RESIDENTIAL REAL ESTATE-RELATED TRANSACTIONS.

(a) IN GENERAL.—It shall be unlawful for any person or other entity whose business includes engaging in residential real estate-related transactions to discriminate against any person in making available such a transaction, or in the terms or conditions of such a transaction, because of race, color, religion, sex, handicap, familial status, or national origin.

(b) "RESIDENTIAL REAL ESTATE-RELATED TRANSACTION" DEFINED.—As used in this section, the term "residential real estate-related transaction" means any of the following:

(1) The making or purchasing of loans or providing other financial assistance--

(A) for purchasing, constructing, improving, repairing, or maintaining a dwelling; or

(B) secured by residential real estate.

(2) The selling, brokering, or appraising of residential real property.

(c) APPRAISAL EXEMPTION.—Nothing in this subchapter prohibits a person engaged in the business of furnishing appraisals of real property to take into consideration factors other than race, color, religion, national origin, sex, handicap, or familial status.

Sec. 806. [42 U.S.C. 3606]
DISCRIMINATION IN THE PROVISION OF BROKERAGE SERVICES.

After December 31, 1968, it shall be unlawful to deny any person access to or membership or participation in any multiple-listing service, real estate brokers' organization or other service, organization, or facility relating to the business of selling or renting dwellings, or to discriminate against him in the terms or conditions of such access, membership, or participation, on account of race, color, religion, sex, handicap, familial status, or national origin.

Sec. 807. [42 U.S.C. 3607]
RELIGIOUS ORGANIZATION OR PRIVATE CLUB EXEMPTION.

(a) Nothing in this subchapter shall prohibit a religious organization, association, or society, or any nonprofit institution or organization operated, supervised or controlled by or in conjunction with a religious organization, association, or society, from limiting the sale, rental or occupancy of dwellings which it owns or operates for other than a commercial purpose to persons of the same religion, or from giving preference to such persons, unless membership in such religion is restricted on account of race, color, or national origin. Nor shall anything in this subchapter prohibit a private club not in fact open to the public, which as an incident to its primary purpose or purposes provides lodgings which it owns or operates for other than a commercial purpose, from limiting the rental or occupancy of such lodgings to its members or from giving preference to its members.

(b)(1) Nothing in this subchapter limits the applicability of any reasonable local, State, or Federal restrictions regarding the maximum number of occupants permitted to occupy a dwelling. Nor does any provision in this subchapter regarding familial status apply with respect to housing for older persons.

(2) As used in this section, "housing for older persons" means housing—

(A) provided under any State or Federal program that the Secretary determines is specifically designed and operated to assist elderly persons (as defined in the State or Federal program); or

(B) intended for, and solely occupied by, persons 62 years of age or older; or

(C) intended and operated for occupancy by persons 55 years of age or older, and—

(i) at least 80 percent of the occupied units are occupied by at least one person who is 55 years of age or older;

(ii) the housing facility or community publishes and adheres to policies and procedures that demonstrate the intent required under this subparagraph; and

(iii) the housing facility or community complies with rules issued by the Secretary for verification of occupancy, which shall--

(I) provide for verification by reliable surveys and affidavits; and

(II) include examples of the types of policies and procedures relevant to a determination of compliance with the requirement of clause (ii). Such surveys and affidavits shall be admissible in administrative and judicial proceedings for the purposes of such verification.

(3) Housing shall not fail to meet the requirements for housing for older persons by reason of:

(A) persons residing in such housing as of September 13, 1988, who do not meet the age requirements of subsections[726] (2)(B) or (C): Provided, That new occupants of such housing meet the age requirements of subsections [FN1] (2)(B) or (C); or

(B) unoccupied units: Provided, That such units are reserved for occupancy by persons who meet the age requirements of subsections [FN1] (2)(B) or (C).

(4) Nothing in this subchapter prohibits conduct against a person because such person has been convicted by any court of competent jurisdiction of the illegal manufacture or distribution of a controlled substance as defined in section 802 of Title 21.

(5)(A) A person shall not be held personally liable for monetary damages for a violation of this subchapter if such person reasonably relied, in good faith, on the application of the exemption under this subsection relating to housing for older persons.

(B) For the purposes of this paragraph, a person may only show good faith reliance on the application of the exemption by showing that--

(i) such person has no actual knowledge that the facility or community is not, or will not be, eligible for such exemption; and

(ii) the facility or community has stated formally, in writing, that the facility or community complies with the requirements for such exemption.

Sec. 808. [42 U.S.C. 3608]
ADMINISTRATION.

(a) AUTHORITY AND RESPONSIBILITY.—The authority and responsibility for administering this Act shall be in the Secretary of Housing and Urban Development.

(b) ASSISTANT SECRETARY.—The Department of Housing and Urban Development shall be provided an additional Assistant Secretary.

(c) DELEGATION OF AUTHORITY; APPOINTMENT OF ADMINISTRATIVE LAW JUDGES; LOCATION OF CONCILIATION MEETINGS; ADMINISTRATIVE REVIEW.—The Secretary may delegate any of his functions, duties, and powers to employees of the Department of Housing and Urban Development or to boards of such employees, including functions, duties, and powers with respect to investigating, conciliating, hearing, determining, ordering, certifying, reporting, or otherwise acting as to any work, business, or matter under this subchapter. The person to whom such delegations are made with respect to hearing functions, duties, and powers shall be appointed and shall serve in the Department of Housing and Urban Development in compliance with sections 3105, 3344, 5372, and 7521 of Title 5. Insofar as possible, conciliation meetings shall be held in the cities or other localities where the discriminatory housing practices allegedly occurred. The Secretary shall by rule prescribe such rights of appeal from the decisions of his administrative law judges to other administrative law judges or to other officers in the Department, to boards of officers or to himself, as shall be appropriate and in accordance with law.

(d) COOPERATION OF SECRETARY AND EXECUTIVE DEPARTMENTS AND AGENCIES IN ADMINISTRATION OF HOUSING AND URBAN DEVELOPMENT PROGRAMS AND ACTIVITIES TO FURTHER FAIR HOUSING PURPOSES.—All executive departments and agencies shall administer their programs and activities relating to housing and urban development (including any Federal agency having regulatory or supervisory authority over financial institutions) in a manner affirmatively to further the purposes of this subchapter and shall cooperate with the Secretary to further such purposes.

(e) FUNCTIONS OF SECRETARY.—The Secretary of Housing and Urban Development shall—

(1) make studies with respect to the nature and extent of discriminatory housing practices in representative communities, urban, suburban, and rural, throughout the United States;

(2) publish and disseminate reports, recommendations, and information derived from such studies, including an annual report to the Congress—

(A) specifying the nature and extent of progress made nationally in eliminating discriminatory housing practices and furthering the purposes of this subchapter, obstacles remaining to achieving equal housing opportunity, and recommendations for further legislative or executive action; and

(B) containing tabulations of the number of instances (and the reasons therefor) in the preceding year in which—

[726] So in law. Probably should read "paragraphs".

(i) investigations are not completed as required by section 3610(a)(1)(B) of this title;

(ii) determinations are not made within the time specified in section 3610(g) of this title; and

(iii) hearings are not commenced or findings and conclusions are not made as required by section 3612(g) of this title;

(3) cooperate with and render technical assistance to Federal, State, local, and other public or private agencies, organizations, and institutions which are formulating or carrying on programs to prevent or eliminate discriminatory housing practices;

(4) cooperate with and render such technical and other assistance to the Community Relations Service as may be appropriate to further its activities in preventing or eliminating discriminatory housing practices;

(5) administer the programs and activities relating to housing and urban development in a manner affirmatively to further the policies of this subchapter; and

(6) annually report to the Congress, and make available to the public, data on the race, color, religion, sex, national origin, age, handicap, and family characteristics of persons and households who are applicants for, participants in, or beneficiaries or potential beneficiaries of, programs administered by the Department to the extent such characteristics are within the coverage of the provisions of law and Executive orders referred to in subsection (f) of this section which apply to such programs (and in order to develop the data to be included and made available to the public under this subsection, the Secretary shall, without regard to any other provision of law, collect such information relating to those characteristics as the Secretary determines to be necessary or appropriate).

(f) PROVISIONS OF LAW APPLICABLE TO DEPARTMENT PROGRAMS.—The provisions of law and Executive orders to which subsection (e)(6) of this section applies are—

(1) title VI of the Civil Rights Act of 1964 [42 U.S.C.A. § 2000d et seq.];

(2) this subchapter;

(3) section 794 of Title 29;

(4) the Age Discrimination Act of 1975 [42 U.S.C.A. § 6101 et seq.];

(5) the Equal Credit Opportunity Act [15 U.S.C.A. § 1691 et seq.];

(6) section 1982 of this title;

(7) section 637(a) of Title 15;

(8) section 1735f-5 of Title 12;

(9) section 5309 of this title;

(10) section 1701u of Title 12;

(11) Executive orders 11063, 11246, 11625, 12250, 12259, and 12432; and

(12) any other provision of law which the Secretary specifies by publication in the Federal Register for the purpose of this subsection.

Sec. 809. [42 U.S.C. 3609]
EDUCATION AND CONCILIATION; CONFERENCES AND CONSULTATIONS; REPORTS.

Immediately after April 11, 1968, the Secretary shall commence such educational and conciliatory activities as in his judgment will further the purposes of this subchapter. He shall call conferences of persons in the housing industry and other interested parties to acquaint them with the provisions of this subchapter and his suggested means of implementing it, and shall endeavor with their advice to work out programs of voluntary compliance and of enforcement. He may pay per diem, travel, and transportation expenses for persons attending such conferences as provided in section 5703 of Title 5. He shall consult with State and local officials and other interested parties to learn the extent, if any, to which housing discrimination exists in their State or locality, and whether and how State or local enforcement programs might be utilized to combat such discrimination in connection with or in place of, the Secretary's enforcement of this subchapter. The Secretary shall issue reports on such conferences and consultations as he deems appropriate.

Sec. 810. [42 U.S.C. 3610]
ADMINISTRATIVE ENFORCEMENT; PRELIMINARY MATTERS.

(a) COMPLAINTS AND ANSWERS.—

(1)(A)(i) An aggrieved person may, not later than one year after an alleged discriminatory housing practice has occurred or terminated, file a complaint with the Secretary alleging such discriminatory housing practice. The Secretary, on the Secretary's own initiative, may also file such a complaint.

(ii) Such complaints shall be in writing and shall contain such information and be in such form as the Secretary requires.

(iii) The Secretary may also investigate housing practices to determine whether a complaint should be brought under this section.

(B) Upon the filing of such a complaint—

(i) the Secretary shall serve notice upon the aggrieved person acknowledging such filing and advising the aggrieved person of the time limits and choice of forums provided under this subchapter;

(ii) the Secretary shall, not later than 10 days after such filing or the identification of an additional respondent under paragraph (2), serve on the respondent a notice identifying the alleged discriminatory housing practice and advising such respondent of the procedural rights and obligations of respondents under this subchapter, together with a copy of the original complaint;

(iii) each respondent may file, not later than 10 days after receipt of notice from the Secretary, an answer to such complaint; and

(iv) the Secretary shall make an investigation of the alleged discriminatory housing practice and complete such investigation within 100 days after the filing of the complaint (or, when the Secretary takes further action under subsection (f)(2) of this section with respect to a complaint, within 100 days after the commencement of such further action), unless it is impracticable to do so.

(C) If the Secretary is unable to complete the investigation within 100 days after the filing of the complaint (or, when the Secretary takes further action under subsection (f)(2) of this section with respect to a complaint, within 100 days after the commencement of such further action), the Secretary shall notify the complainant and respondent in writing of the reasons for not doing so.

(D) Complaints and answers shall be under oath or affirmation, and may be reasonably and fairly amended at any time.

(2)(A) A person who is not named as a respondent in a complaint, but who is identified as a respondent in the course of investigation, may be joined as an additional or substitute respondent upon written notice, under paragraph (1), to such person, from the Secretary.

(B) Such notice, in addition to meeting the requirements of paragraph (1), shall explain the basis for the Secretary's belief that the person to whom the notice is addressed is properly joined as a respondent.

(b) INVESTIGATIVE REPORT AND CONCILIATION.—

(1) During the period beginning with the filing of such complaint and ending with the filing of a charge or a dismissal by the Secretary, the Secretary shall, to the extent feasible, engage in conciliation with respect to such complaint.

(2) A conciliation agreement arising out of such conciliation shall be an agreement between the respondent and the complainant, and shall be subject to approval by the Secretary.

(3) A conciliation agreement may provide for binding arbitration of the dispute arising from the complaint. Any such arbitration that results from a conciliation agreement may award appropriate relief, including monetary relief.

(4) Each conciliation agreement shall be made public unless the complainant and respondent otherwise agree and the Secretary determines that disclosure is not required to further the purposes of this subchapter.

(5)(A) At the end of each investigation under this section, the Secretary shall prepare a final investigative report containing—

(i) the names and dates of contacts with witnesses;

(ii) a summary and the dates of correspondence and other contacts with the aggrieved person and the respondent;

(iii) a summary description of other pertinent records;

(iv) a summary of witness statements; and

(v) answers to interrogatories.

(B) A final report under this paragraph may be amended if additional evidence is later discovered.

(c) FAILURE TO COMPLY WITH CONCILIATION AGREEMENT.—Whenever the Secretary has reasonable cause to believe that a respondent has breached a conciliation agreement, the Secretary shall refer the matter to the Attorney General with a recommendation that a civil action be filed under section 3614 of this title for the enforcement of such agreement.

(d) PROHIBITIONS AND REQUIREMENTS WITH RESPECT TO DISCLOSURE OF INFORMATION.—

(1) Nothing said or done in the course of conciliation under this subchapter may be made public or used as evidence in a subsequent proceeding under this subchapter without the written consent of the persons concerned.

(2) Notwithstanding paragraph (1), the Secretary shall make available to the aggrieved person and the respondent, at any time, upon request following completion of the Secretary's investigation, information derived from an investigation and any final investigative report relating to that investigation.

(e) PROMPT JUDICIAL ACTION.—

(1) If the Secretary concludes at any time following the filing of a complaint that prompt judicial action is necessary to carry out the purposes of this subchapter, the Secretary may authorize a civil action for appropriate temporary or preliminary relief pending final disposition of the complaint under this section. Upon receipt of such an authorization, the Attorney General shall promptly commence and maintain such an action. Any temporary restraining order or other order granting preliminary or temporary relief shall be issued in accordance with the Federal Rules of Civil Procedure. The commencement of a civil action under this subsection does not affect the initiation or continuation of administrative proceedings under this section and section 3612 of this title.

(2) Whenever the Secretary has reason to believe that a basis may exist for the commencement of proceedings against any respondent under sections 3614(a) and 3614(c) of this title or for proceedings by any governmental licensing or supervisory authorities, the Secretary shall transmit the information upon which such belief is based to the Attorney General, or to such authorities, as the case may be.

(f) REFERRAL FOR STATE OR LOCAL PROCEEDINGS.—

(1) Whenever a complaint alleges a discriminatory housing practice—

(A) within the jurisdiction of a State or local public agency; and

(B) as to which such agency has been certified by the Secretary under this subsection;

the Secretary shall refer such complaint to that certified agency before taking any action with respect to such complaint.

(2) Except with the consent of such certified agency, the Secretary, after that referral is made, shall take no further action with respect to such complaint unless—

(A) the certified agency has failed to commence proceedings with respect to the complaint before the end of the 30th day after the date of such referral;

(B) the certified agency, having so commenced such proceedings, fails to carry forward such proceedings with reasonable promptness; or

(C) the Secretary determines that the certified agency no longer qualifies for certification under this subsection with respect to the relevant jurisdiction.

(3)(A) The Secretary may certify an agency under this subsection only if the Secretary determines that—

(i) the substantive rights protected by such agency in the jurisdiction with respect to which certification is to be made;

(ii) the procedures followed by such agency;

(iii) the remedies available to such agency; and

(iv) the availability of judicial review of such agency's action;

are substantially equivalent to those created by and under this subchapter.

(B) Before making such certification, the Secretary shall take into account the current practices and past performance, if any, of such agency.

(4) During the period which begins on September 13, 1988, and ends 40 months after September 13, 1988, each agency certified (including an agency certified for interim referrals pursuant to 24 CFR 115.11, unless such agency is subsequently denied recognition under 24 CFR 115.7) for the purposes of this subchapter on the day before September 13, 1988, shall for the purposes of this subsection be considered certified under this subsection with respect to those matters for which such agency was certified on September 13, 1988. If the Secretary

determines in an individual case that an agency has not been able to meet the certification requirements within this 40-month period due to exceptional circumstances, such as the infrequency of legislative sessions in that jurisdiction, the Secretary may extend such period by not more than 8 months.

(5) Not less frequently than every 5 years, the Secretary shall determine whether each agency certified under this subsection continues to qualify for certification. The Secretary shall take appropriate action with respect to any agency not so qualifying.

(g) REASONABLE CAUSE DETERMINATION AND EFFECT.—(1) The Secretary shall, within 100 days after the filing of the complaint (or, when the Secretary takes further action under subsection (f)(2) of this section with respect to a complaint, within 100 days after the commencement of such further action), determine based on the facts whether reasonable cause exists to believe that a discriminatory housing practice has occurred or is about to occur, unless it is impracticable to do so, or unless the Secretary has approved a conciliation agreement with respect to the complaint. If the Secretary is unable to make the determination within 100 days after the filing of the complaint (or, when the Secretary takes further action under subsection (f)(2) of this section with respect to a complaint, within 100 days after the commencement of such further action), the Secretary shall notify the complainant and respondent in writing of the reasons for not doing so.

(2)(A) If the Secretary determines that reasonable cause exists to believe that a discriminatory housing practice has occurred or is about to occur, the Secretary shall, except as provided in subparagraph (C), immediately issue a charge on behalf of the aggrieved person, for further proceedings under section 3612 of this title.

(B) Such charge—

(i) shall consist of a short and plain statement of the facts upon which the Secretary has found reasonable cause to believe that a discriminatory housing practice has occurred or is about to occur;

(ii) shall be based on the final investigative report; and

(iii) need not be limited to the facts or grounds alleged in the complaint filed under subsection (a) of this section.

(C) If the Secretary determines that the matter involves the legality of any State or local zoning or other land use law or ordinance, the Secretary shall immediately refer the matter to the Attorney General for appropriate action under section 3614 of this title, instead of issuing such charge.

(3) If the Secretary determines that no reasonable cause exists to believe that a discriminatory housing practice has occurred or is about to occur, the Secretary shall promptly dismiss the complaint. The Secretary shall make public disclosure of each such dismissal.

(4) The Secretary may not issue a charge under this section regarding an alleged discriminatory housing practice after the beginning of the trial of a civil action commenced by the aggrieved party under an Act of Congress or a State law, seeking relief with respect to that discriminatory housing practice.

(h) SERVICE OF COPIES OF CHARGE.—After the Secretary issues a charge under this section, the Secretary shall cause a copy thereof, together with information as to how to make an election under section 3612(a) of this title and the effect of such an election, to be served—

(1) on each respondent named in such charge, together with a notice of opportunity for a hearing at a time and place specified in the notice, unless that election is made; and

(2) on each aggrieved person on whose behalf the complaint was filed.

Sec. 811. [42 U.S.C. 3611]
SUBPOENAS; GIVING OF EVIDENCE.

(a) IN GENERAL.—The Secretary may, in accordance with this subsection, issue subpoenas and order discovery in aid of investigations and hearings under this subchapter. Such subpoenas and discovery may be ordered to the same extent and subject to the same limitations as would apply if the subpoenas or discovery were ordered or served in aid of a civil action in the United States district court for the district in which the investigation is taking place.

(b) WITNESS FEES.—Witnesses summoned by a subpoena under this subchapter shall be entitled to the same witness and mileage fees as witnesses in proceedings in United States district courts. Fees payable to a witness summoned by a subpoena issued at the request of a party shall be paid by that party or, where a party is unable to pay the fees, by the Secretary.

(c) CRIMINAL PENALTIES.—

(1) Any person who willfully fails or neglects to attend and testify or to answer any lawful inquiry or to produce records, documents, or other evidence, if it is in such person's power to do so, in obedience to the subpoena or other lawful order under subsection (a) of this section, shall be fined not more than $100,000 or imprisoned not more than one year, or both.

(2) Any person who, with intent thereby to mislead another person in any proceeding under this subchapter—

(A) makes or causes to be made any false entry or statement of fact in any report, account, record, or other document produced pursuant to subpoena or other lawful order under subsection (a) of this section;

(B) willfully neglects or fails to make or to cause to be made full, true, and correct entries in such reports, accounts, records, or other documents; or

(C) willfully mutilates, alters, or by any other means falsifies any documentary evidence;

shall be fined not more than $100,000 or imprisoned not more than one year, or both.

Sec. 812. [42 U.S.C. 3612]
ENFORCEMENT BY SECRETARY.

(a) ELECTION OF JUDICIAL DETERMINATION.—When a charge is filed under section 3610 of this title, a complainant, a respondent, or an aggrieved person on whose behalf the complaint was filed, may elect to have the claims asserted in that charge decided in a civil action under subsection (o) of this section in lieu of a hearing under subsection (b) of this section. The election must be made not later than 20 days after the receipt by the electing person of service under section 3610(h) of this title or, in the case of the Secretary, not later than 20 days after such service. The person making such election shall give notice of doing so to the Secretary and to all other complainants and respondents to whom the charge relates.

(b) ADMINISTRATIVE LAW JUDGE HEARING IN ABSENCE OF ELECTION.—If an election is not made under subsection (a) of this section with respect to a charge filed under section 3610 of this title, the Secretary shall provide an opportunity for a hearing on the record with respect to a charge issued under section 3610 of this title. The Secretary shall delegate the conduct of a hearing under this section to an administrative law judge appointed under section 3105 of Title 5. The administrative law judge shall conduct the hearing at a place in the vicinity in which the discriminatory housing practice is alleged to have occurred or to be about to occur.

(c) RIGHTS OF PARTIES.—At a hearing under this section, each party may appear in person, be represented by counsel, present evidence, cross-examine witnesses, and obtain the issuance of subpoenas under section 3611 of this title. Any aggrieved person may intervene as a party in the proceeding. The Federal Rules of Evidence apply to the presentation of evidence in such hearing as they would in a civil action in a United States district court.

(d) EXPEDITED DISCOVERY AND HEARING.—

(1) Discovery in administrative proceedings under this section shall be conducted as expeditiously and inexpensively as possible, consistent with the need of all parties to obtain relevant evidence.

(2) A hearing under this section shall be conducted as expeditiously and inexpensively as possible, consistent with the needs and rights of the parties to obtain a fair hearing and a complete record.

(3) The Secretary shall, not later than 180 days after September 13, 1988, issue rules to implement this subsection.

(e) RESOLUTION OF CHARGE.—Any resolution of a charge before a final order under this section shall require the consent of the aggrieved person on whose behalf the charge is issued.

(f) EFFECT OF TRIAL OF CIVIL ACTION ON ADMINISTRATIVE PROCEEDINGS.—An administrative law judge may not continue administrative proceedings under this section regarding any alleged discriminatory housing practice after the beginning of the trial of a civil action commenced by the aggrieved party under an Act of Congress or a State law, seeking relief with respect to that discriminatory housing practice.

(g) HEARINGS, FINDINGS AND CONCLUSIONS, AND ORDER.—

(1) The administrative law judge shall commence the hearing under this section no later than 120 days following the issuance of the charge, unless it is impracticable to do so. If the administrative law judge is unable to commence the hearing within 120 days after the issuance of the charge, the administrative law judge shall notify the Secretary, the aggrieved person on whose behalf the charge was filed, and the respondent, in writing of the reasons for not doing so.

(2) The administrative law judge shall make findings of fact and conclusions of law within 60 days after the end of the hearing under this section, unless it is impracticable to do so. If the administrative law judge is unable to make findings of fact and conclusions of law within such period, or any succeeding

60-day period thereafter, the administrative law judge shall notify the Secretary, the aggrieved person on whose behalf the charge was filed, and the respondent, in writing of the reasons for not doing so.

(3) If the administrative law judge finds that a respondent has engaged or is about to engage in a discriminatory housing practice, such administrative law judge shall promptly issue an order for such relief as may be appropriate, which may include actual damages suffered by the aggrieved person and injunctive or other equitable relief. Such order may, to vindicate the public interest, assess a civil penalty against the respondent—

(A) in an amount not exceeding $10,000 if the respondent has not been adjudged to have committed any prior discriminatory housing practice;

(B) in an amount not exceeding $25,000 if the respondent has been adjudged to have committed one other discriminatory housing practice during the 5-year period ending on the date of the filing of this charge; and

(C) in an amount not exceeding $50,000 if the respondent has been adjudged to have committed 2 or more discriminatory housing practices during the 7-year period ending on the date of the filing of this charge;

except that if the acts constituting the discriminatory housing practice that is the object of the charge are committed by the same natural person who has been previously adjudged to have committed acts constituting a discriminatory housing practice, then the civil penalties set forth in subparagraphs (B) and (C) may be imposed without regard to the period of time within which any subsequent discriminatory housing practice occurred.

(4) No such order shall affect any contract, sale, encumbrance, or lease consummated before the issuance of such order and involving a bona fide purchaser, encumbrancer, or tenant without actual notice of the charge filed under this subchapter.

(5) In the case of an order with respect to a discriminatory housing practice that occurred in the course of a business subject to a licensing or regulation by a governmental agency, the Secretary shall, not later than 30 days after the date of the issuance of such order (or, if such order is judicially reviewed, 30 days after such order is in substance affirmed upon such review)—

(A) send copies of the findings of fact, conclusions of law, and the order, to that governmental agency; and

(B) recommend to that governmental agency appropriate disciplinary action (including, where appropriate, the suspension or revocation of the license of the respondent).

(6) In the case of an order against a respondent against whom another order was issued within the preceding 5 years under this section, the Secretary shall send a copy of each such order to the Attorney General.

(7) If the administrative law judge finds that the respondent has not engaged or is not about to engage in a discriminatory housing practice, as the case may be, such administrative law judge shall enter an order dismissing the charge. The Secretary shall make public disclosure of each such dismissal.

(h) REVIEW BY SECRETARY; SERVICE OF FINAL ORDER.—

(1) The Secretary may review any finding, conclusion, or order issued under subsection (g) of this section. Such review shall be completed not later than 30 days after the finding, conclusion, or order is so issued; otherwise the finding, conclusion, or order becomes final.

(2) The Secretary shall cause the findings of fact and conclusions of law made with respect to any final order for relief under this section, together with a copy of such order, to be served on each aggrieved person and each respondent in the proceeding.

(i) JUDICIAL REVIEW.—

(1) Any party aggrieved by a final order for relief under this section granting or denying in whole or in part the relief sought may obtain a review of such order under chapter 158 of Title 28.

(2) Notwithstanding such chapter, venue of the proceeding shall be in the judicial circuit in which the discriminatory housing practice is alleged to have occurred, and filing of the petition for review shall be not later than 30 days after the order is entered.

(j) COURT ENFORCEMENT OF ADMINISTRATIVE ORDER UPON PETITION BY SECRETARY.—

(1) The Secretary may petition any United States court of appeals for the circuit in which the discriminatory housing practice is alleged to have occurred or in which any respondent resides or transacts business for the enforcement of the order of the administrative law judge and for appropriate temporary relief or restraining order, by filing in such court a written petition praying that such order be enforced and for appropriate temporary relief or restraining order.

(2) The Secretary shall file in court with the petition the record in the proceeding. A copy of such petition shall be forthwith transmitted by the clerk of the court to the parties to the proceeding before the administrative law judge.

(k) RELIEF WHICH MAY BE GRANTED.—

(1) Upon the filing of a petition under subsection (i) or (j) of this section, the court may—

(A) grant to the petitioner, or any other party, such temporary relief, restraining order, or other order as the court deems just and proper;

(B) affirm, modify, or set aside, in whole or in part, the order, or remand the order for further proceedings; and

(C) enforce such order to the extent that such order is affirmed or modified.

(2) Any party to the proceeding before the administrative law judge may intervene in the court of appeals.

(3) No objection not made before the administrative law judge shall be considered by the court, unless the failure or neglect to urge such objection is excused because of extraordinary circumstances.

(l) ENFORCEMENT DECREE IN ABSENCE OF PETITION FOR REVIEW.—If no petition for review is filed under subsection (i) of this section before the expiration of 45 days after the date the administrative law judge's order is entered, the administrative law judge's findings of fact and order shall be conclusive in connection with any petition for enforcement—

(1) which is filed by the Secretary under subsection (j) of this section after the end of such day; or

(2) under subsection (m) of this section.

(m) COURT ENFORCEMENT OF ADMINISTRATIVE ORDER UPON PETITION OF ANY PERSON ENTITLED TO RELIEF.—If before the expiration of 60 days after the date the administrative law judge's order is entered, no petition for review has been filed under subsection (i) of this section, and the Secretary has not sought enforcement of the order under subsection (j) of this section, any person entitled to relief under the order may petition for a decree enforcing the order in the United States court of appeals for the circuit in which the discriminatory housing practice is alleged to have occurred.

(n) ENTRY OF DECREE.—The clerk of the court of appeals in which a petition for enforcement is filed under subsection (l) or (m) of this section shall forthwith enter a decree enforcing the order and shall transmit a copy of such decree to the Secretary, the respondent named in the petition, and to any other parties to the proceeding before the administrative law judge.

(o) CIVIL ACTION FOR ENFORCEMENT WHEN ELECTION IS MADE FOR SUCH CIVIL ACTION.—

(1) If an election is made under subsection (a) of this section, the Secretary shall authorize, and not later than 30 days after the election is made the Attorney General shall commence and maintain, a civil action on behalf of the aggrieved person in a United States district court seeking relief under this subsection. Venue for such civil action shall be determined under chapter 87 of Title 28.

(2) Any aggrieved person with respect to the issues to be determined in a civil action under this subsection may intervene as of right in that civil action.

(3) In a civil action under this subsection, if the court finds that a discriminatory housing practice has occurred or is about to occur, the court may grant as relief any relief which a court could grant with respect to such discriminatory housing practice in a civil action under section 3613 of this title. Any relief so granted that would accrue to an aggrieved person in a civil action commenced by that aggrieved person under section 3613 of this title shall also accrue to that aggrieved person in a civil action under this subsection. If monetary relief is sought for the benefit of an aggrieved person who does not intervene in the civil action, the court shall not award such relief if that aggrieved person has not complied with discovery orders entered by the court.

(p) ATTORNEY'S FEES.—In any administrative proceeding brought under this section, or any court proceeding arising therefrom, or any civil action under this section, the administrative law judge or the court, as the case may be, in its discretion, may allow the prevailing party, other than the United States, a reasonable attorney's fee and costs. The United States shall be liable for such fees and costs to the extent provided by section 504 of Title 5 or by section 2412 of Title 28.

Sec. 813. [42 U.S.C. 3613]
ENFORCEMENT BY PRIVATE PERSONS.

(a) CIVIL ACTION.—

(1)(A) An aggrieved person may commence a civil action in an appropriate United States district court or State court not later than 2 years after the occurrence or the termination of an alleged discriminatory housing practice, or the breach of a conciliation agreement entered into under this subchapter, whichever occurs last, to obtain appropriate relief with respect to such discriminatory housing practice or breach.

(B) The computation of such 2-year period shall not include any time during which an administrative proceeding under this subchapter was pending with respect to a complaint or charge under this subchapter based upon such discriminatory housing practice. This subparagraph does not apply to actions arising from a breach of a conciliation agreement.

(2) An aggrieved person may commence a civil action under this subsection whether or not a complaint has been filed under section 3610(a) of this title and without regard to the status of any such complaint, but if the Secretary or a State or local agency has obtained a conciliation agreement with the consent of an aggrieved person, no action may be filed under this subsection by such aggrieved person with respect to the alleged discriminatory housing practice which forms the basis for such complaint except for the purpose of enforcing the terms of such an agreement.

(3) An aggrieved person may not commence a civil action under this subsection with respect to an alleged discriminatory housing practice which forms the basis of a charge issued by the Secretary if an administrative law judge has commenced a hearing on the record under this subchapter with respect to such charge.

(b) Appointment of attorney by court.—Upon application by a person alleging a discriminatory housing practice or a person against whom such a practice is alleged, the court may—

(1) appoint an attorney for such person; or

(2) authorize the commencement or continuation of a civil action under subsection (a) of this section without the payment of fees, costs, or security, if in the opinion of the court such person is financially unable to bear the costs of such action.

(c) RELIEF WHICH MAY BE GRANTED.—

(1) In a civil action under subsection (a) of this section, if the court finds that a discriminatory housing practice has occurred or is about to occur, the court may award to the plaintiff actual and punitive damages, and subject to subsection (d) of this section, may grant as relief, as the court deems appropriate, any permanent or temporary injunction, temporary restraining order, or other order (including an order enjoining the defendant from engaging in such practice or ordering such affirmative action as may be appropriate).

(2) In a civil action under subsection (a) of this section, the court, in its discretion, may allow the prevailing party, other than the United States, a reasonable attorney's fee and costs. The United States shall be liable for such fees and costs to the same extent as a private person.

(d) EFFECT ON CERTAIN SALES, ENCUMBRANCES, AND RENTALS.—Relief granted under this section shall not affect any contract, sale, encumbrance, or lease consummated before the granting of such relief and involving a bona fide purchaser, encumbrancer, or tenant, without actual notice of the filing of a complaint with the Secretary or civil action under this subchapter.

(e) INTERVENTION BY ATTORNEY GENERAL.—Upon timely application, the Attorney General may intervene in such civil action, if the Attorney General certifies that the case is of general public importance. Upon such intervention the Attorney General may obtain such relief as would be available to the Attorney General under section 3614(e) of this title in a civil action to which such section applies.

Sec. 814. [42 U.S.C. 3614]
ENFORCEMENT BY ATTORNEY GENERAL.

(a) PATTERN OR PRACTICE CASES.—Whenever the Attorney General has reasonable cause to believe that any person or group of persons is engaged in a pattern or practice of resistance to the full enjoyment of any of the rights granted by this subchapter, or that any group of persons has been denied any of the rights granted by this subchapter and such denial raises an issue of general public importance, the Attorney General may commence a civil action in any appropriate United States district court.

(b) ON REFERRAL OF DISCRIMINATORY HOUSING PRACTICE OR CONCILIATION AGREEMENT FOR ENFORCEMENT.—

(1)(A) The Attorney General may commence a civil action in any appropriate United States district court for appropriate relief with respect to a discriminatory housing practice referred to the Attorney General by the Secretary under section 3610(g) of this title.

(B) A civil action under this paragraph may be commenced not later than the expiration of 18 months after the date of the occurrence or the termination of the alleged discriminatory housing practice.

(2)(A) The Attorney General may commence a civil action in any appropriate United States district court for appropriate relief with respect to breach of a conciliation agreement referred to the Attorney General by the Secretary under section 3610(c) of this title.

(B) A civil action may be commenced under this paragraph not later than the expiration of 90 days after the referral of the alleged breach under section 3610(c) of this title.

(c) ENFORCEMENT OF SUBPOENAS.—The Attorney General, on behalf of the Secretary, or other party at whose request a subpoena is issued, under this subchapter, may enforce such subpoena in appropriate proceedings in the United States district court for the district in which the person to whom the subpoena was addressed resides, was served, or transacts business.

(d) RELIEF WHICH MAY BE GRANTED IN CIVIL ACTIONS UNDER SUBSECTIONS (A) AND (B).—

(1) In a civil action under subsection (a) or (b) of this section, the court—

(A) may award such preventive relief, including a permanent or temporary injunction, restraining order, or other order against the person responsible for a violation of this subchapter as is necessary to assure the full enjoyment of the rights granted by this subchapter;

(B) may award such other relief as the court deems appropriate, including monetary damages to persons aggrieved; and

(C) may, to vindicate the public interest, assess a civil penalty against the respondent—

(i) in an amount not exceeding $50,000, for a first violation; and

(ii) in an amount not exceeding $100,000, for any subsequent violation.

(2) In a civil action under this section, the court, in its discretion, may allow the prevailing party, other than the United States, a reasonable attorney's fee and costs. The United States shall be liable for such fees and costs to the extent provided by section 2412 of Title 28.

(e) INTERVENTION IN CIVIL ACTIONS.—Upon timely application, any person may intervene in a civil action commenced by the Attorney General under subsection (a) or (b) of this section which involves an alleged discriminatory housing practice with respect to which such person is an aggrieved person or a conciliation agreement to which such person is a party. The court may grant such appropriate relief to any such intervening party as is authorized to be granted to a plaintiff in a civil action under section 3613 of this title.

