

105TH CONGRESS  
1ST SESSION

# H. R. 2447

To reform the assisted multifamily rental housing programs of the Department of Housing and Urban Development, protect the financial interests of the Federal Government, maintain the affordability and availability of low-income housing, enhance the effectiveness of enforcement provisions relating to single family and multifamily housing, and consolidate and reform the management of multifamily housing programs, and for other purposes.

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## IN THE HOUSE OF REPRESENTATIVES

SEPTEMBER 10, 1997

Mr. LAZIO of New York introduced the following bill; which was referred to the Committee on Banking and Financial Services

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## A BILL

To reform the assisted multifamily rental housing programs of the Department of Housing and Urban Development, protect the financial interests of the Federal Government, maintain the affordability and availability of low-income housing, enhance the effectiveness of enforcement provisions relating to single family and multifamily housing, and consolidate and reform the management of multifamily housing programs, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*  
2 *tives of the United States of America in Congress assembled,*

1 **SECTION 1. SHORT TITLE AND TABLE OF CONTENTS.**

2 (a) **SHORT TITLE.**—This Act may be cited as the  
 3 “Multifamily Housing Restructuring and Affordability Act  
 4 of 1997”.

5 (b) **TABLE OF CONTENTS.**—The table of contents for  
 6 this Act is as follows:

Sec. 1. Short title and table of contents.

**TITLE I—FHA-INSURED MULTIFAMILY HOUSING MORTGAGE AND  
 HOUSING ASSISTANCE RESTRUCTURING**

Sec. 101. Findings and purposes.

Sec. 102. Performance measures.

Sec. 103. Definitions.

**Subtitle A—Restructuring of Assistance**

Sec. 111. Authority of participating administrative entities.

Sec. 112. Mortgage restructuring and rental assistance sufficiency plans.

Sec. 113. Section 8 renewals and affordability commitments by owners of  
 projects.

Sec. 114. Exemptions from and prohibitions on restructuring.

Sec. 115. Restructuring tools.

Sec. 116. Management standards.

Sec. 117. Monitoring of compliance.

Sec. 118. Review.

Sec. 119. GAO audit and review.

Sec. 120. Treatment of FHA multifamily restructuring demonstrations.

Sec. 121. Technical and conforming amendments.

**Subtitle B—Office of Multifamily Housing Assistance Restructuring**

Sec. 141. Establishment of Office of Multifamily Housing Assistance Restruc-  
 turing.

Sec. 142. Director.

Sec. 143. Duty and authority of Director.

Sec. 144. Personnel.

Sec. 145. Funding.

Sec. 146. Limitation on subsequent employment.

Sec. 147. Audits by GAO.

Sec. 148. Regulations and orders.

Sec. 149. Termination.

**Subtitle C—Contracts Expiring After Termination of Program**

Sec. 161. Tenant-based assistance.

**TITLE II—MISCELLANEOUS PROVISIONS**

Sec. 201. Rehabilitation grants for certain insured projects.

- Sec. 202. Amendment to housing finance agency multifamily housing financing pilot program.
- Sec. 203. Conversion of direct loan elderly projects to project rental assistance contracts.
- Sec. 204. Rent limitation for non-FHA multifamily housing projects receiving section 8 project-based assistance.
- Sec. 205. GAO report on section 8 rental assistance for multifamily housing projects.

#### TITLE III—ENFORCEMENT PROVISIONS

- Sec. 301. Implementation.

##### Subtitle A—FHA Single Family and Multifamily Housing

- Sec. 311. Authorization to immediately suspend mortgagees.
- Sec. 312. Extension of equity skimming to other single family and multifamily housing programs.
- Sec. 313. Civil money penalties against mortgagees, lenders, and other participants in FHA programs.

##### Subtitle B—FHA Multifamily Provisions

- Sec. 321. Civil money penalties against general partners, officers, directors, and certain managing agents of multifamily projects.
- Sec. 322. Civil money penalties for noncompliance with section 8 HAP contracts.
- Sec. 323. Extension of double damages remedy.
- Sec. 324. Obstruction of Federal audits.

# 1 **TITLE I—FHA-INSURED MULTI-** 2 **FAMILY HOUSING MORTGAGE** 3 **AND HOUSING ASSISTANCE** 4 **RESTRUCTURING**

## 5 **SEC. 101. FINDINGS AND PURPOSES.**

6 (a) FINDINGS.—The Congress finds that—

7 (1) there exists throughout the Nation a need  
 8 for safe, clean, and healthy housing that is afford-  
 9 able to low-income families;

10 (2) housing is an essential element in holding a  
 11 job, getting an education, and strengthening commu-  
 12 nities;

1           (3) 23 years after the enactment of the section  
2           8 rental housing assistance payments program, a  
3           record number of contracts for such assistance are  
4           expiring, including contracts covering 1,800,000  
5           dwelling units in 1998 and contracts covering  
6           2,700,000 units between 1999 and 2002;

7           (4) if the contracts expiring in 1998 alone are  
8           not renewed, 4,400,000 Americans—90 percent of  
9           whom are elderly persons, persons with disabilities,  
10          and low-income families with children—are at risk of  
11          losing their homes because of sharp rent increases;

12          (5) a substantial number of housing units re-  
13          ceiving project-based assistance have rents that are  
14          higher than the rents of comparable, unassisted  
15          rental units in the same housing rental market;

16          (6) it is estimated that if no changes in the  
17          terms and conditions of the contracts for project-  
18          based assistance are made before fiscal year 2000,  
19          the cost of renewing all expiring project-based rental  
20          assistance contracts under section 8 of the United  
21          States Housing Act of 1937 will increase from ap-  
22          proximately \$1,200,000,000 in fiscal year 1998 to  
23          almost \$8,000,000,000 by fiscal year 2006;

24          (7) absent new budget authority for the renewal  
25          of expiring contracts for project-based assistance or

1 restructuring of FHA-insured mortgages, many of  
2 the FHA-insured multifamily housing projects that  
3 are assisted with project-based assistance will likely  
4 default on their FHA-insured mortgage payments,  
5 resulting in substantial claims to the FHA General  
6 Insurance Fund and Special Risk Insurance Fund;

7 (8) more than 15 percent of federally assisted  
8 multifamily housing projects are physically or finan-  
9 cially distressed, including a number that suffer  
10 from mismanagement; and

11 (9) due to Federal budget constraints, the  
12 downsizing of the Department of Housing and  
13 Urban Development, and diminished administrative  
14 capacity, the Department lacks the ability to ensure  
15 the continued economic and physical well-being of  
16 the stock of federally insured and assisted multifam-  
17 ily housing projects and to ensure proper oversight  
18 of the multifamily housing restructuring process.

19 (b) PURPOSE.—The purpose of this title is to pro-  
20 mote and preserve safe, clean, and healthy housing that  
21 is affordable to low-income families while reducing the  
22 long-term costs to the Federal Government, thereby con-  
23 tributing to the supply of affordable housing, by—

24 (1) reforming the design and operation of rental  
25 housing assistance programs of the Department to

1 promote greater project operating and cost effi-  
2 ciencies and to end excessive taxpayer subsidies;

3 (2) promoting the use of vouchers and relation-  
4 ships between landlords and tenants under the sec-  
5 tion 8 rental assistance program that operate in a  
6 manner that more closely resembles the private  
7 housing market;

8 (3) protecting tenants and providing more  
9 choice for tenants in a manner that creates hope and  
10 opportunity and preserves communities;

11 (4) facilitating mixed-income communities;

12 (5) creating a new compact with owners of mul-  
13 tifamily rental housing under which the owners con-  
14 tinue to provide safe, clean, healthy, and affordable  
15 housing;

16 (6) encouraging owners of eligible multifamily  
17 housing projects to restructure their FHA-insured  
18 mortgages and project-based rental assistance con-  
19 tracts in a manner that is consistent with this title  
20 before the year in which the contract expires;

21 (7) increasing accountability and rewarding ef-  
22 fective management of affordable housing owners re-  
23 ceiving project-based section 8 rental assistance;

24 (8) rehabilitating properties when necessary to  
25 maintain safe, clean, and healthy living conditions;

1           (9) achieving greater accountability with respect  
2           to taxpayer funds by empowering the Federal Gov-  
3           ernment to take firmer, quicker, and more effective  
4           action to eliminate fraud and abuse in Department  
5           of Housing and Urban Development programs and  
6           to pursue owners who take inappropriate actions;  
7           and

8           (10) reforming, consolidating, and strengthen-  
9           ing enforcement of the Department's affordable  
10          housing programs.

11 **SEC. 102. PERFORMANCE MEASURES.**

12          Consistent with the purposes and requirements of the  
13          Government Performance and Results Act of 1993, the  
14          program under this title and the implementation of the  
15          program by the Department of Housing and Urban Devel-  
16          opment shall comply with the following performance goals:

17               (1) The eligible multifamily housing projects re-  
18               structured under this title shall be financially viable  
19               after the restructuring.

20               (2) The Department of Housing and Urban De-  
21               velopment shall receive a written commitment from  
22               the owner of each restructured project that the  
23               project will be retained as a valuable asset of the af-  
24               fordable housing stock to serve low-income families.

1           (3) The process for restructuring shall pro-  
2       tect—

3                   (A) the financial interests of the taxpayers,  
4       including the immediate costs to the Federal  
5       Government recognized in restructuring the  
6       mortgage (by payment of claim, refinancing, or  
7       otherwise) and the long-term costs of Federal  
8       subsidies required for the project to remain fi-  
9       nancially viable;

10                   (B) the financial interests of project own-  
11       ers and managers, because they are partners of  
12       the Federal Government in meeting the afford-  
13       able housing needs of the Nation through the  
14       section 8 rental housing assistance program;  
15       and

16                   (C) the interests of tenants residing in the  
17       multifamily housing projects at the time of the  
18       restructuring for the housing.

19 **SEC. 103. DEFINITIONS.**

20       For purposes of this title, the following definitions  
21 shall apply:

22                   (1) **COMPARABLE PROPERTIES.**—The term  
23       “comparable properties” means, with respect to an  
24       eligible multifamily property, other properties that  
25       are—



1 (A) determined by a State-certified ap-  
2 praiser pursuant to the Uniform Standards of  
3 Professional Appraisal Practice to be—

4 (i) located in the same housing mar-  
5 ket area as the eligible multifamily housing  
6 project and similar to such project in  
7 neighborhood (including risk of crime), lo-  
8 cation, access, street appeal, age, property  
9 size, apartment mix, physical configura-  
10 tion, property and unit amenities, and util-  
11 ities; or

12 (ii) if no such similar properties exist  
13 in the same housing market area as the el-  
14 igible multifamily housing project, located  
15 in other housing market areas and similar  
16 to such project in the matters referred to  
17 in clause (i);

18 (B) unregulated by contractual encum-  
19 brances or local rent-control laws; and

20 (C) occupied predominantly by renters who  
21 receive no rent supplements or rental assist-  
22 ance.

23 (2) DIRECTOR.—The term “Director” means  
24 the Director of the Office of Multifamily Housing

1 Assistance Restructuring of the Department of  
2 Housing and Urban Development.

3 (3) ELIGIBLE MULTIFAMILY HOUSING  
4 PROJECT.—The term “eligible multifamily housing  
5 project” means a property consisting of more than  
6 4 dwelling units—

7 (A) having rents which, on an average per  
8 unit basis, exceed the rent of comparable prop-  
9 erties, as determined by the Director;

10 (B) that is covered in whole or in part by  
11 a contract for project-based assistance under—

12 (i) the new construction and substan-  
13 tial rehabilitation program under section  
14 8(b)(2) of the United States Housing Act  
15 of 1937 (as in effect before October 1,  
16 1983);

17 (ii) the property disposition program  
18 under section 8(b) of the United States  
19 Housing Act of 1937;

20 (iii) the moderate rehabilitation pro-  
21 gram under section 8(e)(2) of the United  
22 States Housing Act of 1937;

23 (iv) the loan management assistance  
24 program under section 8 of the United  
25 States Housing Act of 1937;

1 (v) section 23 of the United States  
2 Housing Act of 1937 (as in effect before  
3 January 1, 1975);

4 (vi) the rent supplement program  
5 under section 101 of the Housing and  
6 Urban Development Act of 1965; or

7 (vii) section 8 of the United States  
8 Housing Act of 1937, following conversion  
9 from assistance under section 101 of the  
10 Housing and Urban Development Act of  
11 1965; and

12 (C) that is financed by a mortgage insured  
13 or held by the Secretary under the National  
14 Housing Act.

15 (4) EXPIRING CONTRACT.—The term “expiring  
16 contract” means a project-based assistance contract  
17 attached to an eligible multifamily housing project  
18 which, under the terms of the contract, will expire.

19 (5) EXPIRATION DATE.—The term “expiration  
20 date” means the date on which an expiring contract  
21 expires.

22 (6) FAIR MARKET RENT.—The term “fair mar-  
23 ket rent” means the applicable fair market rental es-  
24 tablished under section 8(c) of the United States

1 Housing Act of 1937 for the appropriate size and  
2 type of dwelling unit.

3 (7) LOW-INCOME FAMILIES.—The term “low-in-  
4 come families” has the same meaning as provided  
5 under section 3(b)(2) of the United States Housing  
6 Act of 1937.

7 (8) NONPROFIT ORGANIZATION.—The term  
8 “nonprofit organization” means any private organi-  
9 zation that—

10 (A) is organized under State or local laws;

11 (B) has no part of its net earnings inuring  
12 to the benefit of any member, shareholder,  
13 founder, contributor, or individual; and

14 (C) has a long-term record of service in  
15 providing and financing good-quality and af-  
16 fordable housing for low-income families  
17 through relationships with public entities.

18 (9) OFFICE.—The term “Office” means the Of-  
19 fice of Multifamily Housing Assistance Restructur-  
20 ing of the Department of Housing and Urban Devel-  
21 opment.

22 (10) PARTICIPATING ADMINISTRATIVE EN-  
23 TITY.—The term “participating administrative en-  
24 tity” means a public agency, including a State hous-  
25 ing finance agency, local housing agency, or private

1 nonprofit or for-profit organization, or combination  
2 thereof, which is selected under section 111(b) to act  
3 as a participating administrative entity for purposes  
4 of this title.

5 (11) PORTFOLIO RESTRUCTURING AGREEMENT.—The term “Portfolio restructuring agree-  
6 ment” means the agreement entered into between  
7 the Director and a participating administrative en-  
8 tity, as provided under section 111.

10 (12) PROJECT-BASED ASSISTANCE.—The term  
11 “project-based assistance” means rental assistance  
12 under a program referred to in paragraph (3)(B)  
13 that is attached to a multifamily housing project.

14 (13) QUALIFIED MORTGAGEE.—The term  
15 “qualified mortgagee” means an entity that is ap-  
16 proved by the Director, pursuant to guidelines estab-  
17 lished by the Secretary, as capable of servicing and  
18 originating mortgages for multifamily housing  
19 projects insured under the National Housing Act  
20 and that—

21 (A) is not suspended or debarred by the  
22 Secretary;

23 (B) is not suspended or on probation im-  
24 posed by the Mortgagee Review Board;

1 (C) is not in default under any Govern-  
2 ment National Mortgage Association obligation;  
3 and

4 (D) meets previous participation require-  
5 ments promulgated by the Director.

6 (14) RENEWAL.—The term “renewal” means  
7 the replacement of an expiring contract with a new  
8 contract under section 8 of the United States Hous-  
9 ing Act of 1937, consistent with the requirements of  
10 this title.

11 (15) SECRETARY.—The term “Secretary”  
12 means the Secretary of Housing and Urban Develop-  
13 ment.

14 (16) STATE.—The term “State” has the same  
15 meaning as in section 104 of the Cranston-Gonzalez  
16 National Affordable Housing Act.

17 (17) TENANT-BASED ASSISTANCE.—The term  
18 “tenant-based assistance” has the same meaning as  
19 in section 8(f) of the United States Housing Act of  
20 1937.

