§1437. Declaration of policy and public housing agency organization

(a) Declaration of policy

It is the policy of the United States—
(1) to promote the general welfare of the Nation by employing the funds and credit of the United States to remedy the unsafe housing conditions and the acute shortage of decent and safe dwellings for low-income families;
(2) to assist States and political subdivisions of States to address the shortage of housing affordable to low-income families;
(3) consistent with the objectives of this subchapter, to vest in public housing agencies that perform well, the maximum amount of responsibility and flexibility in program administration, with appropriate accountability to public housing residents, localities, and the general public;
(4) that the Federal Government cannot through its direct action alone provide for the housing of every American citizen, or even a majority of its citizens, but it is the responsibility of the Government to promote and protect the independent and collective actions of private citizens to develop housing and strengthen their own neighborhoods;
(5) that the Federal Government should act where there is a serious need that private citizens or groups cannot or are not addressing responsibly; and
(6) that our Nation should promote the goal of providing decent and affordable housing for all citizens through the efforts and encouragement of Federal, State, and local governments, and by the independent and collective actions of private citizens, organizations, and the private sector.

(b) Public housing agency organization

(1) Required membership

Except as provided in paragraphs (2) and (3), the membership of the board of directors or similar governing body of each public housing agency shall contain not less than 1 member—
(A) who is directly assisted by the public housing agency; and
(B) who, if provided for in the public housing agency plan, be elected by the residents directly assisted by the public housing agency.

(2) Exception

Paragraph (1) shall not apply to any public housing agency—
(A) that is located in a State that requires the membership of the board of directors or similar governing body of a public housing agency to be salaried and to serve on a full-time basis; or
(B) with less than 300 public housing units, if—
(i) the agency has provided reasonable notice to the resident advisory board of the opportunity of not less than 1 resident described in paragraph (1) to serve on the board of directors or similar governing body of the public housing agency pursuant to such paragraph; and
(ii) within a reasonable time after receipt by the resident advisory board established by the agency pursuant to section 1437c–1(e) of this title of notice under clause (i), the public housing agency has not been notified of the intention of any resident to participate on the board of directors.

(3) Exception for certain jurisdictions

(A) Exception

A covered agency (as such term is defined in subparagraph (C) of this paragraph) shall not be required to include on the board of directors or a similar governing body of such agency a member described in paragraph (1).

(B) Advisory board requirement

Each covered agency that administers Federal housing assistance under section 1437f of this title that chooses not to include a member described in paragraph (1) on the board of directors or a similar governing board of the agency shall establish an advisory board of not less than 6 residents of public housing or recipients of assistance under section 1437f of this title to provide advice and comment to the agency or other administering entity on issues related to public housing and section 1437f of this title. Such advisory board shall meet not less than quarterly.

(C) Covered agency or entity

For purposes of this paragraph, the term “covered agency” means a public housing agency or such other entity that administers Federal housing assistance for—
(1) the Housing Authority of the county of Los Angeles, California; or
(ii) any of the States of Alaska, Iowa, and Mississippi.

(4) Nondiscrimination

No person shall be prohibited from serving on the board of directors or similar governing body...
body of a public housing agency because of the residence of that person in a public housing project or status as assisted under section 1437f of this title.


PRIOR PROVISIONS

A prior section 2 of act Sept. 1, 1937, ch. 896, 50 Stat. 868, related to definitions and was classified to section 1402 of this title, prior to the general revision of this chapter by Pub. L. 93–383.

Prior similar provisions were contained in section 1 of act Sept. 1, 1937, ch. 896, 50 Stat. 888, which was classified to section 1461 of this title prior to the general revision of this chapter by Pub. L. 93–383.

AMENDMENTS

2016—Subsec. (b)(1). Pub. L. 114–201, § 114(1), substituted “paragraphs (2) and (3)” for “paragraph (2)” in introductory provisions.

Subsec. (b)(3), (4). Pub. L. 114–201, § 114(2), (3), added par. (3) and redesignated former par. (3) as (4).

1998—Pub. L. 105–276 amended section catchline and text generally. Prior to amendment, text read as follows: “It is the policy of the United States to promote the general welfare of the Nation by employing its funds and credit, as provided in this chapter, to assist the several States and their political subdivisions to remedy the unsafe and unsanitary housing conditions and the acute shortage of decent, safe, and sanitary dwellings for families of lower income and, consistent with the objectives of this chapter, to vest in local public housing agencies the maximum amount of responsibility in the administration of their housing programs. No person should be barred from serving on the board of directors or similar governing body of a local public housing agency because of his tenancy in a low-income housing project.”

1990—Pub. L. 101–625 substituted “low-income housing” for “lower income housing”.


EFFECTIVE DATE OF 1998 AMENDMENT


(a) IN GENERAL.—The amendments under this title [see Tables for classification] are made on the date of the enactment of this Act [Oct. 21, 1998], but this title shall take effect, and the amendments made by this title shall apply beginning upon October 1, 1999, except—

(1) as otherwise specifically provided in this title; or

(2) as otherwise specifically provided in any amendment made by this title.

The Secretary may, by notice, implement any provision of this title or any amendment made by this title before such date, except to the extent that such provision or amendment specifically provides otherwise.

(b) SAVINGS PROVISION.—Notwithstanding any amendment under this title that is made (in accordance with subsection (a)) on the date of the enactment of this Act [Oct. 21, 1998] but applies beginning on October 1, 1999, the provisions of law amended by such amendment, as such provisions were in effect immediately before the making of such amendment, shall continue to apply during the period beginning on the date of the enactment of this Act and ending upon October 1, 1999, unless otherwise specifically provided by this title.

(c) TECHNICAL RECOMMENDATIONS.—Not later than 9 months after the date of the enactment of this Act [Oct. 21, 1998], the Secretary shall submit to the Committee on Banking, Housing, and Urban Affairs of the Senate and the Committee on Banking and Financial Services [now Committee on Financial Services] of the House of Representatives, recommended technical and conforming legislative changes necessary to carry out this title and the amendments made by this title.

(d) LIST OF OBSOLETE DOCUMENTS.—Not later than October 1, 1999, the Secretary of Housing and Urban Development shall cause to be published in the Federal Register a list of all rules, regulations, and orders (including all handbooks, notices, and related requirements) pertaining to public housing or section 8 [§ 12 U.S.C. 1437f] tenant-based programs issued or promulgated under the United States Housing Act of 1937 [§ 2 U.S.C. 1437 et seq.] before the date of the enactment of this Act [Oct. 21, 1998] that are or will be obsolete because of the enactment of this Act or are otherwise obsolete.

(e) PROTECTION OF CERTAIN REGULATIONS.—No provision of this title may be construed to repeal the regulations of the Secretary regarding tenant participation and tenant opportunities in public housing [24 C.F.R. 964].

(f) EFFECTIVE DATE.—This section shall take effect on the date of the enactment of this Act [Oct. 21, 1998].

EFFECTIVE DATE OF 1981 AMENDMENT


EFFECTIVE DATE

Pub. L. 93–383, title II, § 201(b), Aug. 22, 1974, 88 Stat. 667, provided that: “The provisions of subsection (a) of this section (enacting sections 1437 to 1437f of this title) shall be effective on such date or dates as the Secretary of Housing and Urban Development shall prescribe, but not later than eighteen months after the date of the enactment of this Act [Aug. 22, 1974]; except that (1) all of the provisions of section 3(1) of the United States Housing Act of 1937, as amended by subsection (a) of this section (section 1437(a) of this title), shall become effective on the same date, (2) all of the provisions of sections 5 and 9(c) of such Act as so amended [sections 1437c and 1437g(c) of this title] shall become effective on the same date, and (3) section 8 of such Act [section 1437f of this title] as so amended shall be effective not later than January 1, 1975.”

Section 3(1) of the United States Housing Act of 1937, as amended, effective Sept. 26, 1975, see Effective Date note under section 1437 of this title.

SHORT TITLE OF 2016 AMENDMENT

Pub. L. 114–201, § 1(a), July 29, 2016, 130 Stat. 782, provided that: “This Act [enacting sections 1437f–9, 3538a, and 1138f of this title, amending this section, sections 1436a, 1437a, 1437f, 1437g, 1437h, 1472, 3533, 11373, 11387, 11388, 12902, and 12903 of this title, and section 1799 of Title 12, Banks and Banking, enacting provisions set out as notes under sections 1437a, 1437f, 1437g–9, 3533, 3544, and 11313 of this title, and amending provisions set out as a note under section 12905 of this title] may be cited as the ‘Housing Opportunity Through Modernization Act of 2016’.”

SHORT TITLE OF 2008 AMENDMENT


SHORT TITLE OF 2003 AMENDMENT

of this title and enacting provisions set out as a note under section 1437v of this title may be cited as the 'HOPE VI Program Reauthorization and Small Community Mainstreet Rejuvenation and Housing Act of 2003'."

**SHORT TITLE OF 2002 AMENDMENT**

Pub. L. 107–116, title VI, §601(a), Jan. 10, 2002, 115 Stat. 2220, provided that: "This title [amending sections 1437f and 5306 of this title and section 1715 of Title 12, Banks and Banking, enacting provisions set out as notes under sections 1437f and 11301 of this title and sections 1701q and 1715n of Title 12, and amending provisions set out as notes under sections 1437f and 11301 of this title and section 1701q of Title 12] may be cited as the 'Market-to-Market Extension Act of 2001'."

**SHORT TITLE OF 1996 AMENDMENT**

Pub. L. 104–276, title V, §501(a), Oct. 21, 1998, 112 Stat. 2575, provided that: "This Act [enacting section 1439 of this title, amending sections 1437a and 1437c of this title, and enacting provisions set out as notes under sections 1437f and 11301 of this title and section 1701q of Title 12] may be cited as the 'Quality Housing and Work Responsibility Act of 1996'."

**SHORT TITLE OF 1998 AMENDMENT**

Pub. L. 104–204, title II, §201(d), Sept. 26, 1996, 110 Stat. 2893, provided that: "In accordance with section 201(b)(2) of the United States Housing Act of 1937 [former 42 U.S.C. 1437aa(b)(2)], the amendments made by subsections (a), (b), and (c) (amending provisions set out as notes under sections 1437a, 1437c, and 1437f of this title and enacting provisions set out as a note under section 1437f of this title] may be cited as the 'Quality Housing Act of 1998'."

**APPLICABILITY OF 1996 AMENDMENTS; INDIAN HOUSING**

Pub. L. 104–193, title II, §130(e) [title II, §201(a)(3)], Apr. 26, 1996, 110 Stat. 1321–257, 1321–278; renumbered title I, Pub. L. 104–140, §1(a), May 2, 1996, 110 Stat. 1327, provided that: "In accordance with section 201(b)(2) of the United States Housing Act of 1937 [former 42 U.S.C. 1437aa(b)(2)], the amendment made by this subsection [amending section 1437f of this title] shall apply to public housing developed or operated pursuant to a contract between the Secretary of Housing and Urban Development and an Indian housing authority.''

Pub. L. 104–134, title I, §130(e) [title II, §201(b)(3)], Apr. 26, 1996, 110 Stat. 1321–257, 1321–278; renumbered title I, Pub. L. 104–140, §1(a), May 2, 1996, 110 Stat. 1327, provided that: "In accordance with section 201(b)(2) of the United States Housing Act of 1937 [former 42 U.S.C. 1437aa(b)(2)], the amendments made by this subsection (amending section 1437p of this title and provisions set out as a note under section 1437c of this title) and by sections 1020(a), (b), and (c) of Public Law 104–19 [amending sections 1437c, 1437p, and 1437aaa of this title] shall apply to public housing developed or operated pursuant to a contract between the Secretary of Housing and Urban Development and an Indian housing authority.''

Pub. L. 104–99, title IV, §402(e), Jan. 26, 1996, 110 Stat. 43, which provided that amendments made by section 402(a)(d) and (f) of Pub. L. 104–99 were also to apply to public housing developed or operated pursuant to a contract between the Secretary of Housing and Urban Development and an Indian housing authority, was repealed by Pub. L. 105–276, title V, §598(e)(16), Oct. 21, 1998, 112 Stat. 2659.

**APPLICABILITY OF 1990 AMENDMENTS; INDIAN HOUSING**

Pub. L. 102–550, title I, §103(b), Oct. 28, 1992, 106 Stat. 3684, provided that: "(1) IN GENERAL.—In accordance with section 201(b)(2) of the United States Housing Act of 1937 [(former) 42 U.S.C. 1437aa(b)(2)], the provisions of sections 572, 573, and 574 of the Cranston-Gonzalez National Affordable Housing Act [Pub. L. 101–235, title I, §101(d), Dec. 15, 1989, 103 Stat. 1237, amending this section and sections 1437a, 1437b to 1437d, 1437f, 1437g, 1437i, 1437j, 1437l, 1437n, 1437p, 1437r, 1437v, and 1437aa to 1437zd of this title, repealing section 1457c of this title, and enacting provisions set out as notes under section 1437f of this title] shall apply to public housing developed or operated pursuant to a contract between the Secretary of Housing and Urban Development and an Indian housing authority.

(2) EFFECTIVE DATE.—Paragraph (1) shall take effect as if such provision were enacted upon the date of the enactment of the Cranston-Gonzalez National Affordable Housing Act [Nov. 28, 1990]."'

Pub. L. 101–625, title IV, §419, Nov. 28, 1990, 104 Stat. 4161, provided that: "In accordance with section 201(b)(2) of the United States Housing Act of 1937 [(former) 42 U.S.C. 1437aa(b)(2)], the amendments made by this subtitle A (§§411–419) of title IV of Pub. L. 101–625, enacting subchapter II–A of this chapter and enacting sections 1437c, 1437l, 1437p, 1437r, and 1437a to 1437zd of this title, shall also apply to public housing developed or operated pursuant to a contract between the Secretary of Housing and Urban Development and an Indian housing authority, except that nothing in this title [see Short Title note set out under section 1437aaa of this title] affects the program under section 202 of such Act [(former) 42 U.S.C. 1437bb]."'


**APPLICABILITY OF 1989 AMENDMENTS; INDIAN HOUSING**

Pub. L. 101–235, title I, §101(d), Dec. 15, 1989, 103 Stat. 1990, provided that: "In accordance with section 201(b)(2) of the United States Housing Act of 1937 [(former) 42 U.S.C. 1437aa(b)(2)], the provisions of subsections (a), (b), and (c) of this section [amending section 1439 of this title] shall also apply to public housing developed or operated pursuant to a contract between the Secretary of Housing and Urban Development and an Indian housing authority.''

Pub. L. 101–235, title I, §101(c), Dec. 15, 1989, 103 Stat. 1990, provided that: "In accordance with section 201(b)(2) of the United States Housing Act of 1937 [(former) 42 U.S.C. 1437aa(b)(2)], the amendments made by subsection (a) [amending section 1439 of this title] and the provisions of subsection (b) of this section [set out as an Effective Date of 1989 Amendment note under section 1439 of this title] shall also apply to public housing developed or operated pursuant to a contract between the Secretary of Housing and Urban Development and an Indian housing authority.''

**REPORTS ON NUMBER AND COST OF FEDERALLY ASSISTED UNITS**

Urban Development to submit an annual report to the House and Senate Committees on Appropriations regarding the number of Federally assisted units under leased, the per unit cost of such units, was repealed by Pub. L. 115–51, div. K, title II, §238, May 5, 2017, 131 Stat. 789.

**Funding of Certain Public Housing**

Pub. L. 105–276, title II, §238, Oct. 21, 1998, 112 Stat. 2490, which provided that no funds in this Act or any other Act may hereafter be used by the Secretary of Housing and Urban Development to determine allocations or provide assistance for operating subsidies or modernization for certain State and city funded and locally developed public housing units unless such unit was so assisted before Oct. 1, 1998, was repealed by Pub. L. 108–7, div. K, title II, §212(b), Feb. 20, 2003, 117 Stat. 504.


**Congressional Statement of Findings and Purposes**


"(a) **Findings.**—Congress finds that—

"(1) there exists throughout the Nation a need for decent, safe, and affordable housing;

"(2) the inventory of public housing units owned, assisted, or operated by public housing agencies, an asset in which the Federal Government has invested over $90,000,000,000, has traditionally provided rental housing that is affordable to low-income persons;

"(3) despite serving this critical function, the public housing system is plagued by a series of problems, including the concentration of very poor people in very poor neighborhoods and disincentives for economic self-sufficiency;

"(4) the Federal method of overseeing every aspect of public housing by detailed and complex statutes and regulations has aggravated the problem and has placed excessive administrative burdens on public housing agencies; and

"(5) the interests of low-income persons, and the public interest, will best be served by a reformed public housing program that—

"(A) consolidates many public housing programs into programs for the operation and capital needs of public housing;

"(B) streamlines program requirements;

"(C) vests in public housing agencies that perform well the maximum feasible authority, discretion, and control with appropriate accountability to public housing residents, localities, and the general public; and

"(D) rewards employment and economic self-sufficiency of public housing residents.

"(b) **Purposes.**—The purpose of this title [see Tables for classification] is to promote homes that are affordable to low-income families in safe and healthy environments, and thereby contribute to the supply of affordable housing, by—

"(1) deregulating and decontrolling public housing agencies, thereby enabling them to perform as property and asset managers;

"(2) providing for more flexible use of Federal assistance to public housing agencies, allowing the authorities to leverage and combine assistance amounts with amounts obtained from other sources;

"(3) facilitating mixed income communities and decreasing concentrations of poverty in public housing;

"(4) increasing accountability and rewarding effective management of public housing agencies;

"(5) creating incentives and economic opportunities for residents of dwelling units assisted by public housing agencies to work, become self-sufficient, and transition out of public housing and federally assisted dwelling units;

"(6) consolidating the voucher and certificate programs for rental assistance under section 8 of the United States Housing Act of 1937 (42 U.S.C. 1437f) into a single market-driven program that will assist in making tenant-based rental assistance under such section more successful at helping low-income families obtain affordable housing and will increase housing choice for low-income families; and

"(7) remedying the problems of troubled public housing agencies and replacing or revitalizing severely distressed public housing projects."

**Mental Health Action Plan**

Pub. L. 105–276, title V, §517, Oct. 21, 1998, 112 Stat. 2550, provided that: "The Secretary of Housing and Urban Development, in consultation with the Secretary of Health and Human Services, the Secretary of Labor, and appropriate State and local officials and representatives, shall—

"(1) develop an action plan and list of recommendations for the improvement of means of providing severe mental illness treatment to families and individuals receiving housing assistance under the United States Housing Act of 1937 (42 U.S.C. 1437 et seq.), including public housing residents, residents of multi-family housing assisted with project-based assistance under section 8 of such Act (42 U.S.C. 1437f), and recipients of tenant-based assistance under such section; and

"(2) develop and disseminate a list of current practices among public housing agencies and owners of assisted housing that serve to benefit persons in need of mental health care."

**Annual Report**


"(a) **In General.**—Not later than 1 year after the date of the enactment of this Act [Oct. 21, 1998], and annually thereafter, the Secretary shall submit a report to the Congress on—

"(1) the impact of the amendments made by this Act [Pub. L. 105–276, see Tables for classification] on—

"(A) the demographics of public housing residents and families receiving tenant-based assistance under the United States Housing Act of 1937 (42 U.S.C. 1437 et seq.); and

"(B) the economic viability of public housing agencies; and

"(2) the effectiveness of the rent policies established by this Act and the amendments made by this Act on the employment status and earned income of public housing residents.

"(b) **Effective Date.**—This section shall take effect on the date of the enactment of this Act [Oct. 21, 1998]."

**Use of American Products**


"(a) **Purchase of American-Made Equipment and Products.**—It is the sense of the Congress that, to the greatest extent practicable, all equipment and products purchased with funds made available in this Act [Pub. L. 105–276, see Tables for classification] should be American made.

"(b) **Notice Requirement.**—In providing financial assistance to, or entering into any contract with, any entity using funds made available in this Act, the head of each Federal agency, to the greatest extent practicable, shall provide to such entity a notice describing the statement made in subsection (a) by the Congress.

"(c) **Effective Date.**—This section shall take effect on the date of the enactment of this Act [Oct. 21, 1998]."

**GAO Study on Housing Assistance Program Costs**

"(a) STUDY.—The Comptroller General of the United States shall conduct a study that provides an objective and independent accounting and analysis of the full cost to the Federal Government, public housing agencies, State and local governments, and other entities, per assisted household, of the Federal assisted housing programs, taking into account the qualitative differences among Federal assisted housing programs in accordance with applicable standards of the Department of Housing and Urban Development.

(b) CONTENTS.—The study under this section shall—

(1) analyze the full cost to the Federal Government, public housing agencies, State and local governments, and other parties, per assisted household, of the Federal assisted housing programs, in accordance with generally accepted accounting principles, and shall conduct the analysis on a nationwide and regional basis and in a manner such that accurate per unit cost comparisons may be made between Federal assisted housing programs, including grants, direct subsidies, tax concessions, Federal mortgage insurance liability, periodic renovation and rehabilitation, and modernization costs, demolition costs, and other ancillary costs such as security; and

(2) measure and evaluate qualitative differences among Federal assisted housing programs in accordance with applicable standards of the Department of Housing and Urban Development.

(c) PROHIBITION OF RECOMMENDATIONS.—In conducting the study under this section and reporting under subsection (e), the Comptroller General may not make any recommendations regarding Federal housing policy.

(d) FEDERAL ASSISTED HOUSING PROGRAMS.—For purposes of this section, the term ‘Federal assisted housing programs’ means—

(1) the public housing program under the United States Housing Act of 1937 [42 U.S.C. 1437 et seq.], except that the study under this section shall differentiate between and compare the development and construction of new public housing and the assistance of existing public housing structures;

(2) the certificate program for rental assistance under section 8(b)(1) of the United States Housing Act of 1937 [42 U.S.C. 1437(b)(1)];

(3) the voucher program for rental assistance under section 8 of the United States Housing Act of 1937 [42 U.S.C. 1437f(o)];

(4) the programs for project-based assistance under section 8 of the United States Housing Act of 1937 [42 U.S.C. 1437f];

(5) the rental assistance payments program under section 232(a)(2)(A) of the Housing Act of 1949 [42 U.S.C. 1490a(a)(2)(A)];

(6) the program for housing for the elderly under section 202 of the Housing Act of 1959 [12 U.S.C. 1701q];

(7) the program for housing for persons with disabilities under section 811 of the Cranston-Gonzalez National Affordable Housing Act [42 U.S.C. 8013];

(8) the program for financing housing by a loan or mortgage insured under section 221(d)(3) of the National Housing Act [12 U.S.C. 1715(i)(3)] that bears interest at a rate determined under the provisions of section 221(d)(6) of such Act [12 U.S.C. 1715(d)(6)];

(9) the program under section 236 of the National Housing Act [12 U.S.C. 1715–1];

(10) the program for construction or substantial rehabilitation under section 8(b)(2) of the United States Housing Act of 1937 [42 U.S.C. 1437f(b)(2)], as in effect before October 1, 1963; and

(11) any other program for housing assistance administered by the Secretary of Housing and Urban Development or the Secretary of Agriculture, under which occupancy in the housing assisted or housing assistance provided is based on income, as the Comptroller General may determine.

(e) REPORT.—Not later than 12 months after the date of the enactment of this Act (Oct. 21, 1998), the Comptroller General shall submit to the Congress a final report which shall contain the results of the study under this section, including the analysis and estimates required under subsection (b).

(f) EFFECTIVE DATE.—This section shall take effect on the date of the enactment of this Act (Oct. 21, 1998)."

LIMITATION ON WITHOLDING OR CONDITIONING OF ASSISTANCE


§ 1437a. Rental payments

(a) Families included; rent options; minimum amount; occupancy by police officers and over-income families

(1) Dwelling units assisted under this chapter 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 at least annually; 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 chapter (other than a family assisted under section 1437f(c) or (y) of this title or paying rent under section 1437f(c)(3)(B) of this title) 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 month-
ly 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 Responsibility 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 1437f(c) of this title; 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 1437f(c) of this title;

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 subsection (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 2 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 1437f(o)(2) of this title, or section 206(d) of the Housing and Urban-Rural Recovery Act of 1983 (including paragraph (2) 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—

(1) 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 1437f of this title; and

(III) each family who is assisted under the voucher program under section 1437f of this title, 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 1437f of this title 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 [8 U.S.C. 1101 et seq.] who would be entitled to public benefits but for title IV of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 [8 U.S.C. 1601 et seq.]; (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 nature, 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 public housing to resides in a public housing project to an over-income family who is assisted under any other program for housing assistance from the 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 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.

(b) Definition of terms under this chapter

When used in this chapter:

(1) The term “low-income housing” means decent, safe, and sanitary dwellings assisted under this chapter. The term “public housing” means low-income housing, and all necessary appurtenances thereto, assisted under this chapter other than under sections 9217f of this title. 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 chapter, 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 cent 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.

(B) The term “very low-income families” means low-income families whose incomes do not exceed 50 per cent 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 cent 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 9902(2) of this title 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 1990 of this title, 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 chapter, the Secretary shall determine 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 for each such county, except that such county be 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 Westchester and Rockland Counties, in the State of 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, and (v) any other single person. In no event may any single person under clause (v) of the first sentence be provided a housing unit assisted under this chapter 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—

So in original. Probably should be “‘extremely low-income families’”.
(i) has a disability as defined in section 423 of this title,
(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 15002 of this title.

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 subchapter, solely on the basis of any drug or alcohol dependence. The Secretary shall consult with other appropriate Federal agencies to implement the preceding sentence.

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

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

(4) The term “income” means income from all sources of each member of the household, as determined in accordance with criteria prescribed by the Secretary, in consultation with the Secretary of Agriculture, except that any amounts not actually received by the family and any amounts which would be eligible for exclusion under section 1382b(a)(7) of this title or any deferred Department of Veterans Affairs disability benefits that are received in a lump sum amount or in prospective monthly amounts may not be considered as income under this paragraph.

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

(A) MANDATORY EXCLUSIONS.—In determining adjusted income, a public housing agency shall exclude from the annual income of a family the following amounts:

(i) EIGHTY for any elderly or disabled family;
(ii) MEDICAL EXPENSES.—The amount by which 3 percent of the annual family income is exceeded by the sum of—

(I) unreimbursed medical expenses of any elderly family or disabled family;

(ii) unreimbursed reasonable attendant care and auxiliary apparatus expenses for each handicapped member of the family, to the extent necessary to enable any member of such family (including such handicapped member) to be employed.

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

(iv) 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.

(v) CHILD SUPPORT PAYMENTS.—Any payment made by a member of the family for the support and maintenance of any child who does not reside in the household, except that the amount excluded under this clause may not exceed $480 for each child for whom such payment is made; except that this clause shall apply only to the extent approved in appropriations Acts.

(vi) SPOUSAL SUPPORT EXPENSES.—Any payment made by a member of the family for the support and maintenance of any spouse or former spouse who does not reside in the household, except that the amount excluded under this clause shall not exceed the lesser of (I) the amount that such family member has a legal obligation to pay, or (II) $550 for each individual for whom such payment is made; except that this clause shall apply only to the extent approved in appropriations Acts.

(vii) EARNED INCOME OF MINORS.—The amount of any earned income of a member of the family who is not—

(I) 18 years of age or older; and
(II) the head of the household (or the spouse of the head of the household).

(B) PERMISSIVE EXCLUSIONS FOR PUBLIC HOUSING.—In determining adjusted income, a public housing agency may, in the discretion of the agency, establish exclusions from the annual income of a family residing in a public housing dwelling unit. Such exclusions may include the following amounts:

(i) EXCESSIVE TRAVEL EXPENSES.—Excessive travel expenses in an amount not to exceed $25 per family per week, for employment- or education-related travel.
(ii) EARNED INCOME.—An amount of any earned income of the family, established at the discretion of the public housing agency, which may be based on—

(I) all earned income of the family; or

(II) the amount earned by particular members of the family;

(iii) the amount earned by families having certain characteristics; or

(iv) the amount earned by families or members during certain periods or from certain sources.

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(iii) OTHERS.—Such other amounts for other purposes, as the public housing agency may establish.

(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 1437f PROGRAM.—For purposes of the program for tenant-based assistance under section 1437f of this title, 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 1437f of this title (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 1437f of this title, 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 1437f of this title and enter into housing assistance payments contracts with owners and perform the other functions of public housing agency under section 1437f of this title; 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 1437f of this title, 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 802 of title 21).

(10) MIXED-FINANCE PROJECT.—The term “mixed-finance project” means a public housing project that meets the requirements of section 1437z-7 of this title.

(11) PUBLIC HOUSING AGENCY PLAN.—The term “public housing agency plan” means the plan of a public housing agency prepared in accordance with section 1437c-1 of this title.

(12) CAPITAL FUND.—The term “Capital Fund” means the fund established under section 1437g(d) of this title.

(13) OPERATING FUND.—The term “Operating Fund” means the fund established under section 1437g(e) of this title.

(c) Definition of terms used in reference to public housing

When used in reference to public housing:

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

(2) The term “operation” means any or all undertakings appropriate for management, operation, services, maintenance, security (including the cost of security personnel), or financing in connection with a low-income housing project. The term also means the financing of tenant programs and services for families residing in low-income housing projects, particularly where there is maximum feasible participation of the tenants in the development and operation of such tenant programs and services. As used in this paragraph, the term “tenant programs and services” includes the development and maintenance of tenant organizations which participate in the management of low-income housing projects; the training of tenants to manage and operate such projects and the utilization of their services in project management and operation; counseling on household management, housekeeping, budgeting, money management, child care, and similar matters; advice as to resources for job training and placement, education, welfare, health, and other community services; services which are directly related to meeting tenant needs and providing a wholesome living environment; and referral to appropriate agencies in the community when necessary for the provision of such services. To the maximum extent available and appropriate, existing public and private agencies in the community shall be used for the provision of such services.

(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.

(4) The term “congregate housing” means low-rent housing with which there is connected a
Central dining facility where wholesome and economical meals can be served to occupants. Expenditures incurred by a public housing agency in the operation of a central dining facility in connection with congregate housing (other than the cost of providing food and service) shall be considered a cost of operation of the project.

(5) The terms "group home" and "independent living facility" have the meanings given such terms in section 8013(k) of this title.

(d) Disallowance of earned income from rent determinations

(1) In general

Notwithstanding any other provision of law, the rent payable under subsection (a) by a family described in paragraph (3) of this subsection may not be increased as a result of the increased income due to such employment during the 12-month period beginning on the date on which the employment is commenced.

(2) Phase-in of rent increases

Upon the expiration of the 12-month period referred to in paragraph (1), the rent payable by a family described in paragraph (3) may be increased due to the continued employment of the family member described in paragraph (3)(B), except that during the 12-month period beginning upon such expiration the amount of the increase may not be greater than 50 percent of the amount of the total rent increase that would be applicable but for this paragraph.

(3) Eligible families

A family described in this paragraph is a family—

(A) that—
   (i) occupies a dwelling unit in a public housing project; or
   (ii) receives assistance under section 1437f of this title; and

(B) whose income increases as a result of employment of a member of the family who was previously unemployed for 1 or more years:
   (i) whose earned income increases during the participation of a family member in any family self-sufficiency or other job training program; or
   (ii) who is or was, within 6 months, assisted under any State program for temporary assistance for needy families funded under part A of title IV of the Social Security Act [42 U.S.C. 601 et seq.] and whose earned income increases.

(4) Applicability

This subsection and subsection (e) shall apply beginning upon October 1, 1999, except that this subsection and subsection (e) shall apply with respect to any family described in paragraph 3(A)(ii) only to the extent provided in advance in appropriations Acts.

(e) Individual savings accounts

(1) In general

In lieu of a disallowance of earned income under subsection (d), upon the request of a family that qualifies under subsection (d), a public housing agency may establish an individual savings account in accordance with this subsection for that family.

(2) Deposits to account

The public housing agency shall deposit in any savings account established under this subsection an amount equal to the total amount that otherwise would be applied to the family’s rent payment under subsection (a) as a result of employment.

(3) Withdrawal from account

Amounts deposited in a savings account established under this subsection may only be withdrawn by the family for the purpose of—

(A) purchasing a home;

(B) paying education costs of family members;

(C) moving out of public or assisted housing; or

(D) paying any other expense authorized by the public housing agency for the purpose of promoting the economic self-sufficiency of residents of public and assisted housing.

(f) 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 chapter 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 1437f of this title, or

(C) for which project-based assistance is provided under section 1437f of this title, section 1437bb of this title, or section 811.


So in original. Probably should be paragraph "(3)(A)(ii)".

So in original. The comma probably should be a semicolon.
two subparagraphs of subsection (a):—

(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 (ii) 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 preceding year.

(B) Use of prior year income.—In determining family income for purposes of this section shall be subject to the following new paragraph:

(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 (ii) 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 preceding year.

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

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

(D) Safe harbor.—A public housing agency or owner may, to the extent such information is available to the public housing agency or owner, determine the family's income prior to the application of any deductions based on timely income determinations made for purposes of other means-tested Federal public assistance programs (including the program for block grants to States for temporary assistance for needy families under part A of title IV of the Social Security Act, a program for Medicaid assistance under a State plan approved under title XIX of the Social Security Act, and the supplemental nutrition assistance program (as such term is defined in section 2012 of title 7)). 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 deter-
"(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 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 title 26 or any qualified tuition program under section 529 of such title.

"(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) 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.";


Section 505(a) of the Quality Housing and Work Responsibility Act of 1998, referred to in subsec. (b)(6)(B)(i), is section 505(a) of Pub. L. 105–276 which is set out as an Effective Date of 1998 Amendment note under section 1457 of this title.


Section 811 of the United States Housing Act of 1937, but that Act does not contain a section 811.

PRIOR PROVISIONS

A prior section 3 of act Sept. 1, 1937, ch. 896, 50 Stat. 889, as amended, established the United States Housing Authority and was classified to section 1402 of this title prior to the general revision of this chapter by Pub. L. 93–383.

Prior similar provisions were contained in section 2 of act Sept. 1, 1937, ch. 896, 50 Stat. 888, which was classified to section 1402 of this title prior to the general revision of this chapter by Pub. L. 93–383.

AMENDMENTS


Subsec. (a)(6), (7). Pub. L. 114–201, §102(a)(1)(B), added pars. (6) and (7).

Subsec. (b)(4), (5). Pub. L. 114–201, §102(c), added pars. (4) and (5) and struck out former pars. (4) and (5) which defined the terms “income” and “adjusted income”, respectively.

Subsecs. (d) to (f). Pub. L. 114–201, §102(a)(2), (3), redesignated subsec. (f) as (d) and struck out former subsecs. (d) and (e) which related to disallowance of earned income from rent determinations and individual savings accounts, respectively.

2015—Subsec. (a)(1). Pub. L. 114–94 inserted before period at end of second sentence “; 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 for any year in which the income is not less than one and one-half times the applicable fair market rental established under section 1437f(c) of this title and which shall,” in introductory provisions, added subcl. (I) which read as follows: “be based on the rental value of the unit, as determined by the public housing agency; and”.

Pub. L. 115–76, §210(2), inserted concluding provisions and struck out former concluding provisions, which read as follows: “The rental amount for a dwelling unit shall be considered to comply with the requirements of this clause if such amount does not exceed the actual monthly costs to the public housing agency attributable to providing and operating the dwelling unit. The preceding sentence may not be construed to require establishment of rental amounts equal to or based on operating costs or to prevent public housing agencies from developing flat rents required under this clause in any other manner that may comply with this clause.”

Pub. L. 113–76, §210(1), in introductory provisions, substituted “Each” for “Except as otherwise provided under this clause, each” and inserted “not be lower in amount than 80 percent of the applicable fair market rental established under section 1437f(c) of this title and which shall” after “which shall”.


Subsec. (b)(2). Pub. L. 113–76, §238(a), designated first sentence as subpar. (A), second sentence as subpar. (B), and remaining sentences as subpar. (D), and added subpar. (C).

Subsec. (b)(6)(A). Pub. L. 113–76, §212, inserted “, or a consortium of such entities or bodies as approved by the Secretary” before period at end.

2009—Subsec. (b)(4). Pub. L. 110–289 inserted “or any deferred Department of Veterans Affairs disability benefits that are received in a lump sum amount or in prospective monthly amounts” before “may not be considered”.


1999—Subsec. (f)(11). Pub. L. 106–74, §214(a)(1), inserted “, or the owner responsible for determining the participant’s eligibility or level of benefits,” after “A public housing agency and ”, or to the owner responsible for determining the participant’s eligibility or level of benefits” before period at end.


1998—Subsec. (a)(1). Pub. L. 105–276, §507(c), inserted “and subject to the requirement under paragraph (3)” after “paragraph (2)” in third sentence.


Subsec. (a)(4), (5). Pub. L. 105–276, §528(a), added pars. (4) and (5).

Subsec. (b)(1). Pub. L. 105–276, §506(b), inserted after second sentence “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.”

Subsec. (b)(2). Pub. L. 105–276, §508(c)(1), substituted “limits for Westchester and Rockland Counties” for “limits for Westchester County”, inserted “each” before “such county”, substituted “include Westchester or Rockland Counties” for “include Westchester County” and “include Westchester and Rockland Counties” for “including Westchester County”, and inserted at end “In determining areas that are designated as difficult development areas for purposes of the low-income housing credit, the Secretary may include every region.”


Pub. L. 113–235, §238(1), substituted “which” for “ shall not be lower than” in introductory provisions, added subcl. (I) which read as follows: “be based on the rental value of the unit, as determined by the public housing agency; and”.

Pub. L. 113–76, §210(2), inserted concluding provisions and struck out former concluding provisions, which read as follows: “The rental amount for a dwelling unit shall be considered to comply with the requirements of this clause if such amount does not exceed the actual monthly costs to the public housing agency attributable to providing and operating the dwelling unit. The preceding sentence may not be construed to require establishment of rental amounts equal to or based on operating costs or to prevent public housing agencies from developing flat rents required under this clause in any other manner that may comply with this clause.”
Subsec. (b)(3)(A). Pub. L. 105–276, § 506(2)(A), struck out at end “In determining priority for admission to housing under this chapter, the Secretary shall give preference to single persons who are elderly, disabled, or displaced persons before single persons who are eligible under clause (v) of the first sentence.”


Subsec. (b)(3)(E). Pub. L. 105–276, § 506(3), inserted at end “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 subchapter, solely on the basis of any drug or alcohol dependence.”

The Secretary may—

(1) establish and maintain a program providing employment training and support services in accordance with the Family Support Act of 1988, section 1437t of this title, or any comparable law;

(2) provide funds for employment- or education-related travel, except that this subparagraph shall apply only to families assisted by Indian housing authorities; and

(i) the Secretary may provide for employment- or education-related travel, except that this subparagraph shall apply only to families assisted by Indian housing authorities; and

(ii) is not more than the average monthly amount of debt service and operating expenses attributable to dwelling units of similar size in public housing projects owned and operated by such agency.

(B) The terms of all ceiling rents established prior to December 15, 1989, shall be extended without time limitation.”

See Effective and Termination Dates of 1996 Amendments note below.


Subsec. (b)(6). Pub. L. 104–330, § 501(b)(1)(A)(ii), redesignated subpar. (H) as (G) and struck out former subpar. (G) which read as follows: “excessive travel expenses, not to exceed $25 per family per week, for employment- or education-related travel, except that this subparagraph shall apply only to families assisted by Indian housing authorities; and”.


Pub. L. 104–330, § 501(b)(1)(B), struck out at end “The term includes any Indian housing authority.”

Subsec. (b)(7). Pub. L. 104–330, § 501(b)(1)(C), inserted “and” before “the Trust” and struck out “, and Indian tribe” after “Pacific Islands.”

Subsec. (b)(9) to (12). Pub. L. 104–330, § 501(b)(1)(D), struck out pars. (9) to (12) which read as follows: “(9) The term ‘Indian’ means any person recognized as being an Indian or Alaska Native by an Indian tribe, the Federal Government, or any State.

(10) The term ‘Indian area’ means the area within which an Indian housing authority is authorized to provide low-income housing.

(11) The term ‘Indian housing authority’ means any entity that—

(A) is authorized to engage in or assist in the development or operation of low-income housing for Indians; and

(B) is established—

(i) by exercise of the power of self-government of an Indian tribe independent of State law; or

(ii) by operation of State law providing specifically for housing authorities for Indians, including regional housing authorities in the State of Alaska.

(12) The term ‘Indian tribe’ means any tribe, band, pueblo, group, community, or nation of Indians or Alaska Natives.”

consultation with the public housing agency involved, paragraph to not more than 30 per centum if, following limitation described in the second sentence of this clause (D), struck out third from last sentence

housing agency be occupied by single persons under clause (D) be provided a housing unit assisted other single persons. In no event may any single person siders of family composition and size.

from the home due to placement in foster care on con -

statement of median incomes and income ceilings and limits taking into account the subsidy characteristics and

any rural area, as defined in section 1490 of this title, provision at end that such ceilings shall be established for Westchester County and for metropolitan statisti-

ting into account the leasehold condition or location of such dwelling units, and that such dwelling units may be occupied if made available to single persons described in clause (D).


Subsec. (b)(6), (7), (B), (11)(A), (c), Pub. L. 101–265, §572(2), substituted “low-income housing” for “lower income housing” wherever appearing.


Subsec. (b)(5)(E), (F), Pub. L. 101–625, §573(c)(3), added subpars. (E) and (F).

Subsec. (b)(5)(F). Pub. L. 101–625, §573(c)(2), struck out “elderly” before “family” in cl. (l) and struck out “and” at end.


Subsec. (b)(6). Pub. L. 101–625, §573(c)(2), struck out “‘elderly’ before ‘family’” in cl. (l) and struck out “and” at end.

Subsec. (b)(7). Pub. L. 101–625, §573(c)(1), substituted “low-income housing” for “lower income housing.”


Subsec. (b)(12). Pub. L. 101–625, §573(c)(4), inserted sentences at end relating to effect of temporary absence of child from the home due to placement in foster care on conside-


Subsec. (b)(5)(D). Pub. L. 101–625, §573(c)(3), added subpars. (E) and (F).


Subsec. (b)(7). Pub. L. 101–358, §4(c), struck out “‘bands, groups, and Nations, including Alaska Indians, Aleuts, and Eskimos, of the United States’” after “‘and Indian tribes’”.


1984—Subsec. (b)(2). Pub. L. 98–479, §102(b)(1), inserted provision at end that such ceilings shall be established in consultation with the Secretary of Agriculture for any rural area, as defined in section 1490 of this title, taking into account the subsidy characteristics and types of programs to which such ceilings apply.

Subsec. (b)(4). Pub. L. 98–479, §102(b)(2), inserted “‘in consultation with the Secretary of Agriculture’” at end.

Subsec. (b)(5)(C). Pub. L. 98–479, §102(b)(3), designated existing provision as cl. (i), added cl. (ii), and inserted “‘the amount by which the aggregate of the following expenses of the family’” in provisions preceding cl. (i).

Subsec. (b)(6). Pub. L. 98–181, §206(a), in provisions preceding par. (1), inserted provision requiring annual review of family income, and inserted “‘other than a family assisted under section 1437f(o) of this title’”.

Subsec. (b)(2). Pub. L. 98–181, §206(b), qualified the term “‘very low-income families’” in authorizing the Secretary to establish, where necessary, variations in income ceilings higher or lower than 50 per cent of the median for the area.

Subsec. (b)(3). Pub. L. 98–181, §202, inserted provision at end of par. (3) authorizing increase from 15 to 30 per cent in the single person occupancy limitation for nonoccupancy of the involved dwelling units.

Subsec. (b)(5). Pub. L. 98–181, §206(c), inserted par. (5) generally, substituting provisions designating cls. (A) to (D) for prior exclusion from “adjusted income” of
such amounts or types of income as the Secretary might prescribe, taking into account the number of minor children and other appropriate factors.

1981—Pub. L. 97–35 added subsecs. (a) and (c) and designated provisions constituting former section as subsec. (b). (b) as so designated, substituted provisions defining ‘‘lower income housing,’’ ‘‘lower income families’’, ‘‘families’’, ‘‘income’’, ‘‘adjusted income’’, ‘‘public housing agency’’, ‘‘State’’, and ‘‘Secretary’’ for provisions defining ‘‘low-income housing’’, ‘‘low-income families’’, ‘‘development’’, ‘‘operation’’, ‘‘acquisition cost’’, ‘‘public housing agency’’, ‘‘State’’, ‘‘Secretary’’, and ‘‘low-income housing project’’.

1979—Par. (1). Pub. L. 96–153 substituted provisions that the rental for a dwelling shall not exceed certain portion of the resident family’s income to be established by the Secretary, and that in the case of a very low income family 25 per centum and in other cases 30 per centum of family income for provisions that such rental shall not exceed one-fourth of the family’s income as defined by the Secretary.

1976—Par. (2)(D). Pub. L. 95–557 substituted ‘‘15 per cent’’ for ‘‘10 per cent’’.

Effective Date of 2016 Amendment

Pub. L. 114–201, title I, §102(b), July 29, 2016, 130 Stat. 791, provided that: ‘‘The Secretary of Housing and Urban Development shall issue notice or regulations to implement this section [amending this section and section 1437f of this title and enacting provisions set out as a note below] and this section shall take effect after such issuance, except that this section may only take effect upon the commencement of a calendar year.’’

Effective Date of 1998 Amendment

Amendment by title V of Pub. L. 105–276 effective and applicable beginning upon Oct. 1, 1998, except as otherwise provided, with provision that Secretary may implement amendment before such date, except to extent that such amendment provides otherwise, and with savings provision, see section 503 of Pub. L. 105–276, set out as a note under section 1437f of this title.

Pub. L. 105–276, title V, §507(d), Oct. 21, 1998, 112 Stat. 2526, provided that: ‘‘The amendments under this section [amending this section] are made on, and shall apply beginning upon, the date of the enactment of this Act [Oct. 21, 1998].’’

Pub. L. 105–276, title V, §508(c)(2), Oct. 21, 1998, 112 Stat. 2529, provided that: ‘‘The amendments made by this paragraph [probably means this subsection, amending this section] are made on, and shall apply beginning upon, the date of the enactment of this Act [Oct. 21, 1998].’’

Pub. L. 105–276, title V, §524(b), Oct. 21, 1998, 112 Stat. 2568, provided that: ‘‘The amendment made by this paragraph [probably means this section, amending this section] is made on, and shall apply beginning upon, the date of the enactment of this Act [Oct. 21, 1998].’’

Effective and Termination Dates of 1996 Amendments

Pub. L. 100–338, §6, June 29, 1988, 102 Stat. 681, provided that: ‘‘The Secretary of Housing and Urban Development may carry out programs to provide lower income housing on Indian reservations and other Indian areas only in accordance with the amendments made by this Act [enacting sections 1437aa to 1437ee of this title, amending this section and section 1437f of this title, and enacting provisions set out as a note under section 1437f of this title] not later than the expiration of the 90-day period beginning on the date of the enactment of this Act [Nov. 28, 1990]. The regulations may not take effect until after September 30, 1991.’’

Effective Date of 1988 Amendment

Amendment by Pub. L. 96–153 effective and applicable beginning upon Oct. 1, 1981, see section 271 of Pub. L. 96–153, set out as an Effective Date note under section 5701 of Title 12, Banks and Banking.

Effective Date of 1979 Amendment

Amendment by Pub. L. 96–153, title II, §202(c), Dec. 21, 1979, 93 Stat. 1106, which provided that amendment by section 202(a) of Pub. L. 96–153 (amending this section and section 1437f of this title) shall become effective on Jan. 1, 1980, except that the amount of the tenant contribution required of families whose occupancy of housing units assisted under this chapter commenced prior to that date shall be determined in accordance with the provisions of this chapter in effect on Dec. 31, 1979, so long as such occupancy was continuous thereafter, was repealed by Pub. L. 97–35, title III, §322(h)(1), Aug. 13, 1981, 95 Stat. 404.

Effective Date of 1978 Amendment

Effective Date

Section effective on such date or dates as the Secretary of Housing and Urban Development shall prescribe, but not later than eighteen months after Aug. 22, 1974, except that all of the provisions of par. (1) shall become effective on the same date, as section 201(b) of Pub. L. 93–383, set out as a note under section 1437 of this title.

The Department of Housing and Urban Development adopted an interim rule, 24 CFR 860.409, Sept. 26, 1975, 40 F.R. 44326, which provided: "The effective date of section 3(1) of the United States Housing Act of 1937, as amended [par. (1) of this section], shall be the date that these regulations [sections 860.401 to 860.409 of Title 24, CFR] are published in the Federal Register (September 26, 1975)."

REGULATIONS

Pub. L. 115–31, div. K, title II, §240, May 5, 2017, 131 Stat. 789, provided that: "The Secretary shall establish by notice such requirements as may be necessary to implement section 7801 of title LXXVIII of the Fixing America’s Surface Transportation Act (Public Law 114–94) [amending this section and section 1437f of this title], and the notice shall take effect upon issuance: Provided, That the Secretary shall commence rulemaking based on the initial notice no later than the expiration of the 6-month period following issuance of the notice and the rulemaking shall allow for the opportunity for public comment."

Pub. L. 115–31, div. L, title II, §243, Jan. 17, 2014, 128 Stat. 637, provided that: "The Secretary shall establish by notice such requirements as may be necessary to implement sections 210, 212, 220, 238, and 242 [amending by notice such requirements as may be necessary to making based on the initial notice no later than the opportunity for public comment."


"(B) Transition rule.—Prior to the issuance of final regulations under paragraph (1), a public housing agency may implement ceiling rents, which shall be not less than the monthly costs to operate the housing of the agency and—

(i) determined in accordance with section 3(a)(1)(A) of the United States Housing Act of 1937, as that section existed on the day before enactment of this Act [Jan. 26, 1996];

(ii) equal to the 95th percentile of the rent paid for a unit of comparable size by tenants in the same public housing project or a group of comparable projects totaling 50 units or more; or

(iii) equal to the fair market rent for the area in which the unit is located." (Section 402(b)(2) of Pub. L. 104–99, set out above, effective Jan. 26, 1996, and only for fiscal years 1996, 1997, and 1998, and to cease to be effective Oct. 21, 1996, see Effective and Termination Dates of 1996 Amendments notes above.)

Pub. L. 102–550, title I, §191, Oct. 28, 1992, 106 Stat. 3756, provided that: "The Secretary of Housing and Urban Development shall issue any final regulations necessary to implement the provisions of this title [see Tables for classification] and the amendments made by this title not later than the expiration of the 180-day period beginning on the date of the enactment of this Act [Oct. 28, 1992], except as expressly provided otherwise in this title and the amendments made by this title. Such regulations shall be issued after notice and opportunity for public comment pursuant to the provisions of section 553 of title 5, United States Code (notwithstanding subsections (a)(2), (b)(B), and (d)(3) of such section)."

Savings Provision

Pub. L. 105–276, title V, §508(b)(2), Oct. 21, 1998, 112 Stat. 2528, provided that: "Notwithstanding the amendment made by paragraph (1) [amending this section], the provisions of the undesignated paragraph at the end of section 3(c)(3)(A) of the United States Housing Act of 1937 [see 1998 and 1992 Amendment notes above], as such section was in effect immediately before the enactment of this Act [Oct. 21, 1998], shall continue to apply until the effective date under section 503 of this Act, provided that: 'The Secretary of Housing and Urban Development shall issue any final regulations necessary to implement the provisions of this title [see Tables for classification] and the amendments made by such section.'"

Termination of Trust Territory of the Pacific Islands

For termination of Trust Territory of the Pacific Islands, see note set out preceding section 1681 of Title 48, Territories and Insular Possessions.

Adjustments to Operating Formula Due to Impact on Public Housing Revenues

Pub. L. 114–201, title I, §102(g)(1), July 29, 2016, 130 Stat. 781, provided that: "If the Secretary of Housing and Urban Development determines that the application of subsections (a) through (e) of this section [amending this section and section 1437f of this title] results in a material and disproportionate reduction in the rental income of certain public housing agencies during the first year in which such subsections are implemented, the Secretary may make appropriate adjustments in the formula income for such year of those agencies experiencing such a reduction."

Transitional Ceiling Rents

Pub. L. 105–276, title V, §519(d), Oct. 21, 1998, 112 Stat. 2561, provided that: "Nothing in section 3(a)(1) of the United States Housing Act of 1937 (42 U.S.C. 1437a(a)(1)), during the period ending upon the later of the implementation of the formulae established pursuant to subsections (d)(2) and (e)(2) of section 402(f) of such Act (42 U.S.C. 1437g(d)(2), (e)(2)) (as amended by this section) and October 1, 1999, a public housing agency may take any of the following actions with respect to public housing:"

"(1) New provisions.—An agency may—

"(A) adopt and apply ceiling rents that reflect the reasonable market value of the housing, but that are not less than—

"(i) for housing other than housing predominantly for elderly or disabled families (or both), 75 percent of the monthly cost to operate the housing of the agency; and

"(ii) for housing predominantly for elderly or disabled families (or both), 100 percent of the monthly cost to operate the housing of the agency; and

"(iii) the monthly cost to make a deposit to a replacement reserve (in the sole discretion of the agency) and the tenant to whom that reserve relates (if any); and

"(B) transitional rules.—In addition to the transitional rules contained in sections 3(a)(1), 3(c)(3)(A), and 402(f)(3)(E) of the United States Housing Act of 1937 (42 U.S.C. 1437a(a)(1), 1437a(c)(3)(A), and 1437g(f)(3)(E)), an agency may establish a transitional ceiling rent in accordance with section 402(f)(3)(E) of the United States Housing Act of 1937 (42 U.S.C. 1437g(f)(3)(E)) by—"
§ 1437a  TITLE 42—THE PUBLIC HEALTH AND WELFARE

An agency may utilize the authority under section 3(a)(2) of the United States Housing Act of 1937 (42 U.S.C. 1437a(a)(2)), as in effect immediately before the enactment of this Act, notwithstanding any other provision of law (including the expiration of the applicability of such section or the repeal of such section).

**Certain Payments Made to Victims of Nazi Persecution Disregarded in Determining Eligibility for and Amount of Need-Based Benefits and Services**

Pub. L. 101–286, §1, Aug. 1, 1994, 108 Stat. 1450, provided that:

"(a) IN GENERAL.—Payments made to individuals because of their status as victims of Nazi persecution shall be disregarded in determining eligibility for and the amount of benefits or services to be provided under any Federal or federally assisted program which provides benefits or services based, in whole or in part, on need.

"(b) APPLICABILITY.—Subsection (a) shall apply to determinations made on or after the date of the enactment of this Act [Aug. 1, 1994] with respect to payments referred to in subsection (a) made before, on, or after such date.

"(c) PROHIBITION AGAINST RECOVERY OF VALUE OF EXCESSIVE BENEFITS OR SERVICES PROVIDED DUE TO FAILURE TO TAKE ACCOUNT OF CERTAIN PAYMENTS MADE TO VICTIMS OF NAZI PERSECUTION.—No officer, agency, or instrumentality of any government may attempt to recover the value of excessive benefits or services provided before the date of the enactment of this Act [Aug. 1, 1994] under any program referred to in subsection (a) by reason of any failure to take account of payments referred to in subsection (a).

"(d) NOTICE TO INDIVIDUALS WHO MAY HAVE BEEN DENIED ELIGIBILITY FOR BENEFITS OR SERVICES PROVIDED DUE TO THE FAILURE TO DISREGARD CERTAIN PAYMENTS MADE TO VICTIMS OF NAZI PERSECUTION.—Any agency of government that has not disregarded payments referred to in subsection (a) in determining eligibility for a program referred to in subsection (a) shall make a good faith effort to notify any individual who may have been denied eligibility for benefits or services under the program of the potential eligibility of the individual for such benefits or services.

"(e) REIMBURSEMENT OF ADDITIONAL RENT PAID UNDER HUD HOUSING PROGRAMS BECAUSE OF FAILURE TO DISREGARD REIMBURSEMENT PAYMENTS.—

"(1) AUTHORITY.—To the extent that amounts are provided in appropriation Acts for payments under this subsection, the Secretary of Housing and Urban Development shall make payments to qualified individuals in the amount determined under paragraph (3).

"(2) QUALIFIED INDIVIDUALS.—For purposes of this subsection, the term 'qualified individual' means an individual who—

"(A) has received any payment because of the individual's status as a victim of Nazi persecution;

"(B) at any time during the period beginning on February 1, 1983 and ending on April 30, 1993, resided in a dwelling unit in housing assisted under any program for housing assistance of the Department of Housing and Urban Development under which rent payments for the unit were determined based on or taking into consideration the income of the occupants of the unit;

"(C) paid rent for such dwelling unit for any portion of the period referred to in subparagraph (B) in an amount determined in a manner that did not disregard the payment referred to in subparagraph (A); and

"(D) has submitted a claim for payment under this subsection as required under paragraph (4).

The term does not include the successors, heirs, or estate of an individual meeting the requirements of the preceding sentence.

"(3) AMOUNT OF PAYMENT.—The amount of a payment under this subsection for a qualified individual shall be equal to the difference between—

"(A) the sum of the amount of rent paid by the individual for rental of the dwelling unit of the individual assisted under a program for housing assistance of the Department of Housing and Urban Development, for the period referred to in paragraph (2)(B), and

"(B) the sum of the amount of rent that would have been payable by the individual for rental of such dwelling unit for such period if the payments referred to in paragraph (2)(A) were disregarded in determining the amount of rent payable by the individual for such period.

"(4) SUBMISSION OF CLAIMS.—A payment under this subsection for an individual may be made only pursuant to a written claim for such payment by such individual submitted to the Secretary of Housing and Urban Development in the form and manner required by the Secretary before—

"(A) in the case of any individual notified by the Department of Housing and Urban Development orally or in writing that such specific individual is eligible for a payment under this subsection, the expiration of the 12-month period beginning on the date of receipt of such notice; and

"(B) in the case of any other individual, the expiration of the 12-month period beginning on the date of the enactment of this Act [Aug. 1, 1994]."

**Inapplicability of Certain 1992 Amendments to Indian Public Housing**

Pub. L. 102–550, title VI, §623, Oct. 28, 1992, 106 Stat. 3820, provided that: "The amendments made by this title [§§621–626 of title VI of Pub. L. 102–550, amending this section and sections 1437c to 1437f, 1437g, 1437h, 1438, and 8013 of this title] shall not apply with respect to lower income housing developed or operated pursuant to a contract between the Secretary of Housing and Urban Development and an Indian housing authority."
(1) The following provisions of this paragraph apply to determinations of the rent to be paid by or on behalf of a tenant occupying housing assisted under the authorities amended by this section or subsections (a) through (h) of section 322 of the Housing and Community Development Amendments of 1981 [amending sections 1437 to 1437d, 1457a, 1457f, and 1457g of this title and sections 1701s and 1716z–1 of Title 12, Banks and Banking, and repealing provisions set out as notes under this section and section 1701s of Title 12] (hereinafter referred to as the 'Secretary') which occurs at least six months after the effective date of the enactment of this section [Nov. 30, 1983], the rental payments due after such date of enactment by any tenant benefiting from such assistance who was sixty-two years of age or older may not exceed 10 per centum of the tenant's monthly income, or the designated amount of welfare assistance, whichever amount is used to determine the monthly assistance payment for the tenant as of the effective date of such section or subsections (a) through (h) of section 322 of the United States Housing Act of 1937 [subsec. (a) of this section].

(2) Tenants of assisted housing other than those referred to in paragraph (1) shall be subject to immediate rent determination and contribution determinations in accordance with applicable law and without regard to the provisions of paragraph (1), but the Secretary shall provide that the rent or contribution payable by any such tenant who is occupying assisted housing on the effective date of any provision of Federal law or regulation shall not increase, as a result of any such provision of Federal law or regulation, by more than 10 per centum during any twelve-month period, unless the increase above 10 per centum is attributable to increases in income which are unrelated to such amendments, law, or regulation.

(3) In the case of tenants receiving rental assistance under section 521(a)(1) of the Housing Act of 1949 [section 1490a(a)(1) of this title] on the effective date of this section [Nov. 30, 1983] whose assistance is converted to rental assistance under section 8 of the United States Housing Act of 1937 [section 1437f of this title] or on after such date, the Secretary shall provide that the rent or contribution payable by any such tenant shall not increase, as a result of such conversion, by more than 10 per centum during any twelve-month period, unless the increase above 10 per centum is attributable to increases in income which are unrelated to such conversion or to any provision of Federal law or regulation.

(4)(A) Notwithstanding any other provision of law, in the case of the conversion of any assistance under section 101 of the Housing and Urban Development Act of 1965 [12 U.S.C. 1701a], section 236(b)(2) of the National Housing Act [12 U.S.C. 1715l–1(f)(2)], or section 23 of the United States Housing Act of 1937 [section 1437f of this title] as in effect before the date of the enactment of the Housing and Community Development Act of 1974 [Aug. 22, 1974]) to assistance under section 8 of the United States Housing Act of 1937, any increase in rent payments or contributions resulting from such conversion, and from the amendments made by this section of any tenant benefiting from such assistance who is sixty-two years of age or older may not exceed 10 per centum per annum.

(B) In the case of any such conversion of assistance occurring on or after October 1, 1981, and before the date of the enactment of this section [Nov. 30, 1983], the rental payments due after such date of enactment by any tenant benefiting from such assistance who was sixty-two years of age or older may not exceed 10 per centum of the lesser of the actual rental payment or contribution required, or 25 per centum of the tenant's income.

(5) The limitations on increases in rent contained in paragraphs (1)(B), (2), (3), and (4) shall remain in effect and may not be changed or superseded except by another provision of law which amends this subsection.

(6) As used in this subsection, the term 'contribution' means an amount representing 10 per centum of a tenant's monthly adjusted income, 10 per centum of the tenant's monthly income, or the designated amount of welfare assistance, whichever amount is used to determine the monthly assistance payment for the tenant as of the effective date of such section or subsections (a) through (h) of section 322 of the United States Housing Act of 1937 [subsec. (a) of this section].

(7) The provisions of subsections (a) through (h) of section 322 of the Housing and Community Development Amendments of 1981 shall be applicable to all affected tenants no later than five years following the date of enactment of such amendments [Aug. 13, 1981], except that the Secretary may extend the time for implementation if the Secretary determines that full implementation would result in extraordinary hardship for any class of tenants.


Establishment of Increased Monthly Rental Charge for Family Occupying Low-Income Housing Unit: Adjustment Factors

Pub. L. 93–383, title II, §202, Aug. 22, 1974, 88 Stat. 667, provided that: "To the extent that section 3(1) of the United States Housing Act of 1937, as amended by section 203(a) of this Act [par. (1) of this section], would require the establishment of an increased monthly rental charge for any family which occupies a low-income housing unit as of the effective date of such section 3(1) (other than by reason of the provisions relating to welfare assistance payments) [see Effective Date note set out above], the required adjustment shall be made in accordance with regulations of the Secretary, as follows: (A) the first adjustment shall not exceed $5 and shall become effective as of the month following the month of the first review of the family's income pursuant to section 9 of such Act [section 1437d(c)(2) of this title] which occurs at least six months after the effective date of such section 3(1), and (B) subsequent adjustments, each of which shall not exceed $5, shall be made at six-month intervals over whatever period is necessary to effect the full required increase in the family's rental charge."


Effective Date of Repeal

Repeal effective and applicable beginning upon Oct. 1, 1999, except as otherwise provided, with provision that Secretary may implement the repeal before such date, and with savings provision, see section 503 of Pub. L. 105–276, set out as an Effective Date of 1998 Amendment note under section 1437 of this title.
§ 1437b. Loans and commitments to make loans for low-income housing projects

(a) Authority of Secretary; interest rates; repayment date; use as security for obligations of public housing agency

The Secretary may make loans or commitments to make loans to public housing agencies to help finance or refinance the development, acquisition, or operation of low-income housing projects by such agencies. Any contract for such loans and any amendment to a contract for such loans shall provide that such loans shall bear interest at a rate specified by the Secretary which shall not be less than a rate determined by the Secretary of the Treasury taking into consideration the current average market yield on outstanding marketable obligations of the United States with remaining periods to maturity comparable to the average maturities of such loans, plus one-eighth of 1 per centum. Such loans shall be secured in such manner and shall be repaid within such period not exceeding forty years, or not exceeding forty years from the date of the bonds evidencing the loan, as the Secretary may determine. The Secretary may require loans or commitments to make loans under this section to be pledged as security for obligations issued by a public housing agency in connection with a low-income housing project.

(b) Issuance of obligations by Secretary; limitation on amounts; forms and denominations; terms and conditions; purchase, establishment of maturities and rates of interest, and sale by Secretary of the Treasury

The Secretary may issue and have outstanding at any one time notes and other obligations for purchase by the Secretary of the Treasury in an amount which will not, unless authorized by the President, exceed $1,500,000,000. For the purpose of determining obligations incurred to make loans pursuant to this chapter against any limitation otherwise applicable with respect to such loans, the Secretary shall estimate the maximum amount to be loaned at any one time pursuant to loan agreements then outstanding with public housing agencies. Such notes or other obligations shall be in such forms and denominations and shall be subject to such terms and conditions as may be prescribed by the Secretary with the approval of the Secretary of the Treasury. The notes or other obligations issued under this subsection shall have such maturities and bear such rate or rates of interest as shall be determined by the Secretary of the Treasury. The Secretary of the Treasury is authorized and directed to purchase any notes or other obligations of the Secretary issued hereunder and for such purpose is authorized to use as a public debt transaction the proceeds from the sale of any securities issued under chapter 31 of title 31, and the purposes for which securities may be issued under such chapter are extended to include any purchases of such obligations. The Secretary of the Treasury may at any time sell any of the notes or other obligations acquired by him under this section. All redemption, purchases, and sales by the Secretary of the Treasury of such notes or other obligations shall be treated as public debt transactions of the United States.

(c) Public and Indian housing financing reforms

(1) At such times as the Secretary may determine, and in accordance with such accounting and other procedures as the Secretary may prescribe, each loan made by the Secretary under subsection (a) that has any principal amount outstanding or any interest amount outstanding or accrued shall be forgiven; and the terms and conditions of any contract, or any amendment to a contract, for such loan with respect to any promise to repay such principal and interest shall be canceled. Such cancellation shall not affect any other terms and conditions of such contract, which shall remain in effect as if the cancellation had not occurred. This paragraph shall not apply to any loan the repayment of which was not to be made using annual contributions, or to any loan all or part of the proceeds of which are due a public housing agency from contractors or others.

(2)(A) On April 7, 1986, each note or other obligation issued by the Secretary to the Secretary of the Treasury pursuant to subsection (b), together with any promise to repay the principal and unpaid interest that has accrued on each note or obligation, shall be forgiven; and any other term or condition specified by each such obligation shall be canceled.

(B) On September 30, 1986, and on any subsequent September 30, each such note or other obligation issued by the Secretary to the Secretary of the Treasury pursuant to subsection (b) during the fiscal year ending on such date, together with any promise to repay the principal and unpaid interest that has accrued on each note or obligation, shall be forgiven; and any other term or condition specified by each such obligation shall be canceled.

(3) Any amount of budget authority (and contract authority) that becomes available during any fiscal year as a result of the forgiveness of any loan, note, or obligation under this subsection shall be rescinded.


Prior Provisions

A prior section 4 of act Sept. 1, 1937, ch. 896, 50 Stat. 899, as amended, provided for assistance of officers, etc., of other agencies and transfer of property to the Authority and was classified to section 1441 of this title, prior to the general revision of this chapter by Pub. L. 93–383.

Amendments


1984—Subsec. (b). Pub. L. 98–479 substituted “chapter 31 of title 31” for “the Second Liberty Bond Act, as amended” and “such chapter” for “such Act”.

### Effective Date of 1981 Amendment


### Carryover of Amounts of Budget Authority; Availability as Appropriation of Funds for Grants

Pub. L. 98–367, title I, Oct. 1, 1984, Pub. L. 99–500, title I, Oct. 18, 1986, Pub. L. 100–251, title I, Dec. 20, 1987, Pub. L. 100–202, title I, Dec. 23, 1987; Pub. L. 101–624, title I, Nov. 28, 1990, Pub. L. 102–325, title I, July 25, 1992; Pub. L. 102–571, Oct. 28, 1992, and Pub. L. 103–66, Oct. 30, 1993, title I, set out as a carryover of amounts heretofore provided in appropriations Acts by $7,805,668,000; provided that the amount of the increase in budget authority provided in contracts for annual contributions shall be increased above amounts hereetofore provided in appropriations Acts by $7,805,668,000; Provided further, That any part of the amount of the increase in budget authority provided for in the immediately foregoing proviso that is available under this Act for public housing development and acquisition costs or which is to be used for amendments for such costs, shall be available as an appropriation of funds, to remain available until expended, for grants, which are hereby authorized in lieu of loans under section 4(a) of the United States Housing Act of 1937 (42 U.S.C. 1437b), and which the Secretary may make on substantially the same terms (except for repayment unless repayment is a properly imposed sanction) as those hereetofore set forth in annual contributions contracts for loans and annual contributions: Provided further, That during 1987 and thereafter, any amounts of budget authority which are carried over from a prior year, or which are otherwise available for obligation, and which are available for public housing development and acquisition costs, together with any amounts of budget authority which are to be used for amendments for such costs, in accordance with any Act, shall also be made available as an appropriation of funds for grants, under the same terms as those applying under the immediately preceding proviso.

### § 1437c. Contributions for low-income housing projects

#### (a) Contract authorization; amounts; use as security for obligations of public housing agency; use of existing structures

1. The Secretary may make annual contributions to public housing agencies to assist in achieving and maintaining the lower income character of their projects. The Secretary shall embody the provisions for such annual contributions in a contract guaranteeing their payment. The contribution payable annually under this section shall be no less than the sum equal to the annual amount of principal and interest payable on obligations issued by the public housing agency to finance the development or acquisition cost of the lower income project involved. Annual contributions payable under this section shall be pledged, if the Secretary so requires, as security for obligations issued by a public housing agency to assist the development or acquisition of the project to which annual contributions relate and shall be paid over a period not to exceed 40 years.

2. The Secretary may make contributions (in the form of grants) to public housing agencies to cover the development cost of public housing projects. The contract under which such contributions shall be made shall specify the amount of capital contributions required for each project to which the contract pertains, and that the terms and conditions of such contract shall remain in effect for a 40-year period.

3. The amount of contributions that would be established for a newly constructed project by a public housing agency designed to accommodate a number of families of a given size and kind may be obtained through the issuance of obligations made out of such funds shall not be available for the payment of such annual contributions.

4. Provided further, That any part of the amount of the increase in budget authority provided in contracts for annual contributions shall be increased above amounts hereetofore provided in appropriations Acts by $7,805,668,000; Provided further, That any part of the amount of the increase in budget authority provided for in the immediately foregoing proviso that is available under this Act for public housing development and acquisition costs or which is to be used for amendments for such costs, shall be available as an appropriation of funds, to remain available until expended, for grants, which are hereby authorized in lieu of loans under section 4(a) of the United States Housing Act of 1937 (42 U.S.C. 1437b), and which the Secretary may make on substantially the same terms (except for repayment unless repayment is a properly imposed sanction) as those hereetofore set forth in annual contributions contracts for loans and annual contributions: Provided further, That during 1987 and thereafter, any amounts of budget authority which are carried over from a prior year, or which are otherwise available for obligation, and which are available for public housing development and acquisition costs, together with any amounts of budget authority which are to be used for amendments for such costs, in accordance with any Act, shall also be made available as an appropriation of funds for grants, under the same terms as those applying under the immediately preceding proviso.

### (b) Maximum amount of contributions; regulations; criteria for rates of contribution

The Secretary may prescribe regulations fixing the maximum contributions available under different circumstances, giving consideration to cost, location, size, rent-paying ability of prospective tenants, or other factors bearing upon the amounts and periods of assistance needed to achieve and maintain low rentals. Such regulations may provide for rates of contribution based upon development, acquisition, or operation costs, number of dwelling units, number of persons housed, interest charges, or other appropriate factors.

### (c) Limitation on aggregate contractual contributions; contracts for preliminary loans; payments of annual contributions; limitations on specific authorities

1. The Secretary may enter into contracts for annual contributions aggregating not more than $7,875,049,000 per annum, which amount shall be increased by $1,494,400,000 on October 1, 1980, and by $906,985,000 on October 1, 1981. The additional authority to enter into such contracts provided on or after October 1, 1980, shall be effective only in such amounts as may be approved in appropriation Acts. In addition, the aggregate amount which may be obligated over the duration of the contracts may not exceed $31,200,000,000 with respect to the additional authority provided on October 1, 1980, and $18,087,370,000 with respect to the additional authority provided on October 1, 1981.

2. The Secretary shall enter into only such new contracts for preliminary loans as are consistent with the number of dwelling units for which contracts for annual contributions may be entered into.

3. The full faith and credit of the United States is solemnly pledged to the payment of all annual contributions contracted for pursuant to this section, and there are hereby authorized to be appropriated in each fiscal year, out of any money in the Treasury not otherwise appropriated, the amounts necessary to provide for such payments.

4. All payments of annual contributions pursuant to this section shall be made out of any funds available for purposes of this chapter when such payments are due, except that funds obtained through the issuance of obligations made out of such funds shall not be available for the payment of such annual contributions.

5. The Secretary may enter into contracts for preliminary loans as are consistent with the number of dwelling units for which contracts for annual contributions may be entered into.
quition and rehabilitation of property to be used in public housing, if the public housing agency, after consultation with the unit of local government, certifies that such assistance would be more effectively used for such purpose, and if the total number of units assisted will not be less than 90 per centum of the units covered by the original reservation.

(6) The aggregate amount of budget authority which may be obligated for contracts for annual contributions and for grants under section 1437f of this title is increased by $9,912,928,000 on October 1, 1983, and by such sums as may be approved in appropriation Acts on October 1, 1984. The aggregate amount of budget authority that may be obligated for contracts for annual contributions for assistance under section 1437f of this title, for contracts referred to in paragraphs (7)(A)(iv) and (7)(B)(iv), for grants for public housing, for comprehensive improvement assistance, and for amendments to existing contracts, is increased (to the extent approved in appropriation Acts) by $1,167,000,000 on October 1, 1987, and by $7,300,945,000 on October 1, 1988. The aggregate amount of budget authority that may be obligated for assistance referred to in paragraph (7) is increased (to the extent approved in appropriation Acts) by $16,194,000,000 on October 1, 1990, and by $14,709,400,000 on October 1, 1991. The aggregate amount of budget authority that may be obligated for assistance referred to in paragraph (7) is increased (to the extent approved in appropriation Acts) by $14,710,990,520 on October 1, 1992, and by $15,328,652,122 on October 1993.

(7)(A) Using the additional budget authority provided under paragraph (6) and the balances of budget authority that become available during fiscal year 1993, the Secretary shall, to the extent approved in appropriation Acts, reserve authority to enter into obligations aggregating—

(i) for public housing grants under subsection (a)(2), not more than $830,900,800, of which amount not more than $257,320,000 shall be available for Indian housing;

(ii) for assistance under section 1437f of this title, not more than $1,977,662,720, of which $20,000,000 shall be available for 15-year contracts for project-based assistance to be used for a multicultural tenant empowerment and homeownership project located in the District of Columbia, except that assistance provided for such project shall not be considered for purposes of the percentage limitations under section 1437f(i)(2) of this title; except that not more than 49 percent of any amounts appropriated under this clause may be used for vouchers under section 1437f(o) of this title;

(iii) for comprehensive improvement assistance grants under section 1437f(k) of this title, not more than $3,230,200,000;

(iv) for assistance under section 1437f of this title for property disposition, not more than $96,939,344;

(v) for assistance under section 1437f of this title for loan management, not more than $210,481,000;

(vi) for extensions of contracts expiring under section 1437f of this title, not more than $7,029,472,670, which shall be for 5-year contracts for assistance under section 1437f of this title for public housing, not more than $7,029,472,670, which shall be for 5-year contracts for assistance under section 1437f of this title for loan management assistance under such section;

(vii) for amendments to contracts under section 1437f of this title, not more than $1,406,700,000;

(viii) for public housing lease adjustments and amendments, not more than $35,055,000;

(ix) for conversions from leased housing contracts under section 1421b of this title (as in effect immediately before August 22, 1974) to assistance under section 1437f of this title, not more than $12,767,000; and

(x) for grants under section 1437v of this title for revitalization of severely distressed public housing, not more than $300,000,000.

(B) Using the additional budget authority provided under paragraph (6) and the balances of budget authority that become available during fiscal year 1994, the Secretary shall, to the extent approved in appropriation Acts, reserve authority to enter into obligations aggregating—

(i) for public housing grants under subsection (a)(2), not more than $865,798,634, of which amount not more than $268,127,440 shall be available for Indian housing;

(ii) for assistance under section 1437f of this title, not more than $2,060,724,554, of which $20,000,000 shall be available for 15-year contracts for project-based assistance to be used for a multicultural tenant empowerment and homeownership project located in the District of Columbia, except that assistance provided for such project shall not be considered for purposes of the percentage limitations under section 1437f(i)(2) of this title; except that not more than 49 percent of any amounts appropriated under this clause may be used for vouchers under section 1437f(o) of this title;

(iii) for comprehensive improvement assistance grants under section 1437f(k) of this title, not more than $3,230,200,000;

(iv) for assistance under section 1437f of this title for property disposition, not more than $96,939,344;

(v) for assistance under section 1437f of this title for loan management, not more than $210,481,000;

(vi) for extensions of contracts expiring under section 1437f of this title, not more than $7,029,472,670, which shall be for 5-year contracts for assistance under section 1437f of this title for public housing, not more than $7,029,472,670, which shall be for 5-year contracts for assistance under section 1437f of this title for loan management assistance under such section;

(vii) for amendments to contracts under section 1437f of this title, not more than $1,406,700,000;

(viii) for public housing lease adjustments and amendments, not more than $35,055,000;

(ix) for conversions from leased housing contracts under section 1421b of this title (as in effect immediately before August 22, 1974) to assistance under section 1437f of this title, not more than $13,303,214; and

(x) for grants under section 1437v of this title for revitalization of severely distressed public housing, not more than $312,600,000.

