

105TH CONGRESS
1ST SESSION

S. 853

To protect the financial interests of the Federal Government through debt restructuring and subsidy reduction in connection with multifamily housing; to enhance the effectiveness of enforcement provisions relating to single family and multifamily housing (including amendments to the Bankruptcy code); to consolidate and reform the management of multifamily housing programs; and for other purposes.

IN THE SENATE OF THE UNITED STATES

JUNE 9, 1997

Mr. D'AMATO (by request) introduced the following bill; which was read twice and referred to the Committee on Banking, Housing, and Urban Affairs

A BILL

To protect the financial interests of the Federal Government through debt restructuring and subsidy reduction in connection with multifamily housing; to enhance the effectiveness of enforcement provisions relating to single family and multifamily housing (including amendments to the Bankruptcy code); to consolidate and reform the management of multifamily housing programs; and for other purposes.

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

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

2 (a) SHORT TITLE.—This Act may be cited as the
3 “Housing 2020: Multifamily Management Reform Act”.

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

Sec. 1. Short title and table of contents.

Sec. 2. Findings and purposes.

TITLE I—MULTIFAMILY RESTRUCTURING

Sec. 101. Short title.

Subtitle A—Housing Provisions

Sec. 110. FHA multifamily restructuring.

Sec. 111. Section 8 contract renewals.

Sec. 112. Reuse and rescission of certain recaptured budget authority.

**Subtitle B—Extension of Time for Payment of Tax Attributable to FHA
Portfolio Restructuring**

Sec. 120. Extension of time for payment of tax attributable to FHA multifam-
ily restructuring.

TITLE II—HOUSING ENFORCEMENT

Sec. 201. Short title.

Sec. 202. Implementation.

Subtitle A—Single Family and Multifamily Housing

Sec. 210. MRB exemption from automatic stay provisions of Bankruptcy Code.

Sec. 211. Authorize MRB to immediately suspend mortgagees.

Sec. 212. Extension of equity skimming to other single family and multifamily
housing programs.

Sec. 213. Inclusion of criminal equity skimming as a money laundering offense.

Sec. 214. Effect of criminal equity skimming on mortgage insurance.

Sec. 215. Civil money penalties against mortgagees, lenders, and other partici-
pants in FHA programs.

Subtitle B—Multifamily Housing

Sec. 220. Civil money penalties against general partners, officers, directors, and
certain managing agents of multifamily projects.

Sec. 221. Civil money penalties for noncompliance with section 8 HAP con-
tracts.

Sec. 222. Extension of double damages remedy.

Sec. 223. Obstruction of Federal audits.

Sec. 224. Disposition of amounts recovered under the Program Fraud Civil
Remedies Act.

Sec. 225. Extension of access to records to prevent fraud and abuse.

Sec. 226. Conditions for renewal or extension of HAP contracts.

Subtitle C—FHA Single Family Housing

Sec. 230. Termination of mortgagee origination approval.

TITLE III—EXEMPTION OF HUD AND USDA MULTIFAMILY LOAN
FORECLOSURES AND RELATED ACTIONS FROM THE BANK-
RUPTCY STAY

Sec. 301. Authority to appoint receiver or take other action not stayed under section 362(b)(8).

Sec. 302. Authority to foreclose or take other action notwithstanding the automatic stay.

TITLE IV—FHA MULTIFAMILY HOUSING CONSOLIDATION AND
REFORM

Sec. 401. Short title.

Sec. 402. Implementation.

Subtitle A—FHA Multifamily Housing

Sec. 410. Basic authority.

Sec. 411. Labor standards amendment.

Sec. 412. Implementation.

Subtitle B—Extensions of Existing Authority and Other Provisions

Sec. 420. Extension of the section 221(g)(4) auction provisions.

Sec. 421. Extension of transferring excess receipts to the flexible subsidy program.

Sec. 422. Discretionary authority to regulate rents for specific multifamily property.

Sec. 423. Expansion of partial payment of claims authority to cover health care facilities.

Sec. 424. Environmental protection under section 202 and section 811 programs.

Sec. 425. Assignment of regulatory agreements in connection with sale of mortgages held by HUD.

TITLE V—REHABILITATION GRANTS

Sec. 501. Capital grants for section 236 and other formerly insured projects.

1 SEC. 2. FINDINGS AND PURPOSES.

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

3 (1) we have a shared national interest in creat-
4 ing safe, decent, and affordable housing because, for
5 all Americans, housing is an essential building block
6 toward holding a job, getting an education, and
7 strengthening our communities;

1 (2) millions of Americans—including elderly
2 citizens, persons with disabilities, and low-income
3 families with children—have critical housing needs
4 that must be met in order to maintain stable, vi-
5 brant communities;

6 (3) the American people recognized this need
7 23 years ago when Congress and the Administration
8 enacted the section 8 Housing Assistance Payments
9 program, which millions of Americans have used as
10 a stepping stone toward greater stability, independ-
11 ence, and self-sufficiency;

12 (4) some 20 years after enactment, a record
13 number of section 8 contracts are expiring, including
14 1.8 million units in 1998, and 2.7 million units be-
15 tween 1998 and 2002;

16 (5) if we do not renew these contracts, 4.4 mil-
17 lion Americans in 1998 alone—90 percent of whom
18 are elderly residents, persons with disabilities, and
19 low-income families with children—are at risk of los-
20 ing their homes, because of sharp rent increases;

21 (6) because of the shortage of affordable hous-
22 ing, we cannot afford to let any of our Nation's af-
23 fordable housing units become unavailable;

24 (7) this challenge occurs at a time of shrinking
25 Federal resources, and we have an undeniable re-

1 sponsibility both to balance the Federal budget and
2 to maximize every taxpayer dollar spent;

3 (8) we must renew section 8 contracts in a way
4 that lowers excessive subsidies, protects families,
5 preserves neighborhoods, and ensures safe, decent,
6 and affordable housing until the year 2020 and be-
7 yond;

8 (9) we must also renew section 8 contracts in
9 a way that prevents a massive default on FHA-in-
10 sured mortgages;

11 (10) at the same time, we must ensure that
12 owners meet their obligations to both tenants and
13 the Federal Government by maintaining safe, de-
14 cent, and affordable living conditions;

15 (11) under a framework enacted by Congress,
16 HUD has begun major reforms to address these
17 problems and has begun a major overhaul of its or-
18 ganization, streamlining operations, improving man-
19 agement, building stronger partnerships with State
20 and local agencies, and improving its ability to take
21 enforcement actions where necessary to assure that
22 its programs serve their intended purposes;

23 (12) these efforts at reform are limited by a
24 system of outdated rules and excessive government
25 regulation that hampers our ability to propose inno-

1 vative solutions, solve problems, and hold bad own-
2 ers accountable; and

3 (13) for America to meet its housing commit-
4 ments, legislation is now needed to help avert a sec-
5 tion 8 renewal crisis, strip away outdated rules, pro-
6 vide necessary enforcement tools, and empower
7 HUD and public housing agencies to meet the needs
8 of America's families.

9 (b) PURPOSE.—It is the purpose of this Act—

10 (1) to extend affordable housing for elderly resi-
11 dents, persons with disabilities, and low-income fam-
12 ilies with children until the year 2020 and beyond;

13 (2) to reaffirm America's historic commitment
14 to safe, decent, and affordable housing and to re-
15 move the obstacles to meeting that goal;

16 (3) to protect tenants and preserve communities
17 while sharply lowering costs to the American tax-
18 payer;

19 (4) to continue the complete overhaul of HUD
20 management;

21 (5) to end excessive taxpayer subsidies of the
22 section 8 program and bring section 8 rents in line
23 with fair market value;

24 (6) to take the steps necessary to prevent the
25 default of insured section 8 properties;

1 (7) to create a new compact with owners of
2 multifamily housing in which they continue to pro-
3 vide safe, decent, and affordable housing in ex-
4 change for tax incentives that will help them prevent
5 default;

6 (8) to streamline and simplify HUD rental
7 housing operations by cutting excessive regulation
8 and consolidating FHA multifamily insurance pro-
9 grams into one simple, understandable, user-friendly
10 system;

11 (9) to provide more choice for tenants in a way
12 that creates more hope and opportunity;

13 (10) to achieve greater accountability of tax-
14 payer funds by empowering the Federal Government
15 to take firmer, quicker, and more effective action to
16 crack down on fraud and abuse in HUD programs
17 and to pursue bad owners;

18 (11) to rehabilitate properties when necessary
19 in order to maintain safe, clean living conditions
20 while incurring no additional cost to taxpayers;

21 (12) through these comprehensive measures, to
22 reform, consolidate, and strengthen enforcement of
23 HUD's affordable housing programs; and

1 (13) to ensure safe, decent, and affordable
 2 housing opportunities for American families well into
 3 the next century.

4 **TITLE I—MULTIFAMILY**
 5 **RESTRUCTURING**
 6 **Subtitle A—Housing Provisions**

7 **SEC. 101. SHORT TITLE.**

8 This subtitle may be cited as the “Housing Oppor-
 9 tunity Act of 1997”.

10 **Subtitle A—Housing Provisions**

11 **SEC. 110. FHA MULTIFAMILY RESTRUCTURING.**

12 (a) PURPOSE AND GOALS.—

13 (1) PURPOSE.—The purpose of the program
 14 under this section is to permit the Secretary to pro-
 15 tect the financial interests of the Federal Govern-
 16 ment through debt restructuring and subsidy reduc-
 17 tion in connection with multifamily housing projects
 18 described in subsection (c). The restructuring may
 19 include recasting an existing mortgage insured under
 20 the National Housing Act or execution of a new
 21 mortgage, and the recast or new mortgage may be
 22 insured under the National Housing Act or may be
 23 uninsured.

24 (2) GOALS.—The Secretary shall carry out the
 25 purpose of this program, to the extent practicable,

1 in a manner that takes into account local housing
2 market conditions and addresses the goals set forth
3 below. In addressing the goals, the Secretary shall
4 have discretion to balance competing goals, as such
5 goals may relate to an individual project. The goals
6 of this program are to—

7 (A) maintain existing affordable housing
8 stock in a decent, safe, and sanitary condition;

9 (B) minimize adverse impacts on tenants
10 and neighborhoods;

11 (C) support fair housing strategies; and

12 (D) encourage responsible ownership and
13 management of property.

14 (b) NOTICE TO LOCAL GOVERNMENT AND TEN-
15 ANTS.—In carrying out this section, the Secretary shall
16 develop procedures to provide appropriate and timely no-
17 tice to the unit of general local government where the
18 project is located, to the tenants of the project, and to
19 the holder of the insured mortgage of participation by the
20 owner in restructuring and subsidy reduction under this
21 section.

22 (c) PROJECT ELIGIBILITY.—This section applies to
23 any multifamily housing project with a mortgage insured
24 by the Secretary under the National Housing Act, if—

1 (1) the multifamily housing project is covered
2 in whole or in part by a project-based assistance
3 contract under—

4 (A) the new construction or substantial re-
5 habilitation program under section 8(b)(2) of
6 the United States Housing Act of 1937 (as in
7 effect before October 1, 1983);

8 (B) the property disposition program
9 under section 8(b) of that Act;

10 (C) the loan management set-aside pro-
11 gram under section 8(b) of that Act;

12 (D) the project-based certificate program
13 under section 8(d)(2) of that Act;

14 (E) section 23 of the United States Hous-
15 ing Act of 1937 Act (as in effect before Janu-
16 ary 1, 1975);

17 (F) the preservation program under the
18 Emergency Low Income Housing Preservation
19 Act of 1987 or the Low-Income Housing Pres-
20 ervation and Resident Homeownership Act of
21 1990;

22 (G) the rent supplement program under
23 section 101 of the Housing and Urban Develop-
24 ment Act of 1965;

1 (H) section 8 of the United States Hous-
 2 ing Act of 1937, following conversion from as-
 3 sistance under section 101 of the Housing and
 4 Urban Development Act of 1965; or

5 (I) section 236(f)(2) of the National Hous-
 6 ing Act;

7 (2) the Secretary determines that the owner of
 8 the multifamily housing project has not engaged in
 9 material adverse financial or managerial actions or
 10 omissions with regard to the project; and with re-
 11 gard to other projects, is not engaged in such ac-
 12 tions or omissions that would constitute a pattern of
 13 mismanagement that would warrant suspension or
 14 debarment by the Secretary; and

15 (3) the rents for the project exceed, as deter-
 16 mined by the Secretary, market rents for the market
 17 area in which the project is located.

18 (d) DESIGNEE; CONDITIONS; AUTHORIZED AC-
 19 TIONS.—

20 (1) DESIGNEE.—In carrying out this program,
 21 the Secretary may designate State housing finance
 22 agencies, housing agencies, nonprofit organizations,
 23 and other entities (including, but not limited to,
 24 legal, accounting, and investment firms) (separately
 25 or in conjunction with each other) that the Secretary

1 determines to be qualified to carry out specified ac-
2 tivities under this section. The Secretary, by delega-
3 tion, contract, cooperative agreement, or otherwise,
4 may enter into relationships with one or more des-
5 ignees, which provide for the assumption by the des-
6 ignee of some or all of the functions, obligations, re-
7 sponsibilities, and benefits of the Secretary author-
8 ized by subsections (d)(3)(A) and (d)(3)(B) and sub-
9 section (e).

10 (2) CONDITIONS.—The Secretary or designee
11 may take actions under paragraph (3) to make the
12 multifamily housing project financially viable at
13 market rents. The Secretary or designee may take
14 these actions when the Secretary or designee deter-
15 mines that the actions are economically prudent and
16 feasible.

17 (3) AUTHORIZED ACTIONS.—(A) The Secretary
18 or the designee may take the actions described in
19 subparagraph (B), subject to obtaining necessary
20 consent to ensure that contract rights are not abro-
21 gated, including consent by (i) the Government Na-
22 tional Mortgage Association if it owns a mortgage
23 insured by the Secretary, (ii) an issuer under the
24 mortgage-backed securities program of the Associa-
25 tion, subject to the responsibilities of the issuer to

1 its security holders and the Association under that
2 program, and (iii) the parties to any contractual
3 agreement which the Secretary proposes to modify
4 or discontinue.

