PART II—PUBLIC HOUSING AND SECTION 8 RENTAL ASSISTANCE

ALLOCATION OF FUNDS

EXCERPT FROM HOUSING AND COMMUNITY DEVELOPMENT ACT OF 1974

[Public Law 93–383; 88 Stat. 674; 42 U.S.C. 1439]

LOCAL HOUSING ASSISTANCE PLANS; ALLOCATION OF HOUSING FUNDS

SEC. 213. [42 U.S.C. 1439] (a)(1) The Secretary of Housing and Urban Development, upon receiving an application for housing assistance under the United States Housing Act of 1937, section 101 of the Housing and Urban Development Act of 1965, or [1] if the unit of general local government in which the proposed assistance is to be provided has an approved housing assistance plan, shall—

(A) not later than ten days after receipt of the application, notify the chief executive officer of such unit of general local government that such application is under consideration; and

(B) afford such unit of general local government, the opportunity, during the thirty-day period beginning on the date of such notification, to object to the approval of the application on the grounds that the application is inconsistent with its housing assistance plan.

Upon receiving an application for such housing assistance, the Secretary shall assure that funds made available under this section shall be utilized to the maximum extent practicable to meet the needs and goals identified in the unit of local government's housing assistance plan.

(2) If the unit of general local government objects to the application on the grounds that it is inconsistent with its housing assistance plan, the Secretary may not approve the application unless he determines that the application is consistent with such housing assistant plan. If the Secretary determines, that such application is consistent with the housing assistance plan, he shall notify the chief executive officer of the unit of general local government of his determination and the reasons therefor in writing. If the Secretary concurs with the objection of the unit of local government, he shall notify the applicant stating the reason therefor in writing.

(3) If the Secretary does not receive an objection by the close of the period referred to in paragraph (1)(B), he may approve the application unless he finds it inconsistent with the housing assistance plan. If the Secretary determines that an application is inconsistent with a housing assistance plan, he shall notify the applicant stating the reasons therefor in writing.

[1] So in law.

(4) The Secretary shall make the determinations referred to in paragraphs (2) and (3) within thirty days after he receives an objection pursuant to paragraph (1)(B) or within thirty days after the close of the period referred to in paragraph (1)(B), whichever is earlier.

(5) As used in this section, the term "housing assistance plan" means a housing assistance plan submitted and approved under section 104 of this Act or, in the case of a unit of general local government not participating under title I of this Act, a housing plan approved by the Secretary as meeting the requirements of this section. In developing a housing assistance plan under this paragraph a unit of general local government shall consult with local public agencies involved in providing for the welfare of children to determine the housing needs of (A) families identified by the agencies as having a lack of adequate housing that is a primary factor in the imminent placement of a child in foster care or in preventing the discharge of a child from foster care and reunification with his or her family; and (B) children who, upon discharge of the child from foster care, cannot return to their family or extended family and for which adoption is not available. The unit of general local government shall include in the housing assistance plan needs and goals with respect to such families and children.

(b) The provisions of subsection (a) shall not apply to—

(1) applications for assistance involving 12 or fewer units in a single project or development;

(2) applications for assistance with respect to housing in new community developments approved under title IV of the Housing and Urban Development Act of 1968 or title VII of the Housing and Urban Development Act of 1970 which the Secretary determines are necessary to meet the housing requirements under such title; or

(3) applications for assistance with respect to housing financed by loans or loan guarantees from a State or agency thereof, except that the provisions of subsection (a) shall apply where the unit of general local government in which the assistance is to be provided objects in its housing assistance plan to the exemption provided by this paragraph.

[(c) [1] [Repealed.]]

(d)(1)(A)(i)[2] Except as provided by subparagraph (B), the Secretary shall allocate assistance referred to in subsection (a)(1) the

[1] Section 551(1) of the Quality Housing and Work Responsibility Act of 1998, title V of Public Law 105–276, approved October 21, 1998, amended this section by striking subsection (c) (relating to demonstration of need for assistance). Pursuant to section 503 of such Act (set forth in the footnote on page 114 of this compilation), the amendment was made on the date of enactment (and, therefore, the section is shown as amended), but applies beginning upon October 1, 1999. Section 503 also provides that the provisions of this section, as in effect immediately before the enactment of the 1998 Act, continue to apply until such applicability date (unless the Secretary provides by notice for earlier implementation of the amendment).

[2] Section 551(2) of the Quality Housing and Work Responsibility Act of 1998, title V of Public Law 105–276, approved October 21, 1998, amended this subsection by adding the last sentence of paragraph (1)(A)(i), by replacing references in paragraph (1)(A)(ii) to section 8(b)(1) with references to section 8(o), and by striking the paragraph formerly designated as paragraph (2) (relating to allocation of assistance in connection with section 533 of the Housing Act of 1949) and redesignating accordingly. Pursuant to section 503 of such Act (set forth in the footnote on page 114 of this compilation), the amendments were made on the date of enactment (and, therefore, the subsection is shown as amended), but apply beginning upon October 1, 1999. Section 503 also provides that the provisions of this subsection, as in effect immediately before the enact-

first time it is available for reservation on the basis of a formula that is contained in a regulation prescribed by the Secretary, and that is based on the relative needs of different States, areas, and communities, as reflected in data as to population, poverty, housing overcrowding, housing vacancies, amount of substandard housing, and other objectively measurable conditions specified in the regulation. The Secretary may allocate assistance under the preceding sentence in such a manner that each State shall receive not less than one-half of one percent of the amount of funds available for each program referred to in subsection (a)(1) in each fiscal year. In allocating assistance under this paragraph for each program of housing assistance under subsection (a)(1), the Secretary shall apply the formula, to the extent practicable, in a manner so that the assistance under the program is allocated according to the particular relative needs under the preceding sentence that are characteristic of and related to the particular type of assistance provided under the program. Assistance under section 202 of the Housing Act of 1959 shall be allocated in a manner that ensures that awards of the assistance under such section are made for projects of sufficient size to accommodate facilities for supportive services appropriate to the needs of frail elderly residents. Amounts for tenant-based assistance under section 8(o) of the United States Housing Act of 1937 may not be provided to any public housing agency that has been disqualified from providing such assistance.

(ii) Assistance under section 8(o) of the United States Housing Act of 1937 shall be allocated in a manner that enables participating jurisdictions to carry out, to the maximum extent practicable, comprehensive housing affordability strategies approved in accordance with section 105 of the Cranston-Gonzalez National Affordable Housing Act. Such jurisdictions shall submit recommendations for allocating assistance under such section 8(o) to the Secretary in accordance with procedures that the Secretary determines to be appropriate to permit allocations of such assistance to be made on the basis of timely and complete information. This clause may not be construed to prevent, alter, or otherwise affect the application of the formula established pursuant to clause (i) for purposes of allocating such assistance. For purposes of this clause, the term "participating jurisdiction" means a State or unit of general local government designated by the Secretary to be a participating jurisdiction under title II of the Cranston-Gonzalez National Affordable Housing Act. The preceding sentence shall not apply to projects acquired from the Resolution Trust Corporation under section 21A(c) of the Federal Home Loan Bank Act.

(B) The formula allocation requirements of subparagraph (A) shall not apply to—

(i) assistance that is approved in appropriation Acts for use under sections 9 or 14 [1], or the rental rehabilitation grant

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ment of the 1998 Act, continue to apply until such applicability date (unless the Secretary provides by notice for earlier implementation of the amendments).

[1] Section 522(b)(2) of the Quality Housing and Work Responsibility Act of 1998, title V of Public Law 105–276, approved October 21, 1998, amended section 213(d)(1)(B)(ii) of this Act by striking "or section 14". Such section probably intended to amend this clause. Pursuant to section 503 of such Act (set forth in the footnote on page 114 of this compilation), the amendment was to be made on the date of enactment, but to apply beginning upon October 1, 1999. Section

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program under section 17, of the United States Housing Act of 1937, except that the Secretary shall comply with section 102 of the Department of Housing and Urban Development Reform Act of 1989 with respect to such assistance; or

(ii) other assistance referred to in subsection (a) that is approved in appropriation Acts for uses that the Secretary determines are incapable of geographic allocation, including amendments of existing contracts, renewal of assistance contracts, assistance to families that would otherwise lose assistance due to the decision of the project owner to prepay the project mortgage or not to renew the assistance contract, assistance to prevent displacement or to provide replacement housing in connection with the demolition or disposition of public housing, and assistance in support of the property disposition and loan management functions of the Secretary.

(C) Any allocation of assistance under subparagraph (A) shall, as determined by the Secretary, be made to the smallest practicable area, consistent with the delivery of assistance through a meaningful competitive process designed to serve areas with greater needs.

(D) Any amounts allocated to a State or areas or communities within a State that are not likely to be used within a fiscal year shall not be reallocated for use in another State, unless the Secretary determines that other areas or communities (that are eligible for assistance under the program) within the same State cannot use the amounts within that same fiscal year.

(2) The Secretary may reserve such housing assistance funds as he deems appropriate for use by a State or agency thereof.

(3)(A) Notwithstanding any other provision of law, with respect to fiscal years beginning after September 30, 1990, the Secretary may retain not more than 5 percent of the financial assistance that becomes available under programs described in subsection (a)(1) during any fiscal year. Any such financial assistance that is retained shall be available for subsequent allocation to specific areas and communities, and may only be used for—

(i) unforeseen housing needs resulting from natural and other disasters;

(ii) housing needs resulting from emergencies, as certified by the Secretary, other than such disasters;

(iii) housing needs resulting from the settlement of litigation; and

(iv) housing in support of desegregation efforts.

(B) Any amounts retained in any fiscal year under subparagraph (A) that are unexpended at the end of such fiscal year shall remain available for the following fiscal year under the program under subsection (a)(1) from which the amount was retained. Such amounts shall be allocated on the basis of the formula under subsection (d)(1).

(4)(A) The Secretary shall not reserve or obligate assistance subject to allocation under paragraph (1)(A) to specific recipients, unless the assistance is first allocated on the basis of the formula

503 also provides that the provisions of the clause amended, as in effect immediately before the enactment of the 1998 Act, continue to apply until such applicability date (unless the Secretary provides by notice for earlier implementation of the amendment).

contained in that paragraph and then is reserved and obligated pursuant to a competition.

(B) Any competition referred to in subparagraph (A) shall be conducted pursuant to specific criteria; for the selection of recipients of assistance. The criteria shall be contained in—

(i) a regulation promulgated by the Secretary after notice and public comment; or

(ii) to the extent authorized by law, a notice published in the Federal Register.

(C) Subject to the times at which appropriations for assistance subject to paragraph (1)(A) may become available for reservation in any fiscal year, the Secretary shall take such steps as the Secretary deems appropriate to ensure that, to the maximum extent practicable, the process referred to in subparagraph (A) is carried out with similar frequency and at similar times for each fiscal year.

(D) This paragraph shall not apply to assistance referred to in paragraph (4)[1].

(e) From budget authority made available in appropriation Acts for fiscal year 1988, the Secretary shall enter into an annual contributions contract for a term of 180 months to obligate sufficient funds to provide assistance payments pursuant to section 8(b)(1) of the United States Housing Act of 1937 on behalf of 500 lower income families from budget authority made available for fiscal year 1988, so long as such families occupy properties in the Park Central New Community Project or in adjacent areas that are recognized by the unit of general local government in which such Project is located as being included within the Park Central New Town In Town Project.[2] If a lower income family receiving assistance payments pursuant to this subsection ceases to qualify for assistance payments pursuant to the provisions of section 8 of such Act or of this subsection during the 180-month term of the annual contributions contract, assistance payments shall be made on behalf of another lower income family who occupies a unit identified in the previous sentence.

[1] So in law. Probably intended to refer to paragraph (3).

[2] Section 154 of the Housing and Community Development Act of 1992, Public Law 102–550, 106 Stat. 3718, and the Departments of Veterans Affairs and Housing and Urban Development, and Independent Agencies Appropriations Act, 1993, Public Law 102–389, 106 Stat. 1591, both attempted to amend this subsection by striking the provisions relating to the Park Central New Community Project and inserting "Jefferson County, Texas". Neither amendment could be executed because the matter cited in both Acts to be struck from this subsection did not conform to the exact language of this subsection.

UNITED STATES HOUSING ACT OF 1937 [1]

[Public Law 93–383; 88 Stat. 653; 42 U.S.C. 1437 et seq.]

TITLE I—GENERAL PROGRAM OF ASSISTED HOUSING

SHORT TITLE

SECTION 1. [42 U.S.C. 1437 note] This Act may be cited as the "United States Housing Act of 1937".

SEC. 2.[2] [42 U.S.C. 1437] DECLARATION OF POLICY AND PUBLIC HOUSING AGENCY ORGANIZATION.

(a) DECLARATION OF POLICY.—It is the policy of the United States—

(1) to promote the general welfare of the Nation by employing the funds and credit of the Nation, as provided in this Act—

(A) to assist States and political subdivisions of States to remedy the unsafe housing conditions and the acute shortage of decent and safe dwellings for low-income families;

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[1] The Quality Housing and Work Responsibility Act of 1998, title V of Public Law 105–276 (112 Stat. 2518), approved October 21, 1998, made extensive and significant amendments to the United States Housing Act of 1937. Section 503 of such Act provides, in part, as follows:

"SEC. 503. EFFECTIVE DATE AND REGULATIONS.

"(a) IN GENERAL.—The amendments under this title are made on the date of the enactment of this Act, but this title shall take effect, and the amendments made by this title shall apply beginning upon, October 1, 1999, except—

"(1) as otherwise specifically provided in this title; or

"(2) as otherwise specifically provided in any amendment made by this title.

The Secretary may, by notice, implement any provision of this title or any amendment made by this title before such date, except to the extent that such provision or amendment specifically provides otherwise.

"(b) SAVINGS PROVISION.—Notwithstanding any amendment under this title that is made (in accordance with subsection (a)) on the date of the enactment of this Act but applies beginning on October 1, 1999, the provisions of law amended by such amendment, as such provisions were in effect immediately before the making of such amendment, shall continue to apply during the period beginning on the date of the enactment of this Act and ending upon October 1, 1999, unless otherwise specifically provided by this title.

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"(g) EFFECTIVE DATE.—This section shall take effect on the date of the enactment of this Act.".

As a result of such section 503(a), many of the amendments to the United States Housing Act of 1937 made on the date of the enactment of the Quality Housing and Work Responsibility Act of 1998 do not apply until October 1, 1999. The provisions so amended are identified by footnote in this compilation.

[2] This section was amended to read as shown by section 505 of the Quality Housing and Work Responsibility Act of 1998, title V of Public Law 105–276, approved October 21, 1998. Pursuant to section 503 of such Act (set forth in the footnote on page 114 of this compilation), the amendment was made on the date of enactment, but applies beginning upon October 1, 1999. Section 503 also provides that the provisions this section, as in effect immediately before the enactment of the 1998 Act, continue to apply until such applicability date (unless the Secretary provides by notice for earlier implementation of the amendments).

(B) to assist States and political subdivisions of States to address the shortage of housing affordable to low-income families; and

(C) consistent with the objectives of this title, to vest in public housing agencies that perform well, the maximum amount of responsibility and flexibility in program administration, with appropriate accountability to public housing residents, localities, and the general public;

(2) that the Federal Government cannot through its direct action alone provide for the housing of every American citizen, or even a majority of its citizens, but it is the responsibility of the Government to promote and protect the independent and collective actions of private citizens to develop housing and strengthen their own neighborhoods;

(3) that the Federal Government should act where there is a serious need that private citizens or groups cannot or are not addressing responsibly; and

(4) that our Nation should promote the goal of providing decent and affordable housing for all citizens through the efforts and encouragement of Federal, State, and local governments, and by the independent and collective actions of private citizens, organizations, and the private sector.

(b) PUBLIC HOUSING AGENCY ORGANIZATION.—

(1) REQUIRED MEMBERSHIP.—Except as provided in paragraph (2), the membership of the board of directors or similar governing body of each public housing agency shall contain not less than 1 member—

(A) who is directly assisted by the public housing agency; and

(B) who may, if provided for in the public housing agency plan, be elected by the residents directly assisted by the public housing agency.

(2) EXCEPTION.—Paragraph (1) shall not apply to any public housing agency—

(A) that is located in a State that requires the members of the board of directors or similar governing body of a public housing agency to be salaried and to serve on a full-time basis; or

(B) with less than 300 public housing units, if—

(i) the agency has provided reasonable notice to the resident advisory board of the opportunity of not less than 1 resident described in paragraph (1) to serve on the board of directors or similar governing body of the public housing agency pursuant to such paragraph; and

(ii) within a reasonable time after receipt by the resident advisory board established by the agency pursuant to section 5A(e) of notice under clause (i), the public housing agency has not been notified of the intention of any resident to participate on the board of directors.

(3) NONDISCRIMINATION.—No person shall be prohibited from serving on the board of directors or similar governing body of a public housing agency because of the residence of

that person in a public housing project or status as assisted under section 8.

RENTAL PAYMENTS; DEFINITIONS

SEC. 3. [42 U.S.C. 1437a] (a)(1) Dwelling units assisted under this Act shall be rented only to families who are low-income families at the time of their initial occupancy of such units. Reviews of family income shall be made at least annually. Except as provided in paragraph (2)[1] and subject to the requirement under paragraph (3), a family shall pay as rent for a dwelling unit assisted under this Act (other than a family assisted under section 8(o) or (y) or paying rent under section 8(c)(3)(B)) the highest of the following amounts, rounded to the nearest dollar:

(A) 30 per centum of the family's monthly adjusted income;

(B) 10 per centum of the family's monthly income; or

(C) if the family is receiving payments for welfare assistance from a public agency and a part of such payments, adjusted in accordance with the family's actual housing costs, is specifically designated by such agency to meet the family's housing costs, the portion of such payments which is so designated.

(2)[2] RENTAL PAYMENTS FOR PUBLIC HOUSING FAMILIES.—

(A) AUTHORITY FOR FAMILY TO SELECT.—

(i) IN GENERAL.—A family residing in a public housing dwelling shall pay as monthly rent for the unit the amount determined under clause (i) or (ii) of subparagraph (B), subject to the requirement under paragraph (3) (relating to minimum rents). Each public housing agency shall provide for each family residing in a public housing dwelling unit owned, assisted, or operated by the agency to elect annually whether the rent paid by such family shall be determined under clause (i) or (ii) of subparagraph (B). A public housing agency may not at any time fail to provide both such rent options for any public housing dwelling unit owned, assisted, or operated by the agency.

(ii) AUTHORITY TO RETAIN FLAT AND CEILING RENTS.—Notwithstanding clause (i) or any other provision of law, any public housing agency that is administering flat rents or ceiling rents pursuant to any authority referred to in section 519(d) of the Quality Housing and Work Responsibility Act of 1998 before the effective day of such Act[3] may continue to charge rent in accordance with such rent provisions after such effective date, except that the agency shall provide for families residing in public housing dwelling units owned or operated by the agency to elect annu-

[1] Another exception is provided under section 519(d) of the Quality Housing and Work Responsibility Act of 1998, Public Law 105–276, which is set forth, *post*, this part.

[2] This paragraph was amended to read as shown by section 523 of the Quality Housing and Work Responsibility Act of 1998, title V of Public Law 105–276, approved October 21, 1998. Pursuant to section 503 of such Act (set forth in the footnote on page 114 of this compilation), the amendment was made on the date of enactment, but applies beginning upon October 1, 1999. Section 503 also provides that the provisions of this paragraph as in effect immediately before the enactment of the 1998 Act, continue to apply until such applicability date (unless the Secretary provides by notice for earlier implementation of the amendment).

[3] See section 503 of such Act as set forth in the footnote on page 114 of this compilation.

ally whether to pay rent under such provisions or in accordance with one of the rent options referred to in subparagraph (A).

(B) ALLOWABLE RENT STRUCTURES.—

(i) FLAT RENTS.—Except as otherwise provided under this clause, each public housing agency shall establish, for each dwelling unit in public housing owned or operated by the agency, a flat rental amount for the dwelling unit, which shall—

(I) be based on the rental value of the unit, as determined by the public housing agency; and

(II) be designed in accordance with subparagraph (D) so that the rent structures do not create a disincentive for continued residency in public housing by families who are attempting to become economically self-sufficient through employment or who have attained a level of self-sufficiency through their own efforts.

The rental amount for a dwelling unit shall be considered to comply with the requirements of this clause if such amount does not exceed the actual monthly costs to the public housing agency attributable to providing and operating the dwelling unit. The preceding sentence may not be construed to require establishment of rental amounts equal to or based on operating costs or to prevent public housing agencies from developing flat rents required under this clause in any other manner that may comply with this clause.

(ii) INCOME-BASED RENTS.—

(I) IN GENERAL.—The monthly rental amount determined under this clause for a family shall be an amount, determined by the public housing agency, that does not exceed the greatest of the amounts (rounded to the nearest dollar) determined under subparagraphs (A), (B), and (C) of paragraph (1). This clause may not be construed to require a public housing agency to charge a monthly rent in the maximum amount permitted under this clause.

(II) DISCRETION.—Subject to the limitation on monthly rental amount under subclause (I), a public housing agency may, in its discretion, implement a rent structure under this clause requiring that a portion of the rent be deposited to an escrow or savings account, imposing ceiling rents, or adopting income exclusions (such as those set forth in section 3(b)(5)(B)), or may establish another reasonable rent structure or amount.

(C) SWITCHING RENT DETERMINATION METHODS BECAUSE OF HARDSHIP CIRCUMSTANCES.—Notwithstanding subparagraph (A), in the case of a family that has elected to pay rent in the amount determined under subparagraph (B)(i), a public housing agency shall immediately provide for the family to pay rent in the amount determined under subparagraph (B)(ii) during the period for which such election was made upon a determina-

tion that the family is unable to pay the amount determined under subparagraph (B)(i) because of financial hardship, including—

(i) situations in which the income of the family has decreased because of changed circumstances, loss of reduction of employment, death in the family, and reduction in or loss of income or other assistance;

(ii) an increase, because of changed circumstances, in the family's expenses for medical costs, child care, transportation, education, or similar items; and

(iii) such other situations as may be determined by the agency.

(D) ENCOURAGEMENT OF SELF-SUFFICIENCY.—The rental policy developed by each public housing agency shall encourage and reward employment and economic self-sufficiency.

(E) INCOME REVIEWS.—Notwithstanding the second sentence of paragraph (1), in the case of families that are paying rent in the amount determined under subparagraph (B)(i), the agency shall review the income of such family not less than once every 3 years.

(3) MINIMUM RENTAL AMOUNT.—

(A) REQUIREMENT.—Notwithstanding paragraph (1) of this subsection, the method for rent determination elected pursuant to paragraph (2)(A) of this subsection by a family residing in public housing, section 8(o)(2) of this Act, or section 206(d) of the Housing and Urban-Rural Recovery Act of 1983 (including paragraph (5) of such section), the following entities shall require the following families to pay a minimum monthly rental amount (which amount shall include any amount allowed for utilities) of not more than $50 per month, as follows:

(i) Each public housing agency shall require the payment of such minimum monthly rental amount, which amount shall be determined by the agency, by—

(I) each family residing in a dwelling unit in public housing by the agency;

(II) each family who is assisted under the certificate or moderate rehabilitation program under section 8; and

(III) each family who is assisted under the voucher program under section 8, and the agency shall reduce the monthly assistance payment on behalf of such family as may be necessary to ensure payment of such minimum monthly rental amount.

(ii) The Secretary shall require each family who is assisted under any other program for rental assistance under section 8 to pay such minimum monthly rental amount, which amount shall be determined by the Secretary.

(B) EXCEPTION FOR HARDSHIP CIRCUMSTANCES.—

(i) IN GENERAL.—Notwithstanding subparagraph (A), a public housing agency (or the Secretary, in the case of a family described in subparagraph (A)(ii)) shall immediately grant an exemption from application of the minimum monthly rental under such subparagraph to any family unable to pay such amount because of financial hardship,

which shall include situations in which (I) the family has lost eligibility for or is awaiting an eligibility determination for a Federal, State, or local assistance program, including a family that includes a member who is an alien lawfully admitted for permanent residence under the Immigration and Nationality Act who would be entitled to public benefits but for title IV of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996; (II) the family would be evicted as a result of the imposition of the minimum rent requirement under subparagraph (A); (III) the income of the family has decreased because of changed circumstance, including loss of employment; (IV) a death in the family has occurred; and (V) other situations as may be determined by the agency (or the Secretary, in the case of a family described in subparagraph (A)(ii)).

(ii) WAITING PERIOD.—If a resident requests a hardship exemption under this subparagraph and the public housing agency (or the Secretary, in the case of a family described in subparagraph (A)(ii)) reasonably determines the hardship to be of a temporary nature, an exemption shall not be granted during the 90-day period beginning upon the making of a request for the exemption. A resident may not be evicted during such 90-day period for nonpayment of rent. In such a case, if the resident thereafter demonstrates that the financial hardship is of a long-term basis, the agency (or the Secretary) shall retroactively exempt the resident from the applicability of the minimum rent requirement for such 90-day period.

(4) OCCUPANCY BY POLICE OFFICERS.—

(A) IN GENERAL.—Subject to subparagraph (B) and notwithstanding any other provision of law, a public housing agency may, in accordance with the public housing agency plan for the agency, allow a police officer who is not otherwise eligible for residence in public housing to reside in a public housing dwelling unit. The number and location of units occupied by police officers under this paragraph and the terms and conditions of their tenancies shall be determined by the public housing agency.

(B) INCREASED SECURITY.—A public housing agency may take the actions authorized in subparagraph (A) only for the purpose of increasing security for the residents of a public housing project.

(C) DEFINITION.—In this paragraph, the term "police officer" means any person determined by a public housing agency to be, during the period of residence of that person in public housing, employed on a full-time basis as a duly licensed professional police officer by a Federal, State, or local government or by any agency thereof (including a public housing agency having an accredited police force).

(5) OCCUPANCY BY OVER-INCOME FAMILIES IN CERTAIN PUBLIC HOUSING.—

(A) AUTHORITY.—Notwithstanding any other provision of law, a public housing agency that owns or operates less

than 250 units may, on a month-to-month basis, lease a dwelling unit in a public housing project to an over-income family in accordance with this paragraph, but only if there are no eligible families applying for housing assistance from the public housing agency for that month and the agency provides not less than 30-day public notice of the availability of such assistance.

(B) TERMS AND CONDITIONS.—The number and location of dwelling units of a public housing agency occupied under this paragraph by over-income families, and the terms and conditions of those tenancies, shall be determined by the public housing agency, except that—

(i) notwithstanding paragraph (2), rent for a unit shall be in an amount that is not less than the costs to operate the unit;

(ii) if an eligible family applies for residence after an over-income family moves in to the last available unit, the over-income family shall vacate the unit in accordance with notice of termination of tenancy provided by the agency, which shall be provided not less than 30 days before such termination; and

(iii) if a unit is vacant and there is no one on the waiting list, the public housing agency may allow an over-income family to gain immediate occupancy in the unit, while simultaneously providing reasonable public notice and outreach with regard to availability of the unit.

(C) DEFINITION.—For purposes of this paragraph, the term "over-income family" means an individual or family that is not a low-income family at the time of initial occupancy.

(b) When used in this Act:

(1) The term "low-income housing" means decent, safe, and sanitary dwellings assisted under this Act. The term "public housing" means low-income housing, and all necessary appurtenances thereto, assisted under this Act other than under section 8. The term "public housing" includes dwelling units in a mixed finance project that are assisted by a public housing agency with capital or operating assistance [1]. When used in reference to public housing, the term "low-income housing project" or "project" means (A) housing developed, acquired, or assisted by a public housing agency under this Act, and (B) the improvement of any such housing.

(2) The term "low-income families" means those families whose incomes do not exceed 80 per centum of the median income for the area, as determined by the Secretary with adjustments for smaller and larger families, except that the Secretary may establish income ceilings higher or lower than 80 per centum of the median for the area on the basis of the Secretary's findings that such variations are necessary because of prevailing levels of construction costs or

[1] This sentence was added by section 506(1) the Quality Housing and Work Responsibility Act of 1998, title V of Public Law 105–276, approved October 21, 1998. Pursuant to section 503 of such Act (set forth in the footnote on page 114 of this compilation), the amendment was made on the date of enactment (and, therefore, the new sentence is shown), but applies beginning upon October 1, 1999.

unusually high or low family incomes. The term "very low-income families" means low-income families whose incomes do not exceed 50 per centum of the median family income for the area, as determined by the Secretary with adjustments for smaller and larger families, except that the Secretary may establish income ceilings higher or lower than 50 per centum of the median for the area on the basis of the Secretary's findings that such variations are necessary because of unusually high or low family incomes. Such ceilings shall be established in consultation with the Secretary of Agriculture for any rural area, as defined in section 520 of the Housing Act of 1949, taking into account the subsidy characteristics and types of programs to which such ceilings apply. In determining median incomes (of persons, families, or households) for an area or establishing any ceilings or limits based on income under this Act, the Secretary shall determine or establish area median incomes and income ceilings and limits for Westchester and Rockland Counties, in the State of New York, as if each such county were an area not contained within the metropolitan statistical area in which it is located. In determining such area median incomes or establishing such income ceilings or limits for the portion of such metropolitan statistical area that does not include Westchester or Rockland Counties, the Secretary shall determine or establish area median incomes and income ceilings and limits as if such portion included Westchester and Rockland Counties.

(3) PERSONS AND FAMILIES.—

(A)[1] SINGLE PERSONS.—The term "families" includes families consisting of a single person in the case of (i) an elderly person, (ii) a disabled person, (iii) a displaced person, (iv) the remaining member of a tenant family, and (v) any other single persons. In no event may any single person under clause (v) of the first sentence be provided a housing unit assisted under this Act of 2 or more bedrooms.

(B)[1] FAMILIES.—The term "families" includes families with children and, in the cases of elderly families, near-elderly families, and disabled families, means families whose heads (or their spouses), or whose sole members, are elderly, near-elderly, or persons with disabilities, respectively. The term includes, in the cases of elderly families, near-elderly families, and disabled families, 2 or more elderly persons, near-elderly persons, or persons with disabilities living together, and 1 or more such persons living with 1 or more persons determined under the public housing agency plan to be essential to their care or well-being.

(C) ABSENCE OF CHILDREN.—The temporary absence of a child from the home due to placement in foster care shall not be considered in determining family composition and family size.

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[1] Section 506(2) of the Quality Housing and Work Responsibility Act of 1998, title V of Public Law 105–276, approved October 21, 1998, made two amendments to this subparagraph. Pursuant to section 503 of such Act (set forth in the footnote on page 114 of this compilation), the amendments were made on the date of enactment (and, therefore, the subparagraph is shown as amended), but apply beginning upon October 1, 1999. Section 503 also provides that the provisions this subparagraph, as in effect immediately before the enactment of the 1998 Act, continue to apply until such applicability date (unless the Secretary provides by notice for earlier implementation of the amendments).

(D) ELDERLY PERSON.—The term "elderly person" means a person who is at least 62 years of age.

(E) PERSON WITH DISABILITIES.—The term "person with disabilities" means a person who—

(i) has a disability as defined in section 223 of the Social Security Act,

(ii) is determined, pursuant to regulations issued by the Secretary, to have a physical, mental, or emotional impairment which (I) is expected to be of long-continued and indefinite duration, (II) substantially impedes his or her ability to live independently, and (III) is of such a nature that such ability could be improved by more suitable housing conditions, or

(iii) has a developmental disability as defined in section 102 of the Developmental Disabilities Assistance and Bill of Rights Act.

Such term shall not exclude persons who have the disease of acquired immunodeficiency syndrome or any conditions arising from the etiologic agent for acquired immunodeficiency syndrome. Notwithstanding any other provision of law, no individual shall be considered a person with disabilities, for purposes of eligibility for low-income housing under this title, solely on the basis of any drug or alcohol dependence. The Secretary shall consult with other appropriate Federal agencies to implement the preceding sentence [1].

(F) DISPLACED PERSON.—The term "displaced person" means a person displaced by governmental action, or a person whose dwelling has been extensively damaged or destroyed as a result of a disaster declared or otherwise formally recognized pursuant to Federal disaster relief laws.

(G) NEAR-ELDERLY PERSON.—The term "near-elderly person" means a person who is at least 50 years of age but below the age of 62.

(4) The term "income" means income from all sources of each member of the household, as determined in accordance with criteria prescribed by the Secretary, in consultation with the Secretary of Agriculture, except that any amounts not actually received by the family [2] and any amounts which would be eligible for exclusion under section 1613(a)(7) of the Social Security Act (42

[1] Section 506(3) of the Quality Housing and Work Responsibility Act of 1998, title V of Public Law 105–276, approved October 21, 1998, amended this subparagraph by adding the last 2 sentences. Pursuant to section 503 of such Act (set forth in the footnote on page 114 of this compilation), the amendments were made on the date of enactment (and, therefore, the subparagraph is shown as amended), but apply beginning upon October 1, 1999.

[2] Section 573(b) of the Cranston-Gonzalez National Affordable Housing Act, Public Law 101–625, amended this paragraph to exclude from consideration as income amounts not received by a family. Section 573(e) of such Act provides as follows:

"(e) BUDGET COMPLIANCE.—The amendments made by subsections (b) and (c) shall apply only to the extent approved in appropriations Acts.".

U.S.C. 1382b(a)(7))[1] may not be considered as income under this paragraph.[2]

(5) ADJUSTED INCOME[3].—The term "adjusted income" means, with respect to a family, the amount (as determined by the public housing agency) of the income of the members of the family residing in a dwelling unit or the persons on a lease, after any income exclusions as follows:

(A) MANDATORY EXCLUSIONS.—In determining adjusted income, a public housing agency shall exclude from the annual income of a family the following amounts:

(i) ELDERLY AND DISABLED FAMILIES.—$400 for any elderly or disabled family.

(ii) MEDICAL EXPENSES.—The amount by which 3 percent of the annual family income is exceeded by the sum of—

(I) unreimbursed medical expenses of any elderly family or disabled family;

(II) unreimbursed medical expenses of any family that is not covered under subclause (I), except that this subclause shall apply only to the extent approved in appropriation Acts; and

(III) unreimbursed reasonable attendant care and auxiliary apparatus expenses for each handicapped member of the family, to the extent necessary to enable any member of such family (including such handicapped member) to be employed.

(iii) CHILD CARE EXPENSES.—Any reasonable child care expenses necessary to enable a member of the family to be employed or to further his or her education.

(iv) MINORS, STUDENTS, AND PERSONS WITH DISABILITIES.—$480 for each member of the family residing in the household (other than the head of the household or his or her spouse) who is less than 18 years of age or is attending school or vocational training on a full-time basis, or who is 18 years of age or older and is a person with disabilities.

(v) CHILD SUPPORT PAYMENTS.—Any payment made by a member of the family for the support and maintenance of any child who does not reside in the household, except that the amount excluded under this clause may not ex-

[1] Section 103(a)(1) of the Housing and Community Development Act of 1992, Public Law 102–550, amended this paragraph to exclude from consideration as income the amounts eligible for exclusion under the Social Security Act.

Paragraph (3) of such section 103(a) provides as follows:

"(3) BUDGET COMPLIANCE.—To the extent that the amendments made by paragraphs (1) and (2) result in additional costs under this title, such amendments shall be effective only to the extent that amounts to cover such additional costs are provided in advance in appropriation Acts.".

[2] Other Federal laws exclude various amounts from consideration as income for purposes of housing assistance. See, for example, the exclusion provided by section 509 of the Older Americans Act of 1965 (42 U.S.C. 3056g).

[3] This paragraph was amended to read as shown by section 508(a) of the Quality Housing and Work Responsibility Act of 1998, title V of Public Law 105–276, approved October 21, 1998. Pursuant to section 503 of such Act (set forth in the footnote on page 114 of this compilation), the amendment was made on the date of enactment (and, therefore, the new paragraph is shown), but applies beginning upon October 1, 1999. Section 503 also provides that the provisions of this paragraph, as in effect immediately before the enactment of the 1998 Act, continue to apply until such applicability date (unless the Secretary provides by notice for earlier implementation of the amendment).

ceed $480 for each child for whom such payment is made; except that this clause shall apply only to the extent approved in appropriations Acts.

(vi) SPOUSAL SUPPORT EXPENSES.—Any payment made by a member of the family for the support and maintenance of any spouse or former spouse who does not reside in the household, except that the amount excluded under this clause shall not exceed the lesser of (I) the amount that such family member has a legal obligation to pay, or (II) $550 for each individual for whom such payment is made; except that this clause shall apply only to the extent approved in appropriations Acts.

(vii) EARNED INCOME OF MINORS.—The amount of any earned income of a member of the family who is not—

(I) 18 years of age or older; and

(II) the head of the household (or the spouse of the head of the household).

(B) PERMISSIVE EXCLUSIONS FOR PUBLIC HOUSING.—In determining adjusted income, a public housing agency may, in the discretion of the agency, establish exclusions from the annual income of a family residing in a public housing dwelling unit. Such exclusions may include the following amounts:

(i) EXCESSIVE TRAVEL EXPENSES.—Excessive travel expenses in an amount not to exceed $25 per family per week, for employment- or education-related travel.

(ii) EARNED INCOME.—An amount of any earned income of the family, established at the discretion of the public housing agency, which may be based on—

(I) all earned income of the family,

(II) the amount earned by particular members of the family;

(III) the amount earned by families having certain characteristics; or

(IV) the amount earned by families or members during certain periods or from certain sources.

(iii) OTHERS.—Such other amounts for other purposes, as the public housing agency may establish.

(6)[1] PUBLIC HOUSING AGENCY.—

(A) IN GENERAL.—Except as provided in subparagraph (B), the term "public housing agency" means any State, county, municipality, or other governmental entity or public body (or agency or instrumentality thereof) which is authorized to engage in or assist in the development or operation of public housing.

(B) SECTION 8 PROGRAM.—For purposes of the program for tenant-based assistance under section 8, such term includes—

(i) a consortia of public housing agencies that the Secretary determines has the capacity and capability to ad-

[1] This paragraph was added by section 546 of the Quality Housing and Work Responsibility Act of 1998, title V of Public Law 105–276, approved October 21, 1998. Pursuant to section 503 of such Act (set forth in the footnote on page 114 of this compilation), the amendment was made on the date of enactment (and, therefore, the paragraph section is shown), but applies beginning upon October 1, 1999.

minister a program for assistance under such section in an efficient manner;

(ii) any other public or private nonprofit entity that, upon the effective date under section 503(a) of the Quality Housing and Work Responsibility Act of 1998, was administering any program for tenant-based assistance under section 8 of this Act (as in effect before the effective date of such Act), pursuant to a contract with the Secretary or a public housing agency; and

(iii) with respect to any area in which no public housing agency has been organized or where the Secretary determines that a public housing agency is unwilling or unable to implement a program for tenant-based assistance section 8, or is not performing effectively—

(I) the Secretary or another public or private nonprofit entity that by contract agrees to receive assistance amounts under section 8 and enter into housing assistance payments contracts with owners and perform the other functions of public housing agency under section 8; or

(II) notwithstanding any provision of State or local law, a public housing agency for another area that contracts with the Secretary to administer a program for housing assistance under section 8, without regard to any otherwise applicable limitations on its area of operation.

(7) The term "State" includes the several States, the District of Columbia, the Commonwealth of Puerto Rico, the territories and possessions of the United States, and the Trust Territory of the Pacific Islands.

(8) The term "Secretary" means the Secretary of Housing and Urban Development.

(9)[1] 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 102 of the Controlled Substances Act).

(10)[1] MIXED-FINANCE PROJECT.—The term "mixed-finance project" means a public housing project that meets the requirements of section 35.

(11)[1] PUBLIC HOUSING AGENCY PLAN.—The term "public housing agency plan" means the plan of a public housing agency prepared in accordance with section 5A.

(12)[1] CAPITAL FUND.—The term "Capital Fund" means the fund established under section 9(d).

(13)[1] OPERATING FUND.—The term "Operating Fund" mean the fund established under section 9(e).

(c) When used in reference to public housing:

[1] Section 506(4) of the Quality Housing and Work Responsibility Act of 1998, title V of Public Law 105–276, approved October 21, 1998, amended this subsection by adding paragraphs (9) through (13). Pursuant to section 503 of such Act (set forth in the footnote on page 114 of this compilation), the amendment was made on the date of enactment (and, therefore, the new paragraphs are shown), but applies beginning upon October 1, 1999.

(1) The term "development" means any or all undertakings necessary for planning, land acquisition, demolition, construction, or equipment, in connection with a low-income housing project. The term "development cost" comprises the costs incurred by a public housing agency in such undertakings and their necessary financing (including the payment of carrying charges), and in otherwise carrying out the development of such project, but does not include the costs associated with the demolition of or remediation of environmental hazards associated with public housing units that will not be replaced on the project site, or other extraordinary site costs as determined by the Secretary [1]. Construction activity in connection with a low-income housing project may be confined to the reconstruction, remodeling, or repair of existing buildings.

(2) The term "operation" means any or all undertakings appropriate for management, operation, services, maintenance, security (including the cost of security personnel), or financing in connection with a low-income housing project. The term also means the financing of tenant programs and services for families residing in low-income housing projects, particularly where there is maximum feasible participation of the tenants in the development and operation of such tenant programs and services. As used in this paragraph, the term "tenant programs and services" includes the development and maintenance of tenant organizations which participate in the management of low-income housing projects; the training of tenants to manage and operate such projects and the utilization of their services in project management and operation; counseling on household management, housekeeping, budgeting, money management, child care, and similar matters; advice as to resources for job training and placement, education, welfare, health, and other community services; services which are directly related to meeting tenant needs and providing a wholesome living environment; and referral to appropriate agencies in the community when necessary for the provision of such services. To the maximum extent available and appropriate, existing public and private agencies in the community shall be used for the provision of such services.

(3) The term "acquisition cost" means the amount prudently required to be expended by a public housing agency in acquiring property for a low-income housing project. [2]

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[1] Section 520(a) of the Quality Housing and Work Responsibility Act of 1998, title V of Public Law 105–276, approved October 21, 1998, amended this paragraph to add the provisions that exclude from the definition of "development cost" the costs association with demolition or remediation of environmental hazards. Pursuant to section 503 of such Act (set forth in the footnote on page 114 of this compilation), the amendment was made on the date of enactment, but applies beginning upon October 1, 1999.

[2] Section 622(c) of the Housing and Community Development Act of 1992, Public Law 102–550, amended this subsection by inserting after "project." the following new paragraphs:

"(4) The term 'congregate housing' means low-rent housing with which there is connected a central dining facility where wholesome and economical meals can be served to occupants. Expenditures incurred by a public housing agency in the operation of a central dining facility in connection with congregate housing (other than the cost of providing food and service) shall be considered a cost of operation of the project.

"(5) The terms 'group home' and 'independent living facility' have the meanings given such terms in section 811(k) of the Cranston-Gonzalez National Affordable Housing Act.".

Because the amendatory instructions did not specify which occurrence of "project" the new paragraphs were to be placed after, the amendment could not be executed. The new paragraphs were probably intended to be inserted after this paragraph.

(d)[1] DISALLOWANCE OF EARNED INCOME FROM RENT DETERMINATIONS.—

(1) IN GENERAL.—Notwithstanding any other provision of law, the rent payable under subsection (a) by a family described in paragraph (3) of this subsection may not be increased as a result of the increased income due to such employment during the 12-month period beginning on the date on which the employment is commenced.

(2) PHASE-IN OF RENT INCREASES.—Upon the expiration of the 12-month period referred to in paragraph (1), the rent payable by a family described in paragraph (3) may be increased due to the continued employment of the family member described in paragraph (3)(B), except that during the 12-month period beginning upon such expiration the amount of the increase may not be greater than 50 percent of the amount of the total rent increase that would be applicable but for this paragraph.

(3) ELIGIBLE FAMILIES.—A family described in this paragraph is a family—

(A) that—

(i) occupies a dwelling unit in a public housing project; or

(ii) receives assistance under section 8; and

(B)(i) whose income increases as a result of employment of a member of the family who was previously unemployed for 1 or more years;

(ii) whose earned income increases during the participation of a family member in any family self-sufficiency or other job training program; or

(iii) who is or was, within 6 months, assisted under any State program for temporary assistance for needy fam-

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[1] This subsection was added by section 508(b)(1) of the Quality Housing and Work Responsibility Act of 1998, title V of Public Law 105–276, approved October 21, 1998. Pursuant to section 503 of such Act (set forth in the footnote on page 114 of this compilation), the amendment was made on the date of enactment, but applies beginning upon October 1, 1999.

Section 508(b)(1) of the 1998 Act also struck the undesignated paragraph that followed section 3(c)(3) of the United States Housing Act of 1937. Section 508(b)(2) of such Act provides, in part, as follows: "Notwithstanding the amendment made by paragraph (1), the provisions of the undesignated paragraph at the end of section 3(c)(3) of the United States Housing Act of 1937, as such section was in effect immediately before the enactment of this Act, shall continue to apply until the effective date under section 503 of this Act.".

The undesignated paragraph at the end of section 3(c)(3) of the United States Housing Act of 1937, as in effect immediately before the enactment of the Quality Housing and Work Responsibility Act of 1998 provided as follows:

"The earnings of and benefits to any public housing resident resulting from participation in a program providing employment training and supportive services in accordance with the Family Support Act of 1988, section 22 of this Act, or any comparable Federal, State, or local law shall not be considered as income for the purposes of determining a limitation on the amount of rent paid by the resident during—

"(1) the period that the resident participates in such program; and

"(2) the period that—

"(A) begins with the commencement of employment of the resident in the first job acquired by the person after completion of such program that is not funded by assistance under this Act; and

"(B) ends on the earlier of—

"(i) the date the resident ceases to continue employment without good cause as the Secretary shall determine; or

"(ii) the expiration of the 18-month period beginning on the date referred to in subparagraph (A).".

Section 503 of the Quality Housing and Work Responsibility Act of 1998 is set forth in the footnote on page 114 of this compilation.

ilies funded under part A of title IV of the Social Security Act and whose earned income increases.

(4) APPLICABILITY.—This subsection and subsection (e) shall apply beginning upon October 1, 1999, except that this subsection and subsection (e) shall apply with respect to any family described in paragraph 3(A)(ii) only to the extent provided in advance in appropriations Acts.

(e)[1] INDIVIDUAL SAVINGS ACCOUNTS.—

(1) IN GENERAL.—In lieu of a disallowance of earned income under subsection (d), upon the request of a family that qualifies under subsection (d), a public housing agency may establish an individual savings account in accordance with this subsection for that family.

(2) DEPOSITS TO ACCOUNT.—The public housing agency shall deposit in any savings account established under this subsection an amount equal to the total amount that otherwise would be applied to the family's rent payment under subsection (a) as a result of employment.

(3) WITHDRAWAL FROM ACCOUNT.—Amounts deposited in a savings account established under this subsection may only be withdrawn by the family for the purpose of—

(A) purchasing a home;

(B) paying education costs of family members;

(C) moving out of public or assisted housing; or

(D) paying any other expense authorized by the public housing agency for the purpose of promoting the economic self-sufficiency of residents of public and assisted housing.

(f)[2] AVAILABILITY OF INCOME MATCHING INFORMATION.—

(1) DISCLOSURE TO PHA.—A public housing agency shall require any family described in paragraph (2) who receives information regarding income, earnings, wages, or unemployment compensation from the Department of Housing and Urban Development pursuant to income verification procedures of the Department to disclose such information, upon receipt of the information, to the public housing agency that owns or operates the public housing dwelling unit in which such family resides or that provides the housing assistance under this Act on behalf of such family, as applicable.

(2) FAMILIES COVERED.—A family described in this paragraph is a family that resides in a dwelling unit—

(A) that is a public housing dwelling unit; or

(B) for which tenant-based assistance is provided under section 8.

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[1] This subsection was added by section 508(b)(1)(B) of the Quality Housing and Work Responsibility Act of 1998, title V of Public Law 105–276, approved October 21, 1998. Pursuant to section 503 of such Act (set forth in the footnote on page 114 of this compilation), the amendment was made on the date of enactment, but applies beginning upon October 1, 1999.

[2] This subsection was added by section 508(d)(1) of the Quality Housing and Work Responsibility Act of 1998, title V of Public Law 105–276, approved October 21, 1998. Pursuant to section 503 of such Act (set forth in the footnote on page 114 of this compilation), the amendment was made on the date of enactment (and, therefore, the new subsection is shown), but applies beginning upon October 1, 1999.

LOANS FOR LOWER INCOME HOUSING PROJECTS

SEC. 4. [42 U.S.C. 1437b] (a) The Secretary may make loans or commitments to make loans to public housing agencies to help finance or refinance the development, acquisition, or operation of low-income housing projects by such agencies. Any contract for such loans and any amendment to a contract for such loans shall provide that such loans shall bear interest at a rate specified by the Secretary which shall not be less than a rate determined by the Secretary of the Treasury taking into consideration the current average market yield on outstanding marketable obligations of the United States with remaining periods to maturity comparable to the average maturities of such loans, plus one-eighth of 1 per centum. Such loans shall be secured in such manner and shall be repaid within such period not exceeding forty years, or not exceeding forty years from the date of the bonds evidencing the loan, as the Secretary may determine. The Secretary may require loans or commitments to make loans under this section to be pledged as security for obligations issued by a public housing agency in connection with a low-income housing project.

(b) The Secretary may issue and have outstanding at any one time notes and other obligations for purchase by the Secretary of the Treasury in an amount which will not, unless authorized by the President, exceed $1,500,000,000. For the purpose of determining obligations incurred to make loans pursuant to this Act against any limitation otherwise applicable with respect to such loans, the Secretary shall estimate the maximum amount to be loaned at any one time pursuant to loan agreements then outstanding with public housing agencies. Such notes or other obligations shall be in such forms and denominations and shall be subject to such terms and conditions as may be prescribed by the Secretary with the approval of the Secretary of the Treasury. The notes or other obligations issued under this subsection shall have such maturities and bear such rate or rates of interest as shall be determined by the Secretary of the Treasury. The Secretary of the Treasury is authorized and directed to purchase any notes or other obligations of the Secretary issued hereunder and for such purpose is authorized to use as a public debt transaction the proceeds from the sale of any securities issued under chapter 31 of title 31, United States Code, and the purposes for which securities may be issued under such chapter are extended to include any purchases of such obligations. The Secretary of the Treasury may at any time sell any of the notes or other obligations acquired by him under this section. All redemptions, purchases, and sales by the Secretary of the Treasury of such notes or other obligations shall be treated as public debt transactions of the United States.

(c)(1) At such times as the Secretary may determine, and in accordance with such accounting and other procedures as the Secretary may prescribe, each loan made by the Secretary under subsection (a) that has any principal amount outstanding or any interest amount outstanding or accrued shall be forgiven; and the terms and conditions of any contract, or any amendment to a contract, for such loan with respect to any promise to repay such principal and interest shall be canceled. Such cancellation shall not affect any

other terms and conditions of such contract, which shall remain in effect as if the cancellation had not occurred. This paragraph shall not apply to any loan the repayment of which was not to be made using annual contributions, or to any loan all or part of the proceeds of which are due a public housing agency from contractors or others.

(2)(A) On the date of the enactment of the Housing and Community Development Reconciliation Amendments of 1985,[1] each note or other obligation issued by the Secretary to the Secretary of the Treasury pursuant to subsection (b), together with any promise to repay the principal and unpaid interest that has accrued on each note or obligation, shall be forgiven; and any other term or condition specified by each such obligation shall be canceled.

(B) On September 30, 1986, and on any subsequent September 30, each such note or other obligation issued by the Secretary to the Secretary of the Treasury pursuant to subsection (b) during the fiscal year ending on such date, together with any promise to repay the principal and unpaid interest that has accrued on each note or obligation, shall be forgiven; and any other term or condition specified by each such obligation shall be canceled.

(3) Any amount of budget authority (and contract authority) that becomes available during any fiscal year as a result of the forgiveness of any loan, note, or obligation under this subsection shall be rescinded.

CONTRIBUTIONS FOR LOWER INCOME HOUSING PROJECTS

SEC. 5. [42 U.S.C. 1437c] (a)(1) The Secretary may make annual contributions to public housing agencies to assist in achieving and maintaining the lower income character of their projects. The Secretary shall embody the provisions for such annual contributions in a contract guaranteeing their payment. The contribution payable annually under this section shall in no case exceed a sum equal to the annual amount of principal and interest payable on obligations issued by the public housing agency to finance the development or acquisition cost of the lower income project involved. Annual contributions payable under this section shall be pledged, if the Secretary so requires, as security for obligations issued by a public housing agency to assist the development or acquisition of the project to which annual contributions relate and shall be paid over a period not to exceed 40 years.

(2) The Secretary may make contributions (in the form of grants) to public housing agencies to cover the development cost of public housing projects. The contract under which such contributions shall be made shall specify the amount of capital contributions required for each project to which the contract pertains, and that the terms and conditions of such contract shall remain in effect for a 40-year period.

(3) The amount of contributions that would be established for a newly constructed project by a public housing agency designed to accommodate a number of families of a given size and kind may be established under this section for a project by such public housing agency that would provide housing for the comparable number,

[1] April 7, 1986.

sizes, and kinds of families through the acquisition and rehabilitation, or use under lease, of structures that are suitable for low-income housing use and obtained in the local market.

(b) The Secretary may prescribe regulations fixing the maximum contributions available under different circumstances, giving consideration to cost, location, size, rent-paying ability of prospective tenants, or other factors bearing upon the amounts and periods of assistance needed to achieve and maintain low rentals. Such regulations may provide for rates of contribution based upon development, acquisition, or operation costs, number of dwelling units, number of persons housed, interest charges, or other appropriate factors.

(c)(1) The Secretary may enter into contracts for annual contributions aggregating not more than $7,875,049,000 per annum, which amount shall be increased by $1,494,400,000 on October 1, 1980, and by $906,985,000 on October 1, 1981. The additional authority to enter into such contracts provided on or after October 1, 1980, shall be effective only in such amounts as may be approved in appropriation Acts. In addition, the aggregate amount which may be obligated over the duration of the contracts may not exceed $31,200,000 with respect to the additional authority provided on October 1, 1980, and $18,087,370,000 with respect to the additional authority provided on October 1, 1981.

(2) The Secretary shall enter into only such new contracts for preliminary loans as are consistent with the number of dwelling units for which contracts for annual contributions may be entered into.

(3) The full faith and credit of the United States is solemnly pledged to the payment of all annual contributions contracted for pursuant to this section, and there are hereby authorized to be appropriated in each fiscal year, out of any money in the Treasury not otherwise appropriated, the amounts necessary to provide for such payments.

(4) All payments of annual contributions pursuant to this section shall be made out of any funds available for purposes of this Act when such payments are due, except that funds obtained through the issuance of obligations pursuant to section 4(b) (including repayments or other realizations of the principal of loans made out of such funds) shall not be available for the payment of such annual contributions.

(5) During such period as the Secretary may prescribe for starting construction, the Secretary may approve the conversion of public housing development authority for use under section 9 or [1] for use for the acquisition and rehabilitation of property to be used in public housing, if the public housing agency, after consultation with the unit of local government, certifies that such assistance would be more effectively used for such purpose, and if the total

[1] This paragraph was amended by section 522(b)(1) of the Quality Housing and Work Responsibility Act of 1998, title V of Public Law 105–276, approved October 21, 1998, by striking "for use under section 14 or" and inserting "for use under section 9 or". Pursuant to section 503 of such Act (set forth in the footnote on page 114 of this compilation), the amendment was made on the date of enactment, but applies beginning upon October 1, 1999. Section 503 also provides that the provisions of this paragraph, as in effect immediately before the enactment of the 1998 Act, continue to apply until such applicability date (unless the Secretary provides by notice for earlier implementation of the amendment).

number of units assisted will not be less than 90 per centum of the units covered by the original reservation.

(6) The aggregate amount of budget authority which may be obligated for contracts for annual contributions and for grants under section 17 is increased by $9,912,928,000 on October 1, 1983, and by such sums as may be approved in appropriation Acts on October 1, 1984. The aggregate amount of budget authority that may be obligated for contracts for annual contributions for assistance under section 8, for contracts referred to in paragraphs (7)(A)(iv) and (7)(B)(iv), for grants for public housing, for comprehensive improvement assistance, and for amendments to existing contracts, is increased (to the extent approved in appropriation Acts) by $7,167,000,000 on October 1, 1987, and by $7,300,945,000 on October 1, 1988. The aggregate amount of budget authority that may be obligated for assistance referred to in paragraph (7) is increased (to the extent approved in appropriation Acts) by $16,194,000,000 on October 1, 1990, and by $14,709,400,000 on October 1, 1991. The aggregate amount of budget authority that may be obligated for assistance referred to in paragraph (7) is increased (to the extent approved in appropriation Acts) by $14,710,990,520 on October 1, 1992, and by $15,328,852,122 on October 1993.

(7)(A) Using the additional budget authority provided under paragraph (6) and the balances of budget authority that become available during fiscal year 1993, the Secretary shall, to the extent approved in appropriation Acts, reserve authority to enter into obligations aggregating—

(i) for public housing grants under subsection (a)(2), not more than $830,900,800, of which amount not more than $257,320,000 shall be available for Indian housing;

(ii) for assistance under section 8, not more than $1,977,662,720, of which $20,000,000 shall be available for 15-year contracts for project-based assistance to be used for a multicultural tenant empowerment and homeownership project located in the District of Columbia, except that assistance provided for such project shall not be considered for purposes of the percentage limitations under section 8(i)(2); except that not more than 49 percent of any amounts appropriated under this clause may be used for vouchers under section 8(o);

(iii) for comprehensive improvement assistance grants under section 14(k), not more than $3,100,000,000;

(iv) for assistance under section 8 for property disposition, not more than $93,032,000;

(v) for assistance under section 8 for loan management, not more than $202,000,000;

(vi) for extensions of contracts expiring under section 8, not more than $6,746,135,000, which shall be for 5-year contracts for assistance under section 8 and for loan management assistance under such section;

(vii) for amendments to contracts under section 8, not more than $1,350,000,000;

(viii) for public housing lease adjustments and amendments, not more than $83,055,000;

(ix) for conversions from leased housing contracts under section 23 of this Act (as in effect immediately before the en-

actment of the Housing and Community Development Act of 1974) to assistance under section 8, not more than $12,767,000; and

(x) for grants under section 24 for revitalization of severely distressed public housing, not more than $300,000,000.

(B) Using the additional budget authority provided under paragraph (6) and the balances of budget authority that become available during fiscal year 1994, the Secretary shall, to the extent approved in appropriation Acts, reserve authority to enter into obligations aggregating—

(i) for public housing grants under subsection (a)(2), not more than $865,798,634, of which amount not more than $268,127,440 shall be available for Indian housing;

(ii) for assistance under section 8, not more than $2,060,724,554, of which $20,000,000 shall be available for 15-year contracts for project-based assistance to be used for a multicultural tenant empowerment and homeownership project located in the District of Columbia, except that assistance provided for such project shall not be considered for purposes of the percentage limitations under section 8(i)(2); except that not more than 49 percent of any amounts appropriated under this clause may be used for vouchers under section 8(o);

(iii) for comprehensive improvement assistance grants under section 14(k), not more than $3,230,200,000;

(iv) for assistance under section 8 for property disposition, not more than $96,939,344;

(v) for assistance under section 8 for loan management, not more than $210,484,000;

(vi) for extensions of contracts expiring under section 8, not more than $7,029,472,670, which shall be for 5-year contracts for assistance under section 8 and for loan management assistance under such section;

(vii) for amendments to contracts under section 8, not more than $1,406,700,000;

(viii) for public housing lease adjustments and amendments, not more than $86,543,310;

(ix) for conversions from leased housing contracts under section 23 of this Act (as in effect immediately before the enactment of the Housing and Community Development Act of 1974) to assistance under section 8, not more than $13,303,214; and

(x) for grants under section 24 for revitalization of severely distressed public housing, not more than $312,600,000.

(C)(i) Any amount available for the conversion of a project to assistance under section 8(b)(1), if not required for such purpose, shall be used for assistance under section 8(b)(1).

(ii) Any amount available for assistance under section 8 for property disposition, if not required for such purpose, shall be used for assistance under section 8(b)(1).

(8) Any amount available for Indian housing under subsection (a) that is recaptured shall be used only for such housing.

(d) Any contract for loans or annual contributions, or both, entered into by the Secretary with a public housing agency, may cover one or more than one low-income housing project owned by

such public housing agency; in the event the contract covers two or more projects, such projects may, for any of the purposes of this Act and of such contract (including, but not limited to, the determination of the amount of the loan, annual contributions, or payments in lieu of taxes, specified in such contract), be treated collectively as one project.

(e) In recognition that there should be local determination of the need for low-income housing to meet needs not being adequately met by private enterprise—

(1) the Secretary shall not make any contract with a public housing agency for preliminary loans (all of which shall be repaid out of any moneys which become available to such agency for the development of the projects involved) for surveys and planning in respect to any low-income housing projects (i) unless the governing body of the locality involved has by resolution approved the application of the public housing agency for such preliminary loan; and (ii) unless the public housing agency has demonstrated to the satisfaction of the Secretary that there is need for such low-income housing which is not being met by private enterprise; and

(2) the Secretary shall not make any contract for loans (other than preliminary loans) or for contributions pursuant to this Act unless the governing body of the locality involved has entered into an agreement with the public housing agency providing for the local cooperation required by the Secretary pursuant to this Act; the Secretary shall require that each such agreement shall provide that, notwithstanding any order, judgment, or decree of any court (including any settlement order), before making any amounts that are provided pursuant to any contract for contributions under this title available for use for the development of any housing or other property not previously used as public housing, the public housing agency shall (A) notify the chief executive officer (or other appropriate official) of the unit of general local government in which the public housing for which such amounts are to be so used is located (or to be located) of such use, and (B) pursuant to the request of such unit of general local government, provide such information as may reasonably be requested by such unit of general local government regarding the public housing to be so assisted (except to the extent otherwise prohibited by law)[1].

(f) Subject to the specific limitations or standards in this Act governing the terms of sales, rentals, leases, loans, contracts for annual contributions, or other agreements, the Secretary may, whenever he deems it necessary or desirable in the fulfillment of the purposes of this Act, consent to the modification, with respect to rate of interest, time of payment of any installment of principal or interest, security, amount of annual contribution, or any other term, of any contract or agreement of any kind to which the Secretary is a party. When the Secretary finds that it would promote

[1] Section 518(b) of the Quality Housing and Work Responsibility Act of 1998, title V of Public Law 105–276, approved October 21, 1998, amended this paragraph by adding the matter that follows the semicolon. Pursuant to section 503 of such Act (set forth in the footnote on page 114 of this compilation), the amendment was made on the date of enactment (and, therefore, the new matter is shown), but applies beginning upon October 1, 1999.

economy or be in the financial interest of the Federal Government or is necessary to assure or maintain the lower income character of the project or projects involved, any contract heretofore or hereafter made for annual contributions, loans, or both, may be amended or superseded by a contract entered into by mutual agreement between the public housing agency and the Secretary. Contracts may not be amended or superseded in a manner which would impair the rights of the holders of any outstanding obligations of the public housing agency involved for which annual contributions have been pledged. Any rule of law contrary to this provision shall be deemed inapplicable.

(g) In addition to the authority of the Secretary under subsection (a) to pledge annual contributions as security for obligations issued by a public housing agency, the Secretary is authorized to pledge annual contributions as a guarantee of payment by a public housing agency of all principal and interest on obligations issued by it to assist the development or acquisition of the project to which the annual contributions relate, except that no obligation shall be guaranteed under this subsection if the income thereon is exempt from Federal taxation.

(h)[1] AUDITS.—

(1) BY SECRETARY AND COMPTROLLER GENERAL.—Each contract for contributions for any assistance under this Act to a public housing agency shall provide that the Secretary, the Inspector General of the Department of Housing and Urban Development, and the Comptroller General of the United States, or any of their duly authorized representatives, shall, for the purpose of audit and examination, have access to any books, documents, papers, and records of the public housing agency that are pertinent to this Act and to its operations with respect to financial assistance under the this Act.

(2) WITHHOLDING OF AMOUNTS FOR AUDITS UNDER SINGLE AUDIT ACT.—The Secretary may, in the sole discretion of the Secretary, arrange for and pay the costs of an audit required under chapter 75 of title 31, United States Code. In such circumstances, the Secretary may withhold, from assistance otherwise payable to the agency under this Act, amounts sufficient to pay for the reasonable costs of conducting an acceptable audit, including, when appropriate, the reasonable costs of accounting services necessary to place the agency's books and records in auditable condition. As agreed to by the Secretary and the Inspector General, the Inspector General may arrange for an audit under this paragraph.

(i)[2] PROHIBITION ON USE OF FUNDS.—None of the funds made available to the Department of Housing and Urban Development to

[1] This subsection was added by section 566 of the Quality Housing and Work Responsibility Act of 1998, title V of Public Law 105–276, approved October 21, 1998. Pursuant to section 503 of such Act (set forth in the footnote on page 114 of this compilation), the amendment was made on the date of enactment, but applies beginning upon October 1, 1999.

[2] Section 518(a)(1) of the Quality Housing and Work Responsibility Act of 1998, title V of Public Law 105–276, approved October 21, 1998, amended this section by striking subsections (h), (i), (j), and (k), redesignating this subsection, and striking references to subsection 5(h) in sections 21(d) and 307(d). Pursuant to section 503 of such Act (set forth in the footnote on page 114 of this compilation), the amendments were made on the date of enactment, but apply beginning upon October 1, 1999. Section 503 also provides that the provisions of this section (and

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carry out this Act, which are obligated to State or local governments, public housing agencies, housing finance agencies, or other public or quasi-public housing agencies, shall be used to indemnify contractors or subcontractors of the government or agency against costs associated with judgments of infringement of intellectual property rights.

SEC. 5A. [42 U.S.C. 1437c–1] PUBLIC HOUSING AGENCY PLANS.

(a) 5-YEAR PLAN.—

(1) IN GENERAL.—Subject to paragraph (2), not less than once every 5 fiscal years, each public housing agency shall submit to the Secretary a plan that includes, with respect to the 5 fiscal years immediately following the date on which the plan is submitted—

(A) a statement of the mission of the public housing agency for serving the needs of low-income and very low-income families in the jurisdiction of the public housing agency during such fiscal years; and

(B) a statement of the goals and objectives of the public housing agency that will enable the public housing agency to serve the needs identified pursuant to subparagraph (A) during those fiscal years.

(2) INITIAL PLAN.—The initial 5-year plan submitted by a public housing agency under this subsection shall be submitted for the 5-year period beginning on October 1, 1999, or the first fiscal year thereafter for which the public housing agency initially receives assistance under this Act.

(b) ANNUAL PLAN.—

(1) IN GENERAL.—Effective beginning upon October 1, 1999, each public housing agency shall submit to the Secretary an annual public housing agency plan under this subsection for each fiscal year for which the public housing agency receives assistance under section 8(o) or 9.

(2) UPDATES.—For each fiscal year after the initial submission of an annual plan under this subsection by a public housing agency, the public housing agency may comply with requirements for submission of a plan under this subsection by submitting an update of the plan for the fiscal year.

(c) PROCEDURES.—

(1) IN GENERAL.—The Secretary shall establish requirements and procedures for submission and review of plans, including requirements for timing and form of submission, and for the contents of such plans.

(2) CONTENTS.—The procedures established under paragraph (1) shall provide that a public housing agency shall—

(A) in developing the plan consult with the resident advisory board established under subsection (e); and

(B) ensure that the plan under this section is consistent with the applicable comprehensive housing affordability strategy (or any consolidated plan incorporating such strategy) for the jurisdiction in which the public

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the other sections so amended), as in effect immediately before the enactment of the 1998 Act, continue to apply until such applicability date (unless the Secretary provides by notice for earlier implementation of the amendments).

housing agency is located, in accordance with title I of the Cranston-Gonzalez National Affordable Housing Act, and contains a certification by the appropriate State or local official that the plan meets the requirements of this paragraph and a description of the manner in which the applicable contents of the public housing agency plan are consistent with the comprehensive housing affordability strategy.

(d) CONTENTS.—An annual public housing agency plan under subsection (b) for a public housing agency shall contain the following information relating to the upcoming fiscal year for which the assistance under this Act is to be made available:

(1) NEEDS.—A statement of the housing needs of low-income and very low-income families residing in the jurisdiction served by the public housing agency, and of other low-income and very low-income families on the waiting list of the agency (including housing needs of elderly families and disabled families), and the means by which the public housing agency intends, to the maximum extent practicable, to address those needs.

(2) FINANCIAL RESOURCES.—A statement of financial resources available to the agency and the planned uses of those resources.

