

the portion of rent attributable to project oversight costs” for “by making changes in the annual authorized return under section 4104 of this title”.

Subsec. (c)(2). Pub. L. 102-550, §317(a)(4)(B), substituted “a hearing” for “an hearing”.

Subsec. (d)(2)(B). Pub. L. 102-550, §317(a)(4)(C), inserted “the” after “that”.

Subsec. (d)(2)(C)(ii). Pub. L. 102-550, §317(a)(4)(D), substituted “in default” for “default”.

Subsec. (e). Pub. L. 102-550, §308(a), struck out subsec. (e) which read as follows: “(e) WINDFALL PROFITS.—The Secretary shall submit a report to the Congress not later than 90 days after November 28, 1990, evaluating the availability, quality, and reliability of data to measure the accessibility of decent, affordable housing in all areas where properties are eligible to submit a notice of intent to prepay under section 4102 of this title. To prevent payment of windfall profits, the Secretary may make available incentive payments under section 4109 or 4110 of this title only to owners in those rental markets where there is an inadequate supply of decent, affordable housing, if the Secretary determines that adequate data can be obtained to permit objective and fair implementation or where necessary to accomplish the other public policy objectives under this chapter. The Secretary shall implement this subsection in a manner consistent with the process established by this chapter.”

Statutory Notes and Related Subsidiaries

EFFECTIVE AND TERMINATION DATES OF 1994 AMENDMENT

Pub. L. 103-327, title II, Sept. 28, 1994, 108 Stat. 2316, provided in part that: “Section 601 [amending this section and section 4119 of this title and enacting provisions set out below] of title VI of S. 2281 (103d Cong., 2d Sess[.]), as reported to the Senate on July 13 (legislative day, July 11), 1994 (S. Rep. 103-307), is hereby incorporated into this Act [Pub. L. 103-327], and such section 601 is deemed enacted into law upon enactment of this Act [Sept. 28, 1994]: *Provided*, That the provisions of such section 601 shall be effective only during fiscal year 1995.”

Section 601(f) of title VI of S. 2281, One-Hundred Third Congress, as reported July 13, 1994, which was enacted into law by Pub. L. 103-327, title II [title VI, §601(f)], Sept. 28, 1994, 108 Stat. 2316, provided in part, that:

“(1) IN GENERAL.—Except as provided in paragraph (2), this section [amending this section and section 4119 of this title] shall take effect on the date of enactment of this Act [Sept. 28, 1994].

“(2) EXCEPTION.—If an owner of eligible low-income housing has a plan of action that has been approved by the Secretary and that is being implemented as of the date of enactment of this Act [Sept. 28, 1994], subsections (a), (b), (c), and (d) [amending this section] shall not apply to current tenants of such housing until the first date on which the next annual rent adjustments are made following the date of enactment of this Act.”

§ 4113. Assistance for displaced tenants

(a) Section 1437f assistance

Each low-income family that is displaced as a result of the prepayment of the mortgage or voluntary termination of an insurance contract on eligible low income housing shall, subject to the availability or¹ amounts provided under appropriations Acts, receive tenant-based assistance under section 1437f of title 42. To the extent sufficient amounts are made available under appropriations Acts, in each fiscal year the Secretary shall reserve from amounts made available under section 4124(a) of this title or, if nec-

essary, under section 1437c(c) of title 42, such amounts as the Secretary determines are necessary to provide assistance payments for low-income families displaced during the fiscal year.

(b) Relocation assistance

The Secretary shall coordinate with public housing agencies to ensure that any very low- or low-income family displaced from eligible low-income housing as the result of the prepayment of the mortgage (or termination of the mortgage insurance contract) on such housing is able to acquire a suitable, affordable dwelling unit in the area of the housing from which the family is displaced. The Secretary shall require the owner of such housing to pay 50 percent of the moving expenses of each family relocated, except that such percentage shall be increased to the extent that State or local law of general applicability requires a higher payment by the owner.

(c) Continued occupancy

(1) In general

Each owner that prepays the mortgage (or terminates the mortgage insurance contract) on eligible low-income housing shall, as provided in paragraph (3), allow the tenants occupying units in such housing on the date of the submission of notice of intent under section 4102 of this title to remain in the housing for a period of 3 years, at rent levels (except for increases necessary for increased operating costs) existing at the time of prepayment.

(2) Provision of assistance by owner

In any case in which the Secretary requires an owner to allow tenants to occupy units under paragraph (1), an owner may fulfill the requirements of such paragraph by providing such assistance necessary for the tenant to rent a decent, safe, and sanitary unit in another project for the same period and at a rental cost to the tenant not in excess of the rental amount the tenant would have been required to pay in the housing of the owner, except that the tenant must freely agree to waive the right to occupy the unit in the owner's housing.

(3) Applicability to low-vacancy areas and special needs tenants

The provisions of this subsection shall apply only to—

(A) eligible low income housing located in a low-vacancy area (as such term is defined by the Secretary); and

(B) tenants in any eligible low-income housing in any area who have special needs restricting their ability to relocate (including elderly tenants and tenants with disabilities), as determined under regulations established by the Secretary.