5 (B) Notwithstanding any other law, the Sec-
6 retary or designee may—

7 (i) fully or partially pay a claim for mort-
8 gage insurance (which may be made whether or
9 not the mortgage is in default and, in the case
10 of partial payment of a claim, may include re-
11 quiring a recasting of any provisions of the
12 mortgage (such as changing the term, interest,
13 or amortization) in order to accord consistency
14 with then-current market conditions);

15 (ii) remove or modify (or agree to do so)
16 mortgage, regulatory, use agreement, or other
17 restrictions with respect to a project;

18 (iii) purchase reinsurance or otherwise
19 transfer economic interests in insurance con-
20 tracts or premiums;

21 (iv) take appropriate action to induce par-
22 ticipation of owners, lenders, servicers, third
23 parties, and other entities;

24 (v) provide for restructuring of the mort-
25 gage (which may include reduction of the out-

1 standing mortgage amount and prepayment of
 2 principal to the mortgagee, if appropriate);

3 (vi) make payment from the appropriate
 4 insurance fund under the National Housing Act
 5 for activities under this subtitle, which may in-
 6 clude payments for repairs and rehabilitation;
 7 and

8 (vii) take other actions to enable the
 9 project to be financially viable at market rents.

10 (C) In addition to the actions described in sub-
 11 paragraph (B), the Secretary may provide for the re-
 12 newal of section 8 contracts in accordance with sec-
 13 tion 405(a) of the Balanced Budget Downpayment
 14 Act, I.

15 (e) RENTAL ASSISTANCE.—

16 (1)(A) Except as provided in paragraph (2), in
 17 connection with the termination of any assistance
 18 contract described in subsection (c)(1), the Secretary
 19 or a designee shall provide tenant-based assistance
 20 under section 8 to—

21 (i) each assisted family (other than a fam-
 22 ily already receiving tenant-based assistance)
 23 residing in the project at the time the assist-
 24 ance under subsection (c) terminates; and

1 (ii) each very low-income family whose rent
2 would increase due to restructuring or subsidy
3 reduction under this section and whose in-
4 creased rent would exceed 30 percent of the ad-
5 justed income of the family as determined
6 under section 3(a)(1) of the United States
7 Housing Act of 1937.

8 (B) Notwithstanding section 8(c)(1) and section
9 8(o)(1) of the United States Housing Act of 1937,
10 in the case of families described in subparagraph (A)
11 that reside in a project described in subsection (c)
12 where the reasonable rent (which rent shall include
13 any amount allowed for utilities and shall not exceed
14 comparable market rents for the relevant housing
15 market area) exceeds the fair market rent limitation
16 or the payment standard, as applicable, the amount
17 of assistance for the family shall be determined
18 based on such reasonable rent. Accordingly, for the
19 certificate program under section 8(b), the maxi-
20 mum monthly rent under the contract (plus any
21 amount allowed for utilities) shall be such reasonable
22 rent for the unit; and for the voucher program under
23 section 8(o), the payment standard shall be deemed
24 to be such reasonable rent for the unit.

1 (2) Notwithstanding paragraph (1) and the re-
2 quirements of section 8(d)(2), the Secretary or des-
3 ignee shall, for an otherwise eligible project, provide
4 for project-based assistance, at rents not exceeding
5 market rents—

6 (A) for projects located in areas where the
7 Secretary or designee determines, based on
8 housing market indicators, such as exceptionally
9 low vacancy rates or exceptionally high absorp-
10 tion rates, that it is difficult for families receiv-
11 ing tenant-based assistance to find suitable
12 units; and

13 (B) for projects with 90 percent or more
14 occupancy by elderly families, disabled families,
15 or a combination of such families.

16 (f) NONDISCRIMINATION AGAINST CERTIFICATE
17 HOLDERS.—In the case of multifamily rental housing
18 under this section that is receiving, or (except for insur-
19 ance referred to in paragraph (4)) has received within two
20 years before the effective date of this section, the benefit
21 of Federal assistance from an agency of the United States,
22 the owner shall not refuse to lease a reasonable number
23 of units to holders of certificates or vouchers under section
24 8 because of the status of the prospective tenants as cer-
25 tificate or voucher holders. The Secretary shall establish

1 reasonable time periods for applying the requirement of
 2 this subsection, taking into account the total amount of
 3 the assistance and the relative share of the assistance com-
 4 pared to the total cost of financing, developing, rehabilitat-
 5 ing, or otherwise assisting a project. Federal assistance
 6 for purposes of this subsection shall mean—

7 (1) project-based assistance under the United
 8 States Housing Act of 1937;

9 (2) assistance under title I of the Housing and
 10 Community Development Act of 1974;

11 (3) assistance under title II of the Cranston-
 12 Gonzalez National Affordable Housing Act;

13 (4) mortgage insurance under the National
 14 Housing Act;

15 (5) low-income housing tax credits under sec-
 16 tion 42 of the Internal Revenue Code of 1986;

17 (6) assistance under title IV of the Stewart B.
 18 McKinney Homeless Assistance Act;

19 (7) assistance under this section; and

20 (8) assistance under any other programs des-
 21 ignated by the Secretary.

22 (g) PARTICIPATION BY TENANT ORGANIZATIONS AND
 23 NONPROFIT ORGANIZATIONS.—The Secretary shall estab-
 24 lish procedures to facilitate the voluntary sale or transfer
 25 of multifamily housing projects under this section to, and

1 management or other participation by, tenant organiza-
2 tions and community-based nonprofit and public agency
3 purchasers meeting such reasonable qualifications as may
4 be established by the Secretary.

5 (h) DEFINITIONS.—For purposes of this section—

6 (1) DISABLED FAMILY.—The term “disabled
7 family” means an individual or family that qualifies
8 as a disabled family under section 3(b)(3)(B) of the
9 United States Housing Act of 1937.

10 (2) ELDERLY FAMILY.—The term “elderly fam-
11 ily” means an individual or family that qualifies as
12 an elderly family under section 3(b)(3)(B) of the
13 United States Housing Act of 1937.

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

16 (4) SECTION 8.—The term “section 8” means
17 section 8 of the United States Housing Act of 1937
18 and references to subsections of section 8 means
19 subsections of section 8 of that Act.

20 (5) VERY LOW-INCOME FAMILY.—The term
21 “very low-income family” means a very low-income
22 family as defined in section 3(b)(2) of the United
23 States Housing Act of 1937.

1 (i) EFFECT ON OTHER AUTHORITY.—This section
 2 does not limit the Secretary’s authority under other provi-
 3 sions of law.

4 **SEC. 111. SECTION 8 CONTRACT RENEWALS.**

5 Section 405(a) of the Balanced Budget Downpay-
 6 ment Act, I is amended by inserting at the end the follow-
 7 ing: “Notwithstanding the preceding sentence, upon the
 8 expiration of a contract with rent levels that exceed the
 9 Section 8 Existing Fair Market Rents—

10 “(1) If the Secretary determines that—

11 “(A) the primary financing or mortgage in-
 12 surance for the multifamily housing project that
 13 is covered by that expiring contract was pro-
 14 vided by a unit of State government (or an
 15 agency or instrumentality of a unit of State
 16 government) and the financing does not involve
 17 mortgage insurance under the National Hous-
 18 ing Act;

19 “(B) the project is a project financed
 20 under section 202 of the Housing Act of 1959
 21 or section 515 of the Housing Act of 1949; or

22 “(C) the project is a project described in
 23 section 110(e) of the Housing Opportunity Act
 24 of 1997 and would not be financially viable at

1 market rents even if all debt service obligations
2 of the mortgagor were removed or deferred,
3 the Secretary, at the request of the owner and, in
4 the case of a project under subparagraph (A), the
5 unit of State government (or its agency or instru-
6 mentality), shall, for an otherwise eligible project,
7 provide project-based assistance under section 8, in
8 accordance with terms and conditions prescribed by
9 the Secretary, at rent levels that are equal to those
10 under the expiring contract as of the date on which
11 the contract expires.

12 “(2) If the project is not a project covered by
13 paragraph (1), but is a project described in section
14 110(c) of the Housing Opportunity Act of 1997, the
15 Secretary, at the request of the owner, may provide
16 project-based or tenant-based assistance under sec-
17 tion 8, in accordance with terms and conditions pre-
18 scribed by the Secretary, at rent levels that do not
19 exceed market rents. The Secretary shall provide
20 project-based assistance for the following categories
21 of projects (if the project is otherwise eligible)—

22 “(A) projects located in areas where the
23 Secretary or designee determine, based on hous-
24 ing market indicators, such as exceptionally low
25 vacancy rates or exceptionally high absorption

1 rates, that it is difficult for families receiving
2 tenant-based assistance to find suitable units;
3 and

4 “(B) projects that have 90 percent or more
5 occupancy by elderly families, disabled families,
6 or a combination of such families.

7 “(3) For any project that is a project described
8 in section 110(c) of the Housing Opportunity Act of
9 1997, the Secretary, at the request of the owner,
10 may provide project-based assistance under section
11 8, in accordance with terms and conditions pre-
12 scribed by the Secretary. If the Secretary determines
13 to provide project-based assistance under this para-
14 graph, the rents shall not exceed rents approved by
15 the Secretary, based on an analysis of a budget for
16 the project, which, in any case, may not exceed rent
17 levels equal to those under the expiring contract as
18 of the date on which the contract expires. The Sec-
19 retary may only approve rents under this paragraph
20 for projects with an aggregate number of units that
21 is no more than 10 percent of the units in all
22 projects subject to actions authorized by section 110
23 of the Housing Opportunity Act of 1997, minus the
24 number of units in projects described in paragraph
25 (1)(C), paragraph (2)(A), or paragraph (2)(B).”.

1 **SEC. 112. REUSE AND RESCISSION OF CERTAIN RECAP-**
2 **TURED BUDGET AUTHORITY.**

3 Section 8(bb) of the United States Housing Act of
4 1937 is amended to read as follows:

5 “(bb) REUSE AND RESCISSION OF CERTAIN RECAP-
6 TURED BUDGET AUTHORITY.—If a project-based assist-
7 ance contract for a project subject to actions authorized
8 by section 110 of the Housing Opportunity Act of 1997
9 is terminated or amended as part of restructuring under
10 section 110, the Secretary shall recapture the budget au-
11 thority not required for the terminated or amended con-
12 tract and, without regard to section 218 of the Depart-
13 ments of Veterans Affairs and Housing and Urban Devel-
14 opment, and Independent Agencies Appropriations Act,
15 1997, use such amounts as are necessary to provide hous-
16 ing assistance for the same number of families covered by
17 such contract for the remaining term of such contract,
18 under a contract providing for project-based or tenant-
19 based assistance. The amount of budget authority saved
20 as a result of the shift to project-based or tenant-based
21 assistance shall be rescinded.”.

1 **Subtitle B—Extension of Time for**
 2 **Payment of Tax Attributable to**
 3 **FHA Multifamily Restructuring**

4 **SEC. 120. EXTENSION OF TIME FOR PAYMENT OF TAX AT-**
 5 **TRIBUTABLE TO FHA MULTIFAMILY RE-**
 6 **STRUCTURING.**

7 Subchapter 62B of Subtitle F of the Internal Reve-
 8 nue Code of 1986 is amended by adding at the end the
 9 following new section:

10 **“SEC. 6168. EXTENSION OF TIME FOR PAYMENT OF TAX AT-**
 11 **TRIBUTABLE TO FHA PORTFOLIO RESTRUC-**
 12 **TURING.**

13 **“(a) IN GENERAL.—**

14 **“(1) DEBT REDUCTION.—**In the case of a
 15 qualified reduction of the unpaid principal balance of
 16 indebtedness secured by qualified section 8 housing,
 17 the taxpayer may elect to defer the tax attributable
 18 to the qualified reduction.

19 **“(2) GAIN FROM SALE.—**In the case of a quali-
 20 fied sale of qualified section 8 housing, the taxpayer
 21 may elect to defer the tax attributable to the quali-
 22 fied sale.

23 **“(b) AMOUNT OF DEFERRED TAX.—**

1 “(1) IN GENERAL.—The tax attributable to a
 2 qualified reduction or a qualified sale is the excess,
 3 if any, of—

4 “(A) the amount of the taxpayer’s tax
 5 under section 1 or section 11 for the taxable
 6 year (without regard to section 172(a), section
 7 1212(a), or section 1212(b)); over

8 “(B) the amount of the taxpayer’s tax
 9 under section 1 or section 11 for the taxable
 10 year (without regard to section 172(a), section
 11 1212(a), or section 1212(b)) determined with-
 12 out regard to the income under section
 13 61(a)(12) attributable to a qualified reduction
 14 or the gain under section 1001 attributable to
 15 a qualified sale.

16 “(2) TAX ATTRIBUTES.—Any tax attributes uti-
 17 lized in determining the amount of tax under sub-
 18 paragraph (b)(1)(i) shall be considered utilized for
 19 all purposes of this Title.

20 “(c) DEFERRAL PERIOD.—

21 “(1) QUALIFIED REDUCTION.—Except as pro-
 22 vided in subsection (d), the tax deferred pursuant to
 23 paragraph (a)(1) shall be payable in equal annual
 24 installments in accordance with the following table:

Percentage of Qualified**Reduction****Year of Payment**

Over 30 percent—less than 34 percent.	HAP contract year
34 percent—less than 36 percent	HAP contract year plus 1 year
36 percent—less than 38 percent	HAP contract year plus 2 years
38 percent—less than 40 percent	HAP contract year plus 3 years
40 percent—less than 42 percent	HAP contract year plus 4 years
42 percent—less than 44 percent	HAP contract year plus 5 years
44 percent—less than 46 percent	HAP contract year plus 6 years
46 percent—less than 48 percent	HAP contract year plus 7 years
48 percent—less than 50 percent	HAP contract year plus 8 years
50 percent—less than 75 percent	HAP contract year plus 9 years

1 “(2) QUALIFIED SALE.—Except as provided in
2 subsection (d), the tax deferred pursuant to para-
3 graph (a)(2) shall be payable in seven equal annual
4 installments beginning with the HAP contract year.

5 “(d) ACCELERATION OF DEFERRED TAX.—Any re-
6 maining tax deferred under subsection (a) shall be payable
7 for the taxable year of the taxpayer in which any of the
8 following occurs—

9 “(1) The sale or exchange of the qualified sec-
10 tion 8 housing property;

11 “(2) The sale or exchange of all or a portion of
12 the taxpayer’s interest in a partnership or S cor-
13 poration that holds (or held) the qualified section 8
14 property (but only to the extent of the portion of the
15 interest sold or exchanged);

16 “(3) The gift of all or a portion of the tax-
17 payer’s interest in a partnership or S corporation
18 that holds (or held) the qualified section 8 property

1 (but only to the extent of the portion of the interest
2 transferred);

3 “(4) The death of the taxpayer;

4 “(5) A refinancing of the mortgage on the
5 qualified section 8 housing that is in excess of the
6 refinanced debt, unless the excess refinancing pro-
7 ceeds are used to improve the qualified section 8
8 housing;

9 “(6) The failure of the qualified section 8 hous-
10 ing to meet the qualification as a qualified low-in-
11 come housing project as defined in section
12 42(g)(1)(B) and section 42(g)(2–8); or

13 “(7) Any event specified in regulations pre-
14 scribed by the Secretary.