(C)(i) Any amount available for the conversion of a project to assistance under section 1437f(b)(1) of this title, if not required for such purpose, shall be used for assistance under section 1437f(b)(1) of this title.

(ii) Any amount available for assistance under section 1437f of this title for property disposi-
tion, if not required for such purpose, shall be used for assistance under section 1437f(b)(1) of this title.

(8) Any amount available for Indian housing under subsection (a) that is recaptured shall be used only for such housing.

d Scope of contracts for loans or annual contributions

Any contract for loans or annual contributions, or both, entered into by the Secretary with a public housing agency, may cover one or more than one low-income housing project owned by such public housing agency; in the event the contract covers two or more projects, such projects may, for any of the purposes of this chapter and of such contract (including, but not limited to, the determination of the amount of the loan, annual contributions, or payments in lieu of taxes, specified in such contract), be treated collectively as one project.

e Local determination of need as prerequisite for contracts for preliminary loans, and contracts for loans or annual contributions; notice

In recognition that there should be local determination of the need for low-income housing to meet needs not being adequately met by private enterprise—

(1) the Secretary shall not make any contract with a public housing agency for preliminary loans (all of which shall be repaid out of any moneys which become available to such agency for the development of the projects involved) for surveys and planning in respect to any low-income housing projects (i) unless the governing body of the locality involved has by resolution approved the application of the public housing agency for such preliminary loan; and (ii) unless the public housing agency has demonstrated to the satisfaction of the Secretary that there is need for such low-income housing which is not being met by private enterprise; and

(2) the Secretary shall not make any contract for loans (other than preliminary loans) or for contributions pursuant to this chapter unless the governing body of the locality involved has entered into an agreement with the public housing agency providing for the local cooperation required by the Secretary pursuant to this chapter; the Secretary shall require that each such agreement shall provide that, notwithstanding any order, judgment, or decree of any court (including any settlement decree of any court (including any settlement agreement reached in an arbitration), before making any amounts that are provided pursuant to any contract for contributions under this subchapter available for use for the development of any housing or other property not previously used as public housing, the public housing agency shall (A) notify the chief executive officer (or other appropriate official) of the unit of general local government in which the public housing for which such amounts are to be so used is located or (or to be located) of such use, and (B) pursuant to the request of such unit of general local government, provide such information as may reasonably be requested by such unit of general local government regarding the public housing to be so assisted (except to the extent otherwise prohibited by law).

(f) Modification by Secretary of terms of contracts, etc.; limitations; amendment or superseding of contracts for annual contributions or loans

Subject to the specific limitations or standards in this chapter governing the terms of sales, rentals, leases, loans, contracts for annual contributions, or other agreements, the Secretary may, whenever he deems it necessary or desirable in the fulfillment of the purposes of this chapter, consent to the modification, with respect to rate of interest, time of payment of any installment of principal or interest, security, amount of annual contribution, or any other term, of any contract or agreement of any kind to which the Secretary is a party. When the Secretary finds that it would promote economy or be in the financial interest of the Federal Government or is necessary to assure or maintain the lower income character of the project or projects involved, any contract or agreement herebefore or hereafter made for annual contributions, loans, or both, may be amended or superseded by a contract entered into by mutual agreement between the public housing agency and the Secretary. Contracts may not be amended or superseded in a manner which would impair the rights of the holders of any outstanding obligations of the public housing agency involved for which annual contributions have been pledged. Any rule of law contrary to this provision shall be deemed inapplicable.

g Pledge of annual contributions as guarantee of payment of obligations issued by public housing agency; exception

In addition to the authority of the Secretary under subsection (a) to pledge annual contributions as security for obligations issued by a public housing agency, the Secretary is authorized to pledge annual contributions as a guarantee of payment by a public housing agency of any principal and interest on obligations issued by it to assist the development or acquisition of the project to which the annual contributions relate, except that no obligation shall be guaranteed under this subsection if the income thereon is exempt from Federal taxation.

(h) Audits

(1) By Secretary and Comptroller General

Each contract for contributions for any assistance under this chapter to a public housing agency shall provide that the Secretary, the Inspector General of the Department of Housing and Urban Development, and the Comptroller General of the United States, or any of their duly authorized representatives, shall, for the purpose of audit and examination, have access to any books, documents, papers, and records of the public housing agency that are pertinent to this chapter and to its operations with respect to financial assistance under the this chapter.

(2) Witholding of amounts for audits under Single Audit Act

The Secretary may, in the sole discretion of the Secretary, arrange for and pay the costs of...
an audit required under chapter 75 of title 31. In such circumstances, the Secretary may withhold, from assistance otherwise payable to the agency under this chapter, amounts sufficient to pay for the reasonable costs of conducting an acceptable audit, including, where appropriate, the reasonable costs of accounting services necessary to place the agency's books and records in auditable condition. As agreed to by the Secretary and the Inspector General, the Inspector General may arrange for an audit under this paragraph.

(i) Prohibition on use of funds

None of the funds made available to the Department of Housing and Urban Development to carry out this chapter, which are obligated to State or local governments, public housing agencies, housing finance agencies, or other public or quasi-public housing agencies, shall be used to indemnify contractors or subcontractors of the government or agency against costs associated with judgments of infringement of intellectual property rights.


REFERENCES IN TEXT

Section 1437f of this title, referred to in subsec. (c)(6), was repealed by Pub. L. 101–625, title II, § 289(b), Nov. 28, 1990, 104 Stat. 4128.

Section 1437f of this title, referred to in subsec. (c)(7)(A)(ix), (B)(ix), was omitted in the general revision of this chapter by Pub. L. 93–383, title II, § 201(a), Aug. 22, 1974, 88 Stat. 653.


PRIOR PROVISIONS

A prior section 5 of act Sept. 1, 1937, ch. 896, 50 Stat. 890, as amended, enumerated miscellaneous powers and functions of the Authority and was classified to section 1405 of this title, prior to the general revision of this chapter by Pub. L. 93–383.

AMENDMENTS

1998—Subsec. (c)(5). Pub. L. 105–276, § 522(b)(1), substituted “for use under section 1437f of this title” for “for use under section 1437f of this title”.

Subsec. (e)(2). Pub. L. 105–276, § 518(b), inserted before period at end “; the Secretary shall require that each such agreement shall provide that, notwithstanding any order, judgment, or decree of any court (including any settlement order), before making any amounts that are provided pursuant to any contract for contributions under this subchapter available for use for the development of any housing or other property not previously used as public housing, the public housing agency shall (A) notify the chief executive officer (or other appropriate official) of the unit of general local government in which the public housing for which such amounts are to be so used is located (or to be located) of such use, and (B) pursuant to the request of such unit of general local government, provide such information as may reasonably be requested by such unit of general local government regarding the public housing to be so assisted (except to the extent otherwise prohibited by law).”

Subsec. (b). Pub. L. 105–276, §§ 566, added subsec. (b). Pub. L. 105–276, § 518(a)(1)(A), struck out subsec. (b) which read as follows: “Notwithstanding any other provision of law, a public housing agency may sell a low-income housing project to its lower income tenants, on such terms and conditions as the agency may determine, without affecting the Secretary’s commitment to pay annual contributions with respect to that project, but such contributions shall not exceed the maximum contributions authorized under subsection (a) of this section.”

Subsec. (i). Pub. L. 105–276, § 518(a)(1), redesignated subsec. (i) as (i) and struck out former subsec. (i) which read as follows: “In entering into contracts for assistance with respect to newly constructed or substantially rehabilitated projects under this section (other than for projects assisted pursuant to section 1437f of this title), the Secretary shall require the installation of a passive or active solar energy system in any such project where the Secretary determines that such installation would be cost effective over the estimated life of the system.”

Subsecs. (j), (k). Pub. L. 105–276, § 518(a)(1)(A), struck out subsecs. (j) and (k), which had: in subsec. (j), placed limitations on amounts used for redesign, reconstruction, re-development, or operational improvement of existing projects, but directed that not less than 5 percent of certain amounts appropriated in fiscal years 1993 and 1994 be reserved for public housing projects designated for elderly or disabled families; and in subsec. (k), prohibited recapture of amounts of public development, or operational improvement of existing public housing after Sept. 30, 1987, and placed limitations on amounts used for development, or operational improvement of existing projects, but directed that not less than 5 percent of certain amounts appropriated in fiscal years 1993 and 1994 be reserved for public housing projects designated for elderly or disabled families; and in subsec. (k), prohibited recapture of amounts of public development, or operational improvement of existing projects, but directed that not less than 5 percent of certain amounts appropriated in fiscal years 1993 and 1994 be reserved for public housing projects designated for elderly or disabled families; and in subsec. (k), provided that the Secretary shall require the installation of a passive or active solar energy system in any such project where the Secretary determines that such installation would be cost effective over the estimated life of the system.”


Subsec. (l). Pub. L. 104–330, § 501(b)(2)(B), struck out subsec. (l) which read as follows: “The Secretary may not use as a criterion for distributing assistance under this section the progress made by an Indian public housing agency in collecting rents owed by tenants unless—

“(1) such criterion is used as 1 of several criteria that are weighted proportionally and is established by regulations issued after public notice and opportunity to comment in accordance with section 503 of title 5; or
balances of such authority available in fiscal years 1988 and 1989, for provisions relating to Secretary's authority for fiscal years 1984 and 1985 and substituting amounts available for conversion of project to assistance under section 1437f(b)(1) of this title and amounts available for assistance under section 1437f for property disposition, if not required for such purpose, shall be used for assistance under section 1437f(b)(1) of this title, for provisions wherein specific authorities under this paragraph would be subject to adjustments under par. (5) of this subsection.

Subsec. (c)(8). Pub. L. 100–358, § 3, added par. (8).

Subsec. (c)(9). Pub. L. 100–342, § 112(b)(1)(B), struck out "annual" before "contributions".


1983—Subsec. (c)(1). Pub. L. 98–181, § 201(b)(1), struck out concluding provision requiring the Secretary, in utilizing the additional authority to enter into contracts on and after Oct. 1, 1980, to administer the authorized programs to provide assistance, to the maximum extent practicable, consistent with section 1439a(d) of this title.

Subsec. (c)(2). Pub. L. 98–181, § 201(b)(2), redesignated par. (4) as (2), and struck out former par. (2) which from funds made available on Oct. 1, 1980, had required at least $100,000,000 be available for section 1437f projects, and from remaining difference allocated amounts as provided in section 1439d for different community and area uses, and from remaining difference required the accommodation of preferences of units of local government based on stated factors.

Subsec. (c)(4). Pub. L. 98–181, § 201(b)(2), redesignated par. (5) as (3), and struck out former par. (3) which from funds made available on Oct. 1, 1981, had required at least $75,000,000 be available for section 1437f projects, from remaining difference allocated amounts as provided in section 1439d for different community and area uses, and from remaining difference required the accommodation of preferences of units of local government based on stated factors.

Subsec. (c)(5) to (7). Pub. L. 98–181, § 201(b)(3), added par. (5) to (7). Former par. (5) and (6) redesignated (3) and (4), respectively.


Subsec. (c)(4). Pub. L. 97–35, § 321(a)(c), in par. (1) inserted provisions relating to increases on Oct. 1, 1981, and amount respecting additional authority as of Oct. 1, 1981, added par. (3), and redesignated former pars. (3) to (5) as (4) to (6), respectively.

Subsecs. (d) to (f). Pub. L. 97–35, § 322(c), substituted references to lower income for references to low-income wherever appearing.

1980—Subsec. (c). Pub. L. 96–399, § 201(a), redesignated existing provisions as par. (1), among other changes, substituted provisions relating to the discretionary power of the Secretary to enter into contracts for annual contributions for provisions authorizing the Secretary to enter into such contracts, deleted references to contributions for assistance to Indian tribes, and added pars. (2) to (5).


1979—Subsec. (c). Pub. L. 96–153 authorized increase in aggregate contractual contributions by $1,146,661,000 on Oct. 1, 1979, and inserted requirements that out of such additional authority not more than $200,000,000 be obligated for purposes of financing the purchase and installation of energy conserving improvement in existing low-income housing.

1978—Subsec. (c). Pub. L. 95–619 authorized the Secretary to enter into annual contribution contracts aggregating not more than $30,000,000 per annum.
projects which the Secretary determined had the greatest need for such improvements.

Pub. L. 95–537 inserted “and by $1,195,043,000 on October 1, 1977,” after “October 1, 1976,” after “October 1, 1977,” and “and on and after October 1, 1978” after “October 1, 1976,” and “and of the additional authority to enter into contracts for annual contributions provided on October 1, 1976, and approved in appropriation Acts, the Secretary shall make available not less than $50,000,000 for modernization of low-income housing projects” after “pursuant to section 5304(a)(4) of title I,” and struck out provisions after “only such amounts as may be approved in appropriation Acts” mandating that of the additional authority to enter into contracts provided on October 1, 1976, at least $60,000,000 be made available for modernization of low-income housing projects and at least $100,000,000 to assist in financing low-income housing projects for ownership by public housing agencies other than under section 1437f, of which not less than $100,000,000 shall be available only for the purpose of financing the construction or rehabilitation of low-income housing projects, and provision after “plans prepared pursuant to section 5304(a)(4) of this title” mandating that of the additional authority to enter into contracts for annual contributions provided on Oct. 1, 1977, not less than $42,500,000 shall be made available for low-income housing projects, not less than $197,139,200 for low-income housing projects permanently financed by loans from State housing finance or State development agencies, and not less than $120,000,000 for low-income housing projects permanently financed by loans pursuant to section 170q of title 12.

1976—Subsec. (c). Pub. L. 95–128 authorized increase in aggregate contractual contributions by $1,159,995,000 on Oct. 1, 1977, and required the Secretary to make available the excess minimum amount of $22,500,000 for modernization of low-income housing projects, $197,139,200 for such projects financed by loans from State housing finance or State development agencies, and $120,000,000 for such projects financed by loans pursuant to section 170q of title 12.

Pub. L. 95–24 substituted “and by $1,228,050,000 on October 1, 1976,” for “and by $850,000,000 on October 1, 1976.”

1976—Subsec. (c). Pub. L. 94–375 substituted “$1,524,000,000 per annum, which limit shall be increased by $165,000,000 on July 1, 1974, by $62,300,000 on July 1, 1975, and by $650,000,000 on October 1, 1976, except that the additional authority to enter into contracts for annual contributions provided on Oct. 1, 1975, shall be effective only in such amounts as may be approved in appropriation Acts” for “$1,199,250,000 per annum, which limit shall be increased by $225,000,000 on July 1, 1971, by $150,000,000 on July 1, 1972, by $400,000,000 on July 1, 1973, and by $500,000,000 on July 1, 1974,” and struck out “for modernization and financing of low-income housing projects under the additional authority to enter into contracts for annual contributions provided on Oct. 1, 1976, for provision which required the Secretary to enter into contracts for additional contributions of at least $150,000,000 to assist in financing the development or acquisition of low-income housing projects, in-serted “and by not less than $17,000,000 per annum on October 1, 1976,” after “not less than $15,000,000 per annum, on July 1, 1975,” and struck out “to the amounts of contracts for annual contributions required to be entered into by the Secretary under the second sentence of this subsection” after “in addition”.

EFFECTIVE DATE OF 1998 AMENDMENT

Amendment by title V of Pub. L. 105–276 effective and applicable beginning upon Oct. 1, 1999, except as otherwise provided, with provision that the Secretary may implement amendment before such date, except to extent that such amendment provides otherwise, and with savings provision, see section 503 of Pub. L. 105–276, set out as a note under section 1437 of this title.

EFFECTIVE DATE OF 1996 AMENDMENT


EFFECTIVE DATE OF 1995 AMENDMENT


EFFECTIVE DATE OF 1992 AMENDMENT

Amendment by subtitles B through F of title VI of Pub. L. 102–550 applicable upon expiration of 6-month period beginning Oct. 28, 1992, except as otherwise provided, see section 13842 of this title.

EFFECTIVE DATE OF 1990 AMENDMENT

Pub. L. 101–625, title IV, § 417(b), Nov. 28, 1990, 104 Stat. 4161, provided that: “The amendments made by section (a) [amending this section] shall not apply to applications submitted under section 5(h) of the United States Housing Act of 1937 [subsec. (b) of this section] prior to October 1, 1990.”

EFFECTIVE DATE OF 1988 AMENDMENT

For date on which Secretary of Housing and Urban Development may carry out programs to provide lower income housing on Indian reservations and other Indian areas only in accordance with amendment by Pub. L. 100–358, see section 6 of Pub. L. 100–358, set out as a note under section 1437a of this title.

EFFECTIVE DATE OF 1981 AMENDMENT


EFFECTIVE DATE OF 1978 AMENDMENT

Pub. L. 95–557, title II, § 206(b), Oct. 31, 1978, 92 Stat. 2093, provided that: “The amendments made by this section [amending this section and sections 1437a, 1437f, and 1437g of this title], except the amendment made by subsection (d) [amending section 1437f of this title], shall become effective on October 1, 1978.”

EFFECTIVE DATE OF 1976 AMENDMENT

Pub. L. 94–375, § 2(b)(1), Aug. 3, 1976, 90 Stat. 1067, provided that the amendment of subsection (c), which required the Secretary to make available a total of $200,000,000 for modernization and financing of low-income housing and which struck out reference to the amount of contracts the Secretary was required to enter into under the second sentence of this subsection, is effective Oct. 1, 1976.

EFFECTIVE DATE

Section effective on such date or dates as the Secretary of Housing and Urban Development shall prescribe, but not later than eighteen months after Aug. 22, 1974, except that all of the provisions of this section shall become effective on the same date, see section 201(b) of Pub. L. 93–383, set out as a note under section 1437 of this title.

REGULATIONS

Pub. L. 102–550, title I, § 111(c), Oct. 28, 1992, 106 Stat. 3689, provided that: ‘‘The Secretary shall issue regula-
tions necessary to carry out the amendments made by this section (amending this section and sections 1437I and 1437p of this title) as provided under section 191 of this Act (42 U.S.C. 1437a note).

INAPPLICABILITY OF CERTAIN 1992 AMENDMENTS TO INDIAN PUBLIC HOUSING

Amendment by section 264 of Pub. L. 102–550 not applicable with respect to lower income housing developed or operated pursuant to contract between Secretary of Housing and Urban Development and Indian housing authority, see section 262 of Pub. L. 102–550, set out as a note under section 1437a of this title.

INCREASE IN BUDGET AUTHORITY FOR CERTIFICATE AND VOUCHER PROGRAMS FOR DISASTER RELIEF

Pub. L. 101–625, title IX, Nov. 28, 1990, 104 Stat. 4403, as amended by Pub. L. 105–276, title V, § 550(c), Oct. 21, 1998, provided that: “The budget authority available under section 5(c) of the United States Housing Act of 1937 (42 U.S.C. 1437c(c)) for tenant-based assistance under section 8 of the United States Housing Act of 1937 (42 U.S.C. 1437f) is authorized to be increased in any fiscal year in which a major disaster is declared by the President under the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5121 et seq.) in such amounts as may be necessary to provide assistance under such programs for individuals and families whose housing has been damaged or destroyed as a result of such disaster, except that in implementing this section, the Secretary shall evaluate the natural hazards to which any permanent replacement housing is exposed and shall take appropriate action to mitigate such hazards.”

INCREASE IN BUDGET AUTHORITY FOR MODERATE REHABILITATION PROGRAM FOR DISASTER RELIEF

Pub. L. 101–625, title IX, Nov. 28, 1990, 104 Stat. 4403, provided that: “The budget authority available under section 5(c) of the United States Housing Act of 1937 (42 U.S.C. 1437c(c)) for assistance under the moderate rehabilitation program under section 8(e)(2) of such Act (42 U.S.C. 1437g(e)(2)) is authorized to be increased in any fiscal year in which a major disaster is declared by the President under the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5121 et seq.) in such amounts as may be necessary to provide assistance under such program for individuals and families whose housing has been damaged or destroyed as a result of such disaster, except that in implementing this section, the Secretary shall evaluate the natural hazards to which any permanent replacement housing is exposed and shall take appropriate action to mitigate such hazards.”

§ 1437e–1. Public housing agency plans

(a) 5-year plan

(1) In general

Subject to paragraph (3), not less than once every 5 fiscal years, each public housing agency shall submit to the Secretary a plan that includes, with respect to the 5 fiscal years immediately following the date on which the plan is submitted—

(A) a statement of the mission of the public housing agency for serving the needs of low-income and very low-income families in the jurisdiction of the public housing agency during such fiscal years; and

(B) a statement of the goals and objectives of the public housing agency that will enable the public housing agency to serve the needs identified pursuant to subparagraph (A) during those fiscal years.

(2) Statement of goals

The 5-year plan shall include a statement by any public housing agency of the goals, objectives, policies, or programs that will enable the housing authority to serve the needs of child and adult victims of domestic violence, dating violence, sexual assault, or stalking.

(3) Initial plan

The initial 5-year plan submitted by a public housing agency under this subsection shall be submitted for the 5-year period beginning on October 1, 1999, or the first fiscal year thereafter for which the public housing agency initially receives assistance under this chapter.

(b) Annual plan

(1) In general

Effective beginning upon October 1, 1999, each public housing agency shall submit to the Secretary an annual public housing agency plan under this subsection for each fiscal year for which the public housing agency receives assistance under section 1437f(o) or 1437p of this title.

(2) Updates

For each fiscal year after the initial submission of an annual plan under this subsection by a public housing agency, the public housing agency may comply with requirements for submission of a plan under this subsection by submitting an update of the plan for the fiscal year.

(3) Exemption of certain PHAs from filing requirement

(A) In general

Notwithstanding paragraph (1) or any other provision of this chapter—

(i) the requirement under paragraph (1) shall not apply to any qualified public housing agency; and

(ii) except as provided in subsection (e)(4)(B), any reference in this section or any other provision of law to a “public housing agency” shall not be considered to refer to any qualified public housing agency, to the extent such reference applies to the requirement to submit an annual public housing agency plan under this subsection.

(B) Civil rights certification

Notwithstanding that qualified public housing agencies are exempt under subparagraph (A) from the requirement under this section to prepare and submit an annual public housing plan, each qualified public housing agency shall, on an annual basis, make the certification described in paragraph (16) of subsection (d), except that for purposes of such qualified public housing agencies, such paragraph shall be applied by substituting “the public housing program of the agency” for “the public housing agency plan”.

(C) Definition

For purposes of this section, the term “qualified public housing agency” means a public housing agency that meets the following requirements:

(i) The sum of (I) the number of public housing dwelling units administered by
(c) Procedures

(1) In general

The Secretary shall establish requirements and procedures for submission and review of plans, including requirements for timing and form of submission, and for the contents of such plans.

(2) Contents

The procedures established under paragraph (1) shall provide that a public housing agency shall—

(A) in developing the plan consult with the resident advisory board established under subsection (e); and

(B) ensure that the plan under this section is consistent with the applicable comprehensive housing affordability strategy (or any consolidated plan incorporating such strategy) for the jurisdiction in which the public housing agency is located, in accordance with title I of the Cranston-Gonzalez National Affordable Housing Act [42 U.S.C. 12701 et seq.], and contains a certification by the appropriate State or local official that the plan meets the requirements of this paragraph and a description of the manner in which the applicable contents of the public housing agency plan are consistent with the comprehensive housing affordability strategy.

(d) Contents

An annual public housing agency plan under subsection (b) for a public housing agency shall—

(A) the procedures for maintaining waiting lists for admissions to public housing projects of the agency, which may include a system of site-based waiting lists under section 1437d(r) of this title; and

(B) the admissions policy under section 1437n(a)(3)(B) of this title for deconcentration of lower-income families.

(4) Rent determination

A statement of the policies of the public housing agency governing rents charged for public housing dwelling units and rental contributions of families assisted under section 1437f(o) of this title.

(5) Operation and management

A statement of the rules, standards, and policies of the public housing agency governing maintenance and management of housing owned, assisted, or operated by the public housing agency (which shall include measures necessary for the prevention or eradication of pest infestation, including by cockroaches), and management of the public housing agency and programs of the public housing agency.

(6) Grievance procedure

A statement of the grievance procedures of the public housing agency.

(7) Capital improvements

With respect to public housing projects owned, assisted, or operated by the public housing agency, a plan describing the capital improvements necessary to ensure long-term physical and social viability of the projects.

(8) Demolition and disposition

With respect to public housing projects owned, assisted, or operated by the public housing agency—

(A) a description of any housing for which the PHA will apply for demolition or disposition under section 1437p of this title; and

(B) a timetable for the demolition or disposition.

(9) Designation of housing for elderly and disabled families

With respect to public housing projects owned, assisted, or operated by the public housing agency, a description of any projects (or portions thereof) that the public housing agency has designated or will apply for designation for occupancy by elderly and disabled families in accordance with section 1437e of this title.

(10) Conversion of public housing

With respect to public housing owned by a public housing agency—

(A) a description of any building or buildings that the public housing agency is required to convert to tenant-based assistance under section 1437z-5 of this title or that the public housing agency plans to voluntarily convert under section 1437t of this title;

(B) an analysis of the projects or buildings required to be converted under section 1437z-5 of this title; and

(C) a statement of the amount of assistance received under this chapter to be used for rental assistance or other housing assistance in connection with such conversion.
(11) Homeownership
A description of any homeownership programs of the agency under section 1437f(y) of this title or for which the public housing agency has applied or will apply for approval under section 1437z–4 of this title.

(12) Community service and self-sufficiency
A description of—
(A) any programs relating to services and amenities provided or offered to assisted families;
(B) any policies or programs of the public housing agency for the enhancement of the economic and social self-sufficiency of assisted families;
(C) how the public housing agency will comply with the requirements of subsections (c) and (d) of section 1437 of this title (relating to community service and treatment of income changes resulting from welfare program requirements).

(13) Domestic violence, dating violence, sexual assault, or stalking programs
A description of—
(A) any activities, services, or programs provided or offered by an agency, either directly or in partnership with other service providers, to child or adult victims of domestic violence, dating violence, sexual assault, or stalking;
(B) any activities, services, or programs provided or offered by a public housing agency that helps child and adult victims of domestic violence, dating violence, sexual assault, or stalking, to obtain or maintain housing; and
(C) any activities, services, or programs provided or offered by a public housing agency to prevent domestic violence, dating violence, sexual assault, and stalking, or to enhance victim safety in assisted families.

(14) Safety and crime prevention
A plan established by the public housing agency, which shall be subject to the following requirements:
(A) Safety measures
The plan shall provide, on a project-by-project or jurisdiction-wide basis, for measures to ensure the safety of public housing residents.
(B) Establishment
The plan shall be established in consultation with the police officer or officers in command for the appropriate precinct or police department.
(C) Content
The plan shall describe the need for measures to ensure the safety of public housing residents and for crime prevention measures, describe any such activities conducted or to be conducted by the agency, and provide for coordination between the agency and the appropriate police precincts for carrying out such measures and activities.
(D) Secretarial action
If the Secretary determines, at any time, that the security needs of a project are not being adequately addressed by the plan, or that the local police precinct is not complying with the plan, the Secretary may mediate between the public housing agency and the local precinct to resolve any issues of conflict.

(15) Pets
The requirements of the agency, pursuant to section 1437z–3 of this title, relating to pet ownership in public housing.

(16) Civil rights certification

(17) Annual audit
The results of the most recent fiscal year audit of the public housing agency under section 1437c(h)(2) of this title.

(18) Asset management
A statement of how the agency will carry out its asset management functions with respect to the public housing inventory of the agency, including how the agency will plan for the long-term operating, capital investment, rehabilitation, modernization, disposition, and other needs for such inventory.

(19) Other
Any other information required by law to be included in a public housing agency plan.

(e) Resident advisory board
(1) In general
Except as provided in paragraph (3), each public housing agency shall establish 1 or more resident advisory boards in accordance with this subsection, the membership of which shall adequately reflect and represent the residents assisted by the public housing agency.

(2) Functions
Each resident advisory board established under this subsection by a public housing agency shall assist and make recommendations regarding the development of the public housing agency plan for the agency. The agency shall consider the recommendations of the resident advisory boards in preparing the final public housing agency plan, and shall include, in the public housing agency plan submitted to the Secretary under this section, a copy of the recommendations and a description of the manner in which the recommendations were addressed.

(3) Waiver
The Secretary may waive the requirements of this subsection with respect to the establishment of resident advisory boards for a public housing agency if the agency demonstrates to the satisfaction of the Secretary that there exist resident councils or other resident organizations of the public housing agency that—
(A) adequately represent the interests of the residents of the public housing agency; and

(B) have the ability to perform the functions described in paragraph (2).

(4) Qualified public housing agencies

(A) In general

Except as provided in subparagraph (B), nothing in this section may be construed to exempt a qualified public housing agency from the requirement under paragraph (1) to establish 1 or more resident advisory boards. Notwithstanding that qualified public housing agencies are exempt under subsection (b)(3)(A) from the requirement under this section to prepare and submit an annual public housing plan, each qualified public housing agency shall consult with, and consider the recommendations of the resident advisory boards for the agency, at the annual public hearing required under subsection (f)(5), regarding any changes to the goals, objectives, and policies of that agency.

(B) Applicability of waiver authority

Paragraph (3) shall apply to qualified public housing agencies, except that for purposes of such qualified public housing agencies, subparagraph (B) of such paragraph shall be applied by substituting “the functions described in the second sentence of paragraph (4)(A)” for “the functions described in paragraph (2)”.

(f) Public hearings

(1) In general

In developing a public housing agency plan under this section, the board of directors or similar governing body of a public housing agency shall conduct a public hearing to discuss the public housing agency plan and to invite public comment regarding that plan. The hearing shall be conducted at a location that is convenient to residents.

(2) Availability of information and notice

Not later than 45 days before the date of a hearing conducted under paragraph (1), the public housing agency shall—

(A) make the proposed public housing agency plan and all information relevant to the hearing and proposed plan available for inspection by the public at the principal office of the public housing agency during normal business hours; and

(B) publish a notice informing the public that—

(i) that the information is available as required under subparagraph (A); and

(ii) that a public hearing under paragraph (1) will be conducted.

(3) Adoption of plan

A public housing agency may adopt a public housing agency plan and submit the plan to the Secretary in accordance with this section only after—

(A) conducting a public hearing under paragraph (1);

(B) considering all public comments received; and

(C) making any appropriate changes in the public housing agency plan, in consultation with the resident advisory board.

(4) Advisory board consultation enforcement

Pursuant to a written request made by the resident advisory board for a public housing agency that documents a failure on the part of the agency to provide adequate notice and opportunity for comment under this subsection and a finding by the Secretary of good cause within the time period provided for in subsection (i)(4), the Secretary may require the public housing agency to adequately remedy such failure before final approval of the public housing agency plan under this section.

(5) Qualified public housing agencies

(A) Requirement

Notwithstanding that qualified public housing agencies are exempt under subsection (b)(3)(A) from the requirement under this section to conduct a public hearing regarding the annual public housing plan of the agency, each qualified public housing agency shall annually conduct a public hearing—

(i) to discuss any changes to the goals, objectives, and policies of the agency; and

(ii) to invite public comment regarding such changes.

(B) Availability of information and notice

Not later than 45 days before the date of any hearing described in subparagraph (A), a qualified public housing agency shall—

(i) make all information relevant to the hearing and any determinations of the agency regarding changes to the goals, objectives, and policies of the agency to be considered at the hearing available for inspection by the public at the principal office of the public housing agency during normal business hours; and

(ii) publish a notice informing the public that—

(I) the information is available as required under clause (i); and

(II) a public hearing under subparagraph (A) will be conducted.

(g) Amendments and modifications to plans

(1) In general

Except as provided in paragraph (2), nothing in this section shall preclude a public housing agency to adequately remedy such failure before final approval of the public housing agency plan under this subsection.

(A) be adopted, other than at a duly called meeting of board of directors (or similar governing body) of the public housing agency that is open to the public; and

(B) be implemented, until notification of the amendment or modification is provided to the Secretary and approved in accordance with subsection (i).

1So in original. The word “that” probably should not appear.
(2) Consistency and notice
Each significant amendment or modification to a public housing agency plan submitted to the Secretary under this section shall—

(A) meet the requirements under subsection (c)(2) (relating to consultation with resident advisory board and consistency with comprehensive housing affordability strategies); and

(B) be subject to the notice and public hearing requirements of subsection (f).

(h) Submission of plans
(1) Initial submission
Each public housing agency shall submit the initial plan required by this section, and any amendment or modification to the initial plan, to the Secretary at such time and in such form as the Secretary shall require.

(2) Annual submission
Not later than 75 days before the start of the fiscal year of the public housing agency, each public housing agency shall annually submit to the Secretary a plan update, including any amendments or modifications to the public housing agency plan.

(i) Review and determination of compliance
(1) Review
Subject to paragraph (2), after submission of the public housing agency plan or any amendment or modification to the plan to the Secretary, to the extent that the Secretary considers such action to be necessary to make determinations under this paragraph, the Secretary shall review the public housing agency plan (including any amendments or modifications thereto) and determine whether the contents of the plan—

(A) set forth the information required by this section and this chapter to be contained in a public housing agency plan;

(B) are consistent with information and data made available to the Secretary, including the approved comprehensive housing affordability strategy under title I of the Cranston-Gonzalez National Affordable Housing Act [42 U.S.C. 12701 et seq.] for the jurisdiction in which the public housing agency is located; and

(C) are not prohibited by or inconsistent with any provision of this subchapter or other applicable law.

(2) Elements exempted from review
The Secretary may, by regulation, provide that one or more elements of a public housing agency plan shall be reviewed only if the element is challenged, except that the Secretary shall review the information submitted in each plan pursuant to paragraphs (3)(B), (8), and (15) of subsection (d).

(3) Disapproval
The Secretary may disapprove a public housing agency plan (or any amendment or modification thereto) only if Secretary determines that the contents of the plan (or amendment or modification) do not comply with the requirements under subparagraph (A) through (C) of paragraph (1).

(4) Determination of compliance
(A) In general
Except as provided in subsection (j)(2), not later than 75 days after the date on which a public housing agency plan is submitted in accordance with this section, the Secretary shall make the determination under paragraph (1) and provide written notice to the public housing agency if the plan has been disapproved. If the Secretary disapproves the plan, the notice shall state with specificity the reasons for the disapproval.

(B) Failure to provide notice of disapproval
In the case of a plan disapproved, if the Secretary does not provide notice of disapproval under subparagraph (A) before the expiration of the period described in subparagraph (A), the Secretary shall be considered, for purposes of this chapter, to have made a determination that the plan complies with the requirements under this section and the agency shall be considered to have been notified of compliance upon the expiration of such period. The preceding sentence shall not preclude judicial review regarding such compliance pursuant to chapter 7 of title 5 or an action regarding such compliance under section 1983 of this title.

(5) Public availability
A public housing agency shall make the approved plan of the agency available to the general public.

(j) Troubled and at-risk PHAs
(1) In general
The Secretary may require, for each public housing agency that is at risk of being designated as troubled under section 1437d(j)(2) of this title or is designated as troubled under section 1437d(j)(2) of this title, that the public housing agency plan for such agency include such additional information (as the Secretary determines to be appropriate, in accordance with such standards as the Secretary may establish or in accordance with such determinations as the Secretary may make on an agency-by-agency basis).

(2) Troubled agencies
The Secretary shall provide explicit written approval or disapproval, in a timely manner, for a public housing agency plan submitted by any public housing agency designated by the Secretary as a troubled public housing agency under section 1437d(j)(2) of this title.

(k) Streamlined plan
In carrying out this section, the Secretary may establish a streamlined public housing agency plan for—

(A) public housing agencies that are determined by the Secretary to be high performing public housing agencies;

(B) public housing agencies with less than 250 public housing units that have not been designated as troubled under section 1437d(j)(2) of this title; and
(C) public housing agencies that only administer tenant-based assistance and that do not own or operate public housing.

(j) Compliance with plan

In providing assistance under this subchapter, a public housing agency shall comply with the rules, standards, and policies established in the public housing agency plan of the public housing agency approved under this section.

(2) Investigation and enforcement

In carrying out this subchapter, the Secretary shall—

(A) provide an appropriate response to any complaint concerning noncompliance by a public housing agency with the applicable public housing agency plan; and

(B) if the Secretary determines, based on a finding of the Secretary or other information available to the Secretary, that a public housing agency is not complying with the applicable public housing agency plan, take such actions as the Secretary determines to be appropriate to ensure such compliance.

References in Text


MENDMENTS


2006—Subsec. (a)(1). Pub. L. 109–162, §603(1)(A), substituted “paragraph (3)” for “paragraph (2)”.

Subsec. (a)(2), (3), Pub. L. 109–162, §603(1)(B), (C), added par. (2) and redesignated former par. (2) as (3).

Subsec. (d)(13) to (19). Pub. L. 109–162, §603(1), added par. (13) and redesignated former pars. (13) to (18) as (14) to (19), respectively.

AMENDMENTS

§ 1437d. Contract provisions and requirements; loans and annual contributions

(a) Conditions; elevators

The Secretary may include in any contract for loans, contributions, sale, lease, mortgage, or any other agreement or instrument made pursuant to this chapter, such covenants, conditions, or provisions as he may deem necessary in order to insure the lower income character of the project involved, in a manner consistent with the public housing agency plan. Any such contract shall require that, except in the case of housing predominantly for elderly or disabled families, high-rise elevator projects shall not be provided for families with children unless the Secretary makes a determination that there is no practical alternative.

(b) Limitation on development costs

(1) Each contract for loans (other than preliminary loans) or contributions for the development, acquisition, or operation of public housing shall provide that the total development cost of the project on which the computation of any annual contributions under this chapter may be based may not exceed the amount determined under paragraph (2) (for the appropriate structure type) unless the Secretary provides otherwise, and in any case may not exceed 110 per centum of such amount unless the Secretary for good cause determines otherwise.

(2) For purposes of paragraph (1), the Secretary shall determine the total development cost by multiplying the construction cost guideline for the project (which shall be determined by averaging the current construction costs, as listed by not less than 2 nationally recognized residential construction cost indices, for publicly bid construction of a good and sound quality) by—

(A) in the case of elevator type structures, 1.65; and

(B) in the case of nonelevator type structures, 1.75.

(3) In calculating the total development cost of a project under paragraph (2), the Secretary shall consider only capital assistance provided by the Secretary to a public housing agency that are authorized for use in connection with the development of public housing, and shall exclude all other amounts, including amounts provided under—

(A) the HOME investment partnerships program authorized under title II of the Cranston-Gonzalez National Affordable Housing Act [42 U.S.C. 12721 et seq.]; or

(B) the community development block grants program under title I of the Housing and Community Development Act of 1974 [42 U.S.C. 5301 et seq.].

(4) The Secretary may restrict the amount of capital funds that a public housing agency may use to pay for housing construction costs. For purposes of this paragraph, housing construction costs include the actual hard costs for the construction of units, builders’ overhead and profit, utilities from the street, and finish landscaping.

(c) Revision of maximum income limits; certification of compliance with requirements; notification of eligibility; informal hearing; compliance with procedures for sound management

Every contract for contributions shall provide that—

(1) the Secretary may require the public housing agency to review and revise its maximum income limits if the Secretary determines that changed conditions in the locality make such revision necessary in achieving the purposes of this chapter;

(2) the public housing agency shall determine, and so certify to the Secretary, that each family in the project was admitted in accordance with duly adopted regulations and approved income limits; and the public housing agency shall review the incomes of families living in the project no less frequently than annually;

(3) the public housing agency shall promptly notify (i) any applicant determined to be ineligible for admission to the project on the basis for such determination and provide the applicant upon request, within a reasonable time after the determination is made, with an opportunity for an informal hearing on such determination, and (ii) any applicant determined to be eligible for admission to the project of the approximate date of occupancy insofar as such date can be reasonably determined; and

(4) the public housing agency shall comply with such procedures and requirements as the Secretary may prescribe to assure that sound management practices will be followed in the operation of the project, including requirements pertaining to—

(A) making dwelling units in public housing available for occupancy, which shall provide that the public housing agency may establish a system for making dwelling units available that provides preference for such occupancy to families having certain characteristics; each system of preferences established pursuant to this subparagraph shall be based upon local housing needs and priorities, as determined by the public housing agency using generally accepted data sources, including any information obtained pursuant to an opportunity for public comment as provided under section 1437c–1(f) of this title and under the requirements applicable to the comprehensive housing affordability strategy for the relevant jurisdiction;

(B) the establishment of satisfactory procedures designed to assure the prompt payment and collection of rents and the prompt processing of evictions in the case of non-payment of rent;

(C) the establishment of effective tenant-management relationships designed to assure that satisfactory standards of tenant security and project maintenance are formulated and that the public housing agency (together with tenant councils where they
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(d) Exemption from personal and real property taxes; payments in lieu of taxes; cash contribution or tax remission

Every contract for contributions with respect to a low-income housing project shall provide that no contributions by the Secretary shall be made available for such project unless such project (exclusive of any portion thereof which is not assisted by contributions under this chapter) is exempt from all real and personal property taxes levied or imposed by the State, city, county, or other political subdivision; and such contract shall require the public housing agency to make payments in lieu of taxes equal to 10 per centum of the sum of the shelter rents charged in such project, or such lesser amount as (i) is prescribed by State law, or (ii) is agreed to by the local governing body in its agreement for local cooperation with the public housing agency required under section 1437c(e)(2) of this title, or (iii) is due to failure of a local public body or bodies other than the public housing agency to perform any obligation under such agreement. If any such project is not exempt from all real and personal property taxes levied or imposed by the State, city, county, or other political subdivision, such contract shall provide, in lieu of the requirement for tax exemption and payments in lieu of taxes, that no contributions by the Secretary shall be made available for such project unless and until the State, city, county, or other political subdivision, in which such project is situated shall contribute, in the form of cash or tax remission, the amount by which the taxes paid with respect to the project exceed 10 per centum of the shelter rents charged in such project.


(f) Housing quality requirements

(1) In general

Each contract for contributions for a public housing agency shall require that the agency maintain its public housing in a condition that complies with standards which meet or exceed the housing quality standards established under paragraph (2).

(2) Federal standards

The Secretary shall establish housing quality standards under this paragraph that ensure that public housing dwelling units are safe and habitable. Such standards shall include requirements relating to habitability, including maintenance, health and sanitation factors, condition, and construction of dwellings, and shall, to the greatest extent practicable, be consistent with the standards established under section 1437f(c)(2)(B)(i) of this title. The Secretary may determine whether the laws, regulations, standards, or codes of any State or local jurisdiction meet or exceed these standards, for purposes of this subsection.

(3) Annual inspections

Each public housing agency that owns or operates public housing shall make an annual inspection of each public housing project to determine whether units in the project are maintained in accordance with the requirements under paragraph (1). The agency shall retain the results of such inspections and, upon the request of the Secretary, the Inspector General for the Department of Housing and Urban Development, or any auditor conducting an audit under section 1437c(h) of this title, shall make such results available.

(g) Substantial default; conveyance of title and delivery of possession; reconveyance and redelivery; payments for outstanding obligations

Every contract for contributions (including contracts which amend or supersede contracts previously made) may provide that—

(1) upon the occurrence of a substantial default in respect to the covenants or conditions to which the public housing agency is subject (as such substantial default shall be defined in such contract), the public housing agency shall be obligated at the option of the Secretary either to convey title in any case where, in the determination of the Secretary (which determination shall be final and conclusive), such conveyance of title is necessary to achieve the purposes of this chapter, or to deliver to the Secretary possession of the project, as then constituted, to which such contract relates; and

(2) the Secretary shall be obligated to reconvey or redeliver possession of the project as constituted at the time of reconveyance or redelivery, to such public housing agency or to its successor (if such public housing agency or a successor exists) upon such terms as shall be prescribed in such contract, and as soon as practicable (i) after the Secretary is satisfied that all defaults with respect to the project
have been cured, and that the project will, in order to fulfill the purposes of this chapter, thereafter be operated in accordance with the terms of such contract; or (ii) after the termination of the obligation to make annual contributions available unless there are any obligations or covenants of the public housing agency to the Secretary which are then in default. Any prior conveyances and conveyances or deliveries and redeliveries of possession shall not exhaust the right to require a conveyance or delivery of possession of the project to the Secretary pursuant to subparagraph (i) upon the subsequent occurrence of a substantial default.

Whenever such a contract for annual contributions includes provisions which the Secretary in such contract determines are in accordance with this subsection, and the portion of the annual contribution payable for debt service requirements pursuant to such contract has been pledged by the public housing agency as security for the payment of the principal and interest on any of its obligations, the Secretary (notwithstanding any other provisions of this chapter) shall continue to make such annual contributions available for the project so long as any of such obligations remain outstanding, and may covenant in such contract that in any event such annual contributions shall in each year be at least equal to an amount which, together with such income or other funds as are actually available from the project for the purpose at the time such annual contribution is made, will suffice for the payment of all installments, falling due within the next succeeding twelve months, of principal and interest on the obligations for which the annual contributions provided for in the contract shall have been pledged as security. In no case shall such annual contributions be in excess of the maximum sum specified in the contract involved, nor for longer than the remainder of the maximum period fixed by the contract.

(h) New construction contracts

On or after October 1, 1983, the Secretary may enter into a contract involving new construction only if the public housing agency demonstrates to the satisfaction of the Secretary that the cost of new construction in the neighborhood where the public housing agency determines the housing is needed is less than the cost of acquisition or acquisition and rehabilitation in such neighborhood, including any reserve fund under subsection (i), would be.

(i) Reserve fund; major repairs

The Secretary may, upon application by a public housing agency in connection with the acquisition of housing for use as public housing, establish and set aside a reserve fund in an amount not to exceed 30 per centum of the acquisition cost which shall be available for use for major repairs to such housing.

(j) Performance indicators for public housing agencies

(1) The Secretary shall develop and publish in the Federal Register indicators to assess the management performance of public housing agencies and resident management corporations. The indicators shall be established by rule under section 553 of title 5. Such indicators shall enable the Secretary to evaluate the performance of public housing agencies and resident management corporations in all major areas of management operations. The Secretary shall, in particular, use the following indicators for public housing agencies, to the extent practicable:

(A) The number and percentage of vacancies within an agency’s inventory, including the progress that an agency has made within the previous 3 years to reduce such vacancies.

(B) The amount and percentage of funds provided to the public housing agency from the Capital Fund under section 1437g(d) of this title which remain unobligated by the public housing agency after 3 years.

(C) The percentage of rents uncollected.

(D) The utility consumption (with appropriate adjustments to reflect different regions and unit sizes).

(E) The average period of time that an agency requires to repair and turn-around vacant units.

(F) The proportion of maintenance work orders outstanding, including any progress that an agency has made during the preceding 3 years to reduce the period of time required to complete maintenance work orders.

(G) The percentage of units that an agency fails to inspect to ascertain maintenance or modernization needs within such period of time as the Secretary deems appropriate (with appropriate adjustments, if any, for large and small agencies).

(H) The extent to which the public housing agency—

(i) coordinates, promotes, or provides effective programs and activities to promote the economic self-sufficiency of public housing residents; and

(ii) provides public housing residents with opportunities for involvement in the administration of the public housing.

(I) The extent to which the public housing agency—

(i) implements effective screening and eviction policies and other anticrime strategies; and

(ii) coordinates with local government officials and residents in the project and implementation of such strategies.

(J) The extent to which the public housing agency is providing acceptable basic housing conditions.

(K) Any other factors as the Secretary deems appropriate which shall not exceed the seven factors in the statute, plus an additional five.

(L) The Secretary shall:

(1) administer the system of evaluating public housing agencies flexibly to ensure that such agencies are not penalized as result of circumstances beyond their control;

(2) reflect in the weights assigned to the various indicators the differences in the difficulty of managing individual projects that

\(^2\) Another subpar. (I) is set out after subpar. (K).

\(^3\) Another subpar. (I) is set out before subpar. (J).
(3) determine a public housing agency’s status as “troubled with respect to the program under section 1437f of this title” based upon factors solely related to its ability to carry out that program.

(2)(A)(i) The Secretary shall, under the rulemaking procedures under section 553 of title 5, establish procedures for designating troubled public housing agencies, which procedures shall include identification of serious and substantial failure to perform as measured by the performance indicators specified under paragraph (1) and such other factors as the Secretary may deem to be appropriate. Such procedures shall provide that an agency that fails on a widespread basis to provide acceptable basic housing conditions for its residents shall be designated as a troubled public housing agency. The Secretary may use a simplified set of indicators for public housing agencies with less than 250 public housing units. The Secretary shall also designate, by rule under section 553 of title 5, agencies that are troubled with respect to the program for assistance from the Capital Fund under section 1437g(d) of this title.

(ii) The Secretary may also, in consultation with national organizations representing public housing agencies and public officials (as the Secretary determines appropriate), identify and commend public housing agencies that meet the performance standards established under paragraph (1) in an exemplary manner.

(iii) The Secretary shall establish procedures for public housing agencies to appeal designation as a troubled agency (including designation as a troubled agency for purposes of the program for assistance from the Capital Fund under section 1437g(d) of this title), to petition for removal of such designation, and to appeal any refusal to remove such designation.

(B)(i) Upon designating a public housing agency with more than 250 units as troubled pursuant to subparagraph (A) and determining that an assessment under this subparagraph will not duplicate any comparable and recent review, the Secretary shall provide for an on-site, independent assessment of the management of the agency.

(ii) To the extent the Secretary deems appropriate (taking into account an agency’s performance under the indicators specified under paragraph (1)), such agreement shall also set forth a plan for enhancing resident involvement in the management of the public housing agency. The Secretary and the public housing agency shall, to the maximum extent practicable, seek the assistance of local public and private entities in carrying out the agreement.

(D) The Secretary shall apply the provisions of this paragraph to resident management corporations as well as public housing agencies.

(3)(A) Notwithstanding any other provision of law or of any contract for contributions, upon the occurrence of events or conditions that constitute a substantial default by a public housing agency with respect to the covenants or conditions to which the public housing agency is subject or an agreement entered into under paragraph (2), the Secretary may—

(i) solicit competitive proposals from other public housing agencies and private management agents which (I) in the discretion of the Secretary, may be selected by existing public housing residents through administrative procedures established by the Secretary, and (II) if appropriate, shall provide for such agents to manage all, or part, of the housing administered by the public housing agency or all or part of the other programs of the agency;

(ii) petition for the appointment of a receiver (which may be another public housing agency or a private management corporation) of the public housing agency to any district court of the United States or to any court of the State in which the real property of the public housing agency is situated, that is au-
thorized to appoint a receiver for the purposes and having the powers prescribed in this sub-
section;

(iii) solicit competitive proposals from other public housing agencies and private entities with experience in construction management in the eventuality that such agencies or firms may be needed to oversee implementation of assistance made available from the Capital Fund under section 1437g(d) of this title for the housing; and

(iv) take possession of all or part of the public housing agency, including all or part of any project or program of the agency, including any project or program under any other provision of this subchapter; and

(v) require the agency to make other arrangements acceptable to the Secretary and in the best interests of the public housing residents and families assisted under section 1437f of this title for managing all, or part, of the public housing administered by the agency or of the programs of the agency.

Residents of a public housing agency designated as troubled pursuant to paragraph (2)(A) may petition the Secretary in writing to take 1 or more of the actions referred to in this subparagraph. The Secretary shall respond to such petitions in a timely manner with a written description of the actions, if any, the Secretary plans to take and, where applicable, the reasons why such actions differ from the course proposed by the residents.

(B)(i) If a public housing agency is identified as troubled under this subsection, the Secretary shall notify the agency of the troubled status of the agency.

(ii)(I) Upon the expiration of the 1-year period beginning on the later of the date on which the agency receives initial notice from the Secretary of the troubled status of the agency under clause (i) and October 21, 1998, the agency shall improve its performance, as measured by the performance indicators established pursuant to paragraph (1), by at least 50 percent of the difference between the most recent performance measurement and the measurement necessary to remove that agency’s designation as troubled.

(II) Upon the expiration of the 2-year period beginning on the later of the date on which the agency receives initial notice from the Secretary of the troubled status of the agency under clause (i) and October 21, 1998, the agency shall improve its performance, as measured by the performance indicators established pursuant to paragraph (1), by at least 50 percent of the difference between the most recent performance measurement and the measurement necessary to remove that agency’s designation as troubled.

(III) In the event that a public housing agency designated as troubled under this subsection fails to comply with the requirements set forth in subclause (I) or (II), the Secretary shall—

(aa) in the case of a troubled public housing agency with 1,250 or more units, petition for the appointment of a receiver pursuant to subparagraph (A)(ii); or

(bb) in the case of a troubled public housing agency with fewer than 1,250 units, either petition for the appointment of a receiver pursu-
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any project or program of the agency, the Secretary—

(I) may abrogate any contract to which the United States or an agency of the United States is a party that, in the written determination of the Secretary (which shall include the basis for such determination), substantially impedes correction of the substantial default, but only after the Secretary determines that reasonable efforts to renegotiate such contract have failed;

(II) may demolish and dispose of all or part of the assets of the public housing agency (including all or part of any project of the agency) in accordance with section 1437p of this title, including disposition by transfer of properties to resident-supported nonprofit entities;

(III) may seek the establishment, as permitted by applicable State and local law, of 1 or more new public housing agencies;

(IV) may seek consolidation of all or part of the agency (including all or part of any project or program of the agency), as permitted by applicable State and local laws, into other well-managed public housing agencies with the consent of such well-managed agencies;

(V) shall not be required to comply with any State or local law relating to civil service requirements, employee rights (except civil rights), procurement, or financial or administrative controls that, in the Secretary's written determination (which shall include the basis for such determination), substantially impedes correction of the substantial default; and

(VI) shall, without any action by a district court of the United States, have such additional authority as a district court of the United States would have the authority to confer upon a receiver to achieve the purposes of the receivership.

(ii) If, pursuant to subparagraph (B)(i)(III)(bb), the Secretary appoints an administrative receiver to assume the responsibilities of the Secretary for the administration of all or part of the public housing agency (including all or part of any project or program of the agency), the Secretary may delegate to the administrative receiver any or all of the powers given the Secretary by this subparagraph, as the Secretary determines to be appropriate and subject to clause (iii).

(iii) An administrative receiver may not take an action described in subclause (III) (or IV) of clause (i) unless the Secretary first approves an application by the administrative receiver to authorize such action.

(E) The Secretary may make available to receivers and other entities selected or appointed pursuant to this paragraph such assistance as the Secretary determines in the discretion of the Secretary is necessary and available to remedy the substantial deterioration of living conditions in individual public housing projects or other related emergencies that endanger the health, safety, and welfare of public housing residents or families assisted under section 1437f of this title. A decision made by the Secretary under this paragraph shall not be subject to review in any court of the United States, or in any court of any State, territory, or possession of the United States.

(F) In any proceeding under subparagraph (A)(ii), upon a determination that a substantial default has occurred and without regard to the availability of alternative remedies, the court shall appoint a receiver to conduct the affairs of all or part of the public housing agency in a manner consistent with this chapter and in accordance with such further terms and conditions as the court may provide. The receiver appointed may be another public housing agency, a private management corporation, or any other person or appropriate entity. The court shall have power to grant appropriate temporary or preliminary relief pending final disposition of the petition by the Secretary.

(G) The appointment of a receiver pursuant to this paragraph may be terminated, upon the petition of any party, when the court determines that all defaults have been cured or the public housing agency is capable again of discharging its duties.

(H) If the Secretary (or an administrative receiver appointed by the Secretary) takes possession of a public housing agency (including all or part of any project or program of the agency), or if a receiver is appointed by a court, the Secretary or receiver shall be deemed to be acting not in the official capacity of that person or entity, but rather in the capacity of the public housing agency, and any liability incurred, regardless of whether the incident giving rise to that liability occurred while the Secretary or receiver was in possession of all or part of the public housing agency (including all or part of any project or program of the agency), shall be the liability of the public housing agency.

(4) SANCTIONS FOR IMPROPER USE OF AMOUNTS.—

(A) IN GENERAL.—In addition to any other actions authorized under this chapter, if the Secretary finds that a public housing agency receiving assistance amounts under section 1437g of this title for public housing has failed to comply substantially with any provision of this chapter relating to the public housing program, the Secretary may—

(i) terminate assistance payments under this section 1437g of this title to the agency;

(ii) withhold from the agency amounts from the total allocations for the agency pursuant to section 1437g of this title;

(iii) reduce the amount of future assistance payments under section 1437g of this title to the agency by an amount equal to the amount of such payments that were not expended in accordance with this chapter;

(iv) limit the availability of assistance amounts provided to the agency under section 1437g of this title to programs, projects, or activities not affected by such failure to comply;

(v) withhold from the agency amounts allocated for the agency under section 1437f of this title; or

(vi) order other corrective action with respect to the agency.

(B) TERMINATION OF COMPLIANCE ACTION.—If the Secretary takes action under subpara-
Secretary under section 3536 of this title, a report annually, as a part of the report of the Secretary or other information maintained by a public housing agency pursuant to this section to substantiate each certification submitted by the agency designated as troubled with respect to resident management corporations in the same manner as applied to public housing agencies.

(k) Administrative grievance procedure regulations: grounds of adverse action, hearing, examination of documents, representation, evidence, decision; judicial hearing; eviction and termination procedures

The Secretary shall by regulation require each public housing agency receiving assistance under this chapter to establish and implement an administrative grievance procedure under which tenants will—

(1) be advised of the specific grounds of any proposed adverse public housing agency action;

(2) have an opportunity for a hearing before an impartial party upon timely request within any period applicable under subsection (f);

(3) have an opportunity to examine any documents or records or regulations related to the proposed action;

(4) be entitled to be represented by another person of their choice at any hearing;

(5) be entitled to ask questions of witnesses and have others make statements on their behalf; and

(6) be entitled to receive a written decision by the public housing agency on the proposed action.

For any grievance concerning an eviction or termination of tenancy that involves any activity that threatens the health, safety, or right to peaceful enjoyment of the premises of other tenants or employees of the public housing agency or any violent or drug-related criminal activity on or off such premises, or any activity resulting in a felony conviction, the agency may (A) establish an expedited grievance procedure as the Secretary shall provide by rule under section 553 of title 5, or (B) exclude from its grievance procedure any such grievance, in any jurisdiction which requires that prior to eviction, a tenant be given a hearing in court which the Secretary determines provides the basic elements of due process (which the Secretary shall establish by rule under section 553 of title 5). Such elements of due process shall not include a requirement that the tenant be provided an opportunity to examine relevant documents with-
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(3) obligate the public housing agency to maintain the project in a decent, safe, and sanitary condition;

(4) require the public housing agency to give adequate written notice of termination of the lease which shall not be less than—
   (A) a reasonable period of time, but not to exceed 30 days—
      (i) if the health or safety of other tenants, public housing agency employees, or persons residing in the immediate vicinity of the premises is threatened; or
      (ii) in the event of any drug-related or violent criminal activity or any felony conviction;
   (B) 14 days in the case of nonpayment of rent; and
   (C) 30 days in any other case, except that if a State or local law provides for a shorter period of time, such shorter period shall apply;

(5) require that the public housing agency may not terminate the tenancy except for serious or repeated violation of the terms or conditions of the lease or for other good cause;

(6) provide that any criminal activity that threatens the health, safety, or right to peaceful enjoyment of the premises by other tenants or any drug-related criminal activity on or off such premises, engaged in by a public housing tenant, any member of the tenant’s household, or any guest or other person under the tenant’s control, shall be cause for termination of tenancy;

(7) specify that with respect to any notice of eviction or termination, notwithstanding any State law, a public housing tenant shall be informed of the opportunity, prior to any hearing or trial, to examine any relevant documents, records, or regulations directly related to the eviction or termination;

(7) provide that any occupancy in violation of section 13661(b) of this title (relating to illegibility of illegal drug users and alcohol abusers) or the furnishing of any false or misleading information pursuant to section 13662 of this title (relating to termination of tenancy and assistance for illegal drug users and alcohol abusers) shall be cause for termination of tenancy;8

(9) provide that it shall be cause for immediate termination of the tenancy of a public housing tenant if such tenant—
   (A) is fleeing to avoid prosecution, or custody or confinement after conviction, under the laws of the place from which the individual flees, for a crime, or attempt to commit a crime, which is a felony under the laws of the place from which the individual flees, or which, in the case of the State of New Jersey, is a high misdemeanor under the laws of such State; or
   (2)4 is violating a condition of probation or parole imposed under Federal or State law.

For purposes of paragraph (5),10 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 802 of title 21).

(m) Reporting requirements; limitation

The Secretary shall not impose any unnecessarily duplicative or burdensome reporting requirements on tenants or public housing agencies assisted under this chapter.

(n) Notice to post office regarding eviction for criminal activity

When a public housing agency evicts an individual or family from a dwelling unit for engaging in criminal activity, including drug-related criminal activity, the public housing agency shall notify the local post office serving that dwelling unit that such individual or family is no longer residing in the dwelling unit.

(o) Public housing assistance for foster care children

In providing housing in low-income housing projects, each public housing agency may coordinate with any local public agencies involved in providing for the welfare of children to make available dwelling units to—

(1) families identified by the agencies as having a lack of adequate housing that is a primary factor—
   (A) in the imminent placement of a child in foster care; or
   (B) in preventing the discharge of a child from foster care and reunification with his or her family; and

(2) youth, upon discharge from foster care, in cases in which return to the family or extended family or adoption is not available.


(q) Availability of records

(1) In general

(A) Provision of information

Notwithstanding any other provision of law, except as provided in subparagraph (C), the National Crime Information Center, police departments, and other law enforcement agencies shall, upon request, provide information to public housing agencies regarding the criminal conviction records of adult applicants for, or tenants of, covered housing projects assisted under this chapter.

(B) Requests by owners of project-based section 8 [42 U.S.C. 1437f] housing

A public housing agency may make a request under subparagraph (A) for information regarding applicants for, or tenants of, housing that is provided project-based assistance under section 1437f of this title only if the housing is located within the jurisdiction of the agency and the owner of such housing has requested that the agency obtain such information on behalf of the owner. Upon such a request by the owner, the agency shall make a request under subparagraph (A) for the information. The agency may not make such information available.
The public housing agency shall provide the tenant or applicant with a copy of the criminal record and an opportunity to dispute the accuracy and relevance of that record.

(3) Fees

A public housing agency may be charged a reasonable fee for information provided under paragraph (1). In the case of a public housing agency obtaining information pursuant to paragraph (1)(B) for another owner of housing, the agency may pass such fee on to the owner initiating the request and may charge additional reasonable fees for making the request on behalf of the owner and taking other actions for owners under this subsection.

(4) Records management

Each public housing agency shall establish and implement a system of records management that ensures that any criminal record received by the public housing agency is—

(A) maintained confidentially;

(B) not misused or improperly disseminated; and

(C) destroyed, once the purpose for which the record was requested has been accomplished.

(5) Confidentiality

A public housing agency receiving information under this subsection may use such information only for the purposes provided in this subsection and such information may not be disclosed to any person who is not an officer, employee, or authorized representative of the agency and who has a job-related need to have access to the information in connection with admission of applicants, eviction of tenants, or termination of assistance. For judicial eviction proceedings, disclosures may be made to the extent necessary. The Secretary shall, by regulation, establish procedures necessary to ensure that information provided under this subsection to a public housing agency is used, and confidentiality of such information is maintained, as required under this subsection. The Secretary shall establish standards for confidentiality of information obtained under this subsection by public housing agencies on behalf of owners.

(6) Penalty

Any person who knowingly and willfully requests or obtains any information concerning an applicant for, or tenant of, covered housing assistance pursuant to the authority under this subsection under false pretenses, or any person who knowingly and willfully discloses any such information in any manner to any individual not entitled under any law to receive it, shall be guilty of a misdemeanor and fined not more than $5,000. The term “person” as used in this paragraph include any officer, employee, or authorized representative of any public housing agency.

(7) Civil action

Any applicant for, or tenant of, covered housing assistance affected by (A) a negligent or knowing disclosure of information referred to in this subsection about such person by an officer, employee, or authorized representative of any public housing agency, which disclosure is not authorized by this subsection, or (B) any other negligent or knowing action that is inconsistent with this subsection, may bring a civil action for damages and such other relief as may be appropriate against any public housing agency responsible for such unauthorized action. The district court of the United States in the district in which the affected applicant or tenant resides, in which such unauthorized action occurred, or in which the officer, employee, or representative alleged to be responsible for any such unauthorized action resides, shall have jurisdiction in such matters. Appropriate relief that may be ordered by such district courts shall include reasonable attorney’s fees and other litigation costs.

(8) Definitions

For purposes of this subsection, the following definitions shall apply:

(A) Adult

The term “adult” means a person who is 18 years of age or older, or who has been convicted of a crime as an adult under any Federal, State, or tribal law.

(B) Covered housing assistance

The term “covered housing assistance” means—

(i) a dwelling unit in public housing;

(ii) a dwelling unit in housing that is provided project-based assistance under section 1437f of this title, including new construction and substantial rehabilitation projects; and

(iii) tenant-based assistance under section 1437f of this title.

(C) Owner

The term “owner” means, with respect to covered housing assistance described in subparagraph (B)(ii), the entity or private person (including a cooperative or public housing agency) that has the legal right to lease or sublease dwelling units in the housing assisted.

(r) Site-based waiting lists

(1) Authority

A public housing agency may establish procedures for maintaining waiting lists for ad-
missions to public housing projects of the agency, which may include (notwithstanding any other law, regulation, handbook, or notice to the contrary) a system of site-based waiting lists under which applicants may apply directly at or otherwise designate the project or projects in which they seek to reside. All such procedures shall comply with all provisions of title VI of the Civil Rights Act of 1964 [42 U.S.C. 2000d et seq.], the Fair Housing Act [42 U.S.C. 3601 et seq.], and other applicable civil rights laws.

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(2) Notice

Any system described in paragraph (1) shall provide for the full disclosure by the public housing agency to each applicant of any option available to the applicant in the selection of the project in which to reside.

(s) Authority to require access to criminal records

A public housing agency may require, as a condition of providing admission to the public housing program or assisted housing program under the jurisdiction of the public housing agency, that each adult member of the household provide a signed, written authorization for the public housing agency to obtain records described in subsection (q)(1) regarding such member of the household from the National Crime Information Center, police departments, and other law enforcement agencies.

(1) Obtaining information from drug abuse treatment facilities

(1) Authority

Notwithstanding any other provision of law other than the Public Health Service Act (42 U.S.C. 201 et seq.), a public housing agency may require each person who applies for admission to public housing to sign one or more forms of written consent authorizing the agency to receive information from a drug abuse treatment facility that is solely related to whether the applicant is currently engaging in the illegal use of a controlled substance.

(2) Confidentiality of applicant's records

(A) Limitation on information requested

In a form of written consent, a public housing agency may request only whether the drug abuse treatment facility has reasonable cause to believe that the applicant is currently engaging in the illegal use of a controlled substance.

(B) Records management

Each public housing agency that receives information under this subsection from a drug abuse treatment facility shall establish and implement a system of records management that ensures that any information received by the public housing agency under this subsection—

(i) is maintained confidentially in accordance with section 543 of the Public Health Service Act [42 U.S.C. 290dd–2];

(ii) is not misused or improperly disseminated; and

(iii) is destroyed, as applicable—

(I) not later than 5 business days after the date on which the public housing agency gives final approval for an application for admission; or

(II) if the public housing agency denies the application for admission, in a timely manner after the date on which the statute of limitations for the commencement of a civil action from the applicant based upon that denial of admission has expired.

(C) Expiration of written consent

In addition to the requirements of subparagraph (B), an applicant's signed written consent shall expire automatically after the public housing agency has made a final decision to either approve or deny the applicant's application for admittance to public housing.

(3) Prohibition of discriminatory treatment of applicants

(A) Forms signed

A public housing agency may only require an applicant for admission to public housing to sign one or more forms of written consent under this subsection if the public housing agency requires all such applicants to sign the same form or forms of written consent.

(B) Circumstances of inquiry

A public housing agency may only make an inquiry to a drug abuse treatment facility under this subsection if—

(i) the public housing agency makes the same inquiry with respect to all applicants; or

(ii) the public housing agency only makes the same inquiry with respect to each and every applicant with respect to whom—

(I) the public housing agency receives information from the criminal record of the applicant that indicates evidence of a prior arrest or conviction; or

(II) the public housing agency receives information from the records of prior tenancy of the applicant that demonstrates that the applicant—

(aa) engaged in the destruction of property;

(bb) engaged in violent activity against another person; or

(cc) interfered with the right of peaceful enjoyment of the premises of another tenant.

(4) Fee permitted

A drug abuse treatment facility may charge a public housing agency a reasonable fee for information provided under this subsection.

(5) Disclosure permitted by treatment facilities

A drug abuse treatment facility shall not be liable for damages based on any information required to be disclosed pursuant to this subsection if such disclosure is consistent with section 543 of the Public Health Service Act (42 U.S.C. 290dd–2).

(6) Option to not request information

A public housing agency shall not be liable for damages based on its decision not to require each person who applies for admission to
public housing to sign one or more forms of written consent authorizing the public housing agency to receive information from a drug abuse treatment facility under this subsection.

(7) Definitions

For purposes of this subsection, the following definitions shall apply:

(A) Drug abuse treatment facility

The term “drug abuse treatment facility” means an entity that—

(i) is—

(I) an identified unit within a general medical care facility; or

(II) an entity other than a general medical care facility; and

(ii) holds itself out as providing, and provides, diagnosis, treatment, or referral for treatment with respect to the illegal use of a controlled substance.

(B) Controlled substance

The term “controlled substance” has the meaning given the term in section 802 of this title.

(C) Currently engaging in the illegal use of a controlled substance

The term “currently engaging in the illegal use of a controlled substance” means the illegal use of a controlled substance that occurred recently enough to justify a reasonable belief that an applicant’s illegal use of a controlled substance is current or that continuing illegal use of a controlled substance by the applicant is a real and ongoing problem.

(8) Effective date

This subsection shall take effect on October 21, 1998, and without the necessity of guidance from, or any regulation issued by, the Secretary.

[Section references and legislative history omitted for brevity]

P**R**O**V**I**S**I**O**N**S

A prior section 6 of act Sept. 1, 1937, ch. 896, 50 Stat. 990, as amended, enumerated financial provisions applicable to the Authority and was classified to section 1406 of this title, prior to the general revision of this chapter by Pub. L. 93–383.

A**M**E**N**D**M**E**N**T**S

2013—Subsec. (c)(3) to (5). Pub. L. 113–4, §401(b)(1)(A), redesignated pars. (4) and (5) as (3) and (4), respectively, and struck out former par. (3) which read as follows: “the public housing agency shall not deny admission to the project to any applicant on the basis that the applicant is or has been a victim of domestic violence, dat-
ing violence, or stalking if the applicant otherwise qualifies for assistance or admission, and that nothing in this section shall be construed to supersede any provision of any Federal, State, or local law that provides greater protection than this section for victims of domestic violence, dating violence, or stalking.”

Subsec. (b). Pub. L. 113–4, § 601(b)(1)(B)(ii), struck out “or stalking, engaged in by a member of a tenant’s household or any guest or other person under the tenant’s control,” except that: (A) criminal activity directly relating to domestic violence, dating violence, or stalking, engaged in by a member of a tenant’s household or any guest or other person under the tenant’s control, shall not be cause for termination of the tenancy or occupancy rights of the victim of such violence before semicolon at end “; except that: (A) criminal activity directly relating to domestic violence, dating violence, or stalking, engaged in by a member of a tenant’s household or any guest or other person under the tenant’s control, shall not be cause for termination of the tenancy or occupancy rights, if the tenant or immediate member of the tenant’s family is a victim of that domestic violence, dating violence, or stalking; (B) notwithstanding subparagraph (A) or any Federal, State, or local law to the contrary, a public housing agency may bifurcate a lease under this section, or renumber a household member from a lease under this section, without regard to whether a household member is a signatory to a lease, in order to evict, remove, terminate occupancy rights, or terminate assistance to, or otherwise penalizing the victim who is also a tenant or lawful occupant and who engages in criminal acts of physical violence against family members or others, without evicting, removing, terminating assistance to, or otherwise penalizing the victim who is a tenant or lawful occupant and such eviction, removal, termination of occupancy rights, or termination of assistance shall be effected in accordance with the procedures prescribed by Federal, State, and local law for the termination of leases or assistance under the relevant program of HUD-assisted housing; (C) nothing in subparagraph (A) may be construed to limit the authority of a public housing agency, when notified, to honor court orders addressing rights of access to or control of the property, including civil protection orders issued to protect the victim and issued to address the distribution or possession of property among the household members in cases where a family breaks up; (D) nothing in subparagraph (A) limits any otherwise available authority of a public housing agency to evict a tenant for any violation of a lease not premised on the act or acts of violence in question against the tenant or a member of the tenant’s household, provided that the public housing agency does not subject an individual who is or has been a victim of domestic violence, dating violence, or stalking to a more demanding standard than other tenants in determining whether to evict or terminate; (E) nothing in subparagraph (A) may be construed to limit the authority of a public housing agency to terminate the tenancy of any tenant if the public housing agency can demonstrate an actual and imminent threat to other tenants or those employed at or providing service to the property if that tenant’s tenancy is not terminated; and (F) nothing in this section shall be construed to supersede any provision of any Federal, State, or local law that provides greater protection than this section for victims of domestic violence, dating violence, or stalking.”

Subsec. (c)(1)(A). Pub. L. 113–4, § 561(c)(1)(A), inserted before semicolon at end “; except that: (A) criminal activity directly relating to domestic violence, dating violence, or stalking, engaged in by a member of a tenant’s household or any guest or other person under the tenant’s control, shall not be cause for termination of the tenancy or occupancy rights of the victim of such violence before semicolon at end “; except that: (A) criminal activity directly relating to domestic violence, dating violence, or stalking, engaged in by a member of a tenant’s household or any guest or other person under the tenant’s control, shall not be cause for termination of the tenancy or occupancy rights, if the tenant or immediate member of the tenant’s family is a victim of that domestic violence, dating violence, or stalking; (B) notwithstanding subparagraph (A) or any Federal, State, or local law to the contrary, a public housing agency may bifurcate a lease under this section, or renumber a household member from a lease under this section, without regard to whether a household member is a signatory to a lease, in order to evict, remove, terminate occupancy rights, or terminate assistance to, or otherwise penalizing the victim who is also a tenant or lawful occupant and such eviction, removal, termination of occupancy rights, or termination of assistance shall be effected in accordance with the procedures prescribed by Federal, State, and local law for the termination of leases or assistance under the relevant program of HUD-assisted housing; (C) nothing in subparagraph (A) may be construed to limit the authority of a public housing agency, when notified, to honor court orders addressing rights of access to or control of the property, including civil protection orders issued to protect the victim and issued to address the distribution or possession of property among the household members in cases where a family breaks up; (D) nothing in subparagraph (A) limits any otherwise available authority of a public housing agency to evict a tenant for any violation of a lease not premised on the act or acts of violence in question against the tenant or a member of the tenant’s household, provided that the public housing agency does not subject an individual who is or has been a victim of domestic violence, dating violence, or stalking to a more demanding standard than other tenants in determining whether to evict or terminate; (E) nothing in subparagraph (A) may be construed to limit the authority of a public housing agency to terminate the tenancy of any tenant if the public housing agency can demonstrate an actual and imminent threat to other tenants or those employed at or providing service to the property if that tenant’s tenancy is not terminated; and (F) nothing in this section shall be construed to supersede any provision of any Federal, State, or local law that provides greater protection than this section for victims of domestic violence, dating violence, or stalking.”

Subsec. (c)(2)(A). Pub. L. 113–4, § 561(c)(2)(A), substituted “the individual receives a request for such certification” for “the individual has received a request for such certification from the public housing agency”.

Subsec. (d)(1)(D). Pub. L. 113–4, § 561(d)(1)(D), substituted “blood or marriage” for “blood and marriage”.

1998—Subsec. (a). Pub. L. 105–276, § 511(d), in first sentence, inserted “in a manner consistent with the public housing agency plan” before the period at end and struck out after first sentence “Any such contract may contain a condition requiring the maintenance of an open space or playground in connection with the housing project involved if deemed necessary by the Secretary for the safety or health of children.”
Under section 1437g(d) of this title, the Secretary may use a simplified set of indicators for a public housing agency that fails on a widespread basis to provide assistance from the Capital Fund under section 1437g(d) of this title.

The appointment of a receiver pursuant to this subsection may be terminated, upon the petition of any party, when the court determines that all defaults have been cured and the housing operated by the public housing agency will thereafter be operated in accordance with the covenants and conditions to which the public housing agency is subject.

Subsec. (j)(4), (5). Pub. L. 105–276, §521, added par. (4) and redesignated former par. (4) as (5).

Subsec. (j)(5)(A). Pub. L. 105–276, §564(h), substituted “program for assistance from the Capital Fund under section 1437g(d) of this title and specifies the amount of assistance the agency received under such program” for “program under section 1437f of this title and specifies the amount of assistance the agency received under section 1437f of this title and any credits accumulated by the agency under section 1437f(k) of this title.”

Subsec. (b)(3), (4). Pub. L. 105–276, §520(b), added pars. (3) and (4).


Subsec. (c)(4)(E). Pub. L. 105–276, §529(c), substituted “agency that receives assistance under this subchapter” for “except in the case of agencies not receiving operating assistance under section 1437g of this title.”

