

PUBLIC AND FEDERALLY ASSISTED HOUSING FIRE  
 SAFETY ACT OF 2022

JULY 20, 2022.—Committed to the Committee of the Whole House on the State of  
 the Union and ordered to be printed

Ms. WATERS, from the Committee on Financial Services,  
 submitted the following

R E P O R T

[To accompany H.R. 7981]

The Committee on Financial Services, to whom was referred the bill (H.R. 7981) to require qualifying smoke alarms in certain federally assisted housing, and for other purposes, having considered the same, reports favorably thereon with an amendment and recommends that the bill as amended do pass.

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The amendment is as follows:  
 Strike all after the enacting clause and insert the following:

**SECTION 1. SHORT TITLE.**

This Act may be cited as the “Public and Federally Assisted Housing Fire Safety Act of 2022”.

**SEC. 2. SMOKE ALARMS IN FEDERALLY ASSISTED HOUSING.**

(a) PUBLIC HOUSING, TENANT-BASED ASSISTANCE, AND PROJECT-BASED ASSISTANCE.—The United States Housing Act of 1937 (42 U.S.C. 1437 et seq.) is amended—

(1) in section 3(a) (42 U.S.C. 1437a(a)), by adding at the end the following:

“(9) QUALIFYING SMOKE ALARMS.—

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

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

“(i) SMOKE ALARM DEFINED.—The term ‘smoke alarm’ has the meaning given the term ‘smoke detector’ in section 29(d) of the Federal Fire Prevention and Control Act of 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 is—

“(aa) hardwired; or

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

“(AA) is sealed;

“(BB) is tamper resistant;

“(CC) contains silencing means; and

“(DD) 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.”; and

(2) in section 8 (42 U.S.C. 1437f)—

(A) by inserting after subsection (k) the following:

“(1) QUALIFYING SMOKE ALARMS.—

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

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

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

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

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

“(I) hardwired; or

“(II) uses 10-year non rechargeable, nonreplaceable primary batteries and—

“(aa) is sealed;

“(bb) is tamper resistant;

“(cc) contains silencing means; and

“(dd) 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.”; and  
 (B) in subsection (o), by adding at the end the following:

“(22) QUALIFYING SMOKE ALARMS.—

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

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

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

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

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

“(aa) hardwired; or

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

“(AA) is sealed;

“(BB) is tamper resistant;

“(CC) contains silencing means; and

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

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

(b) SUPPORTIVE HOUSING FOR THE ELDERLY.—Section 202(j) of the Housing Act of 1959 (12 U.S.C. 1701q(j)) is amended by adding at the end the following:

“(10) QUALIFYING SMOKE ALARMS.—

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

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

“(i) SMOKE ALARM DEFINED.—The term ‘smoke alarm’ has the meaning given 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 is—

“(aa) hardwired; or

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

“(AA) is sealed;

“(BB) is tamper resistant;

“(CC) contains silencing means; and

“(DD) 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.”.

(c) SUPPORTIVE HOUSING FOR PERSONS WITH DISABILITIES.—Section 811(j) of the Cranston-Gonzalez National Affordable Housing Act (42 U.S.C. 8013(j)) is amended by adding at the end the following:

“(8) 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 is—

“(aa) hardwired; or

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

“(AA) is sealed;

“(BB) is tamper resistant;

“(CC) contains silencing means; and

“(DD) 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.”.

(d) HOUSING OPPORTUNITIES FOR PERSONS WITH AIDS.—Section 856 of the Cranston-Gonzalez National Affordable Housing Act (42 U.S.C. 12905) is amended by adding at the end the following new subsection:

“(j) 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 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 is—

“(I) hardwired; or

“(II) uses 10-year non rechargeable, nonreplaceable primary batteries and—

“(aa) is sealed;

“(bb) is tamper resistant;

“(cc) contains silencing means; and

“(dd) 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.”.

(e) RURAL HOUSING.—Title V of the Housing Act of 1949 (42 U.S.C. 1471 et seq.) is amended—

(1) in section 514 (42 U.S.C. 1484), by adding at the end the following:

“(k) QUALIFYING SMOKE ALARMS.—

“(1) IN GENERAL.—Housing and related facilities constructed with loans 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.

“(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 enactment of this subsection is—

“(I) hardwired; or

“(II) uses 10-year non rechargeable, nonreplaceable primary batteries and—

“(aa) is sealed;

“(bb) is tamper resistant;

“(cc) contains silencing means; and

“(dd) 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.”; and

(2) in section 515(m) (42 U.S.C. 1485(m)) by adding at the end the following:

“(3) QUALIFYING SMOKE ALARMS.—

“(A) IN GENERAL.—Housing and related facilities rehabilitated or repaired with amounts received under a loan made or insured 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 is—

“(aa) hardwired; or

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

“(AA) is sealed;

“(BB) is tamper resistant;

“(CC) contains silencing means; and

“(DD) 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.”.

(f) FARM LABOR HOUSING DIRECT LOANS & GRANTS.—Section 516 of the Housing Act of 1949 (42 U.S.C. 1486) is amended—

(1) in subsection (c)—

(A) in paragraph (2), by striking “and” at the end;

(B) in paragraph (3), by striking the period at the end and inserting “; and”; and

(C) by adding at the end the following:

“(4) that such housing 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.”; and

(2) in subsection (g)—

(A) in paragraph (3) by striking “and” at the end;

(B) in paragraph (4), by striking the period at the end and inserting a semicolon; and

(C) by adding at the end the following:

“(5) 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)); and

“(6) the term ‘qualifying smoke alarm’ means a smoke alarm that—

“(A) 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 is—

“(i) hardwired; or

“(ii) uses 10-year non rechargeable, nonreplaceable primary batteries and—

“(I) is sealed;

“(II) is tamper resistant;

“(III) contains silencing means; and

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

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

(g) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out the amendments made by this section such sums as are necessary for each of fiscal years 2023 through 2027.

(h) EFFECTIVE DATE.—The amendments made by subsections (a) through (f) shall take effect on the date that is 2 years after the date of enactment of this Act.

(i) NO PREEMPTION.—Nothing in the amendments made by this section shall be construed to preempt or limit the applicability of any State or local law relating to the installation and maintenance of smoke alarms in housing that requires standards that are more stringent than the standards described in the amendments made by this section.

### SEC. 3. FIRE SAFETY EDUCATIONAL PROGRAM.

(a) IN GENERAL.—The Secretary of Housing and Urban Development shall, not later than 1 year after the date of enactment of this Act, complete a national educational campaign that educates the general public about health and safety requirements in housing and how to properly use safety features in housing, including self-closing doors, smoke alarms, and carbon monoxide detectors.

(b) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to the Secretary of Housing and Urban Development to carry out this section, \$2,000,000 for fiscal year 2024.

### PURPOSE AND SUMMARY

On June 8, 2022, Representative Dean introduced H.R. 7981, the “Public and Federally Assisted Housing Fire Safety Act of 2022”, which would require the installation of either tamper resistant or hardwired smoke alarms in federally assisted housing.

### BACKGROUND AND NEED FOR LEGISLATION

On January 4, 2022, a fire broke out in a public housing unit in Philadelphia, Pennsylvania that claimed the lives of 12 residents, 8 of whom were children. The property received a failing Real Estate Assessment Center (REAC) score in its last inspection in 2017. A subsequent investigation by the Philadelphia Fire Department, working in collaboration with other federal and local agencies, identified fire safety concerns including non-functioning smoke alarms in the unit where the fire occurred. Specifically, officials

found that the unit's smoke alarms had either been removed from the walls or had no batteries inside.

In 2015, HUD published the top 25 deficiencies in public housing, and missing or inoperable smoke alarms were among the deficiencies most often cited.<sup>65</sup> HUD reported 7,718 missing or inoperable smoke alarm deficiencies. The 2015 data for multifamily housing shows a similar set of defects. The ANS to H.R. 7981 seeks to address this issue by requiring either tamper resistant or hardwired smoke alarms to be installed in federally assisted housing. Specifically, for assisted units built prior to the enactment of H.R. 7981 that do not already have a hardwired smoke alarm, the bill would require the installation of tamper resistant battery-powered smoke alarms that: (1) are sealed; (2) include a silencing mechanism; and (3) are able to provide notification for persons with hearing loss. For new or substantially rehabilitated units, the bill would require the installation of hardwired smoke alarms. The ANS would also require HUD to run a national educational campaign about housing health and safety requirements, and how to properly use fire safety features including smoke alarms.

This bill is supported by the following organizations: International Code Council, National Association of State Fire Marshals, National Low Income Housing Coalition, National Fire Protection Association, Public Citizen.

#### SECTION-BY-SECTION ANALYSIS

##### *Section 1. Short title*

- This section establishes the short title of the bill as “Public and Federally Assisted Housing Fire Safety Act of 2022”.

##### *Section 2. Smoke alarms in federally assisted housing*

- This section requires the installation of tamper resistant or hardwired smoke alarms in federally assisted housing, including: public housing, tenant-based assistance units, project-based assistance units, supportive housing for the elderly, supportive housing for persons with disabilities, Housing Opportunities for Persons with AIDS (HOPWA)-funded units, rural housing, and Farm Labor Housing Direct Loans & Grants-funded units.
  - For units built prior to the enactment of the bill that do not already have a hardwired smoke alarm, this section would require the installation of tamper-resistant battery-powered smoke alarms that: (1) are sealed; (2) include a silencing mechanism; and (3) are able to provide notification for persons with hearing loss.
  - For new or substantially rehabilitated units, this section would require the installation of hardwired smoke alarms.

##### *Section 3. Fire safety educational program*

- This section requires HUD to run a national educational campaign about housing health and safety requirements, and how to properly use fire safety features including self-closing doors, smoke alarms, and carbon monoxide detectors. This section authorizes the expenditure of \$2M dollars for this program.

## HEARINGS

For the purposes of section 3(c)(6) of House rule XIII, the Committee on Financial Services' Subcommittee on Housing, Community Development and Insurance, held a hearing to consider H.R. 7981 entitled, "Housing America: Addressing Challenges in Serving People Experiencing Homelessness," on February 2, 2022. The Committee's Subcommittee on Housing, Community Development and Insurance held a second hearing to consider H.R. 7981 entitled "A Matter of Life and Death: Improving Fire Safety in Federally Assisted Housing," on April 20, 2022.

## COMMITTEE CONSIDERATION

The Committee on Financial Services met in open session on June 22, 2022, and ordered H.R. 7981 to be reported favorably to the House with an amendment in the nature of a substitute by a voice vote, a quorum being present.

## COMMITTEE VOTES AND ROLL CALL VOTES

In compliance with clause 3(b) of rule XIII of the Rules of the House of Representatives, the Committee advises that the following roll call votes occurred during the Committee's consideration of H.R. 7981.

## STATEMENT OF OVERSIGHT FINDINGS AND RECOMMENDATIONS OF THE COMMITTEE

In compliance with clause 3(c)(1) of rule XIII and clause 2(b)(1) of rule X of the Rules of the House of Representatives, the Committee's oversight findings and recommendations are reflected in the descriptive portions of this report.

## STATEMENT OF PERFORMANCE GOALS AND OBJECTIVES

Pursuant to clause (3)(c) of rule XIII of the Rules of the House of Representatives, the goals of H.R. 7981 is to require the installation of either tamper resistant or hardwired smoke alarms in federally assisted housing.

## NEW BUDGET AUTHORITY AND CBO COST ESTIMATE

Pursuant to clause 3(c)(2) of rule XIII of the Rules of the House of Representatives and section 308(a) of the *Congressional Budget Act of 1974*, and pursuant to clause 3(c)(3) of rule XIII of the Rules of the House of Representatives and section 402 of the *Congressional Budget Act of 1974*, the Committee has received the following estimate for H.R. 7981 from the Director of the Congressional Budget Office:

## COMMITTEE COST ESTIMATE

Clause 3(d)(1) of rule XIII of the Rules of the House of Representatives requires an estimate and a comparison of the costs that would be incurred in carrying out H.R. 7981. However, clause 3(d)(2)(B) of that rule provides that this requirement does not apply when the committee has included in its report a timely submitted cost estimate of the bill prepared by the Director of the Con-

gressional Budget Office under section 402 of the *Congressional Budget Act*.

#### UNFUNDED MANDATE STATEMENT

Pursuant to Section 423 of the *Congressional Budget and Impoundment Control Act* (as amended by Section 101(a)(2) of the *Unfunded Mandates Reform Act*, Pub. L. 104-4), the Committee adopts its own the estimate of federal mandates regarding H.R. 7981, as amended.

#### ADVISORY COMMITTEE

No advisory committees within the meaning of section 5(b) of the Federal Advisory Committee Act were created by this legislation.

#### APPLICATION OF LAW TO THE LEGISLATIVE BRANCH

Pursuant to section 102(b)(3) of the *Congressional Accountability Act*, Pub. L. No. 104-1, H.R. 7981, as amended, does not apply to terms and conditions of employment or to access to public services or accommodations within the legislative branch.

#### EARMARK STATEMENT

In accordance with clause 9 of rule XXI of the Rules of the House of Representatives, H.R. 7981 does not contain any congressional earmarks, limited tax benefits, or limited tariff benefits as described in clauses 9(e), 9(f), and 9(g) of rule XXI.

#### DUPLICATION OF FEDERAL PROGRAMS

Pursuant to clause 3(c)(5) of rule XIII of the Rules of the House of Representatives, the Committee states that no provision of H.R. 7981 establishes or reauthorizes a program of the Federal Government known to be duplicative of another federal program, a program that was included in any report from the Government Accountability Office to Congress pursuant to section 21 of Public Law 111-139, or a program related to a program identified in the most recent Catalog of Federal Domestic Assistance.

#### CHANGES TO EXISTING LAW

In compliance with clause 3(e) of rule XIII of the Rules of the House of Representatives, changes in existing law made by the bill, H.R. 7981, as reported, are shown as follows:

#### CHANGES IN EXISTING LAW MADE BY THE BILL, AS REPORTED

In compliance with clause 3(e) of rule XIII of the Rules of the House of Representatives, changes in existing law made by the bill, as reported, are shown as follows (existing law proposed to be omitted is enclosed in black brackets, new matter is printed in italics, and existing law in which no change is proposed is shown in roman):

**UNITED STATES HOUSING ACT OF 1937**

**TITLE I—GENERAL PROGRAM OF ASSISTED  
HOUSING**

\* \* \* \* \*

RENTAL PAYMENTS; DEFINITIONS

SEC. 3. (a)(1) Dwelling units assisted under this Act shall be rented only to families who are low-income families at the time of their initial occupancy of such units. Reviews of family income shall be made pursuant to paragraph (6); except that, in the case of any family with a fixed income, as defined by the Secretary, after the initial review of the family's income, the public housing agency or owner shall not be required to conduct a review of the family's income for any year for which such family certifies, in accordance with such requirements as the Secretary shall establish, which shall include policies to adjust for inflation-based income changes, that 90 percent or more of the income of the family consists of fixed income, and that the sources of such income have not changed since the previous year, except that the public housing agency or owner shall conduct a review of each such family's income not less than once every 3 years. Except as provided in paragraph (2) and subject to the requirement under paragraph (3), a family shall pay as rent for a dwelling unit assisted under this Act (other than a family assisted under section 8(o) or (y) or paying rent under section 8(c)(3)(B)) the highest of the following amounts, rounded to the nearest dollar:

- (A) 30 per centum of the family's monthly adjusted income;
- (B) 10 per centum of the family's monthly income; or
- (C) if the family is receiving payments for welfare assistance from a public agency and a part of such payments, adjusted in accordance with the family's actual housing costs, is specifically designated by such agency to meet the family's housing costs, the portion of such payments which is so designated.

(2) RENTAL PAYMENTS FOR PUBLIC HOUSING FAMILIES.—

(A) AUTHORITY FOR FAMILY TO SELECT.—

(i) IN GENERAL.—A family residing in a public housing dwelling shall pay as monthly rent for the unit the amount determined under clause (i) or (ii) of subparagraph (B), subject to the requirement under paragraph (3) (relating to minimum rents). Each public housing agency shall provide for each family residing in a public housing dwelling unit owned, assisted, or operated by the agency to elect annually whether the rent paid by such family shall be determined under clause (i) or (ii) of subparagraph (B). A public housing agency may not at any time fail to provide both such rent options for any public housing dwelling unit owned, assisted, or operated by the agency.

(ii) AUTHORITY TO RETAIN FLAT AND CEILING RENTS.—Notwithstanding clause (i) or any other provision of law, any public housing agency that is administering flat rents or ceiling rents pursuant to any authority referred to in section 519(d) of the Quality Housing and Work Responsi-

bility Act of 1998 before the effective day of such Act may continue to charge rent in accordance with such rent provisions after such effective date, except that the agency shall provide for families residing in public housing dwelling units owned or operated by the agency to elect annually whether to pay rent under such provisions or in accordance with one of the rent options referred to in subparagraph (A).

(B) ALLOWABLE RENT STRUCTURES.—

(i) FLAT RENTS.—Each public housing agency shall establish, for each dwelling unit in public housing owned or operated by the agency, a flat rental amount for the dwelling unit, which—

(I) shall not be lower than 80 percent of—

(aa) the applicable fair market rental established under section 8(c) of this Act; or

(bb) at the discretion of the Secretary, such other applicable fair market rental established by the Secretary that the Secretary determines more accurately reflects local market conditions and is based on an applicable market area that is geographically smaller than the applicable market area used for purposes of the applicable fair market rental under section 8(c);

except that a public housing agency may apply to the Secretary for exception allowing for a flat rental amount for a property that is lower than the amount otherwise determined pursuant to item (aa) or (bb) and the Secretary may grant such exception if the Secretary determines that the fair market rental for the applicable market area pursuant to item (aa) or (bb) does not reflect the market value of the property and the proposed lower flat rental amount is based on a market analysis of the applicable market and complies with subclause (II) and

(II) shall be designed in accordance with subparagraph (D) so that the rent structures do not create a disincentive for continued residency in public housing by families who are attempting to become economically self-sufficient through employment or who have attained a level of self-sufficiency through their own efforts.

If a new flat rental amount for a dwelling unit will increase a family's existing rental payment by more than 35 percent, the new flat rental amount shall be phased in as necessary to ensure that the family's existing rental payment does not increase by more than 35 percent annually. The preceding sentence shall not be construed to require establishment of rental amounts equal to 80 percent of the fair market rental in years when the fair market rental falls from the prior year.

(ii) INCOME-BASED RENTS.—

(I) IN GENERAL.—The monthly rental amount determined under this clause for a family shall be an

amount, determined by the public housing agency, that does not exceed the greatest of the amounts (rounded to the nearest dollar) determined under subparagraphs (A), (B), and (C) of paragraph (1). This clause may not be construed to require a public housing agency to charge a monthly rent in the maximum amount permitted under this clause.

(II) DISCRETION.—Subject to the limitation on monthly rental amount under subclause (I), a public housing agency may, in its discretion, implement a rent structure under this clause requiring that a portion of the rent be deposited to an escrow or savings account, imposing ceiling rents, or adopting income exclusions (such as those set forth in section 3(b)(5)(B)), or may establish another reasonable rent structure or amount.

(C) SWITCHING RENT DETERMINATION METHODS BECAUSE OF HARDSHIP CIRCUMSTANCES.—Notwithstanding subparagraph (A), in the case of a family that has elected to pay rent in the amount determined under subparagraph (B)(i), a public housing agency shall immediately provide for the family to pay rent in the amount determined under subparagraph (B)(ii) during the period for which such election was made upon a determination that the family is unable to pay the amount determined under subparagraph (B)(i) because of financial hardship, including—

(i) situations in which the income of the family has decreased because of changed circumstances, loss of reduction of employment, death in the family, and reduction in or loss of income or other assistance;

(ii) an increase, because of changed circumstances, in the family's expenses for medical costs, child care, transportation, education, or similar items; and

(iii) such other situations as may be determined by the agency.

(D) ENCOURAGEMENT OF SELF-SUFFICIENCY.—The rental policy developed by each public housing agency shall encourage and reward employment and economic self-sufficiency.

(E) INCOME REVIEWS.—Notwithstanding the second sentence of paragraph (1), in the case of families that are paying rent in the amount determined under subparagraph (B)(i), the agency shall review the income of such family not less than once every 3 years.

(3) MINIMUM RENTAL AMOUNT.—

(A) REQUIREMENT.—Notwithstanding paragraph (1) of this subsection, the method for rent determination elected pursuant to paragraph (2)(A) of this subsection by a family residing in public housing, section 8(o)(2) of this Act, or section 206(d) of the Housing and Urban-Rural Recovery Act of 1983 (including paragraph (5) of such section), the following entities shall require the following families to pay a minimum monthly rental amount (which amount shall include any amount allowed for utilities) of not more than \$50 per month, as follows:

(i) Each public housing agency shall require the payment of such minimum monthly rental amount, which amount shall be determined by the agency, by—

(I) each family residing in a dwelling unit in public housing by the agency;

(II) each family who is assisted under the certificate or moderate rehabilitation program under section 8; and

(III) each family who is assisted under the voucher program under section 8, and the agency shall reduce the monthly assistance payment on behalf of such family as may be necessary to ensure payment of such minimum monthly rental amount.

(ii) The Secretary shall require each family who is assisted under any other program for rental assistance under section 8 to pay such minimum monthly rental amount, which amount shall be determined by the Secretary.

(B) EXCEPTION FOR HARDSHIP CIRCUMSTANCES.—

(i) IN GENERAL.—Notwithstanding subparagraph (A), a public housing agency (or the Secretary, in the case of a family described in subparagraph (A)(ii)) shall immediately grant an exemption from application of the minimum monthly rental under such subparagraph to any family unable to pay such amount because of financial hardship, which shall include situations in which (I) the family has lost eligibility for or is awaiting an eligibility determination for a Federal, State, or local assistance program, including a family that includes a member who is an alien lawfully admitted for permanent residence under the Immigration and Nationality Act who would be entitled to public benefits but for title IV of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996; (II) the family would be evicted as a result of the imposition of the minimum rent requirement under subparagraph (A); (III) the income of the family has decreased because of changed circumstance, including loss of employment; (IV) a death in the family has occurred; and (V) other situations as may be determined by the agency (or the Secretary, in the case of a family described in subparagraph (A)(ii)).

(ii) WAITING PERIOD.—If a resident requests a hardship exemption under this subparagraph and the public housing agency (or the Secretary, in the case of a family described in subparagraph (A)(ii)) reasonably determines the hardship to be of a temporary nature, an exemption shall not be granted during the 90-day period beginning upon the making of a request for the exemption. A resident may not be evicted during such 90-day period for nonpayment of rent. In such a case, if the resident thereafter demonstrates that the financial hardship is of a long-term basis, the agency (or the Secretary) shall retroactively exempt the resident from the applicability of the minimum rent requirement for such 90-day period.

(4) OCCUPANCY BY POLICE OFFICERS.—

(A) IN GENERAL.—Subject to subparagraph (B) and notwithstanding any other provision of law, a public housing agency may, in accordance with the public housing agency plan for the agency, allow a police officer who is not otherwise eligible for residence in public housing to reside in a public housing dwelling unit. The number and location of units occupied by police officers under this paragraph and the terms and conditions of their tenancies shall be determined by the public housing agency.

(B) INCREASED SECURITY.—A public housing agency may take the actions authorized in subparagraph (A) only for the purpose of increasing security for the residents of a public housing project.

(C) DEFINITION.—In this paragraph, the term “police officer” means any person determined by a public housing agency to be, during the period of residence of that person in public housing, employed on a full-time basis as a duly licensed professional police officer by a Federal, State, or local government or by any agency thereof (including a public housing agency having an accredited police force).

(5) OCCUPANCY BY OVER-INCOME FAMILIES IN CERTAIN PUBLIC HOUSING.—

(A) AUTHORITY.—Notwithstanding any other provision of law, a public housing agency that owns or operates less than 250 units may, on a month-to-month basis, lease a dwelling unit in a public housing project to an over-income family in accordance with this paragraph, but only if there are no eligible families applying for housing assistance from the public housing agency for that month and the agency provides not less than 30-day public notice of the availability of such assistance.

(B) TERMS AND CONDITIONS.—The number and location of dwelling units of a public housing agency occupied under this paragraph by over-income families, and the terms and conditions of those tenancies, shall be determined by the public housing agency, except that—

(i) notwithstanding paragraph (2), rent for a unit shall be in an amount that is not less than the costs to operate the unit;

(ii) if an eligible family applies for residence after an over-income family moves in to the last available unit, the over-income family shall vacate the unit in accordance with notice of termination of tenancy provided by the agency, which shall be provided not less than 30 days before such termination; and

(iii) if a unit is vacant and there is no one on the waiting list, the public housing agency may allow an over-income family to gain immediate occupancy in the unit, while simultaneously providing reasonable public notice and outreach with regard to availability of the unit.

(C) DEFINITION.—For purposes of this paragraph, the term “over-income family” means an individual or family that is not a low-income family at the time of initial occupancy.

## (6) REVIEWS OF FAMILY INCOME.—

(A) FREQUENCY.—Reviews of family income for purposes of this section shall be made—

(i) in the case of all families, upon the initial provision of housing assistance for the family;

(ii) annually thereafter, except as provided in paragraph (1) with respect to fixed-income families;

(iii) upon the request of the family, at any time the income or deductions (under subsection (b)(5)) of the family change by an amount that is estimated to result in a decrease of 10 percent (or such lower amount as the Secretary may, by notice, establish, or permit the public housing agency or owner to establish) or more in annual adjusted income; and

(iv) at any time the income or deductions (under subsection (b)(5)) of the family change by an amount that is estimated to result in an increase of 10 percent or more in annual adjusted income, or such other amount as the Secretary may by notice establish, except that any increase in the earned income of a family shall not be considered for purposes of this clause (except that earned income may be considered if the increase corresponds to previous decreases under clause (iii)), except that a public housing agency or owner may elect not to conduct such review in the last three months of a certification period.

