

ments have been entered into prior to Oct. 1, 1991, no new grants or loans to be made after Oct. 1, 1991, under this section, see section 12839(a)(1), (b)(1) of this title.

§ 1437p. Demolition and disposition of public housing

(a) Applications for demolition and disposition

Except as provided in subsection (b), upon receiving an application by a public housing agency for authorization, with or without financial assistance under this subchapter, to demolish or dispose of a public housing project or a portion of a public housing project (including any transfer to a resident-supported nonprofit entity), the Secretary shall approve the application, if the public housing agency certifies—

(1) in the case of—

(A) an application proposing demolition of a public housing project or a portion of a public housing project, that—

(i) the project or portion of the public housing project is obsolete as to physical condition, location, or other factors, making it unsuitable for housing purposes; and

(ii) no reasonable program of modifications is cost-effective to return the public housing project or portion of the project to useful life; and

(B) an application proposing the demolition of only a portion of a public housing project, that the demolition will help to ensure the viability of the remaining portion of the project;

(2) in the case of an application proposing disposition by sale or other transfer of a public housing project or other real property subject to this subchapter—

(A) the retention of the property is not in the best interests of the residents or the public housing agency because—

(i) conditions in the area surrounding the public housing project adversely affect the health or safety of the residents or the feasible operation of the project by the public housing agency; or

(ii) disposition allows the acquisition, development, or rehabilitation of other properties that will be more efficiently or effectively operated as low-income housing;

(B) the public housing agency has otherwise determined the disposition to be appropriate for reasons that are—

(i) in the best interests of the residents and the public housing agency;

(ii) consistent with the goals of the public housing agency and the public housing agency plan; and

(iii) otherwise consistent with this subchapter; or

(C) for property other than dwelling units, the property is excess to the needs of a public housing project or the disposition is incidental to, or does not interfere with, continued operation of a public housing project;

(3) that the public housing agency has specifically authorized the demolition or disposition in the public housing agency plan, and

has certified that the actions contemplated in the public housing agency plan comply with this section;

(4) that the public housing agency—

(A) will notify each family residing in a project subject to demolition or disposition 90 days prior to the displacement date, except in cases of imminent threat to health or safety, consistent with any guidelines issued by the Secretary governing such notifications, that—

(i) the public housing project will be demolished or disposed of;

(ii) the demolition of the building in which the family resides will not commence until each resident of the building is relocated; and

(iii) each family displaced by such action will be offered comparable housing—

(I) that meets housing quality standards;

(II) that is located in an area that is generally not less desirable than the location of the displaced person's housing; and

(III) which may include—

(aa) tenant-based assistance, except that the requirement under this clause regarding offering of comparable housing shall be fulfilled by use of tenant-based assistance only upon the relocation of such family into such housing;

(bb) project-based assistance; or

(cc) occupancy in a unit operated or assisted by the public housing agency at a rental rate paid by the family that is comparable to the rental rate applicable to the unit from which the family is vacated;

(B) will provide for the payment of the actual and reasonable relocation expenses of each resident to be displaced;

(C) will ensure that each displaced resident is offered comparable housing in accordance with the notice under subparagraph (A); and¹

(D) will provide any necessary counseling for residents who are displaced; and

(E) will not commence demolition or complete disposition until all residents residing in the building are relocated;

(5) that the net proceeds of any disposition will be used—

(A) unless waived by the Secretary, for the retirement of outstanding obligations issued to finance the original public housing project or modernization of the project; and

(B) to the extent that any proceeds remain after the application of proceeds in accordance with subparagraph (A), for—

(i) the provision of low-income housing or to benefit the residents of the public housing agency; or

(ii) leveraging amounts for securing commercial enterprises, on-site in public housing projects of the public housing agency, appropriate to serve the needs of the residents; and

¹ So in original. The word "and" probably should not appear.

(6) that the public housing agency has complied with subsection (c).