Sec. 814A. [42 U.S.C. 3614-1]
INCENTIVES FOR SELF-TESTING AND SELF-CORRECTION.

(a) PRIVILEGED INFORMATION.—

(1) CONDITIONS FOR PRIVILEGE.—A report or result of a self-test (as that term is defined by regulation of the Secretary) shall be considered to be privileged under paragraph (2) if any person—

(A) conducts, or authorizes an independent third party to conduct, a self-test of any aspect of a residential real estate related lending transaction of that person, or any part of that transaction, in order to determine the level or effectiveness of compliance with this subchapter by that person; and

(B) has identified any possible violation of this subchapter by that person and has taken, or is taking, appropriate corrective action to address any such possible violation.

(2) PRIVILEGED SELF-TEST.—If a person meets the conditions specified in subparagraphs (A) and (B) of paragraph (1) with respect to a self-test described in that paragraph, any report or results of that self-test—

(A) shall be privileged; and

(B) may not be obtained or used by any applicant, department, or agency in any—

(i) proceeding or civil action in which one or more violations of this subchapter are alleged; or

(ii) examination or investigation relating to compliance with this subchapter.

(b) RESULTS OF SELF-TESTING.—

(1) IN GENERAL.—No provision of this section may be construed to prevent an aggrieved person, complainant, department, or agency from obtaining or using a report or results of any self-test in any proceeding or civil action in which a violation of this subchapter is alleged, or in any examination or investigation of compliance with this subchapter if—

(A) the person to whom the self-test relates or any person with lawful access to the report or the results—

(i) voluntarily releases or discloses all, or any part of, the report or results to the aggrieved person, complainant, department, or agency, or to the general public; or

(ii) refers to or describes the report or results as a defense to charges of violations of this subchapter against the person to whom the self-test relates; or

(B) the report or results are sought in conjunction with an adjudication or admission of a violation of this subchapter for the sole purpose of determining an appropriate penalty or remedy.

(2) DISCLOSURE FOR DETERMINATION OF PENALTY OR REMEDY.—Any report or results of a self-test that are disclosed for the purpose specified in paragraph (1)(B)—

(A) shall be used only for the particular proceeding in which the adjudication or admission referred to in paragraph (1)(B) is made; and

(B) may not be used in any other action or proceeding.

(c) ADJUDICATION.—An aggrieved person, complainant, department, or agency that challenges a privilege asserted under this section may seek a determination of the existence and application of that privilege in—

(1) a court of competent jurisdiction; or

(2) an administrative law proceeding with appropriate jurisdiction.

Sec. 815. [42 U.S.C. 3614a]
RULES TO IMPLEMENT SUBCHAPTER.

The Secretary may make rules (including rules for the collection, maintenance, and analysis of appropriate data) to carry out this subchapter. The Secretary shall give public notice and opportunity for comment with respect to all rules made under this section.

Sec. 816. [42 U.S.C. 3615]
EFFECT ON STATE LAWS.

Nothing in this subchapter shall be construed to invalidate or limit any law of a State or political subdivision of a State, or of any other jurisdiction in which this subchapter shall be effective, that grants, guarantees, or protects the same rights as are granted by this subchapter; but any law of a State, a political subdivision, or other such jurisdiction that purports to require or permit any action that would be a discriminatory housing practice under this subchapter shall to that extent be invalid.

Sec. 817. [42 U.S.C. 3616]
COOPERATION WITH STATE AND LOCAL AGENCIES ADMINISTERING FAIR HOUSING LAWS; UTILIZATION OF SERVICES AND PERSONNEL; REIMBURSEMENT; WRITTEN AGREEMENTS; PUBLICATION IN FEDERAL REGISTER.

The Secretary may cooperate with State and local agencies charged with the administration of State and local fair housing laws and, with the consent of such agencies, utilize the services of such agencies and their employees and, notwithstanding any other provision of law, may reimburse such agencies and their employees for services rendered to assist him in carrying out this subchapter. In furtherance of such cooperative efforts, the Secretary may enter into written agreements with such State or local agencies. All agreements and terminations thereof shall be published in the Federal Register.

Sec. 818. [42 U.S.C. 3617]
INTERFERENCE, COERCION, OR INTIMIDATION.

It shall be unlawful to coerce, intimidate, threaten, or interfere with any person in the exercise or enjoyment of, or on account of his having exercised or enjoyed, or on account of his having aided or encouraged any other person in the exercise or enjoyment of, any right granted or protected by section 3603, 3604, 3605, or 3606 of this title.

Sec. 819. [42 U.S.C. 3618]
AUTHORIZATION OF APPROPRIATIONS.

There are hereby authorized to be appropriated such sums as are necessary to carry out the purposes of this subchapter.

Sec. 820. [42 U.S.C. 3619]
SEPARABILITY.

If any provision of this subchapter or the application thereof to any person or circumstances is held invalid, the remainder of the subchapter and the application of the provision to other persons not similarly situated or to other circumstances shall not be affected thereby.

FAIR HOUSING INITIATIVES PROGRAM

HOUSING AND COMMUNITY DEVELOPMENT ACT OF 1987
[Public Law 100-242; 101 Stat. 1942; 42 U.S.C. 3616a]

Sec. 561. [42 U.S.C. 3616a]
FAIR HOUSING INITIATIVES PROGRAM.

(a) IN GENERAL.—The Secretary of Housing and Urban Development (in this section referred to as the "Secretary") may make grants to, or (to the extent of amounts provided in appropriation Acts) enter into contracts or cooperative agreements with, State or local governments or their agencies, public or private nonprofit organizations or institutions, or other public or private entities that are formulating or carry out programs to prevent or eliminate discriminatory housing practices, to develop, implement, carry out, or coordinate—

(1) programs or activities designed to obtain enforcement of the rights granted by title VIII of the Act of April 11, 1968 (commonly referred to as the Civil Rights Act of 1968), or by State or local laws that provide rights and remedies for alleged discriminatory housing practices that are substantially equivalent to the rights and remedies provided in such title VIII, through such appropriate judicial or administrative proceedings (including informal methods of conference, conciliation, and persuasion) as are available therefore; and

(2) education and outreach programs designed to inform the public concerning rights and obligations under the laws referred to in paragraph (1).

(b) PRIVATE ENFORCEMENT INITIATIVES.—

(1) IN GENERAL.—The Secretary shall use funds made available under this subsection to conduct, through contracts with private nonprofit fair housing enforcement organizations, investigations of violations of the rights granted under title VIII of the Civil Rights Act of 1968, and such enforcement activities as appropriate to remedy such violations. The Secretary may enter into multiyear contracts and take such other action as is appropriate to enhance the effectiveness of such investigations and enforcement activities.

(2) ACTIVITIES.—The Secretary shall use funds made available under this subsection to conduct, through contracts with private nonprofit fair housing enforcement organizations, a range of investigative and enforcement activities designed to—

(A) carry out testing and other investigative activities in accordance with subsection (b)(1), including building the capacity for housing investigative activities in unserved or underserved areas;

(B) discover and remedy discrimination in the public and private real estate markets and real estate-related transactions, including, but not limited to, the making or purchasing of loans or the provision of other financial assistance sales and rentals of housing and housing advertising;

(C) carry out special projects, including the development of prototypes to respond to new or sophisticated forms of discrimination against persons protected under title VIII of the Civil Rights Act of 1968;

(D) provide technical assistance to local fair housing organizations, and assist in the formation and development of new fair housing organizations; and

(E) provide funds for the costs and expenses of litigation, including expert witness fees.

(c) FUNDING OF FAIR HOUSING ORGANIZATIONS.—

(1) IN GENERAL.—The Secretary shall use funds made available under this section to enter into contracts or cooperative agreements with qualified fair housing enforcement organizations, other private nonprofit fair housing enforcement organizations, and nonprofit groups organizing to build their capacity to provide fair housing enforcement, for the purpose of supporting the continued development or implementation of initiatives which enforce the rights granted under title VIII of the Civil Rights Act of 1968, as amended. Contracts or cooperative agreements may not provide more than 50 percent of the operating budget of the recipient organization for any one year.

(2) CAPACITY ENHANCEMENT.—The Secretary shall use funds made available under this section to help establish, organize, and build the capacity of fair housing enforcement organizations, particularly in those areas of the country which are currently underserved by fair housing enforcement organizations as well as those areas where large concentrations of protected classes exist. For purposes of meeting the objectives of this paragraph, the Secretary may enter into contracts or cooperative agreements

with qualified fair housing enforcement organizations. The Secretary shall establish annual goals which reflect the national need for private fair housing enforcement organizations.

(d) EDUCATION AND OUTREACH.—

(1) IN GENERAL.—The Secretary, through contracts with one or more qualified fair housing enforcement organizations, other fair housing enforcement organizations, and other nonprofit organizations representing groups of persons protected under title VIII of the Civil Rights Act of 1968, shall establish a national education and outreach program. The national program shall be designed to provide a centralized, coordinated effort for the development and dissemination of fair housing media products, including—

(A) public service announcements, both audio and video;

(B) television, radio and print advertisements;

(C) posters; and

(D) pamphlets and brochures.

The Secretary shall designate a portion of the amounts provided in subsection (g)(4) for a national program specifically for activities related to the annual national fair housing month. The Secretary shall encourage cooperation with real estate industry organizations in the national education and outreach program. The Secretary shall also encourage the dissemination of educational information and technical assistance to support compliance with the housing adaptability and accessibility guidelines contained in the Fair Housing Act Amendments of 1988.[727]

(2) REGIONAL AND LOCAL PROGRAMS.—The Secretary, through contracts with fair housing enforcement organizations, other nonprofit organizations representing groups of persons protected under title VIII of the Civil Rights Act of 1968, State and local agencies certified by the Secretary under section 810(f) of the Fair Housing Act, or other public or private entities that are formulating or carrying out programs to prevent or eliminate discriminatory housing practices, shall establish or support education and outreach programs at the regional and local levels.

(3) COMMUNITY-BASED PROGRAMS.—The Secretary shall provide funding to fair housing organizations and other nonprofit organizations representing groups of persons protected under title VIII of the Civil Rights Act of 1968, or other public or private entities that are formulating or carrying out programs to prevent or eliminate discriminatory housing practices, to support community-based education and outreach activities, including school, church, and community presentations, conferences, and other educational activities.

(e) PROGRAM ADMINISTRATION.—

(1) Not less than 30 days before providing a grant or entering into any contract or cooperative agreement to carry out activities authorized by this section, the Secretary shall submit notification of such proposed grant, contract, or cooperative agreement (including a description of the geographical distribution of such contracts) to the Committee on Banking, Housing, and Urban Affairs of the Senate and the Committee on Banking, Finance and Urban Affairs of the House of Representatives[728].

[(2) [Repealed.]]

(f) REGULATIONS.—

(1) The Secretary shall issue such regulations as may be necessary to carry out the provisions of this section.

(2) The Secretary shall, for use during the demonstration authorized in this section, establish guidelines for testing activities funded under the private enforcement initiative of the fair housing initiatives program. The purpose of such guidelines shall be to ensure that investigations in support of fair housing enforcement efforts described in subsection (a)(1) shall develop credible and objective evidence of discriminatory housing practices. Such guidelines shall apply only to activities funded under this section, shall not be construed to limit or otherwise restrict the use of facts secured through testing not funded under this section in any legal proceeding under Federal fair housing laws, and shall not be used to restrict individuals or entities, including those participating in the fair housing initiatives program, from pursuing any right or remedy guaranteed by Federal law. Not later than 6 months after the end of the demonstration

[727] So in law. Probably intended to refer to the Fair Housing Amendments Act of 1988.

[728] Section 1(a) of Public Law 104-14, 109 Stat. 186, provides, in part, that "any reference in any provision of law enacted before January 4, 1995, to . . . the Committee on Banking, Finance and Urban Affairs of the House of Representatives shall be treated as referring to the Committee on Banking and Financial Services of the House of Representatives". However, H. Res. 5, 107th Congress, agreed to on January 3, 2001, abolished the Committee on Banking and Financial Services and established the Committee on Financial Services, which has jurisdiction over many of the areas previously under the jurisdiction of the Committee on Banking and Financial Services.

period authorized in this section, the Secretary shall submit to Congress the evaluation of the Secretary of the effectiveness of such guidelines in achieving the purposes of this section.

(3) Such regulations shall include provisions governing applications for assistance under this section, and shall require each such application to contain—

(A) a description of the assisted activities proposed to be undertaken by the applicant, together with the estimated costs and schedule for completion of such activities;

(B) a description of the experience of the applicant in formulating or carrying out programs to prevent or eliminate discriminatory housing practices;

(C) available information, including studies made by or available to the applicant, indicating the nature and extent of discriminatory housing practices occurring in the general location where the applicant proposes to conduct its assisted activities, and the relationship of such activities to such practices:

(D) an estimate of such other public or private resources as may be available to assist the proposed activities;

(E) a description of proposed procedures to be used by the applicant for monitoring conduct and evaluating results of the proposed activities; and

(F) any additional information required by the Secretary.

(4) Regulations issued under this subsection shall not become effective prior to the expiration of 90 days after the Secretary transmits such regulations, in the form such regulations are intended to be published, to the Committee on Banking, Housing, and Urban Affairs of the Senate and the Committee on Banking, Finance and Urban Affairs of the House of Representatives[729].

(5) The Secretary shall not obligate or expend any amount under this section before the effective date of the regulations required under this subsection.

(g) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out the provisions of this section, $21,000,000 for fiscal year 1993 and $26,000,000 for fiscal year 1994, of which—

(1) not less than $3,820,000 for fiscal year 1993 and $8,500,000 for fiscal year 1994 shall be for private enforcement initiatives authorized under subsection (b), divided equally between activities specified under subsection (b)(1) and those specified under subsection (b)(2);

(2) not less than $2,230,000 for fiscal year 1993 and $8,500,000 for fiscal year 1994 shall be for qualified fair housing enforcement organizations authorized under subsection (c)(1);

(3) not less than $2,010,000 for fiscal year 1993 and $4,000,000 for fiscal year 1994 shall be for the creation of new fair housing enforcement organizations authorized under subsection (c)(2); and

(4) not less than $2,540,000 for fiscal year 1993 and $5,000,000 for fiscal year 1994 shall be for education and outreach programs authorized under subsection (d), to be divided equally between activities specified under subsection (d)(1) and those specified under subsections (d)(2) and (d)(3). Any amount appropriated under this section shall remain available until expended.

(h) QUALIFIED FAIR HOUSING ENFORCEMENT ORGANIZATION.—(1) The term "qualified fair housing enforcement organization" means any organization that—

(A) is organized as a private, tax-exempt, nonprofit, charitable organization;

(B) has at least 2 years experience in complaint intake, complaint investigation, testing for fair housing violations and enforcement of meritorious claims; and

(C) is engaged in all the activities listed in paragraph (1)(B) at the time of application for assistance under this section.

An organization which is not solely engaged in fair housing enforcement activities may qualify as a qualified fair housing enforcement organization, provided that the organization is actively engaged in each of the activities listed in subparagraph (B).

(2) The term "fair housing enforcement organization" means any organization that—

(A) meets the requirements specified in paragraph (1)(A);

(B) is currently engaged in the activities specified in paragraph (1)(B);

(C) upon the receipt of funds under this section will become engaged in all of the activities specified in paragraph (1)(B); and

[729] Section 1(a) of Public Law 104-14, 109 Stat. 186, provides, in part, that "any reference in any provision of law enacted before January 4, 1995, to . . . the Committee on Banking, Finance and Urban Affairs of the House of Representatives shall be treated as referring to the Committee on Banking and Financial Services of the House of Representatives". However, H. Res. 5, 107th Congress, agreed to on January 3, 2001, abolished the Committee on Banking and Financial Services and established the Committee on Financial Services, which has jurisdiction over many of the areas previously under the jurisdiction of the Committee on Banking and Financial Services.

(D) for purposes of funding under subsection (b), has at least 1 year of experience in the activities specified in paragraph (1)(B).

(i) PROHIBITION ON USE OF FUNDS.—None of the funds authorized under this section may be used by the Secretary for purposes of settling claims, satisfying judgments or fulfilling court orders in any litigation action involving either the Department or housing providers funded by the Department. None of the funds authorized under this section may be used by the Department for administrative costs.

(j) REPORTING REQUIREMENTS.—Not later than 180 days after the close of each fiscal year in which assistance under this section is furnished, the Secretary shall prepare and submit to the Congress a comprehensive report which shall contain—

(1) a description of the progress made in accomplishing the objectives of this section;

(2) a summary of all the private enforcement activities carried out under this section and the use of such funds during the preceding fiscal year;

(3) a list of all fair housing enforcement organizations funded under this section during the preceding fiscal year, identified on a State-by-State basis;

(4) a summary of all education and outreach activities funded under this section and the use of such funds during the preceding fiscal year; and

(5) any findings, conclusions, or recommendations of the Secretary as a result of the funded activities.

Sec. 562. [42 U.S.C. 3608a]
COLLECTION OF CERTAIN DATA.

(a) IN GENERAL.—To assess the extent of compliance with Federal fair housing requirements (including the requirements established under title VI of Public Law 88-352 [42 U.S.C.A. § 2000d et seq.] and title VIII of Public Law 90-284 [42 U.S.C.A. § 3601 et seq.]), the Secretary of Agriculture shall collect, not less than annually, data on the racial and ethnic characteristics of persons eligible for, assisted, or otherwise benefiting under each community development, housing assistance, and mortgage and loan insurance and guarantee program administered by such Secretary. Such data shall be collected on a building by building basis if the Secretary determines such collection to be appropriate.

(b) REPORTS TO CONGRESS.—The Secretary of Agriculture shall include in the annual report of such Secretary to the Congress a summary and evaluation of the data collected by such Secretary under subsection (a) of this section during the preceding year.

END OF STATUTE

FEDERAL DEPOSIT INSURANCE CORPORATION AFFORDABLE HOUSING PROGRAM

FEDERAL DEPOSIT INSURANCE ACT
[Public Law 102-242; 105 Stat. 2317; 12 U.S.C. 1831q]

Sec. 40. [12 U.S.C. 1831q]
FDIC AFFORDABLE HOUSING PROGRAM.

(a) PURPOSE.—The purpose of this section is to provide homeownership and rental housing opportunities for very low-income, low-income, and moderate-income families.

(b) FUNDING AND LIMITATIONS OF PROGRAM.—

(1) DURATION OF PROGRAM.—The provisions of this section shall be effective, subject to the provisions of paragraph (2), only during the 3-year period beginning upon the commencement of the first fiscal year for which amounts are provided pursuant to paragraph (2)(A).

(2) ANNUAL FISCAL LIMITATIONS.—

(A) IN GENERAL.—In each fiscal year during the 3-year period referred to in paragraph (1), the provisions of this section shall apply only—

(i) to such extent or in such amounts as are provided in appropriations Acts for any losses resulting during the fiscal year from the sale of properties under this section, except that such amounts for losses may not exceed $30,000,000 in any fiscal year; and

(ii) to the extent that amounts are provided in appropriations Acts pursuant to subparagraph (C) for any other costs relating to the program under this section.

(B) DEFINITION OF LOSSES.—For purposes of this paragraph, the amount of losses resulting from the sale of properties under this section during any fiscal year shall be the amount equal to the sum of any affordable housing discounts reasonably anticipated to accrue during the fiscal year.

(C) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated, for each fiscal year during the 3-year period referred to in paragraph (1), such sums as may be necessary for any costs of the program under this section other than losses resulting from the sale of properties under this section.

(D) OTHER DEFINITIONS.—For purposes of this paragraph:

(i) Affordable housing discount.—The term “affordable housing discount” means, with respect to any eligible residential or eligible condominium property transferred under this section by the Corporation, the difference (if any) between the realizable disposition value of the property and the actual sale price of the property under this section.

(ii) Realizable disposition value.—The term “realizable disposition value” means the estimated sale price that the Corporation reasonably would be able to obtain upon the sale of a property by the Corporation under the provisions of this Act, not including this section, and any other applicable laws. Not later than the expiration of the 120-day period beginning upon the commencement of the first fiscal year for which amounts are provided pursuant to paragraph (2)(A), the Corporation shall establish, and publish in the Federal Register, procedures for determining the realizable disposition value of a property transferred under this section, which shall take into consideration such factors as the Corporation considers appropriate, including the actual sale prices of properties disposed of by the Resolution Trust Corporation under section 21A(c) of the Federal Home Loan Bank Act, the prices of other properties sold under similar programs, and the appraised value of the property transferred under this section. Until such procedures are established, the Corporation may consider the realizable disposition value of any eligible residential or condominium property to be equal to the appraised value of the property.

(3) EXISTING CONTRACTS.—The provisions of this section shall not apply to any eligible residential property or any eligible condominium property that is subject to an agreement entered into by the Corporation before the commencement of the first fiscal year for which amounts are provided pursuant to paragraph (2)(A) that provides for any other disposition of the property.

(c) RULES GOVERNING DISPOSITION OF ELIGIBLE SINGLE FAMILY PROPERTIES.—

(1) NOTICE TO CLEARINGHOUSES.—Within a reasonable period of time after acquiring title to an eligible single family property, the Corporation shall provide written notice to clearinghouses. Such notice shall contain basic information about the property, including but not limited to location, condition, and information relating to the estimated fair market value of the property. Each clearinghouse shall make such information available, upon request, to other public agencies, other nonprofit organizations, and qualifying households. The Corporation shall allow public agencies, nonprofit organizations, and qualifying households reasonable access to eligible single family property for purposes of inspection.

(2) OFFERS TO SELL TO NONPROFIT ORGANIZATIONS, PUBLIC AGENCIES, AND QUALIFYING HOUSEHOLDS.—During the 180-day period beginning on the date on which the Corporation makes an eligible single family property available for sale, the Corporation shall offer to sell the property to—

(A) qualifying households (including qualifying households with members who are veterans); or

(B) public agencies or nonprofit organizations that agree to (i) make the property available for occupancy by and maintain it as affordable for low-income families (including low-income families with members who are veterans) for the remaining useful life of such property, or (ii) make the property available for purchase by any such family who, except as provided in paragraph (4), agrees to occupy the property as a principal residence for at least 12 months and certifies in writing that the family intends to occupy the property for at least 12 months.

The restrictions described in clause (i) of subparagraph (B) shall be contained in the deed or other recorded instrument. If, upon the expiration of such 180-day period, no qualifying household, public agency, or nonprofit organization has made a bona fide offer to purchase the property, the Corporation may offer to sell the property to any purchaser. The Corporation shall actively market eligible single family properties for sale to low-income families and to low-income families with members who are veterans.

(3) RECAPTURE OF PROFITS FROM RESALE.—Except as provided in paragraph (4), if any eligible single family property sold (A) to a qualifying household, or (B) to a low-income family pursuant to paragraph (2)(B)(ii), subsection (j)(3)(A), or subsection (k)(2), is resold by the qualifying household or low-income family during the 1-year period beginning upon initial acquisition by the household or low-income family, the Corporation shall recapture 75 percent of the amount of any proceeds from the resale that exceed the sum of (i) the original sale price for the acquisition of the property by the qualifying household or low-income family, (ii) the costs of any improvements to the property made after the date of the acquisition, and (iii) any closing costs in connection with the acquisition.

(4) EXCEPTIONS TO RECAPTURE REQUIREMENT.—

(A) RELOCATION.—The Corporation may in its discretion waive the applicability (i) to any qualifying household of the requirement under paragraph (3) and the requirements relating to residency of a qualifying household under subparagraphs (B) and (C) of subsection (p)(12), and (ii) to any low-income family of the requirement under paragraph (3) and the residency requirements under paragraph (2)(B)(ii). The Corporation may grant any such waiver only for good cause shown, including any necessary relocation of the qualifying household or low-income family.

(B) OTHER RECAPTURE PROVISIONS.—The requirement under paragraph (3) shall not apply to any eligible single family property for which, upon resale by the qualifying household or low-income family during the 1-year period beginning upon initial acquisition by the household or family, a portion of the sale proceeds or any subsidy provided in connection with the acquisition of the property by the household or family is required to be recaptured or repaid under any other Federal, State, or local law (including section 143(m) of the Internal Revenue Code of 1986) or regulation or under any sale agreement.

(5) EXCEPTION TO AVOID DISPLACEMENT OF EXISTING RESIDENTS.—Notwithstanding the first sentence of paragraph (2), during the 180-day period following the date on which the Corporation makes an eligible single family property available for sale, the Corporation may sell the property to the household residing in the property, but only if (A) such household was residing in the property at the time notice regarding the property was provided to clearinghouses under paragraph (1), (B) such sale is necessary to avoid the displacement of, and unnecessary hardship to, the resident household, (C) the resident household intends to occupy the property as a principal residence for at least 12 months,

and (D) the resident household certifies in writing that the household intends to occupy the property for at least 12 months.

(d) RULES GOVERNING DISPOSITION OF ELIGIBLE MULTIFAMILY HOUSING PROPERTIES.—

(1) NOTICE TO CLEARINGHOUSES.—Within a reasonable period of time after acquiring title to an eligible multifamily housing property, the Corporation shall provide written notice to clearinghouses. Such notice shall contain basic information about the property, including but not limited to location, number of units (identified by number of bedrooms), and information relating to the estimated fair market value of the property. Each clearinghouse shall make such information available, upon request, to qualifying multifamily purchasers. The Corporation shall allow qualifying multifamily purchasers reasonable access to eligible multifamily housing properties for purposes of inspection.

(2) EXPRESSION OF SERIOUS INTEREST.—Qualifying multifamily purchasers may give written notice of serious interest in a property during a period ending 90 days after the time the Corporation provides notice under paragraph (1). The notice of serious interest shall be in such form and include such information as the Corporation may prescribe.

(3) NOTICE OF READINESS FOR SALE.—Upon the expiration of the period referred to in paragraph (2) for a property, the Corporation shall provide written notice to any qualifying multifamily purchaser that has expressed serious interest in the property. Such notice shall specify the minimum terms and conditions for sale of the property.

(4) OFFERS BY QUALIFYING MULTIFAMILY PURCHASERS.—A qualifying multifamily purchaser receiving notice in accordance with paragraph (3) shall have 45 days (from the date notice is received) to make a bona fide offer to purchase the property. The Corporation shall accept an offer that complies with the terms and conditions established by the Corporation. If, before the expiration of such 45-day period, any offer to purchase a property initially accepted by the Corporation is subsequently rejected or fails (for any reason), the Corporation shall accept another offer to purchase the property made during such period that complies with the terms and conditions established by the Corporation (if such another offer is made). The preceding sentence may not be construed to require a qualifying multifamily purchaser whose offer is accepted during the 45-day period to purchase the property before the expiration of the period.

(5) EXTENSION OF RESTRICTED OFFER PERIODS.—The Corporation may provide notice to clearinghouses regarding, and offer for sale under the provisions of paragraphs (1) through (4), any eligible multifamily housing property—

(A) in which no qualifying multifamily purchaser has expressed serious interest during the period referred to in paragraph (2), or

(B) for which no qualifying multifamily purchaser has made a bona fide offer before the expiration of the period referred to in paragraph (4),

except that the Corporation may, in the discretion of the Corporation, alter the duration of the periods referred to in paragraphs (2) and (4) in offering any property for sale under this paragraph.

(6) SALE OF MULTIFAMILY PROPERTIES TO OTHER PURCHASERS.—

(A) TIMING.—If, upon the expiration of the period referred to in paragraph (2), no qualifying multifamily purchaser has expressed serious interest in a property, the Corporation may offer to sell the property, individually or in combination with other properties, to any purchaser.

(B) LIMITATION ON COMBINATION SALES.—The Corporation may not sell in combination with other properties any property for which a qualifying multifamily purchaser has expressed serious interest in purchasing individually.

(C) EXPIRATION OF OFFER PERIOD.—If, upon the expiration of the period referred to in paragraph (4), no qualifying multifamily purchaser has made an offer to purchase a property, the Corporation may offer to sell the property, individually or in combination with other properties, to any purchaser.

(7) LOW-INCOME OCCUPANCY REQUIREMENTS.—

(A) SINGLE PROPERTY PURCHASES.—With respect to any purchase of a single eligible multifamily housing property by a qualifying multifamily purchaser under paragraph (4) or (5)—

(i) not less than 35 percent of all dwelling units purchased shall be made available for occupancy by and maintained as affordable for low-income and very low-income families during the remaining useful life of the property in which the units are located; provided that

(ii) not less than 20 percent of all dwelling units purchased shall be made available for occupancy by and maintained as affordable for very low-income families during the remaining useful life of the property in which the units are located.

(B) AGGREGATION REQUIREMENTS FOR MULTIPROPERTY PURCHASES.—With respect to any purchase under paragraph (4) or (5) by a qualifying multifamily purchaser involving more than one eligible multifamily housing property as a part of the same negotiation, with respect to which the purchaser intends to aggregate the low-income occupancy required under this paragraph over the total number of units so purchased—

(i) not less than 40 percent of the aggregate number of all dwelling units purchased shall be made available for occupancy by and maintained as affordable for low-income and very low-income families during the remaining useful life of the building or structure in which the units are located; provided that

(ii) not less than 20 percent of the aggregate number of all dwelling units purchased shall be made available for occupancy by and maintained as affordable for very low-income families during the remaining useful life of the building or structure in which the units are located; and further provided that

(iii) not less than 10 percent of the dwelling units in each separate property purchased shall be made available for occupancy by and maintained as affordable for low-income families during the remaining useful life of the property in which the units are located.

The requirements of this paragraph shall be contained in the deed or other recorded instrument.

(8) EXEMPTIONS.—

(A) CONTINUED OCCUPANCY OF CURRENT RESIDENTS.—No purchaser of an eligible multifamily property may terminate the occupancy of any person residing in the property on the date of purchase for purposes of meeting the low-income occupancy requirement applicable to the property under paragraph (7). The purchaser shall be considered to be in compliance with this subsection if each newly vacant dwelling unit is reserved for low-income occupancy until the low-income occupancy requirement is met.

(B) FINANCIAL INFEASIBILITY.—The Secretary or the State housing finance agency for the State in which an eligible multifamily housing property is located may temporarily reduce the low-income occupancy requirements under paragraph (7) applicable to the property, if the Secretary or such agency determines that an owner's compliance with such requirements is no longer financially feasible. The owner of the property shall make a good-faith effort to return low-income occupancy to the level required under paragraph (7), and the Secretary or the State housing finance agency, as appropriate, shall review the reduction annually to determine whether financial infeasibility continues to exist.

(e) RENT LIMITATIONS.—

(1) IN GENERAL.—With respect to properties under paragraph (2), rents charged to tenants for units made available for occupancy by very low-income families shall not exceed 30 percent of the adjusted income of a family whose income equals 50 percent of the median income for the area, as determined by the Secretary, with adjustment for family size. Rents charged to tenants for units made available for occupancy by low-income families other than very low-income families shall not exceed 30 percent of the adjusted income of a family whose income equals 65 percent of the median income for the area, as determined by the Secretary, with adjustment for family size.

(2) APPLICABILITY.—The rent limitations under this subsection shall apply to any eligible single family property sold pursuant to subsection (c)(2)(B)(i) and to any eligible multifamily housing property sold pursuant to subsection (d).

(f) PREFERENCES FOR SALES.—

(1) IN GENERAL.—In selling any eligible multifamily housing property or combinations of eligible residential properties, the Corporation shall give preference, among substantially similar offers, to the offer that would reserve the highest percentage of dwelling units for occupancy or purchase by very low-income and low-income families and would retain such affordability for the longest term.

(2) MULTIPROPERTY PURCHASES.—The Corporation shall give preference, among substantially similar offers made under paragraph (4) or (5) of subsection (d) to purchase more than one eligible multifamily housing property as a part of the same negotiation, to offers made by purchasers who agree to maintain low-income occupancy in each separate property purchased in compliance with the levels required for properties under subsection (d)(7)(A).

(3) DEFINITION OF SUBSTANTIALLY SIMILAR OFFERS.—For purposes of this subsection, a given offer to purchase eligible multifamily housing property or combinations of such properties shall be considered to be substantially similar to another offer if the purchase price under such given offer is not less than 85 percent of the purchase price under the other offer.

(g) FINANCING SALES.—

(1) ASSISTANCE BY CORPORATION.—

(A) SALE PRICE.—The Corporation shall establish a market value for each eligible multifamily housing property. The Corporation shall sell eligible multifamily housing property at the net realizable market value, except that the Corporation may agree to sell eligible multifamily housing property at a price below the net realizable market value to the extent necessary to facilitate an expedited sale of such property and enable a public agency or nonprofit organization to comply with the low-income occupancy requirements applicable to such property under subsection (d)(7). The Corporation may sell eligible single family property or eligible condominium property to qualifying households, nonprofit organizations, and public agencies without regard to any minimum sale price.

(B) PURCHASE LOAN.—The Corporation may provide a loan at market interest rates to any purchaser of eligible residential property for all or a portion of the purchase price, which loan shall be secured by a first or second mortgage on the property. The Corporation may provide the loan at below market interest rates to the extent necessary to facilitate an expedited sale of eligible residential property and permit (i) a low-income family to purchase an eligible single family property under subsection (c), or (ii) a public agency or nonprofit organization to comply with the low-income occupancy requirements applicable to the purchase of an eligible residential property under subsection (c) or (d). The Corporation shall provide loans under this subparagraph in a form permitting sale or transfer of the loan to a subsequent holder. In providing financing for combinations of eligible multifamily housing properties under this section, the Corporation may hold a participating share, including a subordinate participation. The Corporation shall periodically provide, to a wide range of minority- and women-owned businesses engaged in providing affordable housing and to nonprofit organizations, more than 50 percent of the control of which is held by 1 or more minority individuals, that are engaged in providing affordable housing, information that is sufficient to inform such businesses and organizations of the availability and terms of financing under this subparagraph; such information may be provided directly, by notices published in periodicals and other publications that regularly provide information to such businesses or organizations, and through persons and organizations that regularly provide information or services to such businesses or organizations. For purposes of this subparagraph, the terms "women-owned business" and "minority-owned business" have the meanings given such terms in section 21A(r) of the Federal Home Loan Bank Act, and the term "minority" has the meaning given such term in section 1204(c)(3) of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989.

(2) ASSISTANCE BY HUD.—The Secretary shall take such action as may be necessary to expedite the processing of applications for assistance under section 202 of the Housing Act of 1959, the United States Housing Act of 1937, title IV of the Stewart B. McKinney Homeless Assistance Act[730], and the National Housing Act, to enable any organization or individual to purchase eligible residential property.

(3) ASSISTANCE BY FMHA.—The Secretary of Agriculture shall take such action as may be necessary to expedite the processing of applications for assistance under title V of the Housing Act of 1949 to enable any organization or individual to purchase eligible residential property.

(4) EXCEPTION TO DISPOSITION RULES.—Notwithstanding the requirements under paragraphs (1), (2), (3), (4), (6), and (8) of subsection (d), the Corporation may provide for the disposition of eligible multifamily housing properties as necessary to facilitate purchase of such properties for use in connection with section 202 of the Housing Act of 1959.

(5) BULK ACQUISITIONS UNDER HOME INVESTMENT PARTNERSHIPS ACT.—

(A) PURCHASE PRICE.—In providing for bulk acquisition of eligible single family properties by participating jurisdictions for inclusion in affordable housing activities under title II

[730] Public Law 106-400, enacted on October 30, 2000, renamed the Stewart B. McKinney Homeless Assistance Act as the McKinney-Vento Homeless Assistance Act. Section 2 of such Act provides that "[a]ny reference in any law, regulation, document, paper, or other record of the United States to the Stewart B. McKinney Homeless Assistance Act shall be deemed to be a reference to the 'McKinney-Vento Homeless Assistance Act"'.

of the Cranston-Gonzalez National Affordable Housing Act, the Corporation shall agree to an amount to be paid for acquisition of such properties. The acquisition price shall include discounts for bulk purchase and for holding of the property such that the acquisition price for each property shall not exceed the fair market value of the property, as valued individually.

(B) EXEMPTIONS.—To the extent necessary to facilitate sale of properties under this paragraph, the requirements of subsections (c) and (f) and of paragraph (1) of this subsection shall not apply to such transactions and properties involved in such transactions.

(C) INVENTORIES.—To facilitate acquisitions by such participating jurisdictions, the Corporation shall provide the participating jurisdictions with inventories of eligible single family properties not less than 4 times each year.

