

## **CRANSTON-GONZALEZ NATIONAL AFFORDABLE HOUSING ACT**

[Public Law 101–625; 104 Stat. 4085; 42 U.S.C. 12704 et seq.]

[As Amended Through P.L. 117–328, Enacted December 29, 2022]

【Currency: This publication is a compilation of the text of Public Law 101–625. 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).】

### **SECTION 1. SHORT TITLE; TABLE OF CONTENTS.**

(a) 【42 U.S.C. 12701 note】 SHORT TITLE.—This Act may be cited as the “Cranston-Gonzalez National Affordable Housing Act”.

(b) TABLE OF CONTENTS.—[omitted]

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## **TITLE I—GENERAL PROVISIONS AND POLICIES**

### **SEC. 101. [42 U.S.C. 12701] THE NATIONAL HOUSING GOAL.**

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

### **SEC. 102. [42 U.S.C. 12702] OBJECTIVE OF NATIONAL HOUSING POLICY.**

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

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

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

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

(4) to help make neighborhoods safe and livable;

(5) to expand opportunities for homeownership;

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

(7) to encourage tenant empowerment and reduce generational poverty in federally assisted and public housing

by improving the means by which self-sufficiency may be achieved.

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

The purposes of this Act are—

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

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

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

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

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

**SEC. 104. [42 U.S.C. 12704] DEFINITIONS.**

As used in this title and in title II:

(1) The term “unit of general local government” means a city, town, township, county, parish, village, or other general purpose political subdivision of a State; the Federated States of Micronesia and Palau, the Marshall Islands, or a general purpose political subdivision thereof; a consortium of such political subdivisions recognized by the Secretary in accordance with section 216(2) of this Act; and any agency or instrumentality thereof that is established pursuant to legislation and designated by the chief executive to act on behalf of the jurisdiction with regard to provisions of this Act.

(2) The term “State” means any State of the United States, the District of Columbia, the Commonwealth of Puerto Rico, or any agency or instrumentality thereof that is established pursuant to legislation and designated by the chief executive officer to act on behalf of the State with regard to the provisions of this Act.

(3) The term “jurisdiction” means a State or unit of general local government.

(4) The term “participating jurisdiction” means any State or unit of general local government that has been so designated in accordance with section 216 of this Act.

(5) The term “nonprofit organization” means any private, nonprofit organization (including a State or locally chartered, nonprofit organization) that—

(A) is organized under State or local laws,

(B) has no part of its net earnings inuring to the benefit of any member, founder, contributor, or individual,

(C) complies with standards of financial accountability acceptable to the Secretary, and

(D) has among its purposes significant activities related to the provision of decent housing that is affordable to low-income and moderate-income persons.

(6) The term “community housing development organization” means a nonprofit organization as defined in paragraph (5), that—

(A) has among its purposes the provision of decent housing that is affordable to low-income and moderate-income persons;

(B) maintains, through significant representation on the organization’s governing board and otherwise, accountability to low-income community residents and, to the extent practicable, low-income beneficiaries with regard to decisions on the design, siting, development, and management of affordable housing;

(C) has a demonstrated capacity for carrying out activities assisted under this Act; and

(D) has a history of serving the local community or communities within which housing to be assisted under this Act is to be located.

In the case of an organization serving more than one county, the Secretary may not require that such organization, to be considered a community housing development organization for purposes of this Act, include as members on the organization’s governing board low-income persons residing in each county served.

(7) The term “government-sponsored mortgage finance corporations” means the Federal National Mortgage Association, the Federal Home Loan Mortgage Corporation, and the Federal Agricultural Mortgage Corporation.

(8) The term “housing” includes manufactured housing and manufactured housing lots and elder cottage housing opportunity units that are small, free-standing, barrier-free, energy-efficient, removable, and designed to be installed adjacent to existing 1- to 4-family dwellings.

(9) The term “very low-income families” means low-income families whose incomes do not exceed 50 percent of the median family income for the area, as determined by the Secretary with adjustments for smaller and larger families, except that the Secretary may establish income ceilings higher or lower than 50 percent of the median for the area on the basis of the Secretary’s findings that such variations are necessary because of prevailing levels of construction costs or fair market rents, or unusually high or low family incomes.

(10)<sup>1</sup> The term “low-income families” means families whose incomes do not exceed 80 percent of the median income

<sup>1</sup> Section 590 of the Quality Housing and Work Responsibility Act of 1998, title V of Public Law 105–276, approved October 21, 1998, provides, in part, as follows:

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

“(a) IN GENERAL.—The Secretary of Housing and Urban Development shall, for not less than 10 jurisdictions that are metropolitan cities or urban counties for purposes of title I of the Hous-

Continued

for the area, as determined by the Secretary with adjustments for smaller and larger families, except that the Secretary may establish income ceilings higher or lower than 80 percent of the median for the area on the basis of the Secretary's findings that such variations are necessary because of prevailing levels of construction costs or fair market rents, or unusually high or low family incomes.

(11) The term "families" has the same meaning given that term by section 3 of the United States Housing Act of 1937.

(12) The term "security" has the same meaning as in section 2 of the Securities Act of 1933.

(13) The term "displaced homemaker" means an individual who—

(A) is an adult;

(B) has not worked full-time full-year in the labor force for a number of years but has, during such years, worked primarily without remuneration to care for the home and family; and

(C) is unemployed or underemployed and is experiencing difficulty in obtaining or upgrading employment.

(14) The term "first-time homebuyer" means an individual and his or her spouse who have not owned a home during the 3-year period prior to purchase of a home with assistance under title II, except that—

(A) any individual who is a displaced homemaker may not be excluded from consideration as a first-time homebuyer under this paragraph on the basis that the individual, while a homemaker, owned a home with his or her spouse or resided in a home owned by the spouse;

(B) any individual who is a single parent may not be excluded from consideration as a first-time homebuyer under this paragraph on the basis that the individual, while married, owned a home with his or her spouse or resided in a home owned by the spouse; and

(C) an individual shall not be excluded from consideration as a first-time homebuyer under this paragraph on the basis that the individual owns or owned, as a principal residence during such 3-year period, a dwelling unit whose structure is—

(i) not permanently affixed to a permanent foundation in accordance with local or other applicable regulations, or

(ii) not in compliance with State, local, or model building codes, or other applicable codes, and cannot be brought into compliance with such codes for less than the cost of constructing a permanent structure.

ing and Community Development Act of 1974, grant exceptions not later than 90 days after the date of the enactment of this Act for such jurisdictions that provide that—

"(1) for purposes of the HOME investment partnerships program under title II of the Cranston-Gonzalez National Affordable Housing Act, the limitation based on percentage of median income that is applicable under section 104(10), 214(1)(A), or 215(a)(1)(A) for any area of the jurisdiction shall be the numerical percentage that is specified in such section; and

"(2) \* \* \*

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

(15) The term “single parent” means an individual who—  
 (A) is unmarried or legally separated from a spouse;  
 and

(B)(i) has 1 or more minor children for whom the individual has custody or joint custody; or  
 (ii) is pregnant.

(16) The term “Secretary” means the Secretary of Housing and Urban Development, unless otherwise specified in this Act.

(17) The term “substantial rehabilitation” means the rehabilitation of residential property at an average cost in excess of \$25,000 per dwelling unit.

(18) The term “public housing agency” has the meaning given the term in section 3(b) of the United States Housing Act of 1937 (42 U.S.C. 1437a(b)).

(19) The term “metropolitan city” has the meaning given the term in section 102(a)(4) of the Housing and Community Development Act of 1974 (42 U.S.C. 5302(a)(4)).

(20) The term “urban county” has the meaning given the term in section 102(a)(6) of the Housing and Community Development Act of 1974 (42 U.S.C. 5302(a)(6)).

(21) The term “certification” means a written assertion, based on supporting evidence, which shall be kept available for inspection by the Secretary, the Inspector General and the public, which assertion shall be deemed to be accurate for purposes of this Act, unless the Secretary determines otherwise after inspecting the evidence and providing due notice and opportunity for comment.

(23)<sup>2</sup> The term “to demonstrate to the Secretary” means to submit to the Secretary a written assertion together with supporting evidence that, in the determination of the Secretary, supports the accuracy of the assertion.

(24)<sup>2</sup> The term “insular area” means any of the following: Guam, the Northern Mariana Islands, the Virgin Islands, and American Samoa.

(24) The term “energy efficient mortgage” means a mortgage that provides financing incentives for the purchase of energy efficient homes, or that provides financing incentives to make energy efficiency improvements in existing homes by incorporating the cost of such improvements in the mortgage.

(25) The term “energy efficient mortgage” means a mortgage that provides financing incentives for the purchase of energy efficient homes, or that provides financing incentives to make energy efficiency improvements in existing homes by incorporating the cost of such improvements in the mortgage.

**SEC. 105. [42 U.S.C. 12705] STATE AND LOCAL HOUSING STRATEGIES.**

(a) IN GENERAL.—The Secretary shall provide assistance directly to a jurisdiction only if—

(1) the jurisdiction submits to the Secretary a comprehensive housing affordability strategy (hereafter in this section referred to as the “housing strategy”);

(2) the jurisdiction submits annual updates of the housing strategy; and

<sup>2</sup> So in law.

(3) the housing strategy, and any annual update of such strategy, is approved by the Secretary.

The Secretary shall establish such dates and manner for the submission and approval of housing strategies under this section that the Secretary determines will facilitate orderly program management by jurisdictions and provide for timely investment or other use of funds made available under title II of this Act and other programs requiring submission of a housing strategy. If the Secretary finds there is good cause, the Secretary may provide reasonable extensions of any deadlines for submission of a jurisdiction's housing strategy.

(b) CONTENTS.—A housing strategy submitted under this section shall be in a form that the Secretary determines to be appropriate for the assistance the jurisdiction may be provided and shall—

(1) describe the jurisdiction's estimated housing needs projected for the ensuing 5-year period, and the jurisdiction's need for assistance for very low-income, low-income, and moderate-income families, specifying such needs for different types of tenure and for different categories of residents, such as very low-income, low-income, and moderate-income families, the elderly, persons with disabilities, single persons, large families, residents of nonmetropolitan areas, families who are participating in an organized program to achieve economic independence and self-sufficiency, persons with acquired immunodeficiency syndrome, victims of domestic violence, dating violence, sexual assault, and stalking and other categories of persons residing in or expected to reside in the jurisdiction that the Secretary determines to be appropriate;

(2) describe the nature and extent of homelessness, including rural homelessness, within the jurisdiction, providing an estimate of the special needs of various categories of persons who are homeless or threatened with homelessness, including tabular representation of such information, and a description of the jurisdiction's strategy for (A) helping low-income families avoid becoming homeless; (B) addressing the emergency shelter and transitional housing needs of homeless persons (including a brief inventory of facilities and services that meet such needs within that jurisdiction); and (C) helping homeless persons make the transition to permanent housing and independent living;

(3) describe the significant characteristics of the jurisdiction's housing market, indicating how those characteristics will influence the use of funds made available for rental assistance, production of new units, rehabilitation of old units, or acquisition of existing units;

(4) explain whether the cost of housing or the incentives to develop, maintain, or improve affordable housing in the jurisdiction are affected by public policies, particularly by policies of the jurisdiction, including tax policies affecting land and other property, land use controls, zoning ordinances, building codes, fees and charges, growth limits, and policies that affect the return on residential investment, and describe the jurisdiction's strategy to remove or ameliorate negative effects, if any,

of such policies, except that, if a State requires a unit of general local government to submit a regulatory barrier assessment that is substantially equivalent to the information required under this paragraph, as determined by the Secretary, the unit of general local government may submit its assessment submitted to the State to the Secretary and shall be considered to have complied with this paragraph;

(5) explain the institutional structure, including private industry, nonprofit organizations, and public institutions, through which the jurisdiction will carry out its housing strategy, assessing the strengths and gaps in that delivery system and describing what the jurisdiction will do to overcome those gaps;

(6) indicate resources from private and non-Federal public sources that are reasonably expected to be made available to carry out the purposes of this Act, explaining how funds made available will leverage those additional resources and identifying, where the jurisdiction deems it appropriate, publicly owned land or property located within the jurisdiction that may be utilized to carry out the purposes of this Act;

(7) set forth the jurisdiction's plan for investment or other use of housing funds made available under title II of this Act, the United States Housing Act of 1937, the Housing and Community Development Act of 1974, and the Stewart B. McKinney Homeless Assistance Act<sup>3</sup>, during the ensuing year or such longer period as the Secretary determines to be appropriate, indicating the general priorities for allocating investment geographically within the jurisdiction and among different activities and housing needs;

(8) describe how the jurisdiction's plan will address the housing needs identified pursuant to subparagraphs (1) and (2),<sup>4</sup> describe the reasons for allocation priorities, and identify any obstacles to addressing underserved needs;

(9) describe the means of cooperation and coordination among the State and any units of general local government in the development, submission, and implementation of their housing strategies;

(10) in the case of a unit of local government, describe the number of public housing units in the jurisdiction, the physical condition of such units, the restoration and revitalization needs of public housing projects within the jurisdiction, the public housing agency's strategy for improving the management and operation of such public housing, and the public housing agency's strategy for improving the living environment of low- and very-low-income families residing in public housing;

(11) describe the manner in which the plan of the jurisdiction will help address the needs of public housing;

<sup>3</sup>Public Law 106-400, enacted on October 30, 2000, renamed the Stewart B. McKinney Homeless Assistance Act as the McKinney-Vento Homeless Assistance Act. Section 2 of such Act (42 U.S.C. 11301 note) provides that "[a]ny reference in any law, regulation, document, paper, or other record of the United States to the Stewart B. McKinney Homeless Assistance Act shall be deemed to be a reference to the 'McKinney-Vento Homeless Assistance Act'".

<sup>4</sup>So in law. Probably intended to refer to paragraphs (1) and (2).

(12) in the case of a State, describe the strategy to coordinate the Low-Income Tax Credit with development of housing, including public housing, that is affordable to very low-income and low-income families;

(13) describe the jurisdiction's activities to encourage public housing residents to become more involved in management and participate in homeownership;

(14) describe the standards and procedures according to which the jurisdiction will monitor activities authorized under this Act and ensure long-term compliance with the provisions of this Act;

(15) include a certification that the jurisdiction will affirmatively further fair housing;

(16) include a certification that the jurisdiction has in effect and is following a residential antidisplacement and relocation assistance plan that, in any case of any such displacement in connection with any activity assisted with amounts provided under title II, requires the same actions and provides the same rights as required and provided under a residential antidisplacement and relocation assistance plan under section 104(d) of the Housing and Community Development Act of 1974 in the event of displacement in connection with a development project assisted under section 106 or 119 of such Act;

(17) estimate the number of housing units within the jurisdiction that are occupied by low-income families or very low-income families and that contain lead-based paint hazards, as defined in section 1004 of the Residential Lead-Based Paint Hazard Reduction Act of 1992, outline the actions proposed or being taken to evaluate and reduce lead-based paint hazards, and describe how lead-based paint hazard reduction will be integrated into housing policies and programs;

(18) include the number of families to whom the jurisdiction will provide affordable housing as defined in section 215 using funds made available;

(19) for any housing strategy submitted for fiscal year 1994 or any fiscal year thereafter and taking into consideration factors over which the jurisdiction has control, describe the jurisdiction's goals, programs, and policies for reducing the number of households with incomes below the poverty line (as defined by the Office of Management and Budget and revised annually), and, in consultation with other appropriate public and private agencies, state how the jurisdiction's goals, programs, and policies for producing and preserving affordable housing set forth in the housing strategy will be coordinated with other programs and services for which the jurisdiction is responsible and the extent to which they will reduce (or assist in reducing) the number of households with incomes below the poverty line; and

(20) describe the jurisdictions activities to enhance coordination between public and assisted housing providers and private and governmental health, mental health, and service agencies.

The Secretary may provide for the submission of abbreviated housing strategies by jurisdictions that are not otherwise expected to be



participating jurisdictions under title II of this Act. Such an abbreviated housing strategy shall be appropriate to the types and amounts of assistance the jurisdiction is to receive as determined by the Secretary.

(c) APPROVAL.—

(1) IN GENERAL.—The Secretary shall review the housing strategy upon receipt. Not later than 60 days after receipt by the Secretary, the housing strategy shall be approved unless the Secretary determines before that date that (A) the housing strategy is inconsistent with the purposes of this Act, or (B) the information described in subsection (b) has not been provided in a substantially complete manner. For the purpose of the preceding sentence, the adoption or continuation of a public policy identified pursuant to subsection (b)(4) shall not be a basis for the Secretary's disapproval of a housing strategy. During the 18-month period following enactment of this Act, the Secretary may extend the review period to not longer than 90 days.

(2) ACTIONS IN CASE OF DISAPPROVAL.—If the Secretary disapproves the housing strategy, the Secretary shall immediately notify the jurisdiction of such disapproval. Not later than 15 days after the Secretary's disapproval, the Secretary shall inform the jurisdiction in writing of (A) the reasons for disapproval, and (B) actions that the jurisdiction could take to meet the criteria for approval. If the Secretary fails to inform the jurisdiction of the reasons for disapproval within such 15-day period, the housing strategy shall be deemed to have been approved.

(3) AMENDMENTS AND RESUBMISSION.—The Secretary shall, for a period of not less than 45 days following the date of first disapproval, permit amendments to, or the resubmission of, any housing strategy that is disapproved. The Secretary shall approve or disapprove a housing strategy not less than 30 days after receipt of such amendments or resubmission.

(d) COORDINATION OF STATE AND LOCAL HOUSING STRATEGIES.—The Secretary may establish such requirements as the Secretary deems appropriate to encourage coordination between and among the housing strategies of a State and any participating jurisdictions within the State, except that a unit of general local government shall not be required to have elements of its housing strategy approved by the State.

(e) CONSULTATION WITH SOCIAL SERVICE AGENCIES.—

(1) IN GENERAL.—When preparing a housing strategy for submission under this section, a jurisdiction shall make reasonable efforts to confer with appropriate social service agencies regarding the housing needs of children, elderly persons, persons with disabilities, homeless persons, and other persons served by such agencies.

(2) LEAD-BASED PAINT HAZARDS.—When preparing that portion of a housing strategy required by subsection (b)(16), a jurisdiction shall consult with State or local health and child welfare agencies and examine existing data related to lead-based paint hazards and poisonings, including health depart-

ment data on the addresses of housing units in which children have been identified as lead poisoned.

(f) **BARRIER REMOVAL.**—Not later than 4 months after completion of the final report of the Secretary’s Advisory Commission on Regulatory Barriers to Affordable Housing, the Secretary shall submit to the Congress a written report outlining the Secretary’s recommendations for legislative and administrative actions to facilitate the removal or modification of excessive, duplicative, or unnecessary regulations or other requirements of Federal, State, or local governments that (1) inflate the costs of or otherwise inhibit the construction, rehabilitation, or management of housing, particularly housing that otherwise could be affordable to low-income and moderate-income families, or (2) contribute to economic or racial discrimination.

(g) **TREATMENT OF TROUBLED PUBLIC HOUSING AGENCIES.**—

(1) **EFFECT OF TROUBLED STATUS ON CHAS.**—The comprehensive housing affordability strategy (or any consolidated plan incorporating such strategy) for the State or unit of general local government in which any troubled public housing agency is located shall not be considered to comply with the requirements under this section unless such plan includes a description of the manner in which the State or unit will provide financial or other assistance to such troubled agency in improving its operations to remove such designation.

(2) **DEFINITION.**—For purposes of this subsection, the term “troubled public housing agency” means a public housing agency that, upon the effective date of the Quality Housing and Work Responsibility Act of 1998, is designated under section 6(j)(2) of the United States Housing Act of 1937 as a troubled public housing agency.

#### **SEC. 106. [42 U.S.C. 12706] CERTIFICATION.**

The Secretary shall, by regulation or otherwise, as deemed by the Secretary to be appropriate, require any application for housing assistance under title II of this Act, assistance under the Housing and Community Development Act of 1974, or assistance under the Stewart B. McKinney Homeless Assistance Act<sup>5</sup>, to contain or be accompanied by a certification by an appropriate State or local public official that the proposed housing activities are consistent with the housing strategy of the jurisdiction to be served.

#### **SEC. 107. [42 U.S.C. 12707] CITIZEN PARTICIPATION.**

(a) **IN GENERAL.**—Before submitting a housing strategy under this section, a jurisdiction shall—

(1) make available to its citizens, public agencies, and other interested parties information concerning the amount of assistance the jurisdiction expects to receive and the range of investment or other uses of such assistance that the jurisdiction may undertake;

<sup>5</sup>Public Law 106-400, enacted on October 30, 2000, renamed the Stewart B. McKinney Homeless Assistance Act as the McKinney-Vento Homeless Assistance Act. Section 2 of such Act (42 U.S.C. 11301 note) provides that “[a]ny reference in any law, regulation, document, paper, or other record of the United States to the Stewart B. McKinney Homeless Assistance Act shall be deemed to be a reference to the ‘McKinney-Vento Homeless Assistance Act’”.

(2) publish a proposed housing strategy in a manner that, in the determination of the Secretary, affords affected citizens, public agencies, and other interested parties a reasonable opportunity to examine its content and to submit comments on the proposed housing strategy;

(3) hold one or more public hearings to obtain the views of citizens, public agencies, and other interested parties on the housing needs of the jurisdiction; and

(4) provide citizens, public agencies, and other interested parties with reasonable access to records regarding any uses of any assistance the jurisdiction may have received during the preceding 5 years.

(b) NOTICE AND COMMENT.—Before submitting any performance report or substantial amendment to a housing strategy under this section, a participating jurisdiction shall provide citizens with reasonable notice of, and opportunity to comment on, such performance report or substantial amendment prior to its submission.

(c) CONSIDERATION OF COMMENTS.—A participating jurisdiction shall consider any comments or views of citizens in preparing a final housing strategy, amendment to a housing strategy or performance report for submission. A summary of such comments or views shall be attached when a housing strategy, amendment to a housing strategy or performance report is submitted. The submitted housing strategy, amendment, or report shall be made available to the public.

(d) REGULATIONS.—The Secretary shall by regulation establish procedures appropriate and practicable for providing a fair hearing and timely resolution of citizen complaints related to housing strategies or performance reports.

#### **SEC. 108. [42 U.S.C. 12708] COMPLIANCE.**

(a) PERFORMANCE REPORTS.—

(1) IN GENERAL.—Each participating jurisdiction shall annually review and report, in a form acceptable to the Secretary, on the progress it has made in carrying out its housing strategy, which report shall include an evaluation of the jurisdiction's progress in meeting its goal established in section 105(b)(15) of this Act,<sup>6</sup> and information on the number and types of households served, including the number of very low-income, low-income, and moderate-income persons served and the racial and ethnic status of persons served that will be assisted with funds made available.

(2) SUBMISSION.—The Secretary shall (A) establish dates for submission of reports under this subsection, and (B) review such reports and make such recommendations as the Secretary deems appropriate to carry out the purposes of this Act.

(3) FAILURE TO REPORT.—If a jurisdiction fails to submit a report satisfactory to the Secretary in a timely manner, assistance to the jurisdiction under title II of this Act or the other programs referred to in section 106 may be—

(A) suspended until a report satisfactory to the Secretary is submitted; or

<sup>6</sup>Probably should refer to paragraph (18) of section 105(b) (relating to the number of families who are provided affordable housing).

(B) withdrawn and reallocated if the Secretary finds, after notice and opportunity for a hearing, that the jurisdiction will not submit a satisfactory report.

(b) PERFORMANCE REVIEW BY SECRETARY.—

(1) IN GENERAL.—The Secretary shall ensure that activities of each jurisdiction required to submit a housing strategy under section 105 are reviewed not less frequently than annually. Such review shall include, insofar as practicable, on-site visits by employees of the Department of Housing and Urban Development and shall include an assessment of the jurisdiction's—

(A) management of funds made available under programs administered by the Secretary;

(B) compliance with its housing strategy;

(C) accuracy in the preparation of performance reports under subsection (a); and

(D) efforts to ensure that housing assisted under programs administered by the Secretary are in compliance with contractual agreements and the requirements of law.

(2) REPORT BY THE SECRETARY.—The Secretary shall report on the performance review in writing. The Secretary shall give the jurisdiction not less than 30 days to review and comment on the report. After taking into consideration the comments of the jurisdiction, the Secretary may revise the report and shall make the jurisdiction's comments and the report, with any revisions, readily available to the public within 30 days after receipt of the jurisdiction's comments.

(c) REVIEW BY COURTS.—The adequacy of information submitted under section 105(b)(4) shall not be reviewable by any Federal, State, or other court. Review of a housing strategy by any Federal, State, or other court shall be limited to determining whether the process of development and the content of the strategy are in substantial compliance with the requirements of this Act. During the pendency of any action challenging the adequacy of a housing strategy or the action of the Secretary in approving a strategy, the court shall not have the authority to enjoin activities taken by the jurisdiction to implement an approved housing strategy. Any housing assisted during the pendency of such action shall not be subject to any order of the court resulting from such action.

**SEC. 109. [42 U.S.C. 12709] ENERGY EFFICIENCY STANDARDS.**

(a) ESTABLISHMENT.—

(1) IN GENERAL.—The Secretary of Housing and Urban Development and the Secretary of Agriculture shall, not later than September 30, 2006, jointly establish, by rule, energy efficiency standards for—

(A) new construction of public and assisted housing and single family and multifamily residential housing (other than manufactured homes) subject to mortgages insured under the National Housing Act;

(B) new construction of single family housing (other than manufactured homes) subject to mortgages insured, guaranteed, or made by the Secretary of Agriculture under title V of the Housing Act of 1949; and

(C) rehabilitation and new construction of public and assisted housing funded by HOPE VI revitalization grants under section 24 of the United States Housing Act of 1937 (42 U.S.C. 1437v).

(2) CONTENTS.—Such standards shall meet or exceed the requirements of the 2006 International Energy Conservation Code (hereafter in this section referred to as “the 2006 IECC”), or, in the case of multifamily high rises, the requirements of the American Society of Heating, Refrigerating, and Air-Conditioning Engineers Standard 90.1–2004 (hereafter in this section referred to as “ASHRAE Standard 90.1–2004”), and shall be cost-effective with respect to construction and operating costs on a life-cycle cost basis. In developing such standards, the Secretaries shall consult with an advisory task force composed of homebuilders, national, State, and local housing agencies (including public housing agencies), energy agencies, building code organizations and agencies, energy efficiency organizations, utility organizations, low-income housing organizations, and other parties designated by the Secretaries.

(b) INTERNATIONAL ENERGY CONSERVATION CODE.—If the Secretaries have not, by September 30, 2006, established energy efficiency standards under subsection (a), all new construction and rehabilitation of housing specified in such subsection shall meet the requirements of the 2006 IECC, or, in the case of multifamily high rises, the requirements of ASHRAE Standard 90.1–2004.

(c) REVISIONS OF THE INTERNATIONAL ENERGY CONSERVATION CODE.—If the requirements of the 2006 IECC, or, in the case of multifamily high rises, ASHRAE Standard 90.1–2004, are revised at any time, the Secretaries shall, not later than 1 year after such revision, amend the standards established under subsection (a) to meet or exceed the requirements of such revised code or standard unless the Secretaries determine that compliance with such revised code or standard would not result in a significant increase in energy efficiency or would not be technologically feasible or economically justified.

(d) FAILURE TO AMEND THE STANDARDS.—If the Secretary of Housing and Urban Development and the Secretary of Agriculture have not, within 1 year after the requirements of the 2006 IECC or the ASHRAE Standard 90.1–2004 are revised, amended the standards or made a determination under subsection (c), all new construction and rehabilitation of housing specified in subsection (a) shall meet the requirements of the revised code or standard if—

(1) the Secretary of Housing and Urban Development or the Secretary of Agriculture make a determination that the revised codes do not negatively affect the availability or affordability of new construction of assisted housing and single family and multifamily residential housing (other than manufactured homes) subject to mortgages insured under the National Housing Act (12 U.S.C. 1701 et seq.) or insured, guaranteed, or made by the Secretary of Agriculture under title V of the Housing Act of 1949 (42 U.S.C. 1471 et seq.), respectively; and

(2) the Secretary of Energy has made a determination under section 304 of the Energy Conservation and Production

Act (42 U.S.C. 6833) that the revised code or standard would improve energy efficiency.

**SEC. 110. [42 U.S.C. 12710] CAPACITY STUDY.**

(a) IN GENERAL.—The Secretary shall ensure that the Department of Housing and Urban Development has adequate capacity and resources, including staff and training programs, to carry out its mission and responsibilities to implement the provisions of this Act, including the ability of the Department to carry out the multi-family mortgage insurance program, and the ability to respond to areas identified as “material weaknesses” by the Office of the Inspector General in financial audits or other reports.

(b) REPORT.—Not later than 60 days after the date of enactment of this Act,<sup>7</sup> and annually thereafter, the Secretary shall prepare and submit to the Committee on Banking, Housing, and Urban Affairs of the Senate and the Committee on Banking, Finance and Urban Affairs of the House of Representatives a study detailing the Department’s plan to maintain such capacity, together with any recommendations for legislative and administrative action as the Secretary determines to be appropriate.

**SEC. 111. [42 U.S.C. 12711] PROTECTION OF STATE AND LOCAL AUTHORITY.**

Notwithstanding any other provision of this title or title II, the Secretary shall not establish any criteria for allocating or denying funds made available under programs administered by the Secretary based on the adoption, continuation, or discontinuation by a jurisdiction of any public policy, regulation, or law that is (1) adopted, continued, or discontinued in accordance with the jurisdiction’s duly established authority, and (2) not in violation of any Federal law.

## TITLE II—INVESTMENT IN AFFORDABLE HOUSING

**SEC. 201. [42 U.S.C. 12701 note] SHORT TITLE.**

This title may be cited as the “HOME Investment Partnerships Act”.

**SEC. 202. [42 U.S.C. 12721] FINDINGS.**

The Congress finds that—

(1) the Nation has not made adequate progress toward the goal of national housing policy, as set out in the Housing Act of 1949 and reaffirmed in the Housing and Urban Development Act of 1968, which would provide decent, safe, sanitary, and affordable living environments for all Americans;

(2) the supply of affordable rental housing is diminishing;

(3) the Tax Reform Act of 1986 removed major tax incentives for the production of affordable rental housing;

(4) the living environments of an increasing number of Americans have deteriorated over the past several years as a result of reductions in Federal assistance to low-income and moderate-income families;

<sup>7</sup> The date of enactment was November 28, 1990.

(5) many Americans face the possibility of homelessness unless Federal, State, and local governments work together with the private sector to develop and rehabilitate the housing stock of the Nation to provide decent, safe, sanitary, and affordable housing for very low-income and low-income families;

(6) reliable Federal leadership is needed to achieve an adequate supply of affordable housing for all Americans;

(7) to achieve the goal of national housing policy, there is a need to strengthen nationwide a cost-effective community-based housing partnership designed to—

(A) expand the supply of rental housing that is affordable to very low-income and low-income families,

(B) improve homeownership opportunities for low-income families,

(C) carry out comprehensive housing strategies tailored to local housing market conditions, and

(D) protect the Federal, State, and local investment in low-income housing to ensure affordability of the housing for the remaining useful life of the property;

(8) direct assistance to expand the supply of affordable rental housing should be provided in a way that is more cost-effective and targeted than tax incentives;

(9) much of the Nation's housing system works very well and provides a strong base on which national housing policy should build;

(10) an increasing number of States and local governments have been successful in producing cost-effective low-income and moderate-income housing by working in partnership with the private sector, including nonprofit community development corporations, community action agencies, neighborhood housing services corporations, trade unions, groups sponsored by religious organizations, limited equity cooperatives, and other tenant organizations;

(11) during the 1980's, nonprofit community housing development organizations, despite severe obstacles caused by inadequate funding, have played an increasingly important role in the production and rehabilitation of affordable housing in communities across the Nation;

(12) additional financial resources and technical skills must be made available in local communities if the Nation is to mobilize the capacity of the private sector, including nonprofit community housing development organizations, to provide a more adequate supply of decent, safe, and sanitary housing that is affordable to very low-income, low-income, and moderate-income families and meets the need for large family units and other additional units that are available to very low-income families receiving rental assistance payments from Federal, State, and local governments; and

(13) the long-term success of efforts to provide more affordable housing depends upon tenants and homeowners being fiscally responsible and able managers.

**SEC. 203. [42 U.S.C. 12722] PURPOSES.**

The purposes of this title are—

(1) to expand the supply of decent, safe, sanitary, and affordable housing, with primary attention to rental housing, for very low-income and low-income Americans;

(2) to mobilize and strengthen the abilities of States and units of general local government throughout the United States to design and implement strategies for achieving an adequate supply of decent, safe, sanitary, and affordable housing;

(3) to provide participating jurisdictions, on a coordinated basis, with the various forms of Federal housing assistance, including capital investment, mortgage insurance, rental assistance, and other Federal assistance, needed—

(A) to expand the supply of decent, safe, sanitary, and affordable housing;

(B) to make new construction, rehabilitation, substantial rehabilitation, and acquisition of such housing feasible; and

(C) to promote the development of partnerships among the Federal Government, States and units of general local government, private industry, and nonprofit organizations able to utilize effectively all available resources to provide more of such housing;

(4) to make housing more affordable for very low-income and low-income families through the use of tenant-based rental assistance;

(5) to develop and refine, on an ongoing basis, a selection of model programs incorporating the most effective methods for providing decent, safe, sanitary, and affordable housing, and accelerate the application of such methods where appropriate throughout the United States to achieve the prudent and efficient use of funds made available under this title;

(6) to expand the capacity of nonprofit community housing development organizations to develop and manage decent, safe, sanitary, and affordable housing;

(7) to ensure that Federal investment produces housing stock that is available and affordable to low-income families for the property's remaining useful life, is appropriate to the neighborhood surroundings, and, wherever appropriate, is mixed income housing;

(8) to increase the investment of private capital and the use of private sector resources in the provision of decent, safe, sanitary, and affordable housing;

(9) to allocate Federal funds for investment in affordable housing among participating jurisdictions by formula allocation;

(10) to leverage those funds insofar as practicable with State and local matching contributions and private investment;

(11) to establish for each participating jurisdiction a HOME Investment Trust Fund with a line of credit for investment in affordable housing, with repayments back to its HOME Investment Trust Fund being made available for reinvestment by the jurisdiction;

(12) to provide credit enhancement for affordable housing by utilizing the capacities of existing agencies and mortgage fi-



nance institutions when most efficient and supplementing their activities when appropriate; and

(13) to assist very low-income and low-income families to obtain the skills and knowledge necessary to become responsible homeowners and tenants.

**SEC. 204. [42 U.S.C. 12723] COORDINATED FEDERAL SUPPORT FOR HOUSING STRATEGIES.**

The Secretary shall make assistance under this title available to participating jurisdictions, through the Office of the Assistant Secretary for Housing-FHA Commissioner of the Department of Housing and Urban Development, to the maximum extent practicable, in coordination with mortgage insurance, rental assistance, and other housing assistance appropriate to the efficient and timely completion of activities under this title.

**SEC. 205. [42 U.S.C. 12724]. AUTHORIZATION.**

There are authorized to be appropriated to carry out this title \$2,086,000,000 for fiscal year 1993, and \$2,173,612,000 for fiscal year 1994, of which—

(1) not more than \$14,000,000 for fiscal year 1993, and \$25,000,000 for fiscal year 1994, shall be for community housing partnership activities authorized under section 233; and

(2) not more than \$11,000,000 for fiscal year 1993, and \$22,000,000 for fiscal year 1994, shall be for activities in support of State and local housing strategies authorized under subtitle C.

**SEC. 206. [42 U.S.C. 12725] NOTICE.**

The Secretary shall issue regulations to implement the provisions of this title after notice and an opportunity for comment pursuant to section 553 of title 5, United States Code. Such regulations shall become effective not later than 180 days after the date of enactment of this Act.<sup>8</sup>

## **Subtitle A—HOME Investment Partnerships**

**SEC. 211. [42 U.S.C. 12741] AUTHORITY.**

The Secretary is authorized to make funds available to participating jurisdictions for investment to increase the number of families served with decent, safe, sanitary, and affordable housing and expand the long-term supply of affordable housing in accordance with provisions of this subtitle.

**SEC. 212. [42 U.S.C. 12742] ELIGIBLE USES OF INVESTMENT.**

**(a) HOUSING USES.—**

(1) **IN GENERAL.**—Funds made available under this subtitle may be used by participating jurisdictions to provide incentives to develop and support affordable rental housing and homeownership affordability through the acquisition, new construction, reconstruction, or moderate or substantial rehabilitation of affordable housing, including real property acquisition, site improvement, conversion, demolition, and other expenses, including financing costs, relocation expenses of any displaced

<sup>8</sup>The date of enactment was November 28, 1990.

persons, families, businesses, or organizations, to provide for the payment of reasonable administrative and planning costs, to provide for the payment of operating expenses of community housing development organizations, and to provide tenant-based rental assistance. For the purpose of this subtitle, the term “affordable housing” includes permanent housing for disabled homeless persons, transitional housing, and single room occupancy housing.

(2) PREFERENCE TO REHABILITATION.—A participating jurisdiction shall give preference to rehabilitation of substandard housing unless the jurisdiction determines that—

(A) such rehabilitation is not the most cost effective way to meet the jurisdiction’s need to expand the supply of affordable housing; and

(B) the jurisdiction’s housing needs cannot be met through rehabilitation of the available stock.

The Secretary shall not restrict a participating jurisdiction’s choice of rehabilitation, substantial rehabilitation, new construction, reconstruction, acquisition, or other eligible housing use unless such restriction is explicitly authorized under section 223(2).

(3) TENANT-BASED RENTAL ASSISTANCE.—

(A) IN GENERAL.—A participating jurisdiction may use funds provided under this subtitle for tenant-based rental assistance only if—

(i) the jurisdiction certifies that the use of funds under this subtitle for tenant-based rental assistance is an essential element of the jurisdiction’s annual housing strategy for expanding the supply, affordability, and availability of decent, safe, sanitary, and affordable housing, and specifies the local market conditions that lead to the choice of this option; and

(ii) the tenant-based rental assistance is provided in accordance with written tenant selection policies and criteria that are consistent with the purposes of providing housing to very low- and low-income families and are reasonably related to preference rules established under section 6(c)(4)(A) of the Housing Act of 1937.<sup>9</sup>

(B) FAIR SHARE NOT AFFECTED.—A jurisdiction’s section 8 fair share allocation shall be unaffected by the use of assistance under this title.

(C) 24-MONTH CONTRACTS.—Rental assistance contracts made available with assistance under this title shall be for not more than 24 months, except that assistance to a family may be renewed.

(D) USE OF SECTION 8 ASSISTANCE.—In any case where assistance under section 8 of the United States Housing Act of 1937 becomes available to a participating jurisdiction, recipients of rental assistance under this title shall qualify for tenant selection preferences to the same extent as when they received the rental assistance under this

<sup>9</sup> So in law. Probably intended to refer to the United States Housing Act of 1937.

title. A rental assistance program under this title shall meet minimum criteria prescribed by the Secretary, such as housing quality standards and standards regarding the reasonableness of the rent.

(E) SECURITY DEPOSIT ASSISTANCE.—A jurisdiction using funds provided under this subtitle for tenant-based rental assistance may use such funds to provide loans or grants to very low- and low-income families for security deposits for rental of dwelling units. Assistance under this subparagraph does not preclude assistance under any other provision of this paragraph.

(5)<sup>10</sup> LEAD-BASED PAINT HAZARDS.—A participating jurisdiction may use funds provided under this subtitle for the evaluation and reduction of lead-based paint hazards, as defined in section 1004 of the Residential Lead-Based Paint Hazard Reduction Act of 1992.

(b) INVESTMENTS.—Participating jurisdictions shall have discretion to invest funds made available under this subtitle as equity investments, interest-bearing loans or advances, noninterest-bearing loans or advances, interest subsidies or other forms of assistance that the Secretary has determined to be consistent with the purposes of this title. Each participating jurisdiction shall have the right to establish the terms of assistance.

(c) ADMINISTRATIVE COSTS.—In each fiscal year, each participating jurisdiction may use not more than 10 percent of the funds made available under this subtitle to the jurisdiction for such year for any administrative and planning costs of the jurisdiction in carrying out this subtitle, including the costs of the salaries of persons engaged in administering and managing activities assisted with funds made available under this subtitle.

(d) PROHIBITED USES.—Funds made available under this subtitle may not be used to—

(1) defray any administrative cost of a participating jurisdiction that exceed the amount specified under subsection (c),

(2) provide tenant-based rental assistance for the special purposes of the existing section 8 program, including replacing public housing that is demolished or disposed of, preserving federally assisted housing, assisting in the disposition of housing owned or held by the Secretary, preventing displacement from rental rehabilitation projects, or extending or renewing tenant-based assistance under section 8 of the United States Housing Act of 1937,

(3) provide non-Federal matching contributions required under any other Federal program,

(4) provide assistance authorized under section 9 of the United States Housing Act of 1937,

(5) carry out activities authorized under section 9(d)(1) of the Housing Act of 1937<sup>11</sup>, or

(6) provide assistance to eligible low-income housing under the Emergency Low Income Housing Preservation Act of 1987

<sup>10</sup>So in law.

<sup>11</sup>So in law. Probably intended to refer to the United States Housing Act of 1937.

or the Low-Income Housing Preservation and Resident Homeownership Act of 1990.