21 (18) UNIT OF GENERAL LOCAL GOVERN-  
22 MENT.—The term “unit of general local govern-  
23 ment” has the same meaning as in section 104 of  
24 the Cranston-Gonzalez National Affordable Housing  
25 Act.

1           (19) VERY LOW-INCOME FAMILY.—The term  
2           “very low-income family” has the same meaning as  
3           in section 3(b) of the United States Housing Act of  
4           1937.

5           **Subtitle A—Restructuring of**  
6           **Assistance**

7           **SEC. 111. AUTHORITY OF PARTICIPATING ADMINISTRATIVE**  
8           **ENTITIES.**

9           (a) PORTFOLIO RESTRUCTURING AGREEMENTS.—

10           (1) IN GENERAL.—The Director of the Office of  
11           Multifamily Housing Assistance Restructuring shall  
12           enter into portfolio restructuring agreements with  
13           participating administrative entities for the imple-  
14           mentation of mortgage restructuring and rental as-  
15           sistance sufficiency plans under section 112 to re-  
16           structure FHA-insured multifamily housing mort-  
17           gages, to—

18                   (A) reduce the costs of expiring contracts;

19                   (B) address financially and physically trou-  
20           bled projects; and

21                   (C) correct management and ownership de-  
22           ficiencies.

23           (2) CONTENTS.—Each portfolio restructuring  
24           agreement entered into under this subsection shall—

1           (A) be a cooperative agreement between  
2 the Director and a participating administrative  
3 entity to establish the obligations and require-  
4 ments between such parties;

5           (B) identify the particular geographic ju-  
6 risdiction or particular classification or classi-  
7 fications of eligible multifamily housing projects  
8 for which the participating administrative entity  
9 is authorized to approve and implement mort-  
10 gage restructuring and rental assistance suffi-  
11 ciency plans under section 112;

12           (C) require the participating administrative  
13 entity to review and certify to the accuracy and  
14 completeness of the evaluation of rehabilitation  
15 needs required under section 112(e)(4) for each  
16 eligible multifamily housing project included in  
17 the portfolio restructuring agreement, in ac-  
18 cordance with the regulations of the Director;

19           (D) identify the responsibilities of the par-  
20 ticipating administrative entity and the Director  
21 in approving and implementing a mortgage re-  
22 structuring and rental assistance sufficiency  
23 plan, including any actions proposed to be  
24 taken under section 114 or 115;



1           (E) require, with respect to each eligible  
2           multifamily housing project for which the par-  
3           ticipating administrative entity has responsibil-  
4           ity in approval and implementation of a mort-  
5           gage restructuring and rental assistance suffi-  
6           ciency plan, that each such plan be prepared in  
7           accordance with the requirements of section  
8           112; and

9           (F) include compensation for all reasonable  
10          expenses incurred by the participating adminis-  
11          trative entity necessary to perform its duties  
12          under this subtitle.

13          (3) TERMS.—The Director shall, by regulation,  
14          establish terms and conditions of portfolio restruc-  
15          turing agreements under this subsection. Each such  
16          agreement shall provide that the Director may im-  
17          mediately terminate such an agreement with a par-  
18          ticipating administrative entity if the Director deter-  
19          mines that the entity has failed to comply with the  
20          terms and conditions of the agreement.

21          (b) SELECTION OF PARTICIPATING ADMINISTRATIVE  
22          ENTITIES.—

23               (1) IN GENERAL.—Subject to paragraph (4),  
24          the Director shall select entities described in para-  
25          graph (2) to act for purposes of this subtitle as par-

1        participating administrative entities. The Director shall  
2        authorize each entity selected to act as a participat-  
3        ing administrative entity with respect to a particular  
4        geographic jurisdiction or particular classifications  
5        of eligible multifamily housing projects, or both. The  
6        Director may assign more than one participating ad-  
7        ministrative entity to any geographic jurisdiction or  
8        for any classification of eligible multifamily housing  
9        project.

10            (2) ELIGIBLE ENTITIES.—An entity described  
11        in this paragraph is a public agency (including a  
12        State housing finance agency and a local housing  
13        agency) or private nonprofit or for-profit organiza-  
14        tions, or any combination thereof.

15            (3) SELECTION CRITERIA.—The Director shall  
16        select entities described in paragraph (2) to act par-  
17        ticipating administrative agencies based on the fol-  
18        lowing criteria:

19            (A) The extent of the timeliness and effi-  
20        ciency of the entity in restructuring a portfolio  
21        of loans.

22            (B) The cost effectiveness of the entity  
23        (relative to other entities) in managing a multi-  
24        family housing portfolio, while maintaining the  
25        public purpose of such housing.

1           (C) The extent of demonstrated experience  
2           and capacity of the entity in multifamily hous-  
3           ing restructuring and in multifamily housing  
4           asset management.

5           (D) The extent of demonstrated expertise  
6           of the entity in financing and managing afford-  
7           able housing for low-income families.

8           (E) The extent to which the entity has a  
9           history of stable, financially sound, and respon-  
10          sible administrative performance.

11          (F) The extent of demonstrated financial  
12          strength of the entity, with respect to asset  
13          quality, capital adequacy, and liquidity.

14          (G) The extent of demonstrated capacity of  
15          the entity to work with residents of low-income  
16          housing and communities.

17          (H) The extent to which the entity is oth-  
18          erwise qualified, as determined by the Director,  
19          to carry out the requirements of this subtitle,  
20          including capability to perform the necessary  
21          underwriting and restructuring activities under  
22          this subtitle.

23          (4) ALTERNATIVE ADMINISTRATORS.—In the  
24          case of any eligible multifamily housing project for  
25          which the Director determines that no entity has

1       been selected or is available or qualified to be se-  
2       lected under this subsection to act as participating  
3       administrative entity, the Director may, on a  
4       project-by-project basis—

5               (A) select another entity described in para-  
6               graph (2), using the criteria under paragraph  
7               (3) to act as the participating administrative  
8               entity for such project;

9               (B) assign a participating administrative  
10              entity otherwise assigned to a geographic juris-  
11              diction or classification of eligible multifamily  
12              housing projects that does not include such  
13              project to act as the participating administra-  
14              tive entity for such project; or

15              (C) act as the participating administrative  
16              entity for such project.

17       (c) PROHIBITION.—No private entity acting or serv-  
18       ing as a participating administrative entity shall share,  
19       participate in, or otherwise benefit from any equity cre-  
20       ated, received, or restructured as a result of a portfolio  
21       restructuring agreement.

22       (d) LIABILITY.—A participating administrative entity  
23       or a qualified mortgagee shall not be liable for any losses  
24       arising from the development, underwriting, or implemen-  
25       tation of any mortgage restructuring and rental suffi-

1 ciency agreement unless such losses involved gross neg-  
2 ligence or willful misconduct on the part of such entity  
3 or mortgagee.

4 **SEC. 112. MORTGAGE RESTRUCTURING AND RENTAL AS-**  
5 **SISTANCE SUFFICIENCY PLANS.**

6 (a) SUBMISSION, CONTENTS, AND APPROVAL.—

7 (1) PROCEDURES AND REQUIREMENTS.—The  
8 Director shall develop procedures and requirements  
9 for the submission, to the appropriate participating  
10 administrative entity, of a mortgage restructuring  
11 and rental assistance sufficiency plan for each eligi-  
12 ble multifamily housing project with an expiring con-  
13 tract.

14 (2) NOTICE AND TIMING.—The Director shall  
15 provide written notice of expiration date for the ex-  
16 piring contract for an eligible multifamily housing  
17 project to the owner and the mortgagee of record for  
18 the project not less than 12 months before the expi-  
19 ration date. The Director shall establish deadlines  
20 for submission of mortgage restructuring and rental  
21 assistance sufficiency plans for eligible multifamily  
22 housing projects to the appropriate participating ad-  
23 ministrative entity, which shall be a reasonable pe-  
24 riod after the notice of such expiration is received.

1           (3) DEVELOPMENT.—Except as provided in  
2 paragraph (4), each mortgage restructuring and  
3 rental assistance sufficiency plan submitted under  
4 this subsection for an eligible multifamily housing  
5 project shall be developed at the initiative of the  
6 owner of the project, in conjunction with the quali-  
7 fied mortgagee servicing the loan at such time, pur-  
8 suant to guidelines for mortgage restructuring estab-  
9 lished by the Director. The qualified mortgagee—

10           (A) shall assist the owner in determining  
11 the appropriate restructuring tools under sec-  
12 tion 115 to include in the plan to ensure com-  
13 pliance with the performance goals under 102,  
14 taking into consideration the specific character-  
15 istics of the project and the mortgage on the  
16 project and the type of rental assistance that  
17 will be provided on behalf of tenants in the  
18 project; and

19           (B) may underwrite the financing proposed  
20 in the plan.

21           (4) ALTERNATIVE DEVELOPMENT.—In any case  
22 that the mortgagee for a project is unable, for any  
23 reason, to participate with the owner of the project  
24 in developing a mortgage restructuring and rental  
25 assistance sufficiency plan for the project, or the

1 mortgagee is not a qualified mortgagee, the partici-  
2 pating administrative entity for the project, or a  
3 qualified third party selected by such entity, shall  
4 fulfill the responsibilities of the qualified mortgagee  
5 under paragraph (3).

6 (5) CONSOLIDATION.—Mortgage restructuring  
7 and rental assistance sufficiency plans submitted  
8 under this subsection may be consolidated as part of  
9 an overall strategy for more than one property.

10 (6) APPROVAL.—

11 (A) IN GENERAL.—The participating ad-  
12 ministrative entity shall review and approve, re-  
13 ject, or seek modifications to mortgage restruc-  
14 turing and rental assistance sufficiency plans  
15 submitted under this section in accordance with  
16 terms and conditions as the Director shall pro-  
17 vide.

18 (B) PREPAYMENT.—If a plan for a project  
19 proposes to pay the mortgage in full and the  
20 prepayment does not violate any existing con-  
21 tracts, the participating administrative entity  
22 may approve the plan notwithstanding its prep-  
23 aration without the participation of the quali-  
24 fied mortgagee or the lender.

1           (C) REQUIRED MORTGAGE RESTRUCTUR-  
2           ING.—A participating administrative entity may  
3           not approve a mortgage restructuring and rent-  
4           al assistance sufficiency plan for an eligible  
5           multifamily housing project unless the plan pro-  
6           vides for restructuring of the mortgage for the  
7           project under paragraph (8) or (9) of section  
8           115(a).

9           (D) DIRECTOR APPROVAL IN CASES OF  
10           FORECLOSURE OR SALE.—In the case of any  
11           mortgage restructuring and rental assistance  
12           sufficiency plan that involves—

13                   (i) foreclosure of a mortgage on an el-  
14                   igible multifamily housing project, or

15                   (ii) transfer of ownership of such a  
16                   project as described in section 114(b)(5),  
17           the participating administrative entity may not  
18           approve the plan without prior review and ap-  
19           proval of the Director.

20           (b) NOTIFICATION OF TENANTS.—The Director shall  
21           establish procedures for notifying tenants concerning the  
22           expiration dates of expiring contracts for any eligible mul-  
23           tifamily housing project.

24           (c) TEMPORARY EXTENSION OF CONTRACT TERM.—  
25           Subject to agreement by a project owner, the Director



1 may, for any eligible multifamily housing project, extend  
2 the term of any expiring contract or provide a section 8  
3 contract with rent levels set in accordance with subsection  
4 (h) for a period sufficient to facilitate the implementation  
5 of a mortgage restructuring and rental assistance suffi-  
6 ciency plan for the project, as determined by the Director.

7 (d) TENANT RENT PROTECTION.—If the owner of an  
8 eligible multifamily housing project with an expiring con-  
9 tract does not agree to extend the contract, not less than  
10 6 months before terminating the contract, the following  
11 requirements shall apply:

12 (1) NOTICE.—The project owner shall provide  
13 written notice to the Director and the tenants of the  
14 project of the failure to extend the contract.

15 (2) TENANT-BASED ASSISTANCE.—

16 (A) IN GENERAL.—The Director shall, to  
17 the extent amounts are made available in ad-  
18 vance in appropriation Acts, make tenant-based  
19 assistance available to tenants residing in units  
20 in the project assisted under the expiring con-  
21 tract upon the expiration date.

22 (B) ENHANCED VOUCHERS FOR ELDERLY  
23 AND DISABLED TENANTS.—If tenant-based as-  
24 sistance is provided under this subsection for  
25 any tenant of the project who is an elderly fam-

1           ily or a disabled family (as such terms are de-  
2           fined in section 3(b) of the United States Hous-  
3           ing Act of 1937) who continues residence in the  
4           project and the rent for the dwelling unit in  
5           which such tenant resides exceeds the fair mar-  
6           ket rental or payment standard for the area, as  
7           applicable, the amount of tenant-based assist-  
8           ance provided on behalf of the tenant shall be  
9           determined using a maximum monthly rent or  
10          payment standard, as applicable, that (notwith-  
11          standing sections 8(c)(1) and 8(o)(1) of the  
12          United States Housing Act of 1937) is equal to  
13          the amount of rent charged for the dwelling  
14          unit; but only if the agency or entity admin-  
15          istering the tenant-based assistance determines  
16          that such rent charged is reasonable in com-  
17          parison with rents charged for comparable un-  
18          assisted housing units in the same market area.  
19          If such tenant moves from the project and re-  
20          tains the tenant-based assistance, the amount  
21          of assistance provided on behalf of the tenant  
22          shall be determined under existing laws and  
23          rules and the first sentence of this subpara-  
24          graph shall not apply.

1 (e) CONTENTS OF PLANS.—Each mortgage restruc-  
2 turing and rental assistance sufficiency plan for an eligible  
3 multifamily housing project shall—

4 (1) provide for tenant-based assistance for  
5 project residents in accordance with subsection (g)  
6 or restructure the project-based assistance rents for  
7 the project in accordance with subsection (h);

8 (2) provide for any actions that are to be taken  
9 pursuant to section 115 to restructure the mortgage  
10 and rental assistance for the project;

11 (3) require the owner or purchaser of the  
12 project to evaluate the rehabilitation needs of the  
13 project, in accordance with the regulations of the Di-  
14 rector, and notify the participating administrative  
15 entity of such needs;

16 (4) require the owner or purchaser of the  
17 project to provide or contract for competent manage-  
18 ment of the project;

19 (5) require the owner or purchaser of the  
20 project to take such actions as may be necessary to  
21 rehabilitate the project, maintain adequate reserves  
22 for the project, and maintain the project in decent  
23 and safe condition, in accordance with—

1 (A) local housing codes or codes adopted  
2 by public housing agencies, in the case of any  
3 project that is subject to such a code that—

4 (i) meets or exceeds housing quality  
5 standards established by the Secretary;  
6 and

7 (ii) does not severely restrict housing  
8 choice; or

9 (B) housing quality standards established  
10 by the Secretary, in the case of any project not  
11 subject to a housing code described in subpara-  
12 graph (A);

13 (6) require the owner or purchaser of the  
14 project to maintain affordability and use restrictions,  
15 as the participating administrative entity determines  
16 (in accordance with guidelines established by the Di-  
17 rector) to be appropriate and consistent with any  
18 rent levels established under subsection (h) and with  
19 the long-term physical and financial viability char-  
20 acter of the project as affordable housing; and

21 (7) require the owner or purchaser of the  
22 project to meet such other requirements as the Di-  
23 rector determines to be appropriate.

24 (f) TENANT AND COMMUNITY PARTICIPATION AND  
25 CAPACITY BUILDING.—

## 1 (1) PROCEDURES.—

2 (A) IN GENERAL.—The Director shall es-  
3 tablish procedures to provide an opportunity for  
4 tenants of each eligible multifamily housing  
5 project with an expiring contract and other af-  
6 fected parties, including local government and  
7 the community in which the project is located,  
8 to comment on the restructuring process for the  
9 project carried out under this subtitle.

