

HOUSING AND COMMUNITY DEVELOPMENT AMENDMENTS OF 1978: Secs. 201, 202, 203, 204, 209, and 905

[Public Law 103–233; 108 Stat. 343; 12 U.S.C. 1701z–11 and 1701z–12]

[As Amended Through P.L. 109–171, Enacted February 8, 2006]

【Currency: This publication is a compilation of the text of Public Law 95–559. It was last amended by the public law listed in the As Amended Through note above and below at the bottom of each page of the pdf version and reflects current law through the date of the enactment of the public law listed at <https://www.govinfo.gov/app/collection/comps/>】

【Note: While this publication does not represent an official version of any Federal statute, substantial efforts have been made to ensure the accuracy of its contents. The official version of Federal law is found in the United States Statutes at Large and in the United States Code. The legal effect to be given to the Statutes at Large and the United States Code is established by statute (1 U.S.C. 112, 204).】

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ASSISTANCE FOR TROUBLED MULTIFAMILY HOUSING PROJECTS

SEC. 201. [12 U.S.C. 1715z–1a] (a) The purposes of this section are to provide assistance to restore or maintain the financial soundness, to assist in the improvement of the management, to permit capital improvements to be made to maintain certain projects as decent, safe, and sanitary housing, and to maintain the low- to moderate-income character of certain projects assisted or approved for assistance under the National Housing Act, the United States Housing Act of 1937, the Housing Act of 1959, or the Housing and Urban Development Act of 1965, without regard to whether such projects are insured under the National Housing Act.

(b) The Secretary of Housing and Urban Development (hereinafter referred to in this section as the “Secretary”) may make available, and contract to make available, to such extent and in such amounts as may be approved in appropriation Acts, financial assistance to owners of rental or cooperative housing projects meeting the requirements of this section. Such assistance shall be made on an annual basis and in accordance with the provisions of this section, without regard to whether such projects are insured under the National Housing Act.

(c) A rental or cooperative housing project is eligible for assistance under this section only if such project—

(1)(A) is assisted under section 236 or the proviso of section 221(d)(5) of the National Housing Act, or under section 101 of the Housing and Urban Development Act of 1965, or received a loan under section 202 of the Housing Act of 1959 more than 15 years before the date on which assistance is made available under this section;

(B) is assisted under section 23 of the United States Housing Act of 1937, as in effect immediately before January 1, 1975, section 8 of the United States Housing Act of 1937 following conversion to such assistance from assistance under section 236 of the National Housing Act or section 101 of the Housing and Urban Development Act of 1965; or

(C) met the criteria specified in subparagraph (A) of this paragraph before the acquisition of such project by the Secretary and has been sold by the Secretary, subject to a mortgage insured or held by the Secretary and subject to an agreement (in effect during the period of assistance under this section) which provides that the low- and moderate-income character of the project will be maintained; except that, with respect to projects sold after October 1, 1978, assistance shall be available for a period not to exceed three years; and

(2) meets such other requirements consistent with the purposes of this section as the Secretary may prescribe.

(d) No assistance may be made available under this section unless the Secretary has determined that—

(1) such assistance, when considered with other resources available to the project, is necessary and, in the determination of the Secretary, will restore or maintain the financial or physical soundness of the project and maintain the low- and moderate-income character of the project, and the owner has agreed to maintain the low- and moderate-income character of such project for a period at least equal to the remaining term of the project mortgage;

(2) the assistance which could reasonably be expected to be provided over the useful life of the project will be less costly to the Federal Government than other reasonable alternatives by which the Secretary could maintain the low- and moderate-income character of the project;

(3) the owner of the project, together with the mortgagee in the case of a project not insured under the National Housing Act, has provided or has agreed to provide assistance to the project in such manner as the Secretary may determine;

(4) the project is or can reasonably be made structurally sound, as determined on the basis of information obtained as a result of an onsite inspection of the project;

(5) the management of the project is being conducted by persons who meet minimum levels of competency and experience prescribed by the Secretary; and ¹

(6) the project is being operated and managed in accordance with a management-improvement-and-operating plan which is designed to reduce the operating costs of the project, which has been approved by the Secretary, and which includes the following: (A) a detailed maintenance schedule; (B) a schedule for correcting past deficiencies in maintenance, repairs, and replacements; (C) a plan to upgrade the project to meet cost-effective energy efficiency standards prescribed by the Sec-

¹ Section 405(a)(1) of the Housing and Community Development Act of 1992, Pub. L. 102-550, amended this paragraph "by striking 'and' ". Because such section did not specify which occurrence of the word to strike, the amendment could not be executed. The amendment was probably intended to be made to the last occurrence of such word.

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retary; (D) a plan to improve financial and management control systems; (E) a detailed annual operating budget taking into account such standards for operating costs in the area as may be determined by the Secretary; and (F) such other requirements as the Secretary may determine; except that the Secretary may excuse an owner from compliance with the plan requirement set forth in this paragraph in any case in which such owner seeks only assistance for capital improvements under this section²;

(7) all reasonable attempts have been made to take all appropriate actions and provide suitable housing for project residents;

(8) the project has a feasible plan to involve the residents in project decisions;

(9) the affirmative fair housing marketing plan meets applicable requirements; and

(10) the owner certifies that it will comply with various equal opportunity statutes.

(e) Prior to making assistance available to a project, the Secretary shall consult with the appropriate officials of the unit of local government in which such project is located and seek assurances that—

(1) the community in which the project is located is or will provide essential services to the project in keeping with the community's general level of such services;

(2) the real estate taxes on the project are or will be no greater than would be the case if the property were assessed in a manner consistent with normal property assessment procedures for the community; and

(3) assistance to the project under this section would not be inconsistent with local plans and priorities.

(f)(1) The Secretary may, with respect to any year, provide assistance under this section, and make commitments to provide such assistance, with respect to any project (except a project assisted only for capital improvements) in any amount which the Secretary determines is consistent with the project's management-improvement-and-operating plan described in subsection (d)(6) and which does not exceed the sum of—

(A) an amount determined by the Secretary to be necessary to correct deficiencies in the project which exist at the beginning of the first year with respect to which assistance is made available for the project under this section, which were caused by the deferral of regularly scheduled maintenance and

²Section 406 of the Housing and Community Development Act of 1992, Pub. L. 102-550, provides as follows:

“SEC. 406. FLEXIBLE SUBSIDY PROGRAM.

“Section 201(d)(6) of the Housing and Community Development Amendments of 1978 (12 U.S.C. 1715z-1a(d)(6)) is amended by inserting before the period at the end the following: “; and except that the Secretary shall review and approve or disapprove each plan not later than the expiration of the 30-day period beginning upon the date of submission of the plan to the Secretary by the owner, but if the Secretary fails to inform the owner of approval or disapproval of the plan within such period the plan shall be considered to have been approved”.

Because no period appears at the end of this paragraph, the amendment could not be executed. The material to be inserted by the amendment was probably intended to be inserted before the semicolon at the end of this paragraph.

repairs or the failure to make necessary and timely replacements of equipment and other components of the project, and for which payment has not previously been made;

(B) an amount determined by the Secretary to be necessary to maintain the low- and moderate-income character of the project by reducing deficiencies, which exist at the beginning of the first year with respect to which assistance is made available for the project under this section and for which payment has not previously been made, in the reserve funds established by the project owner for the purpose of replacing capital items;

(C) an amount not greater than the amount by which the estimated operating expenses (as described in paragraph (2) of this subsection) for the year with respect to which such assistance is made available exceeds the estimated revenues to be received (as described in paragraph (2) of this subsection) by the project during such year; and

(D) an amount determined by the Secretary to be necessary to carry out a plan to upgrade the project to meet cost-effective energy efficiency standards prescribed by the Secretary.