(e) COST LIMITS.—

(1) IN GENERAL.—The Secretary shall establish limits on the amount of funds under this subtitle that may be invested on a per unit basis. For multifamily housing, such limits shall not be less than the per unit dollar amount limitations set forth in section 221(d)(3)(ii) of the National Housing Act, as such limitations may be adjusted in accordance therewith, except that for purposes of this subsection the Secretary shall, by regulation, increase the per unit dollar amount limitations in any geographical area by an amount, not to exceed 140 percent, that equals the amount by which the costs of multifamily housing construction in the area exceed the national average of such costs. The limits shall be established on a market-by-market basis, with adjustments made for number of bedrooms, and shall reflect the actual cost of new construction, reconstruction, or rehabilitation of housing that meets applicable State and local housing and building codes and the cost of land, including necessary site improvements. Adjustments shall be made annually to reflect inflation. Separate limits may be set for different eligible activities.

(2) CRITERIA.—In calculating per unit limits, the Secretary shall take into account that assistance under this title is intended to—

- (A) provide nonluxury housing with suitable amenities;
- (B) operate effectively in all jurisdictions;
- (C) facilitate mixed-income housing; and
- (D) reflect the costs associated with meeting the special needs of tenants or homeowners that the housing is designed to serve.

(3) CONSULTATION.—In calculating cost limits, the Secretary shall consult with organizations that have expertise in the development of affordable housing, including national nonprofit organizations and national organizations representing private development firms and State and local governments.

(f) CERTIFICATION OF COMPLIANCE.—The requirements of section 102(d) of the Department of Housing and Urban Development Reform Act of 1989 shall be satisfied by a certification by a participating jurisdiction to the Secretary that the combination of Federal assistance provided to any housing project shall not be any more than is necessary to provide affordable housing.

(g) LIMITATION ON OPERATING ASSISTANCE.—A participating jurisdiction may not use more than 5 percent of its allocation under this subtitle for the payment of operating expenses for community housing development organizations.

#### SEC. 213. [42 U.S.C. 12743] DEVELOPMENT OF MODEL PROGRAMS.

(a) IN GENERAL.—The Secretary shall—

- (1) in cooperation with participating jurisdictions, government-sponsored mortgage finance corporations, nonprofit organizations, the private sector, and other appropriate parties, develop, test, evaluate, refine, and, as necessary, replace a selec-

tion of model programs designed to carry out the purposes of this title;

(2) make available to participating jurisdictions alternative model programs, which shall include suggested guidelines, procedures, forms, legal documents and such other elements as the Secretary determines to be appropriate;

(3) assure, insofar as is feasible, the availability of an appropriate variety of model programs designed for local market conditions, housing problems, project characteristics, and managerial capacities as they differ among participating jurisdictions;

(4) negotiate and enter into agreements with agencies of the Federal Government, participating jurisdictions, private financial institutions, government-sponsored mortgage finance corporations, nonprofit organizations, and other entities to provide such services, products, or financing as may be required for the implementation of a model program;

(5) provide detailed information on model programs as requested by participating jurisdictions, private financial institutions, developers, nonprofit organizations, and other interested parties; and

(6) encourage the use of such model programs to achieve efficiency, economies of scale, and effectiveness in the investment of funds made available under this subtitle through third-party training, printed materials, and such other means of support as the Secretary determines will achieve the purpose of this title.

(b) **ADOPTION OF PROGRAMS.**—Except as provided in section 223(2), each participating jurisdiction shall have the discretion to adopt one or more model programs, adapt one or more model programs to its own requirements, design additional forms of assistance by itself or in cooperation with other participating jurisdictions, and suggest additional model programs for adoption by the Secretary as the participating jurisdiction may deem appropriate, and the Secretary may assist a participating jurisdiction in adopting, adapting, or designing one or more model programs.

(c) **SUBTITLE D PROGRAMS.**—The selection of model programs to be made available for adoption or adaptation shall include programs meeting the criteria set forth in subtitle D.

**SEC. 214. [42 U.S.C. 12744] INCOME TARGETING.**

Each participating jurisdiction shall invest funds made available under this subtitle within each fiscal year so that—

(1) with respect to rental assistance and rental units—

(A) not less than 90 percent of (i) the families receiving such rental assistance are families whose incomes do not exceed 60 percent of the median family income for the area, as determined by the Secretary with adjustments for smaller and larger families, (except that the Secretary may establish income ceilings higher or lower than 60 percent of the median for the area on the basis of the Secretary's findings that such variations are necessary because of prevailing levels of construction cost or fair market rent, or unusually high or low family income) at the time of occu-

pancy or at the time funds are invested, whichever is later, or (ii) the dwelling units assisted with such funds are occupied by families having such incomes; and

(B) the remainder of (i) the families receiving such rental assistance are households that qualify as low-income families (other than families described in subparagraph (A)) at the time of occupancy or at the time funds are invested, whichever is later, or (ii) the dwelling units assisted with such funds are occupied by such households;

(2) with respect to homeownership assistance, 100 percent of such funds are invested with respect to dwelling units that are occupied by households that qualify as low-income families; and

(3) all such funds are invested with respect to housing that qualifies as affordable housing under section 215.

**SEC. 215. [42 U.S.C. 12745] QUALIFICATION AS AFFORDABLE HOUSING.**

**(a) RENTAL HOUSING.—**

(1) **QUALIFICATION.**—Housing that is for rental shall qualify as affordable housing under this title only if the housing—

(A) bears rents not greater than the lesser of (i) the existing fair market rent for comparable units in the area as established by the Secretary under section 8 of the United States Housing Act of 1937, or (ii) a rent that does not exceed 30 percent of the adjusted income of a family whose income equals 65 percent of the median income for the area, as determined by the Secretary, with adjustment for number of bedrooms in the unit, except that the Secretary may establish income ceilings higher or lower than 65 percent of the median for the area on the basis of the Secretary's findings that such variations are necessary because of prevailing levels of construction costs or fair market rents, or unusually high or low family incomes;

(B) has not less than 20 percent of the units (i) occupied by very low-income families who pay as a contribution toward rent (excluding any Federal or State rental subsidy provided on behalf of the family) not more than 30 percent of the family's monthly adjusted income as determined by the Secretary, or (ii) occupied by very low-income families and bearing rents not greater than the gross rent for rent-restricted residential units as determined under section 42(g)(2) of the Internal Revenue Code of 1986;

(C) is occupied only by households that qualify as low-income families;

(D) is not refused for leasing to a holder of a voucher or certificate of eligibility under section 8 of the United States Housing Act of 1937 because of the status of the prospective tenant as a holder of such voucher or certificate of eligibility;

(E) will remain affordable, according to binding commitments satisfactory to the Secretary, for the remaining useful life of the property, as determined by the Secretary, without regard to the term of the mortgage or to transfer of ownership, or for such other period that the Secretary

determines is the longest feasible period of time consistent with sound economics and the purposes of this Act, except upon a foreclosure by a lender (or upon other transfer in lieu of foreclosure) if such action (i) recognizes any contractual or legal rights of public agencies, nonprofit sponsors, or others to take actions that would avoid termination of low-income affordability in the case of foreclosure or transfer in lieu of foreclosure, and (ii) is not for the purpose of avoiding low income affordability restrictions, as determined by the Secretary; and

(F) if newly constructed, meets the energy efficiency standards promulgated by the Secretary in accordance with section 109 of this Act.

(2) **ADJUSTMENT OF QUALIFYING RENT.**—The Secretary may adjust the qualifying rent established for a project under subparagraph (A) of paragraph (1), only if the Secretary finds that such adjustment is necessary to support the continued financial viability of the project and only by such amount as the Secretary determines is necessary to maintain continued financial viability of the project.

(3) **INCREASES IN TENANT INCOME.**—Housing shall qualify as affordable housing despite a temporary noncompliance with subparagraph (B) or (C) of paragraph (1) if such noncompliance is caused by increases in the incomes of existing tenants and if actions satisfactory to the Secretary are being taken to ensure that all vacancies are filled in accordance with paragraph (1) until such noncompliance is corrected. Tenants who no longer qualify as low-income families shall pay as rent the lesser of the amount payable by the tenant under State or local law or 30 percent of the family's adjusted monthly income, as recertified annually. The preceding sentence shall not apply with respect to funds made available under this Act for units that have been allocated a low-income housing tax credit by a housing credit agency pursuant to section 42 of the Internal Revenue Code 1986.

(4) **MIXED-INCOME PROJECT.**—Housing that accounts for less than 100 percent of the dwelling units in a project shall qualify as affordable housing if such housing meets the criteria of this section.

(5) **MIXED-USE PROJECT.**—Housing in a project that is designed in part for uses other than residential use shall qualify as affordable housing if such housing meets the criteria of this section.

(6) **WAIVER OF QUALIFYING RENT.**—

(A) **IN GENERAL.**—For the purpose of providing affordable housing appropriate for families described in subparagraph (B), the Secretary may, upon the application of the project owner, waive the applicability of subparagraph (A) of paragraph (1) with respect to a dwelling unit if—

(i) the unit is occupied by such a family, on whose behalf tenant-based assistance is provided under section 8 of the United States Housing Act of 1937 (42 U.S.C. 1437f);

(ii) the rent for the unit is not greater than the existing fair market rent for comparable units in the area, as established by the Secretary under section 8 of the United States Housing Act of 1937; and

(iii) the Secretary determines that the waiver, together with waivers under this paragraph for other dwelling units in the project, will result in the use of amounts described in clause (iii) in an effective manner that will improve the provision of affordable housing for such families.

(B) ELIGIBLE FAMILIES.—A family described in this subparagraph is a family that consists of at least one elderly person (who is the head of household) and one or more of such person's grand children, great grandchildren, great nieces, great nephews, or great great grandchildren (as defined by the Secretary), but does not include any parent of such grandchildren, great grandchildren, great nieces, great nephews, or great great grandchildren. Such term includes any such grandchildren, great grandchildren, great nieces, great nephews, or great great grandchildren who have been legally adopted by such elderly person.

(b) HOMEOWNERSHIP.—Housing that is for homeownership shall qualify as affordable housing under this title only if the housing—

(1) has an initial purchase price that does not exceed 95 percent of the median purchase price for the area, as determined by the Secretary with such adjustments for differences in structure, including whether the housing is single-family or multifamily, and for new and old housing as the Secretary determines to be appropriate;

(2) is the principal residence of an owner whose family qualifies as a low-income family—

(A) in the case of a contract to purchase existing housing, at the time of purchase;

(B) in the case of a lease-purchase agreement for existing housing or for housing to be constructed, at the time the agreement is signed; or

(C) in the case of a contract to purchase housing to be constructed, at the time the contract is signed;

(3) is subject to resale restrictions that are established by the participating jurisdiction and determined by the Secretary to be appropriate to—

(A) allow for subsequent purchase of the property only by persons who meet the qualifications specified under paragraph (2), at a price which will—

(i) provide the owner with a fair return on investment, including any improvements,<sup>12</sup> and

(ii) ensure that the housing will remain affordable to a reasonable range of low-income homebuyers; or

(B) recapture the investment provided under this title in order to assist other persons in accordance with the re-

<sup>12</sup>So in law.



quirements of this title, except where there are no net proceeds or where the net proceeds are insufficient to repay the full amount of the assistance; and

(4) if newly constructed, meets the energy efficiency standards promulgated by the Secretary in accordance with section 109 of this Act.

**SEC. 216. [42 U.S.C. 12746] PARTICIPATION BY STATES AND LOCAL GOVERNMENTS.**

The Secretary shall designate a State or unit of general local government to be a participating jurisdiction when it complies with procedures that the Secretary shall establish by regulation, which procedures shall only provide for the following:

(1) **ALLOCATION.**—Not later than 20 days after funds to carry out this subtitle become available (or, during the first year after enactment of this Act,<sup>13</sup> not later than 20 days after (A) funds to carry out this subtitle are provided in an appropriations Act, or (B) regulations to implement this subtitle are promulgated, whichever is later), the Secretary shall allocate funds in accordance with section 217 and promptly notify each jurisdiction receiving a formula allocation of its allocation amount. If a jurisdiction is not already a participating jurisdiction, the Secretary shall inform the jurisdiction in writing how the jurisdiction may become a participating jurisdiction.

(2) **CONSORTIA.**—A consortium of geographically contiguous units of general local government shall be deemed to be a unit of general local government for purposes of this title if the Secretary determines that the consortium—

(A) has sufficient authority and administrative capability to carry out the purposes of this title on behalf of its member jurisdictions, and

(B) will, according to a written certification by the State (or States, if the consortium includes jurisdictions in more than one State), direct its activities to alleviation of housing problems within the State or States.

(3) **ELIGIBILITY.**—(A) Except as provided in paragraph (10), a jurisdiction receiving a formula allocation under section 217 shall be eligible to become a participating jurisdiction if its formula allocation is \$750,000 or greater, or if the Secretary finds that—

(i) the jurisdiction has a local housing authority and has demonstrated a capacity to carry out provisions of this subtitle, and

(ii) the State has authorized the Secretary to transfer to the jurisdiction a portion of the State's allocation that is equal to or greater than the difference between the jurisdiction's formula allocation and \$750,000, or the State or jurisdiction has made available from the State's or jurisdiction's own sources an equal amount for use by the jurisdiction in conformance with the provisions of this subtitle.

(B) If a jurisdiction has met the requirements of subparagraph (A), the jurisdiction's formula allocation for a fiscal year shall subsequently be deemed to equal the sum of the jurisdic-

<sup>13</sup>The date of enactment was November 28, 1990.

tion's allocation under section 217(a)(1) and the amount made available to the jurisdiction under subparagraph (A)(ii).

(4) NOTIFICATION.—If an eligible jurisdiction notifies the Secretary in writing, not later than 30 days after receiving notification under paragraph (1), of its intention to become a participating jurisdiction, the Secretary shall reserve an amount equal to the jurisdiction's allocation (plus any reallocations for which the jurisdiction is eligible under section 217(d)(1)) pending the jurisdiction's designation as a participating jurisdiction. The Secretary shall reallocate, in accordance with paragraph (6) of this section, any funds reserved under the previous sentence if the Secretary determines that the jurisdiction will not meet the requirements for designation as a participating jurisdiction within a reasonable period of time.

(5) SUBMISSION OF STRATEGY.—Not later than 90 days after providing notification under paragraph (4), an eligible jurisdiction shall submit to the Secretary a comprehensive housing affordability strategy in accordance with section 105.

(6) REALLOCATION.—If the Secretary determines that a jurisdiction has failed to meet the requirements of the previous 3 paragraphs or if the Secretary, after providing for amendments and resubmissions in accordance with section 105(c)(3), disapproves the jurisdiction's comprehensive housing affordability strategy, the Secretary shall reallocate any funds reserved for the jurisdiction as follows:

(A) STATE.—If a State has failed to meet the requirements, the Secretary shall—

(i) make any funds reserved for the State available by direct reallocation among applications submitted by units of general local government within the State or consortia that include units of general local government within the State, insofar as approvable applications meeting the selection criteria under section 217(c) are received within 12 months after the funds become available for the direct reallocation, and

(ii) reallocate the remainder by formula in accordance with section 217(b).

(B) LOCAL.—If a unit of general local government has failed to meet the requirements and is located in a State that is a participating jurisdiction, the Secretary shall reallocate to the State any funds reserved for the locality, with preference going to the provision of affordable housing within the locality.

(C) DIRECT REALLOCATION.—If a unit of general local government has failed to meet the requirements and is located in a State that is not a participating jurisdiction, the Secretary shall—

(i) make any funds reserved for the locality available for use within the State by direct reallocation among units of general local government and community housing development organizations, insofar as approvable applications meeting the selection criteria under section 217(c) are received within 12 months after the funds become available for the direct re-

allocation with priority going to applications for affordable housing within the locality, and

(ii) reallocate the remainder in accordance with section 217(b).

(D) CERTAIN JURISDICTIONS DEEMED TO BE PARTICIPATING JURISDICTIONS.—If a State or unit of general local government is meeting the requirements of paragraphs (3), (4), and (5), it shall be deemed to be a participating jurisdiction for purposes of reallocation under this paragraph.

(7) DESIGNATION.—The Secretary shall designate an eligible jurisdiction to be a participating jurisdiction as soon as its comprehensive housing affordability strategy is approved in accordance with section 105.

(8) CONTINUOUS DESIGNATION.—Once a State or unit of general local government is designated a participating jurisdiction, it shall remain a participating jurisdiction for subsequent fiscal years, except as provided in paragraph (9). The provisions of paragraphs (3) through (6) shall not apply to participating jurisdictions.

(9) REVOCATION.—The Secretary may revoke a jurisdiction's designation as a participating jurisdiction if—

(A) the Secretary finds, after reasonable notice and opportunity for hearing, that the jurisdiction is unwilling or unable to carry out the provisions of this title, or

(B) the jurisdiction's allocation falls below \$750,000 for 3 consecutive years, below \$625,000 for 2 consecutive years, or the jurisdiction does not receive a formula allocation of \$500,000 or more in any 1 year, except as provided in paragraph (10).

If a jurisdiction's designation as a participating jurisdiction is revoked, any remaining line of credit in the jurisdiction's HOME Investment Trust Fund established under section 218 shall be reallocated in accordance with paragraph (6) of this section.

(10) THRESHOLD REDUCTION.—<sup>14</sup>If the amount appropriated pursuant to section 205 for any fiscal year is less than \$1,500,000,000, then this section shall be applied during that year—

(A) by substituting “\$500,000” for “\$750,000” both places it appears in paragraph (3); and

(B) by substituting “\$500,000”, “\$410,000”, and “\$335,000” for “\$750,000”, “\$625,000”, and “\$500,000”, respectively, where they appear in paragraph (9).

#### SEC. 217. [42 U.S.C. 12747] ALLOCATION OF RESOURCES.

(a) IN GENERAL.—

(1) STATES AND UNITS OF GENERAL LOCAL GOVERNMENT.—After reserving amounts under paragraph (3) for the insular

<sup>14</sup>Section 202(a) of the Housing and Community Development Act of 1992, Pub. L. 102–550, approved October 28, 1992, amended this section by adding this paragraph and the references to this paragraph. Subsection (c) of such section 202 provides as follows:

“(c) APPLICABILITY.—[42 U.S.C. 12746 note] Notwithstanding any other provision of law, the grant thresholds provided for in section 216, as amended by this section, and the grant thresholds provided for in section 217(b) of the Cranston-Gonzalez National Affordable Housing Act, as amended by this section, shall apply.”

areas, the Secretary shall allocate funds approved in an appropriation Act to carry out this title by formula as provided in subsection (b). Of the funds made available under the preceding sentence, the Secretary shall initially allocate 60 percent among units of general local government and 40 percent among States.

**[(2) [Repealed.]]**

(3) INSULAR AREAS.—For each fiscal year, of any amounts approved in appropriation Acts to carry out this title, the Secretary shall reserve for grants to the insular areas the greater of (A) \$750,000, or (B) 0.2 percent of the amounts appropriated under such Acts. The Secretary shall provide for the distribution of amounts reserved under this paragraph among the insular areas pursuant to specific criteria for such distribution, which shall be contained in a regulation issued by the Secretary.

(3)<sup>15</sup> INSULAR AREAS.—For each fiscal year, of any amounts approved in appropriations Acts to carry out this title, the Secretary shall reserve for grants to the insular areas the greater of (A) \$750,000, or (B) 0.2 percent of the amounts appropriated under such Acts. The Secretary shall provide for the distribution of amounts reserved under this paragraph among the insular areas pursuant to specific criteria for such distribution. The criteria shall be contained in a regulation promulgated by the Secretary after notice and public comment.

**(b) FORMULA ALLOCATION.—**

**(1) IN GENERAL.—**

(A) BASIC FORMULA.—The Secretary shall establish in regulation an allocation formula that reflects each jurisdiction's share of total need among eligible jurisdiction for an increased supply of affordable housing for very low-income and low-income families of different size, as identified by objective measures of inadequate housing supply, substandard housing, the number of low-income families in housing likely to be in need of rehabilitation, the costs of producing housing, poverty, and the relative fiscal incapacity of the jurisdiction to carry out housing activities eligible under section 212 without Federal assistance. Allocation among units of general local government shall take into account the housing needs of metropolitan cities, urban counties, and approved consortia of units of general local government.

(B) SOURCE OF DATA.—The data to be used for formula allocation of funds within a fiscal year shall be data obtained from a standard source that are available to the Secretary 90 days prior to the beginning of that fiscal year.

(C) USE OF BASIC FORMULA.—The basic formula established under subparagraph (A) shall be used for all for-

<sup>15</sup>So in law. The Departments of Veterans Affairs and Housing and Urban Development, and Independent Agencies Appropriations Act, 1993, Pub. L. 102-389, 106 Stat. 1582, added this paragraph.

Subsequently, section 211(a)(2) of the Housing and Community Development Act of 1992, Pub. L. 102-550, approved October 28, 1992, amended this subsection by "adding after paragraph (2)" the preceding paragraph (also designated as paragraph (3)).

mula allocations and reallocations provided for in this subtitle.

(D) WEIGHTS.—When allocation is made among States, the Secretary shall apply the formula in subparagraph (A) giving 20 percent weight to measures of need for the whole State and 80 percent weight to measures of need among units of general local government that are not receiving an allocation under section 216(1).

(E) ADJUSTMENTS.—In developing the basic formula in subparagraph (A), the Secretary shall (i) avoid the allocation of an excessively large share of amounts made available under this subtitle to any one State or unit of general local government, and (ii) take into account the need for a geographic distribution of amounts made available under this subtitle that appropriately reflects the housing need in each region of the Nation.

(F) CONSULTATION.—The Secretary shall develop the formula in subparagraph (A) in ongoing consultation with (i) the Subcommittee on Housing and Urban Affairs of the Committee on Banking, Housing, and Urban Affairs of the Senate, (ii) the Subcommittee on Housing and Community Development of the Committee on Banking, Finance and Urban Affairs of the House of Representatives<sup>16</sup>, and (iii) organizations representing States and units of general local government. Not less than 60 days prior to publishing a formula for comment, the Secretary shall submit to the Committee on Banking, Housing, and Urban Affairs of the Senate and the Committee on Banking, Finance and Urban Affairs of the House of Representatives a copy of the formula the Secretary intends to propose.

(2) MINIMUM STATE ALLOCATION.—

(A) IN GENERAL.—If the formula, when applied to funds approved under this section in appropriations Acts for a fiscal year, would allocate less than \$3,000,000 to any State, the allocation for such State shall be \$3,000,000, and the increase shall be deducted pro rata from the allocations of other States.

(B) INCREASED MINIMUM ALLOCATION.—If no unit of general local government within a State receives an allocation under paragraph (3), the State's allocation shall be increased by \$500,000. Priority for use of such increased allocation shall go to the provision of affordable housing within the boundaries of metropolitan cities, urban counties, and approved consortia within the State, based on the need for such funds. The increased allocation to a State under the preceding sentence shall be derived by a pro

<sup>16</sup>Section 1(a) of Public Law 104–14, 109 Stat. 186, provides, in part, that “any reference in any provision of law enacted before January 4, 1995, to... the Committee on Banking, Finance and Urban Affairs of the House of Representatives shall be treated as referring to the Committee on Banking and Financial Services of the House of Representatives”. At the beginning of the 104th Congress, the Subcommittee on Housing and Community Development was renamed the Subcommittee on Housing and Community Opportunity. However, H. Res. 5, 107th Congress, agreed to on January 3, 2001, abolished the Committee on Banking and Financial Services and established the Committee on Financial Services, which has jurisdiction over many of the areas previously under the jurisdiction of the Committee on Banking and Financial Services.

rata deduction from the allocations to units of general local government in all States, except that such pro rata deduction shall not reduce the allocation of any unit of general local government below \$500,000.

(3) MINIMUM LOCAL ALLOCATION.—The Secretary shall allocate funds available for formula allocation to units of general local government that, as of the end of the previous fiscal year, qualified as metropolitan cities, urban counties, and consortia approved by the Secretary in accordance with section 216(2) so that, when all such funds are initially allocated by formula, jurisdictions that are allocated an amount of \$500,000 or more, and participating jurisdictions (other than consortia that fail to renew the membership of all of their member jurisdictions) that are allocated an amount less than \$500,000, shall receive an allocation. Prior to announcing initial allocations, the Secretary shall successively recalculate the allocations to jurisdictions under this subsection so that the maximum number of such jurisdictions can receive initial allocations, except as provided in paragraph (4).

(4) THRESHOLD REDUCTION.—<sup>17</sup>If the amount appropriated pursuant to section 205 for any fiscal year is less than \$1,500,000,000, then this section shall be applied during that year by substituting “\$335,000” for “\$500,000” where it appears in paragraph (3).

(c) CRITERIA FOR DIRECT REALLOCATION.—The Secretary shall establish objective criteria for making direct reallocations to any participating jurisdiction and other eligible entities. A jurisdiction shall be eligible for a direct reallocation under this subsection only if the jurisdiction, in a form acceptable to the Secretary, submits an application that demonstrates to the satisfaction of the Secretary that the jurisdiction is engaged, or has made good faith efforts to engage, in cooperative efforts between the State and appropriate participating jurisdictions within the State to develop, coordinate, and implement housing strategies under this title. The Secretary shall by regulation establish objective selection criteria for such direct reallocations, which criteria shall take into account—

(1) the applicant’s demonstrated commitment to expand the supply of affordable rental housing, including units developed by public housing agencies, as indicated by the additional number of units of affordable housing made available through production or rehabilitation within the previous 2 years, making adjustment for regional variations in construction and rehabilitation costs and giving special consideration to the number of additional units made available under this title through production or rehabilitation, including units developed by public housing agencies, in relation to the amounts made available under this program;

<sup>17</sup>Section 202(b) of the Housing and Community Development Act of 1992, Pub. L. 102–550, approved October 28, 1992, amended this subsection by adding this paragraph and the references to this paragraph. Subsection (c) of such section 202 provides as follows:

“(c) APPLICABILITY.—[42 U.S.C. 12746 note] Notwithstanding any other provision of law, the grant thresholds provided for in section 216, as amended by this section, and the grant thresholds provided for in section 217(b) of the Cranston-Gonzalez National Affordable Housing Act, as amended by this section, shall apply.”

(2) the applicant's actions that—

(A) direct funds made available under this subtitle to benefit very low-income families, with a range of incomes, in amounts that exceed the income targeting requirements of section 214, with extra consideration given for activities that expand the supply of affordable housing for very low-income families whose incomes do not exceed 30 percent of the median family income for the area, as determined by the Secretary;

(B) apply the tenant selection preference categories applicable under section 8 of the United States Housing Act of 1937 to the selection of tenants for housing assisted under this subtitle;

(C) provide matching resources in excess of funds required under section 220; and

(D) stimulate a high degree of investment and participation in development by the private sector, including non-profit organizations; and

(3) the degree to which the applicant is pursuing policies that—

(A) make existing housing more affordable;

(B) remove or ameliorate any negative effects that public policies identified by the applicant pursuant to section 105(b)(4) may have on the cost of housing or the incentives to develop, maintain, or improve affordable housing in the jurisdiction;

(C) preserve the affordability of privately-owned housing that is vulnerable to conversion, demolition, disinvestment, or abandonment;

(D) increase the supply of housing that is affordable to very low-income and low-income persons, particularly in areas that are accessible to expanding job opportunities; and

(E) remedy the effects of discrimination and improve housing opportunities for disadvantaged minorities.

(d) REALLOCATIONS.—

(1) IN GENERAL.—The Secretary shall make any reallocations periodically throughout each fiscal year so as to ensure that all funds to be reallocated are made available to eligible jurisdictions as soon as possible, consistent with orderly program administration. Jurisdictions eligible for such reallocations shall include participating jurisdictions and jurisdictions meeting the requirements of paragraphs (3), (4), and (5) of section 216.

(2) COMMITMENTS.—The Secretary shall establish procedures according to which participating jurisdictions may make commitments to invest funds made available under this section. Such procedures shall provide for appropriate stages of commitment of funds to a project from initial reservation through binding commitment. Notwithstanding any other provision of this title, funds that the Secretary determines are needed to fulfill binding commitments shall not be available for reallocation.

(3) LIMITATION.—Unless otherwise specified in this subtitle, any reallocation of funds from a State shall be made only among all participating States, and any reallocation of funds from units of general local government shall be made only among all participating units of general local government.

**SEC. 218. [42 U.S.C. 12748] HOME INVESTMENT TRUST FUNDS.**

(a) ESTABLISHMENT.—The Secretary shall establish for each participating jurisdiction a HOME Investment Trust Fund, which shall be an account (or accounts as provided in section 219(c)) for use solely to invest in affordable housing within the participating jurisdiction's boundaries or within the boundaries of contiguous jurisdictions in joint projects which serve residents from both jurisdictions in accordance with the provisions of this subtitle.

(b) LINE OF CREDIT.—The Secretary shall establish a line of credit in the HOME Investment Trust Fund of each participating jurisdiction, which line of credit shall include—

(1) funds allocated or reallocated to the participating jurisdiction under section 217, and

(2) any payment or repayment made pursuant to section 219.

(c) REDUCTIONS.—A participating jurisdiction's line of credit shall be reduced by—

(1) funds drawn from the HOME Investment Trust Fund by the participating jurisdiction,

(2) funds expiring under subsection (g), and

(3) any penalties assessed by the Secretary under section 224.<sup>18</sup>

(d) CERTIFICATION.—A participating jurisdiction may draw funds from its HOME Investment Trust Fund, but not to exceed the remaining line of credit, only after providing certification that the funds shall be used pursuant to the participating jurisdiction's approved housing strategy and in compliance with all requirements of this title. When such certification is received, the Secretary shall immediately disburse such funds in accordance with the form of the assistance determined by the participating jurisdiction.

(e) INVESTMENT WITHIN 15 DAYS.—The participating jurisdiction shall, not later than 15 days after funds are drawn from the jurisdiction's HOME Investment Trust Fund, invest such funds, together with any interest earned thereon, in the affordable housing for which the funds were withdrawn.

(f) NO INTEREST OR FEES.—The Secretary shall not charge any interest or levy any other fee with regard to funds in a HOME Investment Trust Fund.

(g) EXPIRATION OF RIGHT TO DRAW FUNDS.—If any funds becoming available to a participating jurisdiction under this title are not placed under binding commitment to affordable housing within 24 months after the last day of the month in which such funds are deposited in the jurisdiction's HOME Investment Trust Fund, the jurisdiction's right to draw such funds from the HOME Investment Trust Fund shall expire. The Secretary shall reduce the line of credit in the participating jurisdiction's HOME Investment Trust

<sup>18</sup>So in law. Probably intended to refer to section 223.



Fund by the expiring amount and shall reallocate the funds by formula in accordance with section 217(d).

(h) ADMINISTRATIVE PROVISION.—The Secretary shall keep each participating jurisdiction informed of the status of its HOME Investment Trust Fund, including the status of amounts under various stages of commitment.

**SEC. 219. [42 U.S.C. 12749] REPAYMENT OF INVESTMENT.**

(a) IN GENERAL.—Any repayment of funds drawn from a jurisdiction's HOME Investment Trust Fund, and any payment of interest or other return on the investment of such funds, shall be deposited in such jurisdiction's HOME Investment Trust Fund, except that, if the jurisdiction is not a participating jurisdiction when such payment or repayment is made, the amount of such payment or repayment shall be reallocated in accordance with section 217(d).

(b) ASSURANCE OF REPAYMENT.—Each participating jurisdiction shall enter into an agreement with the Secretary ensuring that funds invested in affordable housing under this subtitle are repayable when the housing no longer qualifies as affordable housing. Any repayment under the previous sentence shall be for deposit in the HOME Investment Trust Fund of the jurisdiction making the investment; except that if such jurisdiction is not a participating jurisdiction when such repayment is made, the amount of such repayment shall be reallocated in accordance with section 217(d).

(c) AVAILABILITY.—The Secretary shall take such actions as are necessary to ensure that any repayments deposited in a HOME Investment Trust Fund in accordance with this section shall be immediately available to the participating jurisdiction for investment subject to the provisions of this subtitle that apply to funds that are allocated under section 217. Actions authorized under the preceding sentence may include authorizing the establishment for a participating jurisdiction of a HOME Investment Trust Fund account outside of the Federal Government that, under arrangements satisfactory to the Secretary, shall be used solely to invest in affordable housing within the participating jurisdiction's boundaries in accordance with the provisions of this title. Such accounts shall be established in such a manner that repayments are not receipts or collections of the Federal Government.

**SEC. 220. [42 U.S.C. 12750] MATCHING REQUIREMENTS.**

(a) CONTRIBUTION.—Each participating jurisdiction shall make contributions to housing that qualifies as affordable housing under this title that total, throughout a fiscal year, not less than 25 percent of the funds drawn from the jurisdiction's HOME Investment Trust Fund in such fiscal year. Such contributions shall be in addition to any amounts made available under section 216(3)(A)(ii).

(b) RECOGNITION.—

(1) IN GENERAL.—A contribution shall be recognized for purposes of subsection (a) only if it—

(A) is made with respect to housing that qualifies as affordable housing under section 215; or

(B) is made with respect to any portion of a project not less than 50 percent of the units of which qualify as affordable housing under section 215.

(2) ADMINISTRATIVE EXPENSES.—Contributions for administrative expenses may not be recognized for purposes of subsection (a).

(c) FORM.—Such contributions may be in the form of—

(1) cash contributions from non-Federal resources, which may not include funds from a grant made under section 106(b) or section 106(d) of the Housing and Community Development Act of 1974;

(2) the value of taxes, fees, or other charges that are normally and customarily imposed but are waived, foregone, or deferred in a manner that achieves affordability of housing assisted under this title;

(3) the value of land or other real property as appraised according to procedures acceptable to the Secretary; and<sup>19</sup>

(4) the value of investment in on-site and off-site infrastructure directly required for affordable housing assisted under this title.<sup>19</sup>

(6)<sup>20</sup> up to—

(A) 50 percent of proceeds from bond financing validly issued by a State or local government, agency or instrumentality thereof, or political subdivision thereof, and repayable with revenues derived from a multifamily affordable housing project financed, and

(B) 25 percent of proceeds from bond financing validly issued by a State or local government, agency or instrumentality thereof, or political subdivision thereof, and repayable with revenues derived from a single-family project financed,

but not more than 25 percent of the contribution required under subsection (a) may be derived from these sources;

(7) the reasonable value of any site-preparation and construction materials and any donated or voluntary labor in connection with the site-preparation for, or construction or rehabilitation of, affordable housing; and

(8) such other contributions to affordable housing as the Secretary considers appropriate.

(d) REDUCTION OF REQUIREMENT.—

(1) IN GENERAL.—The Secretary shall reduce the matching requirement under subsection (a) with respect to any funds drawn from a jurisdiction's HOME Investment Trust Fund Account during a fiscal year by—

(A) 50 percent for a jurisdiction that certifies that it is in fiscal distress; and

(B) 100 percent for a jurisdiction that certifies that it is in severe fiscal distress.

(2) DEFINITIONS.—For purposes of this section—

(A) “fiscal distress” means a jurisdiction other than a State that satisfies 1 of the distress criteria set forth in paragraph (3); and

<sup>19</sup>So in law.

<sup>20</sup>So in law. There is no paragraph (5).

(B) “severe fiscal distress” means a jurisdiction other than a State that satisfies both of the distress criteria set forth in paragraph (3).

(3) DISTRESS CRITERIA.—For purposes of a jurisdiction other than a State certifying that it is distressed, the following criteria shall apply:

(A) POVERTY RATE.—The average poverty rate in the jurisdiction for the calendar year immediately preceding the year in which its fiscal year begins was equal to or greater than 125 percent of the average national poverty rate during such calendar year (as determined according to information of the Bureau of the Census).

(B) PER CAPITA INCOME.—The average per capita income in the jurisdiction for the calendar year immediately preceding the year in which its fiscal year begins was less than 75 percent of the average national per capita income during such calendar year (as determined according to information of the Bureau of the Census).

(4) STATES.—In determining the degree to which a jurisdiction that is a State is distressed, the Secretary shall take into consideration the State’s fiscal capacity and expenditure needs as determined by a national organization which compiles the relevant data.

(5) WAIVER IN DISASTER AREAS.—If a participating jurisdiction is located in an area in which a declaration of a disaster pursuant to the Robert T. Stafford Disaster Relief and Emergency Assistance Act is in effect for any part of a fiscal year, the Secretary may reduce the matching requirement for that fiscal year under subsection (a) with respect to any funds drawn from a jurisdiction’s HOME Investment Trust Fund Account during that fiscal year by up to 100 percent.

**SEC. 221. [42 U.S.C. 12751] PRIVATE-PUBLIC PARTNERSHIP.**

Each participating jurisdiction shall make all reasonable efforts, consistent with the purposes of this title, to maximize participation by the private sector, including nonprofit organizations and for-profit entities, in the implementation of the jurisdiction’s housing strategy, including participation in the financing, development, rehabilitation and management of affordable housing. Nothing in the previous sentence shall preclude public housing authorities from fully participating in the implementation of a jurisdiction’s housing strategy.

**SEC. 222. [42 U.S.C. 12752] DISTRIBUTION OF ASSISTANCE.**

(a) LOCAL.—Each participating jurisdiction shall, insofar as is feasible, distribute assistance under this subtitle geographically within its boundaries and among different categories of housing need, according to the priorities of housing need identified in the jurisdiction’s approved housing strategy.

(b) STATE.—Participating States shall be responsible for distributing assistance throughout the State according to the State’s assessment of the geographical distribution of the housing need within the State, as identified in the State’s approved housing strategy. Participating States shall distribute assistance to rural areas in amounts that take into account the nonmetropolitan share

of the State's total population and objective measures of rural housing need, such as poverty and substandard housing, as set forth in the State's housing strategy approved under section 105 of this Act. To the extent the need is within the boundaries of a participating unit of general local government, the State and the unit of general local government shall coordinate activities to address that need.

**SEC. 223. [42 U.S.C. 12753] PENALTIES FOR MISUSE OF FUNDS.**

If the Secretary finds after reasonable notice and opportunity for hearing that a participating jurisdiction has failed to comply substantially with any provision of this subtitle and until the Secretary is satisfied that there is no longer any such failure to comply, the Secretary shall reduce the line of credit in the participating jurisdiction's HOME Investment Trust Fund by the amount of any expenditures that were not in accordance with the requirements of this title, and the Secretary may—

- (1) prevent withdrawals from the participating jurisdiction's HOME Investment Trust Fund for activities affected by such failure to comply;
- (2) restrict the participating jurisdiction's activities under this title to activities that conform to one or more model programs made available under section 213; or
- (3) remove the participating jurisdiction from participation in allocations or reallocations of funds made available under this subtitle.

**SEC. 224. [42 U.S.C. 12754] LIMITATION ON JURISDICTIONS UNDER COURT ORDER.**

(a) IN GENERAL.—Notwithstanding any other provision of this Act, the Secretary shall ensure that funds provided under this subtitle are not employed to carry out housing remedies or to pay fines, penalties, or costs associated with an action in which—

- (1) a participating jurisdiction has been adjudicated, by a Federal, State, or local court, to be in violation of title VI of the Civil Rights Act of 1964, the Fair Housing Act, or any other Federal, State, or local law promoting fair housing or prohibiting discrimination, or
- (2) a settlement has been entered into in any case where claims of such violations have been asserted against a participating jurisdiction, except to the extent permitted by subsection (b).

(b) REMEDIAL USE OF FUNDS PERMITTED.—In the case of settlement described in subsection (a)(2), a jurisdiction may use funds provided under this Act to carry out housing remedies with eligible activities.

**SEC. 225. [42 U.S.C. 12755] TENANT AND PARTICIPANT PROTECTIONS.**

(a) LEASE.—The lease between a tenant and an owner of affordable housing assisted under this title for rental shall be for not less than one year, unless by mutual agreement between the tenant and the owner, and shall contain such terms and conditions as the Secretary shall determine to be appropriate.

(b) TERMINATION OF TENANCY.—An owner shall not terminate the tenancy or refuse to renew the lease of a tenant of rental housing assisted under this title except for serious or repeated violation of the terms and conditions of the lease, for violation of applicable

Federal, State, or local law, or for other good cause. Any termination or refusal to renew must be preceded by not less than 30 days by the owner's service upon the tenant of a written notice specifying the grounds for the action. Such 30-day waiting period is not required if the grounds for the termination or refusal to renew involve a direct threat to the safety of the tenants or employees of the housing, or an imminent and serious threat to the property (and the termination or refusal to renew is in accordance with the requirements of State or local law).

(c) **MAINTENANCE AND REPLACEMENT.**—The owner of rental housing assisted under this title shall maintain the premises in compliance with all applicable housing quality standards and local code requirements.

(d) **TENANT SELECTION.**—The owner of rental housing assisted under this title shall adopt written tenant selection policies and criteria that—

(1) are consistent with the purpose of providing housing for very low-income and low-income families,

(2) are reasonably related to program eligibility and the applicant's ability to perform the obligations of the lease,

(3) give reasonable consideration to the housing needs of families that would have a preference under section 6(c)(4)(A) of the United States Housing Act of 1937 (42 U.S.C. 1437d(c)(4)(A)), and

(4) provide for (A) the selection of tenants from a written waiting list in the chronological order of their application, insofar as is practicable, and (B) for the prompt notification in writing of any rejected applicant of the grounds for any rejection.

**SEC. 226. [42 U.S.C. 12756] MONITORING OF COMPLIANCE.**

(a) **ENFORCEABLE AGREEMENTS.**—Each participating jurisdiction, through binding contractual agreements with owners and otherwise, shall ensure long-term compliance with the provisions of this title. Such measures shall provide for (1) enforcement of the provisions of this title by the jurisdiction or by the intended beneficiaries, and (2) remedies for the breach of such provisions.

