Public Law 100-358
100th Congress

An Act

June 29, 1988
[H.R. 3927]

To amend the United States Housing Act of 1937 to establish a separate program to provide housing assistance for Indians and Alaska Natives.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

Indian Housing Act of 1988.
42 USC 1437aa note.

SECTION 1. SHORT TITLE.

This Act may be cited as the "Indian Housing Act of 1988".

SEC. 2. ESTABLISHMENT OF SEPARATE PROGRAM OF ASSISTED HOUSING FOR INDIANS AND ALASKA NATIVES.

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

"TITLE II—ASSISTED HOUSING FOR INDIANS AND ALASKA NATIVES

42 USC 1437aa.

"SEC. 201. ESTABLISHMENT OF SEPARATE PROGRAM OF ASSISTED HOUSING FOR INDIANS AND ALASKA NATIVES.

"(a) GENERAL AUTHORITY.—The Secretary shall carry out programs to provide lower income housing on Indian reservations and other Indian areas in accordance with the provisions of this title.

Contracts.

"(b) APPLICABILITY OF TITLE I.—

"(1) IN GENERAL.—Except as otherwise provided in this title, the provisions of title I shall apply to lower income housing developed or operated pursuant to a contract between the Secretary and an Indian housing authority.

"(2) PUBLIC HOUSING.—No provision of title I (or of any other law specifically modifying the public housing program under title I) that is enacted after the date of the enactment of the Indian Housing Act of 1988 shall apply to public housing developed or operated pursuant to a contract between the Secretary and an Indian housing authority, unless the provision explicitly provides for such applicability.

Animals.
Aged persons.
Handicapped persons.

"(c) INAPPLICABILITY OF CERTAIN REQUIREMENTS.—Lower income housing developed or operated pursuant to a contract between the Secretary and an Indian housing authority shall not be subject to section 227 of the Housing and Urban-Rural Recovery Act of 1983 (relating to pet ownership in assisted housing for the elderly or handicapped).

42 USC 1437bb.

"SEC. 202. MUTUAL HELP HOMEOWNERSHIP OPPORTUNITY PROGRAM.

"(a) ESTABLISHMENT.—The Secretary shall carry out a mutual help homeownership opportunity program for Indian families in accordance with this section. The program shall be designed to meet the homeownership needs of Indian families on Indian reservations

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and other Indian areas, including Indian families whose incomes exceed the levels established for lower income families.

"(b) FINANCIAL ASSISTANCE.—The Secretary may, to the extent provided in appropriation Acts, enter into contracts with Indian housing authorities under title I to provide financial assistance for the development, acquisition, operation, and improvement of housing projects under this section. Contracts.

"(c) ELIGIBLE PROJECTS.—

"(1) PROJECT TYPES.—Projects for which assistance may be provided under this section may include single-family detached dwellings and other single-family dwellings (including row houses).

"(2) FORMS OF OWNERSHIP.—In addition to fee simple ownership and other forms of ownership, the Secretary may permit and facilitate cooperative ownership for any project assisted under this section, if the Indian housing authority requests cooperative ownership and the Secretary determines such ownership to be appropriate for the project.

"(3) PROPERTY STANDARDS.—Property standards for projects assisted under this section shall be established by regulation, in accordance with section 205. The standards shall—

"(A) provide sufficient flexibility to permit the use of different designs and materials; and

"(B) include cost-effective energy conservation performance standards designed to ensure the lowest total construction and operating costs. Energy. Conservation.

"(d) ELIGIBLE FAMILIES.—

"(1) IN GENERAL.—Except as provided in paragraph (2), assistance under this section shall be limited to Indian lower income families on Indian reservations and other Indian areas.

"(2) EXCEPTION.—

"(A) DEMONSTRATED NEED.—An Indian housing authority may provide assistance under this section to families on Indian reservations and other Indian areas whose incomes exceed the levels established for lower income families, if the Indian housing authority demonstrates to the satisfaction of the Secretary that there is a need for housing for such families that cannot reasonably be met without such assistance. An Indian housing authority may provide assistance under this section to any non-Indian family on an Indian reservation or other Indian area if the Indian housing authority determines that the presence of the family on the Indian reservation or other Indian area is essential to the well-being of Indian families and the need for housing for the family cannot reasonably be met without such assistance.

"(B) LIMITATION ON NUMBER OF UNITS.—The number of dwelling units in any project assisted under this section that may be occupied by or reserved for families on Indian reservations and other Indian areas whose incomes exceed the levels established for lower income families may not exceed whichever of the following is higher:

"(i) 10 PERCENT.—10 percent of the dwelling units in the project.