## 10 (2) FUNDING.—

11 (A) IN GENERAL.—The Director may pro-  
12 vide not more than \$10,000,000 annually in  
13 funding to tenant groups, nonprofit organiza-  
14 tions, and public entities for building the capac-  
15 ity of tenant organizations, for technical assist-  
16 ance in furthering any of the purposes of this  
17 subtitle (including transfer of developments to  
18 new owners) and for tenant services, from those  
19 amounts made available under appropriations  
20 Acts for implementing this subtitle.

21 (B) ALLOCATION.—The Director may allo-  
22 cate any funds made available under subpara-  
23 graph (A) through existing technical assistance  
24 programs pursuant to any other Federal law,  
25 including the Low-Income Housing Preserva-

1           tion and Resident Homeownership Act of 1990  
2           and the Multifamily Property Disposition Re-  
3           form Act of 1994.

4           (C) PROHIBITION.—None of the funds  
5           made available under subparagraph (A) may be  
6           used directly or indirectly to pay for any per-  
7           sonal service, advertisement, telegram, tele-  
8           phone, letter, printed or written matter, or  
9           other device, intended or designed to influence  
10          in any manner a Member of Congress, to favor  
11          or oppose, by vote or otherwise, any legislation  
12          or appropriation by Congress, whether before or  
13          after the introduction of any bill or resolution  
14          proposing such legislation or appropriation.

15          (g) TENANT-BASED ASSISTANCE.—Except as pro-  
16          vided in subsection (h), each mortgage restructuring and  
17          rental assistance sufficiency plan for an eligible multifam-  
18          ily housing project shall provide that tenant-based rental  
19          assistance under section 8(o) of the United States Hous-  
20          ing Act of 1937 shall be provided, subject to the availabil-  
21          ity of amounts in appropriation Acts, to each assisted fam-  
22          ily (other than a family already receiving tenant-based as-  
23          sistance) residing in the project upon the expiration date  
24          of the expiring contract for the project or the date that

1 the expiring contract is terminated pursuant to the plan,  
2 whichever occurs earlier.

3 (h) PROJECT-BASED ASSISTANCE FOR CERTAIN  
4 PROJECTS.—

5 (1) PROJECTS WITH ELDERLY OR DISABLED  
6 POPULATIONS, PROJECTS IN TIGHT RENTAL MAR-  
7 KETS, AND COOPERATIVE PROJECTS.—

8 (A) IN GENERAL.—In the case of an eligi-  
9 ble multifamily housing project described in  
10 subparagraph (B), a mortgage restructuring  
11 and rental assistance sufficiency plan for the  
12 project shall provide for renewal or extension of  
13 the expiring contract for the project at rent lev-  
14 els established in accordance with paragraph  
15 (3).

16 (B) PROJECTS COVERED.—An eligible mul-  
17 tifamily housing project described in this sub-  
18 paragraph is such a project—

19 (i) in which 90 percent or more of the  
20 dwelling units are occupied by elderly fami-  
21 lies or disabled families (as such terms are  
22 defined in section 3(b) of the United  
23 States Housing Act of 1937);

24 (ii) that is located in an area which  
25 the Director has determined, based on

1 housing market indicators (such as excep-  
2 tionally low vacancy rates or exceptionally  
3 high absorption rates), has a shortage of  
4 units suitable for families receiving tenant-  
5 based assistance; or

6 (iii) that is a property held by a non-  
7 profit cooperative ownership housing cor-  
8 poration or nonprofit cooperative owner-  
9 ship housing trust, the permanent occu-  
10 pancy of the dwelling units of which is re-  
11 stricted to members of such corporation or  
12 to beneficiaries of such trust, and which  
13 members or beneficiaries are restricted to  
14 families eligible for rental assistance under  
15 section 8 of the United States Housing Act  
16 of 1937.

17 (2) PROJECT-BASED ASSISTANCE FOR POR-  
18 TIONS OF CERTAIN PROJECTS.—

19 (A) IN GENERAL.—In the case of an eligi-  
20 ble multifamily housing project described in  
21 subparagraph (B), a mortgage restructuring  
22 and rental assistance sufficiency plan for the  
23 project may provide for renewal or extension of  
24 the expiring contract for the project, at rent  
25 levels established in accordance with paragraph



1 (3), to cover only a portion of the dwelling units  
2 in the project together with the provision of  
3 tenant-based assistance under subsection (g) for  
4 the remainder of families eligible under such  
5 subsection for such assistance. Project-based  
6 and tenant-based assistance pursuant to this  
7 paragraph shall be in accordance with guide-  
8 lines established by the Director and may be  
9 provided only if the mortgage restructuring and  
10 rental assistance sufficiency plan for the project  
11 includes a transition plan (developed by the ap-  
12 propriate participating administrative entity  
13 and approved by the Director) providing for a  
14 transition from project-based to tenant-based  
15 assistance.

16 (B) PROJECTS COVERED.—An eligible mul-  
17 tifamily housing project is a project described  
18 in this subparagraph only if the appropriate  
19 participating administrative entity has deter-  
20 mined, and the Director has found such deter-  
21 mination to be reasonable, that the project com-  
22 plies with at least one of the following require-  
23 ments:

24 (i) The project can be made finan-  
25 cially viable only by phasing in tenant-

1 based assistance over a period not exceed-  
2 ing 5 years in duration and continuing  
3 project-based assistance for portions of the  
4 project not covered by tenant-based assist-  
5 ance during such period.

6 (ii) The project has, in the determina-  
7 tion of the Director, a significant number  
8 of the residents who are elderly families or  
9 disabled families (as such terms are de-  
10 fined in section 3(b) of the United States  
11 Housing Act of 1937) and requires project-  
12 based assistance for a period of a duration  
13 not exceeding 5 years to prevent excessive  
14 displacement of the elderly families.

15 (3) RENT LEVELS.—

16 (A) IN GENERAL.—Except as provided in  
17 subparagraph (B), the rent levels established in  
18 accordance with this paragraph for an eligible  
19 multifamily housing project are adjusted rent  
20 levels that—

21 (i) are equivalent to rents derived  
22 from comparable properties, if—

23 (I) the participating administra-  
24 tive entity makes the rent determina-  
25 tion after the owner submits a mort-

1                   gage restructuring and rental assist-  
2                   ance sufficiency plan to the entity;  
3                   and

4                   (II) the market rent determina-  
5                   tion is based on not less than 2 com-  
6                   parable properties; or

7                   (ii) if rents for comparable properties  
8                   cannot be determined, are equal to 90 per-  
9                   cent of the fair market rents for the rel-  
10                  evant market area, which, in the case of  
11                  projects located in non-metropolitan areas,  
12                  the participating administrative entity may  
13                  determine to be the same as the fair mar-  
14                  ket rents for the county in which the  
15                  project is located or for the nearest metro-  
16                  politan area, as appropriate for purposes  
17                  of maintaining the financial viability of the  
18                  project.

19                  (B) EXCEPTIONS.—

20                  (i) IN GENERAL.—The rent levels es-  
21                  tablished in accordance with this para-  
22                  graph may be at levels that exceed the ap-  
23                  plicable levels determined under subpara-  
24                  graph (A), but shall in no event exceed  
25                  120 percent of the applicable fair market

1 rent (which, in the case of projects located  
2 in non-metropolitan areas, the participat-  
3 ing administrative entity may determine to  
4 be the same as the fair market rents for  
5 the county in which the project is located  
6 or for the nearest metropolitan area, as ap-  
7 propriate for purposes of maintaining the  
8 financial viability of the project), if the  
9 participating administrative entity—

10 (I) determines that the housing  
11 needs of the tenants and the commu-  
12 nity cannot be adequately addressed  
13 through implementation of the rent  
14 limitation required to be established  
15 through a mortgage restructuring and  
16 rental assistance sufficiency plan  
17 under subparagraph (A); and

18 (II) establishes the rents in ac-  
19 cordance with the procedures under  
20 subparagraph (C).

21 (ii) GEOGRAPHIC LIMITATION.—In  
22 any fiscal year, a participating administra-  
23 tive entity may approve exception rents on  
24 not more than 10 percent of all dwelling  
25 units that are covered in that fiscal year by

1           expiring contracts and restructured by the  
2           entity under the entity's portfolio restruc-  
3           turing agreement under section 111 with  
4           the Director. The Director may waive the  
5           percentage limitation in the preceding sen-  
6           tence for a specific geographical area or  
7           for specific types of properties (including  
8           properties serving populations with special  
9           needs) upon a finding of special need for  
10          exception rents in such area or for such  
11          properties.

12           (C) BUDGET-BASED RENT LEVEL PROCE-  
13          DURES FOR EXCEPTION PROJECTS.—Rent levels  
14          that are determined in accordance with the pro-  
15          cedures under this paragraph shall be estab-  
16          lished based on the actual and projected costs  
17          of operating the project, at a level that provides  
18          income sufficient to support a budget-based  
19          rent that consists of—

20                   (i) the debt service of the project;

21                   (ii) the operating expenses of the  
22          project, as determined by the participating  
23          administrative entity, including contribu-  
24          tions to adequate reserves, the costs of  
25          maintenance, and other eligible costs per-

1           mitted under section 8 of the United  
2           States Housing Act of 1937;

3           (iii) such annual rent adjustments as  
4           may be made necessary by future reason-  
5           able increases in operating costs, which  
6           shall be available only upon a showing by  
7           the owner of the project of such increased  
8           costs, in accordance with the operating  
9           cost adjustment factor established by the  
10          Secretary for purposes of the program  
11          under the Low-Income Housing Preserva-  
12          tion and Resident Homeownership Act of  
13          1990;

14          (iv) an adequate allowance for poten-  
15          tial operating losses due to vacancies and  
16          failure to collect rents, as determined by  
17          the participating administrative entity  
18          under guidelines established by the Direc-  
19          tor;

20          (v) an allowance for a reasonable rate  
21          of return to the owner or purchaser of the  
22          project in accordance with guidelines gov-  
23          erning such rates, which shall be estab-  
24          lished by the Director and may provide in-  
25          centives for owners or purchasers to meet

1 benchmarks of quality for management  
2 and housing quality; and

3 (vi) other expenses determined by the  
4 participating administrative entity to be  
5 necessary for the operation of the project.

6 **SEC. 113. SECTION 8 RENEWALS AND AFFORDABILITY COM-**  
7 **MITMENTS BY OWNERS OF PROJECTS.**

8 (a) SECTION 8 RENEWALS OF RESTRUCTURED  
9 PROJECTS.—Subject to the availability of amounts pro-  
10 vided in advance in appropriations Acts, the Director shall  
11 enter into contracts with participating administrative enti-  
12 ties pursuant to which the participating administrative en-  
13 tity shall offer to renew or extend an expiring contract  
14 covering units in an eligible multifamily housing project  
15 for which a mortgage restructuring and rental assistance  
16 sufficiency plan has been approved under section 112, and  
17 the owner of the project shall accept the offer, provided  
18 the initial renewal is in accordance with the terms and  
19 conditions specified in such plan for the project.

20 (b) LONG-TERM AFFORDABILITY COMMITMENT.—  
21 After the initial renewal of an expiring contract pursuant  
22 to this section, the owner shall accept each offer made to  
23 renew the contract, for the remaining term of the existing  
24 mortgage and, if applicable, the remaining term of an ex-  
25 isting second mortgage, if the offer to renew is on terms

1 and conditions specified in the mortgage restructuring and  
2 rental assistance sufficiency plan.

3 (c) NONDISCRIMINATION AGAINST CERTIFICATE  
4 HOLDERS.—

5 (1) IN GENERAL.—Subject to paragraph (2), in  
6 the case of any eligible multifamily housing project  
7 for which a mortgage restructuring and rental as-  
8 sistance sufficiency plan has been approved that pro-  
9 vides for all project-based assistance for the project  
10 to be converted to tenant-based assistance pursuant  
11 to subsection (g) or (h)(2) of section 112, the owner  
12 may not refuse to lease a reasonable number of units  
13 to holders of certificates or vouchers under section  
14 8 of the United States Housing Act of 1937 because  
15 of the status of the prospective tenants as certificate  
16 or voucher holders.

17 (2) APPLICABILITY.—The participating admin-  
18 istrative entity shall establish reasonable time peri-  
19 ods for applying the requirement under paragraph  
20 (1), in accordance with guidelines which shall be es-  
21 tablished by the Director and take into consideration  
22 the total amount of the assistance described in sec-  
23 tion 103(3) received by the project and the relative  
24 share of the assistance compared to the total cost of



1 financing, developing, rehabilitating, or otherwise as-  
2 sisting the project.

3 **SEC. 114. EXEMPTIONS FROM AND PROHIBITIONS ON RE-**  
4 **STRUCTURING.**

5 (a) EXEMPTIONS FROM RESTRUCTURING AND RE-  
6 NEWAL AT EXISTING OR BUDGET-BASED RENTS.—

7 (1) EXEMPTION.—Subject to subsection (b),  
8 with respect to a multifamily housing project de-  
9 scribed in paragraph (2)—

10 (A) such a project shall not be subject to  
11 a mortgage restructuring and rental assistance  
12 sufficiency plan under this subtitle;

13 (B) the Director shall, subject to the avail-  
14 ability of amounts provided in advance in ap-  
15 propriation Acts, renew the expiring contract  
16 for the project—

17 (i) except as provided in clause (ii),  
18 with rent levels at the lower of—

19 (I) existing rents, subject to such  
20 annual rent adjustments as may be  
21 made necessary by future reasonable  
22 increases in operating costs, which  
23 shall be available upon a showing by  
24 the owner of the project of such in-  
25 creased costs, in accordance with the

1 operating cost adjustment factor es-  
2 tablished by the Secretary for pur-  
3 poses of the program under the Low-  
4 Income Housing Preservation and  
5 Resident Homeownership Act of 1990;  
6 or

7 (II) the budget-based rent levels  
8 determined in accordance with the  
9 procedures under section  
10 112(h)(3)(C); or

11 (ii) in the case of a project covered by  
12 paragraph (2)(A)(iii), the budget-based  
13 rent levels determined in accordance with  
14 the procedures under section 112(h)(3)(C);  
15 and

16 (C) for each fiscal year through fiscal year  
17 2003, the Director shall use 25 percent of any  
18 amounts in residual receipt accounts for the  
19 project in such fiscal year toward funding the  
20 cost for such fiscal year of the contract renewed  
21 under subparagraph (B).

22 (2) EXEMPT PROJECTS.—A multifamily housing  
23 project described in this paragraph is a project that  
24 is covered, in whole or in part, by an expiring con-  
25 tract for project-based assistance under section 8 of

1 the United States Housing Act of 1937 and that  
2 meets the requirements under one of the following  
3 subparagraphs:

4 (A) ELIGIBLE MULTIFAMILY HOUSING  
5 PROJECTS.—The project is an eligible multi-  
6 family housing project and—

7 (i) was provided primary financing or  
8 mortgage insurance by a State government  
9 or a unit of general local government (or  
10 an agency or instrumentality of a State  
11 government or unit of general local govern-  
12 ment);

13 (ii) the participating administrative  
14 entity determines, under guidelines estab-  
15 lished by the Director, that significant sav-  
16 ings to the Federal Government in section  
17 8 assistance amounts would not result  
18 from restructuring the mortgage or rental  
19 assistance for the project under this sub-  
20 title; or

21 (iii) in the determination of the Direc-  
22 tor, restructuring of the mortgage or rent-  
23 al assistance for the project under this  
24 subtitle would not ensure the continued fi-  
25 nancial viability of the project and—

1 (I) the project is limited to occu-  
2 pancy by elderly families or disabled  
3 families (as such terms are defined in  
4 section 3(b) of the United States  
5 Housing Act of 1937), or both, or is  
6 located in a rural area (as such term  
7 is defined in section 520 of the Hous-  
8 ing Act of 1949); or

9 (II) the Director determines that  
10 there is not available in area in which  
11 the project is located an adequate  
12 supply of habitable, affordable hous-  
13 ing for very low-income families and  
14 other low-income families using ten-  
15 ant-based assistance.

16 (B) NONELIGIBLE MULTIFAMILY HOUSING  
17 PROJECTS.—The project does not qualify as an  
18 eligible multifamily housing project pursuant to  
19 section 103.