(h) COORDINATION WITH OTHER PROGRAMS.—

(1) USE OF SECONDARY MARKET AGENCIES.—In the disposition of eligible residential properties, the Corporation (in consultation with the Secretary) shall explore opportunities to work with secondary market entities to provide housing for low- and moderate-income families.

(2) CREDIT ENHANCEMENT.—

(A) IN GENERAL.—With respect to such properties, the Secretary may, consistent with statutory authorities, work through the Federal Housing Administration, the Government National Mortgage Association, the Federal National Mortgage Association, the Federal Home Loan Mortgage Corporation, and other secondary market entities to develop risk-sharing structures, mortgage insurance, and other credit enhancements to assist in the provision of property ownership, rental, and cooperative housing opportunities for low- and moderate-income families.

(B) CERTAIN TAX-EXEMPT BONDS.—The Corporation may provide credit enhancements with respect to tax-exempt bonds issued on behalf of nonprofit organizations pursuant to section 103, and subpart A of part IV of subchapter A of chapter 1, of the Internal Revenue Code of 1986, with respect to the disposition of eligible residential properties for the purposes described in subparagraph (A).

(3) NATIONAL AFFORDABLE HOUSING ACT.—The Corporation shall coordinate the disposition of eligible residential property under this section with appropriate programs and provisions of, and amendments made by, the Cranston-Gonzalez National Affordable Housing Act, including titles II and IV of such Act.

(i) EXEMPTION FOR CERTAIN TRANSACTIONS WITH INSURED DEPOSITORY INSTITUTIONS.—The provisions of this section shall not apply with respect to any eligible residential property after the date the Corporation enters into a contract to sell such property to an insured depository institution (as defined in section 3), including any sale in connection with a transfer of all or substantially all of the assets of a closed insured depository institution (including such property) to another insured depository institution.

(j) TRANSFER OF CERTAIN ELIGIBLE RESIDENTIAL PROPERTIES TO STATE HOUSING AGENCIES FOR DISPOSITION.—Notwithstanding subsections (c), (d), (f), and (g), the Corporation may transfer eligible residential properties to the State housing finance agency or any other State housing agency for the State in which the property is located, or to any local housing agency in whose jurisdiction the property is located. Transfers of eligible residential properties under this subsection may be conducted by direct sale, consignment sale, or any other method the Corporation considers appropriate and shall be subject to the following requirements:

(1) INDIVIDUAL OR BULK TRANSFER.—The Corporation may transfer such properties individually or in bulk, as agreed to by the Corporation and the State housing finance agency or State or local housing agency.

(2) ACQUISITION PRICE.—The acquisition price paid by the State housing finance agency or State or local housing agency to the Corporation for properties transferred under this subsection shall be an amount agreed to by the Corporation and the transferee agency.

(3) LOW-INCOME USE.—Any State housing finance agency or State or local housing agency acquiring properties under this subsection shall offer to sell or transfer the properties only as follows:

(A) ELIGIBLE SINGLE FAMILY PROPERTIES.—For eligible single family properties—

(i) to purchasers described under subparagraphs (A) and (B) of subsection (c)(2);

(ii) if the purchaser is a purchaser described under subsection (c)(2)(B)(i), subject to the rent limitations under subsection (e)(1);

(iii) subject to the requirement in the second sentence of subsection (c)(2); and

(iv) subject to recapture by the Corporation of excess proceeds from resale of the properties under paragraphs (3) and (4) of subsection (c).

(B) ELIGIBLE MULTIFAMILY HOUSING PROPERTIES.—For eligible multifamily housing properties—

(i) to qualifying multifamily purchasers;

(ii) subject to the low-income occupancy requirements under subsection (d)(7);

(iii) subject to the provisions of subsection (d)(8);

(iv) subject to a preference, among financially acceptable offers, to the offer that would reserve the highest percentage of dwelling units for occupancy or purchase by very low- and low-income families and would retain such affordability for the longest term; and

(v) subject to the rent limitations under subsection (e)(1).

(4) AFFORDABILITY.—The State housing finance agency or State or local housing agency shall endeavor to make the properties transferred under this subsection more affordable to low-income families based upon the extent to which the acquisition price of a property under paragraph (2) is less than the market value of the property.

(k) EXCEPTION FOR SALES TO NONPROFIT ORGANIZATIONS AND PUBLIC AGENCIES.—

(1) SUSPENSION OF OFFER PERIODS.—With respect to any eligible residential property, the Corporation may (in the discretion of the Corporation) suspend any of the requirements of paragraphs (1) and (2) of subsection (c) and paragraphs (1) through (4) of subsection (d), as applicable, but only to the extent that for the duration of the suspension the Corporation negotiates the sale of the property to a nonprofit organization or public agency. If the property is not sold pursuant to such negotiations, the requirements of any provisions suspended shall apply upon the termination of the suspension. Any time period referred to in such subsections shall toll for the duration of any suspension under this paragraph.

(2) USE RESTRICTIONS.—

(A) ELIGIBLE SINGLE FAMILY PROPERTY.—Any eligible single family property sold under this subsection shall be (i) made available for occupancy by and maintained as affordable for low-income families for the remaining useful life of the property, or made available for purchase by such families, (ii) subject to the rent limitations under subsection (e)(1), (iii) subject to the requirements relating to residency of a qualifying household under subsection (p)(12) and to residency of a low-income family under subsection (c)(2)(B), and (iv) subject to recapture by the Corporation of excess proceeds from resale of the property under paragraphs (3) and (4) of subsection (c).

(B) ELIGIBLE MULTIFAMILY HOUSING PROPERTY.—Any eligible multifamily housing property sold under this subsection shall comply with the low-income occupancy requirements under subsection (d)(7) and shall be subject to the rent limitations under subsection (e)(1).

(l) RULES GOVERNING DISPOSITION OF ELIGIBLE CONDOMINIUM PROPERTY.—

(1) NOTICE TO CLEARINGHOUSES.—Within a reasonable period of time after acquiring title to an eligible condominium property, the Corporation shall provide written notice to clearinghouses. Such notice shall contain basic information about the property. Each clearinghouse shall make such information available, upon request, to purchasers described in subparagraphs (A) through (D) of paragraph (2). The Corporation shall allow such purchasers reasonable access to an eligible condominium property for purposes of inspection.

(2) OFFERS TO SELL.—For the 180-day period following the date on which the Corporation makes an eligible condominium property available for sale, the Corporation may offer to sell the property, at the discretion of the Corporation, to 1 or more of the following purchasers:

(A) Qualifying households.

(B) Nonprofit organizations.

(C) Public agencies.

(D) For-profit entities.

(3) LOW-INCOME OCCUPANCY REQUIREMENTS.—

(A) IN GENERAL.—Except as provided in subparagraph (B), any nonprofit organization, public agency, or for-profit entity that purchases an eligible condominium property shall (i) make the property available for occupancy by and maintain it as affordable for low-income families for the remaining useful life of the property, or (ii) make the property available

for purchase by any such family who, except as provided in paragraph (5), agrees to occupy the property as a principal residence for at least 12 months and certifies in writing that the family intends to occupy the property for at least 12 months. The restriction described in clause (i) of the preceding sentence shall be contained in the deed or other recorded instrument.

(B) MULTIPLE-UNIT PURCHASES.—If any nonprofit organization, public agency, or for-profit entity purchases more than 1 eligible condominium property as a part of the same negotiation or purchase, the Corporation may (in the discretion of the Corporation) waive the requirement under subparagraph (A) and provide instead that not less than 35 percent of all eligible condominium properties purchased shall be (i) made available for occupancy by and maintained as affordable for low-income families for the remaining useful life of the property, or (ii) made available for purchase by any such family who, except as provided in paragraph (5), agrees to occupy the property as a principal residence for at least 12 months and certifies in writing that the family intends to occupy the property for at least 12 months. The restriction described in clause (i) of the preceding sentence shall be contained in the deed or other recorded instrument.

(C) SALE TO OTHER PURCHASERS.—If, upon the expiration of the 180-day period referred to in paragraph (2), no purchaser described in subparagraphs (A) through (D) of paragraph (2) has made a bona fide offer to purchase the property, the Corporation may offer to sell the property to any other purchaser.

(4) RECAPTURE OF PROFITS FROM RESALE.—Except as provided in paragraph (5), if any eligible condominium property sold (A) to a qualifying household, or (B) to a low-income family pursuant to paragraph (3)(A)(ii) or (3)(B)(ii), is resold by the qualifying household or low-income family during the 1-year period beginning upon initial acquisition by the household or family, the Corporation shall recapture 75 percent of the amount of any proceeds from the resale that exceed the sum of (i) the original sale price for the acquisition of the property by the qualifying household or low-income family, (ii) the costs of any improvements to the property made after the date of the acquisition, and (iii) any closing costs in connection with the acquisition.

(5) EXCEPTION TO RECAPTURE REQUIREMENT.—The Corporation (or its successor) may in its discretion waive the applicability to any qualifying household or low-income family of the requirement under paragraph (4) and the requirements relating to residency of a qualifying household or low-income family (under subsection (p)(12) and paragraph (3) of this subsection, respectively). The Corporation may grant any such a waiver only for good cause shown, including any necessary relocation of the qualifying household or low-income family.

(6) LIMITATIONS ON MULTIPLE UNIT PURCHASES.—The Corporation may not sell or offer to sell as part of the same negotiation or purchase any eligible condominium properties that are not located in the same condominium project (as such term is defined in section 604 of the Housing and Community Development Act of 1980). The preceding sentence may not be construed to require all eligible condominium properties offered or sold as part of the same negotiation or purchase to be located in the same structure.

(7) RENT LIMITATIONS.—Rents charged to tenants of eligible condominium properties made available for occupancy by very low-income families shall not exceed 30 percent of the adjusted income of a family whose income equals 50 percent of the median income for the area, as determined by the Secretary, with adjustment for family size. Rents charged to tenants of eligible condominium properties made available for occupancy by low-income families other than very low-income families shall not exceed 30 percent of the adjusted income of a family whose income equals 65 percent of the median income for the area, as determined by the Secretary, with adjustment for family size.

(m) LIABILITY PROVISIONS.—

(1) IN GENERAL.—The provisions of this section, or any failure by the Corporation to comply with such provisions, may not be used by any person to attack or defeat any title to property after it is conveyed by the Corporation.

(2) LOW-INCOME OCCUPANCY.—The low-income occupancy requirements under subsections (c), (d), (j)(3), (k)(2), and (l)(3) shall be judicially enforceable against purchasers of property under this section and their successors in interest by affected very low- and low-income families, State housing finance agencies, and any agency, corporation, or authority of the United States. The parties specified in the preceding sentence shall be entitled to reasonable attorney fees upon prevailing in any such judicial action.

(3) CLEARINGHOUSES.—A clearinghouse shall not be subject to suit for its failure to comply with the requirements of this section.

(4) CORPORATION.—The Corporation shall not be liable to any depositor, creditor, or shareholder of any insured depository institution for which the Corporation has been appointed receiver or conservator, or of any subsidiary corporation of a depository institution under receivership or conservatorship, or any claimant against such institution or subsidiary, because the disposition of assets of the institution or the subsidiary under this section affects the amount of return from the assets.

(n) UNIFIED AFFORDABLE HOUSING PROGRAMS.—

(1) IN GENERAL.—Not later than 4 months after the date of enactment of the Resolution Trust Corporation Completion Act,[731] the Corporation shall enter into an agreement, as described in paragraph (3), with the Resolution Trust Corporation that sets out a plan for the orderly unification of the Corporation's activities, authorities, and responsibilities under this section with the authorities, activities, and responsibilities of the Resolution Trust Corporation pursuant to section 21A(c) of the Federal Home Loan Bank Act in a manner that best achieves an effective and comprehensive affordable housing program management structure. The agreement shall be entered into after consultation with the Affordable Housing Advisory Board under section 14(b) of the Resolution Trust Corporation Completion Act.

(2) AUTHORITY AND IMPLEMENTATION.—The Corporation shall have the authority to carry out the provisions of the agreement entered into pursuant to paragraph (1) and shall implement such agreement as soon as practicable but in no event later than 8 months after the date of enactment of the Resolution Trust Corporation Completion Act.1

(3) TERMS OF AGREEMENT.—The agreement required under paragraph (1) shall provide a plan for—

(A) a program unifying all activities and responsibilities of the Corporation and the Resolution Trust Corporation, and the design of the unified program shall take into consideration the substantial experience of the Resolution Trust Corporation regarding—

(i) seller financing;

(ii) technical assistance;

(iii) marketing skills and relationships with public and nonprofit entities; and

(iv) staff resources;

(B) the elimination of duplicative and unnecessary administrative costs and resources;

(C) the management structure of the unified program;

(D) a timetable for the unification; and

(E) a methodology to determine the extent to which the provisions of this section shall be effective, in accordance with the limitations under subsection (b)(2).

(4) TRANSFER TO FDIC.—Beginning not later than October 1, 1995, the Corporation shall carry out any remaining authority and responsibilities of the Resolution Trust Corporation, as set forth in section 21A(c) of the Federal Home Loan Bank Act.

(o) REPORT.—To the extent applicable, in the annual report submitted by the Secretary to the Congress under section 8 of the Department of Housing and Urban Development Act, the Secretary shall include a detailed description of any activities under this section, including recommendations for any additional authority the Secretary considers necessary to implement the provisions of this section.

(p) DEFINITIONS.—For purposes of this section:

(1) ADJUSTED INCOME AND INCOME.—The terms "adjusted income" and "income" shall have the meaning given such terms in section 3(b) of the United States Housing Act of 1937.

(2) CLEARINGHOUSE.—The term "clearinghouse" means—

(A) the State housing finance agency for the State in which an eligible residential property or eligible condominium property is located;

(B) the Office of Community Investment (or other comparable division) within the Federal Housing Finance Board; and

(C) any national nonprofit organizations (including any nonprofit entity established by the corporation established under title IX of the Housing and Community Development Act of 1968) that the Corporation determines has the capacity to act as a clearinghouse for information.

(3) CORPORATION.—The term "Corporation" means the Federal Deposit Insurance Corporation acting in its corporate capacity or its capacity as receiver.

[731] The date of enactment was December 17, 1993.

(4) ELIGIBLE CONDOMINIUM PROPERTY.—The term "eligible condominium property" means a condominium unit, as such term is defined in section 604 of the Housing and Community Development Act of 1980—

(A) to which such Corporation acquires title in its corporate capacity, its capacity as conservator, or its capacity as receiver (including in its capacity as the sole owner of a subsidiary corporation of a depository institution under conservatorship or receivership, which subsidiary has as its principal business the ownership of real property); and

(B) that has an appraised value that does not exceed the amount provided in section 203(b)(2)(A) of the National Housing Act except that such amount shall not exceed $101,250 in the case of a 1-family residence, $114,000 in the case of a 2-family residence, $138,000 in the case of a 3-family residence, and $160,000 in the case of a 4-family residence.

(5) ELIGIBLE MULTIFAMILY HOUSING PROPERTY.—The term "eligible multifamily housing property" means a property consisting of more than 4 dwelling units—

(A) to which the Corporation acquires title in its corporate capacity, its capacity as conservator, or its capacity as receiver (including in its capacity as the sole owner of a subsidiary corporation of a depository institution under conservatorship or receivership, which subsidiary has as its principal business the ownership of real property); and

(B) that has an appraised value that does not exceed the applicable dollar amount specified in section 221(d)(3)(ii) of the National Housing Act for elevator-type structures, as such dollar amount is increased under such section for geographical areas or on a project-by-project basis (except that any such increase on a project-by-project basis shall be made pursuant to a determination by the Corporation that such increase is necessary).

(6) ELIGIBLE RESIDENTIAL PROPERTY.—The term "eligible residential property" includes eligible single family properties and eligible multifamily housing properties.

(7) ELIGIBLE SINGLE FAMILY PROPERTY.—The term "eligible single family property" means a 1- to 4-family residence (including a manufactured home)—

(A) to which the Corporation acquires title in its corporate capacity, its capacity as conservator, or its capacity as receiver (including in its capacity as the sole owner of a subsidiary corporation of a depository institution under conservatorship or receivership, which subsidiary has as its principal business the ownership of real property); and

(B) that has an appraised value that does not exceed the amount provided in section 203(b)(2)(A) of the National Housing Act except that such amount shall not exceed $101,250 in the case of a 1-family residence, $114,000 in the case of a 2-family residence, $138,000 in the case of a 3-family residence, and $160,000 in the case of a 4-family residence.

(8) LOW-INCOME FAMILIES.—The term "low-income families" means families and individuals whose incomes do not exceed 80 percent of the median income of the area involved, as determined by the Secretary, with adjustment for family size.

(9) NET REALIZABLE MARKET VALUE.—The term "net realizable market value" means a price below the market value that takes into account (A) any reductions in holding costs resulting from the expedited sale of a property, including foregone real estate taxes, insurance, maintenance costs, security costs, and loss of use of funds, and (B) the avoidance, if applicable, of fees paid to real estate brokers, auctioneers, or other individuals or organizations involved in the sale of property owned by the Corporation.

(10) NONPROFIT ORGANIZATION.—The term "nonprofit organization" means a private organization (including a limited equity cooperative)—

(A) no part of the earnings of which inures to the benefit of any member, shareholder, founder, contributor, or individual; and

(B) that is approved by the Corporation as to financial responsibility.

(11) PUBLIC AGENCY.—The term "public agency" means any Federal, State, local, or other governmental entity, and includes any public housing agency.

(12) QUALIFYING HOUSEHOLD.—The term "qualifying household" means a household—

(A) who intends to occupy eligible single family property as a principal residence;

(B) who agrees to occupy the property as a principal residence for at least 12 months;

(C) who certifies in writing that the household intends to occupy the property as a principal residence for at least 12 months; and

(D) whose income does not exceed 115 percent of the median income for the area, as determined by the Secretary, with adjustment for family size.

(13) QUALIFYING MULTIFAMILY PURCHASER.—The term "qualifying multifamily purchaser" means—

(A) a public agency;

(B) a nonprofit organization; or

(C) a for-profit entity, which makes a commitment (for itself or any related entity) to comply with the low-income occupancy requirements under subsection (d)(7) for any eligible multifamily housing property for which an offer to purchase is made during or after the periods specified under subsection (d).

(14) SECRETARY.—The term "Secretary" means the Secretary of Housing and Urban Development.

(15) STATE HOUSING FINANCE AGENCY.—The term "State housing finance agency" means the public agency, authority, corporation, or other instrumentality of a State that has the authority to provide residential mortgage loan financing throughout the State.

(16) VERY LOW-INCOME FAMILIES.—The term "very low-income families" means families and individuals whose incomes do not exceed 50 percent of the median income of the area involved, as determined by the Secretary, with adjustment for family size.

(q) NOTICE TO CLEARINGHOUSES REGARDING INELIGIBLE PROPERTIES.—

(1) IN GENERAL.—Within a reasonable period of time after acquiring title to an ineligible residential property, the Corporation shall, to the extent practicable, provide written notice to clearinghouses.

(2) CONTENT.—For ineligible single family properties, such notice shall contain the same information about such properties that the notice required under subsection (c)(1) contains with respect to eligible single family properties. For ineligible multifamily housing properties, such notice shall contain the same information about such properties that the notice required under subsection (d)(1) contains with respect to eligible multifamily housing properties. For ineligible condominium properties, such notice shall contain the same information about such properties that the notice required under subsection (l)(1) contains with respect to eligible condominium properties.

(3) AVAILABILITY.—The clearinghouses shall make such information available, upon request, to other public agencies, other nonprofit organizations, qualifying households, qualifying multifamily purchasers, and other purchasers, as appropriate.

(4) DEFINITIONS.—For purposes of this subsection, the following definitions shall apply:

(A) INELIGIBLE CONDOMINIUM PROPERTY.—The term "ineligible condominium property" means any eligible condominium property to which the provisions of this section do not apply as a result of the limitations under subsection (b)(2)(A).

(B) INELIGIBLE MULTIFAMILY HOUSING PROPERTY.—The term "ineligible multifamily housing property" means any eligible multifamily housing property to which the provisions of this section do not apply as a result of the limitations under subsection (b)(2)(A).

(C) INELIGIBLE SINGLE FAMILY PROPERTY.—The term "ineligible single family property" means any eligible single family property to which the provisions of this section do not apply as a result of the limitations under subsection (b)(2)(A).

(D) INELIGIBLE RESIDENTIAL PROPERTY.—The term "ineligible residential property" includes ineligible single family properties, ineligible multifamily housing properties, and ineligible condominium properties.

* * * * * * *

END OF STATUTE

NATIONAL INSTITUTE OF BUILDING SCIENCES

HOUSING AND COMMUNITY DEVELOPMENT ACT OF 1974
[Public Law 93-383; 88 Stat. 729; 12 U.S.C. 1701j-2]

Sec. 809. [12 U.S.C. 1701j-2]
NATIONAL INSTITUTE OF BUILDING SCIENCES.

(a)(1) The Congress finds (A) that the lack of an authoritative national source to make findings and to advise both the public and private sectors of the economy with respect to the use of building science and technology in achieving nationally acceptable standards and other technical provision for use in Federal, State, and local housing and building regulations is an obstacle to efforts by and imposes severe burdens upon all those who procure, design, construct, use, operate, maintain, and retire physical facilities, and frequently results in the failure to take full advantage of new and useful developments in technology which could improve our living environment; (B) that the establishment of model buildings codes or of a single national building code will not completely resolve the problem because of the difficulty at all levels of government in updating their housing and building regulations to reflect new developments in technology, as well as the irregularities and inconsistencies which arise in applying such requirements to particular localities or special local conditions; (C) that the lack of uniform housing and building regulatory provisions increases the costs of construction and thereby reduces the amount of housing and other community facilities which can be provided; and (D) that the existence of a single authoritative nationally recognized institution to provide for the evaluation of new technology could facilitate introduction of such innovations and their acceptance at the Federal, State, and local levels.

(2) The Congress further finds, however, that while an authoritative source of technical findings is needed, various private organizations and institutions, private industry, labor, and Federal and other governmental agencies and entities are presently engaged in building research, technology development, testing, and evaluation, standards and model code development and promulgation, and information dissemination. These existing activities should be encouraged and these capabilities effectively utilized wherever possible and appropriate to the purposes of this section.

(3) The Congress declares that an authoritative nongovernmental instrument needs to be created to address the problems and issues described in paragraph (1), that the creation of such an instrument should be initiated by the Government, with the advice and assistance of the National Academy of Sciences-National Academy of Engineering-National Research Council (hereinafter referred to as the "Academies-Research Council") and of the various sectors of the building community, including labor and management, technical experts in building science and technology, and the various levels of government.

(b)(1) There is authorized to be established, for the purposes described in subsection (a)(3), an appropriate nonprofit, nongovernmental instrument to be known as the National Institute of Building Sciences (hereinafter referred to as the "Institute"), which shall not be an agency or establishment of the United States Government. The Institute shall be subject to the provisions of this section and, to the extent consistent with this section, to a charter of the Congress if such a charter is requested and issued or to the District of Columbia Nonprofit Corporation Act if that is deemed preferable.

(2) The Academies-Research Council, along with other agencies and organizations which are knowledgeable in the field of building technology, shall advise and assist in (A) the establishment of the Institute; (B) the development of an organizational framework to encourage and provide for the maximum feasible participation of public and private scientific, technical, and financial organizations, institutions, and agencies now engaged in activities, pertinent to the development, promulgation, and maintenance of performance criteria, standards, and other technical provisions for building codes and other regulations, and (C) the promulgation of appropriate organizational rules and procedures including those for the selection and operation of a technical staff, such rules and procedures to be based upon the primary object of promoting the public interest and insuring that the widest possible variety of interests and experience essential to the functions of the Institute are represented in the Institute's operations. Recommendations of the Academies-Research Council shall be based upon consultations with and recommendations from various private organizations and institutions, labor, private industry, and governmental agencies entities operating in the field, and the Consultative Council as provided for under subsection (c)(8).

(3) Nothing in this section shall be construed as expressing the intent of the Congress that the Academies-Research Council itself be required to assume any function or operation vested in the Institute by or under this section.

(c)(1) The Institute shall have a Board of Directors (hereinafter referred to as the "Board") consisting of not less than fifteen nor more than twenty-one members, appointed by the President of the United States by and with the advice and consent of the Senate. The Board shall be representative of the various segments of the building community, of the various regions of the country, and of the consumers who are or would be affected by actions taken in the exercise of the functions and responsibilities of the Institute, and shall include (A) representatives of the construction industry, including representatives of construction labor organizations, product manufacturers, and builders, housing management experts, and experts in building standards, codes, and fire safety, and (B) members representative of the public interest in such numbers as may be necessary to assure that a majority of the members of the Board represent the public interest and that there is adequate consideration by the Institute of consumer interests in the exercise of its functions and responsibilities. Those representing the public interest on the Board shall include architects, professional engineers, officials of Federal, State, and local agencies, and representatives of consumer organizations. Such members of the Board shall hold no financial interest or membership in, nor be employed by, or receive other compensation from, any company, association, or other group associated with the manufacture, distribution, installation, or maintenance of specialized building products, equipment, systems, subsystems, or other construction materials and techniques for which there are available substitutes.

(2) The members of the initial Board shall serve as incorporators and shall take whatever actions are necessary to establish the Institute as provided for under subsection (b)(1).

(3) The term of office of each member of the initial and succeeding Boards shall be three years; except that (A) any member appointed to fill a vacancy occurring prior to the expiration of the term for which his predecessor was appointed shall be appointed for the remainder of such term; and (B) the terms of office of members first taking office shall begin on the date of incorporation and shall expire, as designated at the time of their appointment, one-third at the end of one year, one-third at the end of two years, and one-third at the end of three years. No member shall be eligible to serve in excess of three consecutive terms of three years each. Notwithstanding the preceding provisions of this subsection, a member whose term has expired may serve until his successor has qualified.

(4) Any vacancy in the initial and succeeding Boards shall not affect its power, but shall be filled in the manner in which the original appointments were made, or, after the first five years of operation, as provided for by the organizational rules and procedures of the Institute; except that, notwithstanding any such rules and procedures as may be adopted by the Institute, the President of the United States, by and with the advice and consent of the Senate, shall appoint, as representative of the public interest, two of the members of the Board of Directors selected each year for terms commencing in that year.

(5) The President shall designate one of the members appointed to the initial Board as Chairman; thereafter, the members of the initial and succeeding Boards shall annually elect one of their number as Chairman. The Members of the Board shall also elect one or more of their Members as Vice Chairman. Terms of the Chairman and Vice Chairman shall be for one year and no individual shall serve as Chairman or Vice Chairman for more than two consecutive terms.

(6) The members of the initial or succeeding Boards shall not, by reason of such membership, be deemed to be employees of the United States Government. They shall, while attending meetings of the Board or while engaged in duties related to such meetings or in other activities of the Board pursuant to this section, be entitled to receive compensation at the rate of $100 per day including traveltime, and while away from their homes or regular places of business they may be allowed travel expenses, including per diem in lieu of subsistence, equal to that authorized under section 5703 of title 5, United States Code, for persons in the Government service employed intermittently.

(7) The Institute shall have a president and such other executive officers and employees as may be appointed by the Board at rates of compensation fixed by the Board. No such executive officer or employee may receive any salary or other compensation from any source other than the Institute during the period of his employment by the Institute.

(8) The Institute shall establish, with the advice and assistance of the Academies-Research Council and other agencies and organizations which are knowledgeable in the field of building technology, a Consultative Council, membership in which shall be available to representatives of all appropriate private trade, professional, and labor organizations, private and public standards, code, and testing bodies, public regulatory agencies, and consumer groups, so as to insure a direct line of communication between such groups and the Institute and a vehicle for representative hearings on matters before the Institute.

(d)(1) The Institute shall have no power to issue any shares of stock, or to declare or pay any dividends.

(2) No part of the income, or assets of the Institute shall inure to the benefit of any director, officer, employee, or other individual except as salary or reasonable compensation for services.

(3) The Institute shall not contribute to or otherwise support any political party or candidate for elective public office.

(e)(1) The Institute shall exercise its functions and responsibilities in four general areas, relating to building regulations, as follows:

(A) Development, promulgation, and maintenance of nationally recognized performance criteria, standards, and other technical provisions for maintenance of life, safety, health, and public welfare suitable for adoption by building regulations jurisdictions and agencies, including test methods and other evaluative techniques relating to building systems, subsystems, components, products, and materials with due regard for consumer problems.

(B) Evaluation and prequalification of existing and new building technology in accordance with subparagraph (A).

(C) Conduct of needed investigations in direct support of subparagraphs (A) and (B).

(D) Assembly, storage, and dissemination of technical data and other information directly related to subparagraphs (A), (B), and (C).

(2) The Institute in exercising its functions and responsibilities described in paragraph (1) shall assign and delegate, to the maximum extent possible, responsibility for conducting each of the needed activities described in paragraph (1) to one or more of the private organizations, institutions, agencies, and Federal and other governmental entities with a capacity to exercise or contribute to the exercise of such responsibility, monitor the performance achieved through assignment and delegation and, when deemed necessary, reassign and delegate such responsibility.

(3) The Institute in exercising its functions and responsibilities under paragraphs (1) and (2) shall (A) give particular attention to the development of methods for encouraging all sectors of the economy to cooperate with the Institute and to accept and use its technical findings, and to accept and use the nationally recognized performance criteria, standards, and other technical provisions developed for use in Federal, State, and local building codes and other regulations which result from the program of the Institute; (B) seek to assure that its actions are coordinated with related requirements which are imposed in connection with community and environmental development generally; and (C) consult with the Department of Justice and other agencies of government to the extent necessary to insure that the national interest is protected and promoted in the exercise of its functions and responsibilities.

(f)(1) The Institute is authorized to accept contracts and grants from Federal, State, and local governmental agencies and other entities, and grants and donations from private organizations, institutions, and individuals.

(2) The Institute may, in accordance with rates and schedules established with guidance as provided under subsection (b)(2), establish fees and other charges for services provided by the Institute or under its authorization.

(3) Amounts received by the Institute under this section shall be in addition to any amounts which may be appropriated to provide its initial operating capital under subsection (h).

(g)(1) Every department, agency, and establishment of the Federal Government, in carrying out any building or construction, or any building- or construction-related programs, which involves direct expenditures, and in developing technical requirements for any such building or construction, shall be encouraged to accept the technical findings of the Institute, or any nationally recognized performance criteria, standards, and other technical provisions for building regulations brought about by the Institute, which may be applicable.

(2) All projects and programs involving Federal assistance in the form of loans, grants, guarantees, insurance, or technical aid, or in any other form, shall be encouraged to accept, use, and comply with any of the technical findings of the Institute or any nationally recognized performance criteria, standards, and other technical provisions for building codes and other regulations brought about by the Institute, which may be applicable to the purposes for which the assistance is to be used.

(3) Every department, agency, and establishment of the Federal Government having responsibility for building or construction, or for building- or construction-related programs, is authorized and encouraged to request authorization and appropriations for grants to the Institute for its general support, and is authorized to contract with and accept contracts from the Institute for specific services where deemed appropriate by the responsible Federal official involved.

(4) The Institute shall establish and carry on a specific and continuing program of cooperation with the States and their political subdivisions designed to encourage their acceptance of its technical findings and of nationally recognized performance criteria, standards, and other technical provisions for building regulations brought about by the Institute. Such program shall include (A) efforts to encourage any changes in existing State and local law to utilize or embody such findings and regulatory provisions; and

(B) assistance to States in the development of inservice training programs for building officials, and in the establishment of fully staffed and qualified State technical agencies to advise local officials on questions of technical interpretation.

(h) ADVANCED BUILDING TECHNOLOGY PROGRAM.—

(1) ESTABLISHMENT OF ADVANCED BUILDING TECHNOLOGY COUNCIL.—There is established within the Institute, the Advanced Building Technology Council (hereafter referred to as the "Council").

(2) PURPOSES.—The Council shall carry out an Advanced Building Technology Program for the purposes of—

(A) identifying, selecting, and evaluating existing and new building technologies, including energy cost savings technologies, that conform to recognized performance criteria and meet applicable test standards for maintenance of life, safety, health, and public welfare when used in occupied buildings;

(B) to the extent necessary, developing criteria for the use of such technology;

(C) conducting economic analyses of proposed new technologies when produced and installed in buildings at volumes associated with comparable conventional technologies;

(D) in cooperation with the appropriate Federal agencies, advising building designers, installers, subcontractors, contractors and supervisory officials on the appropriate design and use of new building technology incorporated in federally owned or operated buildings;

(E) in cooperation with the appropriate Federal agencies, monitoring and evaluating the performance of new building technologies for at least 1 year after installation and building occupancy; and

(F) disseminating resulting data to affected parties through automated information management systems.

(3) COUNCIL MEMBERSHIP.—The Council shall be comprised of not less than 6 and not more than 11 members selected by the Secretary of Housing and Urban Development from among representatives of the various segments of the nationwide building community that have extensive experience in building industries, including, but not limited to—

(A) product manufacturers;

(B) experts in the fields of health, fire hazards, and safety; and

(C) independent representatives of the public interest such as architects, professional engineers, and representatives of consumer organizations,

except that serving members of the National Institute of Building Sciences Advisory Council shall not be eligible to serve simultaneously on the Council.

(4) FEDERAL PARTICIPATION.—

(A) IN GENERAL.—Any agency of the Federal Government involved in any building or construction may participate in the Advanced Building Technology Program with the Council to develop and implement programs to incorporate one or more of the recommended new technologies in a new or existing building within the agency.

(B) REQUIRED ASSURANCES.—Upon agreement between a participating Federal agency and the Council, with respect to the selection of the appropriate technology and the schedule of necessary work, the Council shall—

(i) provide the Federal agency with a 5-year guarantee from the technology manufacturer that—

(I) all necessary corrections to the technology will be made in the design, installation, and maintenance of the technology;

(II) all malfunctions will be repaired without delay; and

(III) the technology manufacturer will be responsible for removal of the technology in the event of its failure to perform as required;

(ii) provide the Federal agency and its officials responsible for constructing or renovating buildings utilizing the new technology, as well as the designers, installers, subcontractors, and contractors responsible for the design, construction, or renovation of the buildings utilizing such technology with the technical information necessary to ensure its most appropriate use,

(iii) in cooperation with the Federal agency, monitor and evaluate the performance of the new technology, and

(iv) prepare reports to be made available to public agencies at all levels of government, the industry, and the public on the performance of the new technology.

(5) REPORT TO THE INSTITUTE.—The Council shall submit to the Institute annually a description of its activities under the Advanced Building Technology Program for inclusion in the Institute's annual report to the Congress under subsection (j).

(i) There is authorized to be appropriated to the Institute not to exceed $5,000,000 for the fiscal year 1975, and $5,000,000 for the fiscal year 1976, and $5,000,000 for each of the fiscal years 1977 and 1978, and any amounts not appropriated in fiscal years 1977 and 1978 may be appropriated in any fiscal year through 1984 (with not more than $500,000 to be appropriated for each of the fiscal years 1982, 1983, and 1984 and with each appropriation to be available until expended), to provide the Institute with initial capital adequate for the exercise of its functions and responsibilities during such years; and thereafter the Institute shall be financially self-sustaining through the means described in subsection (f). In addition to the amounts authorized to be appropriated under the first sentence of this section, there are authorized to be appropriated to the Institute to carry out the provisions of this section not to exceed $512,000 for fiscal year 1991 and $534,000 for fiscal year 1992. Any amount appropriated under the preceding sentence shall be made available for expenditure or obligation by the Institute only to the extent of an equal amount received by the Institute after the effective date of this sentence from persons or entities other than the Federal Government.

(j) The Institute shall submit an annual report for the preceding fiscal year to the President for transmittal to the Congress within sixty days of its receipt. The report shall include a comprehensive and detailed report of the Institute's operations, activities, financial condition, and accomplishments under this section and may include such recommendations as the Institute deems appropriate.

END OF STATUTE

NATIONAL HOUSING PARTNERSHIPS

HOUSING AND URBAN DEVELOPMENT ACT OF 1968
[Public Law 90-448; 82 Stat. 547; 42 U.S.C. 3931—3941]

TITLE IX—NATIONAL HOUSING PARTNERSHIPS

Sec. 901. [42 U.S.C. 3931]
STATEMENT OF PURPOSE.

The Congress finds that the volume of housing being produced for families and individuals of low or moderate income must be increased to meet the national goal of a decent home and a suitable living environment for every American family, and declare that it is the policy of the United States to encourage the widest possible participation by private enterprise in the provision of housing for low or moderate income families. The Congress has therefore determined that one or more private organizations should be created to encourage maximum participation by private investors in programs and projects to provide low and moderate income housing.