"(ii) 5 UNITS.—5 dwelling units.

"(e) MUTUAL HELP AND OCCUPANCY AGREEMENT.—Each Indian housing authority operating a program under this section shall

require each family selected for housing under this section to enter into a mutual help and occupancy agreement. The agreement shall provide the following:

"(1) FAMILY CONTRIBUTION.—

"(A) GENERAL REQUIREMENT.—The family shall agree to contribute toward the development cost of a project in the form of land, labor, cash, or materials or equipment. The value of the contribution of each family shall not be less than $1,500.

"(B) CONTRIBUTION BY INDIAN TRIBE.—Contributions other than labor may be made by an Indian tribe on behalf of a family.

"(2) MONTHLY PAYMENT.—

"(A) CALCULATION.—The family shall agree to make a monthly payment to the Indian housing authority that is equal to whichever of the following is higher:

"(i) PERCENTAGE OF ADJUSTED INCOME.—An amount computed by—

"(I) multiplying the monthly adjusted income of the family by a percentage that is not less than 15 percent and not more than 30 percent, as determined by the Indian housing authority to be appropriate; and

"(II) subtracting the estimated monthly payments of the family for the reasonable use of utilities (excluding telephone service).

"(ii) ADMINISTRATION CHARGE.—The amount budgeted by the Indian housing authority for monthly operating expenses on the dwelling of the family, excluding any operating cost for which operating assistance is provided by the Secretary under section 9.

"(B) OTHER APPLICABLE LAW.—Monthly payments under this section shall be subject to section 203 of the Housing and Community Development Act of 1974.

"(3) MAINTENANCE AND UTILITIES.—The family shall be responsible for the maintenance and monthly utility expenses of the dwelling. The Indian housing authority shall have in effect procedures determined by the Secretary to be sufficient for ensuring the timely periodic maintenance of the dwelling by the family.

Contracts.

"(4) HOMEOWNERSHIP OPPORTUNITIES.—The Indian housing authority shall afford the family an opportunity to purchase the dwelling under a lease-purchase, mortgage, or loan agreement with the Indian housing authority or any other qualified entity, if the Indian housing authority determines (in accordance with objective standards and procedures established by the Secretary after consultation with Indian housing authorities) that the family is able to meet the obligations of homeownership.

"(f) SELF-HELP HOUSING PROGRAM.—

"(1) ESTABLISHMENT.—The Secretary shall establish a self-help housing program for projects assisted under this section.

"(2) REQUIREMENTS.—In the case of any project approved by the Secretary for participation in the self-help housing program—

"(A) each family shall make a contribution under subsection (e)(1) in the form of labor in accordance with labor contribution requirements similar to the requirements ap-

plicable under the mutual self-help housing program established in section 523 of the Housing Act of 1949; and

"(B) the Secretary shall provide each family with technical and supervisory assistance similar to the assistance available under the mutual self-help housing program established in section 523 of the Housing Act of 1949.

"(3) APPLICATIONS.—Any Indian housing authority may submit an application to the Secretary for inclusion of a project assisted under this section in the self-help housing program.

"SEC. 203. ADDITIONAL PROVISIONS. 42 USC 1437cc.

"(a) PUBLIC HOUSING MAXIMUM CONTRIBUTIONS.—In determining the maximum contributions that may be made by the Secretary to an Indian housing authority for development of a public housing project (including a mutual help homeownership opportunity project under this title), the Secretary shall consider all relevant factors, including—

"(1) the logistical problems associated with projects of remote location, low density, or scattered sites; and

"(2) the availability of skilled labor and acceptable materials.

"(b) RELATED FACILITIES AND SERVICES.—The Secretary shall take such actions as may be necessary to ensure the timely and efficient provision, through the Interdepartmental Agreement on Indian Housing, of any roads, water supply and sewage facilities, and electrical and fuel distribution systems that are required for completion and occupancy of public housing projects assisted under this title (including mutual help homeownership opportunity projects). Highways. Water. Waste disposal. Utilities.

"(c) ACCESSIBILITY TO PHYSICALLY HANDICAPPED PERSONS.—The Secretary shall, in accordance with Public Law 90-480 (42 U.S.C. 4151 et seq.; commonly known as the Architectural Barriers Act of 1968) and other applicable law, require each Indian housing authority to give proper consideration to the needs of physically handicapped persons for ready access to, and use of, lower income housing assisted under this title.

"SEC. 204. ANNUAL REPORT. 42 USC 1437dd.