(B) IN GENERAL.—Reviews of family income for purposes of this section shall be subject to the provisions of section 904 of the Stewart B. McKinney Homeless Assistance Amendments Act of 1988 (42 U.S.C. 3544).

## (7) CALCULATION OF INCOME.—

(A) USE OF CURRENT YEAR INCOME.—In determining family income for initial occupancy or provision of housing assistance pursuant to clause (i) of paragraph (6)(A) or pursuant to reviews pursuant to clause (iii) or (iv) of such paragraph, a public housing agency or owner shall use the income of the family as estimated by the agency or owner for the upcoming year.

(B) USE OF PRIOR YEAR INCOME.—In determining family income for annual reviews pursuant to paragraph (6)(A)(ii), a public housing agency or owner shall, except as otherwise provided in this paragraph and paragraph (1), use the income of the family as determined by the agency or owner for the preceding year, taking into consideration any redetermination of income during such prior year pursuant to clause (iii) or (iv) of paragraph (6)(A).

(C) OTHER INCOME.—In determining the income for any family based on the prior year's income, with respect to prior year calculations of income not subject to subparagraph (B), a public housing agency or owner may make other adjustments as it considers appropriate to reflect current income.

(D) SAFE HARBOR.—A public housing agency or owner may, to the extent such information is available to the public housing agency or owner, determine the family's in-

come prior to the application of any deductions based on timely income determinations made for purposes of other means-tested Federal public assistance programs (including the program for block grants to States for temporary assistance for needy families under part A of title IV of the Social Security Act, a program for Medicaid assistance under a State plan approved under title XIX of the Social Security Act, and the supplemental nutrition assistance program (as such term is defined in section 3 of the Food and Nutrition Act of 2008 (7 U.S.C. 2012))). The Secretary shall, in consultation with other appropriate Federal agencies, develop electronic procedures to enable public housing agencies and owners to have access to such benefit determinations made by other means-tested Federal programs that the Secretary determines to have comparable reliability. Exchanges of such information shall be subject to the same limitations and tenant protections provided under section 904 of the Stewart B. McKinney Homeless Assistance Act Amendments of 1988 (42 U.S.C. 3544) with respect to information obtained under the requirements of section 303(i) of the Social Security Act (42 U.S.C. 503(i)).

(E) ELECTRONIC INCOME VERIFICATION.—The Secretary shall develop a mechanism for disclosing information to a public housing agency for the purpose of verifying the employment and income of individuals and families in accordance with section 453(j)(7)(E) of the Social Security Act (42 U.S.C. 653(j)(7)(E)), and shall ensure public housing agencies have access to information contained in the “Do Not Pay” system established by section 5 of the Improper Payments Elimination and Recovery Improvement Act of 2012 (Public Law 112–248; 126 Stat. 2392).

(F) PHA AND OWNER COMPLIANCE.—A public housing agency or owner may not be considered to fail to comply with this paragraph or paragraph (6) due solely to any de minimis errors made by the agency or owner in calculating family incomes.

(9) QUALIFYING SMOKE ALARMS.—

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

(aa) hardwired; or

(bb) uses 10-year non rechargeable, non-replaceable primary batteries and—

(AA) is sealed;

(BB) is tamper resistant;

(CC) contains silencing means; and

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

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

(b) When used in this Act:

(1) The term “low-income housing” means decent, safe, and sanitary dwellings assisted under this Act. The term “public housing” means low-income housing, and all necessary appurtenances thereto, assisted under this Act other than under section 8. The term “public housing” includes dwelling units in a mixed finance project that are assisted by a public housing agency with capital or operating assistance. When used in reference to public housing, the term “low-income housing project” or “project” means (A) housing developed, acquired, or assisted by a public housing agency under this Act, and (B) the improvement of any such housing.

(2)(A) The term low-income families means those families whose incomes do not exceed 80 per centum of the median income for the area, as determined by the Secretary with adjustments for smaller and larger families, except that the Secretary may establish income ceilings higher or lower than 80 per centum of the median for the area on the basis of the Secretary’s findings that such variations are necessary because of prevailing levels of construction costs or unusually high or low family incomes.

(B) The term very low-income families means low-income families whose incomes do not exceed 50 per centum of the median family income for the area, as determined by the Secretary with adjustments for smaller and larger families, except that the Secretary may establish income ceilings higher or lower than 50 per centum of the median for the area on the basis of the Secretary’s findings that such variations are necessary because of unusually high or low family incomes.

(C) The term extremely low-income families means very low-income families whose incomes do not exceed the higher of—

(i) the poverty guidelines updated periodically by the Department of Health and Human Services under the authority of section 673(2) of the Community Services Block Grant Act applicable to a family of the size involved (except that this clause shall not apply in the case of public housing agencies or projects located in Puerto Rico or any other territory or possession of the United States); or

(ii) 30 percent of the median family income for the area, as determined by the Secretary, with adjustments for smaller and larger families (except that the Secretary may establish income ceilings higher or lower than 30 percent of the median for the area on the basis of the Secretary's findings that such variations are necessary because of unusually high or low family incomes).

(D) Such ceilings shall be established in consultation with the Secretary of Agriculture for any rural area, as defined in section 520 of the Housing Act of 1949, taking into account the subsidy characteristics and types of programs to which such ceilings apply. In determining median incomes (of persons, families, or households) for an area or establishing any ceilings or limits based on income under this Act, the Secretary shall determine or establish area median incomes and income ceilings and limits for Westchester and Rockland Counties, in the State of New York, as if each such county were an area not contained within the metropolitan statistical area in which it is located. In determining such area median incomes or establishing such income ceilings or limits for the portion of such metropolitan statistical area that does not include Westchester or Rockland Counties, the Secretary shall determine or establish area median incomes and income ceilings and limits as if such portion included Westchester and Rockland Counties. In determining areas that are designated as difficult development areas for purposes of the low-income housing tax credit, the Secretary shall include Westchester and Rockland Counties, New York, in the New York City metropolitan area.

(3) PERSONS AND FAMILIES.—

(A) SINGLE PERSONS.—The term “families” includes families consisting of a single person in the case of (i) an elderly person, (ii) a disabled person, (iii) a displaced person, (iv) the remaining member of a tenant family, (v) a youth described in section 8(x)(2)(B), and (vi) any other single persons. In no event may any single person under clause (v) or (vi) of the first sentence be provided a housing unit assisted under this Act of 2 or more bedrooms.

(B) FAMILIES.—The term “families” includes families with children and, in the cases of elderly families, near-elderly families, and disabled families, means families whose heads (or their spouses), or whose sole members, are elderly, near-elderly, or persons with disabilities, respectively. The term includes, in the cases of elderly families, near-elderly families, and disabled families, 2 or more elderly persons, near-elderly persons, or persons with disabilities living together, and 1 or more such persons living with 1 or more persons determined under the public housing agency plan to be essential to their care or well-being.

(C) ABSENCE OF CHILDREN.—The temporary absence of a child from the home due to placement in foster care shall not be considered in determining family composition and family size.

(D) ELDERLY PERSON.—The term “elderly person” means a person who is at least 62 years of age.

(E) PERSON WITH DISABILITIES.—The term “person with disabilities” means a person who—

(i) has a disability as defined in section 223 of the Social Security Act,

(ii) is determined, pursuant to regulations issued by the Secretary, to have a physical, mental, or emotional impairment which (I) is expected to be of long-continued and indefinite duration, (II) substantially impedes his or her ability to live independently, and (III) is of such a nature that such ability could be improved by more suitable housing conditions, or

(iii) has a developmental disability as defined in section 102 of the Developmental Disabilities Assistance and Bill of Rights Act of 2000.

Such term shall not exclude persons who have the disease of acquired immunodeficiency syndrome or any conditions arising from the etiologic agent for acquired immunodeficiency syndrome. Notwithstanding any other provision of law, no individual shall be considered a person with disabilities, for purposes of eligibility for low-income housing under this title, solely on the basis of any drug or alcohol dependence. The Secretary shall consult with other appropriate Federal agencies to implement the preceding sentence.

(F) **DISPLACED PERSON.**—The term “displaced person” means a person displaced by governmental action, or a person whose dwelling has been extensively damaged or destroyed as a result of a disaster declared or otherwise formally recognized pursuant to Federal disaster relief laws.

(G) **NEAR-ELDERLY PERSON.**—The term “near-elderly person” means a person who is at least 50 years of age but below the age of 62.

(4) **INCOME.**—The term “income” means, with respect to a family, income received from all sources by each member of the household who is 18 years of age or older or is the head of household or spouse of the head of the household, plus unearned income by or on behalf of each dependent who is less than 18 years of age, as determined in accordance with criteria prescribed by the Secretary, in consultation with the Secretary of Agriculture, subject to the following requirements:

(A) **INCLUDED AMOUNTS.**—Such term includes recurring gifts and receipts, actual income from assets, and profit or loss from a business.

(B) **EXCLUDED AMOUNTS.**—Such term does not include—

(i) any imputed return on assets, except to the extent that net family assets exceed \$50,000, except that such amount (as it may have been previously adjusted) shall be adjusted for inflation annually by the Secretary in accordance with an inflationary index selected by the Secretary;

(ii) any amounts that would be eligible for exclusion under section 1613(a)(7) of the Social Security Act (42 U.S.C. 1382b(a)(7));

(iii) deferred disability benefits from the Department of Veterans Affairs that are received in a lump sum amount or in prospective monthly amounts;

(iv) any expenses related to aid and attendance under section 1521 of title 38, United States Code, to

veterans who are in need of regular aid and attendance; and

(v) exclusions from income as established by the Secretary by regulation or notice, or any amount required by Federal law to be excluded from consideration as income.

(C) EARNED INCOME OF STUDENTS.—Such term does not include—

(i) earned income, up to an amount as the Secretary may by regulation establish, of any dependent earned during any period that such dependent is attending school or vocational training on a full-time basis; or

(ii) any grant-in-aid or scholarship amounts related to such attendance used—

(I) for the cost of tuition or books; or

(II) in such amounts as the Secretary may allow, for the cost of room and board.

(D) EDUCATIONAL SAVINGS ACCOUNTS.—Income shall be determined without regard to any amounts in or from, or any benefits from, any Coverdell education savings account under section 530 of the Internal Revenue Code of 1986 or any qualified tuition program under section 529 of such Code.

(E) RECORDKEEPING.—The Secretary may not require a public housing agency or owner to maintain records of any amounts excluded from income pursuant to this subparagraph.

(5) ADJUSTED INCOME.—The term “adjusted income” means, with respect to a family, the amount (as determined by the public housing agency or owner) of the income of the members of the family residing in a dwelling unit or the persons on a lease, after any deductions from income as follows:

(A) ELDERLY AND DISABLED FAMILIES.—\$525 in the case of any family that is an elderly family or a disabled family.

(B) MINORS, STUDENTS, AND PERSONS WITH DISABILITIES.—\$480 for each member of the family residing in the household (other than the head of the household or his or her spouse) who is less than 18 years of age or is attending school or vocational training on a full-time basis, or who is 18 years of age or older and is a person with disabilities.

(C) CHILD CARE.—Any reasonable child care expenses necessary to enable a member of the family to be employed or to further his or her education.

(D) HEALTH AND MEDICAL EXPENSES.—The amount, if any, by which 10 percent of annual family income is exceeded by the sum of—

(i) in the case of any elderly or disabled family, any unreimbursed health and medical care expenses; and

(ii) any unreimbursed reasonable attendant care and auxiliary apparatus expenses for each handicapped member of the family, if determined necessary by the public housing agency or owner to enable any member of such family to be employed.

The Secretary shall, by regulation, provide hardship exemptions to the requirements of this subparagraph and

subparagraph (C) for impacted families who demonstrate an inability to pay calculated rents because of financial hardship. Such regulations shall include a requirement to notify tenants regarding any changes to the determination of adjusted income pursuant to such subparagraphs based on the determination of the family's claim of financial hardship exemptions required by the preceding sentence. Such regulations shall be promulgated in consultation with tenant organizations, industry participants, and the Secretary of Health and Human Services, with an adequate comment period provided for interested parties.

(E) PERMISSIVE DEDUCTIONS.—Such additional deductions as a public housing agency may, at its discretion, establish, except that the Secretary shall establish procedures to ensure that such deductions do not materially increase Federal expenditures.

The Secretary shall annually calculate the amounts of the deductions under subparagraphs (A) and (B), as such amounts may have been previously calculated, by applying an inflationary factor as the Secretary shall, by regulation, establish, except that the actual deduction determined for each year shall be established by rounding such amount to the next lowest multiple of \$25.

(6) PUBLIC HOUSING AGENCY.—

(A) IN GENERAL.—Except as provided in subparagraph (B), the term “public housing agency” means any State, county, municipality, or other governmental entity or public body (or agency or instrumentality thereof) which is authorized to engage in or assist in the development or operation of public housing, or a consortium of such entities or bodies as approved by the Secretary.

(B) SECTION 8 PROGRAM.—For purposes of the program for tenant-based assistance under section 8, such term includes—

(i) a consortia of public housing agencies that the Secretary determines has the capacity and capability to administer a program for assistance under such section in an efficient manner;

(ii) any other public or private nonprofit entity that, upon the effective date under section 503(a) of the Quality Housing and Work Responsibility Act of 1998, was administering any program for tenant-based assistance under section 8 of this Act (as in effect before the effective date of such Act), pursuant to a contract with the Secretary or a public housing agency; and

(iii) with respect to any area in which no public housing agency has been organized or where the Secretary determines that a public housing agency is unwilling or unable to implement a program for tenant-based assistance section 8, or is not performing effectively—

(I) the Secretary or another public or private nonprofit entity that by contract agrees to receive assistance amounts under section 8 and enter into housing assistance payments contracts with owners and perform the other functions of public housing agency under section 8; or

(II) notwithstanding any provision of State or local law, a public housing agency for another area that contracts with the Secretary to administer a program for housing assistance under section 8, without regard to any otherwise applicable limitations on its area of operation.

(7) The term "State" includes the several States, the District of Columbia, the Commonwealth of Puerto Rico, the territories and possessions of the United States, and the Trust Territory of the Pacific Islands.

(8) The term "Secretary" means the Secretary of Housing and Urban Development.

(9) DRUG-RELATED CRIMINAL ACTIVITY.—The term "drug-related criminal activity" means the illegal manufacture, sale, distribution, use, or possession with intent to manufacture, sell, distribute, or use, of a controlled substance (as such term is defined in section 102 of the Controlled Substances Act).

(10) MIXED-FINANCE PROJECT.—The term "mixed-finance project" means a public housing project that meets the requirements of section 35.

(11) PUBLIC HOUSING AGENCY PLAN.—The term "public housing agency plan" means the plan of a public housing agency prepared in accordance with section 5A.

(12) CAPITAL FUND.—The term "Capital Fund" means the fund established under section 9(d).

(13) OPERATING FUND.—The term "Operating Fund" mean the fund established under section 9(e).

(c) When used in reference to public housing:

(1) The term "development" means any or all undertakings necessary for planning, land acquisition, demolition, construction, or equipment, in connection with a low-income housing project. The term "development cost" comprises the costs incurred by a public housing agency in such undertakings and their necessary financing (including the payment of carrying charges), and in otherwise carrying out the development of such project, but does not include the costs associated with the demolition of or remediation of environmental hazards associated with public housing units that will not be replaced on the project site, or other extraordinary site costs as determined by the Secretary. Construction activity in connection with a low-income housing project may be confined to the reconstruction, remodeling, or repair of existing buildings.

(2) The term "operation" means any or all undertakings appropriate for management, operation, services, maintenance, security (including the cost of security personnel), or financing in connection with a low-income housing project. The term also means the financing of tenant programs and services for families residing in low-income housing projects, particularly where there is maximum feasible participation of the tenants in the development and operation of such tenant programs and services. As used in this paragraph, the term "tenant programs and services" includes the development and maintenance of tenant organizations which participate in the management of low-income housing projects; the training of tenants to manage and operate such projects and the utilization of their services in project management and operation; counseling on household management, housekeeping, budgeting, money manage-

ment, child care, and similar matters; advice as to resources for job training and placement, education, welfare, health, and other community services; services which are directly related to meeting tenant needs and providing a wholesome living environment; and referral to appropriate agencies in the community when necessary for the provision of such services. To the maximum extent available and appropriate, existing public and private agencies in the community shall be used for the provision of such services.

(3) The term "acquisition cost" means the amount prudently required to be expended by a public housing agency in acquiring property for a low-income housing project.

(d) AVAILABILITY OF INCOME MATCHING INFORMATION.—

(1) DISCLOSURE TO PHA.—A public housing agency, or the owner responsible for determining the participant's eligibility or level of benefits, shall require any family described in paragraph (2) who receives information regarding income, earnings, wages, or unemployment compensation from the Department of Housing and Urban Development pursuant to income verification procedures of the Department to disclose such information, upon receipt of the information, to the public housing agency that owns or operates the public housing dwelling unit in which such family resides or that provides the housing assistance under this Act on behalf of such family, as applicable, or to the owner responsible for determining the participant's eligibility or level of benefits.

(2) FAMILIES COVERED.—A family described in this paragraph is a family that resides in a dwelling unit—

(A) that is a public housing dwelling unit;

(B) for which tenant-based assistance is provided under section 8, or

(C) for which project-based assistance is provided under section 8, section 202, or section 811.

\* \* \* \* \*

#### LOWER INCOME HOUSING ASSISTANCE

SEC. 8. (a) For the purpose of aiding lower-income families in obtaining a decent place to live and of promoting economically mixed housing, assistance payments may be made with respect to existing housing in accordance with the provisions of this section.

(b) OTHER EXISTING HOUSING PROGRAMS.—(1) IN GENERAL.—The Secretary is authorized to enter into annual contributions contracts with public housing agencies pursuant to which such agencies may enter into contracts to make assistance payments to owners of existing dwelling units in accordance with this section. In areas where no public housing agency has been organized or where the Secretary determines that a public housing agency is unable to implement the provisions of this section, the Secretary is authorized to enter into such contracts and to perform the other functions assigned to a public housing agency by this section.

(2) The Secretary is authorized to enter into annual contributions contracts with public housing agencies for the purpose of replacing public housing transferred in accordance with title III of this Act. Each contract entered into under this subsection shall be for a term of not more than 60 months.

(c)(1)(A) An assistance contract entered into pursuant to this section shall establish the maximum monthly rent (including utilities and all maintenance and management charges) which the owner is entitled to receive for each dwelling unit with respect to which such assistance payments are to be made. The maximum monthly rent shall not exceed by more than 10 per centum the fair market rental established by the Secretary periodically but not less than annually for existing or newly constructed rental dwelling units of various sizes and types in the market area suitable for occupancy by persons assisted under this section, except that the maximum monthly rent may exceed the fair market rental (A) by more than 10 but not more than 20 per centum where the Secretary determines that special circumstances warrant such higher maximum rent or that such higher rent is necessary to the implementation of a housing strategy as defined in section 105 of the Cranston-Gonzalez National Affordable Housing Act, or (B) by such higher amount as may be requested by a tenant and approved by the public housing agency in accordance with paragraph (3)(B). In the case of newly constructed and substantially rehabilitated units, the exception in the preceding sentence shall not apply to more than 20 per centum of the total amount of authority to enter into annual contributions contracts for such units which is allocated to an area and obligated with respect to any fiscal year beginning on or after October 1, 1980. Each fair market rental in effect under this subsection shall be adjusted to be effective on October 1 of each year to reflect changes, based on the most recent available data trended so the rentals will be current for the year to which they apply, of rents for existing or newly constructed rental dwelling units, as the case may be, of various sizes and types in the market area suitable for occupancy by persons assisted under this section. Notwithstanding any other provision of this section, after the date of enactment of the Housing and Community Development Act of 1977, the Secretary shall prohibit high-rise elevator projects for families with children unless there is no practical alternative. If units assisted under this section are exempt from local rent control while they are so assisted or otherwise, the maximum monthly rent for such units shall be reasonable in comparison with other units in the market area that are exempt from local rent control.

(B) Fair market rentals for an area shall be published not less than annually by the Secretary on the site of the Department on the World Wide Web and in any other manner specified by the Secretary. Notice that such fair market rentals are being published shall be published in the Federal Register, and such fair market rentals shall become effective no earlier than 30 days after the date of such publication. The Secretary shall establish a procedure for public housing agencies and other interested parties to comment on such fair market rentals and to request, within a time specified by the Secretary, reevaluation of the fair market rentals in a jurisdiction before such rentals become effective. The Secretary shall cause to be published for comment in the Federal Register notices of proposed material changes in the methodology for estimating fair market rentals and notices specifying the final decisions regarding such proposed substantial methodological changes and responses to public comments.

(2)(A) The assistance contract shall provide for adjustment annually or more frequently in the maximum monthly rents for units covered by the contract to reflect changes in the fair market rentals established in the housing area for similar types and sizes of dwelling units or, if the Secretary determines, on the basis of a reasonable formula. However, where the maximum monthly rent, for a unit in a new construction, substantial rehabilitation, or moderate rehabilitation project, to be adjusted using an annual adjustment factor exceeds the fair market rental for an existing dwelling unit in the market area, the Secretary shall adjust the rent only to the extent that the owner demonstrates that the adjusted rent would not exceed the rent for an unassisted unit of similar quality, type, and age in the same market area, as determined by the Secretary. The immediately foregoing sentence shall be effective only during fiscal year 1995, fiscal year 1996 prior to April 26, 1996, and fiscal years 1997 and 1998, and during fiscal year 1999 and thereafter. Except for assistance under the certificate program, for any unit occupied by the same family at the time of the last annual rental adjustment, where the assistance contract provides for the adjustment of the maximum monthly rent by applying an annual adjustment factor and where the rent for a unit is otherwise eligible for an adjustment based on the full amount of the factor, 0.01 shall be subtracted from the amount of the factor, except that the factor shall not be reduced to less than 1.0. In the case of assistance under the certificate program, 0.01 shall be subtracted from the amount of the annual adjustment factor (except that the factor shall not be reduced to less than 1.0), and the adjusted rent shall not exceed the rent for a comparable unassisted unit of similar quality, type, and age in the market area. The immediately foregoing two sentences shall be effective only during fiscal year 1995, fiscal year 1996 prior to April 26, 1996, and fiscal years 1997 and 1998, and during fiscal year 1999 and thereafter. In establishing annual adjustment factors for units in new construction and substantial rehabilitation projects, the Secretary shall take into account the fact that debt service is a fixed expense. The immediately foregoing sentence shall be effective only during fiscal year 1998.

(B) The contract shall further provide for the Secretary to make additional adjustments in the maximum monthly rent for units under contract to the extent he determines such adjustments are necessary to reflect increases in the actual and necessary expenses of owning and maintaining the units which have resulted from substantial general increases in real property taxes, utility rates, or similar costs which are not adequately compensated for by the adjustment in the maximum monthly rent authorized by subparagraph (A). The Secretary shall make additional adjustments in the maximum monthly rent for units under contract (subject to the availability of appropriations for contract amendments) to the extent the Secretary determines such adjustments are necessary to reflect increases in the actual and necessary expenses of owning and maintaining the units that have resulted from the expiration of a real property tax exemption. Where the Secretary determines that a project assisted under this section is located in a community where drug-related criminal activity is generally prevalent and the project's operating, maintenance, and capital repair expenses have been substantially increased primarily as a result of the prevalence

of such drug-related activity, the Secretary may (at the discretion of the Secretary and subject to the availability of appropriations for contract amendments for this purpose), on a project by project basis, provide adjustments to the maximum monthly rents, to a level no greater than 120 percent of the project rents, to cover the costs of maintenance, security, capital repairs, and reserves required for the owner to carry out a strategy acceptable to the Secretary for addressing the problem of drug-related criminal activity. Any rent comparability standard required under this paragraph may be waived by the Secretary to so implement the preceding sentence. The Secretary may (at the discretion of the Secretary and subject to the availability of appropriations for contract amendments), on a project by project basis for projects receiving project-based assistance, provide adjustments to the maximum monthly rents to cover the costs of evaluating and reducing lead-based paint hazards, as defined in section 1004 of the Residential Lead-Based Paint Hazard Reduction Act of 1992.

(C) Adjustments in the maximum rents under subparagraphs (A) and (B) shall not result in material differences between the rents charged for assisted units and unassisted units of similar quality, type, and age in the same market area, as determined by the Secretary. In implementing the limitation established under the preceding sentence, the Secretary shall establish regulations for conducting comparability studies for projects where the Secretary has reason to believe that the application of the formula adjustments under subparagraph (A) would result in such material differences. The Secretary shall conduct such studies upon the request of any owner of any project, or as the Secretary determines to be appropriate by establishing, to the extent practicable, a modified annual adjustment factor for such market area, as the Secretary shall designate, that is geographically smaller than the applicable housing area used for the establishment of the annual adjustment factor under subparagraph (A). The Secretary shall establish such modified annual adjustment factor on the basis of the results of a study conducted by the Secretary of the rents charged, and any change in such rents over the previous year, for assisted units and unassisted units of similar quality, type, and age in the smaller market area. Where the Secretary determines that such modified annual adjustment factor cannot be established or that such factor when applied to a particular project would result in material differences between the rents charged for assisted units and unassisted units of similar quality, type, and age in the same market area, the Secretary may apply an alternative methodology for conducting comparability studies in order to establish rents that are not materially different from rents charged for comparable unassisted units. If the Secretary or appropriate State agency does not complete and submit to the project owner a comparability study not later than 60 days before the anniversary date of the assistance contract under this section, the automatic annual adjustment factor shall be applied. The Secretary may not reduce the contract rents in effect on or after April 15, 1987, for newly constructed, substantially rehabilitated, or moderately rehabilitated projects assisted under this section (including projects assisted under this section as in effect prior to November 30, 1983), unless the project has been refinanced in a manner that reduces the periodic payments of the owner. Any

maximum monthly rent that has been reduced by the Secretary after April 14, 1987, and prior to the enactment of this sentence shall be restored to the maximum monthly rent in effect on April 15, 1987. For any project which has had its maximum monthly rents reduced after April 14, 1987, the Secretary shall make assistance payments (from amounts reserved for the original contract) to the owner of such project in an amount equal to the difference between the maximum monthly rents in effect on April 15, 1987, and the reduced maximum monthly rents, multiplied by the number of months that the reduced maximum monthly rents were in effect.