Sec. 902. [42 U.S.C. 3932]
CREATION OF CORPORATIONS.

(a) There is hereby authorized to be created a private corporation for profit (hereinafter in this title referred to as the "corporation"). The corporation will not be an agency or establishment of the United States Government. The corporation shall be subject to the provisions of this title and, to the extent consistent with this title, to the District of Columbia Business Corporation Act (D.C. Code, sec. 29-901 et seq.).

(b) Whenever the President finds it in the national interest to do so, he may cause the creation of an additional corporation or additional corporations to carry out the purposes of this title. All the provisions of this title shall thereupon become applicable to each such corporation, and to the limited partnership formed by it pursuant to section 907.

(c) Nothing in this title shall be construed to preclude private persons from creating other corporations and organizing other partnerships, joint ventures, or associations for the purposes set forth in this title as the purposes of the corporation and the partnership described in section 907.

Sec. 903. [42 U.S.C. 3933]
PROCESS OF ORGANIZATION.

(a) The President of the United States shall appoint, by and with the advice and consent of the Senate, incorporators of the corporation, one of whom shall be designated by the President to serve as chairman. The incorporators shall serve as the initial board of directors until the first annual meeting of stockholders or until their successors are elected and have qualified.

(b) The incorporators shall take whatever actions are necessary or appropriate to establish the corporation, including the filing of articles of incorporation as approved by the President.

(c) The incorporators shall arrange for an initial offering of shares of stock in the corporation and of interests in the partnership described in section 907 of this title. If the incorporators deem it advisable in order to carry out the purposes of this title, the initial offering may be made upon terms which require the purchase of other securities of the corporation or of interests in such partnership.

Sec. 904. [42 U.S.C. 3934]
DIRECTORS.

The corporation shall have a board of directors (hereinafter in this section referred to as the "board"), consisting of fifteen members. Three members of the board shall be appointed by the President of the United States, by and with the advice and consent of the Senate, effective on the date on which the other members are elected, and for terms of three years or until their successors have been appointed and have qualified, except that the first three members of the board so appointed shall continue in office for terms of one, two, and three years, respectively, and any member so appointed to fill a vacancy shall be appointed only for the unexpired term of the director whom he succeeds. Twelve members of the board shall be elected by the stockholders.

Sec. 905. [42 U.S.C. 3935]
FINANCING THE CORPORATION.

The corporation shall have the power to create and issue the number of shares stated in its articles of incorporation. Such shares may be divided into one or more classes, any or all of which classes may consist of shares with par value or shares without par value, with such designations, preferences, voting powers, and special or relative rights and such limitations, restrictions, or qualifications thereof as shall be stated in the articles of incorporation. The articles of incorporation may limit or deny the voting power of the shares of any class.

Sec. 906. [42 U.S.C. 3936]
PURPOSES AND POWERS OF THE CORPORATION.

(a) In order to achieve the objectives and carry out the purposes of this title, the corporation is authorized to—

(1) plan, initiate, and carry out, pursuant to Federal programs or otherwise, the building, rehabilitation, acquisition, and financing of housing and related facilities primarily for the benefit of families and individuals of low or moderate income;

(2) buy, own, manage, lease, or otherwise acquire or dispose of property in connection with the developments, projects, or undertakings referred to in paragraph (1);

(3) provide such funds as may be necessary to accomplish the developments, projects, or undertakings referred to in paragraph (1); and

(4) for the purpose of generating income to support the building or rehabilitation of housing primarily for the benefit of families and individuals of low or moderate income (A) design, develop, manufacture and sell products and services for use in the construction, sale, or financing of housing, and (B) design and develop commercial, industrial, or retail facilities, that are not directly related to housing, except that the development and preservation of housing for families and individuals of low or moderate income shall be the primary activity of the corporation.

(b) Included in the activities authorized to the corporation for the accomplishment of the purposes indicated in subsection (a) of this section are, among others not specifically named—

(1) to enter into partnerships, limited partnerships, joint ventures, and other associations with individuals, corporations, and private and governmental agencies, organizations, and institutions;

(2) to act as manager or general partner of any such partnership, venture, or association;

(3) to conduct or contract for research and studies related to the development, demonstration, and evaluation of improved techniques and methods of constructing, rehabilitating, and maintaining housing;

(4) to provide technical assistance to nonprofit corporations, limited dividend corporations, and others with respect to the planning, financing, construction, rehabilitation, maintenance, and management of housing for low and moderate income families and individuals;

(5) to make loans or grants including grants of interests in housing and related facilities, to nonprofit corporations, limited dividend corporations, and others, in carrying out its activities under subsection (a) of this section; and

(6) to hire or accept the voluntary services of consultants, experts, advisory boards, and panels to aid the corporation in carrying out the purposes of this title.

(c) To carry out the foregoing purposes and engage in the foregoing activities, the corporation shall have the usual powers conferred upon a stock corporation by the District of Columbia Business Corporation Act.

(d) Nothing in this title shall have the effect of waiving or otherwise affecting the applicability of the provisions of the Davis-Bacon Act (40 U.S.C. 267a—276a-5), or any other law requiring compliance with labor standards, in the case of any construction to which such provisions would otherwise apply.

(e) The combined outstanding equity commitment of the corporation and the partnership with respect to activities undertaken under subsection (a)(4) may not exceed (1) 7 percent of their total combined equity commitment outstanding during the first 12-month period following the date of enactment of this subsection;[732] (2) 14 percent of their total combined equity commitment outstanding during the second 12-month period following the date of enactment of this subsection; or (3) 20 percent of their total combined equity commitment outstanding at any time thereafter.

[732] The date of enactment was October 17, 1984.

Sec. 907. [42 U.S.C. 3937]
NATIONAL HOUSING PARTNERSHIP.

(a) The corporation is authorized to arrange for the formation, as a separate organization, of a limited partnership (hereinafter in this title referred to as the "partnership") under the District of Columbia Uniform Limited Partnership Act (D.C. Code, sec. 41-401 et seq.) for the purpose of engaging in any of the activities authorized for the corporation under section 906 of this title, and to enter into a partnership agreement governing the affairs of such limited partnership.

(b) The partnership shall be subject to the provisions, to the extent consistent with this title, of (1) the District of Columbia Uniform Limited Partnership Act and (2) those provisions of the District of Columbia Uniform Partnership Act (D.C. Code, sec. 41-301 et seq.) made applicable by section 6(2) of that Act (D.C. Code, sec. 41-305(2)). Notwithstanding any inconsistency between the provisions of such Acts, or of any other law, and the provisions of this section, the partnership organized pursuant to this section shall be deemed to have the legal status of a limited partnership.

(c) The partnership is authorized to enter into partnerships, limited partnerships, or joint ventures organized under applicable State or local law for the purpose of engaging in low and moderate income housing developments, projects, or undertakings in particular localities.

(d) The corporation shall be the general partner in the partnership. The capital of the partnership and the contributions of the partners shall be in such amounts and at such times as are set forth in or pursuant to the partnership agreement.

(e) The partnership agreement shall include provisions designed to assure that (1) the partnership shall participate in low and moderate income housing developments, projects, or undertakings in a manner designed to encourage the participation therein of local interests, and (2) in any such development, project, or undertaking the partnership shall not subscribe to more than 25 per centum (including equity investments made in services or property) of the aggregate initial equity investment unless, in the judgment of the corporation as general partner, the balance of the required equity investment is not readily obtainable from other responsible investors residing or doing business in the local community.

(f) The partnership agreement may without limitation (1) permit each of the stockholders of the corporation to become a member of the partnership as a limited partner, (2) authorize the inclusion of other limited partners in addition to the stockholders of the corporation, (3) provide that the assignee of the partnership interest of a limited partner of the partnership who is also a stockholder of the corporation may not become a substituted limited partner unless he also acquires the assignor's stock of the corporation, and (4) include provisions requiring that the corporation as a general partner approve the substitution or addition of a member of the partnership.

(g) A corporation which is a limited partner in the partnership shall not become liable as a general partner by reason of the fact that (1) such corporation is a holder of shares of voting stock of the corporation constituting not more than 5 per centum of the total number of outstanding shares of such stock and exercises any of the rights (including voting rights) of a holder of such shares, and/or (2) a person who is an officer or director of such corporation (or of another corporation which controls or is subject to the control of or is under common control with, such corporation) is a director of the corporation and performs the duties of that office. The interest of a limited partner in the partnership shall not be treated as a stock interest in the corporation, notwithstanding that such interest of a limited partner may be proportionate to his stock interest in the corporation.

(h) The certificate of the partnership and any amendment thereof required by the District of Columbia Uniform Limited Partnership Act shall be executed and acknowldged by the corporation as member and by each other member of the partnership or his attorney-in-fact duly authorized by power of attorney in writing. The corporation may execute and acknowledge the certificate and any amendment thereof as attorney-in-fact for any member, member to be substituted or added, or assigning member, by whom the certificate or amendment is required to be executed and acknowledged and who has appointed the corporation as such attorney.

Sec. 908. [42 U.S.C. 3938]
REPORT TO CONGRESS AND RECORDS.

(a)(1) The corporation shall submit an annual report to the President for transmittal to the Congress within six months after the end of its fiscal year. The report shall include a comprehensive and detailed report of the operations, activities, and financial condition of the corporation and the partnership under this title.

(2) The report shall contain a description of the activities undertaken under section 906(a)(4), and shall specify, as a percentage of equity and in dollars, the extent of the corporation's and the partnership's investment in housing for the benefit of families and individuals of low or moderate income, the extent of

the corporation's and the partnership's investment in other housing, and the extent of the corporation's and the partnership's activities which are undertaken under section 906(a)(4).

(b) The accounts of the corporation and of the partnership shall be audited annually in accordance with generally accepted auditing standards by independent certified public accountants or independent licensed public accountants certified or licensed by a regulatory authority of a State or other political subdivision of the United States.

Sec. 909. [42 U.S.C. 3939]
ANTITRUST LAWS.

Nothing contained herein shall affect the applicability of the Federal antitrust laws to the activities of the corporation and the partnership created under this title and of the persons participating therein or in partnerships, limited partnership, or joint ventures with either of them.

Sec. 910. [42 U.S.C. 3940]
RIGHT TO REPEAL, ALTER, OR AMEND.

The right to repeal, alter, or amend this title at any time is expressly reserved.

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Sec. 912. [42 U.S.C. 3941]
STATE REGULATION.

Nothing contained in this title shall preclude a State or other local jurisdiction from imposing, in accordance with the laws of such State or other local jurisdiction, any valid nondiscriminatory tax, obligation, or regulation on the partnership as a taxable and/or legal entity, but no limited partner of the partnership not otherwise subject to taxation or regulation by or judicial process of a State or other local jurisdiction shall be subject to taxation or regulation by or subject to or denied access to judicial process of such State or other local jurisdiction, or be so subject or denied access to any greater extent, because of activities of the corporation or partnership within such State or local jurisdiction.

END OF STATUTE

CONDOMINIUM AND COOPERATIVE CONVERSION PROTECTION AND ABUSE RELIEF

CONDOMINIUM AND COOPERATIVE ABUSE RELIEF ACT OF 1980[733]
[Public Law 96-399; 94 Stat. 1672; 15 U.S.C. 3601—3616]

Sec. 601. [15 U.S.C. 3601 note]
SHORT TITLE.

This title may be cited as the "Condominium and Cooperative Abuse Relief Act of 1980".

Sec. 602. [15 U.S.C. 3601]
FINDINGS AND PURPOSE.

(a) The Congress finds and declares that—

(1) there is a shortage of adequate and affordable housing throughout the Nation, especially for low- and moderate-income and elderly and handicapped persons;

(2) the number of conversions of rental housing to condominiums and cooperatives is accelerating, which in some communities may restrict the shelter options of low- and moderate-income and elderly and handicapped persons;

(3) certain long-term leasing arrangements for recreation and other condominium- or cooperative-related facilities which have been used in the formation of cooperative and condominium projects may be unconscionable; in certain situations State governments are unable to provide appropriate relief; as a result of these leases, economic and social hardships may have been imposed upon cooperative and condominium owners, which may threaten the continued use and acceptability of these forms of ownership and interfere with the interstate sale of cooperatives and condominiums; appropriate relief from these abuses requires Federal action; and

(4) there is a Federal involvement with the cooperative and condominium housing markets through the operation of Federal tax, housing, and community development laws, through the operation of federally chartered and insured financial institutions, and through other Federal activities; that the creation of many condominiums and cooperatives is undertaken by entities operating on an interstate basis.

(b) The purposes of this title are to seek to minimize the adverse impacts of condominium and cooperative conversions particularly on the housing opportunities of low- and moderate-income and elderly and handicapped persons, to assure fair and equitable principles are followed in the establishment of condominium and cooperative opportunities, and to provide appropriate relief where long-term leases of recreation and other cooperative- and condominium-related facilities are determined to be unconscionable.

Sec. 603. [15 U.S.C. 3602]
CONVERSION LENDING.

It is the sense of the Congress that lending by federally insured lending institutions for the conversion of rental housing to condominiums and cooperative housing should be discouraged where there are adverse impacts on housing opportunities of the low- and moderate-income and elderly and handicapped tenants involved.

Sec. 604. [15 U.S.C. 3603]
DEFINITIONS.

For the purpose of this title—

(1) "affiliate of a developer" means any person who controls, is controlled by, or is under common control with a developer. A person "controls" a developer if the person (A) is a general partner, officer, director, or employer of the developer, (B) directly or indirectly or acting in concert with one or more other persons, or through one or more subsidiaries, owns, controls, holds with power to vote, or holds proxies representing, more than 20 per centum of the voting interests of the developer, (C) controls in any manner the election of a majority of the directors of the developer, or (D) has contributed more than 20 per centum of the capital of the developer. A person "is controlled by" a developer if the developer (i) is a general partner, officer, director or employer of the person, (ii) directly or indirectly or acting in concert with one or more other persons, or through one or more subsidiaries, owns,

[733] Enacted as Title VI of the Housing and Community Development Act of 1980.

controls, holds with power to vote, or holds proxies representing, more than 20 per centum of the voting interests of the person, (iii) controls in any manner the election of a majority of the directors, or (iv) has contributed more than 20 per centum of the capital of the person;

(2) "automatic rent increase clause" means a provision in a lease permitting periodic increases in the fee under the lease which is effective automatically or at the sole option of the lessor, and which provides that the fee shall increase at the rate of an economic, commodity, or consumer price index or at a percentage rate such that the actual increases in the rental payment over the lease term cannot be established with specificity at the time the lease is entered into;

(3) "common elements" means all portions of the cooperative or condominium project, other than the units designated for separate ownership or for exclusive possession or use;

(4) "condominium association" means the organization, whose membership consists exclusively of all the unit owners in the condominium project, which is, or will be, responsible for the operation, administration, and management of the condominium project;

(5) "condominium project" means real estate (A) which has five or more residential condominium units, in each residential structure, and the remaining portions of the real estate are designated for common ownership solely by the owners of those units, each owner having an undivided interest in the common elements, and (B) where such units are or have been offered for sale or sold, directly or indirectly, through the use of any means or instruments of transportation or communication of interstate commerce, or the mails;

(6) "condominium unit" means a portion of a condominium project designated for separate ownership;

(7) "conversion project" means a project, which has five or more residential units, which was used primarily for residential rental purposes immediately prior to being converted to a condominium or cooperative project;

(8) "convey or conveyance" means (A) a transfer to a purchaser of legal title in a unit at settlement, other than as security for an obligation, or (B) the acquisition by a purchaser of a leasehold interest for more than five years;

(9) "cooperative association" means an organization that owns the record interest in the residential cooperative property or a leasehold of the residential property of a cooperative project and that is responsible for the operation of the cooperative project;

(10) "cooperative project" means real estate (A) which has five or more residential cooperative units, in each residential structure, subject to separate use and possession by one or more individual cooperative unit owners whose interest in such units and in the undivided assets of the cooperative association which are appurtenant to the unit are evidenced by a membership or share interest in a cooperative association and a lease or other muniment of title or possession granted by the cooperative association as the owner of all the cooperative property, and (B) an interest in which is or has been offered for sale or lease or sold, or leased directly or indirectly, through use of any means or instruments of transportation or communication in interstate commerce or of the mails;

(11) "cooperative property" means the real estate and personal property subject to cooperative ownership and all other property owned by the cooperative association;

(12) "cooperative unit" means a part of the cooperative property which is subject to exclusive use and possession by a cooperative unit owner. A unit may be improvements, land, or land and improvements together, as specified in the cooperative documents;

(13) "cooperative unit owner" means the person having a membership or share interest in the cooperative association and holding a lease, or other muniment of title or possession, of a cooperative unit that is granted by the cooperative association as the owner of the cooperative property;

(14) "developer" means (A) any person who offers to sell or sells his interest in a cooperative or condominium unit not previously conveyed, or (B) any successor of such person who offers to sell or sells his interest in units in a cooperative or condominium project and who has the authority to exercise special developer control in the project including the right to: add, convert, or withdraw real estate from the cooperative or condominium project, and maintain sales offices, management offices and rental units; exercise easements through common elements for the purpose of making improvements within the cooperative or condominium; or exercise control of the owners' association;

(15) "interstate commerce" means trade, traffic, transportation, communication, or exchange among the States, or between any foreign country and a State, or any transaction which affects such trade, traffic, transportation, communication, or exchange;

(16) "lease" includes any agreement or arrangement containing a condominium or cooperative unit owner's obligation, individually, collectively, or through an association to make payments for a leasehold interest or for other rights to use or possess real estate, or personal property (which rights may include the right to receive services with

respect to such real estate or personal property), except a lease does not include mortgages or other such agreements for the purchase of real estate;

(17) "person" means a natural person, corporation, partnership, association, trust or other entity, or any combination thereof;

(18) "purchaser" means any person, other than a developer, who by means of a voluntary transfer acquires a legal or equitable interest in a unit, other than (A) a leasehold interest (including renewal options) of less than five years, or (B) as security for an obligation;

(19) "real estate" means any leasehold or other estate or interest in, over or under land, including structures, fixtures, and other improvements and interests which by custom, usage, or law pass with a conveyance of land though not described in the contract of sale or instrument of conveyance. "Real estate" includes parcels with or without upper or lower boundaries, and spaces that may be filled with air or water;

(20) "residential" means used as a dwelling;

(21) "sale", "sale of a cooperative unit" or "sale of a condominium unit" means any obligation or arrangement for consideration for conveyance to a purchaser of a cooperative or condominium unit, excluding options or reservations not binding on the purchaser;

(22) "special developer control" means any right arising under State law, cooperative or condominium instruments, the association's bylaws, charter of articles of association or incorporation, or power of attorney or similar agreement, through which the developer may control or direct the unit owners' association or its executive board. A developer's right to exercise the voting share allocated to any condominium or cooperative unit which he owns is not deemed a right of special developer control if the voting share allocated to that condominium or cooperative unit is the same voting share as would be allocated to the same condominium or cooperative unit were that unit owned by any other unit owner at that time;

(23) "State" includes the several States, the District of Columbia, the Commonwealth of Puerto Rico, and the territories and possessions of the United States; and

(24) "tenants' organization" means a bona fide organization of tenants who represent a majority of the occupied rental units in a rental housing project.

Sec. 605. [15 U.S.C. 3604]
EXEMPTIONS.

The provisions of this title shall not apply to—

(1) a cooperative or condominium unit sold or offered for sale by the Federal Government, by any State or local government, by any corporate instrumentality of the United States, or by any agency thereof;

(2) a cooperative or condominium project in which all units are restricted to nonresidential purposes or uses; or

(3) any lease or portion thereof—

(A) which establishes any leasehold or other estate or interest in, over or under land on or in which one or more residential condominium or cooperative units are located, the termination of which will terminate the condominium or cooperative project, or reduce the number of units in such project, or

(B) which establishes a leasehold interest in, or other rights to use, possess, or gain access to, a condominium or cooperative unit.

Sec. 606. [15 U.S.C. 3605]
CONDOMINIUM AND COOPERATIVE CONVERSIONS.

It is the sense of the Congress that, when multifamily rental housing projects are converted to condominium or cooperative use, tenants in those projects are entitled to adequate notice of the pending conversion and to receive the first opportunity to purchase units in the converted projects and that State and local governments which have not already provided for such notice and opportunity for purchase should move toward that end. The Congress believes it is the responsibility of State and local governments to provide for such notice and opportunity to purchase in a prompt manner. The Congress has decided not to intervene and therefore leaves this responsibility to State and local governments to be carried out.

Sec. 607. [15 U.S.C. 3606]
FEDERAL HOUSING ADMINISTRATION INSURANCE.

Where an application for mortgage or loan insurance in connection with a conversion or purchase of a rental housing project being undertaken by a tenants' organization is submitted, the Secretary of Housing and Urban

Development shall expedite the processing of the application in every way and shall make a final decision on such application at the earliest practicable time.

Sec. 608. [15 U.S.C. 3607]
OPTIONAL TERMINATION OF SELF-DEALING CONTRACTS.

(a) Any contract or portion thereof which is entered into after the effective date of this title, and which—

(1) provides for operation, maintenance, or management of a condominium or cooperative association in a conversion project, or of property serving the condominium or cooperative unit owners in such project;

(2) is between such unit owners or such association and the developer or an affiliate of the developer;

(3) was entered into while such association was controlled by the developer through special developer control or because the developer held a majority of the votes in such association; and

(4) is for a period of more than three years, including any automatic renewal provisions which are exercisable at the sole option of the developer or an affiliate of the developer,

may be terminated without penalty by such unit owners or such association.

(b) Any termination under this section may occur only during the two-year period beginning on the date on which—

(1) special developer control over the association is terminated; or

(2) the developer owns 25 per centum or less of the units in the conversion project,

whichever occurs first.

(c) A termination under this section shall be by a vote of owners of not less than two-thirds of the units other than the units owned by the developer or an affiliate of the developer.

(d) Following the unit owners' vote, the termination shall be effective ninety days after hand delivering notice or mailing notice by prepaid United States mail to the parties to the contract.

Sec. 609. [15 U.S.C. 3608]
CIVIL ACTION; UNCONSCIONABLE LEASES.

(a) Cooperative and condominium unit owners through the unit owners' association may bring an action seeking a judicial determination that a lease or leases, or portions thereof, were unconscionable at the time they were made. An action may be brought under this section if each such lease has all of the following characteristics:

(1) it was made in connection with a cooperative or condominium project;

(2) it was entered into while the cooperative or condominium owners' association was controlled by the developer either through special developer control or because the developer held a majority of the votes in the owners' association;

(3) it had to be accepted or ratified by purchasers or through the unit owners' association as a condition of purchase of a unit in the cooperative or condominium project;

(4) it is for a period of more than twenty-one years or is for a period of less than twenty-one years but contains automatic renewal provisions for a period of more than twenty-one years;

(5) it contains an automatic rent increase clause; and

(6) it was entered into prior to June 4, 1975.

Such action must be authorized by the cooperative or condominium unit owners through a vote of not less than two-thirds of the owners of the units other than units owned by the developer or an affiliate of the developer, and may be brought by the cooperative or condominium unit owners through the units owners' association. Prior to instituting such action, the cooperative or condominium unit owners must, through a vote of not less than two-thirds of the owners of the units other than units owned by the developer or an affiliate of the developer, agree to enter into negotiation with the lessor and must seek through such negotiation to eliminate or modify any lease terms that are alleged to be unconscionable; if an agreement is not reached in ninety days from the date on which the authorizing vote was taken, the unit owners may authorize an action after following the procedure specified in the preceding sentence.

(b) A rebuttable presumption of unconscionability exists if it is established that, in addition to the characteristics set forth in subsection (a) of this section, the lease—

(1) creates a lien subjecting any unit to foreclosure for failure to make payments;

(2) contains provisions requiring either the cooperative or condominium unit owners or the cooperative or condominium association as lessees to assume all or substantially all obligations and

liabilities associated with the maintenance, management and use of the leased property, in addition to the obligation to make lease payments;

(3) contains an automatic rent increase clause without establishing a specific maximum lease payment; and

(4) requires an annual rental which exceeds 25 per centum of the appraised value of the leased property as improved: Provided, That, for purposes of this paragraph "annual rental" means the amount due during the first twelve months of the lease for all units, regardless of whether such units were occupied or sold during that period, and "appraised value" means the appraised value placed upon the leased property the first tax year after the sale of a unit in the condominium or after the sale of a membership or share interest in the cooperative association to a party who is not an affiliate of the developer.

Once the rebuttable presumption is established, the court, in making its finding, shall consider the lease or portion of the lease to be unconscionable unless proven otherwise by a preponderance of the evidence to the contrary.

(c) Whenever it is claimed, or appears to the court, that a lease or any portion thereof is, or may have been, unconscionable at the time it was made, the parties shall be afforded a reasonable opportunity to present evidence at least as to—

(1) the commercial setting of the negotiations;

(2) whether a party has knowingly taken advantage of the inability of the other party reasonably to protect his interests;

(3) the effect and purpose of the lease or portion thereof, including its relationship to other contracts between the association, the unit owners and the developer or an affiliate of the developer; and

(4) the disparity between the amount charged under the lease and the value of the real estate subject to the lease measured by the price at which similar real estate was readily obtainable in similar transactions.

(d) Upon finding that any lease, or portion thereof, is unconscionable, the court shall exercise its authority to grant remedial relief as necessary to avoid an unconscionable result, taking into consideration the economic value of the lease. Such relief may include, but shall not be limited to rescission, reformation, restitution, the award of damages and reasonable attorney fees and court costs. A defendant may recover reasonable attorneys' fees if the court determines that the cause of action filed by the plaintiff is frivolous, malicious, or lacking in substantial merit.

(e) Nothing in this section may be construed to authorize the bringing of an action by cooperative and condominium unit owners' association, seeking a judicial determination that a lease or leases, or portions thereof, are unconscionable, where such unit owners or a unit owners' association representing them has, after the termination of special developer control, reached an agreement with a holder of such lease or leases which either—

(1) sets forth the terms and conditions under which such lease or leases is or shall be purchased by such unit owners or associations; or

(2) reforms any cause in the lease which contained an automatic rent increase clause, unless such agreement was entered into when the leaseholder or his affiliate held a majority of the votes in the owners' association.

Sec. 610. [15 U.S.C. 3609]
PROHIBITIONS.

Any provision in any lease or contract requiring unit owners or the owners' association, in any conversion project involving a contract meeting the requirements of section 608 of this title or in any project involving a lease meeting the requirements of section 609 of this title, to reimburse, regardless of outcome, the developer, his successor, or affiliate of the developer for attorneys' fees or money judgments, in a suit between unit owners or the owners' association and the developer arising under the lease or agreement, is against public policy and void.

Sec. 611. [15 U.S.C. 3610]
STATE AND LOCAL JURISDICTION.

Nothing in this title may be construed to prevent or limit the authority of any State or local government to enact and enforce any law, ordinance, or code with regard to any condominium, cooperative, or conversion project, if such law, ordinance, or code does not abridge, deny, or contravene any standard for consumer protection established under this title. Notwithstanding the preceding sentence, the provisions of this title, except for the application of section 609 and the prohibition included in section 610 as it relates to a lease with respect to which a cause of action may be established under section 609, shall not apply in the case of any State or local government which has the authority to enact and enforce such a law, ordinance, or code, if, during the three-year period following the date of enactment of this title, such State or local government enacts a law, ordinance, or code, or

amendments thereto, stating in substance that such provisions of this title shall not apply in that State or local government jurisdiction.

Sec. 612. [15 U.S.C. 3611]
ADDITIONAL REMEDIES.

(a) Unless otherwise limited as in section 608 or 609 of this title, any person aggrieved by a violation of this title may sue at law or in equity.

(b) In any action authorized by this section for a violation of section 608 or 610 where actual damages have been suffered, such damages may be awarded or such other relief granted as deemed fair, just, and equitable.

(c) Every person who becomes liable to make any payment under this section may recover contributions from any person who, if sued separately, would have been liable to make the same payment.

(d) The amounts recoverable under this section may include interest paid, reasonable attorneys' fees, independent engineer and appraisers' fees, and court costs. A defendant may recover reasonable attorneys' fees if the court determines that the cause of action filed by the plaintiff is frivolous, malicious, or lacking in substantial merit.

Sec. 613. [15 U.S.C. 3612]
JURISDICTION.

The district courts of the United States, the United States courts of any territory, and the United States District Court for the District of Columbia shall have jurisdiction under this title and, concurrent with State courts, of actions at law or in equity brought under this title without regard to the amount in controv- ersy. Any such action may be brought in the district wherein the defendant is found or is an inhabitant or transacts business, or in the district where the sale took place, and process in such cases may be served in other districts of which the defendant is an inhabitant or wherever the defendant may be found. No case arising under this title and brought in any State court of competent jurisdiction shall be removed to any court of the United States, except where any officer or employee of the United States in his official capacity is a party.

Sec. 614. [15 U.S.C. 3613]
LIMITATION OF ACTIONS.

No action shall be maintained to enforce any right or liability created by this title unless brought within six years after such cause of action, accrued, except that an action pursuant to section 609 must be brought within four years after the date of enactment of this title.

Sec. 615. [15 U.S.C. 3614]
CONTRARY STIPULATIONS VOID.

Any condition, stipulation, or provision binding any person to waive compliance with any provisions of this title shall be void.

Sec. 616. [15 U.S.C. 3615]
ADDITIONAL REMEDIES.

The rights and remedies provided by this title shall be in addition to any and all other rights and remedies that may exist under Federal or State law.

Sec. 617. [15 U.S.C. 3616]
SEPARABILITY.

If any provisions of this title or the application thereof to any person or circumstance is held invalid, the remainder of this title shall not be affected thereby.

Sec. 618. [15 U.S.C. 3601 note]
EFFECTIVE DATE.

The provisions of this title shall become effective upon enactment,[734] except that section 609, and the prohibition included in section 610 as it relates to a lease with respect to which a cause of action may be established under section 609, shall become effective one year after enactment.

[734] The date of enactment was October 8, 1980.

END OF STATUTE

WAGE RATE REQUIREMENTS FOR LABORERS AND MECHANICS

TITLE 40, UNITED STATES CODE
[Public Law 107-217; 1166 Stat. 1115]

Sec. 3141.
DEFINITIONS.

In this subchapter, the following definitions apply:

(1) FEDERAL GOVERNMENT.—The term "Federal Government" has the same meaning that the term "United States" had in the Act of March 3, 1931 (ch. 411, 46 Stat. 1494) (known as the Davis-Bacon Act).

(2) WAGES, SCALE OF WAGES, WAGE RATES, MINIMUM WAGES, AND PREVAILING WAGES.—The terms "wages", "scale of wages", "wage rates", "minimum wages", and "prevailing wages" include—

(A) the basic hourly rate of pay; and

(B) for medical or hospital care, pensions on retirement or death, compensation for injuries or illness resulting from occupational activity, or insurance to provide any of the forgoing, for unemployment benefits, life insurance, disability and sickness insurance, or accident insurance, for vacation and holiday pay, for defraying the costs of apprenticeship or other similar programs, or for other bona fide fringe benefits, but only where the contractor or subcontractor is not required by other federal, state, or local law to provide any of those benefits, the amount of—

(i) the rate of contribution irrevocably made by a contractor or subcontractor to a trustee or to a third person under a fund, plan, or program; and

(ii) the rate of costs to the contractor or subcontractor that may be reasonably anticipated in providing benefits to laborers and mechanics pursuant to an enforceable commitment to carry out a financially responsible plan or program which was communicated in writing to the laborers and mechanics affected.

Sec. 3142.
RATE OF WAGES FOR LABORERS AND MECHANICS.

(a) APPLICATION.—The advertised specifications for every contract in excess of $2,000, to which the Federal Government or the District of Columbia is a party, for construction, alteration, or repair, including painting and decorating, of public buildings and public works of the Government or the District of Columbia that are located in a State or the District of Columbia and which requires or involves the employment of mechanics or laborers shall contain a provision stating the minimum wages to be paid various classes of laborers and mechanics.

(b) BASED ON PREVAILING WAGE.—The minimum wages shall be based on the wages the Secretary of Labor determines to be prevailing for the corresponding classes of laborers and mechanics employed on projects of a character similar to the contract work in the civil subdivision of the State in which the work is to be performed, or in the District of Columbia if the work is to be performed there.

(c) STIPULATIONS REQUIRED IN CONTRACT.—Every contract based upon the specifications referred to in subsection (a) must contain stipulations that—

(1) the contractor or subcontractor shall pay all mechanics and laborers employed directly on the site of the work, unconditionally and at least once a week, and without subsequent deduction or rebate on any account, the full amounts accrued at time of payment, computed at wage rates not less than those stated in the advertised specifications, regardless of any contractual relationship which may be alleged to exist between the contractor or subcontractor and the laborers and mechanics;

(2) the contractor will post the scale of wages to be paid in a prominent and easily accessible place at the site of the work; and

(3) there may be withheld from the contractor so much of accrued payments as the contracting officer considers necessary to pay to laborers and mechanics employed by the contractor or any subcontractor on the work the difference between the rates of wages required by the contract to be paid laborers and mechanics on the work and the rates of wages received by the laborers and mechanics and not refunded to the contractor or subcontractors or their agents.

(d) DISCHARGE OF OBLIGATION.—The obligation of a contractor or subcontractor to make payment in accordance with the prevailing wage determinations of the Secretary of Labor, under this subchapter and other

laws incorporating this subchapter by reference, may be discharged by making payments in cash, by making contributions described in section 3141(2)(B)(i) of this title, by assuming an enforceable commitment to bear the costs of a plan or program referred to in section 3141(2)(B)(ii) of this title, or by any combination of payment, contribution, and assumption, where the aggregate of the payments, contributions, and costs is not less than the basic hourly rate of pay plus the amount referred to in section 3141(2)(B) of this title.

(e) OVERTIME PAY.—In determining the overtime pay to which a laborer or mechanic is entitled under any federal law, the regular or basic hourly rate of pay (or other alternative rate on which premium rate of overtime compensation is computed) of the laborer or mechanic is deemed to be the rate computed under section 3141(2)(A) of this title, except that where the amount of payments, contributions, or costs incurred with respect to the laborer or mechanic exceeds the applicable prevailing wage, the regular or basic hourly rate of pay (or other alternative rate) is the amount of payments, contributions, or costs actually incurred with respect to the laborer or mechanic minus the greater of the amount of contributions or costs of the types described in section 3141(2)(B) of this title actually incurred with respect to the laborer or mechanic or the amount determined under section 3141(2)(B) of this title but not actually paid.

Sec. 3143.
TERMINATION OF WORK ON FAILURE TO PAY AGREED WAGES

Every contract within the scope of this subchapter shall contain a provision that if the contracting officer finds that any laborer or mechanic employed by the contractor or any subcontractor directly on the site of the work covered by the contract has been or is being paid a rate of wages less than the rate of wages required by the contract to be paid, the Federal Government by written notice to the contractor may terminate the contractor's right to proceed with the work or the part of the work as to which there has been a failure to pay the required wages. The Government may have the work completed, by contract or otherwise, and the contractor and the contractor's sureties shall be liable to the Government for any excess costs the Government incurs.

Sec. 3144.
AUTHORITY OF COMPTROLLER GENERAL TO PAY WAGES AND LIST CONTRACTORS VIOLATING CONTRACTS

(a) PAYMENT OF WAGES.—

(1) IN GENERAL.—The Comptroller General shall pay directly to laborers and mechanics from any accrued payments withheld under the terms of a contract any wages found to be due laborers and mechanics under this subchapter.

(2) RIGHT OF ACTION.—If the accrued payments withheld under the terms of the contract are insufficient to reimburse all the laborers and mechanics who have not been paid the wages required under this subchapter, the laborers and mechanics have the same right to bring a civil action and intervene against the contractor and the contractor's sureties as is conferred by law on persons furnishing labor or materials. In those proceedings it is not a defense that the laborers and mechanics accepted or agreed to accept less than the required rate of wages or voluntarily made refunds.

(b) LIST OF CONTRACTORS VIOLATING CONTRACTS.—

(1) IN GENERAL.—The Comptroller General shall distribute to all departments of the Federal Government a list of the names of persons whom the Comptroller General has found to have disregarded their obligations to employees and subcontractors.

(2) RESTRICTION ON AWARDING CONTRACTS.—No contract shall be awarded to persons appearing on the list or to any firm, corporation, partnership, or association in which the persons have an interest until three years have elapsed from the date of publication of the list.

