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TITLE 42--THE PUBLIC HEALTH AND WELFARE

CHAPTER 130--NATIONAL AFFORDABLE HOUSING

SUBCHAPTER II--INVESTMENT IN AFFORDABLE HOUSING

Sec. 211. Authority

The Secretary is authorized to make funds available to participating jurisdictions for investment to increase the number of families served with decent, safe, sanitary, and affordable housing and expand the long-term supply of affordable housing in accordance with provisions of this part.

(Pub. L. 101-625, title II, Sec. 211, Nov. 28, 1990, 104 Stat. 4096.)

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TITLE 42--THE PUBLIC HEALTH AND WELFARE

CHAPTER 130--NATIONAL AFFORDABLE HOUSING

SUBCHAPTER II--INVESTMENT IN AFFORDABLE HOUSING

Sec. 212. Eligible uses of investment

a. Housing uses

1. In general

Funds made available under this part may be used by participating jurisdictions to provide incentives to develop and support affordable rental housing and homeownership affordability through the acquisition, new construction, reconstruction, or moderate or substantial rehabilitation of affordable housing, including real property acquisition, site improvement, conversion, demolition, and other expenses, including financing costs, relocation expenses of any displaced persons, families, businesses, or organizations, to provide for the payment of reasonable administrative and planning costs, to provide for the payment of operating expenses of community housing development organizations, and to provide tenant-based rental assistance. For the purpose of this part, the term "affordable housing" includes permanent housing for disabled homeless persons, transitional housing, and single room occupancy housing.

2. Preference to rehabilitation

A participating jurisdiction shall give preference to rehabilitation of substandard housing unless the jurisdiction determines that--

- A. such rehabilitation is not the most cost effective way to meet the jurisdiction's need to expand the supply of affordable housing; and
- B. the jurisdiction's housing needs cannot be met through rehabilitation of the available stock.

The Secretary shall not restrict a participating jurisdiction's choice of rehabilitation, substantial rehabilitation, new construction, reconstruction, acquisition, or other eligible housing use unless such restriction is explicitly authorized under section 12753(2) of this title.

3. Tenant-based rental assistance

A. In general

A participating jurisdiction may use funds provided under this part for tenant-based rental assistance only if--

- i. the jurisdiction certifies that the use of funds under this part for tenant-based rental assistance is an essential element of the jurisdiction's annual housing strategy for expanding the supply, affordability, and availability of decent, safe, sanitary, and affordable housing, and specifies the local market conditions that lead to the choice of this option; and
- ii. the tenant-based rental assistance is provided in accordance with written tenant selection policies and criteria that are consistent with the purposes of providing housing to very low- and low-income families and are reasonably related to preference rules established under section 1437d(c)(4)(A) \1\ of this title.

\1\ See References in Text note below.

B. Fair share not affected

A jurisdiction's section 8 [42 U.S.C. 1437f] fair share allocation shall be unaffected by the use of assistance under this subchapter.

C. 24-month contracts

Rental assistance contracts made available with assistance under this subchapter shall be for not more than 24 months, except that assistance to a family may be renewed.

D. Use of section 1437f assistance

In any case where assistance under section 1437f of this title becomes available to a participating jurisdiction, recipients of rental assistance under this subchapter shall qualify for tenant

selection preferences to the same extent as when they received the rental assistance under this subchapter. A rental assistance program under this subchapter shall meet minimum criteria prescribed by the Secretary, such as housing quality standards and standards regarding the reasonableness of the rent.

E. Security deposit assistance

A jurisdiction using funds provided under this part for tenant-based rental assistance may use such funds to provide loans or grants to very low- and low-income families for security deposits for rental of dwelling units. Assistance under this subparagraph does not preclude assistance under any other provision of this paragraph.

4. Redesignated (3)

5. Lead-based paint hazards

A participating jurisdiction may use funds provided under this part for the evaluation and reduction of lead-based paint hazards, as defined in section 4851b of this title.

b. Investments

Participating jurisdictions shall have discretion to invest funds made available under this part as equity investments, interest-bearing loans or advances, noninterest-bearing loans or advances, interest subsidies or other forms of assistance that the Secretary has determined to be consistent with the purposes of this subchapter. Each participating jurisdiction shall have the right to establish the terms of assistance.

c. Administrative costs

In each fiscal year, each participating jurisdiction may use not more than 10 percent of the funds made available under this part to the jurisdiction for such year for any administrative and planning costs of the jurisdiction in carrying out this part, including the costs of the salaries of persons engaged in administering and managing activities assisted with funds made available under this part.

d. Prohibited uses

Funds made available under this part may not be used to--

1. defray any administrative cost of a participating jurisdiction that exceed the amount specified under subsection (c) of this section,
2. provide tenant-based rental assistance for the special purposes of the existing section 8 [42 U.S.C. 1437f] program, including replacing public housing that is demolished or disposed of, preserving federally assisted housing, assisting in the disposition of housing owned or held by the Secretary, preventing displacement from rental rehabilitation projects, or extending or renewing tenant-based assistance under section 1437f of this title,