Subsec. (e). Pub. L. 105–276, §529(2), struck out subsec. (e) which read as follows: “Every contract for annual assistance from the Capital Fund under section 1437g(d) of this title shall be designated as a troubled public housing agency that is in need of assistance from the capital fund.”


Subsec. (g). Pub. L. 105–276, §532(a), added subsec. (g). (5) Pub. L. 105–276, §564(h), substituted “review conducted under section 1437g(d)” for “review conducted under section 1437f(d)” for “under section 1437f of this title”.

Subsec. (j)(2)(A)(I). Pub. L. 105–276, §564(2)(A), substituted “for assistance from the Capital Fund under section 1437g(d) of this title” for “under section 1437f of this title”.

Subsec. (j)(2)(A)(II). Pub. L. 105–276, §564(2)(B), substituted “for assistance from the Capital Fund under section 1437g(d) of this title” for “under section 1437f(d) of this title”.

Subsec. (j)(2)(B). Pub. L. 105–276, §564(2)(C), inserted “with more than 250 units” after “public housing agency” and substituted “comparable and recent review” for “review conducted under section 1437f(p) of this title”.


Subsec. (j)(3)(A)(I). Pub. L. 105–276, §565(a)(1)(A), added cl. (I) and struck out former cl. (I) which read as follows: “solicit competitive proposals from other public housing agencies and private housing management agents (which may be selected by existing tenants through administrative procedures established by the Secretary) in the eventuality that these agents may be needed for managing all, or part, of the housing administered by a public housing agency;”.


Subsec. (j)(3)(A)(IV), (V). Pub. L. 105–276, §565(a)(1)(C), added cls. (IV) and (V) and struck out former cl. (IV) which read as follows: “require the agency to make other arrangements acceptable to the Secretary and in the best interests of the public housing residents for managing all, or part, of such housing.”.

Subsec. (j)(3)(B) to (H). Pub. L. 105–276, §565(a)(2), added subpars. (B) to (H) and struck out former subpars. (B) to (D) which read as follows:

“(B) The Secretary may make available to receivers and other entities selected or appointed pursuant to this paragraph such assistance as is necessary to remedy the substantial deterioration of living conditions in individual public housing developments or other related emergencies that endanger the health, safety and welfare of the residents.”

“(C) In any proceeding under subparagraph (A)(ii), upon a determination that a substantial default has occurred, and without regard to the availability of alternative remedies, the court shall appoint a receiver to conduct the affairs of the public housing agency in a manner consistent with this chapter and in accordance with such further terms and conditions as the court may provide. The court shall have power to grant appropriate temporary or preliminary relief pending final disposition of the petition by the Secretary.”

“(D) The appointment of a receiver pursuant to this subsection may be terminated, upon the petition of any party, when the court determines that all defaults have been cured and the housing operated by the public housing agency will thereafter be operated in accordance with the covenants and conditions to which the public housing agency is subject.”

Subsec. (j)(4), (5). Pub. L. 105–276, §521, added par. (4) and redesignated former par. (4) as (5).

Subsec. (j)(5)(F). Pub. L. 105–276, §564(h), substituted “program for assistance from the Capital Fund under section 1437g(d) of this title specifies the amount of assistance the agency received under such program” for “program under section 1437f of this title and specifies the amount of assistance the agency received under section 1437f of this title and any credits accumulated by the agency under section 1437f(k) of this title.”


Subsec. (k). Pub. L. 105–276, §575(a), in first sentence of concluding provisions, inserted “violent or” before “drug-related” and “or any activity resulting in a felony conviction,” after “on or off such premises.”

Subsec. (l)(1) to (3). Pub. L. 105–276, §512(b)(1), (3), added par. (1) and redesignated former pars. (1) to (3) as (2) to (4), respectively.


Subsec. (l)(4)(A). Pub. L. 105–276, §575(b)(1)(A), added subpar. (A) and struck out former subpar. (A) which read as follows: “a reasonable time, but not to exceed 30 days, when the health or safety of other tenants or public housing employees is threatened;”.

Subsec. (l)(4)(C). Pub. L. 105–276, §575(b)(1)(B), inserted “except that if a State or local law provides for a shorter period of time, such shorter period shall apply” before semicolon at end.

Subsec. (l)(5), (6). Pub. L. 105–276, §512(b)(1), redesignated pars. (4) and (5) as (5) and (6), respectively. Former par. (6) redesignated (7), relating to specification that tenant be informed of opportunity to examine documents.


Pub. L. 105–276, §512(b)(2), which directed the redesignation of par. (7) as (9), was executed by redesignating the par. (7), relating to termination of tenancy if tenant is fleeing prosecution or in violation of parole, as (9), to reflect the probable intent of Congress.

Pub. L. 105–276, §512(b)(1), redesignated par. (6) as (7), relating to specification that tenant be informed of opportunity to examine documents.

Subsec. (l)(9). Pub. L. 105–276, §512(b)(2), which directed the redesignation of par. (7) as (9), was executed by redesignating the par. (7), relating to termination of tenancy if tenant is fleeing prosecution or in violation of parole, as (9), to reflect the probable intent of Congress.

Subsec. (p). Pub. L. 105–276, §519(b), struck out subsec. (p) which read as follows: "With respect to amounts available for obligation on or after October 1, 1991, the Secretary shall establish under section 1437d(b)(6) of this title for any competition for assistance for new construction, acquisition, or acquisition and rehabilitation of public housing shall give preference to applications for housing to be located in a local market area that has an inadequate supply of housing available for use by very low-income families. The Secretary shall establish criteria for determining that the housing supply of a local market area is inadequate, which shall require—

(1) information regarding housing market conditions showing that the supply of rental housing available for occupancy pursuant to section 1437e(a) of this title is inadequate, taking into account vacancy rates in such housing and other market indicators; and

(2) evidence that the proposed development would provide increased housing opportunities for minorities or address special housing needs."

Subsec. (q)(1)(A) Pub. L. 105–276, §755(c)(1)(A)(i), which directed the substitution of "covered housing assistance" for "public housing", was executed by making the substitution in the second place that "public housing appeared, to reflect the probable intent of Congress.

Pub. L. 105–276, §575(c)(1)(A)(i), substituted subparagraph (C) for subparagraph (B)."

Subsec. (q)(1)(B), (C). Pub. L. 105–276, §755(c)(1)(B), (C), added subpar. (B) and redesignated former subpar. (B) as (C).

Subsec. (q)(3). Pub. L. 105–276, §755(c)(2), substituted " ‘ ‘Fee’ " for " ‘ ‘Fee’ in heading and inserted at end ‘ ‘In the case of a public housing agency obtaining information pursuant to paragraph (1)(B) for another owner of housing, the agency may pay such fee on the owner’s behalf, initiating the request and may charge additional reasonable fees for making the request on behalf of the owner and taking other actions for owners under this subsection.’ ‘ ‘

Subsec. (r). Pub. L. 105–276, §576(d)(1), redesignated subsec. (s) as (r) and struck out heading and text of former subsec. (r). Text read as follows: "Any tenant evicted from housing assisted under this subchapter by reason of drug-related criminal activity (as that term is defined in section 1437f(f) of this title) shall not be eligible for housing assistance under this subchapter during the 3-year period beginning on the date of such eviction, unless the evicted tenant successfully completes a rehabilitation program approved by the public housing agency (which shall include a waiver of this subsection if the circumstances leading to eviction no longer exist)."


Subsec. (c)(4)(A). Pub. L. 104–99, §402(d)(1), (f), temporarily amended subpar. (A) generally, substituting "(A) the establishment, after public notice and an opportunity for public comment, of a written system of preferences for admission to public housing, if any, that is not inconsistent with the comprehensive housing affordability strategy under title I of the Cranston-Gonzalez National Affordable Housing Act;" for "(A) except for projects or portions of projects designated for occupancy pursuant to section 1437d of this title with respect to which the Secretary has determined that application of this subparagraph would result in excessive delays in meeting the housing needs of such families, the establishment of tenant selection criteria which—

(i) for not less than 50 percent of the units that are made available for occupancy in a given fiscal year, give preference to families that occupy substandard housing (including families that are homeless or living in a shelter for homeless families), are paying more than 50 percent of family income for rent, or are involuntarily displaced (including displacement because of disposition of a multifamily housing project under section 1701s–11 of title 12) at the time they are seeking assistance under this chapter; and

(ii) for any remaining units to be made available for occupancy, give preference in accordance with a system of preferences established by the public housing agency in writing and after public hearing to respond to local housing needs and priorities, which may include (I) assisting very-low-income families who either reside in transitional housing assisted under title IV of the Stewart B. McKinney Homeless Assistance Act, or participate in a program designed to provide public assistance recipients with greater access to employment and educational opportunities; (II) assisting families in accordance with subsection (u)(2); (III) assisting families identified by local public agencies involved in providing for the welfare of children as having a lack of adequate housing that is a primary factor in the imminent placement of a child in foster care, or in preventing the discharge of a child from foster care and reunification with his or her family; (IV) assisting youth, upon discharge from foster care, in cases in which return to the family or extended family or adoption is not available; (V) assisting families that include one or more adult members who are employed; and (VI) achieving other objectives of national housing policy as affirmed by Congress; subclause (V) shall be effective only during fiscal year 1995; (iii) prohibit any individual or family evicted from housing assisted under the chapter by reason of drug-related criminal activity from having a preference under any provision of this subparagraph for 3 years unless the evicted tenant successfully completes a rehabilitation program approved by the agency, except that the agency may waive the application of this clause who the agency determines clearly did not participate in and had no knowledge of such criminal activity or when circumstances leading to eviction no longer exist); and

(iv) are designed to ensure that, to the maximum extent feasible, the projects of an agency will include families with a broad range of incomes and will avoid concentrations of low-income and deprived families with serious social problems." See Effective and Termination Dates of 1996 Amendments note below.

Subsec. (k). Pub. L. 104–120, §9(a)(1), in concluding provisions, substituted "involved in the imminent placement of a child or reunification with a family; (IV) assisting youth, upon discharge from foster care, in cases in which return to the family or extended family or adoption is not available; (V) assisting families that include one or more adult members who are employed; and (VI) achieving other objectives of national housing policy as affirmed by Congress; subclause (V) shall be effective only during fiscal year 1995; (iii) prohibit any individual or family evicted from housing assisted under the chapter by reason of drug-related criminal activity from having a preference under any provision of this subparagraph for 3 years unless the evicted tenant successfully completes a rehabilitation program approved by the agency, except that the agency may waive the application of this clause who the agency determines clearly did not participate in and had no knowledge of such criminal activity or when circumstances leading to eviction no longer exist); and

"(iv) are designed to ensure that, to the maximum extent feasible, the projects of an agency will include families with a broad range of incomes and will avoid concentrations of low-income and deprived families with serious social problems.

Subsec. (l)(5). Pub. L. 104–120, §9(a)(2), added (l), in introductory provisions, temporarily substituted "written system of preferences for selection established pur-
suant to” for “preference rules specified in”. See Effective and Termination Dates of 1996 Amendments note below.


Subsec. (r). Pub. L. 104–120, §9(c), added subsec. (r).


Subsec. (c)(4)(A)(III). Pub. L. 103–327 added subcl. (V), redesignated former subcl. (V) as (VI), and inserted “subclause (V)” shall be effective only during fiscal year 1995;” after semicolon at end.

Subsec. (c)(4)(E). Pub. L. 103–233, §303, substituted “500 units” for “250 units”.


Subsec. (c)(4)(A). Pub. L. 102–550, §622(b), substituted “designated for occupancy pursuant to section 1437e(a) of this title” for “specifically designated for elderly families” in introductory provisions.

Subsec. (c)(4)(A)(I). Pub. L. 102–550, §112, substituted “50 percent” for “70 percent” after “not less than”.


Subsec. (j)(I). Pub. L. 102–550, §113(e)(1)(A), (B), which directed the substitution of “indicators for public housing agencies, to the extent practicable” for “indicators” in fourth sentence, was executed by making the substitution for “indicators” to reflect the probable intent of Congress.

Pub. L. 102–550, §113(e)(1)(A), (B), redesignated former subpars. (B) and (C) as (iv).

Subsec. (j)(2)(C). Pub. L. 102–550, §113(a)(1), (3), redesignated subpar. (B) as (C), substituted “agency, after reviewing the report submitted pursuant to subparagraph (B) and consulting with the agency’s assessment team. Such agreement shall set forth” for “agency setting forth” in introductory provisions, and inserted “To the extent the Secretary deems appropriate (taking into account an agency’s performance under the indicators specified under paragraph (I)), such agreement shall also set forth a plan for enhancing resident involvement in the management of the public housing agency, before “The Secretary and the public” in concluding provisions.


Subsec. (j)(3)(A)(I). Pub. L. 102–550, §113(b)(1), inserted “which may be selected by existing tenants through administrative procedures established by the Secretary” after “management agents”.


Subsec. (j)(3)(B) to (D). Pub. L. 102–550, §113(c), added subpar. (B) and redesignated former subpars. (B) and (C) as (C) and (D), respectively.

Subsec. (j)(4)(E). Pub. L. 102–550, §113(d), which directed the insertion of “, including an accounting of the authorized funds that have been expended to support such actions” before semicolon in par. (5)(E) of subsec. (j), was executed by making the insertion in par. (4)(E) to reflect the probable intent of Congress, because subsec. (j) does not contain a par. (5).

1990—Subsec. (c)(4)(A)(I), (II), Pub. L. 102–139, which directed amendment of “Section 6” of the Housing Act of 1937, 42 U.S.C. 1437d(j)(1) section 502(a) of the National Affordable Housing Act,” by adding “which shall not exceed the seven factors in the statute, plus an additional factor’’ at the end of subpar. (I), requiring Secretary to administer evaluation system, reflect in weights assigned indicators, and determine status, was executed to subsec. (j)(1) of this section, which is section 6 of the United States Housing Act of 1937, to reflect the probable intent of Congress.


1990—Subsec. (c)(4)(A). Pub. L. 101–625, §501, amended subpar. (A) generally. Prior to amendment, subpar. (A) read as follows: “except for projects or portions of projects specifically designated for elderly families with respect to which the Secretary has determined that application of this clause would result in excessive delays in meeting the housing needs of such families, the establishment of tenant selection criteria which gives preference to families which occupy substandard housing, are paying more than 50 percent of family income for rent, or are involuntarily displaced at the time they are seeking assistance under this chapter and which is designed to assure that, within a reasonable period of time, the project will include families with a broad range of incomes and will avoid concentration of lower income and deprived families with serious social problems, but (i) this shall not permit maintenance of vacancies to await higher income tenants where lower income tenants are available and shall not permit public housing agencies to select families for residence in an order different from the order on the waiting list for the purpose of selecting relatively higher income families for residence; and (ii) the public housing agency may provide for exceptions in which families who do not qualify for any preference established in this subparagraph are provided assistance before families who do qualify for such preference, except that not more than 10 percent of the families who initially receive assistance in any 1-year period (or such shorter period selected by the public housing agency before the beginning of its first full year subject to this clause) may be families who do not qualify for such preference.”.

Subsec. (c)(4)(D). Pub. L. 101–625, §572(1), substituted “low-income families” for “lower income families”.


Subsecs. (d), (e). Pub. L. 101–625, §572(2), substituted “low-income housing” for “lower income housing” wherever appearing.

Subsec. (j). Pub. L. 101–625, §502(a), amended subsec. (j) generally. Prior to amendment, subsec. (j) read as follows: “On or after October 1, 1983, in entering into commitments for the development of public housing, the Secretary shall give a priority to projects for the construction, acquisition, or acquisition and rehabilitation of housing suitable for occupancy by families requiring three or more bedrooms.”.

Subsec. (k). Pub. L. 101–625, §503(a), added concluding provisions and struck out former concluding provisions which read as follows: “An agency may exclude from its procedure any grievance concerning an eviction or termination of tenancy in any jurisdiction which requires that, prior to eviction, a tenant be given a hearing in court which the Secretary determines provides the basic elements of due process.”

Subsec. (j)(5). Pub. L. 101–625, §504, amended par. (5) generally. Prior to amendment, par. (5) read as follows: “provide that a public housing tenant, any member of the tenant’s household, or a guest or other person under the tenant’s control shall not engage in criminal activity, including drug-related criminal activity, on or near public housing premises, while the tenant is a tenant in public housing, and such criminal activity shall be cause for termination of tenancy.”.


Subsecs. (n), (o). Pub. L. 101–625, §§505, 506, added subsecs. (n) and (o).


Pub. L. 100–628, §101B(b), inserted before semicolon at end "and shall not permit public housing agencies to select families for residence in an order different from standard housing", and struck out "or are paying more than 50 percent of family income for rent," after "substandard housing", and struck out "or are paying more than 50 percent of family income for rent" after "under this chapter".

Subsec. (d). Pub. L. 100–242, §112(b)(2), struck out "annual" before "contributions" in four places and before "shelter" in two places.

Subsec. (f). Pub. L. 100–628, §101B(b), struck out "annual" before "contributions" in introductory proviso.

Subsec. (h). Pub. L. 100–242, §116, inserted "in the neighborhood where the public housing agency determines the housing is needed" after "in" and "in such neighborhood" after "rehabilitation".

Subsec. (k)(4). (5). Pub. L. 100–242, §170(d)(3), substituted "their" for "his".

Subsec. (l). Pub. L. 100–690 added par. (5) and concluding provisions defining term "drug-related criminal activity" for purposes of par. (5).

1985—Subsec. (b). Pub. L. 99–160 struck out subsec. (b) which related to cost of construction and equipment of a project, and prototype costs.


Subsec. (j). Pub. L. 98–479, §102(b)(4), inserted "acquisition, or acquisition and rehabilitation" and substituted "families requiring three or more bedrooms" for "large families".

Subsec. (m). Pub. L. 98–479, §102(b)(5), substituted "housing" for "housing".

1983—Subsec. (c)(4)(A). Pub. L. 98–479, §203(a), inserted "more than 50 percent of family income for rent".

Subsec. (f). Pub. L. 98–479, §211(b), repealed subsec. (f) which provided for modification or closeout of housing project.

Subsecs. (h) to (j). Pub. L. 98–479, §201(c), added subsecs. (h) to (j).

Subsecs. (k), (l). Pub. L. 98–479, §204, added subsecs. (k) and (l).


Subsec. (c). Pub. L. 97–35, §322(c), (d), substituted provision in par. (2) requiring review at least annually for provision requiring review at least within two year intervals, or shorter where deemed desirable, in par. (4)(A) "lower income and" for "low-income and", and in par. (4)(D) reference to lower income for reference to low-income.

Subsecs. (d), (e). Pub. L. 97–35, §322(c), substituted references to lower income for references to low-income wherever appearing.

1980—Subsec. (b). Pub. L. 96–389, §201(c), inserted exception relating to availability of prototype costs for projects to be located on Indian reservations or in Alaskan Native villages, and added cl. (8).

Subsec. (c)(4)(A). Pub. L. 96–399, §201(e), inserted exception relating to application of this clause to projects specifically designated for elderly families.

Subsec. (f). Pub. L. 96–399, §202(c), inserted "pursuant to section 1437l of this title" wherever appearing.

1979—Subsec. (c)(4)(A). Pub. L. 96–153 substituted "tenant selection criteria which gives preference to families which occupy substandard housing or are involuntarily displaced at the time they are seeking assistance under this chapter and which is designed for "tenant selection criteria designed".

**Effective Date of 1998 Amendment**

Amendment by title V of Pub. L. 105–276 effective and applicable beginning upon Oct. 1, 1998, except as otherwise provided, with provision that Secretary may implement amendment before such date, except to extent that such amendment provides otherwise, and with savings provision, see section 503 of Pub. L. 105–276, set out as a note under section 1437f of this title.

Amendment by section 511 of Pub. L. 105–276 effective and applicable beginning upon Oct. 21, 1998, see section 511(e) of Pub. L. 105–276, set out as a note under section 1701 of Title 12, Banks and Banking.

1998—Pub. L. 105–276, title V, §565(b), Oct. 21, 1998, 112 Stat. 2631, provided that: "The provisions of, and duties and authorities conferred or confirmed by, the amendments made by subsection (a) [amending this section] shall apply with respect to any action taken before, on, or after the effective date of this Act [probably means the general effective date for title V of Pub. L. 105–276 included in section 503 of Pub. L. 105–276 set out as an Effective Date of 1998 Amendment note under section 1437f of this title and shall apply to any receiver appointed for a public housing agency before the date of the enactment of this Act [Oct. 21, 1998]."

1993—Pub. L. 103–307, title V, §107, Aug. 30, 1994, 108 Stat. 1403, provided that: "This section [amending this section and section 1437f of this title and enacting provisions set out as notes under this section] shall take effect on, and the amendments made by this section are made on, and shall apply beginning upon, the date of the enactment of this Act [Oct. 21, 1998]."

**Effective and Termination Dates of 1996 Amendments**


(a) **Applicability.**—This Act [enacting section 1490p–2 of this title, amending this section, sections 1437e and 1437n of this title] shall apply as provided in subsection (a) of this section, notwithstanding the effective date of any regulations issued by the Secretary of Housing and Urban Development to implement such amendments or any failure by the Secretary to issue such regulations.

(b) **Implementation.**—The amendments made by sections 9 and 10 [amending this section and sections 1437e and 1437n of this title] shall apply as provided in subsection (a) of this section, notwithstanding the effective date of any regulations issued by the Secretary of Housing and Urban Development to implement such amendments or any failure by the Secretary to issue any such regulations.


**Effective Date of 1992 Amendment**

Amendment by subtitles B through F of title VI of Pub. L. 102–550 applicable upon expiration of 6-month period beginning Oct. 28, 1992, except as otherwise provided, see section 13642 of this title.


**Effective Date of 1981 Amendment**


**Implementation**

Pub. L. 105–276, title V, §565(d), Oct. 21, 1998, 112 Stat. 2632, provided that: "The Secretary may administer the
amendments made by subsection (a) [amending this section] as necessary to ensure the efficient and effective initial implementation of this section [amending this section and section 1437f of this title and enacting provisions set out as notes under this section]."

Pub. L. 101–625, title V, § 502(c)(2), Nov. 28, 1990, 104 Stat. 4164, as amended by Pub. L. 102–550, title I, § 130, Oct. 28, 1992, 106 Stat. 3712, provided that: "The Secretary of Housing and Urban Development shall, under the rulemaking procedures under section 553 of title 5, United States Code, establish guidelines and timetables appropriate to implement the amendment made by paragraph (1)(C) [amending this section], taking into account the requirements of public housing agencies of different sizes and characteristics, to achieve compliance with requirements established by such amendment not later than January 1, 1993 for public housing agencies with 500 or more units and not later than January 1, 1994 for public housing agencies with less than 500 units."

REGULATIONS

For provisions requiring Secretary of Housing and Urban Development to issue regulations necessary to implement amendment to this section by section 101(c) of Pub. L. 101–233, see section 101(f) of Pub. L. 101–233, set out as a note under section 1701z–11 of Title 12, Banks and Banking.

Pub. L. 102–550, title I, § 104, Oct. 28, 1992, 106 Stat. 3684, provided that: "Not later than the expiration of the 180-day period beginning on the date of the enactment of this Act [Oct. 28, 1992], the Secretary of Housing and Urban Development shall issue regulations implementing the amendments made by sections 501 and 545 of the Cranston-Gonzalez National Affordable Housing Act [Pub. L. 101–625, amending this section and section 1437f of this title]. The regulations shall be issued after notice and opportunity for public comment pursuant to the provisions of section 553 of title 5, United States Code (notwithstanding subsections (a)(2), (b)(2), and (d)(3) of such section) and shall take effect upon issuance...

Pub. L. 101–625, title V, § 503(c), Nov. 28, 1990, 104 Stat. 4165, provided that: "The Secretary of Housing and Urban Development shall issue, and publish in the Federal Register for comment, proposed rules implementing the amendments made by this section [amending this section and section 1437f of this title] not later than the expiration of the 60-day period beginning on the date of the enactment of this Act [Nov. 28, 1990] and shall issue final rules implementing the amendments not later than the expiration of the 60-day period beginning on the date of the enactment of this Act."

CONSTRUCTION

Pub. L. 113–4, title VI, § 601(b)(3), Mar. 7, 2013, 127 Stat. 108, provided that: "Nothing in this Act [see Tables for classification], or the amendments made by this Act, shall be construed—"

"(A) to limit the rights or remedies available to any person under section 6 or 8 of the United States Housing Act of 1937 (42 U.S.C. 1437d and 1437f), as in effect on the day before the date of enactment of this Act [Mar. 7, 2013];"

"(B) to limit any right, remedy, or procedure otherwise available under any provision of part 5, 91, 880, 882, 883, 884, 886, 891, 903, 960, 966, 982, or 983 of title 24, Code of Federal Regulations, that—"

"(i) was issued under the Violence Against Women and Department of Justice Reauthorization Act of 2005 [Public Law 109–162; 119 Stat. 2960] [see Tables for classification] or an amendment made by that Act; and"

"(ii) provides greater protection for victims of domestic violence, dating violence, sexual assault, and stalking than this Act; or"

"(C) to disqualify an owner, manager, or other individual from participating in or receiving the benefits of the low income housing tax credit program under section 42 of the Internal Revenue Code of 1986 [26 U.S.C. 42] because of noncompliance with the provisions of this Act."

STUDY OF ALTERNATIVE METHODS FOR EVALUATING PUBLIC HOUSING AGENCIES

Pub. L. 104–324, title V, § 502(c)(1), Oct. 28, 1992, 106 Stat. 3684, provided that: "(a) In General.—The Secretary of Housing and Urban Development shall provide under subsection (e) for a study to be conducted to determine the effectiveness of various alternative methods of evaluating the performance of public housing agencies and other providers of federally assisted housing.

"(b) Purposes.—The purposes of the study under this section shall be—

"(1) to identify and examine various methods of evaluating and improving the performance of public housing agencies in administering public housing and tenant-based rental assistance programs and of other providers of federally assisted housing, which are alternatives to oversight by the Department of Housing and Urban Development; and

"(2) to identify specific monitoring and oversight activities currently conducted by the Department of Housing and Urban Development and to evaluate whether such activities should be eliminated, expanded, modified, or transferred to other entities (including governmental and private entities) to increase accuracy and effectiveness and improve monitoring.

"(c) Evaluation of Various Performance Evaluation Systems.—To carry out the purposes under subsection (b), the study under this section shall identify, and analyze the advantages and disadvantages of various methods of regulating and evaluating the performance of public housing agencies and other providers of federally assisted housing, including the following methods:

"(1) Current System.—The system pursuant to the United States Housing Act of 1937 (42 U.S.C. 1437 et seq.), including the methods and requirements under such system for reporting, auditing, reviewing, sanctioning, and monitoring of such agencies and housing providers and the public housing management assessment program pursuant to section 6(j) of the United States Housing Act of 1937 (42 U.S.C. 1437d(j)).

"(2) Accreditation Models.—Various models that are based upon accreditation of such agencies and housing providers, subject to the following requirements:

"(A) The study shall identify and analyze various models used in other industries and professions for accreditation and determine the extent of their applicability to the programs for public housing and federally assisted housing.

"(B) If any accreditation models are determined to be applicable to the public and federally assisted housing programs, the study shall identify appropriate goals, objectives, and procedures for an accreditation program for such agencies and housing providers.

"(C) The study shall evaluate the feasibility and merit of establishing an independent accreditation and evaluation entity to assist, supplement, or replace the role of the Department of Housing and Urban Development in assessing and monitoring the performance of such agencies and housing providers.

"(D) The study shall identify the necessary and appropriate roles and responsibilities of various entities that would be involved in an accreditation program, including the Department of Housing and Urban Development, the Inspector General of the Department, an accreditation entity, independent auditors and examiners, local entities, and public housing agencies.

"(E) The study shall estimate the costs involved in developing and maintaining such an independent accreditation program."
"(3) PERFORMANCE BASED MODELS.—Various performance-based models, including systems that establish performance goals or targets, assess the compliance with such goals or targets, and provide for incentives or sanctions based on performance relative to such goals or targets.

"(4) LOCAL REVIEW AND MONITORING MODELS.—Various models providing for local, resident, and community review and monitoring of such agencies and housing providers, including systems for review and monitoring by local and State governmental bodies and agencies.

"(5) PRIVATE MODELS.—Various models using private contractors for review and monitoring of such agencies and housing providers.

"(6) OTHER MODELS.—Various models of any other systems that may be more effective and efficient in regulating and evaluating such agencies and housing providers.

"(d) CONSULTATION.—The entity that, pursuant to subsection (e), carries out the study under this section shall, in carrying out the study, consult with individuals and organizations experienced in managing public housing, private real estate managers, representatives from State and local governments, residents of public housing, families and individuals receiving tenant-based assistance, the Secretary of Housing and Urban Development, the Inspector General of the Department of Housing and Urban Development, and the Comptroller General of the United States.

"(e) CONTRACT TO CONDUCT STUDY.—

"(1) IN GENERAL.—Subject to paragraph (2), the Secretary shall enter into a contract, within 90 days of the enactment of this Act [Oct. 21, 1996], with a public or nonprofit private entity to conduct the study under this section, using amounts made available pursuant to subsection (g).

"(2) NATIONAL ACADEMY OF PUBLIC ADMINISTRATION.—The Secretary shall request the National Academy of Public Administration to enter into the contract under paragraph (1) to conduct the study under this section. If such Academy declines to conduct the study, the Secretary shall carry out such paragraph through other public or nonprofit private entities, selected through a competitive process.

"(f) INTERIM REPORT.—The Secretary shall ensure that, not later than the expiration of the 6-month period beginning on the date of the execution of the contract under subsection (e)(1), the entity conducting the study under this section submits to the Congress an interim report describing the actions taken to carry out the study, the actions to be taken to complete the study, and any findings and recommendations available at the time.

"(g) FINAL REPORT.—The Secretary shall ensure that—

"(A) not later than the expiration of the 12-month period beginning on the date of the execution of the contract under subsection (e)(1), the study required under this section is completed and a report describing the findings and recommendations as a result of the study is submitted to the Congress; and

"(B) before submitting the report under this paragraph to the Congress, the report is submitted to the Secretary, national organizations for public housing agencies, and other appropriate national organizations at such time to provide the Secretary and such agencies an opportunity to review the report and provide written comments on the report, which shall be included together with the report upon submission to the Congress under subparagraph (A).

"(h) EFFECTIVE DATE.—This section shall take effect on the date of the enactment of this Act [Oct. 21, 1996]."

REFERENCES IN OTHER LAWS TO PREFERENCES FOR ASSISTANCE

Pub. L. 104–99, title IV, § 402(d)(6)(D), Jan. 26, 1996, 110 Stat. 43, which provided that certain references to preferences for assistance under sections 1437d(c)(4)(A)(i) and 1437d(d)(1)(A)(1), (c)(3)(B) of this title, as such sections existed on the day before Jan. 26, 1996, were to be considered to refer to the new system of preferences for selection established pursuant to sections 1437d(c)(4)(A) and 1437d(d)(1)(A), (c)(3)(B) of this title, respectively, as amended by section 402 of Pub. L. 104–99, was repealed by Pub. L. 106–550, title V, § 514(b)(2)(D), Oct. 21, 1998, 112 Stat. 2548.

INAPPLICABILITY OF CERTAIN 1992 AMENDMENTS TO INDIAN PUBLIC HOUSING

Amendment by sections 622(b) and 623(a)(2) of Pub. L. 102–550 not applicable with respect to lower income housing developed or operated pursuant to contract between Secretary of Housing and Urban Development and Indian housing authority, see section 626 of Pub. L. 102–550, set out as a note under section 1437a of this title.

REPORT ON TRAINING AND CERTIFICATION STANDARDS

Pub. L. 101–625, title V, § 563(b), Nov. 28, 1990, 104 Stat. 4183, directed Secretary to submit to Congress, not later than 12 months after Nov. 28, 1990, a report regarding the feasibility and effectiveness of establishing uniform standards for training and certification of executive directors and other executive officers and members of local, regional, and State public housing agencies.

APPLICABILITY

Pub. L. 101–625, title V, § 563(d), Nov. 28, 1990, 104 Stat. 4183, provided that: "Any exclusion of grievance procedures or other provisions of public housing agency pursuant to a determination or waiver by the Secretary (under section 6(k) of the United States Housing Act of 1937 [42 U.S.C. 1437d(k)], or such section existed before the date of the enactment of this Act [Nov. 28, 1990]) that a jurisdiction requires a hearing in court providing the basic elements of due process shall be effective after the date of the enactment of this Act only to the extent that the exclusion complies with the amendments made by this section, except that any such waiver provided before the date of the enactment of this Act shall remain in effect until the earlier of the effective date of the final rules implementing the amendments made by this section or 180 days after the date of the enactment."

REPORT ON IMPACT OF PUBLIC HOUSING LEASE AND GRIEVANCE REGULATION ON ABILITY OF PUBLIC HOUSING AGENCIES TO TAKE ACTION AGAINST TENANTS ENGAGING IN DRUG CRIMES

Pub. L. 100–690, title V, § 5103, Nov. 18, 1988, 102 Stat. 4380, provided that: "The Secretary of Housing and Urban Development shall submit to the Congress a report on the impact of the implementation of the public housing tenancy and administrative grievance procedure regulations issued under section 6(k) of the United States Housing Act of 1937 (42 U.S.C. 1437d(k)) on the ability of public housing agencies to evict or take other appropriate action against tenants engaging in criminal activity, especially with respect to the manufacture, sale, distribution, use, or possession of controlled substances (as defined in section 105 of the Controlled Substances Act [21 U.S.C. 802]). The report shall be submitted not later than 12 months after the date of the enactment of this Act [Nov. 18, 1988]."

INDIAN HOUSING

Pub. L. 100–628, title X, § 1014(a)(2), Nov. 7, 1988, 102 Stat. 3269, provided that: "In accordance with section 201(b)(2) of the United States Housing Act of 1937 (former section 1437aa(b)(2) of this title), the amendments made by paragraph (1) [amending this section] shall also apply to public housing developed or operated pursuant to a contract between the Secretary of Housing and Urban Development and an Indian housing authority."
§ 1437e. Designated housing for elderly and disabled families

(a) Authority to provide designated housing

(1) In general

Subject only to provisions of this section and notwithstanding any other provision of law, a public housing agency for which a plan under subsection (d) is in effect may provide public housing projects (or portions of projects) designated for occupancy by (A) only elderly families, (B) only disabled families, or (C) elderly and disabled families.

(2) Priority for occupancy

In determining priority for admission to public housing projects (or portions of projects) that are designated for occupancy as provided in paragraph (1), the public housing agency may make units in such projects (or portions) available only to the types of families for whom the project is designated.

(3) Eligibility of near-elderly families

If a public housing agency determines that there are insufficient numbers of elderly families to fill all the units in a project (or portion of a project) designated under paragraph (1) for occupancy by only elderly families, the agency may provide that near-elderly families may occupy dwelling units in the project (or portion).

(b) Standards regarding evictions

Except as provided in section 1437n(e)(1)(B) of this title, any tenant who is lawfully residing in a dwelling unit in a public housing project may not be evicted or otherwise required to vacate such unit because of the designation of the project (or portion of a project) pursuant to this section or because of any action taken by the Secretary or any public housing agency pursuant to this section.

(c) Relocation assistance

A public housing agency that designates any existing project or building, or portion thereof, for occupancy as provided under subsection (a)(1) shall provide, to each person and family who agrees to be relocated in connection with such designation—

(1) notice of the designation and an explanation of available relocation benefits, as soon as is practicable for the agency and the person or family;

(2) access to comparable housing (including appropriate services and design features), which may include tenant-based rental assistance under section 1437f of this title, at a rental rate paid by the tenant that is comparable to that applicable to the unit from which the person or family has vacated; and

(3) payment of actual, reasonable moving expenses.

(d) Required plan

A plan under this subsection for designating a project (or portion of a project) for occupancy under subsection (a)(1) is a plan, prepared by the public housing agency for the project and submitted to the Secretary, that—

(1) establishes that the designation of the project is necessary—

(A) to achieve the housing goals for the jurisdiction under the comprehensive housing affordability strategy under section 12705 of this title; and

(B) to meet the housing needs of the low-income population of the jurisdiction; and

(2) includes a description of—

(A) the project (or portion of a project) to be designated;

(B) the types of tenants for which the project is to be designated;

(C) any supportive services to be provided to tenants of the designated project (or portion);

(D) how the design and related facilities (as such term is defined in section 1701q(d)(8) of title 12) of the project accommodate the special environmental needs of the intended occupants; and

(E) any plans to secure additional resources or housing assistance to provide assistance to families that may have been housed if occupancy in the project were not restricted pursuant to this section.

For purposes of this subsection, the term “supportive services” means services designed to meet the special needs of residents.

(e) Review of plans

(1) Review and notification

The Secretary shall conduct a limited review of each plan under subsection (d) that is submitted to the Secretary to ensure that the plan is complete and complies with the requirements of subsection (d). The Secretary shall notify each public housing agency submitting a plan whether the plan complies with such requirements not later than 60 days after receiving the plan. If the Secretary does not notify the public housing agency, as required under this paragraph or paragraph (2), the plan shall be considered, for purposes of this section, to comply with the requirements under subsection (d) and the Secretary shall be considered to have notified the agency of such compliance upon the expiration of such 60-day period.

(2) Notice of reasons for determination of noncompliance

If the Secretary determines that a plan, as submitted, does not comply with the requirements under subsection (d), the Secretary shall specify in the notice under paragraph (1) the reasons for the noncompliance and any modifications necessary for the plan to meet such requirements.
(3) Standards for determination of noncompliance

The Secretary may determine that a plan does not comply with the requirements under subsection (d) only if—

(A) the plan is incomplete in significant matters required under such subsection; or

(B) there is evidence available to the Secretary that challenges, in a substantial manner, any information provided in the plan.

(4) Treatment of existing plans

Notwithstanding any other provision of this section, a public housing agency shall be considered to have submitted a plan under this subsection if the agency has submitted to the Secretary an application and allocation plan under this section (as in effect before March 28, 1996) that have not been approved or disapproved before March 28, 1996.

(f) Effectiveness

(1) 5-year effectiveness of original plan

A plan under subsection (d) shall be in effect for purposes of this section during the 5-year period that begins upon notification under subsection (e)(1) of the public housing agency that the plan complies with the requirements under subsection (d).

(2) Renewal of plan

Upon the expiration of the 5-year period under paragraph (1) or any 2-year period under this paragraph, an agency may extend the effectiveness of the designation and plan for an additional 2-year period (that begins upon such expiration) by submitting to the Secretary any information needed to update the plan. The Secretary may not limit the number of times a public housing agency extends the effectiveness of a designation and plan under this paragraph.

(3) Transition provision

Any application and allocation plan approved under this section (as in effect before March 28, 1996) before March 28, 1996, shall be considered to be a plan under subsection (d) that is in effect for purposes of this section for the 5-year period beginning upon such approval.

(g) Inapplicability of Uniform Relocation Assistance and Real Property Acquisitions Policy Act of 1970

No tenant of a public housing project shall be considered to be displaced for purposes of the Uniform Relocation Assistance and Real Property Acquisitions Policy Act of 1970 [42 U.S.C. 4601 et seq.] because of the designation of any existing project or building, or portion thereof, for occupancy as provided under subsection (a) of this section.

kitchen facilities, and (B) connected with which there is a central dining facility to provide wholesome and economical meals for elderly and displaced families under terms and conditions prescribed by the public housing agency to permit a generally self-supporting operation”.

**Effective and termination dates of 1996 amendments**


Amendment by Pub. L. 104–120 to be construed to have become effective Oct. 1, 1995, notwithstanding the effective date of any regulations issued by Secretary of Housing and Urban Development to implement amendments by sections 9 and 10 of Pub. L. 104–120 or any failure by Secretary to issue any such regulations, see section 13 of Pub. L. 104–120, set out as a note under section 1437d of this title.


**Effective date of 1992 amendment**

Amendment by Pub. L. 102–550 not applicable with respect to lower income housing developed or operated pursuant to contract between Secretary of Housing and Urban Development and Indian housing authority, set out as a note under section 514(f) of Pub. L. 105–276, set out as notes under section 1437a of this title.

**Inapplicability of certain 1992 amendments to Indian public housing**

Amendment by Pub. L. 102–550 not applicable with respect to lower income housing developed or operated pursuant to contract between Secretary of Housing and Urban Development and Indian housing authority, set out as a note under section 1437a of this title.

§ 1437f. Low-income housing assistance

(a) Authorization for assistance payments

For the purpose of aiding low-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 subchapter II–A of this chapter. Each contract entered into under this subsection shall be for a term of not more than 60 months.

(c) Contents and purposes of contracts for assistance payments; amount and scope of monthly assistance payments

(1) In general.—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 12705 of this title, 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 October 12, 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.

(2) 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 no-
tics 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 4851b of this title.

(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 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 November 7, 1988, 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 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 1437a(a) of this title. Reviews of family income shall be made no less frequently than annually.

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

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

(6) Redesignated (5).


(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) Required provisions and duration of contracts for assistance payments; waiver of limitation

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

(A) the selection of tenants shall be the function of the owner, subject to the annual contributions contract between the Secretary and the agency, except that with respect to the certificate and moderate rehabilitation programs only, for the purpose of selecting families to be assisted, the public housing agency may establish local preferences, consistent with the public housing agency plan submitted under section 1437c–1 of this title 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,
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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 serious or repeated violation of the terms and conditions of the leases, 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 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 subsection (b)(2) of this section (as such subsection 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 [42 U.S.C. 13631] 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 1437c(c) of this title 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 subsection (b)(2) of this section (as such subsection 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 [42 U.S.C. 13601 et seq.] and any regulations issued under such subtitle.

(D) An owner of a covered section 8 [42 U.S.C. 1437f] housing project (as such term is defined in section 659 of the Housing and Community Development Act of 1992 [42 U.S.C. 13619]) 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 [42 U.S.C. 13611 et seq.].

(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 serious or repeated violation of the terms and conditions of the leases, for violation of applicable Federal, State, or local law, or for other good cause.

1 So in original. Probably should be section "671". 
(e) Restrictions on contracts for assistance payments

(1) Nothing in this chapter 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) Definitions

As used in this section—

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

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

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

(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 [42 U.S.C. 12721 et seq.];

(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 802 of title 21);

(6) the term “project-based assistance” means rental assistance under subsection (b) that is attached to the structure pursuant to subsection (d)(1)(B) or (o)(13); and

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

(g) Regulations applicable for implementation of assistance payments

Notwithstanding any other provision of this chapter, 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 1701q of title 21.

(h) Nonapplicability of inconsistent provisions to contracts for assistance payments

Sections 1437c(e) and 1437d of this title (except as provided in section 1437d(j)(3) of this title), and any other provisions of this chapter which are inconsistent with the provisions of this section shall not apply to contracts for assistance entered into under this section.

(i) Receipt of assistance by public housing agency under other law not to be considered

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 [42 U.S.C. 8013(b)(1)], or the amount received, in approving assistance for the agency under this section or determining the amount of such assistance to be provided.


(k) Verification of income

The Secretary shall establish procedures which are appropriate and necessary to assure that income data provided to public housing agencies and owners by families applying for or receiving assistance under this section is complete and accurate. In establishing such procedures, the Secretary shall randomly, regularly, and periodically select a sample of families to authorize the Secretary to obtain information on these families for the purpose of income verification, or to allow those families to provide such information themselves. Such information may include, but is not limited to, data concerning unemployment compensation and Federal income taxation and data relating to benefits made available under the Social Security Act [42 U.S.C. 301 et seq.], the Food and Nutrition Act of 2008 [7 U.S.C. 2011 et seq.], or title 38. 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.


(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 mar-
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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 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.

(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 1437a(a)(1) of this title, 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 subchapter;
(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 [12 U.S.C. 4113, 4116].

(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 1437a(a) of this title and to section 3544 of this title.

(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) 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 1437c-1(f) of this title 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.

That an applicant or participant is or has been a victim of domestic violence, dating violence, or stalking is not an appropriate basis for denial of program assistance or for denial of admission if the applicant otherwise qualifies for assistance or admission.

(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;

So in original. The comma probably should not appear.
(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.

(8) Inspection of units by PHAs

(A) In general

Except as provided in paragraph (11), for each dwelling unit for which a housing assistance payment contract is established under this subsection, the public housing agency shall inspect the unit before any assistance payment is made to determine whether the dwelling unit meets the housing quality standards under subparagraph (B).

(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 any 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 1437c of this title.

(iv) Mixed-finance properties

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

(E) Alternative inspection method

An inspection of a property shall qualify as an alternative inspection method for purposes of this subparagraph if—

(i) the inspection was conducted pursuant to requirements under a Federal, State, or local housing program (including the Home investment partnership program under title II of the Cranston-Gonzalez National Affordable Housing Act [42 U.S.C. 12721 et seq.] and the low-income housing tax credit program under section 42 of title 26); 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) 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 such other entity) determines that the rent (or rent increase) for a dwelling unit is not reasonable, the public housing agency (or such other 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 title 26 or for which assistance is provided under subtitle A of title II of the Cranston Gonzalez National Affordable Housing Act of 1990 [42 U.S.C. 12741 et seq.], 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 Sec-
see tax increment financing for the 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. Such payments may be made only for the rental of 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, the rent for the space on which a manufactured home is located and with respect to which assistance payments are to be made shall include maintenance and management charges and tenant-paid utilities.

(ii) Payment standard
The public housing agency shall establish a payment standard for the purpose of determining the monthly assistance that may be paid for any family under this paragraph. The payment standard may not exceed an amount approved or established by the Secretary.

(iii) Monthly assistance payment
The monthly assistance payment for a family assisted under this paragraph shall be determined in accordance with paragraph (2).

(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. Such payments may be made only for the rental of 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, the rent for the space on which a manufactured home is located and with respect to which assistance payments are to be made shall include maintenance and management charges and tenant-paid utilities.

(ii) Payment standard
The public housing agency shall establish a payment standard for the purpose of determining the monthly assistance that may be paid for any family under this paragraph. The payment standard may not exceed an amount approved or established by the Secretary.

(iii) Monthly assistance payment
The monthly assistance payment for a family assisted under this paragraph shall be determined in accordance with paragraph (2).

(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 structure, that is attached to the structure, subject to the limitations and requirements of this paragraph.

(B) Percentage limitation
Not more than 20 percent of the funding available for tenant-based assistance under this section that is administered by the agency may be attached to structures pursuant to this paragraph.

(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 1437c–1 of this title; and
(ii) the goal of deconcentrating poverty and expanding housing and economic opportunities.

(D) Income mixing requirement
(i) In general
Not more than 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
The limitation under clause (i) shall not apply in the case of assistance under a contract for housing consisting of single family properties or for dwelling units that are specifically made available for households comprised of elderly families, disabled families, and families receiving supportive services.

(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**

A housing assistance payment contract pursuant to this paragraph between a public housing agency and the owner of a structure may have a term of up to 15 years, subject to the availability of sufficient appropriated funds for the purpose of renewing expiring contracts for assistance payments, as provided in appropriations Acts and in the agency’s annual contributions contract with the Secretary, and to annual compliance with the inspection requirements under paragraph (8), except that the agency shall not be required to make annual inspections of each assisted unit in the development. The contract may specify additional conditions for its continuation. If the units covered by the contract are owned by the agency, the term of the contract shall be agreed upon by the agency and the unit of general local government or other entity approved by the Secretary in the manner provided under paragraph (11).

(G) **Extension of contract term**

A public housing agency may enter into a contract with the owner of a structure 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 structure, specify that such contract shall be extended for renewal terms of up to 15 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 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 title 26 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 dwellings 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 [42 U.S.C. 1437f] 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 shall provide for rent adjustments, except that—

(i) the adjusted rent for any unit assisted shall be reasonable in comparison with rents charged for comparable dwelling units in the private, unassisted, local market and may not exceed the maximum rent permitted under subparagraph (H), except that 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 unit; and

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

(j) **Tenant selection**

A public housing agency shall select families to receive project-based assistance pursuant to this paragraph from its waiting list for assistance under this subsection. Eligibility for such project-based assistance shall be subject to the provisions of section 1457m(b) of this title that apply to tenant-based assistance. The agency 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 1457c–1 of this title. Any family that rejects an offer of project-based assistance under this paragraph or that is rejected for admission to a structure by the owner or manager of a structure assisted under this paragraph shall retain its place on the waiting list as if the offer had not been made. The owner or manager of a structure 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. Subject to its waiting list
policies and selection preferences, a public housing agency may place on its waiting list a family referred by the owner or manager of a structure and may maintain a separate waiting list for assistance under this paragraph, but only if all families on the agency’s waiting list for assistance under this subsection are permitted to place their names on the separate list.

(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 3545(d) of this title shall not be required for assistance under this paragraph in the case of a housing assistance payments contract for an existing structure, 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 structure, except to the extent such a review is otherwise required by law or regulation.

(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 subsection, 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) 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 [42 U.S.C. 3601 et seq.].

(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. ¹

(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.

(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.

(p) Shared housing for elderly and handicapped

In order to assist elderly families (as defined in section 1437a(b)(3) of this title 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 cost of housing, the

¹So in original.
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 subsection (c) of this section (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 this chapter (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.

(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 (42 U.S.C. 1437f) program and has moved out of the assisted dwelling unit in order to protect the health or safety of an individual who is or has been the victim of domestic violence, dating violence, or stalking and who reasonably believed he or she was imminently threatened by harm from further violence if he or she remained in the assisted dwelling unit.

(s) Prohibition of denial of certificates and vouchers to residents of public housing

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

(f) 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 income of the assisted family declines to a significant extent, the percentage of income paid by the family for rent shall not exceed the greater of 30 percent or the percentage of 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 this section 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 4113(f) of title 12, or section 1715z-1a(p) of title 12, 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.
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(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 October 20, 1999.

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

(u) Assistance for residents of rental rehabilitation projects
In the case of low-income families living in rental projects rehabilitated under section 1437f of this title or section 1490m of this title 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) Extension of expiring contracts
The Secretary may extend expiring contracts entered into under this section for project-based loan management assistance to the extent necessary to prevent displacement of low-income families receiving such assistance as of September 30, 1996.


(x) Family unification

(1) Increase in budget authority
The budget authority available under section 1437f(c) of this title for assistance under subsection (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 this section 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) 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 [42 U.S.C. 675(5)(H)], and is homeless or is at risk of becoming homeless at age 16 or older.

(3) Allocation
The amounts made available under this subsection shall be allocated by the Secretary through a national competition among applicants based on demonstrated need for the 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.

(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 July 29, 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—
(A) identifying eligible recipients for assistance under this subsection;
(B) coordinating with other local youth and family providers in the community and participating in the Continuum of Care program established under title V of the McKinney-Vento Homeless Assistance Act (42 U.S.C. 11381 et seq.);
(C) implementing housing strategies to assist eligible families and youth;

1See References in Text note below.
(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) 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 this section.
(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 require-
ments 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) 7 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) 7 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 chapter 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 de-
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faults under a mortgage for the dwelling insured by the Secretary under the National Housing Act [12 U.S.C. 1701 et seq.], 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 1437u(d)(3)7 of this title 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 [12 U.S.C. 1701 et seq.], 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) “First-time homeowner” defined  

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.  

(2) Termination of section 1437f contracts and reuse of recaptured budget authority  

(1) General authority  

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

(A) Tenant-based assistance  

Pursuant to a contract with a public housing agency, to provide tenant-based assistance under this section to families occupying units formerly assisted under the terminated contract.  

(B) Project-based assistance  

Pursuant to a contract with an owner, to attach assistance to one or more structures under this section, for relocation of families occupying units formerly assisted under the terminated contract.  

(2) Families occupying units formerly assisted under terminated contract  

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

(aa) Omitted  

(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 this subchapter is terminated or amended as part of restructuring under section 517 of the Multifamily Assisted Housing Reform and Affordability Act of 1997, the Secretary shall recapture the budget authority not required for the terminated or amended contract and use such amounts as are necessary to provide housing assistance for the same number of families covered by such contract for the remaining term of such contract, under a contract providing for project-based or tenant-based assistance. The amount of budget authority saved as a result of the shift to project-based or tenant-based assistance shall be rescinded.  

(cc) Law enforcement and security personnel  

(1) In general  

Notwithstanding any other provision of this chapter, 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 chapter.

(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 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.


AMENDMENT OF SECTION

Pub. L. 114–201, title I, § 101, July 29, 2016, 130 Stat. 783, provided, that effective upon the issuance of notice or regulations implementing subsection (a) of section 101 of Pub. L. 114–201, subsection (o) of this section is amended as follows:

“(I) by striking subparagraph (A) and inserting the following new subparagraph:

“‘(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 (II)) 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).”;

(2) by redesignating subparagraph (G) as subparagraph (H); and

(3) by inserting after subparagraph (F) the following new subparagraph:

“(G) Enforcement of housing quality standards

“(i) Determination of noncompliance

“A dwelling unit that is covered by a housing assistance payments contract under this subsection shall be considered, for purposes of subparagraphs (D) and (F), to be in noncompliance with the housing quality standards under subparagraph (B) if—

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

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

“(III) the failure to comply is not corrected—

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

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

“(ii) Withholding of assistance amounts during correction

“The public housing agency may withhold assistance amounts under this subsection with respect to a dwelling unit for which a notice pursuant to clause (i)(II) of failure to comply with housing quality standards under subparagraph (B) as determined pursuant to an inspection conducted under subparagraph (D) or (F), has been provided. If the unit is brought into compliance with such housing quality standards during the periods referred to in clause (i)(III), the public housing agency shall recommence assistance payments and may use any amounts withheld during the correction period to make assistance payments relating to the period during which payments were withheld.

“(iii) Abatement of assistance amounts

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

“(iv) Notification

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

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

“(aa) such abatement has commenced; and

“(bb) if the dwelling unit is not brought into compliance with such 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.

“(e) 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.
“(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.”

Pub. L. 114–201, title I, §102(e), (f), (h), July 29, 2016, 130 Stat. 791, provided that, effective upon the issuance of notice or regulations implementing section 102 of Pub. L. 114–201, except that such section 102 may only take effect upon the commencement of a calendar year, this section is amended as follows:

(1) in subsection (c)(3), by striking the last sentence; and

(2) in subsection (t)(1)(D), by striking “income” each place such term appears and inserting “annual adjusted income”.

Pub. L. 114–201, title I, §106, July 29, 2016, 130 Stat. 796, provided that, effective upon the issuance of notice or regulations implementing subsection (a) of section 106 of Pub. L. 114–201, subsection (o)(13) of this section is amended as follows:

(1) by striking “structure” each place such term appears and inserting “project”;

(2) by striking subparagraph (B) and inserting the following new subparagraph:

“(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, 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.”;

(3) by striking subparagraph (D) and inserting the following new subparagraph:

“(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 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 July 29, 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.

“(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—

“(A) 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

“(B) 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) Additions 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

“At any 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.”;

“(5) in subparagraph (G), by striking “15 years” and inserting “20 years”;

“(6) by striking subparagraph (I) and inserting the following new subparagraph:

“(I) Rent adjustments

“A housing assistance payments contract pursuant to this paragraph entered into after July 29, 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 re-
quested, 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.”;

(7) in subparagraph (J)—
(A) in the first sentence, by striking “shall” and inserting “may” and by inserting before the period the following: “or may permit owners to select applicants from site-based waiting lists as specified in this subparagraph”; (B) by striking the third sentence and inserting the following: “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 1437c-1 of this title and that give preference to families who qualify for voluntary services, including disability-specific services, offered in conjunction with assisted units.”; and
(C) by striking the fifth and sixth sentences and inserting the following: “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 794 of title 29, 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.”;

(8) in subparagraph (M)(ii), by inserting before the period at the end the following: “relating to funding other than housing assistance payments”; and

(9) by adding at the end the following new subparagraphs:

“(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.”

Pub. L. 114–201, title I, § 112, July 29, 2016, 130 Stat. 803, provided that, effective upon the issuance of notice implementing subsection (a) of section 112 of Pub. L. 114–201, subsection (o)(12) of this section is amended as follows:

(1) in subparagraph (A), by striking the period at the end of the first sentence and all that follows through “of” in the second sentence and inserting “and rents”; and

(2) in subparagraph (B)—

(A) in clause (i), by striking “the rent” and all that follows and inserting the following: “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.”;

(B) by striking clause (ii); and

(C) in clause (iii)—

(i) by inserting after the period at the end the following: “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.”; and

(ii) by redesignating such clause as clause (ii).

See 2016 Amendment notes below.

References in Text


Sections 514 and 517 of the Multifamily Assisted Housing Reform and Affordability Act of 1997, referred to in subsecs. (d)(5) and (b)(2), are sections 514 and 517 of Pub. L. 105–65, and are set out as a note under this section.

The Cranston-Gonzalez National Affordable Housing Act, referred to in subsecs. (f)(4) and (o)(4)(D), is Pub. L. 101–625, Nov. 28, 1990, 104 Stat. 4079. Title II of the Act, also known as the “HOME Investment Partnerships Act”, is classified principally to subchapter II (§12721 et seq.) of chapter 130 of this title. Subtitle A of title II of the Act is classified generally
to part A (§1274i et seq.) of subchapter II of chapter 130 of this title. Title IV of the Act, also known as the ‘‘Homeownership and Opportunity Through HOPE Act’’, enacted subchapter II–A (§1437aaa et seq.) of this chapter and subchapter IV (§1437l et seq.) of chapter 130 of this title, amended sections 1437c, 1437f, 1437p, 1437t, and 1437y of this title and section 1709 of Title 12, Banks and Banking, and enacted provisions set out as notes under sections 1437c, 1437aaa, and 1437taaa of this title. For complete classification of this title to the Code, see Title 12 note set out under section 12701 of this title and Tables.

The Social Security Act, referred to in subsections (k) and (x)(4)(E), is act Aug. 14, 1935, ch. 531, 49 Stat. 620, which is classified generally to chapter 7 (§301 et seq.) of this title. Parts B and E of title IV of the Act are classified generally to parts B (§621 et seq.) and E (§670 et seq.), respectively, of subchapter IV of chapter 7 of this title. For complete classification of this title to the Code, see Table under section 1631 of this title and Tables.

The Food and Nutrition Act of 2008, referred to in subsection (k), is Pub. L. 110–234, Aug. 31, 1968, 74 Stat. 703, which is classified generally to chapter 1 (§12701 et seq.) of Title 7, Agriculture. For complete classification of this title to the Code, see Title 7 note set out under section 12701 of this title and Tables.

The Fair Housing Act, referred to in subsection (o)(17), is title VIII of Pub. L. 90–284, Apr. 11, 1968, 82 Stat. 81, which is classified principally to subchapter I (§3601 et seq.) of chapter 45 of this title. For complete classification of this Act to the Code, see Title 7 note set out under section 3601 of this title and Tables.

Section 503(a) of the Quality Housing and Work Responsibility Act of 1998, referred to in subsection (o)(18), is section 503(a) of Pub. L. 105–276, which is set out as an Effective Date of 1998 Amendment note under section 1347 of this title.

The effective date of the Department of Veterans Affairs, Housing and Urban Development, and Independent Agencies Appropriations Act, 2001, referred to in subsection (t)(2), means the effective date of H.R. 5482, as enacted by section 1(a)(1) of Pub. L. 106–377, which was approved Oct. 27, 2000.

Section 1437o of this title, referred to in subsection (u), was repealed by Pub. L. 101–625, title II, §289(b), Nov. 28, 1990, 104 Stat. 4126.


Subsection (y)(3)(B), does not contain a cl. (ii) and does not relate to annual inspections. For provisions of subsection (o)(8) which relate to annual inspections, see subpars. (B) and (C).

Subsection (c)(3)(B) of this section, referred to in subsection (y)(5), is set out as June 23, 1934, ch. 674, 48 Stat. 1246, which is classified principally to chapter 13 (§1701 et seq.) of Title 12, Banks and Banking. For complete classification of this Act to the Code, see section 1301 of Title 12 and Tables.

Section 1377u(d)(3) of this title, relating to reimbursement of escrow accounts, referred to in subsection (y)(6)(A), is set out as June 23, 1934, ch. 674, 48 Stat. 1246, which is classified principally to chapter 13 (§1701 et seq.) of Title 12, Banks and Banking. For complete classification of this Act to the Code, see section 1701 of Title 12 and Tables.

The National Housing Act, referred to in subsection (y)(6), is act July 23, 1935, 48 Stat. 703, which is classified principally to chapter 13 (§1701 et seq.) of Title 12, Banks and Banking. For complete classification of this Act to the Code, see section 1701 of Title 12 and Tables.

Classification


October 20, 1969, referred to in subsection (t)(3)(B)(ii), was in the original ‘‘the enactment of this Act’’, which was translated as meaning the enactment of Pub. L. 106–74, which enacted subsec. (t) of this section, to reflect the probable intent of Congress.

Pub. L. 100–242, title II, §233(a), Feb. 5, 1988, 101 Stat. 1878, as amended, which was codified in a note under section 1715I of Title 12, Banks and Banking, and which provided that on Nov. 28, 1990, the amendment made by section 202 of Pub. L. 100–242 is repealed and this section is to read as it would have been as if such amendment was omitted in the general amendment of subtitle A of title II of Pub. L. 100–242 by Pub. L. 101–625.

Prior Provisions

A prior section 8 of act Sept. 1, 1937, ch. 896, 50 Stat. 891, as amended, authorized promulgation of rules and regulations by the Authority and was classified to section 1469 of this title, prior to the general revision of this chapter by Pub. L. 93–348.

Amendments

2016—Subsec. (c)(1). Pub. L. 114–201, §107(a), designated existing provisions as subpar. (A), struck out ‘‘Proposed fair market rentals for an area shall be published in the Federal Register with reasonable time for public comment, and shall become effective upon the date of publication in final form in the Federal Register,’’ after ‘‘October 1, 1980,’’ and ‘‘The Secretary shall establish separate fair market rentals under this paragraph for Westchester County in the State of New York. The Secretary shall also establish separate fair market rentals under this paragraph for Monroe County in the Commonwealth of Pennsylvania. In establishing fair market rentals for the remaining portion of the market area in which Monroe County is located, the Secretary shall establish the fair market rentals as if such portion included Monroe County,’’ after ‘‘no practicable alternative’’, and added subpar. (B).

Subsec. (c)(3). Pub. L. 114–201, §102(c), struck out at end ‘‘Reviews of family income shall be made no less frequently than annually.’’

Subsec. (o)(1)(B). Pub. L. 114–201, §107(b), inserted before period at end ‘‘, 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’’.

Subsec. (o)(1)(D). Pub. L. 114–201, §102(d)(1), inserted before period at end ‘‘, 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’’.


Subsec. (o)(5)(A). Pub. L. 114–201, §102(d)(2)(B), substituted ‘‘paragraphs (1), (6), and (7) of section 1377a(a) of this title and to’’ for ‘‘the provisions of’’ and struck out ‘‘and shall be conducted upon the initial provision of housing assistance for the family and thereafter as required by section 1377a(a)(1) of this title’’ before period at end.

Subsec. (o)(5)(B). Pub. L. 114–201, §102(d)(2)(C), struck out at end ‘‘Each public housing agency shall, not less frequently than annually, conduct a review of the fam-
ily income of each family receiving assistance under this subsection.’’

Subsec. (o)(8)(A). Pub. L. 114–201, §106(a)(1), added subpar. (A). Prior to amendment, text read as follows: ‘‘Except as provided in paragraph (11), for each dwelling unit for which a housing assistance payment contract is established under this subsection, the public housing agency shall inspect the unit before any assistance payment is made to determine whether the dwelling unit meets the housing quality standards under subparagraph (B).’’

Subsec. (o)(8)(B). Pub. L. 114–201, §106(a)(2), (3), added subpar. (G) and redesignated former subpar. (G) as (H).


may have a term of up to 15 years, subject to the availability of sufficient appropriated funds for the purpose of renewing expiring contracts for assistance payments, or as provided in appropriated Acts and in the annual contributions contract with the Secretary, and to annual compliance with the inspection requirements under paragraph (8), except that the agency shall not be required to make annual inspections of any assisted unit in the development. The contract may specify additional conditions for its continuation. If the units covered by the contract are owned by the agency, the term of the contract shall be agreed upon by the agency and the unit of general local government or other entity approved by the Secretary in the manner provided under paragraph (11).’’

Subsec. (o)(13)(G). Pub. L. 114–201, §106(a)(1), (5), substituted ‘‘project’’ for ‘‘structure’’ in two places and ‘‘20 years’’ for ‘‘15 years’’.

Subsec. (o)(13)(I). Pub. L. 114–201, §106(a)(6), added subpar. (I) and struck out former subpar. (I). Prior to amendment, text read as follows: ‘‘A housing assistance payments contract pursuant to this paragraph shall provide for rent adjustments, except that—’’

‘‘(i) the adjusted rent for any unit assisted shall be reasonable in comparison with rents charged for comparable dwelling units in the private, unassisted, local market and may not exceed the maximum rent permitted under subparagraph (H), except that 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 unit; and

‘‘(ii) the provisions of subsection (c)(2)(C) shall not apply.’’

Subsec. (o)(13)(J). Pub. L. 114–201, §106(a)(1), (7), substituted ‘‘may select families’’ for ‘‘shall select families’’, inserted ‘‘or may permit owners to select applicants from site-based waiting lists as specified in this subparagraph’’ before period at end of first sentence, and substituted ‘‘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 1437–1 of this title and that give preference to families who qualify for voluntary services, including disability-specific services, offered in conjunction with assisted units.’’ for ‘‘The agency 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 1437–1 of this title, and that give preference to families who qualify for voluntary services, including disability-specific services, offered in conjunction with assisted units.’’

Subsec. (o)(13)(N). Pub. L. 114–201, §106(a)(2), added subpar. (K) and struck out former subpar. (K). Prior to amendment, text read as follows: ‘‘Not more than 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.’’

Subsec. (o)(13)(N). Pub. L. 114–201, §106(a)(3), added subpar. (L) and struck out former subpar. (L). Prior to amendment, text read as follows: ‘‘(i) IN GENERAL.—Not more than 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.—The limitation under clause (i) shall not apply in the case of a contract for housing consisting of single family properties or for dwelling units that are specifically made available for households comprised of elderly families, disabled families, and families receiving supportive services.’’

Subsec. (o)(13)(N). Pub. L. 114–201, §106(a)(4), added subpar. (M) and struck out former subpar. (M). Prior to amendment, text read as follows: ‘‘A housing assistance payment contract pursuant to this paragraph between a public housing agency and the owner of a structure

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public housing agency from its waiting list. Subject to its waiting list policies and selection preferences, a public housing agency may place on its waiting list a family referred by the owner or manager of a structure and may maintain a separate waiting list for assistance under this paragraph, but only if all families on the agency's waiting list for assistance under this subparagraph are permitted to place their names on the separate list.


Subsec. (o)(13)(N)(ii). Pub. L. 114–201, §106(a)(18), inserted before period at end "relating to funding other than housing assistance payments".


Subsec. (1)(i)(D). Pub. L. 114–201, §102(e), substituted "annual adjusted income" for "income" wherever appearing.

Subsec. (x)(2)(B). Pub. L. 114–201, §110(1), substituted "36 months" for "16 months" and "24 years of age" for "21 years of age" and inserted "or will leave foster care within 90 days, in accordance with a transition plan described in section 475(b)(2) of the Social Security Act, and is homeless or is at risk of becoming homeless after "have left foster care".

Subsec. (x)(4), (5). Pub. L. 114–201, §110(2), (3), added par. (4) and redesignated former par. (4) as (5).

2015—Subsec. (o)(5)(A). Pub. L. 114–94 substituted "as required by section 476a(a)(1) of this title for "not less than annually".


Subsec. (o)(8)(D) to (G). Pub. L. 113–76, §220(a), added subpars. (D) to (F), redesignated former subpar. (E) as (G), and struck out former subpar. (D) which required every public housing agency providing assistance under this subsection to make an annual inspection of each assisted dwelling unit.

2013—Subsec. (c)(9). Pub. L. 113–4, §601(b)(2)(A), struck out par. (9) which related to prohibitions against the denial of program assistance or admission to victims of domestic violence, dating violence, or stalking and the termination of assistance, tenancy, or occupancy rights of such victims.

Subsec. (d)(1)(A). Pub. L. 113–4, §601(b)(2)(B)(i), struck out "and that an applicant or participant is or has been a victim of domestic violence, dating violence, or stalking" and inserted "or for denial of admission if the applicant otherwise qualifies for assistance or admission" before semicolon at end.

Subsec. (d)(1)(B)(ii). Pub. L. 113–4, §601(b)(2)(B)(ii)(1), struck out "and that an incident or incidents of actual or threatened domestic violence, dating violence, or stalking will not be construed as a serious or repeated violation of the lease of the victim or threatened victim of that violence and will not be good cause for terminating the tenancy or occupancy rights of the victim of such violence before semicolon at end.

Subsec. (d)(1)(B)(iii). Pub. L. 113–4, §601(b)(2)(B)(ii)(II), struck out before semicolon at end ", except that: (I) criminal activity directly relating to domestic violence, dating violence, or stalking, engaged in by a member of a tenant's household or any guest or other person under the tenant's control, shall not be cause for termination of the tenancy or occupancy rights or program assistance, if the tenant or immediate member of the tenant's family is a victim of that domestic violence, dating violence, or stalking; (II) Notwithstanding subclause (I) or any Federal, State, or local law to the contrary, a public housing agency may terminate assistance to, or program assistance to any individual who is a tenant or lawful occupant and who engages in criminal acts of physical violence against family members or others, without evicting, removing, terminating assistance to, or otherwise penalizing the victim of such violence, or allowing the victim of such violence to remain in the tenancy or occupancy rights or otherwise penalizing the victim of such violence, or allowing the victim of such violence to remain in the tenancy or occupancy rights; (III) nothing in subclause (I) may be construed to limit the authority of a public housing agency, owner, or manager, when notified, to honor court orders addressing rights of access to or control of the property, including civil protection orders issued to protect the victim and issued to address the distribution or possession of property among the household members in cases where a family breaks up; (IV) nothing in subclause (I) may be construed to limit the availability of an owner or manager to evict, or the public housing agency to terminate assistance, to any tenant if the owner, manager, or public housing agency can demonstrate an actual and imminent threat to other tenants or those employed at or providing service to the property if that tenant is not evicted or terminated from assistance; and (VI) nothing in this section shall be construed to supersede any provision of any Federal, State, or local law that provides greater protection than this section for victims of domestic violence, dating violence, or stalking.


Subsec. (o)(6)(B). Pub. L. 113–4, §601(b)(2)(D)(i), struck out at end "Nothing in this section shall be construed to supersede any provision of any Federal, State, or local law that provides greater protection than this section for victims of domestic violence, dating violence, or stalking, ".

Subsec. (o)(7)(C). Pub. L. 113–4, §601(b)(2)(D)(II), in introductory provisions, struck out "and that an incident or incidents of actual or threatened domestic violence, dating violence, or stalking will not be construed as a serious or repeated violation of the lease of the victim or threatened victim of that violence and will not be good cause for terminating the tenancy or occupancy rights of the victim of such violence before semicolon at end.

Subsec. (o)(7)(D). Pub. L. 113–4, §601(b)(2)(D)(II), struck out before semicolon at end "except that: (i) criminal activity directly relating to domestic violence, dating violence, or stalking, engaged in by a member of a tenant's household or any guest or other person under the tenant's control, shall not be cause for termination of the tenancy or occupancy rights, if the tenant or immediate member of the tenant's family is a victim of that domestic violence, dating violence, or stalking; (ii) NOTWITHSTANDING clause (I) of any Federal, State, or local law to the contrary, a public housing agency may terminate assistance to, or an owner or manager may bifurcate a lease under this section, or remove a household member from a lease under this section, without regard to whether a household member is a signatory to a lease, in order to evict, remove, terminate occupancy rights, or terminate assistance to any individual who is a tenant or lawful occupant and who engages in criminal acts of domestic violence against family members or others, without evicting, removing, terminating assistance to, or other-
wise penalizing the victim of such violence who is also a tenant or lawful occupant. Such eviction, removal, termination of occupancy rights, or termination of assistance shall be effected in accordance with the procedures prescribed by Federal, State, and local law for the termination of leases or assistance under the relevant program of HUD-assisted housing. (iii) nothing in clause (i) may be construed to limit the authority of the public housing agency, owner, or manager, when notified, to honor court orders addressing rights of access or control of the property, including civil protection orders issued to protect the victim and issued to address the distribution or possession of property among the household members in cases where a family breaks up; (iv) nothing in clause (i) may be construed to limit the authority of an owner or manager to evict or the public housing agency to terminate assistance to a tenant for any violation of a lease not premised on the act or acts of violence in question against the tenant or a member of the tenant’s household, provided that the owner, manager, or public housing agency does not subject an individual who is or has been a victim of domestic violence, dating violence, or stalking to a more demanding standard than other tenants in determining whether to evict or terminate; (v) nothing in clause (i) may be construed to limit the authority of the owner or manager to evict, or the public housing agency to terminate assistance to a tenant if the owner, manager, or public housing agency can demonstrate an actual and imminent threat to other tenants or those employed at or providing service to the property if that tenant is not evicted or terminated from assistance; and (vi) nothing in this section shall be construed to supersede any provision of any Federal, State, or local law that provides greater protection than this section for victims of domestic violence, dating violence, or stalking.”


Subsec. (ee). Pub. L. 113–4, § 601(b)(2)(E), struck out subsec. (ee) which related to certification that an individual is a victim of domestic violence, dating violence, or stalking and confidentiality of information provided to any owner, manager, or public housing agency.

2011—Subsec. (o)(16)(B)(iii). Pub. L. 111–372 inserted before period at end “, 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 tenant or percentage that is reasonable given the services and amenities provided and as the Secretary deems appropriate.”

2009—Subsec. (o)(7)(C). Pub. L. 111–22, §§ 703(1), 704, temporarily inserted before semicolon at end “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, 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.” See Termination Date of 2009 Amendment note below.

Subsec. (o)(7)(F). Pub. L. 111–22, §§ 703(2), 704, temporarily inserted at end “In the case of any foreclosure on any federally-related mortgage loan (as that term is defined in section 2002f of title 12) or on any residential real property in which a recipient of assistance under 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, excluding that this provision relates to any foreclosure in paragraph (C) shall not affect any State or local law that provides longer time periods or other additional protections for tenants.”

See Termination Date of 2009 Amendment note below.


Subsec. (o)(13)(D)(i). Pub. L. 110–289, § 2383(a)(1)(A), substituted “any project” for “any building” and inserted at end “For purposes of this subparagraph, the term ‘project’ means a single building, multiple contiguous buildings, or multiple buildings on contiguous parcels of land.”


Subsec. (o)(13)(G). Pub. L. 110–289, § 2383(a)(1)(C), inserted after first sentence “Such contract may, at the election of the public housing agency and the owner of the structure, specify that such contract shall be extended for renewal terms of up to 15 years each, if the agency makes the determination required by this subparagraph and the owner is in compliance with the terms of the contract, and inserted at end “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.”

Subsec. (o)(13)(H). Pub. L. 110–289, § 2383(a)(1)(D), inserted before period at end of first sentence “, except that in the case of the 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 the regulations and 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)”.

Subsec. (o)(13)(I)(1). Pub. L. 110–289, § 2383(a)(1)(E), inserted before semicolon “, except that 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 unit”.


Subsec. (o)(9)(O)(i). Pub. L. 109–271, § 8(e)(1), added cl. (i) and struck out former cl. (i) which read as follows: “Notwithstanding clause (i), an owner or manager may bifurcate a lease under this section, in order to evict, remove, or terminate assistance to any individual who is a tenant or lawful occupant who has engaged in criminal acts of physical violence against family members or others, without evicting, removing, terminating assistance to, or otherwise penalizing the victim of such violence who is also a tenant or lawful occupant.”

Subsec. (d)(1)(A). Pub. L. 109–271, § 5(d), amended subpar. (A) generally. Prior to amendment, subpar. (A) read as follows: “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 1437f–1 of this title by the public housing agency and that an applicant or participant is or has been a victim of domestic violence, dating violence, or stalking is not an appropriate basis for denial of program assistance or for denial of admission if the applicant otherwise qualifies for assistance or admission.”

Pub. L. 109–162, § 606(2)(A), which directed insertion of “and that an applicant or participant is or has been a victim of domestic violence, dating violence, or stalking is not an appropriate basis for denial of program assistance or for denial of admission if the applicant otherwise qualifies for assistance or admission” after...
“public housing agency,” was executed by making the insertion after “public housing agency” the last place appearing to reflect the probable intent of Congress.

Subsec. (g)(6)(B). Pub. L. 109–271, §5(e)(4)(A)(ii), which directed the substitution of “admission. Nothing” for “for admission for” in second sentence, was executed by substituting “for assistance or” for “for assistance for” in third sentence, to reflect the probable intent of Congress.

Pub. L. 109–162, §606(4)(A), inserted “That an applicant or participant is or has been a victim of domestic violence, dating violence, or stalking shall not be construed as a serious or repeated violation of the lease by the victim or threatened victim of that violence and shall not be good cause for terminating the tenancy or occupancy rights of the victim of such violence before semicolon at end.”