Sec. 3145.
REGULATIONS GOVERNING CONTRACTORS AND SUBCONTRACTORS

(a) IN GENERAL.—The Secretary of Labor shall prescribe reasonable regulations for contractors and subcontractors engaged in constructing, carrying out, completing, or repairing public buildings, public works, or buildings or works that at least partly are financed by a loan or grant from the Federal Government. The regulations shall include a provision that each contractor and subcontractor each week must furnish a statement on the wages paid each employee during the prior week.

(b) APPLICATION.—Section 1001 of title 18 applies to the statements.

Sec. 3146.
EFFECT ON OTHER FEDERAL LAWS

This subchapter does not supersede or impair any authority otherwise granted by federal law to provide for the establishment of specific wage rates.

Sec. 3147.
Suspension of this subchapter during a national emergency

The President may suspend the provisions of this subchapter during a national emergency.

Sec. 3148.
APPLICATION OF THIS SUBCHAPTER TO CERTAIN CONTRACTS

This subchapter applies to a contract authorized by law that is made without regard to section 6101(b) to (d) of title 41, or on a cost-plus-a-fixed-fee basis or otherwise without advertising for proposals, if this subchapter otherwise would apply to the contract.

* * * * *

Sec. 3161.
PURPOSE.

It is the purpose of this subchapter to promote and provide opportunities for individuals who wish to volunteer their services to state or local governments, public agencies, or nonprofit charitable organizations in the construction, repair, or alteration (including painting and decorating) of public buildings and public works that at least partly are financed with federal financial assistance authorized under certain federal programs and that otherwise might not be possible without the use of volunteers.

Sec. 3162.
WAIVER FOR INDIVIDUALS WHO PERFORM VOLUNTEER SERVICES.

(a) CRITERIA FOR RECEIVING WAIVER.—The requirement that certain laborers and mechanics be paid in accordance with the wage-setting provisions of subchapter IV of this chapter as set forth in the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450 et seq.), the Indian Health Care Improvement Act (25 U.S.C. 1601 et seq.), and the Housing and Community Development Act of 1974 (42 U.S.C. 5301 et seq.) does not apply to an individual—

(1) who volunteers to perform a service directly to a state or local government, a public agency, or a public or private nonprofit recipient of federal assistance—

(A) for civic, charitable, or humanitarian reasons;

(B) only for the personal purpose or pleasure of the individual;

(C) without promise, expectation, or receipt of compensation for services rendered, except as provided in subsection (b); and

(D) freely and without pressure or coercion, direct or implied, from any employer;

(2) whose contribution of service is not for the direct or indirect benefit of any contractor otherwise performing or seeking to perform work on the same project for which the individual is volunteering;

(3) who is not employed by and does not provide services to a contractor or subcontractor at any time on the federally assisted or insured project for which the individual is volunteering; and

(4) who otherwise is not employed by the same public agency or recipient of federal assistance to perform the same type of services as those for which the individual proposes to volunteer.

(b) PAYMENTS.—

(1) IN ACCORDANCE WITH REGULATIONS.—Volunteers described in subsection (a) who are performing services directly to a state or local government or public agency may receive payments of expenses, reasonable benefits, or a nominal fee only in accordance with regulations the Secretary of Labor prescribes. Volunteers who are performing services directly to a public or private nonprofit entity may not receive those payments.

(2) CRITERIA AND CONTENT OF REGULATIONS.—In prescribing the regulations, the Secretary shall consider criteria such as the total amount of payments made (relating to expenses, benefits, or fees) in the context of the economic realities. The regulations shall include provisions that provide that—

(A) a payment for an expense may be received by a volunteer for items such as uniform allowances, protective gear and clothing, reimbursement for approximate out-of-pocket expenses, or the cost or expense of meals and transportation;

(B) a reasonable benefit may include the inclusion of a volunteer in a group insurance plan (such as a liability, health, life, disability, or worker's compensation plan) or pension plan, or the awarding of a length of service award; and

(C) a nominal fee may not be used as a substitute for compensation and may not be connected to productivity.

(3) NOMINAL FEE.—The Secretary shall decide what constitutes a nominal fee for purposes of paragraph (2)(C). The decision shall be based on the context of the economic realities of the situation involved.

(c) ECONOMIC REALITY.—In determining whether an expense, benefit, or fee described in subsection (b) may be paid to volunteers in the context of the economic realities of the particular situation, the Secretary may not permit any expense, benefit, or fee that has the effect of undermining labor standards by creating downward pressure on prevailing wages in the local construction industry.

* * * * * * *

END OF STATUTE

TRANSFER OF SURPLUS REAL PROPERTY FOR HOUSING

HOUSING AND URBAN-RURAL RECOVERY ACT OF 1983
[Public Law 98-181; 97 Stat. 1153, 1175; 40 U.S.C. 484b note]

Sec. 126. [40 U.S.C. 484b note]
REPEALERS.

(a)(1) Section 414 of the Housing and Urban Development Act of 1969[735] hereby is repealed.

(2) Notwithstanding paragraph (1), the Secretary of Housing and Urban Development and the Secretary of Agriculture may dispose of Federal surplus real property pursuant to the terms of section 414 of such Act if, prior to the date of the enactment of this Act[736], either Secretary had requested the Administrator of General Services to transfer such property for such disposition.

(3) Notwithstanding paragraph (1), section 414(b) of such Act shall continue to apply, where applicable, to all property transferred by either Secretary pursuant to section 414 of such Act, including properties transferred pursuant to paragraph (2).

END OF STATUTE

[735] Such section authorized transfer of surplus real property to the Secretary of Housing and Urban Development or the Secretary of Agriculture for sale or lease.
[736] November 30, 1983.

LIMITATION ON WITHHOLDING OR CONDITIONING OF ASSISTANCE

HOUSING AND COMMUNITY DEVELOPMENT ACT OF 1974
[Public Law 93-383; 88 Stat. 633; 42 U.S.C. 5301 note]

Sec. 817. [42 U.S.C. 5301 note]
LIMITATION ON WITHHOLDING OR CONDITIONING OF ASSISTANCE.

Assistance provided for in this Act, the National Housing Act, the United States Housing Act of 1937, the Housing Act of 1949, the Demonstration Cities and Metropolitan Development Act of 1966, the Housing and Urban Development Acts of 1965, 1968, 1969, and 1970, and section 17 of the United States Housing Act of 1937 shall not be withheld or made subject to conditions or preference by reason of the tax-exempt status of bonds or other obligations issued or to be issued to provide financing for use in connection with such assistance, except where otherwise expressly provided or authorized by law.

END OF STATUTE

TREATMENT OF OCCUPANCY STANDARDS

QUALITY HOUSING AND WORK RESPONSIBILITY ACT OF 1998
[Public Law 105-276; 112 Stat. 2651; 42 U.S.C. 3608 note]

Sec. 589. [42 U.S.C. 3608 note]
TREATMENT OF OCCUPANCY STANDARDS.

(a) ESTABLISHMENT OF POLICY.—Not later than 60 days after the date of the enactment of this Act[737], the Secretary of Housing and Urban Development shall publish a notice in the Federal Register for effect that takes effect upon publication and provides that the specific and unmodified standards provided in the March 20, 1991, Memorandum from the General Counsel of the Department of Housing and Urban Development to all Regional Counsel shall be the policy of the Department of Housing and Urban Development with respect to complaints of discrimination under the Fair Housing Act (42 U.S.C. 3601 et seq.) on the basis of familial status which involve an occupancy standard established by a housing provider.

(b) PROHIBITION OF NATIONAL STANDARD.—The Secretary of Housing and Urban Development shall not directly or indirectly establish a national occupancy standard.

END OF STATUTE

[737] The date of enactment was October 21, 1998.

MEDIAN AREA INCOME

HOUSING AND COMMUNITY DEVELOPMENT ACT OF 1987
[Public Law 100-242; 101 Stat. 1948; 42 U.S.C. 1437a note]

Sec. 567. [42 U.S.C. 1437a note]
MEDIAN AREA INCOME.

For purposes of calculating the median income for any area that is not within a metropolitan statistical area (as established by the Office of Management and Budget) for programs under title I of the Housing and Community Development Act of 1974, the United States Housing Act of 1937, the National Housing Act, or title V of the Housing Act of 1949, the Secretary of Housing and Urban Development or the Secretary of Agriculture (as appropriate) shall use whichever of the following is higher:

(1) the median income of the county in which the area is located; or

(2) the median income of the entire nonmetropolitan area of the State.

END OF STATUTE

SOLAR ASSISTANCE FINANCING ENTITY

HOUSING AND COMMUNITY DEVELOPMENT ACT OF 1992
[Public Law 102-550; 106 Stat. 3875; 42 U.S.C. 5511a]

Sec. 912. [42 U.S.C. 5511a]
SOLAR ASSISTANCE FINANCING ENTITY.

(a) ESTABLISHMENT.—The Secretary of Housing and Urban Development shall establish within the Department of Housing and Urban Development the Solar Assistance Financing Entity (in this section referred to as the "Entity").

(b) PURPOSE.—The purpose of the Entity shall be to assist in financing solar and renewable energy capital investments and projects for eligible buildings under subsection (c).

(c) ELIGIBLE BUILDINGS.—The Entity may provide assistance under this section only for the following buildings:

(1) SINGLE FAMILY HOUSING.—Any building consisting of 1 to 4 dwelling units that has a system for heating or cooling, or both.

(2) MULTIFAMILY HOUSING.—Any building consisting of more than 4 dwelling units that has a system for heating or cooling, or both.

(3) COMMERCIAL BUILDINGS.—Any building used primarily to carry on a business (including any nonprofit business) that is not used primarily for the manufacture or production of raw materials, products, or agricultural commodities.

(4) SCHOOLS, HOSPITALS, AND AGRICULTURAL BUILDINGS.—Any school, any hospital, and any building used exclusively in connection with the harvesting, storage, or drying of agricultural commodities.

(5) OTHER BUILDINGS.—Any other building of a type that the Entity considers appropriate.

(d) FINANCING OPTIONS.—Assistance provided under this section by the Entity may be provided only for programs for financing solar and renewable energy capital investments and projects, which may include programs for making loans, making grants, reducing the principal obligations of loans, prepayment of interest on loans, purchase and sale of loans and advances of credit, providing loan guarantees, providing loan downpayment assistance, and providing rebates and other incentives for the purchase and installation of solar and renewable energy measures.

(e) AUTHORITY TO LEVERAGE OTHER FUNDS.—The Entity may encourage or require programs receiving assistance under this section to supplement the assistance received under this section with amounts from other public and private sources, and, in making assistance under this section available, may give preference to programs that leverage amounts from such other sources.

(f) PROVISION OF ASSISTANCE.—The Entity shall provide assistance under this section through State agencies responsible for developing State energy conservation plans pursuant to section 362 of the Energy Policy and Conservation Act, or any other entity or agency authorized to specifically carry out the purposes of this section.

(g) REGULATIONS.—Not later than the expiration of the 12-month period beginning on the date of the enactment of this Act[738], the Secretary of Housing and Urban Development, in consultation with the Secretary of Energy, shall issue any regulations necessary to carry out this section, which shall ensure maximum flexibility in utilizing amounts made available under this section.

(h) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this section $10,000,000 for fiscal year 1993 and $10,420,000 for fiscal year 1994. Such sums are to be available until expended.

(i) REPEALS.—

(1) SOLAR ENERGY AND ENERGY CONSERVATION BANK ACT.—Subtitle A of title V of the Energy Security Act (12 U.S.C. 3601 et seq.) is repealed.

(2) FEDERAL NATIONAL MORTGAGE ASSOCIATION CHARTER ACT.—Sections 315 and 316 of the Federal National Mortgage Association Charter Act (12 U.S.C. 1723g, 1723h) are repealed.

END OF STATUTE

[738] The date of enactment was October 28, 1992.

GUARANTEES FOR CHURCH ARSON RECOVERY LOANS

CHURCH ARSON PREVENTION ACT OF 1996
[Public Law 104-155; 110 Stat. 1393]

Sec. 4.
LOAN GUARANTEE RECOVERY FUND.

(a) IN GENERAL.—

(1) IN GENERAL.—Using amounts described in paragraph (2), the Secretary of Housing and Urban Development (referred to as the "Secretary") shall make guaranteed loans to financial institutions in connection with loans made by such institutions to assist organizations described in section 501(c)(3) of the Internal Revenue Code of 1986 that have been damaged as a result of acts of arson or terrorism in accordance with such procedures as the Secretary shall establish by regulation.

(2) USE OF CREDIT SUBSIDY.—Notwithstanding any other provision of law, for the cost of loan guarantees under this section, the Secretary may use not more than $5,000,000 of the amounts made available for fiscal year 1996 for the credit subsidy provided under the General Insurance Fund and the Special Risk Insurance Fund.

(b) TREATMENT OF COSTS.—The costs of guaranteed loans under this section, including the cost of modifying loans, shall be as defined in section 502 of the Congressional Budget Act of 1974.

(c) LIMIT ON LOAN PRINCIPAL.—Funds made available under this section shall be available to subsidize total loan principal, any part of which is to be guaranteed, not to exceed $10,000,000.

(d) TERMS AND CONDITIONS.—The Secretary shall—

(1) establish such terms and conditions as the Secretary considers to be appropriate to provide loan guarantees under this section, consistent with section 503 of the Credit Reform Act; and

(2) include in the terms and conditions a requirement that the decision to provide a loan guarantee to a financial institution and the amount of the guarantee does not in any way depend on the purpose, function, or identity of the organization to which the financial institution has made, or intends to make, a loan.

END OF STATUTE

HOUSING ASSISTANCE COUNCIL

FOOD, CONSERVATION, AND ENERGY ACT OF 2008
[Public Law 110-246; 122 Stat. 1651; 42 U.S.C. 1490e note]

Sec. 6301.
SHORT TITLE.

This subtitle may be cited as the "Housing Assistance Council Authorization Act of 2008".

Sec. 6302.
ASSISTANCE TO HOUSING ASSISTANCE COUNCIL.

(a) USE.—The Secretary of Housing and Urban Development may provide financial assistance to the Housing Assistance Council for use by the Council to develop the ability and capacity of community-based housing development organizations to undertake community development and affordable housing projects and programs in rural areas. Assistance provided by the Secretary under this section may be used by the Housing Assistance Council for—

(1) technical assistance, training, support, research, and advice to develop the business and administrative capabilities of rural community-based housing development organizations;

(2) loans, grants, or other financial assistance to rural community-based housing development organizations to carry out community development and affordable housing activities for low- and moderate-income families; and

(3) such other activities as may be determined by the Secretary of Housing and Urban Development and the Housing Assistance Council.

(b) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated for financial assistance under this section for the Housing Assistance Council $10,000,000 for each of fiscal years 2009 through 2011.

Sec. 6303.
AUDITS AND REPORTS.

(a) AUDIT.—

(1) IN GENERAL.—The financial transactions and activities of the Housing Assistance Council shall be audited annually by an independent certified public accountant or an independent licensed public accountant certified or licensed by a regulatory authority of a State or other political subdivision of the United States.

(2) REQUIREMENTS OF AUDITS.—The Comptroller General of the United States may rely on any audit completed under paragraph (1), if the audit complies with—

(A) the annual programmatic and financial examination requirements established in OMB Circular A-133; and

(B) generally accepted government auditing standards.

(3) REPORT TO CONGRESS.—The Comptroller General shall submit to the Committee on Banking, Housing, and Urban Affairs of the Senate and the Committee on Financial Services of the House of Representative a report detailing each audit completed under paragraph (1).

(b) GAO REPORT.—The Comptroller General of the United States shall conduct a study and submit a report to the Committee on Banking, Housing, and Urban Affairs of the Senate and the Committee on Financial Services of the House of Representative on the use of any funds appropriated to the Housing Assistance Council over the past 7 years.

Sec. 6304.
PERSONS NOT LAWFULLY PRESENT IN THE UNITED STATES.

Aliens who are not lawfully present in the United States shall be ineligible for financial assistance under this subtitle, as provided and defined by section 214 of the Housing and Community Development Act of 1980 (42 U.S.C. 1436a). Nothing in this subtitle shall be construed to alter the restrictions or definitions in such section 214.

Sec. 6305.
LIMITATION ON USE OF AUTHORIZED AMOUNTS.

None of the amounts authorized by this subtitle may be used to lobby or retain a lobbyist for the purpose of influencing a Federal, State, or local governmental entity or officer.

END OF STATUTE

HOUSING PROTECTIONS FOR VICTIMS OF DOMESTIC VIOLENCE, DATING VIOLENCE, SEXUAL ASSAULT, AND STALKING

VIOLENCE AGAINST WOMEN ACT OF 1994
[Public Law 103-322; 108 Stat. 1796; 42 U.S.C. 14043e-11]

Subtitle A—Safe Streets for Women

* * * * *

Sec. 40002. [42 U.S.C. 13925]
DEFINITIONS AND GRANT PROVISIONS.

(a) DEFINITIONS.—In this title:

* * *

(8) DOMESTIC VIOLENCE.— The term "domestic violence" includes felony or misdemeanor crimes of violence committed by a current or former spouse or intimate partner of the victim, by a person with whom the victim shares a child in common, by a person who is cohabitating with or has cohabitated with the victim as a spouse or intimate partner, by a person similarly situated to a spouse of the victim under the domestic or family violence laws of the jurisdiction receiving grant monies, or by any other person against an adult or youth victim who is protected from that person's acts under the domestic or family violence laws of the jurisdiction.

(9) DATING PARTNER.—The term "dating partner" refers to a person who is or has been in a social relationship of a romantic or intimate nature with the abuser, and where the existence of such a relationship shall be determined based on a consideration of--

(A) the length of the relationship;

(B) the type of relationship; and

(C) the frequency of interaction between the persons involved in the relationship.

(10) DATING VIOLENCE.—The term "dating violence" means violence committed by a person—

(A) who is or has been in a social relationship of a romantic or intimate nature with the victim; and

(B) where the existence of such a relationship shall be determined based on a consideration of the following factors:

(i) The length of the relationship.

(ii) The type of relationship.

(iii) The frequency of interaction between the persons involved in the relationship.

* * *

(29) SEXUAL ASSAULT.—The term "sexual assault" means any nonconsensual sexual act proscribed by Federal, tribal, or State law, including when the victim lacks capacity to consent.

(30) STALKING.—The term "stalking" means engaging in a course of conduct directed at a specific person that would cause a reasonable person to—

(A) fear for his or her safety or the safety of others; or

(B) suffer substantial emotional distress.

* * *

(43) VICTIM SERVICE PROVIDER.—The term "victim service provider" means a nonprofit, nongovernmental or tribal organization or rape crisis center, including a State or tribal coalition, that assists or advocates for domestic violence, dating violence, sexual assault, or stalking victims, including domestic violence shelters, faith-based organizations, and other organizations, with a documented history of effective work concerning domestic violence, dating violence, sexual assault, or stalking.

* * * * *

Subtitle N—Addressing the Housing Needs of Victims of Domestic Violence, Dating Violence, Sexual Assault, and Stalking

* * * * *

CHAPTER 2—HOUSING RIGHTS[739]

Sec. 41411. [42 U.S.C. 14043e-11]
HOUSING PROTECTIONS FOR VICTIMS OF DOMESTIC VIOLENCE, DATING VIOLENCE, SEXUAL ASSAULT, AND STALKING.

(a) DEFINITIONS.—In this chapter:

(1) AFFILIATED INDIVIDUAL.—The term 'affiliated individual' means, with respect to an individual—

(A) a spouse, parent, brother, sister, or child of that individual, or an individual to whom that individual stands in loco parentis; or

(B) any individual, tenant, or lawful occupant living in the household of that individual.

(2) APPROPRIATE AGENCY.—The term 'appropriate agency' means, with respect to a covered housing program, the Executive department (as defined in section 101 of title 5, United States Code) that carries out the covered housing program.

(3) COVERED HOUSING PROGRAM.—The term 'covered housing program' means—

(A) the program under section 202 of the Housing Act of 1959 (12 U.S.C. 1701q);

(B) the program under section 811 of the Cranston-Gonzalez National Affordable Housing Act (42 U.S.C. 8013);

(C) the program under subtitle D of title VIII of the Cranston-Gonzalez National Affordable Housing Act (42 U.S.C. 12901 et seq.);

(D) the program under subtitle A of title IV of the McKinney-Vento Homeless Assistance Act (42 U.S.C. 11360 et seq.);

(E) the program under subtitle A of title II of the Cranston-Gonzalez National Affordable Housing Act (42 U.S.C. 12741 et seq.);

(F) the program under paragraph (3) of section 221(d) of the National Housing Act (12 U.S.C. 1715l(d)) that bears interest at a rate determined under the proviso under paragraph (5) of such section 221(d);

(G) the program under section 236 of the National Housing Act (12 U.S.C. 1715z-1);

(H) the programs under sections 6 and 8 of the United States Housing Act of 1937 (42 U.S.C. 1437d and 1437f);

(I) rural housing assistance provided under sections 514, 515, 516, 533, and 538 of the Housing Act of 1949 (42 U.S.C. 1484, 1485, 1486, 1490m, and 1490p-2); and

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[739] Section 601(b)(3) of the Violence Against Women Reauthorization Act of 2013 [42 USC 1437d note] states:

(3) RULE OF CONSTRUCTION.—Nothing in this Act, or the amendments made by this Act, shall be construed—

(A) to limit the rights or remedies available to any person under section 6 or 8 of the United States Housing Act of 1937 (42 U.S.C. 1437d and 1437f), as in effect on the day before the date of enactment of this Act;

(B) to limit any right, remedy, or procedure otherwise available under any provision of part 5, 91, 880, 882, 883, 884, 886, 891, 903, 960, 966, 982, or 983 of title 24, Code of Federal Regulations, that—

(i) was issued under the Violence Against Women and Department of Justice Reauthorization Act of 2005 (Public Law 109–162; 119 Stat. 2960) or an amendment made by that Act; and

(ii) provides greater protection for victims of domestic violence, dating violence, sexual assault, and stalking than this Act; or

(C) to disqualify an owner, manager, or other individual from participating in or receiving the benefits of the low income housing tax credit program under section 42 of the Internal Revenue Code of 1986 because of noncompliance with the provisions of this Act.

(J) the low income housing tax credit program under section 42 of the Internal Revenue Code of 1986.

(b) PROHIBITED BASIS FOR DENIAL OR TERMINATION OF ASSISTANCE OR EVICTION.—

(1) IN GENERAL.—An applicant for or tenant of housing assisted under a covered housing program may not be denied admission to, denied assistance under, terminated from participation in, or evicted from the housing on the basis that the applicant or tenant is or has been a victim of domestic violence, dating violence, sexual assault, or stalking, if the applicant or tenant otherwise qualifies for admission, assistance, participation, or occupancy.

(2) CONSTRUCTION OF LEASE TERMS.—An incident of actual or threatened domestic violence, dating violence, sexual assault, or stalking shall not be construed as—

(A) a serious or repeated violation of a lease for housing assisted under a covered housing program by the victim or threatened victim of such incident; or

(B) good cause for terminating the assistance, tenancy, or occupancy rights to housing assisted under a covered housing program of the victim or threatened victim of such incident.

(3) TERMINATION ON THE BASIS OF CRIMINAL ACTIVITY.—

(A) DENIAL OF ASSISTANCE, TENANCY, AND OCCUPANCY RIGHTS PROHIBITED.—No person may deny assistance, tenancy, or occupancy rights to housing assisted under a covered housing program to a tenant solely on the basis of criminal activity directly relating to domestic violence, dating violence, sexual assault, or stalking that is engaged in by a member of the household of the tenant or any guest or other person under the control of the tenant, if the tenant or an affiliated individual of the tenant is the victim or threatened victim of such domestic violence, dating violence, sexual assault, or stalking.

(B) BIFURCATION.—

(i) IN GENERAL.—Notwithstanding subparagraph (A), a public housing agency or owner or manager of housing assisted under a covered housing program may bifurcate a lease for the housing in order to evict, remove, or terminate assistance to any individual who is a tenant or lawful occupant of the housing and who engages in criminal activity directly relating to domestic violence, dating violence, sexual assault, or stalking against an affiliated individual or other individual, without evicting, removing, terminating assistance to, or otherwise penalizing a victim of such criminal activity who is also a tenant or lawful occupant of the housing.

(ii) EFFECT OF EVICTION ON OTHER TENANTS.—If public housing agency or owner or manager of housing assisted under a covered housing program evicts, removes, or terminates assistance to an individual under clause (i), and the individual is the sole tenant eligible to receive assistance under a covered housing program, the public housing agency or owner or manager of housing assisted under the covered housing program shall provide any remaining tenant an opportunity to establish eligibility for the covered housing program. If a tenant described in the preceding sentence cannot establish eligibility, the public housing agency or owner or manager of the housing shall provide the tenant a reasonable time, as determined by the appropriate agency, to find new housing or to establish eligibility for housing under another covered housing program.

(C) RULES OF CONSTRUCTION.—Nothing in subparagraph (A) shall be construed--

(i) to limit the authority of a public housing agency or owner or manager of housing assisted under a covered housing program, when notified of a court order, to comply with a court order with respect to—

(I) the rights of access to or control of property, including civil protection orders issued to protect a victim of domestic violence, dating violence, sexual assault, or stalking; or

(II) the distribution or possession of property among members of a household in a case;

(ii) to limit any otherwise available authority of a public housing agency or owner or manager of housing assisted under a covered housing program to evict or terminate assistance to a tenant for any violation of a lease not premised on the act of violence in question against the tenant or an affiliated person of the tenant, if the public housing agency or owner or manager does not subject an individual who is or has been a victim of domestic violence, dating violence, or stalking to a more demanding standard than other tenants in determining whether to evict or terminate;

(iii) to limit the authority to terminate assistance to a tenant or evict a tenant from housing assisted under a covered housing program if a public housing agency or owner or manager of the housing can demonstrate that an actual and imminent threat to other tenants or individuals employed at or providing service to the property would be present if the assistance is not terminated or the tenant is not evicted; or

(iv) to supersede any provision of any Federal, State, or local law that provides greater protection than this section for victims of domestic violence, dating violence, sexual assault, or stalking.

(c) DOCUMENTATION.—

(1) REQUEST FOR DOCUMENTATION.—If an applicant for, or tenant of, housing assisted under a covered housing program represents to a public housing agency or owner or manager of the housing that the individual is entitled to protection under subsection (b), the public housing agency or owner or manager may request, in writing, that the applicant or tenant submit to the public housing agency or owner or manager a form of documentation described in paragraph (3).

(2) FAILURE TO PROVIDE CERTIFICATION.—

(A) IN GENERAL.—If an applicant or tenant does not provide the documentation requested under paragraph (1) within 14 business days after the tenant receives a request in writing for such certification from a public housing agency or owner or manager of housing assisted under a covered housing program, nothing in this chapter may be construed to limit the authority of the public housing agency or owner or manager to—

(i) deny admission by the applicant or tenant to the covered program;

(ii) deny assistance under the covered program to the applicant or tenant;

(iii) terminate the participation of the applicant or tenant in the covered program; or

(iv) evict the applicant, the tenant, or a lawful occupant that commits violations of a lease.

(B) EXTENSION.—A public housing agency or owner or manager of housing may extend the 14-day deadline under subparagraph (A) at its discretion.

(3) FORM OF DOCUMENTATION.—A form of documentation described in this paragraph is—

(A) a certification form approved by the appropriate agency that—

(i) states that an applicant or tenant is a victim of domestic violence, dating violence, sexual assault, or stalking;

(ii) states that the incident of domestic violence, dating violence, sexual assault, or stalking that is the ground for protection under subsection (b) meets the requirements under subsection (b); and

(iii) includes the name of the individual who committed the domestic violence, dating violence, sexual assault, or stalking, if the name is known and safe to provide;

(B) a document that—

(i) is signed by—

(I) an employee, agent, or volunteer of a victim service provider, an attorney, a medical professional, or a mental health professional from whom an applicant or tenant has sought assistance relating to domestic violence, dating violence, sexual assault, or stalking, or the effects of the abuse; and

(II) the applicant or tenant; and

(ii) states under penalty of perjury that the individual described in clause (i)(I) believes that the incident of domestic violence, dating violence, sexual assault, or stalking that is the ground for protection under subsection (b) meets the requirements under subsection (b);

(C) a record of a Federal, State, tribal, territorial, or local law enforcement agency, court, or administrative agency; or

(D) at the discretion of a public housing agency or owner or manager of housing assisted under a covered housing program, a statement or other evidence provided by an applicant or tenant.

(4) CONFIDENTIALITY.—Any information submitted to a public housing agency or owner or manager under this subsection, including the fact that an individual is a victim of domestic violence, dating violence, sexual assault, or stalking shall be maintained in confidence by the public housing agency or owner or manager and may not be entered into any shared database or disclosed to any other entity or individual, except to the extent that the disclosure is—

(A) requested or consented to by the individual in writing;

(B) required for use in an eviction proceeding under subsection (b); or

(C) otherwise required by applicable law.

(5) DOCUMENTATION NOT REQUIRED.—Nothing in this subsection shall be construed to require a public housing agency or owner or manager of housing assisted under a covered housing program to request that an individual submit documentation of the status of the individual as a victim of domestic violence, dating violence, sexual assault, or stalking.

(6) COMPLIANCE NOT SUFFICIENT TO CONSTITUTE EVIDENCE OF UNREASONABLE ACT.—Compliance with subsection (b) by a public housing agency or owner or manager of housing assisted under a covered housing program based on documentation received under this subsection, shall not be sufficient to constitute evidence of an unreasonable act or omission by the public housing agency or owner or manager or an employee or agent of the public housing agency or owner or manager. Nothing in this paragraph shall be construed to limit the liability of a public housing agency or owner or manager of housing assisted under a covered housing program for failure to comply with subsection (b).

(7) RESPONSE TO CONFLICTING CERTIFICATION.—If a public housing agency or owner or manager of housing assisted under a covered housing program receives documentation under this subsection that contains conflicting information, the public housing agency or owner or manager may require an applicant or tenant to submit third-party documentation, as described in subparagraph (B), (C), or (D) of paragraph (3).

(8) PREEMPTION.—Nothing in this subsection shall be construed to supersede any provision of any Federal, State, or local law that provides greater protection than this subsection for victims of domestic violence, dating violence, sexual assault, or stalking.

(d) NOTIFICATION.—

(1) DEVELOPMENT.—The Secretary of Housing and Urban Development shall develop a notice of the rights of individuals under this section, including the right to confidentiality and the limits thereof.

(2) PROVISION.—Each public housing agency or owner or manager of housing assisted under a covered housing program shall provide the notice developed under paragraph (1), together with the form described in subsection (c)(3)(A), to an applicant for or tenants of housing assisted under a covered housing program—

(A) at the time the applicant is denied residency in a dwelling unit assisted under the covered housing program;

(B) at the time the individual is admitted to a dwelling unit assisted under the covered housing program;

(C) with any notification of eviction or notification of termination of assistance; and

(D) in multiple languages, consistent with guidance issued by the Secretary of Housing and Urban Development in accordance with Executive Order 13166 (42 U.S.C. 2000d-1 note; relating to access to services for persons with limited English proficiency).

(e) EMERGENCY TRANSFERS.—Each appropriate agency shall adopt a model emergency transfer plan for use by public housing agencies and owners or managers of housing assisted under covered housing programs that—

(1) allows tenants who are victims of domestic violence, dating violence, sexual assault, or talking to transfer to another available and safe dwelling unit assisted under a covered housing program if—

(A) the tenant expressly requests the transfer; and

(B)(i) the tenant reasonably believes that the tenant is threatened with imminent harm from further violence if the tenant remains within the same dwelling unit assisted under a covered housing program; or

(ii) in the case of a tenant who is a victim of sexual assault, the sexual assault occurred on the premises during the 90 day period preceding the request for transfer; and

(2) incorporates reasonable confidentiality measures to ensure that the public housing agency or owner or manager does not disclose the location of the dwelling unit of a tenant to a person that commits an act of domestic violence, dating violence, sexual assault, or stalking against the tenant.

(f) POLICIES AND PROCEDURES FOR EMERGENCY TRANSFER.—The Secretary of Housing and Urban Development shall establish policies and procedures under which a victim requesting an emergency transfer under subsection (e) may receive, subject to the availability of tenant protection vouchers, assistance under section 8(o) of the United States Housing Act of 1937 (42 U.S.C. 1437f(o)).

(g) IMPLEMENTATION.—The appropriate agency with respect to each covered housing program shall implement this section, as this section applies to the covered housing program.

END OF STATUTE

WORKFORCE DEVELOPMENT

WORKFORCE INNOVATION AND OPPORTUNITY ACT
[Public Law 113-128; 128 Stat. 1568]

* * * * *

Sec. 121. [29 U.S.C. 3151]
ESTABLISHMENT OF ONE-STOP DELIVERY SYSTEMS.

(a) IN GENERAL.—Consistent with an approved State plan, the local board for a local area, with the agreement of the chief elected official for the local area, shall—

(1) develop and enter into the memorandum of understanding described in subsection (c) with one-stop partners;

(2) designate or certify one-stop operators under subsection (d); and

(3) conduct oversight with respect to the one-stop delivery system in the local area.

(b) ONE-STOP PARTNERS.—

(1) REQUIRED PARTNERS.—

(A) ROLES AND RESPONSIBILITIES OF ONE-STOP PARTNERS.—Each entity that carries out a program or activities described in subparagraph (B) in a local area shall—

(i) provide access through the one-stop delivery system to such program or activities carried out by the entity, including making the career services described in section 134(c)(2) that are applicable to the program or activities available at the one-stop centers (in addition to any other appropriate locations);

(ii) use a portion of the funds available for the program and activities to maintain the one-stop delivery system, including payment of the infrastructure costs of one-stop centers in accordance with subsection (h);

(iii) enter into a local memorandum of understanding with the local board, relating to the operation of the one-stop system, that meets the requirements of subsection (c);

(iv) participate in the operation of the one-stop system consistent with the terms of the memorandum of understanding, the requirements of this title, and the requirements of the Federal laws authorizing the program or activities; and

(v) provide representation on the State board to the extent provided under section 101.

(B) PROGRAMS AND ACTIVITIES.—The programs and activities referred to in subparagraph (A) consist of—

(i) programs authorized under this title;

(ii) programs authorized under the Wagner-Peyser Act (29 U.S.C. 49 et seq.);

(iii) adult education and literacy activities authorized under title II;

(iv) programs authorized under title I of the Rehabilitation Act of 1973 (29 U.S.C. 720 et seq.) (other than section 112 or part C of title I of such Act (29 U.S.C. 732, 741);

(v) activities authorized under title V of the Older Americans Act of 1965 (42 U.S.C. 3056 et seq.);

(vi) career and technical education programs at the postsecondary level authorized under the Carl D. Perkins Career and Technical Education Act of 2006 (20 U.S.C. 2301 et seq.);

(vii) activities authorized under chapter 2 of title II of the Trade Act of 1974 (19 U.S.C. 2271 et seq.);

(viii) activities authorized under chapter 41 of title 38, United States Code;

(ix) employment and training activities carried out under the Community Services Block Grant Act (42 U.S.C. 9901 et seq.);

(x) employment and training activities carried out by the Department of Housing and Urban Development;

(xi) programs authorized under State unemployment compensation laws (in accordance with applicable Federal law);

(xii) programs authorized under section 212 of the Second Chance Act of 2007 (42 U.S.C. 17532); and

(xiii) programs authorized under part A of title IV of the Social Security Act (42 U.S.C. 601 et seq.), subject to subparagraph (C).

(C) DETERMINATION BY THE GOVERNOR.—

(i) IN GENERAL.—An entity that carries out a program referred to in subparagraph (B)(xiii) shall be included in the one-stop partners for the local area, as a required partner, for purposes of this Act and the other core program provisions that are not part of this Act, unless the Governor provides the notification described in clause (ii).

(ii) NOTIFICATION.—The notification referred to in clause (i) is a notification that—

(I) is made in writing of a determination by the Governor not to include such entity in the one-stop partners described in clause (i); and

(II) is provided to the Secretary of Labor (referred to in this subtitle, and subtitles C through E, as the ‘‘Secretary’’) and the Secretary of Health and Human Services.

(2) ADDITIONAL PARTNERS.—

(A) IN GENERAL.—With the approval of the local board and chief elected official, in addition to the entities described in paragraph (1), other entities that carry out workforce development programs described in subparagraph (B) may be one-stop partners for the local area and carry out the responsibilities described in paragraph (1)(A).