(3) ELIGIBILITY, SELECTION, AND ADMISSIONS POLICIES.—A statement of the policies governing eligibility, selection, admissions (including any preferences), assignment, and occupancy of families with respect to public housing dwelling units and housing assistance under section 8(o), including—

(A) the procedures for maintaining waiting lists for admissions to public housing projects of the agency, which may include a system of site-based waiting lists under section 6(r); and

(B) the admissions policy under section 16(a)(3)(B) for deconcentration of lower-income families.

(4) RENT DETERMINATION.—A statement of the policies of the public housing agency governing rents charged for public housing dwelling units and rental contributions of families assisted under section 8(o).

(5) OPERATION AND MANAGEMENT.—A statement of the rules, standards, and policies of the public housing agency governing maintenance and management of housing owned, assisted, or operated by the public housing agency (which shall include measures necessary for the prevention or eradication of pest infestation, including by cockroaches), and management of the public housing agency and programs of the public housing agency.

(6) GRIEVANCE PROCEDURE.—A statement of the grievance procedures of the public housing agency.

(7) CAPITAL IMPROVEMENTS.—With respect to public housing projects owned, assisted, or operated by the public housing agency, a plan describing the capital improvements necessary to ensure long-term physical and social viability of the projects.

(8) DEMOLITION AND DISPOSITION.—With respect to public housing projects owned by the public housing agency—

(A) a description of any housing for which the PHA will apply for demolition or disposition under section 18; and

(B) a timetable for the demolition or disposition.

(9) DESIGNATION OF HOUSING FOR ELDERLY AND DISABLED FAMILIES.—With respect to public housing projects owned, assisted, or operated by the public housing agency, a description of any projects (or portions thereof) that the public housing agency has designated or will apply for designation for occupancy by elderly and disabled families in accordance with section 7.

(10) CONVERSION OF PUBLIC HOUSING.—With respect to public housing owned by a public housing agency—

(A) a description of any building or buildings that the public housing agency is required to convert to tenant-based assistance under section 33 or that the public housing agency plans to voluntarily convert under section 22;

(B) an analysis of the projects or buildings required to be converted under section 33; and

(C) a statement of the amount of assistance received under this Act to be used for rental assistance or other housing assistance in connection with such conversion.

(11) HOMEOWNERSHIP.—A description of any homeownership programs of the agency under section 8(y) or for which the public housing agency has applied or will apply for approval under section 32.

(12) COMMUNITY SERVICE AND SELF-SUFFICIENCY.—A description of—

(A) any programs relating to services and amenities provided or offered to assisted families;

(B) any policies or programs of the public housing agency for the enhancement of the economic and social self-sufficiency of assisted families;

(C) how the public housing agency will comply with the requirements of subsections (c) and (d) of section 12 (relating to community service and treatment of income changes resulting from welfare program requirements).

(13) SAFETY AND CRIME PREVENTION.—A plan established by the public housing agency, which shall be subject to the following requirements:

(A) SAFETY MEASURES.—The plan shall provide, on a project-by-project or jurisdiction-wide basis, for measures to ensure the safety of public housing residents.

(B) ESTABLISHMENT.—The plan shall be established in consultation with the police officer or officers in command for the appropriate precinct or police department.

(C) CONTENT.—The plan shall describe the need for measures to ensure the safety of public housing residents and for crime prevention measures, describe any such activities conducted or to be conducted by the agency, and provide for coordination between the agency and the appropriate police precincts for carrying out such measures and activities.

(D) SECRETARIAL ACTION.—If the Secretary determines, at any time, that the security needs of a project are not being adequately addressed by the plan, or that the local police precinct is not complying with the plan, the Secretary may mediate between the public housing agency and the local precinct to resolve any issues of conflict.

(14) PETS.—The requirements of the agency, pursuant to section 31, relating to pet ownership in public housing.

(15) CIVIL RIGHTS CERTIFICATION.—A certification by the public housing agency that the public housing agency will carry out the public housing agency plan in conformity with title VI of the Civil Rights Act of 1964, the Fair Housing Act, section 504 of the Rehabilitation Act of 1973, and title II of the Americans with Disabilities Act of 1990, and will affirmatively further fair housing.

(16) ANNUAL AUDIT.—The results of the most recent fiscal year audit of the public housing agency under section 5(h)(2).

(17) ASSET MANAGEMENT.—A statement of how the agency will carry out its asset management functions with respect to the public housing inventory of the agency, including how the agency will plan for the long-term operating, capital investment, rehabilitation, modernization, disposition, and other needs for such inventory.

(18) OTHER.—Any other information required by law to be included in a public housing agency plan.

(e) RESIDENT ADVISORY BOARD.—

(1) IN GENERAL.—Except as provided in paragraph (3), each public housing agency shall establish 1 or more resident advisory boards in accordance with this subsection, the membership of which shall adequately reflect and represent the residents assisted by the public housing agency.

(2) FUNCTIONS.—Each resident advisory board established under this subsection by a public housing agency shall assist and make recommendations regarding the development of the public housing agency plan for the agency. The agency shall consider the recommendations of the resident advisory boards in preparing the final public housing agency plan, and shall include, in the public housing agency plan submitted to the Secretary under this section, a copy of the recommendations and a description of the manner in which the recommendations were addressed.

(3) WAIVER.—The Secretary may waive the requirements of this subsection with respect to the establishment of resident advisory boards for a public housing agency if the agency demonstrates to the satisfaction of the Secretary that there exist resident councils or other resident organizations of the public housing agency that—

(A) adequately represent the interests of the residents of the public housing agency; and

(B) have the ability to perform the functions described in paragraph (2).

(1)[1] IN GENERAL.—In developing a public housing agency plan under this section, the board of directors or similar governing body of a public housing agency shall conduct a public hearing to discuss the public housing agency plan and to invite public comment regarding that plan. The hearing shall be conducted at a location that is convenient to residents.

(2) AVAILABILITY OF INFORMATION AND NOTICE.—Not later than 45 days before the date of a hearing conducted under paragraph (1), the public housing agency shall—

(A) make the proposed public housing agency plan and all information relevant to the hearing and proposed plan available for inspection by the public at the principal office of the public housing agency during normal business hours; and

(B) publish a notice informing the public that—

(i) that the information is available as required under subparagraph (A); and

(ii) that a public hearing under paragraph (1) will be conducted.

(3) ADOPTION OF PLAN.—A public housing agency may adopt a public housing agency plan and submit the plan to the Secretary in accordance with this section only after—

(A) conducting a public hearing under paragraph (1);

(B) considering all public comments received; and

(C) making any appropriate changes in the public housing agency plan, in consultation with the resident advisory board.

(4) ADVISORY BOARD CONSULTATION ENFORCEMENT.—Pursuant to a written request made by the resident advisory board for a public housing agency that documents a failure on the part of the agency to provide adequate notice and opportunity for comment under this subsection and a finding by the Secretary of good cause within the time period provided for in subsection (i)(4), the Secretary may require the public housing agency to adequately remedy such failure before final approval of the public housing agency plan under this section.

(g) AMENDMENTS AND MODIFICATIONS TO PLANS.—

(1) IN GENERAL.—Except as provided in paragraph (2), nothing in this section shall preclude a public housing agency, after submitting a plan to the Secretary in accordance with this section, from amending or modifying any policy, rule, regulation, or plan of the public housing agency, except that a significant amendment or modification may not—

(A) be adopted, other than at a duly called meeting of board of directors (or similar governing body) of the public housing agency that is open to the public; and

(B) be implemented, until notification of the amendment or modification is provided to the Secretary and approved in accordance with subsection (i).

(2) CONSISTENCY AND NOTICE.—Each significant amendment or modification to a public housing agency plan submitted to the Secretary under this section shall—

[1] So in law. Probably should be designated as subsection (f).

(A) meet the requirements under subsection (c)(2) (relating to consultation with resident advisory board and consistency with comprehensive housing affordability strategies); and

(B) be subject to the notice and public hearing requirements of subsection (f).

(h) SUBMISSION OF PLANS.—

(1) INITIAL SUBMISSION.—Each public housing agency shall submit the initial plan required by this section, and any amendment or modification to the initial plan, to the Secretary at such time and in such form as the Secretary shall require.

(2) ANNUAL SUBMISSION.—Not later than 75 days before the start of the fiscal year of the public housing agency, after submission of the initial plan required by this section in accordance with subparagraph (A), each public housing agency shall annually submit to the Secretary a plan update, including any amendments or modifications to the public housing agency plan.

(i) REVIEW AND DETERMINATION OF COMPLIANCE.—

(1) REVIEW.—Subject to paragraph (2), after submission of the public housing agency plan or any amendment or modification to the plan to the Secretary, to the extent that the Secretary considers such action to be necessary to make determinations under this paragraph, the Secretary shall review the public housing agency plan (including any amendments or modifications thereto) and determine whether the contents of the plan—

(A) set forth the information required by this section and this Act to be contained in a public housing agency plan;

(B) are consistent with information and data available to the Secretary, including the approved comprehensive housing affordability strategy under title I of the Cranston-Gonzalez National Affordable Housing Act for the jurisdiction in which the public housing agency is located; and

(C) are not prohibited by or inconsistent with any provision of this title or other applicable law.

(2) ELEMENTS EXEMPTED FROM REVIEW.—The Secretary may, by regulation, provide that one or more elements of a public housing agency plan shall be reviewed only if the element is challenged, except that the Secretary shall review the information submitted in each plan pursuant to paragraphs (3)(B), (8), and (15) of subsection (d).

(3) DISAPPROVAL.—The Secretary may disapprove a public housing agency plan (or any amendment or modification thereto) only if Secretary determines that the contents of the plan (or amendment or modification) do not comply with the requirements under subparagraph (A) through (C) of paragraph (1).

(4) DETERMINATION OF COMPLIANCE.—

(A) IN GENERAL.—Except as provided in subsection (j)(2), not later than 75 days after the date on which a public housing agency plan is submitted in accordance

with this section, the Secretary shall make the determination under paragraph (1) and provide written notice to the public housing agency if the plan has been disapproved. If the Secretary disapproves the plan, the notice shall state with specificity the reasons for the disapproval.

(B) FAILURE TO PROVIDE NOTICE OF DISAPPROVAL.—In the case of a plan disapproved, if the Secretary does not provide notice of disapproval under subparagraph (A) before the expiration of the period described in subparagraph (A), the Secretary shall be considered, for purposes of this Act, to have made a determination that the plan complies with the requirements under this section and the agency shall be considered to have been notified of compliance upon the expiration of such period. The preceding sentence shall not preclude judicial review regarding such compliance pursuant to chapter 7 of title 5, United States Code, or an action regarding such compliance under section 1979 of the Revised Statutes of the United States (42 U.S.C. 1983).

(5) PUBLIC AVAILABILITY.—A public housing agency shall make the approved plan of the agency available to the general public.

(j) TROUBLED AND AT-RISK PHAS.—

(1) IN GENERAL.—The Secretary may require, for each public housing agency that is at risk of being designated as troubled under section 6(j)(2) or is designated as troubled under section 6(j)(2), that the public housing agency plan for such agency include such additional information as the Secretary determines to be appropriate, in accordance with such standards as the Secretary may establish or in accordance with such determinations as the Secretary may make on an agency-by-agency basis.

(2) TROUBLED AGENCIES.—The Secretary shall provide explicit written approval or disapproval, in a timely manner, for a public housing agency plan submitted by any public housing agency designated by the Secretary as a troubled public housing agency under section 6(j)(2).

(k) STREAMLINED PLAN.—In carrying out this section, the Secretary may establish a streamlined public housing agency plan for—

(A)[1] public housing agencies that are determined by the Secretary to be high performing public housing agencies;

(B)[1] public housing agencies with less than 250 public housing units that have not been designated as troubled under section 6(j)(2); and

(C)[1] public housing agencies that only administer tenant-based assistance and that do not own or operate public housing.

(l) COMPLIANCE WITH PLAN.—

[1] Indented so in law. Subparagraphs (A) through (C) probably should be designated as paragraphs (1) through (3).

(1) IN GENERAL.—In providing assistance under this title, a public housing agency shall comply with the rules, standards, and policies established in the public housing agency plan of the public housing agency approved under this section.

(2) INVESTIGATION AND ENFORCEMENT.—In carrying out this title, the Secretary shall—

(A) provide an appropriate response to any complaint concerning noncompliance by a public housing agency with the applicable public housing agency plan; and

(B) if the Secretary determines, based on a finding of the Secretary or other information available to the Secretary, that a public housing agency is not complying with the applicable public housing agency plan, take such actions as the Secretary determines to be appropriate to ensure such compliance.

CONTRACT PROVISIONS AND REQUIREMENTS

SEC. 6. [42 U.S.C. 1437d] (a) The Secretary may include in any contract for loans, contributions, sale, lease, mortgage, or any other agreement or instrument made pursuant to this Act, such covenants, conditions, or provisions as he may deem necessary in order to insure the lower income character of the project involved, in a manner consistent with the public housing agency plan. Any such contract shall require that, except in the case of housing predominantly for elderly or disabled families, high-rise elevator projects shall not be provided for families with children unless the Secretary makes a determination that there is no practical alternative.

(b)(1) Each contract for loans (other than preliminary loans) or contributions for the development, acquisition, or operation of public housing shall provide that the total development cost of the project on which the computation of any annual contributions under this Act may be based may not exceed the amount determined under paragraph (2) (for the appropriate structure type) unless the Secretary provides otherwise, and in any case may not exceed 110 per centum of such amount unless the Secretary for good cause determines otherwise.

(2) For purposes of paragraph (1), the Secretary shall determine the total development cost by multiplying the construction cost guideline for the project (which shall be determined by averaging the current construction costs, as listed by not less than 2 nationally recognized residential construction cost indices, for publicly bid construction of a good and sound quality) by—

(A) in the case of elevator type structures, 1.6; and

(B) in the case of nonelevator type structures, 1.75.

(3)[1] In calculating the total development cost of a project under paragraph (2), the Secretary shall consider only capital assistance provided by the Secretary to a public housing agency that are authorized for use in connection with the development of public

[1] This paragraph was added by section 520(b) of the Quality Housing and Work Responsibility Act of 1998, title V of Public Law 105–276, approved October 21, 1998. Pursuant to section 503 of such Act (set forth in the footnote on page 114 of this compilation), the amendment was made on the date of enactment (and, therefore, the paragraph is shown), but applies beginning upon October 1, 1999.

housing, and shall exclude all other amounts, including amounts provided under—

(A) the HOME investment partnerships program authorized under title II of the Cranston-Gonzalez National Affordable Housing Act; or

(B) the community development block grants program under title I of the Housing and Community Development Act of 1974.

(4)[1] The Secretary may restrict the amount of capital funds that a public housing agency may use to pay for housing construction costs. For purposes of this paragraph, housing construction costs include the actual hard costs for the construction of units, builders' overhead and profit, utilities from the street, and finish landscaping.

(c) Every contract for contributions shall provide that—

(1) the Secretary may require the public housing agency to review and revise its maximum income limits if the Secretary determines that changed conditions in the locality make such revision necessary in achieving the purposes of this Act;

(2) the public housing agency shall determine, and so certify to the Secretary, that each family in the project was admitted in accordance with duly adopted regulations and approved income limits; and the public housing agency shall review the incomes of families living in the project no less frequently than annually;

(3) the public housing agency shall promptly notify (i) any applicant determined to be ineligible for admission to the project of the basis for such determination and provide the applicant upon request, within a reasonable time after the determination is made, with an opportunity for an informal hearing on such determination, and (ii) any applicant determined to be eligible for admission to the project of the approximate date of occupancy insofar as such date can be reasonably determined;

(4) the public housing agency shall comply with such procedures and requirements as the Secretary may prescribe to assure that sound management practices will be followed in the operation of the project, including requirements pertaining to—

(A) making dwelling units in public housing available for occupancy, which shall provide that the public housing agency may establish a system for making dwelling units available that provides preference for such occupancy to families having certain characteristics; each system of preferences established pursuant to this subparagraph shall be based upon local housing needs and priorities, as determined by the public housing agency using generally accepted data sources, including any information obtained pursuant to an opportunity for public comment as provided under section 5A(f) and under the requirements applicable to the comprehensive housing affordability strategy for the relevant jurisdiction;

[1] See footnote 1 on the preceding page.

(B) the establishment of satisfactory procedures designed to assure the prompt payment and collection of rents and the prompt processing of evictions in the case of nonpayment of rent;

(C) the establishment of effective tenant-management relationships designated to assure the satisfactory standards of tenant security and project maintenance are formulated and that the public housing agency (together with tenant councils where they exist) enforces those standards fully and effectively;

(D) the development by local housing authority managements of viable homeownership opportunity programs for low-income families capable of assuming the responsibilities of homeownership;

(E) for each agency that receives assistance under this title [1], the establishment and maintenance of a system of accounting for rental collections and costs (including administrative, utility, maintenance, repair and other operating costs) for each project or operating cost center (as determined by the Secretary), which collections and costs shall be made available to the general public and submitted to the appropriate local public official (as determined by the Secretary); except that the Secretary may permit agencies owning or operating less than 500 units to comply with the requirements of this subparagraph by accounting on an agency-wide basis; and

(F) requiring the public housing agency to ensure and maintain compliance with subtitle C of title VI of the Housing and Community Development Act of 1992 and any regulations issued under such subtitle.

(d) Every contract for contributions with respect to a low-income housing project shall provide that no contributions by the Secretary shall be made available for such project unless such project (exclusive of any portion thereof which is not assisted by contributions under this Act) is exempt from all real and personal property taxes levied or imposed by the State, city, county, or other political subdivision; and such contract shall require the public housing agency to make payments in lieu of taxes equal to 10 per centum of the sum of the shelter rents charged in such project, or such lesser amount as (i) is prescribed by State law, or (ii) is agreed to by the local governing body in its agreement for local cooperation with the public housing agency required under section 5(e)(2) of this Act, or (iii) is due to failure of a local public body or bodies other than the public housing agency to perform any obligation under such agreement. If any such project is not exempt from all real and personal property taxes levied or imposed by the State,

[1] This clause was amended by section 529(1) of the Quality Housing and Work Responsibility Act of 1998, title V of Public Law 105–276, approved October 21, 1998, by striking "except in the case of agencies not receiving operating assistance under section 9" and inserting "for each agency that receives assistance under this title". Pursuant to section 503 of such Act (set forth in the footnote on page 114 of this compilation), the amendments were made on the date of enactment, but apply beginning upon October 1, 1999. Section 503 also provides that the provisions of this clause, as in effect immediately before the enactment of the 1998 Act, continue to apply until such applicability date (unless the Secretary provides by notice for earlier implementation of the amendments).

city, county, or other political subdivision, such contract shall provide, in lieu of the requirement for tax exemption and payments in lieu of taxes, that no contributions by the Secretary shall be made available for such project unless and until the State, city, county, or other political subdivision in which such project is situated shall contribute, in the form of cash or tax remission, the amount by which the taxes paid with respect to the project exceed 10 per centum of the shelter rents charged in such project.

[(e) [Repealed.]] [1]

(f) [2] HOUSING QUALITY REQUIREMENTS.—

(1) IN GENERAL.—Each contract for contributions for a public housing agency shall require that the agency maintain its public housing in a condition that complies with standards which meet or exceed the housing quality standards established under paragraph (2).

(2) FEDERAL STANDARDS.—The Secretary shall establish housing quality standards under this paragraph that ensure that public housing dwelling units are safe and habitable. Such standards shall include requirements relating to habitability, including maintenance, health and sanitation factors, condition, and construction of dwellings, and shall, to the greatest extent practicable, be consistent with the standards established under section 8(o)(8)(B)(i). The Secretary may determine whether the laws, regulations, standards, or codes of any State or local jurisdiction meet or exceed these standards, for purposes of this subsection.

(3) ANNUAL INSPECTIONS.—Each public housing agency that owns or operates public housing shall make an annual inspection of each public housing project to determine whether units in the project are maintained in accordance with the requirements under paragraph (1). The agency shall retain the results of such inspections and, upon the request of the Secretary, the Inspector General for the Department of Housing and Urban Development, or any auditor conducting an audit under section 5(h), shall make such results available.

(g) Every contract for contributions (including contracts which amend or supersede contracts previously made) may provide that—

(1) upon the occurrence of a substantial default in respect to the covenants or conditions to which the public housing agency is subject (as such substantial default shall be defined in such contract), the public housing agency shall be obligated at the option of the Secretary either to convey title in any case where, in the determination of the Secretary (which determina-

[1] Section 529(2) of the Quality Housing and Work Responsibility Act of 1998, title V of Public Law 105–276, approved October 21, 1998, amended this section by striking subsection (e) (relating to reduction in annual contributions for exceeding public housing agencies whose receipts exceed expenditures). Pursuant to section 503 of such Act (set forth in the footnote on page 114 of this compilation), the amendment was made on the date of enactment, but applies beginning upon October 1, 1999. Section 503 also provides that the provisions of such subsection (e), as in effect immediately before the enactment of the 1998 Act, continue to apply until such applicability date (unless the Secretary provides by notice for earlier implementation of the amendment).

[2] This subsection was added by section 530 of the Quality Housing and Work Responsibility Act of 1998, title V of Public Law 105–276, approved October 21, 1998. Pursuant to section 503 of such Act (set forth in the footnote on page 114 of this compilation), the amendment was made on the date of enactment (and, therefore, the subsection is shown), but applies beginning upon October 1, 1999.

tion shall be final and conclusive), such conveyance of title is necessary to achieve the purposes of this Act, or to deliver to the Secretary possession of the project, as then constituted, to which such contract relates; and

(2) the Secretary shall be obligated to reconvey or redeliver possession of the project, as constituted at the time of reconveyance or redelivery, to such public housing agency or to its successor (if such public housing agency or a successor exists) upon such terms as shall be prescribed in such contract, and as soon as practicable (i) after the Secretary is satisfied that all defaults with respect to the project have been cured, and that the project will, in order to fulfill the purposes of this Act, thereafter be operated in accordance with the terms of such contract; or (ii) after the termination of the obligation to make annual contributions available unless there are any obligations or covenants of the public housing agency to the Secretary which are then in default. Any prior conveyances and reconveyances or deliveries and redeliveries of possession shall not exhaust the right to require a conveyance or delivery of possession of the project to the Secretary pursuant to subparagraph (1)[1] upon the subsequent occurrence of a substantial default.

Whenever such a contract for annual contributions includes provisions which the Secretary in such contract determines are in accordance with this subsection, and the portion of the annual contribution payable for debt service requirements pursuant to such contract has been pledged by the public housing agency as security for the payment of the principal and interest on any of its obligations, the Secretary (notwithstanding any other provisions of this Act) shall continue to make such annual contributions available for the project so long as any of such obligations remain outstanding, and may covenant in such contract that in any event such annual contributions shall in each year be at least equal to an amount which, together with such income or other funds as are actually available from the project for the purpose at the time such annual contribution is made, will suffice for the payment of all installments, falling due within the next succeeding twelve months, of principal and interest on the obligations for which the annual contributions provided for in the contract shall have been pledged as security. In no case shall such annual contributions be in excess of the maximum sum specified in the contract involved, nor for longer than the remainder of the maximum period fixed by the contract.

(h) On or after October 1, 1983, the Secretary may enter into a contract involving new construction only if the public housing agency demonstrates to the satisfaction of the Secretary that the cost of new construction in the neighborhood where the public housing agency determines the housing is needed is less than the cost of acquisition or acquisition and rehabilitation in such neighborhood, including any reserve fund under subsection (i), would be.

(i) The Secretary may, upon application by a public housing agency in connection with the acquisition of housing for use as public housing, establish and set aside a reserve fund in an amount

[1] So in law. Probably intended to refer to paragraph (1).

not to exceed 30 per centum of the acquisition cost which shall be available for use for major repairs to such housing.

(j)(1) The Secretary shall develop and publish in the Federal Register indicators to assess the management performance of public housing agencies and resident management corporations. The indicators shall be established by rule under section 553 of title 5, United States Code. Such indicators shall enable the Secretary to evaluate the performance of public housing agencies and resident management corporations in all major areas of management operations. The Secretary shall, in particular, use the following indicators: [1]

(A) The number and percentage of vacancies within an agency's inventory, including the progress that an agency has made within the previous 3 years to reduce such vacancies.

(B) [2] The amount and percentage of funds provided to the public housing agency from the Capital Fund under section 9(d) which remain unobligated by the public housing agency after 3 years.

(C) The percentage of rents uncollected.

(D) The utility [3] consumption (with appropriate adjustments to reflect different regions and unit sizes).

(E) The average period of time that an agency requires to repair and turn-around vacant units.

(F) The proportion of maintenance work orders outstanding, including any progress that an agency has made during the preceding 3 years to reduce the period of time required to complete maintenance work orders.

(G) The percentage of units that an agency fails to inspect to ascertain maintenance or modernization needs within such period of time as the Secretary deems appropriate (with appropriate adjustments, if any, for large and small agencies).

(H) [4] The extent to which the public housing agency—

(i) coordinates, promotes, or provides effective programs and activities to promote the economic self-sufficiency of public housing residents; and

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[1] Section 113(e)(1)(C) of the Housing and Community Development Act of 1992 (Public Law 102–550; 106 Stat. 3691) amended this sentence by striking "indicators." and inserting "indicators for public housing agencies, to the extent practicable:". Because the matter to be struck by the amendment does not appear in this sentence, the amendment could not be executed.

[2] This subparagraph was amended to read as shown by section 564(1)(A) of the Quality Housing and Work Responsibility Act of 1998, title V of Public Law 105–276, approved October 21, 1998. Pursuant to section 503 of such Act (set forth in the footnote on page 114 of this compilation), the amendment was made on the date of enactment (and, therefore, the subparagraph is shown as amended), but applies beginning upon October 1, 1999. Section 503 also provides that the provisions of this subparagraph, as in effect immediately before the enactment of the 1998 Act, continue to apply until such applicability date (unless the Secretary provides by notice for earlier implementation of the amendment).

[3] Section 564(1)(B) of the Quality Housing and Work Responsibility Act of 1998, title V of Public Law 105–276, approved October 21, 1998, amended this subparagraph by striking "energy" and inserting "utility". Pursuant to section 503 of such Act (set forth in the footnote on page 114 of this compilation), the amendments were made on the date of enactment (and, therefore, the subparagraph is shown as amended), but applies beginning upon October 1, 1999. Section 503 also provides that the provisions of this subparagraph, as in effect immediately before the enactment of the 1998 Act, continue to apply until such applicability date (unless the Secretary provides by notice for earlier implementation of the amendments).

[4] This subparagraph was added by section 564(1)(E) of the Quality Housing and Work Responsibility Act of 1998, title V of Public Law 105–276, approved October 21, 1998. Pursuant to section 503 of such Act (set forth in the footnote on page 114 of this compilation), the amendment was made on the date of enactment, but applies beginning upon October 1, 1999.

(ii) provides public housing residents with opportunities for involvement in the administration of the public housing.

(I) [1] The extent to which the public housing agency—

(i) implements effective screening and eviction policies and other anticrime strategies; and

(ii) coordinates with local government officials and residents in the project and implementation of such strategies.

(J) [1] The extent to which the public housing agency is providing acceptable basic housing conditions.

(K) Any other factors as the Secretary deems appropriate. [2]

(2)(A)(i) The Secretary shall, under the rulemaking procedures under section 553 of title 5, United States Code, establish procedures for designating troubled public housing agencies, which procedures shall include identification of serious and substantial failure to perform as measured by the performance indicators specified under paragraph (1) and such other factors as the Secretary may deem to be appropriate. Such procedures shall provide that an agency that fails on a widespread basis to provide acceptable basic housing conditions for its residents shall be designated as a troubled public housing agency. The Secretary may use a simplified set of indicators for public housing agencies with less than 250 public housing units. [3] The Secretary shall also designate, by rule under section 553 of title 5, United States Code, agencies that are troubled with respect to the program for assistance from the Capital Fund under section 9(d) [4].

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[1] See footnote 4 on the preceding page.

[2] The Departments of Veterans Affairs and Housing and Urban Development, and Independent Agencies Appropriations Act, 1992, Public Law 102-139, 105 Stat. 757, provides as follows:

"Section 6(j)(1) of the Housing Act of 1937, 42 U.S.C. 1437d(j)(1), section 502(a) of the National Affordable Housing Act, is amended as follows:

"(1) by adding at the end of subparagraph (H) the following language: 'which shall not exceed the seven factors in the statute, plus an additional five'; and

"(2) by adding as subparagraph (I) the following:

'(I) The Secretary shall:

'(1) administer the system of evaluating public housing agencies flexibly to ensure that such agencies are not penalized as result of circumstances beyond their control;

'(2) reflect in the weights assigned to the various indicators the differences in the difficulty of managing individual projects that result from their physical condition and their neighborhood environment; and

'(3) determine a public housing agency's status as 'troubled with respect to the program under section 14' based upon factors solely related to its ability to carry out that program.'.".

The amendments were probably intended to be made to section 6(j)(1) of the United States Housing Act of 1937, as amended by section 502(a) of the Cranston-Gonzalez National Affordable Housing Act. Subparagraph (H), referred to in paragraph (1) of this provision from the appropriations Act, has since been redesignated as subparagraph (K).

[3] The last two sentences of this clause were added by section 564(2)(A) of the Quality Housing and Work Responsibility Act of 1998, title V of Public Law 105–276, approved October 21, 1998. Pursuant to section 503 of such Act (set forth in the footnote on page 114 of this compilation), the amendment was made on the date of enactment, but applies beginning upon October 1, 1999.

[4] Section 564(2) of the Quality Housing and Work Responsibility Act of 1998, title V of Public Law 105–276, approved October 21, 1998, amended this paragraph by striking references to section 14 and inserting the references to the Capital Fund under section 9(d). Pursuant to section 503 of such Act (set forth in the footnote on page 114 of this compilation), the amendments were made on the date of enactment (and, therefore, the subparagraph is shown as amended), but apply beginning upon October 1, 1999. Section 503 also provides that the provisions of this subparagraph, as in effect immediately before the enactment of the 1998 Act, continue to apply until such applicability date (unless the Secretary provides by notice for earlier implementation of the amendments).

(ii) The Secretary may also, in consultation with national organizations representing public housing agencies and public officials (as the Secretary determines appropriate), identify and commend public housing agencies that meet the performance standards established under paragraph (1) in an exemplary manner.

(iii) The Secretary shall establish procedures for public housing agencies to appeal designation as a troubled agency (including designation as a troubled agency for purposes of the program for assistance from the Capital Fund under section 9(d)[1]), to petition for removal of such designation, and to appeal any refusal to remove such designation.

(B)(i) Upon designating a public housing agency with more than 250 units[2] as troubled pursuant to subparagraph (A) and determining that an assessment under this subparagraph will not duplicate any comparable and recent review[3], the Secretary shall provide for an on-site, independent assessment of the management of the agency.

(ii) To the extent the Secretary deems appropriate (taking into account an agency's performance under the indicators specified under paragraph (1)), the assessment team shall also consider issues relating to the agency's resident population and physical inventory, including the extent to which (I) the agency's comprehensive plan prepared pursuant to section 14 adequately and appropriately addresses the rehabilitation needs of the agency's inventory, (II) residents of the agency are involved in and informed of significant management decisions, and (III) any projects in the agency's inventory are severely distressed and eligible for assistance pursuant to section 24.

(iii) An independent assessment under this subparagraph shall be carried out by a team of knowledgeable individuals selected by the Secretary (referred to in this section as the "assessment team") with expertise in public housing and real estate management. In conducting an assessment, the assessment team shall consult with the residents and with public and private entities in the jurisdiction in which the public housing is located. The assessment team shall provide to the Secretary and the public housing agency a written report, which shall contain, at a minimum, recommendations for such management improvements as are necessary to eliminate or substantially remedy existing deficiencies.

(C) The Secretary shall seek to enter into an agreement with each troubled public housing agency, after reviewing the report

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[1] See footnote 4 on the preceding page.

[2] Section 564(2)(C)(i) of the Quality Housing and Work Responsibility Act of 1998, title V of Public Law 105–276, approved October 21, 1998, amended this clause by inserting "with more than 250 units". Pursuant to section 503 of such Act (set forth in the footnote on page 114 of this compilation), the amendment was made on the date of enactment, but applies beginning upon October 1, 1999.

[3] Section 564(2)(B)(ii) of the Quality Housing and Work Responsibility Act of 1998, title V of Public Law 105–276, approved October 21, 1998, amended this clause by striking "review conducted under section 14(p)" and inserting "comparable and recent review". Pursuant to section 503 of such Act (set forth in the footnote on page 114 of this compilation), the amendments were made on the date of enactment (and, therefore, the clause is shown as amended), but apply beginning upon October 1, 1999. Section 503 also provides that the provisions of this clause, as in effect immediately before the enactment of the 1998 Act, continue to apply until such applicability date (unless the Secretary provides by notice for earlier implementation of the amendments).

submitted pursuant to subparagraph (B) (if applicable) and consulting with the agency's assessment team.

To the extent the Secretary deems appropriate (taking into account an agency's performance under the indicators specified under paragraph (1)), such agreement shall also set forth a plan for enhancing resident involvement in the management of the public housing agency. [1] Such agreement shall set forth—

(i) targets for improving performance as measured by the performance indicators specified under paragraph (1) and other requirements within a specified period of time;

(ii) strategies for meeting such targets, including a description of the technical assistance that the Secretary will make available to the agency; and

(iii) incentives or sanctions for effective implementation of such strategies, which may include any constraints on the use of funds that the Secretary determines are appropriate.

The Secretary and the public housing agency shall, to the maximum extent practicable, seek the assistance of local public and private entities in carrying out the agreement.

(D) [2] The Secretary shall apply the provisions of this paragraph to resident management corporations as well as public housing agencies.

(3)(A) Notwithstanding any other provision of law or of any contract for contributions, upon the occurrence of events or conditions that constitute a substantial default by a public housing agency with respect to the covenants or conditions to which the public housing agency is subject or an agreement entered into under paragraph (2), the Secretary may—

(i) solicit competitive proposals from other public housing agencies and private housing management agents which (I) in the discretion of the Secretary, may be selected by existing public housing residents through administrative procedures established by the Secretary, and (II) if appropriate, shall provide for such agents to manage all, or part, of the housing administered by the public housing agency or all or part of the other programs of the agency;

(ii) petition for the appointment of a receiver (which may be another public housing agency or a private management corporation) of the public housing agency to any district court of the United States or to any court of the State in which the real property of the public housing agency is situated, that is authorized to appoint a receiver for the purposes and having the powers prescribed in this subsection;

(iii) solicit competitive proposals from other public housing agencies and private entities with experience in construction management in the eventuality that such agencies or firms may be needed to oversee implementation of assistance made available from the Capital Fund under section 9(d) for the housing; and

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[1] So in law. This new flush sentence probably should have been inserted after clause (iii) of this subparagraph. See section 113(a)(3)(B) of the Housing and Community Development Act of 1992, Public Law 102–550.

[2] Indented so in law.

(iv) take possession of all or part of the public housing agency, including all or part of any project or program of the agency, including any project or program under any other provision of this title; and

(v) require the agency to make other arrangements acceptable to the Secretary and in the best interests of the public housing residents and families assisted under section 8 for managing all, or part, of the public housing administered by the agency or of the programs of the agency.

Residents of a public housing agency designated as troubled pursuant to paragraph (2)(A) may petition the Secretary in writing to take 1 or more of the actions referred to in this subparagraph. The Secretary shall respond to such petitions in a timely manner with a written description of the actions, if any, the Secretary plans to take and, where applicable, the reasons why such actions differ from the course proposed by the residents.

(B)(i) If a public housing agency is identified as troubled under this subsection, the Secretary shall notify the agency of the troubled status of the agency.

(ii)(I) Upon the expiration of the 1-year period beginning on the later of the date on which the agency receives initial notice from the Secretary of the troubled status of the agency under clause (i) and the date of the enactment of the Quality Housing and Work Responsibility Act of 1998 [1], the agency shall improve its performance, as measured by the performance indicators established pursuant to paragraph (1), by at least 50 percent of the difference between the most recent performance measurement and the measurement necessary to remove that agency's designation as troubled.

(II) Upon the expiration of the 2-year period beginning on the later of the date on which the agency receives initial notice from the Secretary of the troubled status of the agency under clause (i) and the date of the enactment of the Quality Housing and Work Responsibility Act of 1998 [1], the agency shall improve its performance, as measured by the performance indicators established pursuant to paragraph (1), such that the agency is no longer designated as troubled.

(III) In the event that a public housing agency designated as troubled under this subsection fails to comply with the requirements set forth in subclause (I) or (II), the Secretary shall—

(aa) in the case of a troubled public housing agency with 1,250 or more units, petition for the appointment of a receiver pursuant to subparagraph (A)(ii); or

(bb) in the case of a troubled public housing agency with fewer than 1,250 units, either petition for the appointment of a receiver pursuant to subparagraph (A)(ii), or take possession of the public housing agency (including all or part of any project or program of the agency) pursuant to subparagraph (A)(iv) and appoint, on a competitive or noncompetitive basis, an individual or entity as an administrative receiver to assume the responsibilities of the Secretary for the administration of all or part of the public housing agency (including all or part of any project or program of the agency).

[1] October 21, 1998.

This subparagraph shall not be construed to limit the courses of action available to the Secretary under subparagraph (A).

(IV) During the period between the date on which a petition is filed under subclause (III)(aa) and the date on which a receiver assumes responsibility for the management of the public housing agency under such subclause, the Secretary may take possession of the public housing agency (including all or part of any project or program of the agency) pursuant to subparagraph (A)(iv) and may appoint, on a competitive or noncompetitive basis, an individual or entity as an administrative receiver to assume the responsibilities of the Secretary for the administration of all or part of the public housing agency (including all or part of any project or program of the agency).

(C) If a receiver is appointed pursuant to subparagraph (A)(ii), in addition to the powers accorded by the court appointing the receiver, the receiver—

(i) may abrogate any contract to which the United States or an agency of the United States is not a party that, in the receiver's written determination (which shall include the basis for such determination), substantially impedes correction of the substantial default, but only after the receiver determines that reasonable efforts to renegotiate such contract have failed;

(ii) may demolish and dispose of all or part of the assets of the public housing agency (including all or part of any project of the agency) in accordance with section 18, including disposition by transfer of properties to resident-supported nonprofit entities;

(iii) if determined to be appropriate by the Secretary, may seek the establishment, as permitted by applicable State and local law, of 1 or more new public housing agencies;

(iv) if determined to be appropriate by the Secretary, may seek consolidation of all or part of the agency (including all or part of any project or program of the agency), as permitted by applicable State and local laws, into other well-managed public housing agencies with the consent of such well-managed agencies; and

(v) shall not be required to comply with any State or local law relating to civil service requirements, employee rights (except civil rights), procurement, or financial or administrative controls that, in the receiver's written determination (which shall include the basis for such determination), substantially impedes correction of the substantial default.

(D)(i) If, pursuant to subparagraph (A)(iv), the Secretary takes possession of all or part of the public housing agency, including all or part of any project or program of the agency, the Secretary—

(I) may abrogate any contract to which the United States or an agency of the United States is not a party that, in the written determination of the Secretary (which shall include the basis for such determination), substantially impedes correction of the substantial default, but only after the Secretary determines that reasonable efforts to renegotiate such contract have failed;

(II) may demolish and dispose of all or part of the assets of the public housing agency (including all or part of any

project of the agency) in accordance with section 18, including disposition by transfer of properties to resident-supported nonprofit entities;

(III) may seek the establishment, as permitted by applicable State and local law, of 1 or more new public housing agencies;

(IV) may seek consolidation of all or part of the agency (including all or part of any project or program of the agency), as permitted by applicable State and local laws, into other well-managed public housing agencies with the consent of such well-managed agencies;

(V) shall not be required to comply with any State or local law relating to civil service requirements, employee rights (except civil rights), procurement, or financial or administrative controls that, in the Secretary's written determination (which shall include the basis for such determination), substantially impedes correction of the substantial default; and

(VI) shall, without any action by a district court of the United States, have such additional authority as a district court of the United States would have the authority to confer upon a receiver to achieve the purposes of the receivership.

(ii) If, pursuant to subparagraph (B)(ii)(III)(bb), the Secretary appoints an administrative receiver to assume the responsibilities of the Secretary for the administration of all or part of the public housing agency (including all or part of any project or program of the agency), the Secretary may delegate to the administrative receiver any or all of the powers given the Secretary by this subparagraph, as the Secretary determines to be appropriate and subject to clause (iii).

(iii) An administrative receiver may not take an action described in subclause (III) or (IV) of clause (i) unless the Secretary first approves an application by the administrative receiver to authorize such action.

(E) The Secretary may make available to receivers and other entities selected or appointed pursuant to this paragraph such assistance as the Secretary determines in the discretion of the Secretary is necessary and available to remedy the substantial deterioration of living conditions in individual public housing projects or other related emergencies that endanger the health, safety, and welfare of public housing residents or families assisted under section 8. A decision made by the Secretary under this paragraph shall not be subject to review in any court of the United States, or in any court of any State, territory, or possession of the United States.

(F) In any proceeding under subparagraph (A)(ii), upon a determination that a substantial default has occurred and without regard to the availability of alternative remedies, the court shall appoint a receiver to conduct the affairs of all or part of the public housing agency in a manner consistent with this Act and in accordance with such further terms and conditions as the court may provide. The receiver appointed may be another public housing agency, a private management corporation, or any other person or appropriate entity. The court shall have power to grant appropriate tem-

porary or preliminary relief pending final disposition of the petition by the Secretary.

(G) The appointment of a receiver pursuant to this paragraph may be terminated, upon the petition of any party, when the court determines that all defaults have been cured or the public housing agency is capable again of discharging its duties.

(H) If the Secretary (or an administrative receiver appointed by the Secretary) takes possession of a public housing agency (including all or part of any project or program of the agency), or if a receiver is appointed by a court, the Secretary or receiver shall be deemed to be acting not in the official capacity of that person or entity, but rather in the capacity of the public housing agency, and any liability incurred, regardless of whether the incident giving rise to that liability occurred while the Secretary or receiver was in possession of all or part of the public housing agency (including all or part of any project or program of the agency), shall be the liability of the public housing agency.

(4)[1] SANCTIONS FOR IMPROPER USE OF AMOUNTS.—

(A) IN GENERAL.—In addition to any other actions authorized under this Act, if the Secretary finds that a public housing agency receiving assistance amounts under section 9 for public housing has failed to comply substantially with any provision of this Act relating to the public housing program, the Secretary may—

(i) terminate assistance payments under this section 9 to the agency;

(ii) withhold from the agency amounts from the total allocations for the agency pursuant to section 9;

(iii) reduce the amount of future assistance payments under section 9 to the agency by an amount equal to the amount of such payments that were not expended in accordance with this Act;

(iv) limit the availability of assistance amounts provided to the agency under section 9 to programs, projects, or activities not affected by such failure to comply;

(v) withhold from the agency amounts allocated for the agency under section 8; or

(vi) order other corrective action with respect to the agency.

(B) TERMINATION OF COMPLIANCE ACTION.—If the Secretary takes action under subparagraph (A) with respect to a public housing agency, the Secretary shall—

(i) in the case of action under subparagraph (A)(i), resume payments of assistance amounts under section 9 to the agency in the full amount of the total allocations under section 9 for the agency at the time that the Secretary first determines that the agency will comply with the provisions of this Act relating to the public housing program;

[1] This paragraph was added by section 521 of the Quality Housing and Work Responsibility Act of 1998, title V of Public Law 105–276, approved October 21, 1998, which also redesignated the paragraph that follows. Pursuant to section 503 of such Act (set forth in the footnote on page 114 of this compilation), the amendment was made on the date of enactment (and, therefore, the paragraph is shown), but applies beginning upon October 1, 1999.

(ii) in the case of action under clause (ii) or (v) of subparagraph (A), make withheld amounts available as the Secretary considers appropriate to ensure that the agency complies with the provisions of this Act relating to such program;

(iii) in the case of action under subparagraph (A)(iv), release such restrictions at the time that the Secretary first determines that the agency will comply with the provisions of this Act relating to such program; or

(iv) in the case of action under subparagraph (vi), cease such action at the time that the Secretary first determines that the agency will comply with the provisions of this Act relating to such program.

(5) The Secretary shall submit to the Congress annually, as a part of the report of the Secretary under section 8 of the Department of Housing and Urban Development Act, a report that—

(A) identifies the public housing agencies that have been designated as troubled under paragraph (2);

(B) describes the grounds on which such public housing agencies were designated as troubled and continue to be so designated;

(C) describes the agreements that have been entered into with such agencies under such paragraph;

(D) describes the status of progress under such agreements;

(E) describes any action that has been taken in accordance with paragraph (3) [1]; and

(F) describes the status of any public housing agency designated as troubled with respect to the program for assistance from the Capital Fund under section 9(d) and specifies the amount of assistance the agency received under such program. [2]

(6) [3](A) To the extent that the Secretary determines such action to be necessary in order to ensure the accuracy of any certification made under this section, the Secretary shall require an independent auditor to review documentation or other information main-

[1] Section 113(d) of the Housing and Community Development Act of 1992, Public Law 102–550, provides as follows:

"(d) ANNUAL REPORTS.—Section 6(j)(5)(E) of the United States Housing Act of 1937 (42 U.S.C. 1437d(j)(4)(E)), as so redesignated by subsection (d)(1), is amended by inserting before the semicolon the following: ', including an accounting of the authorized funds that have been expended to support such actions'.".

The amendment could not be executed because this paragraph was designated as paragraph (4) at the time of enactment. The subsection heading and the United States Code citation indicate that the amendment probably was intended to be made to this subparagraph.

[2] Section 564(3) of the Quality Housing and Work Responsibility Act of 1998, title V of Public Law 105–276, approved October 21, 1998, amended this subparagraph by striking references to the program under section 14, the amount of assistance received by an agency under such section, and credits accumulated by an agency under such section and inserting the references to the program for assistance from the Capital Fund under section 9(d). Pursuant to section 503 of such Act (set forth in the footnote on page 114 of this compilation), the amendments were made on the date of enactment (and, therefore, the subparagraph is shown as amended), but apply beginning upon October 1, 1999. Section 503 also provides that the provisions of this subparagraph, as in effect immediately before the enactment of the 1998 Act, continue to apply until such applicability date (unless the Secretary provides by notice for earlier implementation of the amendments).

[3] This paragraph was added by section 564(4) of the Quality Housing and Work Responsibility Act of 1998, title V of Public Law 105–276, approved October 21, 1998. Pursuant to section 503 of such Act (set forth in the footnote on page 114 of this compilation), the amendment was made on the date of enactment, but applies beginning upon October 1, 1999.

tained by a public housing agency pursuant to this section to substantiate each certification submitted by the agency or corporation relating to the performance of that agency or corporation.

(B) The Secretary may withhold, from assistance otherwise payable to the agency or corporation under section 9, amounts sufficient to pay for the reasonable costs of any review under this paragraph.

(7)[1] The Secretary shall apply the provisions of this subsection to resident management corporations in the same manner as applied to public housing agencies.

(k) The Secretary shall by regulation require each public housing agency receiving assistance under this Act to establish and implement an administrative grievance procedure under which tenants will—

(1) be advised of the specific grounds of any proposed adverse public housing agency action;

(2) have an opportunity for a hearing before an impartial party upon timely request within any period applicable under subsection (l);

(3) have an opportunity to examine any documents or records or regulations related to the proposed action;

(4) be entitled to be represented by another person of their choice at any hearing;

(5) be entitled to ask questions of witnesses and have others make statements on their behalf; and

(6) be entitled to receive a written decision by the public housing agency on the proposed action.

For any grievance concerning an eviction or termination of tenancy that involves any activity that threatens the health, safety, or right to peaceful enjoyment of the premises of other tenants or employees of the public housing agency or any violent or drug-related[1] criminal activity on or off such premises, or any activity resulting in a felony conviction,[1] the agency may (A) establish an expedited grievance procedure as the Secretary shall provide by rule under section 553 of title 5, United States Code, or (B) exclude from its grievance procedure any such grievance, in any jurisdiction which requires that prior to eviction, a tenant be given a hearing in court which the Secretary determines provides the basic elements of due process (which the Secretary shall establish by rule under section 553 of title 5, United States Code). Such elements of due process shall not include a requirement that the tenant be provided an opportunity to examine relevant documents within the possession of the public housing agency. The agency shall provide to the tenant a reasonable opportunity, prior to hearing or trial, to examine any relevant documents, records, or regulations directly related to the eviction or termination.

(l) Each public housing agency shall utilize leases which—

[1] Section 575(a) of the Quality Housing and Work Responsibility Act of 1998, title V of Public Law 105–276, approved October 21, 1998, amended this sentence by inserting "violent or" and "or any activity resulting in a felony conviction,". Pursuant to section 503 of such Act (set forth in the footnote on page 114 of this compilation), the amendments were made on the date of enactment (and, therefore, the sentence is shown as amended), but apply beginning upon October 1, 1999. Section 503 also provides that the provisions of this sentence, as in effect immediately before the enactment of the 1998 Act, continue to apply until such applicability date (unless the Secretary provides by notice for earlier implementation of the amendments).

(1)[1] have a term of 12 months and shall be automatically renewed for all purposes except for noncompliance with the requirements under section 12(c) (relating to community service requirements); except that nothing in this title shall prevent a resident from seeking timely redress in court for failure to renew based on such noncompliance;

(2) do not contain unreasonable terms and conditions;

(3) obligate the public housing agency to maintain the project in a decent, safe, and sanitary condition;

(4) require the public housing agency to give adequate written notice of termination of the lease which shall not be less than—

(A)[2] a reasonable period of time, but not to exceed 30 days—

(i) if the health or safety of other tenants, public housing agency employees, or persons residing in the immediate vicinity of the premises is threatened; or

(ii) in the event of any drug-related or violent criminal activity or any felony conviction;

(B) 14 days in the case of nonpayment of rent; and

(C)[1] 30 days in any other case, except that if a State or local law provides for a shorter period of time, such shorter period shall apply;

(5) require that the public housing agency may not terminate the tenancy except for serious or repeated violation of the terms or conditions of the lease or for other good cause;

(6) provide that any criminal activity that threatens the health, safety, or right to peaceful enjoyment of the premises by other tenants or any drug-related criminal activity on or off such premises, engaged in by a public housing tenant, any member of the tenant's household, or any guest or other person under the tenant's control, shall be cause for termination of tenancy;

(7) specify that with respect to any notice of eviction or termination, notwithstanding any State law, a public housing tenant shall be informed of the opportunity, prior to any hearing or trial, to examine any relevant documents, records or regulations directly related to the eviction or termination;

(7)[3] provide that any occupancy in violation of section 576(b) of the Quality Housing and Work Responsibility Act of

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[1] This paragraph was added by section 512(b) of the Quality Housing and Work Responsibility Act of 1998, title V of Public Law 105–276, approved October 21, 1998, which also redesignated the paragraphs that follow. Pursuant to section 503 of such Act (set forth in the footnote on page 114 of this compilation), the amendment was made on the date of enactment (and, therefore, the new paragraph is shown), but applies beginning upon October 1, 1999.

[2] Section 575(b)(1) of the Quality Housing and Work Responsibility Act of 1998, title V of Public Law 105–276, approved October 21, 1998, amended this paragraph by amending subparagraph (A) to read as shown and by adding the exception in subparagraph (C). Pursuant to section 503 of such Act (set forth in the footnote on page 114 of this compilation), the amendments were made on the date of enactment (and, therefore, the paragraph is shown as amended), but apply beginning upon October 1, 1999. Section 503 also provides that the provisions of this paragraph, as in effect immediately before the enactment of the 1998 Act, continue to apply until such applicability date (unless the Secretary provides by notice for earlier implementation of the amendments).

[3] So in law. Probably should be paragraph (8). This paragraph was added by section 575(b)(4) of the Quality Housing and Work Responsibility Act of 1998, title V of Public Law 105–276, approved October 21, 1998. Pursuant to section 503 of such Act (set forth in the footnote on page

1998 (relating to ineligibility of illegal drug users and alcohol abusers) or the furnishing of any false or misleading information pursuant to section 577 of such Act (relating to termination of tenancy and assistance for illegal drug users and alcohol abusers) shall be cause for termination of tenancy; [1]

(9) provide that it shall be cause for immediate termination of the tenancy of a public housing tenant if such tenant—

(A) is fleeing to avoid prosecution, or custody or confinement after conviction, under the laws of the place from which the individual flees, for a crime, or attempt to commit a crime, which is a felony under the laws of the place from which the individual flees, or which, in the case of the State of New Jersey, is a high misdemeanor under the laws of such State; or

(2)[2] is violating a condition of probation or parole imposed under Federal or State law.

For purposes of paragraph (5), 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 defined in section 102 of the Controlled Substances Act (21 U.S.C. 802)).

(m) The Secretary shall not impose any unnecessarily duplicative or burdensome reporting requirements on tenants or public housing agencies assisted under this Act.

(n) When a public housing agency evicts an individual or family from a dwelling unit for engaging in criminal activity, including drug-related criminal activity, the public housing agency shall notify the local post office serving that dwelling unit that such individual or family is no longer residing in the dwelling unit.

(o) In providing housing in low-income housing projects, each public housing agency may coordinate with any local public agencies involved in providing for the welfare of children to make available dwelling units to—

(1) families identified by the agencies as having a lack of adequate housing that is a primary factor—

(A) in the imminent placement of a child in foster care; or

(B) in preventing the discharge of a child from foster care and reunification with his or her family; and

(2) youth, upon discharge from foster care, in cases in which return to the family or extended family or adoption is not available.

[(p)[3] [Repealed.]**]**

(q) AVAILABILITY OF RECORDS.—

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114 of this compilation), the amendment was made on the date of enactment, but applies beginning upon October 1, 1999.

[1] So in law. Probably should have inserted "and" following the semicolon.

[2] Indented and designated so in law. Probably should be designated as subparagraph (B).

[3] This subsection was repealed by section 519(b) of the Quality Housing and Work Responsibility Act of 1998, title V of Public Law 105–276, approved October 21, 1998. Pursuant to section 503 of such Act (set forth in the footnote on page 114 of this compilation), the amendment was made on the date of enactment, but applies beginning upon October 1, 1999. Section 503 also provides that the provisions of this subsection, as in effect immediately before the enactment of the 1998 Act, continue to apply until such applicability date (unless the Secretary provides by notice for earlier implementation of the amendment).

(1) IN GENERAL.—

(A) PROVISION OF INFORMATION.—Notwithstanding any other provision of law, except as provided in subparagraph (C), the National Crime Information Center, police departments, and other law enforcement agencies shall, upon request, provide information to public housing [1] agencies regarding the criminal conviction records of adult applicants for, or tenants of, public housing for purposes of applicant screening, lease enforcement, and eviction.

(B) [2] REQUESTS BY OWNERS OF PROJECT-BASED SECTION 8 HOUSING.—A public housing agency may make a request under subparagraph (A) for information regarding applicants for, or tenants of, housing that is provided project-based assistance under section 8 only if the housing is located within the jurisdiction of the agency and the owner of such housing has requested that the agency obtain such information on behalf of the owner. Upon such a request by the owner, the agency shall make a request under subparagraph (A) for the information. The agency may not make such information available to the owner but shall perform determinations for the owner regarding screening, lease enforcement, and eviction based on criteria supplied by the owner.

(C) EXCEPTION.—A law enforcement agency described in subparagraph (A) shall provide information under this paragraph relating to any criminal conviction of a juvenile only to the extent that the release of such information is authorized under the law of the applicable State, tribe, or locality.

(2) OPPORTUNITY TO DISPUTE.—Before an adverse action is taken with regard to assistance under this title on the basis of a criminal record, the public housing agency shall provide the tenant or applicant with a copy of the criminal record and an opportunity to dispute the accuracy and relevance of that record.

(3) FEES.—A public housing agency may be charged a reasonable fee for information provided under paragraph (1). In the case of a public housing agency obtaining information pursuant to paragraph (1)(B) for another owner of housing, the agency may pass such fee on to the owner initiating the request and may charge additional reasonable fees for making

[1] Section 575(c)(1)(A)(ii) of the Quality Housing and Work Responsibility Act of 1998, title V of Public Law 105–276, approved October 21, 1998, amended this subparagraph by striking "public housing" and inserting "covered housing". Because the term "public housing" appears twice in this subparagraph, the amendment could not be executed. The amendment was probably intended to strike the second occurrence of the term. Pursuant to section 503 of such Act (set forth in the footnote on page 114 of this compilation), the amendments were to be made on the date of enactment (and, therefore, the subparagraph is shown as amended), but to apply beginning upon October 1, 1999. Section 503 also provides that the provisions of this subparagraph, as in effect immediately before the enactment of the 1998 Act, continue to apply until such applicability date (unless the Secretary provides by notice for earlier implementation of the amendments).

[2] This subparagraph was added by section 575(c)(1)(C) of the Quality Housing and Work Responsibility Act of 1998, title V of Public Law 105–276, approved October 21, 1998. Pursuant to section 503 of such Act (set forth in the footnote on page 114 of this compilation), the amendment was made on the date of enactment, but applies beginning upon October 1, 1999.

the request on behalf of the owner and taking other actions for owners under this subsection. [1]

(4) RECORDS MANAGEMENT.—Each public housing agency shall establish and implement a system of records management that ensures that any criminal record received by the public housing agency is—

(A) maintained confidentially;

(B) not misused or improperly disseminated; and

(C) destroyed, once the purpose for which the record was requested has been accomplished.

(5)[2] CONFIDENTIALITY.—A public housing agency receiving information under this subsection may use such information only for the purposes provided in this subsection and such information may not be disclosed to any person who is not an officer, employee, or authorized representative of the agency and who has a job-related need to have access to the information in connection with admission of applicants, eviction of tenants, or termination of assistance. For judicial eviction proceedings, disclosures may be made to the extent necessary. The Secretary shall, by regulation, establish procedures necessary to ensure that information provided under this subsection to a public housing agency is used, and confidentiality of such information is maintained, as required under this subsection. The Secretary shall establish standards for confidentiality of information obtained under this subsection by public housing agencies on behalf of owners.

(6)[2] PENALTY.—Any person who knowingly and willfully requests or obtains any information concerning an applicant for, or tenant of, covered housing assistance pursuant to the authority under this subsection under false pretenses, or any person who knowingly and willfully discloses any such information in any manner to any individual not entitled under any law to receive it, shall be guilty of a misdemeanor and fined not more than $5,000. The term "person" as used in this paragraph include an officer, employee, or authorized representative of any public housing agency.

(7)[2] CIVIL ACTION.—Any applicant for, or tenant of, covered housing assistance affected by (A) a negligent or knowing disclosure of information referred to in this subsection about such person by an officer, employee, or authorized representative of any public housing agency, which disclosure is not authorized by this subsection, or (B) any other negligent or knowing action that is inconsistent with this subsection, may bring

[1] Section 575(c)(2) of the Quality Housing and Work Responsibility Act of 1998, title V of Public Law 105–276, approved October 21, 1998, amended this paragraph by adding the last sentence and making a conforming amendment in the paragraph heading. Pursuant to section 503 of such Act (set forth in the footnote on page 114 of this compilation), the amendments were made on the date of enactment, but apply beginning upon October 1, 1999.

[2] Paragraphs (3) and (4) of section 575(c) of the Quality Housing and Work Responsibility Act of 1998, title V of Public Law 105–276, approved October 21, 1998, amended this subsection by striking the existing paragraph (5) and adding paragraphs (5) through (8), as shown. Pursuant to section 503 of such Act (set forth in the footnote on page 114 of this compilation), the amendments were made on the date of enactment (and, therefore, the subsection is shown as amended), but apply beginning upon October 1, 1999. Section 503 also provides that the provisions of this subsection, as in effect immediately before the enactment of the 1998 Act, continue to apply until such applicability date (unless the Secretary provides by notice for earlier implementation of the amendments).

a civil action for damages and such other relief as may be appropriate against any public housing agency responsible for such unauthorized action. The district court of the United States in the district in which the affected applicant or tenant resides, in which such unauthorized action occurred, or in which the officer, employee, or representative alleged to be responsible for any such unauthorized action resides, shall have jurisdiction in such matters. Appropriate relief that may be ordered by such district courts shall include reasonable attorney's fees and other litigation costs.

(8)[1] DEFINITIONS.—For purposes of this subsection, the following definitions shall apply:

(A) ADULT.—The term "adult" means a person who is 18 years of age or older, or who has been convicted of a crime as an adult under any Federal, State, or tribal law.

(B) COVERED HOUSING ASSISTANCE.—The term "covered housing assistance" means—

(i) a dwelling unit in public housing;

(ii) a dwelling unit in housing that is provided project-based assistance under section 8, including new construction and substantial rehabilitation projects; and

(iii) tenant-based assistance under section 8.

(C) OWNER.—The term "owner" means, with respect to covered housing assistance described in subparagraph (B)(ii), the entity or private person (including a cooperative or public housing agency) that has the legal right to lease or sublease dwelling units in the housing assisted.

(r) SITE-BASED WAITING LISTS.—

(1) AUTHORITY.—A public housing agency may establish procedures for maintaining waiting lists for admissions to public housing projects of the agency, which may include (notwithstanding any other law, regulation, handbook, or notice to the contrary) a system of site-based waiting lists under which applicants may apply directly at or otherwise designate the project or projects in which they seek to reside. All such procedures shall comply with all provisions of title VI of the Civil Rights Act of 1964, the Fair Housing Act, and other applicable civil rights laws.

(2) NOTICE.—Any system described in paragraph (1) shall provide for the full disclosure by the public housing agency to each applicant of any option available to the applicant in the selection of the project in which to reside.

(s)[2] AUTHORITY TO REQUIRE ACCESS TO CRIMINAL RECORDS.—A public housing agency may require, as a condition of providing admission to the public housing program or assisted housing program under the jurisdiction of the public housing agency, that each adult member of the household provide a signed, written authoriza-

[1] See footnote 2 on the preceding page.

[2] This subsection was added by section 575(d) of the Quality Housing and Work Responsibility Act of 1998, title V of Public Law 105–276, approved October 21, 1998, and redesignated by section 576(d)(1)(B) of such Act. Pursuant to section 503 of such Act (set forth in the footnote on page 114 of this compilation), the amendment was made on the date of enactment, but applies beginning upon October 1, 1999.

tion for the public housing agency to obtain records described in subsection (q)(1) regarding such member of the household from the National Crime Information Center, police departments, and other law enforcement agencies.

(t) OBTAINING INFORMATION FROM DRUG ABUSE TREATMENT FACILITIES.—

(1) AUTHORITY.—Notwithstanding any other provision of law other than the Public Health Service Act (42 U.S.C. 201 et seq.), a public housing agency may require each person who applies for admission to public housing to sign one or more forms of written consent authorizing the agency to receive information from a drug abuse treatment facility that is solely related to whether the applicant is currently engaging in the illegal use of a controlled substance.

(2) CONFIDENTIALITY OF APPLICANT'S RECORDS.—

(A) LIMITATION ON INFORMATION REQUESTED.—In a form of written consent, a public housing agency may request only whether the drug abuse treatment facility has reasonable cause to believe that the applicant is currently engaging in the illegal use of a controlled substance.

(B) RECORDS MANAGEMENT.—Each public housing agency that receives information under this subsection from a drug abuse treatment facility shall establish and implement a system of records management that ensures that any information received by the public housing agency under this subsection—

(i) is maintained confidentially in accordance with section 543 of the Public Health Service Act (12 U.S.C. 290dd–2);

(ii) is not misused or improperly disseminated; and

(iii) is destroyed, as applicable—

(I) not later than 5 business days after the date on which the public housing agency gives final approval for an application for admission; or

(II) if the public housing agency denies the application for admission, in a timely manner after the date on which the statute of limitations for the commencement of a civil action from the applicant based upon that denial of admission has expired.

(C) EXPIRATION OF WRITTEN CONSENT.—In addition to the requirements of subparagraph (B), an applicant's signed written consent shall expire automatically after the public housing agency has made a final decision to either approve or deny the applicant's application for admittance to public housing.

(3) PROHIBITION OF DISCRIMINATORY TREATMENT OF APPLICANTS.—

(A) FORMS SIGNED.—A public housing agency may only require an applicant for admission to public housing to sign one or more forms of written consent under this subsection if the public housing agency requires all such applicants to sign the same form or forms of written consent.

(B) CIRCUMSTANCES OF INQUIRY.—A public housing agency may only make an inquiry to a drug abuse treatment facility under this subsection if—

(i) the public housing agency makes the same inquiry with respect to all applicants; or

(ii) the public housing agency only makes the same inquiry with respect to each and every applicant with respect to whom—

(I) the public housing agency receives information from the criminal record of the applicant that indicates evidence of a prior arrest or conviction; or

(II) the public housing agency receives information from the records of prior tenancy of the applicant that demonstrates that the applicant—

(aa) engaged in the destruction of property;

(bb) engaged in violent activity against another person; or

(cc) interfered with the right of peaceful enjoyment of the premises of another tenant.

(4) FEE PERMITTED.—A drug abuse treatment facility may charge a public housing agency a reasonable fee for information provided under this subsection.

(5) DISCLOSURE PERMITTED BY TREATMENT FACILITIES.—A drug abuse treatment facility shall not be liable for damages based on any information required to be disclosed pursuant to this subsection if such disclosure is consistent with section 543 of the Public Health Service Act (42 U.S.C. 290dd–2).

(6) OPTION TO NOT REQUEST INFORMATION.—A public housing agency shall not be liable for damages based on its decision not to require each person who applies for admission to public housing to sign one or more forms of written consent authorizing the public housing agency to receive information from a drug abuse treatment facility under this subsection.

(7) DEFINITIONS.—For purposes of this subsection, the following definitions shall apply:

(A) DRUG ABUSE TREATMENT FACILITY.—The term "drug abuse treatment facility" means an entity that—

(i) is—

(I) an identified unit within a general medical care facility; or

(II) an entity other than a general medical care facility; and

(ii) holds itself out as providing, and provides, diagnosis, treatment, or referral for treatment with respect to the illegal use of a controlled substance.

(B) CONTROLLED SUBSTANCE.—The term "controlled substance" has the meaning given the term in section 102 of the Controlled Substances Act (21 U.S.C. 802).

(C) CURRENTLY ENGAGING IN THE ILLEGAL USE OF A CONTROLLED SUBSTANCE.—The term "currently engaging in the illegal use of a controlled substance" means the illegal use of a controlled substance that occurred recently enough

to justify a reasonable belief that an applicant's illegal use of a controlled substance is current or that continuing illegal use of a controlled substance by the applicant is a real and ongoing problem.

(8) EFFECTIVE DATE.—This subsection shall take effect upon enactment and without the necessity of guidance from, or any regulation issued by, the Secretary.

DESIGNATED HOUSING FOR ELDERLY AND DISABLED FAMILIES

SEC. 7. [42 U.S.C. 1437e] (a) AUTHORITY TO PROVIDE DESIGNATED HOUSING.—

(1) IN GENERAL.—Subject only to provisions of this section and notwithstanding any other provision of law, a public housing agency for which a plan under subsection (d) is in effect may provide public housing projects (or portions of projects) designated for occupancy by (A) only elderly families, (B) only disabled families, or (C) elderly and disabled families.

(2) PRIORITY FOR OCCUPANCY.—In determining priority for admission to public housing projects (or portions of projects) that are designated for occupancy as provided in paragraph (1), the public housing agency may make units in such projects (or portions) available only to the types of families for whom the project is designated.

(3) ELIGIBILITY OF NEAR-ELDERLY FAMILIES.—If a public housing agency determines that there are insufficient numbers of elderly families to fill all the units in a project (or portion of a project) designated under paragraph (1) for occupancy by only elderly families, the agency may provide that near-elderly families may occupy dwelling units in the project (or portion).

(b) STANDARDS REGARDING EVICTIONS.—Except as provided in section 16(e)(1)(B), any tenant who is lawfully residing in a dwelling unit in a public housing project may not be evicted or otherwise required to vacate such unit because of the designation of the project (or portion of a project) pursuant to this section or because of any action taken by the Secretary or any public housing agency pursuant to this section.

(c) RELOCATION ASSISTANCE.—A public housing agency that designates any existing project or building, or portion thereof, for occupancy as provided under subsection (a)(1) shall provide, to each person and family who agrees to be relocated in connection with such designation—

(1) notice of the designation and an explanation of available relocation benefits, as soon as is practicable for the agency and the person or family;

(2) access to comparable housing (including appropriate services and design features), which may include tenant-based rental assistance under section 8, at a rental rate paid by the tenant that is comparable to that applicable to the unit from which the person or family has vacated; and

(3) payment of actual, reasonable moving expenses.