(3) The amount of the monthly assistance payment with respect to any dwelling unit shall be the difference between the maximum monthly rent which the contract provides that the owner is to receive for the unit and the rent the family is required to pay under section 3(a) of this Act.

(4) The assistance contract shall provide that assistance payments may be made only with respect to a dwelling unit under lease for occupancy by a family determined to be a lower income family at the time it initially occupied such dwelling unit, except that such payments may be made with respect to unoccupied units for a period not exceeding sixty days (A) in the event that a family vacates a dwelling unit before the expiration date of the lease for occupancy or (B) where a good faith effort is being made to fill an unoccupied unit, and, subject to the provisions of the following sentence, such payments may be made, in the case of a newly constructed or substantially rehabilitated project, after such sixty-day period in an amount equal to the debt service attributable to such an unoccupied dwelling unit for a period not to exceed one year, if a good faith effort is being made to fill the unit and the unit provides decent, safe, and sanitary housing. No such payment may be made after such sixty-day period if the Secretary determines that the dwelling unit is in a project which provides the owner with revenues exceeding the costs incurred by such owner with respect to such project.

(5) The Secretary shall take such steps as may be necessary, including the making of contracts for assistance payments in amounts in excess of the amounts required at the time of the initial renting of dwelling units, the reservation of annual contributions authority for the purpose of amending housing assistance contracts, or the allocation of a portion of new authorizations for the purpose of amending housing assistance contracts, to assure that assistance payments are increased on a timely basis to cover increases in maximum monthly rents or decreases in family incomes.

(8)(A) Not less than one year before termination of any contract under which assistance payments are received under this section, other than a contract for tenant-based assistance under this section, an owner shall provide written notice to the Secretary and the tenants involved of the proposed termination. The notice shall also include a statement that, if the Congress makes funds available, the owner and the Secretary may agree to a renewal of the contract, thus avoiding termination, and that in the event of termination the Department of Housing and Urban Development will provide tenant-based rental assistance to all eligible residents, enabling them to choose the place they wish to rent, which is likely to include the dwelling unit in which they currently reside. Any

contract covered by this paragraph that is renewed may be renewed for a period of up to 1 year or any number or years, with payments subject to the availability of appropriations for any year.

(B) In the event the owner does not provide the notice required, the owner may not evict the tenants or increase the tenants' rent payment until such time as the owner has provided the notice and 1 year has elapsed. The Secretary may allow the owner to renew the terminating contract for a period of time sufficient to give tenants 1 year of advance notice under such terms and conditions as the Secretary may require.

(C) Any notice under this paragraph shall also comply with any additional requirements established by the Secretary.

(D) For purposes of this paragraph, the term "termination" means the expiration of the assistance contract or an owner's refusal to renew the assistance contract, and such term shall include termination of the contract for business reasons.

(d)(1) Contracts to make assistance payments entered into by a public housing agency with an owner of existing housing units shall provide (with respect to any unit) that—

(A) the selection of tenants shall be the function of the owner, subject to the annual contributions contract between the Secretary and the agency, except that with respect to the certificate and moderate rehabilitation programs only, for the purpose of selecting families to be assisted, the public housing agency may establish local preferences, consistent with the public housing agency plan submitted under section 5A (42 U.S.C. 1437c-1) by the public housing agency;

(B)(i) the lease between the tenant and the owner shall be for at least one year or the term of such contract, whichever is shorter, and shall contain other terms and conditions specified by the Secretary;

(ii) during the term of the lease, the owner shall not terminate the tenancy except for serious or repeated violation of the terms and conditions of the lease, for violation of applicable Federal, State, or local law, or for other good cause;

(iii) during the term of the lease, any criminal activity that threatens the health, safety, or right to peaceful enjoyment of the premises by other tenants, any criminal activity that threatens the health, safety, or right to peaceful enjoyment of their residences by persons residing in the immediate vicinity of the premises, or any drug-related criminal activity on or near such premises, engaged in by a tenant of any unit, any member of the tenant's household, or any guest or other person under the tenant's control, shall be cause for termination of tenancy;

(iv) any termination of tenancy shall be preceded by the owner's provision of written notice to the tenant specifying the grounds for such action; and

(v) it shall be cause for termination of the tenancy of a tenant if such tenant—

(I) is fleeing to avoid prosecution, or custody or confinement after conviction, under the laws of the place from which the individual flees, for a crime, or attempt to commit a crime, which is a felony under the

laws of the place from which the individual flees, or which, in the case of the State of New Jersey, is a high misdemeanor under the laws of such State; or

(II) is violating a condition of probation or parole imposed under Federal or State law;

(C) maintenance and replacement (including redecoration) shall be in accordance with the standard practice for the building concerned as established by the owner and agreed to by the agency; and

(D) the agency and the owner shall carry out such other appropriate terms and conditions as may be mutually agreed to by them.

(2)(A) Each contract for an existing structure entered into under this section shall be for a term of not less than one month nor more than one hundred and eighty months. The Secretary shall permit public housing agencies to enter into contracts for assistance payments of less than 12 months duration in order to avoid disruption in assistance to eligible families if the annual contributions contract is within 1 year of its expiration date.

(B)(i) In determining the amount of assistance provided under an assistance contract for project-based assistance under this paragraph or a contract for assistance for housing constructed or substantially rehabilitated pursuant to assistance provided under section 8(b)(2) of this Act (as such section existed immediately before October 1, 1983), the Secretary may consider and annually adjust, with respect to such project, for the cost of employing or otherwise retaining the services of one or more service coordinators under section 661 of the Housing and Community Development Act of 1992 to coordinate the provision of any services within the project for residents of the project who are elderly or disabled families.

(ii) The budget authority available under section 5(c) for assistance under this section is authorized to be increased by \$15,000,000 on or after October 1, 1992, and by \$15,000,000 on or after October 1, 1993. Amounts made available under this subparagraph shall be used to provide additional amounts under annual contributions contracts for assistance under this section which shall be made available through assistance contracts only for the purpose of providing service coordinators under clause (i) for projects receiving project-based assistance under this paragraph and to provide additional amounts under contracts for assistance for projects constructed or substantially rehabilitated pursuant to assistance provided under section 8(b)(2) of this Act (as such section existed immediately before October 1, 1983) only for such purpose.

(C) An assistance contract for project-based assistance under this paragraph shall provide that the owner shall ensure and maintain compliance with subtitle C of title VI of the Housing and Community Development Act of 1992 and any regulations issued under such subtitle.

(D) An owner of a covered section 8 housing project (as such term is defined in section 659 of the Housing and Community Development Act of 1992) may give preference for occupancy of dwelling units in the project, and reserve units for occupancy, in accordance with subtitle D of title VI of the Housing and Community Development Act of 1992.

(3) Notwithstanding any other provision of law, with the approval of the Secretary the public housing agency administering a contract under this section with respect to existing housing units may exercise all management and maintenance responsibilities with respect to those units pursuant to a contract between such agency and the owner of such units.

(4) A public housing agency that serves more than one unit of general local government may, at the discretion of the agency, in allocating assistance under this section, give priority to disabled families that are not elderly families.

(5) CALCULATION OF LIMIT.—Any contract entered into under section 514 of the Multifamily Assisted Housing Reform and Affordability Act of 1997 shall be excluded in computing the limit on project-based assistance under this subsection.

(6) TREATMENT OF COMMON AREAS.—The Secretary may not provide any assistance amounts pursuant to an existing contract for project-based assistance under this section for a housing project and may not enter into a new or renewal contract for such assistance for a project unless the owner of the project provides consent, to such local law enforcement agencies as the Secretary determines appropriate, for law enforcement officers of such agencies to enter common areas of the project at any time and without advance notice upon a determination of probable cause by such officers that criminal activity is taking place in such areas.

(e)(1) Nothing in this Act shall be deemed to prohibit an owner from pledging, or offering as security for any loan or obligation, a contract for assistance payments entered into pursuant to this section: *Provided*, That such security is in connection with a project constructed or rehabilitated pursuant to authority granted in this section, and the terms of the financing or any refinancing have been approved by the Secretary.

(f) As used in this section—

(1) the term “owner” means any private person or entity, including a cooperative, an agency of the Federal Government, or a public housing agency, having the legal right to lease or sublease dwelling units;

(2) the terms “rent” or “rental” mean, with respect to members of a cooperative, the charges under the occupancy agreements between such members and the cooperative;

(3) the term “debt service” means the required payments for principal and interest made with respect to a mortgage secured by housing assisted under this Act;

(4) the term “participating jurisdiction” means a State or unit of general local government designated by the Secretary to be a participating jurisdiction under title II of the Cranston-Gonzalez National Affordable Housing Act;

(5) the term “drug-related criminal activity” means the illegal manufacture, sale, distribution, use, or possession with intent to manufacture, sell, distribute, or use, of a controlled substance (as defined in section 102 of the Controlled Substances Act (21 U.S.C. 802));

(6) the term “project-based assistance” means rental assistance under subsection (b) that is attached to the structure pursuant to subsection (d)(2) or (o)(13); and

(7) the term “tenant-based assistance” means rental assistance under subsection (o) that is not project-based assistance and that provides for the eligible family to select suitable housing and to move to other suitable housing.

(g) Notwithstanding any other provision of this Act, assistance payments under this section may be provided, in accordance with regulations prescribed by the Secretary, with respect to some or all of the units in any project approved pursuant to section 202 of the Housing Act of 1959.

(h) Sections 5(e) and 6 and any other provisions of this Act which are inconsistent with the provisions of this section shall not apply to contracts for assistance entered into under this section.

(i) The Secretary may not consider the receipt by a public housing agency of assistance under section 811(b)(1) of the Cranston-Gonzalez National Affordable Housing Act, or the amount received, in approving assistance for the agency under this section or determining the amount of such assistance to be provided.

(k) The Secretary shall establish procedures which are appropriate and necessary to assure that income data provided to public housing agencies and owners by families applying for or receiving assistance under this section is complete and accurate. In establishing such procedures, the Secretary shall randomly, regularly, and periodically select a sample of families to authorize the Secretary to obtain information on these families for the purpose of income verification, or to allow those families to provide such information themselves. Such information may include, but is not limited to, data concerning unemployment compensation and Federal income taxation and data relating to benefits made available under the Social Security Act, the Food and Nutrition Act of 2008, or title 38, United States Code. Any such information received pursuant to this subsection shall remain confidential and shall be used only for the purpose of verifying incomes in order to determine eligibility of families for benefits (and the amount of such benefits, if any) under this section.

*(l) QUALIFYING SMOKE ALARMS.—*

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

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

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

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

*(i) in the case of a dwelling unit built before the date of enactment of this paragraph and not substantially*

*rehabilitated after the date of enactment of this paragraph is—*

*(I) hardwired; or*

*(II) uses 10-year non rechargeable, nonreplaceable primary batteries and—*

*(aa) is sealed;*

*(bb) is tamper resistant;*

*(cc) contains silencing means; and*

*(dd) 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.*

(o) VOUCHER PROGRAM.—

(1) AUTHORITY.—

(A) IN GENERAL.—The Secretary may provide assistance to public housing agencies for tenant-based assistance using a payment standard established in accordance with subparagraph (B). The payment standard shall be used to determine the monthly assistance that may be paid for any family, as provided in paragraph (2).

(B) ESTABLISHMENT OF PAYMENT STANDARD.—Except as provided under subparagraph (D), the payment standard for each size of dwelling unit in a market area shall not exceed 110 percent of the fair market rental established under subsection (c) for the same size of dwelling unit in the same market area and shall be not less than 90 percent of that fair market rental, except that no public housing agency shall be required as a result of a reduction in the fair market rental to reduce the payment standard applied to a family continuing to reside in a unit for which the family was receiving assistance under this section at the time the fair market rental was reduced. The Secretary shall allow public housing agencies to request exception payment standards within fair market rental areas subject to criteria and procedures established by the Secretary.

(C) SET-ASIDE.—The Secretary may set aside not more than 5 percent of the budget authority made available for assistance under this subsection as an adjustment pool. The Secretary shall use amounts in the adjustment pool to make adjusted payments to public housing agencies under subparagraph (A), to ensure continued affordability, if the Secretary determines that additional assistance for such purpose is necessary, based on documentation submitted by a public housing agency.

(D) APPROVAL.—The Secretary may require a public housing agency to submit the payment standard of the public housing agency to the Secretary for approval, if the payment standard is less than 90 percent of the fair market rental or exceeds 110 percent of the fair market rental, except that a public housing agency may establish a payment standard of not more than 120 percent of the fair

market rent where necessary as a reasonable accommodation for a person with a disability, without approval of the Secretary. A public housing agency may use a payment standard that is greater than 120 percent of the fair market rent as a reasonable accommodation for a person with a disability, but only with the approval of the Secretary. In connection with the use of any increased payment standard established or approved pursuant to either of the preceding two sentences as a reasonable accommodation for a person with a disability, the Secretary may not establish additional requirements regarding the amount of adjusted income paid by such person for rent.

(E) REVIEW.—The Secretary—

(i) shall monitor rent burdens and review any payment standard that results in a significant percentage of the families occupying units of any size paying more than 30 percent of adjusted income for rent; and

(ii) may require a public housing agency to modify the payment standard of the public housing agency based on the results of that review.

(2) AMOUNT OF MONTHLY ASSISTANCE PAYMENT.—Subject to the requirement under section 3(a)(3) (relating to minimum rental amount), the monthly assistance payment for a family receiving assistance under this subsection shall be determined as follows:

(A) TENANT-BASED ASSISTANCE; RENT NOT EXCEEDING PAYMENT STANDARD.—For a family receiving tenant-based assistance, if the rent for the family (including the amount allowed for tenant-paid utilities) does not exceed the applicable payment standard established under paragraph (1), the monthly assistance payment for the family shall be equal to the amount by which the rent (including the amount allowed for tenant-paid utilities) exceeds the greatest of the following amounts, rounded to the nearest dollar:

(i) 30 percent of the monthly adjusted income of the family.

(ii) 10 percent of the monthly income of the family.

(iii) If the family is receiving payments for welfare assistance from a public agency and a part of those payments, adjusted in accordance with the actual housing costs of the family, is specifically designated by that agency to meet the housing costs of the family, the portion of those payments that is so designated.

(B) TENANT-BASED ASSISTANCE; RENT EXCEEDING PAYMENT STANDARD.—For a family receiving tenant-based assistance, if the rent for the family (including the amount allowed for tenant-paid utilities) exceeds the applicable payment standard established under paragraph (1), the monthly assistance payment for the family shall be equal to the amount by which the applicable payment standard exceeds the greatest of amounts under clauses (i), (ii), and (iii) of subparagraph (A).

(C) FAMILIES RECEIVING PROJECT-BASED ASSISTANCE.—For a family receiving project-based assistance, the rent

that the family is required to pay shall be determined in accordance with section 3(a)(1), and the amount of the housing assistance payment shall be determined in accordance with subsection (c)(3) of this section.

(D) UTILITY ALLOWANCE.—

(i) GENERAL.—In determining the monthly assistance payment for a family under subparagraphs (A) and (B), the amount allowed for tenant-paid utilities shall not exceed the appropriate utility allowance for the family unit size as determined by the public housing agency regardless of the size of the dwelling unit leased by the family.

(ii) EXCEPTION FOR FAMILIES IN INCLUDING PERSONS WITH DISABILITIES.—Notwithstanding subparagraph (A), upon request by a family that includes a person with disabilities, the public housing agency shall approve a utility allowance that is higher than the applicable amount on the utility allowance schedule if a higher utility allowance is needed as a reasonable accommodation to make the program accessible to and usable by the family member with a disability.

(3) 40 PERCENT LIMIT.—At the time a family initially receives tenant-based assistance under this section with respect to any dwelling unit, the total amount that a family may be required to pay for rent may not exceed 40 percent of the monthly adjusted income of the family.

(4) ELIGIBLE FAMILIES.—To be eligible to receive assistance under this subsection, a family shall, at the time a family initially receives assistance under this subsection, be a low-income family that is—

(A) a very low-income family;

(B) a family previously assisted under this title;

(C) a low-income family that meets eligibility criteria specified by the public housing agency;

(D) a family that qualifies to receive a voucher in connection with a homeownership program approved under title IV of the Cranston-Gonzalez National Affordable Housing Act; or

(E) a family that qualifies to receive a voucher under section 223 or 226 of the Low-Income Housing Preservation and Resident Homeownership Act of 1990.

(5) REVIEWS OF FAMILY INCOME.—

(A) IN GENERAL.—Reviews of family incomes for purposes of this section shall be subject to paragraphs (1), (6), and (7) of section 3(a) and to section 904 of the Stewart B. McKinney Homeless Assistance Amendments Act of 1988.

(B) PROCEDURES.—Each public housing agency administering assistance under this subsection shall establish procedures that are appropriate and necessary to ensure that income data provided to the agency and owners by families applying for or receiving assistance from the agency is complete and accurate.

(6) SELECTION OF FAMILIES AND DISAPPROVAL OF OWNERS.—

(A) PREFERENCES.—

(i) **AUTHORITY TO ESTABLISH.**—Each public housing agency may establish a system for making tenant-based assistance under this subsection available on behalf of eligible families that provides preference for such assistance to eligible families having certain characteristics, which may include a preference for families residing in public housing who are victims of a crime of violence (as such term is defined in section 16 of title 18, United States Code) that has been reported to an appropriate law enforcement agency.

(ii) **CONTENT.**—Each system of preferences established pursuant to this subparagraph shall be based upon local housing needs and priorities, as determined by the public housing agency using generally accepted data sources, including any information obtained pursuant to an opportunity for public comment as provided under section 5A(f) and under the requirements applicable to the comprehensive housing affordability strategy for the relevant jurisdiction.

(B) **SELECTION OF TENANTS.**—Each housing assistance payment contract entered into by the public housing agency and the owner of a dwelling unit) shall provide that the screening and selection of families for those units shall be the function of the owner. In addition, the public housing agency may elect to screen applicants for the program in accordance with such requirements as the Secretary may establish.

(C) **PHA DISAPPROVAL OF OWNERS.**—In addition to other grounds authorized by the Secretary, a public housing agency may elect not to enter into a housing assistance payments contract under this subsection with an owner who refuses, or has a history of refusing, to take action to terminate tenancy for activity engaged in by the tenant, any member of the tenant's household, any guest, or any other person under the control of any member of the household that—

(i) threatens the health or safety of, or right to peaceful enjoyment of the premises by, other tenants or employees of the public housing agency, owner, or other manager of the housing;

(ii) threatens the health or safety of, or right to peaceful enjoyment of the residences by, persons residing in the immediate vicinity of the premises; or

(iii) is drug-related or violent criminal activity.

(7) **LEASES AND TENANCY.**—Each housing assistance payment contract entered into by the public housing agency and the owner of a dwelling unit—

(A) shall provide that the lease between the tenant and the owner shall be for a term of not less than 1 year, except that the public housing agency may approve a shorter term for an initial lease between the tenant and the dwelling unit owner if the public housing agency determines that such shorter term would improve housing opportunities for the tenant and if such shorter term is considered to be a prevailing local market practice;

(B) shall provide that the dwelling unit owner shall offer leases to tenants assisted under this subsection that—

(i) are in a standard form used in the locality by the dwelling unit owner; and

(ii) contain terms and conditions that—

(I) are consistent with State and local law; and

(II) apply generally to tenants in the property who are not assisted under this section;

(C) shall provide that during the term of the lease, the owner shall not terminate the tenancy except for serious or repeated violation of the terms and conditions of the lease, for violation of applicable Federal, State, or local law, or for other good cause, and in the case of an owner who is an immediate successor in interest pursuant to foreclosure during the term of the lease vacating the property prior to sale shall not constitute other good cause, except that the owner may terminate the tenancy effective on the date of transfer of the unit to the owner if the owner—

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

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

(D) shall provide that during the term of the lease, any criminal activity that threatens the health, safety, or right to peaceful enjoyment of the premises by other tenants, any criminal activity that threatens the health, safety, or right to peaceful enjoyment of their residences by persons residing in the immediate vicinity of the premises, or any violent or drug-related criminal activity on or near such premises, engaged in by a tenant of any unit, any member of the tenant's household, or any guest or other person under the tenant's control, shall be cause for termination of tenancy;

(E) shall provide that any termination of tenancy under this subsection shall be preceded by the provision of written notice by the owner to the tenant specifying the grounds for that action, and any relief shall be consistent with applicable State and local law; and

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

(8) INSPECTION OF UNITS BY PHA'S.—

## (A) INITIAL INSPECTION.—

(i) IN GENERAL.—For each dwelling unit for which a housing assistance payment contract is established under this subsection, the public housing agency (or other entity pursuant to paragraph (11)) shall inspect the unit before any assistance payment is made to determine whether the dwelling unit meets the housing quality standards under subparagraph (B), except as provided in clause (ii) or (iii) of this subparagraph.

(ii) CORRECTION OF NON-LIFE-THREATENING CONDITIONS.—In the case of any dwelling unit that is determined, pursuant to an inspection under clause (i), not to meet the housing quality standards under subparagraph (B), assistance payments may be made for the unit notwithstanding subparagraph (C) if failure to meet such standards is a result only of non-life-threatening conditions, as such conditions are established by the Secretary. A public housing agency making assistance payments pursuant to this clause for a dwelling unit shall, 30 days after the beginning of the period for which such payments are made, withhold any assistance payments for the unit if any deficiency resulting in noncompliance with the housing quality standards has not been corrected by such time. The public housing agency shall recommence assistance payments when such deficiency has been corrected, and may use any payments withheld to make assistance payments relating to the period during which payments were withheld.

(iii) USE OF ALTERNATIVE INSPECTION METHOD FOR INTERIM PERIOD.—In the case of any property that within the previous 24 months has met the requirements of an inspection that qualifies as an alternative inspection method pursuant to subparagraph (E), a public housing agency may authorize occupancy before the inspection under clause (i) has been completed, and may make assistance payments retroactive to the beginning of the lease term after the unit has been determined pursuant to an inspection under clause (i) to meet the housing quality standards under subparagraph (B). This clause may not be construed to exempt any dwelling unit from compliance with the requirements of subparagraph (D).

(B) HOUSING QUALITY STANDARDS.—The housing quality standards under this subparagraph are standards for safe and habitable housing established—

(i) by the Secretary for purposes of this subsection;  
or

(ii) by local housing codes or by codes adopted by public housing agencies that—

(I) meet or exceed housing quality standards, except that the Secretary may waive the requirement under this subclause to significantly increase access to affordable housing and to expand housing opportunities for families assisted under

this subsection, except where such waiver could adversely affect the health or safety of families assisted under this subsection; and

(II) do not severely restrict housing choice

(C) INSPECTION.—The determination required under subparagraph (A) shall be made by the public housing agency (or other entity, as provided in paragraph (11)) pursuant to an inspection of the dwelling unit conducted before any assistance payment is made for the unit. Inspections of dwelling units under this subparagraph shall be made before the expiration of the 15-day period beginning upon a request by the resident or landlord to the public housing agency or, in the case of any public housing agency that provides assistance under this subsection on behalf of more than 1250 families, before the expiration of a reasonable period beginning upon such request. The performance of the agency in meeting the 15-day inspection deadline shall be taken into consideration in assessing the performance of the agency.

(D) BIENNIAL INSPECTIONS.—

(i) REQUIREMENT.—Each public housing agency providing assistance under this subsection (or other entity, as provided in paragraph (11)) shall, for each assisted dwelling unit, make inspections not less often than biennially during the term of the housing assistance payments contract for the unit to determine whether the unit is maintained in accordance with the requirements under subparagraph (A).

(ii) USE OF ALTERNATIVE INSPECTION METHOD.—The requirements under clause (i) may be complied with by use of inspections that qualify as an alternative inspection method pursuant to subparagraph (E).

(iii) RECORDS.—The public housing agency (or other entity) shall retain the records of the inspection for a reasonable time, as determined by the Secretary, and shall make the records available upon request to the Secretary, the Inspector General for the Department of Housing and Urban Development, and any auditor conducting an audit under section 5(h).

(iv) MIXED-FINANCE PROPERTIES.—The Secretary may adjust the frequency of inspections for mixed-finance properties assisted with vouchers under paragraph (13) to facilitate the use of the alternative inspections in subparagraph (E).

(E) ALTERNATIVE INSPECTION METHOD.—An inspection of a property shall qualify as an alternative inspection method for purposes of this subparagraph if—

(i) the inspection was conducted pursuant to requirements under a Federal, State, or local housing program (including the Home investment partnership program under title II of the Cranston-Gonzalez National Affordable Housing Act and the low-income housing tax credit program under section 42 of the Internal Revenue Code of 1986); and

(ii) pursuant to such inspection, the property was determined to meet the standards or requirements regarding housing quality or safety applicable to properties assisted under such program, and, if a non-Federal standard or requirement was used, the public housing agency has certified to the Secretary that such standard or requirement provides the same (or greater) protection to occupants of dwelling units meeting such standard or requirement as would the housing quality standards under subparagraph (B).

(F) INTERIM INSPECTIONS.—Upon notification to the public housing agency, by a family (on whose behalf tenant-based rental assistance is provided under this subsection) or by a government official, that the dwelling unit for which such assistance is provided does not comply with the housing quality standards under subparagraph (B), the public housing agency shall inspect the dwelling unit—

(i) in the case of any condition that is life-threatening, within 24 hours after the agency's receipt of such notification, unless waived by the Secretary in extraordinary circumstances; and

(ii) in the case of any condition that is not life-threatening, within a reasonable time frame, as determined by the Secretary.