3. provide non-Federal matching contributions required under any other Federal program,
4. provide assistance authorized under section 1437g of this title,
5. carry out activities authorized under section 1437g(d)(1) \1\ of this title, or
6. provide assistance to eligible low-income housing under the Emergency Low Income Housing Preservation Act of 1987 or the Low-Income Housing Preservation and Resident Homeownership Act of 1990 [12 U.S.C. 4101 et seq.].

e. Cost limits

1. In general

The Secretary shall establish limits on the amount of funds under this part that may be invested on a per unit basis. For multifamily housing, such limits shall not be less than the per unit dollar amount limitations set forth in section 1715l(d)(3)(ii) of title 12, as such limitations may be adjusted in accordance therewith, except that for purposes of this subsection the Secretary shall, by regulation, increase the per unit dollar amount limitations in any geographical area by an amount, not to exceed 140 percent, that equals the amount by which the costs of multifamily housing construction in the area exceed the national average of such costs. The limits shall be established on a market-by-market basis, with adjustments made for number of bedrooms, and shall reflect the actual cost of new construction, reconstruction, or rehabilitation of housing that meets applicable State and local housing and building codes and the cost of land, including necessary site improvements. Adjustments shall be made annually to reflect inflation. Separate limits may be set for different eligible activities.

2. Criteria

In calculating per unit limits, the Secretary shall take into account that assistance under this subchapter is intended to--

- A. provide nonluxury housing with suitable amenities;
- B. operate effectively in all jurisdictions;
- C. facilitate mixed-income housing; and
- D. reflect the costs associated with meeting the special needs of tenants or homeowners that the housing is designed to serve.

3. Consultation

In calculating cost limits, the Secretary shall consult with organizations that have expertise in the development of affordable housing, including national nonprofit organizations and national organizations representing private development firms and State and local governments.

f. Certification of compliance

The requirements of section 3545(d) of this title shall be satisfied by a certification by a participating jurisdiction to the Secretary that the

combination of Federal assistance provided to any housing project shall not be any more than is necessary to provide affordable housing.

g. Limitation on operating assistance

A participating jurisdiction may not use more than 5 percent of its allocation under this part for the payment of operating expenses for community housing development organizations.

(Pub. L. 101-625, title II, Sec. 212, Nov. 28, 1990, 104 Stat. 4097; Pub. L. 102-550, title II, Secs. 203(a), 204-207(b), (d), title X, Sec. 1012(e), Oct. 28, 1992, 106 Stat. 3752-3754, 3905; Pub. L. 105-276, title V, Sec. 522(b)(5), Oct. 21, 1998, 112 Stat. 2565.)

References in Text

Section 1437d(c)(4)(A) of this title, referred to in subsec. (a)(3)(A)(ii), was in the original "section 6(c)(4)(A) of the Housing Act of 1937", and was translated as reading "section 6(c)(4)(A) of the United States Housing Act of 1937", act Sept. 1, 1937, ch. 896, to reflect the probable intent of Congress.

Section 1437g(d)(1) of this title, referred to in subsec. (d)(5), was in the original "section 9(d)(1) of the Housing Act of 1937", and was translated as reading "section 9(d)(1) of the United States Housing Act of 1937", act Sept. 1, 1937, ch. 896, to reflect the probable intent of Congress.

The Emergency Low Income Housing Preservation Act of 1987, referred to in subsec. (d)(6), is title II of Pub. L. 100-242, Feb. 5, 1988, 102 Stat. 1877, as amended, which was classified principally as a note under section 1715l of Title 12, Banks and Banking. Title II of Pub. L. 100-242, was amended generally by Pub. L. 101-625, title VI, Sec. 601(a), Nov. 28, 1990, 104 Stat. 4249, and is now known as the Low-Income Housing Preservation and Resident Homeownership Act of 1990, which is classified principally to chapter 42 (Sec. 4101 et seq.) of Title 12. For complete classification of this Act to the Code, see Short Title note set out under section 4101 of Title 12 and Tables.

Amendments

1998--Subsec. (d)(5). Pub. L. 105-276 substituted "section 1437g(d)(1)" for "section 1437l".

1992--Subsec. (a)(1). Pub. L. 102-550, Sec. 207(a), inserted "to provide for the payment of reasonable administrative and planning costs, to provide for the payment of operating expenses of community housing development organizations," after "or organizations,".

Pub. L. 102-550, Sec. 205, inserted at end "For the purpose of this part, the term 'affordable housing' includes permanent housing for disabled homeless persons, transitional housing, and single room occupancy housing."