(d) Required acceptance of section 1437f assistance

An owner who prepays the mortgage (or terminates the mortgage insurance contract) on eligible low-income housing and maintains the housing for residential rental occupancy may not refuse to rent, refuse to negotiate for the rental of, or otherwise make unavailable or deny the rent of a dwelling unit in such property to any

¹ So in original. Probably should be “of”.

person, or discriminate against any person in the terms, conditions, or privileges of rental of a dwelling (or in the provision of services or facilities in connection therewith), because the person receives assistance under section 1437f of title 42.

(e) Regional pools

In providing assistance under this section, the Secretary shall allocate the assistance on a regional basis through the regional offices of the Department of Housing and Urban Development. The Secretary shall allocate assistance under this section in a manner so that the total number of assisted units in each such region available for occupancy by, and affordable to, lower income families and persons does not decrease because of the prepayment or payment of a mortgage on eligible low-income housing or the termination of an insurance contract on such housing.

(f) Enhanced voucher assistance for certain tenants

(1) Authority

In lieu of benefits under subsections (b), (c), and (d), and subject to the availability of appropriated amounts, each family described in paragraph (2) shall be offered enhanced voucher assistance under section 1437f(t) of title 42.

(2) Eligible families

A family described in this paragraph is a family that is—

- (A)(i) a low-income family; or
- (ii) a moderate-income family that is: (I) an elderly family; (II) a disabled family; or (III) residing in a low-vacancy area; and
- (B) residing in eligible low-income housing on the date of the prepayment of the mortgage or voluntary termination of the insurance contract.

(Pub. L. 100-242, title II, §223, as added Pub. L. 101-625, title VI, §601(a), Nov. 28, 1990, 104 Stat. 4264; amended Pub. L. 105-276, title V, §550(d), Oct. 21, 1998, 112 Stat. 2610; Pub. L. 106-74, title V, §538(c), Oct. 20, 1999, 113 Stat. 1123.)

Editorial Notes

AMENDMENTS

1999—Subsec. (f). Pub. L. 106-74 added subsec. (f).
 1998—Subsec. (a). Pub. L. 105-276 substituted “tenant-based assistance under section 1437f of title 42” for “assistance under the certificate and voucher programs under sections 1437f(b) and 1437f(o)”.

Statutory Notes and Related Subsidiaries

EFFECTIVE DATE OF 1998 AMENDMENT

Amendment by title V of Pub. L. 105-276 effective and applicable beginning upon Oct. 1, 1999, except as otherwise provided, with provision that Secretary may implement amendment before such date, except to extent that such amendment provides otherwise, and with savings provision, see section 503 of Pub. L. 105-276, set out as a note under section 1437 of Title 42, The Public Health and Welfare.

§ 4114. Permissible prepayment or voluntary termination and modification of commitments

(a) In general

Notwithstanding any limitations on prepayment or voluntary termination under this sub-

chapter, an owner may terminate the low-income affordability restrictions through prepayment or voluntary termination, subject to compliance with the provisions of section 4113 of this title, under one of the following circumstances:

(1)(A) The Secretary approves a plan of action under section 4109(a) of this title, but does not provide the assistance approved in such plan during the 15-month period beginning on the date of approval.

(B) After the date that the housing would have been eligible for prepayment pursuant to the terms of the mortgage (notwithstanding this subchapter), the Secretary approves a plan of action under section 4110 or 4111 of this title, but does not provide the assistance approved in such plan before the earlier of (i) the expiration of the 2-month period beginning on the commencement of the 1st fiscal year beginning after such approval, or (ii) the expiration of the 6-month period beginning on the date of approval.

(C) The Secretary approves a plan of action under section 4110 or 4111 of this title for any eligible low-income housing not covered by subparagraph (B), but does not provide the assistance approved in such plan before the earlier of (i) the expiration of the 2-month period beginning on the commencement of the 1st fiscal year beginning after such approval, or (ii) the expiration of the 9-month period beginning on the date of approval.

(2) An owner who intended to transfer the housing to a qualified purchaser under section 4110 or 4111 of this title, and fully complied with the provisions of such section, did not receive any bona fide offers from any qualified purchasers within the applicable time periods.

In the event that the purchaser under the plan of action is unable to consummate the purchase for reasons other than the failure of the Secretary to provide incentives, an owner may terminate the low-income affordability restrictions through prepayment or voluntary termination subject to the provisions of sections 4110 and 4111 of this title.

(b) Section 1437f rental assistance

When providing rental assistance under section 1437f of title 42, the Secretary may enter into a contract with an owner, contingent upon the future availability of appropriations for the purpose of renewing expiring contracts for rental assistance as provided in appropriations Acts, to extend the term of such rental assistance for such additional period or periods necessary to carry out an approved plan of action. The contract and the approved plan of action shall provide that, if the Secretary is unable to extend the term of such rental assistance or is unable to develop a revised package of incentives providing benefits to the owner comparable to those received under the original approved plan of action, the Secretary, upon the request of the owner, shall take the following actions (subject to the limitations under the following paragraphs):

(1) Modification of commitments

Modify the binding commitments made pursuant to section 4112(a)(2) of this title that are dependent on such rental assistance.