

**§ 4109. Incentives to extend low-income use****(a) Agreements by Secretary**

After approving a plan of action from an owner of eligible low-income housing that includes the owner's plan to extend the low-income affordability restrictions of the housing, the Secretary shall, subject to the availability of appropriations for such purpose, enter into such agreements as are necessary to enable the owner to receive (for each year after the approval of the plan of action) the annual authorized return for the housing determined under section 4104(a) of this title, pay debt service on the federally-assisted mortgage covering the housing, pay debt service on any loan for rehabilitation of the housing, and meet project operating expenses and establish adequate reserves. The Secretary shall take into account the Federal cost limits under section 4105(a) of this title for the housing when providing incentives under subsections<sup>1</sup> (b)(2) and (3) of this section. The Secretary shall take such actions as are necessary to ensure that owners receive the annual authorized return for the housing determined under section 4104(a) of this title during the period in which rent increases are phased in as provided in section 4112(a)(2)(E) of this title, including (in order of preference) (1) allowing the owner access to residual receipt accounts (pursuant to subsection (b)(1) of this section), (2) deferring remittance of excess rent payments, and (3) providing an increase in rents permitted under an existing contract under section 1437f of title 42 (pursuant to subsection (b)(2) of this section).

**(b) Permissible incentives**

Such agreements may include one or more of the following incentives:

- (1) Increased access to residual receipts accounts.
- (2) Subject to the availability of amounts provided in appropriations Acts—
  - (A) an increase in the rents permitted under an existing contract under section 1437f of title 42, or
  - (B) additional assistance under section 1437f of title 42 or an extension of any project-based assistance attached to the housing; and
- (3) An increase in the rents on units occupied by current tenants as permitted under section 4112 of this title.
- (4) Financing of capital improvements under section 201 of the Housing and Community Development Amendments of 1978.
- (5) Financing of capital improvements through provision of insurance for a second mortgage under section 1715z-6 of this title.
- (6) In the case of housing defined in section 4119(1)(A)(iii) of this title, redirection of the Interest Reduction Payment subsidies to a second mortgage.
- (7) Access by the owner to a portion of the preservation equity in the housing through provision of insurance for a second mortgage loan insured under section 1715z-6(f)<sup>2</sup> of this

title or a non-insured mortgage loan approved by the Secretary and the mortgagee.

- (8) Other incentives authorized in law.

With respect to any housing with a mortgage insured or otherwise assisted pursuant to section 1715z-1 of this title, the provisions of subsections (f) and (g) of section 1715z-1 of this title notwithstanding, the fair market rental charge for each unit in such housing may be increased in accordance with this subsection, but the owner shall pay to the Secretary all rental charges collected in excess of the basic rental charges, in an amount not greater than the fair market rental charges as such charges would have been established under section 1715z-1(f) of this title absent the requirements of this paragraph.

(Pub. L. 100-242, title II, §219, as added Pub. L. 101-625, title VI, §601(a), Nov. 28, 1990, 104 Stat. 4256; amended Pub. L. 102-550, title III, §306, Oct. 28, 1992, 106 Stat. 3764.)

**Editorial Notes**

## REFERENCES IN TEXT

Section 201 of the Housing and Community Development Amendments of 1978, referred to in subsec. (b)(4), is section 201 of Pub. L. 95-557, title II, Oct. 31, 1978, 92 Stat. 2084, which enacted section 1715z-1a of this title and amended section 1715z-1 of this title.

Section 1715z-6(f) of this title, referred to in subsec. (b)(7), was repealed by Pub. L. 104-204, title II, Sept. 26, 1996, 110 Stat. 2885.

## AMENDMENTS

1992—Subsec. (a). Pub. L. 102-550 inserted “(for each year after the approval of the plan of action)” after “receive” and inserted at end “The Secretary shall take such actions as are necessary to ensure that owners receive the annual authorized return for the housing determined under section 4104(a) of this title during the period in which rent increases are phased in as provided in section 4112(a)(2)(E) of this title, including (in order of preference) (1) allowing the owner access to residual receipt accounts (pursuant to subsection (b)(1) of this section), (2) deferring remittance of excess rent payments, and (3) providing an increase in rents permitted under an existing contract under section 1437f of title 42 (pursuant to subsection (b)(2) of this section).”

**Statutory Notes and Related Subsidiaries**STUDY OF PROJECTS ASSISTED UNDER FLEXIBLE  
SUBSIDY PROGRAM

Pub. L. 102-550, title III, §318, Oct. 28, 1992, 106 Stat. 3772, directed the Secretary to conduct a study of certain housing projects assisted under 12 U.S.C. 1715z-1 or the proviso of 12 U.S.C. 1715(d)(5) and submit a report to the Congress regarding any findings and conclusions of the study not later than the expiration of the 1-year period beginning on Oct. 28, 1992.

**§ 4110. Incentives for transfer to qualified purchasers****(a) In general**

With respect to any eligible low-income housing for which an owner has submitted a second notice of intent under section 4106(d) of this title to transfer the housing to a qualified purchaser, the owner shall offer the housing for transfer to qualified purchasers as provided in this section. The Secretary shall issue regulations describing the means by which potential qualified purchasers shall be notified of the

<sup>1</sup> So in original. Probably should be “subsection”.

<sup>2</sup> See References in Text note below.