20 (b) PROHIBITION ON RESTRUCTURING FOR  
21 PROJECTS WITH OWNERS COMMITTING VIOLATIONS AND  
22 PROJECTS IN POOR CONDITION.—

23 (1) IN GENERAL.—The Director shall not con-  
24 sider any mortgage restructuring and rental assist-  
25 ance sufficiency plan or request for contract renewal

1 for an eligible multifamily housing project and shall  
2 not take actions under subsection (a) for the project  
3 if the participating administrative entity determines  
4 that—

5 (A) the owner or purchaser of the project  
6 has engaged in material adverse financial or  
7 managerial actions or omissions with regard to  
8 the project (or with regard to other similar  
9 projects if the Director determines that such  
10 actions or omissions constitute a pattern of mis-  
11 management that would warrant suspension or  
12 debarment by the Secretary), including—

13 (i) materially violating any Federal,  
14 State, or local law or regulation with re-  
15 gard to the project or any other federally  
16 assisted project, after receipt of notice and  
17 an opportunity to cure;

18 (ii) materially breaching a contract for  
19 assistance under section 8 of the United  
20 States Housing Act of 1937, after receipt  
21 of notice and an opportunity to cure;

22 (iii) materially violating any applicable  
23 regulatory or other agreement with the  
24 Secretary, the Director, or a participating

1 administrative entity, after receipt of no-  
2 tice and an opportunity to cure;

3 (iv) repeatedly and materially violat-  
4 ing any Federal, State, or local law or reg-  
5 ulation with regard to the project or any  
6 other federally assisted project;

7 (v) repeatedly and materially breach-  
8 ing a contract for assistance under section  
9 8 of the United States Housing Act of  
10 1937;

11 (vi) repeatedly and materially violat-  
12 ing any applicable regulatory or other  
13 agreement with the Secretary, the Direc-  
14 tor, or a participating administrative en-  
15 tity;

16 (vii) repeatedly failing to make mort-  
17 gage payments at times when project in-  
18 come was sufficient to maintain and oper-  
19 ate the property;

20 (viii) materially failing to maintain  
21 the property according to housing quality  
22 standards after receipt of notice and a rea-  
23 sonable opportunity to cure; or

1 (ix) committing any actions or omis-  
2 sions that would warrant suspension or de-  
3 barment by the Secretary;

4 (B) the owner or purchaser of the property  
5 materially failed to follow the procedures and  
6 requirements of this subtitle, after receipt of  
7 notice and an opportunity to cure; or

8 (C) the poor condition of the project can-  
9 not be remedied in a cost effective manner, as  
10 determined by the participating administrative  
11 entity.

12 (2) OPPORTUNITY TO DISPUTE FINDINGS.—

13 (A) IN GENERAL.—During the 30-day pe-  
14 riod beginning on the date on which the owner  
15 or purchaser of an eligible multifamily housing  
16 project receives notice of a rejection under  
17 paragraph (1) of a mortgage restructuring and  
18 rental assistance sufficiency plan under section  
19 112, the Director or participating administra-  
20 tive entity shall provide that owner or purchaser  
21 with an opportunity to dispute the basis for the  
22 rejection and an opportunity to cure.

23 (B) AFFIRMATION, MODIFICATION, OR RE-  
24 VERSAL.—

1 (i) IN GENERAL.—After providing an  
2 opportunity to dispute under subparagraph  
3 (A), the Director or the participating ad-  
4 ministrative entity may affirm, modify, or  
5 reverse any rejection under paragraph (1)  
6 or rejection of a mortgage restructuring  
7 and rental assistance sufficiency plan  
8 under section 112.

9 (ii) REASONS FOR DECISION.—The  
10 Director or the participating administra-  
11 tive entity, as applicable, shall identify the  
12 reasons for any final decision under this  
13 subparagraph.

14 (iii) REVIEW PROCESS.—The Director  
15 shall establish an administrative review  
16 process to appeal any final decision under  
17 this subparagraph.

18 (3) FINAL DETERMINATION.—Any final deter-  
19 mination under this subsection shall not be subject  
20 to judicial review.

21 (4) DISPLACED TENANTS.—Subject to the  
22 availability of amounts provided in advance in appro-  
23 priations Acts, any low-income tenant that, at the  
24 time of rejection of contract renewal or mortgage re-  
25 structuring under this subsection, is residing in unit



1 in a project that is assisted under the expiring con-  
2 tract for the project shall be provided with tenant-  
3 based assistance and reasonable moving expenses, as  
4 determined by the Director.

5 (5) TRANSFER OF PROPERTY.—

6 (A) FACILITATION.—The Director shall es-  
7 tablish procedures to facilitate the voluntary  
8 sale or transfer, as part of a mortgage restruc-  
9 turing and rental assistance sufficiency plan, of  
10 eligible multifamily housing projects disqualified  
11 from the consideration of a mortgage restruc-  
12 turing and rental assistance sufficiency plan  
13 under this section because of any action by an  
14 owner or purchaser described in subparagraph  
15 (A) or (B) of paragraph (1).

16 (B) PREFERENCE.—Such procedures shall  
17 give preference to sale or transfer to tenant or-  
18 ganizations and tenant-endorsed community-  
19 based nonprofit and public agency purchasers  
20 meeting such reasonable qualifications as may  
21 be established by the Director.

22 (C) APPROVAL OF RESTRUCTURING  
23 PLAN.—Notwithstanding paragraph (1), in the  
24 case of any project—

1 (i) that is described in subparagraph  
2 (A),

3 (ii) that is covered, in whole or in  
4 part, by an expiring contract, and

5 (iii) for which the mortgage restruc-  
6 turing and rental assistance sufficiency  
7 plan provides for—

8 (I) transfer of ownership of the  
9 project to a new owner who does not,  
10 as determined by the Director, have  
11 any identity of interest with the owner  
12 whose actions resulted in the disquali-  
13 fication, and

14 (II) assignment of all rights, obli-  
15 gations, and interests of the previous  
16 owner under the expiring contract to  
17 the new owner,

18 the Director shall consider, under the provisions  
19 of this subtitle, the mortgage restructuring and  
20 rental assistance sufficiency plan for the project  
21 and shall, subject to the approval in advance of  
22 amounts in appropriation Acts and in accord-  
23 ance with the requirements under this subtitle,  
24 provide rental assistance in connection with the

1 approval under this subtitle of the plan for the  
2 project.

3 (c) TREATMENT OF RESIDUAL RECEIPTS FOR CER-  
4 TAIN NON-RESTRUCTURED PROJECTS.—In the case of  
5 any eligible multifamily housing project for which an ex-  
6 piring contract is not renewed because—

7 (1) the project is subject to subsection (b)(1),

8 (2) ownership of project is transferred and a  
9 mortgage restructuring and rental assistance suffi-  
10 ciency plan for the project cannot be approved under  
11 subsection (b)(5), or

12 (3) the owner will prepay the mortgage in full  
13 pursuant to section 112(a)(6)(B),  
14 the Director shall recapture 90 percent of any amounts  
15 in residual receipt accounts for the project and such  
16 amounts shall be available for rehabilitation grants under  
17 section 236(s) of the National Housing Act.

18 **SEC. 115. RESTRUCTURING TOOLS.**

19 (a) RESTRUCTURING TOOLS.—An approved mort-  
20 gage restructuring and rental assistance sufficiency plan  
21 for an eligible multifamily housing project may include one  
22 or more of the following actions:

23 (1) FULL OR PARTIAL PAYMENT OF CLAIM.—

24 Making a full payment of claim or partial payment

1 of claim under section 541(b) of the National Hous-  
2 ing Act.

3 (2) REFINANCING OF DEBT.—Refinancing of all  
4 or part of the debt on a project. If the refinancing  
5 involves a mortgage that will continue to be insured  
6 under the National Housing Act, the refinancing  
7 shall be documented through amendment of the ex-  
8 isting insurance contract and not through a new in-  
9 surance contract.

10 (3) MORTGAGE INSURANCE.—Providing FHA  
11 multifamily mortgage insurance, reinsurance, or  
12 other credit enhancement alternatives, including  
13 multifamily risk-sharing mortgage programs as pro-  
14 vided under section 542 of the Housing and Commu-  
15 nity Development Act of 1992, except that—

16 (A) insurance, reinsurance, and other cred-  
17 it enhancement pursuant to this paragraph  
18 shall be available for an eligible multifamily  
19 housing project only to the extent that the  
20 owner demonstrates that the owner is unable to  
21 secure reasonably comparable insurance, rein-  
22 surance, or credit enhancement from other  
23 sources;

24 (B) any limitations on the number of units  
25 available for mortgage insurance under section

1           542 shall not apply to eligible multifamily hous-  
2           ing projects; and

3           (C) any credit subsidy costs of providing  
4           mortgage insurance shall be paid from the Gen-  
5           eral Insurance Fund and the Special Risk In-  
6           surance Fund.

7           (4) CREDIT ENHANCEMENT.—Providing any  
8           additional State or local mortgage credit enhance-  
9           ments and risk-sharing arrangements established  
10          with State or local housing finance agencies, the  
11          Federal Housing Finance Board, the Federal Na-  
12          tional Mortgage Association, and the Federal Home  
13          Loan Mortgage Corporation, to a modified first  
14          mortgage.

15          (5) COMPENSATION OF THIRD PARTIES.—En-  
16          tering into agreements, incurring costs, or making  
17          payments, as may be reasonably necessary, to com-  
18          pensate the participation of participating adminis-  
19          trative entities and other parties in undertaking ac-  
20          tions authorized by this subtitle. Upon request, par-  
21          ticipating administrative entities shall be considered  
22          to be contract administrators under section 8 of the  
23          United States Housing Act of 1937 for purposes of  
24          any contracts entered into as part of an approved  
25          mortgage restructuring and rental assistance suffi-

1       ciency plan. Subject to the availability of amounts  
2       provided in advance in appropriations Acts for ad-  
3       ministrative fees under section 8 of the United  
4       States Housing Act of 1937, such fees shall be used  
5       to compensate participating administrative entities  
6       for compliance monitoring costs incurred under sec-  
7       tion 117.

8               (6) USE OF PROJECT ACCOUNTS.—Applying  
9       any residual receipts, replacement reserves, and  
10       amounts in any other project accounts not required  
11       for project operations to maintain the long-term af-  
12       fordability and physical condition of the project or of  
13       other eligible multifamily housing projects. The par-  
14       ticipating administrative entity may expedite the ac-  
15       quisition of residual receipt, replacement reserves,  
16       and other such amounts by entering into agreements  
17       with owners of housing covered by an expiring con-  
18       tract to provide an owner with a share of the re-  
19       ceipts, not to exceed 10 percent.

20               (7) REHABILITATION NEEDS.—Assisting in ad-  
21       dressing the rehabilitation needs of the project, sub-  
22       ject to the following provisions:

23                       (A) SOURCES OF ASSISTANCE.—Rehabilita-  
24       tion assistance under this paragraph may be  
25       paid from the provision of grants from residual

1 receipts, replacement reserves, and amounts in  
2 any other project accounts not required for  
3 project operations or, to the extent provided in  
4 appropriations Acts, from budget authority pro-  
5 vided for increases in amounts for assistance  
6 contracts under section 8 of the United States  
7 Housing Act of 1937, from the rehabilitation  
8 grant program established under section 236(s)  
9 of the National Housing Act, or through the  
10 debt restructuring transaction.

11 (B) MATCHING REQUIREMENT.—

12 (i) Rehabilitation assistance under  
13 this paragraph may be provided for a  
14 project only if the owner of the project  
15 contributes an amount equal to not less  
16 than 25 percent of the amount of rehabili-  
17 tation assistance received under this para-  
18 graph from the sources described in sub-  
19 paragraph (A) (excluding replacement re-  
20 serves), except that such contribution re-  
21 quirement not apply to any project owned  
22 by a nonprofit cooperative ownership hous-  
23 ing corporation or trust.

24 (ii) In the case of a project owned by  
25 a nonprofit organization, the amount re-

1           required to be contributed under clause (i)  
2           by the owner may include—

3                   (I) the value of any donated ma-  
4                   terial or building;

5                   (II) the proceeds from bond fi-  
6                   nancing validly issued by a State or  
7                   unit of general local government,  
8                   agency, or instrumentality thereof,  
9                   and repayable with revenues derived  
10                  from projects assisted pursuant to  
11                  this title, except that not more than  
12                  25 percent of the amounts required to  
13                  be contributed under clause (i) may  
14                  result from this subclause; and

15                  (III) the cost or value of any do-  
16                  nated goods or services (including  
17                  supportive service provided, but not  
18                  including the value of any time or  
19                  services contributed by volunteers).

20           (C) ELIGIBLE USE.—Rehabilitation assist-  
21           ance under this paragraph shall be used only  
22           for restoring the project to a nonluxury stand-  
23           ard adequate for the rental market intended  
24           upon the original approval of the project-based  
25           assistance for the project.



1           (8) RESTRUCTURING OF MORTGAGE INTO FIRST  
2           AND SECOND MORTGAGES.—Restructuring mort-  
3           gages to provide for the following mortgages:

4           (A) FIRST MORTGAGE.—A structured first  
5           mortgage having payments that can be covered  
6           by project income with project rents at market  
7           rate levels or the levels established in section  
8           112(h), as applicable, which shall bear interest  
9           at a rate not less than the applicable Federal  
10          rate in effect on the date that the first mort-  
11          gage being restructured was originated.

12          (B) SECOND MORTGAGE.—A second mort-  
13          gage in an amount equal to the difference be-  
14          tween the restructured first mortgage and the  
15          mortgage balance of the eligible multifamily  
16          housing project at the time of restructuring.  
17          The second mortgage shall be subject to the fol-  
18          lowing requirements:

19                 (i) The second mortgage shall bear in-  
20                 terest at a rate not to exceed 1 percent an-  
21                 nually.

22                 (ii) Subject to clause (vii)(II), the sec-  
23                 ond mortgage shall have a term that ex-  
24                 pires upon the termination of the first  
25                 mortgage on the project.

1 (iii) During the period in which the  
2 first mortgage remains outstanding, pay-  
3 ments of principal or interest on the sec-  
4 ond mortgage shall be required only if  
5 project income exceeds the amount nec-  
6 essary for all reasonable and necessary op-  
7 erating expenses (including deposits in a  
8 reserve for replacement), debt service on  
9 the first mortgage, a reasonable return on  
10 equity investment to the owner (as deter-  
11 mined pursuant to guidelines established  
12 by the Director), and such other expendi-  
13 tures as may be approved by the Director.

14 (iv) The Director may authorize dis-  
15 tribution to the owner of up to 25 percent  
16 of the excess project income described in  
17 clause (iii) to the project owner if the Di-  
18 rector determines that the project owner  
19 meets benchmarks of quality for manage-  
20 ment and housing quality.

21 (v) The second mortgage shall initially  
22 be held by the Secretary as an obligation  
23 of the General Insurance Fund or the Spe-  
24 cial Risk Insurance Fund, as appropriate,  
25 but shall be assumable by any subsequent

1 purchaser of any multifamily housing  
2 project, pursuant to guidelines established  
3 by the Director.

4 (vi) The Director may, under guide-  
5 lines established by the Director, modify  
6 the terms or forgive all or part of the sec-  
7 ond mortgage upon acquisition by a tenant  
8 organization or tenant-endorsed commu-  
9 nity-based nonprofit or public agency.

10 (vii) The principal and accrued inter-  
11 est due under the second mortgage shall be  
12 subject to the following conditions:

13 (I) Such principal and interest  
14 shall be immediately due and payable  
15 upon full payment of the first mort-  
16 gage, unless the mortgage is assumed  
17 pursuant to clause (v) or the Director  
18 provides for payment of the second  
19 mortgage under subclause (II) of this  
20 clause.