Subsec. (a)(2). Pub. L. 102-550, Sec. 203(a)(1), struck out "under paragraph (3) of this subsection or" after "authorized" in concluding provisions.

Subsec. (a)(3). Pub. L. 102-550, Sec. 204(b), added cl. (ii) of par. (3)(A) and struck out former cl. (ii) which read as follows: "the tenant-based rental assistance is provided to persons from the waiting lists eligible for section 8 assistance in accordance with the applicable preferences."

Pub. L. 102-550, Sec. 204(a), added subpar. (E).

Pub. L. 102-550, Sec. 203(a)(2), (3), redesignated par. (4) as (3) and struck out former par. (3) which provided for conditions for new construction of housing.

Subsec. (a)(4). Pub. L. 102-550, Sec. 203(a)(3), redesignated par. (4) as (3).

Subsec. (a)(5). Pub. L. 102-550, Sec. 1012(e), added par. (5).

Subsec. (c). Pub. L. 102-550, Sec. 207(b)(3), added subsec. (c).

Former subsec. (c) redesignated (d).

Pub. L. 102-550, Sec. 207(b)(1), inserted before comma at end of par. (1) "that exceed the amount specified under subsection (c) of this section".

Subsec. (d). Pub. L. 102-550, Sec. 207(b)(2), redesignated subsec. (c) as (d).

Former subsec. (d) redesignated (e).

Pub. L. 102-550, Sec. 206, inserted after first sentence of par. (1) "For multifamily housing, such limits shall not be less than the per unit dollar amount limitations set forth in section 1715I(d)(3)(ii) of title 12, as such limitations may be adjusted in accordance therewith, except that for purposes of this subsection the Secretary shall, by regulation, increase the per unit dollar amount limitations in any geographical area by an amount, not to exceed 140 percent, that equals the amount by which the costs of multifamily housing construction in the area exceed the national average of such costs."

Subsecs. (e), (f). Pub. L. 102-550, Sec. 207(b)(2), redesignated subsecs. (d) and (e) as (e) and (f), respectively.

Subsec. (g). Pub. L. 102-550, Sec. 207(d), added subsec. (g).

Effective Date of 1998 Amendment

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

Effective Date of 1992 Amendment

Amendment by sections 203-207 of Pub. L. 102-550 applicable to unexpended funds allocated under subchapter II of this chapter in fiscal year 1992, except as otherwise specifically provided, see section 223 of Pub. L. 102-550, set out as a note under section 12704 of this title.

Section Referred to in Other Sections

This section is referred to in sections 12747, 12772 of this title; title 12 section 4116.

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TITLE 42--THE PUBLIC HEALTH AND WELFARE

CHAPTER 130--NATIONAL AFFORDABLE HOUSING

SUBCHAPTER II--INVESTMENT IN AFFORDABLE HOUSING

Part A--HOME Investment Partnerships

Sec. 213. Development of model programs

a. In general

The Secretary shall--

1. in cooperation with participating jurisdictions, government-sponsored mortgage finance corporations, nonprofit organizations, the private sector, and other appropriate parties, develop, test, evaluate, refine, and, as necessary, replace a selection of model programs designed to carry out the purposes of this subchapter;
2. make available to participating jurisdictions alternative model programs, which shall include suggested guidelines, procedures, forms, legal documents and such other elements as the Secretary determines to be appropriate;
3. assure, insofar as is feasible, the availability of an appropriate variety of model programs designed for local market conditions, housing problems, project characteristics, and managerial capacities as they differ among participating jurisdictions;
4. negotiate and enter into agreements with agencies of the Federal Government, participating jurisdictions, private financial institutions, government-sponsored mortgage finance corporations, nonprofit organizations, and other entities to provide such services, products, or financing as may be required for the implementation of a model program;
5. provide detailed information on model programs as requested by participating jurisdictions, private financial institutions, developers, nonprofit organizations, and other interested parties; and
6. encourage the use of such model programs to achieve efficiency, economies of scale, and effectiveness in the investment of funds made available under this part through third-party training, printed materials, and such other means of support as the Secretary determines will achieve the purpose of this subchapter.

- b. Adoption of programs
Except as provided in section 12753(2) of this title, each participating jurisdiction shall have the discretion to adopt one or more model programs, adapt one or more model programs to its own requirements, design additional forms of assistance by itself or in cooperation with other participating jurisdictions, and suggest additional model programs for adoption by the Secretary as the participating jurisdiction may deem appropriate, and the Secretary may assist a participating jurisdiction in adopting, adapting, or designing one or more model programs.

- c. Part D programs
The selection of model programs to be made available for adoption or adaptation shall include programs meeting the criteria set forth in part D of this subchapter.

(Pub. L. 101-625, title II, Sec. 213, Nov. 28, 1990, 104 Stat. 4100.)

Section Referred to in Other Sections

This section is referred to in sections 12753, 12801 of this title.