(b) Disapproval of applications

The Secretary shall disapprove an application submitted under subsection (a) if the Secretary determines that—

(1) any certification made by the public housing agency under that subsection is clearly inconsistent with information and data available to the Secretary or information or data requested by the Secretary; or

(2) the application was not developed in consultation with—

(A) residents who will be affected by the proposed demolition or disposition;

(B) each resident advisory board and resident council, if any, of the project (or portion thereof) that will be affected by the proposed demolition or disposition; and

(C) appropriate government officials.

(c) Resident opportunity to purchase in case of proposed disposition

(1) In general

In the case of a proposed disposition of a public housing project or portion of a project, the public housing agency shall, in appropriate circumstances, as determined by the Secretary, initially offer the property to any eligible resident organization, eligible resident management corporation, or nonprofit organization acting on behalf of the residents, if that entity has expressed an interest, in writing, to the public housing agency in a timely manner, in purchasing the property for continued use as low-income housing.

(2) Timing

(A) Expression of interest

A resident organization, resident management corporation, or other resident-supported nonprofit entity referred to in paragraph (1) may express interest in purchasing property that is the subject of a disposition, as described in paragraph (1), during the 30-day period beginning on the date of notification of a proposed sale of the property.

(B) Opportunity to arrange purchase

If an entity expresses written interest in purchasing a property, as provided in subparagraph (A), no disposition of the property shall occur during the 60-day period beginning on the date of receipt of that written notice (other than to the entity providing the notice), during which time that entity shall be given the opportunity to obtain a firm commitment for financing the purchase of the property.

(d) Replacement units

Notwithstanding any other provision of law, replacement public housing units for public housing units demolished in accordance with this section may be built on the original public housing location or in the same neighborhood as the original public housing location if the number of the replacement public housing units is significantly fewer than the number of units demolished.

(e) Consolidation of occupancy within or among buildings

Nothing in this section may be construed to prevent a public housing agency from consolidating occupancy within or among buildings of a public housing project, or among projects, or with other housing for the purpose of improving living conditions of, or providing more efficient services to, residents.

(f) De minimis exception to demolition requirements

Notwithstanding any other provision of this section, in any 5-year period a public housing agency may demolish not more than the lesser of 5 dwelling units or 5 percent of the total dwelling units owned by the public housing agency, but only if the space occupied by the demolished unit is used for meeting the service or other needs of public housing residents or the demolished unit was beyond repair.

(g) Uniform Relocation and Real Property Acquisition Act

The Uniform Relocation and Real Property Acquisition Policies Act of 1970 [42 U.S.C. 4601 et seq.] shall not apply to activities under this section.

(h) Relocation and replacement

Of the amounts appropriated for tenant-based assistance under section 1437f of this title in any fiscal year, the Secretary may use such sums as are necessary for relocation and replacement housing for dwelling units that are demolished and disposed of from the public housing inventory (in addition to other amounts that may be available for such purposes).

(Sept. 1, 1937, ch. 896, title I, §18, as added Pub. L. 98-181, title I [title II, §214(a)], Nov. 30, 1983, 97 Stat. 1184; amended Pub. L. 100-242, title I, §§112(b)(9), 121, 170(f), Feb. 5, 1988, 101 Stat. 1824, 1837, 1867; renumbered title I, Pub. L. 100-358, §5, June 29, 1988, 102 Stat. 681; Pub. L. 101-625, title IV, §412, title V, §§512(a), 513(b), (c), 572, Nov. 28, 1990, 104 Stat. 4159, 4194-4196, 4236; Pub. L. 102-550, title I, §§111(b)(2), 116(a)-(c), Oct. 28, 1992, 106 Stat. 3688, 3693, 3694; Pub. L. 104-19, title I, §1002(a), July 27, 1995, 109 Stat. 235; Pub. L. 104-134, title I, §101(e) [title II, §201(b)(2)], Apr. 26, 1996, 110 Stat. 1321-257, 1321-278; renumbered title I, Pub. L. 104-140, §1(a), May 2, 1996, 110 Stat. 1327; Pub. L. 105-276, title V, §531(a), Oct. 21, 1998, 112 Stat. 2570.)

Editorial Notes

REFERENCES IN TEXT

The Uniform Relocation and Real Property Acquisition Policies Act of 1970, referred to in subsec. (g), probably means the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, Pub. L. 91-646, Jan. 2, 1971, 84 Stat. 1894, and which is classified principally to chapter 61 (§4601 et seq.) of this title. For complete classification of this Act to the Code, see Short Title note set out under section 4601 of this title and Tables.