15 “(e) TIME OF PAYMENT.—The due date for the pay-
16 ment of the installment of the tax deferred pursuant to
17 subsection (a) or accelerated pursuant to subsection (d)
18 shall be the due date (without extensions) for the
19 taxpayer’s return for the applicable year. For purposes of
20 section 6601, in the case of an election under subsection
21 (a), the date prescribed for payment of the installment of
22 the tax deferred shall be the date specified in this
23 subsection (e).

24 “(f) ELECTION.—Any election under subsection (a)
25 shall be made not later than the time prescribed by section

1 6072 for the filing of the return of tax imposed by section
 2 1 or section 11 (including extensions thereof) for the tax-
 3 able year in which the qualified reduction or qualified sale
 4 occurred and shall be made in such manner as the Sec-
 5 retary shall by regulations prescribe.

6 “(g) DEFINITIONS.—

7 “(1) QUALIFIED REDUCTION.—The term ‘quali-
 8 fied reduction’ means a reduction of more than 30
 9 percent but less than 75 percent of the unpaid prin-
 10 cipal balance of indebtedness secured by qualified
 11 section 8 housing that occurs as a result of a pay-
 12 ment by the Federal Housing Administration of a
 13 claim under Title II of the National Housing Act (as
 14 described in section 2(d) of the Housing Opportunity
 15 Act of 1997), provided that the reduction occurs
 16 prior to December 31, 2000, or the date that is 60
 17 days prior to the first expiration of a HAP contract
 18 with respect to the qualified section 8 housing,
 19 whichever occurs first.

20 “(2) QUALIFIED SALE.—The term ‘qualified
 21 sale’ means a sale or exchange of qualified section
 22 8 housing to an organization described in section
 23 501(c)(3) and section 2(g) of the Housing Oppor-
 24 tunity Act of 1997, provided that the sale occurs
 25 prior to December 31, 2000, or the date that is 60

1 days prior to the first expiration of a HAP contract
2 with respect to the qualified section 8 housing,
3 whichever occurs first.

4 “(3) QUALIFIED SECTION 8 HOUSING.—The
5 term ‘qualified section 8 housing’ means any multi-
6 family housing described in section 2(c) of the Hous-
7 ing Opportunity Act of 1997.

8 “(4) UNPAID PRINCIPAL BALANCE.—The term
9 ‘unpaid principal balance’ means unpaid principal
10 plus accrued and unpaid interest as of the date of
11 introduction of the FHA Multifamily Housing Re-
12 form, Consolidation, and Enforcement Act of 1997,
13 except that all accrued and unpaid interest shall be
14 considered in determining the percentage of the
15 qualified reduction for purposes of subsection (c)(1).

16 “(5) HAP CONTRACT.—The term ‘HAP con-
17 tract’ means a contract between the owner of quali-
18 fied section 8 housing and the Department of Hous-
19 ing and Urban Development by which assistance
20 payments are made to the owner in accordance with
21 the provisions described in section 2(d) of the Hous-
22 ing Opportunity Act of 1997.

23 “(6) HAP CONTRACT YEAR.—The term ‘HAP
24 contract year’ means the year in which the first
25 HAP contract with respect to the qualified section 8

1 housing at the time of the qualified reduction would
2 have expired.

3 “(h) EFFECTIVE DATE.—This section shall be effec-
4 tive upon enactment.”.

5 **TITLE II—HOUSING**
6 **ENFORCEMENT**

7 **SEC. 201. SHORT TITLE.**

8 This title may be cited as the “Housing Enforcement
9 Act of 1997”.

10 **SEC. 202. IMPLEMENTATION.**

11 (a) ISSUANCE OF NECESSARY REGULATIONS.—Not-
12 withstanding 42 U.S.C. 3535(o) or 24 CFR part 10, the
13 Secretary shall issue such regulations as may be necessary
14 to implement any provision of this Act, and any amend-
15 ment made by this Act, in accordance with section 552
16 or 553 of title 5, United States Code, as determined by
17 the Secretary.

18 (b) USE OF EXISTING RULES.—In implementing any
19 provision of this Act, the Secretary may, in the Secretary’s
20 discretion, provide for the use of existing rules to the ex-
21 tent appropriate, without the need for further rulemaking.

1 **Subtitle A—Single Family and**
 2 **Multifamily Housing**

3 **SEC. 210. MRB EXEMPTION FROM AUTOMATIC STAY PROVI-**
 4 **SIONS OF BANKRUPTCY CODE.**

5 Section 202(c)(3) of the National Housing Act is
 6 amended by inserting at the end the following:

7 “(f) EXEMPTION FROM BANKRUPTCY STAY.—The
 8 stay provisions of title 11 of the United States Code shall
 9 not preclude or limit the exercise by the Board of its right
 10 to take an administrative action against a mortgagee as
 11 provided in this paragraph.”.

12 **SEC. 211. AUTHORIZE MRB TO IMMEDIATELY SUSPEND**
 13 **MORTGAGEES.**

14 Section 202(c)(3)(C) of the National Housing Act is
 15 amended by inserting after the first sentence the following
 16 new sentence: “Notwithstanding paragraph (4)(A), a sus-
 17 pension shall be effective upon issuance by the Board if
 18 there exists adequate evidence in the determination of the
 19 Board that immediate action is required to protect the fi-
 20 nancial interests of the Department or the public.”.

21 **SEC. 212. EXTENSION OF EQUITY SKIMMING TO OTHER SIN-**
 22 **GLE FAMILY AND MULTIFAMILY HOUSING**
 23 **PROGRAMS.**

24 Section 254 of the National Housing Act is amended
 25 to read as follows:

1 “EQUITY SKIMMING PENALTY

2 “Whoever, as an owner, agent, or manager, or who
3 is otherwise in custody, control, or possession of a multi-
4 family project or a 1- to 4-family residence that is security
5 for a mortgage note that is insured, acquired, or held by
6 the Secretary pursuant to the National Housing Act, or
7 is made pursuant to section 202 of the Housing Act of
8 1959 (including property still subject to section 202 pro-
9 gram requirements that existed before the date of enact-
10 ment of the Cranston-Gonzalez National Affordable Hous-
11 ing Act), or is insured or held pursuant to section 542
12 of the Housing and Community Development Act of 1992,
13 but is not reinsured under section 542 of the Housing and
14 Community Development Act of 1992, or is guaranteed,
15 insured, or made by the Secretary of Veterans Affairs pur-
16 suant to chapter 37 of title 38, United States Code, will-
17 fully uses or authorizes the use of any part of the rents,
18 assets, proceeds, income, or other funds derived from
19 property covered by such mortgage note for any purpose
20 other than to meet reasonable and necessary expenses that
21 include expenses approved by the Secretary if such ap-
22 proval is required, during a period when the mortgage note
23 is in default or the project is in a nonsurplus cash position
24 as defined by the regulatory agreement covering such
25 property, or the mortgagor has failed to comply with the

1 provisions of such other form of regulatory control im-
 2 posed by the Secretary, shall be fined not more than
 3 \$500,000 or imprisoned not more than 5 years, or both.”.

4 **SEC. 213. INCLUSION OF CRIMINAL EQUITY SKIMMING AS A**
 5 **MONEY LAUNDERING OFFENSE.**

6 Section 1956(c)(7)(D) of title 18, United States
 7 Code, is amended by inserting “section 254 of the Na-
 8 tional Housing Act (relating to equity skimming),” before
 9 “or any felony violation of the Foreign Corrupt Practices
 10 Act”.

11 **SEC. 214. EFFECT OF CRIMINAL EQUITY SKIMMING ON**
 12 **MORTGAGE INSURANCE.**

13 Section 254 of the National Housing Act, as amended
 14 by section 212, is further amended—

15 (1) by striking “Whoever” and inserting the fol-
 16 lowing:

17 “(a) IN GENERAL.—Whoever”; and

18 (2) by adding at the end the following new sub-
 19 section:

20 “(b) ADDITIONAL EFFECT OF VIOLATION.—If an
 21 owner, agent, manager, or other person who is otherwise
 22 in custody, control, or possession of any property de-
 23 scribed in subsection (a) is convicted of a violation of that
 24 subsection, the Secretary may recover from such owner,

1 agent, manager, or other person an amount equal to the
 2 sum of—

3 “(1) any amount of insurance claim paid to the
 4 mortgagee by the Secretary with respect to the
 5 mortgage loan for such property; and

6 “(2) any loss incurred by the Secretary in con-
 7 nection with such property.

8 If the Secretary determines that the violation contributed
 9 to a claim or incurred loss, any recovery under this sub-
 10 section shall be in addition to any fine, imprisonment, or
 11 other penalty imposed under subsection (a).”.

12 **SEC. 215. CIVIL MONEY PENALTIES AGAINST MORTGAGEES,**
 13 **LENDERS, AND OTHER PARTICIPANTS IN FHA**
 14 **PROGRAMS.**

15 (a) CHANGE TO SECTION TITLE.—The title of sec-
 16 tion 536 of the National Housing Act is amended to read
 17 as follows: “**CIVIL MONEY PENALTIES AGAINST**
 18 **MORTGAGEES, LENDERS, AND OTHER PARTICI-**
 19 **PANTS IN FHA PROGRAMS**”.

20 (b) EXPANSION OF PERSONS ELIGIBLE FOR PEN-
 21 ALTY.—Section 536(a) of the National Housing Act is
 22 amended—

23 (1) in paragraph (1), by revising the first sen-
 24 tence to read as follows:

1 “Whenever a mortgagee approved under the
2 Act, a lender holding a contract of insurance under
3 title I of this Act, or a principal, officer or employee
4 of such mortgagee or lender, or other person or en-
5 tity participating in either an insured mortgage or
6 title I loan transaction under this Act or providing
7 assistance to the borrower in connection with any
8 such loan, including sellers of the real estate in-
9 volved, borrowers, closing agents, title companies,
10 real estate agents, mortgage brokers, appraisers,
11 loan correspondents and dealers, knowingly and ma-
12 terially violates any of the applicable provisions of
13 subsection (b), the Secretary may impose a civil
14 money penalty on the mortgagee or lender, or such
15 other person or entity, in accordance with the provi-
16 sions of this section. The penalty shall be in addition
17 to any other available civil remedy or any available
18 criminal penalty, and may be imposed whether or
19 not the Secretary imposes other administrative sanc-
20 tions.”; and

21 (2) in paragraph (2)—

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

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

1 (c) ADDITIONAL VIOLATIONS FOR MORTGAGEES,
2 LENDERS, AND OTHER PARTICIPANTS IN FHA PRO-
3 GRAMS.—Section 536(b) of such Act is amended—

4 (1) by redesignating paragraph (2) as para-
5 graph (3);

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

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

19 “(A) submission to the Secretary of infor-
20 mation that was false, in connection with any
21 mortgage insured under this Act, or any loan
22 that is covered by a contract of insurance under
23 title I of this Act;

1 “(B) falsely certifying to the Secretary or
 2 submitting to the Secretary a false certification
 3 by another person or entity; or

4 “(C) failure by a loan correspondent or
 5 dealer to submit to the Secretary information
 6 which is required by regulations or directives in
 7 connection with any loan that is covered by a
 8 contract of insurance under title I of this Act.”;
 9 and

10 (3) in paragraph (3), as redesignated by para-
 11 graph (1) of this subsection, by striking “or para-
 12 graph (1)(F)” and inserting “or (F), or paragraph
 13 (2) (A), (B), or (C)”.

14 (d) CONFORMING AND TECHNICAL AMENDMENTS.—
 15 Section 536 of the such Act is further amended as follows:

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

19 (2) in subsection (d)(1)—

20 (A) by inserting after “lender” the follow-
 21 ing: “or such other person or entity”; and

22 (B) by striking “part 25” and inserting
 23 “parts 24 and 25”; and

1 (3) in subsection (e), by inserting after “lend-
 2 er” each time it appears the following: “or such
 3 other person or entity”.

4 **Subtitle B—Multifamily Housing**

5 **SEC. 220. CIVIL MONEY PENALTIES AGAINST GENERAL** 6 **PARTNERS, OFFICERS, DIRECTORS, AND CER-** 7 **TAIN MANAGING AGENTS OF MULTIFAMILY** 8 **PROJECTS.**

9 (a) CIVIL MONEY PENALTIES AGAINST MULTIFAM-
 10 ILY MORTGAGORS.—Section 537 of the National Housing
 11 Act is amended—

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

17 (2) in subsection (c)—

18 (A) by striking the heading and inserting
 19 the following: “(c) OTHER VIOLATIONS.—”;

20 (B) in paragraph (1)—

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

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

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

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

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

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

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

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

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

(ii) in subparagraph (B), as designated by clause (i), by redesignating the subparagraph designations (A) through (L) as clauses (i) through (xii), respectively;

(iii) by adding after clause (xii), as redesignated by clause (ii), the following new clauses:

“(xiii) Failure to maintain the premises, accommodations, any living unit in the project, and the grounds and equipment appurtenant thereto in good repair and condition in accordance with regulations and requirements of the Secretary, except that nothing in this clause shall have the effect of altering the provisions of an existing regulatory agreement or federally insured mortgage on the property.

“(xiv) Failure, by a mortgagor, a general partner of a partnership mortgagor, or an officer or director of a corporate mortgagor, to provide management for the project that is acceptable to the Secretary pursuant to regulations and requirements of the Secretary.

1 “(xv) Failure to provide access to the
2 books, records, and accounts related to the op-
3 erations of the mortgaged property and of the
4 project.”; and

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

8 (3) in subsection (d)—

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

14 (B) by adding at the end the following new
15 paragraph:

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

19 (4) in subsection (e)(1), by deleting “a mortga-
20 gor” and inserting “an entity or person”;

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

1 (6) by striking the heading of subsection (f)
 2 and inserting the following: “CIVIL MONEY PEN-
 3 ALTIES AGAINST MULTIFAMILY MORTGAGORS, GEN-
 4 ERAL PARTNERS OF PARTNERSHIP MORTGAGORS,
 5 OFFICERS AND DIRECTORS OF CORPORATE MORT-
 6 GAGORS, AND CERTAIN MANAGING AGENTS”; and

7 (7) by adding at the end the following new sub-
 8 section:

9 “(k) IDENTITY OF INTEREST MANAGING AGENT.—
 10 For purposes of this section, the terms ‘agent employed
 11 to manage the property that has an identity of interest’
 12 and ‘identity of interest agent’ mean an entity—

13 “(1) that has management responsibility for a
 14 project;

15 “(2) in which the ownership entity, including its
 16 general partner or partners (if applicable) and its of-
 17 ficers or directors (if applicable), has an ownership
 18 interest; and

19 “(3) over which such ownership entity exerts ef-
 20 fective control.”.

