

sion of the application, whether the application is approved or not approved. The Secretary may approve the application for an implementation grant with a statement that the application for the section 8 [42 U.S.C. 1437f] assistance for replacement housing and for residents of the project not purchasing units is conditionally approved, subject to the availability of appropriations in subsequent fiscal years.

(Sept. 1, 1937, ch. 896, title III, §303, as added Pub. L. 101-625, title IV, §411, Nov. 28, 1990, 104 Stat. 4150; amended Pub. L. 102-550, title I, §181(b), (c), (g)(1), title X, §1012(h)(2), Oct. 28, 1992, 106 Stat. 3735, 3736, 3906; Pub. L. 105-276, title V, §519(c)(1), Oct. 21, 1998, 112 Stat. 2561.)

### Editorial Notes

#### REFERENCES IN TEXT

This subchapter, referred to in subsecs. (b) (introductory provisions) and (c)(2)(C), (E), was in the original “this subtitle”, and was translated as reading “this title”, meaning title III of act Sept. 1, 1937, ch. 896, as added by Pub. L. 101-625, to reflect the probable intent of Congress, because title III of act Sept. 1, 1937, does not contain subtitles.

The Fair Housing Act, referred to in subsec. (d)(2)(M), is title VIII of Pub. L. 90-284, Apr. 11, 1968, 82 Stat. 81, which is classified principally to subchapter I of chapter 45 (§3601 et seq.) of this title. For complete classification of this Act to the Code, see Short Title note set out under section 3601 of this title and Tables.

The Civil Rights Act of 1964, referred to in subsec. (d)(2)(M), is Pub. L. 88-352, July 2, 1964, 78 Stat. 241. Title VI of the Act is classified generally to subchapter V (§2000d et seq.) of chapter 21 of this title. For complete classification of this Act to the Code, see Short Title note set out under section 2000a of this title and Tables.

The Age Discrimination Act of 1975, referred to in subsec. (d)(2)(M), is title III of Pub. L. 94-135, Nov. 28, 1975, 89 Stat. 728, which is classified generally to chapter 76 (§6101 et seq.) of this title. For complete classification of this Act to the Code, see Short Title note set out under section 6101 of this title and Tables.

The Cranston-Gonzalez National Affordable Housing Act, referred to in subsec. (f)(1), is Pub. L. 101-625, Nov. 28, 1990, 104 Stat. 4079. Title III of the Act enacted subchapter III (§12851 et seq.) of chapter 130 of this title and sections 1735f-17 and 1735f-18 of Title 12, Banks and Banking, amended sections 1703, 1708, 1709, 1715d, 1715z-20, 1721, and 1735f-9 of Title 12, and enacted provisions set out as notes under sections 1703, 1709, 1713, and 1735f-18 of Title 12. For complete classification of this Act to the Code, see Short Title note set out under section 12701 of this title and Tables.

#### AMENDMENTS

1998—Subsec. (b)(10). Pub. L. 105-276 substituted “such assistance from the Operating Fund” for “such assistance under section 1437g of this title”.

1992—Subsec. (b)(2). Pub. L. 102-550, §181(g)(1)(A), struck out “(not including scattered site single family housing of a public housing agency)” after “public housing project”.

Subsec. (b)(4) to (8). Pub. L. 102-550, §1012(h)(2), added par. (4) and redesignated former pars. (4) to (7) as (5) to (8), respectively. Former par. (8) redesignated (9).

Subsec. (b)(9). Pub. L. 102-550, §1012(h)(2)(A), redesignated par. (8) as (9). Former par. (9) redesignated (10).

Pub. L. 102-550, §181(g)(1)(B), which directed insertion of “, and except that implementation grants may not be used under this paragraph to fund operating expenses for scattered site public housing acquired under a homeownership program” before period at end of section “303(b)(9) of the Cranston-Gonzalez National Affordable Housing Act (42 U.S.C. 1437aaa-2(b)(9))”, was

executed by making the insertion before period at end of subsec. (b)(9) of this section, which is section 303 of the United States Housing Act of 1937, to reflect the probable intent of Congress.