21 (II) The Director may permit the  
22 owner of the project to begin repay-  
23 ment of the second mortgage upon  
24 full payment of the first mortgage, in  
25 equal monthly installments of an

1 amount equal to the monthly principal  
2 and interest payments formerly paid  
3 under the first mortgage. If the Direc-  
4 tor permits the owner to repay the  
5 mortgage as provided in this sub-  
6 clause, the second mortgage shall be-  
7 come the senior mortgage on the  
8 project upon full payment of the first  
9 mortgage.

10 (III) Such principal and interest  
11 shall be immediately due and payable  
12 upon a finding by the Director that  
13 an owner has failed to materially com-  
14 ply with this subtitle or any require-  
15 ments of the United States Housing  
16 Act of 1937, as those requirements  
17 apply to the applicable project, after  
18 receipt of notice of such failure and a  
19 reasonable opportunity to cure such  
20 failure.

21 (viii) Any credit subsidy costs of pro-  
22 viding a second mortgage shall be paid  
23 from the General Insurance Fund or the  
24 Special Risk Insurance Fund, as appro-  
25 priate.

1           (9) SIMPLE RESTRUCTURING OF MORTGAGES.—

2           Restructuring mortgages in the manner such that—

3                   (A) the principal amount outstanding  
4                   under the mortgage is not reduced;

5                   (B) the term of the mortgage is not ex-  
6                   tended or is extended to a date that is—

7                           (i) on or before the date occurring 30  
8                           years after the date of the expiration of  
9                           the original term of existing first mort-  
10                          gage; and

11                           (ii) determined by the participating  
12                          administrative entity to be consistent with  
13                          the purposes of this Act; and

14                   (C) the Director may authorize distribution  
15                   to the owner of up to 25 percent of any project  
16                   income that exceeds the amount described in  
17                   paragraph (8)(B)(iii) to the project owner if the  
18                   Director determines that the project owner  
19                   meets benchmarks of quality for management  
20                   and housing quality.

21           (b) ROLE OF FNMA AND FHLMC.—Section 1335  
22           of the Federal Housing Enterprises Financial Safety and  
23           Soundness Act of 1992 (12 U.S.C. 4565) is amended—

24                   (1) in paragraph (3), by striking “and” at the  
25                   end;

1           (2) paragraph (4), by striking the period at the  
2           end and inserting “; and”;

3           (3) in the matter preceding paragraph (1), by  
4           striking “To meet” and inserting the following: “(a)  
5           IN GENERAL.—To meet”; and

6           (4) by adding at the end the following:

7           “(5) assist in maintaining the affordability of  
8           assisted units in eligible multifamily housing projects  
9           with expiring contracts, as defined under the Multi-  
10          family Housing Restructuring and Affordability Act  
11          of 1997.

12          “(b) AFFORDABLE HOUSING GOALS.—Actions taken  
13          under subsection (a)(5) shall constitute part of the con-  
14          tribution of each entity in meeting their affordable hous-  
15          ing goals under sections 1332, 1333, and 1334 for any  
16          fiscal year, as determined by the Secretary.”.

17          (c) PROHIBITION ON EQUITY SHARING BY DIRECTOR  
18          AND PARTICIPATING ADMINISTRATIVE ENTITIES.—The  
19          Director and any participating administrative entities may  
20          not participate in any equity agreement or profit-sharing  
21          agreement in conjunction with any eligible multifamily  
22          housing project.

23          **SEC. 116. MANAGEMENT STANDARDS.**

24          Pursuant to guidelines established by the Director  
25          and consistent with industry standards, each participating

1 administrative entity shall establish and implement man-  
2 agement standards applicable to eligible multifamily hous-  
3 ing projects that are subject to mortgage restructuring  
4 and rental assistance sufficiency plans administered by  
5 such entity, including requirements governing conflicts of  
6 interest between owners, managers, contractors with an  
7 identity of interest.

8 **SEC. 117. MONITORING OF COMPLIANCE.**

9 (a) COMPLIANCE AGREEMENTS.—Pursuant to regu-  
10 lations issued by the Director after public notice and com-  
11 ment, each participating administrative entity, through  
12 binding contractual agreements with owners and other-  
13 wise, shall ensure long-term compliance with the provi-  
14 sions of this subtitle. Each agreement shall, at a mini-  
15 mum, provide for—

16 (1) enforcement of the provisions of this sub-  
17 title; and

18 (2) remedies for the breach of those provisions.

19 (b) PERIODIC MONITORING.—

20 (1) IN GENERAL.—Not less than annually, each  
21 participating administrative entity shall review the  
22 status of all multifamily housing projects for which  
23 a mortgage restructuring and rental assistance suffi-  
24 ciency plan has been implemented that is adminis-  
25 tered by such entity.

1           (2) INSPECTIONS.—Each review under this sub-  
2           section shall include on site inspection to determine  
3           compliance with housing codes and other require-  
4           ments as provided in this subtitle and the portfolio  
5           restructuring agreements under section 101.

6           (c) AUDIT—The Comptroller General of the United  
7           States, the Director, and the Inspector General of the De-  
8           partment of Housing and Urban Development may con-  
9           duct an audit at any time of any multifamily housing  
10          project for which a mortgage restructuring and rental as-  
11          sistance sufficiency plan has been implemented.

12       **SEC. 118. REVIEW.**

13          To ensure compliance with this subtitle, during the  
14          5-year period beginning on the date of the enactment of  
15          this Act the Director shall conduct an annual review and  
16          report annually to Congress on actions taken under this  
17          subtitle and the status of eligible multifamily housing  
18          projects.

19       **SEC. 119. GAO AUDIT AND REVIEW.**

20          (a) INITIAL AUDIT.—Not later than 18 months after  
21          the effective date of interim or final regulations promul-  
22          gated under this subtitle, the Comptroller General of the  
23          United States shall conduct an audit to evaluate a rep-  
24          resentative sample of all eligible multifamily housing



1 projects and the implementation of all mortgage restruc-  
2 turing and rental assistance sufficiency plans.

3 (b) REPORT.—

4 (1) IN GENERAL.—Not later than 18 months  
5 after the completion of the audit conducted under  
6 subsection (a), the Comptroller General of the Unit-  
7 ed States shall submit to Congress a report on the  
8 status of all eligible multifamily housing projects  
9 and the implementation of all mortgage restructur-  
10 ing and rental assistance sufficiency plans.

11 (2) CONTENTS.—The report submitted under  
12 paragraph (1) shall include—

13 (A) a description of the initial audit con-  
14 ducted under subsection (a); and

15 (B) recommendations for any legislative  
16 action to increase the financial savings to the  
17 Federal Government of the restructuring of eli-  
18 gible multifamily housing projects balanced with  
19 the continued availability of the maximum num-  
20 ber of affordable low-income housing units.

21 **SEC. 120. TREATMENT OF FHA MULTIFAMILY RESTRUCTUR-**  
22 **ING DEMONSTRATIONS.**

23 (a) TERMINATION OF 1997 DEMONSTRATION.—Sec-  
24 tion 212 of the Departments of Veterans Affairs and  
25 Housing and Urban Development, and Independent Agen-

1 cies Appropriations Act, 1997 (42 U.S.C. 1437f note) is  
2 amended by striking subsection (k) and inserting the fol-  
3 lowing new subsection:

4 “(k) TERMINATION.—The demonstration program  
5 under this section shall terminate upon publication in the  
6 Federal Register of a finding by the Director of the Office  
7 of Multifamily Housing Assistance Restructuring of the  
8 Department of Housing and Urban Development that the  
9 program under the Multifamily Housing Restructuring  
10 and Affordability Act of 1997 has been implemented.”.

11 (b) CONTINUATION OF FUNDING.—Section 212 of  
12 the Departments of Veterans Affairs and Housing and  
13 Urban Development, and Independent Agencies Appro-  
14 priations Act, 1997 (42 U.S.C. 1437f note) is amended—

15 (1) in subsection (a)(1)(B), by striking  
16 “through the end of fiscal year 1997” and inserting  
17 “until the termination of the demonstration program  
18 under this section pursuant to subsection (k)”; and

19 (2) in subsection (l)—

20 (A) by inserting “(1)” before  
21 “\$10,000,000” and

22 (B) by striking “September 30, 1998.”  
23 and inserting the following: “the termination of  
24 the demonstration program pursuant to sub-  
25 section (k); and (2) only to the extent that the

1           other amounts referred to in this subsection  
2           have been used, amounts in the General Insur-  
3           ance Fund (established under section 519 of  
4           the National Housing Act) and the Special Risk  
5           Insurance Fund (established under section  
6           238(b) of such Act) shall be available, until the  
7           termination of the demonstration program pur-  
8           suant to subsection (k), to cover such costs with  
9           respect to multifamily projects subject to mort-  
10          gages that are obligations of such Funds.”.

11          (c) SAVINGS PROVISION.—Nothing in this section  
12 shall be construed to affect any contract or commitment,  
13 or the authority of the Secretary to carry out any contract  
14 or commitment, entered into—

15           (1) under section 212 of the Departments of  
16          Veterans Affairs and Housing and Urban Develop-  
17          ment, and Independent Agencies Appropriations Act,  
18          1997, before the termination of the demonstration  
19          program under such section pursuant to subsection  
20          (k) of such section; or

21           (2) under section 210 of the Departments of  
22          Veterans Affairs and Housing and Urban Develop-  
23          ment, and Independent Agencies Appropriations Act,  
24          1996, before the date of the enactment of the Act  
25          referred to in paragraph (1).

1 **SEC. 121. TECHNICAL AND CONFORMING AMENDMENTS.**

2 (a) **PARTIAL PAYMENT OF CLAIMS ON MULTIFAMILY**  
3 **HOUSING PROJECTS.**—Section 541 of the National Hous-  
4 ing Act (12 U.S.C. 1735f–19) is amended—

5 (1) in subsection (a), in the subsection heading,  
6 by striking “AUTHORITY” and inserting “DE-  
7 FAULTED MORTGAGES”;

8 (2) by redesignating subsection (b) as sub-  
9 section (c); and

10 (3) by inserting after subsection (a) the follow-  
11 ing new subsection:

12 “(b) **EXISTING MORTGAGES.**—Notwithstanding any  
13 other provision of law, the Secretary (acting through the  
14 Director of the Office of Multifamily Housing Assistance  
15 Restructuring), in connection with a mortgage restructur-  
16 ing under section 112 of the Multifamily Housing Restruc-  
17 turing and Affordability Act of 1997, may make a one  
18 time, nondefault partial payment of the claim under the  
19 mortgage insurance contract, which shall include a deter-  
20 mination by the Secretary (through the Director) or the  
21 participating administrative entity, in accordance with  
22 such Act, of the market value of the project and a restruc-  
23 turing of the mortgage, under such terms and conditions  
24 as the Secretary (through the Director) may establish.”.

25 (b) **REUSE AND RESCISSION OF CERTAIN RECAP-**  
26 **TURED BUDGET AUTHORITY.**—Section 8(bb) of the Unit-

1 ed States Housing Act of 1937 (42 U.S.C. 1437f(bb)) is  
2 amended to read as follows:

3       “(bb) REUSE AND RESCISSION OF CERTAIN RECAP-  
4 TURED BUDGET AUTHORITY.—If a project-based assist-  
5 ance contract for an eligible multifamily housing project  
6 subject to actions authorized under title I of the Multifam-  
7 ily Housing Restructuring and Affordability Act of 1997  
8 is terminated or amended as part of restructuring under  
9 section 112 of such Act, the Secretary shall recapture the  
10 budget authority not required for the terminated or  
11 amended contract and, without regard to section 218 of  
12 the Departments of Veterans Affairs and Housing and  
13 Urban Development, and Independent Agencies Appro-  
14 priations Act of 1997, use such amounts as are necessary  
15 to provide housing assistance for the same number of fam-  
16 ilies covered by such contract for the remaining term of  
17 such contract, under a contract providing for project-  
18 based or tenant-based assistance. The amount of budget  
19 authority saved as a result of the shift to project-based  
20 or tenant-based assistance shall be rescinded.”.

1     **Subtitle B—Office of Multifamily**  
2     **Housing Assistance Restructuring**

3     **SEC. 141. ESTABLISHMENT OF OFFICE OF MULTIFAMILY**  
4                     **HOUSING ASSISTANCE RESTRUCTURING.**

5             There is hereby established an office within the De-  
6     partment of Housing and Urban Development, which shall  
7     be known as the Office of Multifamily Housing Assistance  
8     Restructuring.

9     **SEC. 142. DIRECTOR.**

10            (a) **APPOINTMENT.**—The Office shall be under the  
11     management of a Director, who shall be appointed not  
12     later than 30 days after the date of the enactment of this  
13     Act by the President, by and with the advice and consent  
14     of the Senate, from among individuals who are citizens  
15     of the United States, have a demonstrated understanding  
16     of financing and mortgage restructuring for affordable  
17     multifamily housing.

18            (b) **TERM.**—The Director shall be appointed for a  
19     term of 5 years.

20            (c) **VACANCY.**—A vacancy in the position of Director  
21     shall be filled in the manner in which the original appoint-  
22     ment was made under subsection (a).

23            (d) **SERVICE AFTER END OF TERM.**—A Director  
24     may serve after the expiration of the term for which the

1 Director was appointed until a successor Director has  
2 been appointed.

3 (e) DEPUTY DIRECTOR.—

4 (1) IN GENERAL.—The Office shall have a Dep-  
5 uty Director who shall be appointed by the Director  
6 from among individuals who are citizens of the Unit-  
7 ed States, have a demonstrated understanding of fi-  
8 nancing and mortgage restructuring for affordable  
9 multifamily housing.

10 (2) FUNCTIONS.—The Deputy Director shall  
11 have such functions, powers, and duties as the Di-  
12 rector shall prescribe. In the event of the death, res-  
13 ignation, sickness, or absence of the Director, the  
14 Deputy Director shall serve as acting Director until  
15 the return of the Director or the appointment of a  
16 successor pursuant to subsection (c).

17 **SEC. 143. DUTY AND AUTHORITY OF DIRECTOR.**

18 (a) DUTY.—The duty of the Director shall be to ad-  
19 ministrare and monitor the program under subtitle A of  
20 mortgage and rental assistance restructuring for eligible  
21 multifamily housing projects.

22 (b) AUTHORITY EXCLUSIVE OF SECRETARY.—The  
23 Director is authorized, without the review or approval of  
24 the Secretary, to make such determinations, take such ac-  
25 tions, issue such regulations, and perform such functions

1 assigned to the Director under law as the Director deter-  
2 mines necessary to carry out such functions, except as spe-  
3 cifically provided in subsection (c).

4 (c) AUTHORITY SUBJECT TO APPROVAL OF DIREC-  
5 TOR.—Determinations, actions, and functions carried out  
6 by the Director relating to the review and final approval  
7 of any mortgage restructuring and rental assistance suffi-  
8 ciency plan described in section 112(a)(6)(D) shall be sub-  
9 ject to the review and approval of the Secretary.

10 (d) DELEGATION OF AUTHORITY.—The Director  
11 may delegate to officers and employees of the Office (but  
12 not to contractors, subcontractors, or consultants) any of  
13 the functions, powers, and duties of the Director, as the  
14 Director considers appropriate.

15 (e) INDEPENDENCE IN PROVIDING INFORMATION TO  
16 CONGRESS.—The Director shall not be required to obtain  
17 the prior approval, comment, or review of any officer or  
18 agency of the United States before submitting to the Con-  
19 gress, or any committee or subcommittee thereof, any re-  
20 ports, recommendations, testimony, or comments if such  
21 submissions include a statement indicating that the views  
22 expressed therein are those of the Director and do not nec-  
23 essarily represent the views of the Secretary or the Presi-  
24 dent.



1 **SEC. 144. PERSONNEL.**

2 (a) OFFICE PERSONNEL.—The Director may appoint  
3 and fix the compensation of such officers and employees  
4 of the Office as the Director considers necessary to carry  
5 out the functions of the Director and the Office. Officers  
6 and employees may be paid without regard to the provi-  
7 sions of chapter 51 and subchapter III of chapter 53 of  
8 title 5, United States Code, relating to classification and  
9 General Schedule pay rates.