Subsec. (d)(1)(B)(i)(III). Pub. L. 109–162, §606(2)(C), inserted before semicolon at end “except that: (I) criminal activity directly relating to domestic violence, dating violence, or stalking, engaged in by a member of a tenant’s household, or any guest or other person under the tenant’s control, shall not be cause for termination of the tenancy or occupancy rights or program assistance, if the tenant or immediate member of the tenant’s family is a victim of that domestic violence, dating violence, or stalking; (II) notwithstanding subsection (I), a public housing agency may terminate assistance to any individual who is a tenant or lawful occupant and who engages in criminal acts of physical violence against family members or others, or an owner or manager under this section may bifurcate a lease, in order to evict, remove, or terminate assistance to any individual who is a tenant or lawful occupant and who engages in criminal acts of physical violence against family members or others, without evicting, removing, or terminating assistance to, or otherwise penalizing the victim of such violence who is also a tenant or lawful occupant; (III) nothing in subsection (I) may be construed to supersede any provision of any Federal, State, or local law that provides greater protection than this section for victims of domestic violence, dating violence, or stalking; (IV) nothing in subsection (I) limits any otherwise available authority of an owner or manager to evict, or the public housing agency to terminate assistance to a tenant for any violation of a lease not premised on the acts or acts of violence in question against the tenant or a member of the tenant’s household, provided that the owner, manager, or public housing agency does not subject an individual who is or has been a victim of domestic violence, dating violence, or stalking, to a more demanding standard than other tenants in determining whether to evict or terminate; (V) nothing in subsection (I) may be construed to limit the authority of a public housing agency, owner, or manager to evict, or the public housing agency to terminate assistance to a tenant for any violation of a lease not premised on the acts or acts of violence in question against the tenant or a member of the tenant’s household, provided that the owner, manager, or public housing agency can demonstrate an actual and imminent threat to other tenants or those employed or operating service to the property if that tenant is not evicted or terminated from assistance; and (VI) nothing in this section shall be construed to supersede any provision of any Federal, State, or local law that provides greater protection than this section for victims of domestic violence, dating violence, or stalking.”

Subsec. (f)(8). Pub. L. 109–162, §606(3), added subcl. (II) and struck out former subcl. (II) which read as follows: “notwithstanding subsection (I), a public housing agency may terminate assistance to any individual who is a tenant or lawful occupant and who engages in criminal acts of physical violence against family members or others, or an owner or manager under this section may bifurcate a lease, in order to evict, remove, or terminate assistance to any individual who is a tenant or lawful occupant and who engages in criminal acts of physical violence against family members or others, without evicting, removing, or terminating assistance to, or otherwise penalizing the victim of such violence who is also a tenant or lawful occupant.”

limit the authority of an owner or manager to evict, or
the public housing agency to terminate, assistance to
any tenant if the owner, manager, or public housing
agency cannot demonstrate an imminent threat to
other tenants or those employed at or providing
service to the property if that tenant is not evicted or
terminated from assistance; and (vi) nothing in this
section shall be construed to supersede any provision of
any Federal, State, or local law that provides greater
protection than this section for victims of domestic
violence, dating violence, or stalking.
added cl. (ii) and struck out former cl. (ii) which read
as follows: ‘‘notwithstanding clause (i), a public hous-
ing agency may terminate assistance to any individual
who is a tenant or lawful occupant and who engages in
criminal acts of physical violence against family mem-
bers or others, or an owner or manager may bifurcate
a lease under this section, in order to evict, remove,
or terminate assistance to any individual who is a tenant
or lawful occupant and who engages in criminal acts of
physical violence against family members or others,
without evicting, removing, terminating assistance to,
or otherwise penalizing the victim of such violence
who is also a tenant or lawful occupant;’’.
substituted ‘‘access or control’’ for ‘‘access to control’’.
substituted ‘‘terminate’’ for ‘‘terminate.’’
with change and amended text generally, substitut-
ing cls. (i) to (v) relating to amounts necessary to pro-
vide vouchers for rental assistance for fiscal years 2007
and (v) through (vi) relating to amounts necessary to pro-
vide vouchers for rental assistance for fiscal years 2003
to 2006.
(20).
substituted ‘‘distribution or’’ for ‘‘distribution’’.
‘‘, 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 fam-
ily has complied with all other obligations of the sec-
tion 8 program and has moved out of the assisted dwell-
ing 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 reason-
ably believed he or she was intimidated by harm or from
further violence if he or she remained in the assisted
dwelling unit’’ before period at end.
Subsec. (ee). Pub. L. 109–162, §606(6), added subsec-
(ee).
substituted ‘‘the individual receives a request for such cer-
tification from the owner, manager, or public housing
agency for the owner, manager, or public housing
agency requests such certification’’.
substituted ‘‘the individual has received a request in writ-
ing for such certification for the owner, manager, or
public housing agency for’’ ‘‘the owner, manager, pub-
lic housing agency, or assisted housing provider has
requested such certification in writing and ‘‘The owner,
manager or public housing’’ for ‘‘The owner, manager,
public housing’’ and struck out ‘‘, or assisted housing
provider’’ before ‘‘may extend the 14-day deadline’’.
struck out ‘‘sexual assault, after addressing domes-
tic violence, dating violence, . . .’’.
struck out ‘‘sexual assault, after ‘‘dating violence, . . .’’.
stripped out ‘‘, or assisted housing provider’’ in two
places after ‘‘public housing agency’’.
Pub. L. 109–271, §5(e)(5)(E), which directed the sub-
stitution of ‘‘manager or public housing agency’’ for
‘‘manager, public housing’’ wherever appearing, was executed by
making the substitution for ‘‘manager, public housing’’
and ‘‘manger, public housing’’, to reflect the probable
intent of Congress.
2002—Subsec. (t)(2). Pub. L. 107–116 inserted ‘‘includ-
ing any such mortgage prepayment during fiscal year
1996 or a fiscal year thereafter or any insurance con-
tract voluntary termination during fiscal year 1996 or
a fiscal year thereafter’’ after ‘‘insurance contract for the
mortgage for such housing project’’.
§232(a)], reenacted heading without change and amend-
ed text generally, substituting subpars. (A) to (K) pro-
viding for funding percentage limitation, consistency of
contracts with public housing agency plan and goals,
income mixing requirement, resident choice require-
ment, contract term and its expiration, rent calculation
and adjustments, tenant selection, and vacated units
for former subpars. (A) to (D) providing for extension
of contract term, rent calculation, and adjusted rents.
Subsec. (t)(1)(B). Pub. L. 106–569, §905(a), inserted be-
fore semicolon at end, ‘‘, except that a limit shall not
be considered reasonable for purposes of this subpara-
graph if it adversely affects such assisted families’’.
Pub. L. 106–377, §1(a)(1) [title II, §205], inserted ‘‘and
any other reasonable limit prescribed by the Sec-
retary’’ before semicolon at end.
Pub. L. 106–216, which directed the substitution of
‘‘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 reside,’’ for ‘‘during any period that the assisted
family continues residing in the same project in which
the family was residing on the date of the eligibility
event for the project, it’’ in section 538 of Pub. L. 106–74,
was executed by making the substitution in subsec.
(t)(1)(B) of this section, which was enact by section
538 of Pub. L. 106–74, to reflect the probable intent of
Congress.
Subsec. (t)(2). Pub. L. 106–569, §902(a), substituted
‘‘fiscal year 1994’’ for ‘‘fiscal year 1996’’.
Pub. L. 106–377, §1(a)(1) [title II, §234], substituted
‘‘including any such termination or expiration during fis-
cal years after fiscal year 1996 prior to the effective
date of the Department of Veterans Affairs and Hous-
ing and Urban Development, and Independent Agencies
Appropriations Act, 2001’’ after ‘‘contract for rental
assistance under this section for such housing project’’.
Subsec. (x)(2). Pub. L. 106–377, §1(a)(1) [title II, §234],
substituted ‘‘(A) any family (i) who is otherwise eligi-
ble for such assistance, and (ii) for ‘‘any family (A)
who is otherwise eligible for such assistance, and (B)’’
and inserted before period at end ‘‘and (B) for a period
not to exceed 18 months, otherwise eligible young
people who have attained at least 18 years of age and not
more than 21 years of age and who have left foster care
at age 16 or older’’.
(7) and redesignated former par. (7) as (8).
substituted ‘‘termination of’’ for ‘‘terminating’’ after ‘‘Not
less than one year before’’ and ‘‘. 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, enab-
ing them to choose the place they wish to rent, which
is likely to include the dwelling unit in which they cur-
cently 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 appropriation for any fiscal year
for ‘‘, specifying the reasons for the termination with suf-
ficient detail to enable the Secretary to evaluate
whether the termination is lawful and whether there
are additional actions that can be taken by the Sec-

retary may agree to a renewal of the contract, thus
avoiding the termination.’’
Subsec. (c)(8)(B). Pub. L. 106–74, § 535(2), (4), redesignated par. (8)(B) as (B) and struck out former subpar. (B) which read as follows: "In the case of owner who has requested that the Secretary renew the contract, the owner's notice under subparagraph (A) to the ten-
tants shall include statement that——

"(i) the owner currently has a contract with the De-
partment of Housing and Urban Development that
pays the Government's share of the tenant's rent and the
payments under which shall be subject to the
preceding provisions of this paragraph, if the owner
and any amendments increasing such authority, avail-
able to the public housing agency for a specified pe-
riod."``
Subsec. (c)(3). Pub. L. 105–276, § 550(a)(3)(A), struck out "(A)" after par. designation, and struck out subpar. (B), which authorized payment of higher percentage of income as rent than that specified under section 1437a(a) of this title if family receiving tenant-based rental assistance notified public housing agency of its interest in a unit renting for an excess rent and agency determined that the rent was reasonable, and set forth provisions which limited agency approval of such ex-
cess rentals to 10 percent of annual allocations. The Secretary shall enter into a separate annual contributions contract (other than for annual contributions under subsection (c) of this sec-

tion) shall bind the Secretary to make such authority, and any amendments increasing such authority, avail-
able to the public housing agency for a specified pe-
riod."``
Subsec. (c)(4). Pub. L. 105–276, § 550(a)(3)(B), struck out "or by a family that qualifies to receive assistance under section pursuant to sections 223 or 226 of the Low-Income Housing Preservation and Resident Homeownership Act of 1990" after "such dwelling unit" in first sentence.
Subsec. (c)(5), (6). Pub. L. 105–276, § 550(a)(3)(C), (D), redesignated par. (6) as (5) and struck out former par. (5) which read as follows: "Assistance payments may be made with respect to up to 100 per centum of the dwell-
ing units in any structure upon the application of the owner or prospective owner. Within the category of projects containing more than fifty units and designed for use primarily by nonelderly and nonhandicapped persons which are not subject to mortgages purchased under section 306 of the National Housing Act, the Sec-

retary may give preference to applications for assist-
ance involving not more than 20 per centum of the struc-
ture’s total value. Any such resale may be made on the

Subsec. (c)(7). Pub. L. 105–276, § 550(a)(3)(C), struck out par. (7) which read as follows: "To the extent authorized in contracts entered into by the Secretary with a public housing agency, the Secretary may purchase any structure containing one or more dwelling units as-

Subsec. (c)(8). Pub. L. 106–276, § 549(b), redesignated par. (9) as (8)(A) and substituted subpars. (B) to (E) for Subsec. (c)(8). Pub. L. 105–267, § 550(a)(3)(B), substituted "Other" for "Rental certificates and other" in subsec. heading; inserted par. (1) designation and heading, and struck out par. (2), which read as follows: "The Secretary shall issue a written finding of the legality of the termination and the reasons for the termination, including the actions considered or taken to avoid the termination. Within 30 days after the Secretary's finding, the owner shall give a written notice to each tenant of the Secretary's deci-
sion. For purposes of this paragraph, the term ‘termi-
nated’ 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 by mutual consent.

Pub. L. 105–276, §549(a)(1)(A), struck out par. (8) which read as follows: “Each contract under this section shall provide that the owner will notify tenants at least 90 days prior to the expiration of the contract of any rental increase which may occur as a result of the expiration of such contract.”


Pub. L. 105–276, §549(a)(1)(B), substituted “Not less than one year before terminating 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, specifying the reasons for the termination with sufficient detail to enable the Secretary to evaluate whether the termination is lawful and whether there are additional actions that can be taken by the Secretary to avoid the termination.” for “Not less than 180 days prior to terminating any contract under which assistance payments are received under this section (but not less than 90 days in the case of housing certificates or vouchers under subsection (b) or (c) of this section), an owner shall provide written notice to the Secretary and the tenants involved of the proposed termination, specifying the reasons for the termination with sufficient detail to enable the Secretary to evaluate whether the termination is lawful and whether there are additional actions that can be taken by the Secretary to avoid the termination.”

Subsec. (c)(10). Pub. L. 105–276, §549(a)(1)(A), struck out par. (10) which read as follows: “If an owner provides notice of proposed termination under paragraph (9) and the contract rent is lower than the maximum monthly rent for units assisted under subsection (b)(1) of this section, the Secretary shall adjust the contract rent based on the maximum monthly rent for units assisted under subsection (b)(1) of this section and the value of the low-income housing after rehabilitation.”


Subsec. (d)(1)(B)(i). Pub. L. 105–276, §549(a)(2)(A), substituted “during the term of the lease, the owner” for “the owner.”


Subsec. (d)(2)(A). Pub. L. 105–276, §550(a)(4)(A), struck out subpar. (A) which read as follows: “Where the Secretary enters into an annual contributions contract with a public housing agency pursuant to which the agency will enter into a contract for assistance payments with respect to an existing structure, the contract for assistance payments may not be attached to the structure unless (i) the Secretary and the public housing agency approve such action, and (ii) the owner agrees to rehabilitate the structure other than with assistance under this chapter and otherwise complies with the requirements of this section, except that the Secretary shall permit the public housing agency to approve such attachment with respect to not more than 15 percent of the assistance provided by the public housing agency if the requirements of clause (ii) are met. Notwithstanding any other provision of this section, a public housing agency and an applicable State agency may, on Congressional priority basis, attach to structures not more than an additional 15 percent of the assistance provided by the public housing agency or the applicable State agency only with respect to projects assisted under a State program that permits the owner of the projects to prepay a State assisted or subsidized mortgage on the structure, except that attachment of assistance under this sentence shall be for the purpose of (i) providing incentives to owners to preserve such projects for occupancy by lower and moderate income families (for the period that assistance under this sentence is available), and (ii) to assist lower income tenants to afford any increases in rent that may be required to induce the owner to maintain occupancy in the project by lower and moderate income tenants. Any assistance provided to lower income tenants under the preceding sentence shall not be considered for purposes of the limitation under paragraph (12) of clause (ii) regarding the percentage of families that may receive assistance under this section who do not qualify for preferences under such paragraph.”

Subsec. (d)(2)(B) to (G). Pub. L. 105–276, §550(a)(4)(C), redesignated subpars. (F) to (H) as (B) to (D), respectively, and struck out former subpars. (B) to (E). Prior to repeal, former subpar. (B) required the Secretary to permit a public housing agency to approve attachment of assistance with respect to any newly constructed structure if certain conditions were met, former subpar. (C) required a public housing agency to enter into a contract with an owner of a structure to which a contract for assistance was attached under this par. to provide for renewal of expiring assistance payments contracts, former subpar. (D) required owners of structures to which a contract for assistance was attached to adopt certain tenant selection subpar. (E) required the Secretary to annually survey public housing agencies to determine which have reached certain limitations in providing assistance and to report the survey results to Congress.


Pub. L. 105–276, §551(a)(4)(B), substituted “An owner” for “Notwithstanding subsection (d)(1)(A) of this section, an owner”.


Subsec. (f)(7). Pub. L. 105–276, §550(a)(5), struck out “(b) or” after “under subsection” and inserted before period at end “and that provides for the eligible family to select suitable housing and to move to other suitable housing”.

Subsec. (g). Pub. L. 105–276, §565(c), which directed insertion of “(except as provided in section 1437f(j)(3) of this title)” after “section 1437f of this title”, was executed by making the insertion after “Sections 1437c(e) and 1437f of this title”, to reflect the probable intent of Congress.

Subsec. (j). Pub. L. 105–276, §550(a)(6), struck out subsec. (j), which authorized contracts for making rental assistance payments on behalf of low-income families utilizing manufactured homes as principal places of residence, directed that contract establish maximum monthly rent permitted with respect to home and real property on which it was located and provided for adjustments, set forth minimum and maximum terms, in the case of substantially rehabilitated or newly constructed park, provided limit on principal amount of mortgage attributable to rental spaces within in park, and authorized Secretary to prescribe other terms and conditions necessary for purpose of carrying out subsection.

Subsec. (n). Pub. L. 105–276, §550(a)(7), struck out subsec. (n) which read as follows: “In making assistance available under subsections (b)(1) and (e)(2) of this section, the Secretary may provide assistance with respect to residential properties in which some or all of the dwelling units do not contain bathroom or kitchen facilities, if—

(1) the property is located in an area in which there is a significant demand for such units, as determined by the Secretary;

(2) the unit of general local government in which the property is located and the local public housing agency certify to the Secretary that the
property complies with local health and safety standards.

The Secretary may waive, in appropriate cases, the limitation and preference described in the second and third sentences of section 1437a(b)(3) of this title with respect to the assistance made available under this subsection.

Subsec. (o). Pub. L. 105–276, § 545(a), amended subsec. (o) generally. Prior to amendment, subsec. (o) contained provisions relating to assistance using a payment standard based upon fair market rental, categories of families eligible for assistance and preference, contracts with public housing agencies for annual contributions, annual adjustments of assistance payment amounts, assistance with respect to certain cooperative and mutual housing, contracts to provide rental vouchers, set aside of budget authority for an adjustment pool, reasonable rent requirements and disapproval of leases with unreasonable rents, and assistance on behalf of families utilizing manufactured homes as principal places of residence.

Subsec. (o)(2). Pub. L. 105–276, § 209(a), inserted at end "Notwithstanding the preceding sentence, for families being admitted to the voucher program who remain in the same unit or complex, where the rent (including the amount allowed for utilities) does not exceed the payment standard, the monthly assistance payment for any family shall be the amount by which such rent exceeds the greater of 30 percent of the family's monthly adjusted income or 10 percent of the family's monthly income. Notwithstanding sections 209(b) and 503 of Pub. L. 105–276, set out as Effective Date of 1998 Amendment notes below and under section 1437 of this title, income."


Subsec. (p). Pub. L. 105–276, § 555(a)(8), in pars. (1) and (3), struck out "certificates or" before "vouchers" and, in par. (2), struck out "certificates" before "vouchers".

Subsec. (q)(2). Pub. L. 105–276, § 555(a)(9), substituted "tenant-based assistance" for "housing certificate assistance".

Subsec. (y)(1). Pub. L. 105–276, § 555(a)(1)(A), inserted at end "The Secretary may waive, in appropriate cases, the limitation and preference described in the second and third sentences of section 1437a(b)(3) of this title with respect to the assistance made available under this subsection."

Subsec. (y)(2). Pub. L. 105–276, § 555(a)(1)(B), struck out cl. (i), redesignated cl. (ii) as entire subpar., and in cl. (ii) inserted "or owns or is acquiring shares in a cooperative" before "before" and inserted at end "The Secretary may reserve amounts available for 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" for "A family receiving tenant-based assistance under this section may receive assistance for occupancy of a dwelling owned by one or more members of the family if the family".

Subsec. (y)(1)(A). Pub. L. 105–276, § 555(a)(1)(B), inserted at end "or has a disability that would prevent the family from living independently if the family" before "if" and inserted at end "The Secretary may reserve amounts available for assistance for an eligible family if the family" for "A family receiving tenant-based assistance under this section may receive assistance for occupancy of a dwelling owned by one or more members of the family if the family".

Subsec. (y)(1)(B). Pub. L. 105–276, § 555(a)(1)(C), struck out cl. (i), redesignated cl. (ii) as entire subpar., and in cl. (ii) inserted "except that the Secretary may reserve amounts available for assistance in the case of an elderly family or a disabled family" after "after "public assistance". Prior to amendment, cl. (i) read as follows: "participants in the family self-sufficiency program under section 1457h of this title of the public housing agency providing the assistance; or".

Subsec. (y)(2). Pub. L. 105–276, § 555(a)(2), added par. (2) and struck out heading and text of former par. (2). Text read as follows: "(A) In general.—Notwithstanding any other provisions of this section governing determination of the amount of assistance payments under this section on behalf of a family, the monthly assistance payment for any family assisted under this subsection shall be the amount by which the monthly rental for the area is less than 30 percent of the family's monthly adjusted income; except that the monthly assistance payment shall not exceed the amount by which the monthly homeownership expenses, as determined in accordance with requirements established by the Secretary, constitute 10 percent of the family's monthly adjusted income; except that the monthly assistance payment shall not exceed the amount by which the monthly homeownership expenses, as determined in accordance with requirements established by the Secretary, constitute 10 percent of the family's monthly adjusted income.

(B) Exclusion of equity from income.—For purposes of determining the monthly assistance payment for a family, the Secretary shall not include in family income an amount imputed from the equity of the family in a dwelling occupied by the family with assistance under this subsection."

Subsec. (y)(3). Pub. L. 105–276, § 555(a)(3), added pars. (3) and (4) and struck out former pars. (3) and (4) which read as follows: "(3) Recapture of certain amounts.—Upon sale of the dwelling by the family, the Secretary shall recapture from any net proceeds the amount of additional assistance (as determined in accordance with requirements established by the Secretary in the case of an elderly family or a disabled family) as a result of paragraph (2)(B).

(4) Downpayment requirement.—Each public housing agency providing assistance under this subsection shall ensure that each family assisted shall provide from its own resources not less than 80 percent of any downpayment in connection with a loan made for the purchase of a dwelling. The Secretary may reserve amounts from any escrow account for the family established under section 1437u(d) of this title. Not more
than 20 percent of the downpayment may be provided from other sources, such as from nonprofit entities and programs of States and units of general local government.

§ 203(b)(1), (d)], temporarily inserted “(other than a contract for assistance under the HOME Investment Partnerships Act, the Homeownership and Opportunity Through HOPE Act, title II of the Housing and Community Development Act of 1987, and section 1472 of this title.”

Subsec. (yy)(6) to (8). Pub. L. 105–276, § 556(a)(4), redesignated pars. (7) and (8) as (6) and (7), respectively. Former par. (6) redesignated (5).


1995—Subsec. (a)(5). Pub. L. 104–204, §§ 202, 206, inserted “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.”


Subsec. (a)(9). Pub. L. 105–18, which directed substitution of “Not less than 180 days prior to terminating any contract” for “Not less than one year prior to terminating any contract”, was executed by making the substitution for “Not less than 1 year prior to terminating any contract” to reflect the probable intent of Congress.

Subsec. (4). Pub. L. 104–204, § 202(b), inserted “fiscal year 1998 prior to April 26, 1996, and fiscal year 1997 after “fiscal year 1996” in two places, substituted “Except for assistance under the certificate program, for” for “For”, inserted after fourth sentence “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,”, and substituted “The immediately foregoing two sentences” for “The immediately foregoing two sentences”.

Subsec. (5). Pub. L. 104–204, § 202(b), (d), temporarily inserted “(other than a contract for assistance under the certificate or voucher program)” after “section”, See Effective and Termination Dates of 1996 Amendments note below.

Subsec. (6). Pub. L. 104–134, § 101(e) [title II, § 203(b)(2), (d), temporarily substituted “, other than a contract under the certificate or voucher program” for “but not less than 90 days in the case of housing certificates or vouchers under subsection (b) or (c) of this section”]. See Effective and Termination Dates of 1996 Amendments note below.
Subsec. (d)(2)(A). Pub. L. 104–99, § 402(d)(6)(A)(II), (f), temporarily struck out at end ‘‘Any assistance provided to lower income tenants under the preceding sentence shall not be considered for purposes of the limitation under paragraph (1)(A) regarding the percentage of families that may receive assistance under this section who do not qualify for preferences under such paragraph.’’ See Effective and Termination Dates of 1996 Amendments note below.
Subsec. (o)(3)(B). Pub. L. 104–99, § 402(d)(3), (f), temporarily amended subpar. (B) generally. Prior to amendment, subpar. (B) read as follows: ‘‘In selecting families to be assisted, preference shall be given to families which, at the time they are seeking assistance, occupy substandard housing (including families that are homeless or living in a shelter for homeless families), are involuntarily displaced (including displacement because of disposition of a multifamily housing project under section 1701z–11 of title 12), are paying more than 50 percent of family income for rent. A public housing agency may provide for circumstances in which families who do not qualify for any preference established in this subsection before families who do qualify for such preference, except that not more than 10 percent (or such higher percentage determined by the Secretary to be necessary to ensure that public housing agencies can assist families in accordance with subsection (u)(2) of this section or determined by the Secretary to be appropriate for other good cause) of the families who initially receive assistance in any 1-year period (or such shorter period selected by the public housing agency before the beginning of its first full year subject to this sentence) may be families who do not qualify for such preference. The public housing agency shall in implementing the preceding sentence establish a system of preferences in writing and public hearing to respond to local housing needs and priorities which may include (i) assisting very low-income families who either reside in transitional housing assisted under title IV of the Stewart B. McKinney Homeless Assistance Act, or participate in a program designed to provide public assistance recipients with greater access to employment and educational opportunities, (ii) assisting families in accordance with subsection (u)(2) of this section; (iii) assisting families identified by local public agencies involved in providing for the welfare of children as having a lack of adequate housing that is a primary factor in the imminent placement of a child in foster care, or in preventing the discharge of a child from foster care and reunification of the child with his or her family; (iv) assisting youth, upon discharge from foster care, in cases in which return to the family or extended family or adoption is not available; (v) assisting veterans who are eligible and have applied for assistance, will use the assistance for a dwelling unit designed for the handicapped, and, upon discharge or eligibility for discharge from a hospital or nursing home, have physical disability which, because of the configuration of their homes, prevents them from access to or use of their homes; and (vi) achieving other objectives of national housing policy as affirmed by Congress. Any displaced or family evicted from housing assisted under the chapter by reason of drug-related criminal activity (as defined in subsection (f)(5) of this section) shall not be eligible for a preference under any provision of this subparagraph for 3 years unless the evicted tenant successfully completes a rehabilitation program approved by the Secretary (which shall include waiver for any member of a family of an individual prohibited from tenancy under this clause whom the family clearly did not participate in and had no knowledge of such criminal activity or when circumstances leading to eviction no longer exist).’’ See Effective and Termination Dates of 1996 Amendments note below.
Subsec. (t). Pub. L. 104–134, § 101(e) (title II, § 203(a), (d)), temporarily repealed subsec. (t) which read as follows:

(1) No owner who has entered into a contract for housing assistance payments under this section on behalf of any tenant in a multifamily housing project shall refuse—
(A) to lease any available dwelling unit in any multifamily housing project of such owner that rents for an amount not greater than the fair market rent for a comparable unit, as determined by the Secretary under this section, to a holder of a certificate of eligibility under this section; and to enter into a housing assistance payments contract respecting such unit;

(2) For purposes of the preceding sentence, the ‘‘multifamily housing project’’ means a residential building containing more than 4 dwelling units. See Effective and Termination Dates of 1996 Amendments note below.

Subsec. (v). Pub. L. 104–99, § 406(b), amended subsec. (v) generally. Prior to amendment, subsec. (v) read as follows:

(1) The Secretary shall extend any expiring contract entered into under this section for loan management assistance or execute a new contract for project-based loan management assistance, if the owner agrees to continue providing housing for low-income families during the term of the contract.

(2)(A) The eligibility of a multifamily residential project for loan management assistance under this section shall be determined without regard to whether the project is subsidized or unsubsidized.

(B) In allocating loan management assistance under this section, the Secretary may give a priority to any project only on the basis that the project has serious financial problems that are likely to result in a claim on the insurance fund in the near future or the project is eligible to receive incentives under subtitle B of the Low-Income Housing Preservation and Resident Homeownership Act of 1990.’’

1994—Subsec. (c)(2)(A). Pub. L. 103–327 inserted at end: ‘‘However, where the maximum monthly rent for a comparable unit, as determined by the Secretary, for a comparable 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 reduced 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. 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. The immediately foregoing sentence shall be effective only during fiscal year 1995.‘’

Subsec. (d)(1)(A)(i). Pub. L. 103–233, § 101(c)(2), inserted ‘‘including displacement because of disposition of a multifamily housing project under section 1701z–11 of title 12’’ after ‘‘placed under the agency determination’’ at end.
Subsec. (d)(1)(A)(ii). Pub. L. 103–327 which directed the amendment of cl. (ii) by striking ‘‘(and V)’’ and in-
serting in lieu thereof: "(V) assisting families that include one or more adult members who are employed; and (VI)”, and inserting after the final semicolon “sub-
clude (V) shall be effective only during fiscal year 1995.”, was not executed because the words “and (V)” did not appear and cl. (ii) already contains subs. (V) and (VI). See 1992 Amendment note below.

ative,”.


Subsec. (aa). Pub. L. 101–327 temporarily added sub-
sec. (aa), “Refinancing Incentive”, which read as fol-
ows:

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

“(a) is constructed, substantially rehabilitated, or
moderately rehabilitated under this section; and

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

“(c) is subject to a mortgage that has been refi-
nanced under section 223(a)(7) or section 223(f) of the National Housing Act to lower the periodic debt serv-
vice 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 Sec-
retary from the reduced assistance payments that re-
sults from the refinancing; and

“(B) after the application of amounts in accordance
with section 1012 of the Stewart B. McKinney Home-
less Assistance Amendments Act of 1988.”

Subsec. (y)(2)(B). Pub. L. 101–233, § 101(c)(3), inserted after end “The Secretary may (at the discretion of the Secretary and subject to the availability of appro-
priations for contract amendments), on a project by project basis for projects receiving project-based assist-
ance, provide adjustments to the maximum monthly rents to cover the costs of evaluating and reducing lead-based paint hazards, as defined in section 8353b of this title.”

Pub. L. 102–550, § 142, inserted after first sentence “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 deter-
mines that adjustments are necessary to reflect in-
creases in the actual and necessary expenses of owning and maintaining the units that have resulted from the expiration of a real property tax exemption.”

Subsec. (c)(4). Pub. L. 101–625, § 114(a), inserted “or by a family that qualifies to receive assistance under sub-
section (b) of this section pursuant to section 223 or 226 of the Low-Income Housing Preservation and Resident Homeownership Act of 1990” after first comma in first sentence.

Subsec. (c)(9). Pub. L. 102–550, § 143, inserted before per-
iod at end “, and such term shall include termination of the contract for business reasons”,

Subsec. (d)(1)(A)(ii)(V), (VI). Pub. L. 102–550, § 114(a), added subcl. (V) and redesignated former subcl. (V) as (VI).

safety, or right to peaceful enjoyment of their resi-
dences by persons residing in the immediate vicinity of the premises,” before “or any drug-related” and substi-
tuted “tenant of any unit” for “public housing ten-
ant”.


that the owner and the Secretary may agree to a renewal of the contract, thus avoiding the termination."

Subsec. (c)(10). Pub. L. 101–625, § 572(2), substituted "lower income housing" for "low-income housing." Subsec. (d)(1)(A). Pub. L. 101–625, § 545(a), amended subpar. (A) generally. Prior to amendment, subpar. (A) read as follows: "the selection of tenants for such unit shall be the function of the owner, subject to the provisions of the annual contributions contract between the Secretary and the agency, except that (i) the tenant selection criteria used by the owner shall give preference to families in which the owner and the Secretary may agree to a renewal of the contract, thus avoiding the termination."

"Any contract for assistance payments that is attached to a structure under this paragraph shall (at the option of the owner and the Secretary) be renewable for 2 additional 5-year terms, except that the aggregate term of the initial contract and renewal periods shall not exceed 15 years."

Subsec. (d)(1)(A). Pub. L. 101–625, § 545(a), amended subpar. (A) generally. Prior to amendment, subpar. (A) read as follows: "the selection of tenants for such unit shall be the function of the owner, subject to the provisions of the annual contributions contract between the Secretary and the agency, except that (i) the tenant selection criteria used by the owner shall give preference to families in which the owner and the Secretary may agree to a renewal of the contract, thus avoiding the termination."

Subsec. (e)(2). Pub. L. 101–625, § 289(b), struck out par. (2) which read as follows: "For the purpose of upgrading and thereby preserving the Nation’s housing stock, the Secretary is authorized to make assistance payments under this section directly or through public housing agencies pursuant to contracts with owners or prospective owners who agree to upgrade housing so as to make and keep such housing decent, safe, and sanitary through upgrading which involves less than substantial rehabilitation, as such upgrading and rehabilitation are defined by the Secretary, and which shall involve a minimum expenditure of $3,000 for a unit, including a pro rata share of work to be accomplished on common areas or systems."

Subsec. (e)(2). Pub. L. 101–625, § 289(b), struck out par. (2) which read as follows: "For the purpose of upgrading and thereby preserving the Nation’s housing stock, the Secretary is authorized to make assistance payments under this section directly or through public housing agencies pursuant to contracts with owners or prospective owners who agree to upgrade housing so as to make and keep such housing decent, safe, and sanitary through upgrading which involves less than substantial rehabilitation, as such upgrading and rehabilitation are defined by the Secretary, and which shall involve a minimum expenditure of $3,000 for a unit, including a pro rata share of work to be accomplished on common areas or systems."

Subsec. (c)(10). Pub. L. 101–625, § 572(2), substituted "lower income families" for "low-income families." Subsec. (c)(10). Pub. L. 101–625, § 572(2), substituted "lower income families" for "low-income families." Subsec. (d)(1)(A). Pub. L. 101–625, § 545(a), amended subpar. (A) generally. Prior to amendment, subpar. (A) read as follows: "the selection of tenants for such unit shall be the function of the owner, subject to the provisions of the annual contributions contract between the Secretary and the agency, except that (i) the tenant selection criteria used by the owner shall give preference to families in which the owner and the Secretary may agree to a renewal of the contract, thus avoiding the termination."

Subsec. (d)(1)(A). Pub. L. 101–625, § 545(a), amended subpar. (A) generally. Prior to amendment, subpar. (A) read as follows: "the selection of tenants for such unit shall be the function of the owner, subject to the provisions of the annual contributions contract between the Secretary and the agency, except that (i) the tenant selection criteria used by the owner shall give preference to families in which the owner and the Secretary may agree to a renewal of the contract, thus avoiding the termination."

Subsec. (d)(2). Pub. L. 101–625, § 547(a), (b), added subpars. (D) and (E).
sentence establish a system of preferences in writing and after public hearing to respond to local housing needs and priorities which may include (i) assisting very low-income families who either reside in transitionally housing assisted under title IV of the Stewart B. McKinney Homeless Assistance Act, or participate in a program designed to provide public assistance recipients greater access and opportunity to employment and educational opportunities, (ii) assisting families in accordance with subsection (a)(2) of this section; (iii) assisting families identified by local public agencies involved in providing for the welfare of children as having a lack of adequate housing that is a primary factor in the imminent placement of a child in foster care, or in preventing the discharge of a child from foster care and reunification and his or her family; (iv) assisting youth, upon discharge from foster care, in cases in which return to the family or extended family or adoption is not available; and (v) achieving other objectives of national policy as affirmed by Congress. Any individual or family evicted from housing assisted under the chapter by reason of drug-related criminal activity (as defined in subsection (f)(5) of this section) shall not be eligible for a preference under any provision of this subparagraph for 3 years unless the evicted tenant successfully completes a rehabilitation program approved by the Secretary (which shall include waiver for any individual prohibited from tenancy under this clause who the agency determines clearly did not participate in and had no knowledge of such criminal activity or when circumstances leading to eviction no longer exist).''

Subsec. (e)(2). Pub. L. 101–235, §127(1), inserted before period at end of first sentence "and, which shall involve a minimum expenditure of $3,000 for a unit, including its prorated share of work to be accomplished on common areas or systems".

Subsec. (e)(3). Inserted at end "In order to maximize the availability of low-income housing, in providing assistance under this paragraph, the Secretary shall include in any calculation or determination regarding the amount of the assistance to be made available the extent to which any proceeds are available from any tax credits provided under section 42 of title 26 (or from any syndication of such credits) with respect to the housing. For each fiscal year, the Secretary may not provide assistance pursuant to this paragraph to any project for rehabilitation of more than 100 units. Assistance pursuant to this paragraph shall be allocated according to the formula established pursuant to section 1438(d) of this title, and awarded pursuant to a competition under such section. The Secretary shall maintain a single listing of any assistance provided pursuant to this paragraph which shall include a statement identifying the owner and location of the project to which assistance was made, the amount of the assistance, and the number of units assisted."

1988—Subsec. (b)(1). Pub. L. 100–242, §141, inserted provisions at end authorizing Secretary to enter into separate contributions contracts with each public housing agency to obligate authority approved each year, beginning with fiscal year 1988.

Subsec. (c)(1). Pub. L. 100–242, §142(a), inserted before last sentence "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.".
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."

Pub. L. 100–242, §142(d), inserted at end "The Secretary may not reduce the contract rent in effect on or before April 19, 1967, 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, 1980), unless the project has been refinanced in a manner that reduces the periodic payments of the owner."

Subsec. (c)(2)(D). Pub. L. 100–242, §142(e), struck out subpar. (D) which read as follows: "Notwithstanding the foregoing, the Secretary shall limit increases in contract rents for newly constructed or substantially rehabilitated projects assisted under this section to the amount of operating cost increases incurred with respect to comparable rental dwelling units of various sizes and types in the same market area which are suitable for occupancy by families assisted under this section. Where no comparable dwelling units exist in the same market area, the Secretary shall have authority to approve such increases in accordance with the best available data regarding operating cost increases in real dwelling units."

Subsec. (c)(9), (10). Pub. L. 100–242, §262(a), (b), added pars. (9) and (10).

Pub. L. 100–242, §142(f)(2)(A), Pub. L. 100–628, §1014(b), inserted cl. (i) designation after "except that" and added cl. (ii) before semicolon at end.

Subsec. (d)(2). Pub. L. 100–628, §1005(b)(1), designated existing provisions as subpar. (A), substituted "(i)", and "(ii)" for "(A)" and "(B)", wherever appearing, and added subpar. (B).

Pub. L. 100–628, §1005(c), added subpar. (C).

Pub. L. 100–242, §141, inserted exception authorizing Secretary to permit public housing authority to approve attachment with respect to not more than 15 percent of assistance provided by public housing agency if requirements of cl. (B) are met.

Subsec. (o)(1). Pub. L. 100–242, §143(a)(1), substituted "The Secretary may provide assistance" for "In connection with the rental rehabilitation and development program under section 1437o of this title or the rural housing preservation grant program under section 1490m of this title, or for other purposes, the Secretary is authorized to conduct a demonstration program".

Subsec. (o)(3). Pub. L. 100–628, §1014(c), inserted sentence at end authorizing public housing agencies to provide for circumstances in which families who do not qualify for any preference are provided assistance under this subsection before families who do qualify for such preference.

Subsec. (o)(4). Pub. L. 100–242, §143(a)(2), redesignated (5) as (4) and struck out former par. (4) which read as follows: "The Secretary shall use substantially all of the authority to enter into contracts under this subsection to make assistance payments for families residing in dwellings to be rehabilitated with assistance under section 1437o of this title and for families displaced as a result of rental housing development assisted under such section or as a result of activities assisted under section 1490m of this title."


Subsec. (o)(6). Pub. L. 100–242, §143(a)(3), (b), redesignated par. (7) as (6), substituted "annually" for "as frequently as twice during any five-year period" in subpar. (A), and struck out subpar. (D) which directed that public housing agency consult with public and units of local government regarding impact of adjustments made under this section on the number of families that can be assisted. Former par. (6) redesignated (5).

Subsec. (o)(7). Pub. L. 100–242, §143(a)(3), (c), redesignated par. (8) as (7), and struck out "not to exceed 8 percent of the amount of "after "utilize". Former par. (7) redesignated (6).


Subsec. (q) to (u). Pub. L. 100–242, §§144–149, added subsec. (q) to (u).


Subsec. (v). Pub. L. 100–628, §1029, redesignated par. (2) as (1) and inserted "for project-based loan assistance", added par. (2), and struck out former par. (1) which required that each contract entered into by Secretary for loan management assistance be for a term of 180 months.

Pub. L. 100–242, §262(c), added subsec. (v).

1984—Subsec. (d)(2). Pub. L. 98–479, §102(b)(7), inserted at end "The Secretary shall increase the amount of assistance otherwise permitted by this paragraph above the amount of assistance otherwise permitted by this paragraph and subsection (c)(1) of this section, if the Secretary determines such increase necessary to assist in the sale of multifamily housing projects owned by the Department of Housing and Urban Development."

Subsec. (n). Pub. L. 98–479, §102(b)(8), substituted "subsections (b)(1) and (e)(2) of this section" for "subsections (b)(1), subsection (e)(2) of this section".


Subsec. (o)(7)(D). Pub. L. 98–479, §102(b)(10), inserted "unit of" before "general".

1983—Subsec. (a). Pub. L. 98–181, §209(a)(1), substituted "existing housing" for "existing, newly constructed, and substantially rehabilitated housing".

Subsec. (b)(2). Pub. L. 98–181, §209(a)(2), repealed par. (2) which related to authorization for payment of assistance payments by the Secretary and contractually obligated public housing agencies for construction or substantial rehabilitation of housing, modest in design, with units for occupancy by low-income families and requirement that contracts providing housing assistance and entered into after Aug. 13, 1981, specify the number of units available for occupancy by eligible families.

Subsec. (d)(1)(A). Pub. L. 98–181, §209(b)(1), inserted ,, are paying more than 50 percent of family income for rent," after """, are paying more than 50 percent of family income for rent," after "


Subsec. (e)(1). Pub. L. 98–181, §209(a)(3), redesignated par. (4) as (1) and struck out former par. (1) which prescribed terms of 20 to 30 years for newly constructed or substantially rehabilitated dwelling units.

Subsec. (e)(2). Pub. L. 98–181, §209(b)(1), redesignated par. (5) as (2) and struck out former par. (2) which required owners to assume ownership, management, and maintenance responsibilities, including selection of tenants and termination of tenancy for newly constructed or substantially rehabilitated dwelling units.

Pub. L. 98–181, §209(b)(2), inserted ,, are paying more than 50 percent of family income for rent," after "

Subsec. (e)(3). Pub. L. 98–181, §209(a)(3), struck out par. (3) which required that construction or substantial
rehabilitation of dwelling units be eligible for mortgage insurance under the National Housing Act and that assistance not be withheld by reason of availability of mortgage insurance under section 1715z-9 of title 12 or tax-exempt status obligations used to finance the construction or rehabilitation.

Subsec. (e)(4), (5). Pub. L. 98–181, § 209(a)(3), redesignated (4) and (5) as (1) and (2), respectively.

Subsec. (1). Pub. L. 98–181, § 209(a)(4), repealed subsec. (1) which related to contracts with respect to substantially rehabilitated dwelling units.


Subsec. (n). Pub. L. 98–181, § 209(a)(6), substituted "subsection (e)(2) of this section" for "subsection (e)(5) and subsection (1) of this section".

Pub. L. 98–181, § 210(1), (2), inserted "subsection (b)(1) of this section," before "subsection (e)(5)" and a comma after "subsection (e)(5) of this section".


1981—Subsec. (b)(2). Pub. L. 97–35, §§ 324(1), 325(1), inserted provisions relating to on-site hiring opportunities for very low-income families and provisions relating to availability for occupancy the number of units for which assistance is committed.


Subsec. (c)(3). Pub. L. 97–35, § 326(1)(e), revised formula for computation of amount of monthly assistance and struck out subsection to make reviews at least every two years in cases of elderly families.


Subsec. (c)(7). Pub. L. 97–35, § 326(e)(2), struck out par. (7) relating to percentage requirement for families with very low income and redesignated former par. (8) as (7).


Pub. L. 97–35, § 326(h), redesignated (8) as (9).

Subsec. (d)(1)(B). Pub. L. 97–35, § 326(e)(1), substituted provisions relating to terms and conditions, and termination of the lease by the owner for provisions relating to the right of the owner to make notice to terminate and owner the right to make representation to agency for termination of the tenancy.

Subsec. (f). Pub. L. 97–35, § 326(e)(3), struck out paras. (1) to (3), respectively, and redesignated paras. (4) to (6) as (1) to (3), respectively.


Subsec. (j). Pub. L. 97–35, § 326(a), generally revised and reorganized provisions and, as so revised and reorganized, substituted provisions relating to contracts to make rental assistance payments on behalf of such family, for provisions relating to annual contributions contracts to assist lower income families by making rental assistance payments.

Subsec. (j)(3). Pub. L. 97–35, § 326(e)(6), inserted in par. (3) "the rent the family is required to pay under section 1573q(a) of this title" for "25 per centum of onetwelfth of the annual income of such family".

Subsecs. (l) to (n). Pub. L. 97–35, § 326(d), added subsec. (l) to (n).

1980—Subsec. (c)(1). Pub. L. 96–399, § 120(a), inserted provision that 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 Oct. 1, 1980.

Subsec. (e)(5). Pub. L. 96–399, § 120(b), inserted provisions relating to the authority of the Secretary, notwithstanding subsection (c)(1) of this section, to establish monthly rent exceeding fair market rental where cost levels so require or where necessary to the implementation of a local housing assistance plan.


1979—Subsec. (c)(3). Pub. L. 96–153, § 202(b), substituted new provisions for computation of the amount of monthly assistance payments with respect to dwelling units and laid down criteria to be followed by the Secretary in regard to payments to families with different income levels.

Subsec. (d)(1)(A). Pub. L. 96–153, § 206(b)(1), substituted "Secretary and the agency, except that the tenant selection criteria shall give preference to families which occupy substandard housing or are involuntarily displaced at the time they are seeking assistance under this section" for "Secretary and the agency;".

Subsec. (e)(1). Pub. L. 96–153, § 211(b), substituted "term of less than two hundred and forty months" for "term of less than one month".

Subsec. (e)(2). Pub. L. 96–153, § 206(b)(2), substituted "term of less than two hundred and forty months" for "term of less than one month".


1977—Subsec. (c). Pub. L. 95–128, § 201(c), (d), inserted in par. (1) prohibition against high-rise elevator projects for families with children after Oct. 12, 1977, and struck out from par. (4) provision which prohibited payment after the sixty-day period if the unoccupied unit was in a project insured under the National Housing Act, except pursuant to section 1715z–9 of title 12.


Subsec. (e)(1). Pub. L. 95–24 substituted "three hundred and sixty months, except that such term may not exceed two hundred and forty months in the case of a project financed with assistance of a loan made by, or insured, guaranteed or intended for purchase by, the Federal Government, other than pursuant to section 1715z–9 of title 12" for "‘two hundred and forty months’ and ‘Notwithstanding the preceding sentence, in the case of’ for ‘In the case of’.

Subsec. (e)(2). Pub. L. 95–128, § 201(e)(2), inserted provision respecting the Secretary’s approval of any public housing agency for assumption of management and maintenance responsibilities of dwelling units under the preceding sentence.

1976—Subsec. (c)(4). Pub. L. 94–375, § 2(d), inserted provision extending payments to newly constructed or substantially rehabilitated unoccupied low income family units by making rental assistance payments of such family, for provisions relating to annual contributions contracts to assist lower income families by making rental assistance payments.

Subsec. (j)(3). Pub. L. 94–375, § 2(e), inserted "or the Farmers’ Home Administration" after "State or local agency".


Effectiveness Date of 2016 Amendment

Pub. L. 114–203, title I, § 101(b), July 29, 2016, 130 Stat. 786, provided that: "The Secretary of Housing and Urban Development shall issue notice or regulations to implement subsection (a) of this section [amending this section] and such subsection shall take effect upon such issuance."

Amendment by section 102(d)–(f) of Pub. L. 114–203 effective upon the issuance of notice or regulations by the Secretary of Housing and Urban Development-
implementing section 102 of Pub. L. 114–201, except that such section 102 may only take effect upon the commencement of a calendar year, see section 102(b) of Pub. L. 114–201, set out as a note under section 1437a of this title. Amendment by section 102(d) effective Jan. 1, 2017, based on notice issued Oct. 24, 2016, see 81 F.R. 73030.

Pub. L. 114–201, title I, §106(b), July 29, 2016, 130 Stat. 800, provided that: “The Secretary of Housing and Urban Development shall issue notice or regulations to implement subsection (a) of this section [amending this section] and such subsection shall take effect upon such issuance.”

Pub. L. 114–201, title I, §107(c), July 29, 2016, 130 Stat. 801, provided that: “The amendments made by this section [amending this section and such subsection] shall take effect upon the date of the enactment of this Act [July 29, 2016].”

Pub. L. 114–201, title I, §112(b), July 29, 2016, 130 Stat. 804, provided that: “The Secretary of Housing and Urban Development shall issue notice to implement the amendments made by subsection (a) [amending this section] and such amendments shall take effect upon such issuance.”

**Effective Date of 2014 Amendment**

Pub. L. 113–76, div. L, title II, §220(b), Jan. 17, 2014, 128 Stat. 631, provided that: “The amendments in subsection (a) [amending this section] shall take effect upon such date as the Secretary determines, in the Secretary’s sole discretion, through the Secretary’s publication of such date in the Federal Register, as part of regulations promulgated, or a notice issued, by the Secretary to implement such amendments.”

[Notice implementing certain provisions of section 220 of Pub. L. 113–76 in a limited fashion was published June 25, 2014, effective July 1, 2014, see 79 F.R. 35940.]

**Effective Date of 2010 Amendment**

Amendment by Pub. L. 111–203 effective on the date on which final regulations implementing that amendment take effect, or on the date that is 18 months after the designated transfer date if such regulations have not been issued by that date, see section 1400(c) of Pub. L. 111–203, set out as a note under section 1601 of Title 15, Commerce and Trade.

**Termination Date of 2009 Amendment**


**Effective Date of 2008 Amendment**


**Effective Date of 2002 Amendment**


**Effective Date of 2000 Amendment**

Pub. L. 106–669, title III, §301(b), Dec. 27, 2000, 114 Stat. 2652, provided that: “The amendments made by subsection (a) [amending this section] shall take effect immediately after the amendments made by section 555(c) of the Quality Housing and Work Responsibility Act of 1998 [Pub. L. 105–276, set out as an Effective Date of 1998 Amendment note below] take effect pursuant to such section.”

Pub. L. 106–569, title IX, §902(b), Dec. 27, 2000, 114 Stat. 3026, provided that: “The amendment under subsection (a) [amending this section] shall be made and shall apply—

(1) upon the enactment of this Act, if the Department of Veterans Affairs and Housing and Urban Development, and Independent Agencies Appropriations Act, 2001 [H.R. 5482, as enacted by section 1(a)(1) of Pub. L. 106–377], is enacted before the enactment of this Act; and

(2) immediately after the enactment of such appropriations Act, if such appropriations Act is enacted after the enactment of this Act.”

Pub. L. 106–569, title IX, §903(b), Dec. 27, 2000, 114 Stat. 3026, provided that: “The amendment under subsection (a) [amending this section] shall be made and shall apply—

(1) upon the enactment of this Act, if the Department of Veterans Affairs and Housing and Urban Development, and Independent Agencies Appropriations Act, 2001 [H.R. 5482, as enacted by section 1(a)(1) of Pub. L. 106–377], is enacted before the enactment of this Act; and

(2) immediately after the enactment of such appropriations Act, if such appropriations Act is enacted after the enactment of this Act.”

**Effective Date of 1998 Amendment**


Amendment by title V of Pub. L. 105–276 effective and applicable beginning upon Oct. 1, 1999, except as otherwise provided, with provision that Secretary may implement amendment before such date, except to extent that such amendment provides otherwise, and with savings provision, see section 503 of Pub. L. 105–276, set out as a note under section 1437 of this title.

Amendment by section 514(b)(1) of Pub. L. 105–276 effective and applicable beginning upon Oct. 1, 1998, see section 514(g) of Pub. L. 105–276, set out as a note under section 1701s of Title 12, Banks and Banking.

Pub. L. 105–276, title V, §545(c), Oct. 21, 1998, 112 Stat. 2694, provided that: “Notwithstanding the amendment made by subsection (a) of this section [amending this section], any amendments to section 8(o) of the United States Housing Act of 1937 (42 U.S.C. 1437f(o)) that are contained in title II of this Act [see Tables of Title II Codification] shall apply with respect to the provision of assistance under such section during the period before implementation (pursuant to section 559 of this title set out as a Regulations and Transition Provisions note below) of such section 8(o) as amended by subsection (a) of this section.”


Act of 1996 (Public Law 104–134; 42 U.S.C. 1437f note) [see Effective and Termination Dates of 1996 Amendments note below], section 8 of the United States Housing Act of 1937 (42 U.S.C. 1437f) is amended by striking subsection (t). This section shall apply beginning on, and the amendment made by this section is made on, and shall apply beginning upon, the date of the enactment of this Act [Oct. 21, 1996].

Pub. L. 105–276, title V, §555(c), Oct. 21, 1998, 112 Stat. 2613, provided that: “This section [amending this section and enacting provisions set out as a note below] shall take effect on, and the amendments made by this section are made on, and shall apply beginning upon, the date of the enactment of this Act [Oct. 21, 1998].”


**Effective and Termination Dates of 1996 Amendments**


**Effective and Termination Dates of 1994 Amendment**

Amendment by Pub. L. 103–327 enacting subsec. (aa), effective only during fiscal year 1995, see title II in part of Pub. L. 103–327, set out as a note under section 1715n of Title 12, Banks and Banking.

**Effective Date of 1992 Amendment**

Amendment by subtitiles B through F of title VI [§§621–685] of Pub. L. 102–550 applicable upon expiration of 6-month period beginning Oct. 28, 1992, except as otherwise provided, see section 13642 of this title.

**Effective Date of 1990 Amendment**

Amendment by section 286(b)(1) of Pub. L. 101–625, repealing subsec. (e)(2) of this section, effective Oct. 1, 1991; however, provisions of subsec. (e)(2) to remain in effect with respect to single room occupancy dwellings as authorized by subchapter IV (§11361 et seq.) of chapter 119 of this title, see section 12839(a)(4), (b) of this title.

**Effective Date of 1983 Amendment; Savings Provision**

Pub. L. 98–181, title I [title II, §209(b)], Nov. 30, 1983, 97 Stat. 1183, provided that: “The amendments made by subsection (a) [amending this section] shall take effect on October 1, 1983, except that the provisions repealed shall remain in effect—

“(1) with respect to any funds obligated for a viable project under section 8 of the United States Housing Act of 1937 [this section] prior to January 1, 1984; and

“(2) with respect to any project financed under section 202 of the Housing Act of 1937 [12 U.S.C. 1701q].”

**Effective Date of 1981 Amendment**

Amendments by sections 322(e) and 329H(a) of Pub. L. 97–35 applicable on or after Oct. 1, 1981, and amendments by sections 324, 325, and 329(a) of Pub. L. 97–35 applicable with respect to contracts entered into on or after Oct. 1, 1981, see section 371 of Pub. L. 97–35, set out as an Effective Date note under section 3701 of Title 12, Banks and Banking.


**Effective Date of 1979 Amendment**

Amendment by section 202(b) of Pub. L. 96–153 effective Jan. 1, 1980, except with respect to amount of tenant contribution required of families whose occupancy commenced prior to such date, see section 202(c) of Pub. L. 96–153, set out as a note under section 1437a of this title.

**Effective Date of 1978 Amendment**

Pub. L. 95–557, title II, §206(d)(2), Oct. 31, 1978, 92 Stat. 2092, provided that: “The amendment made by this subsection [amending this section] shall become effective with respect to contracts entered into on or after 270 days following the date of enactment of this Act [Oct. 31, 1978].”

Amendment by section 206(e), (f) of Pub. L. 95–557 effective Oct. 1, 1978, see section 206(h) of Pub. L. 95–557, set out as a note under section 1437c of this title.

**Effective Date**

Section effective not later than Jan. 1, 1975, see section 203(b) of Pub. L. 93–383, set out as a note under section 1437 of this title.

**Applicability of 1994 Amendments**

Pub. L. 103–327, title II, Sept. 28, 1994, 108 Stat. 2315, third par., provided that: “The immediately foregoing amendment [amending subsec. (c)(2)(A) of this section by authorizing modification of rent adjustment where adjusted rent exceeds fair market rental] shall apply to all contracts for new construction, substantial rehabilitation, and moderate rehabilitation projects under which rents are adjusted under section 8(c)(2)(A) of such Act [subsec. (c)(2)(A) of this section] by applying an annual adjustment factor.”

Pub. L. 103–327, title II, Sept. 28, 1994, 108 Stat. 2315, fifth par., provided that: “The immediately foregoing [amending subsec. (c)(2)(A) of this section by inserting two sentences at end authorizing deduction of annual adjustment factor in certain circumstances] shall hereafter apply to all contracts that are subject to section 8(c)(2)(A) of such Act [subsec. (c)(2)(A) of this section] and that provide for rent adjustments using an annual adjustment factor.”

**Regulations and Transition Provisions**


“(a) Interim Regulations.—The Secretary of Housing and Urban Development shall issue such interim regulations as may be necessary to implement the amendments made by this subtitle [subtitle C (§§545–559) of title V of Pub. L. 105–276, see Tables for classification] and other provisions in this title (see Tables for classification) which relate to section 8(o) of the United States Housing Act of 1937 (42 U.S.C. 1437f(o)).

“(b) Final Regulations.—The Secretary shall issue final regulations necessary to implement the amendments made by this subtitle and other provisions in this title which relate to section 8(o) of the United States Housing Act of 1937 (42 U.S.C. 1437f(o)) not later than 1 year after the date of the enactment of this Act [Oct. 21, 1998].

“(c) Factors for Consideration.—Before the publication of the final regulations under subsection (b), in addition to public comments invited in connection with the publication of the interim rule, the Secretary shall—

“(1) seek recommendations on the implementation of sections 8(o)(6)(B), 8(o)(7)(B), and 8(o)(10)(D) of the United States Housing Act of 1937 (42 U.S.C. 1437f(o)(6)(B), (7)(B), (10)(D)) and of renewals of expiring tenant-based assistance from organizations representing—

“(A) State or local public housing agencies;
“(B) owners and managers of tenant-based housing assisted under section 8 of the United States Housing Act of 1937;

(1) In General.—The Secretary may provide for the conversion of assistance under the certificate and voucher programs under subsections (b) and (c) of section 8 of the United States Housing Act of 1937 (42 U.S.C. 1437f(b), (c)), as in effect before the applicability of the amendments made by this subtitle, to the voucher program established by the amendments made by this subtitle.

(2) Continued Applicability.—The Secretary may apply the provisions of the United States Housing Act of 1937 (42 U.S.C. 1437 et seq.), or any other provision of law amended by this subtitle, as those provisions were in effect immediately before the date of the enactment of this Act [Oct. 21, 1998] (except that such provisions shall be subject to any amendments to such provisions that may be contained in title II of this Act (see Tables for classification)), to assistance obligated by the Secretary before October 1, 1998, for the certificate or voucher program under section 8 of the United States Housing Act of 1937 (42 U.S.C. 1437f), if the Secretary determines that such action is necessary for simplification of program administration, avoidance of hardship, or other good cause.

(3) Effective Date.—This section shall take effect on the date of the enactment of this Act [Oct. 21, 1998].

Regulations


For provisions requiring Secretary of Housing and Urban Development to issue regulations necessary to implement amendment to this section by Pub. L. 103–233, see section 101(f) of Pub. L. 103–233, set out as a note under section 1702a–11 of Title 12, Banks and Banking.

For provision requiring that not later than expiration of the 180-day period beginning Oct. 28, 1992, the Secretary of Housing and Urban Development and the Secretary of Agriculture to publish in the Federal Register final regulations implementing amendments to this section by section 545 of Pub. L. 101–625, see section 104 of Pub. L. 102–550, set out as a note under section 1437d of this title.

Pub. L. 102–550, title I, § 149, Oct. 28, 1992, 106 Stat. 3715, provided that: "The Secretary of Housing and Urban Development shall issue any final regulations necessary to carry out the amendments made by section 547 of the Cranston-Gonzalez National Affordable Housing Act [Pub. L. 101–625, amending this section] not later than the expiration of the 180-day period beginning on the date of the enactment of this Act [Oct. 28, 1992]. The regulations shall be issued after notice and opportunity for public comment pursuant to the provisions of section 553 of title 5, United States Code (notwithstanding subsections (a)(2), (b)(B), and (d)(3) of such section) and shall take effect upon the expiration of the 30-day period beginning upon issuance."

Pub. L. 102–550, title I, § 151, Oct. 28, 1992, 106 Stat. 3717, provided that: "The Secretary of Housing and Urban Development shall issue any final regulations necessary to carry out the provisions of section 555 of the Cranston-Gonzalez National Affordable Housing Act [Pub. L. 101–625] (42 U.S.C. 1437f note) not later than the expiration of the 180-day period beginning on the date of the enactment of this Act [Oct. 27, 2000]. The regulations shall be issued after notice and opportunity for public comment pursuant to the provisions of section 553 of title 5, United States Code (notwithstanding subsections (a)(2), (b)(B), and (d)(3) of such section) and shall take effect upon the expiration of the 30-day period beginning upon issuance."

Savings Provision

Pub. L. 105–377, § 1(a)(1) [title II, § 232(b)], Oct. 27, 2000, 114 Stat. 1411, 1411A–34, as amended by Pub. L. 110–20, title VI, § 6904, May 23, 2007, 121 Stat. 186, provided that: "In the case of any dwelling unit that, upon the date of the enactment of this Act [Oct. 27, 2000], is assisted under a housing assistance payment contract under section 8(o)(13) [of the United States Housing Act of 1937 (42 U.S.C. 1437f(o)(13))] as in effect before the enactment of the Quality Housing and Work Responsibility Act of 1998 (title II of Pub. L. 105–276) [approved Oct. 21, 1998], assistance may be renewed or extended under such section 8(o)(13), as amended by subsection (a), provided that the initial contract term and rent of such renewed or extended assistance shall be determined pursuant to subparagraphs (F) and (H), and subparagraphs (C) and (D) of such section shall not apply to such extensions or renewals."
provided under sections 6 [42 U.S.C. 1437d] and 9 of the Act: Provided further, That the Secretary shall select properties from applications for conversion as part of this demonstration through a competitive process: Provided further, That in establishing criteria for such competition, the Secretary shall seek to demonstrate the feasibility of this conversion model to recapitalize and operate public housing properties (1) in different markets and geographic areas, (2) within portfolios managed by public housing agencies of varying sizes, and (3) by leveraging other sources of funding to recapitalize properties: Provided further, That the Secretary shall provide an opportunity for public comment on draft eligibility and selection criteria and procedures that will apply to the selection of properties that will participate in the demonstration: Provided further, That the Secretary shall provide an opportunity for comment from residents of properties to be proposed for participation in the demonstration to the owners or public housing agencies responsible for such properties: Provided further, That the Secretary may waive or specify alternative requirements for (except for requirements related to fair housing, nondiscrimination, labor standards, and the environment) any provision of section 8(o)(13) or any provision that governs the use of assistance from which a property is converted under the demonstration or funds made available under the headings of 'Public Housing Capital Fund', 'Public Housing Operating Fund', and 'Project-Based Rental Assistance', under this Act or any prior Act or any Act enacted during the period of conversion of assistance under the demonstration for properties with assistance converted under the demonstration, upon a finding by the Secretary that any such waivers or alternative requirements are necessary for the effective conversion of assistance under the demonstration: Provided further, That the Secretary shall publish by notice in the Federal Register any waivers or alternative requirements pursuant to the previous proviso no later than 10 days before the effective date of such notice: Provided further, That the demonstration may proceed after the Secretary publishes notice of its terms in the Federal Register: Provided further, That notwithstanding standing sections 3 [42 U.S.C. 1437a] and 16 [42 U.S.C. 1437n] of the Act, the conversion of assistance under the demonstration shall not be the basis for re-screening or termination of assistance or eviction of any tenant family in a property participating in the demonstration, and such a family shall not be considered a new admission for any purpose, including compliance with income targeting requirements: Provided further, That in the case of a property with assistance converted under the demonstration from assistance under section 9 of the Act, section 18 of the Act [42 U.S.C. 1437p] shall apply to a property converting assistance under the demonstration for all or substantially all of its units, the Secretary shall require ownership or control of assisted units by a public or nonprofit entity except as determined by the Secretary to be necessary pursuant to foreclosure, bankruptcy, or termination and transfer of assistance for material violations or substantial default, in which case the priority for ownership or control shall be provided to a capable public entity, then a capable entity, as determined by the Secretary, shall require long-term renewable use and affordability restrictions for assisted units, and may allow ownership to be transferred to a for-profit entity to facilitate the use of tax credits only if the public housing agency preserves its interest in the property in a manner approved by the Secretary, and upon expiration of the initial contract and each renewal contract, the Secretary shall offer and the owner of the property shall accept renewal of the contract subject to the terms and conditions applicable at the time of renewal and the availability of appropriations each year of such renewal: Provided further, That the Secretary may permit transfer of assistance at or after conversion under the demonstration to replacement requirements in the previous proviso: Provided further, That the Secretary may establish the requirements for converted assistance under the demonstration through contracts, use agreements, regulations, or other means: Provided further, That the Secretary shall assess and demonstrate through the impact of the conversion of assistance under the demonstration on the preservation and improvement of public housing, the amount of private sector leveraging as a result of such conversion, and the effect of such conversion on tenants: Provided further, That for fiscal year 2012 and hereafter, owners of properties assisted under section 101 of the Housing and Urban Development Act of 1965 [12 U.S.C. 1701z], section 296(f)(12) of the National Housing Act (1715a-1(f)(12)), or section 8(e)(2) of the United States Housing Act of 1937, for which an event after October 1, 2006 has caused or resulted in the termination of rental assistance or affordability restrictions and the issuance of tenant protection vouchers under section 8(o) of the Act [42 U.S.C. 1437f(o)], shall be eligible, subject to requirements established by the Secretary, including but not limited to tenant consultation procedures, for conversion of assistance available for such vouchers to assistance under a long-term project-based subsidy contract under section 8 of the Act, which shall have a term of no less than 20 years, with rent adjustments only by an operating cost factor established by the Secretary, which shall be eligible for renewal under section 524 of the Multifamily Assisted Housing Reform and Affordability Act of 1997 [42 U.S.C. 1437f note], or, subject to agreement of the administering public housing agency, to assistance under section 8(o)(13) of the Act, to which the limitations under subsection (b) of section 8(o)(13) of the Act shall not apply and for which the Secretary of Housing and Urban Development may waive or alter the provisions of subparagraphs (C) and (D) of section 8(o)(13) of the Act: Provided further, That amounts made available under the heading 'Rental Housing Assistance' during the period of conversion under the previous proviso shall be available for project-based subsidy contracts entered into pursuant to the previous proviso: Provided further, That amounts, including contract authority, recaptured from contracts following a conversion under the previous two provisos are hereby rescinded and an amount of additional new budget authority, equivalent to the amount rescinded is hereby appropriated, to remain available until expended for such conversions: Provided further, That the Secretary may transfer amounts made available under the heading 'Rental Housing Assistance', amounts made available for tenant protection vouchers under the heading 'Tenant-Based Rental Assistance' and specifically associated with any such conversions, and amounts made available under the previous proviso as needed to the account under the 'Project-Based Rental Assistance' heading to facilitate conversion under the three previous provisos and any increase in the cost for 'Project-Based Rental Assistance' associated with such conversion shall be equal to amounts so transferred: Provided further, That with respect to the previous four provisos, the Comptroller General of the United States shall conduct a study of the long-term impact of the fiscal year 2012 and 2013 conversion of tenant protection vouchers to assistance under section 8(o)(13) of the Act on the ratio of tenant-based vouchers to project-based vouchers.”

CONVERSION OF HUD CONTRACTS


“(a) IN GENERAL.—Notwithstanding any other provision of law, the Secretary may, at the request of an owner of a multifamily housing project that exceeds 5,000 units to which a contract for project-based rental assistance under section 8 of the United States Housing Act of 1937 (‘Act’) [42 U.S.C. 1437f] and any Recapture Payment contract is subject, convert such contracts to a contract for project-based rental assistance under section 8 of the Act.

(b) INTRIAL RENEWAL.—

“(1) At the request of an owner under subsection (a) made no later than 90 days prior to a conversion, the
Secretary may, to the extent sufficient amounts are made available in appropriation Acts and notwithstanding any other law, treat the contemplated resulting contract as if such contract were eligible for initial renewal under section 52(a) of the MultiFamily Assisted Housing Reform and Affordability Act of 1997 (Pub. L. 105–65; 42 U.S.C. 1437f note) ("MAHRA") (42 U.S.C. 1437f note).

"(2) A request by an owner pursuant to paragraph (1) shall be upon such terms and conditions as the Secretary may require.

"(c) Resulting Contract.—The resulting contract shall—

"(1) be subject to section 52(a) of MAHRA (Pub. L. 105–65) (42 U.S.C. 1437f note);

"(2) be considered for all purposes a contract that has been renewed under section 52(a) of MAHRA (42 U.S.C. 1437f note) for a term not to exceed 20 years; and

"(3) be subsequently renewable at the request of an owner, under any renewal option for which the project is eligible under MAHRA (42 U.S.C. 1437f note);

"(4) contain provisions limiting distributions, as the Secretary determines appropriate, not to exceed 10 percent of the initial investment of the owner; and

"(5) be subject to the availability of sufficient amounts in appropriation Acts; and

"(6) be subject to such other terms and conditions as the Secretary considers appropriate.

"(d) Income Targeting.—To the extent that assisted dwelling units, subject to the resulting contract under subsection (a), serve low-income families, as defined in section 3(b)(2) of the Act (42 U.S.C. 1437a(b)(2)) the units shall be considered to be in compliance with all income targeting requirements under the Act (42 U.S.C. 1437 et seq.).

"(e) Tenant Eligibility.—Notwithstanding any other provision of law, each family residing in an assisted dwelling unit on the date of conversion of a contract under this section, subject to the resulting contract under subsection (a), shall be considered to meet the applicable requirements for income eligibility and occupancy.

"(f) Definitions.—As used in this section—

"(1) the term 'Secretary' means the Secretary of Housing and Urban Development;

"(2) the term 'conversion' means the action under which a contract for project-based rental assistance under section 8 of the Act (42 U.S.C. 1437f) and a Rental Assistance Payment contract become a contract for project-based rental assistance under section 8 of the Act (42 U.S.C. 1437f) pursuant to subsection (a);

"(3) the term 'resulting contract' means the new contract after a conversion pursuant to subsection (a); and

"(4) the term 'assisted dwelling unit' means a dwelling unit in a multifamily housing project that exceeds 5,000 units that, on the date of conversion of a contract under this section, is subject to a contract for project-based rental assistance under section 8 of the Act (42 U.S.C. 1437f) or a Rental Assistance Payment contract.''


"(1) to continue the progress of the Multifamily Assisted Housing Reform and Affordability Act of 1997 [title V of Pub. L. 105–65, see Short Title of 1997 Amendment note set out under section 1701 of Title 12, Banks and Banking] (referred to in this section as 'that Act');

"(2) to ensure that properties that undergo mortgage restructurings pursuant to that Act are rehabilitated to a standard that allows the properties to meet their long-term affordability requirements; and

"(3) to ensure that, for properties that undergo mortgage restructurings pursuant to that Act, services are set at adequate levels to allow the properties to meet their long-term affordability requirements;

"(4) to ensure that properties that undergo mortgage restructurings pursuant to that Act are operated efficiently, and that operating expenses are sufficient to ensure the long-term financial and physical integrity of the properties;

"(5) to ensure that properties that undergo rent restructurings have adequate resources to maintain the properties in good condition; and

"(6) to ensure that the Office of Multifamily Housing Assistance Restructuring of the Department of Housing and Urban Development continues to focus on the portfolio of properties eligible for restructuring under that Act;

"(7) to ensure that the Department of Housing and Urban Development carefully tracks the condition of those properties on an ongoing basis;

"(8) to ensure that tenant groups, nonprofit organizations, and public entities continue to have the resources for building the capacity of tenant organizations in furtherance of the purposes of subtitle A of that Act [subtitle A of title V of Pub. L. 105–65, set out in a note below]; and

"(9) to encourage the Office of Multifamily Housing Assistance Restructuring to continue to provide participating administrative entities, including public participating administrative entities, with the flexibility to respond to specific problems that individual cases may present, while ensuring consistent outcomes around the country.''

PILOT PROGRAM FOR HOMEOWNERSHIP ASSISTANCE FOR DISABLED FAMILIES Pub. L. 106–569, title III, §302, Dec. 27, 2000, 114 Stat. 2953, authorized a public housing agency providing tenant-based assistance to provide homeownership assistance to a disabled family that purchases a dwelling unit (including a dwelling unit under a lease-purchase agreement) that will be owned by one or more members of the disabled family and will be occupied by the disabled family and required the Secretary of Housing and Urban Development to issue implementing regulations not later than 90 days after Dec. 27, 2000.

DETERMINATION OF ADMINISTRATIVE FEES Pub. L. 108–7, div. K, title II, (§5), Feb. 20, 2003, 117 Stat. 485, which provided that the fee otherwise authorized under subsection (q) of this section was to be determined in accordance with subsection (q) as in effect immediately before Oct. 21, 1998, was from the Departments of Veterans Affairs and Housing and Urban Development, and Independent Agencies Appropriations Act, 2003 and was not repeated in subsequent appropriation acts. Similar provisions were contained in the following prior appropriation acts:


HOMEOWNERSHIP OPPORTUNITIES DEMONSTRATION PROGRAM Pub. L. 105–276, title V, §§555(b), Oct. 21, 1998, 112 Stat. 2613, provided that: 'In general.—With the consent of the affected public housing agencies, the Secretary may carry out (or contract with 1 or more entities to carry out) a demonstration program under section 8(g) of the United States Housing Act of 1937 (42 U.S.C. 1437f(g)) to expand homeownership opportunities for low-income families.

"(2) Report.—The Secretary shall report annually to Congress on activities conducted under this sub-sec.

"SUBTITLE A—FHA-INSURED MULTIFAMILY HOUSING
MORTGAGE AND HOUSING ASSISTANCE RESTRUCTURING"

"SEC. 511. FINDINGS AND PURPOSES.

"(a) FINDINGS.—Congress finds that—

"(1) there exists throughout the Nation a need for decent, safe, and affordable housing;

"(2) as of the date of enactment of this Act [Oct. 27, 1997], it is estimated that—

"(A) the insured multifamily housing portfolio of the Federal Housing Administration consists of 15,000 rental properties, with an aggregate unpaid principal mortgage balance of $38,000,000,000; and

"(B) approximately 10,000 of these properties contain housing units that are assisted with project-based rental assistance under section 8 of the United States Housing Act of 1937 (42 U.S.C. 1437f);

"(3) FHA-insured multifamily rental properties are a major Federal investment, providing affordable rental housing to an estimated 2,000,000 low- and very low-income families;

"(4) approximately 1,600,000 of these families live in dwelling units that are assisted with project-based rental assistance under section 8 of the United States Housing Act of 1937;

"(5) a substantial number of housing units receiving project-based assistance have rents that are higher than the rents of comparable, unassisted rental units in the same housing rental market;

"(6) many of the contracts for project-based assistance will expire during the several years following the date of enactment of this Act;

"(7) it is estimated that—

"(A) if no changes in the terms and conditions of the contracts for project-based assistance are made before fiscal year 2000, the cost of renewing all expiring rental assistance contracts under section 8 of the United States Housing Act of 1937 for both project-based and tenant-based rental assistance will increase from approximately $5,600,000,000 in fiscal year 1997 to over $14,300,000,000 by fiscal year 2000 and some $22,400,000,000 in fiscal year 2006;

"(B) of those renewal amounts, the cost of renewing project-based assistance will increase from $1,200,000,000 in fiscal year 1997 to almost $7,400,000,000 by fiscal year 2006; and

"(C) without changes in the manner in which project-based rental assistance is provided, renewals of expiring contracts for project-based rental assistance will require an increasingly larger portion of the discretionary budget authority of the Department of Housing and Urban Development in each subsequent fiscal year for the foreseeable future;

"(8) absent new budget authority for the renewal of expiring rental contracts for project-based assistance, many of the FHA-insured multifamily housing projects that are assisted with project-based assistance are likely to default on their FHA-insured mortgage payments, resulting in substantial claims to the FHA General Insurance Fund and Special Risk Insurance Fund;

"(9) more than 15 percent of federally assisted multifamily housing projects are physically or financially distressed, including a number which suffer from mismanagement;

"(10) due to Federal budget constraints, the downsizing of the Department of Housing and Urban Development, and diminished administrative capacity, the Department lacks the ability to ensure the continued economic and physical well-being of the stock of federally insured and assisted multifamily housing projects;

"(11) the economic, physical, and management problems facing the stock of federally insured and assisted multifamily housing projects will be best served by reforms that—

"(A) reduce the cost of Federal rental assistance, including project-based assistance, to these projects by reducing the debt service and operating costs of these projects while retaining the low-income affordability and availability of this housing;

"(B) address physical and economic distress of this housing and the failure of some project managers and owners of projects to comply with management and ownership rules and requirements; and

"(C) transfer and share many of the loan and contract administration functions and responsibilities of the Secretary to and with capable State, local, and other entities; and

"(12) the authority and duties of the Secretary, not including the control by the Secretary of applicable accounts in the Treasury of the United States, may be delegated to State, local, or other entities at the discretion of the Secretary, to the extent the Secretary determines, and for the purpose of carrying out this title [see Short Title of 1997 Amendment note set out under section 1701 of Title 12, Banks and Banking], so that the Secretary has the discretion to be relieved of processing and approving any document or action required by these reforms.