21 (b) IMPLEMENTATION.—

22 (1) PUBLIC COMMENT.—The Secretary shall
 23 implement the amendments made by this section by
 24 regulation issued after notice and opportunity for
 25 public comment. The notice shall seek comments pri-

1 marily as to the definitions of the terms “ownership
 2 interest in” and “effective control”, as such terms
 3 are used in the definition of the terms “agent em-
 4 ployed to manage the property that has an identity
 5 of interest” and “identity of interest agent”.

6 (2) TIMING.—A proposed rule implementing the
 7 amendments made by this section shall be published
 8 not later than one year after the date of enactment
 9 of this Act.

10 (c) APPLICABILITY OF AMENDMENTS.—The amend-
 11 ments made by subsection (a) shall apply only with respect
 12 to—

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

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

20 **SEC. 221. CIVIL MONEY PENALTIES FOR NONCOMPLIANCE**
 21 **WITH SECTION 8 HAP CONTRACTS.**

22 (a) BASIC AUTHORITY.—Title I of the United States
 23 Housing Act of 1937 is amended by adding at the end
 24 the following new section:

1 **“SEC. 28. CIVIL MONEY PENALTIES AGAINST SECTION 8**
 2 **OWNERS.**

3 “(a) IN GENERAL.—The penalties set forth in this
 4 section shall be in addition to any other available civil rem-
 5 edy or any available criminal penalty, and may be imposed
 6 regardless of whether the Secretary imposes other admin-
 7 istrative sanctions. The Secretary may not impose pen-
 8 alties under this section for a violation, if a material cause
 9 of the violation is the failure of the Secretary, an agent
 10 of the Secretary, or a public housing agency to comply
 11 with an existing agreement.

12 “(b) VIOLATIONS OF HOUSING ASSISTANCE PAY-
 13 MENT CONTRACTS FOR WHICH PENALTY MAY BE IM-
 14 POSED.—

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

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

19 “(B) any general partner of a partnership
 20 owner of such property; and

21 “(C) any agent employed to manage such
 22 property that has an identity of interest with
 23 the owner or the general partner of a partner-
 24 ship owner of the property.

25 “(2) VIOLATIONS.—A penalty may be imposed
 26 under this section for a knowing and material

1 breach of a housing assistance payments contract,
2 including the following—

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

5 “(B) knowing or willful submission of
6 false, fictitious, or fraudulent statements or re-
7 quests for housing assistance payments to the
8 Secretary or to any department or agency of
9 the United States.

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

14 “(c) AGENCY PROCEDURES.—

15 “(1) ESTABLISHMENT.—The Secretary shall
16 issue regulations establishing standards and proce-
17 dures governing the imposition of civil money pen-
18 alties under subsection (b). These standards and
19 procedures—

20 “(A) shall provide for the Secretary or
21 other department official to make the deter-
22 mination to impose the penalty;

23 “(B) shall provide for the imposition of a
24 penalty only after the liable party has received

1 notice and the opportunity for a hearing on the
2 record; and

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

7 “(2) FINAL ORDERS.—If a hearing is not re-
8 quested before the expiration of the 15-day period
9 beginning on the date on which the notice of oppor-
10 tunity for hearing is received, the imposition of a
11 penalty under subsection (b) shall constitute a final
12 and unappealable determination. If the Secretary re-
13 views the determination or order, the Secretary may
14 affirm, modify, or reverse that determination or
15 order. If the Secretary does not review that deter-
16 mination or order before the expiration of the 90-
17 day period beginning on the date on which the deter-
18 mination or order is issued, the determination or
19 order shall be final.

20 “(3) FACTORS IN DETERMINING AMOUNT OF
21 PENALTY.—In determining the amount of a penalty
22 under subsection (b), the Secretary shall take into
23 consideration—

24 “(A) the gravity of the offense;

1 “(B) any history of prior offenses by the
2 violator (including offenses occurring before the
3 enactment of this section);

4 “(C) the ability of the violator to pay the
5 penalty;

6 “(D) any injury to tenants;

7 “(E) any injury to the public;

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

10 “(G) deterrence of future violations; and

11 “(H) such other factors as the Secretary
12 may establish by regulation.

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

16 “(d) JUDICIAL REVIEW OF AGENCY DETERMINA-
17 TION.—Judicial review of determinations made under this
18 section shall be carried out in accordance with section
19 537(e) of the National Housing Act.

20 “(e) REMEDIES FOR NONCOMPLIANCE.—

21 “(1) JUDICIAL INTERVENTION.—If a person or
22 entity fails to comply with the Secretary’s deter-
23 mination or order imposing a civil money penalty
24 under subsection (b), after the determination or
25 order is no longer subject to review as provided by

1 subsections (c) and (d), the Secretary may request
2 the Attorney General of the United States to bring
3 an action in an appropriate United States district
4 court to obtain a monetary judgment against that
5 person or entity and such other relief as may be
6 available. The monetary judgment may, in the
7 court's discretion, include the attorney's fees and
8 other expenses incurred by the United States in con-
9 nection with the action.

10 “(2) NONREVIEWABILITY OF DETERMINATION
11 OR ORDER.—In an action under this subsection, the
12 validity and appropriateness of the Secretary's deter-
13 mination or order imposing the penalty shall not be
14 subject to review.

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

18 “(g) DEPOSIT OF PENALTIES.—

19 “(1) Notwithstanding any other provision of
20 law, where the mortgage covering the property re-
21 ceiving section 8 assistance is insured or formerly in-
22 sured by the Secretary, the Secretary shall apply all
23 civil money penalties collected under this section to
24 the appropriate insurance fund or funds established
25 under this Act, as determined by the Secretary.

1 “(2) Notwithstanding any other provision of
2 law, where the mortgage covering the property re-
3 ceiving section 8 assistance is neither insured nor
4 formerly insured by the Secretary, the Secretary
5 shall make all civil money penalties collected under
6 this section available for use by the appropriate of-
7 fice within the Department for administrative costs
8 related to enforcement of the requirements of the
9 various programs administered by the Secretary.

10 “(h) DEFINITIONS.—For the purposes of this sec-
11 tion—

12 “(1) the term ‘agent employed to manage such
13 property that has an identity of interest’ means an
14 entity—

15 “(A) that has management responsibility
16 for a project;

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

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

22 “(2) the term ‘knowing’ means having actual
23 knowledge of or acting with deliberate ignorance of
24 or reckless disregard for the prohibitions under this
25 section.”.

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

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

6 (2) in the case of a continuing violation (as de-
 7 termined by the Secretary of Housing and Urban
 8 Development), any portion of a violation that occurs
 9 on or after such date.

10 (c) IMPLEMENTATION.—

11 (1) REGULATIONS.—The Secretary shall imple-
 12 ment the amendments made by this section by regu-
 13 lation issued after notice and opportunity for public
 14 comment. The notice shall seek comments as to the
 15 definitions of the terms “ownership interest in” and
 16 “effective control”, as such terms are used in the
 17 definition of the term “agent employed to manage
 18 such property that has an identity of interest”.

19 (2) TIMING.—A proposed rule implementing the
 20 amendments made by this section shall be published
 21 not later than one year from the date of enactment
 22 of this Act.

23 **SEC. 222. EXTENSION OF DOUBLE DAMAGES REMEDY.**

24 Section 421 of the Housing and Community Develop-
 25 ment Act of 1987 is amended—

1 (1) in subsection (a)(1)—

2 (A) in the first sentence, by striking “Act;
3 or (B)” and inserting the following: “Act; (B)
4 a regulatory agreement that applies to a multi-
5 family project whose mortgage is insured or
6 held by the Secretary under section 202 of the
7 Housing Act of 1959 (including property sub-
8 ject to section 202 of such Act as it existed be-
9 fore enactment of the Cranston-Gonzalez Na-
10 tional Affordable Housing Act of 1990); (C) a
11 regulatory agreement or such other form of reg-
12 ulatory control as may be imposed by the Sec-
13 retary that applies to mortgages insured or held
14 by the Secretary under section 542 of the
15 Housing and Community Development Act of
16 1992, but not reinsured under section 542 of
17 the Housing and Community Development Act
18 of 1992; or (D)”;

19 (B) in the second sentence, by inserting
20 after “agreement” the following: “, or such
21 other form of regulatory control as may be im-
22 posed by the Secretary,”;

23 (2) by redesignating subsection (a)(2) as sub-
24 section (a)(3);

1 (3) by inserting after subsection (a)(1) the fol-
2 lowing new paragraph:

3 “(2) The Secretary may request the Attorney
4 General to bring an action in a United States dis-
5 trict court to recover management fees refunded to
6 any person in return for awarding a management
7 contract to a management agent in connection with
8 the operation of a multifamily project whose mort-
9 gage is insured or held by the Secretary under title
10 II of the National Housing Act, section 202 of the
11 Housing Act of 1959 (including property subject to
12 section 202 of such Act as it existed before enact-
13 ment of the Cranston-Gonzalez National Affordable
14 Housing Act of 1990) or under section 542 of the
15 Housing and Community Development Act of 1992.
16 Any payment by the management agent or an affili-
17 ate of the management agent to any person shall
18 be presumed to be a refund in return for awarding
19 a management contract.”;

20 (4) in subsection (a)(3), as redesignated by
21 paragraph (2), by inserting after “Act,” the follow-
22 ing: “under section 202 of the Housing Act of 1959
23 (including section 202 of such Act as it existed be-
24 fore enactment of the Cranston-Gonzalez National
25 Affordable Housing Act of 1990) and under section

1 542 of the Housing and Community Development
2 Act of 1992,”;

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

6 (6) in subsection (c)—

7 (A) in the first sentence, by striking “or
8 any applicable regulation,” and inserting the
9 following: “, or such other form of regulatory
10 control as may be imposed by the Secretary, or
11 any applicable regulation, or double the value of
12 the management fees refunded to any person in
13 return for awarding a management contract to
14 a management agent,”; and

15 (B) in the second sentence, by inserting
16 before the period the following: “or, in the case
17 of any project for which the mortgage is in-
18 sured or held by the Secretary under section
19 202 of the Housing Act of 1959 (including
20 property subject to section 202 of such Act as
21 it existed before enactment of the Cranston-
22 Gonzalez National Affordable Housing Act of
23 1990), to the project or to the Department for
24 use by the appropriate office within the Depart-
25 ment for administrative costs related to enforce-

1 ment of the requirements of the various pro-
2 grams administered by the Secretary, as appro-
3 priate”; and

4 (7) by revising subsection (d) to read as follows:

5 “(d) TIME LIMITATION.—Notwithstanding any other
6 statute of limitations, the Secretary may request the At-
7 torney General to bring an action under this section at
8 any time up to and including 6 years after the latest date
9 that the Secretary discovers (1) any use of project assets
10 and income in violation of the regulatory agreement, or
11 such other form of regulatory control as may be imposed
12 by the Secretary, or any applicable regulation, or (2) any
13 refund of management fees to any person in return for
14 awarding a management contract to a management
15 agent.”.

16 **SEC. 223. OBSTRUCTION OF FEDERAL AUDITS.**

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

1 **SEC. 224. DISPOSITION OF AMOUNTS RECOVERED UNDER**
2 **THE PROGRAM FRAUD CIVIL REMEDIES ACT.**

3 Section 3806(g)(2) of title 31, United States Code,
4 is amended by adding at the end the following new sub-
5 paragraphs:

6 “(F) Any amount of a penalty or assessment
7 imposed by the Secretary of Housing and Urban De-
8 velopment under this chapter with respect to a claim
9 or statement made in connection with the mortgage
10 and loan insurance functions of the Secretary under
11 the National Housing Act shall be deposited in the
12 appropriate Insurance Fund established under that
13 Act.

14 “(G) Any amount of a penalty or assessment
15 imposed by the Secretary of Housing and Urban De-
16 velopment under this chapter with respect to a claim
17 or statement made in connection with the guarantee
18 functions of the Secretary under title III of the Na-
19 tional Housing Act shall be deposited in the account
20 of the Government National Mortgage Association
21 with the United States Treasury.”.

22 **SEC. 225. EXTENSION OF ACCESS TO RECORDS TO PRE-**
23 **VENT FRAUD AND ABUSE.**

24 Section 303(i)(5) of the Social Security Act is hereby
25 repealed.

1 **SEC. 226. CONDITIONS FOR RENEWAL OR EXTENSION OF**
 2 **HAP CONTRACTS.**

3 The Secretary of Housing and Urban Development
 4 may require that an expiring assistance contract for
 5 project-based assistance under section 8 of the United
 6 States Housing Act of 1937 shall not be renewed or ex-
 7 tended unless the owner executes an agreement to comply
 8 with additional conditions prescribed by HUD, or executes
 9 a new section 8 assistance contract in the form prescribed
 10 by HUD.

11 **Subtitle C—FHA Single Family**
 12 **Housing**

13 **SEC. 230. TERMINATION OF MORTGAGEE ORIGINATION AP-**
 14 **PROVAL.**

15 Section 533 of the National Housing Act is amended
 16 by adding at the end the following new subsections:

17 “(c) **TERMINATION OF MORTGAGEE ORIGINATION**
 18 **APPROVAL.**—Notwithstanding section 202(c) of this Act
 19 and in addition to the sanctions available under subsection
 20 (b) of this section, the Secretary may terminate the ap-
 21 proval of a mortgagee to originate mortgages if the mort-
 22 gagee is determined to present an unacceptable risk to the
 23 insurance funds, on the basis of a comparison between the
 24 indicators of portfolio risk, including rates of delin-
 25 quencies, defaults, and claims, on insured mortgages by
 26 the mortgagee, and the comparable indicators applicable

1 to other approved mortgagees making insured mortgage
2 loans in the area.

3 “(d) DEFINITION OF MORTGAGEE.—For the pur-
4 poses of this section, the term ‘mortgagee’ means—

5 “(1) a mortgagee approved to participate in the
6 single family mortgage insurance programs under
7 this Act;

8 “(2) a lender or loan correspondent approved
9 under title I of this Act; or

10 “(3) a branch office or subsidiary of the mort-
11 gagee, lender, or loan correspondent.”.