(d) REQUIRED PLAN.—A plan under this subsection for designating a project (or portion of a project) for occupancy under subsection (a)(1) is a plan, prepared by the public housing agency for the project and submitted to the Secretary, that—

(1) establishes that the designation of the project is necessary—

(A) to achieve the housing goals for the jurisdiction under the comprehensive housing affordability strategy under section 105 of the Cranston-Gonzalez National Affordable Housing Act; and

(B) to meet the housing needs of the low-income population of the jurisdiction; and

(2) includes a description of—

(A) the project (or portion of a project) to be designated;

(B) the types of tenants for which the project is to be designated;

(C) any supportive services to be provided to tenants of the designated project (or portion);

(D) how the design and related facilities (as such term is defined in section 202(d)(8)[1] of the Housing Act of 1959) of the project accommodate the special environmental needs of the intended occupants; and

(E) any plans to secure additional resources or housing assistance to provide assistance to families that may have been housed if occupancy in the project were not restricted pursuant to this section.

For purposes of this subsection, the term "supportive services" means services designed to meet the special needs of residents.

(e) REVIEW OF PLANS.—

(1) REVIEW AND NOTIFICATION.—The Secretary shall conduct a limited review of each plan under subsection (d) that is submitted to the Secretary to ensure that the plan is complete and complies with the requirements of subsection (d). The Secretary shall notify each public housing agency submitting a plan whether the plan complies with such requirements not later than 60 days after receiving the plan. If the Secretary does not notify the public housing agency, as required under this paragraph or paragraph (2), the plan shall be considered, for purposes of this section, to comply with the requirements under subsection (d) and the Secretary shall be considered to have notified the agency of such compliance upon the expiration of such 60-day period.

(2) NOTICE OF REASONS FOR DETERMINATION OF NONCOMPLIANCE.—If the Secretary determines that a plan, as submitted, does not comply with the requirements under subsection (d), the Secretary shall specify in the notice under paragraph (1) the reasons for the noncompliance and any modifications necessary for the plan to meet such requirements.

(3) STANDARDS FOR DETERMINATION OF NONCOMPLIANCE.—The Secretary may determine that a plan does not comply with the requirements under subsection (d) only if—

(A) the plan is incomplete in significant matters required under such subsection; or

[1] Refers to section 202(d)(8) as in effect before October 1, 1991.

(B) there is evidence available to the Secretary that challenges, in a substantial manner, any information provided in the plan.

(4) TREATMENT OF EXISTING PLANS.—Notwithstanding any other provision of this section, a public housing agency shall be considered to have submitted a plan under this subsection if the agency has submitted to the Secretary an application and allocation plan under this section (as in effect before the date of the enactment of the Housing Opportunity Program Extension Act of 1996 [1]) that have not been approved or disapproved before such date of enactment.

(f) EFFECTIVENESS.—

(1) 5-YEAR EFFECTIVENESS OF ORIGINAL PLAN.—A plan under subsection (d) shall be in effect for purposes of this section during the 5-year period that begins upon notification under subsection (e)(1) of the public housing agency that the plan complies with the requirements under subsection (d).

(2) RENEWAL OF PLAN.—Upon the expiration of the 5-year period under paragraph (1) or any 2-year period under this paragraph, an agency may extend the effectiveness of the designation and plan for an additional 2-year period (that begins upon such expiration) by submitting to the Secretary any information needed to update the plan. The Secretary may not limit the number of times a public housing agency extends the effectiveness of a designation and plan under this paragraph.

(3) TRANSITION PROVISION.—Any application and allocation plan approved under this section (as in effect before the date of the enactment of the Housing Opportunity Program Extension Act of 1996 [1]) before such date of enactment shall be considered to be a plan under subsection (d) that is in effect for purposes of this section for the 5-year period beginning upon such approval.

(g) INAPPLICABILITY OF UNIFORM RELOCATION ASSISTANCE AND REAL PROPERTY ACQUISITIONS POLICY ACT OF 1970.—No tenant of a public housing project shall be considered to be displaced for purposes of the Uniform Relocation Assistance and Real Property Acquisitions [2] Policy Act of 1970 because of the designation of any existing project or building, or portion thereof, for occupancy as provided under subsection (a) of this section.

LOWER INCOME HOUSING ASSISTANCE

SEC. 8. [42 U.S.C. 1437f] (a) [3] For the purpose of aiding lower-income families in obtaining a decent place to live and of promoting economically mixed housing, assistance payments may be made

[1] March 28, 1996.

[2] So in law. Probably should be "Acquisition".

[3] Section 550(a)(1) of the Quality Housing and Work Responsibility Act of 1998, title V of Public Law 105–276, approved October 21, 1998, amended this subsection by striking the second and third sentences (relating to public housing agencies as owners of section 8 housing). Pursuant to section 503 of such Act (set forth in the footnote on page 114 of this compilation), the amendment was made on the date of enactment (and, therefore, the subsection is shown as amended), but applies beginning upon October 1, 1999. Section 503 also provides that the provisions of this subsection, as in effect immediately before the enactment of the 1998 Act, continue to apply until such applicability date (unless the Secretary provides by notice for earlier implementation of the amendment).

with respect to existing housing in accordance with the provisions of this section.

(b) OTHER EXISTING HOUSING PROGRAMS.—(1) IN GENERAL.—The Secretary is authorized to enter into annual contributions contracts with public housing agenices pursuant to which such agencies may enter into contracts to make assistance payments to owners of existing dwelling units in accordance with this section. In areas where no public housing agency has been organized or where the Secretary determines that a public housing agency is unable to implement the provisions of this section, the Secretary is authorized to enter into such contracts and to perform the other functions assigned to a public housing agency by this section [1].

(2) The Secretary is authorized to enter into annual contributions contracts with public housing agencies for the purpose of replacing public housing transferred in accordance with title III of this Act. Each contract entered into under this subsection shall be for a term of not more than 60 months.

(c)(1) [2] An assistance contract entered into pursuant to this section shall establish the maximum monthly rent (including utilities and all maintenance and management charges) which the owner is entitled to receive for each dwelling unit with respect to which such assistance payments are to be made. The maximum monthly rent shall not exceed by more than 10 per centum the fair market rental established by the Secretary periodically but not less than annually for existing or newly constructed rental dwelling units of various sizes and types in the market area suitable for occupancy by persons assisted under this section, except that the maximum monthly rent may exceed the fair market rental (A) by more than 10 but not more than 20 per centum where the Secretary determines that special circumstances warrant such higher maximum rent or that such higher rent is necessary to the implementation of a housing strategy as defined in section 105 of the Cranston-Gonzalez National Affordable Housing Act, or (B) by such higher amount as may be requested by a tenant and approved by the public housing agency in accordance with paragraph (3)(B). In the case of newly constructed and substantially rehabilitated units, the exception in the preceding sentence shall not apply to more than 20 per centum of the total amount of authority to enter into annual contributions contracts for such units which is allocated to an area and obligated with respect to any fiscal year beginning on or after October 1,

[1] Section 550(a)(2) of the Quality Housing and Work Responsibility Act of 1998, title V of Public Law 105–276, approved October 21, 1998, amended this subsection by striking the second sentence (relating to annual contributions contracts) and making clerical corrections. Pursuant to section 503 of such Act (set forth in the footnote on page 114 of this compilation), the amendments were made on the date of enactment (and, therefore, the subsection is shown as amended), but apply beginning upon October 1, 1999. Section 503 also provides that the provisions of this subsection, as in effect immediately before the enactment of the 1998 Act, continue to apply until such applicability date (unless the Secretary provides by notice for earlier implementation of the amendments).

[2] Section 550(a)(3) of the Quality Housing and Work Responsibility Act of 1998, title V of Public Law 105–276, approved October 21, 1998, amended this subsection by striking the paragraphs formerly designated as (5) and (7) (and redesignating accordingly). Pursuant to section 503 of such Act (set forth in the footnote on page 114 of this compilation), the amendments were made on the date of enactment (and, therefore, the subsection is shown as amended), but apply beginning upon October 1, 1999. Section 503 also provides that the provisions of this subsection, as in effect immediately before the enactment of the 1998 Act, continue to apply until such applicability date (unless the Secretary provides by notice for earlier implementation of the amendments).

1980. Proposed fair market rentals for an area shall be published in the Federal Register with reasonable time for public comment, and shall become effective upon the date of publication in final form in the Federal Register. Each fair market rental in effect under this subsection shall be adjusted to be effective on October 1 of each year to reflect changes, based on the most recent available data trended so the rentals will be current for the year to which they apply, of rents for existing or newly constructed rental dwelling units, as the case may be, of various sizes and types in the market area suitable for occupancy by persons assisted under this section. Notwithstanding any other provision of this section, after the date of enactment of the Housing and Community Development Act of 1977, the Secretary shall prohibit high-rise elevator projects for families with children unless there is no practical alternative. The Secretary shall establish separate fair market rentals under this paragraph for Westchester County in the State of New York. The Secretary shall also establish separate fair market rentals under this paragraph for Monroe County in the Commonwealth of Pennsylvania. In establishing fair market rentals for the remaining portion of the market area in which Monroe County is located, the Secretary shall establish the fair market rentals as if such portion included Monroe County. If units assisted under this section are exempt from local rent control while they are so assisted or otherwise, the maximum monthly rent for such units shall be reasonable in comparison with other units in the market area that are exempt from local rent control.

(2)(A) The assistance contract shall provide for adjustment annually or more frequently in the maximum monthly rents for units covered by the contract to reflect changes in the fair market rentals established in the housing area for similar types and sizes of dwelling units or, if the Secretary determines, on the basis of a reasonable formula. However, where the maximum monthly rent, for a unit in a new construction, substantial rehabilitation, or moderate rehabilitation project, to be adjusted using an annual adjustment factor exceeds the fair market rental for an existing dwelling unit in the market area, the Secretary shall adjust the rent only to the extent that the owner demonstrates that the adjusted rent would not exceed the rent for an unassisted unit of similar quality, type, and age in the same market area, as determined by the Secretary. [1] The immediately foregoing sentence shall be effective only during fiscal year 1995, fiscal year 1996 prior to April 26, 1996, and fiscal years 1997 and 1998, and during fiscal year 1999 and thereafter. Except for assistance under the certificate program, for any unit occupied by the same family at the time of the last annual rental adjustment, where the assistance contract provides for the adjustment of the maximum monthly rent by applying an annual adjustment factor and where the rent for a unit is otherwise eligible for an adjustment based on the full amount of the factor, 0.01 shall be

[1] The Departments of Veterans Affairs and Housing and Urban Development, and Independent Agencies Appropriations Act, 1995, Public Law 103–327, 108 Stat. 2315, approved September 28, 1994, amended this subsection by inserting this sentence and the sentence that follows. Such Act provides that "[such] amendment shall apply to all contracts for new construction, substantial rehabilitation, and moderate rehabilitation projects under which rents are adjusted under section 8(c)(2)(A) of [the United States Housing Act of 1937] by applying an annual adjustment factor.".

subtracted from the amount of the factor, except that the factor shall not be reduced to less than 1.0. In the case of assistance under the certificate program, 0.01 shall be subtracted from the amount of the annual adjustment factor (except that the factor shall not be reduced to less than 1.0), and the adjusted rent shall not exceed the rent for a comparable unassisted unit of similar quality, type, and age in the market area.[1] The immediately foregoing two sentences shall be effective only during fiscal year 1995, fiscal year 1996 prior to April 26, 1996, and fiscal years 1997 and 1998, and during fiscal year 1999 and thereafter. In establishing annual adjustment factors for units in new construction and substantial rehabilitation projects, the Secretary shall take into account the fact that debt service is a fixed expense. The immediately foregoing sentence shall be effective only during fiscal year 1998.

(B) The contract shall further provide for the Secretary to make additional adjustments in the maximum monthly rent for units under contract to the extent he determines such adjustments are necessary to reflect increases in the actual and necessary expenses of owning and maintaining the units which have resulted from substantial general increases in real property taxes, utility rates, or similar costs which are not adequately compensated for by the adjustment in the maximum monthly rent authorized by subparagraph (A). The Secretary shall make additional adjustments in the maximum monthly rent for units under contract (subject to the availability of appropriations for contract amendments) to the extent the Secretary determines such adjustments are necessary to reflect increases in the actual and necessary expenses of owning and maintaining the units that have resulted from the expiration of a real property tax exemption. Where the Secretary determines that a project assisted under this section is located in a community where drug-related criminal activity is generally prevalent and the project's operating, maintenance, and capital repair expenses have been substantially increased primarily as a result of the prevalence of such drug-related activity, the Secretary may (at the discretion of the Secretary and subject to the availability of appropriations for contract amendments for this purpose), on a project by project basis, provide adjustments to the maximum monthly rents, to a level no greater than 120 percent of the project rents, to cover the costs of maintenance, security, capital repairs, and reserves required for the owner to carry out a strategy acceptable to the Secretary for addressing the problem of drug-related criminal activity. Any rent comparability standard required under this paragraph may be waived by the Secretary to so implement the preceding sentence. The Secretary may (at the discretion of the Secretary and subject to the availability of appropriations for contract amendments), on a project by project basis for projects receiving project-based assistance, provide adjustments to the maximum monthly rents to cover the costs of evaluating and reducing lead-based paint

[1] The Departments of Veterans Affairs and Housing and Urban Development, and Independent Agencies Appropriations Act, 1995, Public Law 103–327, 108 Stat. 2315, approved September 28, 1994, amended this subsection by inserting this sentence and the sentence that follows. Such Act provides that such amendment "shall hereafter apply to all contracts that are subject to section 8(c)(2)(A) of [the United States Housing Act of 1937] and that provide for rent adjustments using an annual adjustment factor.".

hazards, as defined in section 1004 of the Residential Lead-Based Paint Hazard Reduction Act of 1992.

(C) Adjustments in the maximum rents under subparagraphs (A) and (B) shall not result in material differences between the rents charged for assisted units and unassisted units of similar quality, type, and age in the same market area, as determined by the Secretary. In implementing the limitation established under the preceding sentence, the Secretary shall establish regulations for conducting comparability studies for projects where the Secretary has reason to believe that the application of the formula adjustments under subparagraph (A) would result in such material differences. The Secretary shall conduct such studies upon the request of any owner of any project, or as the Secretary determines to be appropriate by establishing, to the extent practicable, a modified annual adjustment factor for such market area, as the Secretary shall designate, that is geographically smaller than the applicable housing area used for the establishment of the annual adjustment factor under subparagraph (A). The Secretary shall establish such modified annual adjustment factor on the basis of the results of a study conducted by the Secretary of the rents charged, and any change in such rents over the previous year, for assisted units and unassisted units of similar quality, type, and age in the smaller market area. Where the Secretary determines that such modified annual adjustment factor cannot be established or that such factor when applied to a particular project would result in material differences between the rents charged for assisted units and unassisted units of similar quality, type, and age in the same market area, the Secretary may apply an alternative methodology for conducting comparability studies in order to establish rents that are not materially different from rents charged for comparable unassisted units. If the Secretary or appropriate State agency does not complete and submit to the project owner a comparability study not later than 60 days before the anniversary date of the assistance contract under this section, the automatic annual adjustment factor shall be applied. The Secretary may not reduce the contract rents in effect on or after April 15, 1987, for newly constructed, substantially rehabilitated, or moderately rehabilitated projects assisted under this section (including projects assisted under this section as in effect prior to November 30, 1983), unless the project has been refinanced in a manner that reduces the periodic payments of the owner. Any maximum monthly rent that has been reduced by the Secretary after April 14, 1987, and prior to the enactment of this sentence shall be restored to the maximum monthly rent in effect on April 15, 1987. For any project which has had its maximum monthly rents reduced after April 14, 1987, the Secretary shall make assistance payments (from amounts reserved for the original contract) to the owner of such project in an amount equal to the difference between the maximum monthly rents in effect on April 15, 1987, and the reduced maximum monthly rents, multiplied by

the number of months that the reduced maximum monthly rents were in effect.[1]

(3)[2] The amount of the monthly assistance payment with respect to any dwelling unit shall be the difference between the maximum monthly rent which the contract provides that the owner is to receive for the unit and the rent the family is required to pay under section 3(a) of this Act. Reviews of family income shall be made no less frequently than annually.

(4)[3] The assistance contract shall provide that assistance payments may be made only with respect to a dwelling unit under lease for occupancy by a family determined to be a lower income family at the time it initially occupied such dwelling unit, except that such payments may be made with respect to unoccupied units for a period not exceeding sixty days (A) in the event that a family vacates a dwelling unit before the expiration date of the lease for occupancy or (B) where a good faith effort is being made to fill an unoccupied unit, and, subject to the provisions of the following sentence, such payments may be made, in the case of a newly constructed or substantially rehabilitated project, after such sixty-day period in an amount equal to the debt service attributable to such an unoccupied dwelling unit for a period not to exceed one year, if a good faith effort is being made to fill the unit and the unit provides decent, safe, and sanitary housing. No such payment may be made after such sixty-day period if the Secretary determines that the dwelling unit is in a project which provides the owner with revenues exceeding the costs incurred by such owner with respect to such project.

(5) The Secretary shall take such steps as may be necessary, including the making of contracts for assistance payments in amounts in excess of the amounts required at the time of the initial renting of dwelling units, the reservation of annual contributions authority for the purpose of amending housing assistance contracts, or the allocation of a portion of new authorizations for the purpose

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[1] Section 1004(a) of the Stewart B. McKinney Homeless Assistance Amendments Act of 1988, Public Law 100–628, added this sentence and the preceding sentence. Section 1004(b) of such Act provides as follows:

"(b) BUDGET COMPLIANCE.—During fiscal year 1989, the amendment made by subsection (a)(2) shall be effective only to such extent or in such amounts as are provided in appropriation Acts. For purposes of section 202 of the Balanced Budget and Emergency Deficit Control Reaffirmation Act of 1987 (Public Law 100–119), to the extent that this section has the effect of transferring an outlay of the United States from one fiscal year to an adjacent fiscal year, the transfer is a necessary (but secondary) result of a significant policy change.".

[2] Section 550(a)(3) of the Quality Housing and Work Responsibility Act of 1998, title V of Public Law 105–276, approved October 21, 1998, amended this paragraph by striking subparagraph (B) (relating to authority for a family to pay more than 30 percent of adjusted income for rent) and making conforming amendments. Pursuant to section 503 of such Act (set forth in the footnote on page 114 of this compilation), the amendments were made on the date of enactment (and, therefore, the paragraph is shown as amended), but apply beginning upon October 1, 1999. Section 503 also provides that the provisions of this paragraph, as in effect immediately before the enactment of the 1998 Act, continue to apply until such applicability date (unless the Secretary provides by notice for earlier implementation of the amendments).

[3] Section 550(a)(3) of the Quality Housing and Work Responsibility Act of 1998, title V of Public Law 105–276, approved October 21, 1998, amended this sentence by striking "or by a family that qualifies to receive assistance under subsection (b) pursuant to section 223 of the Low-Income Housing Preservation and Resident Homeownership Act of 1990". Pursuant to section 503 of such Act (set forth in the footnote on page 114 of this compilation), the amendment was made on the date of enactment (and, therefore, the sentence is shown as amended), but applies beginning upon October 1, 1999. Section 503 also provides that the provisions of this sentence, as in effect immediately before the enactment of the 1998 Act, continue to apply until such applicability date (unless the Secretary provides by notice for earlier implementation of the amendment).

of amending housing assistance contracts, to assure that assistance payments are increased on a timely basis to cover increases in maximum monthly rents or decreases in family incomes.

[(6) [Repealed.]]

[(7) [Repealed.]]

(8)(A) Not less than one year before terminating any contract under which assistance payments are received under this section, other than a contract for tenant-based assistance under this section, an owner shall provide written notice to the Secretary and the tenants involved of the proposed termination, specifying the reasons for the termination with sufficient detail to enable the Secretary to evaluate whether the termination is lawful and whether there are additional actions that can be taken by the Secretary to avoid the termination. The owner's notice shall include a statement that the owner and the Secretary may agree to a renewal of the contract, thus avoiding the termination.

(B)[1] In the case of owner who has requested that the Secretary renew the contract, the owner's notice under subparagraph (A) to the tenants shall include statements that—

(i) the owner currently has a contract with the Department of Housing and Urban Development that pays the Government's share of the tenant's rent and the date on which the contract will expire;

(ii) the owner intends to renew the contract for another year;

(iii) renewal of the contract may depend upon the Congress making funds available for such renewal;

(iv) the owner is required by law to notify tenants of the possibility that the contract may not be renewed if Congress does not provide funding for such renewals;

(v) in the event of nonrenewal, the Department of Housing and Urban Development will provide tenant-based rental assistance to all eligible residents, enabling them to choose the place they wish to rent; and

(vi) the notice itself does not indicate an intent to terminate the contract by either the owner or the Department of Housing and Urban Development, provided there is Congressional approval of funding availability.

(C)[1] Notwithstanding the preceding provisions of this paragraph, if the owner agrees to a 5-year contract renewal offered by the Secretary, payments under which shall be subject to the availability of appropriations for any year, the owner shall provide a written notice to the Secretary and the tenants not less than 180 days before the termination of such contract. In the event the owner does not provide the 180-day notice required in the immediately preceding sentence, the owner may not evict the tenants or increase the tenants' rent payment until such time as the owner has provided the 180-day notice and such period has elapsed. The Secretary may allow the owner to renew the terminating contract

[1] Subparagraphs (B), (C), (D), and (E) weres added by section 549(b)(2) of the Quality Housing and Work Responsibility Act of 1998, title V of Public Law 105–276, approved October 21, 1998. Pursuant to section 503 of such Act (set forth in the footnote on page 114 of this compilation), the amendment was made on the date of enactment, but applies beginning upon October 1, 1999.

for a period of time sufficient to give tenants 180 days of advance notice under such terms and conditions as the Secretary may require.

(D)[1] Any notice under this paragraph shall also comply with any additional requirements established by the Secretary.

(E)[1] For purposes of this paragraph, the term "termination" means the expiration of the assistance contract or an owner's refusal to renew the assistance contract, and such term shall include termination of the contract for business reasons.

(d)(1) Contracts to make assistance payments entered into by a public housing agency with an owner of existing housing units shall provide (with respect to any unit) that—

(A) the selection of tenants shall be the function of the owner, subject to the annual contributions contract between the Secretary and the agency, except that with respect to the certificate and moderate rehabilitation programs only, for the purpose of selecting families to be assisted, the public housing agency may establish local preferences, consistent with the public housing agency plan submitted under section 5A by the public housing agency;

(B)(i) the lease between the tenant and the owner shall be for at least one year or the term of such contract, whichever is shorter, and shall contain other terms and conditions specified by the Secretary;

(ii) during the term of the lease, the owner shall not terminate the tenancy except for serious or repeated violation of the terms and conditions of the lease, for violation of applicable Federal, State, or local law, or for other good cause;

(iii) during the term of the lease, any criminal activity that threatens the health, safety, or right to peaceful enjoyment of the premises by other tenants, any criminal activity that threatens the health, safety, or right to peaceful enjoyment of their residences by persons residing in the immediate vicinity of the premises, or any drug-related criminal activity on or near such premises, engaged in by a tenant of any unit, any member of the tenant's household, or any guest or other person under the tenant's control, shall be cause for termination of tenancy;

(iv) any termination of tenancy shall be preceded by the owner's provision of written notice to the tenant specifying the grounds for such action; and

(v)[2] it shall be cause for termination of the tenancy of a tenant if such tenant—

(I) is fleeing to avoid prosecution, or custody or confinement after conviction, under the laws of the place from which the individual flees, for a crime, or attempt to commit a crime, which is a felony under the laws of the place from which the individual flees, or which, in the case of the State of New Jersey, is a high misdemeanor under the laws of such State; or

[1] See footnote 1 on the preceding page.
[2] Indented so in law.

(II) is violating a condition of probation or parole imposed under Federal or State law;

(C) maintenance and replacement (including redecoration) shall be in accordance with the standard practice for the building concerned as established by the owner and agreed to by the agency; and

(D) the agency and the owner shall carry out such other appropriate terms and conditions as may be mutually agreed to by them.

(2)(A)[1] Each contract for an existing structure entered into under this section shall be for a term of not less than one month nor more than one hundred and eighty months. The Secretary shall permit public housing agencies to enter into contracts for assistance payments of less than 12 months duration in order to avoid disruption in assistance to eligible families if the annual contributions contract is within 1 year of its expiration date.

(B)(i) In determining the amount of assistance provided under an assistance contract for project-based assistance under this paragraph or a contract for assistance for housing constructed or substantially rehabilitated pursuant to assistance provided under section 8(b)(2) of this Act (as such section existed immediately before October 1, 1983), the Secretary may consider and annually adjust, with respect to such project, for the cost of employing or otherwise retaining the services of one or more service coordinators under section 661[2] of the Housing and Community Development Act of 1992 to coordinate the provision of any services within the project for residents of the project who are elderly or disabled families.

(ii) The budget authority available under section 5(c) for assistance under this section is authorized to be increased by $15,000,000 on or after October 1, 1992, and by $15,000,000 on or after October 1, 1993. Amounts made available under this subparagraph shall be used to provide additional amounts under annual contributions contracts for assistance under this section which shall be made available through assistance contracts only for the purpose of providing service coordinators under clause (i) for projects receiving project-based assistance under this paragraph and to provide additional amounts under contracts for assistance for projects constructed or substantially rehabilitated pursuant to assistance provided under section 8(b)(2) of this Act (as such section existed immediately before October 1, 1983) only for such purpose.

(C)[3] An assistance contract for project-based assistance under this paragraph shall provide that the owner shall ensure and maintain compliance with subtitle C of title VI of the

[1] Section 550(a)(4) of the Quality Housing and Work Responsibility Act of 1998, title V of Public Law 105–276, approved October 21, 1998, amended this paragraph by striking material in subparagraphs (A) and (H), striking subparagraphs (B) through (E) (relating to project-based assistance), and redesignating accordingly. Pursuant to section 503 of such Act (set forth in the footnote on page 114 of this compilation), the amendments were made on the date of enactment (and, therefore, the paragraph is shown as amended), but apply beginning upon October 1, 1999. Section 503 also provides that the provisions of this paragraph, as in effect immediately before the enactment of the 1998 Act, continue to apply until such applicability date (unless the Secretary provides by notice for earlier implementation of the amendments).

[2] So in law. Probably intended to refer to section 671 of such Act.

[3] Indented so in law.

Housing and Community Development Act of 1992 and any regulations issued under such subtitle.

(D)[1] An owner of a covered section 8 housing project (as such term is defined in section 659 of the Housing and Community Development Act of 1992) may give preference for occupancy of dwelling units in the project, and reserve units for occupancy, in accordance with subtitle D of title VI of the Housing and Community Development Act of 1992.

(3) Notwithstanding any other provision of law, with the approval of the Secretary the public housing agency administering a contract under this section with respect to existing housing units may exercise all management and maintenance responsibilities with respect to those units pursuant to a contract between such agency and the owner of such units.

(4) A public housing agency that serves more than one unit of general local government may, at the discretion of the agency, in allocating assistance under this section, give priority to disabled families that are not elderly families.

(5)[1] CALCULATION OF LIMIT.—Any contract entered into under section 514 of the Multifamily Assisted Housing Reform and Affordability Act of 1997 shall be excluded in computing the limit on project-based assistance under this subsection.

(6)[2] TREATMENT OF COMMON AREAS.—The Secretary may not provide any assistance amounts pursuant to an existing contract for project-based assistance under this section for a housing project and may not enter into a new or renewal contract for such assistance for a project unless the owner of the project provides consent, to such local law enforcement agencies as the Secretary determines appropriate, for law enforcement officers of such agencies to enter common areas of the project at any time and without advance notice upon a determination of probable cause by such officers that criminal activity is taking place in such areas.

(e)(1) Nothing in this Act shall be deemed to prohibit an owner from pledging, or offering as security for any loan or obligation, a contract for assistance payments entered into pursuant to this section: *Provided,* That such security is in connection with a project constructed or rehabilitated pursuant to authority granted in this section, and the terms of the financing or any refinancing have been approved by the Secretary.

[(2) [Repealed.]][3]

(f) As used in this section—

(1) the term "owner" means any private person or entity, including a cooperative, an agency of the Federal Government,

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[1] Indented so in law.

[2] This paragraph was added by section 552 of the Quality Housing and Work Responsibility Act of 1998, title V of Public Law 105–276, approved October 21, 1998. Pursuant to section 503 of such Act (set forth in the footnote on page 114 of this compilation), the amendment was made on the date of enactment, but applies beginning upon October 1, 1999.

[3] Section 289(a) of the Cranston-Gonzalez National Affordable Housing Act, Public Law 101–625, provides that no new grants shall be made under this paragraph after October 1, 1991, except for funds allocated for single room occupancy dwellings as authorized by title IV of the Stewart B. McKinney Homeless Assistance Act. Section 289(b) of such Act repealed this paragraph, effective on October 1, 1991, except with respect to single-room occupancy dwellings under title IV of the Stewart B. McKinney Homeless Assistance Act.

The provisions of this paragraph, as in effect on the date of such repeal, are set forth in the footnote to section 441 of the Stewart B. McKinney Homeless Assistance Act, found in part VI of this compilation.

or a public housing agency, having the legal right to lease or sublease dwelling units;

(2) the terms "rent" or "rental" mean, with respect to members of a cooperative, the charges under the occupancy agreements between such members and the cooperative;

(3) the term "debt service" means the required payments for principal and interest made with respect to a mortgage secured by housing assisted under this Act;

(4) the term "participating jurisdiction" means a State or unit of general local government designated by the Secretary to be a participating jurisdiction under title II of the Cranston-Gonzalez National Affordable Housing Act;

(5) 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 defined in section 102 of the Controlled Substances Act (21 U.S.C. 802));

(6) the term "project-based assistance" means rental assistance under subsection (b) that is attached to the structure pursuant to subsection (d)(2) or (o)(13) [1]; and

(7) [2] the term "tenant-based assistance" means rental assistance under subsection (o) that is not project-based assistance and that provides for the eligible family to select suitable housing and to move to other suitable housing.

(g) Notwithstanding any other provision of this Act, assistance payments under this section may be provided, in accordance with regulations prescribed by the Secretary, with respect to some or all of the units in any project approved pursuant to section 202 of the Housing Act of 1959.

(h) Sections 5(e) and 6 (except as provided in section 6(j)(3)) [3] and any other provisions of this Act which are inconsistent with the provisions of this section shall not apply to contracts for assistance entered into under this section.

(i) The Secretary may not consider the receipt by a public housing agency of assistance under section 811(b)(1) of the Cranston-Gonzalez National Affordable Housing Act, or the amount received, in approving assistance for the agency under this section or determining the amount of such assistance to be provided.

[(j) [Repealed.]] [4]

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[1] Section 545(b) of the Quality Housing and Work Responsibility Act of 1998, title V of Public Law 105–276, approved October 21, 1998, amended this paragraph by inserting the reference to subsection (o)(13). Pursuant to section 503 of such Act (set forth in the footnote on page 114 of this compilation), the amendment was made on the date of enactment, but applies beginning upon October 1, 1999.

[2] Section 550(a)(5) of the Quality Housing and Work Responsibility Act of 1998, title V of Public Law 105–276, approved October 21, 1998, amended this paragraph by striking a reference to subsection (b) and adding the references at the end to suitable housing. Pursuant to section 503 of such Act (set forth in the footnote on page 114 of this compilation), the amendments were made on the date of enactment (and, therefore, the paragraph is shown as amended), but apply beginning upon October 1, 1999. Section 503 also provides that the provisions of this paragraph, as in effect immediately before the enactment of the 1998 Act, continue to apply until such applicability date (unless the Secretary provides by notice for earlier implementation of the amendments).

[3] Section 565(c) of the Quality Housing and Work Responsibility Act of 1998, title V of Public Law 105–276, approved October 21, 1998, amended this subsection by inserting "(except as provided in section 6(j)(3))" after "section 6". The amendment could not be executed.

[4] Paragraphs (6) and (7) of section 550(a) of the Quality Housing and Work Responsibility Act of 1998, title V of Public Law 105–276, approved October 21, 1998, amended this section by

Continued

(k) The Secretary shall establish procedures which are appropriate and necessary to assure that income data provided to public housing agencies and owners by families applying for or receiving assistance under this section is complete and accurate. In establishing such procedures, the Secretary shall randomly, regularly, and periodically select a sample of families to authorize the Secretary to obtain information on these families for the purpose of income verification, or to allow those families to provide such information themselves. Such information may include, but is not limited to, data concerning unemployment compensation and Federal income taxation and data relating to benefits made available under the Social Security Act, the Food Stamp Act of 1977, or title 38, United States Code. Any such information received pursuant to this subsection shall remain confidential and shall be used only for the purpose of verifying incomes in order to determine eligibility of families for benefits (and the amount of such benefits, if any) under this section.

[(l) [Repealed.]]

[(m) [Repealed.]]

[(n) [Repealed.]] [1]

(o) [2] VOUCHER PROGRAM.—

(1) AUTHORITY.—

(A) IN GENERAL.—The Secretary may provide assistance to public housing agencies for tenant-based assistance using a payment standard established in accordance with subparagraph (B). The payment standard shall be used to determine the monthly assistance that may be paid for any family, as provided in paragraph (2).

(B) ESTABLISHMENT OF PAYMENT STANDARD.—Except as provided under subparagraph (D), the payment stand-

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striking subsections (j) and (n) (relating to assistance for manufactured homes and single room occupancy dwellings, respectively). Pursuant to section 503 of such Act (set forth in the footnote on page 114 of this compilation), the amendments were made on the date of enactment (and, therefore, the section is shown as amended), but apply beginning upon October 1, 1999. Section 503 also provides that the provisions of this section, as in effect immediately before the enactment of the 1998 Act, continue to apply until such applicability date (unless the Secretary provides by notice for earlier implementation of the amendments).

[1] See footnote 4 on the preceding page.

[2] Section 545(a) of the Quality Housing and Work Responsibility Act of 1998, title V of Public Law 105–276, approved October 21, 1998, amended this subsection to read as shown. Pursuant to section 503 of such Act (set forth in the footnote on page 114 of this compilation), the amendment was made on the date of enactment (and, therefore, the new subsection is shown), but applies beginning upon October 1, 1999. Section 503 also provides that the provisions of this subsection, as in effect immediately before the enactment of the 1998 Act, continue to apply until such applicability date (unless the Secretary provides by notice for earlier implementation of the amendment).

However, subsections (d) and (e) of section 559 of such Act provide as follows:

"(d) CONVERSION ASSISTANCE.—

"(1) IN GENERAL.—The Secretary may provide for the conversion of assistance under the certificate and voucher programs under subsections (b) and (o) of section 8 of the United States Housing Act of 1937, as in effect before the applicability of the amendments made by this subtitle, to the voucher program established by the amendments made by this subtitle.

"(2) CONTINUED APPLICABILITY.—The Secretary may apply the provisions of the United States Housing Act of 1937, or any other provision of law amended by this subtitle, as those provisions were in effect immediately before the date of the enactment of this Act (except that such provisions shall be subject to any amendments to such provisions that may be contained in title II of this Act), to assistance obligated by the Secretary before October 1, 1999, for the certificate or voucher program under section 8 of the United States Housing Act of 1937, if the Secretary determines that such action is necessary for simplification of program administration, avoidance of hardship, or other good cause.

"(e) EFFECTIVE DATE.—This section shall take effect on the date of the enactment of this Act.".

ard for each size of dwelling unit in a market area shall not exceed 110 percent of the fair market rental established under subsection (c) for the same size of dwelling unit in the same market area and shall be not less than 90 percent of that fair market rental.

(C) SET-ASIDE.—The Secretary may set aside not more than 5 percent of the budget authority made available for assistance under this subsection as an adjustment pool. The Secretary shall use amounts in the adjustment pool to make adjusted payments to public housing agencies under subparagraph (A), to ensure continued affordability, if the Secretary determines that additional assistance for such purpose is necessary, based on documentation submitted by a public housing agency.

(D) APPROVAL.—The Secretary may require a public housing agency to submit the payment standard of the public housing agency to the Secretary for approval, if the payment standard is less than 90 percent of the fair market rental or exceeds 110 percent of the fair market rental.

(E) REVIEW.—The Secretary—

(i) shall monitor rent burdens and review any payment standard that results in a significant percentage of the families occupying units of any size paying more than 30 percent of adjusted income for rent; and

(ii) may require a public housing agency to modify the payment standard of the public housing agency based on the results of that review.

(2) AMOUNT OF MONTHLY ASSISTANCE PAYMENT.—Subject to the requirement under section 3(a)(3) (relating to minimum rental amount), the monthly assistance payment for a family receiving assistance under this subsection shall be determined as follows:

(A) TENANT-BASED ASSISTANCE; RENT NOT EXCEEDING PAYMENT STANDARD.—For a family receiving tenant-based assistance, if the rent for the family (including the amount allowed for tenant-paid utilities) does not exceed the applicable payment standard established under paragraph (1), the monthly assistance payment for the family shall be equal to the amount by which the rent (including the amount allowed for tenant-paid utilities) exceeds the greatest of the following amounts, rounded to the nearest dollar:

(i) 30 percent of the monthly adjusted income of the family.

(ii) 10 percent of the monthly income of the family.

(iii) If the family is receiving payments for welfare assistance from a public agency and a part of those payments, adjusted in accordance with the actual housing costs of the family, is specifically designated by that agency to meet the housing costs of the family, the portion of those payments that is so designated.

(B) TENANT-BASED ASSISTANCE; RENT EXCEEDING PAYMENT STANDARD.—For a family receiving tenant-based as-

sistance, if the rent for the family (including the amount allowed for tenant-paid utilities) exceeds the applicable payment standard established under paragraph (1), the monthly assistance payment for the family shall be equal to the amount by which the applicable payment standard exceeds the greatest of amounts under clauses (i), (ii), and (iii) of subparagraph (A).

(C) FAMILIES RECEIVING PROJECT-BASED ASSISTANCE.—For a family receiving project-based assistance, the rent that the family is required to pay shall be determined in accordance with section 3(a)(1), and the amount of the housing assistance payment shall be determined in accordance with subsection (c)(3) of this section.

(3) 40 PERCENT LIMIT.—At the time a family initially receives tenant-based assistance under this section with respect to any dwelling unit, the total amount that a family may be required to pay for rent may not exceed 40 percent of the monthly adjusted income of the family.

(4) ELIGIBLE FAMILIES.—To be eligible to receive assistance under this subsection, a family shall, at the time a family initially receives assistance under this subsection, be a low-income family that is—

(A) a very low-income family;

(B) a family previously assisted under this title;

(C) a low-income family that meets eligibility criteria specified by the public housing agency;

(D) a family that qualifies to receive a voucher in connection with a homeownership program approved under title IV of the Cranston-Gonzalez National Affordable Housing Act; or

(E) a family that qualifies to receive a voucher under section 223 or 226 of the Low-Income Housing Preservation and Resident Homeownership Act of 1990.

(5) ANNUAL REVIEW OF FAMILY INCOME.—

(A) IN GENERAL.—Reviews of family incomes for purposes of this section shall be subject to the provisions of section 904 of the Stewart B. McKinney Homeless Assistance Amendments Act of 1988 and shall be conducted upon the initial provision of housing assistance for the family and thereafter not less than annually.

(B) PROCEDURES.—Each public housing agency administering assistance under this subsection shall establish procedures that are appropriate and necessary to ensure that income data provided to the agency and owners by families applying for or receiving assistance from the agency is complete and accurate. Each public housing agency shall, not less frequently than annually, conduct a review of the family income of each family receiving assistance under this subsection.

(6) SELECTION OF FAMILIES AND DISAPPROVAL OF OWNERS.—

(A) PREFERENCES.—

(i) AUTHORITY TO ESTABLISH.—Each public housing agency may establish a system for making tenant-

based assistance under this subsection available on behalf of eligible families that provides preference for such assistance to eligible families having certain characteristics, which may include a preference for families residing in public housing who are victims of a crime of violence (as such term is defined in section 16 of title 18, United States Code) that has been reported to an appropriate law enforcement agency.

(ii) CONTENT.—Each system of preferences established pursuant to this subparagraph shall be based upon local housing needs and priorities, as determined by the public housing agency using generally accepted data sources, including any information obtained pursuant to an opportunity for public comment as provided under section 5A(f) and under the requirements applicable to the comprehensive housing affordability strategy for the relevant jurisdiction.

(B) SELECTION OF TENANTS.—Each housing assistance payment contract entered into by the public housing agency and the owner of a dwelling unit) shall provide that the screening and selection of families for those units shall be the function of the owner. In addition, the public housing agency may elect to screen applicants for the program in accordance with such requirements as the Secretary may establish.

(C) PHA DISAPPROVAL OF OWNERS.—In addition to other grounds authorized by the Secretary, a public housing agency may elect not to enter into a housing assistance payments contract under this subsection with an owner who refuses, or has a history of refusing, to take action to terminate tenancy for activity engaged in by the tenant, any member of the tenant's household, any guest, or any other person under the control of any member of the household that—

(i) threatens the health or safety of, or right to peaceful enjoyment of the premises by, other tenants or employees of the public housing agency, owner, or other manager of the housing;

(ii) threatens the health or safety of, or right to peaceful enjoyment of the residences by, persons residing in the immediate vicinity of the premises; or

(iii) is drug-related or violent criminal activity.

(7) LEASES AND TENANCY.—Each housing assistance payment contract entered into by the public housing agency and the owner of a dwelling unit—

(A) shall provide that the lease between the tenant and the owner shall be for a term of not less than 1 year, except that the public housing agency may approve a shorter term for an initial lease between the tenant and the dwelling unit owner if the public housing agency determines that such shorter term would improve housing opportunities for the tenant and if such shorter term is considered to be a prevailing local market practice;

(B) shall provide that the dwelling unit owner shall offer leases to tenants assisted under this subsection that—

(i) are in a standard form used in the locality by the dwelling unit owner; and

(ii) contain terms and conditions that—

(I) are consistent with State and local law; and

(II) apply generally to tenants in the property who are not assisted under this section;

(C) shall provide that during the term of the lease, the owner shall not terminate the tenancy except for serious or repeated violation of the terms and conditions of the lease, for violation of applicable Federal, State, or local law, or for other good cause;

(D) shall provide that during the term of the lease, any criminal activity that threatens the health, safety, or right to peaceful enjoyment of the premises by other tenants, any criminal activity that threatens the health, safety, or right to peaceful enjoyment of their residences by persons residing in the immediate vicinity of the premises, or any violent or drug-related criminal activity on or near such premises, engaged in by a tenant of any unit, any member of the tenant's household, or any guest or other person under the tenant's control, shall be cause for termination of tenancy;

(E) shall provide that any termination of tenancy under this subsection shall be preceded by the provision of written notice by the owner to the tenant specifying the grounds for that action, and any relief shall be consistent with applicable State and local law; and

(F) may include any addenda required by the Secretary to set forth the provisions of this subsection.

(8) INSPECTION OF UNITS BY PHA'S.—

(A) IN GENERAL.—Except as provided in paragraph (11), for each dwelling unit for which a housing assistance payment contract is established under this subsection, the public housing agency shall inspect the unit before any assistance payment is made to determine whether the dwelling unit meets the housing quality standards under subparagraph (B).

(B) HOUSING QUALITY STANDARDS.—The housing quality standards under this subparagraph are standards for safe and habitable housing established—

(i) by the Secretary for purposes of this subsection; or

(ii) by local housing codes or by codes adopted by public housing agencies that—

(I) meet or exceed housing quality standards, except that the Secretary may waive the requirement under this subclause to significantly increase access to affordable housing and to expand housing opportunities for families assisted under this subsection, except where such waiver could

adversely affect the health or safety of families assisted under this subsection; and

(II) do not severely restrict housing choice

(C) INSPECTION.—The determination required under subparagraph (A) shall be made by the public housing agency (or other entity, as provided in paragraph (11)) pursuant to an inspection of the dwelling unit conducted before any assistance payment is made for the unit. Inspections of dwelling units under this subparagraph shall be made before the expiration of the 15-day period beginning upon a request by the resident or landlord to the public housing agency or, in the case of any public housing agency that provides assistance under this subsection on behalf of more than 1250 families, before the expiration of a reasonable period beginning upon such request. The performance of the agency in meeting the 15-day inspection deadline shall be taken into consideration in assessing the performance of the agency.

(D) ANNUAL INSPECTIONS.—Each public housing agency providing assistance under this subsection (or other entity, as provided in paragraph (11)) shall make an annual inspection of each assisted dwelling unit during the term of the housing assistance payments contract for the unit to determine whether the unit is maintained in accordance with the requirements under subparagraph (A). The agency (or other entity) shall retain the records of the inspection for a reasonable time and shall make the records available upon request to the Secretary, the Inspector General for the Department of Housing and Urban Development, and any auditor conducting an audit under section 5(h).

(E) INSPECTION GUIDELINES.—The Secretary shall establish procedural guidelines and performance standards to facilitate inspections of dwelling units and conform such inspections with practices utilized in the private housing market. Such guidelines and standards shall take into consideration variations in local laws and practices of public housing agencies and shall provide flexibility to authorities appropriate to facilitate efficient provision of assistance under this subsection.

(9) VACATED UNITS.—If an assisted family vacates a dwelling unit for which rental assistance is provided under a housing assistance payment contract before the expiration of the term of the lease for the unit, rental assistance pursuant to such contract may not be provided for the unit after the month during which the unit was vacated.

(10) RENT.—

(A) REASONABLENESS.—The rent for dwelling units for which a housing assistance payment contract is established under this subsection shall be reasonable in comparison with rents charged for comparable dwelling units in the private, unassisted local market.

(B) NEGOTIATIONS.—A public housing agency (or other entity, as provided in paragraph (11)) shall, at the request

of a family receiving tenant-based assistance under this subsection, assist that family in negotiating a reasonable rent with a dwelling unit owner. A public housing agency (or such other entity) shall review the rent for a unit under consideration by the family (and all rent increases for units under lease by the family) to determine whether the rent (or rent increase) requested by the owner is reasonable. If a public housing agency (or other such entity) determines that the rent (or rent increase) for a dwelling unit is not reasonable, the public housing agency (or other such entity) shall not make housing assistance payments to the owner under this subsection with respect to that unit.

(C) UNITS EXEMPT FROM LOCAL RENT CONTROL.—If a dwelling unit for which a housing assistance payment contract is established under this subsection is exempt from local rent control provisions during the term of that contract, the rent for that unit shall be reasonable in comparison with other units in the market area that are exempt from local rent control provisions.

(D) TIMELY PAYMENTS.—Each public housing agency shall make timely payment of any amounts due to a dwelling unit owner under this subsection. The housing assistance payment contract between the owner and the public housing agency may provide for penalties for the late payment of amounts due under the contract, which shall be imposed on the public housing agency in accordance with generally accepted practices in the local housing market.

(E) PENALTIES.—Unless otherwise authorized by the Secretary, each public housing agency shall pay any penalties from administrative fees collected by the public housing agency, except that no penalty shall be imposed if the late payment is due to factors that the Secretary determines are beyond the control of the public housing agency.

(11) LEASING OF UNITS OWNED BY PHA.—If an eligible family assisted under this subsection leases a dwelling unit (other than a public housing dwelling unit) that is owned by a public housing agency administering assistance under this subsection, the Secretary shall require the unit of general local government or another entity approved by the Secretary, to make inspections required under paragraph (8) and rent determinations required under paragraph (10). The agency shall be responsible for any expenses of such inspections and determinations.

(12) ASSISTANCE FOR RENTAL OF MANUFACTURED HOUSING.—

(A) IN GENERAL.—A public housing agency may make assistance payments in accordance with this subsection on behalf of a family that utilizes a manufactured home as a principal place of residence. Such payments may be made only for the rental of the real property on which the manufactured home owned by any such family is located.

(B) RENT CALCULATION.—

(i) CHARGES INCLUDED.—For assistance pursuant to this paragraph, the rent for the space on which a manufactured home is located and with respect to which assistance payments are to be made shall include maintenance and management charges and tenant-paid utilities.

(ii) PAYMENT STANDARD.—The public housing agency shall establish a payment standard for the purpose of determining the monthly assistance that may be paid for any family under this paragraph. The payment standard may not exceed an amount approved or established by the Secretary.

(iii) MONTHLY ASSISTANCE PAYMENT.—The monthly assistance payment for a family assisted under this paragraph shall be determined in accordance with paragraph (2).

(13) PHA PROJECT-BASED ASSISTANCE.—

(A) IN GENERAL.—If the Secretary enters into an annual contributions contract under this subsection with a public housing agency pursuant to which the public housing agency will enter into a housing assistance payment contract with respect to an existing structure under this subsection—

(i) the housing assistance payment contract may not be attached to the structure unless the owner agrees to rehabilitate or newly construct the structure other than with assistance under this Act, and otherwise complies with this section; and

(ii) the public housing agency may approve a housing assistance payment contract for such existing structures for not more than 15 percent of the funding available for tenant-based assistance administered by the public housing agency under this section.

(B) EXTENSION OF CONTRACT TERM.—In the case of a housing assistance payment contract that applies to a structure under this paragraph, a public housing agency may enter into a contract with the owner, contingent upon the future availability of appropriated funds for the purpose of renewing expiring contracts for assistance payments, as provided in appropriations Acts, to extend the term of the underlying housing assistance payment contract for such period as the Secretary determines to be appropriate to achieve long-term affordability of the housing. The contract shall obligate the owner to have such extensions of the underlying housing assistance payment contract accepted by the owner and the successors in interest of the owner.

(C) RENT CALCULATION.—For project-based assistance under this paragraph, housing assistance payment contracts shall establish rents and provide for rent adjustments in accordance with subsection (c).

(D) ADJUSTED RENTS.—With respect to rents adjusted under this paragraph—

(i) the adjusted rent for any unit shall be reasonable in comparison with rents charged for comparable dwelling units in the private, unassisted, local market; and

(ii) the provisions of subsection (c)(2)(C) shall not apply.

(14) INAPPLICABILITY TO TENANT-BASED ASSISTANCE.—Subsection (c) shall not apply to tenant-based assistance under this subsection.

(15) HOMEOWNERSHIP OPTION.—

(A) IN GENERAL.—A public housing agency providing assistance under this subsection may, at the option of the agency, provide assistance for homeownership under subsection (y).

(B) ALTERNATIVE ADMINISTRATION.—A public housing agency may contract with a nonprofit organization to administer a homeownership program under subsection (y).

(16) RENTAL VOUCHERS FOR RELOCATION OF WITNESSES AND VICTIMS OF CRIME.—

(A) WITNESSES.—Of amounts made available for assistance under this subsection in each fiscal year, the Secretary, in consultation with the Inspector General, shall make available such sums as may be necessary for the relocation of witnesses in connection with efforts to combat crime in public and assisted housing pursuant to requests from law enforcement or prosecution agencies.

(B) VICTIMS OF CRIME.—

(i) IN GENERAL.—Of amounts made available for assistance under this section in each fiscal year, the Secretary shall make available such sums as may be necessary for the relocation of families residing in public housing who are victims of a crime of violence (as that term is defined in section 16 of title 18, United States Code) that has been reported to an appropriate law enforcement agency.

(ii) NOTICE.—A public housing agency that receives amounts under this subparagraph shall establish procedures for providing notice of the availability of that assistance to families that may be eligible for that assistance.

(17) DEED RESTRICTIONS.—Assistance under this subsection may not be used in any manner that abrogates any local deed restriction that applies to any housing consisting of 1 to 4 dwelling units. This paragraph may not be construed to affect the provisions or applicability of the Fair Housing Act.

(p) In order to assist elderly families (as defined in section 3(b)(3)) who elect to live in a shared housing arrangement in which they benefit as a result of sharing the facilities of a dwelling with others in a manner that effectively and efficiently meets their housing needs and thereby reduces their costs of housing, the Secretary shall permit assistance provided under the existing housing and moderate rehabilitation programs to be used by such families in such arrangements. In carrying out this subsection, the Secretary shall issue minimum habitability standards for the purpose of as-

suring decent, safe, and sanitary housing for such families while taking into account the special circumstances of shared housing.

(q) ADMINISTRATIVE FEES.—

(1) FEE FOR ONGOING COSTS OF ADMINISTRATION.—

(A) IN GENERAL.—The Secretary shall establish fees for the costs of administering the tenant-based assistance, certificate, voucher, and moderate rehabilitation programs under this section.

(B) FISCAL YEAR 1999.—

(i) CALCULATION.—For fiscal year 1999, the fee for each month for which a dwelling unit is covered by an assistance contract shall be—

(I) in the case of a public housing agency that, on an annual basis, is administering a program for not more than 600 dwelling units, 7.65 percent of the base amount; and

(II) in the case of an agency that, on an annual basis, is administering a program for more than 600 dwelling units (aa) for the first 600 units, 7.65 percent of the base amount, and (bb) for any additional dwelling units under the program, 7.0 percent of the base amount.

(ii) BASE AMOUNT.—For purposes of this subparagraph, the base amount shall be the higher of—

(I) the fair market rental established under section 8(c) of this Act (as in effect immediately before the effective date under section 503(a) of the Quality Housing and Work Responsibility Act of 1998 [1]) for fiscal year 1993 for a 2-bedroom existing rental dwelling unit in the market area of the agency, and

(II) the amount that is the lesser of (aa) such fair market rental for fiscal year 1994, or (bb) 103.5 percent of the amount determined under clause (i),

adjusted based on changes in wage data or other objectively measurable data that reflect the costs of administering the program, as determined by the Secretary. The Secretary may require that the base amount be not less than a minimum amount and not more than a maximum amount.

(C) SUBSEQUENT FISCAL YEARS.—For subsequent fiscal years, the Secretary shall publish a notice in the Federal Register, for each geographic area, establishing the amount of the fee that would apply for public housing agencies administering the program, based on changes in wage data or other objectively measurable data that reflect the costs of administering the program, as determined by the Secretary.

(D) INCREASE.—The Secretary may increase the fee if necessary to reflect the higher costs of administering small

[1] See section 503 of such Act as set forth in the footnote on page 114 of this compilation.

programs and programs operating over large geographic areas.

(E) DECREASE.—The Secretary may decrease the fee for units owned by a public housing agency to reflect reasonable costs of administration.

(2) FEE FOR PRELIMINARY EXPENSES.—The Secretary shall also establish reasonable fees (as determined by the Secretary) for—

(A) the costs of preliminary expenses, in the amount of $500, for a public housing agency, except that such fee shall apply to an agency only in the first year that the agency administers a tenant-based assistance program under this section, and only if, immediately before the effective date under section 503(a) of the Quality Housing and Work Responsibility Act of 1998 [1], the agency was not administering a tenant-based assistance program under the United States Housing Act of 1937 (as in effect immediately before such effective date), in connection with its initial increment of assistance received;

(B) the costs incurred in assisting families who experience difficulty (as determined by the Secretary) in obtaining appropriate housing under the programs; and

(C) extraordinary costs approved by the Secretary.

(3) TRANSFER OF FEES IN CASES OF CONCURRENT GEOGRAPHICAL JURISDICTION.—In each fiscal year, if any public housing agency provides tenant-based assistance under this section on behalf of a family who uses such assistance for a dwelling unit that is located within the jurisdiction of such agency but is also within the jurisdiction of another public housing agency, the Secretary shall take such steps as may be necessary to ensure that the public housing agency that provides the services for a family receives all or part of the administrative fee under this section (as appropriate).

(4) APPLICABILITY.—This subsection shall apply to fiscal year 1999 and fiscal years thereafter.

(r) [2] PORTABILITY.—(1) IN GENERAL.—(A) Any family receiving tenant-based assistance under subsection (o) may receive such assistance to rent an eligible dwelling unit if the dwelling unit to which the family moves is within any area in which a program is being administered under this section.

(B)(i) Notwithstanding subparagraph (A) and subject to any exceptions established under clause (ii) of this subparagraph, a public housing agency may require that any family not living within the jurisdiction of the public housing agency at the time the family applies for assistance from the agency shall, during the 12-month period beginning on the date of initial receipt of housing assistance

[1] See section 503 of such Act as set forth in the footnote on page 114 of this compilation.

[2] Section 553 of the Quality Housing and Work Responsibility Act of 1998, title V of Public Law 105–276, approved October 21, 1998, made significant and extensive amendments to this subsection. Pursuant to section 503 of such Act (set forth in the footnote on page 114 of this compilation), the amendments were made on the date of enactment (and, therefore, the subsection is shown as amended), but apply beginning upon October 1, 1999. Section 503 also provides that the provisions of this subsection, as in effect immediately before the enactment of the 1998 Act, continue to apply until such applicability date (unless the Secretary provides by notice for earlier implementation of the amendments).

made available on behalf of the family from such agency, lease and occupy an eligible dwelling unit located within the jurisdiction served by the agency.

(ii) The Secretary may establish such exceptions to the authority of public housing agencies established under clause (i).

(2) The public housing agency having authority with respect to the dwelling unit to which a family moves under this subsection shall have the responsibility of carrying out the provisions of this subsection with respect to the family.

(3) In providing assistance under subsection (o) for any fiscal year, the Secretary shall give consideration to any reduction in the number of resident families incurred by a public housing agency in the preceding fiscal year as a result of the provisions of this subsection. The Secretary shall establish procedures for the compensation of public housing agencies that issue vouchers to families that move into or out of the jurisdiction of the public housing agency under portability procedures. The Secretary may reserve amounts available for assistance under subsection (o) to compensate those public housing agencies.

(4) The provisions of this subsection may not be construed to restrict any authority of the Secretary under any other provision of law to provide for the portability of assistance under this section.

(5) LEASE VIOLATIONS.—A family may not receive a voucher from a public housing agency and move to another jurisdiction under the tenant-based assistance program if the family has moved out of the assisted dwelling unit of the family in violation of a lease.

(s) In selecting families for the provision of assistance under this section (including subsection (o)), a public housing agency may not exclude or penalize a family solely because the family resides in a public housing project.

[(t) [Repealed.]]

(u)[1] In the case of low-income families living in rental projects rehabilitated under section 17 of this Act or section 533 of the Housing Act of 1949 before rehabilitation—

(1) vouchers under this section shall be made for families who are required to move out of their units because of the physical rehabilitation activities or because of overcrowding;

(2) at the discretion of each public housing agency or other agency administering the allocation of assistance[2] vouchers under this section may be made for families who would have to pay more than 30 percent of their adjusted income for rent after rehabilitation whether they choose to remain in, or to move from, the project; and

(3) the Secretary shall allocate assistance for vouchers under this section to ensure that sufficient resources are avail-

[1] Section 550(a)(8) of the Quality Housing and Work Responsibility Act of 1998, title V of Public Law 105–276, approved October 21, 1998, amended this subsection by striking references to certificates for assistance under this section. Pursuant to section 503 of such Act (set forth in the footnote on page 114 of this compilation), the amendments were made on the date of enactment (and, therefore, the subsection is shown as amended), but apply beginning upon October 1, 1999. Section 503 also provides that the provisions of this subsection, as in effect immediately before the enactment of the 1998 Act, continue to apply until such applicability date (unless the Secretary provides by notice for earlier implementation of the amendments).

[2] So in law. There should probably be a comma.

able to address the physical or economic displacement, or potential economic displacement, of existing tenants pursuant to paragraphs (1) and (2).

[1]The Secretary may extend expiring contracts entered into under this section for project-based loan management assistance to the extent necessary to prevent displacement of low-income families receiving such assistance as of September 30, 1996.

(w) RENEWAL OF EXPIRING CONTRACTS.—Not later than 30 days after the beginning of each fiscal year, the Secretary shall publish in the Federal Register a plan for reducing, to the extent feasible, year-to-year fluctuations in the levels of budget authority that will be required over the succeeding 5-year period to renew expiring rental assistance contracts entered into under this section since the enactment of the Housing and Community Development Act of 1974. To the extent necessary to carry out such plan and to the extent approved in appropriations Acts, the Secretary is authorized to enter into annual contributions contracts with terms of less than 60 months.

(x) FAMILY UNIFICATION.—

(1) INCREASE IN BUDGET AUTHORITY.—The budget authority available under section 5(c) for assistance under section 8(b) is authorized to be increased by $100,000,000 on or after October 1, 1992, and by $104,200,000 on or after October 1, 1993.

(2) USE OF FUNDS.—The amounts made available under this subsection shall be used only in connection with tenant-based assistance[2] under section 8 on behalf of any family (A) who is otherwise eligible for such assistance, and (B) who the public child welfare agency for the jurisdiction has certified is a family for whom the lack of adequate housing is a primary factor in the imminent placement of the family's child or children in out-of-home care or the delayed discharge of a child or children to the family from out-of-home care.

(3) ALLOCATION.—The amounts made available under this subsection shall be allocated by the Secretary through a national competition among applicants based on demonstrated need for assistance under this subsection. To be considered for assistance, an applicant shall submit to the Secretary a written proposal containing a report from the public child welfare agency serving the jurisdiction of the applicant that describes how a lack of adequate housing in the jurisdiction is resulting in the initial or prolonged separation of children from their families, and how the applicant will coordinate with the public child welfare agency to identify eligible families and provide the families with assistance under this subsection.

(4) DEFINITIONS.—For purposes of this subsection:

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[1] So in law. There is no subsection designation.

[2] Section 550(a)(9) of the Quality Housing and Work Responsibility Act of 1998, title V of Public Law 105–276, approved October 21, 1998, amended this paragraph by striking "housing certificate assistance" and inserting "tenant-based assistance". Pursuant to section 503 of such Act (set forth in the footnote on page 114 of this compilation), the amendment was made on the date of enactment (and, therefore, the paragraph is shown as amended), but applies beginning upon October 1, 1999. Section 503 also provides that the provisions of this paragraph, as in effect immediately before the enactment of the 1998 Act, continue to apply until such applicability date (unless the Secretary provides by notice for earlier implementation of the amendment).

(A) APPLICANT.—The term "applicant" means a public housing agency or any other agency responsible for administering assistance under section 8.

(B) PUBLIC CHILD WELFARE AGENCY.—The term "public child welfare agency" means the public agency responsible under applicable State law for determining that a child is at imminent risk of placement in out-of-home care or that a child in out-of-home care under the supervision of the public agency may be returned to his or her family.

(y) HOMEOWNERSHIP OPTION.—

(1) USE OF ASSISTANCE FOR HOMEOWNERSHIP.—A public housing agency providing tenant-based assistance on behalf of an eligible family under this section may provide assistance for an eligible family that purchases a dwelling unit (including a unit under a lease-purchase agreement) that will be owned by 1 or more members of the family, and will be occupied by the family, if the family—

(A) is a first-time homeowner, or owns or is acquiring shares in a cooperative;

(B) demonstrates that the family has income from employment or other sources (other than public assistance, except that the Secretary may provide for the consideration of public assistance in the case of an elderly family or a disabled family), as determined in accordance with requirements of the Secretary, that is not less than twice the payment standard established by the public housing agency (or such other amount as may be established by the Secretary);

(C) except as provided by the Secretary, demonstrates at the time the family initially receives tenant-based assistance under this subsection that one or more adult members of the family have achieved employment for the period as the Secretary shall require;

(D) participates in a homeownership and housing counseling program provided by the agency; and

(E) meets any other initial or continuing requirements established by the public housing agency in accordance with requirements established by the Secretary.

(2) DETERMINATION OF AMOUNT OF ASSISTANCE.—

(A) MONTHLY EXPENSES NOT EXCEEDING PAYMENT STANDARD.—If the monthly homeownership expenses, as determined in accordance with requirements established by the Secretary, do not exceed the payment standard, the monthly assistance payment shall be the amount by which the homeownership expenses exceed the highest of the following amounts, rounded to the nearest dollar:

(i) 30 percent of the monthly adjusted income of the family.

(ii) 10 percent of the monthly income of the family.

(iii) If the family is receiving payments for welfare assistance from a public agency, and a portion of those payments, adjusted in accordance with the actual housing costs of the family, is specifically designated

by that agency to meet the housing costs of the family, the portion of those payments that is so designated.

(B) MONTHLY EXPENSES EXCEED PAYMENT STANDARD.—If the monthly homeownership expenses, as determined in accordance with requirements established by the Secretary, exceed the payment standard, the monthly assistance payment shall be the amount by which the applicable payment standard exceeds the highest of the amounts under clauses (i), (ii), and (iii) of subparagraph (A).

(3) INSPECTIONS AND CONTRACT CONDITIONS.—

(A) IN GENERAL.—Each contract for the purchase of a unit to be assisted under this section shall—

(i) provide for pre-purchase inspection of the unit by an independent professional; and

(ii) require that any cost of necessary repairs be paid by the seller.

(B) ANNUAL INSPECTIONS NOT REQUIRED.—The requirement under subsection (o)(8)(A)(ii) for annual inspections shall not apply to units assisted under this section.

(4) OTHER AUTHORITY OF THE SECRETARY.—The Secretary may—

(A) limit the term of assistance for a family assisted under this subsection; and

(B) modify the requirements of this subsection as the Secretary determines to be necessary to make appropriate adaptations for lease-purchase agreements.

(5) INAPPLICABILITY OF CERTAIN PROVISIONS.—Assistance under this subsection shall not be subject to the requirements of the following provisions:

(A) Subsection (c)(3)(B) of this section.

(B) Subsection (d)(1)(B)(i) of this section.

(C) Any other provisions of this section governing maximum amounts payable to owners and amounts payable by assisted families.

(D) Any other provisions of this section concerning contracts between public housing agencies and owners.

(E) Any other provisions of this Act that are inconsistent with the provisions of this subsection.

(6) REVERSION TO RENTAL STATUS.—

(A) FHA-INSURED MORTGAGES.—If a family receiving assistance under this subsection for occupancy of a dwelling defaults under a mortgage for the dwelling insured by the Secretary under the National Housing Act, the family may not continue to receive rental assistance under this section unless the family (i) transfers to the Secretary marketable title to the dwelling, (ii) moves from the dwelling within the period established or approved by the Secretary, and (iii) agrees that any amounts the family is required to pay to reimburse the escrow account under section 23(d)(3) may be deducted by the public housing agency from the assistance payment otherwise payable on behalf of the family.

(B) OTHER MORTGAGES.—If a family receiving assistance under this subsection defaults under a mortgage not

insured under the National Housing Act, the family may not continue to receive rental assistance under this section unless it complies with requirements established by the Secretary.

(C) ALL MORTGAGES.—A family receiving assistance under this subsection that defaults under a mortgage may not receive assistance under this subsection for occupancy of another dwelling owned by one or more members of the family.

(7) DEFINITION OF FIRST-TIME HOMEOWNER.—For purposes of this subsection, the term "first-time homeowner" means—

(A) a family, no member of which has had a present ownership interest in a principal residence during the 3 years preceding the date on which the family initially receives assistance for homeownership under this subsection; and

(B) any other family, as the Secretary may prescribe.

(z) TERMINATION OF SECTION 8 CONTRACTS AND REUSE OF RECAPTURED BUDGET AUTHORITY.—

(1) GENERAL AUTHORITY.—The Secretary may reuse any budget authority, in whole or part, that is recaptured on account of termination of a housing assistance payments contract (other than a contract for tenant-based assistance) only for one or more of the following:

(A) TENANT-BASED ASSISTANCE.—Pursuant to a contract with a public housing agency, to provide tenant-based assistance under this section to families occupying units formerly assisted under the terminated contract.

(B) PROJECT-BASED ASSISTANCE.—Pursuant to a contract with an owner, to attach assistance to one or more structures under this section, for relocation of families occupying units formerly assisted under the terminated contract.

(2) FAMILIES OCCUPYING UNITS FORMERLY ASSISTED UNDER TERMINATED CONTRACT.—Pursuant to paragraph (1), the Secretary shall first make available tenant- or project-based assistance to families occupying units formerly assisted under the terminated contract. The Secretary shall provide project-based assistance in instances only where the use of tenant-based assistance is determined to be infeasible by the Secretary.

(3) EFFECTIVE DATE.—This subsection shall be effective for actions initiated by the Secretary on or before September 30, 1995.

(aa)[1] REFINANCING INCENTIVE.—

(1) IN GENERAL.—The Secretary may pay all or a part of the up front costs of refinancing for each project that—

(A) is constructed, substantially rehabilitated, or moderately rehabilitated under this section;

[1] The Departments of Veterans Affairs and Housing and Urban Development, and Independent Agencies Appropriations Act, 1995, Public Law 103–327, 108 Stat. 2316, approved September 28, 1994, amended this section by adding this subsection. Such Act also provides that such amendment "shall be effective only during fiscal year 1995.".

(B) is subject to an assistance contract under this section; and

(C) was subject to a mortgage that has been refinanced under section 223(a)(7) or section 223(f) of the National Housing Act to lower the periodic debt service payments of the owner.

(2) SHARE FROM REDUCED ASSISTANCE PAYMENTS.—The Secretary may pay the up front cost of refinancing only—

(A) to the extent that funds accrue to the Secretary from the reduced assistance payments that results from the refinancing; and

(B) after the application of amounts in accordance with section 1012 of the Stewart B. McKinney Homeless Assistance Amendments Act of 1988.