Subsec. (b)(10) to (14). Pub. L. 102-550, §1012(h)(2)(A), redesignated pars. (9) to (13) as (10) to (14), respectively.

Subsec. (c)(1). Pub. L. 102-550, §181(b)(1), inserted “and replacement housing” after “expenses”.

Subsec. (c)(3). Pub. L. 102-550, §181(b)(2), added par. (3).

Subsec. (e)(8). Pub. L. 102-550, §181(c), struck out “of the type assisted under this subchapter” after “rental housing” and “appreciably” before “reduce”.

### 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 this title.

### § 1437aaa-3. Homeownership program requirements

#### (a) In general

A homeownership program under this subchapter shall provide for acquisition by eligible families of ownership interests in, or shares representing, at least one-half of the units in a public housing project under any arrangement determined by the Secretary to be appropriate, such as cooperative ownership (including limited equity cooperative ownership) and fee simple ownership (including condominium ownership), for occupancy by the eligible families.

#### (b) Affordability

A homeownership program under this subchapter shall provide for the establishment of sales prices (including principal, insurance, taxes, and interest and closing costs) for initial acquisition of the property from the public housing agency if the applicant is not a public housing agency, and for sales to eligible families, such that an eligible family shall not be required to expend more than 30 percent of the adjusted income of the family per month to complete a sale under the homeownership program.

#### (c) Plan

A homeownership program under this subchapter shall provide, and include a plan, for—

- (1) identifying and selecting eligible families to participate in the homeownership program;
- (2) providing relocation assistance to families who elect to move;
- (3) ensuring continued affordability by tenants, homebuyers, and homeowners in the project;
- (4) providing ongoing training and counseling for homebuyers and homeowners; and
- (5) replacing units in eligible projects covered by a homeownership program.

#### (d) Acquisition and rehabilitation limitations

Acquisition or rehabilitation of public housing projects under a homeownership program under this subchapter may not consist of acquisition or rehabilitation of less than the whole public housing project in a project consisting of more than 1 building. The provisions of this sub-

section may be waived upon a finding by the Secretary that the sale of less than all the buildings in a project is feasible and will not result in a hardship to any tenants of the project who are not included in the homeownership program.

**(e) Financing**

**(1) In general**

The application shall identify and describe the proposed financing for (A) any rehabilitation, and (B) acquisition (i) of the project, where applicable, by an entity other than the public housing agency for transfer to eligible families, and (ii) by eligible families of ownership interests in, or shares representing, units in the project. Financing may include use of the implementation grant, sale for cash, or other sources of financing (subject to applicable requirements), including conventional mortgage loans and mortgage loans insured under title II of the National Housing Act [12 U.S.C. 1707 et seq.].

**(2) Prohibition against pledges**

Property transferred under this subchapter shall not be pledged as collateral for debt or otherwise encumbered except when the Secretary determines that—

(A) such encumbrance will not threaten the long-term availability of the property for occupancy by low-income families;

(B) neither the Federal Government nor the public housing agency will be exposed to undue risks related to action that may have to be taken pursuant to paragraph (3);

(C) any debt obligation can be serviced from project income, including operating assistance; and

(D) the proceeds of such encumbrance will be used only to meet housing standards in accordance with subsection (f) or to make such additional capital improvements as the Secretary determines to be consistent with the purposes of this subchapter.

**(3) Opportunity to cure**

Any lender that provides financing in connection with a homeownership program under this subchapter shall give the public housing agency, resident management corporation, individual owner, or other appropriate entity a reasonable opportunity to cure a financial default before foreclosing on the property, or taking other action as a result of the default.

**(f) Housing quality standards**

The application shall include a plan ensuring that the unit—

(1) will be free from any defects that pose a danger to health or safety before transfer of an ownership interest in, or shares representing, a unit to an eligible family; and

(2) will, not later than 2 years after the transfer to an eligible family, meet minimum housing standards established by the Secretary for the purposes of this subchapter.