10 (b) COMPARABILITY OF COMPENSATION WITH FED-  
11 ERAL BANKING AGENCIES.—In fixing and directing com-  
12 pensation under subsection (a), the Director shall consult  
13 with, and maintain comparability with compensation of of-  
14 ficers and employees of the Federal Deposit Insurance  
15 Corporation.

16 (c) PERSONNEL OF OTHER FEDERAL AGENCIES.—  
17 In carrying out the duties of the Office, the Director may  
18 use information, services, staff, and facilities of any execu-  
19 tive agency, independent agency, or department on a reim-  
20 bursable basis, with the consent of such agency or depart-  
21 ment.

22 (d) REIMBURSEMENT OF HUD.—The Director shall  
23 reimburse the Department of Housing and Urban Devel-  
24 opment for reasonable costs incurred by the Department  
25 that are directly related to the operations of the Office.

1 (e) OUTSIDE EXPERTS AND CONSULTANTS.—The  
2 Director may procure temporary and intermittent services  
3 under section 3109(b) of title 5, United States Code.

4 (f) LIMITATION.—

5 (1) PROHIBITION OF INCREASE IN PERSON-  
6 NEL.—Notwithstanding any other provision of law,  
7 in each fiscal year, the total full-time-equivalent em-  
8 ployment otherwise authorized in the Department of  
9 Housing and Urban Development (excluding full-  
10 time-equivalent employment in the Office of Multi-  
11 family Housing Assistance Restructuring) for such  
12 fiscal year shall be reduced by one for each full-time-  
13 equivalent position in the Office in such fiscal year.

14 (2) SAVINGS.—Notwithstanding any other pro-  
15 vision of law, in any fiscal year in which paragraph  
16 (1) results in reductions in the full-time-equivalent  
17 employment in the Department, of the amount made  
18 available in appropriation Acts for such fiscal year  
19 for salaries and expenses of the Department, an  
20 amount equal to the sum of the salaries and ex-  
21 penses for the number of full-time-equivalent posi-  
22 tions by which employment in the Department is re-  
23 duced under paragraph (1) in such fiscal year shall  
24 not be available to the Secretary for salaries and ex-

1       penses and shall be covered into the General Fund  
2       of the Treasury.

3           (3) MONITORING.—The Director of the Office  
4       of Management and Budget shall monitor employ-  
5       ment levels in the Department of Housing and  
6       Urban Development and take appropriate actions to  
7       ensure compliance with the requirements under  
8       paragraphs (1) and (2).

9   **SEC. 145. FUNDING.**

10       (a) AUTHORIZATION OF APPROPRIATIONS.—There is  
11       authorized to be appropriated to the Director for carrying  
12       out the responsibilities of the Director under this title and  
13       costs and expenses of the Office such sums as may be nec-  
14       essary from the General Insurance Fund and the Special  
15       Risk Insurance Fund for fiscal years 1998, 1999, 2000,  
16       2001, 20002, and 2003.

17       (b) BUDGET AND FINANCIAL REPORTS.—

18           (1) FINANCIAL OPERATING PLANS AND FORE-  
19       CASTS.—Before the beginning of each fiscal year,  
20       the Director shall submit a copy of the financial op-  
21       erating plans and forecasts for the Office to the Sec-  
22       retary and the Director of the Office of Management  
23       and Budget.

24           (2) REPORTS OF OPERATIONS.—As soon as  
25       practicable after the end of each fiscal year and each

1 quarter thereof, the Director shall submit a copy of  
2 the report of the results of the operations of the Of-  
3 fice during such period to the Secretary and the Di-  
4 rector of the Office of Management and Budget.

5 (3) INCLUSION IN PRESIDENT'S BUDGET.—The  
6 annual plans, forecasts, and reports required under  
7 this subsection shall be included (A) in the Budget  
8 of the United States in the appropriate form, and  
9 (B) in the congressional justifications of the Depart-  
10 ment of Housing and Urban Development for each  
11 fiscal year in a form determined by the Secretary.

12 **SEC. 146. LIMITATION ON SUBSEQUENT EMPLOYMENT.**

13 Neither the Director nor any former officer or em-  
14 ployee of the Office who, while employed by the Office,  
15 was compensated at a rate in excess of the lowest rate  
16 for a position classified higher than GS-15 of the General  
17 Schedule under section 5107 of title 5, United States  
18 Code, may, during the 2-year period beginning on the date  
19 of separation from employment by the Office, accept com-  
20 pensation from any party having any financial interest in  
21 any mortgage restructuring and rental assistance suffi-  
22 ciency plan under subtitle A or comparable matter in  
23 which the Director or such officer or employee had direct  
24 participation or supervision.

1 **SEC. 147. AUDITS BY GAO.**

2       The Comptroller General shall audit the operations  
3 of the Office in accordance with generally accepted Gov-  
4 ernment auditing standards. All books, records, accounts,  
5 reports, files, and property belonging to, or used by, the  
6 Office shall be made available to the Comptroller General.  
7 Audits under this section shall be conducted annually for  
8 the first 2 fiscal years following the date of the enactment  
9 of this Act and as appropriate thereafter.

10 **SEC. 148. REGULATIONS AND ORDERS.**

11       (a) INTERIM REGULATIONS.—Not later than the ex-  
12 piration of the 6-month period beginning upon the ap-  
13 pointment of the Director under section 142(a), the Direc-  
14 tor shall, by notice published in the Federal Register, issue  
15 interim regulations necessary to carry out the duties of  
16 the Director under this title. Such regulations shall take  
17 effect upon issuance.

18       (b) FINAL REGULATIONS.—

19           (1) IN GENERAL.—The Director shall issue  
20 final regulations necessary to carry out the duties of  
21 the Director under this title not later than the expi-  
22 ration of the 12-month period beginning upon the  
23 appointment of the Director under section 142(a).  
24 Except as provided in paragraph (2), the final regu-  
25 lations shall be issued after notice and opportunity  
26 for public comment in accordance with the procedure

1 under section 553 of title 5, United States Code, ap-  
2 plicable to substantive rules (notwithstanding sub-  
3 sections (a)(2), (b)(B), and (d)(3) of such section).  
4 The Director may not publish any proposed regula-  
5 tion for comment unless, not less than 15 days be-  
6 fore it is published for comment, the Director has  
7 submitted a copy of the regulation, in the form it is  
8 intended to be proposed, to the House of Represent-  
9 atives and the Senate.

10 (2) EXCEPTION.—Any final regulations estab-  
11 lishing guidelines which are specifically required  
12 under this title to be established by the Director  
13 shall not be subject to the notice and comment pro-  
14 cedure referred to in paragraph (1).

15 **SEC. 149. TERMINATION.**

16 (a) REPEAL.—Subtitle A is repealed effective October  
17 1, 2003.

18 (b) EXCEPTION.—Notwithstanding the repeal under  
19 subsection (a), the provisions of subtitle A (as in effect  
20 immediately before such repeal) shall apply with respect  
21 to projects and programs for which binding commitments  
22 have been entered into under this Act before October 1,  
23 2003.

24 (c) TERMINATION OF DIRECTOR AND OFFICE.—The  
25 Office of Multifamily Housing Assistance Restructuring

1 and the position of Director of such Office shall terminate  
2 upon September 30, 2003.

3 (d) TRANSFER OF AUTHORITY.—Effective upon the  
4 termination under subsection (c), any authority and re-  
5 sponsibilities assigned by subtitle A to the Director that  
6 remain applicable after such date pursuant to subsection  
7 (b) are transferred to the Secretary.

## 8 **Subtitle C—Contracts Expiring** 9 **After Termination of Program**

### 10 **SEC. 161. TENANT-BASED ASSISTANCE.**

11 (a) IN GENERAL.—In the case of a multifamily hous-  
12 ing project described in subsection (b), the Secretary shall,  
13 upon expiration of the contract referred to in subsection  
14 (b)(2), provide tenant-based rental assistance under sec-  
15 tion 8(o) of the United States Housing Act of 1937, sub-  
16 ject to the availability of amounts in appropriation Acts,  
17 to each family residing in a unit in the project upon the  
18 expiration date of the expiring contract which unit was  
19 assisted under the contract.

20 (b) COVERED PROJECTS.—A multifamily housing  
21 project described in this subsection is a project that—

22 (1) has rents which, on an average per unit  
23 basis at the time of the expiration of the contract re-  
24 ferred to paragraph (2), exceed the rent of com-

1       parable properties, as determined by the Secretary;  
2       and

3               (2) is subject to an expiring contract (as such  
4       term is defined in section 103, notwithstanding sec-  
5       tion 149(a))—

6                       (A) for which the expiration date is Octo-  
7               ber 1, 2003 or thereafter; and

8                       (B) that is not renewed by the Secretary.

9                               **TITLE II—Miscellaneous**  
10                                       **Provisions**

11 **SEC. 201. REHABILITATION GRANTS FOR CERTAIN IN-**  
12 **SURED PROJECTS.**

13       Section 236 of the National Housing Act (12 U.S.C.  
14 1715z-1) is amended by adding at the end the following:

15       “(s) REHABILITATION GRANTS.—

16               “(1) IN GENERAL.—The Director of the Office  
17       of Multifamily Housing Assistance Restructuring of  
18       the Department of Housing and Urban Development  
19       may make grants for the capital costs of rehabilita-  
20       tion to owners of projects that meet the eligibility  
21       and other criteria set forth in, and in accordance  
22       with, this subsection.

23               “(2) PROJECT ELIGIBILITY.—A project may be  
24       eligible for capital grant assistance under this sub-  
25       section—



1           “(A) if—

2                   “(i) the project was insured under any  
3                   provision of title II of the National Hous-  
4                   ing Act;

5                   “(ii) the project was assisted under  
6                   section 8 of the United States Housing Act  
7                   of 1937 on the date of enactment of the  
8                   Multifamily Housing Restructuring and  
9                   Affordability Act of 1997; and

10                  “(iii) the project mortgage was not  
11                  held by a State agency as of the date of  
12                  the enactment of the Multifamily Housing  
13                  Restructuring and Affordability Act of  
14                  1997;

15                  “(B) if the project owner agrees to main-  
16                  tain the housing quality standards that were in  
17                  effect immediately prior to the extinguishment  
18                  of the mortgage insurance;

19                  “(C) if the Director determines that the  
20                  owner or purchaser of the project has not en-  
21                  gaged in material adverse financial or manage-  
22                  rial actions or omissions with regard to this  
23                  project (or with regard to other similar projects  
24                  if the Director determines that those actions or  
25                  omissions constitute a pattern of mismanage-

1           ment that would warrant suspension or debar-  
2           ment by the Secretary), including—

3                   “(i) materially violating any Federal,  
4                   State, or local law or regulation with re-  
5                   gard to this project or any other federally  
6                   assisted project, after receipt of notice and  
7                   an opportunity to cure;

8                   “(ii) materially breaching a contract  
9                   for assistance under section 8 of the Unit-  
10                  ed States Housing Act of 1937, after re-  
11                  ceipt of notice and an opportunity to cure;

12                  “(iii) materially violating any applica-  
13                  ble regulatory or other agreement with the  
14                  Secretary, the Director, or a participating  
15                  administrative entity, after receipt of no-  
16                  tice and an opportunity to cure;

17                  “(iv) repeatedly failing to make mort-  
18                  gage payments at times when project in-  
19                  come was sufficient to maintain and oper-  
20                  ate the property;

21                  “(v) materially failing to maintain the  
22                  property according to housing quality  
23                  standards after receipt of notice and a rea-  
24                  sonable opportunity to cure; or

1                   “(vi) committing any act or omission  
2                   that would warrant suspension or debar-  
3                   ment by the Secretary; and

4                   “(D) if the project owner demonstrates to  
5                   the satisfaction of the Director—

6                   “(i) using information in a com-  
7                   prehensive needs assessment, that capital  
8                   grant assistance is needed for rehabilita-  
9                   tion of the project; and

10                   “(ii) that project income is not suffi-  
11                   cient to support such rehabilitation.

12                   “(3) ELIGIBLE PURPOSES.—Grants under this  
13                   subsection may be used only for the purposes of—

14                   “(A) payment into project replacement re-  
15                   serves;

16                   “(B) providing a fair return on equity in-  
17                   vestment;

18                   “(C) debt service payments on non-Federal  
19                   rehabilitation loans; and

20                   “(D) payment of nonrecurring mainte-  
21                   nance and capital improvements, under such  
22                   terms and conditions as are determined by the  
23                   Secretary.

24                   “(4) GRANT AGREEMENT.—

1           “(A) IN GENERAL.—The Director shall  
2 provide in any grant agreement under this sub-  
3 section that the grant shall be terminated if the  
4 project fails to meet housing quality standards,  
5 as applicable on the date of enactment of the  
6 Multifamily Housing Restructuring and Afford-  
7 ability Act of 1997, or any successor standards  
8 for the physical conditions of projects, as are  
9 determined by the Director.

10           “(B) AFFORDABILITY AND USE  
11 CLAUSES.—The Director shall include in a  
12 grant agreement under this subsection a re-  
13 quirement for the project owners to maintain  
14 such affordability and use restrictions as the  
15 Director determines to be appropriate.

16           “(C) OTHER TERMS.—The Director may  
17 include in a grant agreement under this sub-  
18 section such other terms and conditions as the  
19 Secretary determines to be necessary.

20           “(5) DELEGATION.—

21           “(A) IN GENERAL.—In addition to the au-  
22 thorities set forth in subsection (p), the Direc-  
23 tor may delegate to State and local govern-  
24 ments the responsibility for the administration  
25 of grants under this subsection. Any such gov-

1           ernment may carry out such delegated respon-  
2           sibilities directly or under contracts.

3           “(B) ADMINISTRATION COSTS.—Notwith-  
4           standing paragraph (3), amounts of grants  
5           under this subsection may be made available for  
6           costs of administration under subparagraph  
7           (A).

8           “(6) FUNDING.—

9           “(A) IN GENERAL.—For purposes of carry-  
10          ing out this subsection, the Secretary may make  
11          available to the Director amounts that are un-  
12          obligated amounts for contracts for interest re-  
13          duction payments—

14                 “(i) that—

15                         “(I) were previously obligated for  
16                         contracts for interest reduction pay-  
17                         ments under this section until insur-  
18                         ance under this section was extin-  
19                         guished;

20                         “(II) become available as a result  
21                         of the outstanding principal balance of  
22                         a mortgage having been written down;  
23                         or

24                         “(III) are uncommitted balances  
25                         within the limitation on maximum

1                   payments that may have been, before  
2                   the date of enactment of the Multi-  
3                   family Housing Restructuring and Af-  
4                   fordability Act of 1997, permitted in  
5                   any fiscal year;

6                   “(ii) that become available pursuant  
7                   to section 114(c) of the Multifamily Hous-  
8                   ing Restructuring and Affordability Act of  
9                   1997; or

10                  “(iii) that become available from any  
11                  other source.

12                  “(B) LIQUIDATION AUTHORITY.—The Di-  
13                  rector may liquidate obligations entered into  
14                  under this subsection under section 1305(10) of  
15                  title 31, United States Code.

16                  “(C) CAPITAL GRANTS.—In making capital  
17                  grants under the terms of this subsection, using  
18                  the amounts that the Secretary has recaptured  
19                  from contracts for interest reduction payments,  
20                  the Director shall ensure that the rates and  
21                  amounts of outlays do not at any one time ex-  
22                  ceed the rates and amounts of outlays that  
23                  would have been experienced if the insurance  
24                  had not been extinguished or the principal  
25                  amount had not been written down, and the in-

1           terest reduction payments that the Secretary  
 2           has recaptured had continued in accordance  
 3           with the terms in effect immediately prior to  
 4           such extinguishment or write-down.”.

