



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

September 2024 Update

**REVISED THROUGH September 13, 2024
(Public Law 118-78)**

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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 title¹ 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 those 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 Commerce⁴

(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.

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.

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—

"(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;

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 with 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 November 30, 1983.

the Comptroller General of the United States. The representatives of the General Accounting Office¹² 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

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

"(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 Agency¹⁴, 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.

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 uncontested 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 a¹⁸ 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.

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 States 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 jurisdiction 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)²¹ 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 heading²² 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).

²¹ Section 3003(a)(1) of the Federal Reports Elimination and Sunset Act of 1995, Pub. L. 104-66, 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.

²² 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.

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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 or 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 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.²³

(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 1987,²⁴ 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).²⁵

²³ February 5, 1988.

²⁴ February 5, 1988.

²⁵ So in law.

(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 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 1994²⁶ 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.

²⁶ April 11, 1994.

(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—

(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)²⁷ 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

²⁷ 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 DEVELOPMENT 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 Representatives²⁸ and Banking, Housing, and Urban Affairs of the

²⁸ 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

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

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.

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

* * * * *

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.

* * * * *

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

PROVISIONS REGARDING USE OF CDBG-DR AMOUNTS

ADDITIONAL SUPPLEMENTAL APPROPRIATIONS FOR DISASTER RELIEF ACT, 2019 [Public Law 116-20; 133 Stat. 1072]

Sec. 1101(b). [42 U.S.C. 5322]

Amounts made available for administrative costs for activities authorized under title I of the Housing and Community Development Act of 1974 (42 U.S.C. 5301 et seq.) related to disaster relief, long-term recovery, restoration of infrastructure and housing, economic revitalization, and mitigation in the most impacted and distressed areas under this Act or any future Act, and amounts previously provided under section 420 of division L of Public Law 114–113, section 145 of division C of Public Law 114–223, section 192 of division C of Public Law 114–223 (as added by section 101(3) of division A of Public Law 114–254), section 421 of division K of Public Law 115–31, and under the heading ‘Department of Housing and Urban Development—Community Planning and Development—Community Development Fund’ of division B of Public Law 115–56, Public Law 115–123, and Public Law 115–254, shall be available for eligible administrative costs of the grantee related to any disaster relief funding identified in this section without regard to the particular disaster appropriation from which such funds originated.

END OF STATUTE

DELIVERING EMERGENCY ASSISTANCE ACT
[Public Law 117-43; 135 Stat. 344]**TITLE VIII****USE OF COMMUNITY DEVELOPMENT BLOCK GRANT -DISASTER RECOVERY (CDBG-DR) FUNDS
FOR UNMET RECOVERY NEEDS****[42 U.S.C. 5301 note]**

The Secretary is authorized to approve the use of amounts made available under this heading [Department of Housing and Urban Development—Community Planning and Development—Community Development Fund] in this Act [Delivering Emergency Assistance Act, Pub. L. 117-43, 135 Stat. 344, approved September 30, 2021] or a prior or future Act for activities authorized under title I of the Housing and Community Development Act of 1974 (42 U.S.C. 5301 et seq.) related to unmet recovery needs in the most impacted and distressed areas resulting from a major disaster in this Act or in a prior or future Act to be used interchangeably and without limitation for the same activities in the most impacted and distressed areas resulting from other major disasters assisted under this Act or a prior or future Act when such areas overlap and when the use of the funds will address unmet recovery needs of both disasters.

* * * * *

USE OF CDBG-DR ALLOCATION FOR ADMINISTRATIVE COSTS**[42 U.S.C. 5322 note]**

A State, unit of general local government, or Indian tribe may use up to 5 percent of its allocation for administrative costs related to a major disaster under this heading [Department of Housing and Urban Development—Community Planning and Development-Community Development Fund] in this Act [Extending Government Funding and Delivering Emergency Assistance Act, Pub. L. 117-43, 135 Stat. 344, approved September 30, 2021] and for the same purposes in prior and future Acts and such amounts shall be available for any eligible administrative costs without regard to a particular disaster.

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.²⁹

END OF STATUTE

²⁹ 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 1964³⁰, 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

³⁰ 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 compensation³¹ 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 compensation³² 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.

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.

³² 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 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.

(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 Office³⁴ 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.

(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

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.”

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 relevant 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

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 an³⁷ 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 Act³⁸ 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 Act³⁹ 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 Representatives⁴⁰.

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 Representatives⁴¹ an annual report containing a summary of the activities carried out under this 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 DEPOSITORY INSTITUTIONS.—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

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 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 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 $\frac{1}{3}$ 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 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 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 upon⁴⁷
- (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 used⁴⁸ to house individuals or families whose incomes do not exceed 50 percent of area median income.

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

(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

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:

- (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.)

\$30,000,000 shall be used by the Neighborhood Reinvestment Corporation (referred to in this section as the “NRC”) 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, reconfiguring 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, or⁴⁹ 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 assistance 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 14⁵⁰, 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

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 pursuant to paragraph 6; 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. 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.

(2) RENTAL PAYMENTS FOR PUBLIC HOUSING FAMILIES.—

(A) AUTHORITY FOR FAMILY TO SELECT.—

(i) IN GENERAL.—A family residing in a public housing dwelling⁵⁴ 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 rent options for any public housing dwelling unit owned, assisted, or operated by the agency.

⁵³ As it appears in the public law print. Should be “(i)”.

⁵⁴ So in law. Probably should refer to a “public housing dwelling unit”.

(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 Act⁵⁵ 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 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.

⁵⁵ October 1, 1999.

(C) SWITCHING RENT DETERMINATION METHODS BECAUSE OF HARSH 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 of⁵⁶ 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 HARSH 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 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)).

⁵⁶ So in law. Probably should be "or".

(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.

(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;

(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 be 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.

(8) CARBON MONOXIDE ALARMS.—Each public housing agency shall ensure that carbon monoxide alarms or detectors are installed in each dwelling unit in public housing owned or operated by the public housing agency in a manner that meets or exceeds—

(A) the standards described in chapters 9 and 11 of the 2018 publication of the International Fire Code, as published by the International Code Council; or

(B) any other standards as may be adopted by the Secretary, including any relevant updates to the International Fire Code, through a notice published in the Federal Register.⁵⁷

(9) QUALIFYING SMOKE ALARMS.—

(A) IN GENERAL⁵⁸.—Each public housing agency shall ensure that a qualifying smoke alarm is installed in accordance with applicable codes and standards published by the International Code Council or the National Fire Protection Association and the requirements of the National Fire Protection Association Standard 72, or any successor standard, in each level in or near each sleeping area in any dwelling unit in public housing owned or operated by the public housing agency, including in basements but excepting crawl spaces and unfinished attics, and in each common area in a project containing such a dwelling unit.

(B) DEFINITIONS.—For purposes of this paragraph, the following definitions shall apply:

(i) SMOKE ALARM DEFINED.—The term “smoke alarm” has the meaning given the term “smoke detector” in section 29(d) of the Federal Fire Prevention and Control Act of 1973 (15 U.S.C. 2225(d)).

(ii) QUALIFYING SMOKE ALARM DEFINED.—The term “qualifying smoke alarm” means a smoke alarm that—

(I) in the case of a dwelling unit built before the date of enactment of this paragraph and not substantially rehabilitated after the date of enactment of this paragraph⁵⁹—

(aa)(AA) is hardwired; or

(BB) uses 10-year non rechargeable, nonreplaceable primary batteries and is sealed, is tamper resistant, and contains silencing means; and

(bb) provides notification for persons with hearing loss as required by the National Fire Protection Association Standard 72, or any successor standard; or

(II) in the case of a dwelling unit built or substantially rehabilitated after the date of enactment of this paragraph, is hardwired.

(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.

⁵⁷ Section (101)(h) and (j), respectively, of the Consolidated Appropriations Act, 2021, (P.L. 116-260, signed December 28, 2020) note that the amendments made by subsections (b) through (e) shall take effect on the date that is 2 years after the date of enactment of this Act; and that nothing in the amendments made by this section shall be construed to preempt or limit the applicability of any State or local law relating to the installation and maintenance of carbon monoxide alarms or detectors in housing that requires standards that are more stringent than the standards described in the amendments made by this section.

⁵⁸ Section 601(i) of the Consolidated Appropriations Act, 2023, (P.L. 117-328, signed December 29, 2022) notes that nothing in the amendments made by the section shall be construed to preempt or limit the applicability of any State or local law relating to the installation and maintenance of smoke alarms in housing that requires that are more stringent than the standards described in the amendments made by this section.

⁵⁹ December 29, 2022

(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.

(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, (v) a youth described in section 8(x)(2)(B) and (vi)⁶⁰ of the first sentence be provided a housing unit assisted under this Act of 2 or more bedrooms.

(B)⁶¹ 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.

⁶⁰ Sec. 103(d) of the Consolidated Appropriations Act, 2021, notes that the amendments made by this section shall not apply to housing choice voucher assistance made available pursuant to section 8(x) of the United States Housing Act of 1937 (42 U.S.C. 1437f(x)) that is in use on behalf of an assisted family as of the date of the enactment of this Act.

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.".

(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

(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) The term “income” means, with respect to a family, income from all sources by each member of the household who is 18 years of age or older or who 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.⁶²

(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 by 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.

(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

⁶² 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).

(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 8⁶³, or is not performing effectively—

(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.

⁶³ So in law.

(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.⁶⁴

(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) 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 8,⁶⁵ 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

⁶⁴ 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.

"(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.

⁶⁵ Punctuation so in law. Probably should be a semicolon.

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.

(2)(A) On the date of the enactment of the Housing and Community Development Reconciliation Amendments of 1985,⁶⁶ 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

⁶⁶ April 7, 1986.

\$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 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 under⁶⁷ 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.

⁶⁷ So in law.

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.

(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;⁶⁸

(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—

(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.

⁶⁸ So in law.

(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) that⁶⁹ the information is available as required under subparagraph (A); and
 - (ii) that⁷⁰ 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.—

⁶⁹ So in law.

⁷⁰ So in law.

(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
 - (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 Secretary⁷¹ determines that the contents of the plan (or amendment or modification) do not comply with the requirements under subparagraph⁷² (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) 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)⁷³ public housing agencies that are determined by the Secretary to be high performing public housing agencies;

(B)⁷⁴ public housing agencies with less than 250 public housing units that have not been designated as troubled under section 6(j)(2); and

(C)⁷⁵ 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.

⁷¹ So in law.

⁷² So in law.

⁷³ Indented so in law. Subparagraphs (A) through (C) probably should be designated as paragraphs (1) through (3).

⁷⁴ Indented so in law. Subparagraphs (A) through (C) probably should be designated as paragraphs (1) through (3).

⁷⁵ Indented so in law. Subparagraphs (A) through (C) probably should be designated as paragraphs (1) through (3).

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 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 are⁷⁶ 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—

⁷⁶ So in law.

(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;

(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)⁷⁷ 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

⁷⁷ So in law. Probably intended to refer to paragraph (1).

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:⁷⁸

- (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.
- (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.⁷⁹

(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

⁷⁸ 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.

⁷⁹ 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).

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 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.⁸⁰ 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)⁸¹ 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

⁸⁰ 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.

⁸¹ Indented so in law.

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;
- (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 1998⁸², 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 1998⁸³, 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

⁸² October 21, 1998.

⁸³ October 21, 1998.

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) 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 9⁸⁴ to the agency;

(ii) withhold from the agency amounts from the total allocations for the agency pursuant to section 9;

⁸⁴ So in law.

(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 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)⁸⁵; 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;

⁸⁵ 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.

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 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.

(I) 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)⁸⁶ 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

⁸⁶ So in law. Probably should be designated as paragraph (8).

termination of tenancy and assistance for illegal drug users and alcohol abusers) shall be cause for termination of tenancy;⁸⁷

(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)⁸⁸ 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.

(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 housing⁸⁹ 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

⁸⁷ So in law.

⁸⁸ Indented and designated so in law. Probably should be designated as subparagraph (B).

⁸⁹ 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.

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.

(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)⁹⁰ 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 1996⁹¹) 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).

⁹⁰ Probably intended to refer to section 202(d)(8) as in effect before October 1, 1991.

⁹¹ March 28, 1996.

(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 1996⁹²) 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 Acquisitions⁹³ Policy Act of 1970 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

⁹² March 28, 1996.

⁹³ So in law. Probably should be "Acquisition".

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.⁹⁴ 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 1.0.⁹⁵ 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

⁹⁴ 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.”.

⁹⁵ 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.”.

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.

(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.⁹⁶

(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.

⁹⁶ 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.”.

(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 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 of 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 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 661⁹⁷ 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

⁹⁷ So in law. Probably intended to refer to section 671 of such Act.

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.

(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.]⁹⁸

(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.

⁹⁸ 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.

(h) NONAPPLICABILITY OF INCONSISTENT PROVISIONS TO CONTRACTS FOR ASSISTANCE PAYMENTS.—Sections 5(e) and 6⁹⁹ 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) CARBON MONOXIDE ALARMS.—Each owner of a dwelling unit receiving project-based assistance under this section shall ensure that carbon monoxide alarms or detectors are installed in the dwelling unit in a manner that meets or exceeds—

(1) the standards described in chapters 9 and 11 of the 2018 publication of the International Fire Code, as published by the International Code Council; or

(2) any other standards as may be adopted by the Secretary, including any relevant updates to the International Fire Code, through a notice published in the Federal Register.¹⁰⁰

(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 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) QUALIFYING SMOKE ALARMS.—

(1) IN GENERAL¹⁰¹.—Each owner of a dwelling unit receiving project-based assistance under this section shall ensure that qualifying smoke alarms are installed in accordance with applicable codes and standards published by the International Code Council or the National Fire Protection Association and the requirements of the National Fire Protection Association Standard 72, or any successor standard, in each level and in or near each sleeping area in such dwelling unit, including in basements but excepting crawl spaces and unfinished attics, and in each common area in a project containing such a dwelling unit.