(bb) TRANSFER, REUSE, AND RESCISSION OF BUDGET AUTHORITY.—

(1) TRANSFER OF BUDGET AUTHORITY.—If an assistance contract under this section, other than a contract for tenant-based assistance, is terminated or is not renewed, or if the contract expires, the Secretary shall, in order to provide continued assistance to eligible families, including eligible families receiving the benefit of the project-based assistance at the time of the termination, transfer any budget authority remaining in the contract to another contract. The transfer shall be under such terms as the Secretary may prescribe.

(2) REUSE AND RESCISSION OF CERTAIN RECAPTURED BUDGET AUTHORITY.—Notwithstanding paragraph (1), if a project-based assistance contract for an eligible multifamily housing project subject to actions authorized under title I is terminated or amended as part of restructuring under section 517 of the Multifamily Assisted Housing Reform and Affordability Act of 1997, the Secretary shall recapture the budget authority not required for the terminated or amended contract and use such amounts as are necessary to provide housing assistance for the same number of families covered by such contract for the remaining term of such contract, under a contract providing for project-based or tenant-based assistance. The amount of budget authority saved as a result of the shift to project-based or tenant-based assistance shall be rescinded.

(cc) LAW ENFORCEMENT AND SECURITY PERSONNEL.—

(1) IN GENERAL.—Notwithstanding any other provision of this Act, in the case of assistance attached to a structure, for the purpose of increasing security for the residents of a project, an owner may admit, and assistance under this section may be provided to, police officers and other security personnel who are not otherwise eligible for assistance under the Act.

(2) RENT REQUIREMENTS.—With respect to any assistance provided by an owner under this subsection, the Secretary may—

(A) permit the owner to establish such rent requirements and other terms and conditions of occupancy that the Secretary considers to be appropriate; and

(B) require the owner to submit an application for those rent requirements, which application shall include

such information as the Secretary, in the discretion of the Secretary, determines to be necessary.

(3) APPLICABILITY.—This subsection shall apply to fiscal year 1999 and fiscal years thereafter.

(dd) TENANT-BASED CONTRACT RENEWALS.—Subject to amounts provided in appropriation Acts, starting in fiscal year 1999, the Secretary shall renew all expiring tenant-based annual contribution contracts under this section by applying an inflation factor based on local or regional factors to an allocation baseline. The allocation baseline shall be calculated by including, at a minimum, amounts sufficient to ensure continued assistance for the actual number of families assisted as of October 1, 1997, with appropriate upward adjustments for incremental assistance and additional families authorized subsequent to that date.

SEC. 9.[1] [42 U.S.C. 1437g] PUBLIC HOUSING CAPITAL AND OPERATING FUNDS.

(a) MERGER INTO CAPITAL FUND.—Except as otherwise provided in the Quality Housing and Work Responsibility Act of 1998, any assistance made available for public housing under section 14 of this Act before October 1, 1999, shall be merged into the Capital Fund established under subsection (d).

(b) MERGER INTO OPERATING FUND.—Except as otherwise provided in the Quality Housing and Work Responsibility Act of 1998,

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[1] This section was amended to read as shown by section 519(a) of the Quality Housing and Work Responsibility Act of 1998, title V of Public Law 105–276, approved October 21, 1998. Subsections (e), (f), and (g) of such section 519 provide as follows:

"(e) TRANSITIONAL PROVISION OF ASSISTANCE.—

"(1) IN GENERAL.—Subject to paragraph (2), before the implementation of formulas pursuant to sections 9(d)(2) and 9(e)(2) of the United States Housing Act of 1937 (as amended by subsection (a) of this section), the Secretary shall provide that each public housing agency shall receive funding under sections 9 and 14 of the United States Housing Act of 1937, as those sections existed immediately before the enactment of this Act (except that such sections shall be subject to any amendments to such sections that may be contained in title II of this Act).

"(2) QUALIFICATIONS.—Before the implementation of formulas pursuant to sections 9(d)(2) and 9(e)(2) of the United States Housing Act of 1937 (as amended by subsection (a) of this section)—

"(A) if a public housing agency establishes a rental amount that is based on a ceiling rent established pursuant to subsection (d)(1) of this section, the Secretary shall take into account any reduction of the per unit dwelling rental income of the public housing agency resulting from the use of that rental amount in calculating the contributions for the public housing agency for the operation of the public housing under section 9 of the United States Housing Act of 1937;

"(B) if a public housing agency establishes a rental amount that is based on an adjustment to income under section 3(b)(5)(G) of the United States Housing Act of 1937 (as in effect immediately before the enactment of this Act), the Secretary shall not take into account any reduction of or any increase in the per unit dwelling rental income of the public housing agency resulting from the use of that rental amount in calculating the contributions for the public housing agency for the operation of the public housing under section 9 of the United States Housing Act of 1937; and

"(C) if a public housing agency establishes a rental amount other than as provided under subparagraph (A) or (B) that is less than the greatest of the amounts determined under subparagraphs (A), (B), and (C) of section 3(a)(1) of the United States Housing Act of 1937, the Secretary shall not take into account any reduction of the per unit dwelling rental income of the public housing agency resulting from the use of that rental amount in calculating the contributions for the public housing agency for the operation of the public housing under section 9 of the United States Housing Act of 1937.

"(f) EFFECTIVE DATE OF OPERATING FORMULA.—Notwithstanding the effective date under section 503(a), the Secretary may extend the effective date of the formula under section 9(e)(2) of the United States Housing Act of 1937 (as amended by subsection (a) of this section) for up to 6 months if such additional time is necessary to implement such formula.

"(g) EFFECTIVE DATE.—Subsections (d), (e), and (f) shall take effect upon the date of the enactment of this Act.".

Section 210 of title II of Public Law 105–276 contained amendments to section 9 of the United States Housing Act of 1937.

any assistance made available for public housing under section 9 of this Act before October 1, 1999, shall be merged into the Operating Fund established under subsection (e).

(c) ALLOCATION AMOUNT.—

(1) IN GENERAL.—For fiscal year 2000 and each fiscal year thereafter, the Secretary shall allocate amounts in the Capital Fund and Operating Funds for assistance for public housing agencies eligible for such assistance. The Secretary shall determine the amount of the allocation for each eligible agency, which shall be, for any fiscal year beginning after the effective date of the formulas described in subsections (d)(2) and (e)(2)—

(A) for assistance from the Capital Fund, the amount determined for the agency under the formula under subsection (d)(2); and

(B) for assistance from the Operating Fund, the amount determined for the agency under the formula under subsection (e)(2).

(2) FUNDING.—There are authorized to be appropriated for assistance for public housing agencies under this section the following amounts:

(A) CAPITAL FUND.—For allocations of assistance from the Capital Fund, $3,000,000,000 for fiscal year 1999, and such sums as may be necessary for fiscal years 2000, 2001, 2002, and 2003.

(B) OPERATING FUND.—For allocations of assistance from the Operating Fund, $2,900,000,000 for fiscal year 1999, and such sums as may be necessary for each of fiscal years 2000, 2001, 2002, and 2003.

(d) CAPITAL FUND.—

(1) IN GENERAL.—The Secretary shall establish a Capital Fund for the purpose of making assistance available to public housing agencies to carry out capital and management activities, including—

(A) the development, financing, and modernization of public housing projects, including the redesign, reconstruction, and reconfiguration of public housing sites and buildings (including accessibility improvements) and the development of mixed-finance projects;

(B) vacancy reduction;

(C) addressing deferred maintenance needs and the replacement of obsolete utility systems and dwelling equipment;

(D) planned code compliance;

(E) management improvements;

(F) demolition and replacement;

(G) resident relocation;

(H) capital expenditures to facilitate programs to improve the empowerment and economic self-sufficiency of public housing residents and to improve resident participation;

(I) capital expenditures to improve the security and safety of residents; and

(J) homeownership activities, including programs under section 32.

(2) FORMULA.—The Secretary shall develop a formula for determining the amount of assistance provided to public housing agencies from the Capital Fund for a fiscal year, which shall include a mechanism to reward performance. The formula may take into account such factors as—

(A) the number of public housing dwelling units owned, assisted, or operated by the public housing agency, the characteristics and locations of the projects, and the characteristics of the families served and to be served (including the incomes of the families);

(B) the need of the public housing agency to carry out rehabilitation and modernization activities, replacement housing, and reconstruction, construction, and demolition activities related to public housing dwelling units owned, assisted, or operated by the public housing agency, including backlog and projected future needs of the agency;

(C) the cost of constructing and rehabilitating property in the area;

(D) the need of the public housing agency to carry out activities that provide a safe and secure environment in public housing units owned, assisted, or operated by the public housing agency;

(E) any record by the public housing agency of exemplary performance in the operation of public housing, as indicated by the system of performance indicators established pursuant to section 6(j); and

(F) any other factors that the Secretary determines to be appropriate.

(3) CONDITIONS ON USE FOR DEVELOPMENT AND MODERNIZATION.—

(A) DEVELOPMENT.—Except as otherwise provided in this Act, any public housing developed using amounts provided under this subsection, or under section 14 as in effect before the effective date under section 503(a) of the Quality Housing and Work Responsibility Act of 1998 [1], shall be operated under the terms and conditions applicable to public housing during the 40-year period that begins on the date on which the project (or stage of the project) becomes available for occupancy.

(B) MODERNIZATION.—Except as otherwise provided in this Act, any public housing or portion thereof that is modernized using amounts provided under this subsection or under section 14 (as in effect before the effective date under section 503(a) of the Quality Housing and Work Responsibility Act of 1998 [1]) shall be maintained and operated under the terms and conditions applicable to public housing during the 20-year period that begins on the latest date on which modernization is completed.

(C) APPLICABILITY OF LATEST EXPIRATION DATE.—Public housing subject to this paragraph or to any other provision of law mandating the operation of the housing as public housing or under the terms and conditions applicable to

[1] See section 503 of such Act as set forth in the footnote on page 114 of this compilation.

public housing for a specified length of time, shall be maintained and operated as required until the latest such expiration date.

(e) OPERATING FUND.—

(1) IN GENERAL.—The Secretary shall establish an Operating Fund for the purpose of making assistance available to public housing agencies for the operation and management of public housing, including—

(A) procedures and systems to maintain and ensure the efficient management and operation of public housing units (including amounts sufficient to pay for the reasonable costs of review by an independent auditor of the documentation or other information maintained pursuant to section 6(j)(6) by a public housing agency or resident management corporation to substantiate the performance of that agency or corporation);

(B) activities to ensure a program of routine preventative maintenance;

(C) anticrime and antidrug activities, including the costs of providing adequate security for public housing residents, including above-baseline police service agreements;

(D) activities related to the provision of services, including service coordinators for elderly persons or persons with disabilities;

(E) activities to provide for management and participation in the management and policy making of public housing by public housing residents;

(F) the costs of insurance;

(G) the energy costs associated with public housing units, with an emphasis on energy conservation;

(H) the costs of administering a public housing work program under section 12, including the costs of any related insurance needs;

(I) the costs of repaying, together with rent contributions, debt incurred to finance the rehabilitation and development of public housing units, which shall be subject to such reasonable requirements as the Secretary may establish; and

(J) the costs associated with the operation and management of mixed finance projects, to the extent appropriate.

(2) FORMULA.—

(A) IN GENERAL.—The Secretary shall establish a formula for determining the amount of assistance provided to public housing agencies from the Operating Fund for a fiscal year. The formula may take into account—

(i) standards for the costs of operating and reasonable projections of income, taking into account the characteristics and locations of the public housing projects and characteristics of the families served and to be served (including the incomes of the families), or the costs of providing comparable services as determined in accordance with criteria or a formula rep-

resenting the operations of a prototype well-managed public housing project;

(ii) the number of public housing dwelling units owned, assisted, or operated by the public housing agency;

(iii) the number of public housing dwelling units owned, assisted, or operated by the public housing agency that are chronically vacant and the amount of assistance appropriate for those units;

(iv) to the extent quantifiable, the extent to which the public housing agency provides programs and activities designed to promote the economic self-sufficiency and management skills of public housing residents;

(v) the need of the public housing agency to carry out anti-crime and anti-drug activities, including providing adequate security for public housing residents;

(vi) the amount of public housing rental income foregone by the public housing agency as a result of escrow savings accounts under section 23(d)(2) for families participating in a family self-sufficiency program of the agency under such section 23; and

(vii) any other factors that the Secretary determines to be appropriate.

(B) INCENTIVE TO INCREASE CERTAIN RENTAL INCOME.—The formula shall provide an incentive to encourage public housing agencies to facilitate increases in earned income by families in occupancy. Any such incentive shall provide that the agency shall benefit from increases in such rental income and that such amounts accruing to the agency pursuant to such benefit may be used only for low-income housing or to benefit the residents of the public housing agency.

(C) TREATMENT OF SAVINGS.—The treatment of utility and waste management costs under the formula shall provide that a public housing agency shall receive the full financial benefit from any reduction in the cost of utilities or waste management resulting from any contract with a third party to undertake energy conservation improvements in one or more of its public housing projects.

(3) CONDITION ON USE.—No portion of any public housing project operated using amounts provided under this subsection, or under this section as in effect before the effective date under section 503(a) of the Quality Housing and Work Responsibility Act of 1998 [1], may be disposed of before the expiration of the 10-year period beginning upon the conclusion of the fiscal year for which such amounts were provided, except as otherwise provided in this Act.

(f) NEGOTIATED RULEMAKING PROCEDURE.—The formulas under subsections (d)(2) and (e)(2) shall be developed according to procedures for issuance of regulations under the negotiated rule-

[1] See section 503 of such Act as set forth in the footnote on page 114 of this compilation.

making procedure under subchapter III of chapter 5 of title 5, United States Code.

(g) LIMITATIONS ON USE OF FUNDS.—

(1) FLEXIBILITY FOR CAPITAL FUND AMOUNTS.—Of any amounts appropriated for fiscal year 2000 or any fiscal year thereafter that are allocated for fiscal year 2000 or any fiscal year thereafter from the Capital Fund for any public housing agency, the agency may use not more than 20 percent for activities that are eligible under subsection (e) for assistance with amounts from the Operating Fund, but only if the public housing agency plan for the agency provides for such use.

(2) FULL FLEXIBILITY FOR SMALL PHA'S.—Of any amounts allocated for any fiscal year for any public housing agency that owns or operates less than 250 public housing dwelling units, is not designated pursuant to section 6(j)(2) as a troubled public housing agency, and (in the determination of the Secretary) is operating and maintaining its public housing in a safe, clean, and healthy condition, the agency may use any such amounts for any eligible activities under subsections (d)(1) and (e)(1), regardless of the fund from which the amounts were allocated and provided. This subsection shall take effect on the date of the enactment of the Quality Housing and Work Responsibility Act of 1998 [1].

(3) LIMITATION ON NEW CONSTRUCTION.—

(A) IN GENERAL.—Except as provided in subparagraphs (B) and (C), a public housing agency may not use any of the amounts allocated for the agency from the Capital Fund or Operating Fund for the purpose of constructing any public housing unit, if such construction would result in a net increase from the number of public housing units owned, assisted, or operated by the public housing agency on October 1, 1999, including any public housing units demolished as part of any revitalization effort.

(B) EXCEPTION REGARDING USE OF ASSISTANCE.—A public housing agency may use amounts allocated for the agency from the Capital Fund or Operating Fund for the construction and operation of housing units that are available and affordable to low-income families in excess of the limitations on new construction set forth in subparagraph (A), but the formulas established under subsections (d)(2) and (e)(2) shall not provide additional funding for the specific purpose of allowing construction and operation of housing in excess of those limitations (except to the extent provided in subparagraph (C)).

(C) EXCEPTION REGARDING FORMULAS.—Subject to reasonable limitations set by the Secretary, the formulas established under subsections (d)(2) and (e)(2) may provide additional funding for the operation and modernization costs (but not the initial development costs) of housing in excess of amounts otherwise permitted under this paragraph, and such amounts may be so used, if—

[1] October 21, 1998.

(i) such units are part of a mixed-finance project or otherwise leverage significant additional private or public investment; and

(ii) the estimated cost of the useful life of the project is less than the estimated cost of providing tenant-based assistance under section 8(o) for the same period of time.

(h) TECHNICAL ASSISTANCE.—To the extent amounts are provided in advance in appropriations Acts, the Secretary may make grants or enter into contracts or cooperative agreements in accordance with this subsection for purposes of providing, either directly or indirectly—

(1) technical assistance to public housing agencies, resident councils, resident organizations, and resident management corporations, including assistance relating to monitoring and inspections;

(2) training for public housing agency employees and residents;

(3) data collection and analysis;

(4) training, technical assistance, and education to public housing agencies that are—

(A) at risk of being designated as troubled under section 6(j), to assist such agencies from being so designated; and

(B) designated as troubled under section 6(j), to assist such agencies in achieving the removal of that designation;

(5) contract expertise;

(6) training and technical assistance to assist in the oversight and management of public housing or tenant-based assistance; and

(7) clearinghouse services in furtherance of the goals and activities of this subsection.

As used in this subsection, the terms 'training' and 'technical assistance' shall include training or technical assistance and the cost of necessary travel for participants in such training or technical assistance, by or to officials and employees of the Department and of public housing agencies, and to residents and to other eligible grantees.

(i) ELIGIBILITY OF UNITS ACQUIRED FROM PROCEEDS OF SALES UNDER DEMOLITION OR DISPOSITION PLAN.—If a public housing agency uses proceeds from the sale of units under a homeownership program in accordance with section 32 to acquire additional units to be sold to low-income families, the additional units shall be counted as public housing for purposes of determining the amount of the allocation to the agency under this section until sale by the agency, but in no case longer than 5 years.

(j) PENALTY FOR SLOW EXPENDITURE OF CAPITAL FUNDS.—

(1) OBLIGATION OF AMOUNTS.—Except as provided in paragraph (4) and subject to paragraph (2), a public housing agency shall obligate any assistance received under this section not later than 24 months after, as applicable—

(A) the date on which the funds become available to the agency for obligation in the case of modernization; or

(B) the date on which the agency accumulates adequate funds to undertake modernization, substantial rehabilitation, or new construction of units.

(2) EXTENSION OF TIME PERIOD FOR OBLIGATION.—The Secretary—

(A) may, extend the time period under paragraph (1) for a public housing agency, for such period as the Secretary determines to be necessary, if the Secretary determines that the failure of the agency to obligate assistance in a timely manner is attributable to—

(i) litigation;

(ii) obtaining approvals of the Federal Government or a State or local government;

(iii) complying with environmental assessment and abatement requirements;

(iv) relocating residents;

(v) an event beyond the control of the public housing agency; or

(vi) any other reason established by the Secretary by notice published in the Federal Register;

(B) shall disregard the requirements of paragraph (1) with respect to any unobligated amounts made available to a public housing agency, to the extent that the total of such amounts does not exceed 10 percent of the original amount made available to the public housing agency; and

(C) may, with the prior approval of the Secretary, extend the time period under paragraph (1), for an additional period not to exceed 12 months, based on—

(i) the size of the public housing agency;

(ii) the complexity of capital program of the public housing agency;

(iii) any limitation on the ability of the public housing agency to obligate the amounts allocated for the agency from the Capital Fund in a timely manner as a result of State or local law; or

(iv) such other factors as the Secretary determines to be relevant.

(3) EFFECT OF FAILURE TO COMPLY.—

(A) PROHIBITION OF NEW ASSISTANCE.—A public housing agency shall not be awarded assistance under this section for any month during any fiscal year in which the public housing agency has funds unobligated in violation of paragraph (1) or (2).

(B) WITHHOLDING OF ASSISTANCE.—During any fiscal year described in subparagraph (A), the Secretary shall withhold all assistance that would otherwise be provided to the public housing agency. If the public housing agency cures its failure to comply during the year, it shall be provided with the share attributable to the months remaining in the year.

(C) REDISTRIBUTION.—The total amount of any funds not provided public housing agencies by operation of this paragraph shall be allocated for agencies determined under section 6(j) to be high-performing.

(4) EXCEPTION TO OBLIGATION REQUIREMENTS.—

(A) IN GENERAL.—Subject to subparagraph (B), if the Secretary has consented, before the effective date under section 503(a) of the Quality Housing and Work Responsibility Act of 1998 [1], to an obligation period for any agency longer than provided under paragraph (1), a public housing agency that obligates its funds before the expiration of that period shall not be considered to be in violation of paragraph (1).

(B) PRIOR FISCAL YEARS.—Notwithstanding subparagraph (A), any funds appropriated to a public housing agency for fiscal year 1997 or prior fiscal years shall be fully obligated by the public housing agency not later than September 30, 1999.

(5) EXPENDITURE OF AMOUNTS.—

(A) IN GENERAL.—A public housing agency shall spend any assistance received under this section not later than 4 years (plus the period of any extension approved by the Secretary under paragraph (2)) after the date on which funds become available to the agency for obligation.

(B) ENFORCEMENT.—The Secretary shall enforce the requirement of subparagraph (A) through default remedies up to and including withdrawal of the funding.

(6) RIGHT OF RECAPTURE.—Any obligation entered into by a public housing agency shall be subject to the right of the Secretary to recapture the obligated amounts for violation by the public housing agency of the requirements of this subsection.

(k) EMERGENCY RESERVE AND USE OF AMOUNTS.—

(1) SET-ASIDES.—In each fiscal year after fiscal year 1999, the Secretary shall set aside, for use in accordance with this subsection, not more than 2 percent of the total amount made available to carry out this section for such fiscal year. In addition to amounts set aside under the preceding sentence, in each fiscal year the Secretary may set from the total amount made available to carry out this section for such fiscal year not more than $20,000,000 for the Operation Safe Home program administered by the Office of the Inspector General of the Department of Housing and Urban Development, for law enforcement efforts to combat violent crime on or near the premises of public and federally assisted housing.

(2) USE OF FUNDS.—Amounts set aside under paragraph (1) shall be available to the Secretary for use for assistance, as provided in paragraph (3), in connection with—

(A) emergencies and other disasters; and

(C) housing needs resulting from any settlement of litigation; and

(3) ELIGIBLE USES.—In carrying out this subsection, the Secretary may use amounts set aside under this subsection to provide—

(A) assistance for any eligible use under the Operating Fund or the Capital Fund established by this section; or

[1] See section 503 of such Act as set forth in the footnote on page 114 of this compilation.

(B) tenant-based assistance in accordance with section 8.

(4) LIMITATION.—With respect to any fiscal year, the Secretary may carry over not more than a total of $25,000,000 in unobligated amounts set aside under this subsection for use in connection with the activities described in paragraph (2) during the succeeding fiscal year.

(5) PUBLICATION.—The Secretary shall publish the use of any amounts allocated under this subsection relating to emergencies (other than disasters and housing needs resulting from any settlement of litigation) in the Federal Register.

(l) TREATMENT OF NONRENTAL INCOME.—A public housing agency that receives income from nonrental sources (as determined by the Secretary) may retain and use such amounts without any decrease in the amounts received under this section from the Capital or Operating Fund. Any such nonrental amounts retained shall be used only for low-income housing or to benefit the residents assisted by the public housing agency.

(m) PROVISION OF ONLY CAPITAL OR OPERATING ASSISTANCE.—

(1) AUTHORITY.—In appropriate circumstances, as determined by the Secretary, a public housing agency may commit capital assistance only, or operating assistance only, for public housing units, which assistance shall be subject to all of the requirements applicable to public housing except as otherwise provided in this subsection.

(2) EXEMPTIONS.—In the case of any public housing unit assisted pursuant to the authority under paragraph (1), the Secretary may, by regulation, reduce the period under subsection (d)(3) or (e)(3), as applicable, during which such units must be operated under requirements applicable to public housing. In cases in which there is commitment of operating assistance but no commitment of capital assistance, the Secretary may make section 8 requirements applicable, as appropriate, by regulation.

(n) TREATMENT OF PUBLIC HOUSING.—

(1) CERTAIN STATE AND CITY FUNDED HOUSING.—[1]

(A) IN GENERAL.—Notwithstanding any other provision of this section—

(i) for purposes of determining the allocations from the Operating and Capital Funds pursuant to the formulas under subsections (d)(2) and (e)(2) and determining assistance pursuant to section 519(e) of the Quality Housing and Work Responsibility Act of 1998 and under section 9 or 14 of the United States Housing Act of 1937 (as in effect before the date of the enactment of this Act[2]), for any period before the implementation of such formulas, the Secretary shall deem any covered locally developed public housing units as

[1] But see section 226 of the Departments of Veterans Affairs and Housing and Urban Development, and Independent Agencies Appropriations Act, 1999, Public Law 105–276, set forth, *post*, in this part of this compilation.

[2] Probably should refer to the date of the enactment of the Quality Housing and Work Responsibility Act of 1998 (which was October 21, 1998) rather than "the date of the enactment of this Act".

public housing units developed under this title and such units shall be eligible for such assistance; and

(ii) assistance provided under this section, under such section 518(d)(3), or under such section 9 or 14 to any public housing agency may be used with respect to any covered locally developed public housing units.

(B) COVERED UNITS.—For purposes of this paragraph, the term 'covered locally developed public housing units' means—

(i) not more than 7,000 public housing units developed pursuant to laws of the State of New York and that received debt service and operating subsidies pursuant to such laws; and

(ii) not more than 5,000 dwelling units developed pursuant to section 34 of chapter 121B of the General Laws of the State of Massachusetts.

(2) REDUCTION OF ASTHMA INCIDENCE.—Notwithstanding any other provision of this section, the New York City Housing Authority may, in its sole discretion, from amounts provided from the Operating and Capital Funds, or from amounts provided for public housing before amounts are made available from such Funds, use not more than exceeding $500,000 per year for the purpose of initiating, expanding or continuing a program for the reduction of the incidence of asthma among residents. The Secretary shall consult with the Administrator of the Environmental Protection Agency and the Secretary of Health and Human Services to identify and consider sources of funding for the reduction of the incidence of asthma among recipients of assistance under this title.

(3) SERVICES FOR ELDERLY RESIDENTS.—Notwithstanding any other provision of this section, the New York City Housing Authority may, in its sole discretion, from amounts provided from the Operating and Capital Funds, or from amounts provided for public housing before the amounts are made available from such Funds, use not more than $600,000 per year for the purpose of developing a comprehensive plan to address the need for services for elderly residents. Such plan may be developed by a partnership created by such Housing Authority and may include the creation of a model project for assisted living at one or more developments. The model project may provide for contracting with private parties for the delivery of services.

(4) EFFECTIVE DATE.—This subsection shall apply to fiscal year 1999 and each fiscal year thereafter.

GENERAL PROVISIONS

SEC. 10. [42 U.S.C. 1437h] (a) In the performance of, and with respect to, the functions, powers, and duties vested in him by this Act, the Secretary, notwithstanding the provisions of any other law, shall—

(1) prepare annually and submit a budget program as provided for wholly owned Government corporations by chapter 91 of title 31, United States Code; and

(2) maintain an integral set of accounts which may be audited by the General Accounting Office as provided by chapter 91 of title 31, United States Code.

(b) All receipts and assets of the Secretary under this Act shall be available for the purposes of this Act until expended.

(c) The Federal Reserve banks are authorized and directed to act as depositories, custodians, and fiscal agents for the Secretary in the general exercise of his powers under this Act, and the Secretary may reimburse any such bank for its services in such manner as may be agreed upon.

FINANCING LOWER INCOME HOUSING PROJECTS

SEC. 11. [42 U.S.C. 1437i] (a) Obligations issued by a public housing agency in connection with low-income housing projects which (1) are secured (A) by a pledge of a loan under any agreement between such public housing agency and the Secretary, or (B) by a pledge of annual contributions under an annual contributions contract between such public housing agency and the Secretary, or (C) by a pledge of both annual contributions under an annual contributions contract and a loan under an agreement between such public housing agency and the Secretary, and (2) bear, or are accompanied by, a certificate of the Secretary that such obligations are so secured, shall be incontestable in the hands of a bearer and the full faith and credit of the United States is pledged to the payment of all amounts agreed to be paid by the Secretary as security for such obligations.

(b) Except as provided in section 5(g), obligations, including interest thereon, issued by public housing agencies in connection with low-income housing projects shall be exempt from all taxation now or hereafter imposed by the United States whether paid by such agencies or by the Secretary. The income derived by such agencies from such projects shall be exempt from all taxation now or hereafter imposed by the United States.

LABOR STANDARDS AND COMMUNITY SERVICE REQUIREMENT

SEC. 12. [42 U.S.C. 1437j] (a) Any contract for loans, contributions, sale, or lease pursuant to this Act shall contain a provision requiring that not less than the wages prevailing in the locality, as determined or adopted (subsequent to a determination under applicable State or local law) by the Secretary, shall be paid to all architects, technical engineers, draftsmen, and technicians employed in the development, and all maintenance laborers and mechanics employed in the operation, of the low-income housing project involved; and shall also contain a provision that not less than the wages prevailing in the locality, as predetermined by the Secretary of Labor pursuant to the Davis-Bacon Act (49 Stat. 1011), shall be paid to all laborers and mechanics employed in the development of the project involved (including a project with nine or more units assisted under section 8 of this Act, where the public housing agency or the Secretary and the builder or sponsor enter into an agreement for such use before construction or rehabilitation is commenced), and the Secretary shall require certification as to compli-

ance with the provisions of this section prior to making any payment under such contract.

(b) Subsection (a) and the provisions relating to wages (pursuant to subsection (a)) in any contract for loans, annual contributions, sale, or lease pursuant to this Act, shall not apply to any individual that—

(1) performs services for which the individual volunteered;

(2)(A) does not receive compensation for such services; or

(B) is paid expenses, reasonable benefits, or a nominal fee for such services; and

(3) is not otherwise employed at any time in the construction work.

(c)[1] COMMUNITY SERVICE REQUIREMENT.—

(1) IN GENERAL.—Except as provided in paragraph (2) and notwithstanding any other provision of law, each adult resident of a public housing project shall—

(A) contribute 8 hours per month of community service (not including political activities) within the community in which that adult resides; or

(B) participate in an economic self-sufficiency program (as that term is defined in subsection (g)) for 8 hours per month.

(2) EXEMPTIONS.—The Secretary shall provide an exemption from the applicability of paragraph (1) for any individual who—

(A) is 62 years of age or older;

(B) is a blind or disabled individual, as defined under section 216(i)(1) or 1614 of the Social Security Act (42 U.S.C. 416(i)(1); 1382c), and who is unable to comply with this section, or is a primary caretaker of such individual;

(C) is engaged in a work activity (as such term is defined in section 407(d) of the Social Security Act (42 U.S.C. 607(d)), as in effect on and after July 1, 1997));

(D) meets the requirements for being exempted from having to engage in a work activity under the State program funded under part A of title IV of the Social Security Act (42 U.S.C. 601 et seq.) or under any other welfare program of the State in which the public housing agency is located, including a State-administered welfare-to-work program; or

(E) is in a family receiving assistance under a State program funded under part A of title IV of the Social Security Act (42 U.S.C. 601 et seq.) or under any other welfare program of the State in which the public housing agency is located, including a State-administered welfare-to-work program, and has not been found by the State or other administering entity to be in noncompliance with such program.

(3) ANNUAL DETERMINATIONS.—

[1] This subsection was added by section 512(a) of the Quality Housing and Work Responsibility Act of 1998, title V of Public Law 105–276, approved October 21, 1998. Pursuant to section 503 of such Act (set forth in the footnote on page 114 of this compilation), the amendment was made on the date of enactment (and, therefore, the new subsection is shown), but applies beginning upon October 1, 1999.

(A) REQUIREMENT.—For each public housing resident subject to the requirement under paragraph (1), the public housing agency shall, 30 days before the expiration of each lease term of the resident under section 6(l)(1), review and determine the compliance of the resident with the requirement under paragraph (1) of this subsection.

(B) DUE PROCESS.—Such determinations shall be made in accordance with the principles of due process and on a nondiscriminatory basis.

(C) NONCOMPLIANCE.— If an agency determines that a resident subject to the requirement under paragraph (1) has not complied with the requirement, the agency—

(i) shall notify the resident—

(I) of such noncompliance;

(II) that the determination of noncompliance is subject to the administrative grievance procedure under subsection (k); and

(III) that, unless the resident enters into an agreement under clause (ii) of this subparagraph, the resident's lease will not be renewed; and

(ii) may not renew or extend the resident's lease upon expiration of the lease term and shall take such action as is necessary to terminate the tenancy of the household, unless the agency enters into an agreement, before the expiration of the lease term, with the resident providing for the resident to cure any noncompliance with the requirement under paragraph (1), by participating in an economic self-sufficiency program for or contributing to community service as many additional hours as the resident needs to comply in the aggregate with such requirement over the 12-month term of the lease.

(4) INELIGIBILITY FOR OCCUPANCY FOR NONCOMPLIANCE.—A public housing agency may not renew or extend any lease, or provide any new lease, for a dwelling unit in public housing for any household that includes an adult member who was subject to the requirement under paragraph (1) and failed to comply with the requirement.

(5) INCLUSION IN PLAN.—Each public housing agency shall include in its public housing agency plan a detailed description of the manner in which the agency intends to implement and administer this subsection.

(6) GEOGRAPHIC LOCATION.—The requirement under paragraph (1) may include community service or participation in an economic self-sufficiency program performed at a location not owned by the public housing agency.

(7) PROHIBITION AGAINST REPLACEMENT OF EMPLOYEES.—In carrying out this subsection, a public housing agency may not—

(A) substitute community service or participation in an economic self-sufficiency program, as described in paragraph (1), for work performed by a public housing employee; or

(B) supplant a job at any location at which community work requirements are fulfilled.

(8) THIRD-PARTY COORDINATING.—A public housing agency may administer the community service requirement under this subsection directly, through a resident organization, or through a contractor having experience in administering volunteer-based community service programs within the service area of the public housing agency. The Secretary may establish qualifications for such organizations and contractors.

(d)[1] TREATMENT OF INCOME CHANGES RESULTING FROM WELFARE PROGRAM REQUIREMENTS.—

(1) COVERED FAMILY.—For purposes of this subsection, the term "covered family" means a family that (A) receives benefits for welfare or public assistance from a State or other public agency under a program for which the Federal, State, or local law relating to the program requires, as a condition of eligibility for assistance under the program, participation of a member of the family in an economic self-sufficiency program, and (B) resides in a public housing dwelling unit or is provided tenant-based assistance under section 8.

(2) DECREASES IN INCOME FOR FAILURE TO COMPLY.—

(A) IN GENERAL.—Notwithstanding the provisions of section 3(a) (relating to family rental contributions) or paragraph (4) or (5) of section 3(b) (relating to definition of income and adjusted income), if the welfare or public assistance benefits of a covered family are reduced under a Federal, State, or local law regarding such an assistance program because of any failure of any member of the family to comply with the conditions under the assistance program requiring participation in an economic self-sufficiency program or imposing a work activities requirement, the amount required to be paid by the family as a monthly contribution toward rent may not be decreased, during the period of the reduction, as a result of any decrease in the income of the family (to the extent that the decrease in income is a result of the benefits reduction).

(B) NO REDUCTION BASED ON TIME LIMIT FOR ASSISTANCE.—For purposes of this paragraph, a reduction in benefits as a result of the expiration of a lifetime time limit for a family receiving welfare or public assistance benefits shall not be considered to be a failure to comply with the conditions under the assistance program requiring participation in an economic self-sufficiency program or imposing a work activities requirement. This paragraph shall apply beginning upon the date of the enactment of the Quality Housing and Work Responsibility Act of 1998[2].

(3) EFFECT OF FRAUD.—Notwithstanding the provisions of section 3(a) (relating to family rental contributions) or para-

[1] This subsection was added section 512(a) of the Quality Housing and Work Responsibility Act of 1998, title V of Public Law 105–276, approved October 21, 1998. Pursuant to section 503 of such Act (set forth in the footnote on page 114 of this compilation), the amendment was made on the date of enactment (and, therefore, the new subsection is shown), but applies beginning upon October 1, 1999, except as specifically otherwise in paragraphs (2) and (3) of this new subsection.

[2] October 21, 1998.

graph (4) or (5) of section 3(b) (relating to definition of income and adjusted income), if the welfare or public assistance benefits of a covered family are reduced because of an act of fraud by a member of the family under the law or program, the amount required to be paid by the covered family as a monthly contribution toward rent may not be decreased, during the period of the reduction, as a result of any decrease in the income of the family (to the extent that the decrease in income is a result of the benefits reduction). This paragraph shall apply beginning upon the date of the enactment of the Quality Housing and Work Responsibility Act of 1998 [1].

(4) NOTICE.—Paragraphs (2) and (3) shall not apply to any covered family before the public housing agency providing assistance under this Act on behalf of the family obtains written notification from the relevant welfare or public assistance agency specifying that the family's benefits have been reduced because of noncompliance with economic self-sufficiency program or work activities requirements or fraud, and the level of such reduction.

(5) OCCUPANCY RIGHTS.—This subsection may not be construed to authorize any public housing agency to establish any time limit on tenancy in a public housing dwelling unit or on receipt of tenant-based assistance under section 8.

(6) REVIEW.—Any covered family residing in public housing that is affected by the operation of this subsection shall have the right to review the determination under this subsection through the administrative grievance procedure established pursuant to section 6(k) for the public housing agency.

(7) COOPERATION AGREEMENTS FOR ECONOMIC SELF-SUFFICIENCY ACTIVITIES.—

(A) REQUIREMENT.—A public housing agency providing public housing dwelling units or tenant-based assistance under section 8 for covered families shall make its best efforts to enter into such cooperation agreements, with State, local, and other agencies providing assistance to covered families under welfare or public assistance programs, as may be necessary, to provide for such agencies to transfer information to facilitate administration of subsection (c) and paragraphs (2), (3), and (4) of this subsection and other information regarding rents, income, and assistance that may assist a public housing agency or welfare or public assistance agency in carrying out its functions.

(B) CONTENTS.—A public housing agency shall seek to include in a cooperation agreement under this paragraph requirements and provisions designed to target assistance under welfare and public assistance programs to families residing in public housing projects and families receiving tenant-based assistance under section 8, which may include providing for economic self-sufficiency services within such housing, providing for services designed to meet the unique employment-related needs of residents of such housing and recipients of such assistance, providing for placement of workfare positions on-site in such housing, and such other elements as may be appropriate.

(C) CONFIDENTIALITY.—This paragraph may not be construed to authorize any release of information prohibited by, or in contravention of, any other provision of Federal, State, or local law.

(e)[1] LEASE PROVISIONS.—A public housing agency shall incorporate into leases under section 6(l) and into agreements for the provision of tenant-based assistance under section 8, provisions incorporating the conditions under subsection (d).

(f)[1] TREATMENT OF INCOME.—Notwithstanding any other provision of this section, in determining the income of a family who resides in public housing or receives tenant-based assistance under section 8, a public housing agency shall consider any decrease in the income of a family that results from the reduction of any welfare or public assistance benefits received by the family under any Federal, State, or local law regarding a program for such assistance if the family (or a member thereof, as applicable) has complied with the conditions for receiving such assistance and is unable to obtain employment notwithstanding such compliance.

(g)[1] DEFINITION.—For purposes of this section, the term "economic self-sufficiency program" means any program designed to encourage, assist, train, or facilitate the economic independence of participants and their families or to provide work for participants, including programs for job training, employment counseling, work placement, basic skills training, education, workfare, financial or household management, apprenticeship, or other activities as the Secretary may provide.

SEC. 13.[2] [42 U.S.C. 1437k] CONSORTIA, JOINT VENTURES, AFFILIATES, AND SUBSIDIARIES OF PUBLIC HOUSING AGENCIES.

(a) CONSORTIA.—

(1) IN GENERAL.—Any 2 or more public housing agencies may participate in a consortium for the purpose of administering any or all of the housing programs of those public housing agencies in accordance with this section.

(2) EFFECT.—With respect to any consortium described in paragraph (1)—

(A) any assistance made available under this title to each of the public housing agencies participating in the consortium shall be paid to the consortium; and

(B) all planning and reporting requirements imposed upon each public housing agency participating in the consortium with respect to the programs operated by the consortium shall be consolidated.

(3) RESTRICTIONS.—

[1] This subsection was added by section 512(a) of the Quality Housing and Work Responsibility Act of 1998, title V of Public Law 105–276, approved October 21, 1998. Pursuant to section 503 of such Act (set forth in the footnote on page 114 of this compilation), the amendment was made on the date of enactment (and, therefore, the new subsection is shown), but applies beginning upon October 1, 1999.

[2] This section was amended to read a shown by section 515 of the Quality Housing and Work Responsibility Act of 1998, title V of Public Law 105–276, approved October 21, 1998. Pursuant to section 503 of such Act (set forth in the footnote on page 114 of this compilation), the amendment was made on the date of enactment, but applies beginning upon October 1, 1999. Section 503 also provides that the provisions of this section, as in effect immediately before the enactment of the 1998 Act, continue to apply until such applicability date (unless the Secretary provides by notice for earlier implementation of the amendment).

(A) AGREEMENT.—Each consortium described in paragraph (1) shall be formed and operated in accordance with a consortium agreement, and shall be subject to the requirements of a joint public housing agency plan, which shall be submitted by the consortium in accordance with section 5A.

(B) MINIMUM REQUIREMENTS.—The Secretary shall specify minimum requirements relating to the formation and operation of consortia and the minimum contents of consortium agreements under this paragraph.

(b) JOINT VENTURES.—

(1) IN GENERAL.—Notwithstanding any other provision of law, a public housing agency, in accordance with the public housing agency plan, may—

(A) form and operate wholly owned or controlled subsidiaries (which may be nonprofit corporations) and other affiliates, any of which may be directed, managed, or controlled by the same persons who constitute the board of directors or similar governing body of the public housing agency, or who serve as employees or staff of the public housing agency; or

(B) enter into joint ventures, partnerships, or other business arrangements with, or contract with, any person, organization, entity, or governmental unit—

(i) with respect to the administration of the programs of the public housing agency, including any program that is subject to this title; or

(ii) for the purpose of providing or arranging for the provision of supportive or social services.

(2) USE OF AND TREATMENT INCOME.—Any income generated under paragraph (1)—

(A) shall be used for low-income housing or to benefit the residents assisted by the public housing agency; and

(B) shall not result in any decrease in any amount provided to the public housing agency under this title, except as otherwise provided under the formulas established under section 9(d)(2) and 9(e)(2).

(3) AUDITS.—The Comptroller General of the United States, the Secretary, or the Inspector General of the Department of Housing and Urban Development may conduct an audit of any activity undertaken under paragraph (1) at any time.

[PUBLIC HOUSING MODERNIZATION]

[SEC. 14 [Repealed.]] [1].

[1] This section (relating to public housing modernization) was repealed by section 522(a) of the Quality Housing and Work Responsibility Act of 1998, title V of Public Law 105–276, approved October 21, 1998. Section 522(c) of such Act provides as follows:

"(c) SAVINGS PROVISIONS.—

"(1) IN GENERAL.—Section 14 of the United States Housing Act of 1937 shall apply as provided in section 519(e) of this Act.

"(2) EXPANSION OF USE OF MODERNIZATION FUNDING.—Before the implementation of formulas pursuant to sections 9(d)(2) and 9(e)(2) of the United States Housing Act of 1937 (as amended by section 519(a) of this Act) an agency may utilize any authority provided under

PAYMENT OF NONFEDERAL SHARE

SEC. 15. [42 U.S.C. 1437m] Any of the following may be used as the non-Federal share required in connection with activities undertaken under Federal grant-in-aid programs which provide social, educational, employment, and other services to the tenants in a project assisted under this Act, other than under section 8:

(1) annual contributions under this Act for operation of the project; or

(2) rental or use-value of buildings or facilities paid for, in whole or in part, from development, modernization, or operation cost financed under this Act.

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or pursuant to section 14(q) of such Act (including the authority under section 201(a) of the Departments of Veterans Affairs and Housing and Urban Development, and Independent Agencies Appropriations Act, 1996 (Public Law 104–134; 110 Stat. 1321–277)), as such provisions (including such section 201(a)) may be amended thereafter, including any amendment made by title II of this Act), notwithstanding any other provision of law (including the repeal made under this section, the expiration of the applicability of such section 201, or any repeal of such section 201).

"(3) EFFECTIVE DATE.—This subsection shall take effect on the date of the enactment of this Act.".

Section 208 of title II of Public Law 105–206 contained amendments to such section 14(q).

Section 201(a)(1) of the Departments of Veterans Affairs and Housing and Urban Development, and Independent Agencies Act, 1996 (as contained in section 101(e) of the Omnibus Consolidated Rescissions and Appropriations Act of 1996, Public Law 104–134), approved April 26, 1996, amended section 14(q) of the United States Housing Act of 1937. Paragraph (2) of such section 201(a) was as amended by section 201 of the Departments of Veterans Affairs and Housing and Urban Development, and Independent Agencies Act, 1999, Public Law 105–276, to read as follows:

"(2) APPLICABILITY.—Section 14(q) of the United States Housing Act of 1937 shall be effective only with respect to assistance provided from funds made available for fiscal year 1999 or any preceding fiscal year, except that the authority in the first sentence of section 14(q)(1) to use up to 10 percent of the allocation of certain funds for any operating subsidy purpose shall not apply to amounts made available for fiscal years 1998 and 1999.".

Subsections (e) and (g) of section 519 of the Quality Housing and Work Responsibility Act of 1998 provide as follows:

"(e) TRANSITIONAL PROVISION OF ASSISTANCE.—

"(1) IN GENERAL.—Subject to paragraph (2), before the implementation of formulas pursuant to sections 9(d)(2) and 9(e)(2) of the United States Housing Act of 1937 (as amended by subsection (a) of this section), the Secretary shall provide that each public housing agency shall receive funding under sections 9 and 14 of the United States Housing Act of 1937, as those sections existed immediately before the enactment of this Act (except that such sections shall be subject to any amendments to such sections that may be contained in title II of this Act).

"(2) QUALIFICATIONS.—Before the implementation of formulas pursuant to sections 9(d)(2) and 9(e)(2) of the United States Housing Act of 1937 (as amended by subsection (a) of this section)—

"(A) if a public housing agency establishes a rental amount that is based on a ceiling rent established pursuant to subsection (d)(1) of this section, the Secretary shall take into account any reduction of the per unit dwelling rental income of the public housing agency resulting from the use of that rental amount in calculating the contributions for the public housing agency for the operation of the public housing under section 9 of the United States Housing Act of 1937;

"(B) if a public housing agency establishes a rental amount that is based on an adjustment to income under section 3(b)(5)(G) of the United States Housing Act of 1937 (as in effect immediately before the enactment of this Act), the Secretary shall not take into account any reduction of or any increase in the per unit dwelling rental income of the public housing agency resulting from the use of that rental amount in calculating the contributions for the public housing agency for the operation of the public housing under section 9 of the United States Housing Act of 1937; and

"(C) if a public housing agency establishes a rental amount other than as provided under subparagraph (A) or (B) that is less than the greatest of the amounts determined under subparagraphs (A), (B), and (C) of section 3(a)(1) of the United States Housing Act of 1937, the Secretary shall not take into account any reduction of the per unit dwelling rental income of the public housing agency resulting from the use of that rental amount in calculating the contributions for the public housing agency for the operation of the public housing under section 9 of the United States Housing Act of 1937.

* * * * * * *

"(g) EFFECTIVE DATE.—Subsections (d), (e), and (f) shall take effect upon the date of the enactment of this Act.".

ELIGIBILITY FOR ASSISTED HOUSING

SEC. 16. [42 U.S.C. 1437n] (a) INCOME ELIGIBILITY FOR PUBLIC HOUSING.—

(1) INCOME MIX WITHIN PROJECTS.—A public housing agency may establish and utilize income-mix criteria for the selection of residents for dwelling units in public housing projects, subject to the requirements of this section.

(2) PHA INCOME MIX.—

(A) TARGETING.—Except as provided in paragraph (4), of the public housing dwelling units of a public housing agency made available for occupancy in any fiscal year by eligible families, not less than 40 percent shall be occupied by families whose incomes at the time of commencement of occupancy do not exceed 30 percent of the area median income, as determined by the Secretary with adjustments for smaller and larger families.

(3) PROHIBITION OF CONCENTRATION OF LOW-INCOME FAMILIES.—

(A) PROHIBITION.—A public housing agency may not, in complying with the requirements under paragraph (2), concentrate very low-income families (or other families with relatively low incomes) in public housing dwelling units in certain public housing projects or certain buildings within projects. The Secretary shall review the income and occupancy characteristics of the public housing projects and the buildings of such projects of such agencies to ensure compliance with the provisions of this paragraph and paragraph (2).

(B) DECONCENTRATION.—

(i) IN GENERAL.—A public housing agency shall submit with its annual public housing agency plan under section 5A an admissions policy designed to provide for deconcentration of poverty and income-mixing by bringing higher income tenants into lower income projects and lower income tenants into higher income projects. This clause may not be construed to impose or require any specific income or racial quotas for any project or projects.

(ii) INCENTIVES.—In implementing the policy under clause (i), a public housing agency may offer incentives for eligible families having higher incomes to occupy dwelling unit in projects predominantly occupied by eligible families having lower incomes, and provide for occupancy of eligible families having lower incomes in projects predominantly occupied by eligible families having higher incomes.

(iii) FAMILY CHOICE.—Incentives referred to in clause (ii) may be made available by a public housing agency only in a manner that allows for the eligible family to have the sole discretion in determining whether to accept the incentive and an agency may not take any adverse action toward any eligible family for choosing not to accept an incentive and occupancy

of a project described in clause (i)(II), *Provided*, That the skipping of a family on a waiting list to reach another family to implement the policy under clause (i) shall not be considered an adverse action. An agency implementing an admissions policy under this subparagraph shall implement the policy in a manner that does not prevent or interfere with the use of site-based waiting lists authorized under section 6(s).

(4) FUNGIBILITY WITH TENANT-BASED ASSISTANCE.—

(A) AUTHORITY.—Except as provided under subparagraph (D), the number of public housing dwelling units that a public housing agency shall otherwise make available in accordance with paragraph (2)(A) to comply with the percentage requirement under such paragraph for a fiscal year shall be reduced by the credit number for the agency under subparagraph (B).

(B) CREDIT FOR EXCEEDING TENANT-BASED ASSISTANCE TARGETING REQUIREMENT.—Subject to subparagraph (C), the credit number under this subparagraph for a public housing agency for a fiscal year shall be the number by which—

(i) the aggregate number of qualified families who, in such fiscal year, are initially provided tenant-based assistance under section 8 by the agency; exceeds

(ii) the number of qualified families that is required for the agency to comply with the percentage requirement under subsection (b)(1) for such fiscal year.

(C) LIMITATIONS ON CREDIT NUMBER.—The credit number under subparagraph (B) for a public housing agency for a fiscal year may not in any case exceed the lesser of—

(i) the number of dwelling units that is equivalent to 10 percent of the aggregate number of families initially provided tenant-based assistance under section 8 by the agency in such fiscal year; or

(ii) the number of public housing dwelling units of the agency that—

(I) are in projects that are located in census tracts having a poverty rate of 30 percent or more; and

(II) are made available for occupancy during such fiscal year and are actually filled only by families whose incomes at the time of commencement of such occupancy exceed 30 percent of the area median income, as determined by the Secretary with adjustments for smaller and larger families.

(D) FUNGIBILITY FLOOR.—Notwithstanding any authority under subparagraph (A), of the public housing dwelling units of a public housing agency made available for occupancy in any fiscal year by eligible families, not less than 30 percent shall be occupied by families whose incomes at the time of commencement of occupancy do not exceed 30 percent of the area median income, as determined by the

Secretary with adjustments for smaller and larger families.

(E) QUALIFIED FAMILY.—For purposes of this paragraph, the term "qualified family" means a family having an income described in subsection (b)(1).

(b) INCOME ELIGIBILITY FOR TENANT-BASED SECTION 8 ASSISTANCE.—

(1) IN GENERAL.—Of the families initially provided tenant-based assistance under section 8 by a public housing agency in any fiscal year, not less than 75 percent shall be families whose incomes do not exceed 30 percent of the area median income, as determined by the Secretary with adjustments for smaller and larger families; except that the Secretary may establish income ceilings higher or lower than 30 percent of the area median income on the basis of the Secretary's findings that such variations are necessary because of unusually high or low family incomes.

(2) JURISDICTIONS SERVED BY MULTIPLE PHA'S.—In the case of any 2 or more public housing agencies that administer tenant-based assistance under section 8 with respect solely to identical geographical areas, such agencies shall be treated as a single public housing agency for purposes of paragraph (1).

(c) INCOME ELIGIBILITY FOR PROJECT-BASED SECTION 8 ASSISTANCE.—

(1) PRE-1981 ACT PROJECTS.—Not more than 25 percent of the dwelling units that were available for occupancy under section 8 housing assistance payments contracts under this Act before the effective date of the Housing and Community Development Amendments of 1981 [1], and which will be leased on or after such effective date shall be available for leasing by low-income families other than very low-income families.

(2) POST-1981 ACT PROJECTS.—Not more than 15 percent of the dwelling units which become available for occupancy under section 8 housing assistance payments contracts under this Act on or after the effective date of the Housing and Community Development Amendments of 1981 [1] shall be available for leasing by low-income families other than very low-income families.

(3) TARGETING.—For each project assisted under a contract for project-based assistance, of the dwelling units that become available for occupancy in any fiscal year that are assisted under the contract, not less than 40 percent shall be available for leasing only by families whose incomes at the time of commencement of occupancy do not exceed 30 percent of the area median income, as determined by the Secretary with adjustments for smaller and larger families.

(4) PROHIBITION OF SKIPPING.—In developing admission procedures implementing paragraphs (1), (2), and (3), the Secretary shall prohibit project owners from selecting families for residence in an order different from the order on the waiting list for the purpose of selecting relatively higher income families for residence. Nothing in this paragraph or this subsection

[1] October 1, 1981.

may be construed to prevent an owner of housing assisted under a contract for project-based assistance from establishing a preference for occupancy in such housing for families containing a member who is employed.

(5) EXCEPTION.—The limitations established in paragraphs (1), (2), and (3) shall not apply to dwelling units made available under project-based contracts under section 8 for the purpose of preventing displacement, or ameliorating the effects of displacement.

(6) DEFINITION.—For purposes of this subsection, the term "project-based assistance" means assistance under any of the following programs:

(A) The new construction or substantial rehabilitation program under section 8(b)(2) (as in effect before October 1, 1983).

(B) The property disposition program under section 8(b) (as in effect before the effective date under section 503(a) of the Quality Housing and Work Responsibility Act of 1998) [1].

(C) The loan management set-aside program under subsections (b) and (v) of section 8.

(D) The project-based certificate program under section 8(d)(2).

(E) The moderate rehabilitation program under section 8(e)(2) (as in effect before October 1, 1991).

(F) The low-income housing preservation program under Low-Income Housing Preservation and Resident Homeownership Act of 1990 or the provisions of the Emergency Low Income Housing Preservation Act of 1987 (as in effect before November 28, 1990).

(G) Section 8 (as in effect before the effective date under section 503(a) of the Quality Housing and Work Responsibility Act of 1998) [1], following conversion from assistance under section 101 of the Housing and Urban Development Act of 1965 or section 236(f)(2) of the National Housing Act.

(d) ESTABLISHMENT OF DIFFERENT STANDARDS.—Notwithstanding subsection (a)(2) or (b)(1), if approved by the Secretary, a public housing agency may for good cause establish and implement, in accordance with the public housing agency plan, an admission standard other than the standard under such subsection.

[(e) [Repealed.]]

(f) INELIGIBILITY OF INDIVIDUALS CONVICTED OF MANUFACTURING OR PRODUCING METHAMPHETAMINE ON THE PREMISES.—Notwithstanding any other provision of law, a public housing agency shall establish standards for occupancy in public housing dwelling units and assistance under section 8 that—

(1) permanently prohibit occupancy in any public housing dwelling unit by, and assistance under section 8 for, any person who has been convicted of manufacturing or otherwise producing methamphetamine on the premises in violation of any Federal or State law; and

[1] See section 503 of such Act as set forth in the footnote on page 114 of this compilation.

(2) immediately and permanently terminate the tenancy in any public housing unit of, and the assistance under section 8 for, any person who is convicted of manufacturing or otherwise producing methamphetamine on the premises in violation of any Federal or State law.

[RENTAL REHABILITATION AND DEVELOPMENT GRANTS]

[SEC. 17.[1] [Repealed.]]

SEC. 18. [42 U.S.C. 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 title, 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 title—

(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

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[1] Section 289(a) of the Cranston-Gonzalez National Affordable Housing Act, Public Law 101–625, provides that no new grants or loans may be made under this section after October 1, 1991. Subsection (b) of such section repealed this section effective on October 1, 1991.

However, section 152 of the Housing and Community Development Act of 1987, Public Law 100–242, provides as follows:

"SEC. 152. TERMINATION OF RENTAL DEVELOPMENT GRANT PROGRAM.

"(a) IN GENERAL.—Effective on October 1, 1989, the rental development grant program under section 17(d) of the United States Housing Act of 1937 shall terminate.

"(b) SAVINGS PROVISION.—The provisions of subsection (a) shall not apply with respect to any housing development grant under section 17(d) of the United States Housing Act of 1937 made pursuant to a reservation of funds made by the Secretary of Housing and Urban Development before October 1, 1989.".

(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 title; 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); and

(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

(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 shall not apply to activities under this section.

(h) RELOCATION AND REPLACEMENT.—Of the amounts appropriated for tenant-based assistance under section 8 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).

FINANCING LIMITATIONS

SEC. 19. [42 U.S.C. 1437q] 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 5(c) if such obligations are exempt from taxation under section 11(b), or if such obligations are issued under section 4 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 16(b) of the Federal Financing Bank Act of 1973) issued by local public housing agencies for purposes of financing public housing projects authorized by section 5(c) of this Act.

PUBLIC HOUSING RESIDENT MANAGEMENT

SEC. 20. [42 U.S.C. 1437r] (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 the Secretary and the public hous-

ing agency against loss, theft, embezzlement, or fraudulent acts on the part of the resident management corporation or its employees.

(4) MANAGEMENT RESPONSIBILITIES.—A resident management corporation that qualifies under this section, and that supplies insurance and bonding or equivalent protection sufficient to the Secretary and the public housing agency, shall enter into a contract with the public housing agency establishing the respective management rights and responsibilities of the corporation and the public housing agency. Such contract shall be consistent with the requirements of this Act applicable to public housing projects and may include specific terms governing management personnel and compensation, access to public housing project records, submission of and adherence to budgets, rent collection procedures, tenant income verification, tenant eligibility determinations, tenant eviction, the acquisition of supplies and materials, rent determination, community service requirements,[1] and such other matters as may be appropriate. The contract shall be treated as a contracting out of services and shall be subject to any provision of a collective bargaining agreement regarding contracting out to which the public housing agency is subject.

(5) ANNUAL AUDIT.—The books and records of a resident management corporation operating a public housing project shall be audited annually by a certified public accountant. A written report of each audit shall be forwarded to the public housing agency and the Secretary.

(c)[2] ASSISTANCE AMOUNTS.—A contract under this section for management of a public housing project by a resident management corporation shall provide for—

(1) the public housing agency to provide a portion of the assistance to agency from the Capital and Operating Funds to the resident management corporation in accordance with subsection (e) for purposes of operating the public housing project covered by the contract and performing such other eligible activities with respect to the project as may be provided under the contract;

(2) the amount of income expected to be derived from the project itself (from sources such as rents and charges);

(3) the amount of income to be provided to the project from the other sources of income of the public housing agency (such as interest income, administrative fees, and rents); and

(4) any income generated by a resident management corporation of a public housing project that exceeds the income es-

[1] Section 532(a)(1) of the Quality Housing and Work Responsibility Act of 1998, title V of Public Law 105–276, approved October 21, 1998, amended this paragraph by inserting the reference to rent determination and community service requirements. Pursuant to section 503 of such Act (set forth in the footnote on page 114 of this compilation), the amendment was made on the date of enactment, but applies beginning upon October 1, 1999.

[2] This subsection was amended to read as shown by section 532(a)(2) of the Quality Housing and Work Responsibility Act of 1998, title V of Public Law 105–276, approved October 21, 1998. Pursuant to section 503 of such Act (set forth in the footnote on page 114 of this compilation), the amendment was made on the date of enactment, but applies beginning upon October 1, 1999. Section 503 also provides that the provisions of this subsection, as in effect immediately before the enactment of the 1998 Act, continue to apply until such applicability date (unless the Secretary provides by notice for earlier implementation of the amendment).

timated under the contract shall be used for eligible activities under subsections (d)(1) and (e)(1) of section 9.

(d) WAIVER OF FEDERAL REQUIREMENTS.—

(1) WAIVER OF REGULATORY REQUIREMENTS.—Upon the request of any resident management corporation and public housing agency, and after notice and an opportunity to comment is afforded to the affected tenants, the Secretary may waive (for both the resident management corporation and the public housing agency) any requirement established by the Secretary (and not specified in any statute) that the Secretary determines to unnecessarily increase the costs or restrict the income of a public housing project.

(2) WAIVER TO PERMIT EMPLOYMENT.—Upon the request of any resident management corporation, the Secretary may, subject to applicable collective bargaining agreements, permit residents of such project to volunteer a portion of their labor.

(3) EXCEPTIONS.—The Secretary may not waive under this subsection any requirement with respect to income eligibility for purposes of section 16, rental payments under section 3(a), tenant or applicant protections, employee organizing rights, or rights of employees under collective bargaining agreements.

(e)[1] DIRECT PROVISION OF OPERATING AND CAPITAL ASSISTANCE.—

(1) IN GENERAL.—The Secretary shall directly provide assistance from the Operating and Capital Funds to a resident management corporation managing a public housing development pursuant to a contract under this section, but only if—

(A) the resident management corporation petitions the Secretary for the release of the funds;

(B) the contract provides for the resident management corporation to assume the primary management responsibilities of the public housing agency; and

(C) the Secretary determines that the corporation has the capability to effectively discharge such responsibilities.

(2) USE OF ASSISTANCE.—Any assistance from the Operating and Capital Funds provided to a resident management corporation pursuant to this subsection shall be used for purposes of operating the public housing developments of the agency and performing such other eligible activities with respect to public housing as may be provided under the contract.

(3) RESPONSIBILITY OF PUBLIC HOUSING AGENCY.—If the Secretary provides direct funding to a resident management corporation under this subsection, the public housing agency shall not be responsible for the actions of the resident management corporation.

(4) CALCULATION OF OPERATING FUND ALLOCATION.—Notwithstanding any provision of section 9 or any regulation

[1] The portion of this subsection that precedes paragraph (6) was amended to read as shown by section 532(a)(4)(B) of the Quality Housing and Work Responsibility Act of 1998, title V of Public Law 105–276, approved October 21, 1998. Pursuant to section 503 of such Act (set forth in the footnote on page 114 of this compilation), the amendment was made on the date of enactment, but applies beginning upon October 1, 1999. Section 503 also provides that the provisions of this subsection, as in effect immediately before the enactment of the 1998 Act, continue to apply until such applicability date (unless the Secretary provides by notice for earlier implementation of the amendment).

under such section, and subject to the exception provided in paragraph (3), the portion of the amount received by a public housing agency under section 9 that is due to an allocation from the Operating Fund and that is allocated to a public housing project managed by a resident management corporation shall not be less than the public housing agency per unit monthly amount provided in the previous year as determined on an individual project basis.

(5) CALCULATION OF TOTAL INCOME.—

(A) Subject to subparagraph (B), the amount of funds provided by a public housing agency to a public housing project managed by a resident management corporation may not be reduced during the 3-year period beginning on the date of the enactment of the Housing and Community Development Act of 1987 or on any later date on which a resident management corporation is first established for the project.

(B) If the total income of a public housing agency (including any amounts from the Capital or Operating Funds provided to the public housing agency under section 9) is reduced or increased, the income provided by the public housing agency to a public housing project managed by a resident management corporation shall be reduced or increased in proportion to the reduction or increase in the total income of the public housing agency, except that any reduction in amounts from the Operating Fund that occurs as a result of fraud, waste, or mismanagement by the public housing agency shall not affect the funds provided to the resident management corporation.

(6) RETENTION OF EXCESS REVENUES.—

(A) Any income generated by a resident management corporation of a public housing project that exceeds the income estimated for purposes of this subsection shall be excluded in subsequent years in calculating (i) the allocations from the Operating Fund for[1] the public housing agency under section 9; and (ii) the funds provided by the public housing agency to the resident management corporation.

(B) Any revenues retained by a resident management corporation under subparagraph (A) shall be used for purposes of improving the maintenance and operation of the public housing project, for establishing business enterprises that employ residents of public housing, or for acquiring additional dwelling units for low-income families.

[(f) [Repealed.]]

[(g) [Repealed.]]

[1] Section 532(a)(4)(C) of the Quality Housing and Work Responsibility Act of 1998, title V of Public Law 105–276, approved October 21, 1998, amended this subparagraph by striking "the operating subsidies provided to" and inserting "the allocations from the Operating Fund". Pursuant to section 503 of such Act (set forth in the footnote on page 114 of this compilation), the amendments were made on the date of enactment, but apply beginning upon October 1, 1999. Section 503 also provides that the provisions of this subparagraph, as in effect immediately before the enactment of the 1998 Act, continue to apply until such applicability date (unless the Secretary provides by notice for earlier implementation of the amendments).

(h) APPLICABILITY.—Any management contract between a public housing agency and a resident management corporation that is entered into after the date of the enactment of the Stewart B. McKinney Homeless Assistance Amendments Act of 1988 [1] shall be subject to this section and the regulations issued to carry out this section.

PUBLIC HOUSING HOMEOWNERSHIP AND MANAGEMENT OPPORTUNITIES

SEC. 21. [42 U.S.C. 1437s] (a) [2] HOMEOWNERSHIP OPPORTUNITIES IN GENERAL.—Lower income families residing in a public housing project shall be provided with the opportunity to purchase the dwelling units in the project through a qualifying resident management corporation as follows:

(1) FORMATION OF RESIDENT MANAGEMENT CORPORATION.—As a condition for public housing homeownership—

(A) the adult residents of a public housing project shall have formed a resident management corporation in accordance with regulations and requirements of the Secretary prescribed under this section and section 20;

(B) the resident management corporation shall have entered into a contract with the public housing agency establishing the respective management rights and responsibilities of the resident management corporation and the public housing agency; and

(C) the resident management corporation shall have demonstrated its ability to manage public housing effectively and efficiently for a period of not less than 3 years.

(2) HOMEOWNERSHIP ASSISTANCE.—

(A) The Secretary may provide assistance from the Capital Fund to a public housing project in which homeownership activities under this section are conducted.

(B) The Secretary may provide financial assistance to public housing agencies, resident management corporations, or resident councils that obtain, by contract or otherwise, training, technical assistance, and educational assistance as the Secretary determines to be necessary to promote homeownership opportunities under this section.

(C) This paragraph shall not have effect after February 4, 1991. The Secretary may not provide financial assistance under subparagraph (B), after such date, unless the Secretary determines that such assistance is necessary for the development of a homeownership program that was initiated, as determined by the Secretary, before the date

[1] November 7, 1988.

[2] Section 532(b) of the Quality Housing and Work Responsibility Act of 1998, title V of Public Law 105–276, approved October 21, 1998, amended this subsection by striking references to comprehensive improvement assistance under section 14, safety and livability standards under section 14, annual contributions, operating subsidies, and rental certificates with references to assistance from the Capital Fund, housing quality standards under section 6(f), capital and operating assistance, amounts from the Operating Fund, and tenant-based assistance, respectively. Pursuant to section 503 of such Act (set forth in the footnote on page 114 of this compilation), the amendments were made on the date of enactment, but apply beginning upon October 1, 1999. Section 503 also provides that the provisions of this subsection, as in effect immediately before the enactment of the 1998 Act, continue to apply until such applicability date (unless the Secretary provides by notice for earlier implementation of the amendments).

of the enactment of the Cranston-Gonzalez National Affordable Housing Act. [1]

(3) CONDITIONS OF PURCHASE BY A RESIDENT MANAGEMENT CORPORATION.—

(A) A resident management corporation may purchase from a public housing agency one or more multifamily buildings in a public housing project following a determination by the Secretary that—

(i) the resident management corporation has met the conditions of paragraph (1);

(ii) the resident management corporation has applied for and is prepared to undertake the ownership, management, and maintenance of the building or buildings with continued assistance from the Secretary;

(iii) the public housing agency has held one or more public hearings to obtain the views of citizens regarding the proposed purchase and, in consultation with the Secretary, has certified that the purchase will not interfere with the rights of other families residing in public housing, will not harm the efficient operation of other public housing, and is in the interest of the community;

(iv) the public housing agency has certified that it has and will implement a plan to replace public housing units sold under this section within 30 months of the sale, which plan shall provide for replacement of 100 percent of the units sold under this section by—

(I) production, acquisition, or rehabilitation of vacant public housing units by the public housing agency; and

(II) acquisition by the resident management corporation of nonpublicly owned, decent, and affordable housing units, which the resident management corporation shall operate as rental housing subject to tenant income and rent limitations comparable to the limitations applicable to public housing; and

(v) the building or buildings meet the housing quality standards applicable under section 6(f), and the physical condition, management, and operation of the building or buildings are sufficient to permit affordable homeownership by the families residing in the project.