(G) ENFORCEMENT OF HOUSING QUALITY STANDARDS.—

(i) DETERMINATION OF NONCOMPLIANCE.—A dwelling unit that is covered by a housing assistance payments contract under this subsection shall be considered, for purposes of subparagraphs (D) and (F), to be in non-compliance with the housing quality standards under subparagraph (B) if—

(I) the public housing agency or an inspector authorized by the State or unit of local government determines upon inspection of the unit that the unit fails to comply with such standards;

(II) the agency or inspector notifies the owner of the unit in writing of such failure to comply; and

(III) the failure to comply is not corrected—

(aa) in the case of any such failure that is a result of life-threatening conditions, within 24 hours after such notice has been provided; and

(bb) in the case of any such failure that is a result of non-life-threatening conditions, within 30 days after such notice has been provided or such other reasonable longer period as the public housing agency may establish.

(ii) WITHHOLDING OF ASSISTANCE AMOUNTS DURING CORRECTION.—The public housing agency may withhold assistance amounts under this subsection with respect to a dwelling unit for which a notice pursuant to clause (i)(II), of failure to comply with housing quality standards under subparagraph (B) as determined pursuant to an inspection conducted under subparagraph (D) or (F), has been provided. If the unit is

brought into compliance with such housing quality standards during the periods referred to in clause (i)(III), the public housing agency shall recommence assistance payments and may use any amounts withheld during the correction period to make assistance payments relating to the period during which payments were withheld.

(iii) ABATEMENT OF ASSISTANCE AMOUNTS.—The public housing agency shall abate all of the assistance amounts under this subsection with respect to a dwelling unit that is determined, pursuant to clause (i) of this subparagraph, to be in noncompliance with housing quality standards under subparagraph (B). Upon completion of repairs by the public housing agency or the owner sufficient so that the dwelling unit complies with such housing quality standards, the agency shall recommence payments under the housing assistance payments contract to the owner of the dwelling unit.

(iv) NOTIFICATION.—If a public housing agency providing assistance under this subsection abates rental assistance payments pursuant to clause (iii) with respect to a dwelling unit, the agency shall, upon commencement of such abatement—

(I) notify the tenant and the owner of the dwelling unit that—

(aa) such abatement has commenced; and

(bb) if the dwelling unit is not brought into compliance with housing quality standards within 60 days after the effective date of the determination of noncompliance under clause (i) or such reasonable longer period as the agency may establish, the tenant will have to move; and

(II) issue the tenant the necessary forms to allow the tenant to move to another dwelling unit and transfer the rental assistance to that unit.

(v) PROTECTION OF TENANTS.—An owner of a dwelling unit may not terminate the tenancy of any tenant because of the withholding or abatement of assistance pursuant to this subparagraph. During the period that assistance is abated pursuant to this subparagraph, the tenant may terminate the tenancy by notifying the owner.

(vi) TERMINATION OF LEASE OR ASSISTANCE PAYMENTS CONTRACT.—If assistance amounts under this section for a dwelling unit are abated pursuant to clause (iii) and the owner does not correct the noncompliance within 60 days after the effective date of the determination of noncompliance under clause (i), or such other reasonable longer period as the public housing agency may establish, the agency shall terminate the housing assistance payments contract for the dwelling unit.

(vii) RELOCATION.—

(I) LEASE OF NEW UNIT.—The agency shall provide the family residing in such a dwelling unit a period of 90 days or such longer period as the public housing agency determines is reasonably necessary to lease a new unit, beginning upon termination of the contract, to lease a new residence with tenant-based rental assistance under this section.

(II) AVAILABILITY OF PUBLIC HOUSING UNITS.—If the family is unable to lease such a new residence during such period, the public housing agency shall, at the option of the family, provide such family a preference for occupancy in a dwelling unit of public housing that is owned or operated by the agency that first becomes available for occupancy after the expiration of such period.

(III) ASSISTANCE IN FINDING UNIT.—The public housing agency may provide assistance to the family in finding a new residence, including use of up to two months of any assistance amounts withheld or abated pursuant to clause (ii) or (iii), respectively, for costs directly associated with relocation of the family to a new residence, which shall include security deposits as necessary and may include reimbursements for reasonable moving expenses incurred by the household, as established by the Secretary. The agency may require that a family receiving assistance for a security deposit shall remit, to the extent of such assistance, the amount of any security deposit refunds made by the owner of the dwelling unit for which the lease was terminated.

(viii) TENANT-CAUSED DAMAGES.—If a public housing agency determines that any damage to a dwelling unit that results in a failure of the dwelling unit to comply with housing quality standards under subparagraph (B), other than any damage resulting from ordinary use, was caused by the tenant, any member of the tenant's household, or any guest or other person under the tenant's control, the agency may waive the applicability of this subparagraph, except that this clause shall not exonerate a tenant from any liability otherwise existing under applicable law for damages to the premises caused by such tenant.

(ix) APPLICABILITY.—This subparagraph shall apply to any dwelling unit for which a housing assistance payments contract is entered into or renewed after the date of the effectiveness of the regulations implementing this subparagraph.

(H) INSPECTION GUIDELINES.—The Secretary shall establish procedural guidelines and performance standards to facilitate inspections of dwelling units and conform such inspections with practices utilized in the private housing market. Such guidelines and standards shall take into consideration variations in local laws and practices of public

housing agencies and shall provide flexibility to authorities appropriate to facilitate efficient provision of assistance under this subsection.

(9) VACATED UNITS.—If an assisted family vacates a dwelling unit for which rental assistance is provided under a housing assistance payment contract before the expiration of the term of the lease for the unit, rental assistance pursuant to such contract may not be provided for the unit after the month during which the unit was vacated.

(10) RENT.—

(A) REASONABLENESS.—The rent for dwelling units for which a housing assistance payment contract is established under this subsection shall be reasonable in comparison with rents charged for comparable dwelling units in the private, unassisted local market.

(B) NEGOTIATIONS.—A public housing agency (or other entity, as provided in paragraph (11)) shall, at the request of a family receiving tenant-based assistance under this subsection, assist that family in negotiating a reasonable rent with a dwelling unit owner. A public housing agency (or such other entity) shall review the rent for a unit under consideration by the family (and all rent increases for units under lease by the family) to determine whether the rent (or rent increase) requested by the owner is reasonable. If a public housing agency (or other such entity) determines that the rent (or rent increase) for a dwelling unit is not reasonable, the public housing agency (or other such entity) shall not make housing assistance payments to the owner under this subsection with respect to that unit.

(C) UNITS EXEMPT FROM LOCAL RENT CONTROL.—If a dwelling unit for which a housing assistance payment contract is established under this subsection is exempt from local rent control provisions during the term of that contract, the rent for that unit shall be reasonable in comparison with other units in the market area that are exempt from local rent control provisions.

(D) TIMELY PAYMENTS.—Each public housing agency shall make timely payment of any amounts due to a dwelling unit owner under this subsection. The housing assistance payment contract between the owner and the public housing agency may provide for penalties for the late payment of amounts due under the contract, which shall be imposed on the public housing agency in accordance with generally accepted practices in the local housing market.

(E) PENALTIES.—Unless otherwise authorized by the Secretary, each public housing agency shall pay any penalties from administrative fees collected by the public housing agency, except that no penalty shall be imposed if the late payment is due to factors that the Secretary determines are beyond the control of the public housing agency.

(F) TAX CREDIT PROJECTS.—In the case of a dwelling unit receiving tax credits pursuant to section 42 of the Internal Revenue Code of 1986 or for which assistance is provided under subtitle A of title II of the Cranston Gonzalez Na-

tional Affordable Housing Act of 1990, for which a housing assistance contract not subject to paragraph (13) of this subsection is established, rent reasonableness shall be determined as otherwise provided by this paragraph, except that—

(i) comparison with rent for units in the private, unassisted local market shall not be required if the rent is equal to or less than the rent for other comparable units receiving such tax credits or assistance in the project that are not occupied by families assisted with tenant-based assistance under this subsection; and

(ii) the rent shall not be considered reasonable for purposes of this paragraph if it exceeds the greater of—

(I) the rents charged for other comparable units receiving such tax credits or assistance in the project that are not occupied by families assisted with tenant-based assistance under this subsection; and

(II) the payment standard established by the public housing agency for a unit of the size involved.

(11) LEASING OF UNITS OWNED BY PHA.—

(A) INSPECTIONS AND RENT DETERMINATIONS.—If an eligible family assisted under this subsection leases a dwelling unit (other than a public housing dwelling unit) that is owned by a public housing agency administering assistance under this subsection, the Secretary shall require the unit of general local government or another entity approved by the Secretary, to make inspections required under paragraph (8) and rent determinations required under paragraph (10). The agency shall be responsible for any expenses of such inspections and determinations.

(B) UNITS OWNED BY PHA.—For purposes of this subsection, the term “owned by a public housing agency” means, with respect to a dwelling unit, that the dwelling unit is in a project that is owned by such agency, by an entity wholly controlled by such agency, or by a limited liability company or limited partnership in which such agency (or an entity wholly controlled by such agency) holds a controlling interest in the managing member or general partner. A dwelling unit shall not be deemed to be owned by a public housing agency for purposes of this subsection because the agency holds a fee interest as ground lessor in the property on which the unit is situated, holds a security interest under a mortgage or deed of trust on the unit, or holds a non-controlling interest in an entity which owns the unit or in the managing member or general partner of an entity which owns the unit.

(12) ASSISTANCE FOR RENTAL OF MANUFACTURED HOUSING.—

(A) IN GENERAL.—A public housing agency may make assistance payments in accordance with this subsection on behalf of a family that utilizes a manufactured home as a principal place of residence and rents the real property on

which the manufactured home owned by any such family is located.

(B) RENT CALCULATION.—

(i) CHARGES INCLUDED.—For assistance pursuant to this paragraph, rent shall mean the sum of the monthly payments made by a family assisted under this paragraph to amortize the cost of purchasing the manufactured home, including any required insurance and property taxes, the monthly amount allowed for tenant-paid utilities, and the monthly rent charged for the real property on which the manufactured home is located, including monthly management and maintenance charges.

(ii) MONTHLY ASSISTANCE PAYMENT.—The monthly assistance payment for a family assisted under this paragraph shall be determined in accordance with paragraph (2). If the amount of the monthly assistance payment for a family exceeds the monthly rent charged for the real property on which the manufactured home is located, including monthly management and maintenance charges, a public housing agency may pay the remainder to the family, lender or utility company, or may choose to make a single payment to the family for the entire monthly assistance amount.

(13) PHA PROJECT-BASED ASSISTANCE.—

(A) IN GENERAL.—A public housing agency may use amounts provided under an annual contributions contract under this subsection to enter into a housing assistance payment contract with respect to an existing, newly constructed, or rehabilitated project, that is attached to the project, subject to the limitations and requirements of this paragraph.

(B) PERCENTAGE LIMITATION.—

(i) IN GENERAL.—Subject to clause (ii), a public housing agency may use for project-based assistance under this paragraph not more than 20 percent of the authorized units for the agency.

(ii) EXCEPTION.—A public housing agency may use up to an additional 10 percent of the authorized units for the agency for project-based assistance under this paragraph, to provide units that house individuals and families that meet the definition of homeless under section 103 of the McKinney-Vento Homeless Assistance Act (42 U.S.C. 11302), that house families with veterans, that provide supportive housing to persons with disabilities or elderly persons, that house eligible youths receiving assistance pursuant to subsection (x)(2)(B), or that are located in areas where vouchers under this subsection are difficult to use, as specified in subparagraph (D)(ii)(II). Any units of project-based assistance that are attached to units previously subject to federally required rent restrictions or receiving another type of long-term housing subsidy provided by the Secretary shall not count toward the percentage limitation under clause (i) of this subparagraph. The

Secretary may, by regulation, establish additional categories for the exception under this clause.

(C) CONSISTENCY WITH PHA PLAN AND OTHER GOALS.—A public housing agency may approve a housing assistance payment contract pursuant to this paragraph only if the contract is consistent with—

(i) the public housing agency plan for the agency approved under section 5A; and

(ii) the goal of deconcentrating poverty and expanding housing and economic opportunities.

(D) INCOME-MIXING REQUIREMENT.—

(i) IN GENERAL.—Except as provided in clause (ii), not more than the greater of 25 dwelling units or 25 percent of the dwelling units in any project may be assisted under a housing assistance payment contract for project-based assistance pursuant to this paragraph. For purposes of this subparagraph, the term “project” means a single building, multiple contiguous buildings, or multiple buildings on contiguous parcels of land.

(ii) EXCEPTIONS.—

(I) CERTAIN FAMILIES.—The limitation under clause (i) shall not apply to dwelling units assisted under a contract that are exclusively made available to elderly families, to eligible youths receiving assistance pursuant to subsection (x)(2)(B), or to households eligible for supportive services that are made available to the assisted residents of the project, according to standards for such services the Secretary may establish.

(II) CERTAIN AREAS.—With respect to areas in which tenant-based vouchers for assistance under this subsection are difficult to use, as determined by the Secretary, and with respect to census tracts with a poverty rate of 20 percent or less, clause (i) shall be applied by substituting “40 percent” for “25 percent”, and the Secretary may, by regulation, establish additional conditions.

(III) CERTAIN CONTRACTS.—The limitation under clause (i) shall not apply with respect to contracts or renewal of contracts under which a greater percentage of the dwelling units in a project were assisted under a housing assistance payment contract for project-based assistance pursuant to this paragraph on the date of the enactment of the Housing Opportunity Through Modernization Act of 2016.

(IV) CERTAIN PROPERTIES.—Any units of project-based assistance under this paragraph that are attached to units previously subject to federally required rent restrictions or receiving other project-based assistance provided by the Secretary shall not count toward the percentage limitation imposed by this subparagraph (D).

(iii) **ADDITIONAL MONITORING AND OVERSIGHT REQUIREMENTS.**—The Secretary may establish additional requirements for monitoring and oversight of projects in which more than 40 percent of the dwelling units are assisted under a housing assistance payment contract for project-based assistance pursuant to this paragraph.

(E) **RESIDENT CHOICE REQUIREMENT.**—A housing assistance payment contract pursuant to this paragraph shall provide as follows:

(i) **MOBILITY.**—Each low-income family occupying a dwelling unit assisted under the contract may move from the housing at any time after the family has occupied the dwelling unit for 12 months.

(ii) **CONTINUED ASSISTANCE.**—Upon such a move, the public housing agency shall provide the low-income family with tenant-based rental assistance under this section or such other tenant-based rental assistance that is subject to comparable income, assistance, rent contribution, affordability, and other requirements, as the Secretary shall provide by regulation. If such rental assistance is not immediately available to fulfill the requirement under the preceding sentence with respect to a low-income family, such requirement may be met by providing the family priority to receive the next voucher or other tenant-based rental assistance amounts that become available under the program used to fulfill such requirement.

(F) **CONTRACT TERM.**—

(i) **TERM.**—A housing assistance payment contract pursuant to this paragraph between a public housing agency and the owner of a project may have a term of up to 20 years, subject to—

(I) the availability of sufficient appropriated funds for the purpose of renewing expiring contracts for assistance payments, as provided in appropriation Acts and in the agency's annual contributions contract with the Secretary, provided that in the event of insufficient appropriated funds, payments due under contracts under this paragraph shall take priority if other cost-saving measures that do not require the termination of an existing contract are available to the agency; and

(II) compliance with the inspection requirements under paragraph (8), except that the agency shall not be required to make biennial inspections of each assisted unit in the development.

(ii) **ADDITION OF ELIGIBLE UNITS.**—Subject to the limitations of subparagraphs (B) and (D), the agency and the owner may add eligible units within the same project to a housing assistance payments contract at any time during the term thereof without being subject to any additional competitive selection procedures.

(iii) HOUSING UNDER CONSTRUCTION OR RECENTLY CONSTRUCTED.—An agency may enter into a housing assistance payments contract with an owner for any unit that does not qualify as existing housing and is under construction or recently has been constructed whether or not the agency has executed an agreement to enter into a contract with the owner, provided that the owner demonstrates compliance with applicable requirements prior to execution of the housing assistance payments contract. This clause shall not subject a housing assistance payments contract for existing housing under this paragraph to such requirements or otherwise limit the extent to which a unit may be assisted as existing housing.

(iv) ADDITIONAL CONDITIONS.—The contract may specify additional conditions, including with respect to continuation, termination, or expiration, and shall specify that upon termination or expiration of the contract without extension, each assisted family may elect to use its assistance under this subsection to remain in the same project if its unit complies with the inspection requirements under paragraph (8), the rent for the unit is reasonable as required by paragraph (10)(A), and the family pays its required share of the rent and the amount, if any, by which the unit rent (including the amount allowed for tenant-based utilities) exceeds the applicable payment standard.

(G) EXTENSION OF CONTRACT TERM.—A public housing agency may enter into a contract with the owner of a project assisted under a housing assistance payment contract pursuant to this paragraph to extend the term of the underlying housing assistance payment contract for such period as the agency determines to be appropriate to achieve long-term affordability of the housing or to expand housing opportunities. Such contract may, at the election of the public housing agency and the owner of the project, specify that such contract shall be extended for renewal terms of up to 20 years each, if the agency makes the determination required by this subparagraph and the owner is in compliance with the terms of the contract. Such a contract shall provide that the extension of such term shall be contingent upon the future availability of appropriated funds for the purpose of renewing expiring contracts for assistance payments, as provided in appropriations Acts, and may obligate the owner to have such extensions of the underlying housing assistance payment contract accepted by the owner and the successors in interest of the owner. A public housing agency may agree to enter into such a contract at the time it enters into the initial agreement for a housing assistance payment contract or at any time thereafter that is before the expiration of the housing assistance payment contract.

(H) RENT CALCULATION.—A housing assistance payment contract pursuant to this paragraph shall establish rents for each unit assisted in an amount that does not exceed

110 percent of the applicable fair market rental (or any exception payment standard approved by the Secretary pursuant to paragraph (1)(D)), except that if a contract covers a dwelling unit that has been allocated low-income housing tax credits pursuant to section 42 of the Internal Revenue Code of 1986 (26 U.S.C. 42) and is not located in a qualified census tract (as such term is defined in subsection (d) of such section 42), the rent for such unit may be established at any level that does not exceed the rent charged for comparable units in the building that also receive the low-income housing tax credit but do not have additional rental assistance, except that in the case of a contract unit that has been allocated low-income housing tax credits and for which the rent limitation pursuant to such section 42 is less than the amount that would otherwise be permitted under this subparagraph, the rent for such unit may, in the sole discretion of a public housing agency, be established at the higher section 8 rent, subject only to paragraph (10)(A). The rents established by housing assistance payment contracts pursuant to this paragraph may vary from the payment standards established by the public housing agency pursuant to paragraph (1)(B), but shall be subject to paragraph (10)(A).

(I) RENT ADJUSTMENTS.—A housing assistance payments contract pursuant to this paragraph entered into after the date of the enactment of the Housing Opportunity Through Modernization Act of 2016 shall provide for annual rent adjustments upon the request of the owner, except that—

(i) by agreement of the parties, a contract may allow a public housing agency to adjust the rent for covered units using an operating cost adjustment factor established by the Secretary pursuant to section 524(c) of the Multifamily Assisted Housing Reform and Affordability Act of 1997 (which shall not result in a negative adjustment), in which case the contract may require an additional adjustment, if requested, up to the reasonable rent periodically during the term of the contract, and shall require such an adjustment, if requested, upon extension pursuant to subparagraph (G);

(ii) the adjusted rent shall not exceed the maximum rent permitted under subparagraph (H);

(iii) the contract may provide that the maximum rent permitted for a dwelling unit shall not be less than the initial rent for the dwelling unit under the initial housing assistance payments contract covering the units; and

(iv) the provisions of subsection (c)(2)(C) shall not apply.

(J) TENANT SELECTION.—A public housing agency may select families to receive project-based assistance pursuant to this paragraph from its waiting list for assistance under this subsection or may permit owners to select applicants from site-based waiting lists as specified in this subparagraph. Eligibility for such project-based assistance shall be

subject to the provisions of section 16(b) that apply to tenant-based assistance. The agency or owner may establish preferences or criteria for selection for a unit assisted under this paragraph that are consistent with the public housing agency plan for the agency approved under section 5A and that give preference to families who qualify for voluntary services, including disability-specific services, offered in conjunction with assisted units. Any family that rejects an offer of project-based assistance under this paragraph or that is rejected for admission to a project by the owner or manager of a project assisted under this paragraph shall retain its place on the waiting list as if the offer had not been made. A public housing agency may establish and utilize procedures for owner-maintained site-based waiting lists, under which applicants may apply at, or otherwise designate to the public housing agency, the project or projects in which they seek to reside, except that all eligible applicants on the waiting list of an agency for assistance under this subsection shall be permitted to place their names on such separate list, subject to policies and procedures established by the Secretary. All such procedures shall comply with title VI of the Civil Rights Act of 1964, the Fair Housing Act, section 504 of the Rehabilitation Act of 1973, and other applicable civil rights laws. The owner or manager of a project assisted under this paragraph shall not admit any family to a dwelling unit assisted under a contract pursuant to this paragraph other than a family referred by the public housing agency from its waiting list, or a family on a site-based waiting list that complies with the requirements of this subparagraph. A public housing agency shall disclose to each applicant all other options in the selection of a project in which to reside that are provided by the public housing agency and are available to the applicant.

(K) VACATED UNITS.—Notwithstanding paragraph (9), a housing assistance payment contract pursuant to this paragraph may provide as follows:

(i) PAYMENT FOR VACANT UNITS.—That the public housing agency may, in its discretion, continue to provide assistance under the contract, for a reasonable period not exceeding 60 days, for a dwelling unit that becomes vacant, but only: (I) if the vacancy was not the fault of the owner of the dwelling unit; and (II) the agency and the owner take every reasonable action to minimize the likelihood and extent of any such vacancy. Rental assistance may not be provided for a vacant unit after the expiration of such period.

(ii) REDUCTION OF CONTRACT.—That, if despite reasonable efforts of the agency and the owner to fill a vacant unit, no eligible family has agreed to rent the unit within 120 days after the owner has notified the agency of the vacancy, the agency may reduce its housing assistance payments contract with the owner by the amount equivalent to the remaining months of subsidy attributable to the vacant unit. Amounts

deobligated pursuant to such a contract provision shall be available to the agency to provide assistance under this subsection.

Eligible applicants for assistance under this subsection may enforce provisions authorized by this subparagraph.

(L) USE IN COOPERATIVE HOUSING AND ELEVATOR BUILDINGS.—A public housing agency may enter into a housing assistance payments contract under this paragraph with respect to—

(i) dwelling units in cooperative housing; and

(ii) notwithstanding subsection (c), dwelling units in a high-rise elevator project, including such a project that is occupied by families with children, without review and approval of the contract by the Secretary.

(M) REVIEWS.—

(i) SUBSIDY LAYERING.—A subsidy layering review in accordance with section 102(d) of the Department of Housing and Urban Development Reform Act of 1989 (42 U.S.C. 3545(d)) shall not be required for assistance under this paragraph in the case of a housing assistance payments contract for an existing project, or if a subsidy layering review has been conducted by the applicable State or local agency.

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

(N) STRUCTURE OWNED BY AGENCY.—A public housing agency engaged in an initiative to improve, develop, or replace a public housing property or site may attach assistance to an existing, newly constructed, or rehabilitated structure in which the agency has an ownership interest or which the agency has control of without following a competitive process, provided that the agency has notified the public of its intent through its public housing agency plan and subject to the limitations and requirements of this paragraph.

(O) SPECIAL PURPOSE VOUCHERS.—A public housing agency that administers vouchers authorized under subsection (o)(19) or (x) of this section may provide such assistance in accordance with the limitations and requirements of this paragraph, without additional requirements for approval by the Secretary.

(14) INAPPLICABILITY TO TENANT-BASED ASSISTANCE.—Subsection (c) shall not apply to tenant-based assistance under this subsection.

(15) HOMEOWNERSHIP OPTION.—

(A) IN GENERAL.—A public housing agency providing assistance under this subsection may, at the option of the agency, provide assistance for homeownership under subsection (y).

(B) ALTERNATIVE ADMINISTRATION.—A public housing agency may contract with a nonprofit organization to administer a homeownership program under subsection (y).

(16) RENTAL VOUCHERS FOR RELOCATION OF WITNESSES AND VICTIMS OF CRIME.—

(A) WITNESSES.—Of amounts made available for assistance under this subsection in each fiscal year, the Secretary, in consultation with the Inspector General, shall make available such sums as may be necessary for the relocation of witnesses in connection with efforts to combat crime in public and assisted housing pursuant to requests from law enforcement or prosecution agencies.

(B) VICTIMS OF CRIME.—

(i) IN GENERAL.—Of amounts made available for assistance under this section in each fiscal year, the Secretary shall make available such sums as may be necessary for the relocation of families residing in public housing who are victims of a crime of violence (as that term is defined in section 16 of title 18, United States Code) that has been reported to an appropriate law enforcement agency.

(ii) NOTICE.—A public housing agency that receives amounts under this subparagraph shall establish procedures for providing notice of the availability of that assistance to families that may be eligible for that assistance.

(17) DEED RESTRICTIONS.—Assistance under this subsection may not be used in any manner that abrogates any local deed restriction that applies to any housing consisting of 1 to 4 dwelling units. This paragraph may not be construed to affect the provisions or applicability of the Fair Housing Act.

(18) RENTAL ASSISTANCE FOR ASSISTED LIVING FACILITIES.—

(A) IN GENERAL.—A public housing agency may make assistance payments on behalf of a family that uses an assisted living facility as a principal place of residence and that uses such supportive services made available in the facility as the agency may require. Such payments may be made only for covering costs of rental of the dwelling unit in the assisted living facility and not for covering any portion of the cost of residing in such facility that is attributable to service relating to assisted living.

(B) RENT CALCULATION.—

(i) CHARGES INCLUDED.—For assistance pursuant to this paragraph, the rent of the dwelling unit that is an assisted living facility with respect to which assistance payments are made shall include maintenance and management charges related to the dwelling unit and tenant-paid utilities. Such rent shall not include any charges attributable to services relating to assisted living.