(2) DEFINITIONS.—For purposes of this subsection, the following definitions shall apply:

(A) SMOKE ALARM DEFINED.—The term “smoke alarm” has the meaning given the term “smoke detector” in section 29(d) of the Federal Fire Prevention and Control Act of 1974 (15 U.S.C. 2225(d)).

(B) QUALIFYING SMOKE ALARM DEFINED.—The term “qualifying smoke alarm” means a smoke alarm that—

(i) in the case of a dwelling unit built before the date of enactment of this subsection and not substantially rehabilitated after the date of enactment of this subsection¹⁰²—

(I)(aa) is hardwired; or

(bb) uses 10-year non rechargeable, nonreplaceable primary batteries

and—

(AA) is sealed;

⁹⁹ 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.

¹⁰⁰ Section (101)(h) and (j), respectively, of the Consolidated Appropriations Act, 2021, (P.L. 116-260, signed December 28, 2020) note that the amendments made by subsections (b) through (e) shall take effect on the date that is 2 years after the date of enactment of this Act; and that nothing in the amendments made by this section shall be construed to preempt or limit the applicability of any State or local law relating to the installation and maintenance of carbon monoxide alarms or detectors in housing that requires standards that are more stringent than the standards described in the amendments made by this section.

¹⁰¹ Section 601(i) of the Consolidated Appropriations Act, 2023, (P.L. 117-328, signed December 29, 2022) notes that nothing in the amendments made by the section shall be construed to preempt or limit the applicability of any State or local law relating to the installation and maintenance of smoke alarms in housing that requires that are more stringent than the standards described in the amendments made by this section.

¹⁰² December 29, 2022

- (BB) is tamper resistant; and
- (CC) contains silencing means; and
- (II) provides notification for persons with hearing loss as required by the National Fire Protection Association Standard 72, or any successor standard; or
 - (ii) in the case of a dwelling unit built of substantially rehabilitated after the date of enactment of this paragraph, is hardwired.
- (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.¹⁰³**—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

¹⁰³Section 3202 of the American Rescue Plan Act of 2021, Public Law 117-2, established a temporary Emergency Voucher program with additional categories of eligibility. Subsection (b)(2) of such section provides that qualifying individuals or families for emergency vouchers are those who are homeless; at risk of homelessness; fleeing or attempting to flee domestic violence, dating violence, sexual assault, stalking, or human trafficking; or are recently homeless and for whom providing rental assistance will prevent homelessness or having high risk of housing instability.

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)¹⁰⁴ 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.¹⁰⁵

(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;

¹⁰⁴ So in law. There is no open parenthesis.

¹⁰⁵ 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.

(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 and in the case of an owner who is an immediate successor in interest pursuant to foreclosure during the term of the lease vacating the property prior to sale shall not constitute other good cause, except that the owner may terminate the tenancy effective on the date of transfer of the unit to the owner if the owner—

(i) will occupy the unit as a primary residence; and

(ii) has provided the tenant a notice to vacate at least 90 days before the effective date of such notice.;

(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 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. In the case of any foreclosure on any federally-related mortgage loan (as that term is defined in section 3 of the Real Estate Settlement Procedures Act of 1974 (12 U.S.C. 2602)) or on any residential real property in which in which a recipient of assistance under this subsection resides, the immediate successor in interest in such property pursuant to the foreclosure shall assume such interest subject to the lease between the prior owner and the public housing agency for the occupied unit, except that this provision and the provisions related to foreclosure in subparagraph (C) shall not¹⁰⁶ shall not affect any State or local law that provides longer time periods or other additional protections for tenants.

(8) INSPECTION OF UNITS BY PHA'S.—

(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

¹⁰⁶ So in law.

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).

(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 choice¹⁰⁷

(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.—

(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).

¹⁰⁷ So in law. Should probably end with a period.

(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) 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.

(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.

(H) INSPECTION GUIDELINES.—The Secretary shall establish procedural guidelines and performance standards to facilitate inspections of dwelling units and conform such 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.

(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 1990¹⁰⁸, 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—

¹⁰⁸ So in law. Probably intended to refer to the “Cranston-Gonzalez National Affordable Housing Act of 1990”.

(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 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) 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.

(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) 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, that house eligible youths receiving assistance pursuant to subsection (x)(2)(B)¹⁰⁹, or that are located in areas where vouchers under this subsection 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.

(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) 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, to eligible youths receiving assistance pursuant to subsection (x)(2)(B), 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

¹⁰⁹ Section 103(d) of the Consolidated Appropriations Act, 2021, (P.L. 116-260, signed December 28, 2020) notes that amendments made by section 103 shall not apply to housing choice voucher assistance made available pursuant to section 8(x) of the United States Housing Act of 1937 (42 U.S.C. 1437f(x)) that is in use on behalf of an assisted family as of the date of the enactment of this Act.

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.

(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 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) 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.

(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 20 years 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 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) 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 shall provide for rent adjustments, 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.

(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 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.

(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 relating to funding other than housing assistance payments.

(ii) ENVIRONMENTAL REVIEW.—A public housing agency shall not be required to undertake any environmental review before entering into a housing assistance payments contract under this paragraph for an existing project, except to the extent such a review is otherwise required by law or regulation.

(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.

(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, 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.¹¹⁰

(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.

¹¹⁰ Two periods so in law. See amendment made by section 302 of Public Law 111-372.

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.

(D) VETERAN DEFINED.—In this paragraph, the term ‘veteran’ has the meaning given that term in section 2002(b) of title 38, United States Code.

(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.

(21) CARBON MONOXIDE ALARMS.—Each dwelling unit receiving tenant-based assistance or project-based assistance under this subsection shall have carbon monoxide alarms or detectors installed in the dwelling unit in a manner that meets or exceeds—

(A) the standards described in chapters 9 and 11 of the 2018 publication of the International Fire Code, as published by the International Code Council; or

(B) any other standards as may be adopted by the Secretary, including any relevant updates to the International Fire Code, through a notice published in the Federal Register.¹¹¹

(22) QUALIFYING SMOKE ALARMS.—

¹¹¹ Section (101)(h) and (j), respectively, of the Consolidated Appropriations Act, 2021, (P.L. 116-260, signed December 28, 2020) note that the amendments made by subsections (b) through (e) shall take effect on the date that is 2 years after the date of enactment of this Act; and that nothing in the amendments made by this section shall be construed to preempt or limit the applicability of any State or local law relating to the installation and maintenance of carbon monoxide alarms or detectors in housing that requires standards that are more stringent than the standards described in the amendments made by this section.

(A) IN GENERAL¹¹².— Each dwelling unit receiving tenant-based assistance or project-based assistance under this subsection shall have a qualifying smoke alarm installed in accordance with applicable codes and standards published by the International Code Council or the National Fire Protection Association and the requirements of the National Fire Protection Association Standard 72, or any successor standard, in each level and in or near each sleeping area in such dwelling unit, including in basements but excepting crawl spaces and unfinished attics, and in each common area in a project containing such a dwelling unit.

(B) DEFINITIONS.—For purposes of this paragraph, the following definitions shall apply:

(i) SMOKE ALARM DEFINED.—The term “smoke alarm” has the meaning given the term “smoke detector” in section 29(d) of the Federal Fire Prevention and Control Act of 1974 (15 U.S.C. 2225(d)).

(ii) QUALIFYING SMOKE ALARM DEFINED.—The term “qualifying smoke alarm” means a smoke alarm that—

(I) in the case of a dwelling unit built before the date of enactment of this paragraph and not substantially rehabilitated after the date of enactment of this paragraph¹¹³—

(aa)(AA) is hardwired; or

(BB) uses 10-year non rechargeable, nonreplaceable primary batteries and is sealed, is tamper resistant, and contains silencing means; and

(bb) provides notification for persons with hearing loss as required by the National Fire Protection Association Standard 72, or any successor standard; or

(II) in the case of a dwelling unit built of substantially rehabilitated after the date of enactment of this paragraph, is hardwired.

(p) SHARED HOUSING FOR ELDERLY 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.

¹¹² Section 601(i) of the Consolidated Appropriations Act, 2023, (P.L. 117-328, signed December 29, 2022) notes that nothing in the amendments made by the section shall be construed to preempt or limit the applicability of any State or local law relating to the installation and maintenance of smoke alarms in housing that requires that are more stringent than the standards described in the amendments made by this section.

¹¹³ December 29, 2022

(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 1998¹¹⁴) 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

(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.

(5) SUPPLEMENTS FOR ADMINISTERING ASSISTANCE FOR YOUTH AGING OUT OF FOSTER CARE.—The Secretary may provide supplemental fees under this subsection to the public housing agency for the cost of administering any assistance for foster youth under subsection (x)(2)(B), in an amount determined by the Secretary, but only if the agency waives for such eligible youth receiving assistance any residency requirement that it has otherwise established pursuant to subsection (r)(1)(B)(i).¹¹⁵

(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

¹¹⁴ October 1, 1999.

¹¹⁵ Section 103(d) of the Consolidated Appropriations Act, 2021, (P.L. 116-260, signed December 28, 2020) notes that amendments made by section 103 shall not apply to housing choice voucher assistance made available pursuant to section 8(x) of the United States Housing Act of 1937 (42 U.S.C. 1437f(x)) that is in use on behalf of an assisted family as of the date of the enactment of this Act.

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) if the annual adjusted income of the assisted family declines to a significant extent, the percentage of annual adjusted income paid by the family for rent shall not exceed the greater of 30 percent or the percentage of annual adjusted 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—

(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 assistance¹¹⁶ 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.¹¹⁷—

¹¹⁶ So in law. There should probably be a comma.

¹¹⁷ Section 103(d) of the Consolidated Appropriations Act, 2021, (P.L. 116-260, signed December 28, 2020) notes that amendments made by section 103 shall not apply to housing choice voucher assistance made available pursuant to section 8(x) of the United States Housing Act of 1937 (42 U.S.C. 1437f(x)) that is in use on behalf of an assisted family as of the date of the enactment of this Act.

(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) subject to paragraph (5), 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.—

(A) IN GENERAL.—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.

(B) ASSISTANCE FOR YOUTH AGING OUT OF FOSTER CARE.—Notwithstanding any other provision of law, the Secretary shall, subject only to the availability of funds, allocate such assistance to any public housing agencies that (i) administer assistance pursuant to paragraph (2)(B), or seek to administer such assistance, consistent with procedures established by the Secretary, (ii) have requested such assistance so that they may provide timely assistance to eligible youth, and (iii) have submitted to the Secretary a statement describing how the agency will connect assisted youths with local community resources and self-sufficiency services, to the extent they are available, and obtain referrals from public child welfare agencies regarding youths in foster care who become eligible for such assistance.

(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 and establishing a point of contact at public housing agencies to ensure that public housing agencies receive appropriate referrals regarding eligible recipients;

(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) REQUIREMENTS FOR ASSISTANCE FOR YOUTH AGING OUT OF FOSTER CARE.—

Assistance provided under this subsection for an eligible youth pursuant to paragraph (2)(B) shall be subject to the following requirements:

(A) REQUIREMENTS TO EXTEND ASSISTANCE.—

(i) PARTICIPATION IN FAMILY SELF-SUFFICIENCY.—In the case of a public housing agency that is providing such assistance under this subsection on behalf of an eligible youth and that is carrying out a family self-sufficiency program under section

23, the agency shall, subject only to the availability of such assistance, extend the provision of such assistance for up to 24 months beyond the period referred to in paragraph (2)(B), but only during such period that the youth is in compliance with the terms and conditions applicable under section 23 and the regulations implementing such section to a person participating in a family self-sufficiency program.

(ii) EDUCATION, WORKFORCE DEVELOPMENT, OR EMPLOYMENT.—

In the case of a public housing agency that is providing such assistance under this subsection on behalf of an eligible youth and that is not carrying out a family self-sufficiency program under section 23, or is carrying out such a program in which the youth has been unable to enroll, the agency shall, subject only to the availability of such assistance, extend the provision of such assistance for two successive 12-month periods, after the period referred to in paragraph (2)(B), but only if for not less than 9 months of the 12-month period preceding each such extension the youth was—

(I) engaged in obtaining a recognized postsecondary credential or a secondary school diploma or its recognized equivalent;

(II) enrolled in an institution of higher education, as such term is defined in section 101(a) of the Higher Education Act of 1965 (20 U.S.C. 1001(a)) and including the institutions described in subparagraphs (A) and (B) of section 102(a)(1) of such Act (20 U.S.C. 1002(a)(1)); or

(III) participating in a career pathway, as such term is defined in section 3 of the Workforce Innovation and Opportunity Act (29 U.S.C. 3102).

Notwithstanding any other provision of this clause, a public housing agency shall consider employment as satisfying the requirements under this subparagraph.

(iii) EXCEPTIONS.—Notwithstanding clauses (i) and (ii), a public housing agency that is providing such assistance under this subsection on behalf of an eligible youth shall extend the provision of such assistance for up to 24 months beyond the period referred to in paragraph (2)(B), and clauses (i) and (ii) of this subparagraph shall not apply, if the eligible youth certifies that he or she is—

(I) a parent or other household member responsible for the care of a dependent child under the age of 6 or for the care of an incapacitated person;

(II) a person who is regularly and actively participating in a drug addiction or alcohol treatment and rehabilitation program; or

(III) a person who is incapable of complying with the requirement under clause (i) or (ii), as applicable, due to a documented medical condition.

(iv) VERIFICATION OF COMPLIANCE.—The Secretary shall require the public housing agency to verify compliance with the requirements under this subparagraph by each eligible youth on whose behalf the agency provides such assistance under this subsection on an annual basis in conjunction with reviews of income for purposes of determining income eligibility for such assistance.