AMENDMENTS

1998—Pub. L. 105-276 amended section generally. Prior to amendment, subsec. (a) required the Secretary to make certain determinations before approving the demolition or disposition of all or part of a public hous-

ing project; subsec. (b) required public housing agency consultation with tenants and provision of relocation assistance; subsec. (c) authorized financial assistance using section 1437c contributions; subsec. (d) provided that agency would not be prevented from consolidating occupancy within or among buildings or projects; subsec. (e) provided set-asides for replacement housing in fiscal years 1993 and 1994; subsec. (f) authorized construction on original site if number of new units would be less than number of demolished units; and subsec. (g) declared that this section did not apply to dispositions in accordance with approved homeownership program under subchapter II-A of this chapter.

1996—Subsec. (f). Pub. L. 104-134 inserted at end “No one may rely on the preceding sentence as the basis for reconsidering a final order of a court issued, or a settlement approved, by a court.”

1995—Subsec. (b)(1). Pub. L. 104-19, §1002(a)(1), inserted “and” after “housing assistance plan;”.

Subsec. (b)(2). Pub. L. 104-19, §1002(a)(2), substituted “, and the public housing agency provides for the payment of the relocation expenses of each tenant to be displaced, ensures that the rent paid by the tenant following relocation will not exceed the amount permitted under this chapter and shall not commence demolition or disposition of any unit until the tenant of the unit is relocated.” for “; and”.

Subsec. (b)(3). Pub. L. 104-19, §1002(a)(3), struck out par. (3) which made approval conditional upon development of plan for provision of additional unit for each unit to be demolished or disposed of.

Subsec. (c). Pub. L. 104-19, §1002(a)(4), (5), struck out par. (1) designation and text of par. (2), which read as follows: “The Secretary shall, upon approving a plan under subsection (b)(3) of this section, agree to commit (subject to the availability of future appropriations) the funds necessary to carry out the plan over the approved schedule of the plan. As part of each annual budget request for the Department of Housing and Urban Development, the Secretary shall submit to the Congress a report—

“(A) outlining the commitments the Secretary entered into during the preceding year to fund plans approved under subsection (b)(3) of this section; and

“(B) specifying, by fiscal year, the budget authority required to carry out the commitments specified in subparagraph (A).”

Subsec. (d). Pub. L. 104-19, §1002(a)(6), inserted before period at end “: *Provided*, That nothing in this section shall prevent a public housing agency from consolidating occupancy within or among buildings of a public housing project, or among projects, or with other housing for the purpose of improving the living conditions of or providing more efficient services to its tenants”.

Subsec. (e). Pub. L. 104-19, §1002(a)(7), which directed the striking of “under section (b)(3)(A) of this section” each place it occurred, was executed by striking out “under subsection (b)(3)(A) of this section” before “for units demolished or disposed of” in two places, to reflect the probable intent of Congress.

Subsecs. (f), (g). Pub. L. 104-19, §1002(a)(8), (9), added subsec. (f) and redesignated former subsec. (f) as (g).

1992—Subsec. (a)(3). Pub. L. 102-550, §111(b)(2), added par. (3).

Subsec. (b)(1). Pub. L. 102-550, §116(a), inserted “of the project or portion of the project covered by the application” after “tenant cooperative”.

Subsec. (b)(3). Pub. L. 102-550, §116(b)(5), inserted at end “except that, in any 5-year period, a public housing agency may demolish not more than the lesser of 5 dwelling units or 5 percent of the total dwelling units owned and operated by the public housing agency, without providing an additional dwelling unit for each such public housing dwelling unit to be demolished, but only if the space occupied by the demolished unit is used for meeting the service or other needs of public housing residents.”

Subsec. (b)(3)(A)(ii). Pub. L. 102-550, §116(b)(1)(A), inserted before semicolon at end “to the extent available; or if such assistance is not available, in the case of an

application proposing demolition or disposition of 200 or more units, the use of available project-based assistance under section 1437f of this title having a term of not less than 5 years”.