12 **TITLE III—EXEMPTION OF HUD**
13 **AND USDA MULTIFAMILY**
14 **LOAN FORECLOSURES AND**
15 **RELATED ACTIONS FROM THE**
16 **BANKRUPTCY STAY**

17 **SEC. 301. AUTHORITY TO APPOINT RECEIVER OR TAKE**

18 **OTHER ACTION NOT STAYED UNDER SECTION**

19 **362(b)(8).**

20 Section 105(b) of title 11 of the United States Code
21 is amended to read as follows:

22 “(b) Notwithstanding subsection (a) of this section,
23 a court may not—

24 “(1) appoint a receiver in a case under this
25 title; or

1 “(2) issue any order, process, or judgment that
 2 operates as a stay of any of the acts excepted from
 3 automatic stay pursuant to section 362(b)(8).”.

4 **SEC. 302. AUTHORITY TO FORECLOSE OR TAKE OTHER AC-**
 5 **TION NOTWITHSTANDING THE AUTOMATIC**
 6 **STAY.**

7 Section 362(b)(8) of title 11 of the United States
 8 Code is amended to read as follows:

9 “(8)(A) under subsection (a) of this section, of
 10 any act by the Secretary of Housing and Urban De-
 11 velopment or the Secretary of Agriculture included
 12 under subparagraph (B) relating to property that—

13 “(i) includes five or more living units and
 14 that is subject to a lien insured or held by the
 15 Secretary of Housing and Urban Development,
 16 including a lien held in the name of the United
 17 States of America acting by and through the
 18 Secretary of Housing and Urban Development;

19 “(ii) includes five or more living units and
 20 that is subject to a lien insured or held by the
 21 Secretary of Agriculture pursuant to title V of
 22 the Housing Act of 1949;

23 “(iii) is subject to a lien insured or held by
 24 the Secretary of Housing and Urban Develop-
 25 ment pursuant to title X of the National Hous-

ing Act, as it existed immediately before the effective date of the Department of Housing and Urban Development Reform Act of 1989;

“(iv) is a hospital or nursing home and that is subject to a lien insured or held by the Secretary of Housing and Urban Development;

“(v) is a project for the elderly or persons with disabilities subject to a lien held by the Secretary of Housing and Urban Development under section 202 of the Housing Act of 1959 or section 811 of the Cranston-Gonzalez National Affordable Housing Act; or

“(vi) is subject to a lien under section 312 of the Housing Act of 1964, as it existed immediately before October 1, 1991, except a lien on property or combinations of property with up to, and including, four living units, which property has no commercial space.

“(B) The acts of the Secretary of Housing and Urban Development or the Secretary of Agriculture referred to in subparagraph (A) include—

“(i) the commencement, continuation, or completion of any act or proceeding by either Secretary for obtaining and applying cash collateral; for obtaining possession pursuant to

contract with the debtor or otherwise; for appointment of a receiver; for foreclosure of a mortgage or other lien; or for sale and conveyance of title to real or personal property; or

“(ii) any other act to protect the financial position or interest of either Secretary, which act is authorized under any applicable contract, regulatory agreement, regulation, or statute.”.

TITLE IV—FHA MULTIFAMILY HOUSING CONSOLIDATION AND REFORM

SEC. 401. SHORT TITLE.

This title may be cited as the “FHA Multifamily Housing Reform Act of 1997”.

SEC. 402. IMPLEMENTATION.

(a) ISSUANCE OF NECESSARY REGULATIONS.—Notwithstanding 42 U.S.C. 3535(o) or 24 CFR part 10, the Secretary shall issue such regulations as may be necessary to implement any provision of this Act, and any amendment made by this Act, in accordance with section 552 or 553 of title 5, United States Code, as determined by the Secretary.

(b) USE OF EXISTING RULES.—In implementing any provision of this Act, the Secretary may, in the Secretary’s

1 discretion, provide for the use of existing rules to the ex-
 2 tent appropriate, without the need for further rulemaking.

3 **Subtitle A—FHA Multifamily**
 4 **Housing**

5 **SEC. 410. BASIC AUTHORITY.**

6 The National Housing Act is amended by inserting
 7 the following new title after title III:

8 **“TITLE IV—CREDIT ENHANCE-**
 9 **MENT FOR MULTIFAMILY**
 10 **HOUSING PROJECTS AND**
 11 **HEALTH CARE FACILITIES**

12 **“SEC. 401. PURPOSES.**

13 “The purposes of this title are to—

14 “(1) expand the opportunities for rental hous-
 15 ing and health care facilities through the provision
 16 of credit enhancement and related activities;

17 “(2) address the unmet housing credit needs of
 18 American families and communities;

19 “(3) address the unmet health care facility
 20 credit needs of communities;

21 “(4) supplement and expand private sector ac-
 22 tivity by better serving underserved markets, testing
 23 new products, and filling gaps in the provision and
 24 delivery of mortgage credit;

1 “(5) deliver housing credit enhancement and
2 provide other services in a nondiscriminatory man-
3 ner, and carry out activities under this title in a
4 manner that affirmatively furthers fair housing;

5 “(6) promote liquidity and provide stability to
6 the housing finance market by continuing to provide
7 credit enhancement on a sound basis during times of
8 regional and national economic downturn;

9 “(7) engage in research, development, and test-
10 ing of new products designed to expand housing and
11 health care facility credit;

12 “(8) collect, generate, and make available infor-
13 mation relevant to the provision of housing and
14 health care facility credit to American families and
15 communities; and

16 “(9) increase the capacity of localities, States,
17 and for-profit and nonprofit entities to expand ac-
18 cess to decent housing and health care facilities and
19 to deliver housing credit to American families and
20 communities.

21 **“SEC. 402. DEFINITIONS.**

22 “As used in this title—

23 “(1) The term ‘credit enhancement’ means to
24 enhance and make commitments to enhance credit,
25 including commitments to lend, insure and reinsure

1 (including insuring and reinsuring pools of mort-
2 gages), make advances, incur liabilities, pool loans,
3 and risk-share.

4 “(2) The term ‘first mortgage’ means such
5 classes of first liens as are commonly given to secure
6 advances (including, but not limited to, advances
7 during construction) on, or the unpaid purchase
8 price of, real estate under the laws of the State in
9 which the real estate is located, together with the
10 credit instrument or instruments, if any, secured
11 thereby, and may be in the form of trust mortgages
12 or mortgage indentures or deeds of trust securing
13 notes, bonds, or other credit instruments.

14 “(3) The term ‘health care facility’ means—

15 “(A) a facility or integrated health care de-
16 livery system designed and operated to provide
17 medical, convalescent, skilled nursing, rehabili-
18 tation, custodial, personal care services, or any
19 combination thereof; and

20 “(B) a project designed, in whole or in
21 part, to provide a continuum of care, as deter-
22 mined by the Secretary,
23 that meet standards acceptable to the Secretary, in-
24 cluding standards governing licensure or State or
25 local approval and regulation of the mortgagor.

1 “(4) The term ‘mortgage’ means a first mort-
2 gage on real estate in fee simple, or on the interest
3 of either the lessor or lessee under a lease with a
4 term at least 20 years longer than the stated matu-
5 rity of the mortgage indebtedness, and upon which
6 there is located or will be constructed a multifamily
7 housing project or a health care facility.

8 “(5) The term ‘mortgagee’ means the original
9 lender under a mortgage, and its successors and as-
10 signs, and includes the holders of credit instruments
11 issued under a trust mortgage or deed of trust pur-
12 suant to which such holders act by and through a
13 trustee therein named.

14 “(6) The term ‘mortgagor’ means the original
15 borrower under a mortgage and its successors and
16 assigns, which mortgagor shall be regulated by the
17 Secretary or other entity under this section as re-
18 quired by the Secretary.

19 “(7) The term ‘multifamily housing project’
20 means a rental or cooperative housing project com-
21 prised of five or more dwelling units, including—

22 “(A) projects designed for single room oc-
23 cupancy; and

24 “(B) projects designed, in whole or in part,
25 for occupancy—

1 “(i) by elderly persons who are 62
2 years of age or older; or

3 “(ii) by persons with disabilities,
4 that meet standards acceptable to the Secretary, in-
5 cluding standards governing regulation of the mort-
6 gage and eligibility for occupancy. Occupancy of
7 projects under this paragraph shall be under a writ-
8 ten lease for a period of at least 30 days, except that
9 in the case of projects designed for single room occu-
10 pancy, the Secretary may establish shorter rental pe-
11 riods for individual projects.

12 “(8) The term ‘qualified housing finance agen-
13 cy’ means any State or local housing finance agency
14 that—

15 “(A) carries the designation of ‘top tier’ or
16 its equivalent, as evaluated by Standard and
17 Poor’s or any other nationally recognized rating
18 agency;

19 “(B) receives a rating of ‘A’ or better for
20 its general obligation bonds from a nationally
21 recognized rating agency; or

22 “(C) otherwise demonstrates its capacity
23 as a sound and experienced agency, based on
24 factors such as its experience in financing mul-
25 tifamily housing projects or health care facili-

1 ties (as appropriate), fund balances, administra-
2 tive capabilities, investment policy, internal con-
3 trols and financial management, portfolio qual-
4 ity, and State or local support.

5 “(9) The term ‘qualified participating entity’
6 means the Federal Housing Finance Board, the
7 Federal National Mortgage Association, the Federal
8 Home Loan Mortgage Corporation, a qualified fi-
9 nancial institution, and other State or local mort-
10 gage insurance companies or bank lending consortia.

11 “(10) The term ‘refinancing’ includes the refi-
12 nancing of any multifamily housing project or health
13 care facility mortgage. To the extent such mortgage
14 refinancings for transactions originally insured
15 under this title are not in excess of the principal
16 amount of the original mortgage loan and such other
17 limitations as may be imposed by the Secretary,
18 such refinancings shall be subject to the provisions
19 of section 223(a)(7).

20 “(11) The term ‘reinsurance agreement’ means
21 a contractual obligation under which the Secretary,
22 in exchange for appropriate compensation, agrees to
23 assume a specified portion of the risk of loss that a
24 lender or other party has previously assumed with

1 respect to a mortgage on a multifamily housing
2 project or health care facility.

3 “(12) The term ‘State’ includes the several
4 States and Puerto Rico, the District of Columbia,
5 Guam, the Northern Mariana Islands, American
6 Samoa, and the Virgin Islands.

7 **“SEC. 403. DIRECT MORTGAGE INSURANCE PROGRAM.**

8 “(a) BASIC AUTHORITY.—

9 “(1) FIRST MORTGAGES.—The Secretary may
10 insure first mortgages under this section (including
11 advances on such mortgages during construction)
12 which are secured by multifamily housing projects or
13 health care facilities owned by mortgagors approved
14 by the Secretary under terms and conditions accept-
15 able to the Secretary, and may engage in other types
16 of credit enhancement involving approved mortga-
17 gees.

18 “(2) SECOND MORTGAGES.—The Secretary is
19 authorized to insure mortgages in a secondary posi-
20 tion to a mortgage previously insured under this
21 Act, where such mortgage is necessary, as defined by
22 the Secretary, to better protect the interests of the
23 mortgagee or the Secretary, under terms and condi-
24 tions approved by the Secretary.

1 “(b) DELEGATION.—The Secretary may permit an
 2 approved mortgagee to carry out (under a delegation or
 3 otherwise, and with or without compensation, but subject
 4 to audit, exception, or review requirements) such credit
 5 approval, appraisal, inspection, issuance of commitments,
 6 approval of insurance of advances, cost certification, en-
 7 dorsement of the mortgage note, servicing, property dis-
 8 position, or other credit enhancement functions as the Sec-
 9 retary shall approve as consistent with the purpose of this
 10 title. All appraisals of property for mortgage insurance
 11 under this section shall be completed by a Certified Gen-
 12 eral Appraiser in accordance with the Uniform Standards
 13 of Professional Appraisal Practice.

14 **“SEC. 404. QUALIFIED PARTICIPATING ENTITY RISK-SHAR-**
 15 **ING PROGRAM.**

16 “(a) BASIC AUTHORITY.—The Secretary may enter
 17 into contractual arrangements (including reinsurance and
 18 risk-sharing agreements) with qualified participating enti-
 19 ties to provide credit enhancement for first mortgage loans
 20 for affordable multifamily housing projects and health
 21 care facilities and other credit enhancement through a sys-
 22 tem of risk-sharing agreements with such entities.

23 “(b) AUTHORITY OF SECRETARY.—The Secretary,
 24 upon request of a qualified participating entity, is author-
 25 ized to permit the qualified participating entity to insure

1 or reinsure (and make commitments to insure or reinsure)
 2 under this section any first mortgage, advance thereon,
 3 or pool of first mortgages otherwise eligible under this sec-
 4 tion, pursuant to a risk-sharing agreement providing that
 5 the qualified participating entity will carry out (under a
 6 delegation or otherwise, and with or without compensa-
 7 tion, but subject to audit, exception, or review require-
 8 ments) such credit approval, appraisal, inspection, issu-
 9 ance of commitments, approval of insurance of advances,
 10 cost certification, endorsement of the mortgage note, serv-
 11 icing, property disposition, or other functions as the Sec-
 12 retary shall approve as consistent with the purpose of this
 13 section. All appraisals of property for security property for
 14 a loan financed under this section shall be completed by
 15 a Certified General Appraiser in accordance with the Uni-
 16 form Standards of Professional Appraisal Practice.

17 “(c) PROGRAM REQUIREMENTS.—

18 “(1) ELIGIBILITY STANDARDS.—The Secretary
 19 shall establish and enforce standards for eligibility of
 20 qualified participating entities under this section, as
 21 the Secretary determines to be appropriate.

22 “(2) MORTGAGE INSURANCE AND REINSUR-
 23 ANCE.—Agreements under this section may provide
 24 for—

1 “(A) mortgage insurance through the Sec-
2 retary of first mortgage loans for affordable
3 multifamily housing projects and health care fa-
4 cilities originated by or through, or purchased
5 by, qualified participating entities; and

6 “(B) reinsurance, including reinsurance of
7 pools of loans, on affordable multifamily hous-
8 ing projects and health care facilities.

9 In entering into risk-sharing agreements under this
10 section covering first mortgages, the Secretary may
11 give preference to first mortgages that are not al-
12 ready in the portfolios of qualified participating enti-
13 ties.

14 “(3) RISK APPORTIONMENT.—Agreements en-
15 tered into under this section between the Secretary
16 and a qualified participating entity shall specify the
17 percentage of loss that each of the parties to the
18 agreement will assume in the event of default of the
19 insured or reinsured affordable multifamily housing
20 project or health care facility first mortgage. Such
21 agreements shall specify that the qualified partici-
22 pating entity and the Secretary shall share any loss
23 in accordance with the risk-sharing agreement.