"The Secretary shall include in the annual report under section 8 of the Department of Housing and Urban Development Act—

"(1) a description of the actions taken to carry out the provisions of the Housing and Community Development Act of 1987 that relate to Indian housing;

"(2) an evaluation of the status of the program of single-family mortgage insurance for Indians and Alaska Natives under section 248 of the National Housing Act;

"(3) an assessment of the housing needs of native Hawaiians and an evaluation of current Federal programs designed to meet the needs, including programs of housing assistance for lower income families and the program of single-family mortgage insurance for native Hawaiians under section 247 of the National Housing Act;

"(4) recommendations for resolving concerns relating to Indian housing authorities that are authorized to serve both Indians and non-Indians; and

"(5) a description of actions taken to ensure the timely and efficient provision, through the Interdepartmental Agreement on Indian Housing, of any roads, water supply and sewage facilities, and electrical and fuel distribution systems that are

required for completion and occupancy of public housing projects assisted under this title (including mutual help homeownership opportunity projects).

42 USC 1437ee.

"SEC. 205. REGULATIONS.

"(a) ISSUANCE.—The Secretary shall issue regulations to carry out this title and the amendments made by the Indian Housing Act of 1988. The regulations shall be issued in accordance with subsections (b) through (e) of section 553 of title 5, United States Code.

"(b) CONSULTATION WITH INDIAN HOUSING AUTHORITIES.—In formulating proposed regulations under this section, the Secretary shall consult with Indian housing authorities.

"(c) EFFECTIVE DATE.—The Secretary shall issue regulations under this section to become effective before the expiration of the 90-day period beginning on the date of the enactment of the Indian Housing Act of 1988.".

SEC. 3. CONTINUED AVAILABILITY OF FUNDS.

42 USC 1437c.

Section 5(c) of the United States Housing Act of 1937 is amended by adding at the end the following new paragraph:

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

SEC. 4. DEFINITIONS.

42 USC 1437a.

(a) ADJUSTED INCOME.—Section 3(b)(5)(D) of the United States Housing Act of 1937 is amended—

(1) by inserting "(i)" after "(D)"; and

(2) by inserting before the period at the end the following: "; or (ii) excessive travel expenses, not to exceed $25 per family per week, for employment or education related travel, except that this clause shall apply only to families assisted by Indian housing authorities".

(b) PUBLIC HOUSING AGENCY.—Section 3(b)(6) of the United States Housing Act of 1937 is amended by adding at the end the following: "The term includes any Indian housing authority.".

(c) STATE.—Section 3(b)(7) of the United States Housing Act of 1937 is amended by striking all that follows "Indian tribes" and inserting a period.

(d) INDIAN.—Section 3(b) of the United States Housing Act of 1937 is amended by adding at the end the following new paragraph:

"(9) The term 'Indian' means any person recognized as being an Indian or Alaska Native by an Indian tribe, the Federal Government, or any State.".

(e) INDIAN AREA.—Section 3(b) of the United States Housing Act of 1937 (as amended by subsection (d) of this section) is further amended by adding at the end of the following new paragraph:

"(10) The term 'Indian area' means the area within which an Indian housing authority is authorized to provide lower income housing.".

(f) INDIAN HOUSING AUTHORITY.—Section 3(b) of the United States Housing Act of 1937 (as amended by subsection (e) of this section) is further amended by adding at the end the following new paragraph:

"(11) The term 'Indian housing authority' means any entity that—

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

"(B) is established—

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

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

(g) INDIAN TRIBE.—Section 3(b) of the United States Housing Act of 1937 (as amended by subsection (f) of this section) is further amended by adding at the end the following new paragraph:

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

SEC. 5. CONFORMING AMENDMENTS TO TITLE I.

The United States Housing Act of 1937 is amended by inserting before section 1 the following title heading: 42 USC 1437-1437s.

"TITLE I—GENERAL PROGRAM OF ASSISTED HOUSING".

SEC. 6. APPLICABILITY.

The Secretary of Housing and Urban Development may carry out programs to provide lower income housing on Indian reservations and other Indian areas only in accordance with the amendments made by this Act, commencing on whichever of the following occurs earlier:

(1) EFFECTIVE DATE OF REGULATIONS.—The effective date of regulations issued under section 205 of the United States Housing Act of 1937.

(2) 90 DAYS.—The expiration of the 90-day period beginning on the date of the enactment of this Act.

Approved June 29, 1988.

LEGISLATIVE HISTORY—H.R. 3927 (S. 1987):

HOUSE REPORTS: No. 100-604 (Comm. on Banking, Finance and Urban Affairs).
SENATE REPORTS: No. 100-344 accompanying S. 1987 (Select Comm. on Indian Affairs).
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May 10, considered and passed House.
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