(2) The estimated revenues for any project under paragraph (1) (C) of this subsection with respect to any year shall be equal to the sum of—

(A) the estimated amount of rent which is to be expended by the tenants of such project during such year, as determined by the Secretary without regard to section 236(f)(1) of the National Housing Act;

(B) the estimated amount of rental assistance payments to be made on behalf of such tenants during such year, other than assistance made under this section;

(C) the estimated amount of assistance payments to be made on behalf of the owner of such project under section 212(d)(5) or section 236 of the National Housing Act during such year; and

(D) other income attributable to the project as determined by the Secretary;

except that—

(E) in computing the estimated amount of rent to be expended by tenants, the Secretary shall provide that (i) at least 25 percent (or such lesser percentage as is provided for under any other Federal housing assistance program in which such tenant is participating) of the income of each such tenant is included, or (ii) in the case of a tenant paying his or her own utilities, a percentage of income which is less than 25 percent and which takes into account the reasonable costs of such utilities; except that no amount shall be provided for any tenant under clause (i) or (ii) which exceeds the fair market rental charge as determined pursuant to section 236(f)(1) of the National Housing Act for such tenant; and

(F) in computing the estimated amount of rent to be expended by tenants and the estimated amount of rental assistance payments to be made on behalf of such tenants, the Secretary may permit a delinquency-and-vacancy allowance of not

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more than 6 per centum of the estimated amount of such rent and payments computed without regard to such allowance; except that, with respect to the first three years in which assistance is provided to a project under this section, the Secretary may permit such allowance for such project to exceed such 6 percent by an amount which the Secretary determines is appropriate to carry out the purposes of this section.

For purposes of computing estimated operating expenses of any such project with respect to any year, the Secretary shall include all estimated operating costs which the Secretary determines to be necessary and consistent with the management-improvement-and-operating plan for the project for such year, including, but not limited to taxes, utilities, maintenance and repairs (except for maintenance and repairs which should have been performed in previous years), management, insurance, debt service, and payments made by the owner for the purpose of establishing or maintaining a reserve fund for replacement costs. The Secretary may not include in such estimated operating expenses any return on the equity investment of the owner in such project.

(3) In order to carry out the purposes of this section, the Secretary may, notwithstanding the provisions of section 236(f)(1) of the National Housing Act, provide that, for purposes of establishing a rental charge under such section, there may be excluded from the computation of the cost of operating a project an amount equivalent to the amount of assistance payments made for the project under this section.

(4) Any assistance payments made pursuant to this section with respect to any project shall be made on an annual basis, payable at such intervals, but at least quarterly, as the Secretary may determine, and may be in any amount (which the Secretary determines to be consistent with the purpose of this section), except that the sum of such assistance payments for any year for a project (other than a project receiving assistance only for capital improvements) may not exceed the amount computed pursuant to paragraph (1) of this subsection. The Secretary shall review the operations of the project at the time of such payments to determine that such operations are consistent with the management-improvement-and-operating plan.

(g) The project owner shall, as required by the Secretary, accumulate, safeguard, and periodically pay the Secretary or such other entity as determined by the Secretary and upon such terms and conditions as the Secretary deems appropriate, all rental charges collected on a unit-by-unit basis in excess of the basic rental charges. Unless otherwise directed by the Secretary, such excess charges shall be credited to a reserve used by the Secretary to make additional assistance payments as provided in paragraph (3) of subsection (f). Notwithstanding any other requirements of this subsection, an owner of a project with a mortgage insured under this section, or a project previously assisted under subsection (b) but without a mortgage insured under this section if the project mortgage was insured under section 207 of this Act before July 30, 1998 pursuant to section 223(f) of this Act and assisted under subsection (b), may retain some or all of such excess charges for

project use if authorized by the Secretary and upon such terms and conditions as established by the Secretary.

(h) The Secretary may not use any of the assistance available under this section during any fiscal year beginning on or after October 1, 1981, to supplement any contract to make rental assistance payments which was made pursuant to section 101 of the Housing and Urban Development Act of 1965.

[(i) [Repealed.]]

(j)(1) For purposes of carrying out the provisions of this section, there is hereby established in the Treasury of the United States a revolving fund, to be known as the Flexible Subsidy Fund. The Fund shall, to the extent approved in appropriation Acts, be available to the Secretary to provide assistance under this section (including assistance for capital improvements) and shall not (except as provided in Public Law 100-4-4¹ (102 Stat. 1018), as in effect on October 1, 1988) be available for any other purpose.

(2) The Fund shall consist of (A) any amount appropriated to carry out the purposes of this section; (B) any amount repaid on any assistance provided under this section; (C) any amounts credited to the reserve fund described in section 236(g) of the National Housing Act; (D) any other amount received by the Secretary under this section (including any amount realized under paragraph (3)), and (E) any amount received by the Secretary pursuant to section 537 of the National Housing Act and section 202a of the Housing Act of 1959.

(3) Any amounts in the Fund determined by the Secretary to be in excess of the amounts currently required to carry out the provisions of this section shall be invested by the Secretary in obligations of, or obligations guaranteed as to both principal and interest by, the United States or any agency of the United States.

(4) The Secretary shall, to the extent of approvable applications and subject to paragraph (1), use not less than \$30,000,000 or 40 percent (whichever is less) of the amounts available from the Fund in any fiscal year for purposes of providing assistance for capital improvements in accordance with this section. Any amount reserved under this paragraph for assistance for capital improvements that is not used before the last 60 days of a fiscal year shall become available for other assistance under this section.

(5) There is authorized to be appropriated for assistance under the flexible subsidy fund not to exceed \$52,200,000 for fiscal year 1993 and \$54,392,400 for fiscal year 1994.

(k)(1) Assistance for capital improvements under this section shall include assistance for any major repair or replacement of a capital item in a multifamily housing project, including any such repair or replacement required as a result of deferred or inadequate maintenance. Capital improvements do not include maintenance of any such item. Assistance for capital improvements under this section shall be in the form of a loan.

(2) The owner of a project receiving assistance for capital improvements shall agree to contribute assistance to such project in

¹So in law. Probably intended to refer to the Department of Housing and Urban Development—Independent Agencies Appropriations Act, 1989, Pub. L. 101-404, approved August 19, 1988.

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such amounts, from such sources, and in such manner as the Secretary determines to be appropriate.

(3) The Secretary may provide assistance for capital improvements under this section if the Secretary finds that the reserve funds established by the owner of a project for the purpose of making capital improvements are insufficient to finance both the capital improvements for which such assistance is to be used and other capital improvements that are reasonably expected to be required in the near future, and such insufficiency is not the result of the failure of such owner to comply with any standard established by the Secretary for management of such reserve funds.

(1)(1) The principal amount of any assistance for capital improvements under this section that is provided to the owner of a project shall not exceed the difference between the contribution made by the owner in accordance with subsection (k)(2) and the sum of—

(A) the amount determined by the Secretary to be necessary for such owner to make capital improvements with respect to capital items that have failed, or are likely to deteriorate seriously or fail in the near future, in such projects;

(B) the amount determined by the Secretary to be necessary to carry out a plan to upgrade the capital items being improved, and any other capital items determined by the Secretary to be associated with such capital items being improved and to require upgrading, to meet cost-effective energy efficiency standards prescribed by the Secretary; and

(C) the amount determined by the Secretary to be necessary to comply with the requirements of section 504 of the Rehabilitation Act of 1973 (29 U.S.C. 794).