(B) SUPPORTIVE SERVICES.—

(i) ELIGIBILITY.—Each eligible youth on whose behalf such assistance under this subsection is provided shall be eligible for any supportive services (as such term is defined in section 3 of the Workforce Innovation and Opportunity Act (29 U.S.C. 3102)) made available, in connection with any housing assistance program of the agency, by or through the public housing agency providing such assistance.

(ii) INFORMATION.—Upon the initial provision of such assistance under this subsection on behalf of any eligible youth, the public housing agency shall inform such eligible youth of the existence of any programs or services referred to in clause (i) and of their eligibility for such programs and services.

(C) APPLICABILITY TO MOVING TO WORK AGENCIES.—Notwithstanding any other provision of law, the requirements of this paragraph shall apply to assistance under this subsection pursuant to paragraph (2)(B) made available by each public housing agency participating in the Moving to Work Program under section 204 of the Departments of Veterans Affairs and Housing and Urban Development, and Independent Agencies Appropriations Act, 1996 (42 U.S.C. 1437f note), except that in lieu of compliance with clause (i) or (ii) of

subparagraph (A) of this paragraph, such an agency may comply with the requirements under such clauses by complying with such terms, conditions, and requirements as may be established by the agency for persons on whose behalf such rental assistance under this subsection is provided.

(D) TERMINATION OF VOUCHERS UPON TURN-OVER.— A public housing agency shall not reissue any such assistance made available from appropriated funds when assistance for the youth initially assisted is terminated, unless specifically authorized by the Secretary.

(E) REPORTS.—

(i) IN GENERAL.—The Secretary shall require each public housing agency that provides such assistance under this subsection in any fiscal year to submit a report to the Secretary for such fiscal year that—

(I) specifies the number of persons on whose behalf such assistance under this subsection was provided during such fiscal year;

(II) specifies the number of persons who applied during such fiscal year for such assistance under this subsection, but were not provided such assistance, and provides a brief identification in each instance of the reason why the public housing agency was unable to award such assistance; and

(III) describes how the public housing agency communicated or collaborated with public child welfare agencies to collect such data.

(ii) INFORMATION COLLECTIONS.—The Secretary shall, to the greatest extent possible, utilize existing information collections, including the voucher management system (VMS), the Inventory Management System/PIH Information Center (IMS/PIC), or the successors of those systems, to collect information required under this subparagraph.

(F) CONSULTATION.—The Secretary shall consult with the Secretary of Health and Human Services to provide such information and guidance to the Secretary of Health and Human Services as may be necessary to facilitate such Secretary in informing States and public child welfare agencies on how to correctly and efficiently implement and comply with the requirements of this subsection relating to assistance provided pursuant to paragraph (2)(B).

(6) 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.

(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.]¹¹⁸

(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

¹¹⁸ 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.”

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)—

(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.¹¹⁹

(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—

¹¹⁹ Section 216 of the Department of Housing and Urban Development Appropriations Act, 2019 (Public Law 116-6, approved February 15, 2019) provides the following:

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).

- (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 1998¹²⁰, 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

¹²⁰ October 1, 1999.

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, including¹²¹—

(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.—

(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;

¹²¹ 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”.

(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.

(D) FREEZE OF CONSUMPTION LEVELS.—

(i) IN GENERAL.—A small public housing agency, as defined in section 38(a), may elect to be paid for its utility and waste management costs under the formula for a period, at the discretion of the small public housing agency, of not more than 20 years based on the small public housing agency's average annual consumption during the 3-year period preceding the year in which the election is made (in this subparagraph referred to as the 'consumption base level').

(ii) INITIAL ADJUSTMENT IN CONSUMPTION BASE LEVEL.—The Secretary shall make an initial one-time adjustment in the consumption base level to account for differences in the heating degree day average over the most recent 20-year period compared to the average in the consumption base level.

(iii) ADJUSTMENTS IN CONSUMPTION BASE LEVEL.—The Secretary shall make adjustments in the consumption base level to account for an increase or reduction in units, a change in fuel source, a change in resident controlled electricity consumption, or for other reasons.

(iv) SAVINGS.—All cost savings resulting from an election made by a small public housing agency under this subparagraph—

(I) shall accrue to the small public housing agency; and

(II) may be used for any public housing purpose at the discretion of the small public housing agency.

(v) THIRD PARTIES.—A small public housing agency making an election under this subparagraph—

(I) may use, but shall not be required to use, the services of a third party in its energy conservation program; and

(II) shall have the sole discretion to determine the source, and terms and conditions, of any financing used for its energy conservation program.

(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 1998¹²², 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 1998¹²³.

(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

¹²² October 1, 1999.

¹²³ October 21, 1998.

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.

(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.¹²⁴

(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

¹²⁴ 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”.

(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

(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 1998¹²⁵, 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.

¹²⁵ October 1, 1999.

(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.

(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.

(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 Office¹²⁶ 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

¹²⁶ 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.”

(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—

(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))¹²⁷;

(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—

¹²⁷ Parentheses so in law.

(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 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 1998¹²⁸.

(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 1998¹²⁹.

(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.—

¹²⁸ October 21, 1998.

¹²⁹ October 21, 1998.

(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 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 welfare 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, welfare, 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 INCOME¹³⁰.—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)¹³¹ 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

¹³⁰ So in law.

¹³¹ So in law. There is no subparagraph (B).

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.

(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)¹³², 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)¹³³.

(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

¹³² So in law. There is no subclause (II) in clause (i).

¹³³ So in law. Probably should refer to section 6(r).

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—

(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 1981¹³⁴, 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

¹³⁴ October 1, 1981.

the effective date of the Housing and Community Development Amendments of 1981¹³⁵ shall be available for leasing by low-income families other than very low-income families.

(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)¹³⁶.

(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

¹³⁵ October 1, 1981.

¹³⁶ October 1, 1999.

accounts in homeownership programs of the Department of Housing and Urban Development, or Family Self Sufficiency accounts.

(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.]]¹³⁷

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

¹³⁷ 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."

under this title, to demolish or dispose of a public housing project or a portion of a public housing project (including 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); and¹³⁸

(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

¹³⁸ 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 1988¹³⁹ 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.

¹³⁹ 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.¹⁴⁰

(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.¹⁴¹

(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

¹⁴⁰ November 28, 1990.

¹⁴¹ 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 1998¹⁴², and in existence before the date of the enactment of the Housing and Community Development Act of 1987¹⁴³.

(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.—

(1) IN GENERAL.—To convert public housing under this section, a public housing agency shall conduct an assessment of the public housing that includes—

¹⁴² October 1, 1999.

¹⁴³ February 5, 1988.

(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 1998¹⁴⁴, 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

(ii) each family displaced by such action will be offered comparable housing—

(I) that meets housing quality standards;

¹⁴⁴ October 1, 1999.

(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 assistance under sections 8 and 9 with public and private resources, to enable eligible families to achieve economic independence and self-sufficiency.

(b) CONTINUATION OF PRIOR REQUIRED PROGRAMS.—

(1) IN GENERAL.—Each public housing agency that was required to administer a local Family Self-Sufficiency program on the date of enactment of the Economic Growth, Regulatory Relief, and Consumer Protection Act shall operate such local program for, at a minimum, the number of families the agency was required to serve on the date of enactment of such Act, subject only to the availability under appropriations Acts of sufficient amounts for housing assistance and the requirements of paragraph (2).

(2) REDUCTION.—The number of families for which a public housing agency is required to operate such local program under paragraph (1) shall be decreased by 1 for each family from any supported rental housing program administered by such agency that, after October 21, 1998, fulfills its obligations under the contract of participation.

(3) EXCEPTION.—The Secretary shall not require a public housing agency to carry out a mandatory program for a period of time upon the request of the public housing agency and upon a determination by the Secretary that implementation 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 Investment Act of 1998 (29 U.S.C. 2801 et seq.);

(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.

(c) ELIGIBILITY.—

(1) ELIGIBLE FAMILIES.—A family is eligible to participate in a local Family Self-Sufficiency program under this section if—

(A) at least 1 household member seeks to become and remain employed in suitable employment or to increase earnings; and

(B) the household member receives direct assistance under section 8 or resides in a unit assisted under section 8 or 9.

(2) ELIGIBLE ENTITIES.—The following entities are eligible to administer a local Family Self-Sufficiency program under this section:

(A) A public housing agency administering housing assistance to or on behalf of an eligible family under section 8 or 9.

(B) The owner or sponsor of a multifamily property receiving project-based rental assistance under section 8, in accordance with the requirements under subsection (l).

(d) CONTRACT OF PARTICIPATION.—

(1) IN GENERAL.—Each eligible entity carrying out a local program under this section shall enter into a contract with a household member of an eligible family, 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. Housing assistance may not be terminated as a consequence of either successful completion of the contract of participation or failure to complete such contract. A contract of participation shall remain in effect until the participating family exits the Family Self-Sufficiency program upon successful graduation or expiration of the contract of participation, or for other good cause.

(2) SUPPORTIVE SERVICES.—An eligible entity shall coordinate appropriate supportive services under this paragraph for each participating family entering into a contract of participation under paragraph (1). The supportive services shall be coordinated for the period the family is receiving assistance pursuant to section 8 or 9 and for the duration of the contract of participation, and may include but are not limited to—

(A) child care;

(B) transportation necessary to receive services;

(C) remedial education;

(D) education for completion of high school or attainment of a high school equivalency certificate;

(E) education in pursuit of a post-secondary degree or certification;

(F) job training and preparation;

(G) substance abuse treatment and counseling;

(H) training in money management financial literacy, such as training in financial management, financial coaching, and asset building, and;

(I) training in household management;

(J) homeownership education and assistance; and

(K) 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 the first recertification of income after entering into the contract. The eligible entity shall extend the term of the contract for any family that requests an extension, upon a finding of good cause.

(4) EMPLOYMENT.—The contract of participation shall require 1 household member of the participating family to seek and maintain suitable employment.(5) NONPARTICIPATION.—Assistance under section 8 or 9 for a family that elects not to participate in a Family Self-Sufficiency program shall not be delayed by reason of such election.

(e) INCENTIVES FOR PARTICIPATION.—

(1) MAXIMUM RENTS.—During the term of the contract of participation, the amount of rent paid by any participating family shall be calculated under the rental provisions of section 3 or section 8(o), as applicable.

(2) ESCROW SAVINGS ACCOUNTS.—For each participating family, an amount equal to any increase in the amount of rent paid by the family in accordance with the provisions of section 3 or 8(o), as applicable, that is attributable to increases in earned income by the participating family, shall be placed in an interest-bearing escrow account established by the eligible entity on behalf of the participating family. Notwithstanding any other provision of law, an eligible entity may use funds it controls under section 8 or 9 for purposes of making the escrow deposit for participating families assisted under, or residing in units assisted under, section 8 or 9, respectively, provided such funds are offset by the increase in the amount of rent paid by the participating family. All Family Self-Sufficiency programs administered under this section shall include an escrow account. 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 (d), 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. An eligible entity 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 such eligible entity.

(3) FORFEITED ESCROW.—Any amount placed in an escrow account established by an eligible entity for a participating family as required under paragraph (2), that exists after the end of a contract of participation by a household member of a participating family that does not qualify to receive the escrow, shall be used by the eligible entity for the benefit of participating families in good standing.

(f) 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.

(g) PROGRAM COORDINATING COMMITTEE.—

(1) FUNCTIONS.—Each eligible entity 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 (h), carry out activities under the local program, and secure commitments of public and private resources through a program coordinating committee established by such eligible entity under this subsection.

(2) MEMBERSHIP.—The program coordinating committee may consist of representatives of the eligible entity, 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, and other organizations, such as other State and local welfare and employment agencies, public and private primary, secondary, and post-secondary education or training institutions, nonprofit service providers, and private businesses. The eligible entity may, in consultation with the chief executive officer of the unit of general local government and tenants served by the program, utilize an existing entity as the program coordinating committee if it meets the requirements of this subsection.

(h) ACTION PLAN.—

(1) REQUIRED SUBMISSION.—The Secretary shall require each eligible entity carrying out a self-sufficiency program under this section to submit, 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 eligible entity shall consult with the chief executive officer of the applicable unit of general local government, the program coordinating committee established under subsection (g), representatives of the current and prospective participants of the program, any local agencies responsible for programs under title I of the Workforce Innovation and Opportunity 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 (d)(2) to be coordinated on behalf of participating families receiving direct assistance under this section through sections 8 and 9, which shall be provided by both public and private resources;
- (D) a description of the incentives pursuant to subsection(e) offered by the eligible entity to families to encourage participation in the program;
- (E) a description of how the local program will coordinate 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 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 assistance under section 8 or 9 notwithstanding the provisions of this section.

(i) FAMILY SELF-SUFFICIENCY AWARDS.—

(1) IN GENERAL.—Subject to appropriations, the Secretary shall establish a formula by which annual funds shall be awarded or as otherwise determined by the Secretary for the costs incurred by an eligible entity in administering the Family Self-Sufficiency program under this section.

(2) ELIGIBILITY FOR AWARDS.—The award established under paragraph (1) shall provide funding for family self-sufficiency coordinators as follows:

(A) BASE AWARD.—An eligible entity serving 25 or more participants in the Family Self-Sufficiency program under this section is eligible to receive an award equal to the costs, as determined by the Secretary, of 1 full-time family self-sufficiency coordinator position. The Secretary may, by regulation or notice, determine the policy concerning the award for an eligible entity serving fewer than 25 such participants, including providing prorated awards or allowing such entities to combine their programs under this section for purposes of employing a coordinator.

(B) ADDITIONAL AWARD.—An eligible entity that meets performance standards set by the Secretary is eligible to receive an additional award sufficient to cover the costs of filling an additional family self-sufficiency coordinator position if such entity has 75 or more participating families, and an additional coordinator for each additional 50 participating families, or such other ratio as may be established by the Secretary based on the award allocation evaluation under subparagraph (E).