(b) **PERIODIC MONITORING.**—Each participating jurisdiction, not less frequently than annually, shall review the activities of owners of affordable housing assisted under this title for rental to assess compliance with the requirements of this title. Such review shall include on-site inspection to determine compliance with housing codes and other applicable regulations. The results of each review shall be included in the jurisdiction's performance report submitted to the Secretary under section 108(a) and made available to the public.

(c) **SPECIAL PROCEDURES FOR CERTAIN PROJECTS.**—In the case of small-scale or scattered site housing, the Secretary may provide for such streamlined procedures for achieving the purposes of this section as the Secretary determines to be appropriate.

## Subtitle B—Community Housing Partnership

### SEC. 231. [42 U.S.C. 12771] SET-ASIDE FOR COMMUNITY HOUSING DEVELOPMENT ORGANIZATIONS.

(a) IN GENERAL.—For a period of 24 months after funds under subtitle A are made available to a jurisdiction, the jurisdiction shall reserve not less than 15 percent of such funds for investment only in housing to be developed, sponsored, or owned by community housing development organizations. Each participating jurisdiction shall make reasonable efforts to identify community housing development organizations that are capable or can reasonably be expected to become capable of carrying out elements of the jurisdiction's housing strategy and to encourage such community housing development organizations to do so. If during the first 24 months of its participation under this title, a participating jurisdiction is unable to identify a sufficient number of capable community housing development organizations, then up to 20 percent of the funds allocated to that jurisdiction under this section, but not to exceed \$150,000, may be made available to carry out activities that develop the capacity of community housing development organizations in that jurisdiction. A participating jurisdiction is authorized to enter into contracts with community housing development organizations to carry out this section.

(b) RECAPTURE AND REUSE.—If any funds reserved under subsection (a) remain uninvested for a period of 24 months, then the Secretary shall deduct such funds from the line of credit in the participating jurisdiction's HOME Investment Trust Fund and make such funds available by direct reallocation (1) to other participating jurisdictions for affordable housing developed, sponsored or owned by community housing development organizations, or (2) to non-profit intermediary organizations to carry out activities that develop the capacity of community housing development organizations consistent with section 233, with preference to community housing development organizations serving the jurisdiction from which the funds were recaptured.

(c) DIRECT REALLOCATION CRITERIA.—Insofar as practicable, direct reallocations under this section shall be made according to the selection criteria established under section 217(c).

### SEC. 232. [42 U.S.C. 12772] PROJECT-SPECIFIC ASSISTANCE TO COMMUNITY HOUSING DEVELOPMENT ORGANIZATIONS.

(a) IN GENERAL.—Amounts reserved under section 231 may be used for activities eligible under section 212 and, in amounts not to exceed 10 percent of the amounts so reserved, for other activities specified under this section.

(b) PROJECT-SPECIFIC TECHNICAL ASSISTANCE AND SITE CONTROL LOANS.—

(1) IN GENERAL.—Amounts reserved under the previous section may be used to provide technical assistance and site control loans to community housing development organizations in the early stages of site development for an eligible project. Such loans shall not exceed amounts that the jurisdiction determines to be customary and reasonable project preparation costs allowable under paragraph (2).

(2) ALLOWABLE EXPENSES.—A loan under this subsection may be provided to cover project expenses necessary to determine project feasibility (including costs of an initial feasibility study), consulting fees, costs of preliminary financial applications, legal fees, architectural fees, engineering fees, engagement of a development team, site control and title clearance.

(3) REPAYMENT.—A community housing development organization that receives a loan under this subsection shall repay the loan to the participating jurisdiction's HOME Investment Trust Fund from construction loan proceeds or other project income. The participating jurisdiction may waive repayment of the loan, in part or in whole, if there are impediments to project development that the participating jurisdiction determines are reasonably beyond the control of the borrower.

(c) PROJECT-SPECIFIC SEED MONEY LOANS.—

(1) IN GENERAL.—Amounts reserved under the previous section may be used to provide loans to community housing development organizations to cover preconstruction project costs that the jurisdiction determines to be customary and reasonable, including, but not limited to the costs of obtaining firm construction loan commitments, architectural plans and specifications, zoning approvals, engineering studies, and legal fees.

(2) ELIGIBLE SPONSORS.—A loan under this subsection may be provided only to a community housing development organization that has, with respect to the project concerned, site control, a preliminary financial commitment, and a capable development team.

(3) REPAYMENT.—A community housing development organization that receives a loan under this subsection shall repay the loan to the jurisdiction's HOME Investment Trust Fund from construction loan proceeds or other project income. The participating jurisdiction may waive repayment of the loan, in whole or in part, if there are impediments to project development that the participating jurisdiction determines are reasonably beyond the control of the borrower.

**SEC. 233. [42 U.S.C. 12773] HOUSING EDUCATION AND ORGANIZATIONAL SUPPORT.**

(a) IN GENERAL.—The Secretary is authorized to provide education and organizational support assistance, in conjunction with other assistance made available under this subtitle—

(1) to facilitate the education of low-income homeowners and tenants;

(2) to promote the ability of community housing development organizations, including community land trusts, to maintain, rehabilitate and construct housing for low-income and moderate-income families in conformance with the requirements of this title; and

(3) to achieve the purposes under paragraphs (1) and (2) by helping women who reside in low- and moderate-income neighborhoods rehabilitate and construct housing in the neighborhoods.

(b) ELIGIBLE ACTIVITIES.—Assistance under this section may be used only for the following eligible activities:

(1) ORGANIZATIONAL SUPPORT.—Organizational support assistance may be made available to community housing development organizations to cover operational expenses and to cover expenses for training and technical, legal, engineering and other assistance to the board of directors, staff, and members of the community housing development organization.

(2) HOUSING EDUCATION.—Housing education assistance may be made available to community housing development organizations to cover expenses for providing or administering programs for educating, counseling, or organizing homeowners and tenants who are eligible to receive assistance under other provisions of this title.

(3) PROGRAM-WIDE SUPPORT OF NONPROFIT DEVELOPMENT AND MANAGEMENT.—Technical assistance, training, and continuing support may be made available to eligible community housing development organizations for managing and conserving properties developed under this title.

(4) BENEVOLENT LOAN FUNDS.—Technical assistance may be made available to increase the investment of private capital in housing for very low-income families, particularly by encouraging the establishment of benevolent loan funds through which private financial institutions will accept deposits at below-market interest rates and make those funds available at favorable rates to developers of low-income housing and to low-income homebuyers.

(5) COMMUNITY DEVELOPMENT BANKS AND CREDIT UNIONS.—Technical assistance may be made available to establish privately owned, local community development banks and credit unions to finance affordable housing.

(6) COMMUNITY LAND TRUSTS.—Organizational support, technical assistance, education, training, and continuing support under this subsection may be made available to community land trusts (as such term is defined in subsection (f)) and to community groups for the establishment of community land trusts.

(7) FACILITATING WOMEN IN HOMEBUILDING PROFESSIONS.—Technical assistance may be made available to businesses, unions, and organizations involved in construction and rehabilitation of housing in low- and moderate-income areas to assist women residing in the area to obtain jobs involving such activities, which may include facilitating access by such women to, and providing, apprenticeship and other training programs regarding nontraditional skills, recruiting women to participate in such programs, providing continuing support for women at job sites, counseling and educating businesses regarding suitable work environments for women, providing information to such women regarding opportunities for establishing small housing construction and rehabilitation businesses, and providing materials and tools for training such women (in an amount not exceeding 10 percent of any assistance provided under this paragraph). The Secretary shall give priority under this paragraph to providing technical assistance for organizations rehabilitating single family or multifamily housing owned or controlled by the Secretary pursuant to title II of the Na-



tional Housing Act and which have women members in occupations in which women constitute 25 percent or less of the total number of workers in the occupation (in this section referred to as “nontraditional occupations”).

(c) DELIVERY OF ASSISTANCE.—The Secretary shall provide this assistance only through contract—

(1) with a nonprofit intermediary organization that, in the determination of the Secretary—

(A) customarily provides, in more than one community, services related to the provision of decent housing that is affordable to low-income and moderate-income persons or the revitalization of deteriorating neighborhoods;

(B) has demonstrated experience in providing a range of assistance (such as financing, technical assistance, construction and property management assistance, capacity building and training) to community housing development organizations or similar organizations that engage in community revitalization;

(C) has demonstrated the ability to provide technical assistance and training for community-based developers of affordable housing;

(D) has described the uses to which such assistance will be put and the intended beneficiaries of the assistance; and

(E) in the case of activities under subsection (b)(7), is a community-based organization (as such term is defined in section 4 of the Job Training Partnership Act) or public housing agency, which has demonstrated experience in preparing women for apprenticeship training in construction or administering programs for training women for construction or other nontraditional occupations (and such organizations may use assistance for activities under such subsection to employ women in housing construction and rehabilitation activities to the extent that the organization has the capacity to conduct such activities); or

(2) with another organization, if a participating jurisdiction demonstrates that the organization is qualified to carry out eligible activities and that the jurisdiction would not be served in a timely manner by intermediaries specified under paragraph (1).

Contracts under paragraph (2) shall be for activities specified in an application from the participating jurisdiction, which application shall include a certification that the activities are necessary to the effective implementation of the participating jurisdiction’s housing strategy.

(d) LIMITATIONS.—Contracts under this section with any one contractor for a fiscal year may not—

(1) exceed 40 percent of the amount appropriated for this section for such fiscal year; or

(2) provide more than 20 percent of the operating budget (which shall not include funds that are passed through to community housing development organizations) of the contracting organization for any one year.

(e) SINGLE-STATE CONTRACTORS.—Not less than 25 percent of the funds made available for this section in an appropriations Act in any fiscal year shall be made available for eligible contractors that have worked primarily in one State. The Secretary shall provide assistance under this section, to the extent applications are submitted and approved, to contractors in each of the geographic regions having a regional office of the Department of Housing and Urban Development.

(f) DEFINITION OF COMMUNITY LAND TRUST.—For purposes of this section, the term “community land trust” means a community housing development organization (except that the requirements under subparagraphs (C) and (D) of section 104(6) shall not apply for purposes of this subsection)—

- (1) that is not sponsored by a for-profit organization;
- (2) that is established to carry out the activities under paragraph (3);
- (3) that—
  - (A) acquires parcels of land, held in perpetuity, primarily for conveyance under long-term ground leases;
  - (B) transfers ownership of any structural improvements located on such leased parcels to the lessees; and
  - (C) retains a preemptive option to purchase any such structural improvement at a price determined by formula that is designed to ensure that the improvement remains affordable to low- and moderate-income families in perpetuity;
- (4) whose corporate membership that is open to any adult resident of a particular geographic area specified in the bylaws of the organization; and
- (5) whose board of directors—
  - (A) includes a majority of members who are elected by the corporate membership; and
  - (B) is composed of equal numbers of (i) lessees pursuant to paragraph (3)(B), (ii) corporate members who are not lessees, and (iii) any other category of persons described in the bylaws of the organization.

**SEC. 234. [42 U.S.C. 12774] OTHER REQUIREMENTS.**

(a) TENANT PARTICIPATION PLAN.—A community housing development organization that receives assistance under this subtitle shall provide a plan for and follow a program of tenant participation in management decisions and shall adhere to a fair lease and grievance procedure approved by the participating jurisdiction.

(b) LIMITATION ON ASSISTANCE.—A community housing development organization may not receive assistance under this title for any fiscal year in an amount that provides more than 50 percent of the organization’s total operating budget in the fiscal year or \$50,000 annually, whichever is greater.

(c) ADJUSTMENTS OF OTHER ASSISTANCE.—The Secretary shall take account of assistance provided to a project under this subtitle when adjusting other assistance to be provided to the project as required by section 102(d) of the Department of Housing and Urban Development Reform Act of 1989.

### Subtitle C—Other Support for State and Local Housing Strategies

**SEC. 241. [42 U.S.C. 12781] AUTHORITY.**

The Secretary shall, insofar as is feasible through contract with eligible organizations, develop the capacity of participating jurisdictions, State and local housing finance agencies, nonprofit organizations and for-profit corporations, working in partnership, to identify and meet needs for an increased supply of decent, affordable housing.

**SEC. 242. [42 U.S.C. 12782] PRIORITIES FOR CAPACITY DEVELOPMENT.**

To carry out section 241, the Secretary shall provide assistance under this subtitle to—

(1) facilitate the exchange of information that would help participating jurisdictions carry out the purposes of this title, including information on program design, housing finance, land use controls, and building construction techniques;

(2) improve the ability of States and units of general local government to design and implement comprehensive housing affordability strategies, particularly those States and units of general local government that are relatively inexperienced in the development of affordable housing;

(3) encourage private lenders and for-profit developers of low-income housing to participate in public-private partnerships to achieve the purposes of this title;

(4) improve the ability of States and units of general local government, community housing development organizations, private lenders, and for-profit developers of low-income housing to incorporate energy efficiency into the planning, design, financing, construction, and operation of affordable housing;

(5) facilitate the establishment and efficient operation of employer-assisted housing programs through research, technical assistance and demonstration projects; and

(6) facilitate the establishment and efficient operation of land bank programs, under which title to vacant and abandoned parcels of real estate located in or causing blighted neighborhoods is cleared for use consistent with the purposes of this title.

**SEC. 243. [42 U.S.C. 12783] CONDITIONS OF CONTRACTS.**

(a) **ELIGIBLE ORGANIZATIONS.**—The Secretary shall carry out this subtitle insofar as is practicable through contract with—

(1) a participating jurisdiction or agency thereof;

(2) a public purpose organization established pursuant to State or local legislation and responsible to the chief elected official of a participating jurisdiction;

(3) an agency or authority established by two or more participating jurisdictions to carry out activities consistent with the purposes of this title;

(4) a national or regional nonprofit organization that has a membership comprised predominantly of entities or officials of entities that qualify under paragraph (1), (2), or (3); or

(5) a professional and technical services company or firm that has demonstrated capacity to provide services under this subtitle.

(b) **CONTRACT TERMS.**—Contracts under this subtitle shall be for not more than 3 years and shall provide not more than 20 percent of the operating budget of the contracting organization in any one year. Within any fiscal year, contracts with any one organization may not be entered into for a total of more than 40 percent of the funds appropriated under this subtitle in that fiscal year.

**SEC. 244. [42 U.S.C. 12784] RESEARCH IN HOUSING AFFORDABILITY.**

The Secretary is authorized to support, through contracts with eligible organizations and otherwise, such research and to publish such reports as will assist in the achievement of the purposes of this title. Activities authorized by the previous sentence may include an ongoing analysis of the impact of public policies at the Federal, State, and local levels, both individually and in the aggregate, on the incentives to expand and maintain the supply of energy-efficient affordable housing in the United States, particularly in areas with severe problems of housing affordability, through the use of cost-saving innovative building technology and construction techniques. For purposes of this section, agencies of the United States, government-sponsored mortgage finance corporations, and qualified research organizations shall be included as eligible organizations in addition to eligible organizations specified under section 243.

**SEC. 245. [42 U.S.C. 12785] REACH: ASSET RECYCLING INFORMATION DISSEMINATION.**

(a) **IN GENERAL.**—The Secretary shall make available upon request by any participating jurisdiction a list of eligible properties that are located within the jurisdiction and that are owned or controlled by the Department of Housing and Urban Development to facilitate the purchase, development, or rehabilitation of such properties with assistance made available under this title.

(b) **ELIGIBLE PROPERTIES.**—An eligible property under this section shall—

(1) be an unoccupied single-family or multifamily dwelling, such that acquisition and rehabilitation of the dwelling would not result in the displacement of any residents of the dwelling; and

(2) have an appraised value that does not exceed (A) in the case of a 1- to 4-family dwelling, 95 percent of the median purchase price for the area for such dwellings, as determined by the Secretary, or (B) in the case of a dwelling with more than 4 units, the applicable maximum dollar amount limitation under section 221(d)(3)(ii) of the National Housing Act (12 U.S.C. 1715l(d)(3)(ii)) for elevator-type structures.

### **Subtitle D—Specified Model Programs**

**SEC. 251. [42 U.S.C. 12801] GENERAL AUTHORITY.**

Among the alternative model programs that the Secretary shall make available for use by participating jurisdictions under the provisions of section 213 shall be model programs specified in

this subtitle. The Secretary shall keep these specified model programs under review and submit to Congress such recommendations for change as the Secretary determines to be appropriate.

**SEC. 252. [42 U.S.C. 12802] RENTAL HOUSING PRODUCTION.**

**(a) REPAYABLE ADVANCES.—**

(1) **IN GENERAL.**—The Secretary shall make available a model program under which repayable advances may be made to public and private project sponsors in constructing, acquiring, or substantially rehabilitating projects to be used as affordable rental housing, including limited equity cooperatives and mutual housing.

(2) **MAXIMUM AMOUNT OF ADVANCE.**—An advance under this model program shall not exceed 50 percent of the total costs associated with the construction, acquisition, or substantial rehabilitation of the project, as determined by the participating jurisdiction.

**(3) TERMS OF REPAYMENT.—**

**(A) INTEREST PAYMENTS.—**

(i) **IN GENERAL.**—Under the model program, advances shall be repaid with interest calculated at a rate of not more than 3 percent per year, as determined by the participating jurisdiction to be appropriate. Interest shall begin to accrue 1 year after the completion of the construction, acquisition, or substantial rehabilitation of the project and shall be payable in annual installments.

(ii) **EXCEPTION.**—Interest and any accrued interest shall be payable only from the surplus cash flow of the project, after a minimum return on equity determined by the participating jurisdiction to be appropriate. As used in the previous sentence, the term “surplus cash flow” means the cash flow of the project after the payment of all amounts due under the first mortgage, operating expenses, and required replacement reserves, as determined by the participating jurisdiction.

**(B) ADDITIONAL INTEREST PAYMENTS.**—Under the model program, for any year in which the sum of the surplus cash flow of a project and the return on equity exceeds all interest payments due under subparagraph (A), 50 percent of the excess surplus cash flow shall be paid to the participating jurisdiction’s HOME Investment Trust Fund as additional interest.

**(C) PRINCIPAL AND UNPAID INTEREST.**—The principal amount of an advance under the model program, and any interest remaining unpaid pursuant to subparagraph (A)(ii) shall be repayable when the housing no longer qualifies as affordable housing in accordance with section 219(b).

**(b) SELECTION GUIDELINES.—**

(1) **IN GENERAL.**—The Secretary shall establish guidelines for the selection of projects by participating jurisdictions for assistance under the model program. Such guidelines shall be designed to select projects in areas and for markets dem-

onstrating the greatest need for the production of affordable rental housing.

(2) SPECIFIC REQUIREMENTS.—The selection guidelines may include—

(A) the extent of the shortage of rental housing in the area that is available to low-income families;

(B) the extent large families with children will be served by the project;

(C) the extent to which the project provides congregate facilities and has available supportive services that will permit elderly or handicapped residents who become frail and are in need of assistance in living to continue to reside in the project;

(D) the extent of very low-income and low-income occupancy in excess of the income targeting requirements in section 214;

(E) the extent of the project sponsor's commitment of equity to the project (except that this criterion shall not apply to or affect the selection of applications submitted by public housing agencies and nonprofit entities);

(F) the extent of the project sponsor's commitment of equity to the project in comparison to the value of all public assistance for the project, including assistance under this title, other Federal assistance, and financing, and State and local government contributions (except that this criterion shall not apply to or affect the selection of applications submitted by public housing agencies and nonprofit entities);

(G) the extent of non-Federal public or private assistance to the project;

(H) the extent to which the project provides supportive services for persons with disabilities; and

(I) any other factor determined by the Secretary to be appropriate.

(c) GUIDELINES.—The Secretary shall publish guidelines for the model program under this section not later than 180 days after enactment of this Act.<sup>21</sup>

#### SEC. 253. [42 U.S.C. 12803] RENTAL REHABILITATION.

(a) IN GENERAL.—The Secretary shall make available a model program to support the rehabilitation of privately owned rental housing located in neighborhoods where the median income does not exceed 80 percent of the area median as determined by the Secretary and where rents can reasonably be expected not to change materially over an extended period of time.

(b) AMOUNT OF SUBSIDY.—The amount of the rehabilitation subsidy shall be moderate and shall generally not exceed 50 percent of the total costs associated with the rehabilitation of the housing.

(c) ADDITIONAL RESTRICTIONS.—The guidelines of the model program shall generally comport with the additional protections and restrictions specified under section 17(c) of the United States Housing Act of 1937.

<sup>21</sup> The date of enactment was November 28, 1990.

**SEC. 254. [42 U.S.C. 12804] REHABILITATION LOANS.**

(a) **IN GENERAL.**—The Secretary shall make available a model program to provide direct loans to finance the rehabilitation of low and moderate income single family and multifamily residential properties.

(b) **CONDITION OF LOANS.**—The Secretary shall establish terms and conditions to ensure that such loans are acceptable risks, taking into consideration the need for rehabilitation, the security for the loan and the ability of the borrower to repay the loan. The Secretary may establish the interest rate for loans under the model program, which shall include special interest rates for loans to borrowers with incomes below 80 percent of the area median income.

(c) **ADDITIONAL RESTRICTIONS.**—Guidelines for the model program may require that the property—

(1) be located in an area that contains a substantial number of dwellings in need of rehabilitation;

(2) the property is residential and owner-occupied; and

(3) the property is in need of rehabilitation or concentrated code enforcement within a reasonable time, and the rehabilitation of such property is consistent with a local plan for rehabilitation or code enforcement.

Additional guidelines for the model program shall generally comport with the additional protections and restrictions specified under section 312 of the Housing Act of 1964.

**SEC. 255. [42 U.S.C. 12805] SWEAT EQUITY MODEL PROGRAM.**

(a) **IN GENERAL.**—The Secretary shall make available a model program to provide grants to public and private nonprofit organizations and community housing development organizations to provide technical and supervisory assistance to low-income and very low-income families, including the homeless, in acquiring, rehabilitating, and constructing housing by the self-help housing method.

(b) **REHABILITATION OF PROPERTIES.**—The program shall target for rehabilitation properties which have been acquired by the Federal, State, or local governments.

(c) **HOMEOWNERSHIP OPPORTUNITIES THROUGH SWEAT EQUITY.**—

(1) The program shall utilize the skilled or unskilled labor of eligible families in exchange for acquisition of the property.

(2) Training shall be provided to eligible families in building and home maintenance skills.

(d) **RENTAL OPPORTUNITIES THROUGH SWEAT EQUITY.**—(1) The program shall include rental opportunities for eligible families which will help expand the stock of affordable housing which is most appropriate for the target group.

(2) The use of the tenant's skilled or unskilled labor shall be encouraged in lieu of or as a supplement to rent payments by the tenant.

(e) **DEFINITION.**—The term “self-help housing” means the same as in section 523 of the Housing Act of 1949.

(f) **ADDITIONAL RESTRICTIONS.**—The guidelines for the model program shall generally comport with the additional protections and restrictions specified under section 523 of the Housing Act of 1949.

**SEC. 256. [42 U.S.C. 12806] HOME REPAIR SERVICES GRANTS FOR OLDER AND DISABLED HOMEOWNERS.**

(a) **IN GENERAL.**—The Secretary shall make available a model program to provide home repair services for older homeowners and disabled homeowners, including such services as the examination of homes, repair services, and follow-up to ensure the continued effectiveness of the repairs provided.

(b) **ELIGIBLE RECIPIENTS.**—Home repair services shall be provided to homeowners who—

- (1) own and reside in the dwellings for which services are provided;
- (2) are older or disabled; and
- (3) are members of low-income families.

(c) **PERMITTED RESTRICTIONS.**—Guidelines for the model program shall require that—

- (1) assisted dwelling units be the primary residence of the homeowner for whom services are provided;
- (2) preferences be provided for (A) very low-income families, and (B) individuals with intense need characterized by noneconomic factors such as physical and mental disabilities, language barriers, and cultural, social, or geographical isolation caused by racial or ethnic status that restricts the ability of an individual to perform normal daily tasks or that threatens the capacity of the individual to live independently;
- (3) any fees charged be based on the income of the individual receiving the home repair services.

**SEC. 257. [42 U.S.C. 12807] LOW-INCOME HOUSING CONSERVATION AND EFFICIENCY GRANT PROGRAMS.**

(a) **IN GENERAL.**—The Secretary shall make available a model program to provide safe, energy-efficient affordable housing for low-income persons.

(b) **ACTIVITIES.**—The model program shall provide for—

- (1) identification of housing that is—
  - (A) owned and occupied by low-income families who have received, are currently receiving, or are scheduled to receive assistance under the weatherization assistance for low-income persons program under part A of title IV of the Energy Conservation and Production Act (or a comparable Federal or State program);
  - (B) in danger of becoming uninhabitable within a 5-year period because of structural weaknesses or problems; and
  - (C) not sufficiently sound to permit energy conservation improvements without other repair or rehabilitation measures to protect such energy investments;
- (2) repairs that will significantly prolong the habitability of units identified under paragraph (1), including roofing, electrical, plumbing, furnace, and foundation repairs or replacement that will prolong the use of the unit as a safe and energy-efficient residence for low-income persons; and
- (3) reasonable steps to ensure that any units so repaired will remain occupied by persons or families eligible for assistance under this title.



**SEC. 258. [42 U.S.C. 12808] SECOND MORTGAGE ASSISTANCE FOR FIRST-TIME HOMEBUYERS.**

(a) **IN GENERAL.**—The Secretary shall make available a model program under which units of general local government provide loans (secured by second mortgages) with deferred payment of interest and principal to first-time homebuyers.

(b) **HOMEOWNERSHIP COUNSELING.**—The program under this section shall provide for homeownership counseling to first-time homebuyers assisted, which shall include—

- (1) counseling before and after purchase of the property;
- (2) assisting first-time homebuyers in identifying the most suitable and affordable properties;
- (3) providing homebuyers with financial management assistance;
- (4) assisting homebuyers in understanding mortgage transactions and home sales contracts; and
- (5) assisting homebuyers with eliminating any credit problems that may prevent the homebuyers from purchasing the property.

(c) **ELIGIBILITY REQUIREMENTS.**—Deferred payment loans secured by second mortgages may be provided under the model program under this section if—

- (1) the homebuyer assisted is a first-time homebuyer;
- (2) the property secured by the second mortgage is a single-family residence and is the principal residence of the homebuyer; and
- (3) the principal obligation of the deferred payment loan secured by a second mortgage does not exceed 30 percent of the acquisition price of the residence to the homebuyer.

(d) **PAYMENT TERMS.**—

(1) **PERIOD OF DEFERRAL.**—The payment of any principal and interest on a loan under this section shall be deferred for not less than the 5-year period beginning on the date of the acquisition of the residence by the homebuyer.

(2) **INTEREST RATE.**—The interest rate on the unpaid balance of a loan under this section shall be at least 4 percent.

(3) **REPAYMENT PERIOD.**—A deferred payment loan secured by a second mortgage shall be repayable over the 15-year period beginning at the end of the deferral period.

(e) **SECURITY.**—A deferred payment loan assisted with amount provided under a grant under this section shall be secured by a lien on the property involved, which lien shall be subordinate to the first mortgage on the property.

**SEC. 259. [42 U.S.C. 12809] REHABILITATION OF STATE AND LOCAL GOVERNMENT IN REM PROPERTIES.**

(a) **IN GENERAL.**—The Secretary shall make available a model program under which States and units of general local government may convert in rem properties to provide affordable permanent housing for the homeless by leasing such properties to nonprofit organizations and permitting such organizations to rehabilitate the properties.

(b) **TARGET.**—The program shall target vacant properties for rehabilitation by nonprofit organizations.

**SEC. 260. [42 U.S.C. 12810] COST-SAVING BUILDING TECHNOLOGIES AND CONSTRUCTION TECHNIQUES.**

(a) **IN GENERAL.**—The Secretary shall make available a model program to utilize cost-saving building technologies and construction techniques for purposes of providing homeownership and rental opportunities under this title.

(b) **SELECTION CRITERIA.**—The Secretary shall establish criteria for participating jurisdictions to select projects for assistance under the model program which may include—

(1) the extent to which innovative, cost-saving building and construction technologies are utilized;

(2) the extent to which innovative, cost-saving construction techniques are utilized;

(3) the extent to which units will be made available to low-income families and individuals;

(4) the extent to which non-Federal public or private assistance is utilized; and

(5) any other factor, determined by the Secretary to be appropriate.

(c) **GUIDELINES.**—The Secretary shall publish guidelines for the model program under this section not later than 180 days after the date of the enactment of the Housing and Community Development Act of 1992.<sup>22</sup>

(d) **REPORT.**—The Secretary shall submit a biennial report to the Congress on the utilization of the model program under this section.

## Subtitle E—Other Assistance

**SEC. 271. [42 U.S.C. 12821] DOWNPAYMENT ASSISTANCE INITIATIVE.**

(a) **DEFINITIONS.**—In this section:

(1) **DOWNPAYMENT ASSISTANCE.**—The term “downpayment assistance” means assistance to help a family acquire a principal residence.

(2) **HOME REPAIRS.**—The term “home repairs” means capital improvements or repairs that—

(A) are identified in an appraisal or home inspection completed in conjunction with a home purchase; or

(B) are completed within 1 year of the purchase of a home, and are necessary to bring the housing into compliance with health and safety housing codes of the unit of general local government in which the housing is located, including the remediation of lead paint or other home health hazards.

(3) **PARTICIPATING JURISDICTION.**—The term “participating jurisdiction” means a State or unit of general local government designated under section 216.

(4) **STATE.**—The term “State” means any State of the United States and the District of Columbia.

(b) **GRANT AUTHORITY.**—The Secretary may award grants to participating jurisdictions to assist low-income families to achieve homeownership, in accordance with this section.

<sup>22</sup>The date of enactment was October 28, 1992.

## (c) ELIGIBLE ACTIVITIES.—

## (1) IN GENERAL.—

(A) DOWNPAYMENT ASSISTANCE.—Subject to subparagraph (B), grants awarded under this section may be used only for downpayment assistance toward the purchase of single family housing (including 1 to 4 unit family dwelling units, condominium units, cooperative units, and manufactured housing units which are located on land which is owned by the manufactured housing unit owner, owned as a cooperative, or is subject to a leasehold interest with a term equal to at least the term of the mortgage financing on the unit, and manufactured housing lots) by low-income families who are first-time home-buyers.

(B) HOME REPAIRS.—Not more than 20 percent of the grant funds provided under subsection (d) to a participating jurisdiction may be used to provide assistance to low-income, first-time home-buyers for home repairs.

## (2) LIMITATIONS.—

(A) AMOUNT OF ASSISTANCE.—The amount of assistance provided to any low-income families under paragraph (1) shall not exceed the greater of—

(i) 6 percent of the purchase price of a single family housing unit; or

(ii) \$10,000.

(B) PARTICIPATION.—A participating jurisdiction may not use any amount of a grant awarded under this section to provide funding to an entity or organization that provides downpayment assistance if the activities of that entity or organization are financed in whole or in part, directly or indirectly, by contributions, service fees, or other payments from the sellers of housing.

## (d) FORMULA ALLOCATION.—

(1) IN GENERAL.—For each fiscal year, the Secretary shall allocate any amounts made available for assistance under this section to each State that is a participating jurisdiction in an amount equal to a percentage of the total allocation that is equal to the percentage of the national total of low-income households residing in rental housing in the State, as determined on the basis of the most recent census data compiled by the Bureau of the Census.

## (2) PARTICIPATING JURISDICTIONS OTHER THAN STATES.—

(A) IN GENERAL.—Subject to subparagraph (B), for each fiscal year, of the amount allocated to each State under paragraph (1), the Secretary shall further allocate from such amount to each participating jurisdiction located within such State an amount equal to the percentage of the allocation made to the State under paragraph (1) that is equal to the percentage of the State-wide total of low-income households residing in rental housing in such participating jurisdiction, as determined on the basis of the most recent census data compiled by the Bureau of the Census.

## (B) LIMITATION.—

(i) IN GENERAL.—Direct allocations made under subparagraph (A) shall be made to a local participating jurisdiction only if—

(I) the participating jurisdiction has a total population of 150,000 individuals or more, as determined on the basis of the most recent census data compiled by the Bureau of the Census; or

(II) the participating jurisdiction would receive an allocation of \$50,000 or more.

(ii) REVERSION.—Any allocation that would have otherwise been made to a participating jurisdiction that does not meet the requirements of clause (i) shall revert back to the State in which the participating jurisdiction is located.

(e) REALLOCATION.—If any amounts allocated to a participating jurisdiction under this section become available for reallocation, the amounts shall be reallocated to other participating jurisdictions in accordance with subsection (d).

(f) APPLICABILITY OF OTHER PROVISIONS.—

(1) IN GENERAL.—Except as otherwise provided in this section, grants made under this section shall not be subject to the provisions of this title.

(2) APPLICABLE PROVISIONS.—In addition to the requirements of this section, grants made under this section shall be subject to the provisions of title I, sections 215(b), 218, 219, 221, 223, 224, and 226(a) of subtitle A of this title, and subtitle F of this title.

(3) REFERENCES.—In applying the requirements of subtitle A referred to in paragraph (2)—

(A) any references to funds under subtitle A shall be considered to refer to amounts made available for assistance under this section; and

(B) any references to funds allocated or reallocated under section 217 or 217(d) shall be considered to refer to amounts allocated or reallocated under subsection (d) or (e) of this section, respectively.

(g) HOUSING STRATEGY.—To be eligible to receive a grant under this section in any fiscal year, a participating jurisdiction shall include in its comprehensive housing affordability strategy developed under section 105 of the Cranston-Gonzalez National Affordable Housing Act (42 U.S.C. 12705) for such fiscal year—

(1) a description of the anticipated use of any grant received under this section;

(2) a plan for conducting targeted outreach to residents and tenants of public housing, trailer parks, and manufactured housing, and to other families assisted by public housing agencies, for the purpose of ensuring that grant amounts provided under this section to a participating jurisdiction are used for downpayment assistance for such residents, tenants, and families; and

(3) a description of the actions to be taken to ensure the suitability of families receiving downpayment assistance under this section to undertake and maintain homeownership.

(h) REPORT.—Not later than June 30, 2006, the Comptroller General of the United States shall submit a report containing a State-by-State analysis of the impact of grants awarded under this section to—

(1) the Committee on Banking, Housing, and Urban Affairs of the Senate; and

(2) the Committee on Financial Services of the House of Representatives.

(i) SUNSET.—The Secretary shall have no authority to make grants under this section after December 31, 2011.

(j) RELOCATION ASSISTANCE AND DOWNPAYMENT ASSISTANCE.—The Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 (84 Stat. 1894) shall not apply to downpayment assistance under this section.

(k) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out this section \$200,000,000 for each of fiscal years 2004 through 2007.

## Subtitle F—General Provisions

### SEC. 281. [42 U.S.C. 12831] EQUAL OPPORTUNITY.

(a) SOLICITATION OF CONTRACTS.—Each participating jurisdiction shall prescribe procedures acceptable to the Secretary to establish and oversee a minority outreach program within each such jurisdiction to ensure the inclusion, to the maximum extent possible, of minorities and women, and entities owned by minorities and women, including, without limitation, real estate firms, construction firms, appraisal firms, management firms, financial institutions, investment banking firms, underwriters, accountants, and providers of legal services, in all contracts, entered into by the participating jurisdiction with such persons or entities, public and private, in order to facilitate the activities of the participating jurisdiction to provide affordable housing authorized under this Act or any other Federal housing law applicable to such jurisdiction.

(b) REPORT TO CONGRESS.—Before the end of the 180-day period beginning on the date the first allocation of funds is made under section 217, the Secretary shall submit to the Congress a report containing a description of the actions taken by each participating jurisdiction pursuant to subsection (a) and such recommendations for administrative and legislative action as the Secretary may determine to be appropriate to carry out the purposes of such subsection.

### SEC. 282. [42 U.S.C. 12832] NONDISCRIMINATION.

No person in the United States shall on the grounds of race, color, national origin, religion, or sex be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity funded in whole or in part with funds made available under this title. Any prohibition against discrimination on the basis of age under the Age Discrimination Act of 1975 or with respect to an otherwise qualified handicapped individual as provided in section 504 of the Rehabilitation Act of 1973 shall also apply to any such program or activity. The Secretary may waive this section in connection with the use of funds made

available under this title on lands set aside under the Hawaiian Homes Commission Act, 1920 (42 Stat. 108).

**SEC. 283. [42 U.S.C. 12883] AUDITS BY COMPTROLLER GENERAL.**

(a) AUDITS OF THE HOME INVESTMENT PARTNERSHIPS PROGRAM.—The Comptroller General, when the Comptroller General deems it to be appropriate or when requested by the Committee on Banking, Housing, and Urban Affairs of the Senate or the Committee on Banking, Finance and Urban Affairs of the House of Representatives<sup>23</sup>, shall conduct a full financial audit of the records of the HOME Investment Partnerships program for any fiscal year. The report of the Comptroller General shall be submitted promptly to the Secretary and the Congress and shall be published.

(b) AUDITS OF RECIPIENTS.—The financial transactions of participating jurisdictions and of other recipients of funds provided under this title may, insofar as they relate to funds provided under this title, be audited by the General Accounting Office<sup>24</sup> under such rules and regulations as may be prescribed by the Comptroller General of the United States. The representatives of the General Accounting Office shall have access to all books, accounts, records, reports, files, and other papers, things, or property belonging to or in use by such recipients pertaining to such financial transactions and necessary to facilitate the audit.

**SEC. 284. [42 U.S.C. 12834] UNIFORM RECORDKEEPING AND REPORTS TO THE CONGRESS.**

(a) UNIFORM REQUIREMENTS.—The Secretary shall develop and establish uniform recordkeeping, performance reporting, and auditing requirements for use by participating jurisdictions.

(b) REPORT TO THE CONGRESS.—Not later than 120 days after the end of each fiscal year, the Secretary shall make an annual report to the Congress that summarizes and assesses the results of reports provided under this section. Such report shall include a description of actions taken by each participating jurisdiction pursuant to section 281(a) and such recommendations for administrative and legislative action as may be appropriate to carry out the purposes of such section.

**SEC. 285. [42 U.S.C. 12835] CITIZEN PARTICIPATION.**

The Secretary shall ensure that each participating jurisdiction, and each jurisdiction seeking to become a participating jurisdiction, complies with the requirements of section 107 of this Act.

<sup>23</sup> Section 1(a) of Public Law 104–14, 109 Stat. 186, provides, in part, that “any reference in any provision of law enacted before January 4, 1995, to... the Committee on Banking, Finance and Urban Affairs of the House of Representatives shall be treated as referring to the Committee on Banking and Financial Services of the House of Representatives”. However, H. Res. 5, 107th Congress, agreed to on January 3, 2001, abolished the Committee on Banking and Financial Services and established the Committee on Financial Services, which has jurisdiction over many of the areas previously under the jurisdiction of the Committee on Banking and Financial Services.

<sup>24</sup> Section 8(a) of the GAO Human Capital Reform Act, Public Law 108–271, 118 Stat. 814, approved July 7, 2004, 31 U.S.C. 702 note, redesignated the General Accounting Office as the Government Accountability Office. Subsection (b) of such section provides that “[a]ny reference to the General Accounting Office in any law, rule, regulation, certificate, directive, instruction, or other official paper in force on the date of enactment of this Act shall be considered to refer and apply to the Government Accountability Office.”

**SEC. 286. [42 U.S.C. 12836] LABOR.**

(a) **IN GENERAL.**—Any contract for the construction of affordable housing with 12 or more units assisted with funds made available under this subtitle shall contain a provision requiring that not less than the wages prevailing in the locality, as predetermined by the Secretary of Labor pursuant to the Davis-Bacon Act (40 U.S.C. 276a—276a–5), shall be paid to all laborers and mechanics employed in the development of affordable housing involved, and participating jurisdictions shall require certification as to compliance with the provisions of this section prior to making any payment under such contract.

(b) **WAIVER.**—Subsection (a) shall not apply if the individual receives no compensation or is paid expenses, reasonable benefits, or a nominal fee to perform the services for which the individual volunteered and such persons are not otherwise employed at any time in the construction work.

**SEC. 287. [42 U.S.C. 12837] INTERSTATE AGREEMENTS.**

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

**SEC. 288. [42 U.S.C. 12838] ENVIRONMENTAL REVIEW.**

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

(1) for the monitoring of the environmental reviews performed under this section;

(2) in the discretion of the Secretary, to facilitate training for the performance of such reviews; and

(3) for the suspension or termination of the assumption under this section.

The Secretary's duty under the preceding sentence shall not be construed to limit or reduce any responsibility assumed by a State or unit of general local government with respect to any particular release of funds.

(b) **PROCEDURE.**—The Secretary shall approve the release of funds subject to the procedures authorized by this section only if,

at least 15 days prior to such approval and prior to any commitment of funds to such projects the jurisdiction or insular area has submitted to the Secretary a request for such release accompanied by a certification which meets the requirements of subsection (c). The Secretary's approval of any such certification shall be deemed to satisfy his responsibilities under the National Environmental Policy Act of 1969 and such other provisions of law as the regulations of the Secretary specify insofar as those responsibilities relate to the releases of funds for projects to be carried out pursuant thereto which are covered by such certification.