(2)(A) The term of any assistance for capital improvements in the form of a loan under this section shall not exceed the remaining term of the mortgage of the project with respect to which such loan is provided.

(B) Each loan for capital improvements provided under this section shall bear interest at a rate determined by the Secretary to be appropriate, except that—

(i) such rate shall not be more than 3 percentage points below a rate determined by the Secretary of the Treasury taking into consideration the average interest rate on all interest bearing obligations of the United States then forming a part of the public debt, computed at the end of the fiscal year next preceding date on which the loan is made, adjusted to the nearest $\frac{1}{8}$ of 1 percent, plus an allowance adequate in the judgment of the Secretary of Housing and Urban Development to cover administrative costs and probable losses under the program; and

(ii) such interest rate plus such allowance shall not exceed 6 percent per annum nor be less than 3 percent per annum.

(C) Each loan for capital improvements provided under this section shall be considered to be a liability of the project involved, and shall not be dischargeable in any bankruptcy proceeding under section 727, 1141, or 1328(b) of title 11, United States Code.

(D) The Secretary may establish such additional conditions on loans provided under this section as the Secretary determines to be

appropriate. The Secretary may require owners receiving assistance for capital improvements under this section to retain the housing as housing affordable for very low-income families or persons, low-income families or persons and moderate-income families or persons for the remaining useful life of the housing. For purposes of this section, the term “remaining useful life” means, with respect to housing assisted under this section, the period during which the physical characteristics of the housing remain in a condition suitable for occupancy, assuming normal maintenance and repairs are made and major systems and capital components are replaced as becomes necessary.

(E) The Secretary may provide more than one loan or assistance in any other form to any project under this section, if each loan or other assistance complies with the provisions of this section.

(m)(1) Increases in rental payments that may occur as a result of the debt service and other expenses of a loan for capital improvements provided under this section for a project subject to a plan of action approved under subtitle B of the Emergency Low Income Housing Preservation Act of 1987 shall be governed by the rent agreements entered into under such subtitle.

(2) In order to minimize any increases in rental payments that may occur as a result of the debt service and other expenses of a loan for capital improvements provided under this section for a project and that would be incurred by lower income residents of the project involved whose rental payments are, or would as a result of such expenses be, in excess of the amount allowable if section 3(a) of the United States Housing Act of 1937 were applicable to such residents, or where appropriate to implement a plan of action under subtitle B of the Emergency Low Income Housing Preservation Act of 1987, the Secretary may take any or all of the following actions:

(A) Provide assistance with respect to such project under section 8 of the United States Housing Act of 1937, to the extent amounts are available for such assistance and without regard to section 16 of such Act.

(B) Notwithstanding subsection (l)(2)(B), reduce the rate of interest charged on such loan to a rate of not less than 1 percent.

(C) Increase the term of such loan to a term that does not exceed the remaining term of the mortgage on such project.

(D) Increase the amount of assistance to be provided by the owner of such project under subsection (k)(2), if applicable, to an amount not to exceed 30 percent of the total estimated cost of the capital improvements involved.

(E) Permit repayment of the debt service to be deferred as long as the low and moderate income character of the project is maintained in accordance with subsection (d).

(n) ALLOCATION OF ASSISTANCE.—

(1) SET-ASIDE.—In providing, and contracting to provide, assistance for capital improvements under this section, in each fiscal year the Secretary shall set aside an amount, as determined by the Secretary, for projects that are eligible for incentives under section 224(b) of the Emergency Low Income Hous-

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ing Preservation Act of 1987, as such section existed before the date of enactment of the Cranston-Gonzalez National Affordable Housing Act.¹ The Secretary may make such assistance available on a noncompetitive basis.

(2) GENERAL RULES FOR ALLOCATION.—Except as provided in paragraph (3), with respect to assistance under this section not set aside for projects under paragraph (1), the Secretary—

(A) may award assistance on a noncompetitive basis; and

(B) shall award assistance to eligible projects on the basis of—

(i) the extent to which the project is physically or financially troubled, as evidenced by the comprehensive needs assessment submitted in accordance with title IV of the Housing and Community Development Act of 1992; and

(ii) the extent to which such assistance is necessary and reasonable to prevent the default of federally insured mortgages.

(3) EXCEPTIONS.—The Secretary may make exceptions to selection criteria set forth in paragraph (2)(B) to permit the provision of assistance to eligible projects based upon—

(A) the extent to which such assistance is necessary to prevent the imminent foreclosure or default of a project whose owner has not submitted a comprehensive needs assessment pursuant to title IV of the Housing and Community Development Act of 1992;

(B) the extent to which the project presents an imminent threat to the life, health, and safety of project residents; or

(C) such other criteria as the Secretary may specify by regulation or by notice printed in the Federal Register.

(4) CONSIDERATIONS.—In providing assistance under this section, the Secretary shall take into consideration—

(A) the extent to which there is evidence that there will be significant opportunities for residents (including a resident council or resident management corporation, as appropriate) to be involved in the management of the project (except that this paragraph shall have no application to projects that are owned as cooperatives); and

(B) the extent to which there is evidence that the project owner has provided competent management and complied with all regulatory and administrative requirements.

(o) The Secretary shall coordinate the allocation of assistance under this section with assistance made available under section 8(v) of the United States Housing Act of 1937 and section 203 of this Act to enhance the cost effectiveness of the Federal response to troubled multifamily housing.

(p) ENHANCED VOUCHER ELIGIBILITY.—Notwithstanding any other provision of law, any project that receives or has received assistance under this section and which is the subject of a trans-

¹ November 28, 1990.

action under which the project is preserved as affordable housing, as determined by the Secretary, shall be considered eligible low-income housing under section 229 of the Low-Income Housing Preservation and Resident Homeownership Act of 1990 (12 U.S.C. 4119) for purposes of eligibility of residents of such project for enhanced voucher assistance provided under section 8(t) of the United States Housing Act of 1937 (42 U.S.C. 1437f(t)) (pursuant to section 223(f) of the Low-Income Housing Preservation and Resident Homeownership Act of 1990 (12 U.S.C. 4113(f))).

TENANT PARTICIPATION IN MULTIFAMILY HOUSING PROJECTS

SEC. 202. [12 U.S.C. 1715z-1b] (a) The purpose of this section is to recognize the importance and benefits of cooperation and participation of tenants in creating a suitable living environment in multifamily housing projects and in contributing to the successful operation of such projects, including their good physical condition, proper maintenance, security, energy efficiency, and control of operating costs. For the purpose of this section, the term “multifamily housing project” means a project which is eligible for assistance as described in section 201(c) of this Act or section 202 of the Housing Act of 1959, or a project which receives project-based assistance under section 8 of the United States Housing Act of 1937 (42 U.S.C. 1437f) or enhanced vouchers under the Low-Income Housing Preservation and Resident Homeownership Act of 1990, the provisions of the Emergency Low Income Housing Preservation Act of 1987, or the Multifamily Assisted Housing Reform and Affordability Act of 1997.