Subsec. (b)(3)(A)(iii). Pub. L. 102-550, §116(b)(1)(B), inserted before semicolon at end “to the extent available; or if such assistance is not available, in the case of an application proposing demolition or disposition of 200 or more units, the use of available project-based assistance under other Federal programs having a term of not less than 5 years”.

Subsec. (b)(3)(A)(v). Pub. L. 102-550, §116(b)(1)(C), inserted before semicolon “to the extent available; or if such assistance is not available, in the case of an application proposing demolition or disposition of 200 or more units, the use of tenant-based assistance under section 1437f of this title (excluding vouchers under section 1437f(o) of this title) having a term of not less than 5 years”.

Subsec. (b)(3)(B). Pub. L. 102-550, §116(b)(4), added subpar. (B). Former subpar. (B) redesignated (C).

Subsec. (b)(3)(C) to (F). Pub. L. 102-550, §116(b)(3), redesignated subpars. (B) to (E) as (C) to (F), respectively. Former subpar. (F) redesignated (G).

Subsec. (b)(3)(G). Pub. L. 102-550, §116(b)(3), redesignated subpar. (F) as (G). Former subpar. (G) redesignated (H).

Pub. L. 102-550, §116(b)(2), substituted “tenant’s choice;” for “tenant’s choice.”

Subsec. (b)(3)(H). Pub. L. 102-550, §116(b)(3), redesignated subpar. (G) as (H).

Subsecs. (e), (f). Pub. L. 102-550, §116(c), added subsec. (e) and redesignated former subsec. (e) as (f).

1990—Subsec. (a)(2)(A)(i). Pub. L. 101-625, §572(2), substituted “low-income housing” for “lower income housing” wherever appearing.

Subsec. (a)(2)(B). Pub. L. 101-625, §572, substituted “low-income families” for “lower income families” and “low-income housing” for “lower income housing” wherever appearing.

Pub. L. 101-625, §512(a), inserted before first comma “, which, in the case of scattered-site housing of a public housing agency, shall be in an amount that bears the same ratio to the total of such costs and obligations as the number of units disposed of bears to the total number of units of the project at the time of disposition”.

Subsec. (b)(1). Pub. L. 101-625, §412(a), substituted “disposition, and the tenant councils, resident management corporation, and tenant cooperative, if any, have been given appropriate opportunities to purchase the project or portion of the project covered by the application,” for “disposition”.

Subsec. (c)(2). Pub. L. 101-625, §513(b), inserted at end “As part of each annual budget request for the Department of Housing and Urban Development, the Secretary shall submit to the Congress a report—”, and added subpars. (A) and (B).

Subsec. (c)(3). Pub. L. 101-625, §513(c), struck out par. (3) which read as follows: “The Secretary shall, in allocating assistance for the acquisition or development of public housing or for moderate rehabilitation under section 1437f(e)(2) of this title, give consideration to housing that replaces demolished public housing units in accordance with a plan under subsection (b)(3) of this section.”

Subsec. (e). Pub. L. 101-625, §412(b), added subsec. (e).

1988—Subsec. (a)(1). Pub. L. 100-242, §121(a), substituted “and” for “or” after “purposes,”.

Subsec. (b). Pub. L. 100-242, §170(f), inserted “or” after “under this section”.

Subsec. (b)(3). Pub. L. 100-242, §121(b), added par. (3).

Subsec. (c). Pub. L. 100-242, §121(c), designated existing provisions as par. (1) and added pars. (2) and (3).

Pub. L. 100-242, §112(b)(9), substituted “contributions authorized under section 1437c” for “annual contributions authorized under section 1437c(c)”.

Subsec. (d). Pub. L. 100-242, §121(d), added subsec. (d) and struck out former subsec. (d) which read as follows: “The provisions of this section shall not apply to the

conveyance of units in a public housing project for the purpose of providing homeownership opportunities for lower income families capable of assuming the responsibilities of homeownership.”