(c) CERTIFICATION.—A certification under the procedures authorized by this section shall—

- (1) be in a form acceptable to the Secretary,
- (2) be executed by the chief executive officer or other officer of the recipient of assistance under this title qualified under regulations of the Secretary,
- (3) specify that the recipient of assistance under this title has fully carried out its responsibilities as described under subsection (a), and
- (4) specify that the certifying officer (A) consents to assume the status of a responsible Federal official under the National Environmental Policy Act of 1969 and each provision of law specified in regulations issued by the Secretary insofar as the provisions of such Act or other such provision of law apply pursuant to subsection (a), and (B) is authorized and consents on behalf of the jurisdiction or insular area and himself to accept the jurisdiction of the Federal courts for the purpose of enforcement of his responsibilities as such an official.

(d) ASSISTANCE TO UNITS OF GENERAL LOCAL GOVERNMENT FROM A STATE.—In the case of assistance to units of general local government from a State, the State shall perform those actions of the Secretary described in subsection (b) and the performance of such actions shall be deemed to satisfy the Secretary's responsibilities referred to in the second sentence of such subsection.

**SEC. 289. [42 U.S.C. 12839] TERMINATION OF EXISTING HOUSING PROGRAMS.**

(a) IN GENERAL.—Except with respect to projects and programs for which binding commitments have been entered into prior to October 1, 1991, no new grants or loans shall be made after October 1, 1991, under—

- (1) section 17 of the United States Housing Act of 1937;
- (2) section 312 of the Housing Act of 1964;
- (3) title VI of the Housing and Community Development Act of 1987;
- (4) section 8(e)(2) of the United States Housing Act of 1937, except for funds allocated under such section for single room occupancy dwellings as authorized by title IV of the Stewart B. McKinney Homeless Assistance Act<sup>25</sup>; and

<sup>25</sup> Public Law 106-400, enacted on October 30, 2000, renamed the Stewart B. McKinney Homeless Assistance Act as the McKinney-Vento Homeless Assistance Act. Section 2 of such Act (42 U.S.C. 11301 note) provides that “[a]ny reference in any law, regulation, document, paper, or other record of the United States to the Stewart B. McKinney Homeless Assistance Act shall be deemed to be a reference to the ‘McKinney-Vento Homeless Assistance Act’”.



(5) section 810 of the Housing and Community Development Act of 1974.

(b) REPEALS.—

(1) IN GENERAL.—Except as provided in paragraph (2), effective on October 1, 1991, the provisions of law referred to in subsection (a) are repealed.

(2) NO EFFECT ON SRO PROGRAM.—The provision of law referred to in subsection (a)(4) shall remain in effect with respect to single room occupancy dwellings as authorized by title IV of the Stewart B. McKinney Homeless Assistance Act<sup>25</sup>.

(c) DISPOSITION OF REPAYMENTS.—Any amounts received on or after October 1, 1991, as repayments or recaptures in connection with the programs referred to in subsection (a) and any other amounts for such programs that remain or become unobligated on or after such date, shall be paid into the general fund of the Treasury.

**SEC. 290. [42 U.S.C. 12840] SUSPENSION OF REQUIREMENTS FOR DISASTER AREAS.**

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

### **TITLE III—HOMEOWNERSHIP**

#### **Subtitle A—National Homeownership Trust Demonstration**

**SEC. 301. [42 U.S.C. 12851 note] SHORT TITLE.**

This subtitle may be cited as the “National Homeownership Trust Act”.

**SEC. 302. [42 U.S.C. 12851] NATIONAL HOMEOWNERSHIP TRUST.**

(a) ESTABLISHMENT.—There is established the National Homeownership Trust, which shall be in the Department of Housing and Urban Development and shall provide assistance to first-time homebuyers in accordance with this subtitle.

(b) BOARD OF DIRECTORS.—The Trust shall be governed by a Board of Directors, which shall be composed of—

(1) the Secretary of Housing and Urban Development, who shall be the chairperson of the Board;

(2) the Secretary of the Treasury;

(3) the chairperson of the Board of Directors of the Federal Deposit Insurance Corporation;

(4) the chairperson of the Federal Housing Finance Board;

(5) the chairperson of the Board of Directors of the Federal National Mortgage Association;

(6) the chairperson of the Board of Directors of the Federal Home Loan Mortgage Corporation; and

(7) 1 individual representing consumer interests, who shall be appointed by the President of the United States, by and with the advice and consent of the Senate.

(c) **POWERS OF TRUST.**—The Trust shall have the same powers as the powers given the Government National Mortgage Association in section 309(a) of the Federal National Mortgage Association Charter Act (12 U.S.C. 1723a(a)).

(d) **TRAVEL AND PER DIEM.**—Members of the Board of Directors shall receive no additional compensation by reason of service on the Board, but shall be allowed travel expenses, including per diem in lieu of subsistence, as provided for employees of the Federal Government or in the same manner as persons employed intermittently in the Government service are allowed under section 5703 of title 5, United States Code, as appropriate.

(e) **DIRECTOR AND STAFF.**—

(1) **DIRECTOR.**—The Board of Directors may appoint an executive director of the Trust and fix the compensation of the executive director, which shall be paid from amounts in the National Homeownership Trust Fund.

(2) **STAFF.**—Subject to such rules as the Board of Directors may prescribe, the Trust may appoint and hire such staff and provide for offices as may be necessary to carry out its duties. The Trust may fix the compensation of the staff, which shall be paid from amounts in the National Homeownership Trust Fund.

**SEC. 303. [42 U.S.C. 12852] ASSISTANCE FOR FIRST-TIME HOMEBUYERS.**

(a) **IN GENERAL.**—The Trust shall provide assistance payments for first-time homebuyers (including homebuyers buying shares in limited equity cooperatives) in the following manners:

(1) **INTEREST RATE BUYDOWNS.**—Assistance payments so that the rate of interest payable on the mortgages by the homebuyers does not exceed 6 percent.

(2) **DOWNPAYMENT ASSISTANCE.**—Assistance payments to provide amounts for downpayments (including closing costs and other costs payable at the time of closing) on mortgages for such homebuyers.

(3) **ASSISTANCE IN CONNECTION WITH MORTGAGE REVENUE BONDS FINANCING.**—Interest rate buydowns and downpayment assistance in the manner provided in subsection (e).

(4) **SECOND MORTGAGE ASSISTANCE.**—Assistance payments to provide loans (secured by second mortgages) with deferred payment of interest and principal; and <sup>26</sup>

(5) **CAPITALIZATION OF REVOLVING LOAN FUNDS.**—Grants to public organizations or agencies to establish revolving loan funds to provide homeownership assistance to eligible first-time homebuyers consistent with the requirements of this subtitle. Such grants shall be matched by an equal amount of local investment in such revolving loan funds. Any proceeds or repayments from loans made under this paragraph shall be returned to the revolving loan fund established under this paragraph to be used for purposes related to this section.

<sup>26</sup> So in law.

(b) **ELIGIBILITY REQUIREMENTS.**—Assistance payments under this subtitle may be made only to homebuyers and for mortgages meeting the following requirements:

(1) **FIRST-TIME HOMEBUYER.**—The homebuyer is an individual who—

(A) (and whose spouse) has had no ownership in a principal residence during the 3-year period ending on the date of purchase of the property with respect to which assistance payments are made under this subtitle;

(B) is a displaced homemaker who, except for owning a home with his or her spouse or residing in a home owned by the spouse, meets the requirements of subparagraph (A);

(C) is a single parent who, except for owning a home with his or her spouse or residing in a home owned by the spouse while married, meets the requirements of subparagraph (A); or

(D) meets the requirements of subparagraph (A), (B), or (C), except for owning, as a principal residence, a dwelling unit whose structure is—

(i) not permanently affixed to a permanent foundation in accordance with local or other applicable regulations; or

(ii) not in compliance with State, local, or model building codes, or other applicable codes, and cannot be brought into compliance with such codes for less than the cost of constructing a permanent structure.

(2) **MAXIMUM INCOME OF HOMEBUYER.**—The aggregate annual income of the homebuyer and the members of the family of the homebuyer residing with the homebuyer, for the 12-month period preceding the date of the application of the homebuyer for assistance under this subtitle, does not exceed—

(A) 95 percent of the median income for a family of 4 persons (adjusted by family size) in the applicable metropolitan statistical area (or such other area that the Board of Directors determines for areas outside of metropolitan statistical areas); or

(B) 115 percent of such median income (adjusted by family size) in the case of an area that is subject to a high cost area mortgage limit under title II of the National Housing Act.

The Board of Directors shall provide for certification of such income for purposes of initial eligibility for assistance payments under this subtitle and shall provide for recertification of homebuyers (and families of homebuyers) so assisted not less than every 2 years thereafter.

(3) **CERTIFICATION.**—The homebuyer (and spouse, where applicable) shall certify that the homebuyer has made a good faith effort to obtain a market rate mortgage and has been denied because the annual income of the homebuyer and the members of the family of the homebuyer residing with the homebuyer is insufficient.

(4) **PRINCIPAL RESIDENCE.**—The property securing the mortgage is a single-family residence or unit in a cooperative and is the principal residence of the homebuyer.

(5) **MAXIMUM MORTGAGE AMOUNT.**—The principal obligation of the mortgage does not exceed the principal amount that could be insured with respect to the property under the National Housing Act.

(6) **MAXIMUM INTEREST RATE.**—The interest payable on the mortgage is established at a fixed rate that does not exceed a maximum rate of interest established by the Trust taking into consideration prevailing interest rates on similar mortgages.

(7) **RESPONSIBLE MORTGAGEE.**—The mortgage has been made to, and is held by, a mortgagee that is federally insured or that is otherwise approved by the Trust as responsible and able to service the mortgage properly.

(8) **MINIMUM DOWNPAYMENT.**—For a first-time homebuyer to receive downpayment assistance under subsection (a)(2), the homebuyer shall have paid not less than 1 percent of the cost of acquisition of the property (excluding any mortgage insurance premium paid at the time the mortgage is insured), as such cost is estimated by the Board of Directors.

(c) **TERMS OF ASSISTANCE.**—

(1) **SECURITY.**—Assistance payments under this subtitle shall be secured by a lien on the property involved. The lien shall be subordinate to all mortgages existing on the property on the date on which the first assistance payment is made.

(2) **REPAYMENT UPON SALE.**—Assistance payments under this subtitle shall be repayable from the net proceeds of the sale, without interest, upon the sale of the property for which the assistance payments are made. If the sale results in no net proceeds or the net proceeds are insufficient to repay the amount of the assistance payments in full, the Board of Directors shall release the lien to the extent that the debt secured by the lien remains unpaid.

(3) **REPAYMENT UPON INCREASED INCOME.**—If the aggregate annual income of the homebuyer (and family of the homebuyer) assisted under this subtitle exceeds the applicable maximum income allowable under subsection (b)(2) for any 2-year period after such assistance is provided, the Board of Directors may provide for the repayment, on a monthly basis, of all or a portion of such assistance payments, based on the amount of assistance provided and the income of the homebuyer (and family of the homebuyer).

(4) **REPAYMENT IF PROPERTY CEASES TO BE PRINCIPAL RESIDENCE.**—If the property for which assistance payments are made ceases to be the principal residence of the first-time homebuyer (or the family of the homebuyer), the Board of Directors may provide for the repayment of all or a portion of the assistance payments.

(5) **AVAILABLE ASSISTANCE.**—The Trust may make assistance payments under paragraphs (1) and (2) of subsection (a) with respect to a single mortgage of an eligible homebuyer.

(d) **ALLOCATION FORMULA.**—Amounts available in any fiscal year for assistance under this subtitle shall be allocated for home-

buyers in each State on the basis of the need of eligible first-time homebuyers in each State for such assistance in comparison with the need of eligible first-time homebuyers for such assistance among all States.

(e) ASSISTANCE IN CONNECTION WITH HOUSING FINANCED WITH MORTGAGE REVENUE BONDS.—

(1) AUTHORITY.—The Trust shall provide assistance for first-time homebuyers in the form of interest rate buydowns and downpayment assistance under this subsection. Such assistance shall be available only with respect to mortgages for the purchase of residences (A) financed with the proceeds of a qualified mortgage bond (as such term is defined in section 143 of the Internal Revenue Code of 1986), or (B) for which a credit is allowable under section 25 of such Code.

(2) ELIGIBILITY.—To be eligible for assistance under this subsection, homebuyers and mortgages shall also meet the requirements under subsection (b) of this section, except that—

(A) the certification under subsection (b)(3) shall not be required for assistance under this subsection;

(B) the provisions of subsection (b)(2) shall not apply to assistance under this section; and

(C) the aggregate income of the homebuyer and the members of the family of the homebuyer residing with the homebuyer, for the 12-month period preceding the date of the application of the homebuyer for assistance under this subsection, shall not exceed 80 percent of the median income for a family of 4 persons (as adjusted for family size) in the applicable metropolitan statistical area.

(3) LIMITATION OF ASSISTANCE.—Notwithstanding subsection (a), assistance payments for first-time homebuyers under this subsection shall be provided in the following manners:

(A) INTEREST RATE BUYDOWNS.—Assistance payments to decrease the rate of interest payable on the mortgages by the homebuyers, in an amount not exceeding—

(i) in the first year of the mortgage, 2.0 percent of the total principal obligation of the mortgage;

(ii) in the second year of the mortgage, 1.5 percent of the total principal obligation of the mortgage;

(iii) in the third year of the mortgage, 1.0 percent of the total principal obligation of the mortgage; and

(iv) in the fourth year of the mortgage, 0.5 percent of the total principal obligation of the mortgage.

(B) DOWNPAYMENT ASSISTANCE.—Assistance payments to provide amounts for downpayments on mortgages by the homebuyers, in an amount not exceeding 2.5 percent of the principal obligation of the mortgage.

(3)<sup>27</sup> AVAILABILITY.—The Trust may make assistance payments under subparagraphs (A) and (B) of paragraph (3) with respect to a single mortgage of a homebuyer.

<sup>27</sup> So in law. Probably should be designated as paragraph (4).

**SEC. 304. [42 U.S.C. 12853] NATIONAL HOMEOWNERSHIP TRUST FUND.**

(a) **ESTABLISHMENT.**—There is established in the Treasury of the United States a revolving fund, to be known as the National Homeownership Trust Fund.

(b) **ASSETS.**—The Fund shall consist of—

(1) any amount approved in appropriation Acts under section 308 for purposes of carrying out this subtitle;

(2) any amount received by the Trust as repayment for payments made under this subtitle; and

(3) any amount received by the Trust under subsection (d).

(c) **USE OF AMOUNTS.**—The Fund shall, to the extent approved in appropriations Acts, be available to the Trust for purposes of carrying out this subtitle.

(d) **INVESTMENT OF EXCESS AMOUNTS.**—Any amounts in the Fund determined by the Trust to be in excess of the amounts currently required to carry out the provisions of this subtitle shall be invested by the Trust in obligations of, or obligations guaranteed as to both principal and interest by, the United States or any agency of the United States.

(e) **DEMONSTRATION PROGRAMS.**—Using not more than \$20,000,000 of any amounts appropriated for the Fund under section 308 in fiscal year 1991, the Secretary shall carry out demonstration programs for combining housing activities and economic development activities, as follows:

(1) In Milwaukee, Wisconsin, in an amount not to exceed \$4,200,000, for development, rehabilitation, and revitalization of 2 vacant structures in a blighted minority neighborhood.

(2) In Washington, District of Columbia, in an amount not to exceed \$10,000,000, for nonprofit neighborhood-based groups to acquire and rehabilitate vacant public and private housing for resale or rent to low- and moderate-income families and to the extent of and subject to engage in neighborhood-based economic development activities.

(3) In Philadelphia, Pennsylvania, in an amount not to exceed \$1,000,000, for technical assistance and organizational support for a community development corporation that is a city-wide public/private partnership engaged in the provision of technical assistance to neighborhood community development corporations.

(4) In other areas, as the Secretary may determine.

**SEC. 305. [42 U.S.C. 12854] DEFINITIONS.**

For purposes of this subtitle:

(1) **BOARD OF DIRECTORS.**—The term “Board of Directors” or “Board” means the Board of Directors of the National Homeownership Trust under section 302(b).

(2) **DISPLACED HOMEMAKER.**—The term “displaced homemaker” means an individual who—

(A) is an adult;

(B) has not worked full-time full-year in the labor force for a number of years, but has during such years, worked primarily without remuneration to care for the home and family; and

(C) is unemployed or underemployed and is experiencing difficulty in obtaining or upgrading employment.

(3) **FUND.**—The term “Fund” means the National Homeownership Trust Fund established in section 304.

(4) **SINGLE PARENT.**—The term “single parent” means an individual who—

(A) is unmarried or legally separated from a spouse; and

(B)(i) has 1 or more minor children for whom the individual has custody or joint custody; or

(ii) is pregnant.

(5) **STATE.**—The term “State” means the States of the United States, the District of Columbia, the Commonwealth of Puerto Rico, the Commonwealth of the Northern Mariana Islands, Guam, the Virgin Islands, American Samoa, the Trust Territory of the Pacific Islands, and any other territory or possession of the United States.

(6) **TRUST.**—The term “Trust” means the National Homeownership Trust established in section 302.

**SEC. 306. [42 U.S.C. 12855] REGULATIONS.**

The Board of Directors shall issue any regulations necessary to carry out this subtitle.

**SEC. 307. [42 U.S.C. 12856] REPORT.**

The Board of Directors shall submit to the Congress, not later than the expiration of the 90-day period beginning on the date of the termination of the Trust under section 310, a report containing a description of the activities of the Trust and an analysis of the effectiveness of the Trust in assisting first-time homebuyers.

**SEC. 308. [42 U.S.C. 12857] AUTHORIZATION OF APPROPRIATIONS.**

There are authorized to be appropriated for assistance payments under this subtitle \$520,665,600 for fiscal year 1993 and \$542,533,555 for fiscal year 1994, of which such sums as may be necessary shall be available in each such fiscal year for use under section 303(e). Any amount appropriated under this section shall be deposited in the Fund and shall remain available until expended, subject to the provisions of section 311.<sup>28</sup>

**SEC. 309. [42 U.S.C. 12858] TRANSITION.**

(a) **AUTHORITY OF SECRETARY.**—Upon the termination of the Trust as provided in section 310, the Secretary of Housing and Urban Development shall exercise any authority of the Board of Directors and the Trust in accordance with the provisions of this subtitle as may be necessary to provide for the conclusion of the outstanding affairs of the Trust.

(b) **APPLICABILITY OF TRUST PROVISIONS.**—Any assistance under this subtitle shall, after termination of the Trust, be subject to the provisions of this subtitle that would have applied to such assistance if the termination had not occurred.

(c) **CERTIFICATION OF FUND TO TREASURY.**—Upon a determination by the Secretary of Housing and Urban Development that the National Homeownership Trust Fund is no longer necessary, the Secretary shall certify any amounts remaining in the Fund to the Secretary of the Treasury and the Secretary of the Treasury shall

<sup>28</sup> So in law. Probably intended to refer to section 309.

deposit into the general fund of the Treasury as miscellaneous receipts any amounts remaining in the Fund.

**SEC. 310. [42 U.S.C. 12859] TERMINATION.**

The Trust shall terminate on September 30, 1994.

## Subtitle B—FHA and Secondary Mortgage Market

\* \* \* \* \*

**SEC. 328. [12 U.S.C. 1713 note] DELEGATION OF PROCESSING.**

(a) **AUTHORITY.**—Not later than the expiration of the 60-day period beginning on the date of enactment of this Act,<sup>29</sup> the Secretary of Housing and Urban Development shall implement a system of mortgage insurance for mortgages insured under section 207, 221, 223, 232, or 241 of the National Housing Act that delegates processing functions to selected approved mortgagees or other individuals and entities expressly approved by the Department of Housing and Urban Development. Under such system, the Secretary shall retain the authority to approve rents, expenses, property appraisals, and mortgage amounts and to execute a firm commitment.

(b) **FULL INSURANCE PROGRAM.**—Notwithstanding subsection (a), the Secretary shall maintain a viable system for full insurance programs under such Act under which all processing functions are performed by officers and employees of the Department of Housing and Urban Development.

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## TITLE IV—HOMEOWNERSHIP AND OPPORTUNITY FOR PEOPLE EVERYWHERE PROGRAMS

**SEC. 401. [42 U.S.C. 1437aaa note] SHORT TITLE.**

This title may be cited as the “Homeownership and Opportunity Through HOPE Act”.

**SEC. 402. [42 U.S.C. 12870] AUTHORIZATION OF APPROPRIATIONS.**

(a) **FISCAL YEAR 1993.**—There are authorized to be appropriated for grants under this title \$855,000,000 for fiscal year 1993, of which—

(1) \$285,000,000 shall be available for activities authorized under title III of the United States Housing Act of 1937, of which up to \$4,500,000 of any amounts appropriated may be made available for technical assistance to potential applicants, applicants and recipients of assistance under this title;<sup>30</sup>

(2) \$285,000,000 shall be available for activities authorized under subtitle B, of which up to \$3,250,000 of any amounts appropriated may be made available for technical assistance to

<sup>29</sup>The date of enactment was November 28, 1990.

<sup>30</sup>Probably should refer to “such title”, i.e., title III of the United States Housing Act of 1937.



potential applicants, applicants and recipients of assistance under this subtitle;<sup>31</sup> and

(3) \$285,000,000 shall be available for activities under subtitle C, of which up to \$2,250,000 of any amounts appropriated may be made available for technical assistance to potential applicants, applicants and recipients of assistance under this subtitle.<sup>32</sup>

(b) FISCAL YEAR 1994.—There are authorized to be appropriated for grants under this title \$883,641,000 for fiscal year 1994, of which—

(1) \$294,547,000 shall be available for activities authorized under title III of the United States Housing Act of 1937, up to \$4,500,000 of which may be made available for technical assistance to potential applicants, applicants and recipients of assistance under this title;<sup>33</sup>

(2) \$294,547,000 shall be available for activities authorized under subtitle B, up to \$3,250,000 of which may be made available for technical assistance to potential applicants, applicants and recipients of assistance under this subtitle;<sup>34</sup> and

(3) \$294,547,000 shall be available for activities under subtitle C, up to \$2,250,000 of which may be made available for technical assistance to potential applicants, applicants and recipients of assistance under this subtitle.<sup>35</sup>

(c) TECHNICAL ASSISTANCE.—Technical assistance made available under title III of the United States Housing Act of 1937 or subtitle B or subtitle C of this title may include, but shall not be limited to, training, clearinghouse services, the collection, processing and dissemination of program information useful for local and national program management, and provision of seed money. Such technical assistance may be made available directly, or indirectly under contracts and grants, as appropriate. In any fiscal year, no single applicant, potential applicant, or recipient under title III of the United States Housing Act of 1937, or subtitle B or subtitle C of this title may receive technical assistance in an amount exceeding 20 percent of the total amount made available for technical assistance under such title or subtitle for the fiscal year.

### **Subtitle A—HOPE for Public and Indian Housing Homeownership**

#### **SEC. 411. HOPE FOR PUBLIC AND INDIAN HOUSING HOMEOWNERSHIP.**

The United States Housing Act of 1937 is amended by adding at the end the following new title:

<sup>31</sup> Probably should refer to “such subtitle”, i.e., subtitle B of title IV of the Cranston-Gonzalez National Affordable Housing Act.

<sup>32</sup> Probably should refer to “such subtitle”, i.e., subtitle C of title IV of the Cranston-Gonzalez National Affordable Housing Act.

<sup>33</sup> Probably should refer to “such title”, i.e., title III of the United States Housing Act of 1937.

<sup>34</sup> Probably should refer to “such subtitle”, i.e., subtitle B of title IV of the Cranston-Gonzalez National Affordable Housing Act.

<sup>35</sup> Probably should refer to “such subtitle”, i.e., subtitle C of title IV of the Cranston-Gonzalez National Affordable Housing Act.

**“TITLE III<sup>36</sup>—HOPE FOR PUBLIC AND INDIAN  
HOUSING HOMEOWNERSHIP**

\* \* \* \* \*

**Subtitle B—HOPE for Homeownership of  
Multifamily Units**

**SEC. 421. [42 U.S.C. 12871] PROGRAM AUTHORITY.**

(a) IN GENERAL.—The Secretary is authorized to make—

(1) planning grants to enable applicants to develop homeownership programs; and

(2) implementation grants to enable applicants to carry out homeownership programs.

(b) AUTHORITY TO RESERVE HOUSING ASSISTANCE.—In connection with a grant under this subtitle, the Secretary may reserve authority to provide assistance under section 8 of the United States Housing Act of 1937 to the extent necessary to provide rental assistance for a nonpurchasing tenant who resides in the project on the date the Secretary approves the application for an implementation grant, for use by the tenant in another project.

**SEC. 422. [42 U.S.C. 12872] PLANNING GRANTS.**

(a) GRANTS.—The Secretary is authorized to make planning grants to applicants for the purpose of developing homeownership programs under this subtitle. The amount of a planning grant under this section may not exceed \$200,000, except that the Secretary may for good cause approve a grant in a higher amount.

(b) ELIGIBLE ACTIVITIES.—Planning grants may be used for activities to develop homeownership programs (which may include programs for cooperative ownership), including—

(1) development of resident management corporations and resident councils;

(2) training and technical assistance of applicants related to the development of a specific homeownership program;

(3) studies of the feasibility of a homeownership program;

(4) inspection for lead-based paint hazards, as required by section 302(a) of the Lead-Based Paint Poisoning Prevention Act;

(5) preliminary architectural and engineering work;

(6) tenant and homebuyer counseling and training;

(7) planning for economic development, job training, and self-sufficiency activities that promote economic self-sufficiency for homebuyers and homeowners under the homeownership program;

(8) development of security plans; and

(9) preparation of an application for an implementation grant under this subtitle.

(c) APPLICATION.—

<sup>36</sup>Title III of the United States Housing Act of 1937, 42 U.S.C. 2437aaa et seq., contains the HOPE for public and Indian housing homeownership provisions and is set forth, *ante*, in part II of this compilation.”

(1) **FORM AND PROCEDURES.**—An application for a planning grant shall be submitted by an applicant in such form and in accordance with such procedures as the Secretary shall establish.

(2) **MINIMUM REQUIREMENTS.**—The Secretary shall require that an application contain at a minimum—

(A) a request for a planning grant, specifying the activities proposed to be carried out, the schedule for completing the activities, the personnel necessary to complete the activities, and the amount of the grant requested;

(B) a description of the applicant and a statement of its qualifications;

(C) identification and description of the eligible property involved, and a description of the composition of the tenants, including family size and income;

(D) a certification by the public official responsible for submitting the comprehensive housing affordability strategy under section 105 of the Cranston-Gonzalez National Affordable Housing Act that the proposed activities are consistent with the approved housing strategy of the State or unit of general local government within which the project is located (or, during the first 12 months after enactment of this Act,<sup>37</sup> that the application is consistent with such other existing State or local housing plan or strategy that the Secretary shall determine to be appropriate); and

(E) a certification that the applicant will comply with the requirements of the Fair Housing Act, title VI of the Civil Rights Act of 1964, section 504 of the Rehabilitation Act of 1973, and the Age Discrimination Act of 1975, and will affirmatively further fair housing.

(d) **SELECTION CRITERIA.**—The Secretary shall, by regulation, establish selection criteria for a national competition for assistance under this section, which shall include—

(1) the qualifications or potential capabilities of the applicant;

(2) the extent of tenant interest in the development of a homeownership program for the property;

(3) the potential of the applicant for developing a successful and affordable homeownership program and the suitability of the property for homeownership;

(4) national geographic diversity among housing for which applicants are selected to receive assistance; and

(5) such other factors that the Secretary shall require that (in the determination of the Secretary) are appropriate for purposes of carrying out the program established by this subtitle in an effective and efficient manner.

**SEC. 423. [42 U.S.C. 12873] IMPLEMENTATION GRANTS.**

(a) **GRANTS.**—The Secretary is authorized to make implementation grants to applicants for the purpose of carrying out homeownership programs approved under this subtitle.

<sup>37</sup>The date of enactment was November 28, 1990.

(b) ELIGIBLE ACTIVITIES.—Implementation grants may be used for activities to carry out homeownership programs (including programs for cooperative ownership), including the following activities:

- (1) Architectural and engineering work.
- (2) Acquisition of the eligible property for the purpose of transferring ownership to eligible families in accordance with a homeownership program that meets the requirements under this subtitle.
- (3) Rehabilitation of any property covered by the homeownership program, in accordance with standards established by the Secretary.
- (4) Abatement of lead-based paint hazards, as required by section 302(a) of the Lead-Based Paint Poisoning Prevention Act.
- (5) Administrative costs of the applicant, which may not exceed 15 percent of the amount of the assistance provided under this section.
- (6) Development of resident management corporations and resident management councils, but only if the applicant has not received assistance under section 322<sup>38</sup> for such activities.
- (7) Counseling and training of homebuyers and homeowners under the homeownership program.
- (8) Relocation of tenants who elect to move.
- (9) Any necessary temporary relocation of tenants during rehabilitation.
- (10) Planning for establishment of for- or not-for-profit small businesses by or on behalf of residents, job training, and other activities that promote economic self-sufficiency of homebuyers and homeowners of the property covered by the homeownership program and economic development of the neighborhood.
- (11) Funding of operating expenses and replacement reserves of the property covered by the homeownership program.
- (12) Legal fees.
- (13) Defraying costs for the ongoing training needs of the recipient that are related to developing and carrying out the homeownership program.
- (14) Economic development activities that promote economic self-sufficiency of homebuyers, residents, and homeowners under the homeownership program.

(c) MATCHING FUNDING.—

(1) IN GENERAL.—Each recipient shall assure that contributions equal to not less than 33 percent of the grant amounts made available under this section, excluding any amounts provided for post-sale operating expense, shall be provided from non-Federal sources to carry out the homeownership program.

(2) FORM.—Such contributions may be in the form of—

(A) cash contributions from non-Federal resources, which may not include funds from a grant made under section 106(b) or section 106(d) of the Housing and Community Development Act of 1974;

<sup>38</sup> Probably intended to refer to section 422.

(B) payment of administrative expenses, as defined by the Secretary, from non-Federal resources, including funds from a grant made under section 106(b) or section 106(d) of the Housing and Community Development Act of 1974;

(C) the value of taxes, fees, or other charges that are normally and customarily imposed but are waived, foregone, or deferred in a manner that facilitates the implementation of a homeownership program assisted under this subtitle;

(D) the value of land or other real property as appraised according to procedures acceptable to the Secretary;

(E) the value of investment in on-site and off-site infrastructure required for a homeownership program assisted under this subtitle; or

(F) such other in-kind contributions as the Secretary may approve.

Contributions for administrative expenses shall be recognized only up to an amount equal to 7 percent of the total amount of grants made available under this section.

(d) APPLICATION.—

(1) FORM AND PROCEDURE.—An application for an implementation grant shall be submitted by an applicant in such form and in accordance with such procedures as the Secretary shall establish.

(2) MINIMUM REQUIREMENTS.—The Secretary shall require that an application contain at a minimum—

(A) a request for an implementation grant, specifying the amount of the grant requested and its proposed uses;

(B) if applicable, an application for assistance under section 8 of the United States Housing Act of 1937, specifying the proposed uses of such assistance and the period during which the assistance will be needed;

(C) a description of the qualifications and experience of the applicant in providing low-income housing;

(D) a description of the proposed homeownership program, consistent with section 324<sup>39</sup> and the other requirements of this subtitle, specifying the activities proposed to be carried out and their estimated costs, identifying reasonable schedules for carrying it out, and demonstrating the program will comply with the affordability requirements under section 324(b);<sup>39</sup>

(E) identification and description of the property involved, and a description of the composition of the tenants, including family size and income;

(F) a description of and commitment for the resources that are expected to be made available to provide the matching funding required under subsection (c) and of other resources that are expected to be made available in support of the homeownership program;

(G) identification and description of the financing proposed for any (i) rehabilitation and (ii) acquisition (I) of the

<sup>39</sup> So in law. Probably intended to refer to section 424.

property, by an entity for transfer to eligible families, and (II) by eligible families of ownership interests in, or shares representing, units in the project;

(H) the proposed sales price, the basis for such price determination, and terms to an entity, if any, that will purchase the property for resale to eligible families;

(I) the proposed sales prices, if any, and terms to eligible families;

(J) any proposed restrictions on the resale of units under a homeownership program;

(K) identification and description of the entity that will operate and manage the property;

(L) a certification by the public official responsible for submitting the comprehensive housing affordability strategy under section 105 of the Cranston-Gonzalez National Affordable Housing Act that the proposed activities are consistent with the approved housing strategy of the State or unit of general local government within which the project is located (or, during the first 12 months after enactment of this Act,<sup>40</sup> that the application is consistent with such other existing State or local housing plan or strategy that the Secretary shall determine to be appropriate); and

(M) a certification that the applicant will comply with the requirements of the Fair Housing Act, title VI of the Civil Rights Act of 1964, section 504 of the Rehabilitation Act of 1973, and the Age Discrimination Act of 1975, and will affirmatively further fair housing.

(d)<sup>41</sup> **SELECTION CRITERIA.**—The Secretary shall establish selection criteria for assistance under this section, which shall include—

(1) the qualifications or potential capabilities of the applicant;

(2) the feasibility of the homeownership program;

(3) the extent of tenant interest in the development of a homeownership program for the property;

(4) the potential for developing an affordable homeownership program and the suitability of the property for homeownership;

(5) national geographic diversity among housing for which applicants are selected to receive assistance;

(6) the extent to which a sufficient supply of affordable rental housing of the type assisted under this title exists in the locality, so that the implementation of the homeownership program will not appreciably reduce the number of such rental units available to residents currently residing in such units or eligible for residency in such units; and

(7) such other factors as the Secretary determines to be appropriate for purposes of carrying out the program established by the subtitle in an effective and efficient manner.

<sup>40</sup>The date of enactment was November 28, 1990.

<sup>41</sup>So in law. Probably should be designated as subsection (e).

(e)<sup>42</sup> **APPROVAL.**—The Secretary shall notify each applicant, not later than 6 months after the date of the submission of the application, whether the application is approved or not approved. The Secretary may approve the application for an implementation grant with a statement that the application for the section 8 assistance for residents of the project not purchasing units is conditionally approved, subject to the availability of appropriations in subsequent fiscal years.

**SEC. 424. [42 U.S.C. 12874] HOMEOWNERSHIP PROGRAM REQUIREMENTS.**

(a) **IN GENERAL.**—A homeownership program under this subtitle shall provide for acquisition by eligible families of ownership interest in, or shares representing, the units in an eligible property under any arrangement determined by the Secretary to be appropriate, such as cooperative ownership (including limited equity cooperative ownership) and fee simple ownership (including condominium ownership), for occupancy by the eligible families.

(b) **AFFORDABILITY.**—A homeownership program under this subtitle shall provide for the establishment of sales prices (including principal, insurance, taxes, and interest and closing costs) for initial acquisition of the property, and for sales to eligible families, such that the eligible family shall not be required to expend more than 30 percent of the adjusted income of the family per month to complete a sale under the homeownership program.

(c) **PLAN.**—A homeownership program under this subtitle shall provide, and include a plan, for—

(1) identifying and selecting eligible families to participate in the homeownership program;

(2) providing relocation assistance to families who elect to move;

(3) ensuring continued affordability by tenants, homebuyers, and homeowners in the property; and

(4) providing ongoing training and counseling for homebuyers and homeowners.

(d) **ACQUISITION AND REHABILITATION LIMITATION.**—Acquisition or rehabilitation of a property under a homeownership program under this subtitle may not consist of acquisition or rehabilitation of less than all of the units in the property. The provisions of this subsection may be waived upon a finding by the Secretary that the sale of less than all the buildings in a project is feasible and will not result in a hardship to any tenants of the project who are not included in the homeownership program.

(e) **FINANCING.**—

(1) **IN GENERAL.**—The application shall identify and describe the proposed financing for (A) any rehabilitation, and (B) acquisition (i) of the project, where applicable, by an entity for transfer to eligible families, and (ii) by eligible families of ownership interests in, or shares representing, units in the project. Financing may include use of the implementation grant, sale for cash, or other sources of financing (subject to applicable requirements), including conventional mortgage loans and mortgage loans insured under title II of the National Housing Act.

<sup>42</sup>So in law. Probably should be designated as subsection (f).

(2) PROHIBITION AGAINST PLEDGES.—Property transferred under this subtitle shall not be pledged as collateral for debt or otherwise encumbered except when the Secretary determines that—

(A) such encumbrance will not threaten the long-term availability of the property for occupancy by low-income families;

(B) neither the Federal Government nor the public housing agency will be exposed to undue risks related to action that may have to be taken pursuant to paragraph (3);

(C) any debt obligation can be serviced from project income, including operating assistance; and

(D) the proceeds of such encumbrance will be used only to meet housing standards in accordance with subsection (f) or to make such additional capital improvements as the Secretary determines to be consistent with the purposes of this subtitle.

(3) OPPORTUNITY TO CURE.—Any lender that provides financing in connection with a homeownership program under this subtitle shall give the public housing agency, resident management corporation, individual owner, or other appropriate entity a reasonable opportunity to cure a financial default before foreclosing on the property, or taking other action as a result of the default.

(f) HOUSING QUALITY STANDARDS.—The application shall include a plan ensuring that the unit—

(1) will be free from any defects that pose a danger to health or safety before transfer of an ownership interest in, or shares representing, a unit to an eligible family; and

(2) will, not later than 2 years after the transfer to an eligible family, meet minimum housing standards established by the Secretary for the purpose of this title.

(g) PROTECTION OF NONPURCHASING FAMILIES.—

(1) IN GENERAL.—No tenant residing in a dwelling unit in a property on the date the Secretary approves an application for an implementation grant may be evicted by reason of a homeownership program approved under this subtitle.

(2) RENTAL ASSISTANCE.—If a tenant decides not to purchase a unit, or is not qualified to do so, the Secretary shall, subject to the availability of appropriations, ensure that rental assistance under section 8<sup>43</sup> is available for use by each otherwise qualified tenant in that or another property.

(3) RELOCATION ASSISTANCE.—The recipient shall also inform each such tenant that if the tenant chooses to move, the recipient will pay relocation assistance in accordance with the approved homeownership program.

#### SEC. 425. [42 U.S.C. 12875] OTHER PROGRAM REQUIREMENTS.

(a) PREFERENCES.—In selecting eligible families for homeownership, the recipient shall give a first preference to otherwise qualified current tenants and a second preference to otherwise qualified

<sup>43</sup> Probably intended to refer to section 8 of the United States Housing Act of 1937.



eligible families who have completed participation in an economic self-sufficiency program specified by the Secretary.

(b) **COST LIMITATIONS.**—The Secretary may establish cost limitations on eligible activities under this subtitle, subject to the provisions of this subtitle.

(c) **USE OF PROCEEDS FROM SALES TO ELIGIBLE FAMILIES.**—The entity that transfers ownership interests in, or shares representing, units to eligible families, or another entity specified in the approved application, shall use the proceeds, if any, from the initial sale for costs of the homeownership program, including operating expenses, improvements to the project, business opportunities for low-income families, supportive services related to the homeownership program, additional homeownership opportunities, and other activities approved by the Secretary.

(d) **RESTRICTIONS ON RESALE BY HOMEOWNERS.**—

(1) **IN GENERAL.**—

(A) **TRANSFER PERMITTED.**—A homeowner under a homeownership program may transfer the homeowner's ownership interest in, or shares representing, the unit, except that a homeownership program may establish restrictions on the resale of units under the program.

(B) **RIGHT TO PURCHASE.**—Where a resident management corporation, resident council, or cooperative has jurisdiction over the unit, the corporation, council, or cooperative shall have the right to purchase the ownership interest in, or shares representing, the unit from the homeowner for the amount specified in a firm contract between the homeowner and a prospective buyer. If such an entity does not have jurisdiction over the unit or elects not to purchase and if the prospective buyer is not a low-income family, the public housing agency or the implementation grant recipient shall have the right to purchase the ownership interest in, or shares representing, the unit for the same amount.

(C) **PROMISSORY NOTE REQUIRED.**—The homeowner shall execute a promissory note equal to the difference between the market value and the purchase price, payable to the public housing agency or other entity designated in the homeownership plan, together with a mortgage securing the obligation of the note.

(2) **6 YEARS OR LESS.**—In the case of a transfer within 6 years of the acquisition under the program, the homeownership program shall provide for appropriate restrictions to assure that an eligible family may not receive any undue profit. The plan shall provide for limiting the family's consideration for its interest in the property to the total of—

(A) the contribution to equity paid by the family;

(B) the value, as determined by such means as the Secretary shall determine through regulation, of any improvements installed at the expense of the family during the family's tenure as owner; and

(C) the appreciated value determined by an inflation allowance at a rate which may be based on a cost-of-living index, an income index, or market index as determined by

the Secretary through regulation and agreed to by the purchaser and the entity that transfers ownership interests in, or shares representing, units to eligible families (or another entity specified in the approved application), at the time of initial sale, and applied against the contribution to equity.

Such an entity may, at the time of initial sale, enter into an agreement with the family to set a maximum amount which this appreciation may not exceed.

(3) 6–20 YEARS.—In the case of a transfer during the period beginning 6 years after the acquisition and ending 20 years after the acquisition, the homeownership program shall provide for the recapture by the Secretary or the program of an amount equal to the amount of the declining balance on the note described in paragraph (1)(C).

(4) USE OF RECAPTURED FUNDS.—Fifty percent of any portion of the net sales proceeds that may not be retained by the homeowner under the plan approved pursuant to this subsection shall be paid to the entity that transferred ownership interests in, or shares representing, units to eligible families, or another entity specified in the approved application, for use for improvements to the project, business opportunities for low-income families, supportive services related to the homeownership program, additional homeownership opportunities, and other activities approved by the Secretary. The remaining 50 percent shall be returned to the Secretary for use under this subtitle, subject to limitations contained in appropriations Acts. Such entity shall keep and make available to the Secretary all records necessary to calculate accurately payments due the Secretary under this subsection.