(B) The price of a building purchased under the preceding sentence shall be approved by the Secretary, in consultation with the public housing agency and resident management corporation, taking into account the fair market value of the property, the ability of resident families to afford and maintain the property, and such other factors as the Secretary determines to be consistent with increas-

[1] November 28, 1990.

ing the supply of dwelling units affordable to very low income families.

(C) This paragraph shall not have effect after February 4, 1991. The authority for a resident management corporation to purchase 1 or more multifamily buildings in a public housing project from a public housing agency shall terminate after such date, unless the Secretary determines that such purchase is necessary for the development of a homeownership program that was initiated, as determined by the Secretary, before the date of the enactment of the Cranston-Gonzalez National Affordable Housing Act.[1]

(4) CONDITIONS OF RESALE.—

(A)(i) A resident management corporation may sell a dwelling unit or ownership rights in a dwelling unit only to a lower income family residing in, or eligible to reside in, public housing and only if the Secretary determines that the purchase will not interfere with the rights of other families residing in the housing project or harm the efficient operation of the project, and the family will be able to purchase and maintain the property.

(ii) The sale of dwelling units or ownership rights in dwelling units under clause (i) shall be made to families in the following order of priority:

(I) a lower income family residing in the public housing project in which the dwelling unit is located;

(II) a lower income family residing in any public housing project within the jurisdiction of the public housing agency having jurisdiction with respect to the project in which the dwelling unit is located;

(III) a lower income family receiving Federal housing assistance and residing in the jurisdiction of such public housing agency; and

(IV) a lower income family on the waiting list of such public housing agency for public housing or assistance under section 8, with priority given in the order in which the family appears on the waiting list.

(iii) Each resident management corporation shall provide each family described in clause (ii) with a notice of the eligibility of the family to purchase a dwelling unit under this paragraph.

(B) A purchase under subparagraph (A) may be made under any of the following arrangements:

(i) Limited dividend cooperative ownership.

(ii) Condominium ownership.

(iii) Fee simple ownership.

(iv) Shared appreciation with a public housing agency providing financing under paragraph (6).

(v) Any other arrangement determined by the Secretary to be appropriate.

(C) Property purchased under this section shall be resold only to the resident management corporation, a lower income family residing in or eligible to reside in public

[1] November 28, 1990.

housing or housing assisted under section 8, or to the public housing agency.

(D) In no case may the owner receive consideration for his or her interest in the property that exceeds the total of—

(i) the contribution to equity paid by the owner;

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

(iii) 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 by the purchaser and the resident management corporation or the public housing agency, whichever is appropriate, at the time of initial sale, and applied against the contribution to equity; the resident management corporation or the public housing agency may, at the time of initial sale, enter into an agreement with the owner to set a maximum amount which this appreciation may not exceed.

(E) Upon sale, the resident management corporation or the public housing agency, whichever is appropriate, shall ensure that subsequent owners are bound by the same limitations on resale and further restrictions on equity appreciation.

(5) USE OF PROCEEDS.—Notwithstanding any other provision of this Act or other law to the contrary, proceeds from the sale of a building or buildings under paragraph (3) and amounts recaptured under paragraph (4) shall be paid to the public housing agency and shall be retained and used by the public housing agency only to increase the number of public housing units available for occupancy. The resident management corporation shall keep and make available to the public housing agency and the Secretary all records necessary to calculate accurately payments due the local housing agency under this section. The Secretary shall not reduce or delay payments under other provisions of law as a result of amounts made available to the local housing agency under this section.

(6) FINANCING.—When financing for the purchase of the property is not otherwise available for purposes of assisting any purchase by a family or resident management corporation under this section, the public housing agency involved may make a loan on the security of the property involved to the family or resident management corporation at a rate of interest that shall not be lower than 70 percent of the market interest rate for conventional mortgages on the date on which the loan is made.

(7) CAPITAL AND OPERATING ASSISTANCE.—Notwithstanding the purchase of a building in a public housing project under this section, the Secretary shall continue to provide assistance under section 9 with respect to the project. Such assistance may not exceed the allocation for the project under section 9.

(8) OPERATING FUND ALLOCATION.—Amounts from the Operating Fund shall not be available with respect to a building after the date of its sale by the public housing agency.

(b) PROTECTION OF NONPURCHASING FAMILIES.—

(1) EVICTION PROHIBITION.—No family residing in a dwelling unit in a public housing project may be evicted by reason of the sale of the project to a resident management corporation under this section.

(2) TENANTS RIGHTS.—Families renting a dwelling unit purchased by a resident management corporation shall have all rights provided to tenants of public housing under this Act.

(3) RENTAL ASSISTANCE.—If any family resides in a dwelling unit in a building purchased by a resident management corporation, and the family decides not to purchase the dwelling unit, the Secretary shall offer to provide to the family (at the option of the family) tenant-based assistance under section 8(o) for as long as the family continues to reside in the building. The Secretary may adjust the payment standard for such assistance to take into account conditions under which the building was purchased.

(4) RENTAL AND RELOCATION ASSISTANCE.—If any family resides in a dwelling unit in a public housing project in which other dwelling units are purchased under this section, and the family decides not to purchase the dwelling unit, the Secretary shall offer (to be selected by the family, at its option)—

(A) to assist the family in relocating to a comparable appropriate sized dwelling unit in another public housing project, and to reimburse the family for their cost of relocation; and

(B) to provide to the family the financial assistance necessary to permit the family to stay in the dwelling unit or to move to another comparable dwelling unit and to pay no more for rent than required under subparagraph (A), (B), or (C) of section 3(a)(1).

(c) FINANCIAL ASSISTANCE FOR PUBLIC HOUSING AGENCIES.—The Secretary shall provide to public housing agencies such financial assistance as is necessary to permit such agencies to carry out the provisions of this section.

(d) ADDITIONAL HOMEOWNERSHIP AND MANAGEMENT OPPORTUNITIES.—This section shall not apply to the turnkey III, the mutual help, or any other homeownership program established under section 6(c)(4)(D), as in effect before the effective date under section 503(a) of the Quality Housing and Work Responsibility Act of 1998 [1], and in existence before the date of the enactment of the Housing and Community Development Act of 1987 [2].

(e) REGULATIONS.—The Secretary shall issue such regulations as may be necessary to carry out the provisions of this section. Such regulations may establish any additional terms and conditions for homeownership or resident management under this section that are determined by the Secretary to be appropriate.

[(f) [Repealed.]]

[1] See section 503 of such Act as set forth in the footnote on page 114 of this compilation.
[2] February 5, 1988.

(g) LIMITATION.—Any authority of the Secretary under this section to provide financial assistance, or to enter into contracts to provide financial assistance, shall be effective only to such extent or in such amounts as are or have been provided in advance in an appropriation Act. [42 U.S.C. 1437s]

SEC. 22.[1] [42 U.S.C. 1437t] AUTHORITY TO CONVERT PUBLIC HOUSING TO VOUCHERS.

(a) AUTHORITY.—A public housing agency may convert any public housing project (or portion thereof) owned by the public housing agency to tenant-based assistance, but only in accordance with the requirements of this section.

(b) CONVERSION ASSESSMENT.—

(1) IN GENERAL.—To convert public housing under this section, a public housing agency shall conduct an assessment of the public housing that includes—

(A) a cost analysis that demonstrates whether or not the cost (both on a net present value basis and in terms of new budget authority requirements) of providing tenant-based assistance under section 8 for the same families in substantially similar dwellings over the same period of time is less expensive than continuing public housing assistance in the public housing project for the remaining useful life of the project;

(B) an analysis of the market value of the public housing project both before and after rehabilitation, and before and after conversion;

(C) an analysis of the rental market conditions with respect to the likely success of the use of tenant-based assistance under section 8 in that market for the specific residents of the public housing project, including an assessment of the availability of decent and safe dwellings renting at or below the payment standard established for tenant-based assistance under section 8 by the agency;

(D) the impact of the conversion to tenant-based assistance under this section on the neighborhood in which the public housing project is located; and

(E) a plan that identifies actions, if any, that the public housing agency would take with regard to converting any public housing project or projects (or portions thereof) of the public housing agency to tenant-based assistance.

(2) TIMING.—Not later than 2 years after the effective date under section 503(a) of the Quality Housing and Work Respon-

[1] Section 533(a) of the Quality Housing and Work Responsibility Act of 1998, title V of Public Law 105–276, approved October 21, 1998, amended this section to read as shown. Pursuant to section 503 of such Act (set forth in the footnote on page 114 of this compilation), the amendment was made on the date of enactment (and, therefore, the new section is shown), but applies beginning upon October 1, 1999. Section 503 also provides that the provisions of this section, as in effect immediately before the enactment of the 1998 Act, continue to apply until such applicability date (unless the Secretary provides by notice for earlier implementation of the amendment).

Section 533(b) of such Act provides as follows:

"(b) SAVINGS PROVISION.—The amendment made by subsection (a) shall not affect any contract or other agreement entered into under section 22 of the United States Housing Act of 1937, as such section existed immediately before the effective date under section 503(a) of the Quality Housing and Work Responsibility Act of 1998.".

sibility Act of 1998 [1], each public housing agency shall conduct an assessment under paragraph (1) or (3) of the status of each public housing project owned by such agency and shall submit to the Secretary such assessment. A public housing agency may otherwise undertake an assessment under this subsection at any time and for any public housing project (or portion thereof) owned by the agency. A public housing agency may update a previously conducted assessment for a project (or portion thereof) for purposes of compliance with the one-year limitation under subsection (c).

(3) STREAMLINED ASSESSMENT.—At the discretion of the Secretary or at the request of a public housing agency, the Secretary may waive any or all of the requirements of paragraph (1) or (3) or otherwise require a streamlined assessment with respect to any public housing project or class of public housing projects.

(c) CRITERIA FOR IMPLEMENTATION OF CONVERSION PLAN.—A public housing agency may convert a public housing project (or portion thereof) owned by the agency to tenant-based assistance only pursuant to a conversion assessment under subsection (b) that one year and that demonstrates that the conversion—

(1) will not be more expensive than continuing to operate the public housing project (or portion thereof) as public housing;

(2) will principally benefit the residents of the public housing project (or portion thereof) to be converted, the public housing agency, and the community; and

(3) will not adversely affect the availability of affordable housing in such community.

(d) CONVERSION PLAN REQUIREMENT.—A public housing project may be converted under this section to tenant-based assistance only as provided in a conversion plan under this subsection, which has not been disapproved by the Secretary pursuant to subsection (e). Each conversion plan shall—

(1) be developed by the public housing agency, in consultation with the appropriate public officials, with significant participation by the residents of the project (or portion thereof) to be converted;

(2) be consistent with and part of the public housing agency plan;

(3) describe the conversion and future use or disposition of the project (or portion thereof) and include an impact analysis on the affected community;

(4) provide that the public housing agency shall—

(A) notify each family residing in a public housing project (or portion) to be converted under the plan 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—

[1] See section 503 of such Act as set forth in the footnote on page 114 of this compilation.

(i) the public housing project (or portion) will be removed from the inventory of the public housing agency; and

(ii) 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) provide any necessary counseling for families displaced by such action;

(C) ensure that, if the project (or portion) converted is used as housing after such conversion, each resident may choose to remain in their dwelling unit in the project and use the tenant-based assistance toward rent for that unit; and

(D) provide any actual and reasonable relocation expenses for families displaced by the conversion; and

(5) provide that any proceeds to the agency from the conversion will be used subject to the limitations that are applicable under section 18(a)(5) to proceeds resulting from the disposition or demolition of public housing.

(e) REVIEW AND APPROVAL OF CONVERSION PLANS.—The Secretary shall disapprove a conversion plan only if—

(1) the plan is plainly inconsistent with the conversion assessment for the agency developed under subsection (b);

(2) there is reliable information and data available to the Secretary that contradicts that conversion assessment; or

(3) the plan otherwise fails to meet the requirements of this section.

(f) TENANT-BASED ASSISTANCE.—To the extent approved by the Secretary, the funds used by the public housing agency to provide tenant-based assistance under section 8 shall be added to the annual contribution contract administered by the public housing agency.

SEC. 23. [42 U.S.C. 1437u] FAMILY SELF-SUFFICIENCY PROGRAM.

(a) PURPOSE.—The purpose of the Family Self-Sufficiency program established under this section is to promote the development of local strategies to coordinate use of public housing and assistance under the certificate and voucher programs under section 8

with public and private resources, to enable eligible families to achieve economic independence and self-sufficiency.

(b) ESTABLISHMENT OF PROGRAM.—

(1) REQUIRED PROGRAMS.—Except as provided in paragraph (2), the Secretary shall carry out a program under which each public housing agency that administers assistance under subsection (b) or (o) of section 8 or makes available new public housing dwelling units—

(A) may, during fiscal years 1991 and 1992, carry out a local Family Self-Sufficiency program under this section;

(B) effective on October 1, 1992, the Secretary shall require each such agency to carry out a local Family Self-Sufficiency program under this section, subject to the limitations in paragraph (4); and

(C) effective on the date of the enactment of the Quality Housing and Work Responsibility Act of 1998 [1], to the extent an agency is not required to carry out a program pursuant to subparagraph (B) of this paragraph and paragraph (4), may carry out a local Family Self-Sufficiency program under this section.

Subject to paragraph (4), each local program shall, subject to availability of supportive services, include an action plan under subsection (g) and shall provide comprehensive supportive services for families electing to participate in the program. In carrying out the self-sufficiency program under this section, the Secretary shall consult with the heads of other appropriate Federal agencies and provide for cooperative actions and funding agreements with such agencies. Each public housing agency administering an approved local program may employ a service coordinator to administer the local program.

(2) EXCEPTION.—The Secretary shall not require a public housing agency to carry out a local program under subsection (a) if the public housing agency provides certification (as such term is defined under title I of the Cranston-Gonzalez National Affordable Housing Act) to the Secretary, that the establishment and operation of the program is not feasible because of local circumstances, which may include—

(A) lack of supportive services accessible to eligible families, which shall include insufficient availability of resources for programs under the Job Training Partnership Act or [2] title I of the Workforce Investment Act of 1998 or the Job Opportunities and Basic Skills Training Program under part F of title IV of the Social Security Act;

(B) lack of funding for reasonable administrative costs;

(C) lack of cooperation by other units of State or local government; or

(D) any other circumstances that the Secretary may consider appropriate.

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[1] October 21, 1998.

[2] Section 405(f)(23) of title VIII of the Departments of Labor, Health and Human Services, and Education, and Related Agencies Appropriations Act, 1999 (as contained in section 101(f) of division A of the Omnibus Consolidated and Emergency Supplemental Appropriations Act, 1999 (Public Law 105–277)) provides that this section is amended "in subsection (b)(2)(A), by striking 'the Job Training Partnership Act or'". Subsection (g)(2)(B) of such section 405 provides that "[t]he amendments made by subsection (f) shall take effect on July 1, 2000".

In allocating assistance available for reservation under this Act, the Secretary may not refuse to provide assistance or decrease the amount of assistance that would otherwise be provided to any public housing agency because the agency has provided a certification under this paragraph or because, pursuant to a certification, the agency has failed to carry out a self-sufficiency program.

(3) SCOPE.—Subject to paragraph (4), each public housing agency required to carry out a local program under this section shall make the following housing assistance available under the program in each fiscal year:

(A) Certificate and voucher assistance under section 8(b) and (o), in an amount equivalent to the increase for such year in the number of families so assisted by the agency (as compared to the preceding year).

(B) Public housing dwelling units, in the number equal to the increase for such year in units made available by the agency (as compared to the preceding year).

Each such public housing agency shall continue to operate a local program for the number of families determined under this paragraph subject only to the availability under appropriations Acts of sufficient amounts for assistance.

(4) TERMINATION OF REQUIREMENT TO EXPAND PROGRAM.—

(A) IN GENERAL.—Notwithstanding any other provision of law, a public housing agency that receives incremental assistance under subsection (b) or (o) of section 8 or that makes available new public housing dwelling units shall not be required, after the enactment of the Quality Housing and Work Responsibility Act of 1998 [1], to provide assistance under a local Family Self-Sufficiency program under this section to any families not required to be assisted under subparagraph (B) of this paragraph.

(B) CONTINUATION OF EXISTING OBLIGATIONS.—

(i) IN GENERAL.—Each public housing agency that, before the enactment of the Quality Housing and Work Responsibility Act of 1998 [1], was required under this section to carry out a local Family Self-Sufficiency program shall continue to operate such local program for the number of families determined under paragraph (3), subject only to the availability under appropriations Acts of sufficient amounts for housing assistance.

(ii) REDUCTION.—The number of families for which an agency is required under clause (i) to operate such local program shall be decreased by one for each family that, after enactment of the Quality Housing and Work Responsibility Act of 1998 [1], fulfills its obligations under the contract of participation.

(5) NONPARTICIPATION.—Assistance under the certificate or voucher programs under section 8 for a family that elects not to participate in a local program shall not be delayed by reason of such election.

[1] October 21, 1998.

(c) CONTRACT OF PARTICIPATION.—

(1) IN GENERAL.—Each public housing agency carrying out a local program under this section shall enter into a contract with each leaseholder receiving assistance under the certificate and voucher programs of the public housing agency under section 8 or residing in public housing administered by the agency, that elects to participate in the self-sufficiency program under this section. The contract shall set forth the provisions of the local program, shall establish specific interim and final goals by which compliance with and performance of the contract may be measured, and shall specify the resources and supportive services to be made available to the participating family pursuant to paragraph (2) and the responsibilities of the participating family. The contract shall provide that the public housing agency may terminate or withhold assistance under section 8 and services under paragraph (2) of this subsection if the public housing agency determines, through an administrative grievance procedure in accordance with the requirements of section 6(k), that the family has failed to comply with the requirements of the contract without good cause (which may include a loss or reduction in access to supportive services, or a change in circumstances that makes the family or individual unsuitable for participation).

(2) SUPPORTIVE SERVICES.—A local program under this section shall provide appropriate supportive services under this paragraph to each participating family entering into a contract of participation under paragraph (1). The supportive services shall be provided during the period the family is receiving assistance under section 8 or residing in public housing, and may include—

(A) child care;
(B) transportation necessary to receive services;
(C) remedial education;
(D) education for completion of high school;
(E) job training and preparation;
(F) substance abuse treatment and counseling;
(G) training in homemaking and parenting skills;
(H) training in money management;
(I) training in household management; and
(J) any other services and resources appropriate to assist eligible families to achieve economic independence and self-sufficiency.

(3) TERM AND EXTENSION.—Each family participating in a local program shall be required to fulfill its obligations under the contract of participation not later than 5 years after entering into the contract. The public housing agency shall extend the term of the contract for any family that requests an extension, upon a finding of the agency of good cause.

(4) EMPLOYMENT AND COUNSELING.—The contract of participation shall require the head of the participating family to seek suitable employment during the term of the contract. The public housing agency may, during such period, provide counseling for the family with respect to affordable rental and

homeownership opportunities in the private housing market and money management counseling.

(d) INCENTIVES FOR PARTICIPATION.—

(1) MAXIMUM RENTS.—During the term of the contract of participation, the amount of rent paid by any participating family whose monthly adjusted income does not exceed 50 percent of the area median income for occupancy in the public housing unit or dwelling unit assisted under section 8 may not be increased on the basis of any increase in the earned income of the family, unless the increase results in an income exceeding 50 percent of the area median income. The Secretary shall provide for increased rents for participating families whose incomes are between 50 and 80 percent of the area median income, so that any family whose income increases to 80 percent or more of the area median income pays 30 percent of the family's monthly adjusted income for rent. Upon completion of the contract of participation, if the participating family continues to qualify for and reside in a dwelling unit in public housing or housing assisted under section 8, the rent charged the participating family shall be increased (if applicable) to 30 percent of the monthly adjusted income of the family.

(2) ESCROW SAVINGS ACCOUNTS.—For each participating family whose monthly adjusted income is less than 50 percent of the area median income, the difference between 30 percent of the adjusted income of the participating family and the amount of rent paid by a participating family shall be placed in an interest-bearing escrow account established by the public housing agency on behalf of the participating family. For families with incomes between 50 and 80 percent of the area median income, the Secretary shall provide for escrow of the difference between 30 percent of the family income and the amount paid by the family for rent as determined by the Secretary under paragraph (1). The Secretary shall not escrow any amounts for any family whose adjusted income exceeds 80 percent of the area median income. Amounts in the escrow account may be withdrawn by the participating family after the family ceases to receive income assistance under Federal or State welfare programs, upon successful performance of the obligations of the family under the contract of participation entered into by the family under subsection (c), as determined according to the specific goals and terms included in the contract, and under other circumstances in which the Secretary determines an exception for good cause is warranted. A public housing agency establishing such escrow accounts may make certain amounts in the accounts available to the participating families before full performance of the contract obligations based on compliance with, and completion of, specific interim goals included in the contract; except that any such amounts shall be used by the participating families for purposes consistent with the contracts of participation, as determined by the public housing agency.

(3) PLAN.—Each public housing agency carrying out a local program under this section shall establish a plan to offer incentives to families to encourage families to participate in the

program. The plan shall require the establishment of escrow savings accounts under paragraph (2) and may include any other incentives designed by the public housing agency.

(e) EFFECT OF INCREASES IN FAMILY INCOME.—Any increase in the earned income of a family during the participation of the family in a local program established under this section may not be considered as income or a resource for purposes of eligibility of the family for other benefits, or amount of benefits payable to the family, under any program administered by the Secretary, unless the income of the family equals or exceeds 80 percent of the median income of the area (as determined by the Secretary with adjustments for smaller and larger families).

(f) PROGRAM COORDINATING COMMITTEE.—

(1) FUNCTIONS.—Each public housing agency carrying out a local program under this section shall, in consultation with the chief executive officer of the unit of general local government, develop an action plan under subsection (g), carry out activities under the local program, and secure commitments of public and private resources through a program coordinating committee established by the public housing agency under this subsection.

(2) MEMBERSHIP.—The program coordinating committee may consist of representatives of the public housing agency, the unit of general local government, the local agencies (if any) responsible for carrying out programs under the Job Training Partnership Act or [1] title I of the Workforce Investment Act of 1998 or the Job Opportunities and Basic Skills Training Program under part F of title IV of the Social Security Act, and other organizations, such as other State and local welfare and employment agencies, public and private education or training institutions, nonprofit service providers, and private businesses. The public housing agency may, in consultation with the chief executive officer of the unit of general local government, utilize an existing entity as the program coordinating committee if it meets the requirements of this subsection.

(g) ACTION PLAN.—

(1) REQUIRED SUBMISSION.—The Secretary shall require each public housing agency participating in the self-sufficiency program under this section to submit to the Secretary, for approval by the Secretary, an action plan under this subsection in such form and in accordance with such procedures as the Secretary shall require.

(2) DEVELOPMENT OF PLAN.—In developing the plan, the public housing agency shall consult with the chief executive officer of the applicable unit of general local government, the program coordinating committee established under subsection (f), representatives of residents of the public housing, any local agencies responsible for programs under the Job Training Part-

[1] Section 405(f)(23) of title VIII of the Departments of Labor, Health and Human Services, and Education, and Related Agencies Appropriations Act, 1999 (as contained in section 101(f) of division A of the Omnibus Consolidated and Emergency Supplemental Appropriations Act, 1999 (Public Law 105–277)) provides that this section is amended "in the first sentence of subsection (f)(2), by striking 'the Job Training Partnership Act or'". Subsection (g)(2)(B) of such section 405 provides that "[t]he amendments made by subsection (f) shall take effect on July 1, 2000".

nership Act or [1] title I of the Workforce Investment Act of 1998 or the Job Opportunities and Basic Skills Training Program under part F of title IV of the Social Security Act, other appropriate organizations (such as other State and local welfare and employment or training institutions, child care providers, nonprofit service providers, and private businesses), and any other public and private service providers affected by the operation of the local program.

(3) CONTENTS OF PLAN.—The Secretary shall require that the action plan contain at a minimum—

(A) a description of the size, characteristics, and needs of the population of the families expected to participate in the local self-sufficiency program;

(B) a description of the number of eligible participating families who can reasonably be expected to receive supportive services under the program, based on available and anticipated Federal, State, local, and private resources;

(C) a description of the services and activities under subsection (c)(2) to be provided to families receiving assistance under this section through the section 8 and public housing programs, which shall be provided by both public and private resources;

(D) a description of the incentives pursuant to subsection (d) offered by the public housing agency to families to encourage participation in the program;

(E) a description of how the local program will deliver services and activities according to the needs of the families participating in the program;

(F) a description of both the public and private resources that are expected to be made available to provide the activities and services under the local program;

(G) a timetable for implementation of the local program;

(H) assurances satisfactory to the Secretary that development of the services and activities under the local program has been coordinated with the Job Opportunities and Basic Skills Training Program under part F of title IV of the Social Security Act and programs under the Job Training Partnership Act or [2] title I of the workforce Investment Act of 1998 and any other relevant employment, child care, transportation, training, and education programs in the applicable area, and that implementation will

[1] Section 405(f)(23) of title VIII of the Departments of Labor, Health and Human Services, and Education, and Related Agencies Appropriations Act, 1999 (as contained in section 101(f) of division A of the Omnibus Consolidated and Emergency Supplemental Appropriations Act, 1999 (Public Law 105–277)) provides that this subsection is amended in paragraph (2) by striking "the Job Training Partnership Act or". Subsection (g)(2)(B) of such section 405 provides that "[t]he amendments made by subsection (f) shall take effect on July 1, 2000".

[2] Section 405(f)(23) of title VIII of the Departments of Labor, Health and Human Services, and Education, and Related Agencies Appropriations Act, 1999 (as contained in section 101(f) of division A of the Omnibus Consolidated and Emergency Supplemental Appropriations Act, 1999 (Public Law 105–277)) provides that this subsection is amended in paragraph (3)(H) by striking "the Job Training Partnership Act or". Subsection (g)(2)(B) of such section 405 provides that "[t]he amendments made by subsection (f) shall take effect on July 1, 2000".

continue to be coordinated, in order to avoid duplication of services and activities; and

(I) assurances satisfactory to the Secretary that nonparticipating families will retain their rights to public housing or section 8 assistance notwithstanding the provisions of this section.

(h) ALLOWABLE PUBLIC HOUSING AGENCY ADMINISTRATIVE FEES AND COSTS.—

(1) SECTION 8 FEES.—The Secretary shall establish a fee under section 8(q) for the costs incurred in administering the provision of certificate and voucher assistance under section 8 through the self-sufficiency program under this section. The fee shall be the fee in effect under such section on June 1, 1990, except that for purposes of the fee under this paragraph the applicable dollar amount for preliminary expenses under section 8(q)(2)(A)(i) shall, subject to approval in appropriations Acts, be $300. Upon the submission by the Comptroller General of the United States of the report required under section 554(b) of the Cranston-Gonzalez National Affordable Housing Act, the Secretary shall revise the fee under this paragraph, taking into consideration the report of the Comptroller General.

(2) PERFORMANCE FUNDING SYSTEM.—Notwithstanding any provision of section 9, the Secretary shall provide for inclusion under the performance funding system under section 9 of reasonable and eligible administrative costs (including the costs of employing a full-time service coordinator) incurred by public housing agencies carrying out local programs under this section. The Secretary shall include an estimate of the administrative costs likely to be incurred by participating public housing agencies in the annual budget request for the Department of Housing and Urban Development for public housing operating assistance under section 9 and shall include a request for such amounts in the budget request. Of any amounts appropriated under section 9(c) for fiscal year 1993, $25,000,000 is authorized to be used for costs under this paragraph, and of any amounts appropriated under such section for fiscal year 1994, $25,900,000 is authorized to be used for costs under this paragraph.

(i) PUBLIC HOUSING AGENCY INCENTIVE AWARD ALLOCATION.—

(1) IN GENERAL.—The Secretary shall carry out a competition for budget authority for certificate and voucher assistance under section 8 and public housing development assistance under section 5(a)(2) reserved under paragraph (4) and shall allocate such budget authority to public housing agencies pursuant to the competition.

(2) CRITERIA.—The competition shall be based on successful and outstanding implementation by public housing agencies of a local self-sufficiency program under this section. The Secretary shall establish perfomance [1] criteria for public housing agencies carrying out such local programs and the Secretary

[1] So in law.

shall cause such criteria to be published in the Federal Register.

(3) USE.—Each public housing agency that receives an allocation of budget authority under this subsection shall use such authority to provide assistance under the local self-sufficiency program established by the public housing agency under this section.

(4) RESERVATION OF BUDGET AUTHORITY.—Notwithstanding section 213(d) of the Housing and Community Development Act of 1974, the Secretary shall reserve for allocation under this subsection not less than 10 percent of the portion of budget authority appropriated in each of fiscal years 1991 and 1992 for section 8 that is available for purposes of providing assistance under the existing housing certificate and housing voucher programs for families not currently receiving assistance, and not less than 10 percent of the public housing development assistance available in such fiscal years for the purpose under section 5(a)(2) (excluding amounts for major reconstruction of obsolete projects).

(j) ON-SITE FACILITIES.—Each public housing agency carrying out a local program may, subject to the approval of the Secretary, make available and utilize common areas or unoccupied public housing units in public housing projects administered by the agency for the provision of supportive services under the local program. The use of the facilities of a public housing agency under this subsection shall not affect the amount of assistance provided to the agency under section 9.

(k) FLEXIBILITY.—In establishing and carrying out the self-sufficiency program under this section, the Secretary shall allow public housing agencies, units of general local government, and other organizations discretion and flexibility, to the extent practicable, in developing and carrying out local programs.

(l) REPORTS.—

(1) TO SECRETARY.—Each public housing agency that carries out a local self-sufficiency program approved by the Secretary under this section shall submit to the Secretary, not less than annually a report regarding the program. The report shall include—

(A) a description of the activities carried out under the program;

(B) a description of the effectiveness of the program in assisting families to achieve economic independence and self-sufficiency;

(C) a description of the effectiveness of the program in coordinating resources of communities to assist families to achieve economic independence and self-sufficiency; and

(D) any recommendations of the public housing agency or the appropriate local program coordinating committee for legislative or administrative action that would improve the self-sufficiency program carried out by the Secretary and ensure the effectiveness of the program.

(2) HUD ANNUAL REPORT.—The Secretary shall submit to the Congress annually, as a part of the report of the Secretary under section 8 of the Department of Housing and Urban De-

velopment Act, a report summarizing the information submitted by public housing agencies under paragraph (1). The report under this paragraph shall also include any recommendations of the Secretary for improving the effectiveness of the self-sufficiency program under this section.

(m) GAO REPORT.—The Comptroller General of the United States may submit to the Congress reports under this subsection evaluating and describing the Family Self-Sufficiency program carried out by the Secretary under this section.

(n) DEFINITIONS.—As used in this section:

(1) The term "contract of participation" means a contract under subsection (c) entered into by a public housing agency carrying out a local program under this section and a participating family.

(2) The term "earned income" means income from wages, tips, salaries, and other employee compensation, and any earnings from self-employment. The term does not include any pension or annuity, transfer payments, or any cash or in-kind benefits.

(3) The term "eligible family" means a family whose head of household is not elderly, disabled, pregnant, a primary caregiver for children under the age of 3, or for whom the family self-sufficiency program would otherwise be unsuitable. Notwithstanding the preceding sentence, a public housing agency may enroll such families if they choose to participate in the program.

(4) The term "local program" means a program for providing supportive services to participating families carried out by a public housing agency within the jurisdiction of the public housing agency.

(5) The term "participating family" means a family that resides in public housing or housing assisted under section 8 and elects to participate in a local self-sufficiency program under this section.

(6) The term "vacant unit" means a dwelling unit that has been vacant for not less than 9 consecutive months.

(o) EFFECTIVE DATE AND REGULATIONS.—

(1) REGULATIONS.—Not later than the expiration of the 180-day period beginning on the date of the enactment of the Cranston-Gonzalez National Affordable Housing Act,[1] the Secretary shall by notice establish any requirements necessary to carry out this section. Such requirements shall be subject to section 553 of title 5, United States Code. The Secretary shall issue final regulations based on the notice not later than the expiration of the 8-month period beginning on the date of the notice. Such regulations shall become effective upon the expiration of the 1-year period beginning on the date of the publication of the final regulations.

[(2) [Repealed.]]

[1] The date of enactment was November 28, 1990.

SEC. 24. [42 U.S.C. 1437v] DEMOLITION, SITE REVITALIZATION, REPLACEMENT HOUSING, AND TENANT-BASED ASSISTANCE GRANTS FOR PROJECTS.

(a) PURPOSES.—The purpose of this section is to provide assistance to public housing agencies for the purposes of—

(1) improving the living environment for public housing residents of severely distressed public housing projects through the demolition, rehabilitation, reconfiguration, or replacement of obsolete public housing projects (or portions thereof);

(2) revitalizing sites (including remaining public housing dwelling units) on which such public housing projects are located and contributing to the improvement of the surrounding neighborhood;

(3) providing housing that will avoid or decrease the concentration of very low-income families; and

(4) building sustainable communities.

(b) GRANT AUTHORITY.—The Secretary may make grants as provided in this section to applicants whose applications for such grants are approved by the Secretary under this section.

(c) CONTRIBUTION REQUIREMENT.—

(1) IN GENERAL.—The Secretary may not make any grant under this section to any applicant unless the applicant certifies to the Secretary that the applicant will—

(A) supplement the aggregate amount of assistance provided under this section with an amount of funds from sources other than this section equal to not less than 5 percent of the amount provided under this section; and

(B) in addition to supplemental amounts provided in accordance with subparagraph (A), if the applicant uses more than 5 percent of the amount of assistance provided under this section for services under subsection (d)(1)(L), provide supplemental funds from sources other than this section in an amount equal to the amount so used in excess of 5 percent.

(2) SUPPLEMENTAL FUNDS.—In calculating the amount of supplemental funds provided by a grantee for purposes of paragraph (1), the grantee may include amounts from other Federal sources, any State or local government sources, any private contributions, the value of any donated material or building, the value of any lease on a building, the value of the time and services contributed by volunteers, and the value of any other in-kind services or administrative costs provided.

(3) EXEMPTION.—If assistance provided under this title will be used only for providing tenant-based assistance under section 8 or demolition of public housing (without replacement), the Secretary may exempt the applicant from the requirements under paragraph (1)(A).

(d) ELIGIBLE ACTIVITIES.—

(1) IN GENERAL.—Grants under this section may be used for activities to carry out revitalization programs for severely distressed public housing, including—

(A) architectural and engineering work;

(B) redesign, rehabilitation, or reconfiguration of a severely distressed public housing project, including the site on which the project is located;

(C) the demolition, sale, or lease of the site, in whole or in part;

(D) covering the administrative costs of the applicant, which may not exceed such portion of the assistance provided under this section as the Secretary may prescribe;

(E) payment of reasonable legal fees;

(F) providing reasonable moving expenses for residents displaced as a result of the revitalization of the project;

(G) economic development activities that promote the economic self-sufficiency of residents under the revitalization program;

(H) necessary management improvements;

(I) leveraging other resources, including additional housing resources, retail supportive services, jobs, and other economic development uses on or near the project that will benefit future residents of the site;

(J) replacement housing (including appropriate homeownership downpayment assistance for displaced residents or other appropriate replacement homeownership activities) and rental assistance under section 8;

(K) transitional security activities; and

(L) necessary supportive services, except that not more than 15 percent of the amount of any grant may be used for activities under this paragraph.

(2) ENDOWMENT TRUST FOR SUPPORTIVE SERVICES.—In using grant amounts under this section made available in fiscal year 2000 or thereafter for supportive services under paragraph (1)(L), a public housing agency may deposit such amounts in an endowment trust to provide supportive services over such period of time as the agency determines. Such amounts shall be provided to the agency by the Secretary in a lump sum when requested by the agency, shall be invested in a wise and prudent manner, and shall be used (together with any interest thereon earned) only for eligible uses pursuant to paragraph (1)(L). A public housing agency may use amounts in an endowment trust under this paragraph in conjunction with other amounts donated or otherwise made available to the trust for similar purposes.

(e) APPLICATION AND SELECTION.—

(1) APPLICATION.—An application for a grant under this section shall demonstrate the appropriateness of the proposal in the context of the local housing market relative to other alternatives, and shall include such other information and be submitted at such time and in accordance with such procedures, as the Secretary shall prescribe.

(2) SELECTION CRITERIA.—The Secretary shall establish selection criteria for the award of grants under this section and shall include such factors as—

(A) the relationship of the grant to the public housing agency plan for the applicant and how the grant will result in a revitalized site that will enhance the neighborhood in

which the project is located and enhance economic opportunities for residents;

(B) the capability and record of the applicant public housing agency, or any alternative management entity for the agency, for managing large-scale redevelopment or modernization projects, meeting construction timetables, and obligating amounts in a timely manner;

(C) the extent to which the applicant could undertake such activities without a grant under this section;

(D) the extent of involvement of residents, State and local governments, private service providers, financing entities, and developers, in the development of a revitalization program for the project;

(E) the need for affordable housing in the community;

(F) the supply of other housing available and affordable to families receiving tenant-based assistance under section 8;

(G) the amount of funds and other resources to be leveraged by the grant;

(H) the extent of the need for, and the potential impact of, the revitalization program; and

(I) such other factors as the Secretary considers appropriate.

(3) APPLICABILITY OF SELECTION CRITERIA.—The Secretary may determine not to apply certain of the selection criteria established pursuant to paragraph (2) when awarding grants for demolition only, tenant-based assistance only, or other specific categories of revitalization activities. This section may not be construed to require any application for a grant under this section to include demolition of public housing or to preclude use of grant amounts for rehabilitation or rebuilding of any housing on an existing site.

(f) COST LIMITS.—Subject to the provisions of this section, the Secretary—

(1) shall establish cost limits on eligible activities under this section sufficient to provide for effective revitalization programs; and

(2) may establish other cost limits on eligible activities under this section.

(g) DISPOSITION AND REPLACEMENT.—Any severely distressed public housing disposed of pursuant to a revitalization plan and any public housing developed in lieu of such severely distressed housing, shall be subject to the provisions of section 18. Severely distressed public housing demolished pursuant to a revitalization plan shall not be subject to the provisions of section 18.

(h) ADMINISTRATION BY OTHER ENTITIES.—The Secretary may require a grantee under this section to make arrangements satisfactory to the Secretary for use of an entity other than the public housing agency to carry out activities assisted under the revitalization plan, if the Secretary determines that such action will help to effectuate the purposes of this section.

(i) WITHDRAWAL OF FUNDING.—If a grantee under this section does not proceed within a reasonable timeframe, in the determination of the Secretary, the Secretary shall withdraw any grant

amounts under this section that have not been obligated by the public housing agency. The Secretary shall redistribute any withdrawn amounts to one or more other applicants eligible for assistance under this section or to one or more other entities capable of proceeding expeditiously in the same locality in carrying out the revitalization plan of the original grantee.

(j) DEFINITIONS.—For purposes of this section, the following definitions shall apply:

(1) APPLICANT.—The term "applicant" means—

(A) any public housing agency that is not designated as troubled pursuant to section 6(j)(2);

(B) any public housing agency for which a private housing management agent has been selected, or a receiver has been appointed, pursuant to section 6(j)(3); and

(C) any public housing agency that is designated as troubled pursuant to section 6(j)(2) and that—

(i) is so designated principally for reasons that will not affect the capacity of the agency to carry out a revitalization program;

(ii) is making substantial progress toward eliminating the deficiencies of the agency; or

(iii) is otherwise determined by the Secretary to be capable of carrying out a revitalization program.

(2) SEVERELY DISTRESSED PUBLIC HOUSING.—The term "severely distressed public housing" means a public housing project (or building in a project)—

(A) that—

(i) requires major redesign, reconstruction or redevelopment, or partial or total demolition, to correct serious deficiencies in the original design (including inappropriately high population density), deferred maintenance, physical deterioration or obsolescence of major systems and other deficiencies in the physical plant of the project;

(ii) is a significant contributing factor to the physical decline of and disinvestment by public and private entities in the surrounding neighborhood;

(iii)(I) is occupied predominantly by families who are very low-income families with children, are unemployed, and dependent on various forms of public assistance; or

(II) has high rates of vandalism and criminal activity (including drug-related criminal activity) in comparison to other housing in the area;

(iv) cannot be revitalized through assistance under other programs, such as the program for capital and operating assistance for public housing under this Act, or the programs under sections 9 and 14 of the United States Housing Act of 1937 (as in effect before the effective date under under section 503(a) the Quality Housing and Work Responsibility Act of 1998[1]), be-

[1] See section 503 of such Act as set forth in the footnote on page 114 of this compilation.

cause of cost constraints and inadequacy of available amounts; and

(v) in the case of individual buildings, is, in the Secretary's determination, sufficiently separable from the remainder of the project of which the building is part to make use of the building feasible for purposes of this section; or

(B) that was a project described in subparagraph (A) that has been legally vacated or demolished, but for which the Secretary has not yet provided replacement housing assistance (other than tenant-based assistance).

(3) SUPPORTIVE SERVICES.—The term "supportive services" includes all activities that will promote upward mobility, self-sufficiency, and improved quality of life for the residents of the public housing project involved, including literacy training, job training, day care, transportation, and economic development activities.

(k) GRANTEE REPORTING.—The Secretary shall require grantees of assistance under this section to report the sources and uses of all amounts expended for revitalization plans.

(l) ANNUAL REPORT.—The Secretary shall submit to the Congress an annual report setting forth—

(1) the number, type, and cost of public housing units revitalized pursuant to this section;

(2) the status of projects identified as severely distressed public housing;

(3) the amount and type of financial assistance provided under and in conjunction with this section; and

(4) the recommendations of the Secretary for statutory and regulatory improvements to the program established by this section.

(m) FUNDING.—

(1) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated for grants under this section $600,000,000 for fiscal year 1999 and such sums as may be necessary for each of fiscal years 2000, 2001, and 2002.

(2) TECHNICAL ASSISTANCE AND PROGRAM OVERSIGHT.—Of the amount appropriated pursuant to paragraph (1) for any fiscal year, the Secretary may use up to 2 percent for technical assistance or contract expertise. Such assistance or contract expertise may be provided directly or indirectly by grants, contracts, or cooperative agreements, and shall include training, and the cost of necessary travel for participants in such training, by or to officials of the Department of Housing and Urban Development, of public housing agencies, and of residents.

(n) SUNSET.—No assistance may be provided under this section after September 30, 2002.

SEC. 25.[1] [42 U.S.C. 1437w] TRANSFER OF MANAGEMENT OF CERTAIN HOUSING TO INDEPENDENT MANAGER AT REQUEST OF RESIDENTS.

(a) AUTHORITY.—The Secretary may transfer the responsibility and authority for management of specified housing (as such term is defined in subsection (h)) from a public housing agency to an eligible management entity, in accordance with the requirements of this section, if—

(1) a request for transfer of management of such housing is made and approved in accordance with subsection (b); and

(2) the Secretary or the public housing agency, as appropriate pursuant to subsection (b), determines that—

(A) due to the mismanagement of the agency, such housing has deferred maintenance, physical deterioration, or obsolescence of major systems and other deficiencies in the physical plant of the project;

(B) such housing is located in an area such that the housing is subject to recurrent vandalism and criminal activity (including drug-related criminal activity); and

(C) the residents can demonstrate that the elements of distress for such housing specified in subparagraphs (A) and (B) can be remedied by an entity or entities, identified by the residents, that has or have a demonstrated capacity to manage, with reasonable expenses for modernization.

(b) REQUEST FOR TRANSFER.—The responsibility and authority for managing specified housing may be transferred only pursuant to a request made by a majority vote of the residents for the specified housing that—

(1) in the case of specified housing that is owned by a public housing agency that is designated as a troubled agency under section 6(j)(2)—

(A) is made to the public housing agency or the Secretary; and

(B) is approved by the agency or the Secretary; or

(2) in the case of specified housing that is owned by a public housing agency that is not designated as a troubled agency under section 6(j)(2)—

(A) is made to and approved by the public housing agency; or

(B) if a request is made to the agency pursuant to subparagraph (A) and is not approved, is subsequently made to and approved by the Secretary.

(c) CAPITAL AND OPERATING ASSISTANCE.—Pursuant to a contract under subsection (d), the Secretary shall require the public housing agency for specified housing to provide to the manager for the housing, from any assistance from the Capital and Operating Funds under section 9 for the agency, fair and reasonable amounts for the housing for eligible capital and operating activities under

[1] Section 534 of the Quality Housing and Work Responsibility Act of 1998, title V of Public Law 105–276, approved October 21, 1998, amended this section to read as shown. Pursuant to section 503 of such Act (set forth in the footnote on page 114 of this compilation), the amendment was made on the date of enactment (and, therefore, the new section is shown), but applies beginning upon October 1, 1999. Section 503 also provides that the provisions of this section, as in effect immediately before the enactment of the 1998 Act, continue to apply until such applicability date (unless the Secretary provides by notice for earlier implementation of the amendment).

subsection (d)(1) and (e)(1) of section 9. The amount made available under this subsection to a manager shall be determined by the Secretary based on the share for the specified housing of the aggregate amount of assistance from such Funds for the public housing agency transferring the housing, taking into consideration the operating and capital improvement needs of the specified housing, the operating and capital improvement needs of the remaining public housing units managed by the public housing agency, and the public housing agency plan of such agency.

(d) CONTRACT BETWEEN SECRETARY AND MANAGER.—

(1) REQUIREMENTS.—Pursuant to the approval of a request under this section for transfer of the management of specified housing, the Secretary shall enter into a contract with the eligible management entity.

(2) TERMS.—A contract under this subsection shall contain provisions establishing the rights and responsibilities of the manager with respect to the specified housing and the Secretary and shall be consistent with the requirements of this Act applicable to public housing projects.

(e) COMPLIANCE WITH PUBLIC HOUSING AGENCY PLAN.—A manager of specified housing under this section shall comply with the approved public housing agency plan applicable to the housing and shall submit such information to the public housing agency from which management was transferred as may be necessary for such agency to prepare and update its public housing agency plan.

(f) DEMOLITION AND DISPOSITION BY MANAGER.—A manager under this section may demolish or dispose of specified housing only if, and in the manner, provided for in the public housing agency plan for the agency transferring management of the housing.

(g) LIMITATION ON PHA LIABILITY.—A public housing agency that is not a manager for specified housing shall not be liable for any act or failure to act by a manager or resident council for the specified housing.

(h) DEFINITIONS.—For purposes of this section, the following definitions shall apply:

(1) ELIGIBLE MANAGEMENT ENTITY.—The term "eligible management entity" means, with respect to any public housing project, any of the following entities:

(A) NONPROFIT ORGANIZATION.—A public or private nonprofit organization, which may—

(i) include a resident management corporation; and

(ii) not include the public housing agency that owns or operates the project.

(B) FOR-PROFIT ENTITY.—A for-profit entity that has demonstrated experience in providing low-income housing.

(C) STATE OR LOCAL GOVERNMENT.—A State or local government, including an agency or instrumentality thereof.

(D) PUBLIC HOUSING AGENCY.—A public housing agency (other than the public housing agency that owns or operates the project).

The term does not include a resident council.

(2) MANAGER.—The term "manager" means any eligible management entity that has entered into a contract under this section with the Secretary for the management of specified housing.

(3) NONPROFIT.—The term "nonprofit" means, with respect to an organization, association, corporation, or other entity, that no part of the net earnings of the entity inures to the benefit of any member, founder, contributor, or individual.

(4) PRIVATE NONPROFIT ORGANIZATION.—The term "private nonprofit organization" means any private organization (including a State or locally chartered organization) that—

(A) is incorporated under State or local law;

(B) is nonprofit in character;

(C) complies with standards of financial accountability acceptable to the Secretary; and

(D) has among its purposes significant activities related to the provision of decent housing that is affordable to low-income families.

(5) PUBLIC NONPROFIT ORGANIZATION.—The term "public nonprofit organization" means any public entity that is nonprofit in character.

(6) SPECIFIED HOUSING.—The term "specified housing" means a public housing project or projects, or a portion of a project or projects, for which the transfer of management is requested under this section. The term includes one or more contiguous buildings and an area of contiguous row houses, but in the case of a single building, the building shall be sufficiently separable from the remainder of the project of which it is part to make transfer of the management of the building feasible for purposes of this section.

SEC. 26. [42 U.S.C. 1437x] ENVIRONMENTAL REVIEWS.

(a) IN GENERAL.—

(1) RELEASE OF FUNDS.—In order to assure that the policies of the National Environmental Policy Act of 1969 and other provisions of law which further the purposes of such Act (as specified in regulations issued by the Secretary) are most effectively implemented in connection with the expenditure of funds under this title, and to assure to the public undiminished protection of the environment, the Secretary may, under such regulations, in lieu of the environmental protection procedures otherwise applicable, provide for the release of funds for projects or activities under this title, as specified by the Secretary upon the request of a public housing agency under this section, if the State or unit of general local government, as designated by the Secretary in accordance with regulations, assumes all of the responsibilities for environmental review, decisionmaking, and action pursuant to such Act, and such other provisions of law as the regulations of the Secretary may specify, which would otherwise apply to the Secretary with respect to the release of funds.

(2) IMPLEMENTATION.—The Secretary, after consultation with the Council on Environmental Quality, shall issue such

regulations as may be necessary to carry out this section. Such regulations shall specify the programs to be covered.

(b) PROCEDURE.—The Secretary shall approve the release of funds subject to the procedures authorized by this section only if, not less than 15 days prior to such approval and prior to any commitment of funds to such projects or activities, the public housing agency has submitted to the Secretary a request for such release accompanied by a certification of the State or unit of general local government which meets the requirements of subsection (c). The Secretary's approval of any such certification shall be deemed to satisfy the Secretary's responsibilities under the National Environmental Policy Act of 1969 and such other provisions of law as the regulations of the Secretary specify insofar as those responsibilities relate to the release of funds which are covered by such certification.

(c) CERTIFICATION.—A certification under the procedures authorized by this section shall—

(1) be in a form acceptable to the Secretary;

(2) be executed by the chief executive officer or other officer of the State or unit of general local government who qualifies under regulations of the Secretary;

(3) specify that the State or unit of general local government under this section has fully carried out its responsibilities as described under subsection (a); and

(4) specify that the certifying officer—

(A) consents to assume the status of a responsible Federal official under the National Environmental Policy Act of 1969 and each provision of law specified in regulations issued by the Secretary insofar as the provisions of such Act or other such provision of law apply pursuant to subsection (a); and

(B) is authorized and consents on behalf of the State or unit of general local government and himself or herself to accept the jurisdiction of the Federal courts for the purpose of enforcement of his or her responsibilities as such an official.

(d) APPROVAL BY STATES.—In cases in which a unit of general local government carries out the responsibilities described in subsection (c), the Secretary may permit the State to perform those actions of the Secretary described in subsection (b) and the performance of such actions by the State, where permitted by the Secretary, shall be deemed to satisfy the Secretary's responsibilities referred to in the second sentence of subsection (b).

SEC. 27. [42 U.S.C. 1437y] PROVISION OF INFORMATION TO LAW ENFORCEMENT AND OTHER AGENCIES.

Notwithstanding any other provision of law, the Secretary shall, at least 4 times annually and upon request of the Immigration and Naturalization Service (hereafter in this section referred to as the "Service"), furnish the Service with the name and address of, and other identifying information on, any individual who the Secretary knows is not lawfully present in the United States, and shall ensure that each contract for assistance entered into under section 6 or 8 of this Act with a public housing agency provides that the public housing agency shall furnish such information at

such times with respect to any individual who the public housing agency knows is not lawfully present in the United States.

SEC. 28. [42 U.S.C. 1437z] EXCHANGE OF INFORMATION WITH LAW ENFORCEMENT AGENCIES.

Notwithstanding any other provision of law, each public housing agency that enters into a contract for assistance under section 6 or 8 of this Act with the Secretary shall furnish any Federal, State, or local law enforcement officer, upon the request of the officer, with the current address, Social Security number, and photograph (if applicable) of any recipient of assistance under this Act, if the officer—

(1) furnishes the public housing agency with the name of the recipient; and

(2) notifies the agency that—

(A) such recipient—

(i) is fleeing to avoid prosecution, or custody or confinement after conviction, under the laws of the place from which the individual flees, for a crime, or attempt to commit a crime, which is a felony under the laws of the place from which the individual flees, or which, in the case of the State of New Jersey, is a high misdemeanor under the laws of such State; or

(ii) is violating a condition of probation or parole imposed under Federal or State law; or

(iii) has information that is necessary for the officer to conduct the officer's official duties;

(B) the location or apprehension of the recipient is within such officer's official duties; and

(C) the request is made in the proper exercise of the officer's official duties.

SEC. 29. [42 U.S.C. 1437z–1] CIVIL MONEY PENALTIES AGAINST SECTION 8 OWNERS.

(a) IN GENERAL.—

(1) EFFECT ON OTHER REMEDIES.—The penalties set forth in this section shall be in addition to any other available civil remedy or any available criminal penalty, and may be imposed regardless of whether the Secretary imposes other administrative sanctions.

(2) FAILURE OF SECRETARY.—The Secretary may not impose penalties under this section for a violation, if a material cause of the violation is the failure of the Secretary, an agent of the Secretary, or a public housing agency to comply with an existing agreement.

(b) VIOLATIONS OF HOUSING ASSISTANCE PAYMENT CONTRACTS FOR WHICH PENALTY MAY BE IMPOSED.—

(1) LIABLE PARTIES.—The Secretary may impose a civil money penalty under this section on—

(A) any owner of a property receiving project-based assistance under section 8;

(B) any general partner of a partnership owner of that property; and

(C) any agent employed to manage the property that has an identity of interest with the owner or the general partner of a partnership owner of the property.

(2) VIOLATIONS.—A penalty may be imposed under this section for a knowing and material breach of a housing assistance payments contract, including the following—

(A) failure to provide decent, safe, and sanitary housing pursuant to section 8; or

(B) knowing or willful submission of false, fictitious, or fraudulent statements or requests for housing assistance payments to the Secretary or to any department or agency of the United States.

(3) AMOUNT OF PENALTY.—The amount of a penalty imposed for a violation under this subsection, as determined by the Secretary, may not exceed $25,000 per violation.

(c) AGENCY PROCEDURES.—

(1) ESTABLISHMENT.—The Secretary shall issue regulations establishing standards and procedures governing the imposition of civil money penalties under subsection (b). These standards and procedures—

(A) shall provide for the Secretary or other department official to make the determination to impose the penalty;

(B) shall provide for the imposition of a penalty only after the liable party has received notice and the opportunity for a hearing on the record; and

(C) may provide for review by the Secretary of any determination or order, or interlocutory ruling, arising from a hearing and judicial review, as provided under subsection (d).

(2) FINAL ORDERS.—

(A) IN GENERAL.—If a hearing is not requested before the expiration of the 15-day period beginning on the date on which the notice of opportunity for hearing is received, the imposition of a penalty under subsection (b) shall constitute a final and unappealable determination.

(B) EFFECT OF REVIEW.—If the Secretary reviews the determination or order, the Secretary may affirm, modify, or reverse that determination or order.

(C) FAILURE TO REVIEW.—If the Secretary does not review that determination or order before the expiration of the 90-day period beginning on the date on which the determination or order is issued, the determination or order shall be final.

(3) FACTORS IN DETERMINING AMOUNT OF PENALTY.—In determining the amount of a penalty under subsection (b), the Secretary shall take into consideration—

(A) the gravity of the offense;

(B) any history of prior offenses by the violator (including offenses occurring before the enactment of this section);

(C) the ability of the violator to pay the penalty;

(D) any injury to tenants;

(E) any injury to the public;

(F) any benefits received by the violator as a result of the violation;

(G) deterrence of future violations; and

(H) such other factors as the Secretary may establish by regulation.

(4) PAYMENT OF PENALTY.—No payment of a civil money penalty levied under this section shall be payable out of project income.

(d) JUDICIAL REVIEW OF AGENCY DETERMINATION.—Judicial review of determinations made under this section shall be carried out in accordance with section 537(e) of the National Housing Act.

(e) REMEDIES FOR NONCOMPLIANCE.—

(1) JUDICIAL INTERVENTION.—

(A) IN GENERAL.—If a person or entity fails to comply with the determination or order of the Secretary imposing a civil money penalty under subsection (b), after the determination or order is no longer subject to review as provided by subsections (c) and (d), the Secretary may request the Attorney General of the United States to bring an action in an appropriate United States district court to obtain a monetary judgment against that person or entity and such other relief as may be available.

(B) FEES AND EXPENSES.—Any monetary judgment awarded in an action brought under this paragraph may, in the discretion of the court, include the attorney's fees and other expenses incurred by the United States in connection with the action.

(2) NONREVIEWABILITY OF DETERMINATION OR ORDER.—In an action under this subsection, the validity and appropriateness of the determination or order of the Secretary imposing the penalty shall not be subject to review.

(f) SETTLEMENT BY SECRETARY.—The Secretary may compromise, modify, or remit any civil money penalty which may be, or has been, imposed under this section.

(g) DEPOSIT OF PENALTIES.—

(1) IN GENERAL.—Notwithstanding any other provision of law, if the mortgage covering the property receiving assistance under section 8 is insured or was formerly insured by the Secretary, the Secretary shall apply all civil money penalties collected under this section to the appropriate insurance fund or funds established under this Act, as determined by the Secretary.

(2) EXCEPTION.—Notwithstanding any other provision of law, if the mortgage covering the property receiving assistance under section 8 is neither insured nor formerly insured by the Secretary, the Secretary shall make all civil money penalties collected under this section available for use by the appropriate office within the Department for administrative costs related to enforcement of the requirements of the various programs administered by the Secretary.

(h) DEFINITIONS.—In this section—

(1) the term "agent employed to manage the property that has an identity of interest" means an entity—

(A) that has management responsibility for a project;

(B) in which the ownership entity, including its general partner or partners (if applicable), has an ownership interest; and

(C) over which such ownership entity exerts effective control; and

(2) the term "knowing" means having actual knowledge of or acting with deliberate ignorance of or reckless disregard for the prohibitions under this section.

SEC. 30.[1] [42 U.S.C. 1437z–2] PUBLIC HOUSING MORTGAGES AND SECURITY INTERESTS.

(a) GENERAL AUTHORIZATION.—The Secretary may, upon such terms and conditions as the Secretary may prescribe, authorize a public housing agency to mortgage or otherwise grant a security interest in any public housing project or other property of the public housing agency.

(b) TERMS AND CONDITIONS.—In making any authorization under subsection (a), the Secretary may consider—

(1) the ability of the public housing agency to use the proceeds of the mortgage or security interest for low-income housing uses;

(2) the ability of the public housing agency to make payments on the mortgage or security interest; and

(3) such other criteria as the Secretary may specify.

(c) NO FEDERAL LIABILITY.—No action taken under this section shall result in any liability to the Federal Government.

SEC. 31.[2] [42 U.S.C. 1437z–3] PET OWNERSHIP IN PUBLIC HOUSING.

(a) OWNERSHIP CONDITIONS.—A resident of a dwelling unit in public housing (as such term is defined in subsection (c)) may own 1 or more common household pets or have 1 or more common household pets present in the dwelling unit of such resident, subject to the reasonable requirements of the public housing agency, if the resident maintains each pet responsibly and in accordance with applicable State and local public health, animal control, and animal anti-cruelty laws and regulations and with the policies established in the public housing agency plan for the agency.

(b) REASONABLE REQUIREMENTS.—The reasonable requirements referred to in subsection (a) may include—

(1) requiring payment of a nominal fee, a pet deposit, or both, by residents owning or having pets present, to cover the reasonable operating costs to the project relating to the presence of pets and to establish an escrow account for additional costs not otherwise covered, respectively;

(2) limitations on the number of animals in a unit, based on unit size;

(3) prohibitions on—

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[1] This section was added by section 516 of the Quality Housing and Work Responsibility Act of 1998, title V of Public Law 105–276, approved October 21, 1998. Pursuant to section 503 of such Act (set forth in the footnote on page 114 of this compilation), the amendment was made on the date of enactment, but applies beginning upon October 1, 1999.

[2] This section was added by section 526 of the Quality Housing and Work Responsibility Act of 1998, title V of Public Law 105–276, approved October 21, 1998. Pursuant to section 503 of such Act (set forth in the footnote on page 114 of this compilation), the amendment was made on the date of enactment (and, therefore, the section is shown), but applies beginning upon October 1, 1999.

(A) types of animals that are classified as dangerous; and

(B) individual animals, based on certain factors, including the size and weight of the animal; and

(4) restrictions or prohibitions based on size and type of building or project, or other relevant conditions.

(c) PET OWNERSHIP IN PUBLIC HOUSING DESIGNATED FOR OCCUPANCY BY ELDERLY OR HANDICAPPED FAMILIES.—For purposes of this section, the term 'public housing' has the meaning given the term in section 3(b), except that such term does not include any public housing that is federally assisted rental housing for the elderly or handicapped, as such term is defined in section 227(d) of the Housing and Urban-Rural Recovery Act of 1983 (12 U.S.C. 1701r–1(d)).

(d) REGULATIONS.—This section shall take effect upon the date of the effectiveness of regulations issued by the Secretary to carry out this section. Such regulations shall be issued after notice and opportunity for public comment in accordance with the procedure under section 553 of title 5, United States Code, applicable to substantive rules (notwithstanding subsections (a)(2), (b)(B), and (d)(3) of such section).

SEC. 32.[1] [42 U.S.C. 1437z–4] RESIDENT HOMEOWNERSHIP PROGRAMS.

(a) IN GENERAL.—A public housing agency may carry out a homeownership program in accordance with this section and the public housing agency plan of the agency to make public housing dwelling units, public housing projects, and other housing projects available for purchase by low-income families for use only as principal residences for such families. An agency may transfer a unit pursuant to a homeownership program only if the program is authorized under this section and approved by the Secretary.

(b) PARTICIPATING UNITS.—A program under this section may cover any existing public housing dwelling units or projects, and may include other dwelling units and housing owned, assisted, or operated, or otherwise acquired for use under such program, by the public housing agency.

(c) ELIGIBLE PURCHASERS.—

(1) LOW-INCOME REQUIREMENT.—Only low-income families assisted by a public housing agency, other low-income families, and entities formed to facilitate such sales by purchasing units for resale to low-income families shall be eligible to purchase housing under a homeownership program under this section.

(2) OTHER REQUIREMENTS.—A public housing agency may establish other requirements or limitations for families to purchase housing under a homeownership program under this section, including requirements or limitations regarding employment or participation in employment counseling or training activities, criminal activity, participation in homeownership

[1] Section 536 of the Quality Housing and Work Responsibility Act of 1998, title V of Public Law 105–276, approved October 21, 1998, amended this section to read as shown. Pursuant to section 503 of such Act (set forth in the footnote on page 114 of this compilation), the amendment was made on the date of enactment (and, therefore, the new section is shown), but applies beginning upon October 1, 1999. Section 503 also provides that the provisions of this section, as in effect immediately before the enactment of the 1998 Act, continue to apply until such applicability date (unless the Secretary provides by notice for earlier implementation of the amendment).

counseling programs, evidence of regular income, and other requirements. In the case of purchase by an entity for resale to low-income families, the entity shall sell the units to low-income families within 5 years from the date of its acquisition of the units. The entity shall use any net proceeds from the resale and from managing the units, as determined in accordance with guidelines of the Secretary, for housing purposes, such as funding resident organizations and reserves for capital replacements.

(d) RIGHT OF FIRST REFUSAL.—In making any sale under this section, the public housing agency shall initially offer the public housing unit at issue to the resident or residents occupying that unit, if any, or to an organization serving as a conduit for sales to any such resident.

(e) PROTECTION OF NONPURCHASING RESIDENTS.—If a public housing resident does not exercise the right of first refusal under subsection (d) with respect to the public housing unit in which the resident resides, the public housing agency—

(1) shall notify the resident residing in the unit 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—

(A) the public housing unit will be sold;

(B) the transfer of possession of the unit will occur until the resident is relocated; and

(C) each resident 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 resident's housing; and

(iii) which may include—

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

(II) project-based assistance; or

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

(2) shall provide for the payment of the actual and reasonable relocation expenses of the resident to be displaced;

(3) shall ensure that the displaced resident is offered comparable housing in accordance with the notice under paragraph (1);

(4) shall provide any necessary counseling for the displaced resident; and

(5) shall not transfer possession of the unit until the resident is relocated.

(f) FINANCING AND ASSISTANCE.—A homeownership program under this section may provide financing for acquisition of housing

by families purchasing under the program, or for acquisition of housing by the public housing agency for sale under the program, in any manner considered appropriate by the agency (including sale to a resident management corporation).

(g) DOWNPAYMENT REQUIREMENT.—

(1) IN GENERAL.—Each family purchasing housing under a homeownership program under this section shall be required to provide from its own resources a downpayment in connection with any loan for acquisition of the housing, in an amount determined by the public housing agency. Except as provided in paragraph (2), the agency shall permit the family to use grant amounts, gifts from relatives, contributions from private sources, and similar amounts as downpayment amounts in such purchase.

(2) DIRECT FAMILY CONTRIBUTION.—In purchasing housing pursuant to this section, each family shall contribute an amount of the downpayment, from resources of the family other than grants, gifts, contributions, or other similar amounts referred to in paragraph (1), that is not less than 1 percent of the purchase price.

(h) OWNERSHIP INTERESTS.—A homeownership program under this section may provide for sale to the purchasing family of any ownership interest that the public housing agency considers appropriate under the program, including ownership in fee simple, a condominium interest, an interest in a limited dividend cooperative, a shared appreciation interest with a public housing agency providing financing.

(i) RESALE.—

(1) AUTHORITY AND LIMITATION.—A homeownership program under this section shall permit the resale of a dwelling unit purchased under the program by an eligible family, but shall provide such limitations on resale as the agency considers appropriate (whether the family purchases directly from the agency or from another entity) for the agency to recapture—

(A) some or all of the economic gain derived from any such resale occurring during the 5-year period beginning upon purchase of the dwelling unit by the eligible family; and

(B) after the expiration of such 5-year period, only such amounts as are equivalent to the assistance provided under this section by the agency to the purchaser.

(2) CONSIDERATIONS.—The limitations referred to in paragraph (1)(A) may provide for consideration of the aggregate amount of assistance provided under the program to the family, the contribution to equity provided by the purchasing eligible family, the period of time elapsed between purchase under the homeownership program and resale, the reason for resale, any improvements to the property made by the eligible family, any appreciation in the value of the property, and any other factors that the agency considers appropriate.

(j) NET PROCEEDS.—The net proceeds of any sales under a homeownership program under this section remaining after payment of all costs of the sale shall be used for purposes relating to

low-income housing and in accordance with the public housing agency plan of the agency carrying out the program.

(k) HOMEOWNERSHIP ASSISTANCE.—From amounts distributed to a public housing agency under the Capital Fund under section 9(d), or from other income earned by the public housing agency, the public housing agency may provide assistance to public housing residents to facilitate the ability of those residents to purchase a principal residence, including a residence other than a residence located in a public housing project.

(l) INAPPLICABILITY OF DISPOSITION REQUIREMENTS.—The provisions of section 18 shall not apply to disposition of public housing dwelling units under a homeownership program under this section.

SEC. 33.[1] [42 U.S.C. 1437z–5] REQUIRED CONVERSION OF DISTRESSED PUBLIC HOUSING TO TENANT-BASED ASSISTANCE.

(a) IDENTIFICATION OF UNITS.—Each public housing agency shall identify all public housing projects of the public housing agency that meet all of the following requirements:

(1) The project is on the same or contiguous sites.

(2) The project is determined by the public housing agency to be distressed, which determination shall be made in accordance with guidelines established by the Secretary, which guidelines shall take into account the criteria established in the Final Report of the National Commission on Severely Distressed Public Housing (August 1992).

(3) The project—

(A) is identified as distressed housing under paragraph (2) for which the public housing agency cannot assure the long-term viability as public housing through reasonable modernization expenses, density reduction, achievement of a broader range of family income, or other measures; or

(B) has an estimated cost, during the remaining useful life of the project, of continued operation and modernization as public housing that exceeds the estimated cost,

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[1] Section 537(a) of the Quality Housing and Work Responsibility Act of 1998, title V of Public Law 105–276, approved October 21, 1998, amended this section to read as shown. Pursuant to section 503 of such Act (set forth in the footnote on page 114 of this compilation), the amendment was made on the date of enactment (and, therefore, the new section is shown), but applies beginning upon October 1, 1999. Section 503 also provides that the provisions of this section, as in effect immediately before the enactment of the 1998 Act, continue to apply until such applicability date (unless the Secretary provides by notice for earlier implementation of the amendment).