(B) PROGRAMS.—The programs referred to in subparagraph (A) may include—

(i) employment and training programs administered by the Social Security Administration, including the Ticket to Work and Self-Sufficiency Program established under section 1148 of the Social Security Act (42 U.S.C. 1320b–19);

(ii) employment and training programs carried out by the Small Business Administration;

(iii) programs authorized under section 6(d)(4) of the Food and Nutrition Act of 2008 (7 U.S.C. 2015(d)(4));

(iv) work programs authorized under section 6(o) of the Food and Nutrition Act of 2008 (7 U.S.C. 2015(o));

(v) programs carried out under section 112 of the Rehabilitation Act of 1973 (29 U.S.C. 732);

(vi) programs authorized under the National and Community Service Act of 1990 (42 U.S.C. 12501 et seq.); and

(vii) other appropriate Federal, State, or local programs, including employment, education, and training programs provided by public libraries or in the private sector.

(c) MEMORANDUM OF UNDERSTANDING.—

(1) DEVELOPMENT.—The local board, with the agreement of the chief elected official, shall develop and enter into a memorandum of understanding (between the local board and the one-stop partners), consistent with paragraph (2), concerning the operation of the one-stop delivery system in the local area.

(2) CONTENTS.—Each memorandum of understanding shall contain—

(A) provisions describing—

(i) the services to be provided through the one-stop delivery system consistent with the requirements of this section, including the manner in which the services will be coordinated and delivered through such system;

(ii) how the costs of such services and the operating costs of such system will be funded, including—

(I) funding through cash and in-kind contributions (fairly evaluated), which contributions may include funding from philanthropic organizations or other private entities, or through other alternative financing options, to provide a stable and equitable funding stream for ongoing one-stop delivery system operations; and

(II) funding of the infrastructure costs of one-stop centers in accordance with subsection (h);

(iii) methods of referral of individuals between the one-stop operator and the one-stop partners for appropriate services and activities;

(iv) methods to ensure the needs of workers and youth, and individuals with barriers to employment, including individuals with disabilities, are addressed in the provision of necessary and appropriate access to services, including access to technology and materials, made available through the one-stop delivery system; and

(v) the duration of the memorandum of understanding and the procedures for amending the memorandum during the duration of the memorandum, and assurances that such memorandum shall be reviewed not less than once every 3-year period to ensure appropriate funding and delivery of services; and

(B) such other provisions, consistent with the requirements of this title, as the parties to the agreement determine to be appropriate.

(d) ONE-STOP OPERATORS.—

(1) LOCAL DESIGNATION AND CERTIFICATION.—Consistent with paragraphs (2) and (3), the local board, with the agreement of the chief elected official, is authorized to designate or certify one-stop operators and to terminate for cause the eligibility of such operators.

(2) ELIGIBILITY.—To be eligible to receive funds made available under this subtitle to operate a one-stop center referred to in subsection (e), an entity (which may be a consortium of entities)—

(A) shall be designated or certified as a one-stop operator through a competitive process; and

(B) shall be an entity (public, private, or nonprofit), or consortium of entities (including a consortium of entities that, at a minimum, includes 3 or more of the one-stop partners described in subsection (b)(1)), of demonstrated effectiveness, located in the local area, which may include—

(i) an institution of higher education;

(ii) an employment service State agency established under the Wagner-Peyser Act (29 U.S.C. 49 et seq.), on behalf of the local office of the agency;

(iii) a community-based organization, nonprofit organization, or intermediary;

(iv) a private for-profit entity;

(v) a government agency; and

(vi) another interested organization or entity, which may include a local chamber of commerce or other business organization, or a labor organization.

(3) EXCEPTION.—Elementary schools and secondary schools shall not be eligible for designation or certification as one-stop operators, except that nontraditional public secondary schools and area career and technical education schools may be eligible for such designation or certification.

(4) ADDITIONAL REQUIREMENTS.—The State and local boards shall ensure that in carrying out activities under this title, one-stop operators—

(A) disclose any potential conflicts of interest arising from the relationships of the operators with particular training service providers or other service providers;

(B) do not establish practices that create disincentives to providing services to individuals with barriers to employment who may require longer-term services, such as intensive employment, training, and education services; and

(C) comply with Federal regulations, and procurement policies, relating to the calculation and use of profits.

(e) ESTABLISHMENT OF ONE-STOP DELIVERY SYSTEM.—

(1) IN GENERAL.—There shall be established in each local area in a State that receives an allotment under section 132(b) a one-stop delivery system, which shall—

(A) provide the career services described in section 134(c)(2);

(B) provide access to training services as described in section 134(c)(3), including serving as the point of access to training services for participants in accordance with section 134(c)(3)(G);

(C) provide access to the employment and training activities carried out under section 134(d), if any;

(D) provide access to programs and activities carried out by one-stop partners described in subsection (b); and

(E) provide access to the data, information, and analysis described in section 15(a) of the Wagner-Peyser Act (29 U.S.C. 49l–2(a)) and all job search, placement, recruitment, and other labor exchange services authorized under the Wagner-Peyser Act (29 U.S.C. 49 et seq.).

(2) ONE-STOP DELIVERY.—The one-stop delivery system—

(A) at a minimum, shall make each of the programs, services, and activities described in paragraph (1) accessible at not less than 1 physical center in each local area of the State; and

(B) may also make programs, services, and activities described in paragraph (1) available—

(i) through a network of affiliated sites that can provide 1 or more of the programs, services, and activities to individuals; and

(ii) through a network of eligible one-stop partners—

(I) in which each partner provides 1 or more of the programs, services, and activities to such individuals and is accessible at an affiliated site that consists of a physical location or an electronically or technologically linked access point; and

(II) that assures individuals that information on the availability of the career services will be available regardless of where the individuals initially enter the statewide workforce development system, including information made available through an access point described in subclause (I);

(C) may have specialized centers to address special needs, such as the needs of dislocated workers, youth, or key industry sectors or clusters; and

(D) as applicable and practicable, shall make programs, services, and activities accessible to individuals through electronic means in a manner that improves efficiency, coordination, and quality in the delivery of one-stop partner services.

(3) COLOCATION OF WAGNER-PEYSER SERVICES.—Consistent with section 3(d) of the Wagner-Peyser Act (29 U.S.C. 49b(d)), and in order to improve service delivery, avoid duplication of services, and enhance coordination of services, including location of staff to ensure access to services in underserved areas, the employment service offices in each State shall be co-located with one-stop centers established under this title.

(4) USE OF COMMON ONE-STOP DELIVERY SYSTEM IDENTIFIER.—In addition to using any State or locally developed identifier, each one-stop delivery system shall include in the identification of products, programs, activities, services, facilities, and related property and materials, a common one-stop delivery system identifier. The identifier shall be developed by the Secretary, in consultation with heads of other appropriate departments and agencies, and representatives of State boards and local boards and of other stakeholders in the one-stop delivery system, not later than the beginning of the second full program year after the date of enactment of this Act. Such common identifier may consist of a logo, phrase, or other identifier that informs users of the one-stop delivery system that such products, programs, activities, services, facilities, property, or materials are being provided through such system. Nothing in this paragraph shall be construed to prohibit one-stop partners, States, or local areas from having additional identifiers.

(f) APPLICATION TO CERTAIN VOCATIONAL REHABILITATION PROGRAMS.—

(1) LIMITATION.—Nothing in this section shall be construed to apply to part C of title I of the Rehabilitation Act of 1973 (29 U.S.C. 741).

(2) CLIENT ASSISTANCE.—Nothing in this Act shall be construed to require that any entity carrying out a client assistance program authorized under section 112 of the Rehabilitation Act of 1973 (29 U.S.C. 732)—

(A) be included as a mandatory one-stop partner under subsection (b)(1); or

(B) if the entity is included as an additional one-stop partner under subsection (b)(2)—

(i) violate the requirement of section 112(c)(1)(A) of that Act (29 U.S.C. 732(c)(1)(A)) that the entity be independent of any agency that provides treatment, services, or rehabilitation to individuals under that Act; or

(ii) carry out any activity not authorized under section 112 of that Act (including appropriate Federal regulations).

(g) CERTIFICATION AND CONTINUOUS IMPROVEMENT OF ONE-STOP CENTERS.—

(1) IN GENERAL.—In order to be eligible to receive infrastructure funding described in subsection (h), the State board, in consultation with chief elected officials and local boards, shall establish

objective criteria and procedures for use by local boards in assessing at least once every 3 years the effectiveness, physical and programmatic accessibility in accordance with section 188, if applicable, and the Americans with Disabilities Act of 1990 (42 U.S.C. 12101 et seq.), and continuous improvement of one-stop centers and the one-stop delivery system, consistent with the requirements of section 101(d)(6).

(2) CRITERIA.—The criteria and procedures developed under this subsection shall include standards relating to service coordination achieved by the one-stop delivery system with respect to the programs administered by the one-stop partners at the one-stop centers. Such criteria and procedures shall—

(A) be developed in a manner that is consistent with the guidelines, guidance, and policies provided by the Governor and by the State board, in consultation with the chief elected officials and local boards, for such partners' participation under subsections (h)(1) and (i); and

(B) include such factors relating to the effectiveness, accessibility, and improvement of the one-stop delivery system as the State board determines to be appropriate, including at a minimum how well the one-stop center—

(i) supports the achievement of the negotiated local levels of performance for the indicators of performance described in section 116(b)(2) for the local area;

(ii) integrates available services; and

(iii) meets the workforce development and employment needs of local employers and participants.

(3) LOCAL CRITERIA.—Consistent with the criteria developed under paragraph (1) by the State, a local board in the State may develop additional criteria (or higher levels of service coordination than required for the State-developed criteria) relating to service coordination achieved by the one-stop delivery system, for purposes of assessments described in paragraph (1), in order to respond to labor market, economic, and demographic, conditions and trends in the local area.

(4) EFFECT OF CERTIFICATION.—One-stop centers certified under this subsection shall be eligible to receive the infrastructure funding described in subsection (h).

(5) REVIEW AND UPDATE.—The criteria and procedures established under this subsection shall be reviewed and updated by the State board or the local board, as the case may be, as part of the biennial process for review and modification of State and local plans described in sections 102(c)(2) and 108(a).

(h) FUNDING OF ONE-STOP INFRASTRUCTURE.—

(1) IN GENERAL.—

(A) OPTIONS FOR INFRASTRUCTURE FUNDING.—

(i) LOCAL OPTIONS.—The local board, chief elected officials, and one-stop partners described in subsection (b)(1) in a local area may fund the costs of infrastructure of one-stop centers in the local area through—

(I) methods agreed on by the local board, chief elected officials, and one-stop partners (and described in the memorandum of understanding described in subsection (c)); or

(II) if no consensus agreement on methods is reached under subclause (I), the State infrastructure funding mechanism described in paragraph (2).

(ii) FAILURE TO REACH CONSENSUS AGREEMENT ON FUNDING METHODS.—Beginning July 1, 2016, if the local board, chief elected officials, and one-stop partners described in subsection (b)(1) in a local area fail to reach consensus agreement on methods of sufficiently funding the costs of infrastructure of one-stop centers for a program year, the State infrastructure funding mechanism described in paragraph (2) shall be applicable to such local area for that program year and for each subsequent program year for which those entities and individuals fail to reach such agreement.

(B) GUIDANCE FOR INFRASTRUCTURE FUNDING.—In addition to carrying out the requirements relating to the State infrastructure funding mechanism described in paragraph (2), the Governor, after consultation with chief elected officials, local boards, and the State board, and consistent with the guidance and policies provided by the State board under subparagraphs (B) and (C)(i) of section 101(d)(7), shall provide, for the use of local areas under subparagraph (A)(i)(I)—

(i) guidelines for State-administered one-stop partner programs, for determining such programs' contributions to a one-stop delivery system, based on such programs'

proportionate use of such system consistent with chapter II of title 2, Code of Federal Regulations (or any corresponding similar regulation or ruling), including determining funding for the costs of infrastructure, which contributions shall be negotiated pursuant to the memorandum of understanding under subsection (c); and

(ii) guidance to assist local boards, chief elected officials, and one-stop partners in local areas in determining equitable and stable methods of funding the costs of infrastructure of one-stop centers in such areas.

(2) STATE ONE-STOP INFRASTRUCTURE FUNDING.— (A) DEFINITION.—In this paragraph, the term ‘‘covered portion’’, used with respect to funding for a fiscal year for a program described in subsection (b)(1), means a portion determined under subparagraph (C) of the Federal funds provided to a State (including local areas within the State) under the Federal law authorizing that program described in subsection (b)(1) for the fiscal year (taking into account the availability of funding for purposes related to infrastructure from philanthropic organizations, private entities, or other alternative financing options).

(B) PARTNER CONTRIBUTIONS.—Subject to subparagraph (D), for local areas in a State that are not covered by paragraph (1)(A)(i)(I), the covered portions of funding for a fiscal year shall be provided to the Governor from the programs described in subsection (b)(1), to assist in paying the costs of infrastructure of one-stop centers in those local areas of the State not adequately funded under the option described in paragraph (1)(A)(i)(I).

(C) DETERMINATION OF GOVERNOR.—

(i) IN GENERAL.—Subject to clause (ii) and subparagraph (D), the Governor, after consultation with chief elected officials, local boards, and the State board, shall determine the portion of funds to be provided under subparagraph (B) by each one-stop partner from each program described in subparagraph (B). In making such determination for the purpose of determining funding contributions, for funding pursuant to clause (i)(II) or (ii) of paragraph (1)(A) by each partner, the Governor shall calculate amounts for the proportionate use of the one-stop centers in the State, consistent with chapter II of title 2, Code of Federal Regulations (or any corresponding similar regulation or ruling), taking into account the costs of administration of the one-stop delivery system for purposes not related to one-stop centers, for each partner. The Governor shall exclude from such determination of funds the amounts for proportionate use of one-stop centers attributable to the programs of one-stop partners for those local areas of the State where the costs of infrastructure of one-stop centers are funded under the option described in paragraph (1)(A)(i)(I). The Governor shall also take into account the statutory requirements for each partner program and the partner program’s ability to fulfill such requirements.

(ii) SPECIAL RULE.—In a State in which the State constitution or a State statute places policymaking authority that is independent of the authority of the Governor in an entity or official with respect to the funds provided for adult education and literacy activities authorized under title II, postsecondary career and technical education activities authorized under the Carl D. Perkins Career and Technical Education Act of 2006 (20 U.S.C. 2301 et seq.), or vocational rehabilitation services offered under a provision covered by section 3(13)(D), the determination described in clause (i) with respect to the programs authorized under that title, Act, or provision shall be made by the chief officer of the entity, or the official, with such authority in consultation with the Governor.

(D) LIMITATIONS.—

(i) PROVISION FROM ADMINISTRATIVE FUNDS.—

(I) IN GENERAL.—Subject to subclause (II), the funds provided under this paragraph by each onestop partner shall be provided only from funds available for the costs of administration under the program administered by such partner, and shall be subject to the program’s limitations with respect to the portion of funds under such program that may be used for administration.

(II) EXCEPTIONS.—Nothing in this clause shall be construed to apply to the programs carried out under this title, or under title V of the Older Americans Act of 1965 (42 U.S.C. 3056 et seq.).

(ii) CAP ON REQUIRED CONTRIBUTIONS.—For local areas in a State that are not covered by paragraph (1)(A)(i)(I), the following rules shall apply:

(I) WIA FORMULA PROGRAMS AND EMPLOYMENT SERVICE.—The portion of funds required to be contributed under this paragraph from a program authorized under chapter 2 or 3, or the WagnerPeyser Act (29 U.S.C. 49 et seq.) shall not exceed 3 percent of the amount of Federal funds provided to carry out that program in the State for a fiscal year.

(II) OTHER ONE-STOP PARTNERS.—The portion of funds required to be contributed under this paragraph from a program described in subsection (b)(1) other than the programs described in subclause (I) shall not exceed 1.5 percent of the amount of Federal funds provided to carry out that program in the State for a fiscal year.

(III) VOCATIONAL REHABILITATION.—Notwithstanding subclauses (I) and (II), an entity administering a program described in subsection (b)(1)(B)(iv) shall not be required to provide from that program, under this paragraph, a portion that exceeds—

(aa) 0.75 percent of the amount of Federal funds provided to carry out such program in the State for the second full program year that begins after the date of enactment of this Act;

(bb) 1.0 percent of the amount provided to carry out such program in the State for the third full program year that begins after such date;

(cc) 1.25 percent of the amount provided to carry out such program in the State for the fourth full program year that begins after such date; and

(dd) 1.5 percent of the amount provided to carry out such program in the State for the fifth and each succeeding full program year that begins after such date.

(iii) FEDERAL DIRECT SPENDING PROGRAMS.—For local areas in a State that are not covered by paragraph (1)(A)(i)(I), an entity administering a program funded with direct spending as defined in section 250(c)(8) of the Balanced Budget and Emergency Deficit Control Act of 1985, as in effect on February 15, 2014 (2 U.S.C. 900(c)(8)) shall not be required to provide, for purposes of this paragraph, an amount in excess of the amount determined under subparagraph (C)(i) to be equivalent to the cost of the proportionate use of the one-stop centers for the one-stop partner for such program in the State.

(iv) NATIVE AMERICAN PROGRAMS.—One-stop partners for Native American programs established under section 166 shall not be subject to the provisions of this subsection (other than this clause) or subsection (i). For purposes of subsection (c)(2)(A)(ii)(II), the method for determining the appropriate portion of funds to be provided by such partners to pay for the costs of infrastructure of a one-stop center shall be determined as part of the development of the memorandum of understanding under subsection (c) for the one-stop center and shall be stated in the memorandum.

(E) APPEAL BY ONE-STOP PARTNERS.—The Governor shall establish a process, described under section 102(b)(2)(D)(i)(IV), for a one-stop partner administering a program described in subsection (b)(1) to appeal a determination regarding the portion of funds to be provided under this paragraph. Such a determination may be appealed under the process on the basis that such determination is inconsistent with the requirements of this paragraph. Such process shall ensure prompt resolution of the appeal in order to ensure the funds are distributed in a timely manner, consistent with the requirements of section 182(e).

(3) ALLOCATION BY GOVERNOR.—

(A) IN GENERAL.—From the funds provided under paragraph (1), the Governor shall allocate the funds to local areas described in subparagraph (B) in accordance with the formula established under subparagraph (B) for the purposes of assisting in paying the costs of infrastructure of one-stop centers.

(B) ALLOCATION FORMULA.—The State board shall develop a formula to be used by the Governor to allocate the funds provided under paragraph (1) to local areas not funding costs of infrastructure under the option described in paragraph (1)(A)(i)(I). The formula shall be based on factors including the number of one-stop centers in a local area, the population served by such centers, the services provided by such centers, and other factors relating to the performance of such centers that the State board determines are appropriate.

(4) COSTS OF INFRASTRUCTURE.—In this subsection, the term ‘‘costs of infrastructure’’, used with respect to a onestop center, means the nonpersonnel costs that are necessary for the general operation of the one-stop center, including the rental costs of the facilities, the costs of utilities and maintenance, equipment (including assessment-related products and assistive technology for individuals with disabilities), and technology to facilitate access to the one-stop center, including the center’s planning and outreach activities.

(i) OTHER FUNDS.—

(1) IN GENERAL.—Subject to the memorandum of understanding described in subsection (c) for the one-stop delivery system involved, in addition to the funds provided to carry out subsection (h), a portion of funds made available under Federal law authorizing the programs described in subsection (b) and administered by one-stop partners, or the noncash resources available under such programs, shall be used to pay the additional costs relating to the operation of the one-stop delivery system that are not paid from the funds provided under subsection (h), as determined in accordance with paragraph (3), to the extent not inconsistent with the Federal law involved. Such costs shall include the costs of the provision of career services described in section 134(c)(2) applicable to each program and may include common costs that are not paid from the funds provided under subsection (h).

(2) SHARED SERVICES.—The costs described under paragraph (1) may include costs of services that are authorized for and may be commonly provided through the one-stop partner programs to any individual, such as initial intake, assessment of needs, appraisal of basic skills, identification of appropriate services to meet such needs, referrals to other one-stop partners, and other similar services.

(3) DETERMINATION AND GUIDANCE.—The method for determining the appropriate portion of funds and noncash resources to be provided by the one-stop partner for each program under paragraph (1) for a one-stop center shall be determined as part of the development of the memorandum of understanding under subsection (c) for the one-stop center and shall be stated in the memorandum. The State board shall provide guidance to facilitate the determination, for purposes of the memorandum of understanding, of an appropriate allocation of the funds and noncash resources in local areas, consistent with the requirements of section 101(d)(6)(C).

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Subtitle D—National Programs

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Sec. 169. [29 U.S.C. 3224]
EVALUATIONS AND RESEARCH.

(a) EVALUATIONS.

(1) EVALUATIONS OF PROGRAMS AND ACTIVITIES CARRIED OUT UNDER THIS TITLE.

(A) IN GENERAL.—For the purpose of improving the management and effectiveness of programs and activities carried out under this title , the Secretary, through grants, contracts, or cooperative agreements, shall provide for the continuing evaluation of the programs and activities under this title, including those programs and activities carried out under this section.

(B) PERIODIC INDEPENDENT EVALUATION.—The evaluations carried out under this paragraph shall include an independent evaluation, at least once every 4 years, of the programs and activities carried out under this title.

(2) EVALUATION SUBJECTS.—Each evaluation carried out under paragraph (1) shall address—

(A) the general effectiveness of such programs and activities in relation to their cost, including the extent to which the programs and activities—

(i) improve the employment competencies of participants in comparison to comparably-situated individuals who did not participate in such programs and activities; and

(ii) to the extent feasible, increase the level of total employment over the level that would have existed in the absence of such programs and activities;

(B) the effectiveness of the performance accountability measures relating to such programs and activities;

(C) the effectiveness of the structure and mechanisms for delivery of services through such programs and activities, including the coordination and integration of services through such programs and activities;

(D) the impact of such programs and activities on the community, businesses, and participants involved;

(E) the impact of such programs and activities on related programs and activities;

(F) the extent to which such programs and activities meet the needs of various demographic groups; and

(G) such other factors as may be appropriate.

(3) EVALUATIONS OF OTHER PROGRAMS AND ACTIVITIES.—The Secretary may conduct evaluations of other federally funded employment-related programs and activities under other provisions of law.

(4) TECHNIQUES.—Evaluations conducted under this subsection shall utilize appropriate and rigorous methodology and research designs, including the use of control groups chosen by scientific random assignment methodologies. The Secretary shall conduct at least 1 multisite control group evaluation under this subsection by the end of fiscal year 2019, and thereafter shall ensure that such an analysis is included in the independent evaluation described in paragraph (1)(B) that is conducted at least once every 4 years.

(5) REPORTS.—The entity carrying out an evaluation described in paragraph (1) or (2) shall prepare and submit to the Secretary a draft report and a final report containing the results of the evaluation.

(6) REPORTS TO CONGRESS.—Not later than 30 days after the completion of a draft report under paragraph (5), the Secretary shall transmit the draft report to the Committee on Education and the Workforce of the House of Representatives and the Committee on Health, Education, Labor and Pensions of the Senate. Not later than 60 days after the completion of a final report under such paragraph, the Secretary shall transmit the final report to such committees.

(7) PUBLIC AVAILABILITY.—Not later than 30 days after the date the Secretary transmits the final report as described in paragraph (6), the Secretary shall make that final report available to the general public on the Internet, on the Web site of the Department of Labor.

(8) PUBLICATION OF REPORTS.—If an entity that enters into a contract or other arrangement with the Secretary to conduct an evaluation of a program or activity under this subsection requests permission from the Secretary to publish a report resulting from the evaluation, such entity may publish the report unless the Secretary denies the request during the 90-day period beginning on the date the Secretary receives such request.

(9) COORDINATION.—The Secretary shall ensure the coordination of evaluations carried out by States pursuant to section 116(e) with the evaluations carried out under this subsection.

(b) Research, studies, and multistate projects.

(1) IN GENERAL.—After consultation with States, localities, and other interested parties, the Secretary shall, every 2 years, publish in the Federal Register, a plan that describes the research, studies, and multistate project priorities of the Department of Labor concerning employment and training for the 5-year period following the submission of the plan. The plan shall be consistent with the purposes of this title, including the purpose of aligning and coordinating core programs with other one-stop partner programs. Copies of the plan shall be transmitted to the Committee on Education and the Workforce of the House of Representatives, the Committee on Health, Education, Labor, and Pensions of the Senate, the Department of Education, and other relevant Federal agencies.

(2) FACTORS.—The plan published under paragraph (1) shall contain strategies to address national employment and training problems and take into account factors such as—

(A) the availability of existing research (as of the date of the publication);

(B) the need to ensure results that have interstate validity;

(C) the benefits of economies of scale and the efficiency of proposed projects; and

(D) the likelihood that the results of the projects will be useful to policymakers and stakeholders in addressing employment and training problems.

(3) RESEARCH PROJECTS.—The Secretary shall, through grants or contracts, carry out research projects that will contribute to the solution of employment and training problems in the United States and that are consistent with the priorities specified in the plan published under paragraph (1).

(4) STUDIES AND REPORTS.

(A) NET IMPACT STUDIES AND REPORTS.—The Secretary of Labor, in coordination with the Secretary of Education and other relevant Federal agencies, may conduct studies to determine the net impact and best practices of programs, services, and activities carried out under this Act.

(B) STUDY ON RESOURCES AVAILABLE TO ASSIST DISCONNECTED YOUTH.—The Secretary of Labor, in coordination with the Secretary of Education, may conduct a study examining the characteristics of eligible youth that result in such youth being significantly disconnected from education and workforce participation, the ways in which such youth could have greater opportunities for education attainment and obtaining employment, and the resources available to assist such youth in obtaining the skills, credentials, and work experience necessary to become economically self-sufficient.

(C) STUDY OF EFFECTIVENESS OF WORKFORCE DEVELOPMENT SYSTEM IN MEETING BUSINESS NEEDS.—Using funds available to carry out this subsection jointly with funds available to the Secretary of Commerce, the Administrator of the Small Business Administration, and the Secretary of Education, the Secretary of Labor, in coordination with the Secretary of Commerce, the Administrator of the Small Business Administration, and the Secretary of Education, may conduct a study of the effectiveness of the workforce development system in meeting the needs of business, such as through the use of industry or sector partnerships, with particular attention to the needs of small business, including in assisting workers to obtain the skills needed to utilize emerging technologies.

(D) STUDY ON PARTICIPANTS ENTERING NONTRADITIONAL OCCUPATIONS.—The Secretary of Labor, in coordination with the Secretary of Education, may conduct a study examining the number and percentage of individuals who receive employment and training activities and who enter nontraditional occupations, successful strategies to place and support the retention of individuals in nontraditional employment (such as by providing post-placement assistance to participants in the form of exit interviews, mentoring, networking, and leadership development), and the degree to which recipients of employment and training activities are informed of the possibility of, or directed to begin, training or education needed for entrance into nontraditional occupations.

(E) STUDY ON PERFORMANCE INDICATORS.—The Secretary of Labor, in coordination with the Secretary of Education, may conduct studies to determine the feasibility of, and potential means to replicate, measuring the compensation, including the wages, benefits, and other incentives provided by an employer, received by program participants by using data other than or in addition to data available through wage records, for potential use as a performance indicator.

(F) STUDY ON JOB TRAINING FOR RECIPIENTS OF PUBLIC HOUSING ASSISTANCE.—The Secretary of Labor, in coordination with the Secretary of Housing and Urban Development, may conduct studies to assist public housing authorities to provide, to recipients of public housing assistance, job training programs that successfully upgrade job skills and employment in, and access to, jobs with opportunity for advancement and economic self-sufficiency for such recipients.

(G) STUDY ON IMPROVING EMPLOYMENT PROSPECTS FOR OLDER INDIVIDUALS.—The Secretary of Labor, in coordination with the Secretary of Education and the Secretary of Health and Human Services, may conduct studies that lead to better design and implementation of, in conjunction with employers, local boards or State boards, community colleges or area career and technical education schools, and other organizations, effective evidence-based strategies to provide services to workers who are low-income, low-skilled older individuals that increase the workers" skills and employment prospects.

(H) STUDY ON PRIOR LEARNING.—The Secretary of Labor, in coordination with other heads of Federal agencies, as appropriate, may conduct studies that, through convening

stakeholders from the fields of education, workforce, business, labor, defense, and veterans services, and experts in such fields, develop guidelines for assessing, accounting for, and utilizing the prior learning of individuals, including dislocated workers and veterans, in order to provide the individuals with postsecondary educational credit for such prior learning that leads to the attainment of a recognized postsecondary credential identified under section 122(d) [29 USCS § 3152(d)] and employment.

(I) STUDY ON CAREER PATHWAYS FOR HEALTH CARE PROVIDERS AND PROVIDERS OF EARLY EDUCATION AND CHILD CARE.—The Secretary of Labor, in coordination with the Secretary of Education and the Secretary of Health and Human Services, shall conduct a multistate study to develop, implement, and build upon career advancement models and practices for low-wage health care providers or providers of early education and child care, including faculty education and distance education programs.

(J) STUDY ON EQUIVALENT PAY.—The Secretary shall conduct a multistate study to develop and disseminate strategies for ensuring that programs and activities carried out under this Act are placing individuals in jobs, education, and training that lead to equivalent pay for men and women, including strategies to increase the participation of women in high-wage, high-demand occupations in which women are underrepresented.

(K) REPORTS.—The Secretary shall prepare and disseminate to the Committee on Health, Education, Labor, and Pensions of the Senate and the Committee on Education and the Workforce of the House of Representatives, and to the public, including through electronic means, reports containing the results of the studies conducted under this paragraph.

(5) MULTISTATE PROJECTS.

(A) AUTHORITY.—The Secretary may, through grants or contracts, carry out multistate projects that require demonstrated expertise that is available at the national level to effectively disseminate best practices and models for implementing employment and training services, address the specialized employment and training needs of particular service populations, or address industry-wide skill shortages, to the extent such projects are consistent with the priorities specified in the plan published under paragraph (1).

(B) DESIGN OF GRANTS.—Agreements for grants or contracts awarded under this paragraph shall be designed to obtain information relating to the provision of services under different economic conditions or to various demographic groups in order to provide guidance at the national and State levels about how best to administer specific employment and training services.

(6) LIMITATIONS.

(A) COMPETITIVE AWARDS.—A grant or contract awarded for carrying out a project under this subsection in an amount that exceeds $ 100,000 shall be awarded only on a competitive basis, except that a noncompetitive award may be made in the case of a project that is funded jointly with other public or private sector entities that provide a substantial portion of assistance under the grant or contract for the project.

(B) TIME LIMITS.—A grant or contract shall not be awarded under this subsection to the same organization for more than 3 consecutive years unless such grant or contract is competitively reevaluated within such period.

(C) PEER REVIEW.

(i) IN GENERAL.—The Secretary shall utilize a peer review process—

(I) to review and evaluate all applications for grants in amounts that exceed $ 500,000 that are submitted under this section; and

(II) to review and designate exemplary and promising programs under this section.

(ii) AVAILABILITY OF FUNDS.—The Secretary is authorized to use funds provided under this section to carry out peer review activities under this subparagraph.

(D) PRIORITY.—In awarding grants or contracts under this subsection, priority shall be provided to entities with recognized expertise in the methods, techniques, and knowledge of workforce investment activities. The Secretary shall establish appropriate time limits for the duration of such projects.

(c) DISLOCATED WORKER PROJECTS.—Of the amount made available pursuant to section 132(a)(2)(A) for any program year, the Secretary shall use not more than 10 percent of such amount to carry out

demonstration and pilot projects, multiservice projects, and multistate projects relating to the employment and training needs of dislocated workers. Of the requirements of this section, such projects shall be subject only to the provisions relating to review and evaluation of applications under subsection (b)(6)(C). Such projects may include demonstration and pilot projects relating to promoting self-employment, promoting job creation, averting dislocations, assisting dislocated farmers, assisting dislocated fishermen, and promoting public works. Such projects shall be administered by the Secretary, acting through the Assistant Secretary for Employment and Training.

END OF STATUTE

PROTECTING TENANTS AT FORECLOSURE

PROTECTING TENANTS AT FORECLOSURE ACT OF 2010[740]
[Public Law 111-22; 123 Stat. 1632]

Sec. 701.
SHORT TITLE.

This title may be cited as the "Protecting Tenants at Foreclosure Act of 2009".

Sec. 702. [12 U.S.C. 5220 note]
EFFECT OF FORECLOSURE ON PREEXISTING TENANCY.

(a) IN GENERAL. —In the case of any foreclosure on a federally-related mortgage loan or on any dwelling or residential real property after the date of enactment of this title,[741] any immediate successor in interest in such property pursuant to the foreclosure shall assume such interest subject to—

(1) the provision, by such successor in interest of a notice to vacate to any bona fide tenant at least 90 days before the effective date of such notice; and

(2) the rights of any bona fide tenant—

(A) under any bona fide lease entered into before the notice of foreclosure to occupy the premises until the end of the remaining term of the lease, except that a successor in interest may terminate a lease effective on the date of sale of the unit to a purchaser who will occupy the unit as a primary residence, subject to the receipt by the tenant of the 90 day notice under paragraph (1); or

(B) without a lease or with a lease terminable at will under state law, subject to the receipt by the tenant of the 90 day notice under subsection (1),

except that nothing under this section shall affect the requirements for termination of any Federal- or State-subsidized tenancy or of any State or local law that provides longer time periods or other additional protections for tenants.

(b) BONA FIDE LEASE OR TENANCY.—For purposes of this section, a lease or tenancy shall be considered bona fide only if—

(1) the mortgagor or the child, spouse, or parent of the mortgagor under the contract is not the tenant;

(2) the lease or tenancy was the result of an arms-length transaction; and

(3) the lease or tenancy requires the receipt of rent that is not substantially less than fair market rent for the property or the unit's rent is reduced or subsidized due to a Federal, State, or local subsidy.

(c) DEFINITION.—For purposes of this section, the term 'federally-related mortgage loan' has the same meaning as in section 3 of the Real Estate Settlement Procedures Act of 1974 (12 U.S.C. 2602). For purposes of this section, the date of a notice of foreclosure shall be deemed to be the date on which complete title to a property is transferred to a successor entity or person as a result of an order of a court or pursuant to provisions in a mortgage, deed of trust, or security deed.

[740] Enacted as Title VII of the Helping Families Save Their Home Act of 2010
[741] May 20, 2009.

Sec. 703.
EFFECT OF FORECLOSURE ON SECTION 8 TENANCIES.

Section 8(o)(7) of the United States Housing Act of 1937 (42 U.S.C. 1437f(o)(7)) is amended—

* * * * * * *

Sec. 704.
SUNSET.

This title, and any amendments made by this title are repealed, and the requirements under this title shall terminate, on December 31, 2012.

END OF STATUTE

RELOCATION ASSISTANCE

UNIFORM RELOCATION ASSISTANCE AND REAL PROPERTY ACQUISITION POLICIES ACT OF 1970 [Public Law 91-646; 84 Stat. 1894]

TITLE I—GENERAL PROVISIONS

Sec. 101. [42 U.S.C. 4601]

As used in this Act—

(1) The term "Federal agency" means any department, agency, or instrumentality in the executive branch of the Government, any wholly owned Government corporation, the Architect of the Capitol, the Federal Reserve banks and branches thereof, and any person who has the authority to acquire property by eminent domain under Federal law.

(2) The term "State" means any of the several States of the United States, the District of Columbia, the Commonwealth of Puerto Rico, any territory or possession of the United States, the Trust Territory of the Pacific Islands, and any political subdivision thereof.

(3) The term "State agency" means any department, agency, or instrumentality of a State or of a political subdivision of a State, any department, agency, or instrumentality of 2 or more States or of 2 or more political subdivisions of a State or States, and any person who has the authority to acquire property by eminent domain under State law.

(4) The term "Federal financial assistance" means a grant, loan, or contribution provided by the United States, except any Federal guarantee or insurance, any interest reduction payment to an individual in connection with the purchase and occupancy of a residence by that individual, and any annual payment or capital loan to the District of Columbia.

(5) The term "person" means any individual, partnership, corporation, or association.