(b) The Secretary shall assure that—

(1) where the Secretary’s written approval is required with respect to an owner’s request for rent increase, conversion of residential rental units to any other use (including commercial use or use as a unit in any condominium or cooperative project), partial release of security, or major physical alterations, or where the Secretary proposes to sell a mortgage secured by a multifamily housing project, tenants have adequate notice of, reasonable access to relevant information about, and an opportunity to comment on such actions (and in the case of a project owned by the Secretary, any proposed disposition of the project) and that such comments are taken into consideration by the Secretary;

(2) project owners not interfere with the efforts of tenants to obtain rent subsidies or other public assistance;

(3) leases approved by the Secretary provide that tenants may not be evicted without good cause or without adequate notice of the reasons therefor and do not contain unreasonable terms and conditions; and

(4) project owners do not impede the reasonable efforts of resident tenant organizations to represent their members or the reasonable efforts of tenants to organize.

(c) The Secretary shall promulgate regulations to carry out the provisions of this section not later than 90 days after the date of enactment of this Act.

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SEC. 203. [12 U.S.C. 1701z-11] MANAGEMENT AND DISPOSITION OF MULTIFAMILY HOUSING PROJECTS.

(a) **GOALS.**—The Secretary of Housing and Urban Development shall manage or dispose of multifamily housing projects that are owned by the Secretary or that are subject to a mortgage held by the Secretary in a manner that—

(1) is consistent with the National Housing Act and this section;

(2) will protect the financial interests of the Federal Government; and

(3) will, in the least costly fashion among reasonable available alternatives, address the goals of—

(A) preserving certain housing so that it can remain available to and affordable by low-income persons;

(B) preserving and revitalizing residential neighborhoods;

(C) maintaining existing housing stock in a decent, safe, and sanitary condition;

(D) minimizing the involuntary displacement of tenants;

(E) maintaining housing for the purpose of providing rental housing, cooperative housing, and homeownership opportunities for low-income persons;

(F) minimizing the need to demolish multifamily housing projects;

(G) supporting fair housing strategies; and

(H) disposing of such projects in a manner consistent with local housing market conditions.

In determining the manner in which a project is to be managed or disposed of, the Secretary may balance competing goals relating to individual projects in a manner that will further the purposes of this section.

(b) **DEFINITIONS.**—For purposes of this section:

(1) **MULTIFAMILY HOUSING PROJECT.**—The term “multifamily housing project” means any multifamily rental housing project which is, or prior to acquisition by the Secretary was, assisted or insured under the National Housing Act, or was subject to a loan under section 202 of the Housing Act of 1959.

(2) **SUBSIDIZED PROJECT.**—The term “subsidized project” means a multifamily housing project that, immediately prior to the assignment of the mortgage on such project to, or the acquisition of such mortgage by, the Secretary, was receiving any of the following types of assistance:

(A) Below market interest rate mortgage insurance under the proviso of section 221(d)(5) of the National Housing Act.

(B) Interest reduction payments made in connection with mortgages insured under section 236 of the National Housing Act.

(C) Direct loans made under section 202 of the Housing Act of 1959.

(D) Assistance in the form of—

(i) rent supplement payments under section 101 of the Housing and Urban Development Act of 1965,

(ii) additional assistance payments under section 236(f)(2) of the National Housing Act,

(iii) housing assistance payments made under section 23 of the United States Housing Act of 1937 (as in effect before January 1, 1975), or

(iv) housing assistance payments made under section 8 of the United States Housing Act of 1937 (excluding payments made for tenant-based assistance under section 8),

if (except for purposes of section 183(c) of the Housing and Community Development Act of 1987) such assistance payments are made to more than 50 percent of the units in the project.

(3) FORMERLY SUBSIDIZED PROJECT.—The term “formerly subsidized project” means a multifamily housing project owned by the Secretary that was a subsidized project immediately prior to its acquisition by the Secretary.

(4) UNSUBSIDIZED PROJECT.—The term “unsubsidized project” means a multifamily housing project owned by the Secretary that is not a subsidized project or a formerly subsidized project.

(5) AFFORDABLE.—A unit shall be considered affordable if—

(A) for units occupied—

(i) by very low-income families, the rent does not exceed 30 percent of 50 percent of the area median income, as determined by the Secretary, with adjustments for smaller and larger families; and

(ii) by low-income families other than very low-income families, the rent does not exceed 30 percent of 80 percent of the area median income, as determined by the Secretary, with adjustments for smaller and larger families; or

(B) the unit, or the family residing in the unit, is receiving assistance under section 8 of the United States Housing Act of 1937.

(6) LOW-INCOME FAMILIES AND VERY LOW-INCOME FAMILIES.—The terms “low-income families” and “very low-income families” shall have the meanings given the terms in section 3(b) of the United States Housing Act of 1937.

(7) PREEXISTING TENANT.—The term “preexisting tenant” means, with respect to a multifamily housing project acquired pursuant to this section by a purchaser other than the Secretary at foreclosure or after sale by the Secretary, a family that resides in a unit in the project immediately before the acquisition of the project by the purchaser.

(8) MARKET AREA.—The term “market area” means a market area determined by the Secretary.

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

(c) DISPOSITION OF PROPERTY.—

(1) DISPOSITION TO PURCHASERS.—In carrying out this section, the Secretary may dispose of a multifamily housing project owned by the Secretary on a negotiated, competitive

bid, or other basis, on such terms as the Secretary deems appropriate considering the low-income character of the project and consistent with the goals in subsection (a), only to a purchaser determined by the Secretary to be capable of—

(A) satisfying the conditions of the disposition plan developed under paragraph (2) for the project;

(B) implementing a sound financial and physical management program that is designed to enable the project to meet anticipated operating and repair expenses to ensure that the project will remain in decent, safe, and sanitary condition and in compliance with any standards under applicable State or local laws, rules, ordinances, or regulations relating to the physical condition of the housing and any such standards established by the Secretary;

(C) responding to the needs of the tenants and working cooperatively with tenant organizations;

(D) providing adequate organizational, staff, and financial resources to the project; and

(E) meeting such other requirements as the Secretary may determine.

(2) DISPOSITION PLAN.—¹—

(A) IN GENERAL.—Prior to the sale of a multifamily housing project that is owned by the Secretary, the Secretary shall develop an initial disposition plan for the project that specifies the minimum terms and conditions of the Secretary for disposition of the project, the initial sales price that is acceptable to the Secretary, and the assistance that the Secretary plans to make available to a prospective purchaser in accordance with this section.

(B) MARKET-WIDE PLANS.—In developing the initial disposition plan under this subsection for a multifamily housing project located in a market area in which at least 1 other multifamily housing project owned by the Secretary is located, the Secretary may coordinate the disposition of all such multifamily housing projects located within the same market area to the extent and in such manner as the Secretary determines appropriate to carry out the goals under subsection (a).

(C) SALES PRICE.—The initial sales price shall be reasonably related to the intended use of the project after sale, any rehabilitation requirements for the project, the rents for units in the project that can be supported by the market, the amount of rental assistance available for the project under section 8 of the United States Housing Act of 1937, the occupancy profile of the project (including family size and income levels for tenant families), and any other factors that the Secretary considers appropriate.

(D) COMMUNITY AND TENANT INPUT.—In carrying out this section, the Secretary shall develop procedures—

(i) to obtain appropriate and timely input into disposition plans from officials of the unit of general local

¹ Indented so in law.

government affected, the community in which the project is situated, and the tenants of the project; and

(ii) to facilitate, where feasible and appropriate, the sale of multifamily housing projects to existing tenant organizations with demonstrated capacity, to public or nonprofit entities that represent or are affiliated with existing tenant organizations, or to other public or nonprofit entities.