Subsections (b) and (c) of section 537 of such Act provide as follows:

"(b) CONFORMING AMENDMENT.—Section 202 of the Departments of Veterans Affairs and Housing and Urban Development, and Independent Agencies Appropriations Act, 1996 (42 U.S.C. 1437l note) is repealed.

"(c) TRANSITION.—

"(1) USE OF AMOUNTS.—Any amounts made available to a public housing agency to carry out section 202 of the Departments of Veterans Affairs and Housing and Urban Development, and Independent Agencies Appropriations Act, 1996 (enacted as section 101(e) of the Omnibus Consolidated Rescissions and Appropriations Act of 1996 (Public Law 104–134; 110 Stat. 1321–279)) may be used, to the extent or in such amounts as are or have been provided in advance in appropriation Acts, to carry out section 33 of the United States Housing Act of 1937 (as added by subsection (a) of this section).

"(2) SAVINGS PROVISION.—Notwithstanding the amendments made by this section, section 202 of the Departments of Veterans Affairs and Housing and Urban Development, and Independent Agencies Appropriations Act, 1996 (42 U.S.C. 14371 note) and any regulations implementing such section, as in effect immediately before the enactment of this Act, shall continue to apply to public housing developments identified by the Secretary or a public housing agency for conversion pursuant to that section or for assessment of whether such conversion is required prior to enactment of this Act.".

during the remaining useful life of the project, of providing tenant-based assistance under section 8 for all families in occupancy, based on appropriate indicators of cost (such as the percentage of total development costs required for modernization).

(b) CONSULTATION.—Each public housing agency shall consult with the appropriate public housing residents and the appropriate unit of general local government in identifying any public housing projects under subsection (a).

(c) PLAN FOR REMOVAL OF UNITS FROM INVENTORIES OF PHA'S.—

(1) DEVELOPMENT.—Each public housing agency shall develop and carry out a 5-year plan in conjunction with the Secretary for the removal of public housing units identified under subsection (a) from the inventory of the public housing agency and the annual contributions contract.

(2) APPROVAL.—Each plan required under paragraph (1) shall—

(A) be included as part of the public housing agency plan;

(B) be certified by the relevant local official to be in accordance with the comprehensive housing affordability strategy under title I of the Housing and Community Development Act of 1992; and

(C) include a description of any disposition and demolition plan for the public housing units.

(3) EXTENSIONS.—The Secretary may extend the 5-year deadline described in paragraph (1) by not more than an additional 5 years if the Secretary makes a determination that the deadline is impracticable.

(4) REVIEW BY SECRETARY.—

(A) FAILURE TO IDENTIFY PROJECTS.—If the Secretary determines, based on a plan submitted under this subsection, that a public housing agency has failed to identify 1 or more public housing projects that the Secretary determines should have been identified under subsection (a), the Secretary may designate the public housing projects to be removed from the inventory of the public housing agency pursuant to this section.

(B) ERRONEOUS IDENTIFICATION OF PROJECTS.—If the Secretary determines, based on a plan submitted under this subsection, that a public housing agency has identified 1 or more public housing projects that should not have been identified pursuant to subsection (a), the Secretary shall—

(i) require the public housing agency to revise the plan of the public housing agency under this subsection; and

(ii) prohibit the removal of any such public housing project from the inventory of the public housing agency under this section.

(d) CONVERSION TO TENANT-BASED ASSISTANCE.—

(1) IN GENERAL.—To the extent approved in advance in appropriations Acts, the Secretary shall make budget authority

available to a public housing agency to provide assistance under this Act to families residing in any public housing project that, pursuant to this section, is removed from the inventory of the agency and the annual contributions contract of the agency.

(2) CONVERSION REQUIREMENTS.—Each agency carrying out a plan under subsection (c) for removal of public housing dwelling units from the inventory of the agency shall—

(A) notify each family residing in a public housing project to be converted under the plan 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 removed from the inventory of the public housing agency; and

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

(I) that meets housing quality standards; and

(II) 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) provide any necessary counseling for families displaced by such action;

(C) ensure that, if the project (or portion) converted is used as housing after such conversion, each resident may choose to remain in their dwelling unit in the project and use the tenant-based assistance toward rent for that unit;

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

(E) provide any actual and reasonable relocation expenses for families displaced by such action.

(e) CESSATION OF UNNECESSARY SPENDING.—Notwithstanding any other provision of law, if, in the determination of the Secretary, a project or projects of a public housing agency meet or are likely to meet the criteria set forth in subsection (a), the Secretary may direct the agency to cease additional spending in connection with such project or projects until the Secretary determines or approves an appropriate course of action with respect to such project or projects under this section, except to the extent that failure to expend such amounts would endanger the health or safety of residents in the project or projects.

(f) USE OF BUDGET AUTHORITY.—Notwithstanding any other provision of law, if a project or projects are identified pursuant to

subsection (a), the Secretary may authorize or direct the transfer, to the tenant-based assistance program of such agency or to appropriate site revitalization or other capital improvements approved by the Secretary, of—

(1) in the case of an agency receiving assistance under the comprehensive improvement assistance program, any amounts obligated by the Secretary for the modernization of such project or projects pursuant to section 14 of the United States Housing Act of 1937 (as in effect immediately before the effective date under section 503(a) of the Quality Housing and Work Responsibility Act of 1998 [1]);

(2) in the case of an agency receiving public housing modernization assistance by formula pursuant to such section 14, any amounts provided to the agency which are attributable pursuant to the formula for allocating such assistance to such project or projects;

(3) in the case of an agency receiving assistance for the major reconstruction of obsolete projects, any amounts obligated by the Secretary for the major reconstruction of such project or projects pursuant to section 5(j)(2) of the United States Housing Act of 1937, as in effect immediately before the effective date under section 503(a) of the Quality Housing and Work Responsibility Act of 1998 [1]; and

(4) in the case of an agency receiving assistance pursuant to the formulas under section 9, any amounts provided to the agency which are attributable pursuant to the formulas for allocating such assistance to such project or projects.

(g) REMOVAL BY SECRETARY.—The Secretary shall take appropriate actions to ensure removal of any public housing project identified under subsection (a) from the inventory of a public housing agency, if the public housing agency fails to adequately develop a plan under subsection (c) with respect to that project, or fails to adequately implement such plan in accordance with the terms of the plan.

(h) ADMINISTRATION.—

(1) IN GENERAL.—The Secretary may require a public housing agency to provide to the Secretary or to public housing residents such information as the Secretary considers to be necessary for the administration of this section.

(2) APPLICABILITY OF SECTION 18.—Section 18 shall not apply to the demolition of public housing projects removed from the inventory of the public housing agency under this section.

SEC. 34.[2] [42 U.S.C. 1437z–6] SERVICES FOR PUBLIC HOUSING RESIDENTS.

(a) IN GENERAL.—To the extent that amounts are provided in advance in appropriations Acts, the Secretary may make grants to

[1] See section 503 of such Act as set forth in the footnote on page 114 of this compilation.

[2] Section 538(a) of the Quality Housing and Work Responsibility Act of 1998, title V of Public Law 105–276, approved October 21, 1998, added this section. Pursuant to section 503 of such Act (set forth in the footnote on page 114 of this compilation), the amendment was made on the date of enactment (and, therefore, the new section is shown), but applies beginning upon October 1, 1999.

Section 538(b) of such Act provides as follows:

public housing agencies on behalf of public housing residents, or directly to resident management corporations, resident councils, or resident organizations (including nonprofit entities supported by residents), for the purposes of providing a program of supportive services and resident empowerment activities to provide supportive services to public housing residents or assist such residents in becoming economically self-sufficient.

(b) ELIGIBLE ACTIVITIES.—Grantees under this section may use such amounts only for activities on or near the property of the public housing agency or public housing project that are designed to promote the self-sufficiency of public housing residents or provide supportive services for such residents, including activities relating to—

(1) physical improvements to a public housing project in order to provide space for supportive services for residents;

(2) the provision of service coordinators or a congregate housing services program for elderly individuals, elderly disabled individuals, nonelderly disabled individuals, or temporarily disabled individuals;

(3) the provision of services related to work readiness, including education, job training and counseling, job search skills, business development training and planning, tutoring, mentoring, adult literacy, computer access, personal and family counseling, health screening, work readiness health services, transportation, and child care;

(4) economic and job development, including employer linkages and job placement, and the start-up of resident microenterprises, community credit unions, and revolving loan funds, including the licensing, bonding, and insurance needed to operate such enterprises;

(5) resident management activities and resident participation activities; and

(6) other activities designed to improve the economic self-sufficiency of residents.

(c) FUNDING DISTRIBUTION.—

(1) IN GENERAL.—Except for amounts provided under subsection (d), the Secretary may distribute amounts made available under this section on the basis of a competition or a formula, as appropriate.

(2) FACTORS FOR DISTRIBUTION.—Factors for distribution under paragraph (1) shall include—

(A) the demonstrated capacity of the applicant to carry out a program of supportive services or resident empowerment activities;

(B) the ability of the applicant to leverage additional resources for the provision of services; and

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"(b) ASSESSMENT AND REPORT BY SECRETARY.—Not later than 3 years after the date of the enactment of the Quality Housing and Work Responsibility Act of 1998, the Secretary of Housing and Urban Development shall—

"(1) conduct an evaluation and assessment of grants carried out by resident organizations, and particularly of the effect of the grants on living conditions in public housing; and

"(2) submit to the Congress a report setting forth the findings of the Secretary as a result of the evaluation and assessment and including any recommendations the Secretary determines to be appropriate.

This subsection shall take effect on the date of the enactment of this Act.".

(C) the extent to which the grant will result in a high quality program of supportive services or resident empowerment activities.

(d) MATCHING REQUIREMENT.—The Secretary may not make any grant under this section to any applicant unless the applicant supplements amounts made available under this section with funds from sources other than this section in an amount equal to not less than 25 percent of the grant amount. Such supplemental amounts may include—

(1) funds from other Federal sources;

(2) funds from any State or local government sources;

(3) funds from private contributions; and

(4) the value of any in-kind services or administrative costs provided to the applicant.

(e) FUNDING FOR RESIDENT ORGANIZATIONS.—To the extent that there are a sufficient number of qualified applications for assistance under this section, not less than 25 percent of any amounts appropriated to carry out this section shall be provided directly to resident councils, resident organizations, and resident management corporations. In any case in which a resident council, resident organization, or resident management corporation lacks adequate expertise, the Secretary may require the council, organization, or corporation to utilize other qualified organizations as contract administrators with respect to financial assistance provided under this section.

SEC. 35.[1] [42 U.S.C. 1437z–7] MIXED FINANCE PUBLIC HOUSING.

(a) AUTHORITY.—A public housing agency may own, operate, assist, or otherwise participate in 1 or more mixed-finance projects in accordance with this section.

(b) ASSISTANCE.—

(1) FORMS.—A public housing agency may provide to a mixed-finance project assistance from the Operating Fund under section 9, assistance from the Capital Fund under such section, or both forms of assistance. A public housing agency may, in accordance with regulations established by the Secretary, provide capital assistance to a mixed-finance project in the form of a grant, loan, guarantee, or other form of investment in the project, which may involve drawdown of funds on a schedule commensurate with construction draws for deposit into an interest-bearing escrow account to serve as collateral or credit enhancement for bonds issued by a public agency, or for other forms of public or private borrowings, for the construction or rehabilitation of the development.

(2) USE.—To the extent deemed appropriate by the Secretary, assistance used in connection with the costs associated with the operation and management of mixed-finance projects may be used for funding of an operating reserve to ensure affordability for low-income and very low-income families in lieu

[1] Section 539 of the Quality Housing and Work Responsibility Act of 1998, title V of Public Law 105–276, approved October 21, 1998, added this section. Pursuant to section 503 of such Act (set forth in the footnote on page 114 of this compilation), the amendment was made on the date of enactment (and, therefore, the new section is shown), but applies beginning upon October 1, 1999.

of the availability of operating funds for public housing units in a mixed-finance project.

(c) COMPLIANCE WITH PUBLIC HOUSING REQUIREMENTS.—The units assisted with capital or operating assistance in a mixed-finance project shall be developed, operated, and maintained in accordance with the requirements of this Act relating to public housing during the period required by under this Act, unless otherwise specified in this section. For purposes of this Act, any reference to public housing owned or operated by a public housing agency shall include dwelling units in a mixed finance project that are assisted by the agency with capital or operating assistance.

(d) MIXED-FINANCE PROJECTS.—

(1) IN GENERAL.—For purposes of this section, the term 'mixed-finance project' means a project that meets the requirements of paragraph (2) and is financially assisted by private resources, which may include low-income housing tax credits, in addition to amounts provided under this Act.

(2) TYPES OF PROJECTS.—The term includes a project that is developed—

(A) by a public housing agency or by an entity affiliated with a public housing agency;

(B) by a partnership, a limited liability company, or other entity in which the public housing agency (or an entity affiliated with a public housing agency) is a general partner, managing member, or otherwise participates in the activities of that entity;

(C) by any entity that grants to the public housing agency the right of first refusal and first option to purchase, after the close of the compliance period, of the qualified low-income building in which the public housing units exist in accordance with section 42(i)(7) of the Internal Revenue Code of 1986; or

(D) in accordance with such other terms and conditions as the Secretary may prescribe by regulation.

(e) STRUCTURE OF PROJECTS.—Each mixed-finance project shall be developed—

(1) in a manner that ensures that public housing units are made available in the project, by regulatory and operating agreement, master contract, individual lease, condominium or cooperative agreement, or equity interest;

(2) in a manner that ensures that the number of public housing units bears approximately the same proportion to the total number of units in the mixed-finance project as the value of the total financial commitment provided by the public housing agency bears to the value of the total financial commitment in the project, or shall not be less than the number of units that could have been developed under the conventional public housing program with the assistance, or as may otherwise be approved by the Secretary; and

(3) in accordance with such other requirements as the Secretary may prescribe by regulation.

(f) TAXATION.—

(1) IN GENERAL.—A public housing agency may elect to exempt all public housing units in a mixed-finance project—

(A) from the provisions of section 6(d), and instead subject such units to local real estate taxes; and

(B) from the finding of need and cooperative agreement provisions under section 5(e)(1)(ii) and 5(e)(2), but only if the development of the units is not inconsistent with the jurisdiction's comprehensive housing affordability strategy.

(2) LOW-INCOME HOUSING TAX CREDIT.—With respect to any unit in a mixed-finance project that is assisted pursuant to the low-income housing tax credit under section 42 of the Internal Revenue Code of 1986, the rents charged to the residents may be set at levels not to exceed the amounts allowable under that section, provided that such levels for public housing residents do not exceed the amounts allowable under section 3.

(g) USE OF SAVINGS.—Notwithstanding any other provision of this Act, to the extent deemed appropriate by the Secretary, to facilitate the establishment of socioeconomically mixed communities, a public housing agency that uses assistance from the Capital Fund for a mixed-finance project, to the extent that income from such a project reduces the amount of assistance used for operating or other costs relating to public housing, may use such resulting savings to rent privately developed dwelling units in the neighborhood of the mixed-finance project. Such units shall be made available for occupancy only by low-income families eligible for residency in public housing.

(h) EFFECT OF CERTAIN CONTRACT TERMS.—If an entity that owns or operates a mixed-finance project, that includes a significant number of units other than public housing units enters into a contract with a public housing agency, the terms of which obligate the entity to operate and maintain a specified number of units in the project as public housing units in accordance with the requirements of this Act for the period required by law, such contractual terms may provide that, if, as a result of a reduction in appropriations under section 9 or any other change in applicable law, the public housing agency is unable to fulfill its contractual obligations with respect to those public housing units, that entity may deviate, under procedures and requirements developed through regulations by the Secretary, from otherwise applicable restrictions under this Act regarding rents, income eligibility, and other areas of public housing management with respect to a portion or all of those public housing units, to the extent necessary to preserve the viability of those units while maintaining the low-income character of the units to the maximum extent practicable.

[TITLE II—ASSISTED HOUSING FOR INDIANS AND ALASKA NATIVES]

[NOTE.—Title II of the United States Housing Act of 1937 established low-income housing programs for Indians and Alaska Natives. Title II was repealed by section 501(a) of the Native American Housing Assistance and Self-Determination Act of 1996 (Public Law 104–330). For provisions regarding termination of assist-

ance under such programs see sections 502, 503, and 507 of such Act, set forth in Part VII of this compilation.]

TITLE III—HOPE FOR PUBLIC HOUSING HOMEOWNERSHIP

SEC. 301. [42 U.S.C. 1437aaa] PROGRAM AUTHORITY.

(a) IN GENERAL.—The Secretary is authorized to make—

(1) planning grants to help applicants to develop homeownership programs in accordance with this title; and

(2) implementation grants to carry out homeownership programs in accordance with this title.

(b) AUTHORITY TO RESERVE HOUSING ASSISTANCE.—In connection with a grant under this title, the Secretary may reserve authority to provide assistance under section 8 of this Act to the extent necessary to provide replacement housing and rental assistance for a nonpurchasing tenant who resides in the project on the date the Secretary approves the application for an implementation grant, for use by the tenant in another project.

SEC. 302. [42 U.S.C. 1437aaa–1] PLANNING GRANTS.

(a) GRANTS.—The Secretary is authorized to make planning grants to applicants for the purpose of developing homeownership programs under this title. The amount of a planning grant under this section may not exceed $200,000, except that the Secretary may for good cause approve a grant in a higher amount.

(b) ELIGIBLE ACTIVITIES.—Planning grants may be used for activities to develop homeownership programs (which may include programs for cooperative ownership), including—

(1) development of resident management corporations and resident councils;

(2) training and technical assistance for applicants related to development of a specific homeownership program;

(3) studies of the feasibility of a homeownership program;

(4) inspection for lead-based paint hazards, as required by section 302(a) of the Lead-Based Paint Poisoning Prevention Act;

(5) preliminary architectural and engineering work;

(6) tenant and homebuyer counseling and training;

(7) planning for economic development, job training, and self-sufficiency activities that promote economic self-sufficiency of homebuyers and homeowners under the homeownership program;

(8) development of security plans; and

(9) preparation of an application for an implementation grant under this title.

(c) APPLICATION.—

(1) FORM AND PROCEDURES.—An application for a planning grant shall be submitted by an applicant in such form and in accordance with such procedures as the Secretary shall establish.

(2) MINIMUM REQUIREMENTS.—The Secretary shall require that an application contain at a minimum—

(A) a request for a planning grant, specifying the activities proposed to be carried out, the schedule for completing the activities, the personnel necessary to complete the activities, and the amount of the grant requested;

(B) a description of the applicant and a statement of its qualifications;

(C) identification and description of the public housing project or projects involved, and a description of the composition of the tenants, including family size and income;

(D) a certification by the public official responsible for submitting the comprehensive housing affordability strategy under section 105 of the Cranston-Gonzalez National Affordable Housing Act that the proposed activities are consistent with the approved housing strategy of the State or unit of general local government within which the project is located (or, during the first 12 months after enactment of the Cranston-Gonzalez National Affordable Housing Act,[1] that the application is consistent with such other existing State or local housing plan or strategy that the Secretary shall determine to be appropriate); and

(E) a certification that the applicant will comply with the requirements of the Fair Housing Act, title VI of the Civil Rights Act of 1964, section 504 of the Rehabilitation Act of 1973, and the Age Discrimination Act of 1975, and will affirmatively further fair housing.

(d) SELECTION CRITERIA.—The Secretary shall, by regulation, establish selection criteria for a national competition for assistance under this section, which shall include—

(1) the qualifications or potential capabilities of the applicant;

(2) the extent of tenant interest in the development of a homeownership program for the project;

(3) the potential of the applicant for developing a successful and affordable homeownership program and the suitability of the project for homeownership;

(4) national geographic diversity among projects for which applicants are selected to receive assistance; and

(5) such other factors that the Secretary shall require that (in the determination of the Secretary) are appropriate for purposes of carrying out the program established by this title in an effective and efficient manner.

SEC. 303. [42 U.S.C. 1437aaa–2] IMPLEMENTATION GRANTS.

(a) GRANTS.—The Secretary is authorized to make implementation grants to applicants for the purpose of carrying out homeownership programs approved under this title.

(b) ELIGIBLE ACTIVITIES.—Implementation grants may be used for activities to carry out homeownership programs (including programs for cooperative ownership) that meet the requirements under this subtitle, including the following activities:

(1) Architectural and engineering work.

(2) Implementation of the homeownership program, including acquisition of the public housing project from a public

[1] The date of enactment was November 28, 1990.

housing agency for the purpose of transferring ownership to eligible families in accordance with a homeownership program that meets the requirements under this title.

(3) Rehabilitation of any public housing project covered by the homeownership program, in accordance with standards established by the Secretary.

(4) Abatement of lead-based paint hazards, as required by section 302(a) of the Lead-Based Paint Poisoning Prevention Act.

(5) Administrative costs of the applicant, which may not exceed 15 percent of the amount of assistance provided under this section.

(6) Development of resident management corporations and resident management councils, but only if the applicant has not received assistance under section 302 for such activities.

(7) Counseling and training of homebuyers and homeowners under the homeownership program.

(8) Relocation of tenants who elect to move.

(9) Any necessary temporary relocation of tenants during rehabilitation.

(10) Funding of operating expenses and replacement reserves of the project covered by the homeownership program, except that the amount of assistance for operating expenses shall not exceed the amount the project would have received if it had continued to receive such assistance from the Operating Fund [1], with adjustments comparable to those that would have been made under section 9. [2]

(11) Implementation of a replacement housing plan.

(12) Legal fees.

(13) Defraying costs for the ongoing training needs of the recipient that are related to developing and carrying out the homeownership program.

(14) Economic development activities that promote economic self-sufficiency of homebuyers, residents, and homeowners under the homeownership program.

(c) MATCHING FUNDING.—

(1) IN GENERAL.—Each recipient shall assure that contributions equal to not less than 25 percent of the grant amount made available under this section, excluding any amounts provided for post-sale operating expenses and replace-

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[1] This paragraph was amended by section 519(c)(1) of the Quality Housing and Work Responsibility Act of 1998, title V of Public Law 105–276, approved October 21, 1998, by striking "under section 9" and inserting "from the Operating Fund". Pursuant to section 503 of such Act (set forth in the footnote on page 114 of this compilation), the amendments were made on the date of enactment, but apply beginning upon October 1, 1999. Section 503 also provides that the provisions of this paragraph, as in effect immediately before the enactment of the 1998 Act, continue to apply until such applicability date (unless the Secretary provides by notice for earlier implementation of the amendments).

[2] Section 181(g)(1)(B) of the Housing and Community Development Act of 1992, Public Law 102–550, provides as follows:

> "(B) OPERATING SUBSIDIES.—Section 303(b)(9) of the Cranston-Gonzalez National Affordable Housing Act (42 U.S.C. 1437aaa–2(b)(9)) is amended by inserting before the period at the end the following: ', 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'.".

The amendment could not be executed and was probably intended to be made to this paragraph of the United States Housing Act of 1937.

ment housing, shall be provided from non-Federal sources to carry out the homeownership program.

(2) FORM.—Such contributions may be in the form of—

(A) cash contributions from non-Federal resources, which may not include Federal tax expenditures or funds from a grant made under section 106(b) or section 106(d) of the Housing and Community Development Act of 1974;

(B) payment of administrative expenses, as defined by the Secretary, from non-Federal resources, including funds from a grant made under section 106(b) or section 106(d) of the Housing and Community Development Act of 1974;

(C) the value of taxes, fees, or other charges that are normally and customarily imposed but are waived, foregone, or deferred in a manner that facilitates the implementation of a homeownership program assisted under this subtitle;

(D) the value of land or other real property as appraised according to procedures acceptable to the Secretary;

(E) the value of investment in on-site and off-site infrastructure required for a homeownership program assisted under this subtitle; or

(F) such other in-kind contributions as the Secretary may approve.

Contributions for administrative expenses shall be recognized only up to an amount equal to 7 percent of the total amount of grants made available under this section.

(3) REDUCTION OF REQUIREMENT.—The Secretary shall reduce the matching requirement for homeownership programs carried out under this section in accordance with the formula established under section 220(d) of the Cranston-Gonzalez National Affordable Housing Act.

(d) APPLICATION.—

(1) FORM AND PROCEDURE.—An application for an implementation grant shall be submitted by an applicant in such form and in accordance with such procedures as the Secretary shall establish.

(2) MINIMUM REQUIREMENTS.—The Secretary shall require that an application contain at a minimum—

(A) a request for an implementation grant, specifying the amount of the grant requested and its proposed uses;

(B) if applicable, an application for assistance under section 8 of this Act, which shall specify the proposed uses of such assistance and the period during which the assistance will be needed;

(C) a description of the qualifications and experience of the applicant in providing housing for low-income families;

(D) a description of the proposed homeownership program, consistent with section 304 and the other requirements of this title, which shall specify the activities proposed to be carried out and their estimated costs, identifying reasonable schedules for carrying it out, and dem-

onstrating that the program will comply with the affordability requirements under section 304(b);

(E) identification and description of the public housing project or projects involved, and a description of the composition of the tenants, including family size and income;

(F) a description of and commitment for the resources that are expected to be made available to provide the matching funding required under subsection (c) and of other resources that are expected to be made available in support of the homeownership program;

(G) identification and description of the financing proposed for any (i) rehabilitation and (ii) acquisition (I) of the property, where applicable, by a resident council or other entity for transfer to eligible families, and (II) by eligible families of ownership interests in, or shares representing, units in the project;

(H) if the applicant is not a public housing agency, the proposed sales price, if any, the basis for such price determination, and terms to the applicant;

(I) the estimated sales prices, if any, and terms to eligible families;

(J) any proposed restrictions on the resale of units under a homeownership program;

(K) identification and description of the entity that will operate and manage the property;

(L) a certification by the public official responsible for submitting the comprehensive housing affordability strategy under section 105 of the Cranston-Gonzalez National Affordable Housing Act that the proposed activities are consistent with the approved housing strategy of the State or unit of general local government within which the project is located (or, during the first 12 months after enactment of the Cranston-Gonzalez National Affordable Housing Act,[1] that the application is consistent with such other existing State or local housing plan or strategy that the Secretary shall determine to be appropriate); and

(M) a certification that the applicant will comply with the requirements of the Fair Housing Act, title VI of the Civil Rights Act of 1964, section 504 of the Rehabilitation Act of 1973, and the Age Discrimination Act of 1975, and will affirmatively further fair housing.

(e) SELECTION CRITERIA.—The Secretary shall establish selection criteria for a national competition for assistance under this section, which shall include—

(1) the ability of the applicant to develop and carry out the proposed homeownership program, taking into account the quality of any related ongoing program of the applicant, and the extent of tenant interest in the development of a homeownership program and community support;

(2) the feasibility of the homeownership program;

(3) the extent to which current tenants and other eligible families will be able to afford the purchase;

[1] The date of enactment was November 28, 1990.

(4) the quality and viability of the proposed homeownership program, including the viability of the economic self-sufficiency plan;

(5) the extent to which funds for activities that do not qualify as eligible activities will be provided in support of the homeownership program;

(6) whether the approved comprehensive housing affordability strategy for the jurisdiction within which the public housing project is located includes the proposed homeownership program as one of the general priorities identified pursuant to section 105(b)(7) of the Cranston-Gonzalez National Affordable Housing Act;

(7) national geographic diversity among housing for which applicants are selected to receive assistance; and

(8) the extent to which a sufficient supply of affordable rental housing exists in the locality, so that the implementation of the homeownership program will not reduce the number of such rental units available to residents currently residing in such units or eligible for residency in such units.

(f) LOCATION WITHIN PARTICIPATING JURISDICTIONS.—The Secretary may approve applications for grants under this title only for public housing projects located within the boundaries of jurisdictions—

(1) which are participating jurisdictions under title III of the Cranston-Gonzalez National Affordable Housing Act; or

(2) on behalf of which the agency responsible for affordable housing has submitted a housing strategy or plan.

(g) APPROVAL.—The Secretary shall notify each applicant, not later than 6 months after the date of the submission 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 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.

SEC. 304. [42 U.S.C. 1437aaa–3] HOMEOWNERSHIP PROGRAM REQUIREMENTS.

(a) IN GENERAL.—A homeownership program under this title 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 title 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 title 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 title 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 subsection 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.

(2) PROHIBITION AGAINST PLEDGES.—Property transferred under this title 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 title.

(3) OPPORTUNITY TO CURE.—Any lender that provides financing in connection with a homeownership program under this subtitle shall give the public housing agency, resident management corporation, individual owner, or other appro-

priate 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 title.

[(g) [Repealed.]]

(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 Secretary approves an application for an implementation grant may be evicted by reason of a homeownership program approved under this title.

(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 3(a) of this Act 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 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 title shall have all rights provided to tenants of public housing under this Act.

SEC. 305. [42 U.S.C. 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 title, subject to the provisions of this title.

(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 5(a).

(e) OPERATING SUBSIDIES.—Amounts from an allocation from the Operating Fund [1] under section 9 of this Act 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.

[1] This subsection was amended by section 519(c)(2) of the Quality Housing and Work Responsibility Act of 1998, title V of Public Law 105–276, approved October 21, 1998, by striking "Operating subsidies" and inserting "Amounts from an allocation from the Operating Fund". Pursuant to section 503 of such Act (set forth in the footnote on page 114 of this compilation), the amendments were made on the date of enactment, but apply beginning upon October 1, 1999. Section 503 also provides that the provisions of this subsection, as in effect immediately before the enactment of the 1998 Act, continue to apply until such applicability date (unless the Secretary provides by notice for earlier implementation of the amendments).

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 by the purchaser and the entity that transfers ownership interests in, or shares representing, units to eligible families (or another entity specified in the approved application), at the time of initial sale, and applied against the contribution to equity.

Such an entity may, at the time of initial sale, enter into an agreement with the family to set a maximum amount which this appreciation may not exceed.

(3) 6–20 YEARS.—In the case of a transfer during the period beginning 6 years after the acquisition and ending 20 years after the acquisition, the homeownership program shall provide for the recapture by the Secretary or the program of an amount equal to the amount of the declining balance on the note described in paragraph (1)(C).

(4) USE OF RECAPTURED FUNDS.—Fifty percent of any portion of the net sales proceeds that may not be retained by the homeowner under the plan approved pursuant to this subsection shall be paid to the entity that transferred ownership interests in, or shares representing, units to eligible families, or another entity specified in the approved application, for use for 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. The remaining 50 percent shall be returned to the Secretary for use under this subtitle, subject to limitations contained in appropriations Acts. Such entity shall keep and make available to the Secretary all records necessary to calculate accurately payments due the Secretary under this subsection.

(h) THIRD PARTY RIGHTS.—The requirements under this title regarding quality standards, resale, or transfer of the ownership interest of a homeowner shall be judicially enforceable against the grant recipient with respect to actions involving rehabilitation, and against purchasers of property under this subsection or their successors in interest with respect to other actions by affected low-income families, resident management corporations, resident councils, public housing agencies, and any agency, corporation, or authority of the United States Government. The parties specified in the preceding sentence shall be entitled to reasonable attorney fees upon prevailing in any such judicial action.

(i) DOLLAR LIMITATION ON ECONOMIC DEVELOPMENT ACTIVITIES.—Not more than an aggregate of $250,000 from amounts made available under sections 302 and 303 may be used for eco-

nomic development activities under sections 302(b)(6)[1] and 303.(b)(9) for any project.

(j) TIMELY HOMEOWNERSHIP.—Recipients shall transfer ownership of the property to tenants within a specified period of time that the Secretary determines to be reasonable. During the interim period when the property continues to be operated and managed as rental housing, the recipient shall utilize written tenant selection policies and criteria that are consistent with the public housing program and that are approved by the Secretary as consistent with the purpose of improving housing opportunities for low-income families. The recipient shall promptly notify in writing any rejected applicant of the grounds for any rejection.

(k) CAPABILITY OF RESIDENT MANAGEMENT CORPORATIONS AND RESIDENT COUNCILS.—To be eligible to receive a grant under section 303, a resident management corporation or resident council shall demonstrate to the Secretary its ability to manage public housing by having done so effectively and efficiently for a period of not less than 3 years or by arranging for management by a qualified management entity.

(l) RECORDS AND AUDIT OF RECIPIENTS OF ASSISTANCE.—

(1) IN GENERAL.—Each recipient shall keep such records as may be reasonably necessary to fully disclose the amount and the disposition by such recipient of the proceeds of assistance received under this title (and any proceeds from financing obtained in accordance with subsection (b) or sales under subsections (f) and (g)(4)), the total cost of the homeownership program in connection with which such assistance is given or used, and the amount and nature of that portion of the program supplied by other sources, and such other sources as will facilitate an effective audit.

(2) ACCESS BY THE SECRETARY.—The Secretary shall have access for the purpose of audit and examination to any books, documents, papers, and records of the recipient that are pertinent to assistance received under this title.

(3) ACCESS BY THE COMPTROLLER GENERAL.—The Comptroller General of the United States, or any of the duly authorized representatives of the Comptroller General, shall also have access for the purpose of audit and examination to any books, documents, papers, and records of the recipient that are pertinent to assistance received under this title.

SEC. 306. [42 U.S.C. 1437aaa–5] DEFINITIONS.

For purposes of this title:

(1) The term "applicant" means the following entities that may represent the tenants of the project:

(A) A public housing agency.

(B) A resident management corporation, established in accordance with requirements of the Secretary under section 20.

(C) A resident council.

(D) A cooperative association.

(E) A public or private nonprofit organization.

[1] So in law. Probably intended to refer to section 302(b)(7).

(F) A public body, including an agency or instrumentality thereof.

(2) The term "eligible family" means—

(A) a family or individual who is a tenant in the public housing project on the date the Secretary approves an implementation grant;

(B) a low-income family; or

(C) a family or individual who is assisted under a housing program administered by the Secretary or the Secretary of Agriculture (not including any non-low income families assisted under any mortgage insurance program administered by either Secretary).

(3) The term "homeownership program" means a program for homeownership meeting the requirements under this title.

(4) The term "recipient" means an applicant approved to receive a grant under this title or such other entity specified in the approved application that will assume the obligations of the recipient under this title.

(5) The term "resident council" means any incorporated nonprofit organization or association that—

(A) is representative of the tenants of the housing;

(B) adopts written procedures providing for the election of officers on a regular basis; and

(C) has a democratically elected governing board, elected by the tenants of the housing.

SEC. 307. [42 U.S.C. 1437aaa–6] RELATIONSHIP TO OTHER HOMEOWNERSHIP OPPORTUNITIES.

The program authorized under this title shall be in addition to any other public housing homeownership and management opportunities, including opportunities under section 5(h)[1] of this Act.

SEC. 308. [42 U.S.C. 1437aaa–7] LIMITATION ON SELECTION CRITERIA.

In establishing criteria for selecting applicants to receive assistance under this title, the Secretary may not establish any selection criterion or criteria that grant or deny such assistance to an applicant (or have the effect of granting or denying assistance) based on the implementation, continuation, or discontinuation of any public policy, regulation, or law of any jurisdiction in which the applicant or project is located.

SEC. 309. [42 U.S.C. 1437aaa–8] ANNUAL REPORT.

The Secretary shall annually submit to the Congress a report setting forth—

(1) the number, type, and cost of public housing units sold pursuant to this title;

(2) the income, race, gender, children, and other characteristics of families participating (or not participating) in homeownership programs funded under this title;

(3) the amount and type of financial assistance provided under and in conjunction with this title;

[1] Section 518(a) of the Quality Housing and Work Responsibility Act of 1998, title V of Public Law 105–276, approved Ocotber 21, 1998, struck section 5(h) of the United States Housing Act of 1937. Subsection (a)(2)(C) of such section 518 amended this section by striking "section 5(h) and". The amendment could not be executed as written.

(4) the amount of financial assistance provided under this title that was needed to ensure continued affordability and meet future maintenance and repair costs; and

(5) the recommendations of the Secretary for statutory and regulatory improvements to the program.

TITLE IV—HOME RULE FLEXIBLE GRANT DEMONSTRATION

SEC. 401. [42 U.S.C. 1437bbb] PURPOSE.

The purpose of this title is to demonstrate the effectiveness of authorizing local governments and municipalities, in coordination with the public housing agencies for such jurisdictions—

(1) to receive and combine program allocations of covered housing assistance; and

(2) to design creative approaches for providing and administering Federal housing assistance based on the particular needs of the jurisdictions that—

(A) provide incentives to low-income families with children whose head of the household is employed, seeking employment, or preparing for employment by participating in a job training or educational program, or any program that otherwise assists individuals in obtaining employment and attaining economic self-sufficiency;

(B) reduce costs of Federal housing assistance and achieve greater cost-effectiveness in Federal housing assistance expenditures;

(C) increase the stock of affordable housing and housing choices for low-income families;

(D) increase homeownership among low-income families;

(E) reduce geographic concentration of assisted families;

(F) reduce homelessness through providing permanent housing solutions;

(G) improve program management; and

(H) achieve such other purposes with respect to low-income families, as determined by the participating local governments and municipalities in coordination with the public housing agencies;

SEC. 402. [42 U.S.C. 1437bbb–1] FLEXIBLE GRANT PROGRAM.

(a) AUTHORITY AND USE.—The Secretary shall carry out a demonstration program in accordance with the purposes under section 401 and the provisions of this title. A jurisdiction approved by the Secretary for participation in the program may receive and combine and enter into performance-based contracts for the use of amounts of covered housing assistance, in the manner determined appropriate by the participating jurisdiction, during the period of the jurisdiction's participation—

(1) to provide housing assistance and services for low-income families in a manner that facilitates the transition of such families to work;

(2) to reduce homelessness through providing permanent housing solutions;

(3) to increase homeownership among low-income families; or

(4) for other housing purposes for low-income families determined by the participating jurisdiction.

(b) PERIOD OF PARTICIPATION.—A jurisdiction may participate in the demonstration program under this title for a period consisting of not less than 1 nor more than 5 fiscal years.

(c) PARTICIPATING JURISDICTIONS.—

(1)[1] IN GENERAL.—Subject to paragraph (2), during the 4-year period consisting of fiscal years 1999 through 2002, the Secretary may approve for participation in the program under this title not more than an aggregate of 100 jurisdictions over the entire term of the demonstration program. A jurisdiction that was approved for participation in the demonstration program under this title in a fiscal year and that is continuing such participation in any subsequent fiscal year shall count as a single jurisdiction for purposes of the numerical limitation under this paragraph.

(2) EXCLUSION OF HIGH PERFORMING AGENCIES.—Notwithstanding any other provision of this title other than paragraph (4) of this subsection, the Secretary may approve for participation in the demonstration program under this title only jurisdictions served by public housing agencies that—

(A) are not designated as high-performing agencies, pursuant to their most recent scores under the public housing management assessment program under section 6(j)(2) (or any successor assessment program for public housing agencies), as of the time of approval; and

(B) have a most recent score under the public housing management assessment program under section 6(j)(2) (or any successor assessment program for public housing agencies), as of the time of approval, that is among the lowest 40 percent of the scores of all agencies.

(3) LIMITATION ON TROUBLED AND NON-TROUBLED PHAS.—Of the jurisdictions approved by the Secretary for participation in the demonstration program under this title—

(A) not more than 55 may be jurisdictions served by a public housing agency that, at the time of approval, is designated as a troubled agency under the public housing management assessment program under section 6(j)(2) (or any successor assessment program for public housing agencies); and

(B) not more than 45 may be jurisdictions served by a public housing agency that, at the time of approval, is not designated as a troubled agency under the public housing management assessment program under section 6(j)(2) (or any successor assessment program for public housing agencies).

(4) EXCEPTION.—If the City of Indianapolis, Indiana submits an application for participation in the program under this

[1] Indented so in law.

title and, upon review of the application under section 406(b), the Secretary determines that such application is approvable under this title, the Secretary shall approve such application, notwithstanding the second sentence of section 406(b)(2). Such City shall count for purposes of the numerical limitations on jurisdictions under paragraphs (1) and (3) of section 402(c), but the provisions of section 402(c)(2) (relating to exclusion of high-performing agencies) shall not apply to such City.

SEC. 403. [42 U.S.C. 1437bbb–2] PROGRAM ALLOCATION AND COVERED HOUSING ASSISTANCE.

(a) PROGRAM ALLOCATION.—In each fiscal year, the amount made available to each participating jurisdiction under the demonstration program under this title shall be equal to the sum of the amounts of covered housing assistance that would otherwise be made available under the provisions of this Act to the public housing agency for the jurisdiction.

(b) COVERED HOUSING ASSISTANCE.—For purposes of this title, the term "covered housing assistance" means—

(1) operating assistance under section 9 (as in effect before the effective date under section 503(a) of the Quality Housing and Work Responsibility Act of 1998 [1]);

(2) modernization assistance under section 14 (as in effect before the effective date under section 503(a) of the Quality Housing and Work Responsibility Act of 1998 [1]);

(3) assistance for the certificate and voucher programs under section 8 (as in effect before the effective date under section 503(a) of the Quality Housing and Work Responsibility Act of 404.1998 [1]);

(4) assistance from the Operating Fund under section 9(e);

(5) assistance from the Capital Fund under section 9(d); and

(6) tenant-based assistance under section 8 (as amended by the Quality Housing and Work Responsibility Act of 1998).

SEC. 404. [42 U.S.C. 1437bbb–3] APPLICABILITY OF REQUIREMENTS UNDER PROGRAMS FOR COVERED HOUSING ASSISTANCE.

(a) IN GENERAL.—In each fiscal year of the demonstration program under this title, amounts made available to a participating jurisdiction under the demonstration program shall be subject to the same terms and conditions as such amounts would be subject to if made available under the provisions of this Act pursuant to which covered housing assistance is otherwise made available under this Act to the public housing agency for the jurisdiction, except that—

(1) the Secretary may waive any such term or condition identified by the jurisdiction to the extent that the Secretary determines such action to be appropriate to carry out the purposes of the demonstration program under this title; and

(2) the participating jurisdiction may combine the amounts made available and use the amounts for any activity eligible under the programs under sections 8 and 9.

(b) NUMBER OF FAMILIES ASSISTED.—In carrying out the demonstration program under this title, each participating jurisdiction

[1] See section 503 of such Act as set forth in the footnote on page 114 of this compilation.

shall assist substantially the same total number of eligible low-income families as would have otherwise been served by the public housing agency for the jurisdiction had the jurisdiction not participated in the demonstration program under this title.

(c) PROTECTION OF RECIPIENTS.—This title may not be construed to authorize the termination of assistance to any recipient receiving assistance under this Act before the date of the enactment of this title [1] as a result of the implementation of the demonstration program under this title.

(d) EFFECT ON ABILITY TO COMPETE FOR OTHER PROGRAMS.—This title may not be construed to affect the ability of any applying or participating jurisdiction (or a public housing agency for any such jurisdiction) to compete or otherwise apply for or receive assistance under any other housing assistance program administered by the Secretary.

SEC. 405. [42 U.S.C. 1437bbb–4] PROGRAM REQUIREMENTS.

(a) APPLICABILITY OF CERTAIN PROVISIONS.—Notwithstanding section 404(a)(1), the Secretary may not waive, with respect to any participating jurisdiction, any of the following provisions:

(1) The first sentence of paragraph (1) of section 3(a) (relating to eligibility of low-income families).

(2) Section 16 (relating to income eligibility and targeting of assistance).

(3) Paragraph (2) of section 3(a) (relating to rental payments for public housing families).

(4) Paragraphs (2) and (3) of section 8(o) (to the extent such paragraphs limit the amount of rent paid by families assisted with tenant-based assistance).

(5) Section 18 (relating to demolition or disposition of public housing).

(b) COMPLIANCE WITH ASSISTANCE PLAN.—A participating jurisdiction shall provide assistance using amounts received pursuant to this title in the manner set forth in the plan of the jurisdiction approved by the Secretary under section 406(a)(2).

SEC. 406. [42 U.S.C. 1437bbb–5] APPLICATION.

(a) IN GENERAL.—The Secretary shall provide for jurisdictions to submit applications for approval to participate in the demonstration program under this title. An application—

(1) shall be submitted only after the jurisdiction provides for citizen participation through a public hearing and, if appropriate, other means;

(2) shall include a plan for the provision of housing assistance with amounts received pursuant to this title that—

(A) is developed by the jurisdiction;

(B) takes into consideration comments from the public hearing, any other public comments on the proposed program, and comments from current and prospective residents who would be affected; and

(C) identifies each term or condition for which the jurisdiction is requesting waiver under section 404 (a)(1);

[1] October 21, 1998.

(3) shall describe how the plan for use of amounts will assist in meeting the purposes of, and be used in accordance with, sections 401 and 402(a), respectively;

(4) shall propose standards for measuring performance in using assistance provided pursuant to this title based on the performance standards under subsection (b)(4);

(5) shall propose the length of the period for participation of the jurisdiction is in the demonstration program under this title;

(6) shall—

(A) in the case of the application of any jurisdiction within whose boundaries are areas subject to any other unit of general local government, include the signed consent of the appropriate executive official of such unit to the application; and

(B) in the case of the application of a consortia of units of general local government (as provided under section 409(1)(B)), include the signed consent of the appropriate executive officials of each unit included in the consortia;

(7) shall include information sufficient, in the determination of the Secretary—

(A) to demonstrate that the jurisdiction has or will have management and administrative capacity sufficient to carry out the plan under paragraph (2), including a demonstration that the applicant has a history of effectively administering amounts provided under other programs of the Department of Housing and Urban Development, such as the community development block grant program, the HOME investment partnerships program, and the programs for assistance for the homeless under the Stewart B. McKinney Homeless Assistance Act;

(B) to demonstrate that carrying out the plan will not result in excessive duplication of administrative efforts and costs, particularly with respect to activities performed by public housing agencies operating within the boundaries of the jurisdiction;

(C) to describe the function and activities to be carried out by such public housing agencies affected by the plan; and

(D) to demonstrate that the amounts received by the jurisdiction will be maintained separate from other funds available to the jurisdiction and will be used only to carry out the plan;

(8) shall include information describing how the jurisdiction will make decisions regarding asset management of housing for low-income families under programs for covered housing assistance or assisted with grant amounts under this title;

(9) shall—

(A) clearly identify any State or local laws that will affect implementation of the plan under paragraph (2) and any contractual rights and property interests that may be affected by the plan;

(B) describe how the plan will be carried out with respect to such laws, rights, and interests; and

(C) contain a legal memorandum sufficient to describe how the plan will comply with such laws and how the plan will be carried out without violating or impairing such rights and interests; and

(10) shall identify procedures for how the jurisdiction shall return to providing covered assistance for the jurisdiction under the provisions of title I, in the case of determination under subsection (b)(4)(B).

A plan required under paragraph (2) to be included in the application may be contained in a memorandum of agreement or other document executed by a jurisdiction and public housing agency, if such document is submitted together with the application.

(b) REVIEW, APPROVAL, AND PERFORMANCE STANDARDS.—

(1) REVIEW.—The Secretary shall review each application for participation in the demonstration program under this title and shall determine and notify the jurisdiction submitting the application, not later than 90 days after its submission, of whether the application is approvable under this title. If the Secretary determines that the application of a jurisdiction is approvable under this title, the Secretary shall provide affected public housing agencies an opportunity to review and to provide written comments on the application for a period of not less than 30 days after notification under the preceding sentence. If the Secretary determines that an application is not approvable under this title, the Secretary shall notify the jurisdiction submitting the application of the reasons for such determination. Upon making a determination of whether an application is approvable or nonapprovable under this title, the Secretary shall make such determination publicly available in writing together with a written statement of the reasons for such determination.

(2) APPROVAL.—The Secretary may approve jurisdictions for participation in the demonstration program under this title, but only from among applications that the Secretary has determined under paragraph are approvable under this title and only in accordance with section 402(c). The Secretary shall base the selection of jurisdictions to approve on the potential success, as evidenced by the application, in—

(A) achieving the goals set forth in the performance standards under paragraph (4)(A); and

(B) increasing housing choices for low-income families.

(3) AGREEMENT.—The Secretary shall offer to enter into an agreement with each jurisdiction approved for participation in the program under this title providing for assistance pursuant to this title for a period in accordance with section 402(b) and incorporating a requirement that the jurisdiction achieve a particular level of performance in each of the areas for which performance standards are established under paragraph (4)(A) of this subsection. If the Secretary and the jurisdiction enter into an agreement, the Secretary shall provide any covered housing assistance for the jurisdiction in the manner authorized under this title. The Secretary may not provide covered housing assistance for a jurisdiction in the manner authorized

under this title unless the Secretary and jurisdiction enter into an agreement under this paragraph.

(4) PERFORMANCE STANDARDS.—

(A) ESTABLISHMENT.—The Secretary and each participating jurisdiction may collectively establish standards for evaluating the performance of the participating jurisdiction in meeting the purposes under section 401 of this title, which may include standards for—

(i) moving dependent low-income families to economic self-sufficiency;

(ii) reducing the per-family cost of providing housing assistance;

(iii) expanding the stock of affordable housing and housing choices for low-income families;

(iv) improving program management;

(v) increasing the number of homeownership opportunities for low-income families;

(vi) reducing homelessness through providing permanent housing resources;

(vii) reducing geographic concentration of assisted families; and

(viii) any other performance goals that the Secretary and the participating jurisdiction may establish.

(B) FAILURE TO COMPLY.—If, at any time during the participation of a jurisdiction in the program under this title, the Secretary determines that the jurisdiction is not sufficiently meeting, or making progress toward meeting, the levels of performance incorporated into the agreement of the jurisdiction pursuant to subparagraph (A), the Secretary shall terminate the participation of the jurisdiction in the program under this title and require the implementation of the procedures included in the application of the jurisdiction pursuant to subsection (a)(10).

(5) TROUBLED AGENCIES.—The Secretary may establish requirements for the approval of applications under this section submitted by public housing agencies designated under section 6(j)(2) as troubled, which may include additional or different criteria determined by the Secretary to be more appropriate for such agencies.

(c) STATUS OF PHAS.—This title may not be construed to require any change in the legal status of any public housing agency or in any legal relationship between a jurisdiction and a public housing agency as a condition of participation in the program under this title.

(d) PHA PLANS.—In carrying out this title, the Secretary may provide for a streamlined public housing agency plan and planning process under section 5A for participating jurisdictions.

SEC. 407. [42 U.S.C. 1437bbb–6] TRAINING.

The Secretary, in consultation with representatives of public and assisted housing interests, may provide training and technical assistance relating to providing assistance under this title and may conduct detailed evaluations of up to 30 jurisdictions for the pur-

pose of identifying replicable program models that are successful at carrying out the purposes of this title.

SEC. 408. [42 U.S.C. 1437bbb–7] ACCOUNTABILITY.

(a) MAINTENANCE OF RECORDS.—Each participating jurisdiction shall maintain such records as the Secretary may require to—

(1) document the amounts received by the jurisdiction under this Act and the disposition of such amounts under the demonstration program under this title;

(2) ensure compliance by the jurisdiction with this title; and

(3) evaluate the performance of the jurisdiction under the demonstration program under this title.

(b) REPORTS.—Each participating jurisdiction shall annually submit to the Secretary a report in a form and at a time specified by the Secretary, which shall include—

(1) documentation of the use of amounts made available to the jurisdiction under this title;

(2) any information as the Secretary may request to assist the Secretary in evaluating the demonstration program under this title; and

(3) a description and analysis of the effect of assisted activities in addressing the objectives of the demonstration program under this title.

(c) ACCESS TO DOCUMENTS BY SECRETARY AND COMPTROLLER GENERAL.—The Secretary and the Comptroller General of the United States, or any duly authorized representative of the Secretary or the Comptroller General, shall have access for the purpose of audit and examination to any books, documents, papers, and records maintained by a participating jurisdiction that relate to the demonstration program under this title.

(d) PERFORMANCE REVIEW AND EVALUATION.—

(1) PERFORMANCE REVIEW.—Based on the performance standards established under section 406(b)(4), the Secretary shall monitor the performance of participating jurisdictions in providing assistance under this title.

(2) STATUS REPORT.—Not later than 60 days after the conclusion of the second year of the demonstration program under this title, the Secretary shall submit to Congress an interim report on the status of the demonstration program and the progress each participating jurisdiction in achieving the purposes of the demonstration program under section 401.

SEC. 409. [42 U.S.C. 1437bbb–8] DEFINITIONS.

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

(1) JURISDICTION.—The term "jurisdiction" means—

(A) a unit of general local government (as such term is defined in section 104 of the Cranston-Gonzalez National Affordable Housing Act) that has boundaries, for purposes of carrying out this title, that—

(i) wholly contain the area within which a public housing agency is authorized to operate; and

(ii) do not contain any areas contained within the boundaries of any other participating jurisdiction; and

(B) a consortia of such units of general local government, organized for purposes of this title.

(2) PARTICIPATING JURISDICTION.—The term "participating jurisdiction" means, with respect to a period for which such an agreement is made, a jurisdiction that has entered into an agreement under section 406(b)(3) to receive assistance pursuant to this title for such fiscal year.

SEC. 410. [42 U.S.C. 1437bbb–9] TERMINATION AND EVALUATION.

(a) TERMINATION.—The demonstration program under this title shall terminate not less than 2 and not more than 5 years after the date on which the demonstration program is commenced.

(b) EVALUATION.—Not later than 6 months after the termination of the demonstration program under this title, the Secretary shall submit to the Congress a final report, which shall include—

(1) an evaluation the effectiveness of the activities carried out under the demonstration program; and

(2) any findings and recommendations of the Secretary for any appropriate legislative action.

SEC. 411. [42 U.S.C. 1437bbb note] APPLICABILITY.

This title shall take effect on the date of the enactment of the Quality Housing and Work Responsibility Act of 1998. [1]

[1] October 21, 1998.

REPEAL OF SECTION 8 NEW CONSTRUCTION

EXCERPT FROM HOUSING AND URBAN-RURAL RECOVERY ACT OF 1983

[Public Law 98–181; 97 Stat. 1183; 42 U.S.C. 1437f note]

REPEAL OF NEW CONSTRUCTION AUTHORITY

SEC. 209. (a) The United States Housing Act of 1937 is amended as follows:

(1) Section 8(a) is amended by striking out ", newly constructed, and substantially rehabilitated".

(2) Section 8(b)(2) is repealed.

(3) Section 8(e) of such Act is amended by striking out paragraphs (1), (2), and (3) and by redesignating paragraphs (4) and (5) as paragraphs (1) and (2), respectively.

(4) Section 8(i) of such Act is repealed.

(5) Section 8 of such Act is amended by striking out subsections (l) and (m).

(6) Section 8(n) of such Act is amended by striking out "(e)(5) and subsection (i)" and inserting in lieu thereof "(e)(2)".

(b) The amendments made by subsection (a) shall take effect on October 1, 1983, except that the provisions repealed shall remain in effect—

(1) with respect to any funds obligated for a viable project under section 8 of the United States Housing Act of 1937 prior to January 1, 1984; and

(2) with respect to any project financed under section 202 of the Housing Act of 1959.

EXCERPTS FROM UNITED STATES HOUSING ACT OF 1937—PRIOR TO NOVEMBER 30, 1983

LOWER INCOME HOUSING ASSISTANCE

*SEC. 8. (a) * * **

*(b)(1) * * **

(2) To the extent of annual contributions authorizations under section 5(c) of this Act, the Secretary is authorized to make assistance payments pursuant to contracts with owners or prospective owners who agree to construct or substantially rehabilitate housing in which some or all of the units shall be available for occupancy by lower-income families in accordance with the provisions of this section. To increase housing opportunities for very low-income families, the Secretary shall assure that newly constructed housing to be assisted under this section is modest in design. The Secretary may also enter into annual contributions contracts with public housing agencies pursuant to which such agencies may enter into contracts to make assistance payments to such owners or prospective owners. Each contract to make assistance payments for newly constructed or

substantially rehabilitated housing assisted under this section entered into after the date of enactment of the Housing and Community Development Amendments of 1981 shall provide that during the term of the contract the owner shall make available for occupancy by families which are eligible for assistance under this section, at the time of their initial occupancy, the number of units for which assistance is committed under the contract.

* * * * * * *

(e)(1) The Secretary shall not contract to make assistance payments with respect to a newly constructed or substantially rehabilitated dwelling unit for a term of less than two hundred and forty months or more than three hundred and sixty months, except that such term may not exceed two hundred and forty months in the case of a project financed with assistance of a loan made by, or insured, guaranteed or intended for purchase by, the Federal Government, other than pursuant to section 244 of the National Housing Act. Notwithstanding the preceding sentence, in the case of a project owned by, or financed by a loan or loan guarantee from, a State or local agency or the Farmers' Home Administration, the term may not exceed four hundred and eighty months.

(2) The contract between the Secretary and the owner with respect to newly constructed or substantially rehabilitated dwelling units shall provide that all ownership, management, and maintenance responsibilities, including the selection of tenants and the termination of tenancy, shall be assumed by the owner (or any entity, including a public housing agency, approved by the Secretary, with which the owner may contract for the performance of such responsibilities), except that the tenant selection criteria shall give preference to families which occupy substandard housing or are involuntarily displaced at the time they are seeking housing assistance under this section. In approving any public housing agency to assume all the management and maintenance responsibilities of any dwelling unit under the preceding sentence, the Secretary may do so without regard to whether such agency administers the housing assistance payment contract for that unit.

(3) The construction or substantial rehabilitation of dwelling units to be assisted under this section shall be eligible for financing with mortgages insured under the National Housing Act. Assistance with respect to such dwelling units shall not be withheld or made subject to preferences by reason of the availability of mortgage insurance pursuant to section 244 of such Act or by reason of the tax-exempt status of the bonds or other obligations to be used to finance such construction or rehabilitation.

* * * * * * *

(i) In entering into contracts under this section with respect to substantially rehabilitated dwelling units, the Secretary shall provide that—

(1) the maximum monthly rent permitted for the assisted units be not greater than the amount permitted under subsection (c) or a lesser amount which the Secretary determines is appropriate taking into consideration the investment of the owner in the assisted units and such other factors as the Secretary determines to be relevant;

(2) the assisted units be rehabilitated to a level which meets but does not exceed applicable codes and standards for decent, safe, and sanitary housing which are prescribed by the Secretary;

(3) all the dwelling units in the housing structure in which the assisted units are located meet applicable codes and standards prescribed by the Secretary for decent, safe, and sanitary housing;

(4) the term of any such contract does not exceed the maximum term permitted under subsection (e)(1) or a shorter term which the Secretary determines is appropriate taking into consideration the amount of investment of the owner in the assisted units and such other factors as the Secretary determines to be relevant; and

(5) the assisted units meet cost-effective energy efficiency standards prescribed by the Secretary.

* * * * * * *

(l) After selection of a proposal involving newly constructed or substantially rehabilitated units for assistance under this section, the Secretary shall limit cost and rent increases, except for adjustment in rent pursuant to section 8(c)(2), to those approved by the Secretary. The Secretary may approve those increases only for unforeseen factors beyond the owner's control, design changes required by the Secretary or the local government, or changes in financing approved by the Secretary.

(m) For the purpose of achieving the lowest cost in providing units in newly constructed projects assisted under this section, the Secretary shall give a preference in entering into contracts under this section for projects which are to be located on specific tracts of land provided by States or units of local government if the Secretary determines that the tract of land is suitable for such housing, and that affording such preference will be cost effective.

EXCERPTS FROM CRANSTON-GONZALEZ NATIONAL AFFORDABLE HOUSING ACT

[Public Law 101–625; 104 Stat. 4220, 4233; 42 U.S.C. 1437f note]

SEC. 555. [42 U.S.C. 1437f note] INCOME ELIGIBILITY FOR TENANCY IN NEW CONSTRUCTION UNITS.

Any dwelling units in any housing constructed or substantially rehabilitated pursuant to assistance provided under section 8(b)(2) of the United States Housing Act of 1937, as such section existed before October 1, 1983, and with a contract for assistance under such section, shall be reserved for occupancy by low-income families and very low-income families.

EXCERPT FROM THE BALANCED BUDGET DOWNPAYMENT ACT, I

[Public Law 104–99; 110 Stat. 42]

PUBLIC AND ASSISTED HOUSING RENTS, INCOME ADJUSTMENTS, AND PREFERENCES

SEC. 402. [(a) [Repealed.]]

* * * * * * *

(d) REPEAL OF FEDERAL PREFERENCES.—

* * * * * * *

(4) SECTION 8 NEW CONSTRUCTION AND SUBSTANTIAL REHABILITATION.—

(A) REPEAL.— * * *

(B)[1] PROHIBITION.—Notwithstanding any other provision of law, no Federal tenant selection preferences under the United States Housing Act of 1937 shall apply with respect to—

(i) housing constructed or substantially rehabilitated pursuant to assistance provided under section 8(b)(2) of the United States Housing Act of 1937 (as such section existed on the day before October 1, 1983); or

(ii) projects financed under section 202 of the Housing Act of 1959 (as such section existed on the day before the date of enactment of the Cranston-Gonzalez National Affordable Housing Act).

* * * * * * *

[1] Section 514(c)(2) of the Quality Housing and Work Responsibility Act of 1998, title V of Public Law 105–276, approved October 21, 1998, provides as follows:

"(2) PROHIBITION.—Notwithstanding any other provision of law (including subsection (f) of this section), section 402(d)(4)(B) of The Balanced Budget Downpayment Act, I (42 U.S.C. 1437a note) shall apply to fiscal year 1999 and thereafter.".

FUNDING FOR SECTION 8 TENANT-BASED ASSISTANCE

EXCERPT FROM QUALITY HOUSING AND WORK RESPONSIBILITY ACT OF 1998

[Public Law 105–276; 112 Stat. 2614]

SEC. 558. AUTHORIZATIONS OF APPROPRIATIONS.

(a) IN GENERAL.—There is authorized to be appropriated for providing public housing agencies with tenant-based housing assistance under section 8 of the United States Housing Act of 1937—

(1) to provide amounts for incremental assistance under such section 8—

(A) for each of fiscal years 2000 and 2001, the amount necessary to assist 100,000 incremental dwelling units in each such fiscal year; and

(B) for each of fiscal years 1999, 2002, and 2003, such sums as may be necessary; and

(2) such sums as may be necessary for each of fiscal years 1999, 2000, 2001, 2002, and 2003, for—

(A) relocation and replacement housing for units that are demolished and disposed of from the public housing inventory (in addition to other amounts that may be available for such purposes);

(B) relocation of residents of properties that are owned by the Secretary and being disposed of or that are discontinuing section 8 project-based assistance;

(C) the conversion of section 23 projects to assistance under section 8;

(D) carrying out the family unification program;

(E) relocation of witnesses in connection with efforts to combat crime in public and assisted housing pursuant to a request from a law enforcement or prosecution agency;

(F) nonelderly disabled families affected by the designation of a public housing development under section 7 of the United States Housing Act of 1937, the establishment of preferences in accordance with section 651 of the Housing and Community Development Act of 1992, or the restriction of occupancy to elderly families in accordance with section 658 of such Act, and to the extent the Secretary determines that such amount is not needed to fund applications for such affected families, to other nonelderly disabled families;

(G) housing vouchers for homeless individuals; and

(H) housing vouchers to compensate public housing agencies which issue vouchers to families that move into or out of the jurisdiction of the agency under portability procedures.

(b) ASSISTANCE FOR DISABLED FAMILIES.—

(1) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated, for tenant-based assistance under section 8 of the United States Housing Act of 1937, to be used in accordance with paragraph (2), $50,000,000 for fiscal year 2000, and such sums as may be necessary for each subsequent fiscal year.

(2) USE.—The Secretary shall provide amounts made available under paragraph (1) to public housing agencies only for use to provide tenant-based assistance under section 8 of the United States Housing Act of 1937 for nonelderly disabled families (including such families relocating pursuant to designation of a public housing development under 7 of such Act or to the establishment of occupancy restrictions in accordance with section 658 of the Housing and Community Development Act of 1992, and other nonelderly disabled families who have applied to the agency for assistance under such section 8).

(3) ALLOCATION OF AMOUNTS.—The Secretary shall allocate and provide amounts made available under paragraph (1) to public housing agencies as the Secretary determines appropriate based on the relative levels of need among the authorities for assistance for families described in paragraph (1).

(c) EFFECTIVE DATE.—This section shall take effect on the date of the enactment of this Act. [1]

[1] October 21, 1998.

MOVING TO WORK DEMONSTRATION

EXCERPT FROM DEPARTMENTS OF VETERANS AFFAIRS AND HOUSING AND URBAN DEVELOPMENT, AND INDEPENDENT AGENCIES APPROPRIATIONS ACT, 1996 (AS CONTAINED IN SECTION 101(e) OF OMNIBUS CONSOLIDATED RESCISSIONS AND APPROPRIATIONS ACT OF 1996)

[Public Law 104–134; 110 Stat. 1321–281; 42 U.S.C. 1437f note]

PUBLIC HOUSING/SECTION 8 MOVING TO WORK DEMONSTRATION

SEC. 204. [42 U.S.C. 1437f note] (a) PURPOSE.—The purpose of this demonstration is to give public housing agencies and the Secretary of Housing and Urban Development the flexibility to design and test various approaches for providing and administering housing assistance that: reduce cost and achieve greater cost effectiveness in Federal expenditures; give incentives to families with children where the head of household is working, seeking work, or is preparing for work by participating in job training, educational programs, or programs that assist people to obtain employment and become economically self-sufficient; and increase housing choices for low-income families.

(b) PROGRAM AUTHORITY.—The Secretary of Housing and Urban Development shall conduct a demonstration program under this section beginning in fiscal year 1996 under which up to 30 public housing agencies (including Indian housing authorities) administering the public or Indian housing program and the section 8 housing assistance payments program may be selected by the Secretary to participate. The Secretary shall provide training and technical assistance during the demonstration and conduct detailed evaluations of up to 15 such agencies in an effort to identify replicable program models promoting the purpose of the demonstration. Under the demonstration, notwithstanding any provision of the United States Housing Act of 1937 except as provided in subsection (e), an agency may combine operating assistance provided under section 9 of the United States Housing Act of 1937, modernization assistance provided under section 14 of such Act, and assistance provided under section 8 of such Act for the certificate and voucher programs, to provide housing assistance for low-income families, as defined in section 3(b)(2) of the United States Housing Act of 1937, and services to facilitate the transition to work on such terms and conditions as the agency may propose and the Secretary may approve.

(c) APPLICATION.—An application to participate in the demonstration—

(1) shall request authority to combine assistance under sections 8, 9, and 14 of the United States Housing Act of 1937;

(2) shall be submitted only after the public housing agency provides for citizen participation through a public hearing and, if appropriate, other means;

(3) shall include a plan developed by the agency that takes into account comments from the public hearing and any other public comments on the proposed program, and comments from current and prospective residents who would be affected, and that includes criteria for—

(A) families to be assisted, which shall require that at least 75 percent of the families assisted by participating demonstration public housing authorities shall be very low-income families, as defined in section 3(b)(2) of the United States Housing Act of 1937;

(B) establishing a reasonable rent policy, which shall be designed to encourage employment and self-sufficiency by participating families, consistent with the purpose of this demonstration, such as by excluding some or all of a family's earned income for purposes of determining rent;

(C) continuing to assist substantially the same total number of eligible low-income families as would have been served had the amounts not been combined;

(D) maintaining a comparable mix of families (by family size) as would have been provided had the amounts not been used under the demonstration; and

(E) assuring that housing assisted under the demonstration program meets housing quality standards established or approved by the Secretary; and

(4) may request assistance for training and technical assistance to assist with design of the demonstration and to participate in a detailed evaluation.

(d) SELECTION.—In selecting among applications, the Secretary shall take into account the potential of each agency to plan and carry out a program under the demonstration, the relative performance by an agency under the public housing management assessment program under section 6(j) of the United States Housing Act of 1937, and other appropriate factors as determined by the Secretary.

(e) APPLICABILITY OF 1937 ACT PROVISIONS.—

(1) Section 18 of the United States Housing Act of 1937 shall continue to apply to public housing notwithstanding any use of the housing under this demonstration.

(2) Section 12 of such Act shall apply to housing assisted under the demonstration, other than housing assisted solely due to occupancy by families receiving tenant-based assistance.

(f) EFFECT ON SECTION 8, OPERATING SUBSIDIES, AND COMPREHENSIVE GRANT PROGRAM ALLOCATIONS.—The amount of assistance received under section 8, section 9, or pursuant to section 14 by a public housing agency participating in the demonstration under this part shall not be diminished by its participation.