(C) STATE AND REGIONAL AGENCIES.—For purposes of calculating the award under this paragraph, each administratively distinct part of a State or regional eligible entity may be treated as a separate agency.

(D) DETERMINATION OF NUMBER OF COORDINATORS.—In determining whether an eligible entity meets a specific threshold for funding pursuant to this paragraph, the Secretary shall consider the number of participants enrolled by the eligible entity in its Family Self-Sufficiency program as well as other criteria determined by the Secretary.

(E) AWARD ALLOCATION EVALUATION.—The Secretary shall submit to Congress a report evaluating the award allocation under this subsection, and make recommendations based on this evaluation and other related findings to modify such allocation, within 4 years after the date of enactment of the Economic Growth, Regulatory Relief, and Consumer Protection Act, and not less frequently than every 4 years thereafter. The report requirement under this subparagraph shall terminate after the Secretary has submitted 2 such reports to Congress.

(3) RENEWALS AND ALLOCATION.—

(A) IN GENERAL.—Funds allocated by the Secretary under this subsection shall be allocated in the following order of priority:

(i) FIRST PRIORITY.—Renewal of the full cost of all coordinators in the previous year at each eligible entity with an existing Family Self-Sufficiency program that meets applicable performance standards set by the Secretary.

(ii) SECOND PRIORITY.—New or incremental coordinator funding authorized under this section.

(B) GUIDANCE.—If the first priority, as described in subparagraph (A)(i), cannot be fully satisfied, the Secretary may prorate the funding for each eligible entity, as long as—

(i) each eligible entity that has received funding for at least 1 part-time coordinator in the prior fiscal year is provided sufficient funding for at least 1 part-time coordinator as part of any such proration; and

(ii) each eligible entity that has received funding for at least 1 full-time coordinator in the prior fiscal year is provided sufficient funding for at least 1 full-time coordinator as part of any such proration.

(4) RECAPTURE OR OFFSET.—Any awards allocated under this subsection by the Secretary in a fiscal year that have not been spent by the end of the subsequent fiscal year or such other time period as determined by the Secretary may be recaptured by the Secretary and shall be available for providing additional awards pursuant to paragraph (2)(B), or may be offset as determined by the Secretary. Funds appropriated pursuant to this section shall remain available for 3 years in order to facilitate the re-use of any recaptured funds for this purpose.

(5) PERFORMANCE REPORTING.—Programs under this section shall be required to report the number of families enrolled and graduated, the number of established escrow accounts and positive escrow balances, and any other information that the Secretary may require. Program performance shall be reviewed periodically as determined by the Secretary.

(6) INCENTIVES FOR INNOVATION AND HIGH PERFORMANCE.—The Secretary may reserve up to 5 percent of the amounts made available under this subsection to provide support to or reward Family Self-Sufficiency programs based on the rate of successful completion, increased earned income, or other factors as may be established by the Secretary.”;

(j) ON-SITE FACILITIES.—Each eligible entity carrying out a local program may, subject to the approval of the Secretary, make available and utilize common areas or unoccupied units for the provision or coordination of supportive services under the local program.

(k) FLEXIBILITY.—In establishing and carrying out the self-sufficiency program under this section, the Secretary shall allow eligible entities, units of general local government, and other organizations discretion and flexibility, to the extent practicable, in developing and carrying out local programs.

(l) PROGRAMS FOR TENANTS IN PRIVATELY OWNED PROPERTIES WITH PROJECT-BASED ASSISTANCE.—

(1) VOLUNTARY AVAILABILITY OF FSS PROGRAM.—The owner of a privately owned property may voluntarily make a Family Self-Sufficiency program available to the tenants of such property in accordance with procedures established by the Secretary. Such procedures shall permit the owner to enter into a cooperative agreement with a local public housing agency that administers a Family Self-Sufficiency program or, at the owner's option, operate a Family Self-Sufficiency program on its own or in partnership with another owner. An owner, who voluntarily makes a Family Self-Sufficiency program available pursuant to this subsection, may access funding from any residual receipt accounts for the property to hire a family self-sufficiency coordinator or coordinators for their program.

(2) COOPERATIVE AGREEMENT.—Any cooperative agreement entered into pursuant to paragraph (1) shall require the public housing agency to open its Family Self-Sufficiency program waiting list to any eligible family residing in the owner's property who resides in a unit assisted under project-based rental assistance.

(3) TREATMENT OF FAMILIES ASSISTED UNDER THIS SUBSECTION.—A public housing agency that enters into a cooperative agreement pursuant to paragraph (1) may count any family participating in its Family Self-Sufficiency program as a result of such agreement as part of the calculation of the award under subsection (i).

(4) ESCROW.—

(A) COOPERATIVE AGREEMENT.—A cooperative agreement entered into pursuant to paragraph (1) shall provide for the calculation and tracking of the escrow for participating residents and for the owner to make available, upon request of the public housing agency, escrow

for participating residents, in accordance with paragraphs (2) and (3) of subsection (e), residing in units assisted under section 8.

(B) CALCULATION AND TRACKING BY OWNER.—The owner of a privately owned property who voluntarily makes a Family Self-Sufficiency program available pursuant to paragraph (1) shall calculate and track the escrow for participating residents and make escrow for participating residents available in accordance with paragraphs (2) and (3) of subsection (e).

(5) EXCEPTION.—This subsection shall not apply to properties assisted under section 8(o)(13).

(6) SUSPENSION OF ENROLLMENT.—In any year, the Secretary may suspend the enrollment of new families in Family Self-Sufficiency programs under this subsection based on a determination that insufficient funding is available for this purpose.

(m) REPORTS.—

(1) TO SECRETARY.—Each eligible entity 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 contents of 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 eligible entity or the appropriate 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) and describing any additional research needs of the Secretary to evaluate the effectiveness of the program. 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.

(n) GAO REPORT.—The Comptroller General of the United States shall submit to the Congress reports under this subsection evaluating and describing the Family Self-Sufficiency program carried out by the Secretary under this section.

(o) DEFINITIONS.—In this section:

(1) ELIGIBLE ENTITY.—The term ‘eligible entity’ means an entity that meets the requirements under subsection (c)(2) to administer a Family Self-Sufficiency program under this section.

(2) ELIGIBLE FAMILY.—The term ‘eligible family’ means a family that meets the requirements under subsection (c)(1) to participate in the Family Self-Sufficiency program under this section.

(3) PARTICIPATING FAMILY.—The term ‘participating family’ means an eligible family that is participating in the Family Self-Sufficiency program under this section

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 ¹⁴⁵ section 503(a)¹⁴⁶ the Quality Housing and Work Responsibility Act of 1998¹⁴⁷), 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.

¹⁴⁵ So in law.

¹⁴⁶ So in law.

¹⁴⁷ October 1, 1999.

(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 2017.

(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—

- (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, 2017.

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]¹⁴⁸**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

(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—

¹⁴⁸ 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.”

(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 1998¹⁴⁹);

(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

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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 1998¹⁵⁰; 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 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;

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- (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.

Sec. 38. [42 U.S.C. 1437z-10]

SMALL PUBLIC HOUSING AGENCIES

(a) DEFINITIONS.—In this section:

(1) HOUSING VOUCHER PROGRAM.—The term ‘housing voucher program’ means a program for tenant-based assistance under section 8.

(2) SMALL PUBLIC HOUSING AGENCY.—The term ‘small public housing agency’ means a public housing agency—

(A) for which the sum of the number of public housing dwelling units administered by the agency and the number of vouchers under section 8(o) administered by the agency is 550 or fewer; and

(B) that predominantly operates in a rural area, as described in section 1026.35(b)(2)(iv)(A) of title 12, Code of Federal Regulations.

(3) TROUBLED SMALL PUBLIC HOUSING AGENCY.—The term ‘troubled small public housing agency’ means a small public housing agency designated by the Secretary as a troubled small public housing agency under subsection (c)(3).

(b) APPLICABILITY.—Except as otherwise provided in this section, a small public housing agency shall be subject to the same requirements as a public housing agency.

(c) PROGRAM INSPECTIONS AND EVALUATIONS.—

(1) PUBLIC HOUSING PROJECTS.—

(A) FREQUENCY OF INSPECTIONS BY SECRETARY.—The Secretary shall carry out an inspection of the physical condition of a small public housing agency's public housing projects not more frequently than once every 3 years, unless the agency has been designated by the Secretary as a troubled small public housing agency based on deficiencies in the physical condition of its public housing projects. Nothing contained in this subparagraph relieves the Secretary from conducting lead safety inspections or assessments in accordance with procedures established by the Secretary under section 302 of the Lead-Based Paint Poisoning Prevention Act (42 U.S.C. 4822).

(B) STANDARDS.—The Secretary shall apply to small public housing agencies the same standards for the acceptable condition of public housing projects that apply to projects assisted under section 8.

(2) HOUSING VOUCHER PROGRAM.—Except as required by section 8(o)(8)(F), a small public housing agency administering assistance under section 8(o) shall make periodic physical inspections of each assisted dwelling unit not less frequently than once every 3 years to determine whether the unit is maintained in accordance with the requirements under section 8(o)(8)(A). Nothing contained in this paragraph relieves a small public housing agency from conducting lead safety inspections or assessments in accordance with procedures established by the Secretary under section 302 of the Lead-Based Paint Poisoning Prevention Act (42 U.S.C. 4822).

(3) TROUBLED SMALL PUBLIC HOUSING AGENCIES.—

(A) PUBLIC HOUSING PROGRAM.—Notwithstanding any other provision of law, the Secretary may designate a small public housing agency as a troubled small public housing agency with respect to the public housing program of the small public housing agency if the Secretary determines that the agency has failed to maintain the public housing units of the small public housing agency in a satisfactory physical condition, based upon an inspection conducted by the Secretary.

(B) HOUSING VOUCHER PROGRAM.—Notwithstanding any other provision of law, the Secretary may designate a small public housing agency as a troubled small public housing agency with respect to the housing voucher program of the small public housing agency if the Secretary determines that the agency has failed to comply with the inspection requirements under paragraph (2).

(C) APPEALS.—

(i) ESTABLISHMENT.—The Secretary shall establish an appeals process under which a small public housing agency may dispute a designation as a troubled small public housing agency.

(ii) OFFICIAL.—The appeals process established under clause (i) shall provide for a decision by an official who has not been involved, and is not subordinate to a person who has been involved, in the original determination to designate a small public housing agency as a troubled small public housing agency.

(D) CORRECTIVE ACTION AGREEMENT.—

(i) AGREEMENT REQUIRED.—Not later than 60 days after the date on which a small public housing agency is designated as a troubled public housing agency under subparagraph (A) or (B), the Secretary and the small public housing agency shall enter into a corrective action agreement under which the small public housing agency shall undertake actions to correct the deficiencies upon which the designation is based.

(ii) TERMS OF AGREEMENT.—A corrective action agreement entered into under clause (i) shall—

(I) have a term of 1 year, and shall be renewable at the option of the Secretary;

(II) provide, where feasible, for technical assistance to assist the public housing agency in curing its deficiencies;

(III) provide for—

(aa) reconsideration of the designation of the small public housing agency as a troubled small public housing agency not less frequently than annually; and

- (bb) termination of the agreement when the Secretary determines that the small public housing agency is no longer a troubled small public housing agency; and
- (IV) provide that in the event of substantial noncompliance by the small public housing agency under the agreement, the Secretary may—
 - (aa) contract with another public housing agency or a private entity to manage the public housing of the troubled small public housing agency;
 - (bb) withhold funds otherwise distributable to the troubled small public housing agency;
 - (cc) assume possession of, and direct responsibility for, managing the public housing of the troubled small public housing agency;
 - (dd) petition for the appointment of a receiver, in accordance with section 6(j)(3)(A)(ii); and
 - (ee) exercise any other remedy available to the Secretary in the event of default under the public housing annual contributions contract entered into by the small public housing agency under section 5.

(E) EMERGENCY ACTIONS.—Nothing in this paragraph may be construed to prohibit the Secretary from taking any emergency action necessary to protect Federal financial resources or the health or safety of residents of public housing projects.

(d) REDUCTION OF ADMINISTRATIVE BURDENS.—

(1) EXEMPTION.—Notwithstanding any other provision of law, a small public housing agency shall be exempt from any environmental review requirements with respect to a development or modernization project having a total cost of not more than \$100,000.

(2) STREAMLINED PROCEDURES.—The Secretary shall, by rule, establish streamlined procedures for environmental reviews of small public housing agency development and modernization projects having a total cost of more than \$100,000.

[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,¹⁵¹ 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 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.

¹⁵¹ November 28, 1990.

(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 9.¹⁵²
 - (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-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.

¹⁵² 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.

(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,¹⁵³ 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;

¹⁵³ November 28, 1990.

(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;
- (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)¹⁵⁴ and 303(b)(9) for any project.

(j) TIMELY HOME OWNERSHIP.—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.
- (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;

¹⁵⁴ So in law. Probably intended to refer to section 302(b)(7).

(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)¹⁵⁵ 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—

- (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

¹⁵⁵ 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.

(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;¹⁵⁶

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)¹⁵⁷ 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—

(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.

¹⁵⁶ So in law.

¹⁵⁷ Indented so in law.

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 1998¹⁵⁸);
- (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.

(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 title¹⁵⁹ 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).

¹⁵⁸ October 1, 1999

¹⁵⁹ October 21, 1998.

(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 is¹⁶⁰ 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 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 Act¹⁶¹;

(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;

¹⁶⁰ So in law.

¹⁶¹ 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’.”

(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 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 evaluation¹⁶² 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 1998.¹⁶³

END OF STATUTE

¹⁶² So in law. Should probably insert the word “of” after evaluation.

¹⁶³ 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.¹⁶⁴

END OF STATUTE

¹⁶⁴ October 21, 1998.