24 “(4) REIMBURSEMENT CAPACITY.—Agreements
25 entered into under this section between the Sec-

1 retary and a qualified participating entity shall pro-
2 vide evidence acceptable to the Secretary of the ca-
3 pacity of such entity to fulfill any reimbursement ob-
4 ligations made pursuant to this section. Evidence of
5 such capacity may include—

6 “(A) a pledge of the full faith and credit
7 of a qualified participating entity to fulfill any
8 obligations entered into by the entity;

9 “(B) reserves pledged or otherwise re-
10 stricted by the qualified participating entity in
11 an amount equal to an agreed upon percentage
12 of the loss assumed by the entity under para-
13 graph (3);

14 “(C) funds pledged through a State or
15 local guarantee fund; or

16 “(D) any other form of evidence mutually
17 agreed upon by the Secretary and the qualified
18 participating entity.

19 “(5) UNDERWRITING STANDARDS.—

20 “(A) USE OF ENTITY’S UNDERWRITING
21 STANDARDS.—Except as provided by subpara-
22 graph (B), the Secretary may permit any quali-
23 fied participating entity to use its own under-
24 writing standards and loan terms and condi-
25 tions for purposes of underwriting first mort-

1 gage loans to be insured under this section,
 2 without further review by the Secretary: *Pro-*
 3 *vided*, That the qualified participating entity
 4 shall certify that it has complied with all appli-
 5 cable statutes and requirements of the Sec-
 6 retary.

7 “(B) FEDERAL UNDERWRITING STAND-
 8 ARDS.—The Secretary may impose additional or
 9 different underwriting criteria and loan terms
 10 and conditions for contractual agreements for
 11 risk-sharing where the Secretary retains more
 12 than 50 percent of the risk of loss. Any other
 13 financing permitted on security property for a
 14 loan financed under this section shall be ex-
 15 pressly subordinate to the first mortgage cover-
 16 ing the security property.

17 “(d) RISK-SHARING ALTERNATIVES.—

18 “(1) DEVELOPMENT OF ALTERNATIVES.—The
 19 Secretary may develop a variety of risk-sharing al-
 20 ternatives, including arrangements under which the
 21 Secretary assumes an appropriate share of the risk
 22 related to long-term first mortgage loans on newly
 23 constructed or acquired multifamily rental housing
 24 projects and health care facilities, first mortgage
 25 refinancings, bridge financing for construction under

1 a first mortgage loan, and other forms of multifam-
2 ily housing project and health care facility first
3 mortgage lending and other credit enhancement that
4 the Secretary deems appropriate to carry out the
5 purposes of this section.

6 “(2) NATURE OF ALTERNATIVES.—Alternatives
7 under paragraph (1) shall be designed—

8 “(A) to ensure that other parties bear a
9 share of the risk, in percentage amount and in
10 position of exposure, that is sufficient to create
11 strong, market-oriented incentives for other
12 participating parties to maintain sound under-
13 writing and loan management practices;

14 “(B) to develop credit mechanisms, includ-
15 ing sound underwriting criteria, processing
16 methods, and credit enhancements, through
17 which the Secretary can assist in increasing
18 multifamily housing project and health care fa-
19 cility first mortgage lending as needed to meet
20 the expected need in the United States;

21 “(C) to provide a more adequate supply of
22 first mortgage credit for sound multifamily
23 rental housing and health care facility projects
24 in underserved urban and rural markets;

1 “(D) to increase the efficiency, and lower
2 the costs to the Federal Government, of proc-
3 essing and servicing multifamily housing project
4 and health care facility first mortgage loans in-
5 sured by the Secretary; and

6 “(E) to improve the quality and expertise
7 of staff and of the Department of Housing and
8 Urban Development and other resources, as re-
9 quired for sound management of reinsurance
10 and other market-oriented forms of credit en-
11 hancement.

12 “(e) NON-FEDERAL PARTICIPATION.—The Secretary
13 shall carry out this section, to the maximum extent prac-
14 ticable, with the participation of well-established residen-
15 tial mortgage originators, financial institutions that invest
16 in multifamily housing project and health care facility
17 mortgages multifamily housing project and health care fa-
18 cility sponsors, and such other private sector experts in
19 multifamily housing project and health care facility financ-
20 ing as the Secretary determines to be appropriate.

21 “(f) QUALIFICATION AS AFFORDABLE HOUSING.—
22 Multifamily housing projects securing loans insured or re-
23 insured under this section shall qualify as affordable, only
24 if the housing is occupied by families, elderly persons, or
25 persons with disabilities, and bears rents not greater than

1 the gross rent for rent-restricted residential units, as de-
2 termined under section 42(g) of the Internal Revenue
3 Code of 1986.

4 **“SEC. 405. HOUSING FINANCE AGENCY PROGRAM.**

5 “(a) BASIC AUTHORITY.—The Secretary may enter
6 into contractual arrangements (including risk-sharing
7 agreements with partnerships) with qualified housing fi-
8 nance agencies (including entities established by States
9 that provide mortgage insurance) to provide Federal credit
10 enhancement for first mortgage loans for affordable multi-
11 family housing projects and health-care facilities through
12 a system of risk-sharing agreements with such agencies.

13 “(b) AUTHORITY OF THE SECRETARY.—The Sec-
14 retary, upon request of a qualified housing finance agency,
15 may insure on a risk-sharing basis, and make commit-
16 ments to insure on a risk-sharing basis, under this section
17 any first mortgage, or advance thereon, pursuant to a
18 risk-sharing agreement providing that the qualified hous-
19 ing finance agency will carry out (under a delegation or
20 otherwise and with or without compensation, but subject
21 to audit, exception or review requirements) such credit ap-
22 proval, appraisal, inspection, issuance of commitments,
23 approval of insurance of advances, cost certification, en-
24 dorsement of the mortgage, servicing, property disposition,
25 or other functions as the Secretary shall approve as con-

1 sistent with the purpose of this section. All appraisals of
 2 property for first mortgage insurance under this section
 3 shall be completed by a Certified General Appraiser in ac-
 4 cordance with the Uniform Standards of Professional Ap-
 5 praisal Practice.

6 “(c) MORTGAGE INSURANCE PREMIUMS.—The Sec-
 7 retary shall establish a schedule of insurance premium
 8 payments for first mortgages insured under this section
 9 based on the percentage of loss the Secretary may assume.
 10 Such schedule shall reflect a greater portion of the pre-
 11 mium insuring to qualified housing finance agencies that
 12 assume a greater share of the risk apportioned according
 13 to subsection (d)(2).

14 “(d) PROGRAM REQUIREMENTS.—

15 “(1) MORTGAGE INSURANCE.—Agreements
 16 under subsection (a) shall provide for full first mort-
 17 gage insurance through the Secretary of the loans
 18 for affordable multifamily housing projects and
 19 health care facilities originated by or through quali-
 20 fied housing finance agencies and for reimbursement
 21 to the Secretary by such agencies for all or a portion
 22 of the losses incurred on the first mortgage loans in-
 23 sured.

24 “(2) RISK APPORTIONMENT.—Agreements en-
 25 tered into under this section between the Secretary

1 and a qualified housing finance agency shall specify
2 the percentage of loss that each of the parties to the
3 agreement will assume in the event of default of the
4 insured first mortgage on the affordable multifamily
5 project or health-care facility. Such agreements shall
6 specify that the qualified housing finance agency and
7 the Secretary shall share any loss in accordance with
8 the risk-sharing agreement.

9 “(3) REIMBURSEMENT CAPACITY.—Agreements
10 entered into under this section between the Sec-
11 retary and a qualified housing finance agency shall
12 provide evidence of the capacity of such agency to
13 fulfill any reimbursement obligations made pursuant
14 to this section. Evidence of such capacity may in-
15 clude—

16 “(A) a pledge of the full faith and credit
17 of a qualified State or local agency to fulfill any
18 obligations entered into by the qualified housing
19 finance agency;

20 “(B) reserves pledged or otherwise re-
21 stricted by the qualified housing finance agency
22 in an amount equal to an agreed upon percent-
23 age of the loss assumed by the housing finance
24 agency under paragraph (2);

1 “(C) funds pledged through a State or
2 local guarantee fund; or

3 “(D) any other form of evidence mutually
4 agreed upon by the Secretary and the qualified
5 housing finance agency.

6 “(e) UNDERWRITING STANDARDS.—

7 “(1) USE OF HFA UNDERWRITING STAND-
8 ARDS.—The Secretary may permit a qualified hous-
9 ing finance agency to use its own underwriting
10 standards and loan terms and conditions for pur-
11 poses of underwriting first mortgage loans to be in-
12 sured under this section without further review by
13 the Secretary: *Provided*, That the qualified housing
14 agency certifies that it has complied with all applica-
15 ble statutes and requirements of the Secretary.

16 “(2) USE OF FEDERAL UNDERWRITING STAND-
17 ARDS.—The Secretary may impose additional or dif-
18 ferent underwriting criteria and loan terms and con-
19 ditions for contractual agreements where the Sec-
20 retary retains more than 50 percent of the risk of
21 loss.

22 “(f) IDENTITY OF INTEREST.—Notwithstanding any
23 other provision of law, the Secretary may not apply iden-
24 tity of interest provisions to agreements entered into with

1 qualified State housing finance agencies under this sec-
 2 tion.

3 “(g) **QUALIFICATION AS AFFORDABLE HOUSING.**—
 4 Multifamily housing projects securing loans insured under
 5 this section shall qualify as affordable only if the housing
 6 is occupied by families, elderly persons, or persons with
 7 disabilities, and bears rents not greater than the gross
 8 rent for rent-restricted residential projects, as determined
 9 under section 42(g) of the Internal Revenue Code of 1986.

10 **“SEC. 406. PREMIUMS AND FEES.**

11 “The Secretary shall establish and collect such pre-
 12 miums and fees under this title as the Secretary deter-
 13 mines appropriate to compensate for the risks assumed
 14 and related administrative costs of providing insurance,
 15 reinsurance, or other credit enhancement under this title.

16 **“SEC. 407. CONTRACT OF MORTGAGE INSURANCE.**

17 “(a) **IN GENERAL.**—All contracts of mortgage insur-
 18 ance under this title shall—

19 “(1) be evidenced by the endorsement of the
 20 mortgage note for insurance or reinsurance, and
 21 shall be incontestable when held by an approved
 22 mortgagee to the extent provided in section 203(e);
 23 and

24 “(2) be subject to, and obligations of, the Gen-
 25 eral Insurance Fund established under section 519.

1 “(b) UNIFORM CLAIMS SETTLEMENT.—

2 “(1) IN GENERAL.—The Secretary shall have
3 the discretion to establish uniform systems and to
4 settle claims for benefits under the contract of mort-
5 gage insurance thereunder in any manner consistent
6 with, and not exceeding, the current statutory au-
7 thority of sections 207(g) through (j), 520, and 541.

8 “(2) PARTIAL PAYMENT OF CLAIMS.—For par-
9 tial payments of claims under this title pursuant to
10 section 541, the Secretary may require a mortga-
11 gee—

12 “(A) to accept a partial payment of claim
13 for all such claims; and

14 “(B) to accept a partial payment of insur-
15 ance benefits in order to avert a claim where
16 such claim is inevitable, regardless of whether a
17 monetary default has occurred.

18 **“SEC. 408. DEFAULT AND CLAIMS UNDER CONTRACT OF**
19 **MORTGAGE INSURANCE.**

20 “(a) IN GENERAL.—If a mortgagor fails to make any
21 payment due, or provided to be paid by the terms of a
22 mortgage insured, under this section, such failure shall be
23 a default under the mortgage. If the default continues for
24 a period of 30 days, the mortgagee shall be entitled to

1 receive the benefits of the insurance provided by the Sec-
2 retary under this section.

3 “(b) CLAIMS REQUIREMENTS.—

4 “(1) IN GENERAL.—The Secretary shall issue
5 requirements under subsection (a). These require-
6 ments may be changed from time to time to accom-
7 modate advances in technology, including those re-
8 lated to electronic transfers and filings. The require-
9 ments shall establish procedures under which the
10 mortgagee shall be required to assign, transfer, and
11 deliver to the Secretary—

12 “(A) the mortgage so in default and all
13 rights and interests arising thereunder;

14 “(B) all claims of the mortgagee against
15 the mortgagor or others, arising out of the
16 mortgage transactions;

17 “(C) all policies of title or other insurance
18 or surety bonds or other guaranties and any
19 and all claims thereunder;

20 “(D) any balance of the mortgage loan not
21 advanced to the mortgagor;

22 “(E) any cash, property, or other assets
23 (such as receivables) held by the mortgagee, or
24 to which the mortgagee is entitled to hold or re-
25 ceive for the account of the mortgagor or as ex-

1 cess proceeds arising out of the mortgage or
2 underlying bond transaction and which have not
3 been applied in reduction of the principal
4 amount of the mortgage indebtedness; and

5 “(F) all records, documents, books, papers,
6 and accounts relating to the mortgage trans-
7 action.

8 “(2) OPTIONAL PROCEDURE.—If a mortgagor
9 defaults under a mortgage insured under section
10 403, the Secretary may permit the mortgagee to ex-
11 ercise the option, pursuant to procedures established
12 by the Secretary, of foreclosing upon the security
13 property and obtaining title, or obtaining title
14 through deed-in lieu of foreclosure, or otherwise, and
15 conveying title to the Secretary. A mortgagee exer-
16 cising the option under this paragraph shall comply
17 with the requirements of paragraph (1), except sub-
18 paragraphs (A) and (D).

19 “(c) TERMINATION OF MIP OBLIGATION.—After re-
20 ceipt of an application for insurance benefits under this
21 title, the Secretary is authorized to terminate the obliga-
22 tion of the mortgagee to pay mortgage insurance premium
23 charges.

24 “(d) AMOUNT OF CLAIM.—The total amount of any
25 payout under an insurance claim under this title may not

1 exceed the amount which the mortgagee would have re-
 2 ceived if the mortgage indebtedness and any other fiscal
 3 obligations under the mortgage had been fully satisfied on
 4 the date of the assignment of the claim or the conveyance
 5 of title, plus interest and necessary expenses incurred by
 6 the mortgagee in connection with the claim and preserva-
 7 tion of the project, if applicable, as determined by the Sec-
 8 retary, and in accordance with any contract involving risk-
 9 sharing.

10 “(e) ACQUISITION OF POSSESSION OR TITLE.—The
 11 Secretary may, through foreclosure or otherwise, acquire
 12 possession of, or title to, any property covered by a mort-
 13 gage assigned to the Secretary under this title.