5 **SEC. 202. AMENDMENT TO HOUSING FINANCE AGENCY**  
 6                   **MULTIFAMILY HOUSING FINANCING PILOT**  
 7                   **PROGRAM.**

8           Section 542(c)(2) of the Housing and Community  
 9           Development Act of 1992 (12 U.S.C. 1707 note) is  
 10          amended by adding at the end the following new subpara-  
 11          graph:

12                   “(G) MITIGATION OF UNCERTAINTIES.—  
 13           An agreement under subparagraph (A) may  
 14           provide for the Secretary to assume an appro-  
 15           priate share of the risk of a loans for affordable  
 16           multifamily housing in a manner that mitigates  
 17           uncertainties regarding actions of the Federal  
 18           Government (including the possible failure to  
 19           renew short-term subsidy contracts).”.

20 **SEC. 203. CONVERSION OF DIRECT LOAN ELDERLY**  
 21                   **PROJECTS TO PROJECT RENTAL ASSISTANCE**  
 22                   **CONTRACTS.**

23          (a) CONVERSION.—Subject to the agreement of the  
 24          owner of a project assisted under section 202 of the Hous-  
 25          ing Act of 1959 (12 U.S.C. 1701q) (as in effect before

1 the enactment of the Cranston-Gonzalez National Afford-  
2 able Housing Act) and section 8 of the United States  
3 Housing Act of 1937, the Secretary may convert the fi-  
4 nancing of any such housing project to financing under  
5 section 202 of the Housing Act of 1959 (12 U.S.C. 1701q)  
6 as amended by section 801 of the Cranston-Gonzalez Na-  
7 tional Affordable Housing Act.

8 (b) DEBT FORGIVENESS.—

9 (1) IN GENERAL.—Subject to paragraph (2), in  
10 converting the financing of any housing project pur-  
11 suant to subsection (a), the Secretary shall cancel  
12 any indebtedness to the Secretary relating to any re-  
13 maining principal and interest under any loan for  
14 the project made under section 202 of the Housing  
15 Act of 1959 (as in effect before the enactment of the  
16 Cranston-Gonzalez National Affordable Housing  
17 Act).

18 (2) BUDGET ACT COMPLIANCE.—The authority  
19 of the Secretary to cancel indebtedness under para-  
20 graph (1) shall be effective only to the extent or in  
21 such amounts as are or have been provided in ad-  
22 vance in appropriation Acts.

23 (c) CANCELLATION OF SECTION 8 CONTRACTS.—In  
24 converting the financing of any housing project pursuant  
25 to subsection (a), the Secretary shall cancel any contract



1 for rental assistance for the project under section 8 of the  
2 United States Housing Act of 1937. Amounts previously  
3 obligated for such contract that remain unexpended shall  
4 be used to provide rental assistance for the project, under  
5 a contract for project rental assistance under section  
6 202(c)(2) of the Housing Act of 1959, which has the same  
7 duration as remainder of the section 8 contract canceled.  
8 Any remaining amounts shall be recaptured by the Sec-  
9 retary.

10 (d) WAIVER AUTHORITY.—The Secretary may waive  
11 the applicability of any provision of law or regulation nec-  
12 essary to carry out this section.

13 **SEC. 204. RENT LIMITATION FOR NON-FHA MULTIFAMILY**  
14 **HOUSING PROJECTS RECEIVING SECTION 8**  
15 **PROJECT-BASED ASSISTANCE.**

16 (a) IN GENERAL.—An owner of qualified housing  
17 may provide, with respect to such housing, that, notwith-  
18 standing section 3(a)(1) of the United States Housing Act  
19 of 1937, the rent paid by tenants of assisted dwelling units  
20 in such housing shall be the lower of the amount provided  
21 under such section 3(a)(1) or 60 percent of the fair mar-  
22 ket rental established pursuant to section 8(c)(1) of such  
23 Act for the area and size of dwelling unit occupied by the  
24 tenant. Upon the request of an owner, the Secretary may  
25 provide for rent limitations under this section for qualified

1 housing that are higher or lower than 60 percent of the  
2 fair market rental on the basis of the Secretary's finding  
3 that such variations are necessary to carry out the provi-  
4 sions of this section and are consistent with the purposes  
5 of this section.

6 (b) QUALIFIED HOUSING.—For purposes of this sec-  
7 tion, the term “qualified housing” means housing that  
8 complies with all of the following requirements:

9 (1) Section 8 project-based assistance is pro-  
10 vided for all of the dwelling units in the housing, in  
11 an amount that is equal to or greater than 120 per-  
12 cent of the applicable fair market rental.

13 (2) The housing is not subject to a mortgage  
14 that is insured under the National Housing Act.

15 (3) The housing consists of 600 dwelling units  
16 or more.

17 (4) At the time the owner first limits rents pur-  
18 suant to subsection (a), not more than 15 percent of  
19 the tenants of the housing have rents that exceed  
20 the maximum amount allowable pursuant to the lim-  
21 itation under subsection (a).

22 (c) LIMITATION BASED ON TENANTS INCOMES.—If,  
23 at any time, in a housing project for which section 8  
24 project-based assistance is provided, more than 40 percent  
25 of the tenants would be paying a rent limited by 60 per-

1 cent of the fair market rental, any rent limitation applica-  
2 ble under this section to such project shall not thereafter  
3 apply to any tenant not subject at such time to the rent  
4 limitation, until the percentage of tenants in the project  
5 eligible for such limited rent decreases to below 40 per-  
6 cent.

7 (d) INAPPLICABILITY TO ELDERLY-ONLY  
8 PROJECTS.—The provisions of this section shall not apply  
9 with respect to any housing project that is designated for  
10 occupancy only by elderly families.

11 **SEC. 205. GAO REPORT ON SECTION 8 RENTAL ASSISTANCE**  
12 **FOR MULTIFAMILY HOUSING PROJECTS.**

13 Not later than the expiration of the 18-month period  
14 beginning on the date of the enactment of this Act, the  
15 Comptroller General of the United States shall submit a  
16 report to the Congress analyzing—

17 (1) the financial and physical condition of mul-  
18 tifamily housing projects for which project-based as-  
19 sistance is provided under section 8 of the United  
20 States Housing Act of 1937, but which are not sub-  
21 ject to a mortgage insured or held by the Secretary  
22 under the National Housing Act;

23 (2) the financial and physical condition of all el-  
24 igible multifamily housing projects that are not sub-  
25 ject to mortgage restructuring and rental assistance

1       sufficiency plans under title I of this Act because the  
2       projects meet the requirements under section  
3       114(a)(2) of this Act;

4           (3) how State and local housing finance agen-  
5       cies have benefited financially from the rental assist-  
6       ance program under section 8 of the United States  
7       Housing Act of 1937, including any benefits from  
8       fees, bond financings, and mortgage refinancings;  
9       and

10          (4) the extent and effectiveness of State and  
11       local housing finance agencies oversight of the phys-  
12       ical and financial management and condition of mul-  
13       tifamily housing projects for which project-based as-  
14       sistance is provided under section 8 of the United  
15       States Housing Act of 1937.

## 16           **TITLE III—ENFORCEMENT** 17           **PROVISIONS**

### 18       **SEC. 301. IMPLEMENTATION.**

19       (a) ISSUANCE OF NECESSARY REGULATIONS.—The  
20       Secretary shall issue such regulations as the Secretary de-  
21       termines to be necessary to implement this title and the  
22       amendments made by this title in accordance with section  
23       552 or 553 of title 5, United States Code, as determined  
24       by the Secretary.

1 (b) USE OF EXISTING REGULATIONS.—In imple-  
 2 menting any provision of this title, the Secretary may, in  
 3 the discretion of the Secretary, provide for the use of exist-  
 4 ing regulations to the extent appropriate, without rule-  
 5 making.

6 **Subtitle A—FHA Single Family and**  
 7 **Multifamily Housing**

8 **SEC. 311. AUTHORIZATION TO IMMEDIATELY SUSPEND**  
 9 **MORTGAGEES.**

10 Section 202(e)(3)(C) of the National Housing Act  
 11 (12 U.S.C. 1708(e)(3)(C)) is amended by inserting after  
 12 the first sentence the following: “Notwithstanding para-  
 13 graph (4)(A), a suspension shall be effective upon issuance  
 14 by the Board if the Board determines that there exists  
 15 adequate evidence that immediate action is required to  
 16 protect the financial interests of the Department or the  
 17 public.”.

18 **SEC. 312. EXTENSION OF EQUITY SKIMMING TO OTHER SIN-**  
 19 **GLE FAMILY AND MULTIFAMILY HOUSING**  
 20 **PROGRAMS.**

21 Section 254 of the National Housing Act (12 U.S.C.  
 22 1715z–19) is amended to read as follows:

23 **“SEC. 254. EQUITY SKIMMING PENALTY.**

24 **“(a) IN GENERAL.—**Whoever, as an owner, agent, or  
 25 manager, or who is otherwise in custody, control, or pos-

1 session of a multifamily project or a 1- to 4-family resi-  
2 dence that is security for a mortgage note that is described  
3 in subsection (b), willfully uses or authorizes the use of  
4 any part of the rents, assets, proceeds, income, or other  
5 funds derived from property covered by that mortgage  
6 note for any purpose other than to meet reasonable and  
7 necessary expenses that include expenses approved by the  
8 Secretary if such approval is required, in a period during  
9 which the mortgage note is in default or the project is  
10 in a nonsurplus cash position, as defined by the regulatory  
11 agreement covering the property, shall be fined not more  
12 than \$500,000, imprisoned not more than 5 years, or  
13 both.

14 “(b) MORTGAGE NOTES DESCRIBED.—For purposes  
15 of subsection (a), a mortgage note is described in this sub-  
16 section if it—

17 “(1) is insured, acquired, or held by the Sec-  
18 retary pursuant to this Act;

19 “(2) is made pursuant to section 202 of the  
20 Housing Act of 1959 (including property still subject  
21 to section 202 program requirements that existed  
22 before the date of enactment of the Cranston-Gon-  
23 zalez National Affordable Housing Act); or

24 “(3) is insured or held pursuant to section 542  
25 of the Housing and Community Development Act of

1 1992, but is not reinsured under section 542 of the  
2 Housing and Community Development Act of  
3 1992.”.

4 **SEC. 313. CIVIL MONEY PENALTIES AGAINST MORTGAGEES,**  
5 **LENDERS, AND OTHER PARTICIPANTS IN FHA**  
6 **PROGRAMS.**

7 (a) AMENDMENT TO SECTION HEADING.—Section  
8 536 of the National Housing Act (12 U.S.C. 1735f–14)  
9 is amended by striking the section heading and all that  
10 follows through “(a) IN GENERAL.—” and inserting the  
11 following:

12 **“SEC. 536. CIVIL MONEY PENALTIES AGAINST MORTGA-**  
13 **GEES, LENDERS, AND OTHER PARTICIPANTS**  
14 **IN FHA PROGRAMS.**

15 “(a) IN GENERAL.—”.

16 (b) EXPANSION OF PERSONS ELIGIBLE FOR PEN-  
17 ALTY.—Section 536(a) of the National Housing Act (12  
18 U.S.C. 1735f–14(a)) is amended—

19 (1) in paragraph (1), by striking the first sen-  
20 tence and inserting the following: “If a mortgagee  
21 approved under the Act, a lender holding a contract  
22 of insurance under title I, or a principal, officer, or  
23 employee of such mortgagee or lender, or other per-  
24 son or entity participating in either an insured mort-  
25 gage or title I loan transaction under this Act or

1 providing assistance to the borrower in connection  
2 with any such loan, including sellers of the real es-  
3 tate involved, borrowers, closing agents, title compa-  
4 nies, real estate agents, mortgage brokers, apprais-  
5 ers, loan correspondents and dealers, knowingly and  
6 materially violates any applicable provision of sub-  
7 section (b), the Secretary may impose a civil money  
8 penalty on the mortgagee or lender, or such other  
9 person or entity, in accordance with this section.  
10 The penalty under this paragraph shall be in addi-  
11 tion to any other available civil remedy or any avail-  
12 able criminal penalty, and may be imposed whether  
13 or not the Secretary imposes other administrative  
14 sanctions.”; and

15 (2) in paragraph (2)—

16 (A) in the first sentence, by inserting “or  
17 such other person or entity” after “lender”; and

18 (B) in the second sentence, by striking  
19 “provision” and inserting “the provisions”.

20 (c) ADDITIONAL VIOLATIONS FOR MORTGAGEES,  
21 LENDERS, AND OTHER PARTICIPANTS IN FHA PRO-  
22 GRAMS.—Section 536(b) of the National Housing Act (12  
23 U.S.C. 1735f–14(b)) is amended—

24 (1) by redesignating paragraph (2) as para-  
25 graph (3);



1           (2) by inserting after paragraph (1) the follow-  
2           ing:

3           “(2) The Secretary may impose a civil money  
4           penalty under subsection (a) for any knowing and  
5           material violation by a principal, officer, or employee  
6           of a mortgagee or lender, or other participants in ei-  
7           ther an insured mortgage or title I loan transaction  
8           under this Act or provision of assistance to the bor-  
9           rower in connection with any such loan, including  
10          sellers of the real estate involved, borrowers, closing  
11          agents, title companies, real estate agents, mortgage  
12          brokers, appraisers, loan correspondents, and dealers  
13          for—

14                 “(A) submission to the Secretary of infor-  
15                 mation that was false, in connection with any  
16                 mortgage insured under this Act, or any loan  
17                 that is covered by a contract of insurance under  
18                 title I of this Act;

19                 “(B) falsely certifying to the Secretary or  
20                 submitting to the Secretary a false certification  
21                 by another person or entity; or

22                 “(C) failure by a loan correspondent or  
23                 dealer to submit to the Secretary information  
24                 which is required by regulations or directives in

1 connection with any loan that is covered by a  
2 contract of insurance under title I.”; and

3 (3) in paragraph (3), as redesignated, by strik-  
4 ing “or paragraph (1)(F)” and inserting “or (F), or  
5 paragraph (2) (A), (B), or (C)”.

6 (d) CONFORMING AND TECHNICAL AMENDMENTS.—  
7 Section 536 of the National Housing Act (12 U.S.C.  
8 1735f–14) is amended—

9 (1) in subsection (c)(1)(B), by inserting after  
10 “lender” the following: “or such other person or en-  
11 tity”;

12 (2) in subsection (d)(1)—

13 (A) by inserting “or such other person or  
14 entity” after “lender”; and

15 (B) by striking “part 25” and inserting  
16 “parts 24 and 25”; and

17 (3) in subsection (e), by inserting “or such  
18 other person or entity” after “lender” each place  
19 that term appears.

1           **Subtitle B—FHA Multifamily**  
2                           **Provisions**

3   **SEC. 321. CIVIL MONEY PENALTIES AGAINST GENERAL**  
4                           **PARTNERS, OFFICERS, DIRECTORS, AND CER-**  
5                           **TAIN MANAGING AGENTS OF MULTIFAMILY**  
6                           **PROJECTS.**

7           (a) CIVIL MONEY PENALTIES AGAINST MULTIFAM-  
8   ILY MORTGAGORS.—Section 537 of the National Housing  
9   Act (12 U.S.C. 1735f–15) is amended—

10                   (1) in subsection (b)(1), by striking “on that  
11                   mortgagor” and inserting the following: “on that  
12                   mortgagor, on a general partner of a partnership  
13                   mortgagor, or on any officer or director of a cor-  
14                   porate mortgagor”;

15                   (2) in subsection (c)—

16                           (A) by striking the subsection designation  
17                           and heading and inserting the following:

18                   “(c) OTHER VIOLATIONS.—”; and

19                           (B) in paragraph (1)—

20                                   (i) by striking “VIOLATIONS.—The  
21                                   Secretary may” and all that follows  
22                                   through the colon and inserting the follow-  
23                                   ing:

1           “(A) LIABLE PARTIES.—The Secretary  
2 may also impose a civil money penalty under  
3 this section on—

4           “(i) any mortgagor of a property that  
5 includes five or more living units and that  
6 has a mortgage insured, co-insured, or held  
7 pursuant to this Act;

8           “(ii) any general partner of a partner-  
9 ship mortgagor of such property;

10          “(iii) any officer or director of a cor-  
11 porate mortgagor;

12          “(iv) any agent employed to manage  
13 the property that has an identity of inter-  
14 est with the mortgagor, with the general  
15 partner of a partnership mortgagor, or  
16 with any officer or director of a corporate  
17 mortgagor of such property; or

18          “(v) any member of a limited liability  
19 company that is the mortgagor of such  
20 property or is the general partner of a lim-  
21 ited partnership mortgagor or is a partner  
22 of a general partnership mortgagor.