VOUCHER MOBILITY DEMONSTRATION

APPROPRIATIONS ACT, 2019 [Public Law 116-6; 113 Stat. 465; 42 U.S.C. 1437f note]

Sec. 235. [42 U.S.C. 1437f note]

(a) AUTHORITY.—The Secretary of Housing and Urban Development (in this section referred to as the “Secretary”) may carry out a mobility demonstration program to enable public housing agencies to administer housing choice voucher assistance under section 8(o) of the United States Housing Act of 1937 (42 U.S.C. 1437f(o)) in a manner designed to encourage families receiving such voucher assistance to move to lower-poverty areas and expand access to opportunity areas.

(b) SELECTION OF PHAS.—

(1) REQUIREMENTS.—The Secretary shall establish requirements for public housing agencies to participate in the demonstration program under this section, which shall provide that the following public housing agencies may participate:

(A) Public housing agencies that together—

(i) serve areas with high concentrations of holders of rental assistance vouchers under section 8(o) of the United States Housing Act of 1937 (42 U.S.C. 1437f(o)) in poor, low-opportunity neighborhoods; and

(ii) have an adequate number of moderately priced rental units in higher-opportunity areas.

(B) Planned consortia or partial consortia of public housing agencies that—

(i) include at least one agency with a high-performing Family Self-Sufficiency (FSS) program; and

(ii) will enable participating families to continue in such program if they relocate to the jurisdiction served by any other agency of the consortium.

(C) Planned consortia or partial consortia of public housing agencies that—

(i) serve jurisdictions within a single region;

(ii) include one or more small agencies; and

(iii) will consolidate mobility focused operations.

(D) Such other public housing agencies as the Secretary considers appropriate.

(2) SELECTION CRITERIA.—The Secretary shall establish competitive selection criteria for public housing agencies eligible under paragraph (1) to participate in the demonstration program under this section.

(3) RANDOM SELECTION OF FAMILIES.—The Secretary may require participating agencies to use a randomized selection process to select among the families eligible to receive mobility assistance under the demonstration program.

(c) REGIONAL HOUSING MOBILITY PLAN.—The Secretary shall require each public housing agency applying to participate in the demonstration program under this section to submit a Regional Housing Mobility Plan (in this section referred to as a “Plan”), which shall—

(1) identify the public housing agencies that will participate under the Plan and the number of vouchers each participating agency will make available out of their existing programs in connection with the demonstration;

(2) identify any community-based organizations, nonprofit organizations, businesses, and other entities that will participate under the Plan and describe the commitments for such participation made by each such entity;

(3) identify any waivers or alternative requirements under subparagraph (e) requested for the execution of the Plan;

(4) identify any specific actions that the public housing agencies and other entities will undertake to accomplish the goals of the demonstration, which shall include a comprehensive approach to enable a successful transition to opportunity areas and may include counseling and continued support for families;

(5) specify the criteria that the public housing agencies would use to identify opportunity areas under the plan;

(6) provide for establishment of priority and preferences for participating families, including a preference for families with young children, as such term is defined by the Secretary, based on regional housing needs and priorities; and

(7) comply with any other requirements established by the Secretary.

(d) FUNDING FOR MOBILITY-RELATED SERVICES.—

(1) USE OF ADMINISTRATIVE FEES.—Public housing agencies participating in the demonstration program under this section may use administrative fees under section 8(q) of the United States Housing Act of 1937 (42 U.S.C. 1437f(q)), their administrative fee reserves, and funding from private entities to provide mobility-related services in connection with the demonstration program, including services such as counseling, portability coordination, landlord outreach, security deposits, and administrative activities associated with establishing and operating regional mobility programs.

(2) USE OF HOUSING ASSISTANCE FUNDS.—Public housing agencies participating in the demonstration under this section may use housing assistance payments funds under section 8(o) of the United States Housing Act of 1937 (42 U.S.C. 1437f(o)) for security deposits if necessary to enable families to lease units with vouchers in designated opportunity areas.

(e) WAIVERS; ALTERNATIVE REQUIREMENTS.—

(1) WAIVERS.—To allow for public housing agencies to implement and administer their Regional Housing Mobility Plans, the Secretary may waive or specify alternative requirements for the following provisions of the United States Housing Act of 1937:

(A) Sections 8(o)(7)(A) and 8(o)(13)(E)(i) (relating to the term of a lease and mobility requirements).

(B) Section 8(o)(13)(C)(i) (relating to the public housing plan for an agency).

(C) Section 8(r)(2) (relating to the responsibility of a public housing agency to administer ported assistance).

(2) ALTERNATIVE REQUIREMENTS FOR CONSORTIA.—The Secretary shall provide alternative administrative requirements for public housing agencies in a selected region to—

(A) form a consortium that has a single housing choice voucher funding contract; or

(B) enter into a partial consortium to operate all or portions of the Regional Housing Mobility Plan, which may include agencies participating in the Moving To Work Demonstration program.

(3) EFFECTIVE DATE.—Any waiver or alternative requirements pursuant to this subsection shall not take effect before the expiration of the 10-day period beginning upon publication of notice of such waiver or alternative requirement in the Federal Register.

(f) IMPLEMENTATION.—The Secretary may implement the demonstration, including its terms, procedures, requirements, and conditions, by notice.

(g) EVALUATION.—Not later than five years after implementation of the regional housing mobility programs under the demonstration program under this section, the Secretary shall submit to the Congress and publish in the Federal Register a report evaluating the effectiveness of the strategies pursued under the demonstration, subject to the availability of funding to conduct the evaluation. Through official websites and other methods, the Secretary shall disseminate interim findings as they become available, and shall, if promising strategies are identified, notify the Congress of the amount of funds that would be required to expand the testing of these strategies in additional types of public housing agencies and housing markets.

(h) TERMINATION.—The demonstration program under this section shall terminate on October 1, 2028.

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.

* * * * *

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]¹⁶⁵

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 Restructuring¹⁶⁶

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,¹⁶⁷ 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;¹⁶⁸

(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

¹⁶⁵ Enacted as part of the Departments of Veterans Affairs and Housing and Urban Development, and Independent Agencies Appropriations Act, 1998.

¹⁶⁶ 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.

¹⁶⁷ October 27, 1997.

¹⁶⁸ October 27, 1997.

(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 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.

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 Act¹⁶⁹.

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

¹⁶⁹ 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.

(d) RENT ADJUSTMENTS AND SUBSEQUENT RENEWALS.—After the initial renewal of a section 8 contract pursuant to this section and notwithstanding any other provision of law or contract regarding the adjustment of rents or subsequent renewal of such contract for a project, including such a provision in section 514 or this section, in the case of a project subject to any restrictions imposed pursuant to sections 514 or this section, the Secretary may, not more often than once every 10 years, adjust such rents or renew such contracts at rent levels that are equal to the lesser of budget-based rents or comparable market rents for the market area upon the request of an owner or purchaser who—

- (1) demonstrates that—
 - (A) project income is insufficient to operate and maintain the project, and no rehabilitation is currently needed, as determined by the Secretary; or
 - (B) the rent adjustment or renewal contract is necessary to support commercially reasonable financing (including any required debt service coverage and replacement reserve) for rehabilitation necessary to ensure the long-term sustainability of the project, as determined by the Secretary, and in the event the owner or purchaser fails to implement the rehabilitation as required by the Secretary, the Secretary may take such action against the owner or purchaser as allowed by law; and
- (2) agrees to—
 - (A) extend the affordability and use restrictions required under 514(e)(6) for an additional twenty years; and
 - (B) enter into a binding commitment to continue to renew such contract for and during such extended term, provided that after the affordability and use restrictions required under 514(e)(6) have been maintained for a term of 30 years:
 - (i) an owner with a contract for which rent levels were set at the time of its initial renewal under section 514(g)(2) shall request that the Secretary renew such contract under section 524 for and during such extended term; and
 - (ii) an owner with a contract for which rent levels were set at the time of its initial renewal under section 514(g)(1) may request that the Secretary renew such contract under section 524 for and during such extended term.

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) RESTSTRUCTURING 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 2001.¹⁷⁰

(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.

¹⁷⁰ January 10, 2002.

(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.

(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 Act¹⁷¹, 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).

¹⁷¹ 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’”.

(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.

(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. [12 U.S.C. 1735f-14 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 Act¹⁷²), the Secretary shall issue such regulations as the Secretary determines to be necessary to

¹⁷² October 27, 1997.

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

* * * * *

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.¹⁷³

(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.

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.¹⁷⁴

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—

* * * * *

¹⁷³ October 27, 1997.

¹⁷⁴ October 27, 1997.

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]**TERMINATION.**

(a) REPEALS.—

(1) MARK-TO-MARKET PROGRAM.—Subtitle A (except for section 524) is repealed effective October 1, 2027.

(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, 2027.

(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

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 States Housing Act of 1937 has resulted in a judgment before the effective date of this Act¹⁷⁵ 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—

¹⁷⁵ 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.¹⁷⁶

(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

¹⁷⁶ 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)¹⁷⁷ 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

¹⁷⁷ Section 3003(a)(1) of the Federal Reports Elimination and Sunset Act of 1995, Pub. L. 104-66, 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.

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.¹⁷⁸

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

¹⁷⁸ October 21, 1998.

SECTION 8 HOME OWNERSHIP ASSISTANCE PILOT PROGRAM FOR DISABLED FAMILIES

AMERICAN HOME OWNERSHIP 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 HOME OWNERSHIP 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 mortgagor 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,¹⁷⁹ 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

¹⁷⁹ 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 Representatives¹⁸⁰ 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.

¹⁸⁰ 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 Representatives¹⁸¹ 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

¹⁸¹ 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 1981¹⁸² **[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.

* * * * *

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

¹⁸² Enacted in Title III of the Omnibus Budget Reconciliation Act of 1981.

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.¹⁸³

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

¹⁸³ 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 Act¹⁸⁴, 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

¹⁸⁴ 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.”¹⁸⁵

END OF STATUTE

¹⁸⁵ 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.¹⁸⁶

END OF STATUTE

¹⁸⁶ 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.¹⁸⁷

END OF STATUTE

¹⁸⁷ October 21, 1998.

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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.—¹⁸⁸ (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;¹⁸⁹, 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;

¹⁸⁸ Extra space so in law.

¹⁸⁹ 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,¹⁹⁰ 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 understanding 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) PROVISIONS¹⁹¹ 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)¹⁹² 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

¹⁹⁰ Comma so in law.

¹⁹¹ So in law.

¹⁹² 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 Act¹⁹³).

- (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.

(9) CARBON MONOXIDE ALARMS.—Each owner of a dwelling unit assisted under this section shall ensure that carbon monoxide alarms or detectors are installed in the dwelling unit in a manner that meets or exceeds—

(A) the standards described in chapters 9 and 11 of the 2018 publication of the International Fire Code, as published by the International Code Council; or

(B) any other standards as may be adopted by the Secretary, including any relevant updates to the International Fire Code, through a notice published in the Federal Register.¹⁹⁴

(10) QUALIFYING SMOKE ALARMS.—

(A) IN GENERAL¹⁹⁵.—Each owner of a dwelling unit assisted under this section shall ensure that qualifying smoke alarms are installed in accordance with the requirements of applicable codes and standards and the National Fire Protection Association Standard 72, or any successor standard, in each level and in or near each sleeping area in such dwelling unit, including in basements but excepting crawl spaces and unfinished attics, and in each common area in a project containing such a dwelling unit.

(B) DEFINITIONS.—For purposes of this paragraph, the following definitions shall apply:

(i) SMOKE ALARM DEFINED.—The term “smoke alarm” has the meaning given to the term “smoke detector” in section 29(d) of the Federal Fire Prevention and Control Act of 1974 (15 U.S.C. 2225(d)).

¹⁹³ 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”.

¹⁹⁴ Section (101)(h) and (j), respectively, of the Consolidated Appropriations Act, 2021, (P.L. 116-260, signed December 28, 2020) note that the amendments made by subsections (b) through (e) shall take effect on the date that is 2 years after the date of enactment of this Act; and that nothing in the amendments made by this section shall be construed to preempt or limit the applicability of any State or local law relating to the installation and maintenance of carbon monoxide alarms or detectors in housing that requires standards that are more stringent than the standards described in the amendments made by this section.

¹⁹⁵ Section 601(i) of the Consolidated Appropriations Act, 2023, (P.L. 117-328, signed December 29, 2022) notes that nothing in the amendments made by the section shall be construed to preempt or limit the applicability of any State or local law relating to the installation and maintenance of smoke alarms in housing that requires that are more stringent than the standards described in the amendments made by this section.

(ii) QUALIFYING SMOKE ALARM DEFINED.—The term “qualifying smoke alarm” means a smoke alarm that—

(I) in the case of a dwelling unit built before the date of enactment of this paragraph and not substantially rehabilitated after the date of enactment of this paragraph¹⁹⁶—

(aa)(AA) is hardwired; or

(BB) uses 10-year non rechargeable, nonreplaceable primary batteries and is sealed, is tamper resistant, and contains silencing means; and

(bb) provides notification for persons with hearing loss as required by the National Fire Protection Association Standard 72, or any successor standard; or

(II) in the case of a dwelling unit built or substantially rehabilitated after the date of enactment of this paragraph, is hardwired.

(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

(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.

¹⁹⁶ December 29, 2022

(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 Act¹⁹⁷ 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 percent¹⁹⁸ 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)¹⁹⁹ 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 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.

¹⁹⁷ November 28, 1990.

¹⁹⁸ 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).

¹⁹⁹ 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.”

(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. 202²⁰⁰

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 may²⁰¹ be 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*

²⁰⁰ 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.

²⁰¹ 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 Act²⁰²).

(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.

²⁰² 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 subsection²⁰³; 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 loan²⁰⁴ 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 1987,²⁰⁵ 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)²⁰⁶ 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

²⁰³ So in law. Probably intended to refer to this paragraph.

²⁰⁴ So in law.

²⁰⁵ February 5, 1988.