14 “(f) POWERS OF SECRETARY.—

15 “(1) WITH RESPECT TO PROPERTY.—Notwith-
 16 standing any other provisions of law relating to the
 17 acquisition, handling, or disposal of real and other
 18 property by the United States, the Secretary, in the
 19 Secretary’s discretion and for the protection of the
 20 General Insurance Fund, may—

21 “(A) pay out of such Fund any expenses
 22 or charges in connection with the preservation
 23 of any security property under this title;

24 “(B) deal with, complete, reconstruct, rent,
 25 renovate, modernize, insure, make contracts for

1 the management of any property acquired
2 under this title;

3 “(C) establish suitable agencies for the
4 management or lease of any property acquired
5 under this title; and

6 “(D) sell or lease any real or personal
7 property (including mortgages) acquired under
8 this title.

9 “(2) WITH RESPECT TO MORTGAGES.—Not-
10 withstanding any other provision of law, the Sec-
11 retary may pursue to final collection, by way of com-
12 promise or otherwise, obligations under mortgages
13 assigned under this title and all claims in connection
14 with any other transactions under this title.

15 **“SEC. 409. ADJUSTED PREMIUM CHARGE UPON PREPAY-**
16 **MENT.**

17 “If the principal obligation of any mortgage accepted
18 for insurance or reinsurance under this title is paid in full
19 before the maturity date, the Secretary may require the
20 mortgagee to pay an adjusted premium charge in such
21 amount as the Secretary determines to be equitable, but
22 not in excess of the aggregate amount of the premium
23 charges that the mortgagee would otherwise have been re-
24 quired to pay if the mortgage had continued to be insured
25 until such maturity date.

1 **“SEC. 410. ENVIRONMENTAL REVIEW.**

2 “(a) IN GENERAL.—In order to assure that the poli-
3 cies of the National Environmental Policy Act of 1969 and
4 other provisions of law which further the purposes of such
5 Act (as specified in regulations issued by the Secretary)
6 are most effectively implemented in connection with credit
7 enhancement under this title, and to assure to the public
8 undiminished protection of the environment, the Secretary
9 may, under such regulations, in lieu of the environmental
10 protection procedures otherwise applicable, provide for
11 agreements to endorse for insurance mortgages under this
12 title upon the request of the mortgagee, qualified entity,
13 or qualified housing finance agency, if the State or unit
14 of general local government, as designated by the Sec-
15 retary in accordance with regulations, assumes all of the
16 responsibilities for environmental review, decision making,
17 and action pursuant to such Act, and such other provi-
18 sions of law as the regulations of the Secretary may speci-
19 fy, that would otherwise apply to the Secretary with re-
20 spect to the insurance of mortgages on particular prop-
21 erties. For purposes of this subsection, the terms ‘unit of
22 general local government’ and ‘State’ have the same mean-
23 ings as in section 102(a) of the Housing and Community
24 Development Act of 1974.

25 “(b) IMPLEMENTATION.—The Secretary shall issue
26 regulations to carry out this section only after consultation

1 with the Council on Environmental Quality. Such regula-
2 tions shall, among other matters, provide—

3 “(1) for the monitoring of the performance of
4 environmental reviews under this subparagraph;

5 “(2) subject to the discretion of the Secretary,
6 for the provision or facilitation of training for such
7 performance; and

8 “(3) subject to the discretion of the Secretary,
9 for the suspension or termination by the Secretary
10 of the State or unit of general local government’s re-
11 sponsibilities under subsection (a).

12 “(c) SAVINGS.—The Secretary’s duty under sub-
13 section (b) shall not be construed to limit any responsibil-
14 ity assumed by a State or unit of general local government
15 with respect to any particular property under subsection
16 (a).

17 “(d) PROCEDURE.—The Secretary shall approve a
18 mortgage for the provision of mortgage insurance subject
19 to the procedures authorized by this section only if, not
20 less than 30 days before such approval, before any ap-
21 proval, commitment, or endorsement of mortgage insur-
22 ance on the property by or on behalf of the Secretary, and
23 before any agreement by a qualified entity or a qualified
24 housing finance agency to provide financing under a risk-
25 sharing agreement with respect to the property, the mort-

1 gagee or the qualified participating entity or the qualified
 2 housing finance agency submits to the Secretary a request
 3 for such approval, accompanied by a certification of the
 4 State or unit of general local government that meets the
 5 requirements of subsection (e). The Secretary's approval
 6 of any such certification shall be deemed to satisfy the
 7 Secretary's responsibilities under the National Environ-
 8 mental Policy Act of 1969 and such other provisions of
 9 law as the regulations of the Secretary specify insofar as
 10 those responsibilities relate to the provision of mortgage
 11 insurance on the property that is covered by such certifi-
 12 cation.

13 “(e) CERTIFICATION.—A certification under the pro-
 14 cedures authorized by this subsection shall—

15 “(1) be in a form acceptable to the Secretary;

16 “(2) be executed by the chief executive officer
 17 or other officer of the State or unit of general local
 18 government who qualifies under regulations of the
 19 Secretary;

20 “(3) specify that the State or unit of general
 21 local government under this section has fully carried
 22 out its responsibilities as described under subsection
 23 (a); and

24 “(4) specify that the certifying officer consents
 25 to assume the status of a responsible Federal official

1 under the National Environmental Policy Act of
2 1969 and under each provision of law specified in
3 regulations issued by the Secretary insofar as the
4 provisions of such Act or such other provisions of
5 law apply pursuant to subsection (a), and is author-
6 ized and consents on behalf of the State or unit of
7 general local government and himself or herself to
8 accept the jurisdiction of the Federal courts for the
9 purpose of enforcement of the responsibilities as
10 such an official.

11 “(f) APPROVAL BY STATES.—If a unit of general
12 local government carries out the responsibilities described
13 in subsection (a), the Secretary may permit the State to
14 perform those actions of the Secretary described in sub-
15 section (a) and the performance of such actions by the
16 State, where permitted by the Secretary, shall be deemed
17 to satisfy the Secretary’s responsibilities referred to in the
18 second sentence of clause (ii).

19 **“SEC. 411. LEAD-BASED PAINT POISONING PREVENTION.**

20 “‘In carrying out the requirements of section 302 of
21 the Lead-Based Paint Poisoning Prevention Act, the Sec-
22 retary may provide in regulations for the assumption of
23 all or part of the Secretary’s duties under such Act by
24 a State or unit of general local government for purposes
25 of this title.

1 **“SEC. 412. SUBSIDY LAYERING.**

2 “Section 102 of the Department of Housing and
3 Urban Development Reform Act of 1989 shall not apply
4 to any type of insurance, reinsurance, or other credit en-
5 hancement under this title.

6 **“SEC. 413. LABOR STANDARDS AND COST CERTIFICATION.**

7 “This title shall be subject to the labor standards set
8 forth in section 212 and the cost certification standards
9 set forth in section 227.

10 **“SEC. 414. DISCLOSURE OF RECORDS.**

11 “Mortgagees under section 403, qualified participat-
12 ing entities under section 404, and qualified housing fi-
13 nance agencies under section 405 shall make available to
14 the Secretary or the Secretary’s designee, at the Sec-
15 retary’s request, such financial and other records as the
16 Secretary deems necessary for purposes of review and
17 monitoring under this title.”.

18 **SEC. 411. LABOR STANDARDS AMENDMENT.**

19 Section 212(a) of the National Housing Act is
20 amended—

21 (1) by striking “or section 210” in the first
22 sentence; and

23 (2) by inserting after the first sentence the fol-
24 lowing new sentence: “The provisions of this section
25 shall also apply to the insurance of any mortgage

1 under title IV, except that the provisions of this sec-
 2 tion shall not apply to—

3 “(1) the insurance of any mortgage that would
 4 have been eligible for insurance under regulations of
 5 the Secretary implementing section 223(f) of this
 6 Act, as that section and those regulations existed
 7 immediately before the enactment of the FHA Multi-
 8 family Housing Reform Act of 1996; and

9 “(2) work performed by any individual who—

10 “(A) volunteers—

11 “(i) to perform a service for civic,
 12 charitable, or humanitarian reasons, with-
 13 out promise, expectation, or receipt of com-
 14 pensation for services rendered, but solely
 15 for the personal purpose or pleasure of the
 16 individual; and

17 “(ii) to provide such services freely
 18 and without pressure or coercion, direct or
 19 implied, from any employer; and

20 “(B) is not otherwise employed at any time
 21 in the construction work.”.

22 **SEC. 412. IMPLEMENTATION.**

23 (a) **EFFECTIVE DATE.**—The provisions of, and the
 24 amendments made by, this Act shall become effective upon

1 implementation by the Secretary in accordance with this
2 section.

3 (b) ADMINISTRATIVE IMPLEMENTATION.—Except as
4 otherwise specifically provided by title IV of the National
5 Housing Act (as added by section 410), the Secretary shall
6 take any administrative actions necessary to implement
7 the provisions of, and the amendments made by, this Act.
8 The Secretary shall complete the initial implementation of
9 such provisions and amendments within 180 days of the
10 date of enactment of this Act.

11 (c) TERMINATION OF INSURING AUTHORITY.—

12 (1) IN GENERAL.—Effective on the date of im-
13 plementation of this Act, the Secretary may not ac-
14 cept applications or issue firm commitments under
15 any authority of title II of the National Housing Act
16 providing for the insurance of mortgages covering
17 multifamily rental housing or health-care facilities
18 (as determined by the Secretary).

19 (2) EXCEPTIONS.—Paragraph (1) shall not
20 apply to—

21 (A) refinancings pursuant to section
22 223(a)(7) of the National Housing Act;

23 (B) extension of firm commitments entered
24 into before such date of implementation, but

1 only if the Secretary determines there is good
2 cause for an extension; or

3 (C) outstanding applications not having re-
4 ceived a firm commitment if unusual equitable
5 considerations are present.

6 **Subtitle B—Extensions of Existing** 7 **Authority and Other Provisions**

8 **SEC. 420. EXTENSION OF THE SECTION 221(g)(4) AUCTION** 9 **PROVISIONS.**

10 The first sentence of section 221(g)(4)(C)(viii) of the
11 National Housing Act is amended by striking “September
12 30, 1996” and inserting “December 31, 2005, except that
13 the authority to apply this subparagraph in any fiscal year
14 shall be subject to appropriations for that year”.

15 **SEC. 421. EXTENSION OF TRANSFERRING EXCESS RE-** 16 **CEIPTS TO THE FLEXIBLE SUBSIDY PRO-** 17 **GRAM.**

18 Section 236(f)(3) of the National Housing Act is
19 amended by striking “1994” and inserting “2000”.

20 **SEC. 422. DISCRETIONARY AUTHORITY TO REGULATE** 21 **RENTS FOR SPECIFIC MULTIFAMILY** 22 **PROPERTY.**

23 (a) Section 207(b)(2) of the National Housing Act
24 is amended by striking “The” the first place it appears
25 and inserting the following: “For all projects with mort-

1 gages insured under this section, including those insured
2 before the date of enactment of the Housing and Urban-
3 Rural Recovery Act of 1983 (November 30, 1983), the”.

4 (b) Section 223(f)(2) is amended by striking the sec-
5 ond sentence and inserting the following: “The Secretary
6 shall prescribe such terms and conditions as the Secretary
7 deems necessary to assure that the refinancing is used to
8 lower the monthly debt service only to the extent necessary
9 to assure the continued economic viability of the project,
10 taking into account any rent reductions to be implemented
11 by the mortgagor. For all projects with mortgages insured,
12 or to be insured pursuant to this section, the Secretary
13 may, in the Secretary’s discretion, require any such mort-
14 gator to be regulated or restricted as to rents or sales,
15 charges, capital structure, rate of return, and methods of
16 operation so as to provide reasonable rentals to tenants
17 and a reasonable return on investment. Any such regula-
18 tions or restrictions shall continue for such period or peri-
19 ods as the Secretary, in the Secretary’s discretion, may
20 require, including until the termination of all obligations
21 of the Secretary under the insurance and during such fur-
22 ther period of time as the Secretary shall be the owner,
23 holder or reinsurer of the mortgage.”.

1 **SEC. 423. EXPANSION OF PARTIAL PAYMENT OF CLAIMS**

2 **AUTHORITY TO COVER HEALTH CARE FACILI-**

3 **TIES.**

4 (a) EXPANSION OF AUTHORITY.—Section 541(a) of
5 the National Housing Act is amended to read as follows:

6 “(a) AUTHORITY.—Notwithstanding any other provi-
7 sion of law, if the Secretary is requested to accept assign-
8 ment of a mortgage insured by the Secretary that covers
9 a multifamily housing project (as such term is defined in
10 section 203(b) of the Housing and Community Develop-
11 ment Amendments of 1978) or a health-care facility (in-
12 cluding a nursing home, intermediate care facility, or
13 board and care home (as such terms are defined in section
14 232 of this Act), a hospital (as such term is defined in
15 section 242 of this Act), or a group practice facility (as
16 such term is defined in title XI of this Act)) and the Sec-
17 retary determines that partial payment would be less cost-
18 ly to the Federal Government than other reasonable alter-
19 natives for maintaining the low-income character of the
20 project, or keeping the health care facility in operation to
21 serve community needs, as appropriate, the Secretary may
22 request the mortgagee in lieu of assignment, to—

23 “(1) accept partial payment of claim under the
24 mortgage insurance contract; and

25 “(2) recast the mortgage, under such terms and
26 conditions as the Secretary may determine.”.

1 (b) CONFORMING CHANGE.—The heading to section
 2 541 of such Act is amended to read as follows:

3 “PARTIAL PAYMENT OF CLAIMS ON MULTIFAMILY
 4 HOUSING PROJECTS AND HEALTH CARE FACILITIES”.

5 **SEC. 424. ENVIRONMENTAL PROTECTION UNDER SECTION**
 6 **202 AND SECTION 811 PROGRAMS.**

7 (a) SUPPORTIVE HOUSING FOR THE ELDERLY.—Sec-
 8 tion 202 of the Housing Act of 1959 is amended by adding
 9 at the end the following new subsection:

10 “(k) ENVIRONMENTAL PROTECTION.—

11 “(1) PURPOSE.—The purpose of this subsection
 12 is to authorize a procedure for the assumption of en-
 13 vironmental review responsibilities of the Secretary
 14 by States and units of general local government in
 15 connection with capital advances provided under this
 16 section. This procedure shall be designed to en-
 17 sure—

18 “(A) that the policies of the National Envi-
 19 ronmental Policy Act of 1969 and other provi-
 20 sions of law which further the purposes of such
 21 Act (as specified by the Secretary) are most ef-
 22 fectively implemented in connection with the
 23 provision of such assistance; and

24 “(B) undiminished protection of the envi-
 25 ronment to the public.