(E) TECHNICAL ASSISTANCE.—To carry out the procedures developed under subparagraph (D), the Secretary may provide technical assistance, directly or indirectly, and may use amounts available for technical assistance under the Emergency Low Income Housing Preservation Act of 1987, subtitle C of the Low-Income Housing Preservation and Resident Homeownership Act of 1990, subtitle B of title IV of the Cranston-Gonzalez National Affordable Housing Act, or this section, for the provision of technical assistance under this paragraph. Recipients of technical assistance funding under the provisions referred to in this subparagraph shall be permitted to provide technical assistance to the extent of such funding under any of such provisions or under this subparagraph, notwithstanding the source of the funding.

(3) FORECLOSURE SALE.—In carrying out this section, the Secretary shall—

(A) prior to foreclosing on any mortgage held by the Secretary on any multifamily housing project, notify both the unit of general local government in which the property is located and the tenants of the property of the proposed foreclosure sale; and

(B) dispose of a multifamily housing project through a foreclosure sale only to a purchaser that the Secretary determines is capable of implementing a sound financial and physical management program that is designed to enable the project to meet anticipated operating and repair expenses to ensure that the project will remain in decent, safe, and sanitary condition and in compliance with any standards under applicable State or local laws, rules, ordinances, or regulations relating to the physical condition of the housing and any such standards established by the Secretary.

(d) MANAGEMENT AND MAINTENANCE OF PROPERTIES.—

(1) CONTRACTING FOR MANAGEMENT SERVICES.—In carrying out this section, the Secretary may—

(A) contract for management services for a multifamily housing project that is owned by the Secretary (or for which the Secretary is mortgagee in possession) with for-profit and nonprofit entities and public agencies (including public housing authorities) on a negotiated, competitive bid, or other basis at a price determined by the Secretary to be reasonable, with a manager the Secretary has determined is capable of—

(i) implementing a sound financial and physical management program that is designed to enable the

project to meet anticipated operating and maintenance expenses to ensure that the project will remain in decent, safe, and sanitary condition and in compliance with any standards under applicable State or local laws, rules, ordinances, or regulations relating to the physical condition of the project and any such standards established by the Secretary;

(ii) responding to the needs of the tenants and working cooperatively with tenant organizations;

(iii) providing adequate organizational, staff, and financial resources to the project; and

(iv) meeting such other requirements as the Secretary may determine; and

(B) require the owner of a multifamily housing project that is subject to a mortgage held by the Secretary to contract for management services for the project in the manner described in subparagraph (A).

(2) MAINTENANCE OF PROJECTS OWNED BY SECRETARY.—In the case of multifamily housing projects that are owned by the Secretary (or for which the Secretary is mortgagee in possession), the Secretary shall—

(A) to the greatest extent possible, maintain all such occupied projects in a decent, safe, and sanitary condition and in compliance with any standards under applicable State or local laws, rules, ordinances, or regulations relating to the physical condition of the housing and any such standards established by the Secretary;

(B) to the greatest extent possible, maintain full occupancy in all such projects; and

(C) maintain all such projects for purposes of providing rental or cooperative housing.

(3) PROJECTS SUBJECT TO A MORTGAGE HELD BY SECRETARY.—In the case of any multifamily housing project that is subject to a mortgage held by the Secretary, the Secretary shall require the owner of the project to carry out the requirements of paragraph (2).

(e) REQUIRED ASSISTANCE.—In disposing of multifamily housing property under this section, consistent with the goal of section 203(a)(3)(A), the Secretary shall take, separately or in combination with other actions under this subsection or subsection (f), one or more of the following actions:

(1) CONTRACT WITH OWNER FOR PROJECT-BASED ASSISTANCE.—In the case of multifamily housing projects that are acquired by a purchaser other than the Secretary at foreclosure or after sale by the Secretary, the Secretary may enter into contracts under section 8 of the United States Housing Act of 1937 (to the extent budget authority is available) with owners of the projects, subject to the following requirements:

(A) SUBSIDIZED OR FORMERLY SUBSIDIZED PROJECTS RECEIVING MORTGAGE-RELATED ASSISTANCE.—In the case of a subsidized or formerly subsidized project referred to in subparagraphs (A) through (C) of subsection (b)(2)—

(i) the contract shall be sufficient to assist at least all units covered by an assistance contract under any

of the authorities referred to in subsection (b)(2)(D) before acquisition or foreclosure, unless the Secretary acts pursuant to the provisions of subparagraph (C);

(ii) the contract shall provide that, when a vacancy occurs in any unit in the project requiring project-based rental assistance pursuant to this subparagraph that is occupied by a family who is not eligible for assistance under such section 8, the owner shall lease the available unit to a family eligible for assistance under such section 8; and

(iii) the Secretary shall take actions to ensure that any unit in any such project that does not otherwise receive project-based assistance under this subparagraph remains available and affordable for the remaining useful life of the project, as defined by the Secretary; to carry out this clause, the Secretary may require purchasers to establish use or rent restrictions maintaining the affordability of such units.

(B) SUBSIDIZED OR FORMERLY SUBSIDIZED PROJECTS RECEIVING RENTAL ASSISTANCE.—In the case of a subsidized or formerly subsidized project referred to in subsection (b)(2)(D) that is not subject to subparagraph (A)—

(i) the contract shall be sufficient to assist at least all units in the project that are covered, or were covered immediately before foreclosure on or acquisition of the project by the Secretary, by an assistance contract under any of the provisions referred to in such subsection, unless the Secretary acts pursuant to provisions of subparagraph (C); and

(ii) the contract shall provide that, when a vacancy occurs in any unit in the project requiring project-based rental assistance pursuant to this subparagraph that is occupied by a family who is not eligible for assistance under such section 8, the owner shall lease the available unit to a family eligible for assistance under such section 8.

(C) EXCEPTIONS.—

(i) AUTHORITY.—In lieu of providing project-based assistance under section 8 of the United States Housing Act of 1937 in accordance with subparagraph (A)(i) or (B)(i) for a project, the Secretary may, for certain units in unsubsidized projects located within the same market area as the project otherwise required to be assisted with such project-based assistance—

(I) require use and rent restrictions providing that such units shall be available to and affordable by very low-income families for the remaining useful life of the project (as defined by the Secretary), or

(II) provide project-based assistance under section 8 for such units to be occupied by only very low-income persons,

but only if the requirements under clause (ii) are met.

(ii) REQUIREMENTS.—The requirements under this clause are that—

(I) upon the disposition of the project otherwise required to be assisted with project-based assistance under subparagraph (A)(i) or (B)(i), the Secretary shall make available tenant-based assistance under section 8 to low-income families residing in units otherwise required to be assisted with such project-based assistance; and

(II) the number of units subject to use restrictions or provided assistance under clause (i) shall be at least equivalent to the number of units otherwise required to be assisted with project-based assistance under section 8 in accordance with subparagraph (A)(i) or (B)(i).