(g) RECORDS, REPORTS, AND AUDITS.—

(1) KEEPING OF RECORDS.—Each agency shall keep such records as the Secretary may prescribe as reasonably necessary to disclose the amounts and the disposition of amounts under

this demonstration, to ensure compliance with the requirements of this section, and to measure performance.

(2) REPORTS.—Each agency shall submit to the Secretary a report, or series of reports, in a form and at a time specified by the Secretary. Each report shall—

(A) document the use of funds made available under this section;

(B) provide such data as the Secretary may request to assist the Secretary in assessing the demonstration; and

(C) describe and analyze the effect of assisted activities in addressing the objectives of this part.

(3) ACCESS TO DOCUMENTS BY THE SECRETARY.—The Secretary shall have access for the purpose of audit and examination to any books, documents, papers, and records that are pertinent to assistance in connection with, and the requirements of, this section.

(4) ACCESS TO DOCUMENTS BY THE COMPTROLLER GENERAL.—The Comptroller General of the United States, or any of the duly authorized representatives of the Comptroller General, shall have access for the purpose of audit and examination to any books, documents, papers, and records that are pertinent to assistance in connection with, and the requirements of, this section.

(h) EVALUATION AND REPORT.—

(1) CONSULTATION WITH PHA AND FAMILY REPRESENTATIVES.—In making assessments throughout the demonstration, the Secretary shall consult with representatives of public housing agencies and residents.

(2) REPORT TO CONGRESS.—Not later than 180 days after the end of the third year of the demonstration, the Secretary shall submit to the Congress a report evaluating the programs carried out under the demonstration. The report shall also include findings and recommendations for any appropriate legislative action.

(i) FUNDING FOR TECHNICAL ASSISTANCE AND EVALUATION.—From amounts appropriated for assistance under section 14 of the United States Housing Act of 1937 for fiscal years 1996, 1997, and 1998, the Secretary may use up to a total of $5,000,000—

(1) to provide, directly or by contract, training and technical assistance—

(A) to public housing agencies that express an interest to apply for training and technical assistance pursuant to subsection (c)(4), to assist them in designing programs to be proposed for the demonstration; and

(B) to up to 10 agencies selected to receive training and technical assistance pursuant to subsection (c)(4), to assist them in implementing the approved program; and

(2) to conduct detailed evaluations of the activities of the public housing agencies under paragraph (1)(B), directly or by contract.

(j)[1] CAPITAL AND OPERATING FUND ASSISTANCE.—With respect to any public housing agency participating in the demonstration under this section that receives assistance from the Capital or Operating Fund under section 9 of the United States Housing Act of 1937 (as amended by the Quality Housing and Work Responsibility Act of 1998), for purposes of this section—

(1) any reference to assistance under section 9 of the United States Housing Act of 1937 shall be considered to refer also to assistance provided from the Operating Fund under section 9(e) of such Act (as so amended); and

(2) any reference to assistance under section 14 of the United States Housing Act of 1937 shall be considered to refer also to assistance provided from the Capital Fund under section 9(d) of such Act (as so amended).

[1] This subsection was added by section 522(b)(3) of the Quality Housing and Work Responsibility Act of 1998, title V of Public Law 105–276, approved October 21, 1998. Pursuant to section 503 of such Act (set forth in the footnote on page 114 of this compilation), the amendment was made on the date of enactment (and, therefore, the subsection is shown), but applies beginning upon October 1, 1999.

SECTION 8 ADMINISTRATIVE FEES

EXCERPT FROM DEPARTMENTS OF VETERANS AFFAIRS AND HOUSING AND URBAN DEVELOPMENT, AND INDEPENDENT AGENCIES APPROPRIATIONS ACT, 1997

[Public Law 104–204; 110 Stat. 2893; 42 U.S.C. 1437f note]

SEC. 202. [42 U.S.C. 1437f note] ADMINISTRATIVE FEES.—Notwithstanding section 8(q) of the United States Housing Act of 1937, as amended—

(a) The Secretary shall establish fees for the cost of administering the certificate, voucher and moderate rehabilitation programs.

(1)(A) For fiscal year 1997, the fee for each month for which a dwelling unit is covered by an assistance contract shall be 7.5 percent of the base amount, adjusted as provided herein, in the case of an agency that, on an annual basis, is administering a program of no more than 600 units, and 7 percent of the base amount, adjusted as provided herein, for each additional unit above 600.

(B) The base amount shall be the higher of—

(i) the fair market rental for fiscal year 1993 for a 2-bedroom existing rental dwelling unit in the market area of the agency; and

(ii) such fair market rental for fiscal year 1994, but not more than 103.5 percent of the amount determined under clause (i).

(C) The base amount shall be adjusted to reflect changes in the wage data or other objectively measurable data that reflect the costs of administering the program during fiscal year 1996; except that the Secretary may require that the base amount be not less than a minimum amount and not more than a maximum amount.

(2) For subsequent fiscal years, the Secretary shall publish a notice in the Federal Register, for each geographic area, establishing the amount of the fee that would apply for the agencies administering the program, based on changes in wage data or other objectively measurable data that reflect the cost of administering the program, as determined by the Secretary.

(3) The Secretary may increase the fee if necessary to reflect higher costs of administering small programs and programs operating over large geographic areas.

(4) The Secretary may decrease the fee for PHA-owned units.

(b) Beginning in fiscal year 1997 and thereafter, the Secretary shall also establish reasonable fees (as determined by the Secretary) for—

(1) the costs of preliminary expenses, in the amount of $500, for a public housing agency, but only in the first year it

administers a tenant-based assistance program under the United States Housing Act of 1937 and only if, immediately before the effective date of this Act, it was not administering a tenant-based assistance program under the 1937 Act (as in effect immediately before the effective date of this Act), in connection with its initial increment of assistance received;

(2) the costs incurred in assisting families who experience difficulty (as determined by the Secretary) in obtaining appropriate housing under the program; and

(3) extraordinary costs approved by the Secretary.

SECTION 8 CONTRACT RENEWALS

EXCERPT FROM THE BALANCED BUDGET DOWNPAYMENT ACT, I

[Public Law 104–99; 110 Stat. 44; 42 U.S.C. 1437f note]

SECTION 8 CONTRACT RENEWALS

SEC. 405. [42 U.S.C. 1437f note] (a) Notwithstanding part 24 of title 24 of the Code of Federal Regulations, for fiscal year 1996 and henceforth, the Secretary of Housing and Urban Development may use amounts available for the renewal of assistance under section 8 of the United States Housing Act of 1937, upon termination or expiration of a contract for assistance under section 8 of such Act of 1937 (other than a contract for tenant-based assistance and notwithstanding section 8(v) of such Act for loan management assistance), to provide assistance under section 8 of such Act, subject to the Section 8 Existing Fair Market Rents, for the eligible families assisted under the contracts at expiration or termination, which assistance shall be in accordance with terms and conditions prescribed by the Secretary.

* * * * * * *

MULTIFAMILY HOUSING MORTGAGE & ASSISTANCE RESTRUCTURING

EXCERPT FROM DEPARTMENTS OF VETERANS AFFAIRS AND HOUSING AND URBAN DEVELOPMENT, AND INDEPENDENT AGENCIES APPROPRIATIONS ACT, 1998

[Public Law 105–65; 111 Stat. 1384; 42 U.S.C. 1437f note]

TITLE V—HUD MULTIFAMILY HOUSING REFORM

SEC. 501. TABLE OF CONTENTS.

The table of contents for this title is as follows:

SEC. 510. [12 U.S.C. 1701 note] SHORT TITLE.

This title may be cited as the "Multifamily Assisted Housing Reform and Affordability Act of 1997".

Subtitle A—FHA-Insured Multifamily Housing Mortgage and Housing Assistance Restructuring

SEC. 511. [42 U.S.C. 1437f note] FINDINGS AND PURPOSES.

(a) FINDINGS.—Congress finds that—

(1) there exists throughout the Nation a need for decent, safe, and affordable housing;

(2) as of the date of enactment of this Act, [1] it is estimated that—

(A) the insured multifamily housing portfolio of the Federal Housing Administration consists of 14,000 rental properties, with an aggregate unpaid principal mortgage balance of $38,000,000,000; and

(B) approximately 10,000 of these properties contain housing units that are assisted with project-based rental assistance under section 8 of the United States Housing Act of 1937;

(3) FHA-insured multifamily rental properties are a major Federal investment, providing affordable rental housing to an estimated 2,000,000 low- and very low-income families;

(4) approximately 1,600,000 of these families live in dwelling units that are assisted with project-based rental assistance under section 8 of the United States Housing Act of 1937;

(5) a substantial number of housing units receiving project-based assistance have rents that are higher than the rents of comparable, unassisted rental units in the same housing rental market;

(6) many of the contracts for project-based assistance will expire during the several years following the date of enactment of this Act; [1]

(7) it is estimated that—

(A) if no changes in the terms and conditions of the contracts for project-based assistance are made before fiscal year 2000, the cost of renewing all expiring rental assistance contracts under section 8 of the United States Housing Act of 1937 for both project-based and tenant-based rental assistance will increase from approximately $3,600,000,000 in fiscal year 1997 to over $14,300,000,000

[1] October 27, 1997.

by fiscal year 2000 and some $22,400,000,000 in fiscal year 2006;

(B) of those renewal amounts, the cost of renewing project-based assistance will increase from $1,200,000,000 in fiscal year 1997 to almost $7,400,000,000 by fiscal year 2006; and

(C) without changes in the manner in which project-based rental assistance is provided, renewals of expiring contracts for project-based rental assistance will require an increasingly larger portion of the discretionary budget authority of the Department of Housing and Urban Development in each subsequent fiscal year for the foreseeable future;

(8) absent new budget authority for the renewal of expiring rental contracts for project-based assistance, many of the FHA-insured multifamily housing projects that are assisted with project-based assistance are likely to default on their FHA-insured mortgage payments, resulting in substantial claims to the FHA General Insurance Fund and Special Risk Insurance Fund;

(9) more than 15 percent of federally assisted multifamily housing projects are physically or financially distressed, including a number which suffer from mismanagement;

(10) due to Federal budget constraints, the downsizing of the Department of Housing and Urban Development, and diminished administrative capacity, the Department lacks the ability to ensure the continued economic and physical well-being of the stock of federally insured and assisted multifamily housing projects;

(11) the economic, physical, and management problems facing the stock of federally insured and assisted multifamily housing projects will be best served by reforms that—

(A) reduce the cost of Federal rental assistance, including project-based assistance, to these projects by reducing the debt service and operating costs of these projects while retaining the low-income affordability and availability of this housing;

(B) address physical and economic distress of this housing and the failure of some project managers and owners of projects to comply with management and ownership rules and requirements; and

(C) transfer and share many of the loan and contract administration functions and responsibilities of the Secretary to and with capable State, local, and other entities; and

(12) the authority and duties of the Secretary, not including the control by the Secretary of applicable accounts in the Treasury of the United States, may be delegated to State, local or other entities at the discretion of the Secretary, to the extent the Secretary determines, and for the purpose of carrying out this Act, so that the Secretary has the discretion to be relieved of processing and approving any document or action required by these reforms.

(b) PURPOSES.—Consistent with the purposes and requirements of the Government Performance and Results Act of 1993, the purposes of this subtitle are—

(1) to preserve low-income rental housing affordability and availability while reducing the long-term costs of project-based assistance;

(2) to reform the design and operation of Federal rental housing assistance programs, administered by the Secretary, to promote greater multifamily housing project operating and cost efficiencies;

(3) to encourage owners of eligible multifamily housing projects to restructure their FHA-insured mortgages and project-based assistance contracts in a manner that is consistent with this subtitle before the year in which the contract expires;

(4) to reduce the cost of insurance claims under the National Housing Act related to mortgages insured by the Secretary and used to finance eligible multifamily housing projects;

(5) to streamline and improve federally insured and assisted multifamily housing project oversight and administration;

(6) to resolve the problems affecting financially and physically troubled federally insured and assisted multifamily housing projects through cooperation with residents, owners, State and local governments, and other interested entities and individuals;

(7) to protect the interest of project owners and managers, because they are partners of the Federal Government in meeting the affordable housing needs of the Nation through the section 8 rental housing assistance program;

(8) to protect the interest of tenants residing in the multifamily housing projects at the time of the restructuring for the housing; and

(9) to grant additional enforcement tools to use against those who violate agreements and program requirements, in order to ensure that the public interest is safeguarded and that Federal multifamily housing programs serve their intended purposes.

SEC. 512. [42 U.S.C. 1437f note] DEFINITIONS.

In this subtitle:

(1) COMPARABLE PROPERTIES.—The term "comparable properties" means properties in the same market areas, where practicable, that—

(A) are similar to the eligible multifamily housing project as to neighborhood (including risk of crime), type of location, access, street appeal, age, property size, apartment mix, physical configuration, property and unit amenities, utilities, and other relevant characteristics; and

(B) are not receiving project-based assistance.

(2) ELIGIBLE MULTIFAMILY HOUSING PROJECT.—The term "eligible multifamily housing project" means a property consisting of more than 4 dwelling units—

(A) with rents that, on an average per unit or per room basis, exceed the rent of comparable properties in the same market area, determined in accordance with guidelines established by the Secretary;

(B) that is covered in whole or in part by a contract for project-based assistance under—

(i) the new construction or substantial rehabilitation program under section 8(b)(2) of the United States Housing Act of 1937 (as in effect before October 1, 1983);

(ii) the property disposition program under section 8(b) of the United States Housing Act of 1937;

(iii) the moderate rehabilitation program under section 8(e)(2) of the United States Housing Act of 1937;

(iv) the loan management assistance program under section 8 of the United States Housing Act of 1937;

(v) section 23 of the United States Housing Act of 1937 (as in effect before January 1, 1975);

(vi) the rent supplement program under section 101 of the Housing and Urban Development Act of 1965; or

(vii) section 8 of the United States Housing Act of 1937, following conversion from assistance under section 101 of the Housing and Urban Development Act of 1965; and

(C) financed by a mortgage insured or held by the Secretary under the National Housing Act.

(3) EXPIRING CONTRACT.—The term "expiring contract" means a project-based assistance contract attached to an eligible multifamily housing project which, under the terms of the contract, will expire.

(4) EXPIRATION DATE.—The term "expiration date" means the date on which an expiring contract expires.

(5) FAIR MARKET RENT.—The term "fair market rent" means the fair market rental established under section 8(c) of the United States Housing Act of 1937.

(6) LOW-INCOME FAMILIES.—The term "low-income families" has the same meaning as provided under section 3(b)(2) of the United States Housing Act of 1937.

(7) MORTGAGE RESTRUCTURING AND RENTAL ASSISTANCE SUFFICIENCY PLAN.—The term "mortgage restructuring and rental assistance sufficiency plan" means the plan as provided under section 514.

(8) NONPROFIT ORGANIZATION.—The term "nonprofit organization" means any private nonprofit organization that—

(A) is organized under State or local laws;

(B) has no part of its net earnings inuring to the benefit of any member, founder, contributor, or individual; and

(C) has a long-term record of service in providing or financing quality affordable housing for low-income families through relationships with public entities.

(9) PORTFOLIO RESTRUCTURING AGREEMENT.—The term "portfolio restructuring agreement" means the agreement entered into between the Secretary and a participating administrative entity, as provided under section 513.

(10) PARTICIPATING ADMINISTRATIVE ENTITY.—The term "participating administrative entity" means a public agency (including a State housing finance agency or a local housing agency), a nonprofit organization, or any other entity (including a law firm or an accounting firm) or a combination of such entities, that meets the requirements under section 513(b).

(11) PROJECT-BASED ASSISTANCE.—The term "project-based assistance" means rental assistance described in paragraph (2)(B) of this section that is attached to a multifamily housing project.

(12) RENEWAL.—The term "renewal" means the replacement of an expiring Federal rental contract with a new contract under section 8 of the United States Housing Act of 1937, consistent with the requirements of this subtitle.

(13) SECRETARY.—The term "Secretary" means the Secretary of Housing and Urban Development.

(14) STATE.—The term "State" has the same meaning as in section 104 of the Cranston-Gonzalez National Affordable Housing Act.

(15) TENANT-BASED ASSISTANCE.—The term "tenant-based assistance" has the same meaning as in section 8(f) of the United States Housing Act of 1937.

(16) UNIT OF GENERAL LOCAL GOVERNMENT.—The term "unit of general local government" has the same meaning as in section 104 of the Cranston-Gonzalez National Affordable Housing Act.

(17) VERY LOW-INCOME FAMILY.—The term "very low-income family" has the same meaning as in section 3(b) of the United States Housing Act of 1937.

(18) QUALIFIED MORTGAGEE.—The term "qualified mortgagee" means an entity approved by the Secretary that is capable of servicing, as well as originating, FHA-insured mortgages, and that—

(A) is not suspended or debarred by the Secretary;

(B) is not suspended or on probation imposed by the Mortgagee Review Board; and

(C) is not in default under any Government National Mortgage Association obligation.

SEC. 513. [42 U.S.C. 1437f note] AUTHORITY OF PARTICIPATING ADMINISTRATIVE ENTITIES.

(a) PARTICIPATING ADMINISTRATIVE ENTITIES.—

(1) IN GENERAL.—Subject to subsection (b)(3), the Secretary shall enter into portfolio restructuring agreements with participating administrative entities for the implementation of mortgage restructuring and rental assistance sufficiency plans to restructure multifamily housing mortgages insured or held by the Secretary under the National Housing Act, in order to—

(A) reduce the costs of expiring contracts for assistance under section 8 of the United States Housing Act of 1937;

(B) address financially and physically troubled projects; and

(C) correct management and ownership deficiencies.

(2) PORTFOLIO RESTRUCTURING AGREEMENTS.—Each portfolio restructuring agreement entered into under this subsection shall—

(A) be a cooperative agreement to establish the obligations and requirements between the Secretary and the participating administrative entity;

(B) identify the eligible multifamily housing projects or groups of projects for which the participating administrative entity is responsible for assisting in developing and implementing approved mortgage restructuring and rental assistance sufficiency plans under section 514;

(C) require the participating administrative entity to review and certify to the accuracy and completeness of the evaluation of rehabilitation needs required under section 514(e)(3) for each eligible multifamily housing project included in the portfolio restructuring agreement, in accordance with regulations promulgated by the Secretary;

(D) identify the responsibilities of both the participating administrative entity and the Secretary in implementing a mortgage restructuring and rental assistance sufficiency plan, including any actions proposed to be taken under section 516 or 517;

(E) require each mortgage restructuring and rental assistance sufficiency plan to be prepared in accordance with the requirements of section 514 for each eligible multifamily housing project;

(F) include other requirements established by the Secretary, including a right of the Secretary to terminate the contract immediately for failure of the participating administrative entity to comply with any applicable requirement;

(G) if the participating administrative entity is a State housing finance agency or a local housing agency, indemnify the participating administrative entity against lawsuits and penalties for actions taken pursuant to the agreement, excluding actions involving willful misconduct or negligence;

(H) include compensation for all reasonable expenses incurred by the participating administrative entity necessary to perform its duties under this subtitle; and

(I) include, where appropriate, incentive agreements with the participating administrative entity to reward superior performance in meeting the purposes of this Act.

(b) SELECTION OF PARTICIPATING ADMINISTRATIVE ENTITY.—

(1) SELECTION CRITERIA.—The Secretary shall select a participating administrative entity based on whether, in the determination of the Secretary, the participating administrative entity—

(A) has demonstrated experience in working directly with residents of low-income housing projects and with tenants and other community-based organizations;

(B) has demonstrated experience with and capacity for multifamily restructuring and multifamily financing (which may include risk-sharing arrangements and restructuring eligible multifamily housing properties under the fiscal year 1997 Federal Housing Administration multifamily housing demonstration program);

(C) has a history of stable, financially sound, and responsible administrative performance (which may include the management of affordable low-income rental housing);

(D) has demonstrated financial strength in terms of asset quality, capital adequacy, and liquidity;

(E) has demonstrated that it will carry out the specific transactions and other responsibilities under this subtitle in a timely, efficient, and cost-effective manner; and

(F) meets other criteria, as determined by the Secretary.

(2) SELECTION.—If more than 1 interested entity meets the qualifications and selection criteria for a participating administrative entity, the Secretary may select the entity that demonstrates, as determined by the Secretary, that it will—

(A) provide the most timely, efficient, and cost-effective—

(i) restructuring of the mortgages covered by the portfolio restructuring agreement; and

(ii) administration of the section 8 project-based assistance contract, if applicable; and

(B) protect the public interest (including the long-term provision of decent low-income affordable rental housing and protection of residents, communities, and the American taxpayer).

(3) PARTNERSHIPS.—For the purposes of any participating administrative entity applying under this subsection, participating administrative entities are encouraged to develop partnerships with each other and with nonprofit organizations, if such partnerships will further the participating administrative entity's ability to meet the purposes of this Act.

(4) ALTERNATIVE ADMINISTRATORS.—With respect to any eligible multifamily housing project for which a participating administrative entity is unavailable, or should not be selected to carry out the requirements of this subtitle with respect to that multifamily housing project for reasons relating to the selection criteria under paragraph (1), the Secretary shall—

(A) carry out the requirements of this subtitle with respect to that eligible multifamily housing project; or

(B) contract with other qualified entities that meet the requirements of paragraph (1) to provide the authority to carry out all or a portion of the requirements of this subtitle with respect to that eligible multifamily housing project.

(5) PRIORITY FOR PUBLIC AGENCIES AS PARTICIPATING ADMINISTRATIVE ENTITIES.—The Secretary shall provide a reasonable period during which the Secretary will consider proposals only from State housing finance agencies or local housing agencies, and the Secretary shall select such an agency without

considering other applicants if the Secretary determines that the agency is qualified. The period shall be of sufficient duration for the Secretary to determine whether any State housing finance agencies or local housing agencies are interested and qualified. Not later than the end of the period, the Secretary shall notify the State housing finance agency or the local housing agency regarding the status of the proposal and, if the proposal is rejected, the reasons for the rejection and an opportunity for the applicant to respond.

(6) STATE AND LOCAL PORTFOLIO REQUIREMENTS.—

(A) IN GENERAL.—If the housing finance agency of a State is selected as the participating administrative entity, that agency shall be responsible for such eligible multifamily housing projects in that State as may be agreed upon by the participating administrative entity and the Secretary. If a local housing agency is selected as the participating administrative entity, that agency shall be responsible for such eligible multifamily housing projects in the jurisdiction of the agency as may be agreed upon by the participating administrative entity and the Secretary.

(B) NONDELEGATION.—Except with the prior approval of the Secretary, a participating administrative entity may not delegate or transfer responsibilities and functions under this subtitle to 1 or more entities.

(7) PRIVATE ENTITY REQUIREMENTS.—

(A) IN GENERAL.—If a for-profit entity is selected as the participating administrative entity, that entity shall be required to enter into a partnership with a public purpose entity (including the Department).

(B) PROHIBITION.—No private entity shall share, participate in, or otherwise benefit from any equity created, received, or restructured as a result of the portfolio restructuring agreement.

SEC. 514. [42 U.S.C. 1437f note] MORTGAGE RESTRUCTURING AND RENTAL ASSISTANCE SUFFICIENCY PLAN.

(a) IN GENERAL.—

(1) DEVELOPMENT OF PROCEDURES AND REQUIREMENTS.—The Secretary shall develop procedures and requirements for the submission of a mortgage restructuring and rental assistance sufficiency plan for each eligible multifamily housing project with an expiring contract.

(2) TERMS AND CONDITIONS.—Each mortgage restructuring and rental assistance sufficiency plan submitted under this subsection shall be developed by the participating administrative entity, in cooperation with an owner of an eligible multifamily housing project and any servicer for the mortgage that is a qualified mortgagee, under such terms and conditions as the Secretary shall require.

(3) CONSOLIDATION.—Mortgage restructuring and rental assistance sufficiency plans submitted under this subsection may be consolidated as part of an overall strategy for more than 1 property.

(b) NOTICE REQUIREMENTS.—The Secretary shall establish notice procedures and hearing requirements for tenants and owners

concerning the dates for the expiration of project-based assistance contracts for any eligible multifamily housing project.

(c) EXTENSION OF CONTRACT TERM.—Subject to agreement by a project owner, the Secretary may extend the term of any expiring contract or provide a section 8 contract with rent levels set in accordance with subsection (g) for a period sufficient to facilitate the implementation of a mortgage restructuring and rental assistance sufficiency plan, as determined by the Secretary.

(d) TENANT RENT PROTECTION.—If the owner of a project with an expiring Federal rental assistance contract does not agree to extend the contract, not less than 12 months prior to terminating the contract, the project owner shall provide written notice to the Secretary and the tenants and the Secretary shall make tenant-based assistance available to tenants residing in units assisted under the expiring contract at the time of expiration. In addition, if after giving the notice required in the first sentence, an owner determines to terminate a contract, an owner shall provide an additional written notice with respect to the termination, in a form prescribed by the Secretary, not less than 120 days prior to the termination. In the event the owner does not provide the 120-day notice required in the preceding sentence, the owner may not evict the tenants or increase the tenants' rent payment until such time as the owner has provided the 120-day notice and such period has elapsed. The Secretary may allow the owner to renew the terminating contract for a period of time sufficient to give tenants 120 days of advance notice in accordance with section 524 of this Act [1].

(e) MORTGAGE RESTRUCTURING AND RENTAL ASSISTANCE SUFFICIENCY PLAN.—Each mortgage restructuring and rental assistance sufficiency plan shall—

(1) except as otherwise provided, restructure the project-based assistance rents for the eligible multifamily housing project in a manner consistent with subsection (g), or provide for tenant-based assistance in accordance with section 515;

(2) allow for rent adjustments by applying an operating cost adjustment factor established under guidelines established by the Secretary;

(3) require the owner or purchaser of an eligible multifamily housing project to evaluate the rehabilitation needs of the project, in accordance with regulations of the Secretary, and notify the participating administrative entity of the rehabilitation needs;

(4) require the owner or purchaser of the project to provide or contract for competent management of the project;

(5) require the owner or purchaser of the project to take such actions as may be necessary to rehabilitate, maintain adequate reserves, and to maintain the project in decent and safe condition, based on housing quality standards established by—

(A) the Secretary; or

[1] Section 549(c) of the Quality Housing and Work Responsibility Act of 1998, title V of Public Law 105–276, approved October 21, 1998, amended this subsection by adding the last 3 sentences. Pursuant to section 503 of such Act (set forth in the footnote on page 114 of this compilation), the amendment was made on the date of enactment, but applies beginning upon October 1, 1999.

(B) local housing codes or codes adopted by public housing agencies that—

(i) meet or exceed housing quality standards established by the Secretary; and

(ii) do not severely restrict housing choice;

(6) require the owner or purchaser of the project to maintain affordability and use restrictions in accordance with regulations promulgated by the Secretary, for a term of not less than 30 years which restrictions shall be—

(A) contained in a legally enforceable document recorded in the appropriate records; and

(B) consistent with the long-term physical and financial viability and character of the project as affordable housing;

(7) include a certification by the participating administrative entity that the restructuring meets subsidy layering requirements established by the Secretary by regulation for purposes of this subtitle;

(8) require the owner or purchaser of the project to meet such other requirements as the Secretary determines to be appropriate; and

(9) prohibit the owner from refusing to lease a reasonable number of units to holders of certificates and vouchers under section 8 of the United States Housing Act of 1937 because of the status of the prospective tenants as certificate and voucher holders.

(f) TENANT AND OTHER PARTICIPATION AND CAPACITY BUILDING.—

(1) PROCEDURES.—

(A) IN GENERAL.—The Secretary shall establish procedures to provide an opportunity for tenants of the project, residents of the neighborhood, the local government, and other affected parties to participate effectively and on a timely basis in the restructuring process established by this subtitle.

(B) COVERAGE.—These procedures shall take into account the need to provide tenants of the project, residents of the neighborhood, the local government, and other affected parties timely notice of proposed restructuring actions and appropriate access to relevant information about restructuring activities. To the extent practicable and consistent with the need to accomplish project restructuring in an efficient manner, the procedures shall give all such parties an opportunity to provide comments to the participating administrative entity in writing, in meetings, or in another appropriate manner (which comments shall be taken into consideration by the participating administrative entity).

(2) REQUIRED CONSULTATION.—The procedures developed pursuant to paragraph (1) shall require consultation with tenants of the project, residents of the neighborhood, the local government, and other affected parties, in connection with at least the following:

(A) the mortgage restructuring and rental assistance sufficiency plan;

(B) any proposed transfer of the project; and

(C) the rental assistance assessment plan pursuant to section 515(c).

(3) FUNDING.—

(A) IN GENERAL.—The Secretary may provide not more than $10,000,000 annually in funding from which the Secretary may make obligations to tenant groups, nonprofit organizations, and public entities for building the capacity of tenant organizations, for technical assistance in furthering any of the purposes of this subtitle (including transfer of developments to new owners) and for tenant services, from those amounts made available under appropriations Acts for implementing this subtitle or previously made available for technical assistance in connection with the preservation of affordable rental housing for low-income persons.

(B) MANNER OF PROVIDING.—Notwithstanding any other provision of law restricting the use of preservation technical assistance funds, the Secretary may provide any funds made available under subparagraph (A) through existing technical assistance programs pursuant to any other Federal law, including the Low-Income Housing Preservation and Resident Homeownership Act of 1990 and the Multifamily Property Disposition Reform Act of 1994, or through any other means that the Secretary considers consistent with the purposes of this subtitle, without regard to any set-aside requirement otherwise applicable to those funds.

(C) PROHIBITION.—None of the funds made available under subparagraph (A) may be used directly or indirectly to pay for any personal service, advertisement, telegram, telephone, letter, printed or written matter, or other device, intended or designed to influence in any manner a Member of Congress, to favor or oppose, by vote or otherwise, any legislation or appropriation by Congress, whether before or after the introduction of any bill or resolution proposing such legislation or appropriation.

(g) RENT LEVELS.—

(1) IN GENERAL.—Except as provided in paragraph (2), each mortgage restructuring and rental assistance sufficiency plan pursuant to the terms, conditions, and requirements of this subtitle shall establish for units assisted with project-based assistance in eligible multifamily housing projects adjusted rent levels that—

(A) are equivalent to rents derived from comparable properties, if—

(i) the participating administrative entity makes the rent determination within a reasonable period of time; and

(ii) the market rent determination is based on not less than 2 comparable properties; or

(B) if those rents cannot be determined, are equal to 90 percent of the fair market rents for the relevant market area.

(2) EXCEPTIONS.—

(A) IN GENERAL.—A contract under this section may include rent levels that exceed the rent level described in paragraph (1) at rent levels that do not exceed 120 percent of the fair market rent for the market area (except that the Secretary may waive this limit for not more than five percent of all units subject to restructured mortgages in any fiscal year, based on a finding of special need), if the participating administrative entity—

(i) determines that the housing needs of the tenants and the community cannot be adequately addressed through implementation of the rent limitation required to be established through a mortgage restructuring and rental assistance sufficiency plan under paragraph (1); and

(ii) follows the procedures under paragraph (3).

(B) EXCEPTION RENTS.—In any fiscal year, a participating administrative entity may approve exception rents on not more than 20 percent of all units covered by the portfolio restructuring agreement with expiring contracts in that fiscal year, except that the Secretary may waive this ceiling upon a finding of special need.

(3) RENT LEVELS FOR EXCEPTION PROJECTS.—For purposes of this section, a project eligible for an exception rent shall receive a rent calculated on the actual and projected costs of operating the project, at a level that provides income sufficient to support a budget-based rent that consists of—

(A) the debt service of the project;

(B) the operating expenses of the project, as determined by the participating administrative entity, including—

(i) contributions to adequate reserves;

(ii) the costs of maintenance and necessary rehabilitation; and

(iii) other eligible costs permitted under section 8 of the United States Housing Act of 1937;

(C) an adequate allowance for potential operating losses due to vacancies and failure to collect rents, as determined by the participating administrative entity;

(D) an allowance for a reasonable rate of return to the owner or purchaser of the project, as determined by the participating administrative entity, which may be established to provide incentives for owners or purchasers to meet benchmarks of quality for management and housing quality; and

(E) other expenses determined by the participating administrative entity to be necessary for the operation of the project.

(h) EXEMPTIONS FROM RESTRUCTURING.—The following categories of projects shall not be covered by a mortgage restructuring and rental assistance sufficiency plan if—

(1) the primary financing or mortgage insurance for the multifamily housing project that is covered by that expiring contract was provided by a unit of State government or a unit of general local government (or an agency or instrumentality of a unit of a State government or unit of general local government);

(2) the project is a project financed under section 202 of the Housing Act of 1959 or section 515 of the Housing Act of 1949; or

(3) the project has an expiring contract under section 8 of the United States Housing Act of 1937 entered into pursuant to section 441 of the Stewart B. McKinney Homeless Assistance Act.

SEC. 515. [42 U.S.C. 1437f note] SECTION 8 RENEWALS AND LONG-TERM AFFORDABILITY COMMITMENT BY OWNER OF PROJECT.

(a) SECTION 8 RENEWALS OF RESTRUCTURED PROJECTS.—

(1) PROJECT-BASED ASSISTANCE.—Subject to the availability of amounts provided in advance in appropriations Acts, and to the control of the Secretary of applicable accounts in the Treasury of the United States, with respect to an expiring section 8 contract on an eligible multifamily housing project to be renewed with project-based assistance (based on a determination under subsection (c)), the Secretary shall enter into contracts with participating administrative entities pursuant to which the participating administrative entity shall offer to renew or extend the contract, or the Secretary shall offer to renew such contract, and the owner of the project shall accept the offer, if the initial renewal is in accordance with the terms and conditions specified in the mortgage restructuring and rental assistance sufficiency plan and the rental assistance assessment plan.

(2) TENANT-BASED ASSISTANCE.—Subject to the availability of amounts provided in advance in appropriations Acts and to the control of the Secretary of applicable accounts in the Treasury of the United States, with respect to an expiring section 8 contract on an eligible multifamily housing project to be renewed with tenant-based assistance (based on a determination under subsection (c)), the Secretary shall enter into contracts with participating administrative entities pursuant to which the participating administrative entity shall provide for the renewal of section 8 assistance on an eligible multifamily housing project with tenant-based assistance, or the Secretary shall provide for such renewal, in accordance with the terms and conditions specified in the mortgage restructuring and rental assistance sufficiency plan and the rental assistance assessment plan.

(b) REQUIRED COMMITMENT.—After the initial renewal of a section 8 contract pursuant to this section, the owner shall accept each offer made pursuant to subsection (a) to renew the contract, for the term of the affordability and use restrictions required by section 514(e)(6), if the offer to renew is on terms and conditions specified in the mortgage restructuring and rental assistance sufficiency plan.

(c) DETERMINATION OF WHETHER TO RENEW WITH PROJECT-BASED OR TENANT-BASED ASSISTANCE.—

(1) MANDATORY RENEWAL OF PROJECT-BASED ASSISTANCE.—Section 8 assistance shall be renewed with project-based assistance, if—

(A) the project is located in an area in which the participating administrative entity determines, based on housing market indicators, such as low vacancy rates or high absorption rates, that there is not adequate available and affordable housing or that the tenants of the project would not be able to locate suitable units or use the tenant-based assistance successfully;

(B) a predominant number of the units in the project are occupied by elderly families, disabled families, or elderly and disabled families;

(C) the project is held by a nonprofit cooperative ownership housing corporation or nonprofit cooperative housing trust.

(2) RENTAL ASSISTANCE ASSESSMENT PLAN.—

(A) IN GENERAL.—With respect to any project that is not described in paragraph (1), the participating administrative entity shall, after consultation with the owner of the project, develop a rental assistance assessment plan to determine whether to renew assistance for the project with tenant-based assistance or project-based assistance.

(B) RENTAL ASSISTANCE ASSESSMENT PLAN REQUIREMENTS.—Each rental assistance assessment plan developed under this paragraph shall include an assessment of the impact of converting to tenant-based assistance and the impact of extending project-based assistance on—

(i) the ability of the tenants to find adequate, available, decent, comparable, and affordable housing in the local market;

(ii) the types of tenants residing in the project (such as elderly families, disabled families, large families, and cooperative homeowners);

(iii) the local housing needs identified in the comprehensive housing affordability strategy, and local market vacancy trends;

(iv) the cost of providing assistance, comparing the applicable payment standard to the project's adjusted rent levels determined under section 514(g);

(v) the long-term financial stability of the project;

(vi) the ability of residents to make reasonable choices about their individual living situations;

(vii) the quality of the neighborhood in which the tenants would reside; and

(viii) the project's ability to compete in the marketplace.

(C) REPORTS TO DIRECTOR.—Each participating administrative entity shall report regularly to the Director as defined in subtitle D, as the Director shall require, identifying—

(i) each eligible multifamily housing project for which the entity has developed a rental assistance assessment plan under this paragraph that determined that the tenants of the project generally supported renewal of assistance with tenant-based assistance, but under which assistance for the project was renewed with project-based assistance; and

(ii) each project for which the entity has developed such a plan under which the assistance is renewed using tenant-based assistance.

(3) ELIGIBILITY FOR TENANT-BASED ASSISTANCE.—Subject to paragraph (4), with respect to any project that is not described in paragraph (1), if a participating administrative entity approves the use of tenant-based assistance based on a rental assistance assessment plan developed under paragraph (2), tenant-based assistance shall be provided to each assisted family (other than a family already receiving tenant-based assistance) residing in the project at the time the assistance described in section 512(2)(B) terminates.

(4) RENTS FOR FAMILIES RECEIVING TENANT-BASED ASSISTANCE.—

(A) IN GENERAL.—Notwithstanding subsection (c)(1) or (o)(1) of section 8 of the United States Housing Act of 1937, in the case of any family described in paragraph (3) that resides in a project described in section 512(2)(B) in which the reasonable rent (which rent shall include any amount allowed for utilities and shall not exceed comparable market rents for the relevant housing market area) exceeds the fair market rent limitation or the payment standard, as applicable, the amount of assistance for the family shall be determined in accordance with subparagraph (B).

(B) MAXIMUM MONTHLY RENT; PAYMENT STANDARD.—With respect to the certificate program under section 8(b) of the United States Housing Act of 1937, the maximum monthly rent under the contract (plus any amount allowed for utilities) shall be such reasonable rent for the unit. With respect to the voucher program under section 8(o) of the United States Housing Act of 1937, the payment standard shall be deemed to be such reasonable rent for the unit.

(5) INAPPLICABILITY OF CERTAIN PROVISION.—If a participating administrative entity approves renewal with project-based assistance under this subsection, section 8(d)(2) of the United States Housing Act of 1937 shall not apply.

SEC. 516. [42 U.S.C. 1437f note] PROHIBITION ON RESTRUCTURING.

(a) PROHIBITION ON RESTRUCTURING.—The Secretary may elect not to consider any mortgage restructuring and rental assistance sufficiency plan or request for contract renewal if the Secretary or the participating administrative entity determines that—

(1)(A) the owner or purchaser of the project has engaged in material adverse financial or managerial actions or omissions with regard to such project; or

(B) the owner or purchaser of the project has engaged in material adverse financial or managerial actions or omissions with regard to other projects of such owner or purchaser that are federally assisted or financed with a loan from, or mortgage insured or guaranteed by, an agency of the Federal Government;

(2) material adverse financial or managerial actions or omissions include—

(A) materially violating any Federal, State, or local law or regulation with regard to this project or any other federally assisted project, after receipt of notice and an opportunity to cure;

(B) materially breaching a contract for assistance under section 8 of the United States Housing Act of 1937, after receipt of notice and an opportunity to cure;

(C) materially violating any applicable regulatory or other agreement with the Secretary or a participating administrative entity, after receipt of notice and an opportunity to cure;

(D) repeatedly and materially violating any Federal, State, or local law or regulation with regard to the project or any other federally assisted project;

(E) repeatedly and materially breaching a contract for assistance under section 8 of the United States Housing Act of 1937;

(F) repeatedly and materially violating any applicable regulatory or other agreement with the Secretary or a participating administrative entity;

(G) repeatedly failing to make mortgage payments at times when project income was sufficient to maintain and operate the property;

(H) materially failing to maintain the property according to housing quality standards after receipt of notice and a reasonable opportunity to cure; or

(I) committing any actions or omissions that would warrant suspension or debarment by the Secretary;

(3) the owner or purchaser of the property materially failed to follow the procedures and requirements of this subtitle, after receipt of notice and an opportunity to cure; or

(4) the poor condition of the project cannot be remedied in a cost effective manner, as determined by the participating administrative entity.

The term "owner" as used in this subsection, in addition to it having the same meaning as in section 8(f) of the United States Housing Act of 1937, also means an affiliate of the owner. The term "purchaser" as used in this subsection means any private person or entity, including a cooperative, an agency of the Federal Government, or a public housing agency, that, upon purchase of the project, would have the legal right to lease or sublease dwelling units in the project, and also means an affiliate of the purchaser. The terms "affiliate of the owner" and "affiliate of the purchaser" means any person or entity (including, but not limited to, a general partner or managing member, or an officer of either) that controls an owner or purchaser, is controlled by an owner or purchaser, or

is under common control with the owner or purchaser. The term "control" means the direct or indirect power (under contract, equity ownership, the right to vote or determine a vote, or otherwise) to direct the financial, legal, beneficial or other interests of the owner or purchaser.

(b) OPPORTUNITY TO DISPUTE FINDINGS.—

(1) IN GENERAL.—During the 30-day period beginning on the date on which the owner or purchaser of an eligible multifamily housing project receives notice of a rejection under subsection (a) or of a mortgage restructuring and rental assistance sufficiency plan under section 514, the Secretary or participating administrative entity shall provide that owner or purchaser with an opportunity to dispute the basis for the rejection and an opportunity to cure.

(2) AFFIRMATION, MODIFICATION, OR REVERSAL.—

(A) IN GENERAL.—After providing an opportunity to dispute under paragraph (1), the Secretary or the participating administrative entity may affirm, modify, or reverse any rejection under subsection (a) or rejection of a mortgage restructuring and rental assistance sufficiency plan under section 514.

(B) REASONS FOR DECISION.—The Secretary or the participating administrative entity, as applicable, shall identify the reasons for any final decision under this paragraph.

(C) REVIEW PROCESS.—The Secretary shall establish an administrative review process to appeal any final decision under this paragraph.

(c) FINAL DETERMINATION.—Any final determination under this section shall not be subject to judicial review.

(d) DISPLACED TENANTS.—Subject to the availability of amounts provided in advance in appropriations Acts, for any low-income tenant that is residing in a project or receiving assistance under section 8 of the United States Housing Act of 1937 at the time of rejection under this section, that tenant shall be provided with tenant-based assistance and reasonable moving expenses, as determined by the Secretary.

(e) TRANSFER OF PROPERTY.—For properties disqualified from the consideration of a mortgage restructuring and rental assistance sufficiency plan under this section in accordance with paragraph (1) or (2) of subsection (a) because of actions by an owner or purchaser, the Secretary shall establish procedures to facilitate the voluntary sale or transfer of a property as part of a mortgage restructuring and rental assistance sufficiency plan, with a preference for tenant organizations and tenant-endorsed community-based nonprofit and public agency purchasers meeting such reasonable qualifications as may be established by the Secretary.

SEC. 517. [42 U.S.C. 1437f note] RESTRUCTURING TOOLS.

(a) MORTGAGE RESTRUCTURING.—

(1) In this subtitle, an approved mortgage restructuring and rental assistance sufficiency plan shall include restructuring mortgages in accordance with this subsection to provide—

(A) a restructured or new first mortgage that is sustainable at rents at levels that are established in section 514(g); and

(B) a second mortgage that is in an amount equal to no more than the difference between the restructured or new first mortgage and the indebtedness under the existing insured mortgage immediately before it is restructured or refinanced, provided that the amount of the second mortgage shall be in an amount that the Secretary or participating administrative entity determines can reasonably be expected to be repaid.

(2) The second mortgage shall bear interest at a rate not to exceed the applicable Federal rate as defined in section 1274(d) of the Internal Revenue Code of 1986. The term of the second mortgage shall be equal to the term of the restructured or new first mortgage.

(3) Payments on the second mortgage shall be deferred when the first mortgage remains outstanding, except to the extent there is excess project income remaining after payment of all reasonable and necessary operating expenses (including deposits in a reserve for replacement), debt service on the first mortgage, and any other expenditures approved by the Secretary. At least 75 percent of any excess project income shall be applied to payments on the second mortgage, and the Secretary or the participating administrative entity may permit up to 25 percent to be paid to the project owner if the Secretary or participating administrative entity determines that the project owner meets benchmarks for management and housing quality.

(4) The full amount of the second mortgage shall be immediately due and payable if—

(A) the first mortgage is terminated or paid in full, except as otherwise provided by the holder of the second mortgage;

(B) the project is purchased and the second mortgage is assumed by any subsequent purchaser in violation of guidelines established by the Secretary; or

(C) the Secretary provides notice to the project owner that such owner has failed to materially comply with any requirements of this section or the United States Housing Act of 1937 as those requirements apply to the project, with a reasonable opportunity for such owner to cure such failure.

(5) The Secretary may modify the terms or forgive all or part of the second mortgage if the Secretary holds the second mortgage and if the project is acquired by a tenant organization or tenant-endorsed community-based nonprofit or public agency, pursuant to guidelines established by the Secretary.

(b) RESTRUCTURING TOOLS.—In addition to the requirements of subsection (a) and to the extent these actions are consistent with this section and with the control of the Secretary of applicable accounts in the Treasury of the United States, an approved mortgage

restructuring and rental assistance sufficiency plan under this subtitle may include one or more of the following actions:

(1) FULL OR PARTIAL PAYMENT OF CLAIM.—making[1] a full payment of claim or partial payment of claim under section 541(b) of the National Housing Act, as amended by section 523(b) of this Act. Any payment under this paragraph shall not require the approval of a mortgagee;

(2) REFINANCING OF DEBT.—refinancing[1] of all or part of the debt on a project. If the refinancing involves a mortgage that will continue to be insured under the National Housing Act, the refinancing shall be documented through amendment of the existing insurance contract and not through a new insurance contract;

(3) MORTGAGE INSURANCE.—providing[1] FHA multifamily mortgage insurance, reinsurance or other credit enhancement alternatives, including multifamily risk-sharing mortgage programs, as provided under section 542 of the Housing and Community Development Act of 1992. Any limitations on the number of units available for mortgage insurance under section 542 shall not apply to eligible multifamily housing projects. Any credit subsidy costs of providing mortgage insurance shall be paid from the Liquidating Accounts of the General Insurance Fund or the Special Risk Insurance Fund and shall not be subject to any limitation on appropriations;

(4) CREDIT ENHANCEMENT.—providing[1] any additional State or local mortgage credit enhancements and risk-sharing arrangements that may be established with State or local housing finance agencies, the Federal Housing Finance Board, the Federal National Mortgage Association, and the Federal Home Loan Mortgage Corporation, to a modified or refinanced first mortgage;

(5) COMPENSATION OF THIRD PARTIES.—consistent[1] with the portfolio restructuring agreement, entering into agreements, incurring costs, or making payments, including incentive agreements designed to reward superior performance in meeting the purposes of this Act, as may be reasonably necessary, to compensate the participation of participating administrative entities and other parties in undertaking actions authorized by this subtitle. Upon request to the Secretary, participating administrative entities that are qualified under the United States Housing Act of 1937 to serve as contract administrators shall be the contract administrators under section 8 of the United States Housing Act of 1937 for purposes of any contracts entered into as part of an approved mortgage restructuring and rental assistance sufficiency plan. Subject to the availability of amounts provided in advance in appropriations Acts for administrative fees under section 8 of the United States Housing Act of 1937, such amounts may be used to compensate participating administrative entities for compliance monitoring costs incurred under section 519;

(6) USE OF PROJECT ACCOUNTS.—applying[1] any residual receipts, replacement reserves, and any other project accounts

[1] So in law.

not required for project operations, to maintain the long-term affordability and physical condition of the property or of other eligible multifamily housing projects. The participating administrative entity may expedite the acquisition of residual receipts, replacement reserves, or other such accounts, by entering into agreements with owners of housing covered by an expiring contract to provide an owner with a share of the receipts, not to exceed 10 percent, in accordance with guidelines established by the Secretary; and

(7) REHABILITATION NEEDS.—

(A) IN GENERAL.—Rehabilitation may be paid from the residual receipts, replacement reserves, or any other project accounts not required for project operations, or, as provided in appropriations Acts and subject to the control of the Secretary of applicable accounts in the Treasury of the United States, from budget authority provided for increases in the budget authority for assistance contracts under section 8 of the United States Housing Act of 1937, the rehabilitation grant program established under section 236 of the National Housing Act, as amended by section 531 of subtitle B of this Act, or through the debt restructuring transaction. Rehabilitation under this paragraph shall only be for the purpose of restoring the project to a non-luxury standard adequate for the rental market intended at the original approval of the project-based assistance.

(B) CONTRIBUTION.—Each owner or purchaser of a project to be rehabilitated under an approved mortgage restructuring and rental assistance sufficiency plan shall contribute, from non-project resources, not less than 25 percent of the amount of rehabilitation assistance received, except that the participating administrative entity may provide an exception from the requirement of this subparagraph for housing cooperatives.

(c) ROLE OF FNMA AND FHLMC.—Section 1335 of the Federal Housing Enterprises Financial Safety and Soundness Act of 1992 (12 U.S.C. 4565) is amended—

(1) in paragraph (3), by striking "and" at the end;

(2) paragraph (4), by striking the period at the end and inserting "; and";

(3) by striking "To meet" and inserting the following:

"(a) IN GENERAL.—To meet"; and

(4) by adding at the end the following:

"(5) assist in maintaining the affordability of assisted units in eligible multifamily housing projects with expiring contracts, as defined under the Multifamily Assisted Housing Reform and Affordability Act of 1997.

"(b) AFFORDABLE HOUSING GOALS.—Actions taken under subsection (a)(5) shall constitute part of the contribution of each entity in meeting its affordable housing goals under sections 1332, 1333, and 1334 for any fiscal year, as determined by the Secretary.".

(d) PROHIBITION ON EQUITY SHARING BY THE SECRETARY.—The Secretary is prohibited from participating in any equity agreement

or profit-sharing agreement in conjunction with any eligible multifamily housing project.

(e) CONFLICT OF INTEREST GUIDELINES.—The Secretary may establish guidelines to prevent conflicts of interest by a participating administrative entity that provides, directly or through risk-sharing arrangements, any form of credit enhancement or financing pursuant to subsections (b)(3) or (b)(4) or to prevent conflicts of interest by any other person or entity under this subtitle.

SEC. 518. [42 U.S.C. 1437f note] MANAGEMENT STANDARDS.

Each participating administrative entity shall establish management standards, including requirements governing conflicts of interest between owners, managers, contractors with an identity of interest, pursuant to guidelines established by the Secretary and consistent with industry standards.

SEC. 519. [42 U.S.C. 1437f note] MONITORING OF COMPLIANCE.

(a) COMPLIANCE AGREEMENTS.—(1) Pursuant to regulations issued by the Secretary under section 522(a), each participating administrative entity, through binding contractual agreements with owners and otherwise, shall ensure long-term compliance with the provisions of this subtitle. Each agreement shall, at a minimum, provide for—

(A) enforcement of the provisions of this subtitle; and

(B) remedies for the breach of those provisions.

(2) If the participating administrative entity is not qualified under the United States Housing Act of 1937 to be a section 8 contract administrator or fails to perform its duties under the portfolio restructuring agreement, the Secretary shall have the right to enforce the agreement.

(b) PERIODIC MONITORING.—

(1) IN GENERAL.—Not less than annually, each participating administrative entity that is qualified to be the section 8 contract administrator shall review the status of all multifamily housing projects for which a mortgage restructuring and rental assistance sufficiency plan has been implemented.

(2) INSPECTIONS.—Each review under this subsection shall include onsite inspection to determine compliance with housing codes and other requirements as provided in this subtitle and the portfolio restructuring agreements.

(3) ADMINISTRATION.—If the participating administrative entity is not qualified under the United States Housing Act of 1937 to be a section 8 contract administrator, either the Secretary or a qualified State or local housing agency shall be responsible for the review required by this subsection.

(c) AUDIT BY THE SECRETARY.—The Comptroller General of the United States, the Secretary, and the Inspector General of the Department of Housing and Urban Development may conduct an audit at any time of any multifamily housing project for which a mortgage restructuring and rental assistance sufficiency plan has been implemented.

SEC. 520. [42 U.S.C. 1437f note] REPORTS TO CONGRESS.

(a) ANNUAL REVIEW.—In order to ensure compliance with this subtitle, the Secretary shall conduct an annual review and report

to the Congress on actions taken under this subtitle and the status of eligible multifamily housing projects.

(b) SEMIANNUAL REVIEW.—Not less than semiannually during the 2-year period beginning on the date of the enactment of this Act and not less than annually thereafter, the Secretary shall submit reports to the Committee on Banking and Financial Services of the House of Representatives and the Committee on Banking, Housing, and Urban Affairs of the Senate stating, for such periods, the total number of projects identified by participating administrative entities under each of clauses (i) and (ii) of section 515(c)(2)(C).

SEC. 521. [42 U.S.C. 1437f note] GAO AUDIT AND REVIEW.

(a) INITIAL AUDIT.—Not later than 18 months after the effective date of final regulations promulgated under this subtitle, the Comptroller General of the United States shall conduct an audit to evaluate eligible multifamily housing projects and the implementation of mortgage restructuring and rental assistance sufficiency plans.

(b) REPORT.—

(1) IN GENERAL.—Not later than 18 months after the audit conducted under subsection (a), the Comptroller General of the United States shall submit to Congress a report on the status of eligible multifamily housing projects and the implementation of mortgage restructuring and rental assistance sufficiency plans.

(2) CONTENTS.—The report submitted under paragraph (1) shall include—

(A) a description of the initial audit conducted under subsection (a); and

(B) recommendations for any legislative action to increase the financial savings to the Federal Government of the restructuring of eligible multifamily housing projects balanced with the continued availability of the maximum number of affordable low-income housing units.

SEC. 522. [42 U.S.C. 1437f note] REGULATIONS.

(a) RULEMAKING AND IMPLEMENTATION.—

(1) INTERIM REGULATIONS.—The Director shall issue such interim regulations as may be necessary to implement this subtitle and the amendments made by this subtitle with respect to eligible multifamily housing projects covered by contracts described in section 512(2)(B) that expire in fiscal year 1999 or thereafter. If, before the expiration of such period, the Director has not been appointed, the Secretary shall issue such interim regulations.

(2) FINAL REGULATIONS.—The Director shall issue final regulations necessary to implement this subtitle and the amendments made by this subtitle with respect to eligible multifamily housing projects covered by contracts described in section 512(2)(B) that expire in fiscal year 1999 or thereafter before the later of: (A) the expiration of the 12-month period beginning upon the date of the enactment of this Act; and (B) the 3-month period beginning upon the appointment of the Director under subtitle D.

(3) FACTORS FOR CONSIDERATION.—Before the publication of the final regulations under paragraph (2), in addition to public comments invited in connection with publication of the interim rule, the Secretary shall—

(A) seek recommendations on the implementation of sections 513(b) and 515(c)(1) from organizations representing—

(i) State housing finance agencies and local housing agencies;

(ii) other potential participating administering entities;

(iii) tenants;

(iv) owners and managers of eligible multifamily housing projects;

(v) States and units of general local government; and

(vi) qualified mortgagees; and

(B) convene not less than 3 public forums at which the organizations making recommendations under subparagraph (A) may express views concerning the proposed disposition of the recommendations.

(b) TRANSITION PROVISION FOR CONTRACTS EXPIRING IN FISCAL YEAR 1998.—Notwithstanding any other provision of law, the Secretary shall apply all the terms of section 211 and section 212 of the Departments of Veterans Affairs and Housing and Urban Development, and Independent Agencies Appropriations Act, 1997 (except for section 212(h)(1)(G) and the limitation in section 212(k)) contracts for project-based assistance that expire during fiscal year 1998 (in the same manner that such provisions apply to expiring contracts defined in section 212(a)(3) of such Act), except that section 517(a) of the Act shall apply to mortgages on projects subject to such contracts.

SEC. 523. [42 U.S.C. 1437f note] TECHNICAL AND CONFORMING AMENDMENTS.

(a) CALCULATION OF LIMIT ON PROJECT-BASED ASSISTANCE.—Section 8(d) of the United States Housing Act of 1937 (42 U.S.C. 1437f(d)) is amended by adding at the end the following:

* * * * * * *

(b) PARTIAL PAYMENT OF CLAIMS ON MULTIFAMILY HOUSING PROJECTS.—Section 541 of the National Housing Act (12 U.S.C. 1735f–19) is amended—

* * * * * * *

(c) REUSE AND RESCISSION OF CERTAIN RECAPTURED BUDGET AUTHORITY.—Section 8(bb) of the United States Housing Act of 1937 (42 U.S.C. 1437f(bb)) is amended—

* * * * * * *

(d) SECTION 8 CONTRACT RENEWALS.—Section 405(a) of the Balanced Budget Downpayment Act, I (42 U.S.C. 1437f note) is amended by * * *

(e) RENEWAL UPON REQUEST OF OWNER.—Section 211(b)(3) of the Departments of Veterans Affairs and Housing and Urban De-

velopment, and Independent Agencies Appropriations Act, 1997 (Public Law 104–204; 110 Stat. 2896) is amended—

* * * * * * *

(f) EXTENSION OF DEMONSTRATION CONTRACT PERIOD.—Section 212(g) of the Departments of Veterans Affairs and Housing and Urban Development, and Independent Agencies Appropriations Act, 1997 (Public Law 104–204) is amended—

* * * * * * *

SEC. 524. [42 U.S.C. 1437f note] SECTION 8 CONTRACT RENEWALS.

(a)[1] SECTION 8 CONTRACT RENEWAL AUTHORITY.—

(1) IN GENERAL.—Notwithstanding part 24 of title 24 of the Code of Federal Regulations and subject to section 516 of this subtitle, for fiscal year 1999 and henceforth, the Secretary may use amounts available for the renewal of assistance under section 8 of the United States Housing Act of 1937, upon termination or expiration of a contract for assistance under section 8 (other than a contract for tenant-based assistance and notwithstanding section 8(v) of such Act for loan management assistance), to provide assistance under section 8 of such Act at rent levels that do not exceed comparable market rents for the market area. The assistance shall be provided in accordance with terms and conditions prescribed by the Secretary.

(2) EXCEPTION PROJECTS.—Notwithstanding paragraph (1) and subject to section 516 of this subtitle, upon the request of the owner, the Secretary shall renew an expiring contract in accordance with terms and conditions prescribed by the Secretary at the lesser of: (i) existing rents, adjusted by an operating cost adjustment factor established by the Secretary; (ii) a level that provides income sufficient to support a budget-based rent (including a budget-based rent adjustment if justified by reasonable and expected operating expenses); or (iii) in the case of a contract under the moderate rehabilitation program, other than a moderate rehabilitation contract under section 441 of the Stewart B. McKinney Homeless Assistance Act, the lesser of existing rents, adjusted by an operating cost adjustment factor established by the Secretary, fair market rents (less any amounts allowed for tenant-purchased utilities), or comparable market rents for the market area, for the following categories of multifamily housing projects—

(A) projects for which the primary financing or mortgage insurance was provided by a unit of State government or a unit of general local government (or an agency or instrumentality of either) and is not insured under the National Housing Act;

(B) projects for which the primary financing was provided by a unit of State government or a unit or general local government (or an agency or instrumentality of either) and the financing involves mortgage insurance under the National Housing Act, such that the implementation of a mortgage restructuring and rental assistance sufficiency

[1] So in law. There is no subsection (b).

plan under this Act is in conflict with applicable law or agreements governing such financing;

(C) projects financed under section 202 of the Housing Act of 1959 or section 515 of the Housing Act of 1949;

(D) projects that have an expiring contract under section 8 of the United States Housing Act of 1937 pursuant to section 441 of the Stewart B. McKinney Homeless Assistance Act; and

(E) projects that do not qualify as eligible multifamily housing projects pursuant to section 512(2) of this subtitle.

Subtitle B—Miscellaneous Provisions

SEC. 531. REHABILITATION GRANTS FOR CERTAIN INSURED PROJECTS.

Section 236 of the National Housing Act (12 U.S.C. 1715z–1) is amended by adding at the end the following:

* * * * * * *

SEC. 532. [42 U.S.C. 1437f note] GAO REPORT ON SECTION 8 RENTAL ASSISTANCE FOR MULTIFAMILY HOUSING PROJECTS.

Not later than the expiration of the 18-month period beginning on the date of the enactment of this Act, the Comptroller General of the United States shall submit a report to the Congress analyzing—

(1) the housing projects for which project-based assistance is provided under section 8 of the United States Housing Act of 1937, but which are not subject to a mortgage insured or held by the Secretary under the National Housing Act;

(2) how State and local housing finance agencies have benefited financially from the rental assistance program under section 8 of the United States Housing Act of 1937, including any benefits from fees, bond financings, and mortgage refinancings; and

(3) the extent and effectiveness of State and local housing finance agencies oversight of the physical and financial management and condition of multifamily housing projects for which project-based assistance is provided under section 8 of the United States Housing Act of 1937.

Subtitle C—Enforcement Provisions

SEC. 541. [42 U.S.C. 1437f note] IMPLEMENTATION.

(a) ISSUANCE OF NECESSARY REGULATIONS.—Notwithstanding section 7(o) of the Department of Housing and Urban Development Act or part 10 of title 24, Code of Federal Regulations (as in existence on the date of enactment of this Act [1]), the Secretary shall issue such regulations as the Secretary determines to be necessary to implement this subtitle and the amendments made by this subtitle in accordance with section 552 or 553 of title 5, United States Code, as determined by the Secretary.

[1] October 27, 1997.

(b) USE OF EXISTING REGULATIONS.—In implementing any provision of this subtitle, the Secretary may, in the discretion of the Secretary, provide for the use of existing regulations to the extent appropriate, without rulemaking.

SEC. 542. INCOME VERIFICATION.

(a) REINSTITUTION OF REQUIREMENTS REGARDING HUD ACCESS TO CERTAIN INFORMATION OF STATE AGENCIES.—

(1) IN GENERAL.—Section 303(i) of the Social Security Act is amended by striking paragraph (5).

(2) EFFECTIVE DATE.—The amendment made by this subsection shall apply to any request for information made after the date of the enactment of this Act.

(b) REPEAL OF TERMINATION REGARDING HOUSING ASSISTANCE PROGRAMS.—Section 6103(l)(7)(D) of the Internal Revenue Code of 1986 is amended by striking the last sentence.

Part 1—FHA Single Family and Multifamily Housing

SEC. 551. AUTHORIZATION TO IMMEDIATELY SUSPEND MORTGAGEES.

Section 202(c)(3)(C) of the National Housing Act (12 U.S.C. 1708(c)(3)(C)) is amended * * *

SEC. 552. EXTENSION OF EQUITY SKIMMING TO OTHER SINGLE FAMILY AND MULTIFAMILY HOUSING PROGRAMS.

Section 254 of the National Housing Act (12 U.S.C. 1715z–19) is amended to read as follows:

* * * * * * *

SEC. 553. CIVIL MONEY PENALTIES AGAINST MORTGAGEES, LENDERS, AND OTHER PARTICIPANTS IN FHA PROGRAMS.

(a) CHANGE TO SECTION TITLE.—Section 536 of the National Housing Act (12 U.S.C. 1735f–14) is amended by striking the section heading and the section designation and inserting the following:

* * * * * * *

(b) EXPANSION OF PERSONS ELIGIBLE FOR PENALTY.—Section 536(a) of the National Housing Act (12 U.S.C. 1735f–14(a)) is amended—

* * * * * * *

(c) ADDITIONAL VIOLATIONS FOR MORTGAGEES, LENDERS, AND OTHER PARTICIPANTS IN FHA PROGRAMS.—Section 536(b) of the National Housing Act (12 U.S.C. 1735f–14(b)) is amended—

* * * * * * *

(d) CONFORMING AND TECHNICAL AMENDMENTS.—Section 536 of the National Housing Act (12 U.S.C. 1735f–14) is amended—

* * * * * * *

Part 2—FHA Multifamily Provisions

SEC. 561. CIVIL MONEY PENALTIES AGAINST GENERAL PARTNERS, OFFICERS, DIRECTORS, AND CERTAIN MANAGING AGENTS OF MULTIFAMILY PROJECTS.

(a) CIVIL MONEY PENALTIES AGAINST MULTIFAMILY MORTGAGORS.—Section 537 of the National Housing Act (12 U.S.C. 1735f–15) is amended—

* * * * * * *

(b) [42 U.S.C. 1437f–15 note] IMPLEMENTATION.—

(1) PUBLIC COMMENT.—The Secretary shall implement the amendments made by this section by regulation issued after notice and opportunity for public comment. The notice shall seek comments primarily as to the definitions of the terms "ownership interest in" and "effective control", as those terms are used in the definition of the terms "agent employed to manage the property that has an identity of interest" and "identity of interest agent".

(2) TIMING.—A proposed rule implementing the amendments made by this section shall be published not later than 1 year after the date of enactment of this Act. [1]

(c) [42 U.S.C. 1437f–15 note] APPLICABILITY OF AMENDMENTS.—The amendments made by subsection (a) shall apply only with respect to—

(1) violations that occur on or after the effective date of the final regulations implementing the amendments made by this section; and

(2) in the case of a continuing violation (as determined by the Secretary of Housing and Urban Development), any portion of a violation that occurs on or after that date.

SEC. 562. CIVIL MONEY PENALTIES FOR NONCOMPLIANCE WITH SECTION 8 HAP CONTRACTS.

(a) BASIC AUTHORITY.—Title I of the United States Housing Act of 1937 (42 U.S.C. 1437 et seq.) is amended—

* * * * * * *

(b) [42 U.S.C. 1437z–1 note] APPLICABILITY.—The amendments made by subsection (a) shall apply only with respect to—

(1) violations that occur on or after the effective date of final regulations implementing the amendments made by this section; and

(2) in the case of a continuing violation (as determined by the Secretary of Housing and Urban Development), any portion of a violation that occurs on or after such date.

(c) [42 U.S.C. 1437z–1 note] IMPLEMENTATION.—

(1) REGULATIONS.—

(A) IN GENERAL.—The Secretary shall implement the amendments made by this section by regulation issued after notice and opportunity for public comment.

(B) COMMENTS SOUGHT.—The notice under subparagraph (A) shall seek comments as to the definitions of the terms "ownership interest in" and "effective control", as

[1] The date of enactment was October 27, 1997.

such terms are used in the definition of the term "agent employed to manage such property that has an identity of interest".

(2) TIMING.—A proposed rule implementing the amendments made by this section shall be published not later than 1 year after the date of enactment of this Act. [1]

SEC. 563. EXTENSION OF DOUBLE DAMAGES REMEDY.

Section 421 of the Housing and Community Development Act of 1987 (12 U.S.C. 1715z–4a) is amended—

* * * * * * *

SEC. 564. OBSTRUCTION OF FEDERAL AUDITS.

Section 1516(a) of title 18, United States Code, is amended by inserting after "under a contract or subcontract," the following: "or relating to any property that is security for a mortgage note that is insured, guaranteed, acquired, or held by the Secretary of Housing and Urban Development pursuant to any Act administered by the Secretary,".

Subtitle D—Office of Multifamily Housing Assistance Restructuring

SEC. 571. [42 U.S.C. 1437f note] ESTABLISHMENT OF OFFICE OF MULTIFAMILY HOUSING ASSISTANCE RESTRUCTURING.

There is hereby established an office within the Department of Housing and Urban Development, which shall be known as the Office of Multifamily Housing Assistance Restructuring.

SEC. 572. [42 U.S.C. 1437f note] DIRECTOR.

(a) APPOINTMENT.—The Office shall be under the management of a Director, who shall be appointed by the President by and with the advice and consent of the Senate, from among individuals who are citizens of the United States and have a demonstrated understanding of financing and mortgage restructuring for affordable multifamily housing. Not later than 60 days after the date of the enactment of this Act, the President shall submit to the Senate a nomination for initial appointment to the position of Director.

(b) VACANCY.—A vacancy in the position of Director shall be filled in the manner in which the original appointment was made under subsection (a).

(c) DEPUTY DIRECTOR.—

(1) IN GENERAL.—The Office shall have a Deputy Director who shall be appointed by the Director from among individuals who are citizens of the United States and have a demonstrated understanding of financing and mortgage restructuring for affordable multifamily housing.

(2) FUNCTIONS.—The Deputy Director shall have such functions, powers, and duties as the Director shall prescribe. In the event of the death, resignation, sickness, or absence of the Director, the Deputy Director shall serve as acting Director until the return of the Director or the appointment of a successor pursuant to subsection (b).

[1] The date of enactment was October 27, 1997.