²⁰⁶ 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 an 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)²⁰⁷ 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

²⁰⁷ 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 Act²⁰⁸), for which the Secretary's consent to prepayment is required,²⁰⁹ 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

²⁰⁸ November 28, 1990.

²⁰⁹ 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;²¹⁰ 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

²¹⁰ 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 Act²¹¹, the Secretary shall submit a report to Congress that—

- (1) describes the demonstration program; and
- (2) analyzes the effectiveness of the demonstration program.

²¹¹ 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 Act²¹².

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 Act²¹³; 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

²¹² December 16, 2003.

²¹³ 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)²¹⁴ 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 upon expiration, subject to the availability of sufficient amounts in appropriation Acts.

²¹⁴ So in law.

(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)²¹⁵ 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 vouchers prior to conversion. For purposes of administering such converted vouchers, such

²¹⁵ The reference to "subsection (b)(1)" in subsection (d)(1) probably should be a reference to subsection (b)(2).

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 section²¹⁶, 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—

²¹⁶ 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.²¹⁷

(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 Act²¹⁸).

(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.

(7) CARBON MONOXIDE ALARMS.—Each dwelling unit assisted under this section shall contain installed carbon monoxide alarms or detectors that meet or exceed—

(A) the standards described in chapters 9 and 11 of the 2018 publication of the International Fire Code, as published by the International Code Council; or

²¹⁷ So in law.

²¹⁸ 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) any other standards as may be adopted by the Secretary, including any relevant updates to the International Fire Code, through a notice published in the Federal Register.²¹⁹

(8) QUALIFYING SMOKE ALARMS.—

(A) IN GENERAL²²⁰.—Each owner of a dwelling unit assisted under this section shall contain qualifying smoke alarms that are installed in accordance with applicable codes and standards published by the International Code Council or the National Fire Protection Association and the requirements of the National Fire Protection Association Standard 72, or any successor standard, in each level and in or near each sleeping area in such dwelling unit, including in basements but excepting crawl spaces and unfinished attics, and in each common area in a project containing such a dwelling unit.

(B) DEFINITIONS.—For purposes of this paragraph, the following definitions shall apply:

(i) SMOKE ALARM DEFINED.—The term “smoke alarm” has the meaning given to the term “smoke detector” in section 29(d) of the Federal Fire Prevention and Control Act of 1974 (15 U.S.C. 2225(d)).

(ii) QUALIFYING SMOKE ALARM DEFINED.—The term “qualifying smoke alarm” means a smoke alarm that—

(I) in the case of a dwelling unit built before the date of enactment of this paragraph and not substantially rehabilitated after the date of enactment of this paragraph²²¹—

(aa)(AA) is hardwired; or

(BB) uses 10-year non rechargeable, nonreplaceable primary batteries and is sealed, is tamper resistant, and contains silencing means; and

(bb) provides notification for persons with hearing loss as required by the National Fire Protection Association Standard 72, or any successor standard; or

(II) in the case of a dwelling unit built or substantially rehabilitated after the date of enactment of this paragraph, is hardwired.

(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, 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

²¹⁹ Section (101)(h) and (j), respectively, of the Consolidated Appropriations Act, 2021, (P.L. 116-260, signed December 28, 2020) note that the amendments made by subsections (b) through (e) shall take effect on the date that is 2 years after the date of enactment of this Act; and that nothing in the amendments made by this section shall be construed to preempt or limit the applicability of any State or local law relating to the installation and maintenance of carbon monoxide alarms or detectors in housing that requires standards that are more stringent than the standards described in the amendments made by this section.

²²⁰ Section 601(i) of the Consolidated Appropriations Act, 2023, (P.L. 117-328, signed December 29, 2022) notes that nothing in the amendments made by the section shall be construed to preempt or limit the applicability of any State or local law relating to the installation and maintenance of smoke alarms in housing that requires that are more stringent than the standards described in the amendments made by this section.

²²¹ December 29, 2022

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)²²²) 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.

(I) ALLOCATION OF FUNDS.—

(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.

²²² 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.

(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 STAMPS²²³ 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;

²²³ 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)²²⁴ 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

²²⁴ 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 certifications²²⁵ 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

²²⁵ So in law.

subsection (n),²²⁶ 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,²²⁷ 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.²²⁸

(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

²²⁶ So in law. Probably intended to refer to subsection (m).

²²⁷ November 28, 1990.

²²⁸ 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 of²²⁹ 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 section²³⁰ 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—

²²⁹ So in law.

²³⁰ 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 1937²³¹;

(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,²³² 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))²³³ 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—

²³¹ 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.

²³² So in law. Probably intended to refer to the United States Housing Act of 1937.

²³³ 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 repeat²³⁴ 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,²³⁵ 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).

²³⁴ So in law. Probably intended to be "report".

²³⁵ 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,²³⁶ 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 1959.²³⁷

END OF STATUTE

²³⁶ November 30, 1983.

²³⁷ 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 title²³⁸ 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.²³⁹
- (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 104²⁴⁰ 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

²³⁸ So in law. Probably intended to refer to this subtitle.

²³⁹ So in law. Probably intended to refer to this subtitle.

²⁴⁰ 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)²⁴¹ 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) 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) the amounts available from appropriations Acts under section 863;

(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).

²⁴¹ As it appears in the public law. Should be “(i)”.

(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, with respect to a grantee that received an allocation in the prior fiscal year, the Secretary shall ensure that the grantee's share of total formula funds available for allocation does not decrease more than 5 percent nor gain more than 10 percent of the share of the total available formula funds that the grantee received 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)²⁴² 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)²⁴³ to eligible metropolitan statistical areas within the State on a pro rata basis; or

(ii) if there is no eligible metropolitan statistical areas²⁴⁴ 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

(ii) States, units of general local government, and nonprofit organizations, to fund special projects of national significance.

²⁴² As it appears in the public law. Should be “(i)”.

²⁴³ As it appears in the public law. Should be “(i)”.

²⁴⁴ As it appears in the public law. It probably should be “area”.

(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 title²⁴⁵ 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.

(i) CARBON MONOXIDE ALARMS.—Each dwelling unit assisted under this section shall contain installed carbon monoxide alarms or detectors that meet or exceed—

(1) the standards described in chapters 9 and 11 of the 2018 publication of the International Fire Code, as published by the International Code Council; or

(2) any other standards as may be adopted by the Secretary, including any relevant updates to the International Fire Code, through a notice published in the Federal Register.²⁴⁶

(j) QUALIFYING SMOKE ALARMS.—

(1) IN GENERAL²⁴⁷.—Each dwelling unit assisted under this subtitle shall contain qualifying smoke alarms that are installed in accordance with applicable codes and standards published by the International Code Council or the National Fire Protection Association and the requirements of the National Fire Protection Association Standard 72, or any successor standard, in each level and in or near

²⁴⁵ So in law. Probably intended to refer to this subtitle.

²⁴⁶ Section (101)(h) and (j), respectively, of the Consolidated Appropriations Act, 2021, (P.L. 116-260, signed December 28, 2020) note that the amendments made by subsections (b) through (e) shall take effect on the date that is 2 years after the date of enactment of this Act; and that nothing in the amendments made by this section shall be construed to preempt or limit the applicability of any State or local law relating to the installation and maintenance of carbon monoxide alarms or detectors in housing that requires standards that are more stringent than the standards described in the amendments made by this section.

²⁴⁷ Section 601(i) of the Consolidated Appropriations Act, 2023, (P.L. 117-328, signed December 29, 2022) notes that nothing in the amendments made by the section shall be construed to preempt or limit the applicability of any State or local law relating to the installation and maintenance of smoke alarms in housing that requires that are more stringent than the standards described in the amendments made by this section.

each sleeping area in such dwelling unit, including in basements but excepting crawl spaces and unfinished attics, and in each common area in a project containing such a dwelling unit.

(2) DEFINITIONS.—For purposes of this subsection, the following definitions shall apply:

(A) SMOKE ALARM DEFINED.—The term “smoke alarm” has the meaning given to the term “smoke detector” in section 29(d) of the Federal Fire Prevention and Control Act of 1974 (15 U.S.C. 2225(d)).

(B) QUALIFYING SMOKE ALARM DEFINED.—The term “qualifying smoke alarm” means a smoke alarm that—

(i) in the case of a dwelling unit built before the date of enactment of this subsection and not substantially rehabilitated after the date of enactment of this subsection²⁴⁸—

(I)(aa) is hardwired; or

(bb) uses 10-year non rechargeable, nonreplaceable primary batteries

and—

(AA) is sealed;

(BB) is tamper resistant; and

(CC) contains silencing means; and

(II) provides notification for persons with hearing loss as required by the National Fire Protection Association Standard 72, or any successor standard; or

(ii) in the case of a dwelling unit built or substantially rehabilitated after the date of enactment of this paragraph, is hardwired.

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:

(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)).

²⁴⁸ December 29, 2022

(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).²⁴⁹

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.

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.

²⁴⁹ So in law. Probably intended to refer to section 856(g)(2).

(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 diseases²⁵⁰.

²⁵⁰ 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.

(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 diseases²⁵¹.

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

²⁵¹ 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.

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)²⁵² 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

²⁵² 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)²⁵³ 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)²⁵⁴ 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;

²⁵³ So in law.

²⁵⁴ 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 Act²⁵⁵, 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),²⁵⁶ 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;

²⁵⁵ 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’.”

²⁵⁶ 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 jurisdiction's 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 Act²⁵⁷, 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.

²⁵⁷ 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,²⁵⁸ 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;

²⁵⁸ 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,²⁵⁹ 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.

²⁵⁹ 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 ACT²⁶⁰
[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;

²⁶⁰ 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.²⁶¹

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,

²⁶¹ 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 1937.²⁶²

(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)²⁶³ 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 1937²⁶⁴, 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

²⁶² So in law. Probably intended to refer to the United States Housing Act of 1937.

²⁶³ So in law.

²⁶⁴ 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)²⁶⁵ HOME OWNERSHIP.—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

²⁶⁵ 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,²⁶⁶ 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,²⁶⁷ 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

²⁶⁶ So in law.

²⁶⁷ 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.—²⁶⁸If 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)²⁶⁹ 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).

²⁶⁸ 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.”.

²⁶⁹ 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 Representatives²⁷⁰, 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.—²⁷¹If 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—

²⁷⁰ 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.

²⁷¹ 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 224.²⁷²

(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.—

²⁷² 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; and²⁷³

(4) the value of investment in on-site and off-site infrastructure directly required for affordable housing assisted under this title.²⁷⁴

(6)²⁷⁵ 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.

²⁷³ So in law.

²⁷⁴ So in law.

²⁷⁵ 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.²⁷⁶

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.

²⁷⁶ 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 1992.²⁷⁷
- (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. 271.²⁷⁸ [42 U.S.C. 12821- Omitted]

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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 Representatives²⁷⁹, shall conduct a full financial audit of the records of the HOME Investment Partnerships program

²⁷⁷ October 28, 1992.

²⁷⁸ The authority to award downpayment assistance under this section, as added by Pub. L. 108-186 on March 11, 2009 and amended by Pub. L. 111-8 on March 11, 2009, sunset on December 31, 2011. Section 271(i) states: “The Secretary shall have no authority to make grants under this section after December 31, 2011.”

²⁷⁹ 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.

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 Office²⁸⁰ 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)²⁸¹ 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 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

²⁸⁰ 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.”

²⁸¹ Section 3003(a)(1) of the Federal Reports Elimination and Sunset Act of 1995, Pub. L. 104-66, 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.

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 Act²⁸²; 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.

²⁸² 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’.”

(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 Act.

(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

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.²⁸³ 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.

²⁸³ 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 sentence²⁸⁴ 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 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 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

²⁸⁴ 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)²⁸⁵ 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

²⁸⁵ 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 he 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 sentence²⁸⁶ 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)²⁸⁷ 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.²⁸⁸ Such excess charges shall be

²⁸⁶ November 30, 1983.

²⁸⁷ So in law. There is no paragraph (6).

²⁸⁸ 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

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

Development, and Independent Agencies Appropriations Act, 2000 (Public Law 106-74; 113 Stat. 1116) that have been collected by such owner 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".

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.

(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.²⁸⁹ 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;

²⁸⁹ 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.

(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

(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 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 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 write-down of the mortgage (in accordance with the terms of such mortgage in effect immediately before such extinguishment or write-down);

(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 grants²⁹⁰ 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

²⁹⁰ 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; and²⁹¹

²⁹¹ 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-effective 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 100-4-4²⁹² (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,

²⁹² 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.²⁹³ 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—

²⁹³ 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 Act²⁹⁴); 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.

²⁹⁴ November 28, 1990.

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)²⁹⁵ **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:

²⁹⁵ Section 3003(a)(1) of the Federal Reports Elimination and Sunset Act of 1995, Pub. L. 104-66, 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.

* * * * *

(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 tribe²⁹⁶ 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 of²⁹⁷ 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.—²⁹⁸

(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

²⁹⁶ So in law. There is no comma.

²⁹⁷ So in law.

²⁹⁸ 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 1998²⁹⁹, 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.

²⁹⁹ 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; or³⁰⁰

(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 1998³⁰¹ 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.

³⁰⁰ 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.

³⁰¹ 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 Act³⁰² 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).

³⁰² 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.

* * * * *

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 Act³⁰³, 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 Act³⁰³, 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

³⁰³ 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.³⁰⁴

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;

³⁰⁴ 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—

* * * * *

Sec. 682.**CONFORMING AMENDMENTS.**

* * * * *

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.³⁰⁵

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

³⁰⁵ 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.³⁰⁶ 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

³⁰⁶ 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 subsection³⁰⁷, 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—

³⁰⁷ 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 subparagraphs³⁰⁸ (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

³⁰⁸ 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.

(I)³⁰⁹ 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

³⁰⁹ Section 3003(a)(1) of the Federal Reports Elimination and Sunset Act of 1995, Pub. L. 104-66, 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.