**(g) Repealed. Pub. L. 105-276, title V, § 531(b)(1), Oct. 21, 1998, 112 Stat. 2573**

**(h) Protection of non-purchasing families**

**(1) In general**

No tenant residing in a dwelling unit in a public housing project on the date the Sec-

retary approves an application for an implementation grant may be evicted by reason of a homeownership program approved under this subchapter.

**(2) Replacement assistance**

If the tenant decides not to purchase a unit, or is not qualified to do so, the recipient shall, during the term of any operating assistance under the implementation grant, permit each otherwise qualified tenant to continue to reside in the project at rents that do not exceed levels consistent with section 1437a(a) of this title or, if an otherwise qualified tenant chooses to move (at any time during the term of such operating assistance contract), the public housing agency shall, to the extent approved in appropriations Acts, offer such tenant (A) a unit in another public housing project, or (B) section 8 [42 U.S.C. 1437f] assistance for use in other housing.

**(3) Relocation assistance**

The recipient shall also inform each such tenant that if the tenant chooses to move, the recipient will pay relocation assistance in accordance with the approved homeownership program.

**(4) Other rights**

Tenants renting a unit in a project transferred under this subchapter shall have all rights provided to tenants of public housing under this chapter.

(Sept. 1, 1937, ch. 896, title III, §304, as added Pub. L. 101-625, title IV, §411, Nov. 28, 1990, 104 Stat. 4153; amended Pub. L. 102-550, title I, §181(g)(1)(A), Oct. 28, 1992, 106 Stat. 3736; Pub. L. 104-19, title I, §1002(b), July 27, 1995, 109 Stat. 236; Pub. L. 105-276, title V, §531(b)(1), Oct. 21, 1998, 112 Stat. 2573.)

**Editorial Notes**

REFERENCES IN TEXT

The National Housing Act, referred to in subsec. (e)(1), is act June 27, 1934, ch. 847, 48 Stat. 1246. Title II of the Act is classified principally to subchapter II (§1707 et seq.) of chapter 13 of Title 12, Banks and Banking. For complete classification of this Act to the Code, see section 1701 of Title 12 and Tables.

This subchapter, referred to in subsec. (e)(3), was in the original “this subtitle”, and was translated as reading “this title”, meaning title III of act Sept. 1, 1937, ch. 896, as added by Pub. L. 101-625, to reflect the probable intent of Congress, because title III of act Sept. 1, 1937, does not contain subtitles.

AMENDMENTS

1998—Subsec. (g). Pub. L. 105-276 struck out subsec. (g) which prohibited transfer of projects without plan for replacement housing. See 1995 Amendment note below.

1995—Subsec. (g). Pub. L. 104-19 struck out subsec. (g) which prohibited transfer of projects without plan for replacement housing.

1992—Subsec. (d). Pub. L. 102-550 struck out “(not including scattered site single family housing of a public housing agency)” after “housing project”.

**Statutory Notes and Related Subsidiaries**

EFFECTIVE DATE OF 1998 AMENDMENT

Amendment by section 531(b)(1) of Pub. L. 105-276 effective with respect to any plan for the demolition, dis-

position, or conversion to homeownership of public housing that is approved by Secretary after Sept. 30, 1995, see section 531(b)(2) of Pub. L. 105-276, set out as a note below.

**EFFECTIVE DATE OF 1995 AMENDMENT**

Amendment by Pub. L. 104-19 effective for applications for demolition, disposition, or conversion to homeownership of public housing approved by the Secretary, and other consolidation and relocation activities of public housing agencies undertaken on, before, or after Sept. 30, 1995, and on or before Sept. 30, 1998, see section 1002(d) of Pub. L. 104-19, as amended, set out as a note under section 1437c of this title.