1 “(2) BASIC AUTHORITY.—The Secretary may,
2 in lieu of the environmental protection procedures
3 otherwise applicable and in accordance with the pro-
4 visions of this subsection, provide for the release of
5 funds for particular projects or activities upon the
6 request of a recipient of the assistance, if the State
7 or unit of general local government, as designated by
8 the Secretary, assumes all of the responsibilities for
9 environmental review, decisionmaking, and action
10 pursuant to the Act and the other provisions of law
11 referred to in paragraph (1) that would otherwise
12 apply to the Secretary in connection with the provi-
13 sion of capital grant assistance to such projects or
14 activities.

15 “(3) PROCEDURE.—The Secretary shall ap-
16 prove the release of funds for projects or activities
17 subject to the procedures authorized by this sub-
18 section only if the recipient submits to the Secretary
19 a request for such release—

20 “(A) not less than 15 days before such re-
21 lease, except that this paragraph shall not apply
22 in the case of a project or activity proposed in
23 an area covered by a declaration by the Presi-
24 dent of a major disaster or emergency under

1 the Robert T. Stafford Disaster Relief and
2 Emergency Assistance Act; and

3 “(B) before any commitment of funds or
4 other assistance for such projects (other than
5 for environmental studies and such other pur-
6 poses as the Secretary shall specify, consistent
7 with the Act and the other provisions of law re-
8 ferred to in paragraph (1)).

9 The request for release shall be accompanied by a
10 certification by the State or unit of general local
11 government which meets the requirements of para-
12 graph (4). The Secretary’s approval of any such cer-
13 tification shall be deemed to satisfy the Secretary’s
14 responsibilities under the Act and the other provi-
15 sions of law referred to in paragraph (1), insofar as
16 those responsibilities relate to the provision of cap-
17 ital grant assistance for projects to be carried out
18 pursuant thereto which are covered by the certifi-
19 cation.

20 “(4) CERTIFICATION.—A certification under the
21 procedures authorized by this subsection shall—

22 “(A) be in a form acceptable to the Sec-
23 retary;

24 “(B) be executed by the chief executive of-
25 ficer or other officer of the State or unit of gen-

1 eral local government who qualifies as the cer-
2 tifying officer as determined by the Secretary;

3 “(C) specify that the State or unit of gen-
4 eral local government has fully carried out its
5 responsibilities, as described in paragraph (2);
6 and

7 “(D) specify that the certifying officer—

8 “(i) consents to assume the status of
9 a responsible Federal official under the Act
10 and the other provisions of law referred to
11 in paragraph (1), insofar as the provisions
12 of the Act or the other provisions of law
13 apply pursuant to paragraph (1); and

14 “(ii) is authorized and consents on be-
15 half of the State or unit of general local
16 government himself or herself to accept the
17 jurisdiction of the Federal courts for the
18 purpose of enforcement of the responsibil-
19 ities as such an official.

20 “(5) APPROVAL BY STATES.—If a unit of gen-
21 eral local government carries out the responsibilities
22 described in paragraph (4), the Secretary may per-
23 mit the State to perform those actions of the Sec-
24 retary described in paragraph (3). The performance
25 of such actions by the State shall be deemed to sat-

1 isfy the Secretary’s responsibilities referred to in the
 2 last sentence of paragraph (3).

3 “(6) IMPLEMENTATION.—

4 “(A) The Secretary shall implement this
 5 subsection after consultation with the Council
 6 on Environmental Quality. The implementation
 7 shall include provision—

8 “(i) for monitoring of the performance
 9 of environmental reviews under this sub-
 10 section;

11 “(ii) in the discretion of the Secretary,
 12 for the provision or facilitation of training
 13 for such performance;

14 “(iii) in the discretion of the Sec-
 15 retary, for suspension or termination by
 16 the Secretary of the assumption under
 17 paragraph (1); and

18 “(iv) in the discretion of the Sec-
 19 retary, for the imposition of appropriate
 20 sanctions for failure to comply with re-
 21 sponsibilities assumed under this sub-
 22 section, including the denial, withdrawal,
 23 reduction, or abatement of assistance.

24 “(B) The Secretary’s duty under subpara-
 25 graph (A) shall not be construed to limit or re-

1 duce any responsibility assumed by a State or
 2 unit of general local government with respect to
 3 any particular project under this subsection.”.

4 (b) SUPPORTIVE HOUSING FOR PERSONS WITH DIS-
 5 ABILITIES.—Section 811 of the Cranston-Gonzalez Na-
 6 tional Affordable Housing Act is amended by adding at
 7 the end the following new subsection:

8 “(n) ENVIRONMENTAL PROTECTION.—

9 “(1) PURPOSE.—The purpose of this subsection
 10 is to authorize a procedure for the assumption of en-
 11 vironmental review responsibilities of the Secretary
 12 by States and units of general local government in
 13 connection with assistance provided under subsection
 14 (b)(2). This procedure shall be designed to ensure—

15 “(A) that the policies of the National Envi-
 16 ronmental Policy Act of 1969 and other provi-
 17 sions of law which further the purposes of such
 18 Act (as specified by the Secretary) are most ef-
 19 fectively implemented in connection with the
 20 provision of such assistance; and

21 “(B) undiminished protection of the envi-
 22 ronment to the public.

23 “(2) BASIC AUTHORITY.—The Secretary may,
 24 in lieu of the environmental protection procedures
 25 otherwise applicable and in accordance with the pro-

1 visions of this subsection, provide for the release of
2 funds for particular projects or activities upon the
3 request of a recipient of the assistance, if the State
4 or unit of general local government, as designated by
5 the Secretary, assumes all of the responsibilities for
6 environmental review, decisionmaking, and action
7 pursuant to the Act and the other provisions of law
8 referred to in paragraph (1) that would otherwise
9 apply to the Secretary in connection with the provi-
10 sion of assistance to such projects or activities.

11 “(3) PROCEDURE.—The Secretary shall ap-
12 prove the release of funds for projects or activities
13 subject to the procedures authorized by this sub-
14 section only if the recipient submits to the Secretary
15 a request for such release—

16 “(A) not less than 15 days before such re-
17 lease, except that this paragraph shall not apply
18 in the case of a project or activity proposed in
19 an area covered by a declaration by the Presi-
20 dent of a major disaster or emergency under
21 the Robert T. Stafford Disaster Relief and
22 Emergency Assistance Act; and

23 “(B) before any commitment of funds or
24 other assistance for such projects (other than
25 for environmental studies and such other pur-

1 poses as the Secretary shall specify, consistent
2 with the Act and the other provisions of law re-
3 ferred to in paragraph (1)).

4 The request for release shall be accompanied by a
5 certification by the State or unit of general local
6 government which meets the requirements of para-
7 graph (4). The Secretary's approval of any such cer-
8 tification shall be deemed to satisfy the Secretary's
9 responsibilities under the Act and the other provi-
10 sions of law referred to in paragraph (1), insofar as
11 those responsibilities relate to the provision of assist-
12 ance for projects to be carried out pursuant thereto
13 which are covered by the certification.

14 “(4) CERTIFICATION.—A certification under the
15 procedures authorized by this subsection shall—

16 “(A) be in a form acceptable to the Sec-
17 retary;

18 “(B) be executed by the chief executive of-
19 ficer or other officer of the State or unit of gen-
20 eral local government who qualifies as the cer-
21 tifying officer as determined by the Secretary;

22 “(C) specify that the State or unit of gen-
23 eral local government has fully carried out its
24 responsibilities, as described in paragraph (2);
25 and

1 “(D) specify that the certifying officer—

2 “(i) consents to assume the status of
3 a responsible Federal official under the Act
4 and the other provisions of law referred to
5 in paragraph (1), insofar as the provisions
6 of the Act or the other provisions of law
7 apply pursuant to paragraph (1); and

8 “(ii) is authorized and consents on be-
9 half of the State or unit of general local
10 government himself or herself to accept the
11 jurisdiction of the Federal courts for the
12 purpose of enforcement of the responsibil-
13 ities as such an official.

14 “(5) APPROVAL BY STATES.—If a unit of gen-
15 eral local government carries out the responsibilities
16 described in paragraph (4), the Secretary may per-
17 mit the State to perform those actions of the Sec-
18 retary described in paragraph (3). The performance
19 of such actions by the State shall be deemed to sat-
20 isfy the Secretary’s responsibilities referred to in the
21 last sentence of paragraph (3).

22 “(6) IMPLEMENTATION.—

23 “(A) The Secretary shall implement this
24 subsection after consultation with the Council

1 on Environmental Quality. The implementation
2 shall include provision—

3 “(i) for monitoring of the performance
4 of environmental reviews under this sub-
5 section;

6 “(ii) in the discretion of the Secretary,
7 for the provision or facilitation of training
8 for such performance;

9 “(iii) in the discretion of the Sec-
10 retary, for suspension or termination by
11 the Secretary of the assumption under
12 paragraph (1); and

13 “(iv) in the discretion of the Sec-
14 retary, for the imposition of appropriate
15 sanctions for failure to comply with re-
16 sponsibilities assumed under this sub-
17 section, including the denial, withdrawal,
18 reduction, or abatement of assistance.

19 “(B) The Secretary’s duty under subpara-
20 graph (A) shall not be construed to limit or re-
21 duce any responsibility assumed by a State or
22 unit of general local government with respect to
23 any particular project under this subsection.”.

1 **SEC. 425. ASSIGNMENT OF REGULATORY AGREEMENTS IN**
2 **CONNECTION WITH SALE OF MORTGAGES**
3 **HELD BY HUD.**

4 Section 203(k) of the Housing and Community De-
5 velopment Amendments of 1978 is amended by inserting
6 the following new paragraph at the end:

7 “(7) ASSIGNMENT OF REGULATORY AGREE-
8 MENTS IN CONNECTION WITH SALE OF MORT-
9 GAGES.—Notwithstanding any other provision of
10 law, and upon such terms and conditions as the Sec-
11 retary may prescribe, the Secretary may, in connec-
12 tion with the sale of mortgages held by the Sec-
13 retary, assign to the purchaser of the mortgage the
14 regulatory agreement executed by or for the benefit
15 of the Secretary and executed by the mortgagor.
16 Such regulatory agreement shall continue to be bind-
17 ing upon the mortgagor and its successors and as-
18 signs, and the Secretary and the successors and as-
19 signs of the Secretary.”.

20 **TITLE V—REHABILITATION**
21 **GRANTS**

22 **SEC. 501. CAPITAL GRANTS FOR SECTION 236 AND OTHER**
23 **FORMERLY INSURED PROJECTS.**

24 Section 236 of the National Housing Act is amended
25 by adding at the end thereof the following new subsection:

1 “(s)(1) GRANT AUTHORITY IN GENERAL.—The Sec-
2 retary may make grants for the capital costs of rehabilita-
3 tion to owners of projects that meet the eligibility and
4 other criteria set forth in, and in accordance with, this
5 subsection.

6 “(2) PROJECT ELIGIBILITY.—A project may be eligi-
7 ble for capital grant assistance under this subsection if—

8 “(A)(i) the project was insured under section
9 236 or any other provision of title II of the National
10 Housing Act; and

11 “(ii) the project was assisted under section 8 of
12 the United States Housing Act of 1937 on the date
13 of enactment of the Housing 2020: Multifamily
14 Management Reform Act;

15 “(B) the project mortgage was not held by a
16 State agency as of the date of enactment of this Act;

17 “(C) the project owner agrees to maintain the
18 housing quality standards that were in effect imme-
19 diately prior to the extinguishment of the mortgage
20 insurance under such title II;

21 “(D) the Secretary determines that the owner
22 of the multifamily housing project has not engaged
23 in material adverse financial or managerial actions
24 or omissions with regard to the project; and with re-
25 gard to other projects, is not engaged in such ac-

1 tions or omissions that would constitute a pattern of
 2 mismanagement that would warrant suspension or
 3 debarment by the Secretary; and

4 “(E) the project owner demonstrates to the sat-
 5 isfaction of the Secretary—

6 “(i) using information in a comprehensive
 7 needs assessment, that capital grant assistance
 8 is needed for rehabilitation of the project; and

9 “(ii) that project income is not sufficient
 10 to support such rehabilitation.

11 “(3) ELIGIBLE PURPOSES.—The Secretary may
 12 make grants to the owners of eligible projects for the pur-
 13 poses of—

14 “(A) payment into project replacement reserves;

15 “(B) providing a fair return on equity invest-
 16 ment;

17 “(C) debt service payments on non-Federal re-
 18 habilitation loans; and

19 “(D) payment of non-recurring maintenance
 20 and capital improvements, under terms and condi-
 21 tions as determined by the Secretary.

22 “(4) GRANT AGREEMENT.—

23 “(A) The Secretary shall provide in any grant
 24 agreement under this subsection that the grant shall
 25 be terminated if the project fails to meet housing

1 quality standards, as applicable on the date of enact-
2 ment of the Housing 2020: Multifamily Management
3 Reform Act, or any successor standards for the
4 physical conditions of projects, as determined by the
5 Secretary.

6 “(B) The Secretary may include in such grant
7 agreement such other terms and conditions as the
8 Secretary determines necessary.

9 “(5) DELEGATION.—

10 “(A) In addition to the authorities set forth in
11 subsection (p), the Secretary may delegate to State
12 and local governments the responsibility for the ad-
13 ministration of grants under this subsection. Any
14 such government may carry out such delegated re-
15 sponsibilities directly or under contracts.

16 “(B) In addition to other eligible purposes,
17 amounts of grants under this subsection may be
18 made available for costs of administration under
19 subparagraph (A).

20 “(6) FUNDING.—

21 “(A) For the purposes of carrying out this sub-
22 section, the Secretary may make available amounts
23 that are unobligated amounts for contracts for inter-
24 est reduction payments—

1 “(i) that were previously obligated for con-
2 tracts for interest reduction payments under
3 this section until insurance under this section
4 was extinguished;

5 “(ii) that become available as a result of
6 the outstanding principal balance of a mortgage
7 having been written down;

8 “(iii) that are uncommitted balances within
9 the limitation on maximum payments that may
10 heretofore have been permitted in any fiscal
11 year; or

12 “(iv) that become available from any other
13 source.

14 “(B) The Secretary may liquidate obligations
15 entered into under this subsection under section
16 1305(10) of title 31 of the United States Code.

17 “(C) In making capital grants under the terms
18 of this subsection, using the amounts that the Sec-
19 retary has recaptured from contracts for interest re-
20 duction payments, the Secretary shall assure that
21 the rates and amounts of outlays do not at any one
22 time exceed the rates and amounts of outlays that
23 would have been experienced if the insurance had
24 not been extinguished or the principal amount had
25 not been written down, and the interest reduction

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

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