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§ 4101. Congressional findings

The Congress finds that—

(1) the Federal Government has a responsibility to promote the general welfare of the Nation—

(A) by using Federal resources to aid families and individuals seeking affordable homes in safe and healthy environments and, in particular, assisting responsible, deserving citizens who cannot provide fully for themselves because of temporary circumstances or factors beyond their control;

(B) by working to ensure a thriving national economy and a strong private housing market; and

(C) by developing effective partnerships among the Federal Government, State, tribal, and local governments, and private entities that allow government to accept responsibility for fostering the development of a healthy marketplace and allow families to prosper without government involvement in their day-to-day activities;

(2) there exists a unique relationship between the Government of the United States and the governments of Indian tribes and a unique Federal responsibility to Indian people;

(3) the Constitution of the United States invests the Congress with plenary power over the field of Indian affairs, and through treaties, statutes, and historical relations with Indian tribes, the United States has undertaken a unique trust responsibility to protect and support Indian tribes and Indian people;

(4) the Congress, through treaties, statutes, and the general course of dealing with Indian tribes, has assumed a trust responsibility for the protection and preservation of Indian tribes and for working with tribes and their members to improve their housing conditions and socioeconomic status so that they are able to take greater responsibility for their own economic condition;

(5) providing affordable homes in safe and healthy environments is an essential element in the special role of the United States in helping tribes and their members to improve their housing conditions and socioeconomic status;

(6) the need for affordable homes in safe and healthy environments on Indian reservations, in Indian communities, and in Native Alaskan villages is acute and the Federal Government shall work not only to provide housing assistance, but also, to the extent practicable, to assist in the development of private housing finance mechanisms on Indian lands to achieve the goals of economic self-sufficiency and self-determination for tribes and their members; and

(7) Federal assistance to meet these responsibilities shall be provided in a manner that recognizes the right of Indian self-determination and tribal self-governance by making such assistance available directly to the Indian tribes or tribally designated entities under authorities similar to those accorded Indian tribes in Public Law 93–638 (25 U.S.C. 450 et seq.).[1]

(Pub. L. 104–330, § 2, Oct. 26, 1996, 110 Stat. 4017; Pub. L. 110–411, § 2, Oct. 14, 2008, 122 Stat. 4320.)

[1] See References in Text note below.

Editorial Notes

REFERENCES IN TEXT

Public Law 93–638 (25 U.S.C. 450 et seq.), referred to in par. (7), is Pub. L. 93–638, Jan. 4, 1975, 88 Stat. 2203, known as the Indian Self-Determination and Education Assistance Act, which was classified principally to subchapter II (§ 450 et seq.) of chapter 14 of this title prior to editorial reclassification as chapter 46 (§ 5301 et seq.) of this title. For complete classification of this Act to the Code, see Short Title note set out under section 5301 of this title and Tables.

AMENDMENTS

2008—Pars. (6), (7). Pub. L. 110–411 substituted ''shall'' for ''should''.

Statutory Notes and Related Subsidiaries

EFFECTIVE DATE

Pub. L. 104–330, title I, § 107, Oct. 26, 1996, 110 Stat. 4030, provided that: ''Except as otherwise expressly provided in this Act [see Short Title note below], this Act and the amendments made by this Act shall take effect on October 1, 1997.''

SHORT TITLE OF 2010 AMENDMENT

Pub. L. 111–269, § 1, Oct. 12, 2010, 124 Stat. 2850, provided that: ''This Act [amending section 4103 of this title] may be cited as the 'Indian Veterans Housing Opportunity Act of 2010'.''

SHORT TITLE OF 2008 AMENDMENT

Pub. L. 110–411, § 1(a), Oct. 14, 2008, 122 Stat. 4319, provided that: ''This Act [enacting part B of subchapter II and sections 4184 and 4196 of this title and amending this section and sections 4103, 4111 to 4114, 4116, 4117, 4131 to 4133, 4135, 4138, 4152, 4161, 4163, 4164, 4195, and 4212 of this title] may be cited as the 'Native American Housing Assistance and Self-Determination Reauthorization Act of 2008'.''

SHORT TITLE OF 2005 AMENDMENT

Pub. L. 109–136, § 1, Dec. 22, 2005, 119 Stat. 2643, provided that: ''This Act [enacting section 1490t of Title 42, The Public Health and Welfare, amending section 4114 of this title and sections 12899f and 12899h–1 of Title 42, and enacting provisions set out as a note under this section] may be cited as the 'Native American Housing Enhancement Act of 2005'.''