(e) THIRD PARTY RIGHTS.—The requirements under this subtitle regarding quality standards, resale, or transfer of the ownership interest of a homeowner shall be judicially enforceable against the grant recipient with respect to actions involving rehabilitation, and against purchasers of property under this subsection or their successors in interest with respect to other actions by affected low-income families, resident management corporations, resident councils, public housing agencies, and any agency, corporation, or authority of the United States Government. The parties specified in the preceding sentence shall be entitled to reasonable attorney fees upon prevailing in any such judicial action.

(f) DOLLAR LIMITATION ON ECONOMIC DEVELOPMENT ACTIVITIES.—Not more than an aggregate of \$250,000 from amounts made available under sections 422 and 423 may be used for economic development activities under sections 422(b)(6) and 423(b)(9)<sup>44</sup> for any project.

(g) TIMELY HOMEOWNERSHIP.—Recipients shall transfer ownership of the property to tenants within a specified period of time that the Secretary determines to be reasonable. During the interim period when the property continues to be operated and managed as rental housing, the recipient shall utilize written tenant selection policies and criteria that are approved by the Secretary as con-

<sup>44</sup> So in law. Probably intended to refer to sections 422(b)(7) and 423(b)(10).

sistent with the purpose of improving housing opportunities for low-income families. The recipient shall promptly notify in writing any rejected applicant of the grounds for any rejection.

(h) RECORDS AND AUDIT OF RECIPIENTS OF ASSISTANCE.—

(1) IN GENERAL.—Each recipient shall keep such records as may be reasonably necessary to fully disclose the amount and the disposition by such recipient of the proceeds of assistance received under this subtitle (and any proceeds from financing obtained or sales under subsections (c) and (d)), the total cost of the homeownership program in connection with which such assistance is given or used, and the amount and nature of that portion of the program supplied by other sources, and such other sources as will facilitate an effective audit.

(2) ACCESS BY THE SECRETARY.—The Secretary shall have access for the purpose of audit and examination to any books, documents, papers, and records of the recipient that are pertinent to assistance received under this subtitle.

(3) ACCESS BY THE COMPTROLLER GENERAL.—The Comptroller General of the United States, or any of the duly authorized representatives of the Comptroller General, shall also have access for the purpose of audit and examination to any books, documents, papers, and records of the recipient that are pertinent to assistance received under this subtitle.

(i) CERTAIN ENTITIES NOT ELIGIBLE.—Any entity that assumes, as determined by the Secretary, a mortgage covering eligible property in connection with the acquisition of the property from an owner under this section must comply with any low-income affordability restrictions for the remaining term of the mortgage. This requirement shall only apply to an entity, such as a cooperative association, that, as determined by the Secretary, intends to own the housing on a permanent basis.

**SEC. 426. [42 U.S.C. 12876] DEFINITIONS.**

For purposes of this subtitle:

(1) The term “applicant” means the following entities that may represent the tenants of the housing:

(A) A resident management corporation established in accordance with the requirements of the Secretary under section 20 of the United States Housing Act of 1937.

(B) A resident council.

(C) A cooperative association.

(D) A public or private nonprofit organization.

(E) A public body (including an agency or instrumentality thereof).

(F) A public housing agency (including an Indian housing authority).

(G) A mutual housing association.

(2) The term “eligible family” means a family or individual—

(A) who is a tenant of the eligible property on the date the Secretary approves an implementation grant; or

(B) whose income does not exceed 80 percent of the median income for the area, as determined by the Secretary with adjustments for smaller and larger families.

(3) The term “eligible property” means a multifamily rental property, containing 5 or more units, that is—

(A) owned or held by the Secretary;

(B) financed by a loan or mortgage held by the Secretary or insured by the Secretary;

(C) determined by the Secretary to have serious physical or financial problems under the terms of an insurance or loan program administered by the Secretary; or

(D) owned or held by the Secretary of Agriculture, the Resolution Trust Corporation, the Federal Deposit Insurance Corporation, the Secretary of Defense, the Secretary of Transportation, the General Services Administration, any other Federal agency, or a State or local government or an agency or instrumentality thereof.

(4) The term “homeownership program” means a program for homeownership under this subtitle.

(5) The term “Indian housing authority” has the meaning given such term in section 3(b)(11)<sup>45</sup> of the United States Housing Act of 1937.

(6) The term “low-income family” has the meaning given such term in section 3(b)(2) of the United States Housing Act of 1937.

(7) The term “public housing agency” has the meaning given such term in section 3(b)(6) of the United States Housing Act of 1937.

(8) The term “recipient” means an applicant approved to receive a grant under this title or such other entity specified in the approved application that will assume the obligations of the recipient under this subtitle.

(9) The term “resident council” means any incorporated nonprofit organization or association that—

(A) is representative of the tenants of the housing;

(B) adopts written procedures providing for the election of officers on a regular basis; and

(C) has a democratically elected governing board, elected by the tenants of the housing.

(10) The term “Secretary” means the Secretary of Housing and Urban Development.

**SEC. 427. [42 U.S.C. 12877] EXEMPTION.**

Eligible property covered by a homeownership program approved under this subtitle shall not be subject to—

(1) the Low-Income Housing Preservation and Resident Homeownership Act of 1990, or

(2) the requirements of section 203 of the Housing and Community Development Amendments of 1978 applicable to the sale of projects either at foreclosure or after acquisition by the Secretary.

**SEC. 428. [42 U.S.C. 12878] LIMITATION ON SELECTION CRITERIA.**

In establishing criteria for selecting applicants to receive assistance under this subtitle, the Secretary may not establish any

<sup>45</sup>So in law. Section 501(b)(1)(D) of Public Law 104-330, 110 Stat. 4042, struck section 3(b)(11) of the United States Housing Act of 1937, which previously consisted of a definition of the term “Indian housing authority”.

selection criterion or criteria that grant or deny such assistance to an applicant (or have the effect of granting or denying assistance) based on the implementation, continuation, or discontinuation of any public policy, regulation, or law of any jurisdiction in which the applicant or project is located.

**SEC. 429. AMENDMENT TO NATIONAL HOUSING ACT.**

Section 203(b)(9) of the National Housing Act (12 U.S.C. 1709(b)(9)) is amended by inserting after “Housing Act of 1961,” the following: \* \* \*

**SEC. 430. [42 U.S.C. 12879] IMPLEMENTATION.**

Not later than the expiration of the 180-day period beginning on the date that funds authorized under this subtitle first become available for obligation, the Secretary shall by notice establish such requirements as may be necessary to carry out the provisions of this subtitle. Such requirements shall be subject to section 553 of title 5, United States Code. The Secretary shall issue regulations based on the initial notice before the expiration of the 8-month period beginning on the date of the notice.

**SEC. 431. [42 U.S.C. 12880] REPORT.**

The Secretary shall no later than December 31, 1995, submit to the Congress a report setting forth—

- (1) the number, type and cost of eligible properties transferred pursuant to this subtitle;
- (2) the income, race, gender, children and other characteristics of families participating (or not participating) in homeownership programs funded under this subtitle;
- (3) the amount and type of financial assistance provided under and in conjunction with this subtitle;
- (4) the amount of financial assistance provided under this subtitle that was needed to ensure continued affordability and meet future maintenance and repair costs; and
- (5) the recommendations of the Secretary for statutory and regulatory improvements to the program.

## **Subtitle C—HOPE for Homeownership of Single Family Homes**

**SEC. 441. [42 U.S.C. 12891] PROGRAM AUTHORITY.**

The Secretary is authorized to make—

- (1) planning grants to help applicants develop homeownership programs in accordance with this subtitle; and
- (2) implementation grants to enable applicants to carry out homeownership programs in accordance with this subtitle.

**SEC. 442. [42 U.S.C. 12892] PLANNING GRANTS.**

(a) GRANTS.—The Secretary is authorized to make planning grants to applicants for the purpose of developing homeownership programs under this subtitle. The amount of a planning grant under this section may not exceed \$200,000, except that the Secretary may for good cause approve a grant in a higher amount.

(b) ELIGIBLE ACTIVITIES.—Planning grants may be used for activities to develop homeownership programs (which may include programs for cooperative ownership), including—

- (1) identifying eligible properties;
- (2) training and technical assistance of applicants related to the development of a specific homeownership program;
- (3) studies of the feasibility of specific homeownership programs;
- (4) inspection for lead-based paint hazards, as required by section 302(a) of the Lead-Based Paint Poisoning Prevention Act;
- (5) preliminary architectural and engineering work;
- (6) homebuyer counseling and training;
- (7) planning for economic development, job training, and self-sufficiency activities that promote economic self-sufficiency for homebuyers and homeowners under the homeownership program;
- (8) development of security plans; and
- (9) preparation of an application for an implementation grant under this subtitle.

(c) APPLICATION.—

(1) FORM AND PROCEDURES.—An application for a planning grant shall be submitted by an applicant in such form and in accordance with such procedures as the Secretary shall establish.

(2) MINIMUM REQUIREMENTS.—The Secretary shall require that an application contain at a minimum—

(A) a request for a planning grant, specifying the activities proposed to be carried out, the schedule for completing the activities, the personnel necessary to complete the activities, and the amount of the grant requested;

(B) a description of the applicant and a statement of its qualifications;

(C) identification and description of the eligible properties likely to be involved, and a description of the composition of the potential homebuyers and residents of the areas in which such eligible properties are located, including family size and income;

(D) a certification by the public official responsible for submitting the comprehensive housing affordability strategy under section 105 of the Cranston-Gonzalez National Affordable Housing Act that the proposed activities are consistent with the approved housing strategy of the State or unit of general local government within which the project is located (or, during the first 12 months after enactment of this Act,<sup>46</sup> that the application is consistent with such other existing State or local housing plan or strategy that the Secretary shall determine to be appropriate); and

(E) a certification that the applicant will comply with the requirements of the Fair Housing Act, title VI of the Civil Rights Act of 1964, section 504 of the Rehabilitation Act of 1973, and the Age Discrimination Act of 1975, and will affirmatively further fair housing.

<sup>46</sup>The date of enactment was November 28, 1990.

(d) **SELECTION CRITERIA.**—The Secretary shall, by regulation, establish selection criteria for a national competition for assistance under this section, which shall include—

- (1) the qualifications or potential capabilities of the applicant;
- (2) the extent of interest in the development of a homeownership program;
- (3) the potential of the applicant for developing a successful and affordable homeownership program and the availability and suitability of eligible properties in the applicable geographic area with respect to the application;
- (4) national geographic diversity among housing for which applicants are selected to receive assistance; and
- (5) such other factors that the Secretary shall require that (in the determination of the Secretary) are appropriate for purposes of carrying out the program established by this subtitle in an effective and efficient manner.

**SEC. 443. [42 U.S.C. 12893] IMPLEMENTATION GRANTS.**

(a) **GRANTS.**—The Secretary is authorized to make implementation grants to applicants for the purpose of carrying out homeownership programs approved under this subtitle.

(b) **ELIGIBLE ACTIVITIES.**—Implementation grants may be used for activities to carry out homeownership programs (which may include programs for cooperative ownership), including the following activities:

- (1) Architectural and engineering work.
- (2) Acquisition of the property for the purpose of transferring ownership to eligible families in accordance with a homeownership program meeting the requirements of this subtitle.
- (3) Rehabilitation of the property covered by the homeownership program, in accordance with standards established by the Secretary.
- (4) Abatement of lead-based paint hazards, as required by section 302(a) of the Lead-Based Paint Poisoning Prevention Act.
- (5) Administrative costs of the applicant, which may not exceed 15 percent of the amount of assistance provided under this section.
- (6) Counseling and training of homebuyers and homeowners under the homeownership program.
- (7) Relocation of eligible families who elect to move.
- (8) Any necessary temporary relocation of homebuyers during rehabilitation.
- (9) Legal fees.
- (10) Defraying costs for the ongoing training needs of the recipient that are related to developing and carrying out the homeownership program.
- (11) Economic development activities that promote economic self-sufficiency of homebuyers and homeowners under the homeownership program.

(c) **MATCHING FUNDING.**—

- (1) **IN GENERAL.**—Each recipient shall assure that contributions equal to not less than 25 percent of the grant

amounts under this section are provided from non-Federal sources to carry out the homeownership program.

(2) FORM.—Such contributions may be in the form of—

(A) cash contributions from non-Federal resources which may not include funds from a grant made under section 106(b) or section 106(d) of the Housing and Community Development Act of 1974;

(B) payment of administrative expenses, as defined by the Secretary, from non-Federal resources, including funds from a grant made under section 106(b) or section 106(d) of the Housing and Community Development Act of 1974;

(C) the value of taxes, fees, or other charges that are normally and customarily imposed but are waived, foregone, or deferred in a manner that facilitates the implementation of a homeownership program assisted under this subtitle;

(D) the value of investment in on-site and off-site infrastructure required for a homeownership program assisted under this subtitle; or

(E) such other in-kind contributions as the Secretary may approve.

Contributions for administrative expenses shall be recognized only up to an amount equal to 7 percent of the total amount of grants made available under this section.

(d) APPLICATION.—

(1) FORM AND PROCEDURE.—An application for an implementation grant shall be submitted by an applicant in such form and in accordance with such procedures as the Secretary shall establish.

(2) MINIMUM REQUIREMENTS.—The Secretary shall require that an application contain at a minimum—

(A) a request for an implementation grant, specifying the amount of the grant requested and its proposed uses;

(B) a description of the qualifications and experience of the applicant in providing low-income housing;

(C) a description of the proposed homeownership program, consistent with section 444 and the other requirements of this subtitle specifying the activities proposed to be carried out and their estimated costs, identifying reasonable schedules for carrying it out, and demonstrating that the program will comply with the affordability requirements under section 444(b);

(D) an identification and description of the properties to be acquired under the homeownership program and a description of the composition of potential eligible families, including family size and income;

(E) a description of and commitment for the resources that are expected to be made available to provide the matching funding required under subsection (c) and of other resources that are expected to be made available in support of the homeownership program;

(F) identification and description of the financing proposed for any (i) rehabilitation and (ii) acquisition (I) of the project, where applicable, by an entity for transfer to eligi-



ble families, and (II) by eligible families of ownership interests in, or shares representing, units in the project;

(G) the proposed sales prices for the properties, the basis for such price determinations, and terms to an entity, if any, that will purchase that property for resale to eligible families;

(H) the proposed sales prices, if any, and terms to eligible families;

(I) identification and description of the entity that will operate and manage the property;

(J) a certification by the public official responsible for submitting the comprehensive housing affordability strategy under section 105 of the Cranston-Gonzalez National Affordable Housing Act that the proposed activities are consistent with the approved housing strategy of the State or unit of general local government within which the project is located (or, during the first 12 months after enactment of this Act,<sup>47</sup> that the application is consistent with such other existing State or local housing plan or strategy that the Secretary shall determine to be appropriate); and

(K) a certification that the applicant will comply with the requirements of the Fair Housing Act, title VI of the Civil Rights Act of 1964, section 504 of the Rehabilitation Act of 1973, and the Age Discrimination Act of 1975, and will affirmatively further fair housing.

(e) SELECTION CRITERIA.—The Secretary shall establish selection criteria for assistance under this subtitle, which shall include—

(1) the ability of the applicant to develop and carry out the proposed homeownership program, taking into account the qualifications and experience of the applicant and the quality of any related ongoing program of the applicant;

(2) the feasibility of the homeownership program;

(3) the quality and viability of the proposed homeownership program;

(4) the extent to which suitable eligible property is available for use under the program in the area to be served, and the extent to which the types of property expected to be covered by the proposed homeownership program are federally owned;

(5) whether the approved comprehensive housing affordability strategy for the jurisdiction within which the eligible property is located includes the proposed homeownership program as one of the general priorities identified pursuant to section 105(b)(7) of the Cranston-Gonzalez National Affordable Housing Act;

(6) national geographic diversity among housing for which applicants are selected to receive assistance; and

(7) the extent to which a sufficient supply of affordable rental housing of the type assisted under this subtitle exists in the locality, so that the implementation of the homeownership

<sup>47</sup>The date of enactment was November 28, 1990.

program will not appreciably reduce the number of such rental units available to residents currently residing in such units or eligible for residency in such units.

(f) APPROVAL.—The Secretary shall notify each applicant, not later than 6 months after the date of the submission of the application, whether the application is approved or not approved.

**SEC. 444. [42 U.S.C. 12894] HOMEOWNERSHIP PROGRAM REQUIREMENTS.**

(a) IN GENERAL.—A homeownership program under this subtitle shall provide for acquisition by eligible families of ownership interests in, or shares representing, units in an eligible property under any arrangement determined by the Secretary to be appropriate, such as cooperative ownership (including limited equity cooperative ownership) and fee simple ownership (including condominium ownership), for occupancy by the eligible families.

(b) AFFORDABILITY.—A homeownership program under this subtitle shall provide for the establishment of sales prices (including principal, insurance, taxes, and interest and closing costs) for initial acquisition of the property, and for sales to eligible families, such that the eligible family shall not be required to expend more than 30 percent of the adjusted income of the family per month to complete a sale under the homeownership program.

(c) ELIGIBLE PROPERTY.—A property may not participate in a homeownership program under this subtitle unless all tenants or occupants of the property (at the time of the application for the implementation grant covering the property is filed with the Secretary) participate in the homeownership program.

(d) PLAN.—A homeownership program under this subtitle shall provide, and include a plan, for—

(1) identifying and selecting eligible families to participate in the homeownership program;

(2) providing relocation assistance to families who elect to move; and

(3) ensuring continued affordability of the property to homebuyers and homeowners.

(e) HOUSING QUALITY STANDARDS.—The application shall include a plan ensuring that the unit—

(1) will be free from any defects that pose a danger to health or safety before transfer of an ownership interest in, or shares representing, a unit to an eligible family; and

(2) will, not later than 2 years after the transfer to an eligible family, meet minimum housing standards established by the Secretary for the purpose of this title.

(f) PREFERENCE FOR ACQUISITION OF VACANT UNITS.—Each homeownership program under this subtitle shall provide that, in making vacant units in eligible properties available for acquisition by eligible families, preference shall be given to eligible families who reside in public or Indian housing.

**SEC. 445. [42 U.S.C. 12895] OTHER PROGRAM REQUIREMENTS.**

(a) COST LIMITATIONS.—The Secretary may establish cost limitations on eligible activities under this subtitle, subject to the provisions of this subtitle.

(b) **USE OF PROCEEDS FROM SALES TO ELIGIBLE FAMILIES.**—Any entity that transfers ownership interests in, or shares representing, units to eligible families, or another entity specified in the approved application, may use the proceeds, if any, from the initial sale for costs of the homeownership program, including operating expenses, improvements to the project, business opportunities for low-income families, supportive services related to the homeownership program, additional homeownership opportunities, and other activities approved by the Secretary.

(c) **RESTRICTIONS ON RESALE BY HOMEOWNERS.**—

(1) **IN GENERAL.**—

(A) **TRANSFER PERMITTED.**—A homeowner under a homeownership program may transfer the homeowner's ownership interest in, or shares representing, the unit, except that a homeownership program may establish restrictions on the resale of units under the program.

(B) **RIGHT TO PURCHASE.**—Where a resident management corporation, resident council, or cooperative has jurisdiction over the unit, the corporation, council, or cooperative shall have the right to purchase the ownership interest in, or shares representing, the unit from the homeowner for the amount specified in a firm contract between the homeowner and a prospective buyer. If such an entity does not have jurisdiction over the unit or elects not to purchase and if the prospective buyer is not a low-income family, the public housing agency or the implementation grant recipient shall have the right to purchase the ownership interest in, or shares representing, the unit for the same amount.

(C) **PROMISSORY NOTE REQUIRED.**—The homeowner shall execute a promissory note equal to the difference between the market value and the purchase price, payable to the public housing agency or other entity designated in the homeownership plan, together with a mortgage securing the obligation of the note.

(2) **6 YEARS OR LESS.**—In the case of a transfer within 6 years of the acquisition under the program, the homeownership program shall provide for appropriate restrictions to assure that an eligible family may not receive any undue profit. The plan shall provide for limiting the family's consideration for its interest in the property to the total of—

(A) the contribution to equity paid by the family;

(B) the value, as determined by such means as the Secretary shall determine through regulation, of any improvements installed at the expense of the family during the family's tenure as owner; and

(C) the appreciated value determined by an inflation allowance at a rate which may be based on a cost-of-living index, an income index, or market index as determined by the Secretary through regulation and agreed to by the purchaser and the entity that transfers ownership interests in, or shares representing, units to eligible families (or another entity specified in the approved application), at the

time of initial sale, and applied against the contribution to equity.

Such an entity may, at the time of initial sale, enter into an agreement with the family to set a maximum amount which this appreciation may not exceed.

(3) 6–20 YEARS.—In the case of a transfer during the period beginning 6 years after the acquisition and ending 20 years after the acquisition, the homeownership program shall provide for the recapture by the Secretary or the program of an amount equal to the amount of the declining balance on the note described in paragraph (1)(C).

(4) USE OF RECAPTURED FUNDS.—Fifty percent of any portion of the net sales proceeds that may not be retained by the homeowner under the plan approved pursuant to this subsection shall be paid to the entity that transferred ownership interests in, or shares representing, units to eligible families, or another entity specified in the approved application, for use for improvements to the project, business opportunities for low-income families, supportive services related to the homeownership program, additional homeownership opportunities, and other activities approved by the Secretary. The remaining 50 percent shall be returned to the Secretary for use under this subtitle, subject to limitations contained in appropriations Acts. Such entity shall keep and make available to the Secretary all records necessary to calculate accurately payments due the Secretary under this subsection.

(d) THIRD PARTY RIGHTS.—The requirements under this subtitle regarding quality standards, resale, or transfer of the ownership interest of a homeowner shall be judicially enforceable against the grant recipient with respect to actions involving rehabilitation, and against purchasers of property under this subsection or their successors in interest with respect to other actions by affected low-income families, resident management corporations, resident councils, public housing agencies, and any agency, corporation, or authority of the United States Government. The parties specified in the preceding sentence shall be entitled to reasonable attorney fees upon prevailing in any such judicial action.

(e) PROTECTION OF NONPURCHASING FAMILIES.—No tenant residing in a dwelling unit in a property on the date the Secretary approves an application for an implementation grant may be evicted by reason of a homeownership program approved under this subtitle.

(h) <sup>48</sup> RECORDS AND AUDIT OF RECIPIENTS OF ASSISTANCE.—

(1) IN GENERAL.—Each recipient shall keep such records as may be reasonably necessary to fully disclose the amount and the disposition by such recipient of the proceeds of assistance received under this subtitle (and any proceeds from financing obtained or sales under subsections (b) and (c)), the total cost of the homeownership program in connection with which such assistance is given or used, and the amount and nature of that portion of the program supplied by other sources, and such other sources as will facilitate an effective audit.

<sup>48</sup> So in law. There are no subsections (f) and (g).

(2) ACCESS BY THE SECRETARY.—The Secretary shall have access for the purpose of audit and examination to any books, documents, papers, and records of the recipient that are pertinent to assistance received under this subtitle.

(3) ACCESS BY THE COMPTROLLER GENERAL.—The Comptroller General of the United States, or any of the duly authorized representatives of the Comptroller General, shall also have access for the purpose of audit and examination to any books, documents, papers, and records of the recipient that are pertinent to assistance received under this subtitle.

**SEC. 446. [42 U.S.C. 12896] DEFINITIONS.**

For purposes of this subtitle:

(1) The term “applicant” means a private nonprofit organization, cooperative association, or a public agency (including an agency or instrumentality thereof) in cooperation with a private nonprofit organization.

(2) The term “displaced homemaker” has the same meaning as in section 104.

(3) The term “eligible family” means a family or individual who—

(A) has an income that does not exceed 80 percent of the median income for the area, as determined by the Secretary with adjustments for smaller and larger families; and

(B) is a first-time homebuyer.

(4) The term “eligible property” means a single family property, containing no more than four units, that is owned or held by the Secretary, the Secretary of Veterans Affairs, the Secretary of Agriculture, the Resolution Trust Corporation, the Federal Deposit Insurance Corporation, the Secretary of Defense, the Secretary of Transportation, the General Services Administration, any other Federal agency, a State or local government (including any in rem property), or a public housing agency or an Indian housing authority (excluding public or Indian housing under the United States Housing Act of 1937 and including properties held by institutions within the jurisdiction of the Resolution Trust Corporation).

(5) The term “first-time homebuyer” has the same meaning as in section 104.

(6) The term “homeownership program” means a program for homeownership under this subtitle.

(7) The term “Indian housing authority” has the meaning given such term in section 3(b)(11)<sup>49</sup> of the United States Housing Act of 1937.

(8) The term “low-income family” has the meaning given such term in section 3(b)(2) of the United States Housing Act of 1937.

(9) The term “public housing agency” has the meaning given such term in section 3(b)(6) of the United States Housing Act of 1937.

<sup>49</sup>So in law. Section 501(b)(1)(D) of Public Law 104–330, 110 Stat. 4042, struck section 3(b)(11) of the United States Housing Act of 1937, which previously consisted of a definition of the term “Indian housing authority”.

(10) The term “recipient” means an applicant approved to receive a grant under this subtitle or such other entity specified in the approved application that will assume the obligations of the recipient under this subtitle.

(11) The term “Secretary” means the Secretary of Housing and Urban Development.

(12) The term “single parent” means an individual who—

(A) is unmarried or legally separated from a spouse; and

(B)(i) has 1 or more minor children for whom the individual has custody or joint custody; or

(ii) is pregnant.

**SEC. 447. [42 U.S.C. 12897] LIMITATION ON SELECTION CRITERIA.**

In establishing criteria for selecting applicants to receive assistance under this subtitle, the Secretary may not establish any selection criterion or criteria that grant or deny such assistance to an applicant (or have the effect of granting or denying assistance) based on the implementation, continuation, or discontinuation of any public policy, regulation, or law of any jurisdiction in which the applicant or project is located.

**SEC. 448. [42 U.S.C. 12898] IMPLEMENTATION.**

Not later than the expiration of the 180-day period beginning on the date funds authorized under this subtitle first become available for obligation, the Secretary shall by notice establish such requirements as may be necessary to carry out the provisions of this subtitle. Such requirements shall be subject to section 553 of title 5, United States Code. The Secretary shall issue regulations based on the initial notice before the expiration of the 8-month period beginning on the date of the notice.

## Subtitle D—HOPE for Youth: Youthbuild

**SEC. 451. [42 U.S.C. 12899] STATEMENT OF PURPOSE.**

It is the purpose of this subtitle—

(1) to expand the supply of permanent affordable housing for homeless individuals and members of low- and very low-income families by utilizing the energies and talents of economically disadvantaged young adults;

(2) to provide economically disadvantaged young adults with opportunities for meaningful work and service to their communities in helping to meet the housing needs of homeless individuals and members of low- and very low-income families;

(3) to enable economically disadvantaged young adults to obtain the education and employment skills necessary to achieve economic self-sufficiency; and

(4) to foster the development of leadership skills and commitment to community development among young adults in low-income communities.

**SEC. 452. [42 U.S.C. 12899a] PROGRAM AUTHORITY.**

The Secretary may make—

(1) planning grants to enable applicants to develop Youthbuild programs; and

(2) implementation grants to enable applicants to carry out Youthbuild programs.

**SEC. 453. [42 U.S.C. 12899b] PLANNING GRANTS.**

(a) GRANTS.—The Secretary is authorized to make planning grants to applicants for the purpose of developing Youthbuild programs under this subtitle. The amount of a planning grant under this section may not exceed \$150,000, except that the Secretary may for good cause approve a grant in a higher amount.

(b) ELIGIBLE ACTIVITIES.—Planning grants may be used for activities to develop Youthbuild programs including—

- (1) studies of the feasibility of a Youthbuild program;
- (2) establishment of consortia between youth training and education programs and housing owners or developers, including any organizations specified in section 457(2), which will participate in the Youthbuild program;
- (3) identification and selection of a site for the Youthbuild program;
- (4) preliminary architectural and engineering work for the Youthbuild program;
- (5) identification and training of staff for the Youthbuild program;
- (6) planning for education, job training, and other services that will be provided as part of the Youthbuild program;
- (7) other planning, training, or technical assistance necessary in advance of commencing the Youthbuild program; and
- (8) preparation of an application for an implementation grant under this subtitle.

(c) APPLICATION.—

(1) FORM AND PROCEDURES.—An application for a planning grant shall be submitted by an applicant in such form and in accordance with such procedures as the Secretary shall establish.

(2) MINIMUM REQUIREMENTS.—The Secretary shall require that an application contain at a minimum—

(A) a request for a planning grant, specifying the activities proposed to be carried out, the schedule for completing the activities, the personnel necessary to complete the activities, and the amount of the grant requested;

(B) a description of the applicant and a statement of its qualifications, including a description of the applicant's past experience with housing rehabilitation or construction and with youth and youth education and employment training programs, and its relationship with local unions and apprenticeship programs, and other community groups;

(C) identification and description of potential sites for the program and the construction or rehabilitation activities that would be undertaken at such sites; potential methods for identifying and recruiting youth participants; potential educational and job training activities, work opportunities and other services for participants; and potential coordination with other Federal, State, and local hous-

ing and youth education and employment training activities including activities conducted by Indian tribes;

(D) a certification by the public official responsible for submitting the comprehensive housing affordability strategy under section 105 of the Cranston-Gonzalez National Affordable Housing Act that the proposed activities are consistent with the approved housing strategy of the State or unit of general local government within which the project is located; and

(E) a certification that the applicant will comply with the requirements of the Fair Housing Act, title VI of the Civil Rights Act of 1964, section 504 of the Rehabilitation Act of 1973, and the Age Discrimination Act of 1975, and will affirmatively further fair housing.

(d) **SELECTION CRITERIA.**—The Secretary shall, by regulation, establish selection criteria for a national competition for assistance under this section, which shall include—

(1) the qualifications or potential capabilities of the applicant;

(2) the potential of the applicant for developing a successful and affordable Youthbuild program;

(3) the need for the prospective program, as determined by the degree of economic distress—

(A) of the community from which participants would be recruited (such as poverty, youth unemployment, and number of individuals who have dropped out of high school); and

(B) of the community in which the housing proposed to be constructed or rehabilitated would be located (such as incidence of homelessness, shortage of affordable housing, and poverty); and

(4) such other factors that the Secretary shall require that (in the determination of the Secretary) are appropriate for purposes of carrying out the program established by this subtitle in an effective and efficient manner.

**SEC. 454. [42 U.S.C. 12899c] IMPLEMENTATION GRANTS.**

(a) **GRANTS.**—The Secretary is authorized to make implementation grants to applicants for the purpose of carrying out Youthbuild programs approved under this subtitle.

(b) **ELIGIBLE ACTIVITIES.**—Implementation grants may be used to carry out Youthbuild programs, including the following activities:

(1) Architectural and engineering work.

(2) Acquisition, rehabilitation, acquisition and rehabilitation, or construction of housing and related facilities to be used for the purposes of providing homeownership under subtitle B and subtitle C of this title, residential housing for homeless individuals, and low- and very low-income families, or transitional housing for persons who are homeless, have disabilities, are ill, are deinstitutionalized, or have other special needs.

(3) Administrative costs of the applicant, which may not exceed 15 percent of the amount of assistance provided under this section, or such higher percentage as the Secretary deter-



mines is necessary to support capacity development by a private nonprofit organization.

(4) Education and job training services and activities including—

(A) work experience and skills training, coordinated, to the maximum extent feasible, with preapprenticeship and apprenticeship programs, in the construction and rehabilitation activities described in subsection (b)(2);

(B) services and activities designed to meet the educational needs of participants, including—

(i) basic skills instruction and remedial education;

(ii) bilingual education for individuals with limited-English proficiency;

(iii) secondary education services and activities designed to lead to the attainment of a high school diploma or its equivalent; and

(iv) counseling and assistance in attaining post-secondary education and required financial aid;

(C) counseling services and related activities;

(D) activities designed to develop employment and leadership skills, including support for youth councils; and

(E) support services and need-based stipends necessary to enable individuals to participate in the program and, for a period not to exceed 12 months after completion of training, to assist participants through support services in retaining employment.

(5) Wage stipends and benefits provided to participants.

(6) Funding of operating expenses and replacement reserves of the property covered by the Youthbuild program.

(7) Legal fees.

(8) Defraying costs for the ongoing training and technical assistance needs of the recipient that are related to developing and carrying out the Youthbuild program.

(c) APPLICATION.—

(1) FORM AND PROCEDURE.—An application for an implementation grant shall be submitted by an applicant in such form and in accordance with such procedures as the Secretary shall establish.

(2) MINIMUM REQUIREMENTS.—The Secretary shall require that an application contain at a minimum—

(A) a request for an implementation grant, specifying the amount of the grant requested and its proposed uses;

(B) a description of the applicant and a statement of its qualifications, including a description of the applicant's past experience with housing rehabilitation or construction and with youth and youth education and employment training programs, and its relationship with local unions and apprenticeship programs, and other community groups;

(C) a description of the proposed site for the program;

(D) a description of the educational and job training activities, work opportunities, and other services that will be provided to participants;

(E) a description of the proposed construction or rehabilitation activities to be undertaken and the anticipated schedule for carrying out such activities;

(F) a description of the manner in which eligible youths will be recruited and selected, including a description of arrangements which will be made with community-based organizations, State and local educational agencies, including agencies of Indian tribes, public assistance agencies, the courts of jurisdiction for status and youth offenders, shelters for homeless individuals and other agencies that serve homeless youth, foster care agencies, and other appropriate public and private agencies;

(G) a description of the special outreach efforts that will be undertaken to recruit eligible young women (including young women with dependent children);

(H) a description of how the proposed program will be coordinated with other Federal, State, and local activities and activities conducted by Indian tribes, including vocational, adult and bilingual education programs, job training provided with funds available under title I of the Workforce Investment Act of 1998 and the Family Support Act of 1988, and housing and community development programs, including programs that receive assistance under section 106 of the Housing and Community Development Act of 1974;

(I) assurances that there will be a sufficient number of adequately trained supervisory personnel in the program who have attained the level of journeyman or its equivalent;

(J) a description of the applicant's relationship with local building trade unions regarding their involvement in training, and the relationship of the Youthbuild program with established apprenticeship programs;

(K) a description of activities that will be undertaken to develop the leadership skills of participants;

(L) a detailed budget and a description of the system of fiscal controls and auditing and accountability procedures that will be used to ensure fiscal soundness;

(M) a description of the commitments for any additional resources to be made available to the program from the applicant, from recipients of other Federal, State or local housing and community development assistance who will sponsor any part of the construction, rehabilitation, operation and maintenance, or other housing and community development activities undertaken as part of the program, or from other Federal, State or local activities and activities conducted by Indian tribes, including, but not limited to, vocational, adult and bilingual education programs, and job training provided with funds available under title I of the Workforce Investment Act of 1998 and the Family Support Act of 1988;

(N) identification and description of the financing proposed for any—

(i) rehabilitation;

- (ii) acquisition of the property; or
  - (iii) construction;
  - (O) identification and description of the entity that will operate and manage the property;
  - (P) a certification by the public official responsible for submitting the comprehensive housing affordability strategy under section 105 of the Cranston-Gonzalez National Affordable Housing Act that the proposed activities are consistent with the approved housing strategy of the State or unit of general local government within which the project is located; and
  - (Q) a certification that the applicant will comply with the requirements of the Fair Housing Act, title VI of the Civil Rights Act of 1964, section 504 of the Rehabilitation Act of 1973, and the Age Discrimination Act of 1975, and will affirmatively further fair housing.
- (d) **SELECTION CRITERIA.**—The Secretary shall establish selection criteria for assistance under this section, which shall include—
- (1) the qualifications or potential capabilities of the applicant;
  - (2) the feasibility of the Youthbuild program;
  - (3) the potential for developing a successful Youthbuild program;
  - (4) the need for the prospective project, as determined by the degree of economic distress of the community from which participants would be recruited (such as poverty, youth unemployment, number of individuals who have dropped out of high school) and of the community in which the housing proposed to be constructed or rehabilitated would be located (such as incidence of homelessness, shortage of affordable housing, poverty);
  - (5) the apparent commitment of the applicant to leadership development, education, and training of participants;
  - (6) the inclusion of previously homeless tenants in the housing provided;
  - (7) the commitment of other resources to the program by the applicant and by recipients of other Federal, State or local housing and community development assistance who will sponsor any part of the construction, rehabilitation, operation and maintenance, or other housing and community development activities undertaken as part of the program, or by other Federal, State or local activities and activities conducted by Indian tribes, including, but not limited to, vocational, adult and bilingual education programs, and job training provided with funds available under title I of the Workforce Investment Act of 1998 and the Family Support Act of 1988; and
  - (8) such other factors as the Secretary determines to be appropriate for purposes of carrying out the program established by this subtitle in an effective and efficient manner.
- (e) **PRIORITY FOR APPLICANTS WHO OBTAIN HOUSING MONEY FROM OTHER SOURCES.**—The Secretary shall give priority in the award of grants under this section to applicants to the extent that they propose to finance activities described in paragraphs (1), (2),

and (6) of subsection (b) from funds provided from Federal, State, local, or private sources other than assistance under this subtitle.

(f) APPROVAL.—The Secretary shall notify each applicant, not later than 4 months after the date of the submission of the application, whether the application is approved or not approved.

(g) COMBINED PLANNING AND IMPLEMENTATION GRANT APPLICATION PROCEDURE.—The Secretary shall develop a procedure under which an applicant may apply at the same time and in a single application for a planning grant and an implementation grant, with receipt of the implementation grant conditioned on successful completion of the activities funded by the planning grant.

**SEC. 455. [42 U.S.C. 12899d] YOUTHBUILD PROGRAM REQUIREMENTS.**

(a) RESIDENTIAL RENTAL HOUSING.—Each residential rental housing project receiving assistance under this subtitle shall meet the following requirements:

(1) OCCUPANCY BY LOW- AND VERY LOW-INCOME FAMILIES.—  
In the project—

(A) at least 90 percent of the units shall be occupied, or available for occupancy, by individuals and families with incomes less than 60 percent of the area median income, adjusted for family size; and

(B) the remaining units shall be occupied, or available for occupancy, by low-income families.

(2) TENANT PROTECTIONS.—

(A) LEASE.—The lease between a tenant and an owner of residential rental housing assisted under this subtitle shall be for not less than 1 year, unless otherwise mutually agreed to by the tenant and the owner, and shall contain such terms and conditions as the Secretary shall determine to be appropriate.

(B) TERMINATION OF TENANCY.—An owner shall not terminate the tenancy or refuse to renew the lease of a tenant of residential rental housing assisted under this title<sup>50</sup> except for serious or repeated violation of the terms and conditions of the lease, for violation of applicable Federal, State, or local law, or for other good cause. Any termination or refusal to renew must be preceded by not less than 30 days by the owner's service upon the tenant of a written notice specifying the grounds for the action.

(C) MAINTENANCE AND REPLACEMENT.—The owner of residential rental housing assisted under this subtitle shall maintain the premises in compliance with all applicable housing quality standards and local code requirements.

(D) TENANT SELECTION.—The owner of residential rental housing assisted under this subtitle shall adopt written tenant selection policies and criteria that—

(i) are consistent with the purpose of providing housing for very low-income and low-income families and individuals;

(ii) are reasonably related to program eligibility and the applicant's ability to perform the obligations of the lease;

<sup>50</sup>So in law. Probably intended to refer to this subtitle.

(iii) give reasonable consideration to the housing needs of families that would qualify for a preference under any system of preferences established under section 6(c)(1) of the United States Housing Act of 1937; and

(iv) provide for (I) the selection of tenants from a written waiting list in the chronological order of their application, to the extent practicable, and (II) for the prompt notification in writing of any rejected applicant of the grounds for any rejection.

(3) **LIMITATION ON RENTAL PAYMENTS.**—Tenants in each project shall not be required to pay rent in excess of the amount provided under section 3(a) of the United States Housing Act of 1937.

(4) **TENANT PARTICIPATION PLAN.**—For each project owned by a nonprofit organization, the organization shall provide a plan for and follow a program of tenant participation in management decisions.

(5) **PROHIBITION AGAINST DISCRIMINATION.**—A unit in a project assisted under this subtitle may not be refused for leasing to a family holding tenant-based assistance under section 8 of the United States Housing Act of 1937 because of the status of the prospective tenant as a holder of such assistance.

(b) **TRANSITIONAL HOUSING.**—Each transitional housing project receiving assistance under this subtitle shall adhere to the requirements regarding service delivery, housing standards, and rent limitations applicable to comparable housing receiving assistance under title IV of the Stewart B. McKinney Homeless Assistance Act<sup>51</sup>.

(c) **LIMITATIONS ON PROFITS FOR RENTAL AND TRANSITIONAL HOUSING.**—

(1) **MONTHLY RENTAL LIMITATION.**—The aggregate monthly rental for each eligible project may not exceed the operating costs of the project (including debt service, management, adequate reserves, and other operating costs) plus a 6 percent return on any equity investment of the project owner.