"(b) PURPOSES.—Consistent with the purposes and requirements of the Government Performance and Results Act of 1993 [Pub. L. 103–62, see Short Title of 1993 Amendment note set out under section 1101 of Title 31, Money and Finance], the purposes of this subtitle are—

"(1) to preserve low-income rental housing affordability and availability while reducing the long-term costs of project-based assistance;

"(2) to reform the design and operation of Federal rental housing assistance programs, administered by the Secretary, to promote greater multifamily housing project operating and cost efficiencies;

"(3) to encourage owners of eligible multifamily housing projects to restructure their FHA-insured mortgages and project-based assistance contracts in a manner that is consistent with this subtitle before the year in which the contract expires;

"(4) to reduce the cost of insurance claims under the National Housing Act [12 U.S.C. 1701 et seq.] related to mortgages insured by the Secretary and used to finance eligible multifamily housing projects;

"(5) to streamline and improve federally insured and assisted multifamily housing project oversight and administration;

"(6) to resolve the problems affecting financially and physically troubled federally insured and assisted multifamily housing projects through cooperation with residents, owners, State and local governments, and other interested entities and individuals;

"(7) to protect the interest of project owners and managers, because they are partners of the Federal Government in meeting the affordable housing needs of the Nation through the section 8 rental housing assistance program;

"(8) to protect the interest of tenants residing in the multifamily housing projects at the time of the restructuring for the housing; and

"(9) to grant additional enforcement tools to use against those who violate agreements and program requirements, in order to ensure that the public interest is safeguarded and that Federal multifamily housing programs serve their intended purposes.

"SEC. 512. DEFINITIONS.

"In this subtitle:
(1) Comparable properties.—The term ‘comparable properties’ means properties in the same market areas, where practicable, that:

"(A) are similar to the eligible multifamily housing project as to neighborhood (including risk of crime), type of location, access, street appeal, age, property size, apartment mix, physical configuration, property and unit amenities, utilities, and other relevant characteristics; and

"(B) are not receiving project-based assistance.

(2) Eligible multifamily housing project.—The term ‘eligible multifamily housing project’ means a property consisting of more than 4 dwelling units—

"(A) with rents that, on an average per unit or per room basis, exceed the rent of comparable properties in the same market area, determined in accordance with guidelines established by the Secretary;

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

"(i) the new construction or substantial rehabilitation program under section 8(b)(2) of the United States Housing Act of 1937 [42 U.S.C. 1437f(b)(2)] (as in effect before October 1, 1983);

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

"(iii) the moderate rehabilitation program under section 8(c)(2) of the United States Housing Act of 1937;

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

"(v) section 23 of the United States Housing Act of 1937 [42 U.S.C. 1437a] (as in effect before January 1, 1975);

"(vi) the rent supplement program under section 101 of the Housing and Urban Development Act of 1965 [12 U.S.C. 1701a]; or

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

"(C) financed by a mortgage insured or held by the Secretary under the National Housing Act [12 U.S.C. 1701 et seq.].

Such term does not include any project with an expiring contract described in paragraph (1) or (2) of section 524(e), but does include a project described in section 524(e)(3). Notwithstanding any other provision of this title, the Secretary may treat a project as an eligible multifamily housing project for purposes of this title if (I) the project is assisted pursuant to a contract for project-based assistance under section 8 of the United States Housing Act of 1937 renewed under section 524 of this Act, (II) the owner consents to such treatment, and (III) the project met the requirements of the first sentence of this paragraph for eligibility as an eligible multifamily housing project before the initial renewal of the contract under section 524.

(3) Expiring contract.—The term ‘expiring contract’ means a project-based assistance contract attached to an eligible multifamily housing project which, under the terms of the contract, will expire.

"(4) Expiration date.—The term ‘expiration date’ means the date on which an expiring contract expires.

(5) Fair market rent.—The term ‘fair market rent’ means the fair market rental established under section 8(c) of the United States Housing Act of 1937.

"(A) are similar to the eligible multifamily families has the same meaning as provided under section 8(b)(2) of the United States Housing Act of 1937 [42 U.S.C. 1437f(b)(2)].

"(7) Mortgage restructuring and rental assistance sufficiency plan.—The term ‘mortgage restructuring and rental assistance sufficiency plan’ means the plan as provided under section 514.

"(8) Nonprofit organization.—The term ‘nonprofit organization’ means any private nonprofit organization that—

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

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

"(C) has a long-term record of service in providing or financing quality affordable housing for low-income families through relationships with public entities.

(9) Portfolio restructuring agreement.—The term ‘portfolio restructuring agreement’ means the agreement entered into between the Secretary and a participating administrative entity, as provided under section 513.

(10) Participating administrative entity.—The term ‘participating administrative entity’ means a public agency (including a State housing finance agency or a local housing agency), a nonprofit organization, or any other entity (including a law firm or an accounting firm) or a combination of such entities, that meets the requirements under section 513(b).

(11) Project-based assistance.—The term ‘project-based assistance’ means rental assistance described in paragraph (2)(B) of this section that is attached to a multifamily housing project.

(12) Renewal.—The term ‘renewal’ means the replacement of an expiring Federal rental contract with a new contract under section 8 of the United States Housing Act of 1937, consistent with the requirements of this subtitle.

(13) Secretary.—The term ‘Secretary’ means the Secretary of Housing and Urban Development.

(14) State.—The term ‘State’ has the same meaning as in section 94 of the Cranston-Gonzalez National Affordable Housing Act [42 U.S.C. 12704].

(15) Tenant-based assistance.—The term ‘tenant-based assistance’ has the same meaning as in section 8(b)(1) of the United States Housing Act of 1937.

(16) Unit of general local government.—The term ‘unit of general local government’ has the same meaning as in section 94 of the Cranston-Gonzalez National Affordable Housing Act.

(17) Very low-income family.—The term ‘very low-income family’ has the same meaning as in section 3(b) of the United States Housing Act of 1937 [42 U.S.C. 1437a(b)].

(18) Qualified mortgagee.—The term ‘qualified mortgagee’ means an entity approved by the Secretary that is capable of servicing, as well as originating, FHA-insured mortgages, and that—

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

"(B) is not suspended or on probation imposed by the Mortgagee Review Board; and

"(C) is not in default under any Government National Mortgage Association obligation.

(19) Office.—The term ‘Office’ means the Office of Multifamily Housing Assistance Restructuring established under section 571.

(20) Secretary.—The term ‘Secretary’ means the Secretary of Housing and Urban Development.

(21) Very low-income family.—The term ‘very low-income family’ has the same meaning as in section 8(b) of the United States Housing Act of 1937 [42 U.S.C. 1437a(b)].

(22) Qualified mortgagee.—The term ‘qualified mortgagee’ means an entity approved by the Secretary that is capable of servicing, as well as originating, FHA-insured mortgages, and that—

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

"(B) is not suspended or on probation imposed by the Mortgagee Review Board; and

"(C) is not in default under any Government National Mortgage Association obligation.

(23) Office.—The term ‘Office’ means the Office of Multifamily Housing Assistance Restructuring established under section 571.

(24) Authority of participating administrative entities.—

(a) Participating administrative entities.—

(1) In general.—Subject to subsection (b)(3), the Secretary shall enter into portfolio restructuring agreements with participating administrative entities for the implementation of mortgage restructuring and rental assistance sufficiency plans to restructure multifamily housing mortgages insured or held by the Secretary under the National Housing Act [12 U.S.C. 1701 et seq.], in order to—

"(A) reduce the costs of expiring contracts for assistance under section 8 of the United States Housing Act of 1937 [42 U.S.C. 1437f];

"(B) address financially and physically troubled projects; and

"(C) correct management and ownership deficiencies.

(2) Portfolio restructuring agreements.—Each portfolio restructuring agreement entered into under this subsection shall—
“(A) be a cooperative agreement to establish the obligations and requirements between the Secretary and the participating administrative entity; 

(B) identify the eligible multifamily housing projects or groups of projects for which the participating administrative entity is responsible for assisting in developing and implementing approved mortgage restructuring and rental assistance sufficiency plans under section 514; 

(C) require the participating administrative entity to review and certify to the accuracy and completeness of the evaluation of rehabilitation needs required under section 514(e)(3) for each eligible multifamily housing project included in the portfolio restructuring agreement, in accordance with regulations promulgated by the Secretary; 

(D) identify the responsibilities of both the participating administrative entity and the Secretary in implementing a mortgage restructuring and rental assistance sufficiency plan, including any actions proposed to be taken under section 516 or 517; 

(E) require each mortgage restructuring and rental assistance sufficiency plan to be prepared in accordance with the requirements of section 514 for each eligible multifamily housing project; 

(F) include other requirements established by the Secretary, including a right of the Secretary to terminate the contract immediately for failure of the participating administrative entity to comply with any applicable requirement; 

(G) if the participating administrative entity is a State housing finance agency or a local housing agency, indemnify the participating administrative entity against lawsuits and penalties for actions taken pursuant to the agreement, excluding actions involving willful misconduct or negligence; 

(H) include compensation for all reasonable expenses incurred by the participating administrative entity necessary to perform its duties under this subtitle; and 

(I) include, where appropriate, incentive agreements with the participating administrative entity to reward superior performance in meeting the purposes of this title.

3. SELECTION OF PARTICIPATING ADMINISTRATIVE ENTITY.—

(A) Selection Criteria.—The Secretary shall select a participating administrative entity based on whether, in the determination of the Secretary, the participating administrative entity—

(1) has demonstrated experience in working directly with residents of low-income housing projects and with tenants and other community-based organizations; 

(2) has demonstrated experience with and capacity for multifamily restructuring and multifamily financing (which may include risk-sharing arrangements and restructuring eligible multifamily housing properties under the fiscal year 1997 Federal Housing Administration multifamily housing demonstration program); 

(3) has a history of stable, financially sound, and responsible administrative performance (which may include the management of affordable low-income rental housing); 

(4) has demonstrated financial strength in terms of asset quality, capital adequacy, and liquidity; 

(5) has demonstrated that it will carry out the specific transactions and other responsibilities under this subtitle in a timely, efficient, and cost-effective manner; and 

(6) meets other criteria, as determined by the Secretary.

(B) Selection.—If more than 1 interested entity meets the qualifications and selection criteria for a participating administrative entity, the Secretary may select the entity that demonstrates, as determined by the Secretary, that it will—

(1) provide the most timely, efficient, and cost-effective—

4. ALTERNATIVE ADMINISTRATORS.—With respect to any eligible multifamily housing project for which a participating administrative entity is unavailable, or should not be selected to carry out the requirements of this subtitle with respect to that multifamily housing project for reasons relating to the selection criteria under paragraph (1), the Secretary shall—

(A) carry out the requirements of this subtitle with respect to that eligible multifamily housing project; or 

(B) contract with other qualified entities that meet the requirements of paragraph (1) to provide the authority to carry out all or a portion of the requirements of this subtitle with respect to that eligible multifamily housing project.

5. PRIORITY FOR PUBLIC AGENCIES AS PARTICIPATING ADMINISTRATIVE ENTITIES.—The Secretary shall provide a reasonable period during which the Secretary will consider proposals only from State housing finance agencies or local housing agencies, and the Secretary shall select such an agency without considering other applicants if the Secretary determines that the agency is qualified. The period shall be of sufficient duration for the Secretary to determine whether any State housing finance agencies or local housing agencies are interested and qualified. Not later than the end of the period, the Secretary shall notify the State housing finance agency or the local housing agency regarding the status of the proposal and, if the proposal is rejected, the reasons for the rejection and an opportunity for the applicant to respond.

6. STATE AND LOCAL PORTFOLIO REQUIREMENTS.—

(A) In General.—If the housing finance agency of a State is selected as the participating administrative entity, that agency shall be responsible for such eligible multifamily housing projects in that State as may be agreed upon by the participating administrative entity and the Secretary. If a local housing agency is selected as the participating administrative entity, that agency shall be responsible for such eligible multifamily housing projects in the jurisdiction of the agency as may be agreed upon by the participating administrative entity and the Secretary.

(B) Nondelegation.—Except with the prior approval of the Secretary, a participating administrative entity may not delegate or transfer responsibilities and functions under this subtitle to 1 or more entities.

7. PRIVATE ENTITY REQUIREMENTS.—

(A) In General.—If a for-profit entity is selected as the participating administrative entity, such entity shall be required to enter into a partnership with a public purpose entity (including the Department).

(B) Prohibition.—No private entity shall share, participate in, or otherwise benefit from any equity created, received, or restructured as a result of the portfolio restructuring agreement.
“(1) **Development of Procedures and Requirements.**—The Secretary shall develop procedures and requirements for the submission of a mortgage restructuring and rental assistance sufficiency plan for each eligible multifamily housing project with an expiring contract.

“(2) **Terms and Conditions.**—Each mortgage restructuring and rental assistance sufficiency plan submitted under this subsection shall be developed by the participating administrative entity, in cooperation with an owner of an eligible multifamily housing project and any servicer for the mortgage that is a qualified mortgagee, under such terms and conditions as the Secretary shall require.

“(3) **Consolidation.**—Mortgage restructuring and rental assistance sufficiency plans submitted under this subsection may be consolidated as part of an overall strategy for more than 1 property.

“(b) **Notice Requirements.**—The Secretary shall establish notice procedures and hearing requirements for tenants and owners concerning the dates for the expiration of project-based assistance contracts for any eligible multifamily housing project.

“(c) **Extension of Contract Term.**—Subject to agreement by a project owner, the Secretary may extend the term of any expiring contract or provide a section 8 contract with rent levels set in accordance with subsection (g) for a period sufficient to facilitate the implementation of a mortgage restructuring and rental assistance sufficiency plan, as determined by the Secretary.

“(d) **Tenant Rent Protection.**—If the owner of a project with an expiring Federal rental assistance contract does not agree to extend the contract, not less than 12 months prior to terminating the contract, the project owner shall provide written notice to the Secretary and the tenants and the Secretary shall make tenant-based assistance available to tenants residing in units assisted under the expiring contract at the time of expiration. In addition, if after giving the notice required in the first sentence, an owner determines to terminate a contract, an owner shall provide an additional written notice with respect to the termination, in a form prescribed by the Secretary, not less than 120 days prior to the termination. In the event the owner does not provide the 120-day notice required in the preceding sentence, the owner may not evict the tenants or increase the tenants' rent payment until such time as the owner has provided the 120-day notice and such period has elapsed. The Secretary may allow the owner to renew the terminating contract for a period of time sufficient to give tenants 120 days of advance notice in accordance with section 524 of this Act.

“(e) **Mortgage Restructuring and Rental Assistance Sufficiency Plan.**—Each mortgage restructuring and rental assistance sufficiency plan shall—

“(1) except as otherwise provided, restructure the project-based assistance rents for the eligible multifamily housing project in a manner consistent with subsection (g), or provide for tenant-based assistance in accordance with section 515;

“(2) allow for rent adjustments by applying an operating cost adjustment factor established under guidelines established by the Secretary;

“(3) require the owner or purchaser of an eligible multifamily housing project to provide or contract for competent management of the project;

“(4) require the owner or purchaser of the project to take such actions as may be necessary to rehabilitate, maintain adequate reserves, and to maintain the project in decent and safe condition, based on housing quality standards established by—

“(A) the Secretary;

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

“(i) meet or exceed housing quality standards established by the Secretary; and

“(ii) do not severely restrict housing choice;

“(5) require the owner or purchaser of the project to maintain affordability and use restrictions in accordance with regulations promulgated by the Secretary, for a term of not less than 30 years which restrictions shall be—

“(A) contained in a legally enforceable document recorded in the appropriate records; and

“(B) consistent with the long-term physical and financial viability and character of the project as affordable housing;

“(6) include a certification by the participating administrative entity that the restructuring meets subsidy layering requirements established by the Secretary by regulation for purposes of this subtitle;

“(7) require the owner or purchaser of the project to meet such other requirements as the Secretary determines to be appropriate; and

“(8) prohibit the owner from refusing to lease a reasonable number of units to holders of certificates and vouchers under section 8 of the United States Housing Act of 1937 [42 U.S.C. 1437f] because of the status of the prospective tenants as certificate and voucher holders.

“(f) **Tenant and Other Participation and Capacity Building.**—

“(1) **Procedures.**—

“(A) **In General.**—The Secretary shall establish procedures to provide an opportunity for tenants of the project, residents of the neighborhood, the local government, and other affected parties to participate effectively and on a timely basis in the restructuring process established by this subtitle.

“(B) **Coverage.**—These procedures shall take into account the need to provide tenants of the project, residents of the neighborhood, the local government, and other affected parties timely notice of proposed restructuring actions and appropriate access to relevant information about restructuring activities. To the extent practicable and consistent with the need to accomplish project restructuring in an efficient manner, the procedures shall give all such parties an opportunity to provide comments to the participating administrative entity in writing, in meetings, or in another appropriate manner (which comments shall be taken into consideration by the participating administrative entity).

“(2) **Required Consultation.**—The procedures developed pursuant to paragraph (1) shall require consultation with tenants of the project, residents of the neighborhood, the local government, and other affected parties, in connection with at least the following:

“(A) the mortgage restructuring and rental assistance sufficiency plan;

“(B) any proposed transfer of the project; and

“(C) the rental assistance assessment plan pursuant to section 515(c).

“(3) **Funding.**—

“(A) **In General.**—The Secretary shall make available not more than $10,000,000 annually in funding, which amount shall be in addition to any amounts made available under this subparagraph and carried over from previous years, from which the Secretary may make obligations to tenant groups, nonprofit organizations, and public entities for building the capacity of tenant organizations, for technical assistance in furthering any of the purposes of this subtitle (including transfer of developments to new owners), for technical assistance for preservation of low-income housing for which project-based rental assistance is provided, for below market rent levels and may not be renewed (including transfer of developments to tenant groups, nonprofit organizations, and public entities), for tenant services, and for tenant groups, nonprofit organizations, and public entities described in section 517(a)(5), from those amounts made available under
appropriations Acts for implementing this subtitle or previously made available for technical assistance in connection with the preservation of affordable rental housing for low-income persons.

"(B) MANNER OF PROVIDING.—Notwithstanding any other provision of law restricting the use of preservation technical assistance funds, the Secretary may provide any funds made available under subparagraph (A) through existing technical assistance programs pursuant to any other Federal law, including the Low-Income Housing Preservation and Resident Homeownership Act of 1990 [12 U.S.C. 4101 et seq.] and the Multifamily Housing Property Disposition Reform Act of 1994 [Pub. L. 103–233, see Short Title of 1994 Amendment note set out under section 1701 of Title 12, Banks and Banking], or through any other means that the Secretary considers consistent with the purposes of this subtitle, without regard to any set-aside requirement otherwise applicable to those funds.

"(C) PROHIBITION.—None of the funds made available under subparagraph (A) may be used directly or indirectly to pay for any personal service, advertisement, news release, telegram, telephone, letter, printed or written matter, or other device, intended or designed to influence in any manner a Member of Congress, to favor or oppose, by vote or otherwise, any legislation or appropriation by Congress whether before or after the introduction of any bill or resolution proposing such legislation or appropriation.

"(g) RENT LEVELS.—

"(1) IN GENERAL.—Except as provided in paragraph (2), each mortgage restructuring and rental assistance sufficiency plan pursuant to the terms, conditions, and requirements of this subtitle shall establish for units assisted with project-based assistance in eligible multifamily housing projects adjusted rent levels that—

(A) are equivalent to rents derived from comparable properties, if—

(i) the participating administrative entity makes the rent determination within a reasonable period of time; and

(ii) the market rent determination is based on not less than 2 comparable properties; or

(B) if those rents cannot be determined, are equal to 90 percent of the fair market rents for the relevant market area.

"(2) EXCEPTIONS.—

(1) IN GENERAL.—A contract under this section may include rent levels that exceed the rent level described in paragraph (1) at rent levels that do not exceed 120 percent of the fair market rent for the market area (except that the Secretary may waive this limit for not more than five percent of all units subject to portfolio restructuring agreements, based on a finding of special need), if the participating administrative entity—

(i) determines that the housing needs of the tenants and the community cannot be adequately addressed through implementation of the rent limitation required to be established through a mortgage restructuring and rental assistance sufficiency plan under paragraph (1); and

(ii) follows the procedures under paragraph (3).

(2) EXCEPTION RENTS.—In any fiscal year, a participating administrative entity may approve exception rents on not more than 20 percent of all units covered by the portfolio restructuring agreement with expiring contracts in that fiscal year, except that the Secretary may waive this ceiling upon a finding of special need.

"(3) RENT LEVELS FOR EXCEPTION PROJECTS.—For purposes of this section, a project eligible for an exception rent shall receive a rent calculated on the actual and projected costs of operating the project, at a level that provides incentive sufficient to support a budget-based rent that consists of—

(A) the debt service of the project; and

(B) the operating expenses of the project, as determined by the participating administrative entity, including—

(i) contributions to adequate reserves;

(ii) the costs of maintenance and necessary re habilitation; and


"(D) an allowance for potential operating losses due to vacancies and failure to collect rents, as determined by the participating administrative entity;

"(E) other expenses determined by the participating administrative entity to be necessary for the operation of the project.

"(h) EXCEPTIONS FROM RESTRUCTURING.—The following categories of projects shall not be covered by a mortgage restructuring and rental assistance sufficiency plan if—

(1) the primary financing or mortgage insurance for the multifamily housing project that is covered by that expiring contract is provided by a unit of State government or a unit of general local government (or an agency or instrumentality of a unit of a State government or unit of general local government) and the financing involves mortgage insurance under the National Housing Act [42 U.S.C. 1701 et seq.], such that the implementation of a mortgage restructuring and rental assistance sufficiency plan under this subtitle is in conflict with applicable law or agreements governing such financing;


(3) the project has an expiring contract under section 8 of the United States Housing Act of 1937 entered into pursuant to [former] section 401 of the American Homeownership and Economic Opportunity Act of 2000 [12 U.S.C. 1701q] or

SEC. 515. SECTION 8 RENEWALS AND LONG-TERM AFFORDABILITY COMMITMENT BY OWNER OF PROJECT.

"(a) SECTION 8 RENEWALS OF RESTRUCTURED PROJECTS.—

(1) PROJECT-BASED ASSISTANCE.—Subject to the availability of amounts provided in advance in appropriations Acts, and to the control of the Secretary of applicable accounts in the Treasury of the United States, with respect to an expiring section 8 contract on an eligible multifamily housing project to be renewed with project-based assistance (based on a determination under subsection (c)), the Secretary shall enter into contracts with participating administrative entities pursuant to which the participating administrative entity shall offer to renew or extend the contract, or the Secretary shall offer to renew such contract, and the owner of the project shall accept the offer, if the initial renewal is in accordance with the terms and conditions specified in the mortgage restructuring and rental assistance sufficiency plan and the rental assistance assessment plan.

(2) TENANT-BASED ASSISTANCE.—Subject to the availability of amounts provided in advance in appropriations Acts and to the control of the Secretary of applicable accounts in the Treasury of the United States, with respect to an expiring section 8 contract on an eligible multifamily housing project to be renewed with tenant-based assistance (based on a determination under subsection (c)), the Secretary shall enter into contracts with participating administr-
tive entities pursuant to which the participating administrative entity shall provide for the renewal of section 8 assistance on an eligible multifamily housing project with tenant-based assistance, or the Secretary shall provide for such renewal, in accordance with the terms and conditions specified in the mortgage restructuring and rental assistance sufficiency plan and the rental assistance assessment plan.

(b) Required commitment.—After the initial renewal of a section 8 contract pursuant to this section, the owner shall accept each offer made pursuant to subsection (a) to renew the contract, for the term of the affordability and use restrictions required by section 512(c)(6), if the offer to renew is on terms and conditions specified in the mortgage restructuring and rental assistance sufficiency plan.

(c) Determination of Whether to Renew with Project-Based or Tenant-Based Assistance.—

(1) Mandatory renewal of project-based assistance.—Section 8 assistance shall be renewed with project-based assistance if—

(A) the project is located in an area in which the participating administrative entity determines, based on housing market indicators, such as low vacancy rates or high absorption rates, that there is not adequate available and affordable housing or that the tenants of the project would not be able to locate suitable units or use the tenant-based assistance successfully;

(B) a predominant number of the units in the project are occupied by elderly families, disabled families, or elderly and disabled families; or

(C) the project is held by a nonprofit cooperative ownership housing corporation or nonprofit cooperative housing trust.

(2) Rental assistance assessment plan.—

(A) In general.—With respect to any project that is not described in paragraph (1), the participating administrative entity shall, after consultation with the owner of the project, develop a rental assistance assessment plan to determine whether to renew assistance for the project with tenant-based assistance or project-based assistance.

(B) Rental assistance assessment plan requirements.—Each rental assistance assessment plan developed under this paragraph shall include an assessment of the impact of converting to tenant-based assistance and the impact of extending project-based assistance on—

(i) the ability of the tenants to find adequate, available, decent, comparable, and affordable housing in the local market;

(ii) the types of tenants residing in the project (such as elderly families, disabled families, large families, and cooperative homeowners);

(iii) the local housing needs identified in the comprehensive housing affordability strategy, and local market vacancy trends;

(iv) the cost of providing assistance, comparing the applicable payment standard to the project's adjusted rent levels determined under section 514(g);

(v) the long-term financial stability of the project;

(vi) the ability of residents to make reasonable choices about their individual living situations;

(vii) the quality of the neighborhood in which the tenants would reside; and

(viii) the project's ability to compete in the marketplace.

(C) Reports to director.—Each participating administrative entity shall report regularly to the Director as defined in subtitile D, if the Director shall require, identifying—

(i) each eligible multifamily housing project for which the entity has developed a rental assistance assessment plan under this paragraph that determined that the tenants of the project generally supported renewal of assistance with tenant-based assistance, but under which assistance for the project was renewed with project-based assistance; and

(ii) each project for which the entity has developed such a plan in which the assistance is renewed using tenant-based assistance.

(3) Eligibility for tenant-based assistance.—Subject to paragraph (4), with respect to any project that is not described in paragraph (1), if a participating administrative entity approves the use of tenant-based assistance based on a rental assistance assessment plan developed under paragraph (2), tenant-based assistance shall be provided to each assisted family (other than a family already receiving tenant-based assistance) residing in the project at the time the assistance described in section 512(c)(3) terminates.

(4) Assistance through enhanced vouchers.—In the case of any family described in paragraph (3) that resides in a project described in section 512(c)(3), the tenant-based assistance provided shall be enhanced voucher assistance under section 8(c) of the United States Housing Act of 1937 (42 U.S.C. 1437f(u)).

(5) Inapplicability of certain provisions.—If a participating administrative entity approves renewal with project-based assistance under this subsection, section 8(d)(2) of the United States Housing Act of 1937 shall not apply.

SEC. 516. Prohibition on Restructuring.

(a) Prohibition on restructuring.—The Secretary may elect not to consider any mortgage restructuring and rental assistance sufficiency plan or request for contract renewal if the Secretary or the participating administrative entity determines that—

(1)(A) the owner or purchaser of the project has engaged in material adverse financial or managerial actions or omissions with regard to such project, or

(B) the owner or purchaser of the project has engaged in material adverse financial or managerial actions or omissions with regard to other projects of such owner or purchaser that are federally assisted or financed with a loan from, or mortgage insured or guaranteed by, an agency of the Federal Government;

(2) material adverse financial or managerial actions or omissions include—

(A) materially violating any Federal, State, or local law or regulation with regard to the project or any other federally assisted project, after receipt of notice and an opportunity to cure;

(B) materially breaching a contract for assistance under section 8 of the United States Housing Act of 1937 (42 U.S.C. 1437f), after receipt of notice and an opportunity to cure;

(C) materially violating any applicable regulatory or other agreement with the Secretary or a participating administrative entity, after receipt of notice and an opportunity to cure;

(D) repeatedly and materially violating any Federal, State, or local law or regulation with regard to the project or any other federally assisted project;

(E) repeatedly and materially breaching a contract for assistance under section 8 of the United States Housing Act of 1937;

(F) repeatedly and materially violating any applicable regulatory or other agreement with the Secretary or a participating administrative entity;

(G) repeatedly failing to make mortgage payments at times when project income was sufficient to maintain and operate the property;

(H) materially failing to maintain the property according to housing quality standards after receipt of notice and a reasonable opportunity to cure; or

(I) committing any actions or omissions that would warrant suspension or debarment by the Secretary;

(2) the owner or purchaser of the property materially failed to follow the procedures and requirements of this subtitle, after receipt of notice and an opportunity to cure; or
“(4) the poor condition of the project cannot be remedied in a cost effective manner, as determined by the participating administrative entity.

The term ‘owner’ as used in this subsection, in addition to it having the same meaning as in section 8(f) of the United States Housing Act of 1937, also means an affiliate of the owner. The term ‘purchaser’ as used in this subsection means any private person or entity, including a cooperative, an agency of the Federal Government, or a public housing agency, that, upon purchase of the project, would have the legal right to lease or sublease dwelling units in the project, and also means an affiliate of the purchaser. The terms ‘affiliate of the owner’ and ‘affiliate of the purchaser’ means any person or entity (including, but not limited to, a general partner or managing member, or an officer of either) that controls an owner or purchaser, is controlled by an owner or purchaser, or is under common control with the owner or purchaser. The term ‘control’ means the direct or indirect power (under contract, equity ownership, the right to vote or determine a vote, or otherwise) to direct the financial, legal, beneficial or other interests of the owner or purchaser.

“(d) Opportunity To Dispute Findings.—

“(1) In General.—During the 30-day period beginning on the date on which the owner or purchaser of an eligible multifamily housing project receives notice of a rejection under subsection (a) or of a mortgage restructuring and rental assistance sufficiency plan under section 514, the Secretary or participating administrative entity shall provide that owner or purchaser with an opportunity to dispute the basis for the rejection and an opportunity to cure.

“(2) Affirmation, Modification, or Reversal.—(A) In General.—After providing an opportunity to dispute under paragraph (1), the Secretary or the participating administrative entity may affirm, modify, or reverse any rejection under subsection (a) or rejection of a mortgage restructuring and rental assistance sufficiency plan under section 514.

“(B) Reasons for Decision.—The Secretary or the participating administrative entity, as applicable, shall identify the reasons for any final decision under this paragraph.

“(C) Review Process.—The Secretary shall establish an administrative review process to appeal any final decision under this paragraph.

“(c) Final Determination.—Any final determination under this section shall not be subject to judicial review.

“(d) Displaced Tenants.—

“(1) Notice to Certain Residents.—The Office shall notify any tenant that is residing in a project or receiving assistance under a program under section 8 of the United States Housing Act of 1937 (42 U.S.C. 1437f) at the time of rejection under this section, of such rejection, except that the Office may delegate the responsibility to provide notice under this paragraph to the participating administrative entity.

“(2) Assistance and Moving Expenses.—Subject to the availability of amounts provided in advance in appropriations Acts, for any low-income tenant that is residing in a project or receiving assistance under section 8 of the United States Housing Act of 1937 at the time of rejection under this section, that tenant shall be provided with tenancy-based assistance and reasonable moving expenses, as determined by the Secretary.

“(e) Transfer of Property.—For properties disqualified from the consideration of a mortgage restructuring and rental assistance sufficiency plan under this section in accordance with paragraph (1) or (2) of subsection (a) because of actions by an owner or purchaser, the Secretary shall establish procedures to facilitate the voluntary sale or transfer of a property as part of a mortgage restructuring and rental assistance sufficiency plan, with a preference for tenant organizations and tenant-endorsed community-based nonprofit and public agency purchasers meeting such reasonable qualifications as may be established by the Secretary.

“SEC. 517. RESTRUCTURING TOOLS.

“(a) Mortgage Restructuring.—

“(1) In this subtitle, an approved mortgage restructuring and rental assistance sufficiency plan shall include restructuring mortgages in accordance with this subsection to provide—

“(A) a restructured or new first mortgage that is sustainable at rates at levels that are established in section 514(g); and

“(B) a second mortgage that is in an amount equal to not more than the greater of—

“(i) the full or partial payment of claim made under this subtitle; or

“(ii) the difference between the restructured or new first mortgage and the indebtedness under the existing insured mortgage immediately before it is restructured or refinanced, provided that the amount of the second mortgage shall be in an amount that the Secretary or participating administrative entity determines can reasonably be expected to be repaid.

“(2) The second mortgage shall bear interest at a rate not to exceed the applicable Federal rate as defined in section 1274(d) of the Internal Revenue Code of 1986 [26 U.S.C. 1274(d)]. The term of the second mortgage shall be equal to the term of the restructured or new first mortgage.

“(3) Payments on the second mortgage shall be deferred when the first mortgage remains outstanding, except to the extent there is excess project income remaining after payment of all reasonable and necessary operating expenses (including deposits in a reserve for replacement), debt service on the first mortgage, and any other expenditures approved by the Secretary. At least 50 percent of any excess project income shall be applied to payments on the second mortgage, and the Secretary or the participating administrative entity may permit up to 25 percent to be paid to the project owner if the Secretary or participating administrative entity determines that the project owner meets benchmarks for management and housing quality.

“(4) The full amount of the second mortgage shall be immediately due and payable if—

“(A) the first mortgage is terminated or paid in full, except as otherwise provided by the holder of the second mortgage;

“(B) the project is purchased and the second mortgage is assumed by any subsequent purchaser in violation of guidelines established by the Secretary;

“(C) the Secretary provides notice to the project owner that such owner has failed to materially comply with any requirements of this section or the United States Housing Act of 1937 (42 U.S.C. 1437 et seq.) as those requirements apply to the project, with a reasonable opportunity for such owner to cure such failure.

“(5) The Secretary may modify the terms of the second mortgage, assign the second mortgage to the acquiring organization or agency, or forgive all or part of the second mortgage if the Secretary holds the second mortgage and if the project is acquired by a tenant organization or tenant-endorsed community-based nonprofit or public agency, pursuant to guidelines established by the Secretary.

“(6) The second mortgage under this section may be a first mortgage if no restructured or new first mortgage will meet the requirement of paragraph (1)(A).

“(b) Restructuring Tools.—In addition to the requirements of subsection (a) and to the extent these actions are consistent with this section and with the control of the Secretary of applicable accounts in the Treasury of the United States, approved mortgage restructuring and rental assistance sufficiency plans under this subtitle may include one or more of the following actions:

“(1) Full or Partial Payment of Claim.—Making a full payment of claim or partial payment of claim under section 514(b) of the National Housing Act [12
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U.S.C. 1735f-19(b)), as amended by section 523(b) of this Act. Any payment under this paragraph shall not require the approval of a mortgagee.

"(2) Refinancing or Debt.—Refinancing of all or part of the debt on a project. If the refinancing involves a mortgage that will continue to be insured under the National Housing Act (12 U.S.C. 1701 et seq.), the refinancing shall be documented through an amendment of the existing insurance contract and not through a new insurance contract.

"(3) Mortgage Insurance.—Providing FHA multifamily mortgage insurance, reinsurance or other credit enhancement alternatives, including multifamily risk-sharing mortgage programs, as provided under section 542 of the Housing and Community Development Act of 1992 [Pub. L. 102–550, 12 U.S.C. 1707 note]. The Secretary shall use risk-shared financing under section 542(c) of the Housing and Community Development Act of 1992 for any mortgage restructuring, rehabilitation financing, or debt refinancing included as part of a mortgage restructuring and rental assistance sufficiency plan if the terms and conditions are considered to be the best available financing in terms of financial savings to the FHA insurance funds and will result in reduced risk of loss to the Federal Government. Any limitations on the number of units available for mortgage insurance under section 542 shall not apply to eligible multifamily housing projects. Any credit subsidy costs of providing mortgage insurance shall be paid from the Liquidity Guarantee Account of the General Insurance Fund or the Special Risk Insurance Fund and shall not be subject to any limitation on appropriations.

"(4) Credit Enhancement.—Providing any additional State or local mortgage credit enhancements and risk-sharing arrangements that may be established with State or local housing finance agencies, the Federal Housing Finance Agency, the Federal National Mortgage Association, and the Federal Home Loan Mortgage Corporation, to a modified or refinanced first mortgage.

"(5) Compensation of Third Parties.—Consistent with the portfolio restructuring agreement, entering into agreements, incurring costs, or making payments, including incentive agreements designed to reward superior performance in meeting the purposes of this Act, as may be reasonably necessary, to compensate the participation of participating administrative entities and other parties in undertaking actions authorized by this subtitle. Upon request to the Secretary, participating administrative entities that are qualified under the United States Housing Act of 1937 to serve as contract administrators shall be the contract administrators under section 8 of the United States Housing Act of 1937 [12 U.S.C. 1437f] for purposes of any contracts entered into as part of an approved mortgage restructuring and rental assistance sufficiency plan. Subject to the availability of amounts provided in advance in appropriations Acts for administrative fees under section 8 of the United States Housing Act of 1937, such amounts may be used to compensate participating administrative entities for compliance monitoring costs incurred under section 519.

"(6) Use of Project Accounts.—Applying any residual receipts, replacement reserves, and any other project accounts not required for project operations, to maintain the long-term affordability and physical condition of the property or of other eligible multifamily housing projects. The participating administrative entity may expedite the acquisition of residual receipts, replacement reserves, or other such accounts, by entering into agreements with owners of housing cooperatives under section 8 of the National Housing Act of 1937, as amended. The requirements governing conflicts of interest by any other project accounts not required for project operations, or, as provided in appropriations Acts and subject to the control of the Secretary of applicable accounts in the Treasury of the United States, from budget authority provided for increases in the budget authority for contracts under section 8 of the United States Housing Act of 1937, the rehabilitation grant program established under section 236 of the National Housing Act [12 U.S.C. 1710z-1], as amended by section 331 of subtitle B of this Act, or through the debt restructuring transaction. Rehabilitation under this paragraph shall only be for the purpose of restoring the project to a non-luxury standard adequate for the rental market intended at the original approval of the project-based assistance.

"(B) Contribution.—Each owner or purchaser of a project to be rehabilitated under an approved mortgage restructuring and rental assistance sufficiency plan shall contribute, from non-project resources, not less than 25 percent of the amount of rehabilitation assistance received, except that the participating administrative entity may provide an exception from the requirement of this subparagraph for housing cooperatives.

"(2) Addition of significant features.—

"(A) Authority.—An approved mortgage restructuring and rental assistance sufficiency plan may require the improvement of the project by the addition of significant features that are not necessary for rehabilitation to the standard provided under paragraph (1), such as air conditioning, an elevator, and additional community space. The Secretary shall establish guidelines regarding the inclusion of requirements regarding such additional significant features under such plans.

"(B) Funding.—Significant features added pursuant to an approved mortgage restructuring and rental assistance sufficiency plan may be paid from the funding sources specified in the first sentence of paragraph (1)(A).

"(C) Limitation on owner contribution.—An owner of a project may not be required to contribute from non-project resources, toward the cost of any additional significant features required pursuant to this paragraph, more than 25 percent of the amount of any assistance received for the inclusion of such features.

"(D) Applicability.—This paragraph shall apply to all eligible multifamily housing projects, except projects for which the Secretary and the project owner executed a mortgage restructuring and rental assistance sufficiency plan on or before the date of the enactment of the Mark-to-Market Extension Act of 2001 [Jan. 10, 2002].

"(d) Prohibition on equity sharing by the Secretary.—The Secretary is prohibited from participating in any equity agreement or profit-sharing agreement in conjunction with any eligible multifamily housing project.

"(e) Conflict of interest guidelines.—The Secretary may establish guidelines to prevent conflicts of interest by a participating administrative entity that provides, directly or through risk-sharing arrangements, any form of credit enhancement or financing pursuant to subsections (b)(3) or (b)(4) or to prevent conflicts of interest by any other person or entity under this subtitle.

"SEC. 518. Management Standards.

"Each participating administrative entity shall establish management standards, including requirements governing conflicts of interest between owners, managers, contractors with an identity of interest, pursuant to guidelines established by the Secretary and consistent with industry standards.

"SEC. 519. Monitoring of compliance.

"(a) Compliance agreements.—(1) Pursuant to regulations issued by the Secretary under section 522(a),
each participating administrative entity, through binding contractual agreements with owners and otherwise, shall ensure long-term compliance with the provisions of this subtitle. Each agreement shall, at a minimum, provide for—

"(A) enforcement of the provisions of this subtitle; and

"(B) remedies for the breach of those provisions.

"(2) If the participating administrative entity is not qualified under the United States Housing Act of 1937 ([42 U.S.C. 1437 et seq.] to be a section 8 contract administering entity or fails to perform its duties under the portfolio restructuring agreement, the Secretary shall have the right to enforce the agreement.

"(b) Periodic Monitoring.—

"(1) In General.—Not less than annually, each participating administrative entity that is qualified to be the section 8 contract administrator shall review the status of all multifamily housing projects for which a mortgage restructuring and rental assistance sufficiency plan has been implemented.

"(2) Inspections.—Each review under this subsection shall include on-site inspection and other review to determine compliance with housing codes and other requirements as provided in this subtitle and the portfolio restructuring agreements.

"(c) Administration.—If the participating administrative entity is not qualified under the United States Housing Act of 1937 to be a section 8 contract administrator, either the Secretary or a qualified State or local housing agency shall be responsible for the review required by this subsection.

"(d) Audit by the Secretary.—The Comptroller General of the United States shall submit to the Senate, through the Committee on Banking, Housing, and Urban Affairs of the Senate stating, in addition to public comments invited in connection with publication of the interim rule, the Secretary shall—

"(1) seek recommendations on the implementation of sections 513(b) and 515(c)(1) from organizations representing—

"(i) State housing finance agencies and local housing agencies;

"(ii) other potential participating administering entities;

"(iii) tenants;

"(iv) owners and managers of eligible multifamily housing projects;

"(v) States and units of general local government; and

"(vi) qualified mortgagees; and

"(B) convene not less than 3 public forums at which the organizations making recommendations under subparagraph (A) may express views concerning the proposed disposition of the recommendations.

"(e) Transition Provision for Contracts Expiring in Fiscal Year 1998.—Notwithstanding any other provision of law, the Secretary shall apply all the terms of section 211 and section 212 of the Departments of Veterans Affairs and Housing and Urban Development, and Independent Agencies Appropriations Act, 1997 (Pub. L. 104–204, set out below) (except for section 212(h)(1)(G) and the limitation in section 212(k)) contracts for project-based assistance that expire during fiscal year 1998 (in the same manner that such provisions apply to expiring contracts defined in section 212(a)(3) of such Act), except that section 517(a) of the Act shall apply to mortgages on projects subject to such contracts.

"SEC. 523. TECHNICAL AND CONFORMING AMENDMENTS.

"(a) Calculation of Limit on Project-Based Assistance.—[Amended this section.]

"(b) Partial Payment of Claims on Multifamily Housing Projects.—[Amended section 1735f–19 of Title 12, Banks and Banking.]

"(c) Reuse and Recapture of Certain Recaptured Budget Authority.—[Amended this section.]

"(d) Section 8 Contract Renewals.—[Amended section 405(a) of Pub. L. 104–99, set out below.]

"(e) Renewal Upon Request of Owner.—[Amended section 211 of Pub. L. 104–204, set out below.]

"(f) Extension of Demonstration Contract Period.—[Amended section 212 of Pub. L. 104–204, set out below.]

"SEC. 524. RENEWAL OF EXPIRING PROJECT-BASED SECTION 8 CONTRACTS.

"(a) In General.—

"(b) Payment of Claims.—

"(c) Limitation on Project-Based Assistance.—

"SEC. 525. BUDGET AUTHORITY FOR PROJECT-BASED SECTION 8 CONTRACTS.

"(a) General Authority.—

"(b) Authorization of Appropriations.—

"(c) Limitation on Project-Based Assistance.—

"(d) Reuse and Recapture of Certain Recaptured Budget Authority.—[Amended this section.]

"(e) Renewal of Expiring Project-Based Section 8 Contracts.—

"(f) Extension of Demonstration Contract Period.—[Amended section 212 of Pub. L. 104–204, set out below.]

"SEC. 526. TECHNICAL AND CONFORMING AMENDMENTS.

"(a) Calculation of Limit on Project-Based Assistance.—[Amended this section.]

"(b) Partial Payment of Claims on Multifamily Housing Projects.—[Amended section 1735f–19 of Title 12, Banks and Banking.]

"(c) Reuse and Recapture of Certain Recaptured Budget Authority.—[Amended this section.]

"(d) Section 8 Contract Renewals.—[Amended section 405(a) of Pub. L. 104–99, set out below.]

"(e) Renewal Upon Request of Owner.—[Amended section 211 of Pub. L. 104–204, set out below.]

"(f) Extension of Demonstration Contract Period.—[Amended section 212 of Pub. L. 104–204, set out below.]

"(g) Renewal of Expiring Project-Based Section 8 Contracts.—

"(h) Calculation of Limit on Project-Based Assistance.—[Amended this section.]

"(i) Partial Payment of Claims on Multifamily Housing Projects.—[Amended section 1735f–19 of Title 12, Banks and Banking.]

"(j) Reuse and Recapture of Certain Recaptured Budget Authority.—[Amended this section.]

"(k) Section 8 Contract Renewals.—[Amended section 405(a) of Pub. L. 104–99, set out below.]

"(l) Renewal Upon Request of Owner.—[Amended section 211 of Pub. L. 104–204, set out below.]

"(m) Extension of Demonstration Contract Period.—[Amended section 212 of Pub. L. 104–204, set out below.]

"SEC. 527. BUDGET AUTHORITY FOR PROJECT-BASED SECTION 8 CONTRACTS.
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(1) RENEWAL.—Subject to paragraph (2), upon termination or expiration of a contract for project-based assistance under section 8 for a multifamily housing project, and notwithstanding section 8(v) of the United States Housing Act of 1937 (42 U.S.C. 1437f) for loan management assistance, the Secretary shall, at the request of the owner of the project and to the extent sufficient amounts are made available in appropriation Acts, use amounts available for the renewal of assistance under section 8 of such Act to provide such assistance for the project. The assistance shall be provided under a contract having such terms and conditions as the Secretary considers appropriate, subject to the requirements of this section. This section shall not require contract renewal for a project that is eligible under this subtitle for a mortgage re-structuring and rental assistance sufficiency plan, if there is no approved plan for the project and the Secretary determines that such an approved plan is necessary.

(2) PROHIBITION ON RENEWAL.—Notwithstanding part 24 of title 24 of the Code of Federal Regulations, the Secretary may elect not to renew assistance for a project otherwise required to be renewed under paragraph (1) or provide comparable benefits under paragraph (1) or (2) of subsection (e) for a project described in either such paragraph, if the Secretary determines that a violation of the provisions of section 516(a) has occurred with respect to the project. For purposes of such a determination, the provisions of section 516 shall apply to a project under this section in the same manner and to the same extent that the provisions of such section apply to eligible multifamily housing projects, except that the Secretary shall make the determination under section 516(a)(4).

(3) CONTRACT TERM FOR MARK-UP-TO-MARKET CONTRACTS.—In the case of an expiring or terminating contract that has rent levels less than comparable market rents for the market area, if the rent levels under the renewal contract under this section are equal to comparable market rents for the market area, the contract shall have a term of not less than 5 years, subject to the availability of sufficient amounts in appropriation Acts.

(4) RENEWAL RENTS.—Except as provided in subsection (b), the contract for assistance shall provide assistance at the following rent levels:

(A) MARKET RENTS.—At the request of the owner of the project, at rent levels equal to the lesser of comparable market rents for the market area or 150 percent of the fair market rents, in the case only of a project that—

(i) has rent levels under the expiring or terminating contract that do not exceed such comparable market rents;

(ii) does not have a low- and moderate-income use restriction that can not be eliminated by unilateral action by the owner;

(iii) is decent, safe, and sanitary housing, as determined by the Secretary;

(iv) is not—

(I) owned by a nonprofit entity;

(II) subject to a contract for moderate rehabilitation assistance under section 8(e)(2) of the United States Housing Act of 1937, as in effect before October 1, 1991; or

(III) a project for which the public housing agency provided voucher assistance to one or more of the tenants after the owner has provided notice of termination of the contract covering the tenant’s unit; and

(v) has units assisted under the contract for which the comparable market rent exceeds 110 percent of the fair market rent.

The Secretary may adjust the percentages of fair market rent (as specified in the matter preceding clause (i) and in clause (v), but only upon a determination and written notification to the Congress within 10 days of making such determination, that such adjustment is necessary to ensure that this subparagraph covers projects with a high risk of nonrenewal of expiring contracts for project-based assistance.

(B) REDUCTION TO MARKET RENTS.—In the case of a project that has rent levels under the expiring or terminating contract that exceed comparable market rents for the market area, at rent levels equal to comparable market rents.

(C) RENTS NOT EXCEEDING MARKET RENTS.—In the case of a project that is not subject to subparagraph (A) or (B), at rent levels that—

(i) are not less than the existing rents under the terminated or expiring contract, as adjusted by an operating cost adjustment factor established by the Secretary (which shall not result in a negative adjustment), if such adjusted rents do not exceed comparable market rents for the market area; and

(ii) do not exceed comparable market rents for the market area.

In determining the rent level for a contract under this subparagraph, the Secretary shall approve rents sufficient to cover budget-based cost increases and shall give greater consideration to providing rent at a level up to comparable market rents for the market area, which is based on the number of the criteria under clauses (i) through (ii) of subparagraph (D) that the project meets. Notwithstanding any other provision of law, the Secretary shall include in such budget-based cost increases costs relating to the project as a whole (including costs incurred with respect to units not covered by the contract for assistance), but only (I) if inclusion of such costs is requested by the owner or purchaser of the project, (II) if inclusion of such costs will permit capital repairs to the project or acquisition of the project by a nonprofit organization, and (III) to the extent that inclusion of such costs (or a portion thereof) complies with the requirement under clause (i).

(D) WAIVER OF 150 PERCENT LIMITATION.—Notwithstanding subparagraph (A), at rent levels up to comparable market rents for the market area, in the case of a project that meets the requirements under clauses (i) through (v) of subparagraph (A) and—

(i) has residents who are a particularly vulnerable population, as demonstrated by a high percentage of units being rented to elderly families, disabled families, or large families;

(ii) is located in an area in which tenant-based assistance would be difficult to use, as demonstrated by a low vacancy rate for affordable housing, a high turnover rate for vouchers, or a lack of comparable rental housing; or

(iii) is a high priority for the local community, as demonstrated by a contribution of State or local funds to the property.

In determining the rent level for a contract under this subparagraph, the Secretary shall approve rents sufficient to cover budget-based cost increases and shall give greater consideration to providing rent at a level up to comparable market rents for the market area based on the number of the criteria under clauses (i) through (iv) that the project meets.

(5) COMPARABLE MARKET RENTS AND COMPARISON WITH FAIR MARKET RENTS.—The Secretary shall prescribe the method for determining comparable market rent by comparison with rents charged for comparable properties (as such term is defined in section 512), which may include appropriate adjustments for utility allowances and adjustments to reflect the value of any subsidy (other than section 8 assistance) provided by the Department of Housing and Urban Development.

(6) EXCEPTION RENTS.—

(1) RENEWAL.—In the case of a multifamily housing project described in paragraph (2), pursuant to
the request of the owner of the project, the contract for assistance for the project pursuant to subsection (a) shall provide assistance at the lesser of the following rent levels:

"(A) ADJUSTED EXISTING RENTS.—The existing rents under the expiring contract, as adjusted by an operating cost adjustment factor established by the Secretary (which shall not result in a negative adjustment).

"(B) BUDGET-BASED RENTS.—Subject to a determination by the Secretary that a rent level under this subparagraph is appropriate for a project, a rent level that provides income sufficient to support a budget-based rent (including a budget-based rent adjustment if justified by reasonable and expected operating expenses).

"(3) MODERATE REHABILITATION PROJECTS.—In the case of a project with a contract under the moderate rehabilitation program, other than a moderate rehabilitation contract under [former] section 441 of the McKinney-Vento Homeless Assistance Act [42 U.S.C. 11401], pursuant to the request of the owner of the project, the contract for assistance for the project pursuant to subsection (a) shall provide assistance at the lesser of the following rent levels:

"(A) ADJUSTED EXISTING RENTS.—The existing rents under the expiring contract, as adjusted by an operating cost adjustment factor established by the Secretary (which shall not result in a negative adjustment).

"(B) FAIR MARKET RENTS.—Fair market rents (less any amounts allowed for tenant-purchased utilities).

"(C) MARKET RENTS.—Comparable market rents for the market area.

"(D) RENT ADJUSTMENTS AFTER RENTAL RESERVATION PROJECTS

"(1) REQUIRED.—After the initial renewal of a contract for assistance under section 8 of the United States Housing Act of 1937 [42 U.S.C. 1437f] pursuant to subsection (a), (b)(1), or (c)(2), the Secretary shall annually adjust the rents using an operating cost adjustment factor established by the Secretary (which shall not result in a negative adjustment) or, upon the request of the owner and subject to approval of the Secretary, on a budget basis. In the case of projects with contracts renewed pursuant to subsection (a) or pursuant to subsection (c)(2) at rent levels equal to comparable market rents for the market area, at the expiration of each 5-year period, the Secretary shall compare existing rents with comparable market rents for the market area and may make any adjustments in the rent necessary to maintain the contract rents at a level not greater than comparable market rents or to increase rents to comparable market rents.

"(2) DISCRETIONARY.—In addition to review and adjustment required under paragraph (1), in the case of projects with contracts renewed pursuant to subsection (a) or pursuant to subsection (c)(2) at rent levels equal to comparable market rents for the market area, the Secretary may, at the discretion of the Secretary but only once within each 5-year period referred to in paragraph (1), conduct a comparison of rents for a project and adjust the rents accordingly to maintain the contract rents at a level not greater than comparable market rents or to increase rents to comparable market rents.

"(4) ENHANCED VOUCHERS UPON CONTRACT EXPIRATION

"(1) IN GENERAL.—In the case of a contract for project-based assistance under section 8 for a covered project that is not renewed under subsection (a) or (b) of this section (or any other authority), to the extent that amounts for assistance under this subsection are provided in advance in appropriation Acts, upon the date of the expiration of such contract the Secretary shall make enhanced voucher assistance under section 8(t) of the United States Housing Act of 1937 [42 U.S.C. 1437f(t)] available on behalf of each low-income family who, upon the date of such expiration, is residing in an assisted dwelling unit in the covered project.

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

"(A) ASSISTED DWELLING UNIT.—The term 'assisted dwelling unit' means a dwelling unit that—

"(i) is a covered project; and

"(ii) is covered in whole or in part by a contract for project-based assistance for the covered project.

"(B) COVERED PROJECT.—The term 'covered project' means any housing that—

"(i) consists of more than four dwelling units;

"(ii) is covered in whole or in part by a contract for project-based assistance under—

"(I) the new construction or substantial rehabilitation program under section 8(b)(2) of the United States Housing Act of 1937 (as in effect before October 1, 1991); and

"(IV) the loan management assistance program under section 8 of the United States Housing Act of 1937;

"(V) section 23 of the United States Housing Act of 1937 [42 U.S.C. 1437u] (as in effect before January 1, 1975);

"(VI) the rent supplement program under section 101 of the Housing and Urban Development Act of 1965 [12 U.S.C. 1701a]; or

"(VII) section 8 of the United States Housing Act of 1937, following conversion from assistance under section 101 of the Housing and Urban Development Act of 1965, which contract will (under its own terms) expire during the period consisting of fiscal years 2000 through 2004; and

"(iii) is in a covered project; and

"(iv) is provided under any subsequently enacted provision of law, in lieu of any benefits under section 225 of the Low-Income Housing Preservation and Resident Homeownership Act of 1990 [12 U.S.C. 4113].

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

"(e) CONTRACTUAL COMMITMENTS UNDER PRESERVATION LAWS.—Except as provided in subsection (a)(2) and notwithstanding any other provision of this subtitle, the following shall apply:

"(1) PRESERVATION PROJECTS.—Upon expiration of a contract for assistance under section 8 [42 U.S.C. 1437f] for a project that is subject to an approved plan of action under the Emergency Low Income Housing Preservation Act of 1987 [12 U.S.C. 1715j note] or the Low-Income Housing Preservation and Resident Homeownership Act of 1990 [12 U.S.C. 4101 et seq.], to the extent amounts are specifically made available in appropriation Acts, the Secretary shall provide to the owner benefits comparable to those provided under
such plan of action, including distributions, rent increase procedures, and duration of low-income affordability restrictions. This paragraph shall apply to projects with contracts expiring before, on, or after the date of the enactment of this section [Oct. 27, 1997].

(2) DEMONSTRATION PROJECTS.—

(A) IN GENERAL.—Upon expiration of a contract for assistance under section 8 for a project entered into pursuant to any authority specified in subparagraph (B) for which the Secretary determines that debt restructuring is inappropriate, the Secretary shall, at the request of the owner of the project and to the extent sufficient amounts are made available in appropriation Acts, provide benefits to the owner comparable to those provided under such contract, including annual distributions, rent increase procedures, and duration of low-income affordability restrictions. This paragraph shall apply to projects with contracts expiring before, on, or after the date of the enactment of this section [Oct. 27, 1997].

(B) DEMONSTRATION PROGRAMS.—The authority specified in this subparagraph is the authority under—

(i) section 210 of the Departments of Veterans Affairs and Housing and Urban Development, and Independent Agencies Appropriations Act, 1996 (Public Law 104–134; 110 Stat. 1321–285; 42 U.S.C. 1437f note);

(ii) section 212 of the Departments of Veterans Affairs and Housing and Urban Development, and Independent Agencies Appropriations Act, 1997 (Public Law 104–204; 110 Stat. 2897; 42 U.S.C. 1437f note); and

(iii) either of such sections, pursuant to any provision of this title [see Short Title of 1997 Amendment note set out under section 1701 of title 12].

(3) MORTGAGE RESTRUCTURING AND RENTAL ASSISTANCE SUFFICIENCY PLANS.—Notwithstanding paragraph (1), the owner of the project may request, and the Secretary may consider, mortgage restructuring and rental assistance sufficiency plans to facilitate sales or transfers of properties under this subtitle, subject to an approved plan of action under the Emergency Low Income Housing Preservation Act of 1987 (12 U.S.C. 1715q note) [see Codification note preceding section 4101 of Title 12, Banks and Banking] or the Low-Income Housing Preservation and Resident Homeownership Act of 1990 (12 U.S.C. 4101 et seq.), which plans shall result in a sale or transfer of those properties.

(4) PREEMPTION OF CONFLICTING STATE LAWS LIMITING DISTRIBUTIONS.—

(1) IN GENERAL.—Except as provided in paragraph (2), no State or political subdivision of a State may enact, continue in effect, or enforce any law or regulation that limits or restricts, to an amount that is less than the amount provided for under the regulations of the Secretary establishing allowable project distributions to provide a return on investment, the amount of surplus funds accruing after the date of the enactment of this section [Oct. 27, 1997] that may be distributed from any multifamily housing project assisted under a contract for rental assistance renewed under any provision of this section (except subsection (b)) to the owner of the project.

(2) EXCEPTION AND WAIVER.—Paragraph (1) shall not apply to any law or regulation to the extent such law or regulation applies to—

(A) a State-financed multifamily housing project; or

(B) a multifamily housing project for which the owner has elected to waive the applicability of paragraph (1).

(3) TREATMENT OF LOW-INCOME USE RESTRICTIONS.—This subsection may not be construed to provide for, allow, or result in the release or termination, for any project, of any low- or moderate-income use restrictions that can not be eliminated by unilateral action of the owner of the project.

(g) APPLICABILITY.—Except to the extent otherwise specifically provided in this section, this section shall apply with respect to any multifamily housing project having a contract for project-based assistance under section 8 (42 U.S.C. 1437f) that terminates or expires during fiscal year 2000 or thereafter.

SEC. 525. CONSISTENCY OF RENT LEVELS UNDER ENHANCED VOUCHER ASSISTANCE AND RENT RESTRUCTURINGS.

(a) IN GENERAL.—The Secretary shall examine the standards and procedures for determining and establishing the rent standards described under subsection (b). Pursuant to such examination, the Secretary shall establish procedures and guidelines that are designed to ensure that the amounts determined by the various rent standards for the same dwelling units are reasonably consistent and reflect rents for comparable unsatisfied units in the same area as such dwelling units.

(b) RENT STANDARDS.—The rent standards described in this subsection are as follows:

(1) ENHANCED VOUCHERS.—The payment standard for enhanced voucher assistance under section 8(t) of the United States Housing Act of 1937 (42 U.S.C. 1437f(t)).

(2) MARK-TO-MARKET.—The rents derived from comparable properties, for purposes of section 514(g) of this Act.

(3) CONTRACT RENEWAL.—The comparable market rents for the market area, for purposes of section 524(a)(4) of this Act.

(4) GDP.—OFFICE OF MULTIFAMILY HOUSING

ASSISTANCE RESTRUCTURING

SEC. 579. TERMINATION.

(a) REPEALS.—

(1) MARK-TO-MARKET PROGRAM.—Subtitle A (except for section 524) is repealed effective October 1, 2017.

(2) OMHAR.—Subtitle D (except for this section) is repealed effective October 1, 2004.

(b) EXCEPTION.—Notwithstanding the repeal under subsection (a), the provisions of subtitle A (as in effect immediately before such repeal) shall apply with respect to projects and programs for which binding commitments have been entered into under this Act before October 1, 2017.

(c) TERMINATION OF DIRECTOR AND OFFICE.—The Office of Multifamily Housing Assistance Restructuring and the position of Director of such Office shall terminate at the end of September 30, 2004.

(d) TRANSFER OF AUTHORITY.—Effective upon the repeal of subtitle D under subsection (a)(2) of this section, all authority and responsibilities to administer the program under subtitle A are transferred to the Secretary.


SEC. 579. TERMINATION.

(a) REPEALS.—

(1) MARK-TO-MARKET PROGRAM.—Subtitle A (except for section 524) is repealed effective October 1, 2017.

(2) OMHAR.—Subtitle D (except for this section) is repealed effective October 1, 2004.

(b) EXCEPTION.—Notwithstanding the repeal under subsection (a), the provisions of subtitle A (as in effect immediately before such repeal) shall apply with respect to projects and programs for which binding commitments have been entered into under this Act before October 1, 2017.

(c) TERMINATION OF DIRECTOR AND OFFICE.—The Office of Multifamily Housing Assistance Restructuring and the position of Director of such Office shall terminate at the end of September 30, 2004.

(d) TRANSFER OF AUTHORITY.—Effective upon the repeal of subtitle D under subsection (a)(2) of this section, all authority and responsibilities to administer the program under subtitle A are transferred to the Secretary.


[Pub. L. 107–116, title VI, § 618(a)(2), Jan. 10, 2002, 115 Stat. 2227, provided that: "The amendment made by paragraph (1) of this subsection [amending section 514 of Pub. L. 105–65, set out above] is deemed to have taken effect on the date of the enactment of the Revised Continuing Appropriations Resolution, 2007 [Feb. 15, 2007], and subtitle A of such Act [set out above] shall be in effect as if no such repeal had been made before such date of enactment."

105-65, set out above] shall apply to the first Director of the Office of Multifamily Housing Assistance Restructuring of the Department of Housing and Urban Development appointed after the date of the enactment of this Act [Jan. 10, 2002], and any such Director appointed thereafter.”


[(a) The Secretary shall establish fees for the cost of administering the certificate, voucher and moderate re-
habitation programs.

(b) Beginning in fiscal year 1997 and thereafter, the Secretary shall also establish reasonable fees (as determined by the Secretary) for:

(1) the costs of preliminary expenses, in the amount of $500, for a public housing agency, but only in the first year it administers a tenant-based assistance program under the United States Housing Act of 1937 (42 U.S.C. 1437a et seq.), and only if, immediately before the effective date of this Act (Sept. 26, 1996), it was not administering a tenant-based assistance program under the 1937 Act (as in effect immediately before the effective date of this Act), in connection with its initial increment of assistance received;

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

(3) extraordinary costs approved by the Secretary.

(a) Definitions.—For purposes of this section—

(1) the term ‘family’ has the same meaning as in section 8(b) of the United States Housing Act of 1937 (42 U.S.C. 1437f) that expires during fiscal year 1997;

(2) the term ‘project’ means a contract for project-based assistance under section 8 of the United States Housing Act of 1937 (42 U.S.C. 1437f) that expires during fiscal year 1997;

(3) the term ‘project-based assistance’ means a property consisting of more than 4 dwelling units that is covered in whole or in part by a contract for project-based assistance under section 8 of the United States Housing Act of 1937;

(4) the term ‘owner’ has the same meaning as in section 8(f) of the United States Housing Act of 1937;

(5) the term ‘project-based assistance’ means rental assistance under section 8 of the United States Housing Act of 1937 that is attached to a multifamily housing project;

(6) the term ‘public agency’ means a State housing finance agency, a local housing agency, or other agency with a public purpose and status; and

(7) the term ‘Secretary’ means the Secretary of Housing and Urban Development; and

(8) the term ‘tenant-based assistance’ has the same meaning as in section 8(b) of the United States Housing Act of 1937.

(b) SECTION 8 CONTRACT RENEWAL AUTHORITY.—

(1) In General.—Notwithstanding section 405(a) of the Balanced Budget Reconciliation Act of 1997 (Pub. L. 104-97, set out below), upon the request of the owner of a multifamily housing project that is covered by an expiring contract, the Secretary shall use amounts made available for the renewal of assistance under section 8 of the United States Housing Act of 1937 (42 U.S.C. 1437f) to renew the expiring contract as project-based assistance for a period of not more than one year, at rent levels that are equal to those under the expiring contract as of the date on which the contract expires: Provided, That those rent levels do not exceed 120 percent of the fair market rent for the market area in which the project is located. For an FHA-insured multifamily housing project with an expiring contract at rent levels that exceed 120 percent of the fair market rent for the market area, the Secretary shall provide, at the request of the owner, section 8 project-based assistance for a period of not more than one year, at rent levels that do not exceed 120 percent of the fair market rent.

SECTION 8 RENTAL ASSISTANCE FOR MULTIFAMILY HOUSING PROJECTS


(a) The Secretary shall establish fees for the cost of administering the certificate, voucher and moderate re-
habilitation programs.

(1) For fiscal year 1997, the fee for each month for which a dwelling unit is covered by an assistance
contract shall be 7.5 percent of the base amount, ad-
justed as provided herein, in the case of an agency
that, on an annual basis, is administering a program
of no more than 600 units, and 7 percent of the base
amount, adjusted as provided herein, for each addi-
tional unit above 600.

(b) The base amount shall be the higher of—

(i) the fair market rental for fiscal year 1993 for a 2-bedroom existing rental dwelling unit in the
market area of the agency; and

(ii) such fair market rental for fiscal year 1994, but not more than 103.5 percent of the amount
determined under clause (i).

(c) The base amount shall be adjusted to reflect changes in the wage data or other objectively meas-
urable data that reflect the costs of administering
the program during fiscal year 1996; except that the
Secretary may require that the base amount be not
less than a minimum amount and not more than a
maximum amount.

(2) For subsequent fiscal years, the Secretary shall
publish a notice in the Federal Register, for each geo-
graphic area, establishing the amount of the fee that
would apply for the agencies administering the pro-
gram, based on changes in wage data or other objec-
tively measurable data that reflect the cost of admin-
istering the program, as determined by the Sec-

(3) The Secretary may increase the fee if nec-
(necessary to reflect higher costs of administering small
programs and programs operating over large geo-
graphic areas.

(4) The Secretary may decrease the fee for PHA-
owned units.
"(2) EXEMPTION FOR STATE AND LOCAL HOUSING AGENCY PROJECTS.—Notwithstanding paragraph (1), upon the expiration of a contract with rent levels that exceed the percentage described in that paragraph, if the Secretary determines that the primary financing or mortgage insurance for the multifamily housing project that is covered by that expiring contract was provided by a public agency, the Secretary shall, at the request of the owner and the public agency, renew the expiring contract—

"(A) for a period of not more than one year; and

"(B) at rent levels that are equal to those under the expiring contract as of the date on which the contract expires.

"(3) EXEMPTION OF CERTAIN OTHER PROJECTS.—Notwithstanding paragraph (1), for section 202 projects, section 515 projects, with contracts entered into pursuant to [former] section 411 of the McKinney-Vento Homeless Assistance Act [42 U.S.C. 11911], and projects with rents that exceed 100 percent of fair market rent for the market area, but that are less than rents for comparable projects, upon the expiration of a section 8 contract, the Secretary shall, at the request of the owner, renew the expiring contract—

"(A) for a period of not more than one year; and

"(B) at rent levels that are equal to those under the expiring contract as of the date on which the contract expires.

"(4) OTHER CONTRACTS.—

"(A) Participation in Demonstration.—For a contract covering an FHA-insured multifamily housing project that expires during fiscal year 1997 with rent levels that exceed the percentage described in paragraph (1) and after notice to the tenants, the Secretary shall, at the request of the owner of the project and after notice to the tenants, include that multifamily housing project in the demonstration program under section 212 of this Act [set out below]. The Secretary shall ensure that a multifamily housing project with an expiring contract in fiscal year 1997 shall be allowed to be included in the demonstration.

"(B) Effect of Material Adverse Actions and Omissions.—Notwithstanding paragraph (1) or any other provision of law, the Secretary shall not renew an expiring contract if the Secretary determines that the owner of the multifamily housing project has engaged in material adverse financial or managerial actions or omissions with regard to the project (or with regard to other similar projects if the Secretary determines that such actions or omissions constitute a pattern of mismanagement that would warrant suspension or debarment by the Secretary). The term 'owner', as used in this subparagraph, in addition to it having the same meaning as in section 8(f) of the United States Housing Act of 1937 (42 U.S.C. 1437f(f)), also means an affiliate of the owner. The term 'affiliate of the owner' means any person or entity (including, but not limited to, a general partner or managing member, or an officer of either) that controls an owner, is controlled by an owner, or is under common control with the owner. The term 'control' means the direct or indirect power (under contract, equity ownership, the right to vote or determine a vote, or otherwise) to direct the financial, legal, beneficial, or other interests of the owner.

"(C) Transfer of Property.—For properties disqualified from the demonstration program because of actions by an owner or purchaser in accordance with subparagraph (B), the Secretary shall establish procedures to facilitate the voluntary sale or transfer of the property, with a preference for tenant organizations and tenant-endorsed community-based nonprofit and public agency purchasers meeting such reasonable qualifications as may be established by the Secretary. The Secretary may include the transfer of sections 210(c) (of the Departments of Veterans Affairs and Housing and Urban Development and Independent Agencies Appropriations Act, 1996) shall remain available for the demonstration program under this section through the end of fiscal year 1997.

"(2) SAVINGS PROVISIONS.—Nothing in this section shall be construed to affect any commitment entered into before the date of enactment of this Act [Sept. 26, 1996] under the demonstration program under section 210 of the Departments of Veterans Affairs and Housing and Urban Development and Independent Agencies Appropriations Act, 1996.

"(3) DEFINITIONS.—For purposes of this section—

"(A) the term 'demonstration program' means the program established under subsection (b); and

"(B) the term 'expiring contract' means a contract for project-based assistance under section 8 of the United States Housing Act of 1937 [42 U.S.C. 1437f] that expires during fiscal year 1997;

"(C) the term 'family' has the same meaning as in section 3(b) of the United States Housing Act of 1937 [42 U.S.C. 1437a(b)];

"(D) the term 'section 3(b)' has the same meaning as in section 3(b) of the United States Housing Act of 1937 [42 U.S.C. 1437a(b)]."
‘(D) the term ‘multifamily housing project’ means a property consisting of more than 4 dwelling units that is covered in whole or in part by a contract for project-based assistance;

‘(E) the term ‘owner’ has the same meaning as in section 8(f) of the United States Housing Act of 1937;

‘(F) the term ‘project-based assistance’ means rental assistance under section 8 of the United States Housing Act of 1937 that is attached to a multifamily housing project;

‘(G) the term ‘Secretary’ means the Secretary of Housing and Urban Development; and

‘(H) the term ‘tenant-based assistance’ has the same meaning as in section 8(f) of the United States Housing Act of 1937.

‘(b) DEMONSTRATION AUTHORITY.—

‘(1) IN GENERAL.—Subject to the funding limitation in subsection (i), the Secretary shall administer a demonstration program with respect to multifamily projects—

‘(A) whose owners agree to participate;

‘(B) with rents on units assisted under section 8 of the United States Housing Act of 1937 [12 U.S.C. 1437f] that are, in the aggregate, in excess of 120 percent of the fair market rent of the market area in which the project is located; and

‘(C) the mortgages of which are insured under the National Housing Act [12 U.S.C. 1701 et seq.].

‘(2) PURPOSE.—The demonstration program shall be designed to obtain as much information as is feasible on the economic viability and rehabilitation needs of the multifamily housing projects in the demonstration, to test various approaches for restructuring mortgages to reduce the financial risk to the FHA Insurance Fund while reducing the cost of section 8 subsidies, and to test the feasibility and desirability of—

‘(A) ensuring, to the maximum extent practicable, that the debt service and operating expenses, including adequate reserves, attributable to such multifamily projects can be supported at the comparable market rent with or without mortgage insurance under the National Housing Act and with or without additional section 8 rental subsidies;

‘(B) utilizing section 8 rental assistance, while taking into account the capital needs of the projects and the need for adequate rental assistance to support the low- and very low-income families residing in such projects; and

‘(D) nonprofit and for-profit housing organizations;

‘(E) the Federal National Mortgage Association;

‘(F) the Federal Home Loan Mortgage Corporation;

‘(G) Federal Home Loan Banks; and

‘(H) other State or local mortgage insurance companies or bank lending consortia.

‘(e) LONG-TERM AFFORDABILITY.—

‘(1) IN GENERAL.—After the renewal of a section 8 contract pursuant to a restructuring under this section, the owner shall accept each offer to renew the section 8 contract, for a period of 20 years from the date of renewal under the demonstration, if the offer to renew is on terms and conditions, as agreed to by the Secretary or designee and the owner under a restructuring.

‘(2) AFFORDABILITY REQUIREMENTS.—Except as otherwise provided by the Secretary, in exchange for any mortgage restructuring under this section, a project shall remain affordable for a period of not less than 20 years. Affordability requirements shall be determined in accordance with guidelines established by the Secretary or designee. The Secretary or designee may waive these requirements for good cause.

‘(f) PROJECT-BASED SECTION 8.—The Secretary shall renew all expiring contracts under the demonstra-
tion as section 8 project-based contracts, for a period of time not to exceed one year, unless otherwise provided under subsection (h) or in paragraph (2).

The Secretary may renew a demonstration contract for an additional period of not to exceed 120 days, if—

(A) the contract was originally executed before February 1, 1997, and the Secretary determines, in the sole discretion of the Secretary, that the renewal period for the contract needs to exceed 1 year, due to delay of publication of the Secretary's demonstration program guidelines until January 23, 1997 (not to exceed 21 projects); or

(B) the contract was originally executed before October 1, 1997, in connection with a project that has been identified for restructuring under the joint venture approach described in section VII.B.2. of the Secretary's demonstration program guidelines, and the Secretary determines, in the sole discretion of the Secretary, that the renewal period for the contract needs to exceed 1 year, due to delay in implementation of the joint venture agreement required by the guidelines (not to exceed 25 projects).

(2) DEMONSTRATION ACTIONS.

(A) DEMONSTRATION ACTIONS.—For purposes of carrying out the demonstration program, and in order to ensure that contract rights are not abrogated, subject to such third party consents as are necessary (if any), including consent by the Government National Mortgage Association if it owns a mortgage insured by the Secretary, or by an issuer under the mortgage-backed securities program of the Association, subject to the responsibilities of the issuer to its security holders and the Association under such program, and consent by parties to any contractual agreement which the Secretary proposes to modify or discontinue, the Secretary or, except with respect to subparagraph (B), designee, subject to the funding limitations in subsection (i), shall take not less than one of the actions specified in subparagraphs (G), (H), and (I) and may take any of the following actions:

(A) REMOVAL OF RESTRICTIONS.

(i) IN GENERAL.—Consistent with the purposes of this section, subject to the agreement of the owner of the project and after consultation with the tenants of the project, the Secretary or designee may remove, relinquish, extinguish, modify, or agree to the removal of any mortgage, regulatory agreement, project-based assistance contract, use agreement, or restriction that had been imposed or required by the Secretary, including restrictions on distributions of income which the Secretary or designee determines would interfere with the ability of the project to operate without above-market rents.

(ii) ACCUMULATED RESIDUAL RECEIPTS.—The Secretary or designee may require an owner of a property assisted under the section 8 new construction/substantial rehabilitation program under the United States Housing Act of 1937 [42 U.S.C. 1437 et seq.] to apply any accumulated residual receipts toward effecting the purposes of this section.

(B) REINSURANCE.—With respect to not more than 5,000 units within the demonstration program, the Secretary may enter into contracts to purchase reinsurance, or enter into participations or otherwise transfer economic interest in contracts of insurance or in the premiums paid, or due to be paid, on such terms and conditions as the Secretary may determine. Any contract entered into under this paragraph shall require that any associated units be maintained as low-income units for the life of the mortgage, unless waived by the Secretary for good cause.

(C) PARTICIPATION BY THIRD PARTIES.—The Secretary or designee may enter into such agreements, provide such concessions, incur such costs, make such grants (including grants to cover all or a portion of the rehabilitation costs for a project) and other payments, and provide other valuable consideration as may reasonably be necessary for owners, lenders, servicers, third parties, and others to participate in the demonstration program. The Secretary may establish performance incentives for designees.

(D) SECTION 8 ADMINISTRATIVE FEES.—Notwithstanding any other provision of law, the Secretary may make fees available from the section 8 contract renewal appropriation to a designee for contract administration under section 8 of the United States Housing Act of 1937 [42 U.S.C. 1437f] for purposes of any contract restructured or renewed under the demonstration program.

(E) FULL OR PARTIAL PAYMENT OF CLAIM.—Notwithstanding any other provision of law, the Secretary may make a full payment of claim or partial payment of claim prior to default.

(F) CREDIT INSURANCE.

(1) IN GENERAL.—The Secretary or designee may provide FHA multifamily mortgage insurance, reinsurance, or other credit enhancement alternatives, including retaining the existing FHA mortgage insurance on a restructured first mortgage at market value or using the multifamily risk-sharing mortgage programs, as provided under section 542 of the Housing and Community Development Act of 1992 [12 U.S.C. 1707 note]. Any limitations on the number of units available for mortgage insurance under section 542 shall not apply to insurance issued for purposes of the demonstration program.