(ii) PAYMENT STANDARD.—In determining the monthly assistance that may be paid under this paragraph on behalf of any family residing in an assisted living facility, the public housing agency shall utilize the payment standard established under paragraph (1),

for the market area in which the assisted living facility is located, for the applicable size dwelling unit.

(iii) MONTHLY ASSISTANCE PAYMENT.—The monthly assistance payment for a family assisted under this paragraph shall be determined in accordance with paragraph (2) (using the rent and payment standard for the dwelling unit as determined in accordance with this subsection), except that a family may be required at the time the family initially receives such assistance to pay rent in an amount exceeding 40 percent of the monthly adjusted income of the family by such an amount or percentage that is reasonable given the services and amenities provided and as the Secretary deems appropriate..

(C) DEFINITION.—For the purposes of this paragraph, the term “assisted living facility” has the meaning given that term in section 232(b) of the National Housing Act (12 U.S.C. 1715w(b)), except that such a facility may be contained within a portion of a larger multifamily housing project.

(19) RENTAL VOUCHERS FOR VETERANS AFFAIRS SUPPORTED HOUSING PROGRAM.—

(A) SET ASIDE.—Subject to subparagraph (C), the Secretary shall set aside, from amounts made available for rental assistance under this subsection, the amounts specified in subparagraph (B) for use only for providing such assistance through a supported housing program administered in conjunction with the Department of Veterans Affairs. Such program shall provide rental assistance on behalf of homeless veterans who have chronic mental illnesses or chronic substance use disorders, shall require agreement of the veteran to continued treatment for such mental illness or substance use disorder as a condition of receipt of such rental assistance, and shall ensure such treatment and appropriate case management for each veteran receiving such rental assistance.

(B) AMOUNT.—The amount specified in this subparagraph is—

(i) for fiscal year 2007, the amount necessary to provide 500 vouchers for rental assistance under this subsection;

(ii) for fiscal year 2008, the amount necessary to provide 1,000 vouchers for rental assistance under this subsection;

(iii) for fiscal year 2009, the amount necessary to provide 1,500 vouchers for rental assistance under this subsection;

(iv) for fiscal year 2010, the amount necessary to provide 2,000 vouchers for rental assistance under this subsection; and

(v) for fiscal year 2011, the amount necessary to provide 2,500 vouchers for rental assistance under this subsection.

(C) FUNDING THROUGH INCREMENTAL ASSISTANCE.—In any fiscal year, to the extent that this paragraph requires

the Secretary to set aside rental assistance amounts for use under this paragraph in an amount that exceeds the amount set aside in the preceding fiscal year, such requirement shall be effective only to such extent or in such amounts as are or have been provided in appropriation Acts for such fiscal year for incremental rental assistance under this subsection.

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

(20) COLLECTION OF UTILITY DATA.—

(A) PUBLICATION.—The Secretary shall, to the extent that data can be collected cost effectively, regularly publish such data regarding utility consumption and costs in local areas as the Secretary determines will be useful for the establishment of allowances for tenant-paid utilities for families assisted under this subsection.

(B) USE OF DATA.—The Secretary shall provide such data in a manner that—

(i) avoids unnecessary administrative burdens for public housing agencies and owners; and

(ii) protects families in various unit sizes and building types, and using various utilities, from high rent and utility cost burdens relative to income.

(22) QUALIFYING SMOKE ALARMS.—

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

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

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

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

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

*(aa) hardwired; or*

*(bb) uses 10-year non rechargeable, non-replaceable primary batteries and—*

*(AA) is sealed;*

*(BB) is tamper resistant;*

*(CC) contains silencing means; and*

*(DD) 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.*

(p) In order to assist elderly families (as defined in section 3(b)(3)) who elect to live in a shared housing arrangement in which they benefit as a result of sharing the facilities of a dwelling with others in a manner that effectively and efficiently meets their housing needs and thereby reduces their costs of housing, the Secretary shall permit assistance provided under the existing housing and moderate rehabilitation programs to be used by such families in such arrangements. In carrying out this subsection, the Secretary shall issue minimum habitability standards for the purpose of assuring decent, safe, and sanitary housing for such families while taking into account the special circumstances of shared housing.

(q) ADMINISTRATIVE FEES.—

(1) FEE FOR ONGOING COSTS OF ADMINISTRATION.—

(A) IN GENERAL.—The Secretary shall establish fees for the costs of administering the tenant-based assistance, certificate, voucher, and moderate rehabilitation programs under this section.

(B) FISCAL YEAR 1999.—

(i) CALCULATION.—For fiscal year 1999, the fee for each month for which a dwelling unit is covered by an assistance contract shall be—

(I) in the case of a public housing agency that, on an annual basis, is administering a program for not more than 600 dwelling units, 7.65 percent of the base amount; and

(II) in the case of an agency that, on an annual basis, is administering a program for more than 600 dwelling units (aa) for the first 600 units, 7.65 percent of the base amount, and (bb) for any additional dwelling units under the program, 7.0 percent of the base amount.

(ii) BASE AMOUNT.—For purposes of this subparagraph, the base amount shall be the higher of—

(I) the fair market rental established under section 8(c) of this Act (as in effect immediately before the effective date under section 503(a) of the Quality Housing and Work Responsibility Act of 1998) for fiscal year 1993 for a 2-bedroom existing rental dwelling unit in the market area of the agency, and

(II) the amount that is the lesser of (aa) such fair market rental for fiscal year 1994, or (bb) 103.5 percent of the amount determined under clause (i),

adjusted based on changes in wage data or other objectively measurable data that reflect the costs of administering the program, as determined by the Secretary. The Secretary may require that the base amount be

not less than a minimum amount and not more than a maximum amount.

(C) SUBSEQUENT FISCAL YEARS.—For subsequent fiscal years, the Secretary shall publish a notice in the Federal Register, for each geographic area, establishing the amount of the fee that would apply for public housing agencies administering the program, based on changes in wage data or other objectively measurable data that reflect the costs of administering the program, as determined by the Secretary.

(D) INCREASE.—The Secretary may increase the fee if necessary to reflect the higher costs of administering small programs and programs operating over large geographic areas.

(E) DECREASE.—The Secretary may decrease the fee for units owned by a public housing agency to reflect reasonable costs of administration.

(2) FEE FOR PRELIMINARY EXPENSES.—The Secretary shall also establish reasonable fees (as determined by the Secretary) for—

(A) the costs of preliminary expenses, in the amount of \$500, for a public housing agency, except that such fee shall apply to an agency only in the first year that the agency administers a tenant-based assistance program under this section, and only if, immediately before the effective date under section 503(a) of the Quality Housing and Work Responsibility Act of 1998, the agency was not administering a tenant-based assistance program under the United States Housing Act of 1937 (as in effect immediately before such effective date), in connection with its initial increment of assistance received;

(B) the costs incurred in assisting families who experience difficulty (as determined by the Secretary) in obtaining appropriate housing under the programs; and

(C) extraordinary costs approved by the Secretary.

(3) TRANSFER OF FEES IN CASES OF CONCURRENT GEOGRAPHICAL JURISDICTION.—In each fiscal year, if any public housing agency provides tenant-based assistance under this section on behalf of a family who uses such assistance for a dwelling unit that is located within the jurisdiction of such agency but is also within the jurisdiction of another public housing agency, the Secretary shall take such steps as may be necessary to ensure that the public housing agency that provides the services for a family receives all or part of the administrative fee under this section (as appropriate).

(4) APPLICABILITY.—This subsection shall apply to fiscal year 1999 and fiscal years thereafter.

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

(r) PORTABILITY.—(1) IN GENERAL.—(A) Any family receiving tenant-based assistance under subsection (o) may receive such assistance to rent an eligible dwelling unit if the dwelling unit to which the family moves is within any area in which a program is being administered under this section.

(B)(i) Notwithstanding subparagraph (A) and subject to any exceptions established under clause (ii) of this subparagraph, a public housing agency may require that any family not living within the jurisdiction of the public housing agency at the time the family applies for assistance from the agency shall, during the 12-month period beginning on the date of initial receipt of housing assistance made available on behalf of the family from such agency, lease and occupy an eligible dwelling unit located within the jurisdiction served by the agency.

(ii) The Secretary may establish such exceptions to the authority of public housing agencies established under clause (i).

(2) The public housing agency having authority with respect to the dwelling unit to which a family moves under this subsection shall have the responsibility of carrying out the provisions of this subsection with respect to the family.

(3) In providing assistance under subsection (o) for any fiscal year, the Secretary shall give consideration to any reduction in the number of resident families incurred by a public housing agency in the preceding fiscal year as a result of the provisions of this subsection. The Secretary shall establish procedures for the compensation of public housing agencies that issue vouchers to families that move into or out of the jurisdiction of the public housing agency under portability procedures. The Secretary may reserve amounts available for assistance under subsection (o) to compensate those public housing agencies.

(4) The provisions of this subsection may not be construed to restrict any authority of the Secretary under any other provision of law to provide for the portability of assistance under this section.

(5) LEASE VIOLATIONS.—A family may not receive a voucher from a public housing agency and move to another jurisdiction under the tenant-based assistance program if the family has moved out of the assisted dwelling unit of the family in violation of a lease, except that a family may receive a voucher from a public housing agency and move to another jurisdiction under the tenant-based assistance program if the family has complied with all other obligations of the section 8 program and has moved out of the assisted dwelling unit in order to protect the health or safety of an individual who is or has been the victim of domestic violence, dating violence, or stalking and who reasonably believed he or she was imminently threatened by harm from further violence if he or she remained in the assisted dwelling unit.

(s) In selecting families for the provision of assistance under this section (including subsection (o)), a public housing agency may not exclude or penalize a family solely because the family resides in a public housing project.

(t) ENHANCED VOUCHERS.—

(1) IN GENERAL.—Enhanced voucher assistance under this subsection for a family shall be voucher assistance under subsection (o), except that under such enhanced voucher assistance—

(A) subject only to subparagraph (D), the assisted family shall pay as rent no less than the amount the family was paying on the date of the eligibility event for the project in which the family was residing on such date;

(B) the assisted family may elect to remain in the same project in which the family was residing on the date of the eligibility event for the project, and if, during any period the family makes such an election and continues to so reside, the rent for the dwelling unit of the family in such project exceeds the applicable payment standard established pursuant to subsection (o) for the unit, the amount of rental assistance provided on behalf of the family shall be determined using a payment standard that is equal to the rent for the dwelling unit (as such rent may be increased from time-to-time), subject to paragraph (10)(A) of subsection (o) and any other reasonable limit prescribed by the Secretary, except that a limit shall not be considered reasonable for purposes of this subparagraph if it adversely affects such assisted families;

(C) subparagraph (B) of this paragraph shall not apply and the payment standard for the dwelling unit occupied by the family shall be determined in accordance with subsection (o) if—

(i) the assisted family moves, at any time, from such project; or

(ii) the voucher is made available for use by any family other than the original family on behalf of whom the voucher was provided; and

(D) if the annual adjusted income of the assisted family declines to a significant extent, the percentage of annual adjusted income paid by the family for rent shall not exceed the greater of 30 percent or the percentage of annual adjusted income paid at the time of the eligibility event for the project.

(2) ELIGIBILITY EVENT.—For purposes of this subsection, the term “eligibility event” means, with respect to a multifamily housing project, the prepayment of the mortgage on such housing project, the voluntary termination of the insurance contract for the mortgage for such housing project (including any such mortgage prepayment during fiscal year 1996 or a fiscal year thereafter or any insurance contract voluntary termination during fiscal year 1996 or a fiscal year thereafter), the termination or expiration of the contract for rental assistance under section 8 of the United States Housing Act of 1937 for such housing project (including any such termination or expiration during fiscal years after fiscal year 1994 prior to the effective date of the Departments of Veterans Affairs and Housing and Urban Development, and Independent Agencies Appropriations Act, 2001), or the transaction under which the project is preserved as affordable housing, that, under paragraphs (3) and (4) of section 515(c), section 524(d) of the Multifamily Assisted Housing Reform and Affordability Act of 1997 (42 U.S.C. 1437f note), section 223(f) of the Low-Income Housing Preservation and Resident Homeownership Act of 1990 (12 U.S.C. 4113(f)), or section 201(p) of the Housing and Community Development

Amendments of 1978 (12 U.S.C. 1715z-1a(p)), results in tenants in such housing project being eligible for enhanced voucher assistance under this subsection.

(3) TREATMENT OF ENHANCED VOUCHERS PROVIDED UNDER OTHER AUTHORITY.—

(A) IN GENERAL.—Notwithstanding any other provision of law, any enhanced voucher assistance provided under any authority specified in subparagraph (B) shall (regardless of the date that the amounts for providing such assistance were made available) be treated, and subject to the same requirements, as enhanced voucher assistance under this subsection.

(B) IDENTIFICATION OF OTHER AUTHORITY.—The authority specified in this subparagraph is the authority under—

(i) the 10th, 11th, and 12th provisos under the “Preserving Existing Housing Investment” account in title II of the Departments of Veterans Affairs and Housing and Urban Development, and Independent Agencies Appropriations Act, 1997 (Public Law 104-204; 110 Stat. 2884), pursuant to such provisos, the first proviso under the “Housing Certificate Fund” account in title II of the Departments of Veterans Affairs and Housing and Urban Development, and Independent Agencies Appropriations Act, 1998 (Public Law 105-65; 111 Stat. 1351), or the first proviso under the “Housing Certificate Fund” account in title II of the Departments of Veterans Affairs and Housing and Urban Development, and Independent Agencies Appropriations Act, 1999 (Public Law 105-276; 112 Stat. 2469); and

(ii) paragraphs (3) and (4) of section 515(c) of the Multifamily Assisted Housing Reform and Affordability Act of 1997 (42 U.S.C. 1437f note), as in effect before the enactment of this Act.

(4) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated for each of fiscal years 2000, 2001, 2002, 2003, and 2004 such sums as may be necessary for enhanced voucher assistance under this subsection.

(u) In the case of low-income families living in rental projects rehabilitated under section 17 of this Act or section 533 of the Housing Act of 1949 before rehabilitation—

(1) vouchers under this section shall be made for families who are required to move out of their units because of the physical rehabilitation activities or because of overcrowding;

(2) at the discretion of each public housing agency or other agency administering the allocation of assistance or vouchers under this section may be made for families who would have to pay more than 30 percent of their adjusted income for rent after rehabilitation whether they choose to remain in, or to move from, the project; and

(3) the Secretary shall allocate assistance for vouchers under this section to ensure that sufficient resources are available to address the physical or economic displacement, or potential economic displacement, of existing tenants pursuant to paragraphs (1) and (2).

(v) The Secretary may extend expiring contracts entered into under this section for project-based loan management assistance to the extent necessary to prevent displacement of low-income families receiving such assistance as of September 30, 1996.

(x) FAMILY UNIFICATION.—

(1) INCREASE IN BUDGET AUTHORITY.—The budget authority available under section 5(c) for assistance under section 8(b) is authorized to be increased by \$100,000,000 on or after October 1, 1992, and by \$104,200,000 on or after October 1, 1993.

(2) USE OF FUNDS.—The amounts made available under this subsection shall be used only in connection with tenant-based assistance under section 8 on behalf of (A) any family (i) who is otherwise eligible for such assistance, and (ii) who the public child welfare agency for the jurisdiction has certified is a family for whom the lack of adequate housing is a primary factor in the imminent placement of the family's child or children in out-of-home care or the delayed discharge of a child or children to the family from out-of-home care and (B) subject to paragraph (5), for a period not to exceed 36 months, otherwise eligible youths who have attained at least 18 years of age and not more than 24 years of age and who have left foster care, or will leave foster care within 90 days, in accordance with a transition plan described in section 475(5)(H) of the Social Security Act, and is homeless or is at risk of becoming homeless at age 16 or older. The amounts made available under this subsection shall be allocated by the Secretary through a national competition among applicants based on demonstrated need for assistance under this subsection. To be considered for assistance, an applicant shall submit to the Secretary a written proposal containing a report from the public child welfare agency serving the jurisdiction of the applicant that describes how a lack of adequate housing in the jurisdiction is resulting in the initial or prolonged separation of children from their families, and how the applicant will coordinate with the public child welfare agency to identify eligible families and provide the families with assistance under this subsection.

(3) ALLOCATION.—

(A) IN GENERAL.—The amounts made available under this subsection shall be allocated by the Secretary through a national competition among applicants based on demonstrated need for assistance under this subsection. To be considered for assistance, an applicant shall submit to the Secretary a written proposal containing a report from the public child welfare agency serving the jurisdiction of the applicant that describes how a lack of adequate housing in the jurisdiction is resulting in the initial or prolonged separation of children from their families, and how the applicant will coordinate with the public child welfare agency to identify eligible families and provide the families with assistance under this subsection.

(B) ASSISTANCE FOR YOUTH AGING OUT OF FOSTER CARE.—Notwithstanding any other provision of law, the Secretary shall, subject only to the availability of funds, allocate such assistance to any public housing agencies that (i) administer assistance pursuant to paragraph (2)(B), or

seek to administer such assistance, consistent with procedures established by the Secretary, (ii) have requested such assistance so that they may provide timely assistance to eligible youth, and (iii) have submitted to the Secretary a statement describing how the agency will connect assisted youths with local community resources and self-sufficiency services, to the extent they are available, and obtain referrals from public child welfare agencies regarding youths in foster care who become eligible for such assistance.

(4) **COORDINATION BETWEEN PUBLIC HOUSING AGENCIES AND PUBLIC CHILD WELFARE AGENCIES.**—The Secretary shall, not later than the expiration of the 180-day period beginning on the date of the enactment of the Housing Opportunity Through Modernization Act of 2016 and after consultation with other appropriate Federal agencies, issue guidance to improve coordination between public housing agencies and public child welfare agencies in carrying out the program under this subsection, which shall provide guidance on—

(A) identifying eligible recipients for assistance under this subsection and establishing a point of contact at public housing agencies to ensure that public housing agencies receive appropriate referrals regarding eligible recipients;

(B) coordinating with other local youth and family providers in the community and participating in the Continuum of Care program established under subtitle C of title IV of the McKinney-Vento Homeless Assistance Act (42 U.S.C. 11381 et seq.);

(C) implementing housing strategies to assist eligible families and youth;

(D) aligning system goals to improve outcomes for families and youth and reducing lapses in housing for families and youth; and

(E) identifying resources that are available to eligible families and youth to provide supportive services available through parts B and E of title IV of the Social Security Act (42 U.S.C. 621 et seq.; 670 et seq.) or that the head of household of a family or youth may be entitled to receive under section 477 of the Social Security Act (42 U.S.C. 677).

(5) **REQUIREMENTS FOR ASSISTANCE FOR YOUTH AGING OUT OF FOSTER CARE.**—Assistance provided under this subsection for an eligible youth pursuant to paragraph (2)(B) shall be subject to the following requirements:

(A) **REQUIREMENTS TO EXTEND ASSISTANCE.**—

(i) **PARTICIPATION IN FAMILY SELF-SUFFICIENCY.**—In the case of a public housing agency that is providing such assistance under this subsection on behalf of an eligible youth and that is carrying out a family self-sufficiency program under section 23, the agency shall, subject only to the availability of such assistance, extend the provision of such assistance for up to 24 months beyond the period referred to in paragraph (2)(B), but only during such period that the youth is in compliance with the terms and conditions applica-

ble under section 23 and the regulations implementing such section to a person participating in a family self-sufficiency program.

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

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

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

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

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

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

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

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

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

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

for purposes of determining income eligibility for such assistance.

(B) SUPPORTIVE SERVICES.—

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

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

(C) APPLICABILITY TO MOVING TO WORK AGENCIES.—Notwithstanding any other provision of law, the requirements of this paragraph shall apply to assistance under this subsection pursuant to paragraph (2)(B) made available by each public housing agency participating in the Moving to Work Program under section 204 of the Departments of Veterans Affairs and Housing and Urban Development, and Independent Agencies Appropriations Act, 1996 (42 U.S.C. 1437f note), except that in lieu of compliance with clause (i) or (ii) of subparagraph (A) of this paragraph, such an agency may comply with the requirements under such clauses by complying with such terms, conditions, and requirements as may be established by the agency for persons on whose behalf such rental assistance under this subsection is provided.

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

(E) REPORTS.—

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

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

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

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

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

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

(6) DEFINITIONS.—For purposes of this subsection:

(A) APPLICANT.—The term “applicant” means a public housing agency or any other agency responsible for administering assistance under section 8.

(B) PUBLIC CHILD WELFARE AGENCY.—The term “public child welfare agency” means the public agency responsible under applicable State law for determining that a child is at imminent risk of placement in out-of-home care or that a child in out-of-home care under the supervision of the public agency may be returned to his or her family.

(y) HOMEOWNERSHIP OPTION.—

(1) USE OF ASSISTANCE FOR HOMEOWNERSHIP.—A public housing agency providing tenant-based assistance on behalf of an eligible family under this section may provide assistance for an eligible family that purchases a dwelling unit (including a unit under a lease-purchase agreement) that will be owned by 1 or more members of the family, and will be occupied by the family, if the family—

(A) is a first-time homeowner, or owns or is acquiring shares in a cooperative;

(B) demonstrates that the family has income from employment or other sources (other than public assistance, except that the Secretary may provide for the consideration of public assistance in the case of an elderly family or a disabled family), as determined in accordance with requirements of the Secretary, that is not less than twice the payment standard established by the public housing agency (or such other amount as may be established by the Secretary);

(C) except as provided by the Secretary, demonstrates at the time the family initially receives tenant-based assistance under this subsection that one or more adult members of the family have achieved employment for the period as the Secretary shall require;

(D) participates in a homeownership and housing counseling program provided by the agency; and

(E) meets any other initial or continuing requirements established by the public housing agency in accordance with requirements established by the Secretary.

(2) DETERMINATION OF AMOUNT OF ASSISTANCE.—

(A) MONTHLY EXPENSES NOT EXCEEDING PAYMENT STANDARD.—If the monthly homeownership expenses, as determined in accordance with requirements established by the Secretary, do not exceed the payment standard, the monthly assistance payment shall be the amount by which the homeownership expenses exceed the highest of the following amounts, rounded to the nearest dollar:

(i) 30 percent of the monthly adjusted income of the family.

(ii) 10 percent of the monthly income of the family.

(iii) If the family is receiving payments for welfare assistance from a public agency, and a portion of those payments, adjusted in accordance with the actual housing costs of the family, is specifically designated by that agency to meet the housing costs of the family, the portion of those payments that is so designated.

(B) MONTHLY EXPENSES EXCEED PAYMENT STANDARD.—If the monthly homeownership expenses, as determined in accordance with requirements established by the Secretary, exceed the payment standard, the monthly assistance payment shall be the amount by which the applicable payment standard exceeds the highest of the amounts under clauses (i), (ii), and (iii) of subparagraph (A).

(3) INSPECTIONS AND CONTRACT CONDITIONS.—

(A) IN GENERAL.—Each contract for the purchase of a unit to be assisted under this section shall—

(i) provide for pre-purchase inspection of the unit by an independent professional; and

(ii) require that any cost of necessary repairs be paid by the seller.

(B) ANNUAL INSPECTIONS NOT REQUIRED.—The requirement under subsection (o)(8)(A)(ii) for annual inspections shall not apply to units assisted under this section.

(4) OTHER AUTHORITY OF THE SECRETARY.—The Secretary may—

(A) limit the term of assistance for a family assisted under this subsection; and

(B) modify the requirements of this subsection as the Secretary determines to be necessary to make appropriate adaptations for lease-purchase agreements.

(5) INAPPLICABILITY OF CERTAIN PROVISIONS.—Assistance under this subsection shall not be subject to the requirements of the following provisions:

(A) Subsection (c)(3)(B) of this section.

(B) Subsection (d)(1)(B)(i) of this section.

(C) Any other provisions of this section governing maximum amounts payable to owners and amounts payable by assisted families.

(D) Any other provisions of this section concerning contracts between public housing agencies and owners.

(E) Any other provisions of this Act that are inconsistent with the provisions of this subsection.

(6) REVERSION TO RENTAL STATUS.—

(A) FHA-INSURED MORTGAGES.—If a family receiving assistance under this subsection for occupancy of a dwelling

defaults under a mortgage for the dwelling insured by the Secretary under the National Housing Act, the family may not continue to receive rental assistance under this section unless the family (i) transfers to the Secretary marketable title to the dwelling, (ii) moves from the dwelling within the period established or approved by the Secretary, and (iii) agrees that any amounts the family is required to pay to reimburse the escrow account under section 23(d)(3) may be deducted by the public housing agency from the assistance payment otherwise payable on behalf of the family.

(B) OTHER MORTGAGES.—If a family receiving assistance under this subsection defaults under a mortgage not insured under the National Housing Act, the family may not continue to receive rental assistance under this section unless it complies with requirements established by the Secretary.

(C) ALL MORTGAGES.—A family receiving assistance under this subsection that defaults under a mortgage may not receive assistance under this subsection for occupancy of another dwelling owned by one or more members of the family.

(7) DOWNPAYMENT ASSISTANCE.—

(A) AUTHORITY.—A public housing agency may, in lieu of providing monthly assistance payments under this subsection on behalf of a family eligible for such assistance and at the discretion of the public housing agency, provide assistance for the family in the form of a single grant to be used only as a contribution toward the downpayment required in connection with the purchase of a dwelling for fiscal year 2000 and each fiscal year thereafter to the extent provided in advance in appropriations Acts.

(B) AMOUNT.—The amount of a downpayment grant on behalf of an assisted family may not exceed the amount that is equal to the sum of the assistance payments that would be made during the first year of assistance on behalf of the family, based upon the income of the family at the time the grant is to be made.