(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)³¹⁰ 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.

³¹⁰ 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)³¹¹ 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).

³¹¹ 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)³¹² 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.

³¹² 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)³¹³ 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

³¹³ 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 authorised³¹⁴ 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

³¹⁴ 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 33 1/3 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 contestable 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 of 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 Act³¹⁵ 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

³¹⁵ 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 Act³¹⁶.

END OF STATUTE

³¹⁶ 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.

(G) MEDICAID EXCEPTION FOR CITIZENS OF FREELY ASSOCIATED STATES.—With respect to eligibility for benefits for the designated Federal program defined in paragraph (3)(C) (relating to the Medicaid program), paragraph (1) shall not apply to any individual who lawfully resides in 1 of the 50 States or the District of Columbia in accordance with the Compacts of Free Association between the Government of the United States and the Governments of the Federated States of Micronesia, the Republic of the Marshall Islands, and the Republic of Palau and shall not apply, at the option of the Governor of Puerto Rico, the Virgin Islands, Guam, the Northern Mariana Islands, or American Samoa as communicated to the Secretary of Health and Human Services in writing, to any individual who lawfully resides in the respective territory in accordance with such Compacts.”

(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 remarried surviving spouse of an individual described in clause (i) or (ii)³¹⁷ who is deceased if the marriage fulfills the requirements of section 1304 of title 38, United States Code.

(3) EXCEPTION FOR CITIZENS OF FREELY ASSOCIATED STATES.—An individual described in section 402(b)(2)(G), but only with respect to the designated Federal program defined in section 402(b)(3)(C).

(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.

³¹⁷ So in law. Probably intended to refer to subparagraph (A) or (B).

(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.

* * * * *

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 remarried surviving spouse of an individual described in clause (i) or (ii)³¹⁸ 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.

Subtitle C—Attribution of Income and Affidavits of Support

* * * * *

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, 1980,³¹⁹
- (7) an alien who is a Cuban and Haitian entrant (as defined in section 501(e) of the Refugee Education Assistance Act of 1980), or
- (8) an individual who lawfully resides in the United States in accordance with a Compact of Free Association referred to in section 402(b)(2)(G), but only with respect to the designated Federal program defined in section 402(b)(3)(C) (relating to the Medicaid program).

(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,

³¹⁸ So in law. Probably intended to refer to subparagraph (A) or (B).

³¹⁹ So in law.

(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).³²⁰

(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 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.

³²⁰ So in law.

(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]³²¹ 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:

³²¹ 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 1996³²² or applying for financial assistance on or after that date, there must be presented either—

³²² 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 1996³²³, 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—

³²³ September 30, 1996.

(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 assistance³²⁴

(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

³²⁴ 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.³²⁵

(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

³²⁵ 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 Act³²⁶; 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.

³²⁶ 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; and³²⁷
- (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 mortgagor.
- (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

³²⁷ 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.³²⁸

(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.—

³²⁸ 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 income³²⁹ 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; and³³⁰

(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

³²⁹ So in law.

³³⁰ 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; and³³¹

(F)³³²(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)³³³ 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

³³¹ So in law.

³³² 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.

³³³ 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 or³³⁴ 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.**—

³³⁴ 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)³³⁵(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

³³⁵ 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 231³³⁶; 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)).³³⁷

(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.

³³⁶ So in law. Probably intended to refer to section 226.

³³⁷ 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 Act³³⁸ 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 C³³⁹—Rural Rental Housing Displacement Prevention

* * * * *

Subtitle D³⁴⁰—Other Measures to Preserve Low Income Housing

* * * * *

Subtitle C³⁴¹—TECHNICAL ASSISTANCE AND CAPACITY BUILDING

Sec. 251. [12 U.S.C. 4141]

AUTHORITY.

³³⁸ November 28, 1990.

³³⁹ 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.

³⁴⁰ See footnote 1.

³⁴¹ 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)³⁴² 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,³⁴³ 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.

³⁴² November 28, 1990.

³⁴³ 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.³⁴⁴

Subtitle B—Other Preservation Provisions

* * * * *

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

³⁴⁴ 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 Act³⁴⁵ 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 of³⁴⁶ the payment standard, as applicable, under existing program rules and procedures: *Provided further*, That the tenant-based assistance made available

³⁴⁵ October 1, 1996.

³⁴⁶ 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 Representatives³⁴⁷ 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 Act³⁴⁸. The regulations shall take effect upon issuance and may not exceed, in length, 5 full pages in the Federal Register.

END OF STATUTE

³⁴⁷ 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.

³⁴⁸ 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]³⁴⁹

Rental Assistance Demonstration Program

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”, and “Public Housing Fund” to the headings “Tenant-Based Rental Assistance” or “Project-Based Rental Assistance” (herein the ‘First Component’): [1]³⁵⁰ *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, 2029: [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 455,000 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 at properties with assistance under Section 9 of the Act requesting to partially convert such assistance, and where an event under Section 18 of the Act occurs that results in the eligibility for tenant protection vouchers under section 8(o) of the Act, the Secretary may convert the tenant protection voucher assistance to 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, so long as the property meets any additional requirements established by the Secretary to facilitate conversion: [6] *Provided further*, That to facilitate the conversion of assistance under the previous proviso, the Secretary may transfer an amount equal to the total amount that would have been allocated for tenant protection voucher assistance for properties that have requested such conversions from amounts made available for tenant protection voucher assistance under the heading “Tenant-Based Rental Assistance” to the heading “Project-Based Rental Assistance”: [7] *Provided further*, That at properties with assistance previously converted hereunder to assistance under the heading “Project-Based Rental Assistance,” which are also separately assisted under section 8(o)(13) of the Act, the Secretary may, with the consent of the public housing agency and owner, terminate such project-based subsidy contracts and immediately enter into one new 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, subject to the requirement that any residents assisted under section 8(o)(13) of the Act at the time of such termination of such project-based subsidy contract shall retain all rights accrued under section 8(o)(13)(E) of the Act under the new project-based subsidy contract and section 8(o)(13)(F)(iv) of the Act shall not apply: [8] *Provided further*, That to carry out the previous proviso, the Secretary may transfer from the heading “Tenant-Based Rental Assistance” to the heading “Project-Based Rental Assistance” an amount equal to the amounts associated with such terminating contract under section 8(o)(13) of the Act:[9] *Provided further*, That

³⁴⁹ 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); and section 237 of the Consolidated Appropriations Act, 2018, Division L—Transportation, Housing and Urban Development, and Related Agencies Appropriations Act, 2018, Title II, Department of Housing and Urban Development (Public Law 115-141; 132 Stat. 348); Consolidated Appropriations Act, 2022, Division L—Transportation, Housing and Urban Development, and Related Agencies Appropriations Act, 2022, Title II—Department of Housing and Urban Development (Public Law 117-103; 136 Stat. 754).

³⁵⁰ Proviso designations are not present in the public law print and added by the editors for ease of review.

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: [10] *Provided further*, That the Secretary shall select properties from applications for conversion as part of this demonstration through a competitive process: [11] *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: [12] *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: [13] *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: [14] *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", "Public Housing Fund", "Self-Sufficiency Programs", "Family Self-Sufficiency", 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 or the ongoing availability of services for residents: [15] *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: [16] *Provided further*, That the demonstration may proceed after the Secretary publishes notice of its terms in the Federal Register: [17] *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: [18] *Provided further*, That 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 or nonprofit 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 or a nonprofit entity preserves an 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: [19] *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: [20] *Provided further*, That the Secretary may establish the requirements for converted assistance under the demonstration through contracts, use agreements, regulations, or other means: [21] *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: [22] *Provided further*, That conversions of assistance under the following provisos herein shall be considered as the 'Second Component' and shall be authorized for fiscal year 2012 and thereafter: [23] *Provided further*, That 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, for conversion of assistance available for such vouchers or assistance contracts to assistance under a long term project-based subsidy contract under section 8 of the Act: [24] *Provided further*, That owners of properties with a project rental assistance contract under section 202(c)(2) of the Housing Act of 1959 shall be eligible, subject to requirements established by the Secretary, including but not limited to the subordination, restructuring, or both, of any capital advance documentation, including any note, mortgage, use agreement or other agreements, evidencing or securing a capital advance previously provided by the Secretary under

section 202(c)(1) of the Housing Act of 1959 as necessary to facilitate the conversion of assistance while maintaining the affordability period and the designation of the property as serving elderly persons, and tenant consultation procedures, for conversion of assistance available for such assistance contracts to assistance under a long term project-based subsidy contract under section 8 of the Act: [25] *Provided further*, That owners of properties with a senior preservation rental assistance contract under section 811 of the American Homeownership and Economic Opportunity Act of 2000 (12 U.S.C. 1701q note), shall be eligible, subject to requirements established by the Secretary as necessary to facilitate the conversion of assistance while maintaining the affordability period and the designation of the property as serving elderly families, and tenant consultation procedures, for conversion of assistance available for such assistance contracts to assistance under a long-term project-based subsidy contract under section 8 of the Act: [26] *Provided further*, That owners of properties with a project rental assistance contract under section 811(d)(2) of the Cranston-Gonzalez National Affordable Housing Act, shall be eligible, subject to requirements established by the Secretary, including but not limited to the subordination, restructuring, or both, of any capital advance documentation, including any note, mortgage, use agreement or other agreements, evidencing or securing a capital advance previously provided by the Secretary under section 811(d)(2) of the Cranston-Gonzalez National Affordable Housing Act as necessary to facilitate the conversion of assistance while maintaining the affordability period and the designation of the property as serving persons with disabilities, and tenant consultation procedures, for conversion of assistance contracts to assistance under a long term project-based subsidy contract under section 8 of the Act: [27] *Provided further*, That long term project-based subsidy contracts under section 8 of the Act which are established under this Second Component 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)³⁵¹ of section 8(o)(13) of the Act shall not apply and for which the Secretary may waive or alter the provisions of subparagraphs (C) and (D) of section 8(o)(13) of the Act: [28] *Provided further*, That contracts provided to properties converting assistance from section 101 of the Housing and Urban Development Act of 1965 or section 236(f)(2) of the National Housing Act located in high-cost areas shall have initial rents set at comparable market rents for the market area: [29] *Provided further*, That the Secretary may waive or alter the requirements of section 8(c)(1)(A) of the Act for contracts provided to properties converting assistance from section 202(c)(2) of the Housing Act of 1959, section 811 of the American Homeownership and Economic Opportunity Act of 2000, or section 811(d)(2) of the Cranston-Gonzalez National Affordable Housing Act as necessary to ensure the ongoing provision and coordination of services or to avoid a reduction in project subsidy: [30] *Provided further*, That conversions of assistance under the Second Component may 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: [31] *Provided further*, That amounts made available under the heading ‘Rental Housing Assistance’ during the period of conversion under the Second Component, except for conversion of section 202 project rental assistance contracts, shall be available for project-based subsidy contracts entered into pursuant to the Second Component: [32] *Provided further*, That amounts, including contract authority, recaptured from contracts following a conversion under the Second Component, except for conversion of section 202 project rental assistance contracts, 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: [33] *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 Second Component, except for conversion of section 202 project rental assistance contracts, and any increase in cost for ‘Project-Based Rental Assistance’ associated with such conversion shall be equal to amounts so transferred: [34] *Provided further*, That the Secretary may transfer amounts made available under the headings ‘Housing for the Elderly’ and ‘Housing for Persons with Disabilities’ to the accounts under the headings ‘Project-Based Rental Assistance’ or ‘Tenant-Based Rental Assistance’ to facilitate the conversion of assistance from section 202(c)(2) of the Housing Act of 1959, section 811 of the American Homeownership and Economic Opportunity Act of 2000, or section 811(d)(2) of the Cranston-Gonzalez National Affordable Housing Act under the Second Component, and any increase in cost for ‘Project-Based Rental Assistance’ or ‘Tenant-Based Rental Assistance’ associated with such conversion shall be equal to amounts so transferred: [35] *Provided further*, That with respect to the previous four provisos the

³⁵¹ So in law. The reference should be to subparagraph (B).

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

**ENERGY AND WATER EFFICIENCY OR CLIMATE RESILIENCE OF
AFFORDABLE HOUSING
INFLATION REDUCTION ACT
[Public Law 117-169, 136 Stat. 1818]**

SEC. 30002.

**IMPROVING ENERGY EFFICIENCY OR WATER EFFICIENCY OR CLIMATE RESILIENCE
OFAFFORDABLE HOUSING.**

(a) APPROPRIATION.—In addition to amounts otherwise available, there is appropriated to the Secretary of Housing and Urban Development (in this section referred to as the “Secretary”) for fiscal year 2022, out of any money in the Treasury not otherwise appropriated—

(1) \$837,500,000, to remain available until September 30, 2028, for the cost of providing direct loans, the costs of modifying such loans, and for grants, as provided for and subject to terms and conditions in subsection (b), including to subsidize gross obligations for the principal amount of such loans, not to exceed \$4,000,000,000, to fund projects that improve energy or water efficiency, enhance indoor air quality or sustainability, implement the use of zero-emission electricity generation, low-emission building materials or processes, energy storage, or building electrification strategies, or address climate resilience, of an eligible property;

(2) \$60,000,000, to remain available until September 30, 2030, for the costs to the Secretary for information technology, research and evaluation, and administering and overseeing the implementation of this section;

(3) \$60,000,000, to remain available until September 30, 2029, for expenses of contracts or cooperative agreements administered by the Secretary; and

(4) \$42,500,000, to remain available until September 30, 2028, for energy and water benchmarking of properties eligible to receive grants or loans under this section, regardless of whether they actually received such grants or loans, along with associated data analysis and evaluation at the property and portfolio level, and the development of information technology systems necessary for the collection, evaluation, and analysis of such data.

(b) LOAN AND GRANT TERMS AND CONDITIONS.—Amounts made available under this section shall be for direct loans, grants, and direct loans that can be converted to grants to eligible recipients that agree to an extended period of affordability for the property.