**HOMEOWNERSHIP REPLACEMENT PLAN**

Pub. L. 105-276, title V, § 531(b), Oct. 21, 1998, 112 Stat. 2573, provided that:

“(1) **IN GENERAL.**—Notwithstanding subsections (b) and (c) of section 1002 of the Emergency Supplemental Appropriations for Additional Disaster Assistance, for Anti-terrorism Initiatives, for Assistance in the Recovery from the Tragedy that Occurred At Oklahoma City, and Rescissions Act, 1995 [amending this section and enacting provision set out as a note under section 1437c of this title] (Public Law 104-19; 109 Stat. 236), subsection (g) of section 304 of the United States Housing Act of 1937 (42 U.S.C. 1437aaa-3(g)) is repealed.

“(2) **EFFECTIVE DATE.**—The amendment made by paragraph (1) shall be effective with respect to any plan for the demolition, disposition, or conversion to homeownership of public housing that is approved by the Secretary after September 30, 1995.”

**§ 1437aaa-4. Other program requirements**

**(a) Sale by public housing agency to applicant or other entity required**

Where the Secretary approves an application providing for the transfer of the eligible project from the public housing agency to another applicant, the public housing agency shall transfer the project to such other applicant, in accordance with the approved homeownership program.

**(b) Preferences**

In selecting eligible families for homeownership, the recipient shall give a first preference to otherwise qualified current tenants and a second preference to otherwise qualified eligible families who have completed participation in an economic self-sufficiency program specified by the Secretary.

**(c) Cost limitations**

The Secretary may establish cost limitations on eligible activities under this subchapter, subject to the provisions of this subchapter.

**(d) Annual contributions**

Notwithstanding the purchase of a public housing project under this section, or the purchase of a unit in a public housing project by an eligible family, the Secretary shall continue to pay annual contributions with respect to the project. Such contributions may not exceed the maximum contributions authorized in section 1437c(a) of this title.

**(e) Amounts from Operating Fund allocation**

Amounts from an allocation from the Operating Fund under section 1437g of this title shall not be available with respect to a public housing project after the date of its sale by the public housing agency.

**(f) Use of proceeds from sales to eligible families**

The entity that transfers ownership interests in, or shares representing, units to eligible families, or another entity specified in the approved application, shall use the proceeds, if any, from the initial sale for costs of the homeownership program, including operating expenses, improvements to the project, business opportunities for low-income families, supportive services related to the homeownership program, additional homeownership opportunities, and other activities approved by the Secretary.

**(g) Restrictions on resale by homeowners**

**(1) In general**

**(A) Transfer permitted**

A homeowner under a homeownership program may transfer the homeowner's ownership interest in, or shares representing, the unit, except that a homeownership program may establish restrictions on the resale of units under the program.

**(B) Right to purchase**

Where a resident management corporation, resident council, or cooperative has jurisdiction over the unit, the corporation, council, or cooperative shall have the right to purchase the ownership interest in, or shares representing, the unit from the homeowner for the amount specified in a firm contract between the homeowner and a prospective buyer. If such an entity does not have jurisdiction over the unit or elects not to purchase and if the prospective buyer is not a low-income family, the public housing agency or the implementation grant recipient shall have the right to purchase the ownership interest in, or shares representing, the unit for the same amount.

**(C) Promissory note required**

The homeowner shall execute a promissory note equal to the difference between the market value and the purchase price, payable to the public housing agency or other entity designated in the homeownership plan, together with a mortgage securing the obligation of the note.

**(2) 6 years or less**

In the case of a transfer within 6 years of the acquisition under the program, the homeownership program shall provide for appropriate restrictions to assure that an eligible family may not receive any undue profit. The plan shall provide for limiting the family's consideration for its interest in the property to the total of—

(A) the contribution to equity paid by the family;

(B) the value, as determined by such means as the Secretary shall determine through regulation, of any improvements installed at the expense of the family during the family's tenure as owner; and

(C) the appreciated value determined by an inflation allowance at a rate which may be based on a cost-of-living index, an income index, or market index as determined by the Secretary through regulation and agreed to