(2) **PROFIT LIMITATIONS ON PARTNERS.**—A nonprofit organization that receives assistance under this subtitle for a project shall agree to use any profit received from the operation, sale, or other disposition of the project for the purpose of providing housing for low- and moderate-income families. Profit-motivated partners in a nonprofit partnership may receive—

(A) not more than a 6 percent return on their equity investment from project operations; and

(B) upon disposition of the project, not more than an amount equal to their initial equity investment plus a return on that investment equal to the increase in the Consumer Price Index for the geographic location of the project

<sup>51</sup> Public Law 106-400, enacted on October 30, 2000, renamed the Stewart B. McKinney Homeless Assistance Act as the McKinney-Vento Homeless Assistance Act. Section 2 of such Act (42 U.S.C. 11301 note) provides that “[a]ny reference in any law, regulation, document, paper, or other record of the United States to the Stewart B. McKinney Homeless Assistance Act shall be deemed to be a reference to the ‘McKinney-Vento Homeless Assistance Act’”.

since the time of the initial investment of such partner in the project.

(d) HOMEOWNERSHIP.—Each homeownership project that receives assistance under this subtitle shall comply with the requirements of subtitle B or subtitle C of this title.

(e) RESTRICTIONS ON CONVEYANCE.—The ownership interest in a project that receives assistance under this subtitle may not be conveyed unless the instrument of conveyance requires a subsequent owner to comply with the same restrictions imposed upon the original owner.

(f) CONVERSION OF TRANSITIONAL HOUSING.—The Secretary may waive the requirements of subsection (b) to permit the conversion of a transitional housing project to a permanent housing project only if such housing would meet the requirements for residential rental housing specified in this section.

(g) PERIOD OF RESTRICTIONS.—A project that receives assistance under this subtitle shall comply with the requirements of this section for the remaining useful life of the property.

**SEC. 456. [42 U.S.C. 12899e] ADDITIONAL PROGRAM REQUIREMENTS.**

(a) ELIGIBLE PARTICIPANTS.—

(1) IN GENERAL.—Except as provided in paragraph (2), an individual may participate in a Youthbuild program receiving assistance under this subtitle only if such individual is—

(A) 16 to 24 years of age, inclusive;

(B) a very low-income individual or a member of a very low-income family; and

(C) an individual who has dropped out of high school.

(2) EXCEPTION FOR INDIVIDUALS NOT MEETING INCOME OR EDUCATIONAL NEED REQUIREMENTS.—Not more than 25 percent of the participants in such program may be individuals who do not meet the requirements of either paragraphs <sup>52</sup> (1)(B) or (C), but who have educational needs despite attainment of a high school diploma or its equivalent.

(3) PARTICIPATION LIMITATION.—Any eligible individual selected for full-time participation in a Youthbuild program may be offered full-time participation for a period of not less than 6 months and not more than 24 months.

(b) MINIMUM TIME DEVOTED TO EDUCATIONAL SERVICES AND ACTIVITIES.—A Youthbuild program receiving assistance under this subtitle shall be structured so that 50 percent of the time spent by participants in the program is devoted to educational services and activities, such as those specified in subparagraphs (B) through (F) of section 454(b)(4). <sup>53</sup>

(c) AUTHORITY RESTRICTION.—No provision of this subtitle may be construed to authorize any agency, officer, or employee of the United States to exercise any direction, supervision, or control over the curriculum, program of instruction, administration, or personnel of any educational institution, school, or school system, or over the selection of library resources, textbooks, or other printed

<sup>52</sup>So in law.

<sup>53</sup>So in law. There is no subparagraph (F) of such section 454(b)(4). Probably intended to refer to subparagraphs (B) through (E) of such section.

or published instructional materials by any educational institution or school system.

(d) **STATE AND LOCAL STANDARDS.**—All educational programs and activities supported with funds provided under this subtitle shall be consistent with applicable State and local educational standards. Standards and procedures with respect to the awarding of academic credit and certifying educational attainment in such programs shall be consistent with applicable State and local educational standards.

(e) **WAGES, LABOR STANDARDS, AND NONDISCRIMINATION.**—To the extent consistent with the provisions of this subtitle, sections 142, 143 and 167 of the Job Training Partnership Act (as in effect on the day before the date of enactment of the Workforce Investment Act of 1998), relating to wages and benefits, labor standards, and nondiscrimination, shall apply to the programs conducted under this subtitle as if such programs were conducted under the Job Training Partnership Act (as in effect on the day before the date of enactment of the Workforce Investment Act of 1998). This section may not be construed to prevent a recipient of a grant under this subtitle from using funds from non-Federal sources to increase wages and benefits under such programs, if appropriate.

**SEC. 457. [42 U.S.C. 12899f] DEFINITIONS.**

For purposes of this subtitle:

(1) **ADJUSTED INCOME.**—The term “adjusted income” has the meaning given the term in section 3(b) of the United States Housing Act of 1937.

(2) **APPLICANT.**—The term “applicant” means a public or private nonprofit agency, including—

- (A) a community-based organization;
- (B) an administrative entity designated under section 103(b)(1)(B) of the Job Training Partnership Act;
- (C) a community action agency;
- (D) a State and local housing development agency;
- (E) a community development corporation;
- (F) a State and local youth service and conservation corps;
- (G) an Indian tribe, tribally designated housing entity (as defined in section 4 of the Native American Housing Assistance and Self-Determination Act of 1996 (25 U.S.C. 4103)), or other agency primarily serving Indians; and
- (H) any other entity eligible to provide education and employment training under other Federal employment training programs.

(3) **COMMUNITY-BASED ORGANIZATION.**—The term “community-based organization” means a private nonprofit organization that—

- (A) maintains, through significant representation on the organization’s governing board or otherwise, accountability to low-income community residents and, to the extent practicable, low-income beneficiaries of programs receiving assistance under this subtitle; and

(B) has a history of serving the local community or communities where a program receiving assistance under this subtitle is located.

(4) HOMELESS INDIVIDUAL.—The term “homeless individual” has the meaning given the term in section 103 of the Stewart B. McKinney Homeless Assistance Act<sup>54</sup>.

(5) HOUSING DEVELOPMENT AGENCY.—The term “housing development agency” means any agency of a State or local government, or any private nonprofit organization that is engaged in providing housing for homeless or low-income families.

(6) INCOME.—The term “income” has the meaning given the term in section 3(b) of the United States Housing Act of 1937.

(7) INDIAN TRIBE.—The term “Indian tribe” has the same meaning given such term in section 102(a)(17) of the Housing and Community Development Act of 1974 (42 U.S.C. 5302(a)(17)).

(8) INDIVIDUAL WHO HAS DROPPED OUT OF HIGH SCHOOL.—The term “individual who has dropped out of high school” means an individual who is neither attending any school nor subject to a compulsory attendance law and who has not received a secondary school diploma or a certificate of equivalency for such diploma.

(9) INSTITUTION OF HIGHER EDUCATION.—The term “institution of higher education” has the meaning given the term in section 101 of the Higher Education Act of 1965.

(10) LIMITED-ENGLISH PROFICIENCY.—The term “limited-English proficiency” has the meaning given the term in section 7004(a) of the Elementary and Secondary Education Act of 1965.

(11) LOW-INCOME FAMILY.—The term “low-income family” has the meaning given the term in section 3(b) of the United States Housing Act of 1937.

(12) OFFENDER.—The term “offender” means any adult or juvenile with a record of arrest or conviction for a criminal offense.

(13) QUALIFIED NONPROFIT AGENCY.—The term “qualified public or private nonprofit agency” means any nonprofit agency that has significant prior experience in the operation of projects similar to the Youthbuild program authorized under this subtitle and that has the capacity to provide effective technical assistance.

(14) RELATED FACILITIES.—The term “related facilities” includes cafeterias or dining halls, community rooms or buildings, appropriate recreation facilities, and other essential service facilities.

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

<sup>54</sup> Public Law 106-400, enacted on October 30, 2000, renamed the Stewart B. McKinney Homeless Assistance Act as the McKinney-Vento Homeless Assistance Act. Section 2 of such Act (42 U.S.C. 11301 note) provides that “[a]ny reference in any law, regulation, document, paper, or other record of the United States to the Stewart B. McKinney Homeless Assistance Act shall be deemed to be a reference to the ‘McKinney-Vento Homeless Assistance Act’”.



(16) STATE.—The term “State” means any of the several States, the District of Columbia, the Commonwealth of Puerto Rico, the Commonwealth of the Northern Mariana Islands, the Virgin Islands, Guam, American Samoa, the Trust Territories of the Pacific Islands, or any other territory or possession of the United States.

(17) TRANSITIONAL HOUSING.—The term “transitional housing” means a project that has as its purpose facilitating the movement of homeless individuals and families to independent living within a reasonable amount of time. Transitional housing includes housing primarily designed to serve deinstitutionalized homeless individuals and other homeless individuals with mental or physical disabilities and homeless families with children.

(18) VERY LOW-INCOME FAMILY.—The term “very low-income family” has the meaning given the term in section 3(b) of the United States Housing Act of 1937.

(19) YOUTHBUILD PROGRAM.—The term “Youthbuild program” means any program that receives assistance under this subtitle and provides disadvantaged youth with opportunities for employment, education, leadership development, and training in the construction or rehabilitation of housing for homeless individuals and members of low- and very low-income families.

**SEC. 458. [42 U.S.C. 12899g] MANAGEMENT AND TECHNICAL ASSISTANCE.**

(a) SECRETARY ASSISTANCE.—The Secretary may enter into contracts with a qualified public or private nonprofit agency to provide assistance to the Secretary in the management, supervision, and coordination of Youthbuild programs receiving assistance under this subtitle.

(b) SPONSOR ASSISTANCE.—The Secretary shall enter into contracts with a qualified public or private nonprofit agency to provide appropriate training, information, and technical assistance to sponsors of programs assisted under this subtitle.

(c) APPLICATION PREPARATION.—Technical assistance may also be provided in the development of program proposals and the preparation of applications for assistance under this subtitle to eligible entities which intend or desire to submit such applications. Community-based organizations shall be given first priority in the provision of such assistance.

(d) RESERVATION OF FUNDS.—In each fiscal year, the Secretary shall reserve 5 percent of the amounts available for activities under this subtitle pursuant to section 402 to carry out subsections (b) and (c) of this section.

**SEC. 459. [42 U.S.C. 12899h] CONTRACTS.**

Each Youthbuild program shall carry out the services and activities under this subtitle directly or through arrangements or under contracts with administrative entities designated under section 103(b)(1)(B) of the Job Training Partnership Act, with State and local educational agencies, institutions of higher education, State and local housing development agencies, or with other public

agencies, including agencies of Indian tribes, and private organizations.

**SEC. 460. [42 U.S.C. 12899h-1] INELIGIBILITY OF INDIAN TRIBES.**

Indian tribes, Indian housing authorities, and other agencies primarily serving Indians or Indian areas shall not be eligible applicants for amounts made available for assistance under this subtitle for fiscal years 1998 through 2005.

**SEC. 461. [42 U.S.C. 12899i] REGULATIONS.**

The Secretary shall issue any regulations necessary to carry out this subtitle.

## TITLE V—HOUSING ASSISTANCE

\* \* \* \* \*

### Subtitle B—Low-Income Rental Assistance

\* \* \* \* \*

**SEC. 550. REVISIONS TO VOUCHER PROGRAM**

\* \* \* \* \*

(b) **[42 U.S.C. 1437f note] DOCUMENTATION OF EXCESSIVE RENT BURDENS.—**

(1) **DATA.**—The Secretary of Housing and Urban Development shall collect and maintain, in an automated system, data describing the characteristics of families assisted under the certificate and voucher programs established under section 8 of the United States Housing Act of 1937, which data shall include the share of family income paid toward rent.

(2) **REPORT.**—Not less than annually, the Secretary shall submit a report to the Congress setting forth, for each of the certificate program and the voucher program, the percentage of families participating in the program who are paying for rent more than the amount determined under section 3(a)(1) of such Act. The report shall set forth data in appropriate categories, such as various areas of the country, types and sizes of public housing agencies, types of families, and types of markets. The data shall identify the jurisdictions in which more than 10 percent of the families assisted under section 8 of such Act pay for rent more than the amount determined under section 3(a)(1) of such Act and the report shall include an examination of whether the fair market rent for such areas is appropriate. The report shall also include any recommendations of the Secretary for legislative and administrative actions appropriate as a result of analysis of the data.

(3) **AVAILABILITY OF DATA.**—The Secretary shall make available to each public housing agency administering assistance under the certificate or voucher program any data maintained under this subsection that relates to the public housing agency.

\* \* \* \* \*

**SEC. 555. [42 U.S.C. 1437f note] INCOME ELIGIBILITY FOR TENANCY IN NEW CONSTRUCTION UNITS.**

Any dwelling units in any housing constructed or substantially rehabilitated pursuant to assistance provided under section 8(b)(2) of the United States Housing Act of 1937, as such section existed before October 1, 1983, and with a contract for assistance under such section, shall be reserved for occupancy by low-income families and very low-income families.

\* \* \* \* \*

## TITLE VI—PRESERVATION OF AFFORDABLE RENTAL HOUSING

### Subtitle A—Prepayment of Mortgages Insured Under National Housing Act

**SEC. 601. PREPAYMENT OF MORTGAGES.**

(a) IN GENERAL.—Subtitles A and B of the Emergency Low Income Housing Preservation Act of 1987 (12 U.S.C. 1715l note) are amended to read as follows:

\* \* \* \* \*

(b) TABLE OF CONTENTS.—The table of contents of such Act is amended by striking the items relating to subtitles A and B of title II and inserting the following:

\* \* \* \* \*

**SEC. 602. RELATED NATIONAL HOUSING ACT AMENDMENTS.**

(a) INSURANCE FOR SECOND MORTGAGE FINANCING.—Section 241(f) of the National Housing Act is amended to read as follows:

\* \* \* \* \*

(b) APPROVAL PRIOR TO FORECLOSURE.—Section 250(b) of such Act (12 U.S.C. 1715z–15(b)) is amended to read as follows:

\* \* \* \* \*

(c) REPEALER.—Section 250(c) of such Act is hereby repealed, and section 250(d) is redesignated as section 250(c).

**SEC. 603. RELATED UNITED STATES HOUSING ACT OF 1937 AMENDMENTS.**

Section 89(v)(2)<sup>55</sup> of the United States Housing Act of 1937 is amended by striking out “Emergency Low Income Housing Preservation Act of 1987” and inserting “Low-Income Housing Preservation and Resident Homeownership Act of 1990”.

**SEC. 604. [12 U.S.C. 4101 note] TRANSITION PROVISIONS.**

(a) HOUSING ELIGIBLE FOR ELECTION.—Any owner of housing that becomes eligible low-income housing before January 1, 1991 and who, before such date, filed a notice of intent under section 222 of the Emergency Low Income Housing Preservation Act of 1987 (as such section existed before the date of the enactment of this

<sup>55</sup> So in law. Probably intended to refer to section 8(v)(2).

Act)<sup>56</sup> or under section 212 of such Act (as amended by section 601(a)) may elect to be subject to (1) the provisions of such Act as in effect before the date of the enactment of this Act, or (2) the provisions of the Low-Income Housing Preservation and Resident Homeownership Act of 1990, after the date of the enactment of this Act.<sup>56</sup> The Secretary shall establish procedures for owners to make the election under the preceding sentence. An owner that elects to be subject to the provisions of the Emergency Low Income Housing Preservation Act of 1987 shall comply with section 212(b), section 217(a)(2), and section 217(c) of the Low-Income Housing Preservation and Resident Homeownership Act of 1990.

(b) RIGHT OF CONVERSION TO NEW SYSTEM.—Any owner who has filed a plan of action on or before October 11, 1990, shall have the right to convert to the system of incentives and restrictions under this subtitle, with such adjustments as the Secretary determines to be appropriate to compensate for the value of any incentives the owner received under the Emergency Low Income Housing Preservation Act of 1987. Owners filing plans after such date shall not have any right under this subsection.

(c) EFFECTIVENESS OF REPEALED PROVISIONS.—Notwithstanding the amendment made by section 601(a), the provisions of the Emergency Low Income Housing Preservation Act of 1987 (as in effect immediately before the date of the enactment of this Act)<sup>56</sup> shall apply with respect to any housing for which the election under subsection (a)(1) is made. With respect to housing for which such an election is made—

(1) in making incentives under section 224 of such Act available to such housing, the Secretary—

(A) shall, for approvable plans of action, provide assistance sufficient to enable a nonprofit organization that has purchased or will purchase an eligible low income housing project to meet project oversight costs; and

(B) may not refuse to offer incentives referred to in such section to any owner who filed a notice of intent under section 222 of such Act before October 15, 1991, based solely on the date of filing of the plan of action for the housing; and

(2) provisions of section 233(1)(A)(i) of such Act shall not apply, and the term “eligible low income housing” shall, for purposes of such Act, shall include housing financed by a loan or mortgage that is insured or held by the Secretary or a State or State agency under section 221(d)(3) of the National Housing Act and receiving loan management assistance under section 8 of the United States Housing Act of 1937 due to a conversion from section 101 of the Housing and Urban Development Act of 1965.

(d) REGULATIONS.—Not later than the expiration of the 90-day period beginning on the date of the enactment of this Act,<sup>56</sup> the Secretary of Housing and Urban Development shall, subject to the provisions of section 553 of title 5, United States Code, publish proposed rules to implement this subtitle and the amendments made by this subtitle. Not later than 45 days after the expiration of the

<sup>56</sup>The date of enactment was November 28, 1990.

period under the preceding sentence the Secretary shall issue interim or final rules to implement such provisions.

**SEC. 605. [12 U.S.C. 4101 note] EFFECTIVE DATE.**

This subtitle shall take effect on the date of the enactment of this Act.<sup>57</sup>

## Subtitle B—Other Preservation Provisions

**SEC. 611. SECTION 236 RENTAL ASSISTANCE.**

(a) **DEFINITION OF INCOME.**—Section 236(m) of the National Housing Act (12 U.S.C. 1715z–1) is amended by inserting before the period at the end of the first sentence the following: “, except that any amounts not actually received by the family may not be considered as income under this subsection”.

(b) **RENT CHARGES.**—

(1) **PROJECTS ASSISTED UNDER SECTION 236.**—Section 236(f) of the National Housing Act (12 U.S.C. 1715z–1(f)) is amended by adding at the end the following new paragraph:

“(5)”

(2) **INSURED PROJECTS.**—Section 221(f) of the National Housing Act (12 U.S.C. 1715l(f)) is amended by adding at the end the following new undesignated paragraph:

\* \* \* \* \*

**SEC. 612. MANAGEMENT AND PRESERVATION OF FEDERALLY ASSISTED HOUSING.**

(a) **SECTION 236.**—Section 236(f) of the National Housing Act, as amended by the preceding provisions of this Act, is further amended by adding at the end the following new paragraph:

\* \* \* \* \*

(b) **SECTION 221.**—Section 221 of the National Housing Act is amended by inserting the following new subsection after subsection (k):

\* \* \* \* \*

**SEC. 613. ASSISTANCE TO PREVENT PREPAYMENT UNDER STATE MORTGAGE PROGRAMS.**

(a) **SECTION 8 ASSISTANCE.**—

(1) **AUTHORITY.**—Section 8(d)(2)(A) of the United States Housing Act of 1937 (42 U.S.C. 1437f(d)(2)(A)) is amended by inserting after the period at the end the following:

\* \* \* \* \*

(2) **CONTRACT TERM.**—Section 8(d)(2)(C) of the United States Housing Act of 1937 (42 U.S.C. 1437f(d)(2)(C)) is amended by inserting after the period at the end the following:

\* \* \* \* \*

(b) **[12 U.S.C. 4125] STATE PRESERVATION PROJECT ASSISTANCE.**—

(1) **IN GENERAL.**—Upon application by a State or local housing authority (including public housing agencies), the Sec-

<sup>57</sup>The date of enactment was November 28, 1990.

retary of Housing and Urban Development may make available, from sources of assistance appropriated to preserve the low and moderate income status of projects with expiring Federal use restrictions, assistance to such State or local housing authorities for use in preventing the loss of housing affordable for low and moderate income families that is assisted under a State program under the terms of which the owner may prepay a State assisted or subsidized mortgage on such housing. The application of the State or local housing authority shall demonstrate to the Secretary that the total amount of incentives provided to the owner to induce the owner to preserve the low and moderate income status of the project shall not exceed the level of incentives which may be provided to a similarly situated project with expiring Federal use restrictions under subtitle B of title II of the Housing and Community Development Act of 1987.

(2) SECTION 8.—Any assistance under section 8 of the United States Housing Act of 1937 made available pursuant to this subsection may be used (i) to supplement any assistance available on existing section 8 contracts, or (ii) to provide additional assistance to structures to ensure that all units occupied by tenants who are lower income families (as such term is defined in section 3(b) of the United States Housing Act of 1937) pay rents not exceeding 30 percent of their adjusted incomes. Any project receiving assistance hereunder shall be subject to standards, inspections and sanctions established by the Secretary under section 222(d) of the Housing and Community Development Act of 1987. Any such section 8 assistance shall be provided for a term and at the fair market rent levels or such higher levels used as applicable for eligible low-income housing that receives incentives under subtitle B of title II of the Housing and Community Development Act of 1987.

(3) RESTRICTION.—Assistance may be provided under this subsection only to State and local housing authorities that require any housing receiving such assistance to remain affordable for lower and moderate income tenants for the period during which assistance under this subsection is received.

\* \* \* \* \*

## TITLE VIII—HOUSING FOR PERSONS WITH SPECIAL NEEDS

### Subtitle A—Supportive Housing for the Elderly

#### SEC. 801. SUPPORTIVE HOUSING FOR THE ELDERLY.

(a) IN GENERAL.—Section 202 of the Housing Act of 1959 (12 U.S.C. 1701q) is amended to read as follows:

“SEC. 202. SUPPORTIVE HOUSING FOR THE ELDERLY.”

\* \* \* \* \*

(b) CONFORMING AMENDMENT.—Section 213(a) of the Housing and Community Development Act of 1974 is amended by striking “section 202 of the Housing Act of 1959”.

(c) [12 U.S.C. 1701q note] EFFECTIVE DATE AND APPLICABILITY.—The amendments made by this section shall take effect on October 1, 1991, with respect to projects approved on or after such date. The Secretary shall issue regulations for such purpose after notice and an opportunity for public comment in accordance with section 553 of title 5, United States Code. Regulations shall be issued for comment not later than 180 days after the date of enactment of this Act.

(d) [12 U.S.C. 1701q note] EXPEDITED FINANCING AND CONSTRUCTION.—

(1) IN GENERAL.—The Secretary may, subject to the availability of appropriations for contract amendments for the purposes of this subsection—

(A) provide such adjustments and waivers to the cost limitations specified under 24 CFR 885.410(a)(1); and

(B) make such adjustments to the relevant fair market rent limitations established under section 8(c)(1) of the United States Housing Act of 1937 in providing assistance under such Act,

as are necessary to ensure the expedited financing and construction of qualified supportive housing for the elderly provided that the Secretary finds that any applicable cost containment rules and regulations have been satisfied.

(2) DEFINITION.—For purposes of this subsection, the term “supportive housing for the elderly” means housing—

(A) located in a high-cost jurisdiction; and

(B) for which a loan reservation was made under section 202 of the Housing Act of 1959, 3 years before the date of enactment of this Act but for which no loan has been executed and recorded.

(e) AUTHORIZATION FOR EXISTING PROGRAM.—Section 202(a)(4)(C) of the Housing Act of 1959 (12 U.S.C. 1701q(a)(4)(C)) is amended—

\* \* \* \* \*

#### **SEC. 802. [42 U.S.C. 8011] REVISED CONGREGATE HOUSING SERVICES PROGRAM.**

(a) FINDINGS AND PURPOSES.—

(1) FINDINGS.—The Congress finds that—

(A) the effective provision of congregate services may require the redesign of units and buildings to meet the special physical needs of the frail elderly persons and the creation of congregate space to accommodate services that enhance independent living;

(B) congregate housing, coordinated with the delivery of supportive services, offers an innovative, proven, and cost-effective means of enabling frail older persons and persons with disabilities to maintain their dignity and independence;

(C) independent living with assistance is a preferable housing alternative to institutionalization for many frail older persons and persons with disabilities;

(D) 365,000 persons in federally assisted housing experience some form of frailty, and the number is expected to increase as the general population ages;

(E) an estimated 20 to 30 percent of older adults living in federally assisted housing experience some form of frailty;

(F) a large and growing number of frail elderly residents face premature or unnecessary institutionalization because of the absence of or deficiencies in the availability, adequacy, coordination, or delivery of supportive services;

(G) the support service needs of frail residents of assisted housing are beyond the resources and experience that housing managers have for meeting such needs;

(H) supportive services would promote the invaluable option of independent living for nonelderly persons with disabilities in federally assisted housing;

(I) approximately 25 percent of congregate housing services program sites provide congregate services to young individuals with disabilities;

(J) to the extent that institutionalized older adults do not need the full costly support provided by such care, public moneys could be more effectively spent providing the necessary services in a noninstitutional setting; and

(K) the Congregate Housing Services Program, established by Congress in 1978, and similar programs providing in-home services have been effective in preventing unnecessary institutionalization and encouraging deinstitutionalization.

(2) PURPOSES.—The purposes of this section are—

(A) to provide assistance to retrofit individual dwelling units and renovate public and common areas in eligible housing to meet the special physical needs of eligible residents;

(B) to create and rehabilitate congregate space in or adjacent to such housing to accommodate supportive services that enhance independent living;

(C) to improve the capacity of management to assess the service needs of eligible residents, coordinate the provision of supportive services that meet the needs of eligible residents and ensure the long-term provision of such services;

(D) to provide services in federally assisted housing to prevent premature and inappropriate institutionalization in a manner that respects the dignity of the elderly and persons with disabilities;

(E) to provide readily available and efficient supportive services that provide a choice in supported living arrangements by utilizing the services of an on-site coordinator, with emphasis on maintaining a continuum of care for the vulnerable elderly;



(F) to improve the quality of life of older Americans living in federally assisted housing;

(G) to preserve the viability of existing affordable housing projects for lower-income older residents who are aging in place by assisting managers of such housing with the difficulties and challenges created by serving older residents;

(H) to develop partnerships between the Federal Government and State governments in providing services to the frail elderly and persons with disabilities; and

(I) to utilize Federal and State funds in a more cost-effective and humane way in serving the needs of older adults.

(b) **CONTRACTS FOR CONGREGATE SERVICES PROGRAMS.—**

(1) **IN GENERAL.**—The Secretary of Housing and Urban Development and the Secretary of Agriculture (through Administrator of the Farmers Home Administration) shall enter into contracts with States, Indian tribes, units of general local government and local nonprofit housing sponsors, utilizing any amounts appropriated under subsection (n)—

(A) to provide congregate services programs for eligible project residents to promote and encourage maximum independence within a home environment for such residents capable of self-care with appropriate supportive services; or

(B) to adapt housing to better accommodate the physical requirements and service needs of eligible residents.

(2) **TERM OF CONTRACTS.**—Each contract between the Secretary concerned and a State, Indian tribe, or unit of general local government, or local nonprofit housing sponsor, shall be for a term of 5 years and shall be renewable at the expiration of the term, except as otherwise provided in this section.

(c) **RESERVATION OF AMOUNTS.**—For each State, Indian tribe, unit of general local government, and nonprofit housing sponsor, receiving a contract under this subsection, the Secretary concerned shall reserve a sum equal to the total approved contract amount from the amount authorized and appropriated for the fiscal year in which the notification date of funding approval occurs.

(d) **ELIGIBLE ACTIVITIES.**—

(1) **IN GENERAL.**—A congregate services program under this section shall provide meal and other services for eligible project residents (and other residents and nonresidents, as provided in subsection (e)), as provided in this section, that are coordinated on site.

(2) **MEAL SERVICES.**—Congregate services programs assisted under this section shall include meal service adequate to meet at least one-third of the daily nutritional needs of eligible project residents, as follows:

(A) FOOD STAMPS<sup>58</sup> AND AGRICULTURAL COMMODITIES.—In providing meal services under this paragraph, each congregate services program—

(i) shall—

(I) apply for approval as a retail food store under section 9 of the Food and Nutrition Act of 2008 (42 U.S.C. 2018); and

(II) if approved under such section, accept benefits as payment from individuals to whom such meal services are provided; and

(ii) shall request, and use to provide such meal services, agricultural commodities made available without charge by the Secretary of Agriculture.

(B) PREFERENCE FOR NUTRITION PROVIDERS.—In contracting for or otherwise providing for meal services under this paragraph, each congregate services program shall give preference to any provider of meal services who—

(i) receives assistance under title III of the Older Americans Act of 1965; or

(ii) has experience, according to standards as the Secretary shall require, in providing meal services in a housing project under the Congregate Housing Services Act of 1978 or any other program for congregate services.

(3) RETROFIT AND RENOVATION.—Assistance under this section may be provided with respect to eligible housing for the elderly for—

(A) retrofitting of individual dwelling units to meet the special physical needs of current or future residents who are or are expected to be eligible residents, which retrofitting may include—

(i) widening of doors to allow passage by persons with disabilities in wheelchairs into and within units in the project;

(ii) placement of light switches, electrical outlets, thermostats and other environmental controls in accessible locations;

(iii) installation of grab bars in bathrooms or the placement of reinforcements in bathroom walls to allow later installation of grab bars;

(iv) redesign of usable kitchens and bathrooms to permit a person in a wheelchair to maneuver about the space; and

(v) such other features of adaptive design that the Secretary finds are appropriate to meet the special needs of such residents;

(B) such renovation as is necessary to ensure that public and common areas are readily accessible to and usable by eligible residents;

<sup>58</sup>The words “FOOD STAMPS” in the heading for subsection (d)(2)(A) probably should read “SUPPLEMENTAL NUTRITION ASSISTANCE PROGRAM BENEFITS”. The casing was incorrect for the global amendment provided by section 4002(b)(1)(M) of Public Law 110–246.

(C) renovation, conversion, or combination of vacant dwelling units to create congregate space to accommodate the provision of supportive services to eligible residents;

(D) renovation of existing congregate space to accommodate the provision of supportive services to eligible residents; and

(E) construction or renovation of facilities to create conveniently located congregate space to accommodate the provision of supportive services to eligible residents.

For purposes of this paragraph, the term “congregate space” shall include space for cafeterias or dining halls, community rooms or buildings, workshops, adult day health facilities, or other outpatient health facilities, or other essential service facilities.

(4) SERVICE COORDINATOR.—Assistance under this section may be provided with respect to the employment of one or more individuals (hereinafter referred to as “service coordinator”) who may be responsible for—

(A) working with the professional assessment committee established under subsection (f)<sup>59</sup> on an ongoing basis to assess the service needs of eligible residents;

(B) working with service providers and the professional assessment committee to tailor the provision of services to the needs and characteristics of eligible residents;

(C) mobilizing public and private resources to ensure that the qualifying supportive services identified pursuant to subsection (d)<sup>59</sup> can be funded over the time period identified under such subsection;

(D) monitoring and evaluating the impact and effectiveness of any supportive service program receiving capital or operating assistance under this section; and

(E) performing such other duties and functions that the Secretary deems appropriate to enable frail elderly persons residing in federally assisted housing to live with dignity and independence.

Such qualifications and standards shall include requiring each service coordinator to be trained in the aging process, elder services, disability services, eligibility for and procedures of Federal and applicable State entitlement programs, legal liability issues relating to providing service coordination, drug and alcohol use and abuse by the elderly, and mental health issues. The Secretary shall establish such minimum qualifications and standards for the position of service coordinator that the Secretary deems necessary to ensure sound management. The Secretary may fund the employment of service coordinators by using amounts appropriated under this section and by permitting owners to use existing sources of funds, including excess project reserves.

(5) OTHER SERVICES.—Congregate services programs assisted under this section may include services for transportation, personal care, dressing, bathing, toileting, house-keeping, chore assistance, nonmedical counseling, assessment

<sup>59</sup> So in law. Probably intended to refer to subsection (e).

of the safety of housing units, group and socialization activities, assistance with medications (in accordance with any applicable State law), case management, personal emergency response, and other services to prevent premature and unnecessary institutionalization of eligible project residents.

(6) DETERMINATION OF NEEDS.—In determining the services to be provided to eligible project residents under a congregate services program assisted under this section, the program shall provide for consideration of the needs and wants of eligible project residents.

(7) FEES.—

(A) ELIGIBLE PROJECT RESIDENTS.—The owner of each eligible housing project shall establish fees for meals and other services provided under a congregate services program to eligible project residents, which shall be sufficient to provide 10 percent of the costs of the services provided. The Secretary concerned shall provide for the waiver of fees under this paragraph for individuals whose incomes are insufficient to provide for any payment. The fees for meals shall be in the following amounts:

(i) FULL MEAL SERVICES.—The fees for residents receiving more than 1 meal per day, 7 days per week, shall be reasonable and shall equal between 10 and 20 percent of the adjusted income of the project resident (as such income is determined under section 3(b) of the United States Housing Act of 1937), or the cost of providing the services, whichever is less.

(ii) LESS THAN FULL MEAL SERVICES.—The fees for residents receiving meal services less frequently than as described in the preceding sentence shall be in an amount equal to 10 percent of such adjusted income of the project resident or the cost of providing the services, whichever is less.

(B) OTHER RESIDENTS AND NONRESIDENTS.—Fees shall be established under this paragraph for residents of eligible housing projects (other than eligible project residents) and for nonresidents that receive services from a congregate services program pursuant to subsection (e). Such fees shall be in an amount equal to the cost of providing the services.

(8) DIRECT AND INDIRECT PROVISION OF SERVICES.—Any State, Indian tribe, unit of general local government, or non-profit housing sponsor that receives assistance under this section may provide congregate services directly to eligible project residents or may, by contract or lease, provide such services through other appropriate agencies or providers.

(e) ELIGIBILITY FOR SERVICES.—

(1) ELIGIBLE PROJECT RESIDENTS.—Any eligible resident who is a resident of an eligible housing project (or who with deinstitutionalization and appropriate supportive services under this section could become a resident of eligible federally assisted housing) shall be eligible for services under a congregate services program assisted under this section.

(2) ECONOMIC NEED.—In providing services under a congregate services program, the program shall give consideration to serving eligible project residents with the greatest economic need.

(3) IDENTIFICATION.—

(A) IN GENERAL.—A professional assessment committee under subparagraph (B) shall identify eligible project residents under paragraph (1) and shall designate services appropriate to the functional abilities and needs of each eligible project resident. The committee shall utilize procedures that ensure that the process of determining eligibility of individuals for congregate services shall accord such individuals fair treatment and due process and a right of appeal of the determination of eligibility, and shall also ensure the confidentiality of personal and medical records.

(B) PROFESSIONAL ASSESSMENT COMMITTEE.—A professional assessment committee under this section shall consist of not less than 3 individuals, who shall be appointed to the committee by the officials of the eligible housing project responsible for the congregate services program, and shall include qualified medical and other health and social services professionals competent to appraise the functional abilities of the frail elderly and persons with disabilities in relation to the performance of tasks of daily living.

(4) ELIGIBILITY OF OTHER RESIDENTS.—The elderly and persons with disabilities who reside in an eligible housing project other than eligible project residents under paragraph (1) may receive services from a congregate services program under this section if the housing managers, congregate service coordinators, and the professional assessment committee jointly determine that the participation of such individuals will not negatively affect the provision of services to eligible project residents. Residents eligible for services under this paragraph shall pay fees as provided under subsection (d).

(5) ELIGIBILITY OF NONRESIDENTS.—The Secretary may permit the provision of services to elderly persons and persons with disabilities who are not residents if the participation of such persons will not adversely affect the cost-effectiveness or operation of the program or add significantly to the need for assistance under this section.

(f) ELIGIBLE CONTRACT RECIPIENTS AND DISTRIBUTION OF ASSISTANCE.—The Secretary concerned may provide assistance under this section and enter into contracts under subsection (b) with—

(1) owners of eligible housing;

(2) States that submit applications in behalf of owners of eligible housing; and

(3) Indian tribes and units of general local government that submit applications on behalf of owners of eligible housing.

(g) APPLICATIONS.—The funds made available under this section shall be allocated by the Secretary among approvable applications submitted by or on behalf of owners. Applications for assist-

ance under this section shall be submitted in such form and in accordance with such procedures as the Secretary shall establish. Applications for assistance shall contain—

(1) a description of the type of assistance the applicant is applying for;

(2) in the case of an application involving rehabilitation or retrofit, a description of the activities to be carried out, the number of elderly persons to be served, the costs of such activities, and evidence of a commitment for the services to be associated with the project;

(3) a description of qualifying supportive services that can reasonably be expected to be made available to eligible residents over a 5-year period;

(4) a firm commitment from one or more sources of assistance ensuring that some or all of the qualifying supportive services identified under paragraph (3) will be provided for not less than 1 year following the completion of activities assisted under subsection (d);

(5) a description of public or private sources of assistance that are likely to fund or provide qualifying supportive services, including evidence of any intention to provide assistance expressed by State and local governments, private foundations, and other organizations (including for-profit and nonprofit organizations);

(6) a certifications<sup>60</sup> from the appropriate State or local agency (as determined by the Secretary) that—

(A) the provision of the qualifying supportive services identified under paragraph (3) will enable eligible residents to live independently and avoid unnecessary institutionalization,

(B) there is a reasonable likelihood that such services will be funded or provided for the entire period specified under paragraph (3), and

(C) the agency and the applicant will, during the term of the contract, actively seek assistance for such services from other sources;

(7) a description of any fees that would be established pursuant to subsection (d); and

(8) such other information or certifications that the Secretary determines to be necessary or appropriate to achieve the purposes of this section.

The Secretary shall act on each application within 60 days of its submission.

(h) SELECTION AND EVALUATION OF APPLICATIONS AND PROGRAMS.—

(1) IN GENERAL.—Each Secretary concerned shall establish criteria for selecting States, Indian tribes, units of general local government, and local nonprofit housing sponsors to receive assistance under this section, and shall select such entities to receive assistance. The criteria for selection shall include consideration of—

<sup>60</sup>So in law.

(A) the extent to which the activities described in subsection (d)(3) will foster independent living and the provision of such services;

(B) the types and priorities of the basic services proposed to be provided, the appropriateness of the targeting of services, the methods of providing for deinstitutionalized older individuals and individuals with disabilities, and the relationship of the proposal to the needs and characteristics of the eligible residents of the projects where the services are to be provided;

(C) the schedule for establishment of services following approval of the application;

(D) the degree to which local social services are adequate for the purpose of assisting eligible project residents to maintain independent living and avoid unnecessary institutionalization;

(E) the professional qualifications of the members of the professional assessment committee;

(F) the reasonableness and application of fees schedules established for congregate services;

(G) the adequacy and accuracy of the proposed budgets; and

(H) the extent to which the owner will provide funds from other services in excess of that required by this section.

(2) EVALUATION OF PROVISION OF CONGREGATE SERVICES PROGRAMS.—The Secretary of Housing and Urban Development and the Secretary of Agriculture shall, by regulation under subsection (n),<sup>61</sup> establish procedures for States, Indian tribes, and units of general local government receiving assistance under this section—

(A) to review and evaluate the performance of the congregate services programs of eligible housing projects receiving assistance under this section in such State; and

(B) to submit annually, to the Secretary concerned, a report evaluating the impact and effectiveness of congregate services programs in the entity assisted under this section.

(i) CONGREGATE SERVICES PROGRAM FUNDING.—

(1) COST DISTRIBUTION.—

(A) CONTRIBUTION REQUIREMENT.—In providing contracts under subsection (b), each Secretary concerned shall provide for the cost of providing the congregate services program assisted under this section to be distributed as follows:

(i) Each State, Indian tribe, unit of general government, or nonprofit housing sponsor that receives amounts under a contract under subsection (b) shall supplement any such amount with amounts sufficient to provide 50 percent of the cost of providing the congregate services program. Any monetary or in-kind contributions received by a congregate services pro-

<sup>61</sup>So in law. Probably intended to refer to subsection (m).

gram under the Congregate Housing Services Act of 1978 may be considered for purposes of fulfilling the requirement under this clause. The Secretary concerned shall encourage owners to use excess residual receipts to the extent available to supplement funds for retrofit and supportive services under this section.

(ii) The Secretary concerned shall provide 40 percent of the cost, with amounts under contracts under subsection (b).

(iii) Fees under subsection (d)(7) shall provide 10 percent of the cost.

**(B) EXCEPTIONS.—**

(i) For any congregate services program that was receiving assistance under a contract under the Congregate Housing Services Act of 1978 on the date of the enactment of this Act,<sup>62</sup> the unit of general local government or nonprofit housing sponsor, in coordination with a local government with respect to such program shall not be subject to the requirement to provide supplemental contributions under subparagraph (A)(i) (for such program) for the 6-year period beginning on the expiration of the contract for such assistance. The Secretary concerned shall require each such program to maintain, for such 6-year period, the same dollar amount of annual contributions in support of the services eligible for assistance under this section as were contributed to such program during the year preceding the date of the enactment of this Act.<sup>62</sup>

(ii) To the extent that the limitations under subsection (d)(7) regarding the percentage of income eligible residents may pay for services will result in collected fees for any congregate services program of less than 10 percent of the cost of providing the program, 50 percent of such remaining costs shall be provided by the recipient of amounts under the contract and 50 percent of such remaining costs shall be provided by the Secretary concerned under such contract.

**(C) ELIGIBLE SUPPLEMENTAL CONTRIBUTIONS.—**If provided by the State, Indian tribe, unit of general local government, or local nonprofit housing sponsor, any salary paid to staff from governmental sources to carry out the program of the recipient and salary paid to residents employed by the program (other than from amounts under a contract under subsection (b)), and any other in-kind contributions from governmental sources shall be considered as supplemental contributions for purposes of meeting the supplemental contribution requirement under subparagraph (A)(i), except that the amount of in-kind contributions considered for purposes of fulfilling such contribution requirement may not exceed 10 percent of the total amount to be provided by the State, Indian tribe, local government, or local nonprofit housing sponsor.