23          “(B) VIOLATIONS.—A penalty may be im-  
24 posed under this section upon any liable party

1 under subparagraph (A) that knowingly and  
2 materially takes any of the following actions:”;

3 (ii) in subparagraph (B), as so des-  
4 ignated by clause (i) of this subparagraph,  
5 by redesignating the subparagraphs (A)  
6 through (L) as clauses (i) through (xii), re-  
7 spectively;

8 (iii) by adding after clause (xii), as re-  
9 designated by clause (ii) of this subpara-  
10 graph, the following:

11 “(xiii) Failure to maintain the prem-  
12 ises, accommodations, any living unit in  
13 the project, and the grounds and equip-  
14 ment appurtenant thereto in good repair  
15 and condition in accordance with regula-  
16 tions and requirements of the Secretary,  
17 except that nothing in this clause shall  
18 have the effect of altering the provisions of  
19 an existing regulatory agreement or feder-  
20 ally insured mortgage on the property.

21 “(xiv) Failure, by a mortgagor, a gen-  
22 eral partner of a partnership mortgagor, or  
23 an officer or director of a corporate mort-  
24 gagor, to provide management for the  
25 project that is acceptable to the Secretary

1           pursuant to regulations and requirements  
2           of the Secretary.”; and

3                   (iv) in the last sentence, by deleting  
4           “of such agreement” and inserting “of this  
5           subsection”;

6           (3) in subsection (d)—

7                   (A) in paragraph (1)(B), by inserting after  
8           “mortgagor” the following: “, general partner  
9           of a partnership mortgagor, officer or director  
10          of a corporate mortgagor, or identity of interest  
11          agent employed to manage the property”; and

12                   (B) by adding at the end the following:

13                   “(5) PAYMENT OF PENALTY.—No payment of a  
14          civil money penalty levied under this section shall be  
15          payable out of project income.”;

16                   (4) in subsection (e)(1), by deleting “a mortga-  
17          gagor” and inserting “an entity or person”;

18                   (5) in subsection (f), by inserting after “mort-  
19          gagor” each place such term appears the following:  
20          “, general partner of a partnership mortgagor, offi-  
21          cer or director of a corporate mortgagor, or identity  
22          of interest agent employed to manage the property”;

23                   (6) by striking the heading of subsection (f)  
24          and inserting the following: “CIVIL MONEY PEN-  
25          ALTIES AGAINST MULTIFAMILY MORTGAGORS, GEN-

1 ERAL PARTNERS OF PARTNERSHIP MORTGAGORS,  
2 OFFICERS AND DIRECTORS OF CORPORATE MORT-  
3 GAGORS, AND CERTAIN MANAGING AGENTS”]; and

4 (7) by adding at the end the following:

5 “(k) IDENTITY OF INTEREST MANAGING AGENT.—

6 In this section, the terms ‘agent employed to manage the  
7 property that has an identity of interest’ and ‘identity of  
8 interest agent’ mean an entity—

9 “(1) that has management responsibility for a  
10 project;

11 “(2) in which the ownership entity, including its  
12 general partner or partners (if applicable) and its of-  
13 ficers or directors (if applicable), has an ownership  
14 interest; and

15 “(3) over which the ownership entity exerts ef-  
16 fective control.”.

17 (b) IMPLEMENTATION.—

18 (1) PUBLIC COMMENT.—The Secretary shall  
19 implement the amendments made by this section by  
20 regulation issued after notice and opportunity for  
21 public comment. The notice shall seek comments pri-  
22 marily as to the definitions of the terms “ownership  
23 interest in” and “effective control”, as those terms  
24 are used in the definition of the terms “agent em-

1       employed to manage the property that has an identity  
2       of interest” and “identity of interest agent”.

3               (2) **TIMING.**—A proposed rule implementing the  
4       amendments made by this section shall be published  
5       not later than 1 year after the date of enactment of  
6       this Act.

7               (c) **APPLICABILITY OF AMENDMENTS.**—The amend-  
8       ments made by subsection (a) shall apply only with respect  
9       to—

10              (1) violations that occur on or after the effec-  
11       tive date of the final regulations implementing the  
12       amendments made by this section; and

13              (2) in the case of a continuing violation (as de-  
14       termined by the Secretary of Housing and Urban  
15       Development), any portion of a violation that occurs  
16       on or after that date.

17 **SEC. 322. CIVIL MONEY PENALTIES FOR NONCOMPLIANCE**  
18 **WITH SECTION 8 HAP CONTRACTS.**

19              (a) **BASIC AUTHORITY.**—Title I of the United States  
20       Housing Act of 1937 is amended—

21              (1) by redesignating the second section des-  
22       ignated as section 27 (as added by section 903(b) of  
23       the Personal Responsibility and Work Opportunity  
24       Reconciliation Act of 1996 (Public Law 104–193  
25       (110 Stat. 2348)) as section 28; and



1 (2) by adding at the end the following:

2 **“SEC. 29. CIVIL MONEY PENALTIES AGAINST SECTION 8**  
3 **OWNERS.**

4 “(a) IN GENERAL.—

5 “(1) EFFECT ON OTHER REMEDIES.—The pen-  
6 alties set forth in this section shall be in addition to  
7 any other available civil remedy or any available  
8 criminal penalty, and may be imposed regardless of  
9 whether the Secretary imposes other administrative  
10 sanctions.

11 “(2) FAILURE OF SECRETARY.—The Secretary  
12 may not impose penalties under this section for a  
13 violation, if a material cause of the violation is the  
14 failure of the Secretary, an agent of the Secretary,  
15 or a public housing agency to comply with an exist-  
16 ing agreement.

17 “(b) VIOLATIONS OF HOUSING ASSISTANCE PAY-  
18 MENT CONTRACTS FOR WHICH PENALTY MAY BE IM-  
19 POSED.—

20 “(1) LIABLE PARTIES.—The Secretary may im-  
21 pose a civil money penalty under this section on—

22 “(A) any owner of a property receiving  
23 project-based assistance under section 8;

24 “(B) any general partner of a partnership  
25 owner of that property; and

1           “(C) any agent employed to manage the  
2           property that has an identity of interest with  
3           the owner or the general partner of a partner-  
4           ship owner of the property.

5           “(2) VIOLATIONS.—A penalty may be imposed  
6           under this section for a knowing and material  
7           breach of a housing assistance payments contract,  
8           including the following—

9                   “(A) failure to provide decent, safe, and  
10                   sanitary housing pursuant to section 8; or

11                   “(B) knowing or willful submission of  
12                   false, fictitious, or fraudulent statements or re-  
13                   quests for housing assistance payments to the  
14                   Secretary or to any department or agency of  
15                   the United States.

16           “(3) AMOUNT OF PENALTY.—The amount of a  
17           penalty imposed for a violation under this sub-  
18           section, as determined by the Secretary, may not ex-  
19           ceed \$25,000 per violation.

20           “(c) AGENCY PROCEDURES.—

21                   “(1) ESTABLISHMENT.—The Secretary shall  
22                   issue regulations establishing standards and proce-  
23                   dures governing the imposition of civil money pen-  
24                   alties under subsection (b). These standards and  
25                   procedures—

1           “(A) shall provide for the Secretary or  
2 other department official to make the deter-  
3 mination to impose the penalty;

4           “(B) shall provide for the imposition of a  
5 penalty only after the liable party has received  
6 notice and the opportunity for a hearing on the  
7 record; and

8           “(C) may provide for review by the Sec-  
9 retary of any determination or order, or inter-  
10 locutory ruling, arising from a hearing and ju-  
11 dicial review, as provided under subsection (d).

12           “(2) FINAL ORDERS.—

13           “(A) IN GENERAL.—If a hearing is not re-  
14 quested before the expiration of the 15-day pe-  
15 riod beginning on the date on which the notice  
16 of opportunity for hearing is received, the impo-  
17 sition of a penalty under subsection (b) shall  
18 constitute a final and unappealable determina-  
19 tion.

20           “(B) EFFECT OF REVIEW.—If the Sec-  
21 retary reviews the determination or order, the  
22 Secretary may affirm, modify, or reverse that  
23 determination or order.

24           “(C) FAILURE TO REVIEW.—If the Sec-  
25 retary does not review that determination or

1 order before the expiration of the 90-day period  
2 beginning on the date on which the determina-  
3 tion or order is issued, the determination or  
4 order shall be final.

5 “(3) FACTORS IN DETERMINING AMOUNT OF  
6 PENALTY.—In determining the amount of a penalty  
7 under subsection (b), the Secretary shall take into  
8 consideration—

9 “(A) the gravity of the offense;

10 “(B) any history of prior offenses by the  
11 violator (including offenses occurring before the  
12 enactment of this section);

13 “(C) the ability of the violator to pay the  
14 penalty;

15 “(D) any injury to tenants;

16 “(E) any injury to the public;

17 “(F) any benefits received by the violator  
18 as a result of the violation;

19 “(G) deterrence of future violations; and

20 “(H) such other factors as the Secretary  
21 may establish by regulation.

22 “(4) PAYMENT OF PENALTY.—No payment of a  
23 civil money penalty levied under this section shall be  
24 payable out of project income.

1       “(d) JUDICIAL REVIEW OF AGENCY DETERMINA-  
2 TION.—Judicial review of determinations made under this  
3 section shall be carried out in accordance with section  
4 537(e) of the National Housing Act.

5       “(e) REMEDIES FOR NONCOMPLIANCE.—

6           “(1) JUDICIAL INTERVENTION.—

7               “(A) IN GENERAL.—If a person or entity  
8 fails to comply with the determination or order  
9 of the Secretary imposing a civil money penalty  
10 under subsection (b), after the determination or  
11 order is no longer subject to review as provided  
12 by subsections (c) and (d), the Secretary may  
13 request the Attorney General of the United  
14 States to bring an action in an appropriate  
15 United States district court to obtain a mone-  
16 tary judgment against that person or entity and  
17 such other relief as may be available.

18               “(B) FEES AND EXPENSES.—Any mone-  
19 tary judgment awarded in an action brought  
20 under this paragraph may, in the discretion of  
21 the court, include the attorney’s fees and other  
22 expenses incurred by the United States in con-  
23 nection with the action.

24           “(2) NONREVIEWABILITY OF DETERMINATION  
25 OR ORDER.—In an action under this subsection, the

1 validity and appropriateness of the determination or  
2 order of the Secretary imposing the penalty shall not  
3 be subject to review.

4 “(f) SETTLEMENT BY SECRETARY.—The Secretary  
5 may compromise, modify, or remit any civil money penalty  
6 which may be, or has been, imposed under this section.

7 “(g) DEPOSIT OF PENALTIES.—

8 “(1) IN GENERAL.—Notwithstanding any other  
9 provision of law, if the mortgage covering the prop-  
10 erty receiving assistance under section 8 is insured  
11 or formerly insured by the Secretary, the Secretary  
12 shall apply all civil money penalties collected under  
13 this section to the appropriate insurance fund or  
14 funds established under this Act, as determined by  
15 the Secretary.

16 “(2) EXCEPTION.—Notwithstanding any other  
17 provision of law, if the mortgage covering the prop-  
18 erty receiving assistance under section 8 is neither  
19 insured nor formerly insured by the Secretary, the  
20 Secretary shall make all civil money penalties col-  
21 lected under this section available for use by the ap-  
22 propriate office within the Department for adminis-  
23 trative costs related to enforcement of the require-  
24 ments of the various programs administered by the  
25 Secretary.

1 “(h) DEFINITIONS.—In this section—

2 “(1) the term ‘agent employed to manage the  
3 property that has an identity of interest’ means an  
4 entity—

5 “(A) that has management responsibility  
6 for a project;

7 “(B) in which the ownership entity, includ-  
8 ing its general partner or partners (if applica-  
9 ble), has an ownership interest; and

10 “(C) over which such ownership entity ex-  
11 erts effective control; and

12 “(2) the term ‘knowing’ means having actual  
13 knowledge of or acting with deliberate ignorance of  
14 or reckless disregard for the prohibitions under this  
15 section.”.

16 (b) APPLICABILITY.—The amendments made by sub-  
17 section (a) shall apply only with respect to—

18 (1) violations that occur on or after the effec-  
19 tive date of final regulations implementing the  
20 amendments made by this section; and

21 (2) in the case of a continuing violation (as de-  
22 termined by the Secretary of Housing and Urban  
23 Development), any portion of a violation that occurs  
24 on or after such date.

25 (c) IMPLEMENTATION.—

1 (1) REGULATIONS.—

2 (A) IN GENERAL.—The Secretary shall im-  
3 plement the amendments made by this section  
4 by regulation issued after notice and oppor-  
5 tunity for public comment.

6 (B) COMMENTS SOUGHT.—The notice  
7 under subparagraph (A) shall seek comments as  
8 to the definitions of the terms “ownership inter-  
9 est in” and “effective control”, as such terms  
10 are used in the definition of the term “agent  
11 employed to manage such property that has an  
12 identity of interest”.

13 (2) TIMING.—A proposed rule implementing the  
14 amendments made by this section shall be published  
15 not later than 1 year after the date of enactment of  
16 this Act.

17 **SEC. 323. EXTENSION OF DOUBLE DAMAGES REMEDY.**

18 Section 421 of the Housing and Community Develop-  
19 ment Act of 1987 (12 U.S.C. 1715z-4a) is amended—

20 (1) in subsection (a)(1)—

21 (A) in the first sentence, by striking “Act;  
22 or (B)” and inserting the following: “Act; (B)  
23 a regulatory agreement that applies to a multi-  
24 family project whose mortgage is insured or  
25 held by the Secretary under section 202 of the



1           Housing Act of 1959 (including property sub-  
2           ject to section 202 of such Act as it existed be-  
3           fore enactment of the Cranston-Gonzalez Na-  
4           tional Affordable Housing Act of 1990); (C) a  
5           regulatory agreement or such other form of reg-  
6           ulatory control as may be imposed by the Sec-  
7           retary that applies to mortgages insured or held  
8           by the Secretary under section 542 of the  
9           Housing and Community Development Act of  
10          1992, but not reinsured under section 542 of  
11          the Housing and Community Development Act  
12          of 1992; or (D)”; and

13                 (B) in the second sentence, by inserting  
14                 after “agreement” the following: “, or such  
15                 other form of regulatory control as may be im-  
16                 posed by the Secretary,”;

17                 (2) in subsection (a)(2), by inserting after  
18                 “Act,” the following: “under section 202 of the  
19                 Housing Act of 1959 (including section 202 of such  
20                 Act as it existed before enactment of the Cranston-  
21                 Gonzalez National Affordable Housing Act of 1990)  
22                 and under section 542 of the Housing and Commu-  
23                 nity Development Act of 1992,”;

1           (3) in subsection (b), by inserting after “agree-  
2           ment” the following: “, or such other form of regu-  
3           latory control as may be imposed by the Secretary,”;

4           (4) in subsection (c)—

5           (A) in the first sentence, by inserting after  
6           “agreement” the following: “, or such other  
7           form of regulatory control as may be imposed  
8           by the Secretary,”; and

9           (B) in the second sentence, by inserting  
10          before the period the following: “or under the  
11          Housing Act of 1959, as appropriate”; and

12          (5) in subsection (d), by inserting after “agree-  
13          ment” the following: “, or such other form of regu-  
14          latory control as may be imposed by the Secretary,”.

15 **SEC. 324. OBSTRUCTION OF FEDERAL AUDITS.**

16          Section 1516(a) of title 18, United States Code, is  
17          amended by inserting after “under a contract or sub-  
18          contract,” the following: “or relating to any property that  
19          is security for a mortgage note that is insured, guaran-  
20          teed, acquired, or held by the Secretary of Housing and  
21          Urban Development pursuant to any Act administered by  
22          the Secretary,”.

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