(c) DEFINITIONS.—As used in this section—

(1) the term “eligible recipient” means any owner or sponsor of an eligible property; and

(2) the term “eligible property” means a property assisted pursuant to—

(A) section 202 of the Housing Act of 1959 (12 U.S.C. 1701q);

(B) section 202 of the Housing Act of 1959 (former 12 U.S.C. 1701q), as such section existed before the enactment of the Cranston-Gonzalez National Affordable Housing Act;

(C) section 811 of the Cranston-Gonzalez National Affordable Housing Act (42 U.S.C. 8013);

(D) section 8(b) of the United States Housing Act of 1937 (42 U.S.C. 1437f(b));

(E) section 236 of the National Housing Act (12 U.S.C. 1715z-1); or

(F) a Housing Assistance Payments contract for Project-Based Rental Assistance in fiscal year 2021.

(d) WAIVER.—The Secretary may waive or specify alternative requirements for any provision of subsection (c) or (bb) of section 8 of the United States Housing Act of 1937 (42 U.S.C. 1437f(c), 1437f(bb)) upon a finding that the waiver or alternative requirement is necessary to facilitate the use of amounts made available under this section.

(e) IMPLEMENTATION.—The Secretary shall have the authority to establish by notice any requirements that the Secretary determines are necessary for timely and effective implementation of the program and expenditure of funds appropriated, which requirements shall take effect upon issuance.

END OF STATUTE

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PART V—HOME OWNERSHIP ASSISTANCE

NATIONAL HOME OWNERSHIP TRUST

NATIONAL HOME OWNERSHIP TRUST ACT³⁵² [Public Law 101-625; 104 Stat. 4129; 42 U.S.C. 12851—12859]

TITLE III—HOME OWNERSHIP

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 HOME OWNERSHIP 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:

³⁵² 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; and³⁵³

(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.

³⁵³ 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)³⁵⁴ 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;

³⁵⁴ 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 311.³⁵⁵

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.

* * * * *

END OF STATUTE

³⁵⁵ So in law. Probably intended to refer to section 309.

HOPE HOME OWNERSHIP PROGRAMS

CRANSTON-GONZALEZ NATIONAL AFFORDABLE HOUSING ACT [Public Law 101-625; 104 Stat. 4148; 42 U.S.C. 12870—12898]

TITLE IV—HOME OWNERSHIP 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;³⁵⁶

(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,³⁵⁷ 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.³⁵⁸

Any amount appropriated pursuant to this subsection shall remain available until expended.

(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;³⁵⁹

(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,³⁶⁰ 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.³⁶¹

Any amount appropriated pursuant to this subsection shall remain available until expended.

(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.

* * * * *

Subtitle B—HOPE for Homeownership of Multifamily Units

³⁵⁶ Probably should refer to “such title”, i.e., title III of the United States Housing Act of 1937.

³⁵⁷ Probably should refer to “such subtitle”, i.e., subtitle B of title IV of the Cranston-Gonzalez National Affordable Housing Act.

³⁵⁸ Probably should refer to “such subtitle”, i.e., subtitle C of title IV of the Cranston-Gonzalez National Affordable Housing Act.

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.

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,³⁶² 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;

³⁶² 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 322³⁶³ 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;

³⁶³ 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 324³⁶⁴ 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);³⁶⁵
- (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,³⁶⁶ 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)³⁶⁷ 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;

³⁶⁴ So in law. Probably intended to refer to section 424.

³⁶⁵ So in law. Probably intended to refer to section 424(b).

³⁶⁶ November 28, 1990.

³⁶⁷ 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)³⁶⁸ 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

³⁶⁸ 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 8³⁶⁹ 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;

³⁶⁹ 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)³⁷⁰ 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.

³⁷⁰ 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)³⁷¹ 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.

³⁷¹ 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,³⁷² 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.

(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.

³⁷² November 28, 1990.

- (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,³⁷³ 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.

(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;

³⁷³ November 28, 1990.

- (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.
 - (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

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)³⁷⁴ 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 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).

³⁷⁴ So in law. There are no subsections (f) and (g).

- (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)³⁷⁵ 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

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

³⁷⁵ 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]³⁷⁶

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

³⁷⁶ 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 mortgagor 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 refinanced³⁷⁷ 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

³⁷⁷ 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.³⁷⁸ 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.³⁷⁹ Upon the expiration of one year following the date of enactment of the Housing and Community Development Act of 1974,³⁸⁰ 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 1983,³⁸¹ 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

³⁷⁸ November 30, 1983.

³⁷⁹ August 22, 1974.

³⁸⁰ November 30, 1983.

³⁸¹ 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 mortgagor, 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)³⁸² 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

³⁸² 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 9½ 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 home³⁸³ 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 section³⁸⁴, the Secretary shall issue final regulations to carry out the provisions of this title.³⁸⁵ 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

³⁸³ So in law.

³⁸⁴ October 28, 1992.

³⁸⁵ 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, DATING VIOLENCE, SEXUAL ASSAULT, STALKING, AND OTHER DANGEROUS, TRAUMATIC, OR LIFE-THREATENING CONDITIONS RELATING TO SUCH VIOLENCE.—Notwithstanding any other provision of this section, the Secretary shall consider to be homeless any individual or family who—

- (1) is experiencing trauma or a lack of safety related to, or fleeing or attempting to flee, domestic violence, dating violence, sexual assault, stalking, or other dangerous, traumatic, or life-threatening conditions related to the violence against the individual or a family member in the individual's or family's current housing situation, including where the health and safety of children are jeopardized;
- (2) has no other safe residence; and
- (3) lacks the resources to obtain other safe 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.³⁸⁶

(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

³⁸⁶ July 22, 1987.

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.

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 Agency³⁸⁷, 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)³⁸⁸ 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.

³⁸⁷ 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.”.

³⁸⁸ 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.

(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.

(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)³⁸⁹ collect and disseminate information relating to homeless individuals;

³⁸⁹ 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.

(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;

(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;³⁹⁰

(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,³⁹¹ 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;

³⁹⁰ So in law. Probably should read “; and”. See amendment made by section 1004(a)(4)(B) of division B of Public Law 111-22.

³⁹¹ July 22, 1987.

- (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;
- (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.³⁹²

(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:

³⁹² Section 404 of the Housing Opportunity Through Modernization Act (P.L. 114-201), signed July 29, 2016.

- (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.

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, 2028.

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.³⁹³ 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)—

³⁹³ July 22, 1987.

- (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.

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 compliance;
- (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 Agency³⁹⁴.
- (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.

³⁹⁴ 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.”.

Sec. 322. [42 U.S.C. 11352]**AUTHORIZATION OF APPROPRIATIONS.**

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 ASSISTANCE³⁹⁵**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.

³⁹⁵ 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.

(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, 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 VII³⁹⁶ this Act (42 U.S.C. 11431 et seq.).

(8) FORMULA AREA.—The term ‘formula area’ has the meaning given the term in section 1000.302 of title 24, Code of Federal Regulations, or any successor regulation.

(9) GEOGRAPHIC AREA.—The term “geographic area” means a State, metropolitan city, urban county, town, village, or other nonentitlement area, a formula 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).

(10) 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).

(11) INDIAN TRIBE.—The term ‘Indian Tribe’ has the meaning given the term ‘Indian tribe’ in section 4 of the Native American Housing Assistance and Self-Determination Act of 1996 (25 U.S.C. 4103).

(12) LEGAL ENTITY.—The term “legal entity” means—

³⁹⁶ So in law.

- (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.

(13) 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)).

(14) NEW.—The term “new” means, with respect to housing, that no assistance has been provided under this title for the housing.

(15) 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.

(16) OUTPATIENT HEALTH SERVICES.—The term “outpatient health services” means outpatient health care services, mental health services, and outpatient substance abuse services.

(17) 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.

(18) 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.

(19) 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.

(20) 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.

(21) 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.

(22) PROJECT SPONSOR.—The term “project sponsor” means, with respect to proposed eligible activities, the organization directly responsible for carrying out the proposed eligible activities.

(23) 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.

(24) SECRETARY.—The term “Secretary” means the Secretary of Housing and Urban Development.

(25) 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.

(26) 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.

(27) 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.

(28) 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.

(29) 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.

(30) 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.

(31) 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.

(32) UNIFIED FUNDING AGENCY.—The term “unified funding agency” means a collaborative applicant that performs the duties described in section 402(g).

(33) 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.

(34) 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.

(35) 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.

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 homelessness.

(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]³⁹⁷**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.]

³⁹⁷ Section 231 of the Further Consolidated Appropriations Act, 2020 (P.L. 116 – 94 enacted December 20, 2019) provides:

(a) Amounts recaptured from funds appropriated for this or any succeeding fiscal year under the heading ‘Department of Housing and Urban Development—Community Planning and Development—Homeless Assistance Grants’ shall become available until expended not later than the end of the fifth fiscal year after the last fiscal year for which such funds are available and shall be available, in addition to rental assistance amounts that were recaptured and made available until expended under such heading by any prior Act, and in addition to such other funds as may be available for such purposes, for the following purposes:

- (1) For grants under the Continuum of Care program under subtitle C of title IV of the McKinney Vento Homeless Assistance Act (42 U.S.C. 11381 et seq.);
- (2) For grants under the Emergency Solutions Grant program under subtitle B of title IV of such Act (42 U.S.C. 11371 et seq.);
- (3) Not less than 10 percent of the amounts shall be used only for grants in rural areas under the Continuum of Care program, to include activities eligible under the Rural Housing Stability Assistance program under section 491 of such Act (42 U.S.C. 11408) that are not otherwise eligible under the Continuum of Care program; and
- (4) Not less than 10 percent of the amounts shall be for emergency solutions grants for disaster areas as authorized by subsection (c).

(b) Prior to the use of any recaptured amounts referred to in subsection (a), including competing, awarding, or obligating such amounts, the Secretary shall submit a plan in accordance with subsection (a) that specifies the planned use of any such amounts to the Committees on Appropriations of the House of Representatives and the Senate, and receive prior written approval of such plan, except that use of amounts in the plan for the purposes specified in subsection (a)(4) may begin once such plan is submitted to such Committees.

- (c)
 - (1) The Secretary may make grants under the Emergency Solutions Grants program under subtitle B of title IV of the McKinney-Vento Homeless Assistance Act (42 U.S.C. 11371 et seq.) to States or local governments to address the needs of homeless individuals or families or individuals or families at risk of homelessness in areas affected by a major disaster declared pursuant to the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5121 et seq.) on or after the date of enactment of this Act, whose needs are not otherwise served or fully met by existing Federal disaster relief programs, including the Transitional Sheltering Assistance program under such Act (42 U.S.C. 5170b).

- (2) For purposes of grants under paragraph (1), the Secretary may suspend all consultation, citizen participation, and matching requirements.

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)³⁹⁸ 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.

(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 during³⁹⁹ 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.

³⁹⁸ 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.

³⁹⁹ So in law.

(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 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,⁴⁰⁰ 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.

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

⁴⁰⁰ July 22, 1987.

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 paragraphs⁴⁰¹ (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

⁴⁰¹ So in law.

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 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.

(13) Facilitating and coordinating activities to ensure compliance with subsection (e) of section 41411 of the Violence Against Women Act of 1994 (34 U.S.C. 12491) and monitoring compliance with the confidentiality protections of subsection (c)(4) of such section.

(13)⁴⁰² Projects in rural areas that consist of one or more of the following activities:

(A) Payment of short-term emergency lodging, including in motels or shelters, directly or through vouchers.

(B) Repairs to units—

(i) in which homeless individuals and families will be housed; or

(ii) which are currently not fit for human habitation.

(C) Staff training, professional development, skill development, and staff retention activities.

(b) MINIMUM GRANT TERMS.—The Secretary may impose minimum grant terms of up to 5 years for new projects providing permanent housing.

⁴⁰² So in law. This paragraph was added by section 5442 of the James M. Inhofe National Defense Authorization Act for Fiscal Year 2023 (Public Law 117-263). Probably should be sec. 423(a)(14).

(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 2009⁴⁰³, 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

⁴⁰³ May 20, 2009.

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 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 2009⁴⁰⁴, that shall be made

⁴⁰⁴ Sections 1503 and 1504 of title V of division B of Public Law 111-22, enacted May 20, 2009, read as follows:

“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.”

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 2016,⁴⁰⁵ 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.

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).

Sec. 435. [42 U.S.C. 11389]

INDIAN TRIBES AND TRIBALLY DESIGNATED HOUSING ENTITIES.

Notwithstanding any other provision of this title, for purposes of this subtitle, an Indian Tribe or tribally designated housing entity (as defined in section 4 of the Native American Housing Assistance and Self-Determination Act of 1996 (25 U.S.C. 4103)) may—

⁴⁰⁵ July 29, 2016.

- (1) be a collaborative applicant or eligible entity; or
- (2) receive grant amounts from another entity that receives a grant directly from the Secretary, and use the amounts in accordance with this subtitle.

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 Act⁴⁰⁶ 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.

(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.—

⁴⁰⁶ 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’”.

(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.

(I) 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]⁴⁰⁷

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 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

⁴⁰⁷ So in law. Probably intended to be designated as section 492.

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 Administrative 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)⁴⁰⁸ after the date of the enactment of this subsection.⁴⁰⁹

(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) of⁴¹⁰ Base Closure Community Redevelopment and Homeless Assistance Act of 1994.⁴¹¹

(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

⁴⁰⁸ Provisions from section 2905 of such Act are set forth, post, in this part.

⁴⁰⁹ October 25, 1994.

⁴¹⁰ So in law.

⁴¹¹ 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)⁴¹² (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

⁴¹² 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 2000⁴¹³, 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

⁴¹³ 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 1998⁴¹⁴ 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;

⁴¹⁴ 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)⁴¹⁵(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.

⁴¹⁵ 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