SHORT TITLE OF 2004 AMENDMENT

Pub. L. 108–393, § 1, Oct. 30, 2004, 118 Stat. 2246, provided that: ''This Act [amending section 4191 of this title] may be cited as the 'Homeownership Opportunities for Native Americans Act of 2004'.''

SHORT TITLE OF 2002 AMENDMENT

Pub. L. 107–292, § 1, Nov. 13, 2002, 116 Stat. 2053, provided that: ''This Act [amending sections 4103, 4111, 4114, 4116, 4117, 4132, 4191, 4195, and 4212 of this title and section 1715z–13a of Title 12, Banks and Banking] may be cited as the 'Native American Housing Assistance and Self-Determination Reauthorization Act of 2002'.''

SHORT TITLE OF 2000 AMENDMENTS

Pub. L. 106–569, title V, § 511, Dec. 27, 2000, 114 Stat. 2966, provided that: ''This subtitle [subtitle B (§§ 511–514) of title V of Pub. L. 106–569, enacting subchapter VIII of this chapter, section 1715z–13b of Title 12, Banks and Banking, and provisions set out as notes under section 4221 of this title] may be cited as the 'Hawaiian Homelands Homeownership Act of 2000'.''

Pub. L. 106–568, § 1, Dec. 27, 2000, 114 Stat. 2868, provided that: ''This Act [see Tables for classification] may be cited as the 'Omnibus Indian Advancement Act'.''

Pub. L. 106–568, title II, § 201, Dec. 27, 2000, 114 Stat. 2872, provided that: ''This title [enacting subchapter VIII of this chapter, section 1715z–13b of Title 12, Banks and Banking, and provisions set out as notes under section 4221 of this title] may be cited as the 'Hawaiian Homelands Homeownership Act of 2000'.''

SHORT TITLE

Pub. L. 104–330, § 1(a), Oct. 26, 1996, 110 Stat. 4016, provided that: ''This Act [enacting this chapter and section 12899h–1 of Title 42, The Public Health and Welfare, amending sections 1715z–13a and 1721 of Title 12, Banks and Banking, and sections 1437a, 1437c to 1437e, 1437g, 1437*l*, 1437n, 1437u to 1437x, 1437aaa–5, 1437aaa–6, 1439, 11371 to 11376, 11382, 11401, 11403g, 11408, 11902 to 11905, 12747, and 12838 of Title 42, repealing sections 1437aa to 1437ee of Title 42, enacting provisions set out as notes under this section and sections 4181 and 4211 of this title and sections 11371, 12747, and 12899h–1 of Title 42, amending provisions set out as a note under section 11301 of Title 42, and repealing provisions set out as a note under section 1701z–6 of Title 12] may be cited as the 'Native American Housing Assistance and Self-Determination Act of 1996'.''

FINDINGS OF 2005 AMENDMENT

Pub. L. 109–136, § 2, Dec. 22, 2005, 119 Stat. 2643, provided that: ''Congress finds that—

''(1) there exist—

''(A) a unique relationship between the Government of the United States and the governments of Indian tribes; and

''(B) a unique Federal trust responsibility to Indian people;

''(2) Native Americans experience some of the worst housing conditions in the country, with—

''(A) 32.6 percent of Native homes being overcrowded;

''(B) 33 percent lacking adequate solid waste management systems;

''(C) 8 percent lacking a safe indoor water supply; and

''(D) approximately 90,000 Native families who are homeless or underhoused;

''(3) the poverty rate for Native Americans is twice that of the rest of the population of the United States;

''(4) the population growth of Native Americans that began in the latter part of the 20th century increased the need for Federal housing services;

''(5)(A) under the requirements of the Native American Housing Assistance and Self-Determination Act of 1996 (25 U.S.C. 4101 et seq.), members of Indian tribes are given preference for housing programs;

''(B) a primary purpose of the Act is to allow Indian tribes to leverage funds with other Federal and private funds;

''(C) the Department of Agriculture has been a significant funding source for housing for Indian tribes;

''(D) to allow assistance provided under the Act and assistance provided by the Secretary of Agriculture under other law to be combined to meet the severe housing needs of Indian tribes, the Housing Act of 1949 (42 U.S.C. 1471 [1441] et seq.) should be amended to allow for the preference referred to in subparagraph (A) by granting an exemption from title VI of the Civil Rights Act of 1964 (42 U.S.C. 2000d et seq.) and title VIII of the Civil Rights Act of 1968 (42 U.S.C. 3601 et seq.); and

''(E) federally recognized Indian tribes exercising powers of self-government are governed by the Indian Civil Rights Act (25 U.S.C. 1301 et seq.); and

''(6) section 457 of the Cranston-Gonzales [Cranston-Gonzalez] National Affordable Housing Act (42 U.S.C. 12899f) should be amended to include Indian tribes, tribally designated housing entities, or other agencies that primarily serve Indians as eligible applicants for YouthBuild grants.''