<sup>62</sup> November 28, 1990.



(D) PROHIBITION OF SUBSTITUTION OF FUNDS.—The Secretary concerned shall require each State, Indian tribe, unit of general local government, and local nonprofit housing sponsor, that receives assistance under this section to maintain the same dollar amount of annual contribution that such State, Indian tribe, local government, or sponsor was making, if any, in support of services eligible for assistance under this section before the date of the submission of the application for such assistance.

(E) LIMITATION.—For purposes of complying with the requirement under subparagraph (A)(i), the appropriate Secretary concerned may not consider any amounts contributed or provided by any local government to any State receiving assistance under this section that exceed 10 percent of the amount required of the State under subparagraph (A)(i).

(2) CONSULTATION.—The Secretary shall consult with the Secretary of Health and Human Services regarding the availability of assistance from other Federal programs to support services under this section and shall make information available to applicants for assistance under this section.

(j) MISCELLANEOUS PROVISIONS.—

(1) USE OF RESIDENTS IN PROVIDING SERVICES.—Each housing project that receives assistance under this section shall, to the maximum extent practicable, utilize the elderly and persons with disabilities who are residents of the housing project, but who are not eligible project residents, to participate in providing the services provided under congregate services programs under this section. Such individuals shall be paid wages that shall not be lower than the higher of—

(A) the minimum wage that would be applicable to the employee under the Fair Labor Standards Act of 1938, if section 6(a)(1) of such Act applied to the resident and if the resident were not exempt under section 13 of such Act;

(B) the State of<sup>63</sup> local minimum wage for the most nearly comparable covered employment; or

(C) the prevailing rates of pay for persons employed in similar public occupations by the same employer.

(2) EFFECT OF SERVICES.—Except for wages paid under paragraph (1) of this subsection, services provided to a resident of an eligible housing project under a congregate services program under this section may not be considered as income for the purpose of determining eligibility for or the amount of assistance or aid furnished under any Federal, federally assisted, or State program based on need.

(3) ELIGIBILITY AND PRIORITY FOR 1978 ACT RECIPIENTS.—Notwithstanding any other provision of this section, any public housing agency, housing assisted under section 202 of the Housing Act of 1959, or nonprofit corporation that was receiving assistance under a contract under the Congregate Housing Services Act of 1978 on the date of the enactment of this sec-

<sup>63</sup> So in law.

tion<sup>64</sup> shall (subject to approval and allocation of sufficient amounts under the Congregate Housing Services Act of 1978 and appropriations Acts under such Act) receive assistance under the Congregate Housing Services Act of 1978 for the remainder of the term of the contract for assistance for such agency or corporation under such Act, and shall receive priority for assistance under this section after the expiration of such period.

(4) ADMINISTRATIVE COST LIMITATION.—A recipient of assistance under this section may not use more than 10 percent of the sum of such assistance and the contribution amounts required under subsection (i)(1)(A)(i) for administrative costs and shall ensure that any entity to which the recipient distributes amounts from such sum may not expend more than a reasonable amount from such distributed amounts for administrative costs. Administrative costs may not include any capital expenses.

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

(1) The term “activity of daily living” means an activity regularly necessary for personal care and includes bathing, dressing, eating, getting in and out of bed and chairs, walking, going outdoors, and using the toilet.

(2) The term “case management” means assessment of the needs of a resident, ensuring access to and coordination of services for the resident, monitoring delivery of services to the resident, and periodic reassessment to ensure that services provided are appropriate to the needs and wants of the resident.

(3) The term “congregate housing” means low-rent housing that is connected to a central dining facility where wholesome and economical meals can be served to the residents.

(4) The term “congregate services” means services described in subsection (d) of this section.

(5) The term “congregate services program” means a program assisted under this section undertaken by an eligible housing project to provide congregate services to eligible residents.

(6) The term “eligible housing project” means—

(A) public housing (as such term is defined in section 3(b) of the United States Housing Act of 1937) and lower income housing developed or operated pursuant to a contract between the Secretary of Housing and Urban Development and an Indian housing authority under title II of the United States Housing Act of 1937<sup>65</sup>;

(B) housing assisted under section 8 of the United States Housing Act of 1937 with a contract that is attached to the structure under subsection (d)(2) of such section or with a contract entered into in connection with the new construction or moderate rehabilitation of the struc-

<sup>64</sup> November 28, 1990.

<sup>65</sup> Section 501(a) of the Native American Housing Assistance and Self-Determination Act of 1996 (P.L. 104-330; 110 Stat. 4041) repealed title II of the United States Housing Act of 1937.

ture under section 8(b)(2) of the United States Housing Act,<sup>66</sup> as such section existed before October 1, 1983;

(C) housing assisted under section 202 of the Housing Act of 1959;

(D) housing assisted under section 221(d) or 236 of the National Housing Act, with respect to which the owner has made a binding commitment to the Secretary of Housing and Urban Development not to prepay the mortgage or terminate the insurance contract under section 229 of such Act (unless the binding commitments have been made to extend the low-income use restrictions relating to such housing for the remaining useful life of the housing);

(E) housing assisted under section 514 or 515 of the Housing Act of 1949, with respect to which the owner has made a binding commitment to the Secretary of Agriculture not to prepay or refinance the mortgage (unless the binding commitments have been made to extend the low-income use restrictions relating to such housing for not less than the 20-year period under section 502(c)(4) of the Housing Act of 1949); and

(F) housing assisted under section 516 of the Housing Act of 1949.

(7) The term “eligible resident” means a person residing in eligible housing for the elderly who qualifies under the definition of frail elderly, person with disabilities (regardless of whether the person is elderly), or temporarily disabled.

(8) The term “frail elderly” means an elderly person who is unable to perform at least 3 activities of daily living adopted by the Secretary for purposes of this program. Owners may establish additional eligibility requirements (acceptable to the Secretary) based on the standards in local supportive services programs.

(9) The term “Indian tribe” means any Indian tribe, band, nation, or other organized group or community, including any Alaska Native village or regional corporation as defined in or established pursuant to the Alaska Native Claims Settlement Act, that is recognized as eligible for the special programs and services provided by the United States to Indians because of their status as Indians.

(10) The term “instrumental activity of daily living” means a regularly necessary home management activity and includes preparing meals, shopping for personal items, managing money, using the telephone, and performing light or heavy housework.

(11) The term “local nonprofit housing sponsor” includes public housing agencies (as such term is defined in section 3(b)(6))<sup>67</sup> of the United States Housing Act of 1937.

(12) The term “nonprofit”, as applied to an organization, means no part of the net earnings of the organization inures, or may lawfully inure, to the benefit of any private shareholder or individual.

<sup>66</sup> So in law. Probably intended to refer to the United States Housing Act of 1937.

<sup>67</sup> So in law.

(13) The term “elderly person” means a person who is at least 62 years of age.

(14) The term “person with disabilities” has the meaning given the term by section 811 of this Act.

(15) The term “professional assessment committee” means a committee established under subsection (e)(3)(B).

(16) The term “qualifying supportive services” means new or significantly expanded services that the Secretary deems essential to enable eligible residents to live independently and avoid unnecessary institutionalization. Such services may include but not be limited to (A) meal service adequate to meet nutritional need; (B) housekeeping aid; (C) personal assistance (which may include, but is not limited to, aid given to eligible residents in grooming, dressing, and other activities which maintain personal appearance and hygiene); (D) transportation services; (E) health-related services; and (F) personal emergency response systems; the owner may provide the qualifying services directly to eligible residents or may, by contract or lease, provide such services through other appropriate agencies or providers.

(17) The term “Secretary concerned” means—

(A) the Secretary of Housing and Urban Development, with respect to eligible federally assisted housing administered by such Secretary; and

(B) the Secretary of Agriculture, with respect to eligible federally assisted housing administered by the Administrator of the Farmers Home Administration.

(18) The term “State” means the States of the United States, the District of Columbia, the Commonwealth of Puerto Rico, the Commonwealth of the Northern Mariana Islands, Guam, the Virgin Islands, American Samoa, the Trust Territory of the Pacific Islands, and any other territory or possession of the United States.

(19) The term “temporarily disabled” means having an impairment that—

(A) is expected to be of no more than 6 months duration; and

(B) impedes the ability of the individual to live independently unless the individual receives congregate services.

(20) The term “unit of general local government”—

(A) means any city, town, township, county, parish, village, or other general purpose political subdivision of a State; and

(B) includes a unit of general government acting as an applicant for assistance under this section in cooperation with a nonprofit housing sponsor and a nonprofit housing sponsor acting as an applicant for assistance under this section in cooperation with a unit of general local government, as provided under subsection (g)(1)(B).

(I) REPORTS TO CONGRESS.—

(1) IN GENERAL.—Each Secretary concerned shall submit to the Congress, for each fiscal year for which assistance is pro-

vided for congregate services programs under this section, an annual report—

(A) describing the activities being carried out with assistance under this section and the population being served by such activities;

(B) evaluating the effectiveness of the program of providing assistance for congregate services under this section, and a comparison of the effectiveness of the program under this section with the HOPE for Elderly Independence Program under section 803 of this Act; and

(C) containing any other information that the Secretary concerned considers helpful to the Congress in evaluating the effectiveness of this section.

(2) SUBMISSION OF DATA TO SECRETARY CONCERNED.—The Secretary of Housing and Urban Development and the Secretary of Agriculture shall provide, by regulation under subsection (m), for the submission of data by recipients of assistance under this section to be used in the repeat<sup>68</sup> required by paragraph (1).

(m) REGULATIONS.—The Secretary of Housing and Urban Development and the Secretary of Agriculture shall, not later than the expiration of the 180-day period beginning on the date of the enactment of this Act,<sup>69</sup> jointly issue any regulations necessary to carry out this section.

(n) AUTHORIZATION OF APPROPRIATIONS.—

(1) AUTHORIZATION AND USE.—There are authorized to be appropriated to carry out this section \$21,000,000 for fiscal year 1993, and \$21,882,000 for fiscal year 1994, of which not more than—

(A) the amount of such sums appropriated that, with respect to the total amount appropriated, represents the ratio of the total number of units of eligible federally assisted housing for elderly individuals assisted by programs administered by the Secretary of Housing and Urban Development to the total number of units assisted by programs administered by such Secretary and the Secretary of Agriculture, shall be used for assistance for congregate services programs in eligible federally assisted housing administered by the Secretary of Housing and Urban Development; and

(B) the amount of such sums appropriated that, with respect to the total amount appropriated, represents the ratio of the total number of units of eligible federally assisted housing for elderly individuals assisted by programs administered by the Secretary of Agriculture to the total number of units assisted by programs administered by such Secretary and the Secretary of Housing and Urban Development, shall be used for assistance for congregate services programs in eligible federally assisted housing administered by the Secretary of Agriculture (through the Administrator of the Farmers Home Administration).

<sup>68</sup> So in law. Probably intended to be “report”.

<sup>69</sup> The date of enactment was November 28, 1990.

(2) AVAILABILITY.—Any amounts appropriated under this subsection shall remain available until expended.

(o) RESERVE FUND.—The Secretary may reserve not more than 5 percent of the amounts made available in each fiscal year to supplement grants awarded to owners under this section when, in the determination of the Secretary, such supplemental adjustments are required to maintain adequate levels of services to eligible residents.

(p) CONFORMING AMENDMENT.—Section 9(a)(3)(B) of the United States Housing Act of 1937 is amended—

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## Subtitle B—Supportive Housing for Persons With Disabilities

### SEC. 811. [42 U.S.C. 8013] SUPPORTIVE HOUSING FOR PERSONS WITH DISABILITIES.

(a) PURPOSE.—The purpose of this section is to enable persons with disabilities to live with dignity and independence within their communities by expanding the supply of supportive housing that—

(1) is designed to accommodate the special needs of such persons;

(2) makes available supportive services that address the individual health, mental health, and other needs of such persons; and

(3) promotes and facilitates community integration for people with significant and long-term disabilities.

(b)(b)<sup>70</sup> AUTHORITY TO PROVIDE ASSISTANCE.—The Secretary is authorized to take the following actions:

(1) TENANT-BASED ASSISTANCE.—To provide tenant-based rental assistance to eligible persons with disabilities, in accordance with subsection (d)(4).

(2) CAPITAL ADVANCES.—To provide assistance to private, nonprofit organizations to expand the supply of supportive housing for persons with disabilities, which shall be provided as—

(A) capital advances in accordance with subsection (d)(1), and

(B) contracts for project rental assistance in accordance with subsection (d)(2);

assistance under this paragraph may be used to finance the acquisition, acquisition and moderate rehabilitation, construction, reconstruction, or moderate or substantial rehabilitation of housing, including the acquisition from the Resolution Trust Corporation, to be used as supportive housing for persons with disabilities and may include real property acquisition, site improvement, conversion, demolition, relocation, and other expenses that the Secretary determines are necessary to expand the supply of supportive housing for persons with disabilities.

(3) PROJECT RENTAL ASSISTANCE.—

<sup>70</sup>So in law.

(A) IN GENERAL.—To offer additional methods of financing supportive housing for non-elderly adults with disabilities, the Secretary shall make funds available for project rental assistance pursuant to subparagraph (B) for eligible projects under subparagraph (C). The Secretary shall provide for State housing finance agencies and other appropriate entities to apply to the Secretary for such project rental assistance funds, which shall be made available by such agencies and entities for dwelling units in eligible projects based upon criteria established by the Secretary. The Secretary may not require any State housing finance agency or other entity applying for such project rental assistance funds to identify in such application the eligible projects for which such funds will be used, and shall allow such agencies and applicants to subsequently identify such eligible projects pursuant to the making of commitments described in subparagraph (C)(ii).

(B) CONTRACT TERMS.—

(i) CONTRACT TERMS.—Project rental assistance under this paragraph shall be provided—

(I) in accordance with subsection (d)(2); and

(II) under a contract having an initial term of not less than 180 months that provides funding for a term 60 months, which funding shall be renewed upon expiration, subject to the availability of sufficient amounts in appropriation Acts.

(ii) LIMITATION ON UNITS ASSISTED.—Of the total number of dwelling units in any multifamily housing project containing any unit for which project rental assistance under this paragraph is provided, the aggregate number that are provided such project rental assistance, that are used for supportive housing for persons with disabilities, or to which any occupancy preference for persons with disabilities applies, may not exceed 25 percent of such total.

(iii) PROHIBITION OF CAPITAL ADVANCES.—The Secretary may not provide a capital advance under subsection (d)(1) for any project for which assistance is provided under this paragraph.

(iv) ELIGIBLE POPULATION.—Project rental assistance under this paragraph may be provided only for dwelling units for extremely low-income persons with disabilities and extremely low-income households that include at least one person with a disability.

(C) ELIGIBLE PROJECTS.—An eligible project under this subparagraph is a new or existing multifamily housing project for which—

(i) the development costs are paid with resources from other public or private sources; and

(ii) a commitment has been made—

(I) by the applicable State agency responsible for allocation of low-income housing tax credits under section 42 of the Internal Revenue Code of 1986, for an allocation of such credits;

(II) by the applicable participating jurisdiction that receives assistance under the HOME Investment Partnership Act, for assistance from such jurisdiction; or

(III) by any Federal agency or any State or local government, for funding for the project from funds from any other sources.

(D) STATE AGENCY INVOLVEMENT.—Assistance under this paragraph may be provided only for projects for which the applicable State agency responsible for health and human services programs, and the applicable State agency designated to administer or supervise the administration of the State plan for medical assistance under title XIX of the Social Security Act, have entered into such agreements as the Secretary considers appropriate—

(i) to identify the target populations to be served by the project;

(ii) to set forth methods for outreach and referral; and

(iii) to make available appropriate services for tenants of the project.

(E) USE REQUIREMENTS.—In the case of any project for which project rental assistance is provided under this paragraph, the dwelling units assisted pursuant to subparagraph (B) shall be operated for not less than 30 years as supportive housing for persons with disabilities, in accordance with the application for the project approved by the Secretary, and such dwelling units shall, during such period, be made available for occupancy only by persons and households described in subparagraph (B)(iv).

(F) REPORT.—Not later than 3 years after the date of the enactment of this paragraph, and again 2 years thereafter, the Secretary shall submit to Congress a report—

(i) describing the assistance provided under this paragraph;

(ii) analyzing the effectiveness of such assistance, including the effectiveness of such assistance compared to the assistance program for capital advances set forth under subsection (d)(1) (as in effect pursuant to the amendments made by such Act); and

(iii) making recommendations regarding future models for assistance under this section.

(c) GENERAL REQUIREMENTS.—The Secretary shall take such actions as may be necessary to ensure that—

(1) assistance made available under this section will be used to meet the housing and community-based services needs of persons with disabilities by providing a variety of housing options, ranging from group homes and independent living facilities to dwelling units in multifamily housing developments, condominium housing, and cooperative housing; and

(2) supportive housing for persons with disabilities assisted under this section shall—



(A) make available voluntary supportive services that address the individual needs of persons with disabilities occupying such housing;

(B) provide such persons with opportunities for optimal independent living and participation in normal daily activities; and

(C) facilitate access by such persons to the community at large and to suitable employment opportunities within such community.

(d) FORMS OF ASSISTANCE.—

(1) CAPITAL ADVANCES.—A capital advance provided pursuant to subsection (b)(1)<sup>71</sup> shall bear no interest and its repayment shall not be required so long as the housing remains available for very-low-income persons with disabilities in accordance with this section. Such advance shall be in an amount calculated in accordance with the development cost limitation established in subsection (h).

(2) PROJECT RENTAL ASSISTANCE.—(A) INITIAL PROJECT RENTAL ASSISTANCE CONTRACT.—Contracts for project rental assistance shall comply with subsection (e)(2) and shall obligate the Secretary to make monthly payments to cover any part of the costs attributed to units occupied (or, as approved by the Secretary, held for occupancy) by very low-income persons with disabilities that is not met from project income. The amount provided under the contract for each year covered by the contract for any project shall not exceed the sum of the initial annual project rentals for all units and any initial utility allowances for such units, as approved by the Secretary. Any contract amounts not used by a project in any year shall remain available to the project until the expiration of the contract. The Secretary may adjust the amount provided under the contract for each year covered by the contract if the sum of the project income and the amount of assistance payments available under this paragraph are inadequate to provide for reasonable project costs. In the case of an intermediate care facility which is the residence of persons assisted under title XIX of the Social Security Act, project income under this paragraph shall include the same amount as if such person were being assisted under title XVI of the Social Security Act.

(B) RENEWAL OF AND INCREASES IN CONTRACT AMOUNTS.—

(i) EXPIRATION OF CONTRACT TERM.—Upon the expiration of each contract term, subject to the availability of amounts made available in appropriation Acts, the Secretary shall adjust the annual contract amount to provide for reasonable project costs, including adequate reserves and service coordinators as appropriate, except that any contract amounts not used by a project during a contract term shall not be available for such adjustments upon renewal.

(ii) EMERGENCY SITUATIONS.—In the event of emergency situations that are outside the control of the owner,

<sup>71</sup>The reference to “subsection (b)(1)” in subsection (d)(1) probably should be a reference to subsection (b)(2).

the Secretary shall increase the annual contract amount, subject to reasonable review and limitations as the Secretary shall provide.

(3) RENT CONTRIBUTION.—A very low-income person shall pay as rent for a dwelling unit assisted under subsection (b)(2) the higher of the following amounts, rounded to the nearest dollar: (A) 30 percent of the person's adjusted monthly income, (B) 10 percent of the person's monthly income, or (C) if the person is receiving payments for welfare assistance from a public agency and a part of such payments, adjusted in accordance with the person's actual housing costs, is specifically designated by such agency to meet the person's housing costs, the portion of such payments which is so designated; except that the gross income of a person occupying an intermediate care facility assisted under title XIX of the Social Security Act shall be the same amount as if the person were being assisted under title XVI of the Social Security Act.

(4) TENANT-BASED RENTAL ASSISTANCE.—

(A) IN GENERAL.—Tenant-based rental assistance provided under subsection (b)(1) shall be provided under section 8(o) of the United States Housing Act of 1937 (42 U.S.C. 1437f(o)).

(B) CONVERSION OF EXISTING ASSISTANCE.—There is authorized to be appropriated for tenant-based rental assistance under section 8(o) of the United States Housing Act of 1937 (42 U.S.C. 1437f(o)) for persons with disabilities an amount not less than the amount necessary to convert the number of authorized vouchers and funding under an annual contributions contract in effect on the date of enactment of the Frank Melville Supportive Housing Investment Act of 2010. Such converted vouchers may be administered by the entity administering the vouchers prior to conversion. For purposes of administering such converted vouchers, such entities shall be considered a "public housing agency" authorized to engage in the operation of tenant-based assistance under section 8 of the United States Housing Act of 1937.

(C) REQUIREMENTS UPON TURNOVER.—The Secretary shall develop and issue, to public housing agencies that receive voucher assistance made available under this subsection and to public housing agencies that received voucher assistance under section 8(o) of the United States Housing Act of 1937 (42 U.S.C. 1437f(o)) for non-elderly disabled families pursuant to appropriation Acts for fiscal years 1997 through 2002 or any other subsequent appropriations for incremental vouchers for non-elderly disabled families, guidance to ensure that, to the maximum extent possible, such vouchers continue to be provided upon turnover to qualified persons with disabilities or to qualified non-elderly disabled families, respectively.

(e) PROGRAM REQUIREMENTS.—

(1) USE RESTRICTIONS.—

(A) TERM.—Any project for which a capital advance is provided under subsection (d)(1) shall be operated for not

less than 40 years as supportive housing for persons with disabilities, in accordance with the application for the project approved by the Secretary and shall, during such period, be made available for occupancy only by very low-income persons with disabilities.

(B) CONVERSION.—If the owner of a project requests the use of the project for the direct benefit of very low-income persons with disabilities and, pursuant to such request the Secretary determines that a project is no longer needed for use as supportive housing for persons with disabilities, the Secretary may approve the request and authorize the owner to convert the project to such use.

(2) CONTRACT TERMS.—The initial term of a contract entered into under subsection (d)(2) shall be 240 months, except that, in the case of the sponsor of a project assisted with any low-income housing tax credit pursuant to section 42 of the Internal Revenue Code of 1986 or with any tax-exempt housing bonds, the contract shall have an initial term of not less than 360 months and shall provide funding for a term of 60 months. The Secretary shall, to the extent approved in appropriation Acts, upon expiration of a contract (or any renewed contract), renew such contract for a term of not less than 60 months. In order to facilitate the orderly extension of expiring contracts, the Secretary is authorized to make commitments to extend expiring contracts during the year prior to the date of expiration.

(3) LIMITATION ON USE OF FUNDS.—No assistance received under this section (or any State or local government funds used to supplement such assistance) may be used to replace other State or local funds previously used, or designated for use, to assist persons with disabilities.

(4) MULTIFAMILY PROJECTS.—

(A) LIMITATION.—Except as provided in subparagraph (B), of the total number of dwelling units in any multifamily housing project (including any condominium or cooperative housing project) containing any unit for which assistance is provided from a capital grant under subsection (d)(1) made after the date of the enactment of the Frank Melville Supportive Housing Investment Act of 2010, the aggregate number that are used for persons with disabilities, including supportive housing for persons with disabilities, or to which any occupancy preference for persons with disabilities applies, may not exceed 25 percent of such total.

(B) EXCEPTION.—Subparagraph (A) shall not apply in the case of any project that is a group home or independent living facility.

(f) APPLICATIONS.—Funds made available under subsection (b)(2) shall be allocated by the Secretary among approvable applications submitted by private nonprofit organizations. Applications for assistance under subsection (b)(2) shall be submitted in such form and in accordance with such procedures as the Secretary shall establish. Such applications shall contain—

(1) a description of the proposed housing;

(2) a description of the assistance the applicant seeks under this section;

(3) a supportive service plan that contains—

(A) a description of the needs of persons with disabilities that the housing is expected to serve;

(B) assurances that persons with disabilities occupying such housing will be offered supportive services based on their individual needs;

(C) evidence of the applicant's experience in—

(i) providing such supportive services; or

(ii) creating and managing structured partnerships with service providers for the delivery of appropriate community-based services;

(D) a description of the manner in which such services will be provided to tenants; and

(E) identification of the extent of other Federal, and State and local funds available to assist in the provision of such services;

(4) a certification from the appropriate State or local agency (as determined by the Secretary) that the provision of the services identified in paragraph (3) are well designed to serve the housing and community-based services needs of persons with disabilities;

(5) reasonable assurances that the applicant will own or have control of an acceptable site for the proposed housing not later than 6 months after notification of an award for assistance;

(6) a certification from the public official responsible for submitting a housing strategy for the jurisdiction to be served in accordance with section 105 of the Cranston-Gonzalez National Affordable Housing Act that the proposed housing is consistent with the approved housing strategy; and

(7) such other information or certifications that the Secretary determines to be necessary or appropriate to achieve the purposes of this section.

(g) **SELECTION CRITERIA AND PROCESSING.**—(1) **SELECTION CRITERIA.**—The Secretary shall establish selection criteria for assistance under this section<sup>72</sup>, which shall include—

(A) the ability of the applicant to develop and operate the proposed housing;

(B) the need for housing for persons with disabilities in the area to be served;

(C) the extent to which the proposed design of the housing will meet the special needs of persons with disabilities;

(D) the extent to which the applicant has demonstrated that appropriate supportive services will be made available on a consistent, long-term basis;

<sup>72</sup>Section 623(a)(6) of the Housing and Community Development Act of 1992, Pub. L. 102-550, amended this subsection by “striking this section and inserting subsection (b)(2)”. Because the amendment did not specify which occurrence of “this section” to strike, the amendment could not be executed. The amendment was probably intended to apply to the first place such phrase appears.

(E)<sup>73</sup> the extent to which the location and design of the proposed project will facilitate the provision of community-based supportive services and address other basic needs of persons with disabilities, including access to appropriate and accessible transportation, access to community services agencies, public facilities, and shopping;

(F)<sup>73</sup> the extent to which the per-unit cost of units to be assisted under this section will be supplemented with resources from other public and private sources;

(G) the extent to which the applicant has control of the site of the proposed housing; and

(H) such other factors as the Secretary determines to be appropriate to ensure that funds made available under this section are used effectively.

(2) DELEGATED PROCESSING.—

(A) In issuing a capital advance under subsection (d)(1) for any multifamily project (but not including any project that is a group home or independent living facility) for which financing for the purposes described in the last sentence of subsection (b) is provided by a combination of the capital advance and sources other than this section, within 30 days of award of the capital advance, the Secretary shall delegate review and processing of such projects to a State or local housing agency that—

(i) is in geographic proximity to the property;

(ii) has demonstrated experience in and capacity for underwriting multifamily housing loans that provide housing and supportive services;

(iii) may or may not be providing low-income housing tax credits in combination with the capital advance under this section; and

(iv) agrees to issue a firm commitment within 12 months of delegation.

(B) The Secretary shall retain the authority to process capital advances in cases in which no State or local housing agency is sufficiently qualified to provide delegated processing pursuant to this paragraph or no such agency has entered into an agreement with the Secretary to serve as a delegated processing agency.

(C) The Secretary shall—

(i) develop criteria and a timeline to periodically assess the performance of State and local housing agencies in carrying out the duties delegated to such agencies pursuant to subparagraph (A); and

(ii) retain the authority to review and process projects financed by a capital advance in the event that, after a review and assessment, a State or local housing agency is determined to have failed to satisfy the criteria established pursuant to clause (i).

(D) An agency to which review and processing is delegated pursuant to subparagraph (A) may assess a reasonable fee which shall be included in the capital advance amounts and

<sup>73</sup> Margins of subparagraphs (E) and (F) so in law.

may recommend project rental assistance amounts in excess of those initially awarded by the Secretary. The Secretary shall develop a schedule for reasonable fees under this subparagraph to be paid to delegated processing agencies, which shall take into consideration any other fees to be paid to the agency for other funding provided to the project by the agency, including bonds, tax credits, and other gap funding.

(E) Under such delegated system, the Secretary shall retain the authority to approve rents and development costs and to execute a capital advance within 60 days of receipt of the commitment from the State or local agency. The Secretary shall provide to such agency and the project sponsor, in writing, the reasons for any reduction in capital advance amounts or project rental assistance and such reductions shall be subject to appeal.

(h) DEVELOPMENT COST LIMITATIONS.—

(1) GROUP HOMES.—The Secretary shall periodically establish development cost limitations by market area for group homes of supportive housing for persons with disabilities by publishing a notice of the cost limitations in the Federal Register. The cost limitations shall reflect—

(A) the cost of acquisition, construction, reconstruction, or rehabilitation of supportive housing for persons with disabilities that (i) meets applicable State and local housing and building codes; and (ii) conforms with the design characteristics of the neighborhood in which it is to be located;

(B) the cost of movables necessary to the basic operation of the housing, as determined by the Secretary;

(C) the cost of special design features necessary to make the housing accessible to persons with disabilities;

(D) the cost of special design features necessary to make individual dwelling units meet the special needs of persons with disabilities;

(E) if the housing is newly constructed, the cost of meeting the energy efficiency standards promulgated by the Secretary in accordance with section 109 of the Cranston-Gonzalez National Affordable Housing Act; and

(F) the cost of land, including necessary site improvement.

In establishing development cost limitations for a given market area, the Secretary shall use data that reflect currently prevailing costs of acquisition, construction, reconstruction, or rehabilitation, and land acquisition in the area. Neither this section nor any other provision of law may be construed as prohibiting or preventing the location and operation, in a project assisted under this section, of commercial facilities for the benefit of residents of the project and the community in which the project is located, except that assistance made available under this section may not be used to subsidize any such commercial facility.

(2) RTC PROPERTIES.—In the case of existing housing and related facilities from the Resolution Trust Corporation under

section 21A(c) of the Federal Home Loan Bank Act, the cost limitations shall include—

(A) the cost of acquiring such housing,

(B) the cost of rehabilitation, alteration, conversion, or improvement, including the moderate rehabilitation thereof, and

(C) the cost of the land on which the housing and related facilities are located.

(3) ANNUAL ADJUSTMENTS.—The Secretary shall adjust the cost limitation established pursuant to paragraph (1) not less than once annually to reflect changes in the general level of acquisition, construction, reconstruction, or rehabilitation costs.

(4) INCENTIVES FOR SAVINGS.—

(A) SPECIAL PROJECT ACCOUNT.—The Secretary shall use the development cost limitations established under paragraph (1) to calculate the amount of financing to be made available to individual owners. Owners which incur actual development costs that are less than the amount of financing shall be entitled to retain 50 percent of the savings in a special project account. Such percentage shall be increased to 75 percent for owners which add energy efficiency features which (i) exceed the energy efficiency standards promulgated by the Secretary in accordance with section 109 of the Cranston-Gonzalez National Affordable Housing Act; (ii) substantially reduce the life-cycle cost of the housing; (iii) reduce gross rent requirements; and (iv) enhance tenant comfort and convenience.

(B) USES.—The special project account established under subparagraph (A) may be used (i) to supplement services provided to residents of the housing or funds set-aside for replacement reserves, or (ii) for such other purposes as determined by the Secretary.

(5) FUNDS FROM OTHER SOURCES.—An owner shall be permitted voluntarily to provide funds from sources other than this section for amenities and other features of appropriate design and construction suitable for supportive housing for persons with disabilities if the cost of such amenities is (A) not financed with the advance, and (B) is not taken into account in determining the amount of Federal assistance or of the rent contribution of tenants. Notwithstanding any other provision of law, assistance amounts provided under this section may be treated as amounts not derived from a Federal grant.

(6) APPLICABILITY OF HOME PROGRAM COST LIMITATIONS.—

(A) IN GENERAL.—The provisions of section 212(e) of the Cranston-Gonzalez National Affordable Housing Act (42 U.S.C. 12742(e)) and the cost limits established by the Secretary pursuant to such section with respect to the amount of funds under subtitle A of title II of such Act that may be invested on a per unit basis, shall apply to supportive housing assisted with a capital advance under subsection (d)(1) and the amount of funds under such subsection that may be invested on a per unit basis.

(B) WAIVERS.—The Secretary may provide for waiver of the cost limits applicable pursuant to subparagraph (A)—

(i) in the cases in which the cost limits established pursuant to section 212(e) of the Cranston-Gonzalez National Affordable Housing Act may be waived; and

(ii) to provide for—

(I) the cost of special design features to make the housing accessible to persons with disabilities;

(II) the cost of special design features necessary to make individual dwelling units meet the special needs of persons with disabilities; and

(III) the cost of providing the housing in a location that is accessible to public transportation and community organizations that provide supportive services to persons with disabilities.

(i) ADMISSION AND OCCUPANCY.—

(1) TENANT SELECTION.—

(A) PROCEDURES.—An owner shall adopt written tenant selection procedures that are satisfactory to the Secretary as (i) consistent with the purpose of improving housing opportunities for very low-income persons with disabilities; and (ii) reasonably related to program eligibility and an applicant's ability to perform the obligations of the lease. Owners shall promptly notify in writing any rejected applicant of the grounds for any rejection.

(B) REQUIREMENT FOR OCCUPANCY.—Occupancy in dwelling units provided assistance under this section shall be available only to persons with disabilities and households that include at least one person with a disability.

(C) AVAILABILITY.—Except only as provided in subparagraph (D), occupancy in dwelling units in housing provided with assistance under this section shall be available to all persons with disabilities eligible for such occupancy without regard to the particular disability involved.

(D) LIMITATION ON OCCUPANCY.—Notwithstanding any other provision of law, the owner of housing developed under this section may, with the approval of the Secretary, limit occupancy within the housing to persons with disabilities who can benefit from the supportive services offered in connection with the housing.

(2) TENANT PROTECTIONS.—

(A) LEASE.—The lease between a tenant and an owner of housing assisted under this section shall be for not less than one year, and shall contain such terms and conditions as the Secretary shall determine to be appropriate.

(B) TERMINATION OF TENANCY.—An owner may not terminate the tenancy or refuse to renew the lease of a tenant of a rental dwelling unit assisted under this section except—

(i) for serious or repeated violation of the terms and conditions of the lease, for violation of applicable Federal, State, or local law, or for other good cause; and



(ii) by providing the tenant, not less than 30 days before such termination or refusal to renew, with written notice specifying the grounds for such action.

(C) VOLUNTARY PARTICIPATION IN SERVICES.—A supportive service plan for housing assisted under this section shall permit each resident to take responsibility for choosing and acquiring their own services, to receive any supportive services made available directly or indirectly by the owner of such housing, or to not receive any supportive services.

(j) MISCELLANEOUS PROVISIONS.—

(1) TECHNICAL ASSISTANCE.—The Secretary shall make available appropriate technical assistance to assure that applicants having limited resources, particularly minority applicants, are able to participate more fully in the program carried out under this section.

(2) CIVIL RIGHTS COMPLIANCE.—Each owner shall certify, to the satisfaction of the Secretary, that assistance made available under this section will be conducted and administered in conformity with title VI of the Civil Rights Act of 1964, the Fair Housing Act and other Federal, State, and local laws prohibiting discrimination and promoting equal opportunity; and <sup>74</sup>

(3) SITE CONTROL.—An applicant may obtain ownership or control of a suitable site different from the site specified in the initial application. If an applicant fails to obtain ownership or control of the site within 1 year after notification of an award for assistance, the assistance shall be recaptured and reallocated.

(4) NOTICE OF APPEAL.—The Secretary shall notify an owner not less than 30 days prior to canceling any reservation of assistance provided under this section. During the 30-day period following the receipt of a notice under the preceding sentence, an owner may appeal the proposed cancellation. Such appeal, including review by the Secretary, shall be completed not later than 45 days after the appeal is filed.

(5) LABOR STANDARDS.—

(A) IN GENERAL.—The Secretary shall take such action as may be necessary to insure that all laborers and mechanics employed by contractors and subcontractors in the construction of housing with 12 or more units assisted under this section shall be paid wages at rates not less than those prevailing in the locality involved for the corresponding classes of laborers and mechanics employed on construction of a similar character, as determined by the Secretary of Labor in accordance with the Act of March 3, 1931 (commonly known as the Davis-Bacon Act <sup>75</sup>).

(B) EXEMPTION.—Subparagraph (A) shall not apply to any individual who—

<sup>74</sup> So in law.

<sup>75</sup> Such Act is now codified in subchapter IV of chapter 31 of title 40, United States Code. See Public Law 107–217. Section 5(c) of such Public Law, 116 Stat. 1303, provides that “[a] reference to a law replaced by section 1 or 2 of this Act, including a reference in a regulation, order, or other law, is deemed to refer to the corresponding provision enacted by this Act”.

(i) performs services for which the individual volunteered;

(ii)(I) does not receive compensation for such services; or

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

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

(6) **USE OF PROJECT RESERVES.**—Amounts for project reserves for a project assisted under this section may be used for costs, subject to reasonable limitations as the Secretary determines appropriate, for reducing the number of dwelling units in the project. Such use shall be subject to the approval of the Secretary to ensure that the use is designed to retrofit units that are currently obsolete or unmarketable.

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

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

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

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(8)<sup>76</sup> **QUALIFYING SMOKE ALARMS.**—

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

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

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

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

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

*(aa)(AA) is hardwired; or*

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<sup>76</sup>Effective December 29, 2024, section 601(c) of division AA of Public Law 117-328 amends section 811(j) by adding at the end a new paragraph (8).

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

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

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

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

(1) The term “group home” means a single family residential structure designed or adapted for occupancy by not more than 8 persons with disabilities, which provides a separate bedroom for each tenant of the residence. The Secretary may waive the project size limitation contained in the previous sentence if the applicant demonstrates that local market conditions dictate the development of a larger project. Not later than the date of the exercise of any waiver permitted under the previous sentence, the Secretary shall notify the Committee on Banking, Housing, and Urban Affairs of the Senate and the Committee on Financial Services of the House of Representatives of the waiver or the intention to exercise the waiver, together with a detailed explanation of the reason for the waiver. Not more than 1 home may be located on any one site and no such home may be located on a site contiguous to another site containing such a home.

(2) The term “person with disabilities” means a household composed of one or more persons who is 18 years of age or older and less than 62 years of age, and who has a disability. A person shall be considered to have a disability if such person is determined, pursuant to regulations issued by the Secretary to have a physical, mental, or emotional impairment which (A) is expected to be of long-continued and indefinite duration, (B) substantially impedes his or her ability to live independently, and (C) is of such a nature that such ability could be improved by more suitable housing conditions. A person shall also be considered to have a disability if such person has a developmental disability as defined in section 102 of the Developmental Disabilities Assistance and Bill of Rights Act of 2000. The Secretary shall prescribe such regulations as may be necessary to prevent abuses in determining, under the definitions contained in this paragraph, the eligibility of families and persons for admission to and occupancy of housing assisted under this section. Notwithstanding the preceding provisions of this paragraph, the term “person with disabilities” includes two or more persons with disabilities living together, one or more such persons living with another person who is determined (under regulations prescribed by the Secretary) to be important to their care or well-being, and the surviving member or members of any household described in the first sentence of this paragraph who were living, in a unit assisted under this sec-

tion, with the deceased member of the household at the time of his or her death.

(3) The term “supportive housing for persons with disabilities” means dwelling units that—

(A) are designed to meet the permanent housing needs of very low-income persons with disabilities; and

(B) are located in housing that make available supportive services that address the individual health, mental health, or other needs of such persons.

(4) The term “independent living facility” means a project designed for occupancy by not more than 24 persons with disabilities (or such higher number of persons as permitted under criteria that the Secretary shall prescribe, subject to the limitation under subsection (h)(6)<sup>77</sup>) in separate dwelling units where each dwelling unit includes a kitchen and a bath. Not later than the date that the Secretary prescribes a limit exceeding the 24 person limit in the previous sentence, the Secretary shall notify the Committee on Banking, Housing, and Urban Affairs of the Senate and the Committee on Financial Services of the House of Representatives of the limit or the intention to prescribe a limit in excess of 24 persons, together with a detailed explanation of the reason for the new limit.

(5) The term “owner” means a private nonprofit organization that receives assistance under this section to develop and operate supportive housing for persons with disabilities.

(6) The term “private nonprofit organization” means any institution or foundation—

(A) that has received, or has temporary clearance to receive, tax-exempt status under section 501(c)(3) of the Internal Revenue Code of 1986;

(B) no part of the net earnings of which inures to the benefit of any member, founder, contributor, or individual;

(C) which has a governing board (i) the membership of which is selected in a manner to assure that there is significant representation of the views of persons with disabilities, and (ii) which is responsible for the operation of the housing assisted under this section; and

(D) which is approved by the Secretary as to financial responsibility.

Such term includes a for-profit limited partnership the sole general partner of which is an organization meeting the requirements under subparagraphs (A), (B), (C), and (D) or a corporation controlled by an organization meeting the requirements under subparagraphs (A), (B), (C), and (D).

(7) The term “State” includes the several States, the District of Columbia, the Commonwealth of Puerto Rico, and the possessions of the United States.

(8) The term “Secretary” means the Secretary of Housing and Urban Development.

<sup>77</sup> So in law. Probably intended to refer to subsection (l)(4).

Section 3(g)(2)(A) of Public Law 111-374 provides for an amendment to subsection (k)(4) as follows: “by striking ‘prescribe, subject to the limitation under subsection (h)(6) of this section’ and inserting ‘prescribe’”. The amendment could not be executed because the phrase “of this section” in the matter proposed to be struck does not appear in law.