(8) DEFINITION OF FIRST-TIME HOMEOWNER.—For purposes of this subsection, the term “first-time homeowner” means—

(A) a family, no member of which has had a present ownership interest in a principal residence during the 3 years preceding the date on which the family initially receives assistance for homeownership under this subsection; and

(B) any other family, as the Secretary may prescribe.

(z) TERMINATION OF SECTION 8 CONTRACTS AND REUSE OF RECAPTURED BUDGET AUTHORITY.—

(1) GENERAL AUTHORITY.—The Secretary may reuse any budget authority, in whole or part, that is recaptured on account of expiration or termination of a housing assistance payments contract only for one or more of the following:

(A) TENANT-BASED ASSISTANCE.—Pursuant to a contract with a public housing agency, to provide tenant-based as-

sistance under this section to families occupying units formerly assisted under the terminated contract.

(B) PROJECT-BASED ASSISTANCE.—Pursuant to a contract with an owner, to attach assistance to one or more structures under this section, for relocation of families occupying units formerly assisted under the terminated contract.

(2) FAMILIES OCCUPYING UNITS FORMERLY ASSISTED UNDER TERMINATED CONTRACT.—Pursuant to paragraph (1), the Secretary shall first make available tenant- or project-based assistance to families occupying units formerly assisted under the terminated contract. The Secretary shall provide project-based assistance in instances only where the use of tenant-based assistance is determined to be infeasible by the Secretary.

(aa) REFINANCING INCENTIVE.—

(1) IN GENERAL.—The Secretary may pay all or a part of the up front costs of refinancing for each project that—

(A) is constructed, substantially rehabilitated, or moderately rehabilitated under this section;

(B) is subject to an assistance contract under this section; and

(C) was subject to a mortgage that has been refinanced under section 223(a)(7) or section 223(f) of the National Housing Act to lower the periodic debt service payments of the owner.

(2) SHARE FROM REDUCED ASSISTANCE PAYMENTS.—The Secretary may pay the up front cost of refinancing only—

(A) to the extent that funds accrue to the Secretary from the reduced assistance payments that results from the refinancing; and

(B) after the application of amounts in accordance with section 1012 of the Stewart B. McKinney Homeless Assistance Amendments Act of 1988.

(bb) TRANSFER, REUSE, AND RESCISSION OF BUDGET AUTHORITY.—

(1) TRANSFER OF BUDGET AUTHORITY.—If an assistance contract under this section, other than a contract for tenant-based assistance, is terminated or is not renewed, or if the contract expires, the Secretary shall, in order to provide continued assistance to eligible families, including eligible families receiving the benefit of the project-based assistance at the time of the termination, transfer any budget authority remaining in the contract to another contract. The transfer shall be under such terms as the Secretary may prescribe.

(2) REUSE AND RESCISSION OF CERTAIN RECAPTURED BUDGET AUTHORITY.—Notwithstanding paragraph (1), if a project-based assistance contract for an eligible multifamily housing project subject to actions authorized under title I is terminated or amended as part of restructuring under section 517 of the Multifamily Assisted Housing Reform and Affordability Act of 1997, the Secretary shall recapture the budget authority not required for the terminated or amended contract and use such amounts as are necessary to provide housing assistance for the same number of families covered by such contract for the re-

maining term of such contract, under a contract providing for project-based or tenant-based assistance. The amount of budget authority saved as a result of the shift to project-based or tenant-based assistance shall be rescinded.

(cc) LAW ENFORCEMENT AND SECURITY PERSONNEL.—

(1) IN GENERAL.—Notwithstanding any other provision of this Act, in the case of assistance attached to a structure, for the purpose of increasing security for the residents of a project, an owner may admit, and assistance under this section may be provided to, police officers and other security personnel who are not otherwise eligible for assistance under the Act.

(2) RENT REQUIREMENTS.—With respect to any assistance provided by an owner under this subsection, the Secretary may—

(A) permit the owner to establish such rent requirements and other terms and conditions of occupancy that the Secretary considers to be appropriate; and

(B) require the owner to submit an application for those rent requirements, which application shall include such information as the Secretary, in the discretion of the Secretary, determines to be necessary.

(3) APPLICABILITY.—This subsection shall apply to fiscal year 1999 and fiscal years thereafter.

(dd) TENANT-BASED CONTRACT RENEWALS.—Subject to amounts provided in appropriation Acts, starting in fiscal year 1999, the Secretary shall renew all expiring tenant-based annual contribution contracts under this section by applying an inflation factor based on local or regional factors to an allocation baseline. The allocation baseline shall be calculated by including, at a minimum, amounts sufficient to ensure continued assistance for the actual number of families assisted as of October 1, 1997, with appropriate upward adjustments for incremental assistance and additional families authorized subsequent to that date.

\* \* \* \* \*

**HOUSING ACT OF 1959**

\* \* \* \* \*

**TITLE II—HOUSING FOR THE ELDERLY OR HANDICAPPED**

\* \* \* \* \*

**SEC. 202. SUPPORTIVE HOUSING FOR THE ELDERLY.**

(a) PURPOSE.—The purpose of this section is to enable elderly persons to live with dignity and independence by expanding the supply of supportive housing that—

(1) is designed to accommodate the special needs of elderly persons; and

(2) provides a range of services that are tailored to the needs of elderly persons occupying such housing.

(b) GENERAL AUTHORITY.—The Secretary is authorized to provide assistance to private nonprofit organizations and consumer co-

operatives to expand the supply of supportive housing for the elderly. Such assistance shall be provided as (1) capital advances in accordance with subsection (c)(1), and (2) contracts for project rental assistance in accordance with subsection (c)(2). Such assistance may be used to finance the construction, reconstruction, or moderate or substantial rehabilitation of a structure or a portion of a structure, or the acquisition of a structure, to be used as supportive housing for the elderly in accordance with this section. Assistance may also cover the cost of real property acquisition, site improvement, conversion, demolition, relocation, and other expenses that the Secretary determines are necessary to expand the supply of supportive housing for the elderly.

(c) FORMS OF ASSISTANCE.—

(1) CAPITAL ADVANCES.—A capital advance provided under this section shall bear no interest and its repayment shall not be required so long as the housing remains available for very low-income elderly persons in accordance with this section. Such advance shall be in an amount calculated in accordance with the development cost limitation established in subsection (h).

(2) PROJECT RENTAL ASSISTANCE.—Contracts for project rental assistance shall obligate the Secretary to make monthly payments to cover any part of the costs attributed to units occupied (or, as approved by the Secretary, held for occupancy) by very low-income elderly persons that is not met from project income. The annual contract amount for any project shall not exceed the sum of the initial annual project rentals for all units so occupied and any initial utility allowances for such units, as approved by the Secretary. Any contract amounts not used by a project in any year shall remain available to the project until the expiration of the contract. The Secretary may adjust the annual contract amount if the sum of the project income and the amount of assistance payments available under this paragraph are inadequate to provide for reasonable project costs.

(3) TENANT RENT CONTRIBUTION.—A very low-income person shall pay as rent for a dwelling unit assisted under this section the highest of the following amounts, rounded to the nearest dollar: (A) 30 percent of the person's adjusted monthly income, (B) 10 percent of the person's monthly income, or (C) if the person is receiving payments for welfare assistance from a public agency and a part of such payments, adjusted in accordance with the person's actual housing costs, is specifically designated by such agency to meet the person's housing costs, the portion of such payments which is so designated.

(d) TERM OF COMMITMENT.—

(1) USE LIMITATIONS.—All units in housing assisted under this section shall be made available for occupancy by very low-income elderly persons for not less than 40 years.

(2) CONTRACT TERMS.—The initial term of a contract entered into under subsection (c)(2) shall be 240 months. The Secretary shall, to the extent approved in appropriation Acts, extend any expiring contract for a term of not less than 60 months. In order to facilitate the orderly extension of expiring contracts,

the Secretary is authorized to make commitments to extend expiring contracts during the year prior to the date of expiration.

(e) APPLICATIONS.—Funds made available under this section shall be allocated by the Secretary among approvable applications submitted by private nonprofit organizations. Applications for assistance under this section shall be submitted by an applicant in such form and in accordance with such procedures as the Secretary shall establish. Such applications shall contain—

- (1) a description of the proposed housing;
- (2) a description of the assistance the applicant seeks under this section;
- (3) a description of the resources that are expected to be made available in compliance with subsection (h);
- (4) a description of (A) the category or categories of elderly persons the housing is intended to serve; (B) the supportive services, if any, to be provided to the persons occupying such housing; (C) the manner in which such services will be provided to such persons, including, in the case of frail elderly persons, evidence of such residential supervision as the Secretary determines is necessary to facilitate the adequate provision of such services; and (D) the public or private sources of assistance that can reasonably be expected to fund or provide such services;
- (5) a certification from the public official responsible for submitting a housing strategy for the jurisdiction to be served in accordance with section 105 of the Cranston-Gonzalez National Affordable Housing Act that the proposed project is consistent with the approved housing strategy; and
- (6) such other information or certifications that the Secretary determines to be necessary or appropriate to achieve the purposes of this section.

The Secretary shall not reject an application on technical grounds without giving notice of that rejection and the basis therefor to the applicant and affording the applicant an opportunity to respond.

(f) INITIAL SELECTION CRITERIA AND PROCESSING.—(1) SELECTION CRITERIA.—The Secretary shall establish selection criteria for assistance under this section, which shall include—

- (A) the ability of the applicant to develop and operate the proposed housing;
- (B) the need for supportive housing for the elderly in the area to be served, taking into consideration the availability of public housing for the elderly and vacancy rates in such facilities;
- (C) the extent to which the proposed size and unit mix of the housing will enable the applicant to manage and operate the housing efficiently and ensure that the provision of supportive services will be accomplished in an economical fashion;
- (D) the extent to which the proposed design of the housing will meet the special physical needs of elderly persons;
- (E) the extent to which the applicant has demonstrated that the supportive services identified in subsection (e)(4) will be provided on a consistent, long-term basis;
- (F) the extent to which the proposed design of the housing will accommodate the provision of supportive services that are expected to be needed, either initially or over the useful life of

the housing, by the category or categories of elderly persons the housing is intended to serve; and

(G) 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 this subsection for any project for which financing for the purposes described in the last two sentences of subsection (b) is provided by a combination of a capital advance under subsection (c)(1) 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 has applied to provide delegated processing pursuant to this paragraph or no such agency has entered into an agreement with the Secretary to serve as a delegated processing agency.

(C) An agency to which review and processing is delegated pursuant to subparagraph (A) may assess a reasonable fee which shall be included in the capital advance amounts and may recommend project rental assistance amounts in excess of those initially awarded by the Secretary. The Secretary shall develop a schedule for reasonable fees under this subparagraph to be paid to delegated processing agencies, which shall take into consideration any other fees to be paid to the agency for other funding provided to the project by the agency, including bonds, tax credits, and other gap funding.

(D) 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.

(g) PROVISIONS OF SERVICES.—

(1) IN GENERAL.—In carrying out the provisions of this section, the Secretary shall ensure that housing assisted under this section provides a range of services tailored to the needs of the category or categories of elderly persons (including frail elderly persons) occupying such housing. Such services may include (A) meal service adequate to meet nutritional need; (B)

housekeeping aid; (C) personal assistance; (D) transportation services; (E) health-related services; and (F) such other services as the Secretary deems essential for maintaining independent living. The Secretary may permit the provision of services to elderly persons who are not residents if the participation of such persons will not adversely affect the cost-effectiveness or operation of the program or add significantly to the need for assistance under this Act.

(2) LOCAL COORDINATION OF SERVICES.—The Secretary shall ensure that owners have the managerial capacity to—

(A) assess on an ongoing basis the service needs of residents;

(B) coordinate the provision of supportive services and tailor such services to the individual needs of residents; and

(C) seek on a continuous basis new sources of assistance to ensure the long-term provision of supportive services.

Any cost associated with this subsection shall be an eligible cost under subsection (c)(2).

(3) SERVICE COORDINATORS.—Any cost associated with employing or otherwise retaining a service coordinator in housing assisted under this section shall be considered an eligible cost under subsection (c)(2). If a project is receiving congregate housing services assistance under section 802 of the Cranston-Gonzalez National Affordable Housing Act, the amount of costs provided under subsection (c)(2) for the project service coordinator may not exceed the additional amount necessary to cover the costs of providing for the coordination of services for residents of the project who are not eligible residents under such section 802. To the extent that amounts are available pursuant to subsection (c)(2) for the costs of carrying out this paragraph within a project, an owner of housing assisted under this section shall provide a service coordinator for the housing to coordinate the provision of services under this subsection within the housing.

(h) DEVELOPMENT COST LIMITATIONS.—

(1) IN GENERAL.—The Secretary shall periodically establish development cost limitations by market area for various types and sizes of supportive housing for the elderly by publishing a notice of the cost limitations in the Federal Register. The cost limitations shall reflect—

(A) the cost of construction, reconstruction, or rehabilitation of supportive housing for the elderly that meets applicable State and local housing and building codes;

(B) the cost of movables necessary to the basic operation of the housing, as determined by the Secretary;

(C) the cost of special design features necessary to make the housing accessible to elderly persons;

(D) the cost of special design features necessary to make individual dwelling units meet the physical needs of elderly project residents;

(E) the cost of congregate space necessary to accommodate the provision of supportive services to elderly project residents;

(F) if the housing is newly constructed, the cost of meeting the energy efficiency standards promulgated by the Secretary in accordance with section 109 of the Cranston-Gonzalez National Affordable Housing Act; and

(G) the cost of land, including necessary site improvement.

In establishing development cost limitations for a given market area under this subsection, the Secretary shall use data that reflect currently prevailing costs of construction, reconstruction, or rehabilitation, and land acquisition in the area. For purposes of this paragraph, the term "congregate space" shall include space for cafeterias or dining halls, community rooms or buildings, workshops, adult day health facilities, or other outpatient health facilities, or other essential service facilities. Neither this section nor any other provision of law may be construed as prohibiting or preventing the location and operation, in a project assisted under this section, of commercial facilities for the benefit of residents of the project and the community in which the project is located, except that assistance made available under this section may not be used to subsidize any such commercial facility.

(2) ACQUISITION.—In the case of existing housing and related facilities to be acquired, the cost limitations shall include—

(A) the cost of acquiring such housing,

(B) the cost of rehabilitation, alteration, conversion, or improvement, including the moderate rehabilitation thereof, and

(C) the cost of the land on which the housing and related facilities are located.

(3) ANNUAL ADJUSTMENTS.—The Secretary shall adjust the cost limitation not less than once annually to reflect changes in the general level of construction, reconstruction, or rehabilitation costs.

(4) INCENTIVES FOR SAVINGS.—

(A) SPECIAL HOUSING ACCOUNT.—The Secretary shall use the development cost limitations established under paragraph (1) or (2) to calculate the amount of financing to be made available to individual owners. Owners which incur actual development costs that are less than the amount of financing shall be entitled to retain 50 percent of the savings in a special housing account. Such percentage shall be increased to 75 percent for owners which add energy efficiency features which—

(i) exceed the energy efficiency standards promulgated by the Secretary in accordance with section 109 of the Cranston-Gonzalez National Affordable Housing Act;

(ii) substantially reduce the life-cycle cost of the housing;

(iii) reduce gross rent requirements; and

(iv) enhance tenant comfort and convenience.

(B) USES.—The special housing account established under subparagraph (A) may be used (i) to supplement services provided to residents of the housing or funds set

aside for replacement reserves, or (ii) for such other purposes as determined by the Secretary.

(5) DESIGN FLEXIBILITY.—The Secretary shall, to the extent practicable, give owners the flexibility to design housing appropriate to their location and proposed resident population within broadly defined parameters.

(6) USE OF FUNDS FROM OTHER SOURCES.—An owner shall be permitted voluntarily to provide funds from sources other than this section for amenities and other features of appropriate design and construction suitable for supportive housing for the elderly if the cost of such amenities is (A) not financed with the advance, and (B) is not taken into account in determining the amount of Federal assistance or of the rent contribution of tenants. Notwithstanding any other provision of law, assistance amounts provided under this section may be treated as amounts not derived from a Federal grant.

(i) TENANT SELECTION.—

(1) IN GENERAL.—An owner shall adopt written tenant selection procedures that are satisfactory to the Secretary as (A) consistent with the purpose of improving housing opportunities for very low-income elderly persons; and (B) reasonably related to program eligibility and an applicant's ability to perform the obligations of the lease. Such tenant selection procedures shall comply with subtitle C of title VI of the Housing and Community Development Act of 1992 and any regulations issued under such subtitle. Owners shall promptly notify in writing any rejected applicant of the grounds for any rejection.

(2) INFORMATION REGARDING HOUSING UNDER THIS SECTION.—The Secretary shall provide to an appropriate agency in each area (which may be the applicable Area Agency on the Aging) information regarding the availability of housing assisted under this section.

(j) MISCELLANEOUS PROVISIONS.—

(1) TECHNICAL ASSISTANCE.—The Secretary shall make available appropriate technical assistance to assure that applicants having limited resources, particularly minority applicants, are able to participate more fully in the program carried out under this section.

(2) CIVIL RIGHTS COMPLIANCE.—Each owner shall certify, to the satisfaction of the Secretary, that assistance made available under this section will be conducted and administered in conformity with title VI of the Civil Rights Act of 1964, the Fair Housing Act, and other Federal, State, and local laws prohibiting discrimination and promoting equal opportunity.

(3) OWNER DEPOSIT.—

(A) IN GENERAL.—The Secretary shall require an owner to deposit an amount not to exceed \$25,000 in a special escrow account to assure the owner's commitment to the housing.

(B) REDUCTION OF REQUIREMENT.—The Secretary may reduce or waive the owner deposit specified under paragraph (1) for individual applicants if the Secretary finds that such waiver or reduction is necessary to achieve the purposes of this section and the applicant demonstrates to the satisfaction of the Secretary that it has the capacity to

manage and maintain the housing in accordance with this section. The Secretary shall reduce or waive the requirement of the owner deposit under paragraph (1) in the case of a nonprofit applicant that is not affiliated with a national sponsor, as determined by the Secretary.

(4) NOTICE OF APPEAL.—The Secretary shall notify an owner not less than 30 days prior to canceling any reservation of assistance provided under this section. During the 30-day period following the receipt of a notice under the preceding sentence, an owner may appeal the proposed cancellation of loan authority. Such appeal, including review by the Secretary, shall be completed not later than 45 days after the appeal is filed.

(5) LABOR.—

(A) IN GENERAL.—The Secretary shall take such action as may be necessary to ensure that all laborers and mechanics employed by contractors and subcontractors in the construction of housing with 12 or more units assisted under this section shall be paid wages at rates not less than the rates prevailing in the locality involved for the corresponding classes of laborers and mechanics employed on construction of a similar character, as determined by the Secretary of Labor in accordance with the Act of March 3, 1931 (commonly known as the Davis-Bacon Act).

(B) EXEMPTION.—Subparagraph (A) shall not apply to any individual who—

- (i) performs services for which the individual volunteered;
- (ii) (I) does not receive compensation for such services; or (II) is paid expenses, reasonable benefits, or a nominal fee for such services; and
- (iii) is not otherwise employed at any time in the construction work.

(6) ACCESS TO RESIDUAL RECEIPTS.—The Secretary shall authorize the owner of a project assisted under this section to use any residual receipts held for the project in excess of \$500 per unit (or in excess of such other amount prescribed by the Secretary based on the needs of the project) for activities to retrofit and renovate the project described under section 802(d)(3) of the Cranston-Gonzalez National Affordable Housing Act, to provide a service coordinator for the project as described in section 802(d)(4) of such Act, or to provide supportive services (as such term is defined in section 802(k) of such Act) to residents of the project. Any owner that uses residual receipts under this paragraph shall submit to the Secretary a report, not less than annually, describing the uses of the residual receipts. In determining the amount of project rental assistance to be provided to a project under subsection (c)(2) of this section, the Secretary may take into consideration the residual receipts held for the project only if, and to the extent that, excess residual receipts are not used under this paragraph.

(7) COMPLIANCE WITH HOUSING AND COMMUNITY DEVELOPMENT ACT OF 1992.—Each owner shall operate housing assisted under this section in compliance with subtitle C of title VI of the Housing and Community Development Act of 1992 and any regulations issued under such subtitle.

(8) USE OF PROJECT RESERVES.—Amounts for project reserves for a project assisted under this section may be used for costs, subject to reasonable limitations as the Secretary determines appropriate, for reducing the number of dwelling units in the project. Such use shall be subject to the approval of the Secretary to ensure that the use is designed to retrofit units that are currently obsolete or unmarketable.

(10) QUALIFYING SMOKE ALARMS.—

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

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

(i) SMOKE ALARM DEFINED.—The term “smoke alarm” has the meaning given 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 is—

(aa) hardwired; or

(bb) uses 10-year non rechargeable, non-replaceable primary batteries and—

(AA) is sealed;

(BB) is tamper resistant;

(CC) contains silencing means; and

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

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

(k) DEFINITIONS.—

(1) The term “elderly person” means a household composed of one or more persons at least one of whom is 62 years of age or more at the time of initial occupancy.

(2) The term “frail elderly” means an elderly person who is unable to perform at least 3 activities of daily living adopted by the Secretary for purposes of this program. Owners may establish additional eligibility requirements (acceptable to the Secretary) based on the standards in local supportive services programs.

(3) The term “owner” means a private nonprofit organization that receives assistance under this section to develop and operate supportive housing for the elderly.

(4) The term “private nonprofit organization” means any incorporated private institution or foundation—

(A) no part of the net earnings of which inures to the benefit of any member, founder, contributor, or individual;

(B) which has a governing board (i) the membership of which is selected in a manner to assure that there is significant representation of the views of the community in which such housing is located, and (ii) which is responsible for the operation of the housing assisted under this section; and

(C) 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), and (C), or a corporation wholly owned and controlled by an organization meeting the requirements under subparagraphs (A), (B), and (C).

(5) The term “State” includes the several States, the District of Columbia, the Commonwealth of Puerto Rico, and the possessions of the United States.

(6) The term “Secretary” means the Secretary of Housing and Urban Development.

(7) The term “supportive housing for the elderly” means housing that is designed (A) to meet the special physical needs of elderly persons and (B) to accommodate the provision of supportive services that are expected to be needed, either initially or over the useful life of the housing, by the category or categories of elderly persons that the housing is intended to serve.

(8) The term “very low-income” has the same meaning as given the term “very low-income families” under section 3(b)(2) of the United States Housing Act of 1937.

(1) ALLOCATION OF FUNDS.—

(1) CAPITAL ADVANCES.—Of any amounts made available for assistance under this section, such sums as may be necessary shall be available for funding capital advances in accordance with subsection (c)(1). Such amounts, the repayments from such advances, and the proceeds from notes or obligations issued under this section prior to the enactment of the Cranston-Gonzalez National Affordable Housing Act shall constitute a revolving fund to be used by the Secretary in carrying out this section.

(2) PROJECT RENTAL ASSISTANCE.—Of any amounts made available for assistance under this section, such sums as may be necessary shall be available for funding project rental assistance in accordance with subsection (c)(2).

(3) NONMETROPOLITAN ALLOCATION.—Not less than 20 percent of the funds made available for assistance under this section shall be allocated by the Secretary on a national basis for nonmetropolitan areas.

(m) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated for providing assistance under this section \$710,000,000 for fiscal year 2000.

(m) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated for providing assistance under this section such

sums as may be necessary for each of fiscal years 2001, 2002, and 2003.

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**CRANSTON-GONZALEZ NATIONAL AFFORDABLE  
HOUSING ACT**

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**TITLE VIII—HOUSING FOR PERSONS WITH  
SPECIAL NEEDS**

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**Subtitle B—Supportive Housing for Persons With  
Disabilities**

**SEC. 811. 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) **AUTHORITY TO PROVIDE ASSISTANCE.**—The Secretary is authorized to take the following actions:

(1) **TENANT-BASED ASSISTANCE.**—To provide tenant-based rental assistance to eligible persons with disabilities, in accordance with subsection (d)(4).

(2) **CAPITAL ADVANCES.**—To provide assistance to private, nonprofit organizations to expand the supply of supportive housing for persons with disabilities, which shall be provided as—

(A) capital advances in accordance with subsection (d)(1), and

(B) contracts for project rental assistance in accordance with subsection (d)(2);

assistance under this paragraph may be used to finance the acquisition, acquisition and moderate rehabilitation, construction, reconstruction, or moderate or substantial rehabilitation of housing, including the acquisition from the Resolution Trust Corporation, to be used as supportive housing for persons with disabilities and may include real property acquisition, site improvement, conversion, demolition, relocation, and other expenses that the Secretary determines are necessary to expand the supply of supportive housing for persons with disabilities.

(3) **PROJECT RENTAL ASSISTANCE.**—

(A) **IN GENERAL.**—To offer additional methods of financing supportive housing for non-elderly adults with disabili-

ities, 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 Invest-

ment 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) shall bear no interest and its repayment shall not be required so long as the housing remains available for very-low-income persons with disabilities in accordance with this section. Such advance shall be in an amount calculated in accordance with the development cost limitation established in subsection (h).

(2) PROJECT RENTAL ASSISTANCE.—(A) INITIAL PROJECT RENTAL ASSISTANCE CONTRACT.—Contracts for project rental assistance shall comply with subsection (e)(2) and shall obligate the Secretary to make monthly payments to cover any part of the costs attributed to units occupied (or, as approved by the Secretary, held for occupancy) by very low-income persons with disabilities that is not met from project income. The amount provided under the contract for each year covered by the contract for any project shall not exceed the sum of the initial annual project rentals for all units and any initial utility allowances for such units, as approved by the Secretary. Any contract amounts not used by a project in any year shall remain available to the project until the expiration of the contract. The Secretary may adjust the amount provided under the contract for each year covered by the contract if the sum of the project income and the amount of assistance payments available under this paragraph are inadequate to provide for reasonable project costs. In the case of an intermediate care facility which is the residence of persons assisted under title XIX of the Social Security Act, project income under this paragraph shall include the same amount as if such person were being assisted under title XVI of the Social Security Act.