(6)(A) The term "displaced person" means, except as provided in subparagraph (B)—

(i) any person who moves from real property, or moves his personal property from real property—

(I) as a direct result of a written notice of intent to acquire or the acquisition of such real property in whole or in part for a program or project undertaken by a Federal agency or with Federal financial assistance; or

(II) on which such person is a residential tenant or conducts a small business, a farm operation, or a business defined in section 101(7)(D) [para. (7)(D) of this section], as a direct result of rehabilitation, demolition, or such other displacing activity as the lead agency may prescribe, under a program or project undertaken by a Federal agency or with Federal financial assistance in any case in which the head of the displacing agency determines that such displacement is permanent; and

(ii) solely for the purposes of sections 202(a) and (b) and 205 of this title [42 USCS §§ 4622(a), (b) and 4625], any person who moves from real property, or moves his personal property from real property--

(I) as a direct result of a written notice of intent to acquire or the acquisition of other real property, in whole or in part, on which such person conducts a business or farm operation, for a program or project undertaken by a Federal agency or with Federal financial assistance; or

(II) as a direct result of rehabilitation, demolition, or such other displacing activity as the lead agency may prescribe, of other real property on which such person conducts a business or a farm operation, under a program or project undertaken by a Federal agency or with Federal financial assistance where the head of the displacing agency determines that such displacement is permanent.

(B) The term "displaced person" does not include—

(i) a person who has been determined, according to criteria established by the head of the lead agency, to be either in unlawful occupancy of the displacement dwelling or to have occupied such dwelling for the purpose of obtaining assistance under this Act;

(ii) in any case in which the displacing agency acquires property for a program or project, any person (other than a person who was an occupant of such property at the time it was acquired) who occupies such property on a rental basis for a short term or a period subject to termination when the property is needed for the program or project.

(7) The term "business" means any lawful activity, excepting a farm operation, conducted primarily—

(A) for the purchase, sale, lease and rental of personal and real property, and for the manufacture, processing, or marketing of products, commodities, or any other personal property;

(B) for the sale of services to the public;

(C) by a nonprofit organization; or

(D) solely for the purposes of section 202 of this title [42 USCS § 4622], for assisting in the purchase, sale, resale, manufacture, processing, or marketing of products, commodities, personal property, or services by the erection and maintenance of an outdoor advertising display or displays, whether or not such display or displays are located on the premises on which any of the above activities are conducted.

(8) The term "farm operation" means any activity conducted solely or primarily for the production of one or more agricultural products or commodities, including timber, for sale or home use, and customarily producing such products or commodities in sufficient quantity to be capable of contributing materially to the operator's support.

(9) The term "mortgage" means such classes of liens as are commonly given to secure advances on, or the unpaid purchase price of, real property, under the laws of the States in which the real property is located, together with the credit instruments, if any, secured thereby.

(10) The term "comparable replacement dwelling" means any dwelling that is (A) decent, safe, and sanitary; (B) adequate in size to accommodate the occupants; (C) within the financial means of the displaced person; (D) functionally equivalent; (E) in an area not subject to unreasonable adverse environmental conditions; and (F) in a location generally not less desirable than the location of the displaced person's dwelling with respect to public utilities, facilities, services, and the displaced person's place of employment.

(11) The term "displacing agency" means any Federal agency carrying out a program or project, and any State, State agency, or person carrying out a program or project with Federal financial assistance, which causes a person to be a displaced person.

(12) The term "lead agency" means the Department of Transportation.

(13) The term "appraisal" means a written statement independently and impartially prepared by a qualified appraiser setting forth an opinion of defined value of an adequately described property as of a specific date, supported by the presentation and analysis of relevant market information.

Sec. 102. [42 U.S.C. 4602]
EFFECT UPON PROPERTY ACQUISITION.

(a) The provisions of section 301 of title III of this Act create no rights or liabilities and shall not affect the validity of any property acquisitions by purchase or condemnation.

(b) Nothing in this Act shall be construed as creating in any condemnation proceedings brought under the power of eminent domain, any element of value or of damage not in existence immediately prior to the date of enactment of this Act.[742]

Sec. 103. [42 U.S.C. 4604]
CERTIFICATION.

(a) Notwithstanding sections 210 and 305 of this Act [42 USCS §§ 4630 and 4655], the head of a Federal agency may discharge any of his responsibilities under this Act by accepting a certification by a State agency that it will carry out such responsibility, if the head of the lead agency determines that such responsibility will be carried out in accordance with State laws which will accomplish the purpose and effect of this Act.

(b)(1) The head of the lead agency shall issue regulations to carry out this section.

[742] The date of enactment was January 2, 1971.

(2) [Repealed]

(3) Before making a determination regarding any State law under subsection (a) of this section, the head of the lead agency shall provide interested parties with an opportunity for public review and comment. In particular, the head of the lead agency shall consult with interested local general purpose governments within the State on the effects of such State law on the ability of local governments to carry out their responsibilities under this Act.

(c)(1) The head of a Federal agency may withhold his approval of any Federal financial assistance to or contract or cooperative agreement with any displacing agency found by the Federal agency to have failed to comply with the laws described in subsection (a) of this section.

(2) After consultation with the head of the lead agency, the head of a Federal agency may rescind his acceptance of any certification under this section, in whole or in part, if the State agency fails to comply with such certification or with State law.

TITLE II—UNIFORM RELOCATION ASSISTANCE

Sec. 201. [42 U.S.C. 4621]
DECLARATION OF POLICY.

(a) The Congress finds and declares that—

(1) displacement as a direct result of programs or projects undertaken by a Federal agency or with Federal financial assistance is caused by a number of activities, including rehabilitation, demolition, code enforcement, and acquisition;

(2) relocation assistance policies must provide for fair, uniform, and equitable treatment of all affected persons;

(3) the displacement of businesses often results in their closure;

(4) minimizing the adverse impact of displacement is essential to maintaining the economic and social well-being of communities; and

(5) implementation of this Act has resulted in burdensome, inefficient, and inconsistent compliance requirements and procedures which will be improved by establishing a lead agency and allowing for State certification and implementation.

(b) This title establishes a uniform policy for the fair and equitable treatment of persons displaced as a direct result of programs or projects undertaken by a Federal agency or with Federal financial assistance. The primary purpose of this title is to ensure that such persons shall not suffer disproportionate injuries as a result of programs and projects designed for the benefit of the public as a whole and to minimize the hardship of displacement on such persons.

(c) It is the intent of Congress that—

(1) Federal agencies shall carry out this title in a manner which minimizes waste, fraud, and mismanagement and reduces unnecessary administrative costs borne by States and State agencies in providing relocation assistance;

(2) uniform procedures for the administration of relocation assistance shall, to the maximum extent feasible, assure that the unique circumstances of any displaced person are taken into account and that persons in essentially similar circumstances are accorded equal treatment under this Act;

(3) the improvement of housing conditions of economically disadvantaged persons under this title shall be undertaken, to the maximum extent feasible, in coordination with existing Federal, State, and local governmental programs for accomplishing such goals; and

(4) the policies and procedures of this Act will be administered in a manner which is consistent with fair housing requirements and which assures all persons their rights under title VIII of the Act of April 11, 1968 (Public Law 90-284), commonly known as the Civil Rights Act of 1968, and title VI of the Civil Rights Act of 1964.

Sec. 202. [42 U.S.C. 4622]
MOVING AND RELATED EXPENSES

(a) Whenever a program or project to be undertaken by a displacing agency will result in the displacement of any person, the head of the displacing agency shall provide for the payment to the displaced person of--

(1) actual reasonable expenses in moving himself, his family, business, farm operation, or other personal property;

(2) actual direct losses of tangible personal property as a result of moving or discontinuing a business or farm operation, but not to exceed an amount equal to the reasonable expenses that would have been required to relocate such property, as determined by the head of the agency;

(3) actual reasonable expenses in searching for a replacement business or farm; and

(4) actual reasonable expenses necessary to reestablish a displaced farm, nonprofit organization, or small business at its new site, but not to exceed $ 25,000, as adjusted by regulation, in accordance with section 213(d).

(b) Any displaced person eligible for payments under subsection (a) of this section who is displaced from a dwelling and who elects to accept the payments authorized by this subsection in lieu of the payments authorized by subsection (a) of this section may receive an expense and dislocation allowance, which shall be determined according to a schedule established by the head of the lead agency.

(c) Any displaced person eligible for payments under subsection (a) of this section who is displaced from the person's place of business or farm operation and who is eligible under criteria established by the head of the lead agency may elect to accept the payment authorized by this subsection in lieu of the payment authorized by subsection (a) of this section. Such payment shall consist of a fixed payment in an amount to be determined according to criteria established by the head of the lead agency, except that such payment shall not be less than $ 1,000 nor more than $ 40,000, as adjusted by regulation, in accordance with section 213(d). A person whose sole business at the displacement dwelling is the rental of such property to others shall not qualify for a payment under this subsection.

(d)(1) Except as otherwise provided by Federal law—

(A) if a program or project (i) which is undertaken by a displacing agency, and (ii) the purpose of which is not to relocate or reconstruct any utility facility, results in the relocation of a utility facility;

(B) if the owner of the utility facility which is being relocated under such program or project has entered into, with the State or local government on whose property, easement, or right-of-way such facility is located, a franchise or similar agreement with respect to the use of such property, easement, or right-of-way; and

(C) if the relocation of such facility results in such owner incurring an extraordinary cost in connection with such relocation;

the displacing agency may, in accordance with such regulations as the head of the lead agency may issue, provide to such owner a relocation payment which may not exceed the amount of such extraordinary cost (less any increase in the value of the new utility facility above the value of the old utility facility and less any salvage value derived from the old utility facility).

(2) For purposes of this subsection, the term—

(A) "extraordinary cost in connection with a relocation" means any cost incurred by the owner of a utility facility in connection with relocation of such facility which is determined by the head of the displacing agency, under such regulations as the head of the lead agency shall issue—

(i) to be a non-routine relocation expense;

(ii) to be a cost such owner ordinarily does not include in its annual budget as an expense of operation; and

(iii) to meet such other requirements as the lead agency may prescribe in such regulations; and

(B) "utility facility" means—

(i) any electric, gas, water, steam power, or materials transmission or distribution system;

(ii) any transportation system;

(iii) any communications system (including cable television); and

(iv) any fixtures, equipment, or other property associated with the operation, maintenance, or repair of any such system;

located on property which is owned by a State or local government or over which a State or local government has an easement or right-of-way. A utility facility may be publicly, privately, or cooperatively owned.

Sec. 203. [42 U.S.C. 4623]
REPLACEMENT HOUSING FOR HOMEOWNER

(a)(1) In addition to payments otherwise authorized by this title, the head of the displacing agency shall make an additional payment not in excess of $ 31,000, as adjusted by regulation, in accordance with 213(d), to any

displaced person who is displaced from a dwelling actually owned and occupied by such displaced person for not less than 90 days before the initiation of negotiations for the acquisition of the property. Such additional payment shall include the following elements:

(A) The amount, if any, which when added to the acquisition cost of the dwelling acquired by the displacing agency, equals the reasonable cost of a comparable replacement dwelling.

(B) The amount, if any, which will compensate such displaced person for any increased interest costs and other debt service costs which such person is required to pay for financing the acquisition of any such comparable replacement dwelling. Such amount shall be paid only if the dwelling acquired by the displacing agency was encumbered by a bona fide mortgage which was a valid lien on such dwelling for not less than 180 days immediately prior to the initiation of negotiations for the acquisition of such dwelling.

(C) Reasonable expenses incurred by such displaced person for evidence of title, recording fees, and other closing costs incident to the purchase of the replacement dwelling, but not including prepaid expenses.

(2) The additional payment authorized by this section shall be made only to a displaced person who purchases and occupies a decent, safe, and sanitary replacement dwelling within 1 year after the date on which such person receives final payment from the displacing agency for the acquired dwelling or the date on which the displacing agency's obligation under section 205(c)(3) of this Act is met, whichever is later, except that the displacing agency may extend such period for good cause. If such period is extended, the payment under this section shall be based on the costs of relocating the person to a comparable replacement dwelling within 1 year of such date.

(b) The head of any Federal agency may, upon application by a mortgagee, insure any mortgage (including advances during construction) on a comparable replacement dwelling executed by a displaced person under this section, which mortgage is eligible for insurance under any Federal law administered by such agency notwithstanding any requirements under such law relating to age, physical condition, or other personal characteristics of eligible mortgagors, and may make commitments for the insurance of such mortgage prior to the date of execution of the mortgage.

Sec. 204. [42 U.S.C. 4624]
REPLACEMENT HOUSING FOR TENANTS AND CERTAIN OTHERS

(a) In addition to amounts otherwise authorized by this title, the head of a displacing agency shall make a payment to or for any displaced person displaced from any dwelling not eligible to receive a payment under section 203 which dwelling was actually and lawfully occupied by such displaced person for not less than 90 days immediately prior to (1) the initiation of negotiations for acquisition of such dwelling, or (2) in any case in which displacement is not a direct result of acquisition, such other event as the head of the lead agency shall prescribe. Such payment shall consist of the amount necessary to enable such person to lease or rent for a period not to exceed 42 months, a comparable replacement dwelling, but not to exceed $ 7,200, as adjusted by regulation, in accordance with section 213(d). At the discretion of the head of the displacing agency, a payment under this subsection may be made in periodic installments. Computation of a payment under this subsection to a low-income displaced person for a comparable replacement dwelling shall take into account such person's income.

(b) Any person eligible for a payment under subsection (a) of this section may elect to apply such payment to a down payment on, and other incidental expenses pursuant to, the purchase of a decent, safe, and sanitary replacement dwelling. Any such person may, at the discretion of the head of the displacing agency, be eligible under this subsection for the maximum payment allowed under subsection (a).

Sec. 205. [42 U.S.C. 4625]
RELOCATION ASSISTANCE ADVISORY SERVICES

(a) Programs or projects undertaken by a Federal agency or with Federal financial assistance shall be planned in a manner that (1) recognizes, at an early stage in the planning of such programs or projects and before the commencement of any actions which will cause displacements, the problems associated with the displacement of individuals, families, businesses, and farm operations, and (2) provides for the resolution of such problems in order to minimize adverse impacts on displaced persons and to expedite program or project advancement and completion.

(b) The head of any displacing agency shall ensure that the relocation assistance advisory services described in subsection (c) of this section are made available to all persons displaced by such agency. If such agency head determines that any person occupying property immediately adjacent to the property where the displacing

activity occurs is caused substantial economic injury as a result thereof, the agency head may make available to such person such advisory services.

(c) Each relocation assistance advisory program required by subsection (b) of this section shall include such measures, facilities, or services £is may be necessary or appropriate in order to—

(1) determine, and make timely recommendations on, the needs and preferences, if any, of displaced persons for relocation assistance;

(2) provide current and continuing information on the availability, sales prices, and rental charges of comparable replacement dwellings for displaced homeowners and tenants and suitable locations for businesses and farm operations;

(3) assure that a person shall not be required to move from a dwelling unless the person has had a reasonable opportunity to relocate to a comparable replacement dwelling, except in the case of—

(A) a major disaster as defined in section 102(2) of the Disaster Relief Act of 1974;

(B) a national emergency declared by the President; or

(C) any other emergency which requires the person to move immediately from the dwelling because continued occupancy of such dwelling by such person constitutes a substantial danger to the health or safety of such person;

(4) assist a person displaced from a business or farm operation in obtaining and becoming established in a suitable replacement location;

(5) supply (A) information concerning other Federal and State programs which may be of assistance to displaced persons, and (B) technical assistance to such persons in applying for assistance under such programs; and

(6) provide other advisory services to displaced persons in order to minimize hardships to such persons in adjusting to relocation.

(d) The head of a displacing agency shall coordinate the relocation activities performed by such agency with other Federal, State, or local governmental actions in the community which could affect the efficient and effective delivery of relocation assistance and related services.

(e) Whenever two or more Federal agencies provide financial assistance to a displacing agency other than a Federal agency, to implement functionally or geographically related activities which will result in the displacement of a person, the heads of such Federal agencies may agree that the procedures of one of such agencies shall be utilized to implement this title with respect to such activities. If such agreement cannot be reached, then the head of the lead agency shall designate one of such agencies as the agency whose procedures shall be utilized to implement this title with respect to such activities. Such related activities shall constitute a single program or project for purposes of this Act.

(f) Notwithstanding section 101(6) of this Act, in any case in which a displacing agency acquires property for a program or project, any person who occupies such property on a rental basis for a short term or a period subject to termination when the property is needed for the program or project shall be eligible for advisory services to the extent determined by the displacing agency.

Sec. 206. [42 U.S.C. 4626]
HOUSING REPLACEMENT BY FEDERAL AGENCY AS LAST RESORT

(a) If a program or project undertaken by a Federal agency or with Federal financial assistance cannot proceed on a timely basis because comparable replacement dwellings are not available, and the head of the displacing agency determines that such dwellings cannot otherwise be made available, the head of the displacing agency may take such action as is necessary or appropriate to provide such dwellings by use of funds authorized for such project. The head of the displacing agency may use this section to exceed the maximum amounts which may be paid under sections 203 and 204 on a case-by-case basis for good cause as determined in accordance with such regulations as the head of the lead agency shall issue.

(b) No person shall be required to move from his dwelling on account of any program or project undertaken by a Federal agency or with Federal financial assistance, unless the head of the displacing agency is satisfied that comparable replacement housing is available to such person.

Sec. 207. [42 U.S.C. 4627]
STATE REQUIRED TO FURNISH REAL PROPERTY INCIDENT TO FEDERAL ASSISTANCE (LOCAL COOPERATION)

Whenever real property is acquired by a State agency and furnished as a required contribution incident to a Federal program or project, the Federal agency having authority over the program or project may not accept such property unless such State agency has made all payments and provided all assistance and assurances, as are required of a State agency by sections 210 and 305 of this Act. Such State agency shall pay the cost of such requirements in the same manner and to the same extent as the real property acquired for such project, except that in the case of any real property acquisition or displacement occurring prior to July 1, 1972, such Federal agency shall pay 100 per centum of the first $25,000 of the cost of providing such payments and assistance.

Sec. 208. [42 U.S.C. 4628]
STATE ACTING AS AGENT FOR FEDERAL PROGRAM

Whenever real property is acquired by a State agency at the request of a Federal agency for a Federal program or project, such acquisition shall, for the purposes of this Act, be deemed an acquisition by the Federal agency having authority over such program or project.

Sec. 209. [42 U.S.C. 4629]
PUBLIC WORKS PROGRAMS AND PROJECTS OF THE GOVERNMENT OF THE DISTRICT OF COLUMBIA AND OF THE WASHINGTON METROPOLITAN AREA TRANSIT AUTHORITY

Whenever real property is acquired by the government of the District of Columbia or the Washington Metropolitan Area Transit Authority for a program or project which is not subject to sections 210 and 211 of this title, and such acquisition will result in the displacement of any person on or after the effective date of this Act, the Commissioner of the District of Columbia or the Washington Metropolitan Area Transit Authority, as the case may be, shall make all relocation payments and provide all assistance required of a Federal agency by this Act. Whenever real property is acquired for such a program or project on or after such effective date, such Commissioner or Authority, as the case may be, shall make all payments and meet all requirements prescribed for a Federal agency by title III of this Act.

Sec. 210. [42 U.S.C. 4630]
REQUIREMENTS FOR RELOCATION PAYMENTS AND ASSISTANCE OF FEDERALLY ASSISTED PROGRAM; ASSURANCES OF AVAILABILITY OF HOUSING

Notwithstanding any other law, the head of a Federal agency shall not approve any grant to, or contract or agreement with, a displacing agency (other than a Federal agency), under which Federal financial assistance will be available to pay all or part of the cost of any program or project which will result in the displacement of any person on or after the effective date of this title, unless he receives satisfactory assurances from such displacing agency that—

(1) fair and reasonable relocation payments and assistance shall be provided to or for displaced persons, as are required to be provided by a Federal agency under sections 202, 203, and 204 of this title;

(2) relocation assistance programs offering the services described in section 205 shall be provided to such displaced persons;

(3) within a reasonable period of time prior to displacement, comparable replacement dwellings will be available to displaced persons in accordance with section 205(c)(3).

Sec. 211. [42 U.S.C. 4631]
FEDERAL SHARE OF COSTS

(a) The cost to a displacing agency of providing payments and assistance under this title and title III of this Act shall be included as part of the cost of a program or project undertaken by a Federal agency or with Federal financial assistance. A displacing agency, other than a Federal agency, shall be eligible for Federal financial assistance with respect to such payments and assistance in the same manner and to the same extent as other program or project costs.

(b) No payment or assistance under this title or title III of this Act shall be required to be made to any person or included as a program or project cost under this section, if such person receives a payment required by Federal, State, or local law which is determined by the head of the Federal agency to have substantially the same purpose and effect as such payment under this section.

(c) Any grant to, or contract or agreement with, a State agency executed before the effective date of this title,[743] under which Federal financial assistance is available to pay all or part of the cost of any program or project

[743] This was enacted January 2, 1971.

which will result in the displacement of any person on or after the effective date of this Act, shall be amended to include the cost of providing payments and services under sections 210 and 305. If the head of a Federal agency determines that it is necessary for the expeditious completion of a program or project he may advance to the State agency the Federal share of the cost of any payments or assistance by such State agency pursuant to sections 206, 210, 215, and 305.

Sec. 212. [42 U.S.C. 4632]
ADMINISTRATION—RELOCATION ASSISTANCE I N PROGRAMS RECEIVING FEDERAL FINANCIAL ASSISTANCE

In order to prevent unnecessary expenses and duplications of functions, and to promote uniform and effective administration of relocation assistance programs for displaced persons under sections 206, 210, and 215 of this title, a State agency may enter into contracts with any individual, firm, association, or corporation for services in connection with such programs, or may carry out its functions under this title through any Federal or State governmental agency or instrumentality having an established organization for conducting relocation assistance programs. Such State agency shall, in carrying out the relocation assistance activities described in section 206, whenever practicable, utilize the services of State or local housing agencies, or other agencies having experience in the administration or conduct of similar housing assistance activities.

Sec. 213. [42 U.S.C. 4633]
DUTIES OF LEAD AGENCY

(a) The head of the lead agency shall—

(1) develop, publish, and issue, with the active participation of the Secretary of Housing and Urban Development and the heads of other Federal agencies responsible for funding relocation and acquisition actions, and in coordination with State and local governments, such regulations as may be necessary to carry out this Act;

(2) provide, in consultation with the Attorney General (acting through the Commissioner of the Immigration and Naturalization Service), through training and technical assistance activities for displacing agencies, information developed with the Attorney General (acting through the Commissioner) on proper implementation of section 104;

(3) ensure that displacing agencies implement section 104 fairly and without discrimination in accordance with section 104(b)(2)(B);

(4) ensure that relocation assistance activities under this Act are coordinated with low-income housing assistance programs or projects by a Federal agency or a State or State agency with Federal financial assistance;

(5) monitor, in coordination with other Federal agencies, the implementation and enforcement of this Act and report to the Congress, as appropriate, on any major issues or problems with respect to any policy or other provision of this Act; and

(6) perform such other duties as may be necessary to carry out this Act.

(b) The head of the lead agency is authorized to issue such regulations and establish such procedures as he may determine to be necessary to assure--

(1) that the payments and assistance authorized by this Act shall be administered in a manner which is fair and reasonable and as uniform as practicable;

(2) that a displaced person who makes proper application for a payment authorized for such person by this title shall be paid promptly after a move or, in hardship cases, be paid in advance;

(3) that any aggrieved person may have his application reviewed by the head of the Federal agency having authority over the applicable program or project or, in the case of a program or project receiving Federal financial assistance, by the State agency having authority over such program or project or the Federal agency having authority over such program or project if there is no such State agency; and

(4) that each Federal agency that has programs or projects requiring the acquisition of real property or causing a displacement from real property subject to the provisions of this Act shall provide to the lead agency an annual summary report the describes the activities conducted by the Federal agency.

(c) The regulations and procedures issued pursuant to this section shall apply to the Tennessee Valley Authority and the Rural Electrification Administration only with respect to relocation assistance under this title and title I.

(d) The head of the lead agency may adjust, by regulation, the amounts of relocation payments provided under sections 202(a)(4), 202(c), 203(a), and 204(a) if the head of the lead agency determines that cost of living, inflation, or other factors indicate that the payments should be adjusted to meet the policy objectives of this Act.

Sec. 214. [42 U.S.C. 4634]
AGENCY COORDINATION

(a) AGENCY CAPACITY.—Each Federal agency responsible for funding or carrying out relocation and acquisition activities shall have adequately trained personnel and such other resources as are necessary to manage and oversee the relocation and acquisition program of the Federal agency in accordance with this Act.

(b) INTERAGENCY AGREEMENTS.—Not later than 1 year after the date of enactment of this section,[744] each Federal agency responsible for funding relocation and acquisition activities (other than the agency serving as the lead agency) shall enter into a memorandum of understanding with the lead agency that--

(1) provides for periodic training of the personnel of the Federal agency, which in the case of a Federal agency that provides Federal financial assistance, may include personnel of any displacing agency that receives Federal financial assistance;

(2) addresses ways in which the lead agency may provide assistance and coordination to the Federal agency relating to compliance with the Act on a program or project basis; and

(3) addresses the funding of the training, assistance, and coordination activities provided by the lead agency, in accordance with subsection (c).

(c) INTERAGENCY PAYMENTS.—

(1) IN GENERAL.—For the fiscal year that begins 1 year after the date of enactment of this section,[745] and each fiscal year thereafter, each Federal agency responsible for funding relocation and acquisition activities (other than the agency serving as the lead agency) shall transfer to the lead agency for the fiscal year, such funds as are necessary, but not less than $ 35,000, to support the training, assistance, and coordination activities of the lead agency described in subsection (b).

(2) INCLUDED COSTS.—The cost to a Federal agency of providing the funds described in paragraph (1) shall be included as part of the cost of 1 or more programs or projects undertaken by the Federal agency or with Federal financial assistance that result in the displacement of persons or the acquisition of real property.

Sec. 215. [42 U.S.C. 4635]
PLANNING AND OTHER PRELIMINARY EXPENSES FOR ADDITIONAL HOUSING

In order to encourage and facilitate the construction or rehabilitation of housing to meet the needs of displaced persons who are displaced from dwellings because of any Federal or Federal financially assisted project, the head of the Federal agency administering such project is authorized to make loans as a part of the cost of any such project, or to approve loans as a part of the cost of any such project receiving Federal financial assistance, to nonprofit, limited dividend, or cooperative organizations or to public bodies, for necessary and reasonable expenses, prior to construction, for planning and obtaining federally insured mortgage financing for the rehabilitation or construction of housing for such displaced persons. Notwithstanding the preceding sentence, or any other law, such loans shall be available for not to exceed 80 per centum of the reasonable costs expected to be incurred in planning, and in obtaining financing for, such housing, prior to the availability of such financing, including, but not limited to, preliminary surveys and analyses of market needs, preliminary site engineering, preliminary architectural fees, site acquisition, application and mortgage commitment fees, and construction loan fees and discounts. Loans to an organization established for profit shall bear interest at a market rate established by the head of such Federal agency. All other loans shall be without interest. Such Federal agency head shall require repayment of loans made under this section, under such terms and conditions as he may require, upon completion of the project or sooner, and except in the case of a loan to an organization established for profit, may cancel any part or all of a loan if he determines that a permanent loan to finance the rehabilitation or the construction of such housing cannot be obtained in an amount adequate for repayment of such loan. Upon repayment of any such loan, the Federal share of the sum repaid shall be credited to the account from which such loan was made, unless the Secretary of the Treasury determines that such account is no longer in existence, in which case such sum shall be returned to the Treasury and credited to miscellaneous receipts.

[744] July 6, 2012.
[745] This section was enacted July 6, 2012.

Sec. 216. [42 U.S.C. 4636]
PAYMENTS NOT TO BE CONSIDERED AS INCOME

No payment received under this title shall be considered as income for the purposes of the Internal Revenue Code of 1954, or for the purposes of determining the eligibility or the extent of eligibility of any person for assistance under the Social Security Act or any other Federal law (except for any Federal law providing low-income housing assistance).

Sec. 217. [Repealed]

Sec. 218. [42 U.S.C. 4638]
TRANSFERS OF SURPLUS PROPERTY

The Administrator of General Services is authorized to transfer to a State agency for the purpose of providing replacement housing required by this title, any real property surplus to the needs of the United States within the meaning of the Federal Property and Administrative Services Act of 1949, as amended. Such transfer shall be subject to such terms and conditions as the Administrator determines necessary to protect the interests of the United States and may be made without monetary consideration, except that such State agency shall pay to the United States all amounts received by such agency from any sale, lease, or other disposition of such property for such housing.

* * * * *

TITLE III—UNIFORM REAL PROPERTY ACQUISITION POLICY

Sec. 301. [42 U.S.C. 4651]
UNIFORM POLICY ON REAL PROPERTY ACQUISITION PRACTICES

In order to encourage and expedite the acquisition of real property by agreements with owners, to avoid litigation and relieve congestion in the courts, to assure consistent treatment for owners in the many Federal programs, and to promote public confidence in Federal land acquisition practices, heads of Federal agencies shall, to the greatest extent practicable, be guided by the following policies:

(1) The head of a Federal agency shall make every reasonable effort to acquire expeditiously real property by negotiation.

(2) Real property shall be appraised before the initiation of negotiations, and the owner or his designated representatives shall be given an opportunity to accompany the appraiser during his inspection of the property, except that the head of the lead agency may prescribe a procedure to waive the appraisal in cases involving the acquisition by sale or donation of property with a low fair market value.

(3) Before the initiation of negotiations for real property, the head of the Federal agency concerned shall establish an amount which he believes to be just compensation therefor and shall make a prompt offer to acquire the property for the full amount so established. In no event shall such amount be less than the agency's approved appraisal of the fair market value of such property. Any decrease or increase in the fair market value of real property prior to the date of valuation caused by the public improvement for which such property is acquired, or by the likelihood that the property would be acquired for such improvement, other than that due to physical deterioration within the reasonable control of the owner, will be disregarded in determining the compensation for the property. The head of the Federal agency concerned shall provide the owner of real property to be acquired with a written statement of, and summary of the basis for, the amount he established as just compensation. Where appropriate the just compensation for the real property acquired and for damages to remaining real property shall be separately stated.

(4) No owner shall be required to surrender possession of real property before the head of the Federal agency concerned pays the agreed purchase price, or deposits with the court in accordance with section 1 of the Act of February 26, 1931 (46 Stat. 1421; 40 U.S.C. 258a), for the benefit of the owner, an amount not less than the agency's approved appraisal of the fair market value of such property, or the amount of the award of compensation in the condemnation proceeding for such property.

(5) The construction or development of a public improvement shall be so scheduled that, to the greatest extent practicable, no person lawfully occupying real property shall be required to move from a dwelling (assuming a replacement dwelling as required by title II will be available), or to move his business or farm operation, without at least ninety days' written notice from the head of the Federal agency concerned, of the date by which such move is required.

(6) If the head of a Federal agency permits an owner or tenant to occupy the real property acquired on a rental basis for a short term or for a period subject to termination by the Government on short notice, the amount of rent required shall not exceed the fair rental value of the property to a short-term occupier.

(7) In no event shall the head of a Federal agency either advance the time of condemnation, or defer negotiations or condemnation and the deposit of funds in court for the use of the owner, or take any other action coercive in nature, in order to compel an agreement on the price to be paid for the property.

(8) If any interest in real property is to be acquired by exercise of the power of eminent domain, the head of the Federal agency concerned shall institute formal condemnation proceedings. No Federal agency head shall intentionally make it necessary for an owner to institute legal proceedings to prove the fact of the taking of his real property.

(9) If the acquisition of only a portion of a property would leave the owner with an uneconomic remnant, the head of the Federal agency concerned shall offer to acquire that remnant. For the purposes of this Act, an uneconomic remnant is a parcel of real property in which the owner is left with an interest after the partial acquisition of the owner's property and which the head of the Federal agency concerned has determined has little or no value or utility to the owner.

(10) A person whose real property is being acquired in accordance with this title may, after the person has been fully informed of his right to receive just compensation for such property, donate such property, and part thereof, any interest therein, or any compensation paid therefor to a Federal agency, as such person shall determine.

Sec. 302. [42 U.S.C. 4652]
BUILDINGS, STRUCTURES, AND IMPROVEMENTS

(a) Notwithstanding any other provision of law, if the head of a Federal agency acquires any interest in real property in any State, he shall acquire at least an equal interest in all buildings, structures, or other improvements located upon the real property so acquired and which he requires to be removed from such real property or which he determines will be adversely affected by the use to which such real property will be put.

(b)(1) For the purpose of determining the just compensation to be paid for any building, structure, or other improvement required to be acquired by subsection (a) of this section, such building, structure, or other improvement shall be deemed to be a part of the real property to be acquired notwithstanding the right or obligation of a tenant, as against the owner of any other interest in the real property, to remove such building, structure, or improvement at the expiration of his term, and the fair market value which such building, structure, or improvement contributes to the fair market value of the real property to be acquired, or the fair market value of such building, structure, or improvement for removal from the real property, whichever is the greater, shall be paid to the tenant therefor.

(2) Payment under this subsection shall not result in duplication of any payments otherwise authorized by law. No such payment shall be made unless the owner of the land involved disclaims all interest in the improvements of the tenant. In consideration for any such payment, the tenant shall assign, transfer, and release to the United States all his right, title, and interest in and to such improvements. Nothing in this subsection shall be construed to deprive the tenant of any rights to reject payment under this subsection and to obtain payment for such property interests in accordance with applicable law, other than this subsection.

Sec. 303. [42 U.S.C. 4653]
EXPENSES INCIDENTAL TO TRANSFER OF TITLE TO UNITED STATES

The head of a Federal agency, as soon as practicable after the date of payment of the purchase price or the date of deposit in court of funds to satisfy the award of compensation in a condemnation proceeding to acquire real property, whichever is the earlier, shall reimburse the owner, to the extent the head of such agency deems fair and reasonable, for expenses he necessarily incurred for—

(1) recording fees, transfer taxes, and similar expenses incidental to conveying such real property to the United States;

(2) penalty costs for prepayment of any preexisting recorded mortgage entered into in good faith encumbering such real property; and

(3) the pro rata portion of real property taxes paid which are allocable to a period subsequent to the date of vesting title in the United States, or the effective date of possession of such real property by the United States, whichever is the earlier.

Sec. 304. [42 U.S.C. 4654]
LITIGATION EXPENSES

(a) The Federal court having jurisdiction of a proceeding instituted by a Federal agency to acquire real property by condemnation shall award the owner of any right, or title to, or interest in, such real property such sum as will in the opinion of the court reimburse such owner for his reasonable costs, disbursements, and expenses, including reasonable attorney, appraisal, and engineering fees, actually incurred l3ecause of the condemnation proceedings, if—

(1) the final judgment is that the Federal agency cannot acquire the real property by condemnation; or

(2) the proceeding is abandoned by the United States.

(b) Any award made pursuant to subsection (a) of this section shall be paid by the head of the Federal agency for whose benefit the condemnation proceedings was instituted.

(c) The court rendering a judgment for the plaintiff in a proceeding brought under section 1346(a)(2) or 1491 of title 28, United States Code, awarding compensation for the taking of property by a Federal agency, or the Attorney General effecting a settlement of any such proceeding, shall determine and award or allow to such plaintiff, as a part of such judgment or settlement, such sum as will in the opinion of the court or the Attorney General reimburse such plaintiff for his reasonable costs, disbursements, and expenses, including reasonable attorney, appraisal, and engineering fees, actually incurred because of such proceeding.

Sec. 305. [42 U.S.C. 4655]
REQUIREMENTS FOR UNIFORM LAND ACQUISITION POLICIES; PAYMENTS OF EXPENSES INCIDENTAL TO TRANSFER OF REAL PROPERTY TO STATE; PAYMENT OF LITIGATION EXPENSES IN CERTAIN CASES

(a) Notwithstanding any other law, the head of a Federal agency shall not approve any program or project or any grant to, or contract or agreement with, an acquiring agency under which Federal financial assistance will be available to pay all or part of the cost of any program or project which will result in the acquisition of real property on and after the effective date of this title, unless he receives satisfactory assurances from such acquiring agency that—

(1) in acquiring real property it will be guided, to the greatest extent practicable under State law, by the land acquisition policies in section 301 and the provisions of section 302, and

(2) property owners will be paid or reimbursed for necessary expenses as specified in sections 303 and 304.

(b) For purposes of this section, the term “acquiring agency” means—

(1) a State agency (as defined in section 101(3)) which has the authority to acquire property by eminent domain under State law, and

(2) a State agency or person which does not have such authority, to the extent provided by the head of the lead agency by regulation.