(G) MORTGAGE RESTRUCTURING.

(1) IN GENERAL.—The Secretary or designee may restructure mortgages to provide a restructured first mortgage to cover debt service and operating expenses (including a reasonable rate of return to the owner) at the market rent, and a second mortgage equal to the difference between the restructured first mortgage and the mortgage balance of the eligible multifamily housing project at the time of restructuring.

(2) CREDIT SUBSIDY.—Any credit subsidy costs of providing mortgage insurance shall be paid from amounts made available under subsection (l).

(G) MORTGAGE RESTRUCTURING.

(1) IN GENERAL.—The Secretary or designee may restructure mortgages to provide a restructured first mortgage to cover debt service and operating expenses (including a reasonable rate of return to the owner) at the market rent, and a second mortgage equal to the difference between the restructured first mortgage and the mortgage balance of the eligible multifamily housing project at the time of restructuring.

(2) CREDIT SUBSIDY.—Any credit subsidy costs of providing a second mortgage shall be paid from amounts made available under subsection (l).

(H) DEBT FORGIVENESS.—The Secretary or designee, for good cause and at the request of the owner of a multifamily housing project, may forgive at the time of the restructuring of a mortgage any portion of a debt on the project that exceeds the market value of the project.

(I) BUDGET-BASED RENTS.—The Secretary or designee may renew an expiring contract, including a contract for a project in which operating costs exceed comparable market rents, for a period of not more than one year, at a budget-based rent that covers debt service, reasonable operating expenses (including all reasonable and appropriate services), and a reasonable rate of return to the owner, as determined solely by the Secretary, provided that the contract does not exceed the rent levels under the expiring contract. The Secretary may establish a preference under the demonstration program for budget-based rents for unique housing projects, such as projects designated for occupancy by elderly families and projects in rural areas.

(J) SECTION 8 TENANT-BASED ASSISTANCE.—For not more than 10 percent of units in multifamily housing projects that have had their mortgages re-
structured in any fiscal year under the demonstration, the Secretary or designee may provide, with the agreement of an owner and in consultation with the tenants of the housing, section 8 tenant-based assistance for some or all of the assisted units in a multifamily housing project in lieu of section 8 project-based assistance. Section 8 tenant-based assistance may only be provided where the Secretary determines and certifies that there is adequate available and affordable housing within the local area and that tenants will be able to use the section 8 tenant-based assistance successfully.

"(2) OFFER AND ACCEPTANCE.—Notwithstanding any other provision of law, an owner of a project in the demonstration must accept any reasonable offer made by the Secretary or a designee under this subsection. An owner may appeal the reasonableness of any offer to the Secretary and the Secretary shall respond within 30 days of the date of appeal with a final offer. If the final offer is not acceptable, the owner may opt out of the program.

"(1) COMMUNITY AND TENANT INPUT.—In carrying out this section, the Secretary shall develop procedures to provide appropriate and timely notice, including an opportunity for comment and timely access to all relevant information, to officials of the unit of general local government affected, the community in which the project is situated, and the tenants of the project.

"(3) TRANSFER OF PROPERTY.—The Secretary shall establish procedures to facilitate the voluntary sale or transfer of multifamily housing projects under the demonstration to tenant organizations and tenant-endorsed community-based nonprofit and public agency purchasers meeting such reasonable qualifications as may be established by the Secretary.

"(k) LIMITATION ON DEMONSTRATION AUTHORITY.—The Secretary shall carry out the demonstration program with respect to mortgages not to exceed 50,000 units.

"(3) CONTENTS OF FINAL REPORT.—The report submitted under paragraph (1)(B) shall include—

(A) the required contents under paragraph (2);

(B) any findings and recommendations for legislative action.


PUBLIC HOUSING MOVING TO WORK DEMONSTRATION

Pub. L. 114-113, div. L, title II, §239, Dec. 18, 2015, 129 Stat. 2897, provided that: "The Secretary of Housing and Urban Development shall increase, pursuant to this section, the number of Moving to Work agencies authorized under section 204, title II, of the Departments of Veterans Affairs and Housing and Urban Development and Independent Agencies Appropriations Act, 1996 (Public Law 104-134; 110 Stat. 1321) [set out below] by adding to the program 100 public housing agencies that are designated as high performing agencies under the Public Housing Assessment System (PHAS) or the Section Eight Management Assessment Program (SEMA). No public housing agency shall be granted this designation through this section that administers in excess of 27,000 aggregate housing vouchers and public housing units. Of the agencies selected under this section, no less than 50 shall administer 1,000 or fewer aggregate housing voucher and public housing units, no less than 47 shall administer 1,001-6,000 aggregate housing voucher and public housing units, and no more than 3 shall administer 6,001-27,000 aggregate housing voucher and public housing units. Of the 100 agencies selected under this section, five shall be agencies with portfolio awards under the Rental Assistance Demonstration that meet the other requirements of this section, including current designations as high performing agencies or such designations held immediately prior to such portfolio awards. Selection of agencies under this section shall be based on ensuring the geographic diversity of Moving to Work agencies. In addition to the preceding selection criteria, agencies shall be designated by the Secretary over a 7-year period. The Secretary shall establish a research advisory committee which shall advise the Secretary with respect to specific policy proposals and methods of research and evaluation for the demonstration. The advisory committee shall include program and research experts from the Department, a fair representation of agencies with experience in Moving to Work designation, and independent subject matter experts in housing policy research. For each cohort of agencies receiving a designation under this heading, the Secretary shall direct one specific policy change to be implemented by the agencies, and with the approval of the Secretary, such agencies may implement additional policy changes. All agencies designated under this section shall be evaluated through rigorous research as determined by the Secretary, and shall provide information requested by the Secretary to support such oversight and evaluation, including the targeted policy changes. Research and evaluation shall be coordinated under the direction of the Secretary, and in consultation with the advisory committee, and findings shall be shared broadly. The Secretary shall consult the advisory committee with respect to policy changes that have proven successful and can be applied more broadly to all public housing agencies, and propose any necessary statutory changes. The Secretary may, at the request of a Moving to Work agency and one or more adjacent public housing agencies in the same area, designate that Moving to Work agency as a regional agency. A regional Moving to Work agency may administer the assistance under sections 8 and 18 of the United States Housing Act of 1937 (42 U.S.C. 1437f and 1437g) for the participating agencies within its region.
pursuant to the terms of its Moving to Work agreement with the Secretary. The Secretary may agree to extend the term of the agreement and to make any necessary changes to accommodate regionalization. A Moving to Work agency may be selected as a regional agency if the Secretary determines that unified administration of assistance under sections 8 and 9 [42 U.S.C. 1437f, 1437g] by that agency accords with the needs of multiple jurisdictions will lead to efficiencies and to greater housing choice for low-income persons in the region. For purposes of this expansion, in addition to the provisions of the Act retained in section 204, section 205(r)(1) of the Act (42 U.S.C. 1437f(r)(1)) shall continue to apply unless the Secretary determines that waiver of this section is necessary to implement comprehensive rent reform and occupancy policies subject to evaluation by the Secretary, and the waiver contains, at a minimum, exceptions for requests to port due to employment, education, health and safety. No public housing agency granted this designation through this section shall receive more funding under sections 8 or 9 of the United States Housing Act of 1937 [42 U.S.C. 1437f, 1437g] than it otherwise would have received absent this designation. The Secretary shall extend the current Moving to Work agreements of previously designated participating agencies until the end of each such agency's fiscal year 2028 under the same terms and conditions of such current agreements, except for any changes to such terms or conditions otherwise mutually agreed upon by the Secretary and any such agency and such extension agreements shall prohibit any statutory offset of any reserve balances equal to 4 months of operating expenses. Any such reserve balances that exceed such amount shall remain available to any such agency for all permissible purposes under such agreement unless subject to a statutory offset. In addition to other reporting requirements, all Moving to Work agencies shall report financial data to the Department of Housing and Urban Development as specified by the Secretary, so that the effect of Moving to Work policy changes can be measured.


"(a) PURPOSE.—The purpose of this demonstration is to give public housing agencies and the Secretary of Housing and Urban Development the flexibility to design and test various approaches for providing and administering housing assistance that: reduce cost and achieve greater cost effectiveness in Federal expenditures; give incentives to families with children where the head of household is working, seeking work, or is preparing for work by participating in job training, educational programs, or programs that assist people to obtain employment and become economically self-sufficient; and increase housing choices for low-income families.

(b) PROGRAM AUTHORITY.—The Secretary of Housing and Urban Development shall conduct a demonstration program under this section beginning in fiscal year 1996 under which up to 30 public housing agencies (including Indian housing authorities) administering the public or Indian housing program and the section 8 [42 U.S.C. 1437f] housing assistance payments program may be selected by the Secretary to participate. The Secretary shall provide training and technical assistance during the demonstration and conduct detailed evaluations of up to 15 such agencies in an effort to identify replicable program models promoting the purpose of the demonstration. Under the demanstring any provision of the United States Housing Act of 1937 [42 U.S.C. 1437 et seq.] except as provided in subsection (e), an agency may combine operating assistance provided under section 9 of the United States Housing Act of 1937 [42 U.S.C. 1437g], modernization assistance provided under section 14 of such Act [42 U.S.C. 1437l], and assistance provided under section 8 of such Act for the certificate and voucher programs, to provide housing assistance for low-income families, as defined in section 3(b)(2) of the United States Housing Act of 1937 [42 U.S.C. 1437a(b)(2)], and services to facilitate the transition to work on such terms and conditions as the agency may propose and the Secretary may approve.

"(1) shall request authority to combine assistance under sections 8, 9, and 14 of the United States Housing Act of 1937 [42 U.S.C. 1437f, 1437g], and services to facilitate the transition to work on such terms and conditions as the agency may propose and the Secretary may approve.

"(2) shall be submitted only after the public housing agency provides for citizen participation through a public hearing and, if appropriate, other means;

"(3) shall include a plan developed by the agency that takes into account comments from the public hearing and any other public comments on the proposed program, and comments from current and prospective residents who would be affected, and that includes criteria for—

(A) families to be assisted, which shall require that at least 75 percent of the families assisted by participating demonstration public housing authorities shall be very low-income families, as defined in section 3(b)(2) of the United States Housing Act of 1937 [42 U.S.C. 1437a(b)(2)];

"(B) establishing a reasonable rent policy, which shall be designed to encourage employment and self-sufficiency by participating families, consistent with the purpose of this demonstration, such as by excluding some or all of a family's earned income for purposes of determining rent;

"(C) continuing to assist substantially the same total number of eligible low-income families as would have been served had the amounts not been combined;

"(D) maintaining a comparable mix of families (by family size) as would have been provided had the amounts not been used under the demonstration;

"(E) assuring that housing assisted under the demonstration program meets housing quality standards established or approved by the Secretary;

"(F) may request assistance for training and technical assistance to assist with design of the demonstration and to participate in a detailed evaluation.

"(d) SELECTION.—In selecting among applications, the Secretary shall take into account the potential of each agency to plan and carry out a program under the demonstration, the relative performance by an agency under the public housing management assessment program under section 6(j) of the United States Housing Act of 1937 [42 U.S.C. 1437d(j)], and other appropriate factors as determined by the Secretary.

"(e) APPLICABILITY OF FEDERAL LAWS.—

"(1) Section 18 of the United States Housing Act of 1937 [42 U.S.C. 1437p] shall continue to apply to public housing notwithstanding any use of the housing under this demonstration.

"(2) Section 12 of such Act [42 U.S.C. 1437l] shall apply to housing assisted under the demonstration, other than housing assisted solely due to occupancy by families receiving tenant-based assistance.

"(f) EFFECT ON SECTION 8, OPERATING SUBSIDIES, AND COMPREHENSIVE GRANT PROGRAM ALLOCATIONS.—The amount of assistance received under section 8, section 9, or pursuant to section 14 [42 U.S.C. 1437l, 1437g, 1437l] by a public housing agency participating in the demonstration under this part [section] shall not be diminished by its participation.

"(g) RECORDS, REPORTS, AND AUDITS.—

"(1) KEEPING OF RECORDS.—Each agency shall keep such records as the Secretary may prescribe as reasonably necessary to disclose the amounts and the disposition of amounts under this demonstration, to ensure compliance with the requirements of this section, and to measure performance.

"(2) REPORTS.—Each agency shall submit to the Secretary a report, in a form and at a time specified by the Secretary. Each report shall—
“(A) document the use of funds made available under this section;

(B) provide such data as the Secretary may require to assist the Secretary in assessing the demonstration; and

(C) describe and analyze the effect of assisted activities in addressing the objectives of this part [section].

“(3) ACCESS TO DOCUMENTS BY THE SECRETARY.—The Secretary shall have access for the purpose of audit and examination to any books, documents, papers, and records that are pertinent to assistance in connection with, and the requirements of, this section.

“(4) ACCESS TO DOCUMENTS BY THE COMPTROLLER GENERAL.—The Comptroller General of the United States, or any of the duly authorized representatives of the Comptroller General, shall have access for the purpose of audit and examination to any books, documents, papers, and records that are pertinent to assistance in connection with, and the requirements of, this section.

“(b) EVALUATION AND REPORT.—

“(1) CONSULTATION WITH PHA AND FAMILY REPRESENTATIVES.—In making assessments throughout the demonstration, the Secretary shall consult with representatives of public housing agencies and residents.

“(2) REPORT TO CONGRESS.—Not later than 180 days after the end of the third year of the demonstration, the Secretary shall submit to the Congress a report evaluating the programs carried out under the demonstration. The report shall also include findings and recommendations for any appropriate legislative action.

“(i) FUNDING FOR TECHNICAL ASSISTANCE AND EVALUATION.—From amounts appropriated for assistance under section 14 of the United States Housing Act of 1937 (42 U.S.C. 1437f) for fiscal years 1996, 1997, and 1998, the Secretary may use up to a total of $5,000,000—

“(1) to provide, directly or by contract, training and technical assistance—

“(A) to public housing agencies that express an interest to apply for training and technical assistance pursuant to subsection (c)(4), to assist them in designing programs to be proposed for the demonstration; and

“(B) to up to 10 agencies selected to receive training and technical assistance pursuant to subsection (c)(4), to assist them in implementing the approved program; and

“(2) to conduct detailed evaluations of the activities of the public housing agencies under paragraph (1)(B), directly or by contract.

“(3) CAPITAL AND OPERATING FUND ASSISTANCE.—With respect to any public housing agency participating in the demonstration under this section that receives assistance from the Capital or Operating Fund under section 9 of the United States Housing Act of 1937 (42 U.S.C. 1437f) (as amended by the Quality Housing and Work Responsibility Act of 1996), for purposes of this section—

“(1) any reference to assistance under section 9 of the United States Housing Act of 1937 shall be considered to refer also to assistance provided from the Operating Fund under section 9(e) of such Act (as so amended); and

“(2) any reference to assistance under section 14 of the United States Housing Act of 1937 (former 42 U.S.C. 1437f) shall be considered to refer also to assistance provided from the Capital Fund under section 9(d) of such Act (as so amended).

“Prohibition Against Preferences With Respect to Certain Projects

Pub. L. 104-99, title IV, § 402(d)(4)(B), Jan. 26, 1996, 110 Stat. 42, provided that: ‘Notwithstanding any other provision of law, no Federal tenant selection preferences under the United States Housing Act of 1937 (42 U.S.C. 1437f) or section 8 of such Act (as so amended) shall apply if the Secretary, after the end of the 6-month period beginning on the date notice is issued under section 8(b)(2) of the United States Housing Act of 1937 (42 U.S.C. 1437(b)(2)), determines that—

“(i) there are no expressions of interest that are likely to result in approvable applications in the reasonably foreseeable future; or

“(ii) any such expressions of interest are not likely to use all funding under this section; and

“(B) so informs the Committee on Banking, Finance and Urban Affairs (now Committee on Financial Services) of the House of Representatives and the Committee on Banking, Housing, and Urban Affairs of the Senate.

“(2) If the Secretary determines that there are expressions of interest referred to in paragraph (1)(A)(ii), the Secretary may reserve funding sufficient in the

[Editors Note: The remaining text continues in a similar manner, but due to the length, it is not fully transcribed here.]
Secretary’s determination to fund such applications and may use any remaining funding for other pension funds in accordance with this section.

(c) IMPLEMENTATION.—The Secretary shall by notice establish such requirements as may be necessary to carry out the provisions of this section. The notice shall take effect upon issuance.

(ii) Applicability of ERISA.—Notwithstanding section 514(d) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1144(d)), nothing in this section shall be construed to authorize any action or failure to act that would constitute a violation of such Act (29 U.S.C. 1001 et seq.).

(g) REPORT.—Not later than 3 months after the last day of each fiscal year, the Secretary shall submit to the Committee on Banking, Finance and Urban Affairs [now Committee on Financial Services] of the House of Representatives and the Committee on Banking, Housing, and Urban Affairs of the Senate a report summarizing the activities carried out under this section during that fiscal year.

(h) Establishment of Standards.—Mortgages secured by housing assisted under this demonstration shall meet such standards regarding financing and securitization as the Secretary may establish.

(i) Authorization of Appropriations.—There are authorized to be appropriated $100,000,000 for fiscal year 1994 to carry out this section.

(j) Redesignated (i).]

(k) Termination Date.—The Secretary shall not enter into any new commitment to provide assistance under this section after September 30, 1998.

ADMINISTRATIVE FEES FOR CERTIFICATE AND HOUSING VOUCHER PROGRAMS DURING FISCAL YEAR 1994

Pub. L. 103–120, §11(a), Oct. 27, 1993, 107 Stat. 1151, provided that: “Notwithstanding the second sentence of section 8(q)(1) of the United States Housing Act of 1937 (42 U.S.C. 1437f(q)(1)), other applicable law, or any implementing regulations and related requirements, the fee for the ongoing costs of administering the certificate and housing voucher programs under subsections (b) and (c) of section 8 of such Act during fiscal year 1994 shall be—

(1) not less than a fee calculated in accordance with the fair market rents for Federal fiscal year 1993; or

(2) not more than—

(A) a fee calculated in accordance with section 8(q) of such Act, except that such fee shall not be in excess of 3.5 percent above the fee calculated in accordance with paragraph (1); or

(B) to the extent approved in an appropriation Act, a fee calculated in accordance with such section 8(q).”

EFFECTIVENESS OF ASSISTANCE FOR PHA-OWNED UNITS


MOVING TO OPPORTUNITY FOR FAIR HOUSING

Pub. L. 102–550, title I, §152, Oct. 28, 1992, 106 Stat. 3716, as amended by Pub. L. 103–120, §3, Oct. 27, 1993, 107 Stat. 1148, which directed Secretary of Housing and Urban Development to carry out demonstration program in eligible cities to provide tenant-based assistance to very low-income families with children to move out of areas of high concentrations of persons living in poverty to areas with low concentrations of such persons, required biennial report to Congress evaluating effectiveness and final report not later than Sept. 30, 2004, provided for increased funding under section 1437(c) of this title to carry out demonstration, and authorized implementation by notice of requirements necessary to carry out program, was repealed by Pub. L. 105–276, title V, §550(f), Oct. 21, 1998, 112 Stat. 2610.

DIRECTIVE TO FURTHER FAIR HOUSING OBJECTIVES UNDER CERTIFICATE AND VOUCHER PROGRAMS


INAPPLICABILITY OF CERTAIN 1992 AMENDMENTS TO INDIAN PUBLIC HOUSING

Amendment by section 623(b) of Pub. L. 102–550 not applicable with respect to lower income housing developed or operated pursuant to contract between Secretary of Housing and Urban Development and Indian housing authority, see section 626 of Pub. L. 102–550, set out as a note under section 1437a of this title.

TERMINATION OF EXISTING HOUSING PROGRAMS

Except with respect to projects and programs for which binding commitments have been entered into prior to Oct. 1, 1991, no new grants or loans to be made after Oct. 1, 1991, under subsec. (e)(2) of this section except for funds allocated under such section for single room occupancy dwellings as authorized by subchapter IV (§11361 et seq.) of chapter 119 of this title, see section 12839(a)(4) of this title.

PUBLIC HOUSING MIXED INCOME NEW COMMUNITIES STRATEGY DEMONSTRATION


STUDY OF PUBLIC HOUSING FUNDING SYSTEM

Pub. L. 101–625, title V, §524, Nov. 29, 1990, 104 Stat. 4215, directed Secretary of Housing and Urban Development to conduct a study assessing one or more revised methods of providing sufficient Federal funds to public housing agencies for operation, maintenance and modernization of public housing, which study was to include a comparison of existing methods of funding in public housing with those used by Department of Housing and Urban Development in housing assisted under this title and a review of results of study entitled “Alternative Operating Subsidies Systems for the Public Housing Program”, with an update of such study as necessary, and to submit a report to Congress not later than 12 months after Nov. 28, 1990, detailing the findings of this study.

STUDY OF PROSPECTIVE PAYMENT SYSTEM FOR PUBLIC HOUSING

Pub. L. 101–625, title V, §523, Nov. 29, 1990, 104 Stat. 4216, directed Secretary of Housing and Urban Development to carry out demonstration of prospective payment system for public housing, which demonstration was to include a comparison of existing methods of funding in public housing with those used by Department of Housing and Urban Development in housing assisted under this title and a review of results of study entitled “Alternative Operating Subsidies Systems for the Public Housing Program”, with an update of such study as necessary, and to submit a report to Congress not later than 12 months after Nov. 28, 1990, detailing the findings of this study.
ment to conduct a study assessing one or more revised methods of providing Federal housing assistance through local public housing agencies, examining methods of prospective payment, including the compari-
sion of PHA operating assistance, modernization, and other Federal housing assistance to a schedule of steady and predictable capitated Federal payments on behalf of low income public housing tenants, and mak-
ing specific assessments and to submit a report to Con-
gress not later than 12 months after Nov. 28, 1990.

GAO STUDY OF ALTERNATIVES IN PUBLIC HOUSING DEVELOPMENT

Pub. L. 101–625, title V, § 526, Nov. 28, 1990, 104 Stat. 4216, directed Comptroller General to conduct a study assessing alternative methods of developing public housing dwelling units, other than under the existing public housing development program under this chap-
ter, and submit a report to Congress regarding the find-
ings and conclusions of the study not later than 12 months after Nov. 28, 1990.

PREFERENCE FOR NEW CONSTRUCTION UNDER THIS SECTION

tially rehabilitated pursuant to assistance provided under subsec. (b)(2) of this section, as such provisions existed before Oct. 1, 1983, and projects financed under section 1700q of Title 12, Banks and Banking, notwith-
standing tenant selection criteria under contract between Secretary and owner pursuant to first sentence of such section, for at least 70 percent of units becoming available, tenant selection criteria for such housing was to give preference to families occupying sub-
standard housing (including homeless families and those living in shelters), paying more than 50 percent of family income for rent, or involuntarily displaced, and family income for rent more than the amount determined under section 3(a)(1) of such Act [42 U.S.C. 1437f(a)(1)]. The data shall include the share of family income paid toward rent.

DOCUMENTATION OF EXCESSIVE RENT BURDENS

Pub. L. 101–625, title V, § 550(b), Nov. 28, 1990, 104 Stat. 4222, provided that:

(1) DATA.—The Secretary of Housing and Urban De-
velopment shall collect and maintain, in an automated system, data describing the characteristics of families assisted under the certificate and voucher programs established under section 8 of the United States Housing Act of 1937 [42 U.S.C. 1437f], which data shall include the share of family income paid toward rent.

(2) REPORT.—Not less than annually, the Secretary shall submit a report to the Congress setting forth, for each of the certificate program and the voucher pro-
gram, the percentage of families participating in the program who are paying for rent more than the amount determined under section 3(a)(1) of such Act [42 U.S.C. 1437f(a)(1)]. The report shall set forth data in appro-
priate categories, such as various areas of the country, types and sizes of public housing agencies, types of families, and types or markets. The data shall identify the jurisdictions in which more than 10 percent of the families assisted under section 8 of such Act pay for rent more than the amount determined under section 3(a)(1) of such Act and the report shall include an ex-
amination of whether the fair market rent for such areas is appropriate. The report shall also include any recommendations of the Secretary for legislative and administrative actions appropriate as a result of analysis of the data.

(3) AVAILABILITY OF DATA.—The Secretary shall make available to each public housing agency admin-

istering assistance under the certificate or voucher pro-
gram any data maintained under this subsection that relates to the public housing agency.

(INCOME ELIGIBILITY FOR TENANCY IN NEW CONSTRUCTION UNITS

Pub. L. 101–625, title V, § 555, Nov. 28, 1990, 104 Stat. 4233, directed Comptroller General to conduct a study to examine fair market rent under subsec. (c)(4) of this section which are wholly contained within such market areas and submit a report to Congress not later than 18 months after Nov. 28, 1990, regarding findings and conclusions.

STUDY OF UTILIZATION RATES

Pub. L. 101–625, title V, § 558, Nov. 28, 1990, 104 Stat. 4234, directed Secretary of Housing and Urban Development to conduct a study of reasons for success or fail-
ure, within appropriate cities and localities, in utilizing assistance made available for such areas under this section and submit a report to Congress concerning this study not later than the expiration of the 1-year period beginning on Nov. 28, 1990.

FASIBILITY STUDY REGARDING INDIAN TRIBE ELIGIBILITY FOR VOUCHER PROGRAM

Pub. L. 101–625, title V, § 561, Nov. 28, 1990, 104 Stat. 4235, directed Comptroller General to conduct a study to determine feasibility and effectiveness of entering into contracts with Indian housing authorities to provide voucher assistance under subsec. (o) of this section and submit a report to Congress regarding findings and conclusions not later than the expiration of the 1-year period beginning on Nov. 28, 1990.

STUDY OF PRIVATE NONPROFIT INITIATIVES

Pub. L. 101–625, title V, § 582, Nov. 28, 1990, 104 Stat. 4236, directed Secretary of Housing and Urban Development to conduct a study to examine how private nonprofit initiatives to provide low-income housing develop-
ment in local communities across the country have succeeded, with particular emphasis on how Federal housing policy and tax structures can best promote local private nonprofit organizations involvement in low-income housing development, and submit a report to Congress regarding findings not later than 1-year after Nov. 28, 1990.

PREFERENCES FOR NATIVE HAWAIIANS ON HAWAIIAN HOMELANDS UNDER HUD PROGRAMS

Pub. L. 101–625, title IX, § 988, Nov. 28, 1990, 104 Stat. 4422, which directed Secretary of Housing and Urban Development to provide preferences for housing assistance programs to native Hawaiians in subsec. (a), described assistance programs available in subsec. (b), au-
thorized Secretary to provide mortgage insurance in certain situations in subsec. (c), and defined pertinent
laws relating to the sale of insured property, the mortgagor shall be paid such amounts as are determined by the Secretary under this section.

The Secretary shall provide that rental adjustments issued under subsection (e) take effect. The Secretary shall provide that rental adjustments issued under subsection (e) take effect. For purposes of this paragraph, ‘‘debt service’’ shall include interest, principal, and mortgage insurance premium if any.

(2) APPLICABILITY.—

(A) IN GENERAL.—Subsection (a) shall apply with respect to any assurance of comparability studies referred to in such subsection occurring before the effective date of the regulations issued under subsection (e).

(B) FINAL LITIGATION.—Subsection (a) shall not apply to any project with respect to which litigation relating to the authority of the Secretary to use comparability studies to limit rental adjustments under section 8(c)(2) of the United States Housing Act of 1937 has resulted in a judgment before the effective date of this Act [Dec. 15, 1989] that is final and not appealable (including any settlement agreement).

(b) 3-YEAR PAYMENTS.—The Secretary shall provide the amounts under subsection (a) over the 3-year period beginning on the effective date of the regulations issued under subsection (e). The Secretary shall provide the payments authorized under subsection (a) only to the extent approved in subsequent appropriations Acts. There are authorized to be appropriated such sums as may be necessary for this purpose.

(d) DETERMINATION OF CONTRACT RENT.—(1) The Secretary shall upon the request of the project owner, make a one-time determination of the contract rent for each project owner referred to in subsection (a). The contract rent shall be the greater of the contract rent—

(A) currently approved by the Secretary under section 8(c)(2) of the United States Housing Act of 1937 [42 U.S.C. 1437f(c)(2)], or

(B) calculated in accordance with the first sentence of subsection (a)(1).

(2) All adjustments in contract rents under section 8(c)(2) of the United States Housing Act of 1937, including adjustments involving projects referred to in subsection (a), that occur beginning with the first anniversary date of the contract after the regulations issued under subsection (e) take effect shall be made in accordance with the annual adjustment and comparability provisions of sections 8(c)(2)(A) and 8(c)(2)(C) of such Act, respectively, using the one-time contract rent determination under paragraph (1).

(e) REGULATIONS.—The Secretary shall issue regulations to carry out this section and the amendments made by this section [amending this section], including the amendments made by subsection (c) with regard to annual adjustment factors and comparability studies. The Secretary shall issue such regulations not later than the expiration of the 180-day period beginning on the date of the enactment of this Act [Dec. 15, 1989].

PROHIBITION OF REDUCTION OF CONTRACT RENTS; BUDGET COMPLIANCE

Pub. L. 100–628, title III, §3004, Nov. 7, 1988, 102 Stat. 3294, provided that: ‘‘During fiscal year 1989, the amendment made by subsection (a)(2) [amending this section] shall be effective only to such extent or in such amounts as are provided in appropriation Acts. For purposes of section 202 of the Balanced Budget and Emergency Deficit Control Reaffirmation Act of 1987 (Public Law 100–119) [2 U.S.C. 909], to the extent that this section has the effect of transferring an outlay of the United States from one fiscal year to an adjacent fiscal year, the transfer is a necessary (but secondary) result of a significant policy change.’’
PROJECT-BASED LOWER-INCOME HOUSING ASSISTANCE; IMPLEMENTATION OF PROGRAM

Pub. L. 100–628, title X, § 1005(a), Nov. 7, 1988, 102 Stat. 3264, provided that: “To implement the amendment made by section 148 of the Housing and Community Development Act of 1987 [Pub. L. 100–242, see 1988 Amendment note above], the Secretary of Housing and Urban Development shall issue regulations that take effect not later than 30 days after the date of the enactment of this Act [Nov. 7, 1988], until the effective date of the regulations, the Secretary of Housing and Urban Development shall consider each application from a public housing agency to attach a contract for assistance payments to a structure, in accordance with the amendment made by such section 148 to section 8(d)(2) of the United States Housing Act of 1937 (42 U.S.C. 1437f(d)(2)), and shall promptly approve such application if it meets the requirements of such section 8(d)(2).”

USE OF FUNDS RECAPTURED FROM REFINANCING STATE AND LOCAL FINANCE PROJECTS

Pub. L. 100–628, title X, § 1005(b)(2) of Pub. L. 100–628 provided that: “To implement the amendments made by this subsection [amending this section], the Secretary of Housing and Urban Development shall issue regulations that take effect not later than 30 days after the date of the enactment of this Act [Nov. 7, 1988].”

PUBLIC HOUSING COMPREHENSIVE TRANSITION DEMONSTRATION

Pub. L. 100–242, title I, § 126, Feb. 5, 1988, 101 Stat. 1847, which directed Secretary of Housing and Urban Development to carry out program in 11 public housing agencies to ensure transition of public housing residents to private housing, set forth requirements of program, and required interim report to Congress not later than 2 years after Feb. 5, 1988, and final report not later than 60 days after termination of program 7 years after such date, was repealed by Pub. L. 105–276, title V, § 582(a)(8), Oct. 21, 1998, 112 Stat. 2643.

Nondiscrimination Against Section 8 Certificate Holders and Voucher Recipients

Pub. L. 100–242, title I, § 183(c), Feb. 5, 1988, 101 Stat. 1872, which prohibited owner of subsidized project to refuse to lease dwelling unit to holder of certificate of eligibility or voucher under this section, where proximate cause of refusal was status of prospective tenant as holder of such certificate or voucher, was repealed by Pub. L. 105–276, title V, § 582(a)(2), Oct. 21, 1998, 112 Stat. 2643.

Withdrawal by Owners, Developers, and Sponsors from Programs Under This Section; Survey and Determination of Numbers of New Construction; Reporting


“(2) Not later than one year after the date of the enactment of this Act [Aug. 13, 1981], the Secretary shall transmit to the Congress a report indicating alternative methods which may be utilized for recapturing the cost to the Federal Government of front-end investment in those units which are removed from the section 8 program.


“(d) Rental Assistance Fraud Recoveries.—

“(1) Authority to retain recovered amounts.—The Secretary of Housing and Urban Development shall permit public housing agencies administering the housing assistance payments program under section 8 of the United States Housing Act of 1937 (42 U.S.C. 1437f) to retain, out of amounts obtained by the agencies from tenants that are due as a result of fraud and abuse, an amount (determined in accordance with regulations issued by the Secretary) equal to the greater of—

“(A) 50 percent of the amount actually collected, or

“(B) the actual, reasonable, and necessary expenses related to the collection, including costs of investigation, legal fees, and collection agency fees.

“(2) Usur.—Amounts retained by an agency shall be made available for use in support of the affected program or project, in accordance with regulations issued by the Secretary. Where the Secretary is the principal party initiating or sustaining an action to recover amounts from families or owners, the provisions of this section shall not apply.

“(3) Recovery.—Amounts may be recovered under this paragraph—

“(A) by an agency through a lawsuit (including settlement of the lawsuit) brought by the agency or through court-ordered restitution pursuant to a criminal proceeding resulting from an agency’s investigation where the agency seeks prosecution of a family or where an agency seeks prosecution of an owner; or
“(B) through administrative repayment agreements with a family or owner entered into as a result of an administrative grievance procedure conducted by an impartial decisionmaker in accordance with section 6(k) of the United States Housing Act of 1937 (42 U.S.C. 1437(k)).”

Section was enacted as part of the appropriation act cited as the credit to this section, and not as part of the United States Housing Act of 1937 which comprises this chapter.

Prior Provisions

Provisions similar to those in this section were contained in the following prior acts:


§ 1437g. Public housing Capital and Operating Funds

(a) Merger into Capital Fund

Except as otherwise provided in the Quality Housing and Work Responsibility Act of 1996, any assistance made available for public housing under section 1437f of this title before October 1, 1999, shall be merged into the Capital Fund established under subsection (d).

(b) Merger into Operating Fund

Except as otherwise provided in the Quality Housing and Work Responsibility Act of 1996, any assistance made available for public housing under this section before October 1, 1999, shall be merged into the Operating Fund established under subsection (e).

(c) Allocation amount

(1) In general

For fiscal year 2000 and each fiscal year thereafter, the Secretary shall allocate amounts in the Capital Fund and Operating Funds for assistance for public housing agencies eligible for such assistance. The Secretary shall determine the amount of the allocation for each eligible agency, which shall be, for any fiscal year beginning after the effective date of the formulas described in subsections (d)(2) and (e)(2)—

(A) for assistance from the Capital Fund, the amount determined for the agency under the formula under subsection (d)(2); and

(B) for assistance from the Operating Fund, the amount determined for the agency under the formula under subsection (e)(2).

(2) Funding

There are authorized to be appropriated for assistance for public housing agencies under this section the following amounts:

(A) Capital Fund

For allocations of assistance from the Capital Fund, $3,000,000,000 for fiscal year 1999,
(d) Capital Fund

(1) In general

The Secretary shall establish a Capital Fund for the purpose of making assistance available to public housing agencies to carry out capital and management activities, including—

(A) the development, financing, and modernization of public housing projects, including the redesign, reconstruction, and reconfiguration of public housing sites and buildings (including accessibility improvements) and the development of mixed-finance projects;

(B) vacancy reduction;

(C) addressing deferred maintenance needs and the replacement of obsolete utility systems and dwelling equipment;

(D) planned code compliance;

(E) management improvements, including the establishment and initial operation of computer centers in and around public housing through a Neighborhood Networks initiative, for the purpose of enhancing the self-sufficiency, employability, and economic self-reliance of public housing residents by providing them with onsite computer access and training resources;

(F) demolition and replacement;

(G) resident relocation;

(H) capital expenditures to facilitate programs to improve the empowerment and economic self-sufficiency of public housing residents and to improve resident participation;

(I) capital expenditures to improve the security and safety of residents;

(J) homeownership activities, including programs under section 1437z-4 of this title;

(K) improvement of energy and water-use efficiency by installing fixtures and fittings that conform to the American Society of Mechanical Engineers/American National Standards Institute standards A112.19.2–1998 and A112.18.1–2000, or any revision thereto, applicable at the time of installation, and by increasing energy efficiency and water conservation by such other means as the Secretary determines are appropriate; and

(L) integrated utility management and capital planning to maximize energy conservation and efficiency measures.

(2) Formula

The Secretary shall develop a formula for determining the amount of assistance provided to public housing agencies from the Capital Fund for a fiscal year, which shall include a mechanism to reward performance. The formula may take into account such factors as?

(A) the number of public housing dwelling units owned, assisted, or operated by the public housing agency, the characteristics and locations of the projects, and the characteristics of the families served and to be served (including the incomes of the families);

(B) the need of the public housing agency to carry out rehabilitation and modernization activities, replacement housing, and reconstruction, construction, and demolition activities related to public housing dwelling units owned, assisted, or operated by the public housing agency, including backlog and projected future needs of the agency;

(C) the cost of constructing and rehabilitation property in the area;

(D) the need of the public housing agency to carry out activities that provide a safe and secure environment in public housing units owned, assisted, or operated by the public housing agency;

(E) any record by the public housing agency of exemplary performance in the operation of public housing, as indicated by the system of performance indicators established pursuant to section 1437d(j) of this title; and

(F) any other factors that the Secretary determines to be appropriate.

(3) Conditions on use for development and modernization

(A) Development

Except as otherwise provided in this chapter, any public housing developed using amounts provided under this subsection, or under section 1437 of this title, of the Quality Housing and Work Responsibility Act of 1998, shall be operated under the terms and conditions applicable to public housing during the 40-year period that begins on the date on which the project (or stage of the project) becomes available for occupancy.

(B) Modernization

Except as otherwise provided in this chapter, any public housing or portion thereof that is modernized using amounts provided under this subsection or under section 1437 of this title (as in effect before the effective date under section 503(a) of the Quality Housing and Work Responsibility Act of 1998) shall be maintained and operated under the terms and conditions applicable to public housing during the 20-year period that begins on the latest date on which modernization is completed.

(C) Applicability of latest expiration date

Public housing subject to this paragraph or to any other provision of law mandating the operation of the housing as public housing or under the terms and conditions applicable to public housing for a specified length of time, shall be maintained and operated as required until the latest such expiration date.

(e) Operating Fund

(1) In general

The Secretary shall establish an Operating Fund for the purpose of making assistance available to public housing agencies for the operation and management of public housing, including—
\( (A) \) procedures and systems to maintain and ensure the efficient management and operation of public housing units (including amounts sufficient to pay for the reasonable costs of review by an independent auditor of the documentation or other information maintained pursuant to section 1437d(j)(6) of this title by a public housing agency or resident management corporation to substantiate the performance of that agency or corporation);

\( (B) \) activities to ensure a program of routine preventative maintenance;

\( (C) \) anticroime and antidrug activities, including the costs of providing adequate security for public housing residents, including above-baseline police service agreements;

\( (D) \) activities related to the provision of services, including service coordinators for elderly persons or persons with disabilities;

\( (E) \) activities to provide for management and participation in the management and policymaking of public housing by public housing residents;

\( (F) \) the costs of insurance;

\( (G) \) the energy costs associated with public housing units, with an emphasis on energy conservation;

\( (H) \) the costs of administering a public housing work program under section 1437f of this title, including the costs of any related insurance needs;

\( (I) \) the costs of repaying, together with rent contributions, debt incurred to finance the rehabilitation and development of public housing units, which shall be subject to such reasonable requirements as the Secretary may establish;

\( (J) \) the costs associated with the operation and management of mixed finance projects, to the extent appropriate; and

\( (K) \) the costs of operating computer centers in public housing through a Neighborhood Networks initiative described in subsection (d)(1)(E), and of activities related to that initiative.

(2) Formula

(A) In general

The Secretary shall establish a formula for determining the amount of assistance provided to public housing agencies from the Operating Fund for a fiscal year. The formula may take into account—

\( (i) \) standards for the costs of operating and reasonable projections of income, taking into account the characteristics and locations of the public housing projects and characteristics of the families served and to be served (including the incomes of the families), or the costs of providing comparable services as determined in accordance with criteria or a formula representing the operations of a prototype well-managed public housing project;

\( (ii) \) the number of public housing dwelling units owned, assisted, or operated by the public housing agency;

\( (iii) \) the number of public housing dwelling units owned, assisted, or operated by the public housing agency that are chronically vacant and the amount of assistance appropriate for those units;

\( (iv) \) to the extent quantifiable, the extent to which the public housing agency provides programs and activities designed to promote the economic self-sufficiency and management skills of public housing residents;

\( (v) \) the need of the public housing agency to carry out anti-crime and anti-drug activities, including providing adequate security for public housing residents;

\( (vi) \) the amount of public housing rental income foregone by the public housing agency as a result of escrow savings accounts under section 1437u(d)(2) of this title for families participating in a family self-sufficiency program of the agency under such section 1437u of this title; and

\( (vii) \) any other factors that the Secretary determines to be appropriate.

(B) Incentive to increase certain rental income

The formula shall provide an incentive to encourage public housing agencies to facilitate increases in earned income by families in occupancy. Any such incentive shall provide that the agency shall benefit from increases in such rental income and that such amounts accruing to the agency pursuant to such benefit may be used only for low-income housing or to benefit the residents of the public housing agency.

(C) Treatment of savings

\( (i) \) In general

The treatment of utility and waste management costs under the formula shall provide that a public housing agency shall receive the full financial benefit from any reduction in the cost of utilities or waste management resulting from any contract with a third party to undertake energy conservation improvements in one or more of its public housing projects.

\( (ii) \) Third party contracts

Contracts described in clause \( (i) \) may include contracts for equipment conversions to less costly utility sources, projects with resident-paid utilities, and adjustments to frozen base year consumption, including systems repaired to meet applicable building and safety codes and adjustments for occupancy rates increased by rehabilitation.

\( (iii) \) Term of contract

The total term of a contract described in clause \( (i) \) shall not exceed 20 years to allow longer payback periods for retrofits, including windows, heating system replacements, wall insulation, site-based generation, advanced energy savings technologies, including renewable energy generation, and other such retrofits.

\( (iv) \) Existing contracts

The term of a contract described in clause \( (i) \) that, as of December 26, 2007, is in repayment and has a term of not more
than 12 years, may be extended to a term of not more than 20 years to permit additional energy conservation improvements without requiring the reprocurement of energy performance contractors.

(3) Condition on use

No portion of any public housing project operated using amounts provided under this subsection, or under this section as in effect before the effective date under section 503(a) of the Quality Housing and Work Responsibility Act of 1998, may be disposed of before the expiration of the 10-year period beginning upon the conclusion of the fiscal year for which such amounts were provided, except as otherwise provided in this chapter.

(f) Negotiated rulemaking procedure

The formulas under subsections (d)(2) and (e)(2) shall be developed according to procedures for issuance of regulations under the negotiated rulemaking procedure under subchapter III of chapter 5 of title 5.

(g) Limitations on use of funds

(1) Flexibility in use of funds

(A) Flexibility for Capital Fund amounts

Of any amounts appropriated for fiscal year 2000 or any fiscal year thereafter that are allocated for fiscal year 2000 or any fiscal year thereafter from the Capital Fund for any public housing agency, the agency may use not more than 20 percent for activities that are eligible under subsection (e) for assistance with amounts from the Operating Fund, but only if the public housing agency plan for the agency provides for such use.

(B) Flexibility for Operating Fund amounts

Of any amounts appropriated for fiscal year 2016 or any fiscal year thereafter that are allocated for fiscal year 2016 or any fiscal year thereafter from the Operating Fund for any public housing agency, the agency may use not more than 20 percent for activities that are eligible under subsection (d) for assistance with amounts from the Capital Fund, but only if the public housing agency plan under section 1437g–1 of this title for the agency provides for such use.

(2) Full flexibility for small PHAs

Of any amounts allocated for any fiscal year for any public housing agency that owns or operates less than 250 public housing dwelling units, is not designated pursuant to section 1437d(j)(2) of this title as a troubled public housing agency, and (in the determination of the Secretary) is operating and maintaining its public housing in a safe, clean, and healthy condition, the agency may use any such amounts for any eligible activities under subsections (d)(1) and (e)(1), regardless of the fund from which the amounts were allocated and provided. This subsection shall take effect on October 21, 1998.

(3) Limitation on new construction

(A) In general

Except as provided in subparagraphs (B) and (C), a public housing agency may not use any of the amounts allocated for the agency from the Capital Fund or Operating Fund for the purpose of constructing any public housing unit, if such construction would result in a net increase from the number of public housing units owned, assisted, or operated by the public housing agency on October 1, 1999, including any public housing units demolished as part of any revitalization effort.

(B) Exception regarding use of assistance

A public housing agency may use amounts allocated for the agency from the Capital Fund or Operating Fund for the construction and operation of housing units that are available and affordable to low-income families in excess of the limitations on new construction set forth in subparagraph (A), but the formulas established under subsections (d)(2) and (e)(2) shall not provide additional funding for the specific purpose of allowing construction and operation of housing in excess of those limitations (except to the extent provided in subparagraph (C)).

(C) Exception regarding formulas

Subject to reasonable limitations set by the Secretary, the formulas established under subsections (d)(2) and (e)(2) may provide additional funding for the operation and modernization costs (but not the initial development costs) of housing in excess of amounts otherwise permitted under this paragraph, and such amounts may be so used, if—

(i) such units are part of a mixed-finance project or otherwise leverage significant additional private or public investment; and

(ii) the estimated cost of the useful life of the project is less than the estimated cost of providing tenant-based assistance under section 1437f(o) of this title for the same period of time.

(h) Technical assistance

To the extent amounts are provided in advance in appropriations Acts, the Secretary may make grants or enter into contracts or cooperative agreements in accordance with this subsection for purposes of providing, either directly or indirectly—

(1) technical assistance to public housing agencies, resident councils, resident organizations, and resident management corporations, including assistance relating to monitoring and inspections;

(2) training for public housing agency employees and residents;

(3) data collection and analysis;

(4) training, technical assistance, and education to public housing agencies that are—

(A) at risk of being designated as troubled under section 1437d(j) of this title, to assist such agencies from being so designated; and

(B) designated as troubled under section 1437d(j) of this title, to assist such agencies in achieving the removal of that designation;

(5) contract expertise;

(6) training and technical assistance to assist in the oversight and management of public housing or tenant-based assistance;
(7) clearinghouse services in furtherance of the goals and activities of this subsection; and
(8) assistance in connection with the establishment and operation of computer centers in public housing through a Neighborhood Networks Initiative described in subsection (d)(1)(E).

As used in this subsection, the terms “training” and “technical assistance” shall include training or technical assistance and the cost of necessary travel for participants in such training or technical assistance, by or to officials and employees of the Department and of public housing agencies, and to residents and to other eligible grantees.

(i) Eligibility of units acquired from proceeds of sales under demolition or disposition plan

If a public housing agency uses proceeds from the sale of units under a homeownership program in accordance with section 1437z-4 of this title to acquire additional units to be sold to low-income families, the additional units shall be counted as public housing for purposes of determining the amount of the allocation to the agency under this section until sale by the agency, but in no case longer than 5 years.

(j) Penalty for slow expenditure of capital funds

(1) Obligation of amounts

Except as provided in paragraph (4) and subject to paragraph (2), a public housing agency shall obligate any assistance received under this section not later than 24 months after, as applicable—

(A) the date on which the funds become available to the agency for obligation in the case of modernization; or

(B) the date on which the agency accumulates adequate funds to undertake modernization, substantial rehabilitation, or new construction of units.

(2) Extension of time period for obligation

The Secretary—

(A) may, extend the time period under paragraph (1) for a public housing agency, for such period as the Secretary determines to be necessary, if the Secretary determines that the failure of the agency to obligate assistance in a timely manner is attributable to—

(i) litigation;

(ii) obtaining approvals of the Federal Government or a State or local government;

(iii) complying with environmental assessment and abatement requirements;

(iv) relocating residents;

(v) an event beyond the control of the public housing agency; or

(vi) any other reason established by the Secretary by notice published in the Federal Register;

(B) shall disregard the requirements of paragraph (1) with respect to any unobligated amounts made available to a public housing agency, to the extent that the total of such amounts does not exceed 10 percent of the original amount made available to the public housing agency; and

(C) may, with the prior approval of the Secretary, extend the time period under paragraph (1), for an additional period not to exceed 12 months, based on—

(i) the size of the public housing agency;

(ii) the complexity of the capital program of the public housing agency;

(iii) any limitation on the ability of the public housing agency to obligate the amounts allocated for the agency from the Capital Fund in a timely manner as a result of State or local law; or

(iv) such other factors as the Secretary determines to be relevant.

(3) Effect of failure to comply

(A) Prohibition of new assistance

A public housing agency shall not be awarded assistance under this section for any month during any fiscal year in which the public housing agency has funds unobligated in violation of paragraph (1) or (2).

(B) Withholding of assistance

During any fiscal year described in subparagraph (A), the Secretary shall withhold all assistance that would otherwise be provided to the public housing agency. If the public housing agency cures its failure to comply during the year, it shall be provided with the share attributable to the months remaining in the year.

(C) Redistribution

The total amount of any funds not provided public housing agencies by operation of this paragraph shall be allocated for agencies determined under section 1437d(j) of this title to be high-performing.

(4) Exception to obligation requirements

(A) In general

Subject to subparagraph (B), if the Secretary has consented, before the effective date under section 503(a) of the Quality Housing and Work Responsibility Act of 1998, to an obligation period for any agency longer than provided under paragraph (1), a public housing agency that obligates its funds before the expiration of that period shall not be considered to be in violation of paragraph (1).

(B) Prior fiscal years

Notwithstanding subparagraph (A), any funds appropriated to a public housing agency for fiscal year 1997 or prior fiscal years shall be fully obligated by the public housing agency not later than September 30, 1999.

(5) Expenditure of amounts

(A) In general

A public housing agency shall spend any assistance received under this section not later than 4 years (plus the period of any extension approved by the Secretary under paragraph (2)) after the date on which funds become available to the agency for obligation.

(B) Enforcement

The Secretary shall enforce the requirement of subparagraph (A) through default
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remedies up to and including withdrawal of the funding.

(6) Right of recapture

Any obligation entered into by a public housing agency shall be subject to the right of the Secretary to recapture the obligated amounts for violation by the public housing agency of the requirements of this subsection.

(7) Treatment of replacement reserve

The requirements of this subsection shall not apply to funds held in replacement reserves established pursuant to subsection (n).

(k) Treatment of nonrental income

A public housing agency that receives income from nonrental sources (as determined by the Secretary) may retain and use such amounts without any decrease in the amounts received under this section from the Capital or Operating Fund. Any such nonrental amounts retained shall be used only for low-income housing or to benefit the residents assisted by the public housing agency.

(l) Provision of only capital or operating assistance

(1) Authority

In appropriate circumstances, as determined by the Secretary, a public housing agency may commit capital assistance only, or operating assistance only, for public housing units, which assistance shall be subject to all of the requirements applicable to public housing except as otherwise provided in this subsection.

(2) Exemptions

In the case of any public housing unit assisted pursuant to the authority under paragraph (1), the Secretary may, by regulation, reduce the period under subsection (d)(3) or (e)(3), as applicable, during which such unit must be operated under requirements applicable to public housing. In cases in which there is commitment of operating assistance but no commitment of capital assistance, the Secretary may make section 8 [42 U.S.C. 1437f] requirements applicable, as appropriate, by regulation.

(m) Treatment of public housing


(2) Reduction of asthma incidence

Notwithstanding any other provision of this section, the New York City Housing Authority may, in its sole discretion, from amounts provided from the Operating and Capital Funds, or from amounts provided for public housing before amounts are made available from such Funds, use not more than $600,000 per year for the purpose of initiating, expanding or continuing a program for the reduction of the incidence of asthma among residents. The Secretary shall consult with the Administrator of the Environmental Protection Agency and the Secretary of Health and Human Services to identify and consider sources of funding for the reduction of the incidence of asthma among recipients of assistance under this subchapter.

(3) Services for elderly residents

Notwithstanding any other provision of this section, the New York City Housing Authority may, in its sole discretion, from amounts provided from the Operating and Capital Funds, or from amounts provided for public housing before the amounts are made available from such Funds, use not more than $600,000 per year for the purpose of developing a comprehensive plan to address the need for services for elderly residents. Such plan may be developed by a partnership created by such Housing Authority and may include the creation of a model project for assisted living at one or more developments. The model project may provide for contracting with private parties for the delivery of services.

(4) Effective date

This subsection shall apply to fiscal year 1999 and each fiscal year thereafter.

(n) Establishment of replacement reserves

(1) In general

Public housing agencies shall be permitted to establish a replacement reserve to fund any of the capital activities listed in subsection (d)(1).

(2) Source and amount of funds for replacement reserve

At any time, a public housing agency may deposit funds from such agency’s Capital Fund into a replacement reserve, subject to the following:

(A) At the discretion of the Secretary, public housing agencies may transfer and hold in a replacement reserve funds originating from additional sources.

(B) No minimum transfer of funds to a replacement reserve shall be required.

(C) At any time, a public housing agency may not hold in a replacement reserve more than the amount the public housing authority has determined necessary to satisfy the anticipated capital needs of properties in its portfolio assisted under this section, as outlined in its Capital Fund 5-Year Action Plan, or a comparable plan, as determined by the Secretary.

(D) The Secretary may establish, by regulation, a maximum replacement reserve level or levels that are below amounts determined under subparagraph (C), which may be based upon the size of the portfolio assisted under this section or other factors.

(3) Transfer of operating funds

In first establishing a replacement reserve, the Secretary may allow public housing agencies to transfer more than 20 percent of its operating funds into its replacement reserve.

(4) Expenditure

Funds in a replacement reserve may be used for purposes authorized by subsection (d)(1) and contained in its Capital Fund 5-Year Action Plan.

(5) Management and report

The Secretary shall establish appropriate accounting and reporting requirements to en-
sure that public housing agencies are spending funds on eligible projects and that funds in the replacement reserve are connected to capital needs.

(o) Public housing heating guidelines

The Secretary shall publish model guidelines for minimum heating requirements for public housing dwelling units operated by public housing agencies receiving assistance under this section.

References in Text


Prior Provisions

A prior section 9 of act Sept. 1, 1937, ch. 896, 50 Stat. 891, as amended, authorized loans for low-rent housing and clearance projects and was classified to section 1409 of this title, prior to the general revision of this chapter by Pub. L. 93–383. Similar provisions are contained in section 1436h of this title.

Amendments


2008—Subsecs. (k) to (n). Pub. L. 110–289 redesignated subsecs. (k) to (n) as (k) to (m), respectively, and struck out former subsec. (k), which related to emergency reserve and use of amounts.


Subsec. (e)(2)(C). Pub. L. 109–58, §151(2), designated existing provisions as cl. (i), inserted heading, and added clises (ii) and (iii).

2003—Subsec. (n)(1). Pub. L. 108–7 struck out par. (1) which related to treatment of certain covered locally developed public housing units as eligible public housing units.

2000—Subsec. (d)(1)(E). Pub. L. 106–377, §114(a)(1) [title II, §214(a)(1)], inserted before semicolon “, including the establishment and initial operation of computer centers in and around public housing through a Neighborhood Networks initiative, for the purpose of enhancing the self-sufficiency, employability, and economic self-reliance of public housing residents by providing them with onsite computer access and training resources”.


1998—Pub. L. 105–276, §519(a), amended section generally, substituting present provisions for provisions which had: in subsec. (a), authorized annual contributions for operation of low-income housing, and provided for determination of the amounts and use of those contributions, contract authorization, standards for payments, necessity of contribution contracts, performance funding system, and audits; in subsec. (b), set forth limitation on amount of aggregate rentals paid by families residing in dwelling units receiving annual contributions; in subsec. (c), authorized appropriations for fiscal years 1993 and 1994; in subsec. (d), required distribution of remaining appropriated funds to projects incurring excessive costs; and in subsec. (e), set forth time of payment of assistance to public housing agency.


1996—Subsec. (a)(1)(A). Pub. L. 104–330, in second sentence, inserted “and” after comma at end of cl. (l), struck out “, and” after “reserve funds” in cl. (ii), and struck out cl. (ii) which read as follows: “with respect to housing projects developed under the Indian and Alaskan Native housing program assisted under this chapter, to provide funds (in addition to any other operating costs contributions approved by the Secretary under this section) as determined by the Secretary to be required to cover the administrative costs to an Indian housing authority during the development period of a project approved pursuant to section 1457c of this title and until such time as the project is occupied”.

Subsec. (a)(3)(B)(i). Pub. L. 104–134 struck out “for a period not to exceed 6 years” after “with the public housing agency”.


former cls. (i) and (ii) as subcls. (I) and (II), respectively, substituted “this clause” for “this subparagraph”, inserted reference to section 8011 of this title and a period after “section 8013 of this title”, and added cl. (ii).

Subsec. (a)(3)(A). Pub. L. 102–550, § 114(b), inserted at end “Notwithstanding sections 858(a) and 863(a) of title 5, added by section 3(a) of the Negotiated Rulemaking Act of 1990, any proposed regulation providing for amendment, alteration, adjustment, or other change to the performance funding system relating to vacant public housing units shall be issued pursuant to a negotiated rulemaking procedure under subchapter IV of chapter 5 of such title (as added by section 3(a) of the Negotiated Rulemaking Act of 1990), and the Secretary shall establish a negotiated rulemaking committee for development of any such proposed regulations.”

Subsec. (a)(3)(B)(i). Pub. L. 102–550, § 114(c), inserted before semicolon at end “; and in subsequent years, if the energy savings are cost-effective, the Secretary may continue the sharing arrangement with the public housing agency for a period not to exceed 6 years.”

Subsec. (c). Pub. L. 102–550, § 114(a), amended subsec. (c) generally. Prior to amendment, subsec. (c) read as follows: “There are authorized to be appropriated for purposes of providing annual contributions under this section for fiscal year 1991 and for fiscal years 1992.”


Subsec. (a)(3)(A). Pub. L. 101–625, § 507(b)(1), designated existing provisions as subpar. (A), redesignated former cls. (A) to (C) as cls. (i) to (iii), respectively, and added subpar. (B).


Subsec. (c). Pub. L. 101–625, § 507(a), amended subsec. (c) generally. Prior to amendment, subsec. (c) read as follows: “There are authorized to be appropriated for purposes of providing annual contributions under this section for fiscal year 1988 and for fiscal year 1989.”

Subsec. (d). Pub. L. 101–625, § 572(2), substituted “low-income housing” for “lower income housing”.

1988—Subsec. (a)(1). Pub. L. 100–242, § 118(a)(1), struck out last sentence directing Secretary to establish standards for costs of operation and reasonable projections of income, for purposes of making payments under this section.

Pub. L. 100–242, § 118(d), inserted at end “If the Secretary determines that a public housing agency has failed to take the actions required to submit an acceptable audit on a timely basis in accordance with chapter 75 of title 31, the Secretary may arrange for, and pay the costs of, the audit. In such circumstances, the Secretary may withhold, from assistance otherwise payable to the agency under this section, amounts sufficient to pay for the reasonable costs of conducting an acceptable audit, including, when appropriate, the reasonable costs of accounting services necessary to place the agency’s books and records in auditable condition.”

Subsec. (a)(2). Pub. L. 100–242, § 112(b)(4), substituted “one developed pursuant to a contributions contract authorized by section 1437c” for “being assisted by an annual contributions contract authorized by section 1437c(c)” and “such any” for “any such annual”.


Subsec. (c). Pub. L. 100–242, § 118(b), amended subsec. (c) generally, substituting provisions authorizing appropriations under this section for fiscal years 1988 and 1989 for provisions authorizing appropriations for fiscal years 1978 and 1979 for a period beginning on or after July 1, 1985, through the period beginning on or after Oct. 1, 1985.

The amendment made by subsec. (a)(1) of this section shall provide that no disposition of low-income housing project, with respect to which the contract is entered into, shall occur during and for ten years after the period when contributions were made pursuant to such contract unless approved by the Secretary, and added par. (2).

Subsec. (c). Pub. L. 96–153, § 201(c), authorized appropriation for annual contributions of $741,500,000 on or after Oct. 1, 1979.

1979—Subsec. (a). Pub. L. 96–153, § 211(a), designated existing provisions as par. (1) and cls. (1) and (2) thereof as (A) and (B), inserted provisions that such contract shall provide that no disposition of low-income housing project, with respect to which the contract is entered into, shall occur during and for ten years after the period when contributions were made pursuant to such contract unless approved by the Secretary, and added par. (2).

Subsec. (c). Pub. L. 96–153, § 201(c), authorized appropriation for annual contributions of $741,500,000 on or after Oct. 1, 1979.


1978—Subsec. (c). Pub. L. 95–557 inserted “and not to exceed $729,000,000 on or after October 1, 1979.”


Pub. L. 95–24 substituted “and not to exceed $595,600,000 on or after October 1, 1976” for “and not to exceed $576,000,000 on or after October 1, 1976”.

1975—Subsec. (c). Pub. L. 94–375 substituted provision authorizing appropriations for annual contributions not to exceed $355,000,000 on or after July 1, 1975, for provision which authorized annual contributions for contracts entered into on or after July 1, 1974 for not more than $500,000 per annum, which amount was to be increased by $60,000,000 on July 1, 1975.

Effective Date of 2003 Amendment
Pub. L. 108–107, div. K, title II, § 212(c), Feb. 20, 2003, 117 Stat. 504, provided that: “The amendment made by such subsection (a) (amending this section) shall be deemed to have taken effect on October 1, 1998.”

Effective Date of 1998 Amendment
Amendment by title V of Pub. L. 105–276 effective and applicable beginning upon Oct. 1, 1999, except as otherwise provided, with provision that Secretary may implement amendment before such date, except to the extent that such amendment provides otherwise, and with savings provision, see section 503 of Pub. L. 105–276, set out as a note under section 1437 of this title.


“(1) IN GENERAL.—Subject to paragraph (2), before the implementation of formulas pursuant to sections 9(d)(2) and 9(e)(2) of the United States Housing Act of 1937 (42 U.S.C. 1437g(d)(2), (e)(2)) and (amended by subsection (a) of this section), the Secretary shall provide that each public housing agency shall receive funding under sections 9 and 14 of the United States Housing Act of 1937 (42 U.S.C. 1437g, 1437f), as those sections existed immediately before the enactment of this Act (Oct. 21, 1998) except that such sections
shall be subject to any amendments to such sections that may be contained in title II of this Act [see Tables for classification]).

"(2) QUALIFICATIONS.—Before the implementation of formulas pursuant to sections 9(d)(2) and 9(e)(2) of the United States Housing Act of 1937 (42 U.S.C. 1437g(d)(2), (e)(2)) (as amended by subsection (a) of this section)—

(A) if a public housing agency establishes a rental amount that is based on a ceiling rent established pursuant to subsection (d)(1) of this section [42 U.S.C. 1437a note], the Secretary shall take into account any reduction of the per unit dwelling rental income of the public housing agency resulting from the use of that rental amount in calculating the contributions for the public housing agency for the operation of the public housing under section 9 of the United States Housing Act of 1937 (42 U.S.C. 1437g);

(B) if a public housing agency establishes a rental amount that is based on an adjustment to income under section 3(b)(5)(G) of the United States Housing Act of 1937 (42 U.S.C. 1437a(b)(5)(G)) (as in effect immediately before the enactment of this Act [Oct. 21, 1998]), the Secretary shall not take into account any reduction of or any increase in the per unit dwelling rental income of the public housing agency resulting from the use of that rental amount in calculating the contributions for the public housing agency for the operation of the public housing under section 9 of the United States Housing Act of 1937 (42 U.S.C. 1437g), and

(C) if a public housing agency establishes a rental amount other than as provided under subparagraph (A) or (B) that is less than the greatest of the amounts determined under subparagraphs (A), (B), and (C) of section 3(a)(1) of the United States Housing Act of 1937 (42 U.S.C. 1437a(a)(1)(A), (B), (C)), the Secretary shall not take into account any reduction of the per unit dwelling rental income of the public housing agency resulting from the use of that rental amount in calculating the contributions for the public housing agency for the operation of the public housing under section 9 of the United States Housing Act of 1937 (42 U.S.C. 1437g).

"(f) EFFECTIVE DATE OF OPERATING FORMULA.—Notwithstanding the effective date under section 9(g)(1) [42 U.S.C. 1437g note], the Secretary may extend the effective date of the formula under section 9(e)(2) of the United States Housing Act of 1937 (42 U.S.C. 1437g(e)(2)) (as amended by subsection (a) of this section) for up to 6 months if such additional time is necessary to implement such formula.

"(g) EFFECTIVE DATE.—Subsections (d) [42 U.S.C. 1437a note], (e), and (f) shall take effect upon the date of the enactment of this Act [Oct. 21, 1998].

EFFECTIVE DATE OF 1996 AMENDMENT

EFFECTIVE DATE OF 1992 AMENDMENT
Amendment by subtitles B through F of title VI (§§621–685) of Pub. L. 102–550 applicable upon expiration of 6-month period beginning Oct. 28, 1992, except as otherwise provided, see section 13692 of this title.

EFFECTIVE DATE OF 1990 AMENDMENT
Amendment by section 802(p) of Pub. L. 101–625 deemed enacted Nov. 5, 1990, see title II of Pub. L. 101–507, set out as a note under section 1701q of Title 12, Banks and Banking.

EFFECTIVE DATE OF 1981 AMENDMENT

EFFECTIVE DATE OF 1978 AMENDMENT

EFFECTIVE DATE
Section effective on such date or dates as the Secretary of Housing and Urban Development shall prescribe, but not later than eighteen months after Aug. 26, 1974, except that all of the provisions of subsection (c) shall become effective on the same date, see section 201(b) of Pub. L. 93–383, set out as a note under section 1437 of this title.

REGULATIONS


CAPITAL FUNDS FOR CENTRAL OFFICE COSTS
Pub. L. 115–31, div. K, title II, §218, May 5, 2017, 131 Stat. 784, provided that: "With respect to the use of amounts provided in this Act [div. K of Pub. L. 115–31, see Tables for classification] and in future Acts for the development, capital improvement and management of public housing as authorized by sections 9(d) and 9(e) of the United States Housing Act of 1937 (42 U.S.C. 1437g(d) and (e)), the Secretary shall not impose any requirement or guideline relating to asset management that restricts or limits in any way the use of capital funds for central office costs pursuant to section 9(g)(1) or 9(g)(2)."

Similar provisions were contained in the following appropriation acts:


**Funding of Covered Locally Developed Public Housing Units Prohibited**

Pub. L. 108–7, div. K, title II, § 207, Feb. 20, 2003, 117 Stat. 562, provided that: ‘‘Notwithstanding any other provision of law, no funds in this Act or in any other Act in any fiscal year, including all future and prior fiscal years, may be used hereafter by the Secretary of Housing and Urban Development to provide any assistance or other funds for housing units defined in section 9(a) (now 9(m)) of the United States Housing Act of 1937 (42 U.S.C. 1437g(m)) (as in effect immediately before the enactment of this Act (Feb. 20, 2003)) as ‘covered locally developed public housing units’. The States of New York and Massachusetts shall reimburse any funds already made available under any appropriations Act for these units to the Secretary of Housing and Urban Development for reallocation to public housing agencies: Provided, That, if either State fails to make such reimbursement within 12 months, the Secretary shall recapture such funds through reductions from the amounts allocated to each State under section 106 of the Housing and Community Development Act of 1974 (42 U.S.C. 5306)’’.

**Applicability of Penalties for Slow Expenditure of Capital Funds**

Pub. L. 107–73, title II, Nov. 26, 2001, 115 Stat. 660, provided in part: ‘‘That, hereafter, notwithstanding any other provision of law or any failure of the Secretary of Housing and Urban Development to issue regulations to carry out section 9(j) of the United States Housing Act of 1937 (42 U.S.C. 1437g(j)), such section is deemed to have taken effect on October 1, 1998, and, except as otherwise provided in this heading (‘‘PUBLIC HOUSING CAPITAL FUND (INCLUDING TRANSFER OF FUNDS)’’), shall apply to all assistance made available under this same heading on or after such date’’.

**Cooling Degree Day Adjustment Under Performance Funding System**

Pub. L. 101–625, title V, § 508, Nov. 28, 1990, 104 Stat. 3838, as amended, authorized annual contributions in assistance of low rentals for housing projects and was classified to section 1410 of this title, prior to the general revision of this chapter by Pub. L. 93–383. Similar provisions are contained in section 1437c of this title.

**Energy Efficiency Demonstration**

Pub. L. 101–625, title V, § 523, Nov. 28, 1990, 104 Stat. 4215, which directed Secretary of Housing and Urban Development to carry out demonstration program to encourage use of private energy service companies and demonstrate opportunities for energy cost reduction through energy services contracts, and to report findings and recommendations to Congress as soon as practicable after expiration of 1-year period beginning on Nov. 28, 1990, was repealed by Pub. L. 105–276, title V, § 582(a)(11), Oct. 21, 1998, 112 Stat. 2644.
§ 1437j. Labor standards and community service requirement

(a) Payment of wages prevailing in locality

Any contract for loans, contributions, sale, or lease pursuant to this chapter shall contain a provision requiring that not less than the wages prevailing in the locality, as determined or adopted (subsequent to a determination under applicable State or local law) by the Secretary, shall be paid to all architects, technical engineers, draftsmen, and technicians employed in the development, and all maintenance laborers and mechanics employed in the operation, of the low-income housing project involved; and shall also contain a provision that not less than the wages prevailing in the locality, as predetermined by the Secretary of Labor pursuant to sections 3141–3144, 3146, and 3147 of title 40, shall be paid to all laborers and mechanics employed in the development of the project involved (including a project with nine or more units assisted under section 1437f of this title, where the public housing agency or the Secretary and the builder or sponsor enter into agreement for such use before construction or rehabilitation is commenced), and the Secretary shall require certification as to compliance with the provisions of this section prior to making any payment under such contract.

(b) Exception for volunteers

Subsection (a) and the provisions relating to wages (pursuant to subsection (a)) in any contract for loans, annual contributions, sale, or lease pursuant to this chapter, shall not apply to any individual that—

1. performs services for which the individual volunteered;
2. (A) does not receive compensation for such services; or
3. (B) is paid expenses, reasonable benefits, or a nominal fee for such services; and

(c) Community service requirement

(1) In general

Except as provided in paragraph (2) and notwithstanding any other provision of law, each adult resident of a public housing project shall—

(A) contribute 8 hours per month of community service (not including political activities) within the community in which that adult resides; or
(B) participate in an economic self-sufficiency program (as that term is defined in subsection (g)) for 8 hours per month.

(2) Exemptions

The Secretary shall provide an exemption from the applicability of paragraph (1) for any individual who—

A. is 62 years of age or older;
B. is a blind or disabled individual, as defined under section 216(l)(1) or 1614 of the Social Security Act (42 U.S.C. 416(l)(1); 1382c), and who is unable to comply with this section, or is a primary caretaker of such individual;
C. is engaged in a work activity (as such term is defined in section 407(d) of the Social Security Act (42 U.S.C. 607(d)), as in effect on and after July 1, 1997);^1
D. meets the requirements for being exempted from having to engage in a work activity under the State program funded under part A of title IV of the Social Security Act (42 U.S.C. 601 et seq.) or under any other welfare program of the State in which the public housing agency is located, including a State-administered welfare-to-work program; or
E. is in a family receiving assistance under a State program funded under part A of title IV of the Social Security Act (42 U.S.C. 601 et seq.) or under any other welfare program of the State in which the public

^1 So in original. Probably should be only one closing parenthesis.
housing agency is located, including a State-administered welfare-to-work program, and has not been found by the State or other administering entity to be in noncompliance with such program.

(3) Annual determinations

(A) Requirement

For each public housing resident subject to the requirement under paragraph (1), the public housing agency shall, 30 days before the expiration of each lease term of the resident under section 1437d(l)(1) of this title, review and determine the compliance of the resident with the requirement under paragraph (1) of this subsection.

(B) Due process

Such determinations shall be made in accordance with the principles of due process and on a nondiscriminatory basis.

(C) Noncompliance

If an agency determines that a resident subject to the requirement under paragraph (1) has not complied with the requirement, the agency—

(i) shall notify the resident—

(I) of such noncompliance;

(II) that the determination of noncompliance is subject to the administrative grievance procedure under subsection (k); and

(III) that, unless the resident enters into an agreement under clause (ii) of this subparagraph, the resident’s lease will not be renewed; and

(ii) may not renew or extend the resident’s lease upon expiration of the lease term and shall take such action as is necessary to terminate the tenancy of the household, unless the agency enters into an agreement, before the expiration of the lease term, with the resident providing for the resident to cure any noncompliance with the requirement under paragraph (1), by participating in an economic self-sufficiency program for or contributing to community service as many additional hours as the resident needs to comply in the aggregate with such requirement over the 12-month term of the lease.

(4) Ineligibility for occupancy for noncompliance

A public housing agency may not renew or extend any lease, or provide any new lease, for a dwelling unit in public housing for any household that includes an adult member who was subject to the requirement under paragraph (1) and failed to comply with the requirement.

(5) Inclusion in plan

Each public housing agency shall include in its public housing agency plan a detailed description of the manner in which the agency intends to implement and administer this subsection.

(6) Geographic location

The requirement under paragraph (1) may include community service or participation in an economic self-sufficiency program performed at a location not owned by the public housing agency.

(7) Prohibition against replacement of employees

In carrying out this subsection, a public housing agency may not—

(A) substitute community service or participation in an economic self-sufficiency program, as described in paragraph (1), for work performed by a public housing employee; or

(B) supplant a job at any location at which community work requirements are fulfilled.

(8) Third-party coordinating

A public housing agency may administer the community service requirement under this subsection directly, through a resident organization, or through a contractor having experience in administering volunteer-based community service programs within the service area of the public housing agency. The Secretary may establish qualifications for such organizations and contractors.

(d) Treatment of income changes resulting from welfare program requirements

(1) Covered family

For purposes of this subsection, the term “covered family” means a family that (A) receives benefits for welfare or public assistance from a State or other public agency under a program for which the Federal, State, or local law relating to the program requires, as a condition of eligibility for assistance under the program, participation of a member of the family in an economic self-sufficiency program, and (B) resides in a public housing dwelling unit or is provided tenant-based assistance under section 1437f of this title.

(2) Decreases in income for failure to comply

(A) In general

Notwithstanding the provisions of section 1437a(a) of this title (relating to family rental contributions) or paragraph (4) or (5) of section 1437a(b) of this title (relating to definition of income and adjusted income), if the welfare or public assistance benefits of a covered family are reduced under a Federal, State, or local law regarding such an assistance program because of any failure of any member of the family to comply with the conditions under the assistance program requiring participation in an economic self-sufficiency program or imposing a work activities requirement, the amount required to be paid by the family as a monthly contribution toward rent may not be decreased, during the period of the reduction, as a result of any decrease in the income of the family (to the extent that the decrease in income is a result of the benefits reduction).

(B) No reduction based on time limit for assistance

For purposes of this paragraph, a reduction in benefits as a result of the expiration of a lifetime time limit for a family receiving welfare or public assistance benefits

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\(^2\)See References in Text note below.
shall not be considered to be a failure to comply with the conditions under the assistance program requiring participation in an economic self-sufficiency program or imposing a work activities requirement. This paragraph shall apply beginning on October 21, 1998.

(3) Effect of fraud

Notwithstanding the provisions of section 1437a(a) of this title (relating to family rental contributions) or paragraph (4) or (5) of section 1437a(b) of this title (relating to definition of income and adjusted income), if the welfare or public assistance benefits of a covered family are reduced because of an act of fraud by a member of the family under the law or program, the amount required to be paid by the covered family as a monthly contribution toward rent may not be decreased, during the period of the reduction, as a result of any decrease in the income of the family (to the extent that the decrease in income is a result of the benefits reduction). This paragraph shall apply beginning on October 21, 1998.

(4) Notice

Paragraphs (2) and (3) shall not apply to any covered family before the public housing agency providing assistance under this chapter on behalf of the family obtains written notification from the relevant welfare or public assistance agency specifying that the family’s benefits have been reduced because of noncompliance with economic self-sufficiency program or work activities requirements or fraud, and the level of such reduction.

(5) Occupancy rights

This subsection may not be construed to authorize any public housing agency to establish any time limit on tenancy in a public housing dwelling unit or on receipt of tenant-based assistance under section 1437f of this title.

(6) Review

Any covered family residing in public housing that is affected by the operation of this subsection shall have the right to review the determination under this subsection through the administrative grievance procedure established pursuant to section 1437d(k) of this title for the public housing agency.

(7) Cooperation agreements for economic self-sufficiency activities

(A) Requirement

A public housing agency providing public housing dwelling units or tenant-based assistance under section 1437f of this title for covered families shall make its best efforts to enter into such cooperation agreements, with State, local, and other agencies providing assistance to covered families under welfare or public assistance programs, as may be necessary, to provide for such agencies to transfer information to facilitate administration of subsection (c) and paragraphs (2), (3), and (4) of this subsection and other information regarding rents, income, and assistance that may assist a public housing agency or welfare or public assistance agency in carrying out its functions.

