

(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.

(Pub. L. 100-242, title II, § 214, as added Pub. L. 101-625, title VI, § 601(a), Nov. 28, 1990, 104 Stat. 4251; amended Pub. L. 114-94, div. G, title LXXVII, § 77002, Dec. 4, 2015, 129 Stat. 1790.)

#### Editorial Notes

##### AMENDMENTS

2015—Subsec. (c). Pub. L. 114-94 added subsec. (c).

#### Statutory Notes and Related Subsidiaries

##### IMPLEMENTATION

Pub. L. 114-94, div. G, title LXXVII, § 77003, Dec. 4, 2015, 129 Stat. 1791, provided that: “The Secretary of Housing and Urban Development shall issue any guidance that the Secretary considers necessary to carry out the provisions added by the amendments made by this title [amending this section and section 4112 of this title] not later than the expiration of the 120-day period beginning on the date of the enactment of this Act [Dec. 4, 2015].”

#### § 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 4103(a) of this title, the Secretary shall determine whether the aggregate preservation rents for the project determined under paragraph (1) or (2) of section 4104(b) of this title exceed the amount determined by multiplying 120 percent of the fair market rental (established under section 1437f(c) of title 42) 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 1437f(c)(1) of title 42 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 subchapter, the aggregate preservation rents shall be considered to exceed the Federal cost limits under this sub-

section 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 4114 of this title. The owner may—

(A) file a plan of action under section 4107 of this title to receive incentives under section 4109 of this title; or

(B) file a second notice of intent under section 4106(d) of this title indicating an intention to transfer the housing under section 4110 of this title 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 4107 of this title to receive incentives under section 4109 of this title 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 4106(d) of this title indicating an intention to transfer the housing under section 4110 of this title 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 4106(d) of this title indicating an intention to prepay the mortgage or voluntarily terminate the insurance, subject to the mandatory sale provisions under section 4111 of this title.

(Pub. L. 100-242, title II, § 215, as added Pub. L. 101-625, title VI, § 601(a), Nov. 28, 1990, 104 Stat. 4252; amended Pub. L. 102-550, title III, § 317(a)(1), Oct. 28, 1992, 106 Stat. 3772.)

#### Editorial Notes

##### AMENDMENTS

1992—Subsec. (a)(2). Pub. L. 102-550 made technical amendment to reference to section 1437f(c)(1) of title 42 to reflect correction of corresponding provision of original act.

#### § 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 4108 of this title 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 4108 of