(D) UNSUBSIDIZED PROJECTS.—Notwithstanding actions taken pursuant to subparagraph (C), in the case of unsubsidized projects, the contract shall be sufficient to provide—

(i) project-based rental assistance for all units that are covered, or were covered immediately before foreclosure or acquisition, by an assistance contract under—

(I) the new construction and substantial rehabilitation program under section 8(b)(2) of the United States Housing Act of 1937 (as in effect before October 1, 1983);

(II) the property disposition program under section 8(b) of such Act;

(III) the project-based certificate program under section 8 of such Act;

(IV) the moderate rehabilitation program under section 8(e)(2) of such Act;

(V) section 23 of such Act (as in effect before January 1, 1975);

(VI) the rent supplement program under section 101 of the Housing and Urban Development Act of 1965; or

(VII) section 8 of the United States Housing Act of 1937, following conversion from assistance under section 101 of the Housing and Urban Development Act of 1965; and

(ii) tenant-based assistance under section 8 of the United States Housing Act of 1937 for families that are preexisting tenants of the project in units that, immediately before foreclosure or acquisition of the project by the Secretary, were covered by an assistance contract under the loan management set-aside program under section 8(b) of the United States Housing Act of 1937.

(2) ANNUAL CONTRIBUTION CONTRACTS FOR TENANT-BASED ASSISTANCE.—In the case of multifamily housing projects that are acquired by a purchaser other than the Secretary at foreclosure or after sale by the Secretary, the Secretary may enter

into annual contribution contracts with public housing agencies to provide tenant-based assistance under section 8 of the United States Housing Act of 1937 on behalf of all low-income families who are otherwise eligible for assistance in accordance with subparagraph (A), (B), or (D) of paragraph (1) on the date that the project is acquired by the purchaser, subject to the following requirements:

(A) REQUIREMENT OF SUFFICIENT AFFORDABLE HOUSING IN AREA.—The Secretary may not take action under this paragraph unless the Secretary determines that there is available in the area an adequate supply of habitable, affordable housing for very low-income families and other low-income families using tenant-based assistance.

(B) LIMITATION FOR SUBSIDIZED AND FORMERLY SUBSIDIZED PROJECTS.—The Secretary may not take actions under this paragraph in connection with units in subsidized or formerly subsidized projects for more than 10 percent of the aggregate number of units in such projects disposed of by the Secretary in any fiscal year.

(3) OTHER ASSISTANCE.—

(A) IN GENERAL.—In accordance with the authority provided under the National Housing Act, the Secretary may provide other assistance pursuant to subsection (f) to the owners of multifamily housing projects that are acquired by a purchaser other than the Secretary at foreclosure, or after sale by the Secretary, on terms that ensure that—

(i) at least the units in the project otherwise required to receive project-based assistance pursuant to subparagraphs¹ (A), (B), or (D) of paragraph (1) are available to and affordable by low-income persons; and

(ii) for the remaining useful life of the project, as defined by the Secretary, there shall be in force such use or rent restrictions as the Secretary may prescribe.

(B) VERY LOW-INCOME TENANTS.—If, as a result of actions taken pursuant to this paragraph, the rents charged to any very low-income families residing in the project who are otherwise required (pursuant to subparagraph (A), (B), or (D) of paragraph (1)) to receive project-based assistance under section 8 of the United States Housing Act of 1937 exceed the amount payable as rent under section 3(a) of the United States Housing Act of 1937, the Secretary shall provide tenant-based assistance under section 8 of such Act to such families.

(f) DISCRETIONARY ASSISTANCE.—In addition to the actions required under subsection (e) for a subsidized, formerly subsidized, or unsubsidized multifamily housing project, the Secretary may, pursuant to the disposition plan and the goals in subsection (a), take one or more of the following actions:

(1) DISCOUNTED SALES PRICE.—In accordance with the authority provided under the National Housing Act, the Secretary

¹ So in law.

may reduce the selling price of the project. Such reduced sales price shall be reasonably related to the intended use of the property after sale, any rehabilitation requirements for the project, the rents for units in the project that can be supported by the market, the amount of rental assistance available for the project under section 8 of the United States Housing Act of 1937, the occupancy profile of the project (including family size and income levels for tenant families), and any other factors that the Secretary considers appropriate.

(2) **USE AND RENT RESTRICTIONS.**—The Secretary may require certain units in a project to be subject to use or rent restrictions providing that such units will be available to and affordable by low- and very low-income persons for the remaining useful life of the property, as defined by the Secretary.

(3) **SHORT-TERM LOANS.**—The Secretary may provide short-term loans to facilitate the sale of a multifamily housing project if—

(A) authority for such loans is provided in advance in an appropriation Act;

(B) such loan has a term of not more than 5 years;

(C) the Secretary determines, based upon documentation provided to the Secretary, that the borrower has obtained a commitment of permanent financing to replace the short-term loan from a lender who meets standards established by the Secretary; and

(D) the terms of such loan are consistent with prevailing practices in the marketplace or the provision of such loan results in no cost to the Government, as defined in section 502 of the Congressional Budget Act of 1974.

(4) **UP-FRONT GRANTS.**—If the Secretary determines that action under this paragraph is more cost-effective than establishing rents pursuant to subsection (h)(2), the Secretary may utilize the budget authority provided for contracts issued under this section for project-based assistance under section 8 of the United States Housing Act of 1937 to (in addition to providing project-based section 8 rental assistance) provide up-front grants for the necessary cost of rehabilitation and other related development costs. This paragraph shall be effective during fiscal years 2006 through 2010 only to the extent that such budget authority is made available for use under this paragraph in advance in appropriation Acts.

(5) **TENANT-BASED ASSISTANCE.**—The Secretary may make available tenant-based assistance under section 8 of the United States Housing Act of 1937 to families residing in a multifamily housing project that do not otherwise qualify for project-based assistance.

(6) **ALTERNATIVE USES.**—

(A) **IN GENERAL.**—Notwithstanding any other provision of law, after providing notice to and an opportunity for comment by preexisting tenants, the Secretary may allow not more than—

(i) 10 percent of the total number of units in multifamily housing projects that are disposed of by the Secretary during any fiscal year to be made available

for uses other than rental or cooperative uses, including low-income homeownership opportunities, or in any particular project, community space, office space for tenant or housing-related service providers or security programs, or small business uses, if such uses benefit the tenants of the project; and

(ii) 5 percent of the total number of units in multifamily housing projects that are disposed of by the Secretary during any fiscal year to be used in any manner, if the Secretary and the unit of general local government or area-wide governing body determine that such use will further fair housing, community development, or neighborhood revitalization goals.

(B) DISPLACEMENT PROTECTION.—The Secretary may take actions under subparagraph (A) only if—

(i) tenant-based rental assistance under section 8 of the United States Housing Act of 1937 is made available to each eligible family residing in the project that is displaced as a result of such actions; and

(ii) the Secretary determines that sufficient habitable, affordable rental housing is available in the market area in which the project is located to ensure use of such assistance.

(7) TRANSFER FOR USE UNDER OTHER PROGRAMS OF SECRETARY.—

(A) IN GENERAL.—Notwithstanding the provisions of subsection (e), the Secretary may, pursuant to an agreement under subparagraph (B), transfer a multifamily housing project—

(i) to a public housing agency for use of the project as public housing; or

(ii) to an entity eligible to own or operate housing assisted under section 202 of the Housing Act of 1959 or under section 811 of the Cranston-Gonzalez National Affordable Housing Act for use as supportive housing under either of such sections.

(B) REQUIREMENTS FOR AGREEMENT.—An agreement providing for the transfer of a project described in subparagraph (A) shall—

(i) contain such terms, conditions, and limitations as the Secretary determines appropriate, including requirements to ensure use of the project as public housing, supportive housing under section 202 of the Housing Act of 1959, or supportive housing under section 811 of the Cranston-Gonzalez National Affordable Housing Act, as applicable; and

(ii) ensure that no tenant of the project will be displaced as a result of actions taken under this paragraph.