* * * * *

END OF STATUTE

APPENDICES

APPENDIX 1: LIST OF HOUSING-RELATED LAWS PASSED FROM 1995-2016

104th Congress (1995-1996):

(1) Emergency Supplemental Appropriations for Additional Disaster Assistance, for Antiterrorism Initiatives, for Assistance in the Recovery from the Tragedy That Occurred at Oklahoma City, and Rescissions Act, 1995, Pub. L. 104-19 (7-27-95)

(2) Continuing Appropriations for Fiscal Year 1996, Pub. L. 104-19 (9-30-95)

(3) Agriculture, Rural Development, Food and Drug Administration, and Related Agencies Appropriations Act, 1996, Pub. L. 104-37 (10-21-95).

(4) Further Continuing Appropriations, Fiscal Year 1996, Pub. L. 104-54 (11-19-95).

(5) Further Continuing Appropriations, Fiscal Year 1996, Pub. L. 104-56 (11-20-95).

(6) Lobbying Disclosure Act of 1995, Pub. L. 104-65 § 11 (12-19-95).

(7) Federal Reports Elimination and Sunset Act of 1995, Pub. L. 104-66, subtitle G of title I, subtitle P of title II, and § 3003 (12-21-95).

(8) Further Continuing Appropriations, Fiscal Year 1996, Pub. L. 104-94 (1-6-96).

(9) The Balanced Budget Downpayment Act, I, Pub. L. 104-99 § 201(b), title IV (1-26-96). [HUD appropriations, housing program amendments]

(10) Farm Credit System Reform Act of 1996, Pub. L. 104-105, title I (2-10-96). [FAMC amendments]

(11) Extension of Authority for Certain Veterans' Affairs Programs and Activities, Pub. L. 104-110 (2-13-96).

(12) Further Continuing Appropriations, Fiscal Year 1996, Pub. L. 104-116 (3-15-96).

(13) Further Continuing Appropriations, Fiscal Year 1996, Pub. L. 104-118 (3-22-96).

(14) Housing Opportunity Program Extension Act of 1996, Pub. L. 104-120 (3-28-96).

(15) Further Continuing Appropriations, Fiscal Year 1996, Pub. L. 104-122 (3-29-96).

(16) Line Item Veto Act, Pub. L. 104-130 (4-9-06).

(17) Further Continuing Appropriations, Fiscal Year 1996, Pub. L. 104-131 (4-24-96).

(18) Omnibus Consolidated Rescissions and Appropriations Act of 1996, Pub. L. 104-134, title II of section 101(e) (4-26-96). [FY96 HUD appropriations]

(19) Corrections to Public Law 104-134, Pub. L. 104-140 (5-2-96).

(20) Church Arson Prevention Act, Pub. L. 104-155 (7-3-96).

(21) Agriculture, Rural Development, Food and Drug Administration, and Related Agencies Appropriations Act, 1997, Pub. L. 104-180 (8-6-96).

(22) Personal Responsibility and Work Opportunity Reconciliation Act of 1996, Pub. L. 104-193, title IV and § 903 (8-22-96). [restricting public benefits for aliens and fugitive felons]

(23) Departments of Veterans Affairs and Housing and Urban Development, and Independent Agencies Appropriations Act, 1997, Pub. L. 104-204, (9-26-96).

(24) Omnibus Consolidated Appropriations Act, 1997, Pub. L. 104-208, division A and division C (9-30-96). [amendments to RESPA, TILA, HMDA, ECOA, and Fair Housing Act, illegal immigration reform]

(25) False Statements Accountability Act of 1996, Pub. L. 104-292 (10-11-96).

(26) General Accounting Office Act of 1996, Pub. L. 104-316 (10-19-96). [audits and reports]

(27) Native American Housing Assistance and Self-Determination Act of 1996, Pub. L. 104-330 (10-26-96).

105th Congress (1997-1998):

(1) 1997 Emergency Supplemental Appropriations Act for Recovery from Natural Disasters, and for Overseas Peacekeeping Efforts, Including Those in Bosnia, Pub. L. 105-18 (6-12-97).

(2) Balanced Budget Act of 1997, Pub. L. 105-33, title II and § 5565 (8-5-97).

(3) Taxpayer Relief Act of 1997, Pub. L. 105-34, subtitle F of title IX (8-5-97). [empowerment zones, enterprise communities, and community development financial institutions]

(4) Continuing Appropriations for Fiscal Year 1998, Pub. L. 105-46 (9-30-97).

(5) Transfer of Surplus Property for Assistance and Housing for Low-Income Families, Pub. L. 105-50 (10-6-97).

(6) Further Continuing Appropriations for Fiscal Year 1998, Pub. L. 105-64 (10-23-97).

(7) Departments of Veterans Affairs and Housing and Urban Development, and Independent Agencies Appropriations Act, 1998, Pub. L. 105-65 (10-27-97).

(8) Further Continuing Appropriations for Fiscal Year 1998, Pub. L. 105-68 (11-7-97).

(9) Further Continuing Appropriations for Fiscal Year 1998, Pub. L. 105-69 (11-9-97).

(10) Further Continuing Appropriations for Fiscal Year 1998, Pub. L. 105-71 (11-10-97).

(11) Further Continuing Appropriations for Fiscal Year 1998, Pub. L. 105-84 (11-14-97).

(12) Agriculture, Rural Development, Food and Drug Administration, and Related Agencies Appropriations Act, 1998, Pub. L. 105-86 (11-18-97).

(13) United States Fire Administration Authorization Act for Fiscal Years 1998 and 1999, Pub. L. 105-108, § 3 (11-20-97). [fire safety systems in federally assisted housing]

(14) Amendments to Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, Pub. L. 105-117 (11-21-97).

(15) 1998 Supplemental Appropriations and Rescissions Act, Pub. L. 105-174 (5-1-98).

(16) Homeowners Protection Act of 1998, Pub. L. 105-216 (7-29-98).

(17) Continuing Appropriations for Fiscal Year 1999, Pub. L. 105-240 (9-25-98).

(18) Further Continuing Appropriations for Fiscal Year 1999, Pub. L. 105-249 (10-9-98).

(19) Further Continuing Appropriations for Fiscal Year 1999, Pub. L. 105-254 (10-12-98).

(20) Technical Corrections to Laws Relating to Native Americans, Pub. L. 105-256, § 13b (10-14-98). [Native American housing]

(21) Further Continuing Appropriations for Fiscal Year 1999, Pub. L. 105-257 (10-14-98).

(22) Further Continuing Appropriations for Fiscal Year 1999, Pub. L. 105-260 (10-16-98).

(23) Further Continuing Appropriations for Fiscal Year 1999, Pub. L. 105-273 (10-20-98).

(24) Departments of Veterans Affairs and Housing and Urban Development, and Independent Agencies Appropriations Act, 1999, Pub. L. 105-276, titles II and V (10-21-98). [HUD appropriations, Quality Housing and Work Responsibility Act of 1998]

(25) Omnibus Consolidated and Emergency Supplemental Appropriations Act, 1999, Pub. L. 105-277, §§ 101(a) and 121-125 of division A, chapter 7 of title IV of division B (10-21-98). [Agriculture appropriations and miscellaneous housing provisions, CDBG disaster relief]

(26) Federal Reports Elimination Act of 1998, Pub. L. 105-362, §§ 101 and 701 (11-10-98).

(27) Energy Conservation Reauthorization Act of 1998, Pub. L. 105-388, § 3 (11-10-98). [weatherization and conservation programs]

<u>106th Congress (1999-2000):</u>

(1) Y2K Act, Pub. L. 106-37 (7-20-99).

(2) 1999 Emergency Supplemental Appropriations Act, Pub. L. 106-31, chapter 1 of title I, chapter 10 of title III, title IV (5-21-99). [emergency Agriculture appropriations, supplemental HUD appropriations, rescissions and offsets]

(3) Continuing Appropriations for Fiscal Year 2000, Pub. L. 106-62, (9-30-99).

(4) Departments of Veterans Affairs and Housing and Urban Development, and Independent Agencies Appropriations Act, 2000, Pub. L. 106-74 (10-20-99).

(5) Further Continuing Appropriations for Fiscal Year 2000, Pub. L. 106-75 (10-21-99).

(6) Agriculture, Rural Development, Food and Drug Administration, and Related Agencies Appropriations Act, 2000, Pub. L. 106-78 (10-22-99).

(7) Further Continuing Appropriations for Fiscal Year 2000, Pub. L. 106-85 (10-29-99).

(8) Further Continuing Appropriations for Fiscal Year 2000, Pub. L. 106-88 (11-5-99).

(9) Further Continuing Appropriations for Fiscal Year 2000, Pub. L. 106-94 (11-10-99).

(10) Gramm-Leach-Bliley Act, Pub. L. 106-102, title VI (11-12-99). [Federal Home Loan Bank system modernization]

(11) Further Continuing Appropriations for Fiscal Year 2000, Pub. L. 106-105 (11-18-99).

(12) Further Continuing Appropriations for Fiscal Year 2000, Pub. L. 106-106 (11-19-99).

(13) Consolidated Appropriations for Fiscal Year 2000, Pub. L. 106-113, §175 (11-19-99). [extension of FHA multifamily mortgage credit demonstrations and amendments to public and assisted housing drug elimination program]

(14) Designation of HUD Headquarters Building as Robert C. Weaver Federal Building, Pub. L. 106-162 (12-9-99).

(15) Electronic Signatures in Global and National Commerce Act, Pub. L. 106-229 (6-30-00).

(16) Emergency Supplemental Act, 2000, Pub. L. 106-246, §§ 2801-2804 (7-13-00). [enhanced voucher program correction, HUD appropriations technical corrections, rescissions]

(17) Continuing Appropriations for Fiscal Year 2001, Pub. L. 106-275 (9-29-00).

(18) FHA Downpayment Simplification Extension Act of 2000, Pub. L. 106-281 (10-6-00).

(19) Further Continuing Appropriations for Fiscal Year 2001, Pub. L. 106-282 (10-6-00).

(20) Further Continuing Appropriations for Fiscal Year 2001, Pub. L. 106-306 (10-13-00).

(21) Further Continuing Appropriations for Fiscal Year 2001, Pub. L. 106-344 (10-20-00).

(22) Further Continuing Appropriations for Fiscal Year 2001, Pub. L. 106-358 (10-26-00).

(23) Further Continuing Appropriations for Fiscal Year 2001, Pub. L. 106-359 (10-26-00).

(24) Departments of Veterans Affairs and Housing and Urban Development, and Independent Agencies Appropriations Act, 2001, Pub. L. 106-377 (10-27-00).

(25) Further Continuing Appropriations for Fiscal Year 2001, Pub. L. 106-381 (10-27-00).

(26) Agriculture, Rural Development, Food and Drug Administration, and Related Agencies Appropriations Act, 2001, Pub. L. 106-387 (10-28-00).

(27) Further Continuing Appropriations for Fiscal Year 2001, Pub. L. 106-388 (10-28-00).

(28) Further Continuing Appropriations for Fiscal Year 2001, Pub. L. 106-389 (10-29-00).

(29) Renaming of Stewart B. McKinney Homeless Assistance Act as McKinney-Vento Homeless Assistance Act, Pub. L. 106-400 (10-30-00).

(30) Further Continuing Appropriations for Fiscal Year 2001, Pub. L. 106-401 (10-30-00).

(31) Further Continuing Appropriations for Fiscal Year 2001, Pub. L. 106-403 (11-1-00).

(32) Further Continuing Appropriations for Fiscal Year 2001, Pub. L. 106-416 (11-1-00).

(33) Further Continuing Appropriations for Fiscal Year 2001, Pub. L. 106-426 (11-3-00).

(34) Further Continuing Appropriations for Fiscal Year 2001, Pub. L. 106-427 (11-4-00).

(35) Further Continuing Appropriations for Fiscal Year 2001, Pub. L. 106-428 (11-4-00).

(36) Amendments to the Organic Act of Guam, Pub. L. 106-504 (11-13-00). [exception to restriction on use of assisted housing by aliens]

(37) Further Continuing Appropriations for Fiscal Year 2001, Pub. L. 106-520 (11-15-00).

(38) Further Continuing Appropriations for Fiscal Year 2001, Pub. L. 106-537 (12-5-00).

(39) Further Continuing Appropriations for Fiscal Year 2001, Pub. L. 106-539 (12-7-00).

(40) Further Continuing Appropriations for Fiscal Year 2001, Pub. L. 106-540 (12-8-00).

(41) Further Continuing Appropriations for Fiscal Year 2001, Pub. L. 106-542 (12-11-00).

(42) Further Continuing Appropriations for Fiscal Year 2001, Pub. L. 106-543 (12-15-00).

(43) Consolidated Appropriations Act, 2001, Pub. L. 106-554, paragraphs (4) and (7) of § 1(a) (enacting by reference H.R. 5666 and HR 5662, 106th Congress, as introduced in the House) (12-21-00). [HUD appropriations, Millennial Housing Commission, FHLMC housing goals, study of FHLB system risks, tax incentives for renewal communities, empowerment zone incentives, low-income housing tax credit, transfer of HUD assets, risk sharing demonstration]

(44) Omnibus Indian Advancement Act, Pub. L. 106-568, titles II and X (12-27-00). [Native Hawaiian housing assistance and Native American homeownership]

(45) American Homeownership and Economic Opportunity Act of 2000, Pub. L. 106-569 (12-27-00).

<u>107th Congress (2001-2002):</u>

(1) Availability of Manufactured Housing Fees, Pub. L. 107-18 (7-5-01).

(2) Supplemental Appropriations Act, 2001, Pub. L. 107-20 (7-24-01).

(3) Continuing Appropriations for Fiscal Year 2002, Pub. L. 107-44 (9-28-01).

(4) Further Continuing Appropriations for Fiscal Year 2002, Pub. L. 107-48 (10-12-01).

(5) Further Continuing Appropriations for Fiscal Year 2002, Pub. L. 107-53 (10-22-01).

(6) Further Continuing Appropriations for Fiscal Year 2002, Pub. L. 107-58 (10-31-01).

(7) Further Continuing Appropriations for Fiscal Year 2002, Pub. L. 107-70 (11-17-01).

(8) Departments of Veterans Affairs and Housing and Urban Development, and Independent Agencies Appropriations Act, 2002, Pub. L. 107-73 (11-26-01).

(9) Agriculture, Rural Development, Food and Drug Administration, and Related Agencies Appropriations Act, 2002, Pub. L. 107-76 (11-28-01).

(10) Further Continuing Appropriations for Fiscal Year 2002, Pub. L. 107-79 (12-7-01).

(11) Further Continuing Appropriations for Fiscal Year 2002, Pub. L. 107-82 (12-15-01).

(12) Homeless Veterans Comprehensive Assistance Act of 2001, Pub. L. 107-95 (12-21-01).

(13) Further Continuing Appropriations for Fiscal Year 2002, Pub. L. 107-97 (12-21-01).

(14) National Defense Authorization Act for 2002, Pub. L. 107-107, §§ 2821(b), 3006-3007 (12-28-01). [use for homeless of closed defense bases]

(15) No Child Left Behind Act of 2001, Pub. L. 107-110, §§ 1031-1034 (1-8-02) [education for homeless children and youths]

(16) Departments of Labor, Health and Human Services, and Education, and Related Agencies Appropriations Act, 2002, Pub. L. 107-116, title VI (1-10-02). [Mark-to-Market Extension Act of 2001, housing program amendments]

(17) Department of Defense and Emergency Supplemental Appropriations for Recovery from and Response to Terrorist Attacks on the United States Act, 2002, Pub. L. 107-117, chapter 13 of division B (1-10-02). [transfers to HUD from emergency response fund]

(18) Treatment of Jacksonville, Florida, Homeless Assistance Grants, Pub. L. 107-151 (3-13-02).

(19) 2002 Supplemental Appropriations Act for Further Recovery from and Response to Terrorist Attacks on the United States, Pub. L. 107-206, chapter 13 of title I (8-2-02). [supplemental appropriations for HUD]

(20) Codification of Title 40, United States Code, Pub. L. 107-229 (9-30-02). [codification of Davis-Bacon wage requirements, non-Federal public works, Appalachian Housing Fund]

(21) Continuing Appropriations for Fiscal Year 2003, Pub. L. 107-229 (9-30-02).

(22) Further Continuing Appropriations for Fiscal Year 2003, Pub. L. 107-235 (10-4-02).

(23) Further Continuing Appropriations for Fiscal Year 2003, Pub. L. 107-240 (10-11-02).

(24) Further Continuing Appropriations for Fiscal Year 2003, Pub. L. 107-244 (10-18-02).

(25) Military Construction Appropriation Act, 2003, Pub. L. 107-249, §§ 120 and 131 (10-23-02). [base closure and realignment]

(26) 21st Century Department of Justice Appropriations Act, Pub. L. 107-273, § 205(c) (11-2-02). [amendments to provisions regarding obstruction of Federal audits]

(27) Native American Housing Assistance and Self-Determination Reauthorization Act of 2002, Pub. L. 107-292 (11-13-02).

(28) Further Continuing Appropriations for Fiscal Year 2003, Pub. L. 107-294 (11-23-02).

(29) Terrorism Risk Insurance Act of 2002, Pub. L. 107-297 (11-26-02).

(30) Paul and Sheila Wellstone Center for Community Building Act, Pub. L. 107-316 (12-2-02).

(31) FHA Downpayment Simplification Act of 2002, Pub. L. 107-326 (12-4-02).

(32) Veterans Benefits Act of 2002, Pub. L. 107-330, §§ 303, 305, 307, and 308(f) (12-6-02). [hybrid ARM guarantee demonstration, extension of Soldiers' and Sailors' Civil Relief Act of 1940 protections, loan assumption fee]

<u>108th Congress (2003-2004):</u>

(1) Further Continuing Appropriations for Fiscal Year 2003, Pub. L. 108-2, 117 Stat. 5 (1-10-03).

(2) Further Continuing Appropriations for Fiscal Year 2003, Pub. L. 108-4, 117 Stat. 8 (1-31-03).

(3) Further Continuing Appropriations for Fiscal Year 2003, Pub. L. 108-5, 117 Stat. 9, (2-7-03).

(4) Consolidated Appropriations Resolution, Pub. L. 108-7, 117 Stat. 11, title III of division A [rural development], division K [VA and HUD] (2-20-03).

(5) Emergency Wartime Supplemental Appropriations Act, 2003, Pub. L. 108-11, 117 Stat. 559, chapter 8 of title II (4-16-03). [community development fund amendments]

(6) Keeping Children and Families Safe Act of 2003, Pub. L. 108-36, 117 Stat. 800, § 414 (6-25-03). [transitional housing assistance for domestic violence victims]

(7) Continuing Appropriations for Fiscal Year 2004, Pub. L. 108-84, 117 Stat. 1042 (9-30-03).

(8) Hospital Mortgage Insurance Act of 2003, Pub. L. 108-91, 117 Stat. 1158 (10-3-03).

(9) Further Continuing Appropriations for Fiscal Year 2004, Pub. L. 108-104, 117 Stat. 1200, (10-31-03).

(10) Further Continuing Appropriations for Fiscal Year 2004, Pub. L. 108-107, 117 Stat. 1240, (11-7-03).

(11) Further Continuing Appropriations for Fiscal Year 2004, Pub. L. 108-135, 117 Stat. 1391, (11-22-03).

(12) Veterans Benefits Act of 2003, Pub. L. 108-183, 117 Stat. 2651, title IV (12-16-03). [VA housing provisions]

(13) Further Continuing Appropriations for Fiscal Year 2004, Pub. L. 108-185, 117 Stat. 2684, (12-16-03).

(14) American Dream Downpayment Act, Pub. L. 108-186, 117 Stat. 2685 (12-16-03). [downpayment assistance initiative, intergenerational housing assistance, hybrid adjustable rate mortgage provisions, FHA multifamily loan limit adjustments, HOPE VI reauthorization, CDBG funding for insular areas]

(15) Servicemembers Civil Relief Act, Pub. L. 108-189, 117 Stat. 2835, title III (12-19-03). [eviction and foreclosure protections for servicemembers]

(16) Consolidated Appropriations Act, 2004, Pub. L. 108-199, 118 Stat. 3, title III of division A [rural development], division K [VA and HUD] (1-23-04).

(17) Energy Efficient Housing Technical Correction Act, Pub. L. 108-213, 118 Stat. 571 (4-1-04).

(18) Helping Hands for Homeownership Act of 2004, Pub. L. 108-285, 118 Stat. 817 (8-2-04).

(19) A bill to preserve the authority of the Federal Housing Administration to insure mortgages under sections 238 and 519 of the National Housing Act, Pub. L. 108-301, 118 Stat. 1102 (8-9-04).

(20) Continuing Appropriations for Fiscal Year 2005, Pub. L. 108-309, 118 Stat. 1137 (9-30-04).

(21) Emergency Supplemental Appropriations for Hurricane Disasters Appropriations Act, Pub. L. 108-324, 118 Stat. 230, chapter 11 of division B (10-13-04). [additional CDBG assistance for areas affected by hurricanes]

(22) Homeownership Opportunities for Native Americans Act of 2004, Pub. L. 108-393, 118 Stat. 2246 (10-31-04).

(23) Further Continuing Appropriations for Fiscal Year 2005, Pub. L. 108-416, 118 Stat. 2338 (11-21-04).

(24) Further Continuing Appropriations for Fiscal Year 2005, Pub. L. 108-434, 118 Stat. 2614 (12-3-04).

(25) Consolidated Appropriations Act, 2005, Pub. L. 108-447, 118 Stat. 2809, title III of division A [rural development], division I (VA and HUD) (12-8-04).

(26) Veterans Benefits Improvement Act of 2004, Pub. L. 108-454, 118 Stat. 3598, title IV (12-10-04). [VA housing provisions]

<u>109th Congress (2005-2006):</u>

(1) Emergency Supplemental Appropriations Act for Defense, the Global War on Terror, and Tsunami Relief, 2005, Pub. L. 109-13, 119 Stat. 231, chapters 1 and 4 of title V, §§ 6069-6075 of title VI (5-11-05). [amendments, transfers and rescissions of funds, technical corrections]

(2) Energy Policy Act of 2005, Pub. L. 109-58, 119 Stat. 594, §§ 121-122 of subtitle B of title I, subtitle D of title I (8-8-05). [low-income housing energy assistance and weatherization assistance, energy efficiency in public housing]

(3) Continuing Appropriations for Fiscal Year 2006, Pub. L. 109-77, 119 Stat. 2037, § 128 (9-30-05). [McKinney-Vento provision]

(4) Agriculture, Rural Development, Food and Drug Administration, and Related Agencies Appropriations Act, 2006, Pub. L. 109-97, 119 Stat. 2120, title III [rural development] (11-10-05).

(5) Further Continuing Appropriations for Fiscal Year 2006, Pub. L. 109-105, 119 Stat. 2287 (11-19-05).

(6) Military Quality of Life and Veterans Affairs Appropriations Act, 2006, Pub. L. 109-114, 119 Stat. 2372, title II [VA housing] (11-30-05).

(7) Transportation, Treasury, Housing and Urban Development, the Judiciary, the District of Columbia, and Independent Agencies Appropriations Act, 2006, Pub. L. 109-115, 119 Stat. 2396, title III (11-30-05).

(8) Further Continuing Appropriations for Fiscal Year 2006, Pub. L. 109-128, 119 Stat. 2549 (12-18-05).

(9) Native American Enhancement Act of 2005, Pub. L. 109-136, 119 Stat. 2643 (12-22-05). [amending NAHASDA]

(10) Emergency Supplemental Appropriations Act to Address Hurricanes in the Gulf of Mexico and Pandemic Influenza, 2006, Pub. L. 109-148, 119 Stat. 2745, chapters 1 and 9 of title I of division B (12-30-05). [supplemental RD and HUD appropriations for hurricane relief]

(11) Violence Against Women and Department of Justice Reauthorization Act of 2005, Pub. L. 109-162, 119 Stat. 2960, title VI (1-5-06). [housing opportunities and safety for battered women and children]

(12) An Act to make available funds included in the Deficit Reduction Act of 2005 for the Low-Income Home Energy Assistance Program for fiscal year 2006, Pub. L. 109-204, 120 Stat. 312 (3-20-06).

(13) Veterans Housing Opportunity and Benefits Improvement Act of 2006, Pub. L. 109-233, 120 Stat. 397, title I (6-15-06). [VA housing provisions]

(14) Emergency Supplemental Appropriations Act of Defense, the Global War on Terror, and Hurricane Recovery, 2006, Pub. L. 109-234, 120 Stat. 418, chapters 1 and 9 of title II (6-15-06). [supplemental RD and HUD appropriations for hurricane relief]

(15) Rural Health Care Critical Access Act of 2006, Pub. L. 109-240, 120 Stat. 515 (7-10-06).

(16) YouthBuild Transfer Act, Pub. L. 109-281, 120 Stat. 1173 (9-22-06). [transfers YouthBuild program from HUD to the Department of Labor]

(17) Federal Funding Accountability and Transparency Act of 2006, Pub. L. 109-282, 120 Stat. 1186 (9-26-06).

(18) Continuing Appropriations Resolution, 2007, division B of Pub. L. 109-289, 120 Stat. 1257, (9-29-06).

(19) Further Continuing Appropriations for Fiscal Year 2007, Pub. L. 109-369, 120 Stat. 2642 (11-17-06).

(20) Further Continuing Appropriations for Fiscal Year 2007, Pub. L. 109-383, 120 Stat. 2678 (12-9-06).

(21) Veterans Benefits, Health Care and Information Technology Act of 2006, Pub. L. 109-461, 120 Stat. 3403, § 501 (12-22-06). [VA housing provisions]

110TH Congress (2007-2008):

(1) Revised Continuing Appropriations Resolution, 2007, Pub. L. 110-5, 121 Stat. 8, §§ 21033-21045 (2-15-07).

(2) U.S. Troop Readiness, Veterans' Care, Katrina Recovery, and Iraq Accountability Appropriations Act, 2007, Pub. L. 110-28, 121 Stat. 112, chapter 8 of title IV (5-25-07).

(3) Preservation Approval Process Improvement Act of 2007, Pub. L. 110-35, 121 Stat. 225 (6-15-07).

(4) Native American Home Ownership Opportunity Act of 2007, Pub. L. 110-37 (6-18-07).

(5) Continuing Appropriations for Fiscal Year 2008, Pub. L. 110-92, 121 Stat. 989, §§ 114 and 144-147 (9-29-07).

(6) Department of Defense Appropriations Act, 2008, division B of Pub. L. 110-116, 121 Stat. 1295, § 159 (11-13-07). [further continuing appropriations for HUD]

(7) Further Continuing Appropriations for Fiscal Year 2008, Pub. L. 110-137, 121 Stat. 1454 (12-14-07).

(8) Mortgage Forgiveness Debt Relief Act of 2007, Pub. L. 110-142, 121 Stat. 1803 (12-20-07).

(9) Further Continuing Appropriations for Fiscal Year 2008, Pub. L. 110-149, 121 Stat. 1819 (12-21-07).

(10) Consolidated Appropriations Act, 2008, Pub. L. 110-161, 121 Stat. 1844, title III of division A [rural development], title II of division I [VA], and title II of division K [HUD] (12-26-07).

(11) Emergency and Disaster Assistance Fraud Penalty Enhancement Act of 2007, Pub. L. 110-179, 121 Stat. 2556 (1-7-08).

(12) Economic Stimulus Act of 2008, Pub. L. 110-185, 122 Stat. 613, title II (2-13-08). [GSE and FHA loan limits]

(13) Supplemental Appropriations Act, 2008, Pub. L. 110-252, 122 Stat. 2323, chapter 6 of title III (6-30-08). [disaster recovery housing assistance]

(14) Housing and Economic Recovery Act of 2008, Pub. L. 110-289, 122 Stat. 2654, titles IV-VI of division A, division B (7-30-08). [HOPE for Homeowners, SAFE Act, FHA Modernization Act of 2008, mortgage foreclosure protections for servicemembers, emergency assistance for the redevelopment of abandoned and foreclosed homes, housing counseling resources, veterans housing matters, Small Public Housing Authorities Paperwork Reduction Act, housing preservation provisions]

(15) Consolidated Security, Disaster Assistance, and Continuing Appropriations Act, 2009, Pub. L. 110-329, 122 Stat. 3574, §§ 115, 168-171, and 174 of division A, chapters 1 and 10 of title I of division B (9-30-08). [continuing HUD appropriations, supplemental disaster housing appropriations]

(16) Emergency Economic Stabilization Act of 2008, Pub. L. 110-343, 122 Stat. 3765, §§ 109-110 and 124 of title I of division A (10-3-08). [foreclosure mitigation efforts, assistance to homeowners, HOPE for Homeowners amendments]

(17) Reconnecting Homeless Youth Act of 2008, Pub. L. 110-378, 122 Stat. 4068 (10-8-08).

(18) Veterans Benefits Improvement Act of 2008, Pub. L. 110-389, 122. Stat. 4145, title V (10-10-08). [VA housing provisions]

(19) Native American Housing Assistance and Self-Determination Reauthorization Act of 2008, Pub. L. 110-411, 122 Stat. 4319 (10-14-08).

111th Congress (2009-2010):

(1) American Recovery and Reinvestment Act of 2009, Pub. L. 111-5, 123 Stat. 115, titles I and XII of division A (2-17-09). [supplemental recovery appropriations]

(2) Continuing Appropriations for Fiscal Year 2009, Pub. L. 111-6, 123 Stat. 522 (3-6-09).

(3) Omnibus Appropriations Act, 2009, Pub. L. 111-8, 123 Stat. 524, title III of division A [rural development], title II of division I [HUD] (3-11-09).

(4) Helping Families Save Their Homes Act of 2009, Pub. L. 111-22, 123 Stat. 1632 (5-20-09). [preventing mortgage foreclosures, Protecting Tenants at Foreclosure Act, Homeless Emergency Assistance and Rapid Transition to Housing Act of 2009]

(5) Supplemental Appropriations Act, 2009, Pub. L. 111-32, 123 Stat. 1859, §§ 1203-1205 of title XII (6-24-09). [amendments to HUD appropriations]

(6) Agriculture, Rural Development, Food and Drug Administration, and Related Agencies Appropriations Act, 2010, Pub. L. 111-80, 123 Stat. 2090, title III (10-21-09). [rural development appropriations]

(7) Worker, Homeownership, and Business Assistance Act of 2009, Pub. L. 111-92, 123 Stat. 2984, §§ 11-12 (11-6-09). [first-time homebuyer tax credit]

(8) Consolidated Appropriations Act, 2010, Pub. L. 111-117, 123 Stat. 3034, title II of division A [HUD], title II of division E [VA] (12-16-09).

(9) Homebuyer Assistance and Improvement Act of 2010, Pub. L. 111-198, 124 Stat. 1356 (7-2-10).

(10) Dodd-Frank Wall Street Reform and Consumer Protection Act, Pub. L. 111-203, 124 Stat. 1376, titles X and XIV (7-21-10). [Consumer Financial Protection Act of 2010, Mortgage Reform and Anti-Predatory Lending Act, Expand and Preserve Home Ownership Through Housing Counseling Act]

(11) Supplemental Appropriations Act, 2010, Pub. L. 111-212, 124 Stat. 2302, chapter 11 of title I (7-29-10). [HUD supplemental appropriations]

(12) General and Special Risk Insurance Funds Availability Act of 2010, Pub. L. 111-228, 124 Stat. 2482 (8-11-10).

(13) An Act To increase the flexibility of the Secretary of Housing and Urban Development with respect to the amount of premiums charged for FHA single family housing mortgage insurance, Pub. L. 111-229, 124 Stat. 2483 (8-11-10).

(14) Continuing Appropriations for Fiscal Year 2011, Pub. L. 111-242, 124 Stat. 2607, §§ 142-146 (9-30-10). [FHA loan limits, miscellaneous HUD appropriations provisions]

(15) Indian Veterans Housing Opportunities Act of 2010, Pub. L. 111-269, 124 Stat. 2850 (10-12-10). [NAHASDA amendment]

(16) Veterans Benefits Act of 2010, Pub. L. 111-275, 124 Stat. 2864, title II (10-13-10). [VA housing provisions]

(17) Further Continuing Appropriations for Fiscal Year 2011, Pub. L. 111-290, 124 Stat. 3063 (12-4-10).

(18) Further Continuing Appropriations for Fiscal Year 2011, Pub. L. 111-317, 124 Stat. 3454 (12-18-10).

(19) Continuing Appropriations and Surface Transportation Extensions Act, 2011, Pub. L. 111-322, 124 Stat. 3518 (12-22-10).

(20) Helping Heroes Keep Their Homes Act of 2010 Pub. L. 111-346, 124 Stat. 3622 (12-29-10).

(21) Section 202 Supportive Housing for the Elderly Act of 2010, Pub. L. 111-372, 124 Stat. 4077 (1-4-11).

(22) Frank Melville Supportive Housing Act of 2010, Pub. L. 111-374, 124 Stat. 4089 (1-4-11).

<u>112th Congress (2011-2012):</u>

(1) Further Continuing Appropriations Amendments, 2011, Pub. L. 112-4, 125 Stat. 6, § 226 (3-2-11).

(2) Additional Continuing Appropriations Amendments, 2011, Pub. L. 112-6, 125 Stat. 23, § 293 (3-18-11).

(3) Further Additional Continuing Appropriations Amendments, 2011, Pub. L. 112-8, 125 Stat. 34, §§ 302-303 (4-9-11).

(4) Department of Defense and Full-Year Continuing Appropriations Act, 2011, Pub. L. 112-10, 125 Stat. 38, §§ 2232-2259 of title XII of division B (4-15-11).

(5) Consolidated and Further Continuing Appropriations Act, 2012, Pub. L. 112-55, 125 Stat. 552 (11-18-11).

(6) Moving Ahead for Progress in the 21st Century Act, Pub. L. 112-141, § 100261 (7-6-12).

(7) Presidential Appointment Efficiency and Streamlining Act, Pub. L. 112-166, §2 (8-10-12).

<u>113th Congress (2013-2014).</u>

(1) Consolidated and Further Continuing Appropriations Act, 2013, Pub. L. 113-6 (3-26-13).

(2) Disaster Relief Appropriations Act, 2013, Pub. L. 113-2 (1-29-13).

(3) Violence Against Women Reauthorization Act of 2013, Pub. L. 113-4 § 601 (3-7-13).

(4) Reverse Mortgage Stabilization Act of 2013, Pub. L. 113-29, § 2 (8-9-13).
(5) Continuing Appropriations Act, 2014, Pub. L. 113-46 (10-17-13).
(6) H.J. Res. 106, Pub. L. 113-73 (1-15-14).
(7) Consolidated Appropriations Act, 2014, Pub. L. 113-76 (1-17-14).
(8) Continuing Appropriations Resolution, 2015, Pub. L. 113-164 (12-13-14).
(9) Workforce Innovation and Opportunity Act, Pub. L. 113-128 §§121 and 169 (7-22-14).
(10) Further Continuing Appropriations, Fiscal Year 2015, Pub. L. 113-202 (12-12-14).
(11) Further Continuing Appropriations, Fiscal Year 2015, Pub. L. 113-203 (9-19-14).
(12) Consolidated and Further Continuing Appropriations Act, 2015, Pub. L. 113-235 (12-16-14).
(13) Carl Levin and Howard P. "Buck" McKeon National Defense Authorization Act for Fiscal Year 2015, Pub. L. 113-291, § 1079 (12-19-14).

114th Congress (2015-2016).
(1) Continuing Appropriations Act, 2016, Pub. L. 114-53 (9-30-15).
(2) Fixing America's Surface Transportation Act, Pub. L. 114-94, Titles LXXVII, LXXVIII, LXXIX, and LXXXI (12-4-15).
(3) Further Continuing Appropriations Act, 2016, Pub. L. 114-96 (12-11-15).
(4) H.J. Res. 78, Making further continuing appropriations for fiscal year 2016, and for other purposes. Pub. L. 114-100 (12-16-15).
(5) Consolidated Appropriations Act, 2016, Pub. L. 114-113 (12-18-15).
(6) Housing Opportunity Through Modernization Act of 2016, Pub. L. 114-201 (7-29-16).
(7) Continuing Appropriations and Military Construction, Veterans Affairs, and Related Agencies Appropriation Act, 2017, and Zika Response and Preparedness Act, Pub. L. 114-223 (9-29-16).
(8) Federal Assets Sale and Transfer Act of 2016, Pub. L. 114-287, § 22 (12-16-16).

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