§ 4102. Administration through Office of Native American Programs

The Secretary of Housing and Urban Development shall carry out this chapter through the Office of Native American Programs of the Department of Housing and Urban Development.

(Pub. L. 104–330, § 3, Oct. 26, 1996, 110 Stat. 4018.)

Editorial Notes

REFERENCES IN TEXT

This chapter, referred to in text, was in the original ''this Act'', meaning Pub. L. 104–330, Oct. 26, 1996, 110 Stat. 4016, known as the Native American Housing Assistance and Self-Determination Act of 1996. For complete classification of this Act to the Code, see Short Title note set out under section 4101 of this title and Tables.

Statutory Notes and Related Subsidiaries

EFFECTIVE DATE

Section effective Oct. 1, 1997, except as otherwise expressly provided, see section 107 of Pub. L. 104–330, set out as a note under section 4101 of this title.

§ 4103. Definitions

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

(1) Adjusted income

The term ''adjusted income'' means the annual income that remains after excluding the following amounts:

(A) Youths, students, and persons with disabilities

$480 for each member of the family residing in the household (other than the head of the household or the spouse of the head of the household)—

(i) who is under 18 years of age; or

(ii) who is—

(I) 18 years of age or older; and

(II) a person with disabilities or a full-time student.

(B) Elderly and disabled families

$400 for an elderly or disabled family.

(C) Medical and attendant expenses

The amount by which 3 percent of the annual income of the family is exceeded by the aggregate of—

(i) medical expenses, in the case of an elderly or disabled family; and

(ii) reasonable attendant care and auxiliary apparatus expenses for each family member who is a person with disabilities, to the extent necessary to enable any member of the family (including a member who is a person with disabilities) to be employed.

(D) Child care expenses

Child care expenses, to the extent necessary to enable another member of the family to be employed or to further his or her education.

(E) Earned income of minors

The amount of any earned income of any member of the family who is less than 18 years of age.

(F) Travel expenses

Excessive travel expenses, not to exceed $25 per family per week, for employment- or education-related travel.

(G) Other amounts

Such other amounts as may be provided in the Indian housing plan for an Indian tribe.

(2) Affordable housing

The term ''affordable housing'' means housing that complies with the requirements for affordable housing under subchapter II. The term includes permanent housing for homeless persons who are persons with disabilities, transitional housing, and single room occupancy housing.

(3) Drug-related criminal activity

The term ''drug-related criminal activity'' means the illegal manufacture, sale, distribution, use, or possession with intent to manufacture, sell, distribute, or use, of a controlled substance (as such term is defined in section 802 of title 21).

(4) Elderly families and near-elderly families

The terms ''elderly family'' and ''near-elderly family'' mean a family whose head (or his or her spouse), or whose sole member, is an elderly person or a near-elderly person, respectively. Such terms include 2 or more elderly persons or near-elderly persons living together, and 1 or more such persons living with 1 or more persons determined under the Indian housing plan for the agency to be essential to their care or well-being.

(5) Elderly person

The term ''elderly person'' means a person who is at least 62 years of age.

(6) Family

The term ''family'' includes a family with or without children, an elderly family, a near-elderly family, a disabled family, and a single person.

(7) Grant beneficiary

The term ''grant beneficiary'' means the Indian tribe or tribes on behalf of which a grant is made under this chapter to a recipient.

(8) Housing related community development

(A) In general

The term ''housing related community development'' means any facility, community building, business, activity, or infrastructure that—

(i) is owned by an Indian tribe or a tribally designated housing entity;

(ii) is necessary to the provision of housing in an Indian area; and

(iii)(I) would help an Indian tribe or tribally designated housing entity to reduce the cost of construction of Indian housing;

(II) would make housing more affordable, accessible, or practicable in an Indian area; or

(III) would otherwise advance the purposes of this chapter.

(B) Exclusion

The term ''housing and community development'' does not include any activity con-