(8) REBUILDING.—Notwithstanding any provision of section 8 of the United States Housing Act of 1937, the Secretary may provide project-based assistance in accordance with subsection (e) of this section to support the rebuilding of a multifamily housing project rebuilt or to be rebuilt (in whole or in part and

on-site, off-site, or in a combination of both) in connection with disposition under this section, if the Secretary determines that—

(A) the project is not being maintained in a decent, safe, and sanitary condition;

(B) rebuilding the project would be less expensive than substantial rehabilitation;

(C) the unit of general local government in which the project is located approves the rebuilding and makes a financial contribution or other commitment to the project; and

(D) the rebuilding is a part of a local neighborhood revitalization plan approved by the unit of general local government.

The provisions of subsection (j)(2) shall apply to any tenants of the project who are displaced.

(9) EMERGENCY ASSISTANCE FUNDS.—The Secretary may make arrangements with State agencies and units of general local government of States receiving emergency assistance under part A of title IV of the Social Security Act for the provision of assistance under such Act on behalf of eligible families who would reside in any multifamily housing projects.

(g) PROTECTION FOR UNASSISTED VERY LOW-INCOME TENANTS.—For each multifamily housing project disposed of under this section, the Secretary shall require that, for any very low-income family who is a preexisting tenant of the project who (upon disposition) would be required to pay rent in an amount in excess of 30 percent of the adjusted income (as such term is defined in section 3(b) of the United States Housing Act of 1937) of the family—

(1) for a period of 2 years beginning upon the date of the acquisition of the project by the purchaser under such disposition, the rent for the unit occupied by the family may not be increased above the rent charged immediately before acquisition;

(2) such family shall be considered displaced for purposes of any system of preferences established pursuant to section 6(c)(4)(A), 8(d)(1)(A), or 8(o)(6)(A) of the United States Housing Act of 1937; and

(3) notice shall be provided to such family, not later than the date of the acquisition of the project by the purchaser—

(A) of the requirements under paragraphs (1) and (2); and

(B) that, after the expiration of the period under paragraph (1), the rent for the unit occupied by the family may be increased.

(h) CONTRACT REQUIREMENTS.—Contracts for project-based rental assistance under section 8 of the United States Housing Act of 1937 provided pursuant to this section shall be subject to the following requirements:

(1) CONTRACT TERM.—The contract shall have a term of 15 years, except that the term may be less than 15 years—

(A) to the extent that the Secretary finds that, based on the rental charges and financing for the multifamily housing project to which the contract relates, the financial

viability of the project can be maintained under a contract having such a term; except that the Secretary shall require that the amount of rent payable by tenants of the project for units assisted under such contract shall not exceed the amount payable for rent under section 3(a) of the United States Housing Act of 1937 for a period of at least 15 years; or

(B) if such assistance is provided—

(i) under a contract authorized under section 6 of the HUD Demonstration Act of 1993; and

(ii) pursuant to a disposition plan under this section for a project that is determined by the Secretary to be otherwise in compliance with this section.

(2) CONTRACT RENT.—The Secretary shall establish the contract rents under such contracts at levels that, together with other resources available to the purchasers, provide sufficient amounts for the necessary costs of rehabilitating and operating the multifamily housing project and do not exceed the percentage of the existing housing fair market rentals for the market area in which the project assisted under the contract is located as determined by the Secretary under section 8(c) of the United States Housing Act of 1937.

(i) RIGHT OF FIRST REFUSAL FOR LOCAL AND STATE GOVERNMENT AGENCIES.—

(1) NOTIFICATION.—Not later than 30 days after the Secretary acquires title to a multifamily housing project, the Secretary shall notify the appropriate unit of general local government (including public housing agencies) and State agency or agencies designated by the chief executive officer of the State in which the project is located of such acquisition of title and that, for a period beginning upon such notification that does not exceed 90 days, such unit of general local government and agency or agencies shall have the exclusive right under this subsection to make bona fide offers to purchase the project.

(2) RIGHT OF FIRST REFUSAL.—During the 90-day period, the Secretary may not sell or offer to sell the multifamily housing project other than to a party notified under paragraph (1), unless the unit of general local government and the designated State agency or agencies notify the Secretary that they will not make an offer to purchase the project. The Secretary shall accept a bona fide offer to purchase the project made during such period if it complies with the terms and conditions of the disposition plan for the project or is otherwise acceptable to the Secretary.

(3) PROCEDURE.—The Secretary shall establish any procedures necessary to carry out this subsection.

(j) DISPLACEMENT OF TENANTS AND RELOCATION ASSISTANCE.—

(1) IN GENERAL.—Whenever tenants will be displaced as a result of the demolition of, repairs to, or conversion in the use of, a multifamily housing project that is owned by the Secretary (or for which the Secretary is mortgagee in possession), the Secretary shall identify tenants who will be displaced, and shall notify all such tenants of their pending displacement and of any relocation assistance that may be available. In the case

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of a multifamily housing project that is subject to a mortgage held by the Secretary, the Secretary shall require the owner of the project to carry out the requirements of this paragraph, if the Secretary has authorized the demolition of, repairs to, or conversion in the use of such multifamily housing project.

(2) RIGHTS OF DISPLACED TENANTS.—The Secretary shall ensure for any such tenant (who continues to meet applicable qualification standards) the right—

(A) to return, whenever possible, to a repaired or rebuilt unit;

(B) to occupy a unit in another multifamily housing project owned by the Secretary;

(C) to obtain housing assistance under the United States Housing Act of 1937; or

(D) to receive any other available similar relocation assistance as the Secretary determines to be appropriate.

(k) MORTGAGE AND PROJECT SALES.—

(1) IN GENERAL.—The Secretary may not approve the sale of any loan or mortgage held by the Secretary (including any loan or mortgage owned by the Government National Mortgage Association) on any subsidized project or formerly subsidized project, unless such sale is made as part of a transaction that will ensure that such project will continue to operate at least until the maturity date of such loan or mortgage, in a manner that will provide rental housing on terms at least as advantageous to existing and future tenants as the terms required by the program under which the loan or mortgage was made or insured prior to the assignment of the loan or mortgage on such project to the Secretary.

(2) SALE OF CERTAIN PROJECTS.—The Secretary may not approve the sale of any subsidized project—

(A) that is subject to a mortgage held by the Secretary, or

(B) if the sale transaction involves the provision of any additional subsidy funds by the Secretary or a recasting of the mortgage,

unless such sale is made as part of a transaction that will ensure that the project will continue to operate, at least until the maturity date of the loan or mortgage, in a manner that will provide rental housing on terms at least as advantageous to existing and future tenants as the terms required by the program under which the loan or mortgage was made or insured prior to the proposed sale of the project.

(3) MORTGAGE SALES TO STATE AND LOCAL GOVERNMENTS.—Notwithstanding any provision of law that requires competitive sales or bidding, the Secretary may carry out negotiated sales of mortgages held by the Secretary, without the competitive selection of purchasers or intermediaries, to units of general local government or State agencies, or groups of investors that include at least one such unit of general local government or State agency, if the negotiations are conducted with such agencies, except that—

(A) the terms of any such sale shall include the agreement of the purchasing agency or unit of local government

or State agency to act as mortgagee or owner of a beneficial interest in such mortgages, in a manner consistent with maintaining the projects that are subject to such mortgages for occupancy by the general tenant group intended to be served by the applicable mortgage insurance program, including, to the extent the Secretary determines appropriate, authorizing such unit of local government or State agency to enforce the provisions of any regulatory agreement or other program requirements applicable to the related projects; and

(B) the sales prices for such mortgages shall be, in the determination of the Secretary, the best prices that may be obtained for such mortgages from a unit of general local government or State agency, consistent with the expectation and intention that the projects financed will be retained for use under the applicable mortgage insurance program for the life of the initial mortgage insurance contract.