(B) RENEWAL OF AND INCREASES IN CONTRACT AMOUNTS.—

(i) EXPIRATION OF CONTRACT TERM.—Upon the expiration of each contract term, subject to the availability of amounts made available in appropriation Acts, the Secretary shall adjust the annual contract amount to provide for reasonable project costs, including adequate reserves and service coordinators as appropriate, except that any contract amounts not used by a project during a contract term shall not be available for such adjustments upon renewal.

(ii) EMERGENCY SITUATIONS.—In the event of emergency situations that are outside the control of the owner, the Secretary shall increase the annual contract amount, subject to reasonable review and limitations as the Secretary shall provide.

(3) RENT CONTRIBUTION.—A very low-income person shall pay as rent for a dwelling unit assisted under subsection (b)(2) the higher of the following amounts, rounded to the nearest dollar: (A) 30 percent of the person's adjusted monthly income,

(B) 10 percent of the person's monthly income, or (C) if the person is receiving payments for welfare assistance from a public agency and a part of such payments, adjusted in accordance with the person's actual housing costs, is specifically designated by such agency to meet the person's housing costs, the portion of such payments which is so designated; except that the gross income of a person occupying an intermediate care facility assisted under title XIX of the Social Security Act shall be the same amount as if the person were being assisted under title XVI of the Social Security Act.

(4) TENANT-BASED RENTAL ASSISTANCE.—

(A) IN GENERAL.—Tenant-based rental assistance provided under subsection (b)(1) shall be provided under section 8(o) of the United States Housing Act of 1937 (42 U.S.C. 1437f(o)).

(B) CONVERSION OF EXISTING ASSISTANCE.—There is authorized to be appropriated for tenant-based rental assistance under section 8(o) of the United States Housing Act of 1937 (42 U.S.C. 1437f(o)) for persons with disabilities an amount not less than the amount necessary to convert the number of authorized vouchers and funding under an annual contributions contract in effect on the date of enactment of the Frank Melville Supportive Housing Investment Act of 2010. Such converted vouchers may be administered by the entity administering the vouchers prior to conversion. For purposes of administering such converted vouchers, such 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, which shall include—
- (A) the ability of the applicant to develop and operate the proposed housing;
  - (B) the need for housing for persons with disabilities in the area to be served;
  - (C) the extent to which the proposed design of the housing will meet the special needs of persons with disabilities;
  - (D) the extent to which the applicant has demonstrated that appropriate supportive services will be made available on a consistent, long-term basis;
  - (E) the extent to which the location and design of the proposed project will facilitate the provision of community-based supportive services and address other basic needs of persons with disabilities, including access to appropriate and accessible transportation, access to community services agencies, public facilities, and shopping;
  - (F) the extent to which the per-unit cost of units to be assisted under this section will be supplemented with resources from other public and private sources;
  - (G) the extent to which the applicant has control of the site of the proposed housing; and
  - (H) such other factors as the Secretary determines to be appropriate to ensure that funds made available under this section are used effectively.
- (2) **DELEGATED PROCESSING.—**
- (A) In issuing a capital advance under subsection (d)(1) for any multifamily project (but not including any project that is a group home or independent living facility) for which financ-

ing 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 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

(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).

(B) EXEMPTION.—Subparagraph (A) shall not apply to any individual who—

(i) performs services for which the individual volunteered;

(ii)(I) does not receive compensation for such services; or

(II) is paid expenses, reasonable benefits, or a nominal fee for such services; and

(iii) is not otherwise employed at any time in the construction work.

(6) USE OF PROJECT RESERVES.—Amounts for project reserves for a project assisted under this section may be used for costs, subject to reasonable limitations as the Secretary determines appropriate, for reducing the number of dwelling units in the project. Such use shall be subject to the approval of the Secretary to ensure that the use is designed to retrofit units that are currently obsolete or unmarketable.

(8) 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 is—*

*(aa) hardwired; or*

*(bb) uses 10-year non rechargeable, non-replaceable primary batteries and—*

*(AA) is sealed;*

*(BB) is tamper resistant;*

*(CC) contains silencing means; and*

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

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

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

(1) The term “group home” means a single family residential structure designed or adapted for occupancy by not more than 8 persons with disabilities, which provides a separate bedroom for each tenant of the residence. The Secretary may waive the project size limitation contained in the previous sentence if the applicant demonstrates that local market conditions dictate the development of a larger project. Not later than the date of the exercise of any waiver permitted under the previous sentence, the Secretary shall notify the Committee on Banking, Housing, and Urban Affairs of the Senate and the Committee on Financial Services of the House of Representatives of the waiver or the intention to exercise the waiver, together with a detailed explanation of the reason for the waiver. Not more than 1 home may be located on any one site and no such home may be located on a site contiguous to another site containing such a home.

(2) The term “person with disabilities” means a household composed of one or more persons who is 18 years of age or older and less than 62 years of age, and who has a disability. A person shall be considered to have a disability if such person is determined, pursuant to regulations issued by the Secretary to have a physical, mental, or emotional impairment which (A) is expected to be of long-continued and indefinite duration, (B) substantially impedes his or her ability to live independently, and (C) is of such a nature that such ability could be improved by more suitable housing conditions. A person shall also be considered to have a disability if such person has a developmental disability as defined in section 102 of the Developmental Disabilities Assistance and Bill of Rights Act of 2000. The Secretary shall prescribe such regulations as may be necessary to prevent abuses in determining, under the definitions contained in this paragraph, the eligibility of families and persons for admission to and occupancy of housing assisted under this section. Notwithstanding the preceding provisions of this paragraph, the term “person with disabilities” includes two or more persons with disabilities living together, one or more such persons living with another person who is determined

(under regulations prescribed by the Secretary) to be important to their care or well-being, and the surviving member or members of any household described in the first sentence of this paragraph who were living, in a unit assisted under this section, with the deceased member of the household at the time of his or her death.

(3) The term “supportive housing for persons with disabilities” means dwelling units that—

(A) are designed to meet the permanent housing needs of very low-income persons with disabilities; and

(B) are located in housing that make available supportive services that address the individual health, mental health, or other needs of such persons.

(4) The term “independent living facility” means a project designed for occupancy by not more than 24 persons with disabilities (or such higher number of persons as permitted under criteria that the Secretary shall prescribe, subject to the limitation under subsection (h)(6)) in separate dwelling units where each dwelling unit includes a kitchen and a bath. Not later than the date that the Secretary prescribes a limit exceeding the 24 person limit in the previous sentence, the Secretary shall notify the Committee on Banking, Housing, and Urban Affairs of the Senate and the Committee on Financial Services of the House of Representatives of the limit or the intention to prescribe a limit in excess of 24 persons, together with a detailed explanation of the reason for the new limit.

(5) The term “owner” means a private nonprofit organization that receives assistance under this section to develop and operate supportive housing for persons with disabilities.

(6) The term “private nonprofit organization” means any institution or foundation—

(A) that has received, or has temporary clearance to receive, tax-exempt status under section 501(c)(3) of the Internal Revenue Code of 1986;

(B) no part of the net earnings of which inures to the benefit of any member, founder, contributor, or individual;

(C) which has a governing board (i) the membership of which is selected in a manner to assure that there is significant representation of the views of persons with disabilities, and (ii) which is responsible for the operation of the housing assisted under this section; and

(D) which is approved by the Secretary as to financial responsibility.

Such term includes a for-profit limited partnership the sole general partner of which is an organization meeting the requirements under subparagraphs (A), (B), (C), and (D) or a corporation controlled by an organization meeting the requirements under subparagraphs (A), (B), (C), and (D).

(7) The term “State” includes the several States, the District of Columbia, the Commonwealth of Puerto Rico, and the possessions of the United States.

(8) The term “Secretary” means the Secretary of Housing and Urban Development.

(9) The term “very low-income” has the same meaning as given the term “very low-income families” under section 3(b)(2) of the United States Housing Act of 1937.

(l) 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. 856. 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 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.

(j) **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 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 is—

(I) hardwired; or

(II) uses 10-year non rechargeable, nonreplaceable primary batteries and—

(aa) is sealed;

(bb) is tamper resistant;

(cc) contains silencing means; and

(dd) 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.

\* \* \* \* \*

**HOUSING ACT OF 1949**

\* \* \* \* \*

**TITLE V—FARM HOUSING**

\* \* \* \* \*

**INSURANCE OF LOANS FOR THE PROVISION OF HOUSING AND RELATED FACILITIES FOR DOMESTIC FARM LABOR**

SEC. 514. (a) The Secretary is authorized to insure and make commitments to insure loans made by lenders other than the United States to the owner of any farm or any association of farmers for the purpose of providing housing and related facilities for domestic farm labor, or to any Indian tribe for such purpose, or to any State (or political subdivision thereof), or any broad-based public or private nonprofit organization, or any limited partnership in which the general partner is a nonprofit entity, or any nonprofit organization of farm workers incorporated within the State for the purpose of providing housing and related facilities for domestic farm labor any place within the State where a need exists. All such loans shall be made in accordance with terms and conditions substantially identical with those specified in section 502, except that—

(1) no such loan shall be insured in an amount in excess of the value of the farm involved less any prior liens in the case of a loan to an individual owner of a farm, or the total esti-

mated value of the structures and facilities with respect to which the loan is made in the case of any other loan;

(2) no such loan shall be insured if it bears interest at a rate in excess of 1 per centum per annum;

(3) out of interest payments by the borrower the Secretary shall retain a charge in an amount not less than one-half of 1 per centum per annum of the unpaid principal balance of the loan;

(4) the insurance contracts and agreements with respect to any loan may contain provisions for servicing the loan by the Secretary or by the lender, and for the purchase by the Secretary of the loan if it is not in default, on such terms and conditions as the Secretary may prescribe; and

(5) the Secretary may take mortgages creating a lien running to the United States for the benefit of the insurance fund referred to in subsection (b) notwithstanding the fact that the note may be held by the lender or his assignee.

(b) The Secretary shall utilize the insurance fund created by section 11 of the Bankhead Jones Farm Tenant Act (7 U.S.C. 1005a) and the provisions of section 13 (a), (b), and (c) of such Act (7 U.S.C. 1005c (a), (b), and (c)) to discharge obligations under insurance contracts made pursuant to this section, and

(1) the Secretary may utilize the insurance fund to pay taxes, insurance, prior liens, and other expenses to protect the security for loans which have been insured hereunder and to acquire such security property at foreclosure sales or otherwise;

(2) the notes and security therefor acquired by the Secretary under insurance contracts made pursuant to this section shall become a part of the insurance fund. Loans insured under this section may be held in the fund and collected in accordance with their terms or may be sold and reinsured. All proceeds from such collections, including the liquidation of security and the proceeds of sales, shall become a part of the insurance fund; and

(3) of the charges retained by the Secretary out of interest payments by the borrower, amounts not less than one-half of 1 per centum per annum of the unpaid principal balance of the loan shall be deposited in and become a part of the insurance fund. The remainder of such charges shall be deposited in the Treasury of the United States and shall be available for administrative expenses of the Farmers Home Administration, to be transferred annually to and become merged with any appropriation for such expenses.

(c) Any contract of insurance executed by the Secretary under this section shall be an obligation of the United States and incontestable except for fraud or misrepresentation of which the holder of the contract has actual knowledge.

(e) Amounts made available pursuant to section 513 of this Act shall be available for administrative expenses incurred under this section.

(f) As used in this section—

(1) the term "housing" means (A) new structures (including household furnishings) suitable for dwelling use by domestic farm labor, and (B) existing structures (including household

furnishings) which can be made suitable for dwelling use by domestic farm labor by rehabilitation, alteration, conversion, or improvements;

(2) the term “related facilities” means (A) new structures (including household furnishings) suitable for use as dining halls, community rooms or buildings, or infirmaries, or for other essential services facilities, (B) existing structures (including household furnishings) which can be made suitable for the above uses by rehabilitation, alteration, conversion, or improvement and (C) necessary for an adequate site; and

(3) the term “domestic farm labor” means any person (and the family of such person) who receives a substantial portion of his or her income from primary production of agricultural or aquacultural commodities, the handling of agricultural or aquacultural commodities in the unprocessed stage, or the processing of agricultural or aquacultural commodities, without respect to the source of employment, except that—

(A) such person shall be a citizen of the United States, or a person legally admitted for permanent residence, or a person legally admitted to the United States and authorized to work in agriculture;

(B) such term includes any person (and the family of such person) who is retired or disabled, but who was domestic farm labor at the time of retirement or becoming disabled; and

(C) in applying this paragraph with respect to vacant units in farm labor housing, the Secretary shall make units available for occupancy in the following order of priority:

(i) to active farm laborers (and their families);

(ii) to retired or disabled farm laborers (and their families) who were active in the local farm labor market at the time of retiring or becoming disabled; and

(iii) to other retired or disabled farm laborers (and their families).

(g) The Secretary may waive the interest rate limitation contained in subsection (a)(2) and the requirement of section 501(c)(3) in any case in which the Secretary determines that qualified public or private nonprofit sponsors are not currently available and are not likely to become available within a reasonable period of time and such waiver is necessary to permit farmers to provide housing and related facilities for migrant domestic farm laborers, except that the benefits resulting from such waiver shall accrue to the tenants, and the interest rate on a loan insured under this section and for which the Secretary permits such waiver shall be no less than one-eighth of 1 per centum above the average interest rate on notes or other obligations which are issued under section 511 and have maturities comparable to such a loan.

(h) In making available assistance in any area under this section or section 516, the Secretary shall—

(1) in determining the need for the assistance, take into consideration the housing needs only of domestic farm labor, including migrant farmworkers, in the area; and

(2) in determining whether to provide such assistance, make such determination without regard to the extent or nature of other housing needs in the area.

(i) Housing and related facilities constructed with loans under this section may be used for tenants eligible for occupancy under section 515 if the Secretary determines that—

(1) there is no longer a need in the area for farm labor housing; or

(2) the need for such housing in the area has diminished to the extent that the purpose of the loan, providing housing for domestic farm labor, can no longer be met.

(j) Housing and related facilities constructed with loans under this section shall contain installed carbon monoxide alarms or detectors that meet or exceed—

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

(2) any other standards as may be adopted by the Secretary, in collaboration with the Secretary of Housing and Urban Development, including any relevant updates to the International Fire Code, through a notice published in the Federal Register.

(k) *QUALIFYING SMOKE ALARMS.*—

(1) *IN GENERAL.*—*Housing and related facilities constructed with loans 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.*

(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 enactment of this subsection is—*

*(I) hardwired; or*

*(II) uses 10-year non rechargeable, nonreplaceable primary batteries and—*

*(aa) is sealed;*

*(bb) is tamper resistant;*

*(cc) contains silencing means; and*

*(dd) 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.*

DIRECT AND INSURED LOANS TO PROVIDE HOUSING AND RELATED FACILITIES FOR ELDERLY PERSONS AND FAMILIES IN RURAL AREAS

SEC. 515. (a) The Secretary is authorized to make loans to private nonprofit corporations and consumer cooperatives and Indian tribes to provide rental or cooperative housing and related facilities for elderly or handicapped persons or families of low or moderate income or other persons and families of low income in rural areas, in accordance with terms and conditions substantially identical with those specified in section 502; except that—

(1) no such loan shall exceed the development cost or the value of the security, whichever is less;

(2) such a loan may be made for a period of up to 30 years from the making of the loan; and

(3) such a loan, when made to a consumer cooperative for cooperative housing purposes, may, notwithstanding any other provision of law, be made upon the condition that any person who is admitted as an eligible member and tenant of the cooperative may not subsequently be deprived of his membership or tenancy by reason of his no longer meeting the income eligibility requirements established by the Secretary.

There is authorized to be appropriated not to exceed \$50,000,000 which shall constitute a revolving fund to be used by the Secretary in carrying out this subsection.

(b) The Secretary is authorized to insure and make commitments to insure loans made to any individual, corporation, association, trust, Indian tribe, or partnership to provide rental or cooperative housing and related facilities for elderly or handicapped persons or families or other persons and families of moderate income in rural areas, in accordance with terms and conditions substantially identical with those specified in section 502; except that—

(1) no such loan shall exceed the development cost or the value of the security, whichever is less;

(2) such a loan may be made for a period of up to 30 years from the making of the loan, but the Secretary may provide for periodic payments based on an amortization schedule of 50 years with a final payment of the balance due at the end of the term of the loan;

(3) for insuring such loans, the Secretary shall utilize the Agricultural Credit Insurance Fund subject to all the provisions of section 309 and the second and third sentences of section 308 of the Consolidated Farmers Home Administration Act of 1961, including the authority in section 309(f)(1) of that Act to utilize the insurance fund to make, sell, and insure loans which could be insured under this subsection; but the aggregate of the principal amounts of such loans made by the Secretary and not disposed of shall not exceed \$10,000,000 outstanding at any one time; and the Secretary may take liens running to the United States though the notes may be held by other lenders;

(4) such a loan, when made to a consumer cooperative for cooperative housing purposes, may, notwithstanding any other

provision of law, be made upon the condition that any person who is admitted as an eligible member and tenant of the cooperative may not subsequently be deprived of his membership or tenancy by reason of his no longer meeting the income eligibility requirements established by the Secretary;

(5) loans may be made to owners who are otherwise eligible under this section to purchase and convert single-family residences to rental units of two or more dwellings; and

(6) the Secretary may make a new loan to the current borrower to finance the final payment of the original loan for an additional period not to exceed twenty years, if—

(A) the Secretary determines—

(i) it is more cost-efficient and serves the tenant base more effectively to maintain the current property than to build a new property in the same location; or

(ii) the property has been maintained to such an extent that it warrants retention in the current portfolio because it can be expected to continue providing decent, safe, and affordable rental units for the balance of the loan; and

(B) the Secretary determines—

(i) current market studies show that a need for low-income rural rental housing still exists for that area; and

(ii) any other criteria established by the Secretary has been met.

(c) With respect to a loan made or insured under subsection (a) or (b), the Secretary is authorized to—

(1) make or insure an equity loan in the form of a supplemental loan for the purpose of equity takeout to the owner of housing financed with a loan made or insured under this section pursuant to a contract entered into before December 15, 1989, for the purpose of extending the affordability of the housing for low income families or persons and very low-income families or persons for not less than 20 years, except that such loan may not exceed 90 percent of the value of the equity in the project as determined by the Secretary;

(2) transfer and reamortize an existing loan in connection with assistance provided under paragraph (1); and

(3) make or insure a loan to enable a nonprofit organization or public agency to make a purchase described in section 502(c)(5).

(d) No loan shall be made or insured under subsection (a) or (b) unless the Secretary finds that the construction involved will be undertaken in an economical manner and will not be of elaborate or extravagant design or materials. However, specifically designed equipment required by elderly or handicapped persons or families shall not be considered elaborate or extravagant. A loan may be made or insured under subsection (a) or (b) with respect to detached units, including those on scattered sites, for cooperative housing.

(e) As used in this section—

(1) the term “housing” means new or existing housing suitable for dwelling use by occupants eligible under this section, and such term also means manufactured home rental parks

where either the lots or both the lots and the homes are available for use by occupants eligible under this section; and such term also means congregate housing facilities for elderly or handicapped persons or families who require some supervision and central services but are otherwise able to care for themselves; such housing for the handicapped may be utilized in conjunction with educational and training facilities;

(2) the term “related facilities” includes cafeterias or dining halls, community rooms or buildings, appropriate recreation facilities, and other essential service, facilities;

(3) the term “congregate housing” means housing in which (A) some of the units may not have kitchen facilities, and (B) there is a central dining facility to provide wholesome and economic meals for elderly or handicapped persons or families; and

(4) the term “development cost” means the costs of constructing, purchasing, improving, altering, or repairing new or existing housing and related facilities and purchasing and improving the necessary land, including necessary and appropriate fees and charges, initial operating expenses up to 2 per centum of the aforementioned costs, approved by the Secretary, impact fees, local charges for installation, provision, or use of infrastructure, and local assessments for public improvements and services imposed by State and local governments. Such fees and charges may include payments of qualified consulting organizations or foundations which operate on a nonprofit basis and which render services or assistance to nonprofit corporations or consumer cooperatives who provide housing and related facilities for low or moderate income families. Notwithstanding the first sentence of this paragraph, the term “development cost” shall not include any initial operating expenses in the case of any nonprofit corporation or consumer cooperative that is financing housing under this section and has been allocated a low-income housing tax credit by a housing credit agency pursuant to section 42 of the Internal Revenue Code of 1986.

(f) Amounts made available pursuant to section 513 of this Act shall be available for administrative expenses incurred under this section.

(g) Notwithstanding the provisions of subsections (a) and (b) of this section, the Secretary may make and insure loans to consumer cooperatives to enable such cooperatives to finance the transfers of memberships in the cooperatives upon such terms and conditions as low- and moderate-income persons can reasonably afford, except that such loans shall not be made upon terms more favorable than are authorized under section 521(a), and that the total loan to a cooperative under this section shall not exceed the value of the property.

(h)(1) **CONDITION.—PROJECT TRANSFERS.**—After the date of the enactment of the Act entitled “An Act making appropriations for Agriculture, Rural Development, Food and Drug Administration, and Related Agencies programs for the fiscal year ending September 30, 1997, and for other purposes”, the ownership or control of a project for which a loan is made or insured under this section may be transferred only if the Secretary determines that such

transfer would further the provision of housing and related facilities for low-income families or persons and would be in the best interests of residents and the Federal Government.

(2) ACTIONS TO EXPEDITE PROJECT APPROVALS.—

(A) IN GENERAL.—The Secretary shall take actions to facilitate timely approval of requests to transfer ownership or control, for the purpose of rehabilitation or preservation, of multifamily housing projects for which assistance is provided by the Secretary of Agriculture in conjunction with any low-income housing tax credits under section 42 of the Internal Revenue Code of 1986 or tax-exempt housing bonds.

(B) CONSULTATION.—The Secretary of Agriculture shall consult with the Commissioner of the Internal Revenue Service and take such actions as are appropriate in conjunction with such consultation to simplify the coordination of rules, regulations, forms (including applications forms for project transfers), and approval requirements multifamily housing projects for which assistance is provided by the Secretary of Agriculture in conjunction with any low-income housing tax credits under section 42 of the Internal Revenue Code of 1986 or tax-exempt housing bonds.

(C) EXISTING REQUIREMENTS.—Any actions taken pursuant to this paragraph shall be taken in a manner that provides for full compliance with any existing requirements under law or regulation that are designed to protect families receiving Federal housing assistance, including income targeting, rent, and fair housing provisions, and shall also comply with requirements regarding environmental review and protection and wages paid to laborers.

(D) RECOMMENDATIONS.—In implementing the changes required under this paragraph, the Secretary shall solicit recommendations regarding such changes from project owners and sponsors, investors and stakeholders in housing tax credits, State and local housing finance agencies, tenant advocates, and other stakeholders in such projects.

(i) After approving a project involving newly constructed or substantially rehabilitated units under this section, the Secretary shall limit cost increases to those approved by the Secretary. The Secretary may approve those increases only for unforeseen factors beyond the owner's control, design changes required by the Secretary or the local government, or changes in financing approved by the Secretary.

(j) For the purpose of achieving the lowest cost in providing units in newly constructed projects assisted under this section, the Secretary shall give a preference in entering into contracts under this section for projects which are to be located on specific tracts of land provided by States, units of local government, or others if the Secretary determines that the tract of land is suitable for such housing, and that affording such preference will be cost effective.

(k) The Secretary shall assure that management fees are not excessive when a project developed under this section is managed by the developer or an affiliate of the developer.

(l) For purposes of determining the market feasibility of any project to be assisted under this section—

(1) in the case of any applicant who applies for rental assistance payments under section 521 in connection with such project, the Secretary shall consider the availability of such rental assistance payments with respect to the project and shall require such applicant to demonstrate that a market exists for persons and families eligible for such rental assistance payments; and

(2) in the case of any applicant whose project is expected to utilize any assistance under a program of a State, or political subdivision thereof, that is similar to such assistance payments under section 521, the Secretary shall only require such applicant to demonstrate that—

(A) a market exists for persons and families eligible for such program of assistance;

(B) such program of assistance will provide rental assistance for a period of not less than five years, and, at the option of the applicant, either that there is a reasonable assurance that the contract for assistance will be extended or renewed, or for the term of the loan remaining after the period of such assistance, that an adequate rental market exists for the project without such assistance; and

(C) during the term of such rental assistance contracts, such State or political subdivision shall make available the amounts required for such rental assistance not less than annually.

(m)(1) The Secretary shall establish standards for housing and related facilities rehabilitated or repaired with amounts received under a loan made or insured under this section. Standards established by the Secretary under this subsection shall provide that except for substantial rehabilitation the particular items or systems repaired or rehabilitated must meet appropriate levels of quality or performance comparable to those levels prescribed by the Secretary of Housing and Urban Development for rehabilitation, but shall not require that such items or systems or the remainder of the property meet the standards which are applicable to new construction. The Secretary shall ensure that standards prescribed under this subsection provide decent, safe, and sanitary housing and related facilities.

(2) Housing and related facilities rehabilitated or repaired with amounts received under a loan made or insured 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, in collaboration with the Secretary of Housing and Urban Development, including any relevant updates to the International Fire Code, through a notice published in the Federal Register.

(3) *QUALIFYING SMOKE ALARMS.*—

(A) *IN GENERAL.*—*Housing and related facilities rehabilitated or repaired with amounts received under a loan made or in-*

*sured 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 is—*

*(aa) hardwired; or*

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

*(AA) is sealed;*

*(BB) is tamper resistant;*

*(CC) contains silencing means; and*

*(DD) 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.*

*(n) The Secretary may not deny assistance under this section or section 521 on the basis that the project involved is to be located on more than one site.*

*(o) The Secretary may not (1) deny assistance under this section on the basis that rental assistance payments under section 521 may be required unless the authority to provide such assistance is not available; or (2) promulgate any regulation that would have the effect of denying occupancy to eligible persons on the basis that such persons require rental assistance payments under section 521.*

*(p)(1) To the extent assistance is available under section 521(a)(2), not more than 25 per centum of the dwelling units which were available for occupancy under this section prior to the date of enactment of this subsection, and which will be leased on or after such date shall be available for leasing by low income persons and families other than very low-income persons and families.*

*(2) To the extent assistance is available under section 521(a)(2), not more than 5 per centum of the dwelling units which become available for occupancy under this section on or after the date of enactment of this subsection shall be available for leasing by low income persons and families other than very low-income persons and families.*

(3) Units in projects financed under this section which become available for occupancy after the date of enactment of this subsection shall not be available for occupancy by persons and families other than very low-income persons and families if the authority to provide assistance for such persons is available.