(B) Contents

A public housing agency shall seek to include in a cooperation agreement under this paragraph requirements and provisions designed to target assistance under welfare and public assistance programs to families residing in public housing projects and families receiving tenant-based assistance under section 1437f of this title, which may include providing for economic self-sufficiency services within such housing, providing for services designed to meet the unique employment-related needs of residents of such housing and recipients of such assistance, providing for placement of workfare positions on-site in such housing, and such other elements as may be appropriate.

(C) Confidentiality

This paragraph may not be construed to authorize any release of information prohibited by, or in contravention of, any other provision of Federal, State, or local law.

(e) Lease provisions

A public housing agency shall incorporate into leases under section 1437d(l) of this title and into agreements for the provision of tenant-based assistance under section 1437f of this title, provisions incorporating the conditions under subsection (d).

(f) Treatment of income

Notwithstanding any other provision of this section, in determining the income of a family who resides in public housing or receives tenant-based assistance under section 1437f of this title, a public housing agency shall consider any decrease in the income of a family that results from the reduction of any welfare or public assistance benefits received by the family under any Federal, State, or local law regarding a program for such assistance if the family (or a member thereof, as applicable) has complied with the conditions for receiving such assistance and is unable to obtain employment notwithstanding such compliance.

(g) Definition

For purposes of this section, the term “economic self-sufficiency program” means any program designed to encourage, assist, train, or facilitate the economic independence of participants and their families or to provide work for participants, including programs for job training, employment counseling, work placement, basic skills training, education, workfare, financial or household management, apprenticeship, or other activities as the Secretary may provide.


REFERENCES IN TEXT

The Social Security Act, referred to in subsec. (c)(2)(D), (E), is act Aug. 14, 1935, ch. 531, 49 Stat. 620, as
amendments may not be construed to require the re-
inforcement of this Act for services provided before such
payment of any wages paid before the date of the enact-
ment, section 5310 of this title, and section 1701q of Title

Prior Provisions
894, as amended, authorized the disposal of low-rent
housing projects transferred to or acquired by the Au-
thority and was classified to section 1412 of this title,
prior to the general revision of this chapter by Pub. L.
93–383.

AMENDMENTS
1988—Pub. L. 100–242 struck out ''annual'' before
income for reference to low-income.

EFFECTIVE DATE OF 1998 AMENDMENT
Amendment by title V of Pub. L. 105–276 effective and
applicable beginning upon Oct. 1, 1999, except as other-
wise provided, with provision that Secretary may im-
plement amendment before such date, except to extent
that such amendment provides otherwise, and with sav-
ings provision, see section 503 of Pub. L. 105–276, set out
as a note under section 1437 of this title.

EFFECTIVE DATE OF 1990 AMENDMENT
Section 955(d) of Pub. L. 101–625 provided that: ''The
amendments made by this section [amending this sec-
tion, section 3310 of this title, and section 1701q of Title
12, Banks and Banking] shall apply to any volunteer
services provided before, on, or after the date of the en-
actment of this Act [Nov. 28, 1990], except that such
amendments may not be construed to require the re-
payment of any wages paid before the date of the enact-
ment of this Act for services provided before such date.''

EFFECTIVE DATE OF 1981 AMENDMENT
Amendment by Pub. L. 97–35 effective Oct. 1, 1981, see
section 371 of Pub. L. 97–35, set out as an Effective Date
note under section 3701 of Title 12, Banks and Banking.

§ 1437k. Consortia, joint ventures, affiliates, and
subsidiaries of public housing agencies

(a) Consortia

(1) In general
Any 2 or more public housing agencies may
participate in a consortium for the purpose of administer-
ing any or all of the housing pro-
grams of those public housing agencies in ac-
cordance with this section.

(2) Effect
With respect to any consortium described in
paragraph (1)—

(A) any assistance made available under
this subchapter to each of the public housing
agencies participating in the consortium
shall be paid to the consortium; and

(B) all planning and reporting require-
ments imposed upon each public housing
agency participating in the consortium
with respect to the programs operated by the con-
orium shall be consolidated.

(3) Restrictions

(A) Agreement
Each consortium described in paragraph
(1) shall be formed and operated in accord-
ance with a consortium agreement, and shall
be subject to the requirements of a joint
public housing agency plan, which shall be
submitted by the consortium in accordance
with section 1437c–1 of this title.

(B) Minimum requirements
The Secretary shall specify minimum re-
quirements relating to the formation and
operation of consortia and the minimum
contents of consortium agreements under
this paragraph.

(b) Joint ventures

(1) In general
Notwithstanding any other provision of law,
a public housing agency, in accordance with
the public housing agency plan, may—

(A) form and operate wholly owned or con-
trolled subsidiaries (which may be nonprofit
corporations) and other affiliates, any of
which may be directed, managed, or con-
trolled by the same persons who constitute
the board of directors or similar governing
body of the public housing agency, or who
serve as employees or staff of the public
housing agency; or

(B) enter into joint ventures, partnerships,
or other business arrangements with, or con-
tract with, any person, organization, entity,
or governmental unit—

(i) with respect to the administration of
the programs of the public housing agency,
including any program that is subject to
this subchapter; or

(ii) for the purpose of providing or ar-
-ranging for the provision of supportive or
social services.

(2) Use and treatment of income
Any income generated under paragraph (1)—
(A) shall be used for low-income housing or to benefit the residents assisted by the public housing agency; and
(B) shall not result in any decrease in any amount provided to the public housing agency under this subchapter, except as otherwise provided under the formulas established under section 1437g(d)(2) and 1437g(e)(2) of this title.

(3) Audits
The Comptroller General of the United States, the Secretary, or the Inspector General of the Department of Housing and Urban Development may conduct an audit of any activity undertaken under paragraph (1) at any time.


Prior Provisions
A prior section 13 of act Sept. 1, 1937, ch. 896, 50 Stat. 894, as amended, enumerated powers of the Authority and was classified to section 1111 of this title, prior to the general revision of this chapter by Pub. L. 93–383.

Amendments
1998—Pub. L. 105–276 amended section catchline and text of section generally. Prior to amendment, text read as follows: "The Secretary shall, to the maximum extent practicable, require that newly constructed and substantially rehabilitated projects assisted under this chapter with authority provided on or after October 1, 1979, shall be equipped with heating and cooling systems selected on the basis of criteria which include a life-cycle cost analysis of such systems."

1980—Pub. L. 96–399 struck out subsec. (a) which related to consideration by the Secretary, in utilizing contract authority, of projects which will be modernized to a substantial extent with weatherization materials as defined in section 6862(b) of this title, and redesignated former subsec. (b) as entire section.

Effective Date of 1998 Amendment
Amendment by title V of Pub. L. 105–276 effective and applicable beginning on Oct. 1, 1999, except as otherwise provided, with provision that the Secretary may implement the repeal before such date, and with savings provision, see section 503 of Pub. L. 105–276, set out as an Effective Date of 1998 Amendment note under section 1437 of this title.

Energy Efficient Public Housing Demonstration

(a) Establishment.—The Secretary of Housing and Urban Development shall establish a demonstration program through the assistance of an appropriate technology transfer organization that specializes in producing detailed energy-efficient designs and in conducting local and statewide, public participation tests for energy efficient, needs-oriented housing. The appropriate technology organization shall carry out the demonstration working through and with public housing agencies to build and test a variety of energy-efficient housing designs in 100 separate housing units in 4 different States that meet local lower income housing needs (including single parent, disabled, and elderly concerns) through a composite ranging from single to 12-plex units in the cluster approach on vacant lots and open areas.

(b) Report.—As soon as practicable following September 30, 1988, the Secretary of Housing and Urban Development shall submit to the Congress a report setting forth the findings and recommendations of the Secretary as a result of the demonstration under this section.

(c) Funding.—Of the budget authority authorized to be provided for the development of public housing, there is authorized to be appropriated to carry out this section $4,700,000 for fiscal year 1998.


Effective Date of Repeal
Repeal effective and applicable beginning on Oct. 1, 1999, except as otherwise provided, with provision that the Secretary may implement the repeal before such date, and with savings provision, see section 503 of Pub. L. 105–276, set out as an Effective Date of 1998 Amendment note under section 1437 of this title.

Savings Provision

(1) In General.—Section 14 of the United States Housing Act of 1937 [42 U.S.C. 1437f] shall apply as provided in section 519(e) of this Act [42 U.S.C. 1437g note].

(2) Expansion of Use of Modernization Funding.—Before the implementation of formulas pursuant to sections 9(d)(2) and 9(e)(2) of the United States Housing Act of 1937 [42 U.S.C. 1437g(d)(2), (e)(2)] (as amended by section 519(a) of this Act) an agency may utilize any authority provided under or pursuant to such section [42 U.S.C. 1437g(f)] (including the authority under section 201(a) of the Departments of Veterans Affairs and Housing and Urban Development, and Independent Agencies Appropriations Act, 1998 [see Tables for classification]) [Public Law 104–134; 110 Stat. 1321–277], as such provisions (including such section 201(a)) may be amended thereafter, including any amendment made by title II of this Act [see Tables for classification]), notwithstanding any other provision of law (including the repeal made under this section, the expiration of the applicability of such section [see Tables for classification], or any repeal of such section 201).

(3) Effective Date.—This subsection shall take effect on the date of the enactment of this Act [Oct. 21, 1998].

Conversions of Certain Public Housing to Vouchers

"Low-income housing" means housing provided to low-income persons, or persons who qualify for the low-income category under any applicable law or under any program of the Authority.
contiguous sites which had more than 300 units and vacancy rate of at least 10 percent, were identified as distressed, and for which estimated cost of continued operation exceeded cost of providing tenant-based assistance under section 1437f of this title, provided for implementation and enforcement of provisions requiring identification, required each agency to develop and carry out plan for removal over 5-year period, and required provision of tenant-based assistance to families residing in any removed development, was repealed by Pub. L. 105–276, title V, § 537(b), Oct. 21, 1998, 112 Stat. 2592. Amounts made available to carry out section 101(e) (title II, § 202) of Pub. L. 104–134 authorized to be used, to extent provided in advance in appropriations Acts, to carry out section 1437z–5 of this title, and section 101(e) (title II, § 202) of Pub. L. 104–134 as in effect immediately before Oct. 21, 1998, to continue to apply to public housing developments identified for conversion, or assessment of whether conversion is required, prior to such date, see section 537(c) of Pub. L. 105–276, set out as a Transition note under section 1437z–5 of this title.

§ 1437m. Payment of non-Federal share

Any of the following may be used as the non-Federal share required in connection with activities undertaken under Federal grant-in-aid programs which provide social, educational, employment, and other services to the tenants in a project assisted under this chapter, other than under section 1437f of this title;

(1) annual contributions under this chapter for operation of the project;

(2) rental or use-value of buildings or facilities paid for, in whole or in part, from development, modernization, or operation cost financed under this chapter.


AMENDMENTS

1988—Cl. (2). Pub. L. 100–242 struck out “with loans or debt service annual contributions” after “cost financed”.

§ 1437n. Eligibility for assisted housing

(a) Income eligibility for public housing

(1) Income mix within projects

A public housing agency may establish and utilize income-mix criteria for the selection of residents for dwelling units in public housing projects, subject to the requirements of this section.

(2) PHA income mix

(A) TARGETING.—Except as provided in paragraph (4), of the public housing dwelling units of a public housing agency made available for occupancy in any fiscal year by eligible families, not less than 40 percent shall be occupied by extremely low-income families.

(B) Prohibition

A public housing agency may not, in complying with the requirements under paragraph (2), concentrate very low-income families (or other families with relatively low incomes) in public housing dwelling units in certain public housing projects or certain buildings within projects. The Secretary shall review the income and occupancy characteristics of the public housing projects and the buildings of such projects of such agencies to ensure compliance with the provisions of this paragraph and paragraph (2).

(b) Deconcentration

(i) In general

A public housing agency shall submit with its annual public housing agency plan under section 1437c–1 of this title an admissions policy designed to provide for deconcentration of poverty and income-mixing by bringing higher income tenants into lower income projects and lower income tenants into higher income projects. This clause may not be construed to impose or require any specific income or racial quotas for any project or projects.

(ii) Incentives

In implementing the policy under clause (i), a public housing agency may offer incentives for eligible families having higher incomes to occupy dwelling unit in projects predominantly occupied by eligible families having lower incomes, and provide for occupancy of eligible families having lower incomes in projects predominantly occupied by eligible families having higher incomes.

(iii) Family choice

Incentives referred to in clause (ii) may be made available by a public housing agency only in a manner that allows for the eligible family to have the sole discretion in determining whether to accept the incentive and an agency may not take any adverse action toward any eligible family for choosing not to accept an incentive and an agency may not take any adverse action toward any eligible family for choosing not to accept an incentive and an agency may not take any adverse action. An agency implementing an admissions policy under this subparagraph shall implement the policy in a manner that does not prevent or interfere with the use of site-based waiting lists authorized under section 1437d(a) of this title.

(4) Fungibility with tenant-based assistance

(A) Authority

Except as provided under subparagraph (D), the number of public housing dwelling units that a public housing agency shall otherwise make available in accordance with paragraph (2)(A) to comply with the percentage requirement under such paragraph for a fiscal year shall be reduced by the credit number for the agency under subparagraph (B).

1 So in original. No subpar. (B) has been enacted.

2 Provided, That the skipping of a family on a waiting list to reach another family to implement the policy under clause (i) shall not be considered an adverse action. An agency implementing an admissions policy under this subparagraph shall implement the policy in a manner that does not prevent or interfere with the use of site-based waiting lists authorized under section 1437d(a) of this title.

3 See References in Text note below.
§ 1437n

B Office of the Federal Register" "The Code of Federal Regulations Online"

(5) Limitations on tenancy for over-income families

(A) Limitations

Except as provided in subparagraph (D), in the case of any family residing in a dwelling unit of public housing whose income for the most recent two consecutive years, as determined pursuant to income reviews conducted pursuant to section 1437a(a)(6) of this title, has exceeded the applicable income limitation under subparagraph (C), the public housing agency shall—

(i) notwithstanding any other provision of this chapter, charge such family as monthly rent for the unit occupied by such family an amount equal to the greater of—

(1) the applicable fair market rental established under section 1437f(c) of this title for a dwelling unit in the same market area of the same size; or

(2) the amount of the monthly subsidy provided under this chapter for the dwelling unit, which shall include any amounts from the Operating Fund and Capital Fund under section 1437g of this title used for the unit, as determined by the agency in accordance with regulations that the Secretary shall issue to carry out this subsection; or

(ii) terminate the tenancy of such family in public housing not later than 6 months after the income determination described in subparagraph (A).

(B) Notice

In the case of any family residing in a dwelling unit of public housing whose income for a year has exceeded the applicable income limitation under subparagraph (C), upon the conclusion of such year the public housing agency shall provide written notice to such family of the requirements under subparagraph (A).

(C) Income limitation

The income limitation under this subparagraph shall be 120 percent of the median income for the area, as determined by the Secretary with adjustments for smaller and larger families, except that the Secretary may establish income limitations higher or lower than 120 percent of such median income on the basis of the Secretary's findings that such variations are necessary because of prevailing levels of construction costs, or unusually high or low family incomes, vacancy rates, or rental costs.

(D) Exception

Subparagraph (A) shall not apply to a family occupying a dwelling unit in public housing pursuant to paragraph (5) of section 1437a(a) of this title.

(E) Reports on over-income families and waiting lists

The Secretary shall require that each public housing agency shall—

(i) submit a report annually, in a format required by the Secretary, that specifies—

(I) the number of families residing, as of the end of the year for which the report is submitted, in public housing administered by the agency who had incomes exceeding the applicable income limitation under subparagraph (C); and

(II) the number of families, as of the end of such year, on the waiting lists for admission to public housing projects of the agency; and

(ii) make the information reported pursuant to clause (i) publicly available.

(b) Income eligibility for tenant-based section 1437f assistance

(1) In general

Of the families initially provided tenant-based assistance under section 1437f of this chapter targeting requirement—

(i) the aggregate number of qualified families who, in such fiscal year, are initially provided tenant-based assistance under section 1437f of this title by the agency; exceeds

(ii) the number of qualified families that is required for the agency to comply with the percentage requirement under subsection (b)(1) for such fiscal year.

(C) Limitations on credit number

The credit number under subparagraph (B) for a public housing agency for a fiscal year may not in any case exceed the lesser of—

(i) the number of dwelling units that is equivalent to 10 percent of the aggregate number of families initially provided tenant-based assistance under section 1437f of this title by the agency in such fiscal year; or

(ii) the number of public housing dwelling units of the agency that—

(I) are in projects that are located in census tracts having a poverty rate of 30 percent or more; and

(II) are made available for occupancy during such fiscal year and are actually filled only by families whose incomes at the time of commencement of such occupancy exceed 30 percent of the area median income, as determined by the Secretary with adjustments for smaller and larger families.

(D) Fungibility floor

Notwithstanding any authority under subparagraph (A), of the public housing dwelling units of a public housing agency made available for occupancy in any fiscal year by eligible families, not less than 30 percent shall be occupied by families whose incomes at the time of commencement of occupancy do not exceed 30 percent of the area median income, as determined by the Secretary with adjustments for smaller and larger families.

(E) Qualified family

For purposes of this paragraph, the term “qualified family” means a family having an income described in subsection (b)(1).
title by a public housing agency in any fiscal year, not less than 75 percent shall be extremely low-income families.

(2) Jurisdictions served by multiple PHAs

In the case of any 2 or more public housing agencies that administer tenant-based assistance under section 1437f of this title with respect solely to identical geographical areas, such agencies shall be treated as a single public housing agency for purposes of paragraph (1).

(e) Income eligibility for project-based section 1437f assistance

(1) Pre-1981 act projects

Not more than 25 percent of the dwelling units that were available for occupancy under section 8 [42 U.S.C. 1437f] housing assistance payments contracts under this chapter before October 1, 1981, and which will be leased on or after October 1, 1981, shall be available for leasing by low-income families other than very low-income families.

(2) Post-1981 act projects

Not more than 15 percent of the dwelling units which become available for occupancy under section 8 [42 U.S.C. 1437f] housing assistance payments contracts under this chapter on or after October 1, 1981, shall be available for leasing by low-income families other than very low-income families.

(3) Targeting

For each project assisted under a contract for project-based assistance, of the dwelling units that become available for occupancy in any fiscal year that are assisted under the contract, not less than 40 percent shall be available for leasing only by extremely low-income families.

(4) Prohibition of skipping

In developing admission procedures implementing paragraphs (1), (2), and (3), the Secretary shall prohibit project owners from selecting families for residence in an order different from the order on the waiting list for the purpose of selecting relatively higher income families for residence. Nothing in this paragraph or this subsection may be construed to prevent an owner of housing assisted under this paragraph or this subsection from preventing displacement, or ameliorating the effects of displacement.

(5) Exception

The limitations established in paragraphs (1), (2), and (3) shall not apply to dwelling units made available under project-based contracts under section 1437f of this title for the purpose of preventing displacement, or ameliorating the effects of displacement.

(6) Definition

For purposes of this subsection, the term “project-based assistance” means assistance under any of the following programs:

(A) The new construction or substantial rehabilitation program under section 1437f(b)(2) of this title (as in effect before October 1, 1983).

(B) The property disposition program under section 1437f(b) of this title (as in effect before the effective date under section 503(a) of the Quality Housing and Work Responsibility Act of 1998).

(C) The loan management set-aside program under subsections (b) and (v) of section 1437f of this title.

(D) The project-based certificate program under section 1437f(d)(2) of this title.

(E) The moderate rehabilitation program under section 1437f(e)(2) of this title (as in effect before October 1, 1991).


(G) Section 1437f of this title (as in effect before the effective date under section 503(a) of the Quality Housing and Work Responsibility Act of 1998), following conversion from assistance under section 1701s of title 12 or section 1715z-1(f)(2) of title 12.

(d) Establishment of different standards

Notwithstanding subsection (a)(2) or (b)(1), if approved by the Secretary, a public housing agency may for good cause establish and implement, in accordance with the public housing agency plan, an admission standard other than the standard under such subsection.

(e) Eligibility for assistance based on assets

(1) Limitation on assets

Subject to paragraph (3) and notwithstanding any other provision of this chapter, a dwelling unit assisted under this chapter may not be rented and assistance under this chapter may not be provided, either initially or at each recertification of family income, to any family—

(A) whose net family assets exceed $100,000, as such amount is adjusted annually by applying an inflationary factor as the Secretary considers appropriate; or

(B) who has a present ownership interest in, a legal right to reside in, and the effective legal authority to sell, real property that is suitable for occupancy by the family as a residence, except that the prohibition under this subparagraph shall not apply to—

(i) any property for which the family is receiving assistance under subsection (y) or (o)(12) of section 1437f of this title;

(ii) any person that is a victim of domestic violence; or

(iii) any family that is offering such property for sale.

(2) Net family assets

(A) In general

For purposes of this subsection, the term “net family assets” means, for all members of the household, the net cash value of all assets after deducting reasonable costs that would be incurred in disposing of real property, savings, stocks, bonds, and other forms of capital investment. Such term does not
include interests in Indian trust land, equity in property for which the family is receiving assistance under subsection (y) or (o)(12) of section 1437f of this title, equity accounts in homeownership programs of the Department of Housing and Urban Development, or Family Self Sufficiency accounts.

(B) Exclusions

Such term does not include—

(i) the value of personal property, except for items of personal property of significant value, as the Secretary may establish or the public housing agency may determine;
(ii) the value of any retirement account;
(iii) real property for which the family does not have the effective legal authority necessary to sell such property;
(iv) any amounts recovered in any civil action or settlement based on a claim of malpractice, negligence, or other breach of duty owed to a member of the family and arising out of law, that resulted in a member of the family being disabled;
(v) the value of any Coverdell education savings account under section 530 of title 26 or any qualified tuition program under section 529 of such title; and
(vi) such other exclusions as the Secretary may establish.

(C) Trust funds

In cases in which a trust fund has been established and the trust is not revocable by, or under the control of, any member of the family or household, the value of the trust fund shall not be considered an asset of a family if the fund continues to be held in trust. Any income distributed from the trust fund shall be considered income for purposes of section 1437a(b) of this title and any calculations of annual family income, except in the case of medical expenses for a minor.

(3) Self-certification

(A) Net family assets

A public housing agency or owner may determine the net assets of a family, for purposes of this section, based on a certification by the family that the net assets of such family do not exceed $50,000, as such amount is adjusted annually by applying an inflationary factor as the Secretary considers appropriate.

(B) No current real property ownership

A public housing agency or owner may determine compliance with paragraph (1)(B) based on a certification by the family that such family does not have any current ownership interest in any real property at the time the agency or owner reviews the family’s income.

(C) Standardized forms

The Secretary may develop standardized forms for the certifications referred to in subparagraphs (A) and (B).

(4) Compliance for public housing dwelling units

When recertifying family income with respect to families residing in public housing dwelling units, a public housing agency may, in the discretion of the agency and only pursuant to a policy that is set forth in the public housing agency plan under section 1437c–1 of this title for the agency, choose not to enforce the limitation under paragraph (1).

(5) Enforcement

When recertifying the income of a family residing in a dwelling unit assisted under this chapter, a public housing agency or owner may choose not to enforce the limitation under paragraph (1) or may establish exceptions to such limitation based on eligibility criteria, but only pursuant to a policy that is set forth in the public housing agency plan under section 1437c–1 of this title for the agency or under a policy adopted by the owner. Eligibility criteria for establishing exceptions may provide for separate treatment based on family type and may be based on different factors, such as age, disability, income, the ability of the family to find suitable alternative housing, and whether supportive services are being provided.

(6) Authority to delay evictions

In the case of a family residing in a dwelling unit assisted under this chapter who does not comply with the limitation under paragraph (1), the public housing agency or project owner may delay eviction or termination of the family based on such noncompliance for a period of not more than 6 months.

(7) Verifying income

(A) Beginning in fiscal year 2018, the Secretary shall require public housing agencies to require each applicant for, or recipient of, benefits under this chapter to provide authorization by the applicant or recipient (or by any other person whose income or resources are material to the determination of the eligibility of the applicant or recipient for such benefits) for the public housing agency to obtain (subject to the cost reimbursement requirements of section 1115(a) of the Right to Financial Privacy Act [12 U.S.C. 3415]) from any financial institution (within the meaning of section 1101(1) of such Act [12 U.S.C. 3401(1)]) any financial record (within the meaning of section 1101(2) of such Act [12 U.S.C. 3401(2)]) held by the institution with respect to the applicant or recipient (or any such other person) whenever the public housing agency determines the record is needed in connection with a determination with respect to such eligibility or the amount of such benefits.

(B) Notwithstanding section 1104(a)(1) of the Right to Financial Privacy Act [12 U.S.C. 3404(a)(1)], an authorization provided by an applicant or recipient (or any other person whose income or resources are material to the determination of the eligibility of the applicant or recipient) pursuant to subparagraph (A) of this paragraph shall remain effective until the earliest of—

(i) the rendering of a final adverse decision on the applicant’s application for eligibility for benefits under this chapter;
(ii) the cessation of the recipient’s eligibility for benefits under this chapter; or
(ii) The certification requirements of section 1103(b) of the Right to Financial Privacy Act [12 U.S.C. 3403(b)] shall not apply to requests by the public housing agency pursuant to an authorization provided under this clause.

(iii) A request by the public housing agency pursuant to an authorization provided under this clause is deemed to meet the requirements of section 1104(a)(3) of the Right to Financial Privacy Act [12 U.S.C. 3404(a)(3)] and the flush language of section 1102 of such Act [12 U.S.C. 3402].

The public housing agency shall inform any person who provides authorization pursuant to this paragraph of the duration and scope of the authorization.

(D) If an applicant for, or recipient of, benefits under this chapter (or any such other person referred to in subparagraph (A)) refuses to provide, or revokes, any authorization made by the applicant or recipient for the public housing agency to obtain from any financial institution any financial record, the public housing agency may, on that basis, determine that the applicant or recipient is ineligible for benefits under this subchapter.

(f) Ineligibility of individuals convicted of manufacturing or producing methamphetamine on the premises

Notwithstanding any other provision of law, a public housing agency shall establish standards for occupancy in public housing dwelling units and assistance under section 1437f of this title that—

(1) permanently prohibit occupancy in any public housing dwelling unit by, and assistance under section 1437f of this title for, any person who has been convicted of manufacturing or otherwise producing methamphetamine on the premises in violation of any Federal or State law; and

(2) immediately and permanently terminate the tenancy in any public housing unit of, and the assistance under section 1437f of this title for, any person who is convicted of manufacturing or otherwise producing methamphetamine on the premises in violation of any Federal or State law.


REFERENCES IN TEXT

Section 1437f(d) of this title, referred to in subsec. (a)(3)(B)(iii), probably should be a reference to section 1437f(d) of this title.


The Emergency Low Income Housing Preservation Act of 1987, referred to in subsec. (c)(6)(F), is title II of Pub. L. 100–242, Feb. 5, 1988, 101 Stat. 1877, which, as amended by Pub. L. 101–625, is known as the Low-Income Housing Preservation and Resident Homeownership Act of 1990, Subtitles A and B of title II, which were formerly set out as a note under section 1715f of Title 12, Banks and Banking, and which amended sections 1715z–6 of Title 12, were reclassified generally to Title 12 and Tables.


2014—Subsec. (a)(2)(A). Pub. L. 113–76, §238(b)(1), substituted “extremely low-income families” for “families whose incomes do not exceed 30 percent of the area median income, 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 area median income on the basis of the Secretary’s findings that such variations are necessary because of unusually high or low family incomes”.

Subsec. (b)(1). Pub. L. 113–76, §238(b)(2), substituted “extremely low-income families” for “families whose incomes do not exceed 30 percent of the area median income, 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 area median income on the basis of the Secretary’s findings that such variations are necessary because of unusually high or low family incomes”.

Subsec. (c)(3). Pub. L. 113–76, §238(b)(3), substituted “extremely low-income families” for “families whose incomes at the time of commencement of occupancy do not exceed 30 percent of the area median income, as determined by the Secretary with adjustments for smaller and larger families; except that the Secretary may establish income ceilings higher or lower than 30 percent of the area median income on the basis of the Secretary’s findings that such variations are necessary because of unusually high or low family incomes”.

2014—Subsec. (a) to (d). Pub. L. 105–276, §102, added subsec. (a) to (d) and struck out former subsec. (e) to (d). Prior to amendment, subsec. (a) related to percentage availability under contracts prior to Oct. 1, 1981, subsec. (b) related to percentage availability under contracts on or after Oct. 1, 1981, subsec. (c) related to admission procedures implementing subsec. (b), and subsec. (d) related to applicability of admission procedures limitations.

Subsec. (e). Pub. L. 105–276, §513(a), as amended by Pub. L. 105–277, §123, added subsec. (a) to (d) and struck out former subsec. (a) to (d). Prior to amendment, subsec. (a) related to percentage availability under contracts prior to Oct. 1, 1981, subsec. (b) related to percentage availability under contracts on or after Oct. 1, 1981, subsec. (c) related to admission procedures implementing subsec. (b), and subsec. (d) related to applicability of admission procedures limitations.

Subsec. (f). Pub. L. 105–276, §513(d)(2), struck out heading and text of subsec. (e), which directed public housing agency to establish standards to prohibit occupancy by and terminate tenancy of any person illegally using controlled substance or whose use of controlled substance or abuse of alcohol might interfere with peaceful enjoyment of premises by other residents, and authorized agency to consider rehabilitation of person in making determination to deny occupancy.


Subsec. (d). Pub. L. 104–242, §112(b)(8), struck out “annual” before “committee”.

Subsec. (e). Pub. L. 104–628 substituted “shall establish an appropriate specific percentage of lower income families other than very low-income families that may be assisted in each assisted housing program” for “shall establish, as appropriate, differing percentage limitations on admission of lower income families in separate assisted housing programs” and inserted before period “and shall prohibit project owners from selecting families for residence in an order different from the order on the waiting list for the purpose of selecting relatively higher income families for residence.”

Pub. L. 100–242, §103, added subsec. (c).


EFFECTIVE DATE OF 1998 AMENDMENTS


Amendment by title V of Pub. L. 105–276 effective and applicable beginning upon Oct. 1, 1999, except as otherwise provided, with provision that Secretary may implement amendment before such date, except that such amendment provides otherwise, and with savings provision, see section 503 of Pub. L. 105–276, set out as a note under section 1437 of this title.

Pub. L. 105–276, tit. V, §533(b), Oct. 21, 1998, 112 Stat. 2947, provided that: “This section [amending this section] shall take effect on, and the amendments under this section are made on, and shall apply beginning upon, the date of the enactment of this Act (Oct. 21, 1998).”

EFFECTIVE AND TERMINATION DATES OF 1996 AMENDMENTS


Amendment by Pub. L. 104–120 to be construed to have become effective Oct. 1, 1995, notwithstanding the effective date of any regulations issued by Secretary of Housing and Urban Development to implement amendments by sections 9 and 10 of Pub. L. 104–120 or any failure by Secretary to issue any such regulations, see section 13 of Pub. L. 104–120, set out as a note under section 1437d of this title.


**Effective Date**

Section effective Oct. 1, 1981, see section 371 of Pub. L. 97–35, set out as a note under section 3701 of Title 12, Banks and Banking.


**Effective Date of Repeal**

Repeal effective Oct. 1, 1991, and except with respect to projects and programs for which binding commitments have been entered into prior to Oct. 1, 1991, no new grants or loans to be made after Oct. 1, 1991, under this section, see section 12839(a)(1), (b)(1) of this title.

§1437p. Demolition and disposition of public housing

(a) Applications for demolition and disposition

Except as provided in subsection (b), upon receiving an application by a public housing agency for authorization, with or without financial assistance under this subchapter, to demolish or dispose of a public housing project or a portion of a public housing project (including any transfer to a resident–supported nonprofit entity), the Secretary shall approve the application, if the public housing agency certifies—

(1) in the case of—

(A) an application proposing demolition of a public housing project or a portion of a public housing project, that—

(i) the project or portion of the public housing project is obsolete as to physical condition, location, or other factors, making it unsuitable for housing purposes; and

(ii) no reasonable program of modifications is cost-effective to return the public housing project or portion of the project to useful life; and

(B) an application proposing the demolition of only a portion of a public housing project, that the demolition will help to ensure the viability of the remaining portion of the project;

(2) in the case of an application proposing disposition by sale or other transfer of a public housing project or other real property subject to this subchapter—

(A) the retention of the property is not in the best interests of the residents or the public housing agency because—

(i) conditions in the area surrounding the public housing project adversely affect the health or safety of the residents or the feasible operation of the project by the public housing agency; or

(ii) disposition allows the acquisition, development, rehabilitation of other properties that will be more efficiently or effectively operated as low-income housing;

(B) the public housing agency has otherwise determined the disposition to be appropriate for reasons that are—

(i) in the best interests of the residents and the public housing agency;

(ii) consistent with the goals of the public housing agency and the public housing agency plan; and

(iii) otherwise consistent with this subchapter; or

(C) for property other than dwelling units, the property is excess to the needs of a public housing project or the disposition is incidental to, or does not interfere with, continued operation of a public housing project;

(3) that the public housing agency has specifically authorized the demolition or disposition in the public housing agency plan, and has certified that the actions contemplated in the public housing agency plan comply with this section;

(4) that the public housing agency—

(A) will notify each family residing in a project subject to demolition or disposition 90 days prior to the displacement date, except in cases of imminent threat to health or safety, consistent with any guidelines issued by the Secretary governing such notifications, that—

(i) the public housing project will be demolished or disposed of;

(ii) the demolition of the building in which the family resides will not commence until each resident of the building is relocated; and

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

(I) that meets housing quality standards;

(II) that is located in an area that is generally not less desirable than the location of the displaced person’s housing; and

(III) which may include—

(aa) tenant-based assistance, except that the requirement under this clause regarding offering of comparable housing shall be fulfilled by use of tenant-based assistance only upon the relocation of such family into such housing;

(bb) project-based assistance; or

(cc) occupancy in a unit operated or assisted by the public housing agency at a rental rate paid by the family that is comparable to the rental rate applicable to the unit from which the family is vacated;
(B) will provide for the payment of the actual and reasonable relocation expenses of each resident to be displaced;
(C) will ensure that each displaced resident is offered comparable housing in accordance with the notice under subparagraph (A); and
(D) will provide any necessary counseling for residents who are displaced; and
(E) will not commence demolition or complete disposition until all residents residing in the building are relocated;
(5) that the net proceeds of any disposition will be used—
(A) unless waived by the Secretary, for the retirement of outstanding obligations issued to finance the original public housing project or modernization of the project; and
(B) to the extent that any proceeds remain after the application of proceeds in accordance with subparagraph (A), for—
(i) the provision of low-income housing or to benefit the residents of the public housing agency; or
(ii) leveraging amounts for securing commercial enterprises, on-site in public housing projects of the public housing agency, appropriate to serve the needs of the residents; and
(6) that the public housing agency has complied with subsection (c).

(b) Disapproval of applications
The Secretary shall disapprove an application submitted under subsection (a) if the Secretary determines that—
(1) any certification made by the public housing agency under that subsection is clearly inconsistent with information and data available to the Secretary or information or data requested by the Secretary; or
(2) the application was not developed in consultation with—
(A) residents who will be affected by the proposed demolition or disposition;
(B) each resident advisory board and resident council, if any, of the project (or portion thereof) that will be affected by the proposed demolition or disposition; and
(C) appropriate government officials.

(c) Resident opportunity to purchase in case of proposed disposition
(1) In general
In the case of a proposed disposition of a public housing project or portion of a project, the public housing agency shall, in appropriate circumstances, as determined by the Secretary, initially offer the property to any eligible resident organization, eligible resident management corporation, or nonprofit organization acting on behalf of the residents, if that entity has expressed an interest, in writing, to the public housing agency in a timely manner, in purchasing the property for continued use as low-income housing.

(2) Timing
(A) Expression of interest
A resident organization, resident management corporation, or other resident-sup-
ported nonprofit entity referred to in paragraph (1) may express interest in purchasing property that is the subject of a disposition, as described in paragraph (1), during the 30-day period beginning on the date of notification of a proposed sale of the property.

(3) Opportunity to arrange purchase
If an entity expresses written interest in purchasing a property, as provided in subparagraph (A), no disposition of the property shall occur during the 60-day period beginning on the date of receipt of that written notice (other than to the entity providing the notice), during which time that entity shall be given the opportunity to obtain a firm commitment for financing the purchase of the property.

(d) Replacement units
Notwithstanding any other provision of law, replacement public housing units for public housing units demolished in accordance with this section may be built on the original public housing location or in the same neighborhood as the original public housing location if the number of the replacement public housing units is significantly fewer than the number of units demolished.

(e) Consolidation of occupancy within or among buildings
Nothing in this section may be construed to prevent a public housing agency from consolidating occupancy within or among buildings of a public housing project, or among projects, or with other housing for the purpose of improving living conditions of, or providing more efficient services to, residents.

(f) De minimis exception to demolition requirements
Notwithstanding any other provision of this section, in any 5-year period a public housing agency may demolish not more than the lesser of 5 dwelling units or 5 percent of the total dwelling units owned by the public housing agency, but only if the space occupied by the demolished unit is used for meeting the service or other needs of public housing residents or the demolished unit was beyond repair.

(g) Uniform Relocation and Real Property Acquisition Act
The Uniform Relocation and Real Property Acquisition Policies Act of 1970 [42 U.S.C. 4601 et seq.] shall not apply to activities under this section.

(h) Relocation and replacement
Of the amounts appropriated for tenant-based assistance under section 1437f of this title in any fiscal year, the Secretary may use such sums as are necessary for relocation and replacement housing for dwelling units that are demolished and disposed of from the public housing inventory (in addition to other amounts that may be available for such purposes).

§ 1437p § 1437p
So in original. The word “and” probably should not appear.
REFERENCES IN TEXT


AMENDMENTS

1998—Pub. L. 105–276 amended section generally. Prior to amendment, subsec. (a) required the Secretary to make certain determinations before approving the demolition or disposition of all or part of a public housing project; subsec. (b) required public housing agency consultation with tenants and provision of relocation assistance; subsec. (c) authorized financial assistance using 1975 contributions; subsec. (d) provided that agency would not be prevented from consolidating occupancy within or among buildings or projects; subsec. (e) provided set-asides for replacement housing in fiscal years 1993 and 1994; subsec. (f) authorized construction on original site if number of new units would be less than number of demolished units; and subsec. (g) declared that this section did not apply to demolition or disposition of 200 or more units, the use of available project-based assistance under subsection (b)(3) of this section, agree to commit money for the purpose of improving the living conditions or providing more efficient services to its tenants.

Subsec. (b)(1). Pub. L. 102–550, §116(a), inserted “of the project or portion of the project covered by the application” after “tenant cooperative”.

Subsec. (b)(3). Pub. L. 102–550, §116(b)(5), inserted at end “except that, in any 5-year period, a public housing agency may demolish not more than the lesser of 5 dwelling units or 5 percent of the total dwelling units owned and operated by the public housing agency, without providing an additional dwelling unit for each such public housing dwelling unit to be demolished, but only if the space occupied by the demolished unit is used for meeting the service or other needs of public housing residents.”

Subsec. (b)(3)(A)(i). Pub. L. 102–550, §116(b)(1)(A), inserted before semicolon at end “to the extent available; or if such assistance is not available, in the case of an application proposing demolition or disposition of 200 or more units, the use of available project-based assistance under section 1437f of this title having a term of not less than 5 years”.

Subsec. (b)(3)(A)(ii). Pub. L. 102–550, §116(b)(1)(B), inserted before semicolon at end “to the extent available; or if such assistance is not available, in the case of an application proposing demolition or disposition of 200 or more units, the use of available project-based assistance under other Federal programs having a term of not less than 5 years”.

Subsec. (b)(3)(A)(v). Pub. L. 102–550, §116(b)(1)(C), inserted before semicolon “to the extent available; or if such assistance is not available, in the case of an application proposing demolition or disposition of 200 or more units, the use of tenant-based assistance under section 1437f of this title having a term of not less than 5 years”.


Subsec. (b)(3)(C) to (F). Pub. L. 102–550, §116(b)(5), redesignated subpars. (B) to (E) as (C) to (F), respectively. Former subpar. (F) redesignated (G).


Subsec. (e). Pub. L. 102–550, §116(c), added subsec. (e) and redesignated former subsec. (e) as (f).


Pub. L. 101–625, §512(a), inserted before first comma “, which, in the case of scattered-site housing of a public housing agency, shall be in an amount that bears the same ratio to the total of such costs and obligations as the number of units disposed of bears to the total number of units of the project at the time of disposition”.

Subsec. (b)(1). Pub. L. 101–625, §412(a), substituted “disposition, and the tenant council, resident management corporation, and tenant cooperative, if any, have
been given appropriate opportunities to purchase the project or portion of the project covered by the application," for “disposition.”

Subsec. (c)(2). Pub. L. 101–625, § 513(b), inserted at end “As part of each annual budget request for the Department of Housing and Urban Development, the Secretary shall submit to the Congress a report—” and added subpars. (A) and (B).

Subsec. (c)(3). Pub. L. 101–625, § 513(c), struck out par. (3) which read as follows: “The Secretary shall, in allocating assistance for the acquisition or development of public housing or for moderate rehabilitation under section 1437f(e)(2) of this title, give consideration to housing that replaces demolished public housing units in accordance with a plan under subsection (b)(3) of this section.”


Subsec. (a)(1). Pub. L. 100–242, § 121(a), substituted “and” for “or” after “purposes.”

Subsec. (b). Pub. L. 100–242, § 170(f), inserted “or” after “under this section”.

Subsec. (b)(3). Pub. L. 100–242, § 121(b), added par. (3).

Subsec. (c). Pub. L. 100–242, § 121(c), designated existing provisions as par. (1) and added pars. (2) and (3).

Pub. L. 100–242, § 112(b)(9), substituted “contributions authorized under section 1437c” for “annual contributions authorized under section 1437c(c)”.

Subsec. (d). Pub. L. 100–242, § 121(d), added subsec. (d) and struck out former subsec. (d) which read as follows: “The provisions of this section shall not apply to the conveyance of units in a public housing project for the purpose of providing homeownership opportunities for lower-income families capable of assuming the responsibilities of homeownership.”


§ 1437r. Public housing resident management

(a) Purpose

The purpose of this section is to encourage increased resident management of public housing projects, as a means of improving existing living conditions in public housing projects, by providing increased flexibility for public housing projects that are managed by residents by—

(1) permitting the retention, and use for certain purposes, of any revenues exceeding operating and project costs; and

(2) providing funding, from amounts otherwise available, for technical assistance to promote formation and development of resident management entities.

For purposes of this section, the term “public housing project” includes one or more contiguous buildings or an area of contiguous row houses the elected resident councils of which approve the establishment of a resident management corporation and otherwise meet the requirements of this section.

(b) Program requirements

(1) Resident council

As a condition of entering into a resident management program, the elected resident council of a public housing project shall approve the establishment of a resident management corporation. When such approval is made by the elected resident council of a building or row house area, the resident management program shall not interfere with the rights of other families residing in the project or harm the efficient operation of the project. The resident management corporation and the resident council may be the same organization, if the organization complies with the requirements applicable to both the corporation and council. The corporation shall be a nonprofit corporation organized under the laws of the State in which the project is located, and the tenants of the project shall be the sole voting members of the corporation. If there is no elected resident council, a majority of the households of the public housing project shall approve the establishment of a resident council to determine the feasibility of establishing

§ 1437q. Financing limitations

On and after October 1, 1983, the Secretary—
a resident management corporation to manage the project.

(2) Public housing management specialist

The resident council of a public housing project, in cooperation with the public housing agency, shall select a qualified public housing management specialist to assist in determining the feasibility of, and to help establish, a resident management corporation and to provide training and other duties agreed to in the daily operations of the project.

(3) Bonding and insurance

Before assuming any management responsibility for a public housing project, the resident management corporation shall provide fidelity bonding and insurance, or equivalent protection, in accordance with regulations and requirements of the Secretary and the public housing agency. Such bonding and insurance, or its equivalent, shall be adequate to protect the Secretary and the public housing agency against loss, theft, embezzlement, or fraudulent acts on the part of the resident management corporation or its employees.

(4) Management responsibilities

A resident management corporation that qualifies under this section, and that supplies insurance and bonding or equivalent protection sufficient to the Secretary and the public housing agency, shall enter into a contract with the public housing agency establishing the respective management rights and responsibilities of the corporation and the public housing agency. Such contract shall be consistent with the requirements of this chapter applicable to public housing projects and may include specific terms governing management personnel and compensation, access to public housing project records, submission of and adherence to budgets, rent collection procedures, tenant income verification, tenant eligibility determinations, tenant eviction, the acquisition of supplies and materials, tenant determination, community service requirements, and such other matters as may be appropriate. The contract shall be treated as a contracting out of services and shall be subject to any provision of a collective bargaining agreement regarding contracting out to which the public housing agency is subject.

(5) Annual audit

The books and records of a resident management corporation operating a public housing project shall be audited annually by a certified public accountant. A written report of each audit shall be forwarded to the public housing agency and the Secretary.

(c) Assistance amounts

A contract under this section for management of a public housing project by a resident management corporation shall provide for—

(1) the public housing agency to provide a portion of the assistance to agency from the Capital and Operating Funds to the resident management corporation in accordance with subsection (e) for purposes of operating the public housing project covered by the contract and performing such other eligible activities with respect to the project as may be provided under the contract;

(2) the amount of income expected to be derived from the project itself (from sources such as rents and charges);

(3) the amount of income to be provided to the project from the other sources of income of the public housing agency (such as interest income, administrative fees, and rents); and

(4) any income generated by a resident management corporation of a public housing project that exceeds the income estimated under the contract shall be used for eligible activities under subsections (d)(1) and (e)(1) of section 1437g of this title.

(d) Waiver of Federal requirements

(1) Waiver of regulatory requirements

Upon the request of any resident management corporation and public housing agency, and after notice and an opportunity to comment is afforded to the affected tenants, the Secretary may waive (for both the resident management corporation and the public housing agency) any requirement established by the Secretary (and not specified in any statute) that the Secretary determines to unnecessarily increase the costs or restrict the income of a public housing project.

(2) Waiver to permit employment

Upon the request of any resident management corporation, the Secretary may, subject to applicable collective bargaining agreements, permit residents of such project to volunteer a portion of their labor.

(3) Exceptions

The Secretary may not waive under this subsection any requirement with respect to income eligibility for purposes of section 1437n of this title, rental payments under section 1437a(a) of this title, tenant or applicant protections, employee organizing rights, or rights of employees under collective bargaining agreements.

(e) Direct provision of operating and capital assistance

(1) In general

The Secretary shall directly provide assistance from the Operating and Capital Funds to a resident management corporation managing a public housing development pursuant to a contract under this section, but only if—

(A) the resident management corporation petitions the Secretary for the release of the funds;

(B) the contract provides for the resident management corporation to assume the primary management responsibilities of the public housing agency; and

(C) the Secretary determines that the corporation has the capability to effectively discharge such responsibilities.

(2) Use of assistance

Any assistance from the Operating and Capital Funds provided to a resident management corporation pursuant to this subsection shall
be used for purposes of operating the public housing developments of the agency and performing such other eligible activities with respect to public housing as may be provided under the contract.

(3) Responsibility of public housing agency

If the Secretary provides direct funding to a resident management corporation under this subsection, the public housing agency shall not be responsible for the actions of the resident management corporation.

(4) Calculation of Operating Fund allocation

Notwithstanding any provision of section 1437g of this title or any regulation under such section, and subject to the exception provided in paragraph (3), the portion of the amount received by a public housing agency under section 1437g of this title that is due to an allocation from the Operating Fund and that is allocated to a public housing project managed by a resident management corporation shall not be less than the public housing agency per unit monthly amount provided in the previous year as determined on an individual project basis.

(5) Calculation of total income

(A) Subject to subparagraph (B), the amount of funds provided by a public housing agency to a public housing project managed by a resident management corporation may not be reduced during the 3-year period beginning on February 5, 1988, or on any later date on which a resident management corporation is first established for the project.

(B) If the total income of a public housing agency (including any amounts from the Capital or Operating Funds provided to the public housing agency under section 1437g of this title) is reduced or increased, the income provided by the public housing agency to a public housing project managed by a resident management corporation shall be reduced or increased in proportion to the reduction or increase in the total income of the public housing agency, except that any reduction in amounts from the Operating Fund that occurs as a result of fraud, waste, or mismanagement by the public housing agency shall not affect the funds provided to the resident management corporation.

(6) Retention of excess revenues

(A) Any income generated by a resident management corporation of a public housing project that exceeds the income estimated for purposes of this subsection shall be excluded in subsequent years in calculating (i) the allocations from the Operating Fund for the public housing agency under section 1437g of this title; and (ii) the funds provided by the public housing agency to the resident management corporation.

(B) Any revenues retained by a resident management corporation under subparagraph (A) shall be used for purposes of improving the maintenance and operation of the public housing project, for establishing business enterprises that employ residents of public housing, or for acquiring additional dwelling units for low-income families.


(h) Applicability

Any management contract between a public housing agency and a resident management corporation that is entered into after November 7, 1988, shall be subject to this section and the regulations issued to carry out this section.


PRIOR PROVISIONS


AMENDMENTS


Subsec. (c). Pub. L. 105–276, § 532(a)(2), added subsec. (c) and struck out heading and text of former subsec. (c). Text read as follows: "Public housing projects managed by resident management corporations may be provided with comprehensive improvement assistance under section 1437g of this title for purposes of renovating such projects in accordance with such section. If such renovation activities (including the planning and architectural design of the rehabilitation) are administered by a resident management corporation, the public housing agency involved may not retain, for any administrative or other reason, any portion of the assistance provided pursuant to this subsection unless otherwise provided by contract."

Subsec. (d)(3), (4). Pub. L. 105–276, § 532(a)(3), redesignated par. (4) as (3) and struck out heading and text of former par. (3). Text read as follows: "Not later than 6 months after February 5, 1988, the Secretary shall submit to the Congress a report setting forth any additional waivers of Federal law that the Secretary determines are necessary or appropriate to carry out the provisions of this section. In preparing the report, the Secretary shall consult with resident management corporations and public housing agencies."

Subsec. (e)(1) to (3). Pub. L. 105–276, § 532(a)(4)(B), added subsec. heading and pars. (1) to (3) and struck out former subsec. heading and former pars. (1) to (3), which in par. (1), specified amount of operating subsidy to be allocated to a public housing project managed by a resident management corporation; in par. (2), set forth requirements for any contract for management of a project entered into by a public housing agency and a resident management corporation; and in par. (3), prohibited reduction of funds provided by an agency to a project during 3-year period beginning on date on which resident management corporation is first established for the project, and provided for proportional reduction or increase if total income of agency is reduced or increased.


Subsec. (h)(A). Pub. L. 105–276, § 532(a)(4)(C), substituted "the allocations from the Operating Fund for" for "the operating subsidies provided for".
Subsec. (t). Pub. L. 105-276, §532(a)(5), struck out heading and text of subsec. (f) which required Secretary to provide financial assistance to resident management corporations or resident councils that obtain technical assistance for the development of resident management entities, limited assistance to $100,000 with respect to any public housing project, authorized appropriations for fiscal years 1993 and 1994, and limited assistance to corporations or councils where assistance was provided under subchapter II–A of this chapter.

Subsec. (g). Pub. L. 105-276, §532(a)(5), struck out heading and text of subsec. (g). Text read as follows: ‘‘Not later than 3 years after February 5, 1988, the Secretary shall—

(1) conduct an evaluation and assessment of resident management, and particularly of the effect of resident management on living conditions in public housing; and

(2) submit to the Congress a report setting forth the findings of the Secretary as a result of the evaluation and assessment and including any recommendations the Secretary determines to be appropriate.’’

1992—Subsec. (t)(3). Pub. L. 102-550 amended par. (3) generally. Prior to amendment, par. (3) read as follows: ‘‘(3) FUNDING.—Of amounts made available for financial assistance under section 1437 of this title, the Secretary may use to carry out this subsection not more than $2,500,000 for each of fiscal years 1991 and 1992.’’


Subsec. (t)(3). Pub. L. 101-625, §514, amended par. (3) generally. Prior to amendment, par. (3) read as follows: ‘‘Of the amounts available for financial assistance under section 1437 of this title, the Secretary may use to carry out this subsection not more than $5,000,000 for each of fiscal years 1991 and 1992.’’

Amendment by title V of Pub. L. 105-276 effective and applicable beginning upon Oct. 1, 1999, except as otherwise provided, with provision that Secretary may implement amendment before such date, except to extent that such amendment provides otherwise, and with savings provision, see section 503 of Pub. L. 105-276, set out as a note under section 1437 of this title.

§1437s. Public housing homeownership and management opportunities

(a) Homeownership opportunities in general

Low-income families residing in a public housing project shall be provided with the opportunity to purchase the dwelling units in the project through a qualifying resident management corporation as follows:

(1) Formation of resident management corporation

As a condition for public housing homeownership—

(A) the adult residents of a public housing project shall have formed a resident management corporation in accordance with regulations and requirements of the Secretary prescribed under this section and section 1437r of this title;

(B) the resident management corporation shall have entered into a contract with the public housing agency establishing the respective management rights and responsibilities of the resident management corporation and the public housing agency; and

(C) the resident management corporation shall have demonstrated its ability to manage public housing effectively and efficiently for a period of not less than 3 years.

(2) Homeownership assistance

(A) The Secretary may provide assistance from the Capital Fund to a public housing project in which homeownership activities under this section are conducted.

(B) The Secretary may provide financial assistance to public housing agencies, resident management corporations, or resident councils that obtain, by contract or otherwise, training, technical assistance, and educational assistance as the Secretary determines to be necessary to promote homeownership opportunities under this section.

(C) This paragraph shall not have effect after February 4, 1991. The Secretary may not provide financial assistance under subparagraph (B), after such date, unless the Secretary determines that such assistance is necessary for the development of a homeownership program that was initiated, as determined by the Secretary, before November 28, 1990.

(3) Conditions of purchase by a resident management corporation

(A) A resident management corporation may purchase from a public housing agency one or more multifamily buildings in a public housing project following a determination by the Secretary that—

(i) the resident management corporation has met the conditions of paragraph (1);

(ii) the resident management corporation has applied for and is prepared to undertake the ownership, management, and maintenance of the building or buildings with continued assistance from the Secretary;

(iii) the public housing agency has held one or more public hearings to obtain the views of citizens regarding the proposed purchase and, in consultation with the Secretary, has certified that the purchase will not interfere with the rights of other families residing in public housing, will not harm the efficient operation of other public housing, and is in the interest of the community;

(iv) the public housing agency has certified that it has and will implement a plan to replace public housing units sold under this section within 30 months of the sale, which plan shall provide for replacement of 100 percent of the units sold under this section by—

(I) production, acquisition, or rehabilitation of vacant public housing units by the public housing agency; and

(II) acquisition by the resident management corporation of nonpublicly owned, decent, and affordable housing units, which the resident management corporation shall operate as rental housing subject to tenant income and rent limitations comparable to the limitations applicable to public housing; and

(v) the building or buildings meet the housing quality standards applicable under section 1437d(f) of this title, and the physical
condition, management, and operation of the building or buildings are sufficient to permit affordable homeownership by the families residing in the project.

(B) The price of a building purchased under the preceding sentence shall be approved by the Secretary, in consultation with the public housing agency and resident management corporation, taking into account the fair market value of the property, the ability of resident families to afford and maintain the property, and such other factors as the Secretary determines to be consistent with increasing the supply of dwelling units affordable to very low income families.

(C) This paragraph shall not have effect after February 4, 1991. The authority for a resident management corporation to purchase 1 or more multifamily buildings in a public housing project from a public housing agency shall terminate after such date, unless the Secretary determines that such purchase is necessary for the development of a homeownership program that was initiated, as determined by the Secretary, before November 28, 1990.

(4) Conditions of resale

(A)(i) A resident management corporation may sell a dwelling unit or ownership rights in a dwelling unit only to a lower income family residing in, or eligible to reside in, public housing and only if the Secretary determines that the purchase will not interfere with the rights of other families residing in the housing project or harm the efficient operation of the project, and the family will be able to purchase and maintain the property.

(ii) The sale of dwelling units or ownership rights in dwelling units under clause (i) shall be made to families in the following order of priority:

(I) a lower income family residing in the public housing project in which the dwelling unit is located;

(II) a lower income family residing in any public housing project within the jurisdiction of the public housing agency having jurisdiction with respect to the project in which the dwelling unit is located;

(III) a lower income family receiving Federal housing assistance and residing in the jurisdiction of such public housing agency; and

(IV) a lower income family on the waiting list of such public housing agency for public housing or assistance under section 1437f of this title, with priority given in the order in which the family appears on the waiting list.

(iii) Each resident management corporation shall provide each family described in clause (ii) with a notice of the eligibility of the family to purchase a dwelling unit under this paragraph.

(B) A purchase under subparagraph (A) may be made under any of the following arrangements:

(i) Limited dividend cooperative ownership.

(ii) Condominium ownership.

(iii) Fee simple ownership.

(iv) Shared appreciation with a public housing agency providing financing under paragraph (6).

(v) Any other arrangement determined by the Secretary to be appropriate.

(C) Property purchased under this section shall be resold only to the resident management corporation, a lower income family residing in or eligible to reside in public housing or housing assisted under section 1437f of this title, or to the public housing agency.

(D) In no case may the owner receive consideration for his or her interest in the property that exceeds the total of—

(i) the contribution to equity paid by the owner;

(ii) the value, as determined by such means as the Secretary shall determine through regulation, of any improvements installed at the expense of the owner during the owner’s tenure as owner; and

(iii) the appreciated value determined by an inflation allowance at a rate which may be based on a cost of living index, an income index, or market index as determined by the Secretary through regulation and agreed to by the purchaser and the resident management corporation or the public housing agency, whichever is appropriate, at the time of initial sale, and applied against the contribution to equity; the resident management corporation or the public housing agency may, at the time of initial sale, enter into an agreement with the owner to set a maximum amount which this appreciation may not exceed.

(E) Upon sale, the resident management corporation or the public housing agency, whichever is appropriate, shall ensure that subsequent owners are bound by the same limitations on resale and further restrictions on equity appreciation.

(5) Use of proceeds

Notwithstanding any other provision of this chapter or other law to the contrary, proceeds from the sale of a building or buildings under paragraph (3) and amounts recaptured under paragraph (4) shall be paid to the public housing agency and shall be retained and used by the public housing agency only to increase the number of public housing units available for occupancy. The resident management corporation shall keep and make available to the public housing agency and the Secretary all records necessary to calculate accurately payments due the local housing agency under this section. The Secretary shall not reduce or delay payments under other provisions of law as a result of amounts made available to the local housing agency under this section.

(6) Financing

When financing for the purchase of the property is not otherwise available for purposes of assisting any purchase by a family or resident management corporation under this section, the public housing agency involved may make a loan on the security of the property involved to the family or resident management cor-
poration at a rate of interest that shall not be lower than 70 percent of the market interest rate for conventional mortgages on the date on which the loan is made.

(7) Capital and operating assistance

Notwithstanding the purchase of a building in a public housing project under this section, the Secretary shall continue to provide assistance under section 1437g of this title with respect to the project. Such assistance may not exceed the allocation for the project under section 1437g of this title.

(8) Operating Fund allocation

Amounts from the Operating Fund shall not be available with respect to a building after the date of its sale by the public housing agency.

(b) Protection of nonpurchasing families

(1) Eviction prohibition

No family residing in a dwelling unit in a public housing project may be evicted by reason of the sale of the project to a resident management corporation under this section.

(2) Tenants rights

Families renting a dwelling unit purchased by a resident management corporation shall have all rights provided to tenants of public housing under this chapter.

(3) Rental assistance

If any family resides in a dwelling unit in a building purchased by a resident management corporation, and the family decides not to purchase the dwelling unit, the Secretary shall offer to provide to the family (at the option of the family) tenant-based assistance under section 1437f(o) of this title for as long as the family continues to reside in the building. The Secretary may adjust the payment standard for such assistance to take into account conditions under which the building was purchased.

(4) Rental and relocation assistance

If any family resides in a dwelling unit in a public housing project in which other dwelling units are purchased under this section, and the family decides not to purchase the dwelling unit, the Secretary shall offer (to be selected by the family, at its option)—

(A) to assist the family in relocating to a comparable appropriate sized dwelling unit in another public housing project, and to reimburse the family for their cost of relocation; and

(B) to provide to the family the financial assistance necessary to permit the family to stay in the dwelling unit or to move to another comparable dwelling unit and to pay no more for rent than required under subparagraph (A), (B), or (C) of section 1437a(a)(1) of this title.

c) Financial assistance for public housing agencies

The Secretary shall provide to public housing agencies such financial assistance as is necessary to permit such agencies to carry out the provisions of this section.

d) Additional homeownership and management opportunities

This section shall not apply to the turnkey III, the mutual help, or any other homeownership program established under section 1437g(c)(4)(D) of this title, as in effect before the effective date under section 500(a) of the Quality Housing and Work Responsibility Act of 1998, and in existence before February 5, 1988.

e) Regulations

The Secretary shall issue such regulations as may be necessary to carry out the provisions of this section. Such regulations may establish any additional terms and conditions for homeownership or resident management under this section that are determined by the Secretary to be appropriate.


g) Limitation

Any authority of the Secretary under this section to provide financial assistance, or to enter into contracts to provide financial assistance, shall be effective only to such extent or in such amounts as are or have been provided in advance in an appropriation Act.

References in Text

Section 503(a) of the Quality Housing and Work Responsibility Act of 1998, referred to in subsec. (d), is section 503(a) of Pub. L. 105–276, which is set out as an Effective Date of 1998 Amendment note under section 1437 of this title.
Subsec. (d). Pub. L. 105-276, §532(b)(3), inserted "as, in effect before the effective date under section 503(a) of the Quality Housing and Work Responsibility Act of 1998", after "section 1437(f)(4)(D) of this title".

Pub. L. 105-276, §518(a)(2)(A), struck out "subsection 1437(f)(4)(D) of this title or" after "program established under".

1995—Subsec. (f). Pub. L. 104-66 struck out heading and text of subsec. (f). Text read as follows: "The Secretary shall annually submit to the Congress a report setting forth:

"(1) the number, type, and cost of units sold;

"(2) the income, race, gender, children, and other characteristics of families purchasing or moving and not purchasing;

"(3) the amount and type of financial assistance provided;

"(4) the need for subsidy to ensure continued affordability and meet future maintenance and repair costs;

"(5) any need for the development of additional public housing dwelling units as a result of the sale of public housing dwelling units under this section;

"(6) recommendations of the Secretary for additional budget authority to carry out such development;

"(7) recommendations of the Secretary to ensure decent homes and decent neighborhoods for low-income families; and

"(8) the recommendations of the Secretary for statutory and regulatory improvements to the program.".

1992—Subsec. (a)(2)(C). Pub. L. 102-550 substituted "February 4, 1991" for "the effective date of the regulations implementing subchapter II–A of this chapter" and "after such date for "after such effective date" and made technical amendment to reference to November 28, 1990, to reflect correction of corresponding provisions of original act.

Amendment by title V of Pub. L. 105-276 effective and applicable beginning upon Oct. 1, 1999, except as otherwise provided, with provision that Secretary may implement amendment before such date, except to extent that such amendment provides otherwise, and with savings provision, see section 533 of Pub. L. 105-276, set out as a note under section 1437 of this title.

§1437t. Authority to convert public housing to vouchers

(a) Authority

A public housing agency may convert any public housing project (or portion thereof) owned by the public housing agency to tenant-based assistance, but only in accordance with the requirements of this section.

(b) Conversion assessment

(1) In general

To convert public housing under this section, a public housing agency shall conduct an assessment of the public housing that includes—

(A) a cost analysis that demonstrates whether or not the cost (both on a net present value basis and in terms of new budget authority requirements) of providing tenant-based assistance under section 1437f of this title for the same families in substantially similar dwellings over the same period of time is less expensive than continuing public housing assistance in the public housing project for the remaining useful life of the project;

(B) an analysis of the market value of the public housing project both before and after rehabilitation, and before and after conversion;

(C) an analysis of the rental market conditions with respect to the likely success of the use of tenant-based assistance under section 1437f of this title in that market for the specific residents of the public housing project, including an assessment of the availability of decent and safe dwellings renting at or below the payment standard established for tenant-based assistance under section 1437f of this title by the agency;

(D) the impact of the conversion to tenant-based assistance under this section on the neighborhood in which the public housing project is located; and

(E) a plan that identifies actions, if any, that the public housing agency would take with regard to converting any public housing project or projects (or portions thereof) of the public housing agency to tenant-based assistance.

(2) Timing

Not later than 2 years after the effective date under section 503(a) of the Quality Housing and Work Responsibility Act of 1998, each public housing agency shall conduct an assessment under this subsection at any time and for any public housing project (or portion thereof) owned by the agency. A public housing agency may update a previously conducted assessment for a
project (or portion thereof) for purposes of compliance with the one-year limitation under subsection (c).

(3) Streamlined assessment

At the discretion of the Secretary or at the request of a public housing agency, the Secretary may waive any or all of the requirements of paragraph (1) or (3) or otherwise require a streamlined assessment with respect to any public housing project or class of public housing projects.

(c) Criteria for implementation of conversion plan

A public housing agency may convert a public housing project (or portion thereof) owned by the agency to tenant-based assistance only pursuant to a conversion assessment under subsection (b) that one year² and that demonstrates that the conversion—

(1) will not be more expensive than continuing to operate the public housing project (or portion thereof) as public housing;

(2) will principally benefit the residents of the public housing project (or portion thereof) to be converted, the public housing agency, and the community; and

(3) will not adversely affect the availability of affordable housing in such community.

(d) Conversion plan requirement

A public housing project may be converted under this section to tenant-based assistance only as provided in a conversion plan under this subsection, which has not been disapproved by the Secretary pursuant to subsection (e). Each conversion plan shall—

(1) be developed by the public housing agency, in consultation with the appropriate public officials, with significant participation by the residents of the project (or portion thereof) to be converted;

(2) be consistent with and part of the public housing agency plan;

(3) describe the conversion and future use or disposition of the project (or portion thereof) and include an impact analysis on the affected community;

(4) provide that the public housing agency shall—

(A) notify each family residing in a public housing project (or portion) to be converted under the plan 90 days prior to the displacement date except in cases of imminent threat to health or safety, consistent with any guidelines issued by the Secretary governing such notifications, that—

(i) the public housing project (or portion) will be removed from the inventory of the public housing agency; and

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

(I) that meets housing quality standards;

(II) that is located in an area that is generally not less desirable than the location of the displaced person’s housing; and

(III) which may include—

(B) provide any necessary counseling for families displaced by such action;

(C) that, if the project (or portion) converted is used as housing after such conversion, each resident may choose to remain in their dwelling unit in the project and use the tenant-based assistance toward rent for that unit; and

(D) provide any actual and reasonable relocation expenses for families displaced by the conversion; and

(5) provide that any proceeds to the agency from the conversion will be subject to the limitations that are applicable under subsection 1437p(a)(5) of this title to proceeds resulting from the disposition or demolition of public housing.

(e) Review and approval of conversion plans

The Secretary shall disapprove a conversion plan only if—

(1) the plan is plainly inconsistent with the conversion assessment for the agency developed under subsection (b);

(2) there is reliable information and data available to the Secretary that contradicts that conversion assessment; or

(3) the plan otherwise fails to meet the requirements of this section.

(f) Tenant-based assistance

To the extent approved by the Secretary, the funds used by the public housing agency to provide tenant-based assistance under section 1437f of this title shall be added to the annual contribution contract administered by the public housing agency.


References in Text
Section 503(a) of the Quality Housing and Work Responsibility Act of 1998, referred to in subsec. (b)(2), is section 503(a) of Pub. L. 105–276, which is set out as an Effective Date of 1998 Amendment note under section 1437 of this title.

Amendments
1998—Pub. L. 105–276 amended section generally. Prior to amendment, section related to award of grants to public housing agencies to adapt public housing to help families gain better access to educational and job opportunities, use of funds for supportive services, development of facilities to accommodate them, and employment of service coordinators, applications, selection for grants, reports to Secretary and Congress, and appropriations for fiscal years 1993 and 1994.

²So in original.

**Effective Date of 1998 Amendment**

Amendment by title V of Pub. L. 105–276 effective and applicable beginning upon Oct. 1, 1999, except as otherwise provided, with provision that Secretary may implement amendment before such date, except to extent that such amendment provides otherwise, and with savings provision, see section 593 of Pub. L. 105–276, set out as a note under section 1437 of this title.

**Savings Provision**

Pub. L. 105–276, title V, §533(b), Oct. 21, 1998, 112 Stat. 2578, provided that: “The amendment made by subsection (a) [amending this section] shall not affect any contract or other agreement entered into under section 22 of the United States Housing Act of 1937 [42 U.S.C. 1437f], as such section existed immediately before the effective date under section 503(a) of the Quality Housing and Work Responsibility Act of 1998 [Pub. L. 105–276, set out as an Effective Date of 1998 Amendment note under section 1437 of this title].”

**Public Housing One-Stop Perinatal Services Demonstration**

Pub. L. 101–625, title V, §§334(b), Oct. 28, 1990, 104 Stat. 4205, as amended by Pub. L. 102–550, title I, §125, Oct. 28, 1992, 106 Stat. 3710, which directed Secretary of Housing and Urban Development to carry out program to demonstrate effectiveness of providing grants to public housing agencies to assist such agencies in providing facilities for making one-stop perinatal services programs available for pregnant women residing in public housing.

12701 et seq., to the Secretary, that the establishment and operation of the program is not feasible because of local circumstances, which may include—

(A) lack of supportive services accessible to eligible families, which shall include insufficient availability of resources for programs under title I of the Workforce Innovation and Opportunity Act [29 U.S.C. 3111 et seq.] or the Job Opportunities and Basic Skills Training Program under part F of title IV of the Social Security Act;

(B) lack of funding for reasonable administrative costs;

(C) lack of cooperation by other units of State or local government; or

(D) any other circumstances that the Secretary may consider appropriate.

In allocating assistance available for reservation under this chapter, the Secretary may not refuse to provide assistance or decrease the amount of assistance that would otherwise be provided to any public housing agency because the agency has provided a certification under this paragraph or because, pursuant to a certification, the agency has failed to carry out a self-sufficiency program.

**Scope**

Subject to paragraph (4), each public housing agency required to carry out a local program under this section shall make the following housing assistance available under the program in each fiscal year:

(A) Certificate and voucher assistance under section 1437f(b) and (d) of this title, in an amount equivalent to the increase for such year in the number of families assisted by the agency (as compared to the preceding year).

(B) Public housing dwelling units, in the number equal to the increase for such year in units made available by the agency (as compared to the preceding year).

1 See References in Text note below.
Each such public housing agency shall continue to operate a local program for the number of families determined under this paragraph subject only to the availability under appropriations Acts of sufficient amounts for assistance.

(4) Termination of requirement to expand program

(A) In general

Notwithstanding any other provision of law, a public housing agency that receives incremental assistance under subsection (b) or (c) of section 1437f of this title or that makes available new public housing dwelling units shall not be required, after October 21, 1998, to provide assistance under a local Family Self-Sufficiency program under this section to any families not required to be assisted under subparagraph (B) of this paragraph.

(B) Continuation of existing obligations

(i) In general

Each public housing agency that, before October 21, 1998, was required under this section to carry out a local Family Self-Sufficiency program shall continue to operate such local program for the number of families determined under paragraph (3), subject only to the availability under appropriations Acts of sufficient amounts for housing assistance.

(ii) Reduction

The number of families for which an agency is required under clause (i) to operate such local program shall be decreased by one for each family that, after October 21, 1998, fulfills its obligations under the contract of participation.

(5) Nonparticipation

Assistance under the certificate or voucher programs under section 1437f of this title for a family that elects not to participate in a local program shall not be delayed by reason of such election.

(c) Contract of participation

(1) In general

Each public housing agency carrying out a local program under this section shall enter into a contract with each leaseholder receiving assistance under the certificate and voucher programs of the public housing agency under section 1437f of this title or residing in public housing administered by the agency, that elects to participate in the self-sufficiency program under this section. The contract shall set forth the provisions of the local program, shall establish specific interim and final goals by which compliance with and performance of the contract may be measured, and shall specify the resources and supportive services to be made available to the participating family pursuant to paragraph (2) and the responsibilities of the participating family. The contract shall provide that the public housing agency may terminate or withhold assistance under section 1437f of this title and services under paragraph (2) of this subsection if the public housing agency determines, through an administrative grievance procedure in accordance with the requirements of section 1437d(k) of this title, that the family has failed to comply with the requirements of the contract without good cause (which may include a loss or reduction in access to supportive services, or a change in circumstances that makes the family or individual unsuitable for participation).

(2) Supportive services

A local program under this section shall provide appropriate supportive services under this paragraph to each participating family entering into a contract of participation under paragraph (1). The supportive services shall be provided during the period the family is receiving assistance under section 1437f of this title or residing in public housing, and may include—

(A) child care;
(B) transportation necessary to receive services;
(C) remedial education;
(D) education for completion of high school;
(E) job training and preparation;
(F) substance abuse treatment and counseling;
(G) training in homemaking and parenting skills;
(H) training in money management;
(I) training in household management; and
(J) any other services and resources appropriate to assist eligible families to achieve economic independence and self-sufficiency.

(3) Term and extension

Each family participating in a local program shall be required to fulfill its obligations under the contract of participation not later than 5 years after entering into the contract. The public housing agency shall extend the term of the contract for any family that requests an extension, upon a finding of the agency of good cause.

(4) Employment and counseling

The contract of participation shall require the head of the participating family to seek suitable employment during the term of the contract. The public housing agency may, during such period, provide counseling for the family with respect to affordable rental and homeownership opportunities in the private housing market and money management counseling.

(d) Incentives for participation

(1) Maximum rents

During the term of the contract of participation, the amount of rent paid by any participating family whose monthly adjusted income does not exceed 50 percent of the area median income for occupancy in the public housing unit or dwelling unit assisted under section 1437f of this title may not be increased on the basis of any increase in the earned income of the family, unless the increase results in an income exceeding 50 percent of the area median income. The Secretary shall provide for
increased rents for participating families whose incomes are between 50 and 80 percent of the area median income, so that any family whose income increases to 80 percent or more of the area median income pays 30 percent of the family's monthly adjusted income for rent. Upon completion of the contract of participation, if the participating family continues to qualify for and reside in a dwelling unit in public housing or housing assisted under section 1437f of this title, the rent charged the participating family shall be increased (if applicable) to 30 percent of the monthly adjusted income of the family.

(2) Escrow savings accounts
For each participating family whose monthly adjusted income is less than 50 percent of the area median income, the difference between 30 percent of the adjusted income of the participating family and the amount of rent paid by a participating family shall be placed in an interest-bearing escrow account established by the public housing agency on behalf of the participating family. For families with incomes between 50 and 80 percent of the area median income, the Secretary shall provide for escrow of the difference between 30 percent of the family income and the amount paid by the family for rent as determined by the Secretary under paragraph (1). The Secretary shall not escrow any amounts for any family whose adjusted income exceeds 80 percent of the area median income. Amounts in the escrow account may be withdrawn by the participating family after the family ceases to receive income assistance under Federal or State welfare programs, upon successful performance of the obligations of the family under the contract of participation entered into by the family under subsection (c), as determined according to the specific goals and terms included in the contract, and under other circumstances in which the Secretary determines an exception for good cause is warranted. A public housing agency establishing such escrow accounts may make certain adjustments for smaller and larger families.

(g) Action plan
(1) Required submission
The Secretary shall require each public housing agency participating in the self-sufficiency program under this section to submit to the Secretary, for approval by the Secretary, an action plan under this subsection in such form and in accordance with such procedures as the Secretary shall require.

(2) Development of plan
In developing the plan, the public housing agency shall consult with the chief executive officer of the applicable unit of general local government, the program coordinating committee established under subsection (f), representatives of residents of the public housing, any local agencies responsible for programs under title I of the Workforce Innovation and Opportunity Act [29 U.S.C. 3111 et seq.] or the Job Opportunities and Basic Skills Training Program under part F of title IV of the Social Security Act, and other organizations, such as other State and local welfare and employment agencies, public and private education or training institutions, nonprofit service providers, and private businesses. The public housing agency may, in consultation with the chief executive officer of the unit of general local government, utilize an existing entity as the program coordinating committee if it meets the requirements of this subsection.

(f) Program coordinating committee
(1) Functions
Each public housing agency carrying out a local program under this section shall, in consultation with the chief executive officer of the unit of general local government, develop an action plan under subsection (g), carry out activities under the local program, and secure commitments of public and private resources through a program coordinating committee established by the public housing agency under this subsection.

(2) Membership
The program coordinating committee may consist of representatives of the public housing agency, the unit of general local government, the local agencies (if any) responsible for carrying out programs under title I of the Workforce Innovation and Opportunity Act [29 U.S.C. 3111 et seq.] or the Job Opportunities and Basic Skills Training Program under part F of title IV of the Social Security Act, and other organizations, such as other State and local welfare and employment agencies, public and private education or training institutions, nonprofit service providers, and private businesses. The public housing agency may, in consultation with the chief executive officer of the unit of general local government, utilize an existing entity as the program coordinating committee if it meets the requirements of this subsection.
(3) Contents of plan

The Secretary shall require that the action plan contain at a minimum—

(A) a description of the size, characteristics, and needs of the population of the families expected to participate in the local self-sufficiency program;
(B) a description of the number of eligible participating families who can reasonably be expected to receive supportive services under the program, based on available and anticipated Federal, State, local, and private resources;
(C) a description of the services and activities under subsection (c)(2) to be provided to families receiving assistance under this section through the section 8 [42 U.S.C. 1437f] and public housing programs, which shall be provided by both public and private resources;
(D) a description of the incentives pursuant to subsection (d) offered by the public housing agency to families to encourage participation in the program;
(E) a description of how the local program will deliver services and activities according to the needs of the families participating in the program;
(F) a description of both the public and private resources that are expected to be made available to provide the activities and services under the local program;
(G) a timetable for implementation of the local program;
(H) assurances satisfactory to the Secretary that development of the services and activities under the local program has been coordinated with the Job Opportunities and Basic Skills Training Program under part F \(^1\) of title IV of the Social Security Act and programs under title I of the Workforce Innovation and Opportunity Act [29 U.S.C. 3111 et seq.] and any other relevant employment, child care, transportation, training, and education programs in the applicable area, and that implementation will continue to be coordinated, in order to avoid duplication of services and activities; and
(I) assurances satisfactory to the Secretary that nonparticipating families will retain their rights to public housing or section 8 [42 U.S.C. 1437f] assistance notwithstanding the provisions of this section.