Statutory Notes and Related Subsidiaries

EFFECTIVE DATE OF 1998 AMENDMENT

Pub. L. 105-276, title V, § 531(c), Oct. 21, 1998, 112 Stat. 2574, provided that: “This section [amending this section and section 1437aaa-3 of this title and enacting provisions set out as a note under section 1437aaa-3 of this title] shall take effect on, and the amendments made by this section are made on, and shall apply beginning upon, the date of the enactment of this Act [Oct. 21, 1998].”

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.

EFFECTIVE DATE OF 1990 AMENDMENT

Pub. L. 101-625, title V, § 512(b), Nov. 28, 1990, 104 Stat. 4195, provided that: “The amendment made by this section [amending this section] shall apply to any scattered-site public housing project or portion of such project disposed of after the date of the enactment of this Act [Nov. 28, 1990].”

REPLACEMENT HOUSING DEMONSTRATION PROGRAM

Pub. L. 101-625, title V, § 513(a), Nov. 28, 1990, 104 Stat. 4195, directed Secretary of Housing and Urban Development to carry out a program to demonstrate the effectiveness of replacing public housing dwelling units eligible for demolition or disposition with 5-year certificate assistance provided under 42 U.S.C. 1437f, with Secretary to carry out the demonstration only with respect to public housing dwelling units owned or operated by the public housing authority for Saint Louis, Missouri, that before the termination of the demonstration program under this subsection are approved for demolition or disposition, and with the demonstration program to terminate at end of Sept. 30, 1992.

§ 1437q. Financing limitations

On and after October 1, 1983, the Secretary—

(1) may only enter into contracts for annual contributions regarding obligations financing public housing projects authorized by section 1437c(c) of this title if such obligations are exempt from taxation under section 1437i(b) of this title, or if such obligations are issued under section 1437b of this title and such obligations are exempt from taxation; and

(2) may not enter into contracts for periodic payments to the Federal Financing Bank to offset the costs to the Bank of purchasing obligations (as described in the first sentence of section 2294(b) of title 12) issued by local public housing agencies for purposes of financing public housing projects authorized by section 1437c(c) of this title.

(Sept. 1, 1937, ch. 896, title I, § 19, as added Pub. L. 98-181, title I [title II, § 215], Nov. 30, 1983, 97 Stat. 1185; renumbered title I, Pub. L. 100-358, § 5, June 29, 1988, 102 Stat. 681.)

§ 1437r. Public housing resident management

(a) Purpose

The purpose of this section is to encourage increased resident management of public housing projects, as a means of improving existing living conditions in public housing projects, by providing increased flexibility for public housing projects that are managed by residents by—

(1) permitting the retention, and use for certain purposes, of any revenues exceeding operating and project costs; and

(2) providing funding, from amounts otherwise available, for technical assistance to promote formation and development of resident management entities.

For purposes of this section, the term “public housing project” includes one or more contiguous buildings or an area of contiguous row houses the elected resident councils of which approve the establishment of a resident management corporation and otherwise meet the requirements of this section.

(b) Program requirements

(1) Resident council

As a condition of entering into a resident management program, the elected resident council of a public housing project shall approve the establishment of a resident management corporation. When such approval is made by the elected resident council of a building or row house area, the resident management program shall not interfere with the rights of other families residing in the project or harm the efficient operation of the project. The resident management corporation and the resident council may be the same organization, if the organization complies with the requirements applicable to both the corporation and council. The corporation shall be a nonprofit corporation organized under the laws of the State in which the project is located, and the tenants of the project shall be the sole voting members of the corporation. If there is no elected resident council, a majority of the households of the public housing project shall approve the establishment of a resident council to determine the feasibility of establishing a resident management corporation to manage the project.

(2) Public housing management specialist

The resident council of a public housing project, in cooperation with the public housing agency, shall select a qualified public housing management specialist to assist in determining the feasibility of, and to help establish, a resident management corporation and to provide training and other duties agreed to in the daily operations of the project.

(3) Bonding and insurance

Before assuming any management responsibility for a public housing project, the resident management corporation shall provide fidelity bonding and insurance, or equivalent protection, in accordance with regulations and requirements of the Secretary and the public housing agency. Such bonding and insurance, or its equivalent, shall be adequate to protect