(4) In projects financed under this section, 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 of 1986 shall not be available for occupancy by persons or families other than persons or families with incomes not in excess of the qualifying income applicable to such units pursuant to subparagraph (A) or (B) of section 42(g)(1) of such Code.

(5) The Secretary shall coordinate the processing of any application for a loan under this section for a project and the processing of any application for assistance under section 521(a)(2) with respect to housing units in the same project in an economical and efficient manner. At the time the Secretary enters into a commitment to make or insure a loan under this section the Secretary shall obligate amounts for assistance payments under section 521(a)(2) for the project, to the extent that such amounts are available and the Secretary determines such assistance is necessary for the market feasibility of the project.

(q) In determining the income of a person or family occupying housing financed under this section, the Secretary shall consider the value of that person's or family's assets in the same manner as the Secretary of Housing and Urban Development considers such value for the purpose of the United States Housing Act of 1937.

(r)(1) the Secretary—

(A) may require that the initial operating reserve under this section may be in the form of an irrevocable letter of credit; and

(B) except as provided in paragraph (2), may require not more than a 3 percent contribution to equity, except that the Secretary shall require a 5 percent contribution in the case of a project that is allocated a low-income housing tax credit pursuant to section 42 of the Internal Revenue Code of 1986.

(2) The Secretary may adjust the amount of equity contribution to ensure that assistance provided is not more than is necessary to provide affordable housing after taking account of assistance from all Federal, State, and local sources.

(3) Not later than 60 days after the date of enactment of the Act entitled "An Act making appropriations for Agriculture, Rural Development, Food and Drug Administration, and Related Agencies programs for the fiscal year ending September 30, 1997, and for other purposes", the Secretary shall issue regulations to implement subsection (r)(2) in accordance with the negotiated rulemaking procedures set forth in subchapter III of chapter 5 of title 5, United States Code: *Provided*, That if the negotiated rulemaking is not completed within the designated time, the Secretary shall proceed to promulgate regulations under the rulemaking authority contained in 5 U.S.C. 557.

(s) No fee other than a late fee may be imposed by or for the Secretary or any other Federal agency on or with respect to a loan made or insured under this section.

## (t) EQUITY TAKEOUT LOANS.—

(1) AUTHORITY.—The Secretary is authorized to guarantee an equity loan (in the form of a supplemental loan) to an owner of housing financed with a loan made or insured under subsection (b), only if the Secretary determines, after taking into account local market conditions, that there is reasonable likelihood that the housing will continue as decent, safe, and sanitary housing for the remaining life of the original loan on the project made or insured under subsection (b) and that such an equity loan is—

(A) necessary to provide a fair return on the owner's investment in the housing;

(B) the least costly alternative for the Federal Government that is consistent with carrying out the purposes of this subsection; and

(C) would not impose an undue hardship on tenants or an unreasonable cost to the Federal Government.

The amount of loans guaranteed under this subsection shall be subject to limits provided in appropriations Acts.

(2) TIMING.—The Secretary is authorized to guarantee an equity loan under this subsection after the expiration of the 20-year period beginning on the date that an existing loan under subsection (b) of this section was made or insured. Not more than one equity loan under this subsection may be provided for any project.

(3) AMOUNT OF THE TAKEOUT.—The amount of an equity loan under this subsection shall not exceed the difference between the outstanding principal on debt secured by the project and 90 percent of the appraised value of the project. The appraised value of the project shall be determined by 2 independent appraisers, 1 of whom shall be selected by the Secretary and 1 of whom shall be selected by the owner. If the 2 appraisers fail to agree on the value of the project, the Secretary and the owner shall jointly select a third appraiser whose appraisal shall be binding on the Secretary and the owner. The amount of the equity loan shall not exceed 30 percent of the amount of the original appraised value of the project made or insured under subsection (b).

(4) SUBMISSION OF PLAN.—An owner requesting an equity loan under this subsection shall submit a plan acceptable to the Secretary to ensure that the cost of amortizing an equity loan under paragraph (1) does not result in the displacement of very-low-income tenants or substantially alter the income mix of the tenants in the project.

(5) REGULATIONS.—The Secretary shall issue final regulations within 180 days from the date of enactment of this subsection.

(6) EFFECTIVE DATE.—The requirements of this subsection shall apply to any loan obligated under this section on or after December 15, 1989. This subsection shall not require retroactive reserve account payments with respect to any loan that was obligated on or after December 15, 1989, and on or before June 16, 1990, but reserve account payments shall be required for such loans beginning on the date of the enactment of this paragraph.

(u) REUSE OF LOAN AUTHORITY.—Loan authority that is obligated under this section but that is not expended due to any action that removes the original borrower, may be reallocated to a different borrower during the same fiscal year in which the loan authority was obligated. Any loan authority under this section appropriated or made available within limits established in appropriations Acts shall remain available until expended.

(v) ASSUMPTION OF LOANS.—The Secretary may provide for the assumption or transfer of a loan or loan obligation under this section to any person or entity qualified to receive a loan or loan obligation under this section in any case of default or foreclosure with respect to the original borrower. The Secretary shall provide in each assumption or transfer under this subsection for the assumption of the obligations, rights, and interests under the terms of the loan or loan obligation or such other terms as the Secretary determines appropriate.

(w) SET-ASIDE OF RURAL RENTAL HOUSING FUNDS.—

(1) AUTHORITY.—Except as provided in paragraph (2), the Secretary shall set aside from amounts made available for each State for loans under this section, not less than 9 percent of the amounts available in each fiscal year. Amounts set aside shall be available only for nonprofit entities in the State, which may not be wholly or partially owned or controlled by a for-profit entity. A partnership, that has as its general partner a nonprofit entity or the nonprofit entity's for-profit subsidiary, is eligible to receive funds set aside under this subsection to sponsor a project which is receiving low-income housing tax credits authorized under section 42 of the Internal Revenue Code of 1986. For the purposes of this subsection, a nonprofit entity is an organization that—

(A) will own an interest in a project to be financed under this section and will materially participate in the development and the operation of the project;

(B) is a private organization that has nonprofit, tax exempt status under section 501(c)(3) or section 501(c)(4) of the Internal Revenue Code of 1986;

(C) has among its purposes the planning, development, or management of low-income housing or community development projects; and

(D) is not affiliated with or controlled by a for-profit organization.

(2) MINIMUM STATE SET-ASIDE.—If the amount set aside under paragraph (1) for any State is less than \$750,000 in any fiscal year, the Secretary shall pool such amount together with set-aside amounts from other States whose set-aside is less than \$750,000, and shall make such amounts available for such eligible entities under paragraph (1) in any such State. The Secretary shall establish a procedure to provide that any amounts pooled under this paragraph from the allocation for any State in any fiscal year that are not obligated during a reasonable period in such year shall be made available for any such eligible entities under paragraph (1) in such State. The Secretary may provide amounts available for reallocation under this subsection in excess of \$750,000 in a given State,

if such amounts are necessary to finance a project under this section.

(3) UNUSED AMOUNTS.—

(A) EQUITABLE DISTRIBUTION.—Any amounts set aside under this subsection from the allocation for any State that are not obligated by 9 months after the allocation, shall first be pooled and made available to any other eligible nonprofit entity in any State as defined in this subsection. The Secretary shall make reasonable efforts to ensure that pooled funds are distributed under this subparagraph in an equitable manner.

(B) RETURN TO THE STATES.—After funds have been pooled and obligated for 30 days, the Secretary shall return any remaining funds to the States on a proportional basis for use by any other eligible entity as defined in this section.

(x) UNIFORM PROJECT COSTS; COORDINATION OF HOUSING RESOURCES AND TAX BENEFITS.—The Secretary shall—

(1) establish standard guidelines for State offices that describe allowable development costs which are required for development of all projects under this section, without regard to whether the project was allocated a low-income housing tax credit;

(2) require each State to establish a process for coordinating the selection of projects under this section with the housing needs and priorities as established in a State comprehensive housing affordability strategy under section 105 of the Cranston-Gonzalez National Affordable Housing Act and a low-income housing tax credit allocation plan under section 42 of the Internal Revenue Code of 1986; and

(3) develop, in consultation with housing credit agencies (as that term is defined under section 42 of the Internal Revenue Code of 1986), uniform procedures for identifying and sharing information on project costs, builder profit, identity of interests relationships, and other factors, as appropriate, with the relevant housing credit agency for projects that are allocated a low-income housing tax credit pursuant to section 42(h) of the Internal Revenue Code of 1986 for the purpose of achieving compliance with section 102(d) of the Department of Housing and Urban Development Reform Act of 1989 (42 U.S.C. 3545(d)).

(y) SERVICE COORDINATORS.—

(1) GRANTS.—The Secretary may make grants under this subsection, with respect to any project that the Secretary determines has a sufficient number of frail elderly residents, for the cost of employing or otherwise retaining the services of one or more individuals to coordinate services provided to frail elderly residents of the project (in this subsection referred to as a “service coordinator”), who shall be responsible for—

(A) assessing the supportive service needs of frail elderly residents of the project, based on objective criteria and interviews with such residents;

(B) working with service providers to design the provision of services to meet the needs of frail elderly residents of the project, taking into consideration the needs and de-

sires of such residents and their ability and willingness to pay for such services, as expressed by the residents;

(C) mobilizing public and private resources to obtain funding for such services for such residents;

(D) monitoring and evaluating the impact and effectiveness of any supportive services provided for such residents;

(E) consulting and coordinating with any appropriate public and private agencies regarding the provision of supportive services; and

(F) performing such other duties that the Secretary deems appropriate to enable frail elderly persons residing in federally assisted housing to live with dignity and independence.

(2) QUALIFICATIONS.—Individuals employed as service coordinators pursuant to this subsection shall meet the minimum qualifications and standards established under section 802(d)(4) of the Cranston-Gonzalez National Affordable Housing Act for service coordinators under a congregate housing services program.

(3) APPLICATION AND SELECTION.—The Secretary shall provide for the form and manner of applications for grants under this subsection and for the selection of applicants to receive the grants.

(4) DEFINITION OF FRAIL ELDERLY.—For purposes of this subsection, the term “frail elderly” has the meaning given the term in section 802(k) of the Cranston-Gonzalez National Affordable Housing Act.

(z) ACCOUNTING AND RECORDKEEPING REQUIREMENTS.—

(1) ACCOUNTING STANDARDS.—The Secretary shall require that borrowers in programs authorized by this section maintain accounting records in accordance with generally accepted accounting principles for all projects that receive funds from loans made or guaranteed by the Secretary under this section.

(2) RECORD RETENTION REQUIREMENTS.—The Secretary shall require that borrowers in programs authorized by this section retain for a period of not less than 6 years and make available to the Secretary in a manner determined by the Secretary, all records required to be maintained under this subsection and other records identified by the Secretary in applicable regulations.

(aa) DOUBLE DAMAGES FOR UNAUTHORIZED USE OF HOUSING PROJECTS ASSETS AND INCOME.—

(1) ACTION TO RECOVER ASSETS OR INCOME.—

(A) IN GENERAL.—The Secretary may request the Attorney General to bring an action in a United States district court to recover any assets or income used by any person in violation of the provisions of a loan made or guaranteed by the Secretary under this section or in violation of any applicable statute or regulation.

(B) IMPROPER DOCUMENTATION.—For purposes of this subsection, a use of assets or income in violation of the applicable loan, loan guarantee, statute, or regulation shall include any use for which the documentation in the books and accounts does not establish that the use was made for a reasonable operating expense or necessary repair of the

project or for which the documentation has not been maintained in accordance with the requirements of the Secretary and in reasonable condition for proper audit.

(C) DEFINITION.—For the purposes of this subsection, the term “person” means—

(i) any individual or entity that borrows funds in accordance with programs authorized by this section;

(ii) any individual or entity holding 25 percent or more interest of any entity that borrows funds in accordance with programs authorized by this section; and

(iii) any officer, director, or partner of an entity that borrows funds in accordance with programs authorized by this section.

(2) AMOUNT RECOVERABLE.—

(A) IN GENERAL.—In any judgment favorable to the United States entered under this subsection, the Attorney General may recover double the value of the assets and income of the project that the court determines to have been used in violation of the provisions of a loan made or guaranteed by the Secretary under this section or any applicable statute or regulation, plus all costs related to the action, including reasonable attorney and auditing fees.

(B) APPLICATION OF RECOVERED FUNDS.—Notwithstanding any other provision of law, the Secretary may use amounts recovered under this subsection for activities authorized under this section and such funds shall remain available for such use until expended.

(3) TIME LIMITATION.—Notwithstanding any other provision of law, an action under this subsection may be commenced at any time during the 6-year period beginning on the date that the Secretary discovered or should have discovered the violation of the provisions of this section or any related statutes or regulations.

(4) CONTINUED AVAILABILITY OF OTHER REMEDIES.—The remedy provided in this subsection is in addition to and not in substitution of any other remedies available to the Secretary or the United States.

FINANCIAL ASSISTANCE TO PROVIDE LOW-RENT HOUSING FOR  
DOMESTIC FARM LABOR

SEC. 516. (a) Upon the application of any State or political subdivision thereof, or any Indian tribe, or any broad-based public or private nonprofit organization incorporated within the State, or any nonprofit organization of farmworkers incorporated within the State, the Secretary is authorized to provide financial assistance for the provision of low-rent housing and related facilities (which may be located any place within the State) for domestic farm labor, if he finds that—

(1) the housing and related facilities for which financial assistance is requested will fulfill a pressing need in the area in which such housing and facilities will be located, and there is reasonable doubt that the same can be provided without financial assistance under this section;

(2) the applicant will contribute, from its own resources or from funds borrowed under section 514 or elsewhere, at least 10 per centum of the total development cost;

(3) the types of housing and related facilities to be provided are most practical, giving due consideration to the purposes to be served thereby and the needs of the occupants thereof, and such housing and facilities shall be durable and suitable for year-around occupancy or use, unless the Secretary finds that there is no need for such year-around occupancy or use in that area; and

(4) the construction will be undertaken in an economical manner, and the housing and related facilities will not be of elaborate or extravagant design or materials.

(b) The amount of any financial assistance provided under this section for low-rent housing and related facilities shall not exceed 90 per centum of the total development cost thereof, as determined by the Secretary, less such amount as the Secretary determines can be practicably obtained from other sources (including a loan under section 514).

(c) No financial assistance for low-rent housing and related facilities shall be made available under this section unless, to any extent and for any periods required by the Secretary, the applicant agrees—

(1) that the rentals charged domestic farm labor shall not exceed such amounts as may be approved by the Secretary giving due consideration to the income and earning capacity of the tenants, and the necessary costs of operating and maintaining such housing;

(2) that such housing shall be maintained at all times in a safe and sanitary condition in accordance with such standards as may be prescribed by State or local law, or, in the absence of such standards, in accordance with such minimum requirements as the Secretary shall prescribe; [and]

(3) an absolute priority will be given at all times in granting occupancy of such housing and facilities to domestic farm labor[.]; and

(4) *that such housing 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.*

(d) The Secretary may make payments pursuant to any contract for financial assistance under this section at such times and in such manner as may be specified in the contract. In each contract, the Secretary shall include such covenants, conditions, or provisions as he deems necessary to insure that the housing and related facilities, for which financial assistance is made available, be used only in conformity with the provisions of this section.

(e) The Secretary shall prescribe regulations to insure that Federal funds expended under this section are not wasted or dissipated. The Secretary shall not give priority for funding under this

section to any one of the groups listed in subsection (a) over any of the others so listed.

(f) All laborers and mechanics employed by contractors or sub-contractors on projects assisted by the Secretary which are undertaken by approved applicants under this section shall be paid wages at rates not less than those prevailing on similar construction in the locality, as determined by the Secretary of Labor in accordance with the Davis-Bacon Act, as amended (40 U.S.C. 276a—276a-5). The Secretary shall not extend any financial assistance under this section for any project without first obtaining adequate assurance that these labor standards will be maintained on the construction work; except that compliance with such standards may be waived by the Secretary in cases or classes of cases where laborers or mechanics, not otherwise employed at any time on the project, voluntarily donate their services without compensation for the purpose of lowering the costs of construction and the Secretary determines that any amounts thereby saved are fully credited to the person, corporation, association, organization, or other entity undertaking the project. The Secretary of Labor shall have, with respect to the labor standards specified in this section, the authority and functions set forth in Reorganization Plan Numbered 14 of 1950 (15 F.R. 3176; 64 Stat. 1267; 5 U.S.C. 133z-15), and section 2 of the Act of June 13, 1934, as amended (40 U.S.C. 276).

(g) As used in this section—

(1) the term “low-rent housing” means rental housing within the financial reach of families of low income consisting of (A) new structures (including household furnishings) suitable for dwelling use by domestic farm labor, and (B) existing structures (including household furnishings) which can be made suitable for dwelling use by domestic farm labor by rehabilitation, alteration, conversion, or improvement;

(2) the terms “related facilities” and “domestic farm labor” shall have the meaning assigned to them in section 514(f);

(3) the term “development cost” shall have the meaning assigned to it in section 515(d)(4); **[and]**

(4) the term “domestic farm labor” has the meaning given such term in section 514(f)(3)**[. . .]**;

(5) *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)); and*

(6) *the term “qualifying smoke alarm” means a smoke alarm that—*

*(A) 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 is—*

*(i) hardwired; or*

*(ii) uses 10-year non rechargeable, nonreplaceable primary batteries and—*

*(I) is sealed;*

*(II) is tamper resistant;*

*(III) contains silencing means; and*

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

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

(h) Notwithstanding the provisions of subsection (a)(3), the Secretary may, upon a finding of persistent need for migrant farmworker housing in any area, provide assistance to eligible applicants for 90 per centum of the development costs of such housing in such area to be used solely by migrant farmworkers while they are away from their residence. Such housing shall be constructed in such a manner as to be safe and weatherproof for the time it is to be occupied, be equipped with potable water and modern sanitation facilities (including a kitchen sink, toilet, and bathing facilities), and meet such other requirements as the Secretary may prescribe.

(i) The Secretary shall utilize not more than 10 per centum of the amounts available for any fiscal year for purposes of this section for financial assistance to eligible private and public nonprofit agencies to encourage the development of domestic and migrant farm labor housing projects under this title.

(j) Housing and related facilities constructed with grants under this section may be used for tenants eligible for occupancy under section 515 if the Secretary determines that—

(1) there is no longer a need in the area for farm labor housing; or

(2) the need for such housing in the area has diminished to the extent that the purpose of the grant, providing housing for domestic farm labor, can no longer be met.

(k) HOUSING FOR RURAL HOMELESS AND MIGRANT FARMWORKERS.—

(1) IN GENERAL.—The Secretary may provide financial assistance for providing affordable rental housing and related facilities for migrant farmworkers and homeless individuals (and the families of such individuals) to applicants as provided in this subsection.

(2) TYPES OF ASSISTANCE.—

(A) IN GENERAL.—The Secretary may provide the following assistance for housing under this subsection:

(i) An advance, in an amount not to exceed \$400,000, of the cost of acquisition, substantial rehabilitation, or acquisition and rehabilitation of an existing structure or construction of a new structure for use in the provision of housing under this subsection. The repayment of any outstanding debt owed on a loan made to purchase an existing structure shall be considered to be a cost of acquisition eligible for an advance under this subparagraph if the structure was not used for the purposes under this subsection prior to the receipt of assistance.

(ii) A grant, in an amount not to exceed \$400,000, for moderate rehabilitation of an existing structure for use in the provision of housing under this subsection.

(iii) Annual payments for operating costs of such housing (without regard to whether the housing is an existing structure), not to exceed 75 percent of the annual operating costs of such housing.

(B) AVAILABLE ASSISTANCE.—A recipient may receive assistance under both clauses (i) and (ii) of subparagraph (A). The Secretary may increase the limit contained in such clauses to \$800,000 in areas which the Secretary finds have high acquisition and rehabilitation costs.

(C) REPAYMENT OF ADVANCE.—Any advance provided under subparagraph (A)(i) shall be repaid on such terms as may be prescribed by the Secretary when the project ceases to be used as housing in accordance with the provisions of this subsection. Recipients shall be required to repay 100 percent of the advance if the housing is used for purposes under this subsection for fewer than 10 years following initial occupancy. If the housing is used for such purposes for more than 10 years, the percentage of the amount that shall be required to be repaid shall be reduced by 10 percentage points for each year in excess of 10 that the property is so used.

(D) PREVENTION OF UNDUE BENEFITS.—Upon any sale or other disposition of housing acquired or rehabilitated with assistance under this subsection prior to the close of 20 years after the housing is placed in service, other than a sale or other disposition resulting in the use of the project for the direct benefit of low income persons or where all of the proceeds are used to provide housing for migrant farmworkers and homeless individuals (and the families of such individuals), the recipient shall comply with such terms and conditions as the Secretary may prescribe to prevent the recipient from unduly benefiting from the sale or other disposition of the project.

(3) PROGRAM REQUIREMENTS.—

(A) APPLICATIONS.—

(i) Applications for assistance under this subsection shall be submitted by an applicant in such form and in accordance with such procedures as the Secretary shall establish.

(ii) The Secretary shall require that applications contain at a minimum (I) a description of the proposed housing, (II) a description of the size and characteristics of the population that would occupy the housing, (III) a description of any public and private resources that are expected to be made available in connection with the housing, (IV) a description of the housing needs for migrant farmworkers and homeless individuals (and the families of such individuals) in the area to be served by the housing, and (V) assurances satisfactory to the Secretary that the housing assisted will be operated for not less than 10 years for the purpose specified in the application.

(iii) The Secretary shall require that an application furnish reasonable assurances that the housing will be available for occupancy by homeless individuals (and the families of such individuals) only on an emergency and temporary basis during the offseason and shall be otherwise available for occupancy by migrant farmworkers (and their families).

(iv) The Secretary shall require that an application furnish reasonable assurances that the applicant will own or have control of a site for the proposed housing not later than 6 months after notification of an award for grant assistance. An applicant may obtain ownership or control of a suitable site different from the site specified in the application. If an applicant fails to obtain ownership or control of the site within 1 year after notification of an award for grant assistance, the grant shall be recaptured and reallocated.

(B) SELECTION CRITERIA.—The Secretary shall establish selection criteria for a national competition for assistance under this subsection, which shall include—

(i) the ability of the applicant to develop and operate the housing;

(ii) the feasibility of the proposal in providing the housing;

(iii) the need for such housing in the area to be served;

(iv) the cost effectiveness of the proposed housing;

(v) the extent to which the project would meet the needs of migrant farmworkers and homeless individuals (and the families of such individuals) in the State;

(vi) the extent to which the applicant has control of the site of the proposed housing; and

(vii) such other factors as the Secretary determines to be appropriate for purposes of this subsection.

(C) REQUIRED AGREEMENTS.—The Secretary may not approve assistance for any housing under this subsection unless the applicant agrees—

(i) to operate the proposed project as housing for migrant farmworkers and homeless individuals (and the families of such individuals) in compliance with the provisions of this subsection and the application approved by the Secretary;

(ii) to monitor and report to the Secretary on the progress of the housing; and

(iii) to comply with such other terms and conditions as the Secretary may establish for purposes of this subsection.

(D) OCCUPANT RENT.—Each migrant farmworker and homeless individual residing in a facility assisted under this subsection shall pay as rent an amount determined in accordance with the provisions of section 3(a) of the United States Housing Act of 1937.

(4) GUIDELINES.—

(A) REGULATIONS.—Not later than 120 days after the date of enactment of the Cranston-Gonzalez National Affordable Housing Act, the Secretary shall by notice establish such requirements as may be necessary to carry out the provisions of this subsection.

(B) LIMITATION ON USE OF FUNDS.—No assistance received under this subsection (or any State or local government funds used to supplement such assistance) may be

used to replace other public funds previously used, or designated for use, to assist homeless individuals (and the families of such individuals) or migrant farmworkers.

(5) LIMITATION ON ADMINISTRATIVE EXPENSES.—No recipient may use more than 5 percent of an advance or grant received under this subsection for administrative purposes.

(6) REPORTS TO CONGRESS.—The Secretary shall submit annually to the Congress a report summarizing the activities carried out under this subsection and setting forth the findings, conclusions, and recommendations of the Secretary as a result of the activities. The report shall be submitted not later than 3 months after the end of each fiscal year.

(7) DEFINITIONS.—For purposes of this subsection:

(A) The term “applicant” means a State, political subdivision thereof, Indian tribe, any private nonprofit organization incorporated within the State that has applied for a grant under this subsection.

(B) The term “homeless individual” has the same meaning given the term under section 103 of the Stewart B. McKinney Homeless Assistance Act.

(C) The term “migrant farmworker”—

(i) means any person (and the family of such person) who (I) receives a substantial portion of his or her income from primary production of agricultural or aquacultural commodities, the handling of such commodities in the unprocessed stage, or the processing of such commodities, without respect to the source of employment, and (II) establishes residence in a location on a seasonal or temporary basis, in an attempt to receive an income as described in subclause (I); and

(ii) includes any person (and the family of such person) who is retired or disabled, but who met the requirements of clause (i) at the time of retirement or becoming disabled.

(D) The term “operating costs” means expenses incurred by a recipient providing housing under this subsection with respect to the administration, maintenance, repair, and security of such housing and utilities, fuel, furnishings, and equipment for such housing.

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