(4) SALE OF MORTGAGES COVERING UNSUBSIDIZED PROJECTS.—Notwithstanding any other provision of law, the Secretary may sell mortgages held on projects that are not subsidized or formerly subsidized projects on such terms and conditions as the Secretary may prescribe.

(5) MORTGAGE SALE DEMONSTRATION.—The Secretary may carry out a demonstration to test the feasibility of restructuring and disposing of troubled multifamily mortgages held by the Secretary through the establishment of partnerships with public, private, and nonprofit entities.

(6) PROJECT SALE DEMONSTRATION.—The Secretary may carry out a demonstration to test the feasibility of disposing of troubled multifamily housing projects that are owned by the Secretary through the establishment of partnerships with public, private, and nonprofit entities.

(1) REPORT TO CONGRESS.—Not later than June 1 of each year, the Secretary shall submit to the Congress a report describing the status of multifamily housing projects owned by or subject to mortgages held by the Secretary, on an aggregate basis, which highlights the differences, if any, between the subsidized and the unsubsidized inventory. The report shall include—

- (1) the average and median size of the projects;
- (2) the geographic locations of the projects, by State and region;
- (3) the years during which projects were assigned to the Department, and the average and median length of time that projects remain in the HUD-held inventory;
- (4) the status of HUD-held mortgages;
- (5) the physical condition of the HUD-held and HUD-owned inventory;
- (6) the occupancy profile of the projects, including the income, family size, race, and ethnic origin of current tenants, and the rents paid by such tenants;
- (7) the proportion of units that are vacant;
- (8) the number of projects for which the Secretary is mortgagee in possession;

- (9) the number of projects sold in foreclosure sales;
- (10) the number of HUD-owned projects sold;
- (11) a description of actions undertaken pursuant to this section, including a description of the effectiveness of such actions and any impediments to the disposition or management of multifamily housing projects;
- (12) a description of the extent to which the provisions of this section and actions taken under this section have displaced tenants of multifamily housing projects;
- (13) a description of any of the functions performed in connection with this section that are contracted out to public or private entities or to States; and
- (14) a description of the activities carried out under subsection (i) during the preceding year.

HOUSING ACCESS

SEC. 204. [12 U.S.C. 1701z-12] The Secretary shall require any purchaser of a multifamily housing project owned by the Secretary which is sold on or after October 1, 1978, to agree not to refuse unreasonably to lease a vacant dwelling unit in the project which rents for an amount not greater than the fair market rent for a comparable unit in the area as determined by the Secretary under section 8 of the United States Housing Act of 1937 to a holder of a certificate of eligibility under that section solely because of such prospective tenant's status as a certificate holder.

* * * * *

SEC. 209. [12 U.S.C. 1701z-13] (a) It is the purpose of this section to promote and extend the application of viable solar energy systems as a desirable source of energy for residential single-family and multifamily housing units.

(b)(1) The Secretary, in carrying out programs and activities under section 312 of the Housing Act of 1964, section 202 of the Housing Act of 1959, and section 8 of the United States Housing Act of 1937, shall permit the installation of solar energy systems which are cost-effective and economically feasible.

(2) For the purpose of this Act, the term "solar energy system" means any addition, alteration, or improvement to an existing or new structure which is designed to utilize wind energy or solar energy either of the active type based on mechanically forced energy transfer or of the passive type based on convective, conductive, or radiant energy transfer or some combination of these types to reduce the energy requirements of that structure from other energy sources, and which is in conformity with such criteria and standards as shall be prescribed by the Secretary in consultation with the Secretary of Energy.

(c) In carrying out subsection (b), the Secretary shall take such steps as may be necessary to encourage the installation of cost-effective and economically feasible solar energy systems in housing assisted under the programs and activities referred to in such subsection taking into account the interests of low-income homeowners and renters, including the implementation of a plan of action to publicize the availability and feasibility of solar energy systems to

current or potential recipients of assistance under such programs and activities.

(d) The Secretary shall, in conjunction with the Secretary of Energy, transmit to the Congress, within eighteen months after the date of enactment of this Act, a report setting forth—

(1) the number of solar units which were contracted for or installed or which are on order under the provisions of subsection (b)(1) of this section during the first twelve full calendar months after the date of enactment of this Act; and

(2) an analysis of any problems and benefits related to encouraging the use of solar energy systems in the programs and activities referred to in subsection (b).

* * * * *

PAPERWORK REDUCTION

SEC. 905. [42 U.S.C. 3541] (a) The Congress finds and declares—

(1) that various departments, agencies, and instrumentalities of the Federal Government with responsibilities involving housing and housing finance programs, require, approve, use or otherwise employ a variety of different forms as residential mortgages (or deeds of trust or similar security instruments) as notes secured by those mortgages, and for applications, appraisals and other purposes, and that such duplication of forms constitute a paperwork burden that adds to the costs imposed on the Nation's homeowners and home buyers;

(2) that unnecessary paperwork impairs the effectiveness of Federal housing and housing finance programs;

(3) that both single-family and multi-family programs are affected; and

(4) that simplification of paperwork imposed by Federal housing and housing finance programs would contribute to achieving the Nation's housing goals by reducing housing costs.

(b)(1) Not later than October 1, 1980, the Secretary of Housing and Urban Development, the Secretary of Agriculture, and the Secretary of Veterans Affairs shall, consistent with provisions of law governing the conduct of housing programs, employ in their respective programs—

(A) uniform single-family and multi-family note and mortgage form;

(B) a uniform application form for mortgage approval and commitment for mortgage insurance;

(C) a uniform form for computation of the monthly net effective income of applicants;

(D) a uniform property appraisal form;

(E) a uniform settlement statement which shall satisfy the requirements of the Real Estate Settlement Procedures Act of 1974; and

(F) such other consolidated or simplified forms particularly those which solicit identical or nearly identical information from the same persons in the conduct of two or more such programs, the consolidation or simplification of which the Secretaries of Housing and Urban Development and Agriculture and

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the Secretary of Veterans Affairs mutually agree would contribute to a reduction in the paperwork and regulatory burden of such programs.

(2) The Secretary of Housing and Urban Development, the Secretary of Agriculture, and the Secretary of Veterans Affairs shall, consistent with provisions of law governing their respective programs, provide by regulation for the elimination of forms which solicit information which is already available for other available sources through indexing or other means of identifying such forms.

(3) Each agency referred to in subsection (b) may employ riders, addenda, or similar forms of modification agreements to adapt such uniform forms to its respective programs and policies, consistent with the goals of minimizing the use and extent of such modification agreements and maximizing the suitability of such forms for the use of all participants, public and private.

(c) The Director of the Office of Management and Budget shall coordinate and monitor the development and implementation by Federal departments and agencies of the efforts required by subsection (b) and shall report to the Congress on such development and implementation and with respect to any provisions of law which unnecessarily prevent such departments and agencies from carrying out the provisions of this section as part of each report required under Public Law 93-556. Such report shall include an estimate of the reduction of the level of paperwork burden hours of the affected agencies as allocated by the Office of Management and Budget.