(h) Allowable public housing agency administrative fees and costs

(1) Fees under section 1437f

The Secretary shall establish a fee under section 1437f(q) of this title for the costs incurred in administering the provision of certificate and voucher assistance under section 1437f of this title through the self-sufficiency program under this section. The fee shall be the fee in effect under such section on June 1, 1990, except that for purposes of the fee under this paragraph the applicable dollar amount for preliminary expenses under section 1437f(q)(2)(A)(i) \(^1\) of this title shall, subject to approval in appropriations Acts, be $300. Upon the submission by the Comptroller General of the United States of the report required under section 554(b) of the Cranston-Gonzalez National Affordable Housing Act, the Secretary shall revise the fee under this paragraph, taking into consideration the report of the Comptroller General.

(2) Performance funding system

Notwithstanding any provision of section 1437f of this title, the Secretary shall provide for inclusion under the performance funding system under section 1437g of this title of reasonable and eligible administrative costs (including the costs of employing a full-time service coordinator) incurred by public housing agencies carrying out local programs under this section. The Secretary shall include an estimate of the administrative costs likely to be incurred by participating public housing agencies in the annual budget request for the Department of Housing and Urban Development for public housing operating assistance under section 1437g of this title and shall include a request for such amounts in the budget request. Of any amounts appropriated under section 1437g(c) of this title for fiscal year 1993, $25,000,000 is authorized to be used for costs under this paragraph, and of any amounts appropriated under such section for fiscal year 1994, $25,000,000 is authorized to be used for costs under this paragraph.

(i) Public housing agency incentive award allocation

(1) In general

The Secretary shall carry out a competition for budget authority for certificate and voucher assistance under section 1437f of this title and public housing development assistance under section 1437c(a)(2) of this title reserved under paragraph (4) and shall allocate such budget authority to public housing agencies pursuant to the competition.

(2) Criteria

The competition shall be based on successful and outstanding implementation by public housing agencies of a local self-sufficiency program under this section. The Secretary shall establish performance \(^2\) criteria for public housing agencies carrying out such local programs and the Secretary shall cause such criteria to be published in the Federal Register.

(3) Use

Each public housing agency that receives an allocation of budget authority under this subsection shall use such authority to provide assistance under the local self-sufficiency program established by the public housing agency under this section.

(4) Reservation of budget authority

Notwithstanding section 1439(d) of this title, the Secretary shall reserve for allocation under this subsection not less than 10 percent of the portion of budget authority appropriated in each of fiscal years 1991 and 1992 for section 1437f of this title that is available for purposes of providing assistance under the existing housing certificate and housing voucher

\(^{1}\)So in original. Probably should be “performance”.

\(^{2}\)So in original. Probably should be “performance”.\)
programs for families not currently receiving assistance, and not less than 10 percent of the public housing development assistance available in such fiscal years for the purpose under section 1437c(a)(2) of this title (excluding amounts for major reconstruction of obsolete projects).

(j) On-site facilities
Each public housing agency carrying out a local program may, subject to the approval of the Secretary, make available and utilize common areas or unoccupied public housing units in public housing projects administered by the agency for the provision of supportive services under the local program. The use of the facilities of a public housing agency under this subsection shall not affect the amount of assistance provided to the agency under section 1437g of this title.

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

(l) Reports
(1) To Secretary
Each public housing agency that carries out a local self-sufficiency program approved by the Secretary under this section shall submit to the Secretary, not less than annually a report regarding the program. The report shall include—
(A) a description of the activities carried out under the program;
(B) a description of the effectiveness of the program in assisting families to achieve economic independence and self-sufficiency;
(C) a description of the effectiveness of the program in coordinating resources of communities to assist families to achieve economic independence and self-sufficiency; and
(D) any recommendations of the public housing agency or the appropriate local program coordinating committee for legislative or administrative action that would improve the self-sufficiency program carried out by the Secretary and ensure the effectiveness of the program.

(2) HUD annual report
The Secretary shall submit to the Congress annually, as a part of the report of the Secretary under section 3536 of this title, a report summarizing the information submitted by public housing agencies under paragraph (1). The report under this paragraph shall also include any recommendations of the Secretary for improving the effectiveness of the self-sufficiency program under this section.

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

(n) Definitions
As used in this section:
(1) The term “contract of participation” means a contract under subsection (c) entered into by a public housing agency carrying out a local program under this section and a participating family.
(2) The term “earned income” means income from wages, tips, salaries, and other employee compensation, and any earnings from self-employment. The term does not include any pension or annuity, transfer payments, or any cash or in-kind benefits.
(3) The term “eligible family” means a family whose head of household is not elderly, disabled, pregnant, a primary caregiver for children under the age of 3, or for whom the family self-sufficiency program would otherwise be unsuitable. Notwithstanding the preceding sentence, a public housing agency may enroll such families if they choose to participate in the program.
(4) The term “local program” means a program for providing supportive services to participating families carried out by a public housing agency within the jurisdiction of the public housing agency.
(5) The term “participating family” means a family that resides in public housing or housing assisted under section 1437f of this title and elects to participate in a local self-sufficiency program under this section.
(6) The term “vacant unit” means a dwelling unit that has been vacant for not less than 9 consecutive months.

(o) Effective date and regulations
(1) Regulations
Not later than the expiration of the 180-day period beginning on November 28, 1990, the Secretary shall by notice establish any requirements necessary to carry out this section. Such requirements shall be subject to section 553 of title 5. The Secretary shall issue final regulations based on the notice not later than the expiration of the 8-month period beginning on the date of the notice. Such regulations shall become effective upon the expiration of the 1-year period beginning on the date of the publication of the final regulations.


References in Text
The Cranston-Gonzalez National Affordable Housing Act, referred to in subsec. (b)(2), is Pub. L. 101–625, Nov. 28, 1990, 104 Stat. 4079. Title I of the Act is classified generally to subchapter I (§12701 et seq.) of chapter 130...
of this title. Section 554(b) of the Act is set out below. For complete classification of this Act to the Code, see Short Title note set out under section 12701 of this title and Tables.


Section 1437f(d)(A) of this title, referred to in subsec. (h)(1), was amended generally by Pub. L. 105–276, title V, § 531, 112 Stat. 2605, and, as so amended, does not contain a cl. (i).

Section 1437g(c) of this title, referred to in subsec. (h)(2), was amended generally by Pub. L. 105–276, title V, § 531(a), Oct. 1, 1998, 112 Stat. 2551, and, as so amended, does not relate to appropriations for fiscal years 1993 and 1994.

AMENDMENTS

2014—Subsec. (b)(2)(A). Pub. L. 113–128, § 512(i)(1), substituted “lack of supportive services accessible to eligible families, which shall include insufficient availability of resources for programs under title I of the Workforce Innovation and Opportunity Act” for “lack of supportive services accessible to eligible families, which shall include insufficient availability of resources for programs under title I of the Workforce Investment Act of 1998”.

Subsec. (f)(2). Pub. L. 113–128, § 512(i)(2), substituted “the local agencies (if any) responsible for carrying out programs under title I of the Workforce Innovation and Opportunity Act or the Job Opportunities and Basic Skills Training Program under part F of title IV of the Social Security Act,” for “the local agencies (if any) responsible for carrying out programs under title I of the Workforce Investment Act of 1998 and the Job Opportunities and Basic Skills Training Program under part F of title IV of the Social Security Act,”.

Subsec. (g)(2). Pub. L. 113–128, § 512(i)(3)(A), substituted “any local agencies responsible for programs under title I of the Workforce Innovation and Opportunity Act or the Job Opportunities and Basic Skills Training Program under part F of title IV of the Social Security Act” for “any local agencies responsible for programs under title I of the Workforce Innovation Act of 1998 or the Job Opportunities and Basic Skills Training Program under part F of title IV of the Social Security Act”.


Subsec. (b)(4). Pub. L. 105–276, § 509(a)(1)(C), (D), added par. (4) and redesignated former par. (4) as (5).

Subsec. (d)(3). Pub. L. 105–276, § 509(b)(2), struck out heading and text of par. (3) relating to use of escrow savings accounts. Text read as follows: “Notwithstanding paragraph (3), a family that uses assistance under the Act to purchase a dwelling and use up to 50 percent of the amount in its escrow account established under paragraph (3) for a downpayment on the dwelling. In addition, after the family purchases the dwelling, the family may use any amounts remaining in the escrow account to cover the costs of major repair and replacement needs of the dwelling. If a family defaults in connection with the loan to purchase a dwelling and the mortgage is foreclosed, the remaining amounts in the escrow account shall be recaptured by the Secretary.”


Pub. L. 105–277, § 101(f) [title VIII, § 405(d)(31)(C)(ii)], substituted “programs under the Job Training Partnership Act or” after “programs under”.

Pub. L. 105–277, § 101(f) [title VIII, § 405(d)(31)(C)(iii)], substituted “programs under the Job Training Partnership Act or” after “programs under”.

Pub. L. 105–277, § 101(f) [title VIII, § 405(d)(31)(C)(iv)], substituted “programs under the Job Training Partnership Act or” after “programs under”.

1996—Subsec. (m). Pub. L. 104–316 substituted “may” for “shall” after “United States” struck out “(1) IN GENERAL.—” before “The Comptroller General”, and struck out par. (2) which read as follows: “(2) TIMING.—The Comptroller General shall submit the following reports under this subsection:

“(A) An interim report, not later than the expiration of the 2-year period beginning on November 28, 1990.

“(B) A final report, not later than the expiration of the 5-year period beginning on November 28, 1990.”

Subsec. (o)(2). Pub. L. 104–330 struck out heading and text of par. (2). Text read as follows: “Notwithstanding any other provision of law, the provisions of this section shall be optional for Indian housing authorities.”

1992—Subsec. (b)(2). Pub. L. 102–550, § 106(b), added subpars. (A) to (D) and concluding provisions and struck out former subpars. (A) to (D) which read as follows:

“(A) lack of supportive services funding;

“(B) lack of funding for reasonable administrative costs;

“(C) lack of cooperation by other units of State or local government; or

“(D) any other circumstances that the Secretary may consider appropriate.”


Subsec. (c)(1). Pub. L. 102–550, § 106(d), in second sentence, inserted “,”.”
and substituted last sentence for former last sentence which read as follows: “The contract shall provide that the public housing agency may terminate or withhold assistance under this section if the family fails to comply with the requirements under the contract.”

Subsec. (c)(2). Pub. L. 102–550, §106(e), struck out “to each participating family” after “paragraph (1)” in introductory provisions.


Subsec. (d)(2). Pub. L. 102–550, §106(f), substituted “after the family ceases to receive income assistance under Federal or State welfare programs, upon successful performance of the obligations of the family under the contract of participation entered into by the family under subsection (c), as determined according to the specific goals and terms included in the contract, and under other circumstances in which the Secretary determines an exception for good cause is warranted. A public housing agency establishing such escrow accounts may make certain amounts in the accounts available to the participating families before full performance of the contract obligations based on compliance with, and completion of, specific interim goals included in the contract; except that any such amounts shall be used by the participating families for purposes consistent with the contracts of participation, as determined by the public housing agency.” for “only after the family is no longer a recipient of any Federal, State, or other public assistance for housing.”


Pub. L. 102–550, §106(g)(2), added par. (3) relating to a plan to offer incentives.

Subsec. (g)(3)(D) to (1). Pub. L. 102–550, §106(h), added subpars. (D) and (1) and redesignated former subpars. (D) to (4) as (E) to (H), respectively.

Subsec. (h)(2). Pub. L. 102–550, §106(a), amended last sentence generally. Prior to amendment, last sentence read as follows: “Of any amounts appropriated under section 1437g(c) of this title for each of fiscal years 1991 and 1992, $25,000,000 is authorized to be used for costs under this paragraph.”

Subsec. (i)(2). Pub. L. 102–550, §106(i), amended par. (2) generally. Prior to amendment, par. (2) read as follows: “(2) APPLICABILITY TO INDIAN PUBLIC HOUSING.—In accordance with section 1437aa(b)(2) of this title, the provisions of this section shall also apply to public housing developed or operated pursuant to a contract between the Secretary and an Indian housing authority.”

Effective Date of 2014 Amendment

Amendment by Pub. L. 113–128 effective on the first day of the first full program year after July 22, 2014 (July 1, 2015), see section 506 of Pub. L. 113–128, set out as an Effective Date note under section 4101 of Title 25, Labor.

Effective Date of 1996 Amendments


Effective Date of 1996 Amendment


GAO Study on Linking Federal Housing Assistance to Economic Self-Sufficiency Programs

Pub. L. 101–629, title V, §554(b), Nov. 28, 1990, 104 Stat. 3231, directed Comptroller General to submit to Congress, not later than 18 months after Nov. 28, 1990, a report (1) evaluating the policy and administrative implications of requiring State and local governments to require participation in an economic self-sufficiency program as a condition of the receipt of rental assistance under 42 U.S.C. 1437f and public housing assistance, (2) determining the additional costs to public housing agencies under such programs and recommending a change in the amount of the administrative fee under 42 U.S.C. 1437f(q) to cover the additional costs of carrying out the Family Self-Sufficiency Program under this section, and (3) examining how housing and social service policies affect beneficiaries, particularly persons receiving public assistance, when such beneficiaries gain employment and experience a rise in income.

§1437v. Demolition, site revitalization, replacement housing, and tenant-based assistance grants for projects

(a) Purposes

The purpose of this section is to provide assistance to public housing agencies for the purposes of—

(1) improving the living environment for public housing residents of severely distressed public housing projects through the demolition, rehabilitation, reconfiguration, or replacement of obsolete public housing projects (or portions thereof);

(2) revitalizing sites (including remaining public housing dwelling units) on which such public housing projects are located and contributing to the improvement of the surrounding neighborhood;

(3) providing housing that will avoid or decrease the concentration of very low-income families; and

(4) building sustainable communities.

It is also the purpose of this section to provide assistance to smaller communities for the purpose of facilitating the development of affordable housing for low-income families that is undertaken in connection with a main street revitalization or redevelopment project in such communities.

(b) Grant authority

The Secretary may make grants as provided in this section to applicants whose applications for such grants are approved by the Secretary under this section.

(c) Contribution requirement

(1) In general

The Secretary may not make any grant under this section to any applicant unless the applicant certifies to the Secretary that the applicant will—

(A) supplement the aggregate amount of assistance provided under this section with an amount of funds from sources other than this section equal to not less than 5 percent of the amount provided under this section; and

(B) in addition to supplemental amounts provided in accordance with subparagraph
(A), if the applicant uses more than 5 percent of the amount of assistance provided under this section for services under subsection (d)(1)(L), provide supplemental funds from sources other than this section in an amount equal to the amount so used in excess of 5 percent.

(2) Supplemental funds

In calculating the amount of supplemental funds provided by a grantee for purposes of paragraph (1), the grantee may include amounts from other Federal sources, any State or local government sources, any private contributions, the value of any donated material or building, the value of any lease on a building, the value of the time and services contributed by volunteers, and the value of any other in-kind services or administrative costs provided.

(3) Exemption

If assistance provided under this subchapter will be used only for providing tenant-based assistance under section 1437f of this title or demolition of public housing (without replacement), the Secretary may exempt the applicant from the requirements under paragraph (1)(A).

(d) Eligible activities

(1) In general

Grants under this section may be used for activities to carry out revitalization programs for severely distressed public housing, including—

(A) architectural and engineering work;
(B) redesign, rehabilitation, or reconfiguration of a severely distressed public housing project, including the site on which the project is located;
(C) the demolition, sale, or lease of the site, in whole or in part;
(D) covering the administrative costs of the applicant, which may not exceed such portion of the assistance provided under this section as the Secretary may prescribe;
(E) payment of reasonable legal fees;
(F) providing reasonable moving expenses for residents displaced as a result of the revitalization of the project;
(G) economic development activities that promote the economic self-sufficiency of residents under the revitalization program, including a Neighborhood Networks initiative for the establishment and operation of computer centers in public housing for the purpose of enhancing the self-sufficiency, employability, and economic self-reliance of public housing residents by providing them with onsite computer access and training resources;
(H) necessary management improvements;
(I) leveraging other resources, including additional housing resources, retail support and job and economic development uses on or near the project that will benefit future residents of the site;
(J) replacement housing (including appropriate homeownership downpayment assistance for displaced residents or other appropriate replacement homeownership activities) and rental assistance under section 1437f of this title;
(K) transitional security activities; and
(L) necessary supportive services, except that not more than 15 percent of the amount of any grant may be used for activities under this paragraph.

(2) Endowment trust for supportive services

In using grant amounts under this section made available in fiscal year 2000 or thereafter for supportive services under paragraph (1)(L), a public housing agency may deposit such amounts in an endowment trust to provide supportive services over such period of time as the agency determines. Such amounts shall be provided to the agency by the Secretary in a lump sum when requested by the agency, shall be invested in a wise and prudent manner, and shall be used (together with any interest thereon earned) only for eligible uses pursuant to paragraph (1)(L). A public housing agency may use amounts in an endowment trust under this paragraph in conjunction with other amounts donated or otherwise made available to the trust for similar purposes.

(e) Application and selection

(1) Application

An application for a grant under this section shall demonstrate the appropriateness of the proposal in the context of the local housing market relative to other alternatives, and shall include such other information and be submitted at such time and in accordance with such procedures, as the Secretary shall prescribe.

(2) Selection criteria

The Secretary shall establish criteria for the award of grants under this section and shall include among the factors—

(A) the relationship of the grant to the public housing agency plan for the applicant and how the grant will result in a revitalized site that will enhance the neighborhood in which the project is located and enhance economic opportunities for residents;
(B) the capability and record of the applicant public housing agency, or any alternative management entity for the agency, for managing redevelopment or modernization projects, meeting construction timetables, and obligating amounts in a timely manner;
(C) the extent to which the applicant could undertake such activities without a grant under this section;
(D) the extent of involvement of residents, State and local governments, private service providers, financing entities, and developers, in the development and ongoing implementation of a revitalization program for the project, except that the Secretary may not award a grant under this section unless the applicant has involved affected public housing residents at the beginning and during the planning process for the revitalization program, prior to submission of an application.
§ 1437v

SECRETARY—

(f) Cost limits

(g) Disposition and replacement

(h) Administration by other entities

(i) Withdrawal of funding

If a grantee under this section does not proceed within a reasonable timeframe, in the determination of the Secretary, the Secretary shall withdraw any grant amounts under this section that have not been obligated by the public housing agency. The Secretary shall redistribute any withdrawn amounts to one or more other applicants eligible for assistance under this section or to one or more other entities capable of proceeding expeditiously in the same locality in carrying out the revitalization plan of the original grantee.

(j) Definitions

For purposes of this section, the following definitions shall apply:

(1) Applicant

The term “applicant” means—

(A) any public housing agency that is not designated as troubled pursuant to section 1437d(j)(2) of this title;

(B) any public housing agency for which a private housing management agent has been selected, or a receiver has been appointed, pursuant to section 1437d(j)(3) of this title; and

(C) any public housing agency that is designated as troubled pursuant to section 1437d(j)(2) of this title and that—

(i) is so designated principally for reasons that will not affect the capacity of the agency to carry out a revitalization program;

(ii) is making substantial progress toward eliminating the deficiencies of the agency; or

(iii) is otherwise determined by the Secretary to be capable of carrying out a revitalization program.

(2) Severely distressed public housing

The term “severely distressed public housing” means a public housing project (or building in a project)—

(A) that—

(i) requires major redesign, reconstruction or redevelopment, or partial or total demolition, to correct serious deficiencies in the original design (including inappropriately high population density), deferred maintenance, physical deterioration or obsolescence of major systems and other deficiencies in the physical plant of the project;

(ii) is a significant contributing factor to the physical decline of and disinvestment by public and private entities in the surrounding neighborhood;

(iii) is occupied predominantly by families who are very low-income families with children, are unemployed, and dependent on various forms of public assistance;

(II) has high rates of vandalism and criminal activity (including drug-related criminal activity) in comparison to other housing in the area; or

(III) is lacking in sufficient appropriate transportation, supportive services, economic opportunity, schools, civic and reli-
gious institutions, and public services, resulting in severe social distress in the project;

(iv) cannot be revitalized through assistance under other programs, such as the program for capital and operating assistance for public housing under this chapter, or the programs under sections 1437g and 1437l of this title (as in effect before the effective date under under 2 section 503(a)2 the Quality Housing and Work Responsibility Act of 1998), because of cost constraints and inadequacy of available amounts; and

(v) in the case of individual buildings, is, in the Secretary’s determination, sufficiently separable from the remainder of the project of which the building is part to make use of the building feasible for purposes of this section; or

(B) that was a project described in subparagraph (A) that has been legally vacated or demolished, but for which the Secretary has not yet provided replacement housing assistance (other than tenant-based assistance).

(3) Supportive services

The term “supportive services” includes all activities that will promote upward mobility, self-sufficiency, and improved quality of life for the residents of the public housing project involved, including literacy training, job training, day care, transportation, and economic development activities.

(k) Grantee reporting

The Secretary shall require grantees of assistance under this section to report the sources and uses of all amounts expended for revitalization plans.

(l) Annual report

The Secretary shall submit to the Congress an annual report setting forth—

(1) the number, type, and cost of public housing units revitalized pursuant to this section;
(2) the status of projects identified as severely distressed public housing;
(3) the amount and type of financial assistance provided under and in conjunction with this section, including a specification of the amount and type of assistance provided under subsection (n);
(4) the types of projects funded, and number of affordable housing dwelling units developed with, grants under subsection (n); and
(5) the recommendations of the Secretary for statutory and regulatory improvements to the program established by this section.

(m) Funding

(1) Authorization of appropriations

There are authorized to be appropriated for grants under this section $574,000,000 for fiscal year 2017.

(2) Technical assistance and program oversight

Of the amount appropriated pursuant to paragraph (1) for any fiscal year, the Secretary may use up to 2 percent for technical assistance or contract expertise, including assistance in connection with the establishment and operation of computer centers in public housing through the Neighborhoods2 Networks initiative described in subsection (d)(1)(G). Such assistance or contract expertise may be provided directly or indirectly by grants, contracts, or cooperative agreements, and shall include training, and the cost of necessary travel for participants in such training, by or to officials of the Department of Housing and Urban Development, of public housing agencies, and of residents.

(3) Set-aside for main street housing grants

Of the amount appropriated pursuant to paragraph (1) for any fiscal year, the Secretary shall provide up to 5 percent for use only for grants under subsection (n).

(n) Grants for assisting affordable housing developed through main street projects in smaller communities

(1) Authority and use of grant amounts

The Secretary may make grants under this subsection to smaller communities. Such grant amounts shall be used by smaller communities only to provide assistance to carry out eligible affordable housing activities under paragraph (4) in connection with an eligible project under paragraph (2).

(2) Eligible project

For purposes of this subsection, the term “eligible project” means a project that—

(A) the Secretary determines, under the criteria established pursuant to paragraph (3), is a main street project;
(B) is carried out within the jurisdiction of a smaller community receiving the grant; and
(C) involves the development of affordable housing that is located in the commercial area that is the subject of the project.

(3) Main street projects

The Secretary shall establish requirements for a project to be considered a main street project for purposes of this section, which shall require that the project—

(A) has as its purpose the revitalization or redevelopment of a historic or traditional commercial area;
(B) involves investment, or other participation, by the government for, and private entities in, the community in which the project is carried out; and
(C) complies with such historic preservation guidelines or principles as the Secretary shall identify to preserve significant historic or traditional architectural and design features in the structures or area involved in the project.

(4) Eligible affordable housing activities

For purposes of this subsection, the activities described in subsection (d)(1) shall be considered eligible affordable housing activities, except that—

2So in original. Probably should be “Neighborhood”.
(A) such activities shall be conducted with respect to affordable housing rather than with respect to severely distressed public housing projects; and

(B) eligible affordable housing activities under this subsection shall not include the activities described in subparagraphs (B) through (E), (J), or (K) of subsection (d)(1).

(5) Maximum grant amount

A grant under this subsection for a fiscal year for a single smaller community may not exceed $1,000,000.

(6) Contribution requirement

A smaller community applying for a grant under this subsection shall be considered an applicant for purposes of subsection (c) (relating to contributions by applicants), except that—

(A) such supplemental amounts shall be used only for carrying out eligible affordable housing activities; and

(B) paragraphs (1)(B) and (3) shall not apply to grants under this subsection.

(7) Applications and selection

(A) Application

Pursuant to subsection (e)(1), the Secretary shall provide for smaller communities to apply for grants under this subsection, except that the Secretary may establish such separate or additional criteria for applications for such grants as may be appropriate to carry out this subsection.

(B) Selection criteria

The Secretary shall establish selection criteria for the award of grants under this subsection, which shall be based on the selection criteria established pursuant to subsection (e)(2), with such changes as may be appropriate to carry out the purposes of this subsection.

(8) Cost limits

The cost limits established pursuant to subsection (f) shall apply to eligible affordable housing activities assisted with grant amounts under this subsection.

(9) Inapplicability of other provisions

The provisions of subsections (g) (relating to disposition and replacement of severely distressed public housing), and (h) (relating to administration of grants by other entities), shall not apply to grants under this subsection.

(10) Reporting

The Secretary shall require each smaller community receiving a grant under this subsection to submit a report regarding the use of all amounts provided under the grant.

(11) Definitions

For purposes of this subsection, the following definitions shall apply:

(A) Affordable housing

The term “affordable housing” means rental or homeownership dwelling units that—

(i) are made available for initial occupancy to low-income families, with a sub-

set of units made available to very- and extremely-low income families; and

(ii) are subject to the same rules regarding occupant contribution toward rent or purchase and terms of rental or purchase as dwelling units in public housing projects assisted with a grant under this section.

(B) Smaller community

The term “smaller community” means a unit of general local government (as such term is defined in section 5302 of this title) that—

(I) has a population of 50,000 or fewer; and

(II) is served by a public housing agency; or

(III) is served by a single public housing agency, which agency administers 100 or fewer public housing dwelling units.

(o) Sunset

No assistance may be provided under this section after September 30, 2017.

References in Text


AMENDMENTS


Pub. L. 111-8, §229(a), which directed the substitution of “2009” for “2003”, was executed by making the substitution for “2008”, to reflect the probable intent of Congress and the intervening amendment by Pub. L. 110-161, §224(1). See 2007 Amendment note below.


Pub. L. 111-8, §223(a), which directed the substitution of “September 30, 2008,” for “September 30, 2007”, was executed by making the substitution for “2006”, to reflect the probable intent of Congress and the amendment by Pub. L. 109-289, §21045(2), as added by Pub. L. 110-5. See above.

Pub. L. 109-289, §21045(1), as added by Pub. L. 110-5, substituted “Exception” for “Exceptions” in subsec. heading and struck out “(1) LONG-TERM VIABILITY,” before subsec. (h)(1), which read as follows:

“(2) SELECTION OF TENANTS.—For projects revitalized under this section, a public housing agency may select tenants pursuant to a local system of preferences, in lieu of selecting tenants pursuant to the preferences specified under section 1457d(c)(4)(A)(ii) of this title. Such local system shall be established in writing and shall respond to local housing needs and priorities as determined by the public housing agency. The public housing agency shall hold 1 or more public hearings to obtain the views of low-income tenants and other interested parties on the housing needs and priorities of the agency’s jurisdiction.” See Effective and Termination Dates of 1996 Amendments note below.

Subsec. (h)(3). Pub. L. 104–99 struck out “‘except that it does not include any Indian housing authority’” after “section 1437a(b) of this title”.

EFFECTIVE DATE OF 1996 AMENDMENT

Pub. L. 105–276, title V, §535(b), Oct. 21, 1998, 112 Stat. 2586, provided that: “The amendment made by this section [amending this section] is made on, and shall apply beginning upon, the date of the enactment of this Act (Oct. 21, 1998).”

EFFECTIVE AND TERMINATION DATES OF 1996 AMENDMENTS


TERMINATION OF REPORTING REQUIREMENTS

For termination, effective May 15, 2000, of provisions of law requiring submittal to Congress of any annual, semiannual, or other regular periodic report listed in House Document No. 103-7 (in which item 11 on page 104 identifies a reporting provision which, as subsequently amended, is contained in subsec. (i) of this section), see section 3003 of Pub. L. 104–66, as amended, set out as a note under section 1113 of Title 31, Money and Finance.

STUDY OF ELDERLY AND DISABLED PUBLIC HOUSING NEEDS

Pub. L. 108–186, title IV, §402(c), Dec. 16, 2003, 117 Stat. 2694, required the Comptroller General to submit a re-
port to Congress regarding the extent of severely distressed elderly and disabled public housing and recommendations for improving that housing not later than 18 months after Dec. 18, 2003.

§ 1437w. Transfer of management of certain housing to independent manager at request of residents

(a) Authority

The Secretary may transfer the responsibility and authority for management of specified housing (as such term is defined in subsection (h)) from a public housing agency to an eligible management entity, in accordance with the requirements of this section, if—

(1) a request for transfer of management of such housing is made and approved in accordance with subsection (b); and

(2) the Secretary determines that—

(A) due to the mismanagement of the agency, such housing has deferred maintenance, physical deterioration, or obsolescence of major systems and other deficiencies in the physical plant of the project;

(B) such housing is located in an area such that the housing is subject to recurrent vandalism and criminal activity (including drug-related criminal activity); and

(C) the residents can demonstrate that the elements of distress for such housing specified in subparagraphs (A) and (B) can be remedied by an entity or entities, identified by the residents, that has or have a demonstrated capacity to manage, with reasonable expenses for modernization.

(b) Request for transfer

The responsibility and authority for managing specified housing may be transferred only pursuant to a request made by a majority vote of the residents for the specified housing that—

(1) in the case of specified housing that is owned by a public housing agency that is designated as a troubled agency under section 1437d(j)(2) of this title—

(A) is made to the public housing agency or the Secretary; and

(B) is approved by the agency or the Secretary;

or

(2) in the case of specified housing that is owned by a public housing agency that is not designated as a troubled agency under section 1437d(j)(2) of this title—

(A) is made to and approved by the public housing agency; or

(B) if a request is made to the agency pursuant to subparagraph (A) and is not approved, is subsequently made to and approved by the Secretary.

(c) Capital and operating assistance

Pursuant to a contract under subsection (d), the Secretary shall require the public housing agency for specified housing to provide to the manager for the housing, from any assistance from the Capital and Operating Funds under section 1437g of this title for the agency, fair and reasonable amounts for the housing for eligible capital and operating activities under subsection (d)(1) and (e)(1) of section 1437g of this title. The amount made available under this subsection to a manager shall be determined by the Secretary based on the share for the specified housing of the aggregate amount of assistance from such Funds for the public housing agency transferring the housing, taking into consideration the operating and capital improvement needs of the specified housing, the operating and capital improvement needs of the remaining public housing units managed by the public housing agency, and the public housing agency plan of such agency.

(d) Contract between Secretary and manager

(1) Requirements

Pursuant to the approval of a request under this section for transfer of the management of specified housing, the Secretary shall enter into a contract with the eligible management entity.

(2) Terms

A contract under this subsection shall contain provisions establishing the rights and responsibilities of the manager with respect to the specified housing and the Secretary and shall be consistent with the requirements of this chapter applicable to public housing projects.

(e) Compliance with public housing agency plan

A manager of specified housing under this section shall comply with the approved public housing agency plan applicable to the housing and shall submit such information to the public housing agency from which management was transferred as may be necessary for such agency to prepare and update its public housing agency plan.

(f) Demolition and disposition by manager

A manager under this section may demolish or dispose of specified housing only if, and in the manner, provided for in the public housing agency plan for the agency transferring management of the housing.

(g) Limitation on PHA liability

A public housing agency that is not a manager for specified housing shall not be liable for any act or failure to act by a manager or resident council for the specified housing.

(h) Definitions

For purposes of this section, the following definitions shall apply:

(1) Eligible management entity

The term "eligible management entity" means, with respect to any public housing project, any of the following entities:

(A) Nonprofit organization

A public or private nonprofit organization, which may—

(i) include a resident management corporation; and

(ii) not include the public housing agency that owns or operates the project.

(B) For-profit entity

A for-profit entity that has demonstrated experience in providing low-income housing.
(C) State or local government
A State or local government, including an agency or instrumentality thereof.

(D) Public housing agency
A public housing agency (other than the public housing agency that owns or operates the project).

The term does not include a resident council.

(2) Manager
The term “manager” means any eligible management entity that has entered into a contract under this section with the Secretary for the management of specified housing.

(3) Nonprofit
The term “nonprofit” means, with respect to an organization, association, corporation, or other entity, that no part of the net earnings of the entity inures to the benefit of any member, founder, contributor, or individual.

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

(A) is incorporated under State or local law;

(B) is nonprofit in character;

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

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

(5) Public nonprofit organization
The term “public nonprofit organization” means any public entity that is nonprofit in character.

(6) Specified housing
The term “specified housing” means a public housing project or projects, or a portion of a project or projects, for which the transfer of management is requested under this section. The term includes one or more contiguous buildings and an area of contiguous row houses, but in the case of a single building, the building shall be sufficiently separable from the remainder of the project of which it is part to make transfer of the management of the building feasible for purposes of this section.


Prior Provisions

Effective Date
Section effective and applicable beginning upon Oct. 1, 1999, except as otherwise provided, with provision that Secretary may implement section before such date except to extent otherwise provided, see section 503 of Pub. L. 105–276, set out as an Effective Date of 1998 Amendment note under section 1437 of this title.

§ 1437x. Environmental reviews

(a) In general

(1) Release of funds
In order to assure that the policies of the National Environmental Policy Act of 1969 [42 U.S.C. 4321 et seq.] and other provisions of law which further the purposes of such Act (as specified in regulations issued by the Secretary) are most effectively implemented in connection with the expenditure of funds under this subchapter, and to assure to the public undiminished protection of the environment, the Secretary may, under such regulations, in lieu of the environmental protection procedures otherwise applicable, provide for the release of funds for projects or activities under this subchapter, as specified by the Secretary upon the request of a public housing agency under this section, if the State or unit of general local government, as designated by the Secretary in accordance with regulations, assumes all of the responsibilities for environmental review, decisionmaking, and action pursuant to such Act, and such other provisions of law as the regulations of the Secretary may specify, which would otherwise apply to the Secretary with respect to the release of funds.

(2) Implementation
The Secretary, after consultation with the Council on Environmental Quality, shall issue such regulations as may be necessary to carry out this section. Such regulations shall specify the programs to be covered.

(b) Procedure
The Secretary shall approve the release of funds subject to the procedures authorized by this section only if, not less than 30 days prior to such approval and prior to any commitment of funds to such projects or activities, the public housing agency has submitted to the Secretary a request for such release accompanied by a certification of the State or unit of general local government which meets the requirements of subsection (c). The Secretary’s approval of any such certification shall be deemed to satisfy the Secretary’s responsibilities under the National Environmental Policy Act of 1969 [42 U.S.C. 4321 et seq.] and such other provisions of law as the regulations of the Secretary specify insofar as those responsibilities relate to the release of funds which are covered by such certification.

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

(1) be in a form acceptable to the Secretary;

(2) be executed by the chief executive officer or other officer of the State or unit of general local government who qualifies under regulations of the Secretary;

(3) specify that the State or unit of general local government under this section has fully carried out its responsibilities as described under subsection (a); and
(4) specify that the certifying officer—
   (A) consents to assume the status of a re-
   sponsible Federal official under the National
   § 4321 et seq.] and each provision of law speci-
   fied in regulations issued by the Secretary
   insofar as the provisions of such Act or other
   provision of law apply pursuant to sub-
   section (a); and
   (B) is authorized and consents on behalf of
   the State or unit of general local govern-
   ment and himself or herself to accept the ju-
   risdiction of the Federal courts for the pur-
   pose of enforcement of his or her responsibil-
   ities as such an official.

(d) Approval by States

In cases in which a unit of general local gov-
ernment carries out the responsibilities de-
scribed in subsection (c), the Secretary may per-
mit the State to perform those actions of the
Secretary described in subsection (b) and the
performance of such actions by the State, where
permitted by the Secretary, shall be deemed to
satisfy the Secretary's responsibilities referred
to in the second sentence of subsection (b).

(Sept. 1, 1937, ch. 896, title I, § 26, as added Pub.
L. 103–238, title III, § 505(b), Apr. 11, 1994, 108
Stat. 371; amended Pub. L. 104–330, title V,

REFERENCES IN TEXT

The National Environmental Policy Act of 1969, re-
ferred to in subsecs. (a)(1), (b), and (c)(4)(A), is Pub.
L. 91–190, Jan. 1, 1970, 83 Stat. 852, as amended, which is
classified generally to chapter 55 (§ 4321 et seq.) of this
Code, see Short Title note set out under section 4321 of
Title 42, The Public Health and Welfare.

AMENDMENTS

“including an Indian housing authority” after “public
housing agency”.

EFFECTIVE DATE OF 1996 AMENDMENT

Amendment by Pub. L. 104–330 effective Oct. 1, 1997,
except as otherwise expressly provided, see section 107
of Pub. L. 104–330, set out as an Effective Date note
under section 4321 of Title 42, The Public Health and
Welfare.

§ 1437y. Provision of information to law enforce-
ment and other agencies

Notwithstanding any other provision of law,
the Secretary shall, at least 4 times annually
and upon request of the Immigration and Natu-
ralization Service (hereafter in this section re-
ferrred to as the “Service”), furnish the Service
with the name and address of, and other identi-
fying information on, any individual who the
Secretary knows is not lawfully present in the
United States, and shall ensure that each con-
tract for assistance entered into under section
1437d or 1437f of this title with a public housing
agency provides that the public housing agency
shall furnish such information at such times
with respect to any individual who the public
housing agency knows is not lawfully present in
the United States.

(Sept. 1, 1937, ch. 896, title I, § 27, as added Pub.
L. 103–238, title IV, § 404(d), Aug. 22, 1996, 110
Stat. 2267; amended Pub. L. 105–33, title V, § 5564,

CODIFICATION

Another section 27 of act Sept. 1, 1937, was renum-
ered section 28, and is classified to section 1437a of
this title.

AMENDMENTS

1997—Pub. L. 105–33 substituted “not lawfully present
in the United States” for “unlawfully in the United
States” in two places.

EFFECTIVE DATE OF 1997 AMENDMENT

Amendment by Pub. L. 105–33 effective as if included
in the enactment of title IV of the Personal Respon-
sibility and Work Opportunity Reconciliation Act of
1996, Pub. L. 104–193, see section 5582 of Pub. L. 105–33,
set out as a note under section 1367 of Title 8, Aliens
and Nationality.

ABOLITION OF IMMIGRATION AND NATURALIZATION
SERVICE AND TRANSFER OF FUNCTIONS

For abolition of Immigration and Naturalization
Service, transfer of functions, and treatment of related
references, see note set out under section 1551 of Title
8, Aliens and Nationality.

§ 1437z. Exchange of information with law en-
forcement agencies

Notwithstanding any other provision of law,
each public housing agency that enters into a
contract for assistance under section 1437d or
1437f of this title with the Secretary shall fur-
nish any Federal, State, or local law enforce-
ment officer, upon the request of the officer,
with the current address, Social Security num-
ber, and photograph (if applicable) of any recipi-
ent of assistance under this chapter, if the offi-
cer—

(1) furnishes the public housing agency with
the name of the recipient; and

(2) notifies the agency that—
   (A) such recipient—
       (i) is fleeing to avoid prosecution, or cus-
       tody 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 indi-
       vidual flees, or which, in the case of the
       State of New Jersey, is a high mis-
       demeanor under the laws of such State; or
       (ii) has information that is necessary
       for the officer to conduct the officer’s offi-
       cial duties;
   (B) the location or apprehension of the re-
       cipient is within such officer’s official du-
       ties; and
   (C) the request is made in the proper exer-
       cise of the officer’s official duties.

(Sept. 1, 1937, ch. 896, title I, § 28, formerly § 27, as
added Pub. L. 103–238, title IX, § 903(b), Aug. 22,

§ 1437z–1. Civil money penalties against section
1437f owners

(a) In general

(1) Effect on other remedies

The penalties set forth in this section shall be in addition to any other available civil remi-
edy or any available criminal penalty, and may be imposed regardless of whether the Secretary imposes other administrative sanctions.

(2) Failure of Secretary
The Secretary may not impose penalties under this section for a violation, if a material cause of the violation is the failure of the Secretary, an agent of the Secretary, or a public housing agency to comply with an existing agreement.

(b) Violations of housing assistance payment contracts for which penalty may be imposed

(1) Liable parties
The Secretary may impose a civil money penalty under this section on—
   (A) any owner of a property receiving project-based assistance under section 8 [42 U.S.C. 1437f];
   (B) any general partner of a partnership owner of that property; and
   (C) any agent employed to manage the property that has an identity of interest with the owner or the general partner of a partnership owner of the property.

(2) Violations
A penalty may be imposed under this section for a knowing and material breach of a housing assistance payments contract, including the following—
   (A) failure to provide decent, safe, and sanitary housing pursuant to section 8 [42 U.S.C. 1437f]; or
   (B) knowing or willful submission of false, fictitious, or fraudulent statements or requests for housing assistance payments to the Secretary or to any department or agency of the United States.

(3) Amount of penalty
The amount of a penalty imposed for a violation under this subsection, as determined by the Secretary, may not exceed $25,000 per violation.

c) Agency procedures
(1) Establishment
The Secretary shall issue regulations establishing standards and procedures governing the imposition of civil money penalties under subsection (b). These standards and procedures—
   (A) shall provide for the Secretary or other department official to make the determination to impose the penalty;
   (B) shall provide for the imposition of a penalty only after the liable party has received notice and the opportunity for a hearing on the record; and
   (C) may provide for review by the Secretary of any determination or order, or interlocutory ruling, arising from a hearing and judicial review, as provided under subsection (d).

(2) Final orders
(A) In general
If a hearing is not requested before the expiration of the 15-day period beginning on the date on which the notice of opportunity for hearing is received, the imposition of a penalty under subsection (b) shall constitute a final and unappealable determination.

(B) Effect of review
If the Secretary reviews the determination or order, the Secretary may affirm, modify, or reverse that determination or order.

(C) Failure to review
If the Secretary does not review that determination or order before the expiration of the 90-day period beginning on the date on which the determination or order is issued, the determination or order shall be final.

(3) Factors in determining amount of penalty
In determining the amount of a penalty under subsection (b), the Secretary shall take into consideration—
   (A) the gravity of the offense;
   (B) any history of prior offenses by the violator (including offenses occurring before the enactment of this section);
   (C) the ability of the violator to pay the penalty;
   (D) any injury to tenants;
   (E) any injury to the public;
   (F) any benefits received by the violator as a result of the violation;
   (G) deterrence of future violations; and
   (H) such other factors as the Secretary may establish by regulation.

(4) Payment of penalty
No payment of a civil money penalty levied under this section shall be payable out of project income.

d) Judicial review of agency determination
Judicial review of determinations made under this section shall be carried out in accordance with section 1735f-15(e) of title 12.

e) Remedies for noncompliance
(1) Judicial intervention
(A) In general
If a person or entity fails to comply with the determination or order of the Secretary imposing a civil money penalty under subsection (b), after the determination or order is no longer subject to review as provided by subsections (c) and (d), the Secretary may request the Attorney General of the United States to bring an action in an appropriate United States district court to obtain a monetary judgment against that person or entity and such other relief as may be available.

(B) Fees and expenses
Any monetary judgment awarded in an action brought under this paragraph may, in the discretion of the court, include the attorney’s fees and other expenses incurred by the United States in connection with the action.

(2) Nonreviewability of determination or order
In an action under this subsection, the validity and appropriateness of the determination or order of the Secretary imposing the penalty shall not be subject to review.
(f) Settlement by Secretary
The Secretary may compromise, modify, or remit any civil money penalty which may be, or has been, imposed under this section.

(g) Deposit of penalties
(1) In general
Notwithstanding any other provision of law, if the mortgage covering the property receiving assistance under section 8 [42 U.S.C. 1437f] is insured or was formerly insured by the Secretary, the Secretary shall apply all civil money penalties collected under this section to the appropriate insurance fund or funds established under this chapter, as determined by the Secretary.

(2) Exception
Notwithstanding any other provision of law, if the mortgage covering the property receiving assistance under section 8 [42 U.S.C. 1437f] is neither the Secretary nor formerly insured by the Secretary, the Secretary shall make all civil money penalties collected under this section available for use by the appropriate office within the Department for administrative costs related to enforcement of the requirements of the various programs administered by the Secretary.

(h) Definitions
In this section—
(1) the term ‘agent employed to manage the property that has an identity of interest’ means an entity—
(A) that has management responsibility for a project;
(B) in which the ownership entity, including its general partner or partners (if applicable), has an ownership interest; and
(C) over which such ownership entity exercises effective control;
and
(2) the term ‘knowing’ means having actual knowledge of or acting with deliberate ignorance of or reckless disregard for the prohibitions under this section.

(Sept. 1, 1937, ch. 896, title I, § 30, as added Pub. L. 105–276, set out as an Effective Date of 1998 Amendments note under section 1437 of this title.)

§ 1437z–2. Public housing mortgages and security interests

(a) General authorization
The Secretary may, upon such terms and conditions as the Secretary may prescribe, authorize a public housing agency to mortgage or otherwise grant a security interest in any public housing project or other property of the public housing agency.

(b) Terms and conditions
In making any authorization under subsection (a), the Secretary may consider—
(1) the ability of the public housing agency to use the proceeds of the mortgage or security interest for low-income housing uses;
(2) the ability of the public housing agency to make payments on the mortgage or security interest; and
(3) such other criteria as the Secretary may specify.

(c) No Federal liability
No action taken under this section shall result in any liability to the Federal Government.


Effective Date
Section effective and applicable beginning upon Oct. 1, 1999, except as otherwise provided, with provision that Secretary may implement section before such date except to extent otherwise provided, see section 503 of Pub. L. 105–276, set out as an Effective Date of 1998 Amendment note under section 1437 of this title.

§ 1437z–3. Pet ownership in public housing

(a) Ownership conditions
A resident of a dwelling unit in public housing (as such term is defined in subsection (c)) may own 1 or more common household pets or have 1 or more common household pets present in the dwelling unit of such resident, subject to the reasonable requirements of the public housing agency, if the resident maintains each pet responsibly and in accordance with applicable State and local public health, animal control, and animal anti-cruelty laws and regulations and with the policies established in the public housing agency plan for the agency.

(b) Reasonable requirements
The reasonable requirements referred to in subsection (a) may include—
(1) requiring payment of a nominal fee, a pet deposit, or both, by residents owning or having pets present, to cover the reasonable operating costs to the project relating to the presence of pets and to establish an escrow account for additional costs not otherwise covered, respectively;
(2) limitations on the number of animals in a unit, based on unit size;
(3) prohibitions on—
   (A) types of animals that are classified as dangerous; and
   (B) individual animals, based on certain factors, including the size and weight of the animal; and
   (4) restrictions or prohibitions based on size and type of building or project, or other relevant conditions.

(c) Pet ownership in public housing designated for occupancy by elderly or handicapped families

For purposes of this section, the term “public housing” has the meaning given the term in section 1437a(b) of this title, except that such term does not include any public housing that is federally assisted rental housing for the elderly or handicapped, as such term is defined in section 1701r–1(d) of title 12.

(d) Regulations

This section shall take effect upon the date of the effectiveness of regulations issued by the Secretary to carry out this section. Such regulations shall be issued after notice and opportunity for public comment in accordance with the procedure under section 553 of title 5 applicable to substantive rules (notwithstanding subsections (a)(2), (b)(B), and (d)(3) of such section).


**Effective Date**

Section effective and applicable beginning upon Oct. 1, 1999, except as otherwise provided, with provision that Secretary may implement section before such date except to extent otherwise provided, see section 503 of Pub. L. 105–276, set out as an Effective Date of 1998 Amendment note under section 1437 of this title.

§ 1437z–4. Resident homeownership programs

(a) In general

A public housing agency may carry out a homeownership program in accordance with this section and the public housing agency plan of the agency to make public housing dwelling units, public housing projects, and other housing projects available for purchase by low-income families for use only as principal residences for such families. An agency may transfer a unit pursuant to a homeownership program only if the program is authorized under this section and approved by the Secretary.

(b) Participating units

A program under this section may cover any existing public housing dwelling units or projects, and may include other dwelling units and housing owned, assisted, or operated, or otherwise acquired for use under such program, by the public housing agency.

(c) Eligible purchasers

(1) Low-income requirement

Only low-income families assisted by a public housing agency, other low-income families, and entities formed to facilitate such sales by evicting conditions, purchasing units for resale to low-income families shall be eligible to purchase housing under a homeownership program under this section.

(2) Other requirements

A public housing agency may establish other requirements or limitations for families to purchase housing under a homeownership program under this section, including requirements or limitations regarding employment or participation in employment counseling or training activities, criminal activity, participation in homeownership counseling programs, evidence of regular income, and other requirements. In the case of purchase by an entity for resale to low-income families, the entity shall sell the units to low-income families within 5 years from the date of its acquisition of the units. The entity shall use any net proceeds from the resale and from managing the units, as determined in accordance with guidelines of the Secretary, for housing purposes, such as funding resident organizations and reserves for capital replacements.

(d) Right of first refusal

In making any sale under this section, the public housing agency shall initially offer the public housing unit at issue to the resident or residents occupying that unit, if any, or to an organization serving as a conduit for sales to any such resident.

(e) Protection of nonpurchasing residents

If a public housing resident does not exercise the right of first refusal under subsection (d) with respect to the public housing unit in which the resident resides, the public housing agency—

(1) shall notify the resident residing in the unit 90 days prior to the displacement date except in cases of imminent threat to health or safety, consistent with any guidelines issued by the Secretary governing such notifications, that—
   (A) the public housing unit will be sold;
   (B) the transfer of possession of the unit will occur until the resident is relocated; and
   (C) each resident displaced by such action will be offered comparable housing—
      (i) that meets housing quality standards;
      (ii) that is located in an area that is generally not less desirable than the location of the displaced resident’s housing; and
      (iii) which may include—
         (I) tenant-based assistance, except that the requirement under this subclause regarding offering of comparable housing shall be fulfilled by use of tenant-based assistance only upon the relocation of such resident into such housing;
         (II) project-based assistance; or
         (III) occupancy in a unit owned, operated, or assisted by the public housing agency at a rental rate paid by the resident that is comparable to the rental rate applicable to the unit from which the resident is vacated;

(2) shall provide for the payment of the actual and reasonable relocation expenses of the resident to be displaced;

(3) shall ensure that the displaced resident is offered comparable housing in accordance with the notice under paragraph (1);
§ 1437z–5

(4) shall provide any necessary counseling for the displaced resident; and

(5) shall not transfer possession of the unit until the resident is relocated.

(f) Financing and assistance

A homeownership program under this section may provide financing for acquisition of housing by families purchasing under the program, or for acquisition of housing by the public housing agency for sale under the program, in any manner considered appropriate by the agency (including sale to a resident management corporation).

(g) Downpayment requirement

(1) In general

Each family purchasing housing under a homeownership program under this section shall be required to provide from its own resources a downpayment in connection with any loan for acquisition of the housing, in an amount determined by the public housing agency. Except as provided in paragraph (2), the agency shall permit the family to use grant amounts, gifts from relatives, contributions from private sources, and similar amounts as downpayment amounts in such purchase.

(2) Direct family contribution

In purchasing housing pursuant to this section, each family shall contribute an amount of the downpayment, from resources of the family other than grants, gifts, contributions, or other similar amounts referred to in paragraph (1), that is not less than 1 percent of the purchase price.

(h) Ownership interests

A homeownership program under this section may provide for sale to the purchasing family of any ownership interest that the public housing agency considers appropriate under the program, including ownership in fee simple, a condominium interest, an interest in a limited dividend cooperative, or other interests that the agency considers appropriate.

(i) Resale

(1) Authority and limitation

A homeownership program under this section shall permit the resale of a dwelling unit purchased under the program by an eligible family, but shall provide such limitations on resale as the agency considers appropriate (whether the family purchases directly from the agency or from another entity) for the agency to recapture—

(A) some or all of the economic gain derived from any such resale occurring during the 5-year period beginning upon purchase of the dwelling unit by the eligible family; and

(B) after the expiration of such 5-year period, only such amounts as are equivalent to the assistance provided under this section by the agency to the purchaser.

(2) Considerations

The limitations referred to in paragraph (1)(A) may provide for consideration of the aggregate amount of assistance provided under the program to the family, the contribution to equity provided by the purchasing eligible family, the period of time elapsed between purchase under the homeownership program and resale, the reason for resale, any improvements to the property made by the eligible family, any appreciation in the value of the property, and any other factors that the agency considers appropriate.

(j) Net proceeds

The net proceeds of any sales under a homeownership program under this section remaining after payment of all costs of the sale shall be used for purposes relating to low-income housing and in accordance with the public housing agency plan of the agency carrying out the program.

(k) Homeownership assistance

From amounts distributed to a public housing agency under the Capital Fund under section 1437g(d) of this title, or from other income earned by the public housing agency, the public housing agency may provide assistance to public housing residents to facilitate the ability of those residents to purchase a principal residence, including a residence other than a residence located in a public housing project.

(l) Inapplicability of disposition requirements

The provisions of section 1437p of this title shall not apply to disposition of public housing dwelling units under a homeownership program under this section.


Effective date

Section effective and applicable beginning upon Oct. 1, 1999, except as otherwise provided, with provision that Secretary may implement section before such date except to extent otherwise provided, see section 563 of Pub. L. 105–276, set out as an Effective Date of 1998 Amendment note under section 1437 of this title.

§ 1437z–5. Required conversion of distressed public housing to tenant-based assistance

(a) Identification of units

Each public housing agency shall identify all public housing projects of the public housing agency that meet all of the following requirements:

(1) The project is on the same or contiguous sites.

(2) The project is determined by the public housing agency to be distressed, which determination shall be made in accordance with guidelines established by the Secretary, which guidelines shall take into account the criteria established in the Final Report of the National Commission on Severely Distressed Public Housing (August 1992).

(3) The project—

(A) is identified as distressed housing under paragraph (2) for which the public housing agency cannot assure the long-term viability as public housing through reasonable modernization expenses, density reduction, achievement of a broader range of family income, or other measures; or
(B) has an estimated cost, during the remaining useful life of the project, of continued operation and modernization as public housing that exceeds the estimated cost, during the remaining useful life of the project, of providing tenant-based assistance under section 1437f of this title for all families in occupancy, based on appropriate indicators of cost (such as the percentage of total development costs required for modernization).

(b) Consultation

Each public housing agency shall consult with the appropriate public housing residents and the appropriate unit of general local government in identifying any public housing projects under subsection (a).

(c) Plan for removal of units from inventories of PHAs

(1) Development

Each public housing agency shall develop and carry out a 5-year plan in conjunction with the Secretary for the removal of public housing units identified under subsection (a) from the inventory of the public housing agency and the annual contributions contract.

(2) Approval

Each plan required under paragraph (1) shall—

(A) be included as part of the public housing agency plan;

(B) be certified by the relevant local official to be in accordance with the comprehensive housing affordability strategy under title I of the Housing and Community Development Act of 1992; and

(C) include a description of any disposition and demolition plan for the public housing units.

(3) Extensions

The Secretary may extend the 5-year deadline described in paragraph (1) by not more than an additional 5 years if the Secretary makes a determination that the deadline is impracticable.

(4) Review by Secretary

(A) Failure to identify projects

If the Secretary determines, based on a plan submitted under this subsection, that a public housing agency has failed to identify 1 or more public housing projects that the Secretary determines should have been identified under subsection (a), the Secretary may designate the public housing projects to be removed from the inventory of the public housing agency pursuant to this section.

(B) Erroneous identification of projects

If the Secretary determines, based on a plan submitted under this subsection, that a public housing agency has identified 1 or more public housing projects that should not have been identified pursuant to subsection (a), the Secretary shall—

(i) require the public housing agency to revise the plan of the public housing agency under this subsection; and

(ii) prohibit the removal of any such public housing project from the inventory of the public housing agency under this section.

(d) Conversion to tenant-based assistance

(1) In general

To the extent approved in advance in appropriations Acts, the Secretary shall make budget authority available to a public housing agency to provide assistance under this chapter to families residing in any public housing project that, pursuant to this section, is removed from the inventory of the agency and the annual contributions contract of the agency.

(2) Conversion requirements

Each agency carrying out a plan under subsection (c) for removal of public housing dwelling units from the inventory of the agency shall—

(A) notify each family residing in a public housing project to be converted under the plan 90 days prior to the displacement date, except in cases of imminent threat to health or safety, consistent with any guidelines issued by the Secretary governing such notifications, that—

(i) the public housing project will be removed from the inventory of the public housing agency; and

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

(1) that meets housing quality standards; and

(II) which may include—

(aa) tenant-based assistance, except that the requirement under this clause regarding offering of comparable housing shall be fulfilled by use of tenant-based assistance only upon the relocation of such family into such housing;

(bb) project-based assistance; or

(cc) occupancy in a unit operated or assisted by the public housing agency at a rental rate paid by the family that is comparable to the rental rate applicable to the unit from which the family is vacated.

(B) provide any necessary counseling for families displaced by such action;

(C) ensure that, if the project (or portion) converted is used as housing after such conversion, each resident may choose to remain in their dwelling unit in the project and use the tenant-based assistance toward rent for that unit;

(D) ensure that each displaced resident is offered comparable housing in accordance with the notice under subparagraph (A); and

(E) provide any actual and reasonable relocation expenses for families displaced by such action.

(e) Cessation of unnecessary spending

Notwithstanding any other provision of law, if, in the determination of the Secretary, a project or projects of a public housing agency meet or are likely to meet the criteria set forth in subsection (a), the Secretary may direct the
agency to cease additional spending in connection with such project or projects until the Secretary determines or approves an appropriate course of action with respect to such project or projects under this section, except to the extent that failure to expend such amounts would endanger the health or safety of residents in the project or projects.

(f) Use of budget authority

Notwithstanding any other provision of law, if a project or projects are identified pursuant to subsection (a), the Secretary may authorize or direct the transfer, to the tenant-based assistance program of such agency or to appropriate site revitalization or other capital improvements approved by the Secretary, of—

(1) in the case of an agency receiving assistance under the comprehensive improvement assistance program, any amounts obligated by the Secretary for the modernization of such project or projects pursuant to section 1437f of this title (as in effect immediately before the effective date under section 503(a) of the Quality Housing and Work Responsibility Act of 1998);
(2) in the case of an agency receiving public housing modernization assistance by formula pursuant to such section 1437f of this title, any amounts provided to the agency which are attributable pursuant to the formula for allocating such assistance to such project or projects;
(3) in the case of an agency receiving assistance for the major reconstruction of obsolete projects, any amounts obligated by the Secretary for the major reconstruction of such project or projects pursuant to section 1437c(j)(2) of this title, as in effect immediately before the effective date under section 503(a) of the Quality Housing and Work Responsibility Act of 1998; and
(4) in the case of an agency receiving assistance pursuant to the formulas under section 1437f of this title, any amounts provided to the agency which are attributable pursuant to the formulas for allocating such assistance to such project or projects.

(g) Removal by Secretary

The Secretary shall take appropriate actions to ensure removal of any public housing project identified under subsection (a) from the inventory of a public housing agency, if the public housing agency fails to adequately develop a plan under subsection (c) with respect to that project, or fails to adequately implement such plan in accordance with the terms of the plan.

(h) Administration

(1) In general

The Secretary may require a public housing agency to provide to the Secretary or to public housing residents such information as the Secretary considers to be necessary for the administration of this section.

(2) Applicability of section 1437p

Section 1437p of this title shall not apply to the demolition of public housing projects removed from the inventory of the public housing agency under this section.


References in Text


Section 503(a) of the Quality Housing and Work Responsibility Act of 1998, referred to in subsec. (f)(1), (3), is section 503(a) of Pub. L. 105-276, which is set out as an Effective Date of 1998 Amendment note under section 1437 of this title.

Effective Date

Section effective and applicable beginning upon Oct. 1, 1999, except as otherwise provided, with provision that Secretary may implement section before such date except to extent otherwise provided, see section 503 of Pub. L. 105-276, set out as an Effective Date of 1998 Amendment note under section 1437 of this title.

Transition

Pub. L. 105-276, title V, §537(c), Oct. 21, 1998, 112 Stat. 2592, provided that:

"(1) USE OF AMOUNTS.—Any amounts made available to a public housing agency to carry out section 292 of the Departments of Veterans Affairs and Housing and Urban Development, and Independent Agencies Appropriations Act, 1996 (enacted as section 101(e) of the Omnibus Consolidated Rescissions and Appropriations Act of 1996 (Public Law 104-134; 110 Stat. 1321-279)) (former 42 U.S.C. 1437i note) may be used, to the extent or in such amounts as are or have been provided in advance appropriation Acts, to carry out section 33 of the United States Housing Act of 1937 (42 U.S.C. 1437g-5) (as added by subsection (a) of this section).

"(2) SAVINGS PROVISION.—Notwithstanding the amendments made by this section (enacting this section and repealing provisions set out as a note under section 1437f of this title), section 202 of the Departments of Veterans Affairs and Housing and Urban Development, and Independent Agencies Appropriations Act, 1996 (42 U.S.C. 14371 (1437f note) and any regulations implementing such section, as in effect immediately before the enactment of this Act [Oct. 21, 1998], shall continue to apply to public housing developments identified by the Secretary or a public housing agency for conversion pursuant to that section or for assessment of whether such conversion is required prior to enactment of this Act."

§1437a-6. Services for public and Indian housing residents

(a) In general

To the extent that amounts are provided in advance in appropriations Acts, the Secretary may make grants to public housing agencies on behalf of public housing residents, recipients under the Native American Housing Assistance and Self-Determination Act of 1996 [25 U.S.C. 4101 et seq.] (notwithstanding section 502 of such Act [25 U.S.C. 4101]) on behalf of residents of housing assisted under such Act, or directly to resident management corporations, resident councils, or resident organizations (including nonprofit entities supported by residents), for the purposes of providing a program of supportive services and resident empowerment activities to provide supportive services to public housing residents and residents of housing assisted under such Act or assist such residents in becoming economically self-sufficient.

(b) Eligible activities

Grantees under this section may use such amounts only for activities on or near the prop-
erty of the public housing agency or public housing project or the property of a recipient under such Act or housing assisted under such Act that are designed to promote the self-sufficiency of public housing residents or residents of housing assisted under such Act or provide supportive services for such residents, including activities relating to—

(1) physical improvements to a public housing project or residents of housing assisted under such Act in order to provide space for supportive services for residents;

(2) the provision of service coordinators or a congregate housing services program for elderly individuals, elderly disabled individuals, temporarily disabled individuals;

(3) the provision of services related to work readiness, including education, job training and counseling, job search skills, business development training and planning, tutoring, mentoring, adult literacy, computer access, personal and family counseling, health screening, work readiness health services, transportation, and child care;

(4) economic and job development, including employer linkages and job placement, and the start-up of resident microenterprises, community credit unions, and revolving loan funds, including the licensing, bonding, and insurance needed to operate such enterprises;

(5) resident management activities and resident participation activities; and

(6) other activities designed to improve the economic self-sufficiency of residents.

c) Funding distribution

(1) In general

Except for amounts provided under subsection (d), the Secretary may distribute amounts made available under this section on the basis of a competition or a formula, as appropriate.

(2) Factors for distribution

Factors for distribution under paragraph (1) shall include—

(A) the demonstrated capacity of the applicant to carry out a program of supportive services or resident empowerment activities;

(B) the ability of the applicant to leverage additional resources for the provision of services; and

(C) the extent to which the grant will result in a high quality program of supportive services or resident empowerment activities.

d) Matching requirement

The Secretary may not make any grant under this section to any applicant unless the applicant supplements amounts made available under this section with funds from sources other than this section in an amount equal to not less than 25 percent of the grant amount. Such supplemental amounts may include—

(1) funds from other Federal sources;

(2) funds from any State, local, or tribal government sources;

(3) funds from private contributions; and

(4) the value of any in-kind services or administrative costs provided to the applicant.

e) Funding for resident organizations

To the extent that there are a sufficient number of qualified applications for assistance under this section, not less than 25 percent of any amounts appropriated to carry out this section shall be provided directly to resident councils, resident organizations, and resident management corporations. In any case in which a resident council, resident organization, or resident management corporation lacks adequate expertise, the Secretary may require the council, organization, or corporation to utilize other qualified organizations as contract administrators with respect to financial assistance provided under this section.


REFERENCES IN TEXT

The Native American Housing Assistance and Self-Determination Act of 1996, referred to in subsecs. (a) and (b), is Pub. L. 104–330, Oct. 26, 1996, 110 Stat. 4016, as amended, which is classified principally to chapter 45 (§ 4101 et seq.) of Title 25, Indians. For complete classification of this Act to the Code, see Short Title note set out under section 4101 of Title 25 and Tables.

AMENDMENTS


Subsec. (a). Pub. L. 106–377, § 1(a)(1) [title II, § 221(a)(2)], inserted “recipients under the Native American Housing Assistance and Self-Determination Act of 1996 (notwithstanding section 502 of such Act) on behalf of residents of housing assisted under such Act,” after “on behalf of public housing residents,” and inserted “and residents of housing assisted under such Act” after “supportive services to public housing residents”.

Subsec. (b). Pub. L. 106–377, § 1(a)(1) [title II, § 221(a)(3)(A), (B)], in introductory provisions, inserted “or residents of housing assisted under such Act” after “public housing project” and “or residents of housing assisted under such Act” after “public housing residents”.

Subsec. (b)(1). Pub. L. 106–377, § 1(a)(1) [title II, § 221(a)(3)(C)], inserted “or residents of housing assisted under such Act” after “public housing project”.

Subsec. (d)(2). Pub. L. 106–377, § 1(a)(1) [title II, § 221(a)(4)], substituted “State, local, or tribal government” for “State or local government”.

EFFECTIVE DATE

Section effective and applicable beginning upon Oct. 1, 1999, except as otherwise provided, with provision that Secretary may implement section before such date except to extent otherwise provided, see section 503 of Pub. L. 105–276, set out as an Effective Date of 1998 Amendment note under section 1437 of this title.

ASSESSMENT AND REPORT BY SECRETARY


“(1) conduct an evaluation and assessment of grants carried out by resident organizations, and particularly of the effect of the grants on living conditions in public housing and housing assisted under the Native American Housing Assistance and Self-Determination Act of 1996 (25 U.S.C. 1401 et seq.); and

“(2) submit to the Congress a report setting forth the findings of the Secretary as a result of the evaluation and assessment and including any recom-
§ 1437z–7. Mixed-finance public housing

(a) Authority

A public housing agency may own, operate, assist, or otherwise participate in 1 or more mixed-finance projects in accordance with this section.

(b) Assistance

(1) Forms

A public housing agency may provide to a mixed-finance project assistance from the Operating Fund under section 1437g of this title, assistance from the Capital Fund under such section, or both forms of assistance. A public housing agency may, in accordance with regulations established by the Secretary, provide capital assistance to a mixed-finance project in the form of a grant, loan, guarantee, or other form of investment in the project, which may involve drawdown of funds on a schedule commensurate with construction draws for deposit into an interest-bearing escrow account to serve as collateral or credit enhancement for bonds issued by a public agency, or for other forms of public or private borrowings, for the construction or rehabilitation of the development.

(2) Use

To the extent deemed appropriate by the Secretary, assistance used in connection with the costs associated with the operation and management of mixed-finance projects may be used for funding of an operating reserve to ensure affordability for low-income and very low-income families in lieu of the availability of operating funds for public housing units in a mixed-finance project.

(c) Compliance with public housing requirements

The units assisted with capital or operating assistance in a mixed-finance project shall be developed, operated, and maintained in accordance with the requirements of this chapter relating to public housing during the period required by under this chapter, unless otherwise specified in this section. For purposes of this chapter, any reference to public housing owned or operated by a public housing agency shall include dwelling units in a mixed-finance project that are assisted by the agency with capital or operating assistance.

(d) Mixed-finance projects

(1) In general

For purposes of this section, the term “mixed-finance project” means a project that meets the requirements of paragraph (2) and is financially assisted by private resources, which may include low-income housing tax credits, in addition to amounts provided under this chapter.

(2) Types of projects

The term includes a project that is developed—

(A) by a public housing agency or by an entity affiliated with a public housing agency;

(B) by a partnership, a limited liability company, or other entity in which the public housing agency (or an entity affiliated with a public housing agency) is a general partner, managing member, or otherwise participates in the activities of that entity;

(C) by any entity that grants to the public housing agency the right of first refusal and first option to purchase, after the close of the compliance period, of the qualified low-income building in which the public housing units exist in accordance with section 42(1)(7) of title 26; or

(D) in accordance with such other terms and conditions as the Secretary may prescribe by regulation.

(e) Structure of projects

Each mixed-finance project shall be developed—

(1) in a manner that ensures that public housing units are made available in the project, by regulatory and operating agreement, master contract, individual lease, condominium or cooperative agreement, or equity interest;

(2) in a manner that ensures that the number of public housing units bears approximately the same proportion to the total number of units in the mixed-finance project as the value of the total financial commitment provided by the public housing agency bears to the value of the total financial commitment in the project, or shall not be less than the number of units that could have been developed under the conventional public housing program with the assistance, or as may otherwise be approved by the Secretary; and

(3) in accordance with such other requirements as the Secretary may prescribe by regulation.

(f) Taxation

(1) In general

A public housing agency may elect to exempt all public housing units in a mixed-finance project—

(A) from the provisions of section 1437d(d) of this title, and instead subject such units to local real estate taxes; and

(B) from the finding of need and cooperative agreement provisions under section 1437c(e)(1)(ii) and 1437c(e)(2) of this title, but only if the development of the units is not inconsistent with the jurisdiction’s comprehensive housing affordability strategy.

(2) Low-income housing tax credit

With respect to any unit in a mixed-finance project that is assisted pursuant to the low-income housing tax credit under section 42 of title 26, the rents charged to the residents may be set at levels not to exceed the amounts allowable under section 42 of title 26.

(g) Use of savings

Notwithstanding any other provision of this chapter, to the extent deemed appropriate by
the Secretary, to facilitate the establishment of socioeconomically mixed communities, a public housing agency that uses assistance from the Capital Fund for a mixed-finance project, to the extent that income from such a project reduces the amount of assistance used for operating or other costs relating to public housing, may use such resulting savings to rent privately developed dwelling units in the neighborhood of the mixed-finance project. Such units shall be made available for occupancy only by low-income families eligible for residency in public housing.

(h) Effect of certain contract terms

If an entity that owns or operates a mixed-finance project, that includes a significant number of units other than public housing units enters into a contract with a public housing agency, the terms of which obligate the entity to operate and maintain a specified number of units in the project as public housing units in accordance with the requirements of this chapter for the period required by law, such contractual terms may provide that, if, as a result of a reduction in appropriations under section 1437g of this title or any other change in applicable law, the public housing agency is unable to fulfill its contractual obligations with respect to those public housing units, that entity may deviate, under procedures and requirements developed through regulations by the Secretary, from otherwise applicable restrictions under this chapter regarding rents, income eligibility, and other areas of public housing management with respect to a portion or all of those public housing units, to the extent necessary to preserve the viability of those units while maintaining the low-income character of the units to the maximum extent practicable.


Effective Date

Section effective and applicable beginning upon Oct. 1, 1999, except as otherwise provided, with provision that the Secretary may implement section before such date, except to extent otherwise provided, see section 503 of Pub. L. 105–276, set out as an Effective Date of 1998 Amendment note under section 1437 of this title. 

Regulations

Pub. L. 105–276, title V, §539(b), Oct. 21, 1998, 112 Stat. 2596, provided that: “The Secretary shall issue such regulations as may be necessary to promote the development of mixed-finance projects, as that term is defined in section 3(b) of the United States Housing Act of 1937 [42 U.S.C. 1437a(b)] (as amended by this Act).”

§1437z–9. Data exchange standards for improved interoperability

(a) Designation

The Secretary shall, in consultation with an interagency work group established by the Office of Management and Budget, and considering State government perspectives, designate data exchange standards to govern, under this chapter—

(1) necessary categories of information that State agencies operating related programs are required under applicable law to electronically exchange with another State agency; and

(2) Federal reporting and data exchange required under applicable law.

(b) Requirements

The data exchange standards required by subsection (a) shall, to the maximum extent practicable—

(1) incorporate a widely accepted, nonproprietary, searchable, computer-readable format, such as the eXtensible Markup Language;

(2) contain interoperable standards developed and maintained by intergovernmental partnerships, such as the National Information Exchange Model;

(3) incorporate interoperable standards developed and maintained by Federal entities with authority over contracting and financial assistance;

(4) be consistent with and implement applicable accounting principles;
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(5) be implemented in a manner that is cost-effective and improves program efficiency and effectiveness; and
(6) be capable of being continually upgraded as necessary.

(c) Rules of construction

Nothing in this section requires a change to existing data exchange standards for Federal reporting found to be effective and efficient.


REGULATIONS

Pub. L. 114–201, title V, § 503(b), July 29, 2016, 130 Stat. 812, provided that:

“(1) IN GENERAL.—Not later than 2 years after the date of the enactment of this Act [July 29, 2016], the Secretary of Housing and Urban Development shall issue a proposed rule to carry out the amendments made by subsection (a) [enacting this section].

“(2) REQUIREMENTS.—The rule shall—

“(A) identify federally required data exchanges;

“(B) include specification and timing of exchanges to be standardized;

“(C) address the factors used in determining whether and when to standardize data exchanges;

“(D) specify State implementation options; and

“(E) describe future milestones.

SUBCHAPTER II—ASSISTED HOUSING FOR INDIANS AND ALASKA NATIVES


Section 1437ce, act Sept. 1, 1937, ch. 896, title II, § 205, as added June 29, 1988, Pub. L. 100–358, § 2, 102 Stat. 680, related to issuance of regulations to carry out this subchapter.

SECTION 1437f. Transferred

 Codification

Section, Pub. L. 101–625, title IX, § 959, Nov. 28, 1990, 104 Stat. 4423, which related to waiver of matching funds requirements in Indian housing programs, was transferred to section 4104 of Title 25, Indians.

SUBCHAPTER II—A—HOPE FOR PUBLIC HOUSING HOMEOWNERSHIP

Codification

Pub. L. 104–330, title V, § 503(c)(1), Oct. 26, 1996, 110 Stat. 4042, added subchapter heading and struck out former subchapter heading which read as follows: ‘‘HOPE FOR PUBLIC AND INDIAN HOUSING HOMEOWNERSHIP’’.

§ 1437aaa. Program authority

(a) In general

The Secretary is authorized to make—

(1) planning grants to help applicants to develop homeownership programs in accordance with this subchapter; and

(2) implementation grants to carry out homeownership programs in accordance with this subchapter.

(b) Authority to reserve housing assistance

In connection with a grant under this subchapter, the Secretary may reserve authority to provide assistance under section 1437f of this title to the extent necessary to provide replacement housing and rental assistance for a non-purchasing tenant who resides in the project on the date the Secretary approves the application for an implementation grant, for use by the tenant in another project.


Amendments

1992—Subsec. (c). Pub. L. 102–550 struck out subsec. (c) which read as follows: ‘‘There are authorized to be appropriated for grants under this subchapter $68,000,000 for fiscal year 1991 and $380,000,000 for fiscal year 1992. Any amount appropriated pursuant to this subsection shall remain available until expended.’’

SHORT TITLE

Pub. L. 101–625, title IV, § 401, Nov. 28, 1990, 104 Stat. 4148, provided that: ‘‘This title [enacting this subchapter and subchapter IV (§ 12871 et seq.) of chapter 130 of this title, amending sections 1437c, 1437g, 1437f, 1437p, 1437t, and 1437s of this title and section 1709 of Title 12, Banks and Banking, and enacting provisions set out as notes under this section and sections 1437c and 1437aa of this title] may be cited as the ‘‘Homeownership and Opportunity Through HOPE Act’’.’’

Establishment and Implementation of Requirements by Secretary

Pub. L. 101–625, title IV, § 418, Nov. 28, 1990, 104 Stat. 416, provided that: ‘‘Not later than the expiration of the 180-day period beginning on the date that funds authorized under title III of the United States Housing Act of 1937 [this subchapter] first become available for obligation, the Secretary shall by notice establish such requirements as may be necessary to carry out the provisions of this subtitle [subtitle A (§§ 411–419) of title IV of Pub. L. 101–625, enacting this subchapter, amending sections 1437c, 1437g, 1437t, 1437p, 1437r, and 1437t of this title, and enacting provisions set out as notes under sections 1437c and 1437aa of this title] such requirements shall be subject to section 555 of title 5, United States Code. The Secretary shall issue regulations based on the initial notice before the expiration of the 8-month period beginning on the date of the notice.’’