SEC. 573. [42 U.S.C. 1437f note] DUTY AND AUTHORITY OF DIRECTOR.

(a) DUTY.—The Secretary shall, acting through the Director, administer the program of mortgage and rental assistance restructuring for eligible multifamily housing projects under subtitle A. During the period before the Director is appointed, the Secretary may carry out such program.

(b) AUTHORITY.—The Director is authorized to make such determinations, take such actions, issue such regulations, and perform such functions assigned to the Director under law as the Director determines necessary to carry out such functions, subject to the review and approval of the Secretary. The Director shall semiannually submit a report to the Secretary regarding the activities, determinations, and actions of the Director.

(c) DELEGATION OF AUTHORITY.—The Director may delegate to officers and employees of the Office (but not to contractors, subcontractors, or consultants) any of the functions, powers, and duties of the Director, as the Director considers appropriate.

(d) INDEPENDENCE IN PROVIDING INFORMATION TO CONGRESS.—

(1) IN GENERAL.—Notwithstanding subsection (a) or (b), the Director shall not be required to obtain the prior approval, comment, or review of any officer or agency of the United States before submitting to the Congress, or any committee or subcommittee thereof, any reports, recommendations, testimony, or comments if such submissions include a statement indicating that the views expressed therein are those of the Director and do not necessarily represent the views of the Secretary or the President.

(2) REQUIREMENT.—If the Director determines at any time that the Secretary is taking or has taken any action that interferes with the ability of the Director to carry out the duties of the Director under this Act or that affects the administration of the program under subtitle A of this Act in a manner that is inconsistent with the purposes of this Act, including any proposed action by the Director, in the discretion of the Director, that is overruled by the Secretary, the Director shall immediately report directly to the Committee on Banking and Financial Services of the House of Representatives and the Committee on Banking, Housing, and Urban Affairs of the Senate regarding such action. Notwithstanding subsection (a) or (b), any determination or report under this paragraph by the Director shall not be subject to prior review or approval of the Secretary.

SEC. 574. [42 U.S.C. 1437f note] PERSONNEL.

(a) OFFICE PERSONNEL.—The Director may appoint and fix the compensation of such officers and employees of the Office as the Director considers necessary to carry out the functions of the Director and the Office. Officers and employees may be paid without regard to the provisions of chapter 51 and subchapter III of chapter 53 of title 5, United States Code, relating to classification and General Schedule pay rates.

(b) COMPARABILITY OF COMPENSATION WITH FEDERAL BANKING AGENCIES.—In fixing and directing compensation under subsection (a), the Director shall consult with, and maintain comparability

with compensation of officers and employees of the Federal Deposit Insurance Corporation.

(c) PERSONNEL OF OTHER FEDERAL AGENCIES.—In carrying out the duties of the Office, the Director may use information, services, staff, and facilities of any executive agency, independent agency, or department on a reimbursable basis, with the consent of such agency or department.

(d) OUTSIDE EXPERTS AND CONSULTANTS.—The Director may procure temporary and intermittent services under section 3109(b) of title 5, United States Code.

SEC. 575. [42 U.S.C. 1437f note] BUDGET AND FINANCIAL REPORTS.

(a) FINANCIAL OPERATING PLANS AND FORECASTS.—Before the beginning of each fiscal year, the Secretary shall submit a copy of the financial operating plans and forecasts for the Office to the Director of the Office of Management and Budget.

(b) REPORTS OF OPERATIONS.—As soon as practicable after the end of each fiscal year and each quarter thereof, the Secretary shall submit a copy of the report of the results of the operations of the Office during such period to the Director of the Office of Management and Budget.

(c) INCLUSION IN PRESIDENT'S BUDGET.—The annual plans, forecasts, and reports required under this section shall be included: (1) in the Budget of the United States in the appropriate form; and (2) in the congressional justifications of the Department of Housing and Urban Development for each fiscal year in a form determined by the Secretary.

SEC. 576. [42 U.S.C. 1437f note] LIMITATION ON SUBSEQUENT EMPLOYMENT.

Neither the Director nor any former officer or employee of the Office who, while employed by the Office, was compensated at a rate in excess of the lowest rate for a position classified higher than GS–15 of the General Schedule under section 5107 of title 5, United States Code, may, during the 2-year period beginning on the date of separation from employment by the Office, accept compensation from any party (other than a Federal agency) having any financial interest in any mortgage restructuring and rental assistance sufficiency plan under subtitle A or comparable matter in which the Director or such officer or employee had direct participation or supervision.

SEC. 577. [42 U.S.C. 1437f note] AUDITS BY GAO.

The Comptroller General shall audit the operations of the Office in accordance with generally accepted Government auditing standards. All books, records, accounts, reports, files, and property belonging to, or used by, the Office shall be made available to the Comptroller General. Audits under this section shall be conducted annually for the first 2 fiscal years following the date of the enactment of this Act and as appropriate thereafter.

SEC. 578. [42 U.S.C. 1437f note] SUSPENSION OF PROGRAM BECAUSE OF FAILURE TO APPOINT DIRECTOR.

(a) IN GENERAL.—If, upon the expiration of the 12-month period beginning on the date of the enactment of this Act, the initial appointment to the office of Director has not been made, the operation of the program under subtitle A shall immediately be

suspended and such provisions shall not have any force or effect during the period that ends upon the making of such appointment.

(b) INTERIM APPLICABILITY OF DEMONSTRATION PROGRAM.—Notwithstanding any other provision of law, during the period referred to in subsection (a), the Secretary shall carry out sections 211 and 212 of the Departments of Veterans Affairs and Housing and Urban Development, and Independent Agencies Appropriations Act, 1997. For purposes of applying such sections pursuant to the authority under this section, the term "expiring contract" shall have the meaning given in such sections, except that such term shall also include any contract for project-based assistance under section 8 of the United States Housing Act of 1937 that expires during the period that the program is suspended under subsection (a).

SEC. 579. [42 U.S.C. 1437f note] TERMINATION.

(a) REPEAL.—Subtitle A (except for section 524) and subtitle D (except for this section) are repealed effective October 1, 2001.

(b) EXCEPTION.—Notwithstanding the repeal under subsection (a), the provisions of subtitle A (as in effect immediately before such repeal) shall apply with respect to projects and programs for which binding commitments have been entered into under this Act before October 1, 2001.

(c) TERMINATION OF DIRECTOR AND OFFICE.—The Office of Multifamily Housing Assistance Restructuring and the position of Director of such Office shall terminate upon September 30, 2001.

(d) TRANSFER OF AUTHORITY.—Effective upon the termination under subsection (c), any authority and responsibilities assigned to the Director that remain applicable after such date pursuant to subsection (b) are transferred to the Secretary.

MORTGAGE RESTRUCTURING DEMONSTRATION FOR FHA-INSURED MULTIFAMILY HOUSING

EXCERPT FROM DEPARTMENTS OF VETERANS AFFAIRS AND HOUSING AND URBAN DEVELOPMENT, AND INDEPENDENT AGENCIES APPROPRIATIONS ACT, 1997

[Public Law 104–204; 110 Stat. 2897; 42 U.S.C. 1437f note]

SEC. 212. [42 U.S.C. 1437f note] FHA MULTIFAMILY DEMONSTRATION AUTHORITY.—(a) IN GENERAL.—

(1) REPEAL.—

(A) IN GENERAL.—Section 210 of the Departments of Veterans Affairs and Housing and Urban Development and Independent Agencies Appropriations Act, 1996 (110 Stat. 1321) is repealed.

(B) EXCEPTION.—Notwithstanding the repeal under subparagraph (A), amounts made available under section 210(f) the Departments of Veterans Affairs and Housing and Urban Development and Independent Agencies Appropriations Act, 1996 shall remain available for the demonstration program under this section through the end of fiscal year 1997.

(2) SAVINGS PROVISIONS.—Nothing in this section shall be construed to affect any commitment entered into before the date of enactment of this Act [1] under the demonstration program under section 210 of the Departments of Veterans Affairs and Housing and Urban Development and Independent Agencies Appropriations Act, 1996.

(3) DEFINITIONS.—For purposes of this section—

(A) the term "demonstration program" means the program established under subsection (b);

(B) the term "expiring contract" means a contract for project-based assistance under section 8 of the United States Housing Act of 1937 that expires during fiscal year 1997;

(C) the term "family" has the same meaning as in section 3(b) of the United States Housing Act of 1937;

(D) the term "multifamily housing project" means a property consisting of more than 4 dwelling units that is covered in whole or in part by a contract for project-based assistance;

(E) the term "owner" has the same meaning as in section 8(f) of the United States Housing Act of 1937;

(F) the term "project-based assistance" means rental assistance under section 8 of the United States Housing Act of 1937 that is attached to a multifamily housing project;

[1] September 26, 1996.

(G) the term "Secretary" means the Secretary of Housing and Urban Development; and

(H) the term "tenant-based assistance" has the same meaning as in section 8(f) of the United States Housing Act of 1937.

(b) DEMONSTRATION AUTHORITY.—

(1) IN GENERAL.—Subject to the funding limitation in subsection (l), the Secretary shall administer a demonstration program with respect to multifamily projects—

(A) whose owners agree to participate;

(B) with rents on units assisted under section 8 of the United States Housing Act of 1937 that are, in the aggregate, in excess of 120 percent of the fair market rent of the market area in which the project is located; and

(C) the mortgages of which are insured under the National Housing Act.

(2) PURPOSE.—The demonstration program shall be designed to obtain as much information as is feasible on the economic viability and rehabilitation needs of the multifamily housing projects in the demonstration, to test various approaches for restructuring mortgages to reduce the financial risk to the FHA Insurance Fund while reducing the cost of section 8 subsidies, and to test the feasibility and desirability of—

(A) ensuring, to the maximum extent practicable, that the debt service and operating expenses, including adequate reserves, attributable to such multifamily projects can be supported at the comparable market rent with or without mortgage insurance under the National Housing Act and with or without additional section 8 rental subsidies;

(B) utilizing section 8 rental assistance, while taking into account the capital needs of the projects and the need for adequate rental assistance to support the low- and very low-income families residing in such projects; and

(C) preserving low-income rental housing affordability and availability while reducing the long-term cost of section 8 rental assistance.

(c) GOALS.—

(1) IN GENERAL.—The Secretary shall carry out the demonstration program in a manner that will protect the financial interests of the Federal Government through debt restructuring and subsidy reduction and, in the least costly fashion, address the goals of—

(A) maintaining existing affordable housing stock in a decent, safe, and sanitary condition;

(B) minimizing the involuntary displacement of tenants;

(C) taking into account housing market conditions;

(D) encouraging responsible ownership and management of property;

(E) minimizing any adverse income tax impact on property owners; and

(F) minimizing any adverse impacts on residential neighborhoods and local communities.

(2) BALANCE OF COMPETING GOALS.—In determining the manner in which a mortgage is to be restructured or a subsidy reduced under this subsection, the Secretary may balance competing goals relating to individual projects in a manner that will further the purposes of this section.

(d) PARTICIPATION ARRANGEMENTS.—

(1) IN GENERAL.—In carrying out the demonstration program, the Secretary may enter into participation arrangements with designees, under which the Secretary may provide for the assumption by designees (by delegation, by contract, or otherwise) of some or all of the functions, obligations, responsibilities and benefits of the Secretary.

(2) DESIGNEES.—In entering into any arrangement under this subsection, the Secretary shall select state housing finance agencies, housing agencies or nonprofits (separately or in conjunction with each other) to act as designees to the extent such agencies are determined to be qualified by the Secretary. In locations where there is no qualified State housing finance agency, housing agency or nonprofit to act as a designee, the Secretary may act as a designee. Each participation arrangement entered into under this subsection shall include a designee as the primary partner. Any organization selected by the Secretary under this section shall have a long-term record of service in providing low-income housing and meet standards of fiscal responsibility, as determined by the Secretary.

(3) DESIGNEE PARTNERSHIPS.—For purposes of any participation arrangement under this subsection, designees are encouraged to develop partnerships with each other, and to contract or subcontract with other entities, including—

(A) public housing agencies;
(B) financial institutions;
(C) mortgage servicers;
(D) nonprofit and for-profit housing organizations;
(E) the Federal National Mortgage Association;
(F) the Federal Home Loan Mortgage Corporation;
(G) Federal Home Loan Banks; and
(H) other State or local mortgage insurance companies or bank lending consortia.

(e) LONG-TERM AFFORDABILITY.—

(1) IN GENERAL.—After the renewal of a section 8 contract pursuant to a restructuring under this section, the owner shall accept each offer to renew the section 8 contract, for a period of 20 years from the date of the renewal under the demonstration, if the offer to renew is on terms and conditions, as agreed to by the Secretary or designee and the owner under a restructuring.

(2) AFFORDABILITY REQUIREMENTS.—Except as otherwise provided by the Secretary, in exchange for any mortgage restructuring under this section, a project shall remain affordable for a period of not less than 20 years. Affordability requirements shall be determined in accordance with guidelines established by the Secretary or designee. The Secretary or designee may waive these requirements for good cause.

(f) PROCEDURES.—

(1) NOTICE OF PARTICIPATION IN DEMONSTRATION.—Not later than 45 days before the date of expiration of an expiring contract (or such later date, as determined by the Secretary, for good cause), the owner of the multifamily housing project covered by that expiring contract shall notify the Secretary or designee and the residents of the owner's intent to participate in the demonstration program.

(2) DEMONSTRATION CONTRACT.—Upon receipt of a notice under paragraph (1), the owner and the Secretary or designee shall enter into a demonstration contract, which shall provide for initial section 8 project-based rents at the same rent levels as those under the expiring contract or, if practical, the budget-based rent to cover debt service, reasonable operating expenses (including reasonable and appropriate services), and a reasonable return to the owner, as determined solely by the Secretary. The demonstration contract shall be for the minimum term necessary for the rents and mortgages of the multifamily housing project to be restructured under the demonstration program, but shall not be for a period of time to exceed 180 days, unless extended for good cause by the Secretary.

(g)(1) [1] PROJECT-BASED SECTION 8.—The Secretary shall renew all expiring contracts under the demonstration as section 8 project-based contracts, for a period of time not to exceed one year, unless otherwise provided under subsection (h) or in paragraph (2).

(2) The Secretary may renew a demonstration contract for an additional period of not to exceed 120 days, if—

(A) the contract was originally executed before February 1, 1997, and the Secretary determines, in the sole discretion of the Secretary, that the renewal period for the contract needs to exceed 1 year, due to delay of publication of the Secretary's demonstration program guidelines until January 23, 1997 (not to exceed 21 projects); or

(B) the contract was originally executed before October 1, 1997, in connection with a project that has been identified for restructuring under the joint venture approach described in section VII.B.2. of the Secretary's demonstration program guidelines, and the Secretary determines, in the sole discretion of the Secretary, that the renewal period for the contract needs to exceed 1 year, due to delay in implementation of the joint venture agreement required by the guidelines (not to exceed 25 projects).

(h) DEMONSTRATION ACTIONS.—

(1) DEMONSTRATION ACTIONS.—For purposes of carrying out the demonstration program, and in order to ensure that contract rights are not abrogated, subject to such third party consents as are necessary (if any), including consent by the Government National Mortgage Association if it owns a mortgage insured by the Secretary, consent by an issuer under the mortgage-backed securities program of the Association, subject to the responsibilities of the issuer to its security holders and the Association under such program, and consent by parties to any contractual agreement which the Secretary proposes to

[1] So in law.

modify or discontinue, the Secretary or, except with respect to subparagraph (B), designee, subject to the funding limitation in subsection (l), shall take not less than one of the actions specified in subparagraphs (G), (H), and (I) and may take any of the following actions:

(A) REMOVAL OF RESTRICTIONS.—

(i) IN GENERAL.—Consistent with the purposes of this section, subject to the agreement of the owner of the project and after consultation with the tenants of the project, the Secretary or designee may remove, relinquish, extinguish, modify, or agree to the removal of any mortgage, regulatory agreement, project-based assistance contract, use agreement, or restriction that had been imposed or required by the Secretary, including restrictions on distributions of income which the Secretary or designee determines would interfere with the ability of the project to operate without above-market rents.

(ii) ACCUMULATED RESIDUAL RECEIPTS.—The Secretary or designee may require an owner of a property assisted under the section 8 new construction/substantial rehabilitation program under the United States Housing Act of 1937 to apply any accumulated residual receipts toward effecting the purposes of this section.

(B) REINSURANCE.—With respect to not more than 5,000 units within the demonstration during fiscal year 1997, the Secretary may enter into contracts to purchase reinsurance, or enter into participations or otherwise transfer economic interest in contracts of insurance or in the premiums paid, or due to be paid, on such insurance, on such terms and conditions as the Secretary may determine. Any contract entered into under this paragraph shall require that any associated units be maintained as low-income units for the life of the mortgage, unless waived by the Secretary for good cause.

(C) PARTICIPATION BY THIRD PARTIES.—The Secretary or designee may enter into such agreements, provide such concessions, incur such costs, make such grants (including grants to cover all or a portion of the rehabilitation costs for a project) and other payments, and provide other valuable consideration as may reasonably be necessary for owners, lenders, servicers, third parties, and other entities to participate in the demonstration program. The Secretary may establish performance incentives for designees.

(D) SECTION 8 ADMINISTRATIVE FEES.—Notwithstanding any other provision of law, the Secretary may make fees available from the section 8 contract renewal appropriation to a designee for contract administration under section 8 of the United States Housing Act of 1937 for purposes of any contract restructured or renewed under the demonstration program.

(E) FULL OR PARTIAL PAYMENT OF CLAIM.—Notwithstanding any other provision of law, the Secretary may

make a full payment of claim or partial payment of claim prior to default.

(F) CREDIT ENHANCEMENT.—

(i) IN GENERAL.—The Secretary or designee may provide FHA multifamily mortgage insurance, reinsurance, or other credit enhancement alternatives, including retaining the existing FHA mortgage insurance on a restructured first mortgage at market value or using the multifamily risk-sharing mortgage programs, as provided under section 542 of the Housing and Community Development Act of 1992. Any limitations on the number of units available for mortgage insurance under section 542 shall not apply to insurance issued for purposes of the demonstration program.

(ii) MAXIMUM PERCENTAGE.—During fiscal year 1997, not more than 25 percent of the units in multifamily housing projects with expiring contracts in the demonstration, in the aggregate, may be restructured without FHA insurance, unless otherwise agreed to by the owner of a project.

(iii) CREDIT SUBSIDY.—Any credit subsidy costs of providing mortgage insurance shall be paid from amounts made available under subsection (l).

(G) MORTGAGE RESTRUCTURING.—

(i) IN GENERAL.—The Secretary or designee may restructure mortgages to provide a restructured first mortgage to cover debt service and operating expenses (including a reasonable rate of return to the owner) at the market rent, and a second mortgage equal to the difference between the restructured first mortgage and the mortgage balance of the eligible multifamily housing project at the time of restructuring.

(ii) CREDIT SUBSIDY.—Any credit subsidy costs of providing a second mortgage shall be paid from amounts made available under subsection (l).

(H) DEBT FORGIVENESS.—The Secretary or designee, for good cause and at the request of the owner of a multifamily housing project, may forgive at the time of the restructuring of a mortgage any portion of a debt on the project that exceeds the market value of the project.

(I) BUDGET-BASED RENTS.—The Secretary or designee may renew an expiring contract, including a contract for a project in which operating costs exceed comparable market rents, for a period of not more than one year, at a budget-based rent that covers debt service, reasonable operating expenses (including all reasonable and appropriate services), and a reasonable rate of return to the owner, as determined solely by the Secretary, provided that the contract does not exceed the rent levels under the expiring contract. The Secretary may establish a preference under the demonstration program for budget-based rents for unique housing projects, such as projects designated for occupancy by elderly families and projects in rural areas.

(J) SECTION 8 TENANT-BASED ASSISTANCE.—For not more than 10 percent of units in multifamily housing projects that have had their mortgages restructured in any fiscal year under the demonstration, the Secretary or designee may provide, with the agreement of an owner and in consultation with the tenants of the housing, section 8 tenant-based assistance for some or all of the assisted units in a multifamily housing project in lieu of section 8 project-based assistance. Section 8 tenant-based assistance may only be provided where the Secretary determines and certifies that there is adequate available and affordable housing within the local area and that tenants will be able to use the section 8 tenant-based assistance successfully.

(2) OFFER AND ACCEPTANCE.—Notwithstanding any other provision of law, an owner of a project in the demonstration must accept any reasonable offer made by the Secretary or a designee under this subsection. An owner may appeal the reasonableness of any offer to the Secretary and the Secretary shall respond within 30 days of the date of appeal with a final offer. If the final offer is not acceptable, the owner may opt out of the program.

(i) COMMUNITY AND TENANT INPUT.—In carrying out this section, the Secretary shall develop procedures to provide appropriate and timely notice, including an opportunity for comment and timely access to all relevant information, to officials of the unit of general local government affected, the community in which the project is situated, and the tenants of the project.

(j) TRANSFER OF PROPERTY.—The Secretary shall establish procedures to facilitate the voluntary sale or transfer of multifamily housing projects under the demonstration to tenant organizations and tenant-endorsed community-based nonprofit and public agency purchasers meeting such reasonable qualifications as may be established by the Secretary.

(k) LIMITATION ON DEMONSTRATION AUTHORITY.—The Secretary shall carry out the demonstration program with respect to mortgages not to exceed 50,000 units.

(l) FUNDING.—In addition to the $30,000,000 made available under section 210 of the Departments of Veterans Affairs and Housing and Urban Development and Independent Agencies Appropriations Act, 1996 (110 Stat. 1321), for the costs (including any credit subsidy costs associated with providing direct loans or mortgage insurance) of modifying and restructuring loans held or guaranteed by the Federal Housing Administration, as authorized under this section, $10,000,000 is hereby appropriated, to remain available until September 30, 1998.

(m) REPORT TO CONGRESS.—

(1) IN GENERAL.—

(A) QUARTERLY REPORTS.—Not less than every 3 months, the Secretary shall submit to the Congress a report describing and assessing the status of the projects in the demonstration program.

(B) FINAL REPORT.—Not later than 6 months after the end of the demonstration program, the Secretary shall sub-

mit to the Congress a final report on the demonstration program.

(2) CONTENTS.—Each report submitted under paragraph (1)(A) shall include a description of—

(A) each restructuring proposal submitted by an owner of a multifamily housing project, including a description of the physical, financial, tenancy, and market characteristics of the project;

(B) the Secretary's evaluation and reasons for each multifamily housing project selected or rejected for participation in the demonstration program;

(C) the costs to the FHA General Insurance and Special Risk Insurance funds;

(D) the subsidy costs provided before and after restructuring;

(E) the actions undertaken in the demonstration program, including the third-party arrangements made; and

(F) the demonstration program's impact on the owners of the projects, including any tax consequences.

(3) CONTENTS OF FINAL REPORT.—The report submitted under paragraph (1)(B) shall include—

(A) the required contents under paragraph (2); and

(B) any findings and recommendations for legislative action.

SECTION 8 RENT ANNUAL ADJUSTMENT FACTORS

EXCERPT FROM DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT REFORM ACT OF 1989

[Public Law 101–235; 103 Stat. 1987; 42 U.S.C. 1437f note]

TITLE VIII—SECTION 8 RENT ADJUSTMENTS

SEC. 801. [42 U.S.C. 1437f note] ANNUAL ADJUSTMENT FACTORS FOR SECTION 8 RENTS.

(a) EFFECT OF PRIOR COMPARABILITY STUDIES.—

(1) IN GENERAL.—In any case in which, in implementing section 8(c)(2) of the United States Housing Act of 1937—

(A) the use of comparability studies by the Secretary of Housing and Urban Development or the appropriate State agency as an independent limitation on the amount of rental adjustments resulting from the application of an annual adjustment factor under such section has resulted in the reduction of the maximum monthly rent for units covered by the contract or the failure to increase such contract rent to the full amount otherwise permitted under the annual adjustment factor, or

(B) an assistance contract requires a project owner to make a request before becoming eligible for a rent adjustment under the annual adjustment factor and the project owner certifies that such a request was not made because of anticipated negative adjustment to the project rents,

for fiscal year 1980, and annually thereafter until regulations implementing this section take effect, rental adjustments shall be calculated as an amount equal to the annual adjustment factor multiplied by a figure equal to the contract rent minus the amount of contract rent attributable to debt service. Upon the request of the project owner, the Secretary shall pay to the project owner the amount, if any, by which the total rental adjustment calculated under the preceding sentence exceeds the total adjustments the Secretary or appropriate State agency actually approved, except that solely for purposes of calculating retroactive payments under this subsection, in no event shall any project owner be paid an amount less than 30 percent of a figure equal to the aggregate of the annual adjustment factor multiplied by the full contract rent for each year on or after fiscal year 1980, minus the sum of the rental payments the Secretary or appropriate State agency actually approved for those years. The method provided by this subsection shall be the exclusive method by which retroactive payments, whether or not requested, may be made for projects subject to this subsection for the period from fiscal year 1980 until the regula-

tions issued under subsection (e) take effect. For purposes of this paragraph, "debt service" shall include interest, principal, and mortgage insurance premium if any.

(2) APPLICABILITY.—

(A) IN GENERAL.—Subsection (a) shall apply with respect to any use of comparability studies referred to in such subsection occurring before the effective date of the regulations issued under subsection (e).

(B) FINAL LITIGATION.—Subsection (a) shall not apply to any project with respect to which litigation regarding the authority of the Secretary to use comparability studies to limit rental adjustments under section 8(c)(2) of the United State Housing Act of 1937 has resulted in a judgment before the effective date of this Act [1] that is final and not appealable (including any settlement agreement).

(b) 3-YEAR PAYMENTS.—The Secretary shall provide the amounts under subsection (a) over the 3-year period beginning on the effective date of the regulations issued under subsection (e). The Secretary shall provide the payments authorized under subsection (a) only to the extent approved in subsequent appropriations Acts. There are authorized to be appropriated such sums as may be necessary for this purpose.

(c) COMPARABILITY STUDIES.—Section 8(c)(2)(C) of the United States Housing Act of 1937 (42 U.S.C. 1437f(c)(2)(C) is amended by inserting after the period at the end of the first sentence the following: * * *

(d) DETERMINATION OF CONTRACT RENT.—(1) The Secretary shall upon the request of the project owner, make a one-time determination of the contract rent for each project owner referred to in subsection (a). The contract rent shall be the greater of the contract rent—

(A) currently approved by the Secretary under section 8(c)(2) of the United States Housing Act of 1937, or

(B) calculated in accordance with the first sentence of subsection (a)(1).

(2) All adjustments in contract rents under section 8(c)(2) of the United States Housing Act of 1937, including adjustments involving projects referred to in subsection (a), that occur beginning with the first anniversary date of the contract after the regulations issued under subsection (e) take effect shall be made in accordance with the annual adjustment and comparability provisions of sections (8)(c)(2)(A) and 8(c)(2)(C) of such Act, respectively, using the one-time contract rent determination under paragraph (1).

(e) REGULATIONS.—The Secretary shall issue regulations to carry out this section and the amendments made by this section, including the amendments made by subsection (c) with regard to annual adjustment factors and comparability studies. The Secretary shall issue such regulations not later than the expiration of the 180-day period beginning on the date of the enactment of this Act. [1]

(f) REPORT.—Not later than March 1, 1990, the Secretary shall report to the Congress on the feasibility and desirability, and the

[1] The date of enactment was December 15, 1989.

budgetary, legal, and administrative aspects, of adjusting contract rents under section 8(c)(2)(C) of the United States Housing Act of 1937 on the basis of any alternative methodologies that are simpler in application than individual project comparability studies.

(g) TECHNICAL AMENDMENT.—The first sentence of section 8(c)(2)(C) of the United States Housing Act of 1937 is amended by inserting * * *

SECTION 8 EXCESSIVE RENT BURDEN DATA

EXCERPT FROM CRANSTON-GONZALEZ NATIONAL AFFORDABLE HOUSING ACT

[Public Law 101–625; 104 Stat. 4222; 42 U.S.C. 1437f note]

SEC. 550. REVISIONS TO VOUCHER PROGRAM

* * * * * * *

(b) [42 U.S.C. 1437f note] DOCUMENTATION OF EXCESSIVE RENT BURDENS.—

(1) DATA.—The Secretary of Housing and Urban Development shall collect and maintain, in an automated system, data describing the characteristics of families assisted under the certificate and voucher programs established under section 8 of the United States Housing Act of 1937, which data shall include the share of family income paid toward rent.

(2) REPORT.—Not less than annually, the Secretary shall submit a report to the Congress setting forth, for each of the certificate program and the voucher program, the percentage of families participating in the program who are paying for rent more than the amount determined under section 3(a)(1) of such Act. The report shall set forth data in appropriate categories, such as various areas of the country, types and sizes of public housing agencies, types of families, and types of markets. The data shall identify the jurisdictions in which more than 10 percent of the families assisted under section 8 of such Act pay for rent more than the amount determined under section 3(a)(1) of such Act and the report shall include an examination of whether the fair market rent for such areas is appropriate. The report shall also include any recommendations of the Secretary for legislative and administrative actions appropriate as a result of analysis of the data.

(3) AVAILABILITY OF DATA.—The Secretary shall make available to each public housing agency administering assistance under the certificate or voucher program any data maintained under this subsection that relates to the public housing agency.

SECTION 8 DISASTER RELIEF ASSISTANCE

EXCERPT FROM CRANSTON-GONZALEZ NATIONAL AFFORDABLE HOUSING ACT

[Public Law 101–625; 104 Stat. 4403; 42 U.S.C. 1437c note]

SEC. 931. [42 U.S.C. 1437c note] SECTION 8 CERTIFICATES AND VOUCHERS.

The budget authority available under section 5(c) of the United States Housing Act of 1937 (42 U.S.C. 1437c(c)) for tenant-based assistance under section 8 of the United States Housing Act of 1937 is authorized to be increased in any fiscal year in which a major disaster is declared by the President under the Robert T. Stafford Disaster Relief and Emergency Asssistance Act in such amounts as may be necessary to provide assistance under such programs for individuals and families whose housing has been damaged or destroyed as a result of such disaster, except that in implementing this section, the Secretary shall evaluate the natural hazards to which any permanent replacement housing is exposed and shall take appropriate action to mitigate such hazards.

SEC. 932. [42 U.S.C. 1437c note] MODERATE REHABILITATION.

The budget authority available under section 5(c) of the United States Housing Act of 1937 (42 U.S.C. 1437c(c)) for assistance under the moderate rehabilitation program under section 8(e)(2) of such Act is authorized to be increased in any fiscal year in which a major disaster is declared by the President under the Robert T. Stafford Disaster Relief and Emergency Assistance Act in such amount as may be necessary to provide assistance under such program for individuals and families whose housing has been damaged or destroyed as a result of such disaster, except that in implementing this section, the Secretary shall evaluate the natural hazards to which any permanent replacement housing is exposed and shall take appropriate action to mitigate such hazards.

SECTION 8 HOMEOWNERSHIP DEMONSTRATION

EXCERPT FROM QUALITY HOUSING AND WORK RESPONSIBILITY ACT OF 1998

[Public Law 105–276; 112 Stat. 2613; 42 U.S.C. 1437f note]

SEC. 555. HOMEOWNERSHIP OPTION.

* * * * * * *

(b) [42 U.S.C. 1437f note] DEMONSTRATION PROGRAM.—

(1) IN GENERAL.—With the consent of the affected public housing agencies, the Secretary may carry out (or contract with 1 or more entities to carry out) a demonstration program under section 8(y) of the United States Housing Act of 1937 (42 U.S.C. 1437f(y)) to expand homeownership opportunities for low-income families.

(2) REPORT.—The Secretary shall report annually to Congress on activities conducted under this subsection.

(c) [42 U.S.C. 1437f note] APPLICABILITY.—This section 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.

SECTION 8 MANUFACTURED HOUSING DEMONSTRATION

EXCERPT FROM QUALITY HOUSING AND WORK RESPONSIBILITY ACT OF 1998

[Public Law 105–276; 112 Stat. 2613]

SEC. 557. MANUFACTURED HOUSING DEMONSTRATION PROGRAM.

(a) IN GENERAL.—The Secretary of Housing and Urban Development shall carry out a program during fiscal years 1999, 2000, and 2001 to demonstrate the effectiveness of providing, directly to eligible families that own manufactured homes and rent real property on which their homes are located, tenant-based assistance for the rental of such property that would otherwise be provided directly to the owners of such real property under section 8(o)(12) of the United States Housing Act of 1937.

(b) REQUIREMENTS.—The demonstration program under this section shall be subject to the following requirements:

(1) SCOPE.—The Secretary of Housing and Urban Development shall carry out the demonstration program with respect to the Housing Authority of the County of San Diego, in California, and the Housing Authority of the City of San Diego, in California.

(2) ELIGIBLE FAMILIES.—Under the demonstration program, each public housing agency shall provide tenant-based assistance under section 8(o) of the United States Housing Act of 1937 on behalf of eligible families who rent real property on which their manufactured homes are located and which is owned by an owner who has refused to participate in the section 8 program.

(3) PARTICIPATION ARRANGEMENTS.—Each public housing agency participating in the demonstration program shall enter into arrangements with families assisted under the program providing for their participation in the program and may, to the extent authorized by the Secretary, continue to provide assistance in the same manner as under the demonstration program after its conclusion to such participating families.

(4) WAIVER OF OTHER REQUIREMENTS.—Under the demonstration program, the Secretary may waive, or specify alternative requirements for, requirements established by or under section 8 of the United States Housing Act of 1937 relating to the provision of assistance under subsection (j) or (o)(12) of such section.

(c) REPORT.—Not later than March 31, 2002, the Secretary shall submit a report to the Congress describing and evaluating the demonstration program under this section.

(d) EFFECTIVE DATE.—This section shall take effect on the date of the enactment of this Act. [1]

[1] October 21, 1998.

SECTION 8 COMMUNITY INVESTMENT DEMONSTRATION

EXCERPT FROM HUD DEMONSTRATION ACT OF 1993

[Public Law 103–120; 107 Stat. 1148; 42 U.S.C. 1437f note]

SEC. 6. [42 U.S.C. 1437f note] SECTION 8 COMMUNITY INVESTMENT DEMONSTRATION PROGRAM.

(a) DEMONSTRATION PROGRAM.—The Secretary shall carry out a demonstration program to attract pension fund investment in affordable housing through the use of project-based rental assistance under section 8 of the United States Housing Act of 1937.

(b) FUNDING REQUIREMENTS.—In carrying out this section, the Secretary shall ensure that not less than 50 percent of the funds appropriated for the demonstration program each year are used in conjunction with the disposition of either—

(1) multifamily properties owned by the Department; or

(2) multifamily properties securing mortgages held by the Department.

(c) CONTRACT TERMS.—

(1) IN GENERAL.—Project-based assistance under this section shall be provided pursuant to a contract entered into by the Secretary and the owner of the eligible housing that—

(A) provides assistance for a term of not less than 60 months and not greater than 180 months; and

(B) provides for contract rents, to be determined by the Secretary, which shall not exceed contract rents permitted under section 8 of the United States Housing Act of 1937, taking into consideration any costs for the construction, rehabilitation, or acquisition of the housing.

(2) AMENDMENT TO SECTION 203.—Section 203 of the Housing and Community Development Amendments of 1978 (12 U.S.C. 1701z–11) is amended by adding at the end the following new subsection:

"(l) Project-based assistance in connection with the disposition of a multifamily housing project may be provided for a contract term of less than 15 years if such assistance is provided—

"(1) under a contract authorized under section 6 of the HUD Demonstration Act of 1993; and

"(2) pursuant to a disposition plan under this section for a project that is determined by the Secretary to be otherwise in compliance with this section.".

(d) LIMITATION.—(1) The Secretary may not provide (or make a commitment to provide) more than 50 percent of the funding for housing financed by any single pension fund, except that this limitation shall not apply if the Secretary, after the end of the 6-month period beginning on the date notice is issued under subsection (e)—

(A) determines that—

(i) there are no expressions of interest that are likely to result in approvable applications in the reasonably foreseeable future; or

(ii) any such expressions of interest are not likely to use all funding under this section; and

(B) so informs the Committee on Banking, Finance and Urban Affairs of the House of Representatives [1] and the Committee on Banking, Housing, and Urban Affairs of the Senate.

(2) If the Secretary determines that there are expressions of interest referred to in paragraph (1)(A)(ii), the Secretary may reserve funding sufficient in the Secretary's determination to fund such applications and may use any remaining funding for other pension funds in accordance with this section.

(e) IMPLEMENTATION.—The Secretary shall by notice establish such requirements as may be necessary to carry out the provisions of this section. The notice shall take effect upon issuance.

(f) APPLICABILITY OF ERISA.—Notwithstanding section 514(d) of the Employee Retirement Income Security Act of 1974, nothing in this section shall be construed to authorize any action or failure to act that would constitute a violation of such Act.

(g) REPORT.—Not later than 3 months after the last day of each fiscal year, the Secretary shall submit to the Committee on Banking, Finance and Urban Affairs of the House of Representatives [1] and the Committee on Banking, Housing, and Urban Affairs of the Senate a report summarizing the activities carried out under this section during that fiscal year.

(h) ESTABLISHMENT OF STANDARDS.—Mortgages secured by housing assisted under this demonstration shall meet such standards regarding financing and securitization as the Secretary may establish.

(i) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated $100,000,000 for fiscal year 1994 to carry out this section.

[(j) [Repealed.]]

(k) TERMINATION DATE.—The Secretary shall not enter into any new commitment to provide assistance under this section after September 30, 1998.

[1] Section 1(a) of Public Law 104–14, 109 Stat. 186, provides, in part, that "any reference in any provision of law enacted before January 4, 1995, to . . . the Committee on Banking, Finance and Urban Affairs of the House of Representatives shall be treated as referring to the Committee on Banking and Financial Services of the House of Representatives".

USE OF FUNDS RECAPTURED FROM REFINANCING STATE AND LOCAL FINANCE PROJECTS

EXCERPT FROM STEWART B. McKINNEY HOMELESS ASSISTANCE AMENDMENTS ACT OF 1988

[Public Law 102–550; 106 Stat. 3722; 42 U.S.C. 1437f note]

SEC. 1012. [42 U.S.C. 1437f note] USE OF FUNDS RECAPTURED FROM REFINANCING STATE AND LOCAL FINANCE PROJECTS.

(a) DEFINITION OF QUALIFIED PROJECT.—For purposes of this section, the term "qualified project" means any State financed project or local government or local housing agency financed project, that—

(1) was—

(A) provided a financial adjustment factor under section 8 of the United States Housing Act of 1937; or

(B) constructed or substantially rehabilitated pursuant to assistance provided under a contract under section 8(b)(2) of the United States Housing Act of 1937 (as in effect on September 30, 1983) entered into during any of calendar years 1979 through 1984; and

(2) is being refinanced.

(b) AVAILABILITY OF FUNDS.—The Secretary shall make available to the State housing finance agency in the State in which a qualified project is located, or the local government or local housing agency initiating the refinancing of the qualified project, as applicable, an amount equal to 50 percent of the amounts recaptured from the project (as determined by the Secretary on a project-by-project basis). Notwithstanding any other provision of law, such amounts shall be used only for providing decent, safe, and sanitary housing affordable for very low-income families and persons.

(c) APPLICABILITY AND BUDGET COMPLIANCE.—

(1) RETROACTIVITY.—This section shall apply to refinancings of projects for which settlement occurred or occurs before, on, or after the date of the enactment of the Housing and Community Development Act of 1992, subject to the provisions of paragraph (2).

(2) BUDGET COMPLIANCE.—This section shall apply only to the extent or in such amounts as are provided in appropriation Acts.

STUDY OF METHODS FOR EVALUATING PUBLIC HOUSING AGENCIES

EXCERPT FROM QUALITY HOUSING AND WORK RESPONSIBILITY ACT OF 1998

[Public Law 105–276; 112 Stat. 2624; 42 U.S.C. 1437d note]

SEC. 563. [42 U.S.C. 1437d note] STUDY OF ALTERNATIVE METHODS FOR EVALUATING PUBLIC HOUSING AGENCIES.

(a) IN GENERAL.—The Secretary of Housing and Urban Development shall provide under subsection (e) for a study to be conducted to determine the effectiveness of various alternative methods of evaluating the performance of public housing agencies and other providers of federally assisted housing.

(b) PURPOSES.—The purposes of the study under this section shall be—

(1) to identify and examine various methods of evaluating and improving the performance of public housing agencies in administering public housing and tenant-based rental assistance programs and of other providers of federally assisted housing, which are alternatives to oversight by the Department of Housing and Urban Development; and

(2) to identify specific monitoring and oversight activities currently conducted by the Department of Housing and Urban Development and to evaluate whether such activities should be eliminated, expanded, modified, or transferred to other entities (including governmental and private entities) to increase accuracy and effectiveness and improve monitoring.

(c) EVALUATION OF VARIOUS PERFORMANCE EVALUATION SYSTEMS.—To carry out the purposes under subsection (b), the study under this section shall identify, and analyze the advantages and disadvantages of various methods of regulating and evaluating the performance of public housing agencies and other providers of federally assisted housing, including the following methods:

(1) CURRENT SYSTEM.—The system pursuant to the United States Housing Act of 1937, including the methods and requirements under such system for reporting, auditing, reviewing, sanctioning, and monitoring of such agencies and housing providers and the public housing management assessment program pursuant to section 6(j) of the United States Housing Act of 1937.

(2) ACCREDITATION MODELS.—Various models that are based upon accreditation of such agencies and housing providers, subject to the following requirements:

(A) The study shall identify and analyze various models used in other industries and professions for accreditation and determine the extent of their applicability to the

programs for public housing and federally assisted housing.

(B) If any accreditation models are determined to be applicable to the public and federally assisted housing programs, the study shall identify appropriate goals, objectives, and procedures for an accreditation program for such agencies and housing providers.

(C) The study shall evaluate the feasibility and merit of establishing an independent accreditation and evaluation entity to assist, supplement, or replace the role of the Department of Housing and Urban Development in assessing and monitoring the performance of such agencies and housing providers.

(D) The study shall identify the necessary and appropriate roles and responsibilities of various entities that would be involved in an accreditation program, including the Department of Housing and Urban Development, the Inspector General of the Department, an accreditation entity, independent auditors and examiners, local entities, and public housing agencies.

(E) The study shall estimate the costs involved in developing and maintaining such an independent accreditation program.

(3) PERFORMANCE BASED MODELS.—Various performance-based models, including systems that establish performance goals or targets, assess the compliance with such goals or targets, and provide for incentives or sanctions based on performance relative to such goals or targets.

(4) LOCAL REVIEW AND MONITORING MODELS.—Various models providing for local, resident, and community review and monitoring of such agencies and housing providers, including systems for review and monitoring by local and State governmental bodies and agencies.

(5) PRIVATE MODELS.—Various models using private contractors for review and monitoring of such agencies and housing providers.

(6) OTHER MODELS.—Various models of any other systems that may be more effective and efficient in regulating and evaluating such agencies and housing providers.

(d) CONSULTATION.—The entity that, pursuant to subsection (e), carries out the study under this section shall, in carrying out the study, consult with individuals and organizations experienced in managing public housing, private real estate managers, representatives from State and local governments, residents of public housing, families and individuals receiving tenant-based assistance, the Secretary of Housing and Urban Development, the Inspector General of the Department of Housing and Urban Development, and the Comptroller General of the United States.

(e) CONTRACT TO CONDUCT STUDY.—

(1) IN GENERAL.—Subject to paragraph (2), the Secretary shall enter into a contract, within 90 days of the enactment of

this Act [1], with a public or nonprofit private entity to conduct the study under this section, using amounts made available pursuant to subsection (g).

(2) NATIONAL ACADEMY OF PUBLIC ADMINISTRATION.—The Secretary shall request the National Academy of Public Administration to enter into the contract under paragraph (1) to conduct the study under this section. If such Academy declines to conduct the study, the Secretary shall carry out such paragraph through other public or nonprofit private entities, selected through a competitive process.

(f) REPORT.—

(1) INTERIM REPORT.—The Secretary shall ensure that, not later than the expiration of the 6-month period beginning on the date of the execution of the contract under subsection (e)(1), the entity conducting the study under this section submits to the Congress an interim report describing the actions taken to carry out the study, the actions to be taken to complete the study, and any findings and recommendations available at the time.

(2) FINAL REPORT.—The Secretary shall ensure that—

(A) not later than the expiration of the 12-month period beginning on the date of the execution of the contract under subsection (e)(1), the study required under this section is completed and a report describing the findings and recommendations as a result of the study is submitted to the Congress; and

(B) before submitting the report under this paragraph to the Congress, the report is submitted to the Secretary, national organizations for public housing agencies, and other appropriate national organizations at such time to provide the Secretary and such agencies an opportunity to review the report and provide written comments on the report, which shall be included together with the report upon submission to the Congress under subparagraph (A).

(g) EFFECTIVE DATE.—This section shall take effect on the date of the enactment of this Act. [1]

[1] The date of enactment was October 21, 1998.

AUDIT OF AND REPORT ON PHA PLANS

EXCERPT FROM QUALITY HOUSING AND WORK RESPONSIBILITY ACT OF 1998

[Public Law 105–276; 112 Stat. 2538; 42 U.S.C. 1437c–1]

SEC. 511. PUBLIC HOUSING AGENCY PLAN.

* * * * * * *

(c) [42 U.S.C. 1437c–1] AUDIT AND REVIEW; REPORT.—

(1) AUDIT AND REVIEW.—Not later than 1 year after the effective date of final regulations issued under subsection (b)(2) [1], in order to determine the degree of compliance, by public housing agencies, with public housing agency plans approved under section 5A of the United States Housing Act of 1937 (as added by subsection (a) of this section), the Comptroller General of the United States shall conduct—

(A) a review of a representative sample of the public housing agency plans approved under such section 5A before such date; and

(B) an audit and review of the public housing agencies submitting such plans.

(2) REPORT.—Not later than 2 years after the date on which public housing agency plans are initially required to be submitted under section 5A of the United States Housing Act of 1937 (as added by subsection (a) of this section) the Comptroller General of the United States shall submit to the Congress a report, which shall include—

(A) a description of the results of each audit and review under paragraph (1); and

(B) any recommendations for increasing compliance by public housing agencies with their public housing agency plans approved under section 5A of the United States Housing Act of 1937 (as added by subsection (a) of this section).

* * * * * * *

[1] Under such subsection, final regulations are required to be issued by the Secretary of Housing and Urban Development not later than 1 year after the date of the enactment of the Quality Housing and Work Responsibility Act of 1998, which was approved on October 21, 1998.

ACCESS TO PUBLIC HOUSING AGENCIES' BOOKS

EXCERPT FROM HOUSING ACT OF 1954

[Public Law 560, 83d Congress; 68 Stat. 647; 42 U.S.C. 1435]

AUDITS UNDER PUBLIC HOUSING ACT OF 1937; COMPTROLLER GENERAL

SEC. 816. [42 U.S.C. 1435] Every contract for loans or annual contributions under the United States Housing Act of 1937, as amended, shall provide that the Secretary of Housing and Urban Development and the Comptroller General of the United States, or any of their duly authorized representatives, shall, for the purpose of audit and examination, have access to any books, documents, papers, and records of the public housing agency entering into such contract that are pertinent to its operations with respect to financial assistance under the United States Housing Act of 1937, as amended.

MISCELLANEOUS PROVISIONS

EXCERPTS FROM TITLE III OF OMNIBUS BUDGET RECONCILIATION ACT OF 1981 (HOUSING AND COMMUNITY DEVELOPMENT AMENDMENTS OF 1981)

[Public Law 97–35; 95 Stat. 406; 42 U.S.C. 1437 note, 1437j; 12 U.S.C. 2294a]

MISCELLANEOUS HOUSING ASSISTANCE PROVISIONS

SEC. 326. * * *

* * * * * * *

(d) [42 U.S.C. 1437f note] RENTAL ASSISTANCE FRAUD RECOVERIES.—

(1) AUTHORITY TO RETAIN RECOVERED AMOUNTS.—The Secretary of Housing and Urban Development shall permit public housing agencies administering the housing assistance payments program under section 8 of the United States Housing Act of 1937 to retain, out of amounts obtained by the agencies from tenants that are due as a result of fraud and abuse, an amount (determined in accordance with regulations issued by the Secretary) equal to the greater of—

(A) 50 percent of the amount actually collected, or

(B) the actual, reasonable, and necessary expenses related to the collection, including costs of investigation, legal fees, and collection agency fees.

(2) USE.—Amounts retained by an agency shall be made available for use in support of the affected program or project, in accordance with regulations issued by the Secretary. Where the Secretary is the principal party initiating or sustaining an action to recover amounts from families or owners, the provisions of this section shall not apply.

(3) RECOVERY.—Amounts may be recovered under this paragraph—

(A) by an agency through a lawsuit (including settlement of the lawsuit) brought by the agency or through court-ordered restitution pursuant to a criminal proceeding resulting from an agency's investigation where the agency seeks prosecution of a family or where an agency seeks prosecution of an owner; or

(B) through administrative repayment agreements with a family or owner entered into as a result of an administrative grievance procedure conducted by an impartial decisionmaker in accordance with section 6(k) of the United States Housing Act of 1937.

* * * * * * *

PURCHASE OF PHA OBLIGATIONS

SEC. 329E. [12 U.S.C. 2294a] In addition to any authority provided before October 1, 1981, the Secretary of Housing and Urban Development may, on and after October 1, 1981, 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 16(b) of the Federal Financing Bank Act of 1973) issued by local public housing agencies for purposes of financing public housing projects authorized by section 5(c) of the United States Housing Act of 1937. Notwithstanding any other provision of law, such contracts may be entered into only to the extent approved in appropriation Acts, and the aggregate amount which may be obligated over the duration of such contracts may not exceed $400,000,000. There are hereby authorized to be appropriated any amounts necessary to provide for such payments. The authority to enter into contracts under this subsection shall be in lieu of any authority (except for authority provided specifically to the Secretary before October 1, 1981) of the Secretary to enter into contracts for such purposes under section 16(b) of the Federal Financing Bank Act of 1973.

PROCUREMENT OF INSURANCE BY PUBLIC HOUSING AGENCIES

EXCERPT FROM DEPARTMENTS OF VETERANS AFFAIRS AND HOUSING AND URBAN DEVELOPMENT, AND INDEPENDENT AGENCIES APPROPRIATIONS ACT, 1992

[Public Law 102–139; 105 Stat. 758; 42 U.S.C. 1436c]

* * * * * * *

Hereafter, notwithstanding any other provision of State or Federal law, regulation or other requirement, any public housing agency or Indian housing authority that purchases any line of insurance from a nonprofit insurance entity, owned and controlled by public housing agencies or Indian housing authorities, and approved by the Secretary, may purchase such insurance without regard to competitive procurement.

Hereafter, the Secretary shall establish standards as set forth herein, by regulation, adopted after notice and comment rulemaking pursuant to the Administrative Procedures Act, which will become effective not later than one year from the effective date of this Act. [1]

Hereafter, in establishing standards for approval of such nonprofit insurance entities, the Secretary shall be assured that such entities have sufficient surplus capital to meet reasonably expected losses, reliable accounting systems, sound actuarial projections, and employees experienced in the insurance industry. The Secretary shall not place restrictions on the investment of funds of any such entity that is regulated by the insurance department of any State that describes the types of investments insurance companies licensed in such State may make. With regard to such entities that are not so regulated, the Secretary shall establish investment guidelines that are comparable to State law regulating the investments of insurance companies.

Hereafter, the Secretary shall not approve additional nonprofit insurance entities until such standards have become final, nor shall the Secretary revoke the approval of any nonprofit insurance entity previously approved by the Department unless for cause and after a due process hearing.

Hereafter, until the Department of Housing and Urban Development has adopted regulations specifying the nature and quality of insurance covering the potential personal injury liability exposure of public housing authorities and Indian housing authorities (and their contractors, including architectural and engineering services) as a result of testing and abatement of lead-based paint in federally subsidized public and Indian housing units, said authorities shall be permitted to purchase insurance for such risk, as an allow-

[1] The date of enactment was October 28, 1991.

able expense against amounts available for capital improvements (modernization): *Provided,* That such insurance is competitively selected and that coverage provided under such policies, as certified by the authority, provides reasonable coverage for the risk of liability exposure, taking into consideration the potential liability concerns inherent in the testing and abatement of lead-based paint, and the managerial and quality assurance responsibilities associated with the conduct of such activities.

ADVISORY COUNCIL FOR HOUSING AUTHORITY OF NEW ORLEANS

EXCERPT FROM QUALITY HOUSING AND WORK RESPONSIBILITY ACT OF 1998

[Public Law 105–276; 112 Stat. 2632]

SEC. 567. ADVISORY COUNCIL FOR HOUSING AUTHORITY OF NEW ORLEANS.

(a) ESTABLISHMENT.—The Secretary and the Housing Authority of New Orleans (in this section referred to as the "Housing Authority") shall, pursuant to the cooperative endeavor agreement in effect between the Secretary and the Housing Authority, establish an advisory council for the Housing Authority of New Orleans (in this section referred to as the "advisory council") that complies with the requirements of this section.

(b) MEMBERSHIP.—

(1) IN GENERAL.—The advisory council shall be appointed by the Secretary, not later than 90 days after the date of the enactment of this Act [1], and shall be composed of the following members:

(A) The Inspector General of the Department of Housing and Urban Development (or the Inspector General's designee).

(B) Not more than 7 other members, who shall be selected for appointment based on their experience in successfully reforming troubled public housing agencies or in providing affordable housing in coordination with State and local governments, the private sector, affordable housing residents, or local nonprofit organizations.

(2) PROHIBITION ON ADDITIONAL PAY.—Members of the advisory council shall serve without compensation, but shall be reimbursed for travel, subsistence, and other necessary expenses incurred in the performance of their duties as members of the Board using amounts made available for technical assistance under section 9(h) of the United States Housing Act of 1937 (as amended by this Act).

(c) FUNCTIONS.—The advisory council shall—

(1) establish standards and guidelines for assessing the performance of the Housing Authority in carrying out operational, asset management, and financial functions for purposes of the reports and finding under subsections (d) and (e), respectively;

(2) provide advice, expertise, and recommendations to the Housing Authority regarding the management, operation, re-

[1] The date of enactment was October 21, 1998.

pair, redevelopment, revitalization, demolition, and disposition of public housing projects of the Housing Authority;

(3) report to the Congress under subsection (d) regarding any progress of the Housing Authority in improving the performance of its functions; and

(4) make a final finding to the Congress under subsection (e) regarding the future of the Housing Authority.

(d) QUARTERLY REPORTS.—The advisory council shall report to the Congress and the Secretary not less than every 3 months regarding the performance of the Housing Authority and any progress of the authority in improving its performance and carrying out its functions.

(e) FINAL FINDING.—Upon the expiration of the 18-month period that begins upon the appointment under subsection (b)(1) of all members of the advisory council, the advisory council shall make and submit to the Congress and the Secretary a finding of whether the Housing Authority has substantially improved its performance, the performance of its functions, and the overall condition of the Authority such that the Authority should be allowed to continue to operate as the manager of the public housing of the Authority. In making the finding under this subsection, the advisory council shall consider whether the Housing Authority has made sufficient progress in the demolition and revitalization of the Desire Homes project, the revitalization of the St. Thomas Homes project, the appropriate allocation of operating subsidy amounts, and the appropriate expending of modernization amounts.

(f) RECEIVERSHIP.—If the advisory council finds under subsection (e) that the Housing Authority has not substantially improved its performance in a manner sufficient that the Authority should be allowed to continue to operate as the manager of the public housing of the Authority, the Secretary shall (notwithstanding the conditions required under section 6(j)(3)(A) of the United States Housing Act of 1937 for action under such section) petition under clause (ii) of section 6(j)(3)(A) for the appointment of a receiver for the Housing Authority, which receivership shall be subject to the provisions of such section.

(g) REGULAR REMEDIES.—Nothing in this section, or in the cooperative endeavor agreement in effect between the Secretary and the Housing Authority, may be construed to prevent the Secretary from taking any action with respect to the Housing Authority, in accordance with such section 6(j)(3) of the United States Housing Act of 1937 (42 U.S.C. 1437d(j)(3)), as amended by this Act, that is authorized under section.

(f) EFFECTIVE DATE.—This section shall take effect on the date of the enactment of this Act. [1]

[1] October 21, 1998.

TRANSITIONAL CEILING RENTS FOR PUBLIC HOUSING

EXCERPT FROM QUALITY HOUSING AND WORK RESPONSIBILITY ACT OF 1998

[Public Law 105–276; 112 Stat. 2561; 42 U.S.C. 1437a note]

SEC. 519. PUBLIC HOUSING CAPITAL AND OPERATING FUNDS.

* * * * * * *

(d) [42 U.S.C. 1437a note] TRANSITIONAL CEILING RENTS.—Notwithstanding section 3(a)(1) of the United States Housing Act of 1937 (42 U.S.C. 1437a(1)), during the period ending upon the later of the implementation of the formulas established pursuant to subsections (d)(2) and (e)(2) of such Act (as amended by this section) and October 1, 1999, a public housing agency may take any of the following actions with respect to public housing:

(1) NEW PROVISIONS.—An agency may—

(A) adopt and apply ceiling rents that reflect the reasonable market value of the housing, but that are not less than—

(i) for housing other than housing predominantly for elderly or disabled families (or both), 75 percent of the monthly cost to operate the housing of the agency;

(ii) for housing predominantly for elderly or disabled families (or both), 100 percent of the monthly cost to operate the housing of the agency; and

(iii) the monthly cost to make a deposit to a replacement reserve (in the sole discretion of the public housing agency); and

(B) allow families to pay ceiling rents referred to in subparagraph (A), unless, with respect to any family, the ceiling rent established under this paragraph would exceed the amount payable as rent by that family under paragraph (1).

(2) CEILING RENTS FROM BALANCED BUDGET ACT, I.—An agency may utilize the authority under section 3(a)(2) of the United States Housing Act of 1937 (42 U.S.C. 1437a(a)(2)), as in effect immediately before the enactment of this Act [1], notwithstanding any amendment to such section made by this Act.

(3) TRANSITIONAL CEILING RENTS FOR BALANCED BUDGET ACT, I.—An agency may utilize the authority with respect to ceiling rents under section 402(b)(2) of The Balanced Budget Downpayment Act, I (42 U.S.C. 1437a note), notwithstanding any other provision of law (including the expiration of the applicability of such section or the repeal of such section).

* * * * * * *

[1] October 21, 1998.

(g) EFFECTIVE DATE.—Subsections (d), (e), and (f) shall take effect upon the date of the enactment of this Act.

LIMITATION ON PUBLIC HOUSING ASSISTANCE

EXCERPT FROM DEPARTMENTS OF VETERANS AFFAIRS AND HOUSING AND URBAN DEVELOPMENT, AND INDEPENDENT AGENCIES APPROPRIATIONS ACT, 1999

[Public Law 105–276; 112 Stat. 2490; 42 U.S.C. 1437 note]

SEC. 226. [42 U.S.C. 1437 note] FUNDING OF CERTAIN PUBLIC HOUSING.—Notwithstanding any other provision of law, no funds in this Act or any other Act may hereafter be used by the Secretary of Housing and Urban Development to determine allocations or provide assistance for operating subsidies or modernization for certain State and city funded and locally developed public housing units, as defined for purposes of a statutory paragraph, notwithstanding the deeming by statute of such units to be public housing units developed under the United States Housing Act of 1937, unless such unit was so assisted before October 1, 1998.

URBAN REVITALIZATION DEMONSTRATION FOR MAJOR RECONSTRUCTION OF SEVERELY DISTRESSED AND OBSOLETE PUBLIC HOUSING

EXCERPT FROM DEPARTMENTS OF VETERANS AFFAIRS AND HOUSING AND URBAN DEVELOPMENT, AND INDEPENDENT AGENCIES APPROPRIATIONS ACT, 1993

[Public Law 102–389; 106 Stat. 1579; 42 U.S.C. 1437l note]

HOMEOWNERSHIP AND OPPORTUNITY FOR PEOPLE EVERYWHERE GRANTS (HOPE GRANTS)

* * * * * * *

Furthermore, $300,000,000 shall be for grants to carry out an urban revitalization demonstration program involving major reconstruction of severely distressed or obsolete public housing projects [1], to be administered by local public housing agencies: *Provided,* That such funding shall be made available to up to 15 cities selected from either the 40 most populous United States cities or, from any city whose housing authority was considered to have been on the Department's troubled housing authorities list as of March 31, 1992: *Provided further,* That no more than $50,000,000 shall be provided to each participating municipality: *Provided further,* That no more than 500 units shall be funded for each participating city and such units shall be located in up to 3 separately defined areas containing the community's most severely distressed projects, including family high-rise projects: *Provided further,* That at least 80 per centum of the funding provided to each participating public housing agency shall be used for the capital costs of major reconstruction, rehabilitation and other physical improvements, for the capital costs of replacement units and for certificates under section 8(b) used for replacement and for management improvements for the reconstructed project and for planning and technical assistance purposes and not more than 20 per centum shall be used for community service programs (as defined by the Commission on National and Community Service) and for supportive services, including, but not limited to, literacy training, job training, day care, youth activities, administrative expenses, and the permissive and mandatory services authorized under the Gateway Program established in the Family Support Centers demonstration program, provided for in 42 U.S.C. 11485e–f: *Provided further,* That each participating city shall make contributions for supportive services in an amount equal to 15 per centum of the funding provided for sup-

[1] Additional provisions relating to annual appropriations for the urban revitalization demonstration program established under this provision (known as the URD program), administration of the program, and specific requirements were contained in the following appropriation Acts: (1) Departments of Veterans Affairs and Housing and Urban Development, and Independent Agencies Appropriations Act, 1994 (Public Law 103–124; 107 Stat. 1285). (2) Departments of Veterans Affairs and Housing and Urban Development, and Independent Agencies Appropriations Act, 1995 (Public Law 103–327; 108 Stat. 2308).

portive services pursuant to the immediately preceding proviso: *Provided further,* That all such contributions from participating jurisdictions for supportive services shall be derived from non-Federal sources: *Provided further,* That each participating community shall submit a plan for program implementation which is consistent with the local comprehensive housing affordability strategy prepared pursuant to section 105 of the Cranston-Gonzalez National Affordable Housing Act and which has the approval of the local governing body: *Provided further,* That each plan shall include a community services component, but no funds are to be disbursed pursuant to this paragraph until such community services program has been approved by the Commission on National and Community Service: *Provided further,* That funds made available pursuant to this paragraph may be used in conjunction with, but not in lieu of, funding provided under the head "Modernization of Low-Income Housing Projects" for the modernization of existing public housing projects pursuant to section 14 of the Act (42 U.S.C. 1437l); for construction or major reconstruction of obsolete public housing, other than for Indian families; for the replacement of public housing units pursuant to section 18 of the Act; and for the HOPE for Public and Indian Housing Homeownership program as authorized under title III of the Act: *Provided further,* That notwithstanding the provisions of section 18(b)(3) of the Act, units demolished, disposed of or otherwise eliminated under this demonstration may be replaced as follows: one-third by certificates under section 8(b) and the balance by any combination of conventional public housing and units acquired or otherwise provided for homeownership under section 5(h) of the Act, housing made available through housing opportunity programs of construction or substantial rehabilitation of homes meeting essentially the same eligibility requirements as those established pursuant to sections 603–607 of the Housing and Community Development Act of 1987 (Public Law 100–242), or under the HOPE II or III programs, as established under sections 421 and 441 of the Cranston-Gonzalez National Affordable Housing Act; persons displaced by the reconstruction activities provided for herein shall be eligible for these replacement units: *Provided further,* That, in order to be eligible for funding under this paragraph, applications for funding must be received within 180 days from the date the Notice of Funds Availability is published in the Federal Register: *Provided further,* That the Secretary of the Department of Housing and Urban Development shall issue a notice of funds availability within 90 days of enactment of this paragraph: *Provided further,* That the Secretary shall determine which cities have been selected to participate in the program within 90 days of the timely receipt of the last eligible application: *Provided further,* That housing authorities, in submitting their application for funds under this paragraph, shall identify all severely distressed public housing developments, using the criteria set forth by the National Commission on Severely Distressed Public Housing: *Provided further,* That nothing in this paragraph shall prohibit the Secretary from conforming the program standards and criteria set forth herein, with subsequent authorization legislation that may be enacted into law: *Provided further,* That the authority in the immediately preceding proviso shall not apply to any legislation that excludes or otherwise

limits self-sufficiency or community service activities set forth in this paragraph, or authorize reallocation of amounts available for obligation which are included in this paragraph: *Provided further,* That any troubled housing authority that applies for funds under this paragraph, shall not be eligible if the Secretary certifies to the Congress that they are not making substantial progress to eliminate their troubled status in accordance with section 6(j) of the Housing Act of 1937, as amended: *Provided further,* That in the event that communities applying for funding under this paragraph also request funding under any other HOPE program authorized under title III or title IV of the Cranston-Gonzalez National Affordable Housing Act, the Secretary shall process such applications concurrently and in an expeditious manner: *Provided further,* That, in the event that any application received from the cities initially selected to participate in this program is determined to be unacceptable, the Secretary shall select another city from the 40 most populous United States cities to receive funding under this paragraph: *Provided further,* That, in the event that communities selected to receive funding do not proceed in a manner consistent with the plan approved for that community, the Secretary may withdraw any unobligated balances of funding made available pursuant to this paragraph and distribute such funds to other eligible communities.

MENTAL HEALTH ACTION PLANS

EXCERPT FROM QUALITY HOUSING AND WORK RESPONSIBILITY ACT OF 1998

[Public Law 105–276; 112 Stat. 2550; 42 U.S.C. 1437 note]

SEC. 517.[1] [42 U.S.C. 1437 note] MENTAL HEALTH ACTION PLAN.

The Secretary of Housing and Urban Development, in consultation with the Secretary of Health and Human Services, the Secretary of Labor, and appropriate State and local officials and representatives, shall—

(1) develop an action plan and list of recommendations for the improvement of means of providing severe mental illness treatment to families and individuals receiving housing assistance under the United States Housing Act of 1937, including public housing residents, residents of multifamily housing assisted with project-based assistance under section 8 of such Act, and recipients of tenant-based assistance under such section; and

(2) develop and disseminate a list of current practices among public housing agencies and owners of assisted housing that serve to benefit persons in need of mental health care.".[2]

[1] Section 503 of the Quality Housing and Work Responsibility Act of 1998, Public Law 105–276, approved October 21, 1998 (set forth in the footnote on page 114 of this compilation), provides that such Act takes effect on October 1, 1999, except as otherwise specifically provided in such Act and except to the extent that the Secretary provides by notice for earlier implementation of any provision of such Act.

[2] So in law.

ANNUAL REPORT REGARDING 1998 ACT

EXCERPT FROM QUALITY HOUSING AND WORK RESPONSIBILITY ACT OF 1998

[Public Law 105–276; 112 Stat. 2643; 42 U.S.C. 1437 note]

SEC. 581. [42 U.S.C. 1437 note] ANNUAL REPORT.

(a) IN GENERAL.—Not later than 1 year after the date of the enactment of this Act, and annually thereafter, the Secretary shall submit a report to the Congress on—

(1) the impact of the amendments made by this Act on—

(A) the demographics of public housing residents and families receiving tenant-based assistance under the United States Housing Act of 1937; and

(B) the economic viability of public housing agencies; and

(2) the effectiveness of the rent policies established by this Act and the amendments made by this Act on the employment status and earned income of public housing residents.

(b) EFFECTIVE DATE.—This section shall take effect on the date of the enactment of this Act. [1]

[1] October 21, 1998.

CONSULTATION WITH AFFECTED AREAS IN SETTLEMENT OF LITIGATION

EXCERPT FROM QUALITY HOUSING AND WORK RESPONSIBILITY ACT OF 1998

[Public Law 105–276; 112 Stat. 2668; 42 U.S.C. 1436d]

SEC. 599H. ASSISTANCE FOR CERTAIN LOCALITIES.

* * * * * * *

(b) [42 U.S.C. 1436d] CONSULTATION WITH AFFECTED AREAS IN SETTLEMENT OF LITIGATION.—In negotiating any settlement of, or consent decree for, significant litigation regarding public housing or section 8 tenant-based assistance that involves the Secretary and any public housing agency or any unit of general local government, the Secretary shall seek the views of any units of general local government and public housing agencies having jurisdictions that are adjacent to the jurisdiction of the public housing agency involved, if the resolution of such litigation would involve the acquisition or development of public housing dwelling units or the use of vouchers under section 8 of the United States Housing Act of 1937 in jurisdictions that are adjacent to the jurisdiction of the public housing agency involved in the litigation.

* * * * * * *

(m) EFFECTIVE DATE.—This section 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. [1]

[1] October 21, 1998.