(9) The term “very low-income” has the same meaning as given the term “very low-income families” under section 3(b)(2) of the United States Housing Act of 1937.

(1) ALLOCATION OF FUNDS.—

(1) MINIMUM ALLOCATION FOR MULTIFAMILY PROJECTS.—The Secretary shall establish a minimum percentage of the amount made available for each fiscal year for capital advances under subsection (d)(1) that shall be used for multifamily projects subject to subsection (e)(4).

(2) CAPITAL ADVANCES.—Of any amounts made available for assistance under subsection (b), such sums as may be necessary shall be available for funding capital advances in accordance with subsection (d)(1). Such amounts, the repayments from such advances, and the proceeds from notes or obligations issued under this section prior to the enactment of this Act shall constitute a revolving fund to be used by the Secretary in carrying out this section.

(3) PROJECT RENTAL ASSISTANCE.—Of any amounts made available for assistance under subsection (b), such sums as may be necessary shall be available for funding project rental assistance in accordance with subsection (d)(2).

(m) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated for providing assistance pursuant to this section \$300,000,000 for each of fiscal years 2011 through 2015.

(n) EFFECTIVE DATE AND APPLICABILITY.—

(1) IN GENERAL.—The amendments made by this section shall take effect on October 1, 1991, with respect to projects approved on or after such date. The Secretary shall issue regulations for such purpose after notice and public comment.

(2) EARLIER APPLICABILITY.—The Secretary shall, upon the request of an owner, apply the provisions of this section to any housing for which a loan reservation was made under section 202 of the Housing Act of 1959 before the date of enactment of this Act but for which no loan has been executed and recorded. In the absence of such a request, any housing identified under the preceding sentence shall continue to be subject to the provisions of section 202 of the Housing Act of 1959 as they were in effect when such assistance was made or reserved.

(3) COORDINATION.—When responding to an owner’s request under paragraph (1), the Secretary shall, notwithstanding any other provision of law, apply such portion of amounts obligated at the time of loan reservation, including amounts reserved with respect to such housing under section 8 of the United States Housing Act of 1937, as are required for the owner’s housing under the provisions of this section and shall make any remaining portion available for other housing under this section.

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### Subtitle D—Housing Opportunities for Persons With AIDS

**SEC. 851. [42 U.S.C. 12901 note] SHORT TITLE.**

This subtitle may be cited as the “AIDS Housing Opportunity Act”.

**SEC. 852. [42 U.S.C. 12901] PURPOSE.**

The purpose of this title<sup>78</sup> is to provide States and localities with the resources and incentives to devise long-term comprehensive strategies for meeting the housing needs of persons with acquired immunodeficiency syndrome and families of such persons.

**SEC. 853. [42 U.S.C. 12902] DEFINITIONS.**

For purposes of this subtitle:

(1) The term “acquired immunodeficiency syndrome and related diseases” or “AIDS” means the disease of acquired immunodeficiency syndrome or any conditions arising from the etiologic agent for acquired immunodeficiency syndrome.

(2) The term “applicant” means a State, a unit of general local government, or a nonprofit organization eligible to receive assistance under this subtitle.

(3) The term “low-income individual” means any individual or family whose incomes do not exceed 80 percent of the median income for the area, as determined by the Secretary of Housing and Urban Development, with adjustments for smaller and larger families, except that the Secretary may establish income ceilings higher or lower than 80 percent of the median income for the area if the Secretary finds that such variations are necessary because of prevailing levels of construction costs or unusually high or low family incomes.

(4) The term “grantee” means a State or unit of general local government receiving grants from the Secretary under this subtitle.

(5) The term “metropolitan statistical area” means a metropolitan statistical area as established by the Office of Management and Budget. Such term includes the District of Columbia.

(6) The term “locality” means the geographical area within the jurisdiction of a local government.

(7) The term “recipient” means a grantee or other applicant receiving funds under this title.<sup>79</sup>

(8) The term “Secretary” means the Secretary of Housing and Urban Development.

(9) The term “State” means a State of the United States, the District of Columbia, and the Commonwealth of Puerto Rico, or any agency or instrumentality thereof that is established pursuant to legislation and designated by the chief executive to act on behalf of the jurisdiction with regard to provisions of this subtitle.

(10) The term “unit of general local government” has the same meaning as in 104 of this Act.

<sup>78</sup> So in law. Probably intended to refer to this subtitle.

<sup>79</sup> So in law. Probably intended to refer to this subtitle.

(11) The term “city” has the meaning given the term in section 102(a) of the Housing and Community Development Act of 1974.

(12) The term “eligible person” means a person with acquired immunodeficiency syndrome or a related disease and the family of such person.

(13) The term “nonprofit organization” means any nonprofit organization (including a State or locally chartered, nonprofit organization) that—

(A) is organized under State or local laws;

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

(C) complies with standards of financial accountability acceptable to the Secretary; and

(D) has among its purposes significant activities related to providing services or housing to persons with acquired immunodeficiency syndrome or related diseases.

(14) The term “project sponsor” means a nonprofit organization or a housing agency of a State or unit of general local government that contracts with a grantee to receive assistance under this subtitle.

(15) The term “HIV” means infection with the human immunodeficiency virus.

(16) The term “individuals living with HIV or AIDS” means, with respect to the counting of cases in a geographic area during a period of time, the sum of—

(A) the number of living non-AIDS cases of HIV in the area; and

(B) the number of living cases of AIDS in the area.

**SEC. 854. [42 U.S.C. 12903] GENERAL AUTHORITY.**

(a) GRANTS AUTHORIZED.—The Secretary shall, to the extent of amounts approved in appropriations Acts under section 863, make grants to States, units of general local government, and nonprofit organizations.

(b) IMPLEMENTATION OF ELIGIBLE ACTIVITIES.—A grantee shall carry out eligible activities under section 855 through project sponsors. Any grantee that is a State that enters into a contract with a nonprofit organization to carry out eligible activities in a locality shall obtain the approval of the unit of general local government for the locality before entering into the contract.

(c) ALLOCATION OF RESOURCES.—

(1) ALLOCATION OF RESOURCES.—

(A) ALLOCATION FORMULA.—The Secretary shall allocate 90 percent of the amount approved in appropriations Acts under section 863 among States and metropolitan statistical areas as follows:

(I)<sup>80</sup> 75 percent of such amounts among—

(I) cities that are the most populous unit of general local government in a metropolitan statistical area with a population greater than 500,000, as determined on the basis of the most recent census, and with more than 2,000 individuals living

<sup>80</sup> So in law. Clause “(I)” should be clause “(i)”.

with HIV or AIDS, using the data specified in subparagraph (B); and

(II) States with more than 2,000 individuals living with HIV or AIDS outside of metropolitan statistical areas.

(ii) 25 percent of such amounts among States and metropolitan statistical areas based on the method described in subparagraph (C).

(B) SOURCE OF DATA.—For purposes of allocating amounts under this paragraph for any fiscal year, the number of individuals living with HIV or AIDS shall be the number of such individuals as confirmed by the Director of the Centers for Disease Control and Prevention, as of December 31 of the most recent calendar year for which such data is available.

(C) ALLOCATION UNDER SUBPARAGRAPH (A)(II).—For purposes of allocating amounts under subparagraph (A)(ii), the Secretary shall develop a method that accounts for—

(I)<sup>80</sup> differences in housing costs among States and metropolitan statistical areas based on the fair market rental established pursuant to section 8(c) of the United States Housing Act of 1937 (42 U.S.C. 1437f(c)) or another methodology established by the Secretary through regulation; and

(ii) differences in poverty rates among States and metropolitan statistical areas based on area poverty indexes or another methodology established by the Secretary through regulation.

(2) MAINTAINING GRANTS.—

(A) CONTINUED ELIGIBILITY OF FISCAL YEAR 2016 GRANTEES.—A grantee that received an allocation in fiscal year 2016 shall continue to be eligible for allocations under paragraph (1) in subsequent fiscal years, subject to—

(i) the amounts available from appropriations Acts under section 863;

(ii) approval by the Secretary of the most recent comprehensive housing affordability strategy for the grantee approved under section 105; and

(iii) the requirements of subparagraph (C).

(B) ADJUSTMENTS.—Allocations to grantees described in subparagraph (A) shall be adjusted annually based on the administrative provisions included in fiscal year 2016 appropriations Acts.

(C) REDETERMINATION OF CONTINUED ELIGIBILITY.—The Secretary shall redetermine the continued eligibility of a grantee that received an allocation in fiscal year 2016 at least once during the 10-year period following fiscal year 2016.

(D) ADJUSTMENT TO GRANTS.—For each of fiscal years 2017, 2018, 2019, 2020, and 2021, with respect to a grantee that received an allocation in the prior fiscal year, the Secretary shall ensure that the grantee's share of total formula funds available for allocation does not decrease more than 5 percent nor gain more than 10 percent of the share



of the total available formula funds that the grantee received in the preceding fiscal year.

(3) ALTERNATIVE GRANTEES.—

(A) REQUIREMENTS.—The Secretary may award funds reserved for a grantee eligible under paragraph (1) to an alternative grantee if—

(i)<sup>80</sup> the grantee submits to the Secretary a written agreement between the grantee and the alternative grantee that describes how the alternative grantee will take actions consistent with the applicable comprehensive housing affordability strategy approved under section 105 of this Act;

(ii) the Secretary approves the written agreement described in clause (i) and agrees to award funds to the alternative grantee; and

(iii) the written agreement does not exceed a term of 10 years.

(B) RENEWAL.—An agreement approved pursuant to subparagraph (A) may be renewed by the parties with the approval of the Secretary.

(C) DEFINITION.—In this paragraph, the term “alternative grantee” means a public housing agency (as defined in section 3(b) of the United States Housing Act of 1937 (42 U.S.C. 1437a(b))), a unified funding agency (as defined in section 401 of the McKinney-Vento Homeless Assistance Act (42 U.S.C. 11360)), a State, a unit of general local government, or an instrumentality of State or local government.

(4) REALLOCATIONS.—If a State or metropolitan statistical area declines an allocation under paragraph (1)(A), or the Secretary determines, in accordance with criteria specified in regulation, that a State or metropolitan statistical area that is eligible for an allocation under paragraph (1)(A) is unable to properly administer such allocation, the Secretary shall reallocate any funds reserved for such State or metropolitan statistical area as follows:

(A) For funds reserved for a State—

(i)<sup>80</sup> to eligible metropolitan statistical areas within the State on a pro rata basis; or

(ii) if there is no eligible metropolitan statistical areas within a State, to metropolitan cities and urban counties within the State that are eligible for grant under section 106 of the Housing and Community Development Act of 1974 (42 U.S.C. 5306), on a pro rata basis.

(B) For funds reserved for a metropolitan statistical area, to the State in which the metropolitan statistical area is located.

(C) If the Secretary is unable to make a reallocation under subparagraph (A) or (B), the Secretary shall make such funds available on a pro rata basis under the formula in paragraph (1)(A).

(5) NONFORMULA ALLOCATION.—

(A) IN GENERAL.—The Secretary shall allocate 10 percent of the amounts appropriated under section 863 among—

(i) States and units of general local government that do not qualify for allocation of amounts under paragraph (1); and

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

(B) SELECTION.—In selecting projects under this paragraph, the Secretary shall consider (i) relative numbers of acquired immunodeficiency syndrome cases and per capita acquired immunodeficiency syndrome incidence; (ii) housing needs of eligible persons in the community; (iii) extent of local planning and coordination of housing programs for eligible persons; and (iv) the likelihood of the continuation of State and local efforts.

(C) NATIONAL SIGNIFICANCE PROJECTS.—For the purpose of subparagraph (A)(ii), in selecting projects of national significance the Secretary shall consider (i) the need to assess the effectiveness of a particular model for providing supportive housing for eligible persons; (ii) the innovative nature of the proposed activity; and (iii) the potential replicability of the proposed activity in other similar localities or nationally.

(d) APPLICATIONS.—Funds made available under this section shall be allocated among applications submitted by applicants and approved by the Secretary. Applications for assistance under this section shall be submitted by an applicant in such form and in accordance with such procedures as the Secretary shall establish. Such applications shall contain—

(1) a description of the proposed activities;

(2) a description of the size and characteristics of the population that would be served by the proposed activities;

(3) a description of the public and private resources that are expected to be made available in connection with the proposed activities;

(4) assurances satisfactory to the Secretary that any property purchased, leased, rehabilitated, renovated, or converted with assistance under this section shall be operated for not less than 10 years for the purpose specified in the application, except as otherwise specified in this subtitle;

(5) evidence in a form acceptable to the Secretary that the proposed activities will meet urgent needs that are not being met by available public and private sources; and

(6) such other information or certifications that the Secretary determines to be necessary to achieve the purposes of this section.

(e) ADDITIONAL REQUIREMENT FOR METROPOLITAN AREAS.—In addition to the other requirements of this section, to be eligible for a grant to a metropolitan area under this section, the major city, urban county, and any city with a population of 50,000 or more in that metropolitan area shall establish or designate a governmental agency or organization for receipt and use of amounts received

from a grant under this section and shall submit to the Secretary, together with the application under subsection (d) a proposal for the operation of such agency or organization.

(f) **ADDITIONAL REQUIREMENT FOR CITY FORMULA GRANTEES.**—In addition to the other requirements of this section, to be eligible for a grant pursuant to subsection (c)(1), a city shall provide such assurances as the Secretary may require that any grant amounts received will be allocated among eligible activities in a manner that addresses the needs within the metropolitan statistical area in which the city is located, including areas not within the jurisdiction of the city. Any such city shall coordinate with other units of general local government located within the metropolitan statistical area to provide such assurances and comply with the assurances.

**SEC. 855. [42 U.S.C. 12904] ELIGIBLE ACTIVITIES.**

Grants allocated under this subtitle shall be available only for approved activities to carry out strategies designed to prevent homelessness among eligible persons. Approved activities shall include activities that—

- (1) enable public and nonprofit organizations or agencies to provide housing information to such persons and coordinate efforts to expand housing assistance resources for such persons under section 857;
- (2) facilitate the development and operation of shelter and services for such persons under section 858;
- (3) provide rental assistance to such persons under section 859;
- (4) facilitate (through project-based rental assistance or other means) the moderate rehabilitation of single room occupancy dwellings (SROs) that would be made available only to such persons under section 860;
- (5) facilitate the development of community residences for eligible persons under section 861;
- (6) carry out other activities that the Secretary develops in cooperation with eligible States and localities, except that activities developed under this paragraph may be assisted only with amounts provided under section 854(c)(3).

The Secretary shall establish standards and guidelines for approved activities. The Secretary shall permit grantees to refine and adapt such standards and guidelines for individual projects, where such refinements and adaptations are made necessary by local circumstances.

**SEC. 856. [42 U.S.C. 12905] RESPONSIBILITIES OF GRANTEES.**

(a) **PROHIBITION OF SUBSTITUTION OF FUNDS.**—Amounts received from grants under this subtitle may not be used to replace other amounts made available or designated by State or local governments for use for the purposes under this subtitle.

(b) **CAPABILITY.**—The recipient shall have, in the determination of the grantee or the Secretary, the capacity and capability to effectively administer a grant under this subtitle.

(c) **COOPERATION.**—The recipient shall agree to cooperate and coordinate in providing assistance under this subtitle with the agencies of the relevant State and local governments responsible for services in the area served by the applicant for eligible persons

and other public and private organizations and agencies providing services for such eligible persons.

(d) PROHIBITION OF FEES.—The recipient shall agree that no fee will be charged to any eligible person for any housing or services provided with amounts from a grant under this subtitle.

(e) CONFIDENTIALITY.—The recipient shall agree to ensure the confidentiality of the name of any individual assisted with amounts from a grant under this subtitle and any other information regarding individuals receiving such assistance.

(f) FINANCIAL RECORDS.—The recipient shall agree to maintain and provide the grantee or the Secretary with financial records sufficient, in the determination of the Secretary, to ensure proper accounting and disbursing of amounts received from a grant under this subtitle.

(g) ADMINISTRATIVE EXPENSES.—

(1) GRANTEES.—Notwithstanding any other provision of this subtitle, each grantee may use not more than 3 percent of the grant amount for administrative costs relating to administering grant amounts and allocating such amounts to project sponsors.

(2) PROJECT SPONSORS.—Notwithstanding any other provision of this subtitle, each project sponsor receiving amounts from grants made under this title<sup>81</sup> may use not more than 7 percent of the amounts received for administrative costs relating to carrying out eligible activities under section 855, including the costs of staff necessary to carry out eligible activities.

(h) ENVIRONMENTAL REVIEW.—For purposes of environmental review, a grant under this subtitle shall be treated as assistance for a special project that is subject to section 305(c) of the Multifamily Housing Property Disposition Reform Act of 1994, and shall be subject to the regulations issued by the Secretary to implement such section.

(i)<sup>82</sup> CARBON MONOXIDE ALARMS.—Each dwelling unit assisted under this subtitle shall contain installed carbon monoxide alarms or detectors that meet or exceed—

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

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

(j)<sup>83</sup> QUALIFYING SMOKE ALARMS.—

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

<sup>81</sup> So in law. Probably intended to refer to this subtitle.

<sup>82</sup> Margin of matter preceding paragraph (1) so in law. See amendment made by section 101(e) of division Q of Public Law 116-260.

<sup>83</sup> Effective December 29, 2024, section 601(d) of division AA of Public Law 117-328 provides for an amendment to section 856 by adding at the end a new subsection (j).

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

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

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

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

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

*(I)(aa) is hardwired; or*

*(bb) uses 10-year non rechargeable, non-replaceable primary batteries and—*

*(AA) is sealed;*

*(BB) is tamper resistant; and*

*(CC) contains silencing means; and*

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

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

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**SEC. 857. [42 U.S.C. 12906] GRANTS FOR AIDS HOUSING INFORMATION AND COORDINATION SERVICES.**

Grants under this section may only be used for the following activities:

(1) *HOUSING INFORMATION SERVICES.—To provide (or contract to provide) counseling, information, and referral services to assist eligible persons to locate, acquire, finance, and maintain housing and meet their housing needs.*

(2) *RESOURCE IDENTIFICATION.—To identify, coordinate, and develop housing assistance resources (including conducting preliminary research and making expenditures necessary to determine the feasibility of specific housing-related initiatives) for eligible persons.*

**SEC. 858. [42 U.S.C. 12907] AIDS SHORT-TERM SUPPORTED HOUSING AND SERVICES.**

(a) *USE OF GRANTS.—Any amounts received from grants under this section may only be used to carry out a program to provide (or contract to provide) assistance to eligible persons who are homeless or in need of housing assistance to prevent homelessness, which may include the following activities:*

(1) *SHORT-TERM SUPPORTED HOUSING.—Purchasing, leasing, renovating, repairing, and converting facilities to provide short-term shelter and services.*

(2) SHORT-TERM HOUSING PAYMENTS ASSISTANCE.—Providing rent assistance payments for short-term supported housing and rent, mortgage, and utilities payments to prevent homelessness of the tenant or mortgagor of a dwelling.

(3) SUPPORTIVE SERVICES.—Providing supportive services, to eligible persons assisted under paragraphs (1) and (2), including health, mental health, assessment, permanent housing placement, drug and alcohol abuse treatment and counseling, day care, and nutritional services (except that health services under this paragraph may only be provided to eligible persons with acquired immunodeficiency syndrome or related diseases), and providing technical assistance to eligible persons to provide assistance in gaining access to benefits and services for homeless individuals provided by the Federal Government and State and local governments.

(4) OPERATION.—Providing for the operation of short-term supported housing provided under this section, including the costs of security, operation insurance, utilities, furnishings, equipment, supplies, and other incidental costs.

(5) ADMINISTRATION.—Providing staff to carry out the program under this section (subject to the provisions of section 856(g)).

(b) PROGRAM REQUIREMENTS.—

(1) MINIMUM USE PERIOD FOR STRUCTURES.—

(A) IN GENERAL.—Any building or structure assisted with amounts from a grant under this section shall be maintained as a facility to provide short-term supported housing or assistance for eligible persons—

(i) in the case of assistance involving substantial rehabilitation or acquisition of the building, for a period of not less than 10 years; and

(ii) in the case of assistance under paragraph (1), (3), or (4) of subsection (a), for a period of not less than 3 years.

(B) WAIVER.—The Secretary may waive the requirement under subparagraph (A) with respect to any building or structure if the organization or agency that received the grant under which the building was assisted demonstrates, to the satisfaction of the Secretary, that—

(i) the structure is no longer needed to provide short-term supported housing or assistance or the continued operation of the structure for such purposes is no longer feasible; and

(ii) the structure will be used to benefit individuals or families whose incomes do not exceed 80 percent of the median income for the area, as determined by the Secretary, with adjustments for smaller and larger families, except that the Secretary may establish income ceilings higher or lower than 80 percent of the median income for the area if the Secretary finds that such variations are necessary because of prevailing levels of construction costs or unusually high or low family incomes.

(2) RESIDENCY AND LOCATION LIMITATIONS ON SHORT-TERM SUPPORTED HOUSING.—

(A) RESIDENCY.—A short-term supported housing facility assisted with amounts from a grant under this section may not provide shelter or housing at any single time for more than 50 families or individuals.

(B) WAIVER.—The Secretary may, as the Secretary determines appropriate, waive the limitation under subparagraph (A) for any program or short-term supported housing facility.

(3) TERM OF ASSISTANCE.—

(A) SUPPORTED HOUSING ASSISTANCE.—A program assisted under this section may not provide residence in a short-term housing facility assisted under this section to any individual for a sum of more than 60 days during any 6-month period.

(B) HOUSING PAYMENTS ASSISTANCE.—A program assisted under this section may not provide assistance for rent, mortgage, or utilities payments to any individual for rent, mortgage, or utilities costs accruing over a period of more than 21 weeks of any 52-week period.

(C) WAIVER.—Notwithstanding subparagraphs (A) and (B), the Secretary may waive the applicability of the requirements under such subparagraphs with respect to any individual for which the project sponsor has made a good faith effort to acquire permanent housing (in accordance with paragraph (4)) and has been unable to do so.

(4) PLACEMENT.—A program assisted under this section shall provide for any individual who has remained in short-term supported housing assisted under the demonstration program, to the maximum extent practicable, the opportunity for placement in permanent housing or an environment appropriate to the health and social needs of the individual.

(5) PRESUMPTION FOR INDEPENDENT LIVING.—In providing assistance under this section in any case in which the residence of an individual is appropriate to the needs of the individual, a program assisted under this section shall, when reasonable, provide for assistance in a manner appropriate to maintain the individual in such residence.

(6) CASE MANAGEMENT SERVICES.—A program assisted under this section shall provide each individual assisted under the program with an opportunity, if eligible, to receive case management services available from the appropriate social service agencies.

**SEC. 859. [42 U.S.C. 12908] RENTAL ASSISTANCE.**

(a) USE OF FUNDS.—

(1) IN GENERAL.—Grants under this section may be used only for assistance to provide rental assistance for low-income eligible persons. Such assistance may be project based or tenant based and shall be provided to the extent practicable in the manner provided for under section 8 of the United States Housing Act of 1937. Grantees shall ensure that the housing provided is decent, safe, and sanitary.

(2) **SHARED HOUSING ARRANGEMENTS.**—Grants under this section may be used to assist individuals who elect to reside in shared housing arrangements in the manner provided under section 8(p) of the United States Housing Act of 1937 (42 U.S.C. 1437f(p)), except that, notwithstanding such section, assistance under this section may be made available to non-elderly individuals. The Secretary shall issue any standards for shared housing under this paragraph that vary from standards issued under section 8(p) of the United States Housing Act of 1937 only to the extent necessary to provide for circumstances of shared housing arrangements under this paragraph that differ from circumstances of shared housing arrangements for elderly families under section 8(p) of the United States Housing Act of 1937.

(b) **LIMITATIONS.**—A recipient under this section shall comply with the following requirements:

(1) **SERVICES.**—The recipient shall provide for qualified service providers in the area to provide appropriate services to the eligible persons assisted under this section.

(2) **INTENSIVE ASSISTANCE.**—For any individual with acquired immunodeficiency syndrome or related diseases who requires more care than can be provided in housing assisted under this section, the recipient shall provide for the locating of a care provider who can appropriately care for the individual and referral of the individual to the care provider.

(c) **ADMINISTRATIVE COSTS.**—A project sponsor providing rental assistance under this section may use amounts from any grant received under this section for administrative expenses involved in providing such assistance, subject to the provisions of 856(g)(2).<sup>84</sup>

**SEC. 860. [42 U.S.C. 12909] SINGLE ROOM OCCUPANCY DWELLINGS.**

(a) **USE OF GRANTS.**—Grants under this section may be used to provide project-based rental assistance or grants to facilitate the development of single room occupancy dwellings. To the extent practicable, a program under this section shall be carried out in the manner provided for under section 8(n) of the United States Housing Act of 1937.

(b) **LIMITATION.**—Recipients under this section shall require the provision to individuals assisted under this section of the following assistance:

(1) **SERVICES.**—Appropriate services provided by qualified service providers in the area.

(2) **INTENSIVE ASSISTANCE.**—For any individual with acquired immunodeficiency syndrome or related diseases who requires more care than can be provided in housing assisted under this section, locating a care provider who can appropriately care for the individual and referral of the individual to the care provider.

**SEC. 861. [42 U.S.C. 12910] GRANTS FOR COMMUNITY RESIDENCES AND SERVICES.**

(a) **GRANT AUTHORITY.**—The Secretary of Housing and Urban Development may make grants to States and metropolitan areas to

<sup>84</sup> So in law. Probably intended to refer to section 856(g)(2).



develop and operate community residences and provide services for eligible persons.

(b) COMMUNITY RESIDENCES AND SERVICES.—

(1) COMMUNITY RESIDENCES.—

(A) IN GENERAL.—A community residence under this section shall be a multiunit residence designed for eligible persons for the following purposes:

(i) To provide a lower cost residential alternative to institutional care and to prevent or delay the need for institutional care.

(ii) To provide a permanent or transitional residential setting with appropriate services that enhances the quality of life for individuals who are unable to live independently.

(iii) To prevent homelessness among eligible persons by increasing available suitable housing resources.

(iv) To integrate eligible persons into local communities and provide services to maintain the abilities of such eligible persons to participate as fully as possible in community life.

(B) RENT.—Except to the extent that the costs of providing residence are reimbursed or provided by any other assistance from Federal or non-Federal public sources, each resident in a community residence shall pay as rent for a dwelling unit an amount equal to the following:

(i) For low-income individuals, the amount of rent paid under section 3(a) of the United States Housing Act of 1937 (42 U.S.C. 1437a(a)) by a low-income family (as the term is defined in section 3(b)(2) of such Act (42 U.S.C. 1437a(b)(2))) for a dwelling unit assisted under such Act.

(ii) For any resident that is not a low-income resident, an amount based on a formula, which shall be determined by the Secretary, under which rent is determined by the income and resources of the resident.

(C) FEES.—Fees may be charged for any services provided under subsection (c)(2) to residents of a community residence, except that any fees charged shall be based on the income and resources of the resident and the provision of services to any resident of a community residence may not be withheld because of an inability of the resident to pay such fee.

(D) SECTION 8 ASSISTANCE.—Assistance made available under section 8 of the United States Housing Act of 1937 (42 U.S.C. 1437f) may be used in conjunction with a community residence under this subsection for tenant-based assistance.

(2) SERVICES.—Services provided with a grant under this section shall consist of services appropriate in assisting individuals with acquired immunodeficiency syndrome and related diseases to enhance their quality of life, enable such individuals to more fully participate in community life, and delay or

prevent the placement of such individuals in hospitals or other institutions.

(c) **USE OF GRANTS.**—Any amounts received from a grant under this section may be used only as follows:

(1) **COMMUNITY RESIDENCES.**—For providing assistance in connection with community residences under subsection (b)(1) for the following activities:

(A) **PHYSICAL IMPROVEMENTS.**—Construction, acquisition, rehabilitation, conversion, retrofitting, and other physical improvements necessary to make a structure suitable for use as a community residence.

(B) **OPERATING COSTS.**—Operating costs for a community residence.

(C) **TECHNICAL ASSISTANCE.**—Technical assistance in establishing and operating a community residence, which may include planning and other predevelopment or preconstruction expenses, and expenses relating to community outreach and educational activities regarding acquired immunodeficiency syndrome and related diseases provided for individuals residing in proximity of eligible persons assisted under this subtitle.

(D) **IN-HOUSE SERVICES.**—Services appropriate for individuals residing in a community residence, which may include staff training and recruitment.

(2) **SERVICES.**—For providing services under subsection (b)(2) to any individuals assisted under this subtitle.

(3) **ADMINISTRATIVE EXPENSES.**—For administrative expenses related to the planning and carrying out activities under this section (subject to the provisions of section 856(g)).

(d) **LIMITATIONS ON USE OF GRANTS.**—

(1) **COMMUNITY RESIDENCES.**—Any jurisdiction that receives a grant under this section may not use any amounts received under the grant for the purposes under subsection (c)(1), except for planning and other expenses preliminary to construction or other physical improvement under subsection (c)(1)(A), unless the jurisdiction certifies to the Secretary, as the Secretary shall require, the following:

(A) **SERVICE AGREEMENT.**—That the jurisdiction has entered into a written agreement with service providers qualified to deliver any services included in the proposal under subsection (c) to provide such services to eligible persons assisted by the community residence.

(B) **FUNDING AND CAPABILITY.**—That the jurisdiction will have sufficient funding for such services and the service providers are qualified to assist individuals with acquired immunodeficiency syndrome and related diseases<sup>85</sup>.

(C) **ZONING AND BUILDING CODES.**—That any construction or physical improvements carried out with amounts received from the grant will comply with any applicable State and local housing codes and licensing requirements

<sup>85</sup> Section 606(j)(11)(E)(ii) of the Housing and Community Development Act of 1992, Pub. L. 102-550, amended this subsection by striking “individuals with acquired immunodeficiency syndrome or related diseases” each place it appears and inserting “eligible persons”. Because the matter to be struck does not appear in this subsection, the amendment could not be executed.

in the jurisdiction in which the building or structure is located.

(D) INTENSIVE ASSISTANCE.—That, for any individual with acquired immunodeficiency syndrome or related diseases who resides in a community residence assisted under the grant and who requires more intensive care than can be provided by the community residence, the jurisdiction will locate for and refer the individual to a service provider who can appropriately care for the individual.

(2) SERVICES.—Any jurisdiction that receives a grant under this section may use any amounts received under the grant for the purposes under subsection (c)(2) only for the provision of services by service providers qualified to provide such services to individuals with acquired immunodeficiency syndrome and related diseases<sup>86</sup>.

**SEC. 862. [42 U.S.C. 12911] REPORT.**

Any organization or agency that receives a grant under this subtitle shall submit to the Secretary, for any fiscal year in which the organization or agency receives a grant under this subtitle, a report describing the use of the amounts received, which shall include the number of individuals assisted, the types of assistance provided, and any other information that the Secretary determines to be appropriate.

**SEC. 863. [42 U.S.C. 12912] AUTHORIZATION OF APPROPRIATIONS.**

There are authorized to be appropriated to carry out this subtitle \$150,000,000 for fiscal year 1993 and \$156,300,000 for fiscal year 1994.

## TITLE IX—COMMUNITY DEVELOPMENT AND MISCELLANEOUS PROGRAMS

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

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

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

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

<sup>86</sup> See footnote 1 on the preceding page.

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

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

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

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

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

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

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

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

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

(1) **COLONIA.**—The term “colonia” means any identifiable community that—

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

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

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

(D)<sup>87</sup> was in existence as a colonia before the date of the enactment of the Cranston-Gonzalez National Affordable Housing Act.

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

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

(4) **UNITED STATES-MEXICO BORDER REGION.**—The term “United States-Mexico border region” means the area of the

<sup>87</sup> Indented so in law.

United States within 150 miles of the border between the United States and Mexico, except that the term does not include any standard metropolitan statistical area that has a population exceeding 1,000,000.

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## Subtitle B—Section 8 Certificates and Vouchers.

### SEC. 931. [42 U.S.C. 1437c note] SECTION 8 CERTIFICATES AND VOUCHERS.

The budget authority available under section 5(c) of the United States Housing Act of 1937 (42 U.S.C. 1437c(c)) for tenant-based assistance under section 8 of the United States Housing Act of 1937 is authorized to be increased in any fiscal year in which a major disaster is declared by the President under the Robert T. Stafford Disaster Relief and Emergency Assistance Act in such amounts as may be necessary to provide assistance under such programs for individuals and families whose housing has been damaged or destroyed as a result of such disaster, except that in implementing this section, the Secretary shall evaluate the natural hazards to which any permanent replacement housing is exposed and shall take appropriate action to mitigate such hazards.

### SEC. 932. [42 U.S.C. 1437c note] MODERATE REHABILITATION.

The budget authority available under section 5(c) of the United States Housing Act of 1937 (42 U.S.C. 1437c(c)) for assistance under the moderate rehabilitation program under section 8(e)(2) of such Act is authorized to be increased in any fiscal year in which a major disaster is declared by the President under the Robert T. Stafford Disaster Relief and Emergency Assistance Act in such amount as may be necessary to provide assistance under such program for individuals and families whose housing has been damaged or destroyed as a result of such disaster, except that in implementing this section, the Secretary shall evaluate the natural hazards to which any permanent replacement housing is exposed and shall take appropriate action to mitigate such hazards.

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## Subtitle C—Regulatory Programs

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### SEC. 945. [42 U.S.C. 12712] 5-YEAR ENERGY EFFICIENCY PLAN.

(a) ESTABLISHMENT.—The Secretary of Housing and Urban Development shall establish a plan for activities to be undertaken and policies to be adopted by the Secretary within the 5-year period beginning upon the submission of the plan to the Congress under subsection (d) to provide for, encourage, and improve energy efficiency in newly constructed, rehabilitated, and existing housing. In developing the plan, the Secretary shall consider, as appropriate, any energy assessments under section 944.

(b) INITIAL PLAN.—The Secretary of Housing and Urban Development shall establish the first plan under this section not later than the expiration of the 1-year period beginning on the date of the enactment of this Act.<sup>88</sup>

(c) UPDATES.—The Secretary of Housing and Urban Development shall revise and update the plan under this section not less than once for each 2-year period, the first such 2-year period beginning on the date of the submission of the initial plan under subsection (b) to the Congress (as provided in subsection (d)). Each such update shall revise the plan for the 5-year period beginning upon the submission of the updated plan to the Congress.

(d) SUBMISSION TO CONGRESS.—The Secretary of Housing and Urban Development shall submit the initial plan established under subsection (b) and any updated plans under subsection (c) to the Congress not later than the date by which such plans are to be established or updated under such paragraphs.

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**SEC. 947. [42 U.S.C. 7704a] REPORT ON SEISMIC SAFETY PROPERTY STANDARDS.**

(a) AUTHORITY.—The Secretary of Housing and Urban Development (in this section referred to as the “Secretary”) shall assess the risk of earthquake-related damage to properties assisted under programs administered by the Secretary and shall develop seismic safety standards for such properties. This section may not be construed to prohibit the Secretary from deferring to local building codes that meet the requirements of the seismic safety standards developed under this section.

(b) STANDARDS.—The standards shall be designed to reduce the risk of loss of life to building occupants to the maximum extent feasible and to reduce the risk of shake-related property damage to the maximum extent practicable.

(c) CONSULTATION.—In carrying out this section, the Secretary shall consult with the Director of the Federal Emergency Management Agency<sup>89</sup> and may utilize the resources under the National Earthquake Hazards Reduction Program (established under the Earthquake Hazards Reduction Act of 1977) and any other resources as may be required to carry out the activities under this section.

(d) REPORTS.—

(1) SUBMISSION AND CONTENTS.—This Secretary shall submit a report to the Congress, not less than biennially, containing a statement of the findings of the risk assessment study conducted under this section, including risk assessment of properties located in seismic risk zones and a compilation of the standards developed pursuant to this section. The report shall also include a statement of the activities undertaken by the Secretary to carry out this section and the amount and sources of any funds expended by the Secretary for such pur-

<sup>88</sup> The date of enactment was November 28, 1990.

<sup>89</sup> Section 611 of Public Law 111–295 provides for the transfer of duties for this entity under the Department of Homeland Security. Section 612(c) of such Public Law provides: “[a]ny reference to the Director of the Federal Emergency Management Agency, in any law, rule, regulation, certificate, directive, instruction, or other official paper shall be considered to refer and apply to the Administrator of the Federal Emergency Management Agency.”

poses. The report shall also include a statement of the activities undertaken by the Secretary to carry out the requirements of Executive Order No. 12699 (January 5, 1990) and the amount and sources of any funds expended by the Secretary for such purposes.

(2) INITIAL SUBMISSION.—The first report required under this subsection shall be submitted not later than the expiration of the 18-month period beginning on the date of the enactment of this Act.<sup>90</sup>

## Subtitle D—Miscellaneous Programs

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### SEC. 956. [42 U.S.C. 12713] ELIGIBILITY UNDER FIRST-TIME HOMEBUYER PROGRAMS.

(a) ELIGIBILITY OF DISPLACED HOMEMAKERS AND SINGLE PARENTS FOR FEDERAL ASSISTANCE FOR FIRST-TIME HOMEBUYERS.—

(1) DISPLACED HOMEMAKERS.—No individual who is a displaced homemaker may be denied eligibility under any Federal program to assist first-time homebuyers on the basis that the individual, while a homemaker, owned a home with his or her spouse or resided in a home owned by the spouse.

(2) SINGLE PARENTS.—No individual who is a single parent may be denied eligibility under any Federal program to assist first-time homebuyers on the basis that the individual, while married, owned a home with his or her spouse or resided in a home owned by the spouse.

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

(1) DISPLACED HOMEMAKER.—The term “displaced homemaker” means an individual who—

(A) is an adult;

(B) has not worked full-time, full-year in the labor force for a number of years but has, during such years, worked primarily without remuneration to care for the home and family; and

(C) is unemployed or underemployed and is experiencing difficulty in obtaining or upgrading employment.

(2) FIRST-TIME HOMEBUYER.—The term “first-time homebuyer” means an individual who has never, or has not during a specified period of time, had any present ownership interest in a principal residence.

(3) SINGLE PARENT.—The term “single parent” means an individual who—

(A) is unmarried or legally separated from a spouse; and

(B)(i) has 1 or more minor children for whom the individual has custody or joint custody; or

(ii) is pregnant.

(c) APPLICABILITY.—This section shall apply to any Federal program to assist first-time homebuyers, unless the program is ex-

<sup>90</sup>The date of enactment was November 28, 1990.

empted from this section by a statute that amends this subsection or explicitly refers to this subsection.

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**SEC. 959. [25 U.S.C. 4104] WAIVER OF MATCHING FUNDS REQUIREMENTS IN INDIAN HOUSING PROGRAMS.**

(a) **AUTHORIZATION OF WAIVER.**—For any housing program that provides assistance through any Indian housing authority, the Secretary of Housing and Urban Development may provide assistance under such program in any fiscal year notwithstanding any other provision of law that requires the Indian housing authority to provide amounts to match or supplement the amounts provided under such program, if the Indian housing authority has not received amounts for such fiscal year under the title I of the Housing and Community Development Act of 1974.

(b) **EXTENT OF WAIVER.**—The authority under subsection (a) to provide assistance notwithstanding requirements regarding matching or supplemental amounts shall be effective only to the extent provided by the Secretary, which shall not extend beyond the fiscal year in which the waiver is made or beyond the receipt of any amounts by an Indian housing authority under title I of the Housing and Community Development Act of 1974.

(c) **DEFINITION OF HOUSING PROGRAM.**—For purposes of this section, the term “housing program” means a program under the administration of the Secretary of Housing and Urban Development or the Secretary of Agriculture (through the Administrator of the Farmers Home Administration) that provides assistance in the form of contracts, grants, loans, cooperative agreements, or any other form of assistance (including the insurance or guarantee of a loan, mortgage, or pool of mortgages) for housing.

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**SEC. 962. [42 U.S.C. 1437f note] AUTHORIZATION FOR THE PROVISION OF ASSISTANCE TO PROGRAMS ADMINISTERED BY THE STATE OF HAWAII UNDER THE ACT OF JULY 9, 1921.**

(a) **ASSISTANCE AUTHORIZED.**—The Secretary of Housing and Urban Development is authorized to provide assistance, under any housing assistance program administered by the Secretary, to the State of Hawaii, for use by the State in meeting the responsibilities with which it has been charged under the provisions of the Act of July 9, 1921 (42 Stat. 108).

(b) **MORTGAGE INSURANCE.**—

(1) **IN GENERAL.**—Notwithstanding any other provision or limitation of this Act, or the National Housing Act, including those relating to marketability of title, the Secretary of Housing and Urban Development may provide mortgage insurance covering any property on lands set aside under the provisions of the Act of July 9, 1921 (42 Stat. 108), upon which there is or will be located a multifamily residence, for which the Department of the Hawaiian Home Lands of the State of Hawaii—

(A) is the mortgagor or co-mortgagor;

(B) guarantees in writing to reimburse the Secretary for any mortgage insurance claim paid in connection with such property; or



(C) offers other security that is acceptable to the Secretary, subject to appropriate conditions prescribed by the Secretary.

(2) SALE ON DEFAULT.—In the event of a default on a mortgage insured pursuant to paragraph (1), the Department of Hawaiian Home Lands of the State of Hawaii may sell the insured property or housing unit to an eligible beneficiary as defined in the Act of July 9, 1921 (42 Stat. 108).