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TITLE 42--THE PUBLIC HEALTH AND WELFARE

CHAPTER 130--NATIONAL AFFORDABLE HOUSING

SUBCHAPTER II--INVESTMENT IN AFFORDABLE HOUSING

Part A--HOME Investment Partnerships

Sec. 214. Income targeting

Each participating jurisdiction shall invest funds made available under this part within each fiscal year so that--

- 1. with respect to rental assistance and rental units--
 - A. not less than 90 percent of
 - i. the families receiving such rental assistance are families whose incomes do not exceed 60 percent 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 60 percent 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 cost or fair market rent, or unusually high or low family income) at the time of occupancy or at the time funds are invested, whichever is later, or
- ii. the dwelling units assisted with such funds are occupied by families having such incomes; and

- B. the remainder of
 - i. the families receiving such rental assistance are households that qualify as low-income families (other than families described in subparagraph (A)) at the time of occupancy or at the time funds are invested, whichever is later, or
 - ii. the dwelling units assisted with such funds are occupied by such households;

2. with respect to homeownership assistance, 100 percent of such funds are invested with respect to dwelling units that are occupied by households that qualify as low-income families; and
3. all such funds are invested with respect to housing that qualifies as affordable housing under section 12745 of this title.

(Pub. L. 101-625, title II, Sec. 214, Nov. 28, 1990, 104 Stat. 4101; Pub. L. 103-233, title II, Sec. 202, Apr. 11, 1994, 108 Stat. 364; Pub. L. 105-276, title V, Sec. 599B(a), Oct. 21, 1998, 112 Stat. 2660.)

Amendments

1998--Par. (2). Pub. L. 105-276 struck out "at the time of occupancy or at the time funds are invested, whichever is later" before "; and".

1994--Par. (1)(A). Pub. L. 103-233, Sec. 202(1), substituted "(i) the families receiving such rental assistance are" for "such funds are invested with respect to dwelling units that are occupied by", ", or" for ", and" before cl. (ii), and added cl. (ii).

Par. (1)(B). Pub. L. 103-233, Sec. 202(2), substituted "(i) the families receiving such rental assistance are" for "such funds are invested with respect to dwelling units that are occupied by" and added cl. (ii).

Effective Date of 1998 Amendment

Pub. L. 105-276, title V, Sec. 599B(c), Oct. 21, 1998, 112 Stat. 2660, provided that: "The amendments made by this section [amending this section and section 12745 of this title] are made on, and shall apply beginning upon, the date of the enactment of this Act [Oct. 21, 1998]."

Effective Date of 1994 Amendment

Amendment by Pub. L. 103-233 applicable with respect to any amounts made available to carry out this subchapter after Apr. 11, 1994, and any amounts made available to carry out this subchapter before that date that remain uncommitted on that date, with Secretary to issue any regulations necessary to carry out such amendment not later than end of 45-day period beginning on that date, see section 209 of Pub. L. 103-233, set out as a note under section 5301 of this title.

Section Referred to in Other Sections

This section is referred to in sections 12747, 12802 of this title.

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TITLE 42--THE PUBLIC HEALTH AND WELFARE

CHAPTER 130--NATIONAL AFFORDABLE HOUSING

SUBCHAPTER II--INVESTMENT IN AFFORDABLE HOUSING

Part A--HOME Investment Partnerships

Sec. 215. Qualification as affordable housing

a. Rental housing

1. Qualification

Housing that is for rental shall qualify as affordable housing under this subchapter only if the housing--

A. bears rents not greater than the lesser of

- i. the existing fair market rent for comparable units in the area as established by the Secretary under section 1437f of this title, or
- ii. a rent that does not exceed 30 percent of the adjusted income of a family whose income equals 65 percent of the median income for the area, as determined by the Secretary, with adjustment for number of bedrooms in the unit, except that the Secretary may establish income ceilings higher or lower than 65 percent 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 fair market rents, or unusually high or low family incomes;

- B. has not less than 20 percent of the units
 - i. occupied by very low-income families who pay as a contribution toward rent (excluding any Federal or State rental subsidy provided on behalf of the family) not more than 30 percent of the family's monthly adjusted income as determined by the Secretary, or
 - ii. occupied by very low-income families and bearing rents not greater than the gross rent for rent-restricted residential units as determined under section 42(g)(2) of title 26;

- C. is occupied only by households that qualify as low-income families;
- D. is not refused for leasing to a holder of a voucher or certificate of eligibility under section 1437f of this title because of the status of the prospective tenant as a holder of such voucher or certificate of eligibility;
- E. will remain affordable, according to binding commitments satisfactory to the Secretary, for the remaining useful life of the property, as determined by the Secretary, without regard to the term of the mortgage or to transfer of ownership, or for such other period that the Secretary determines is the longest feasible period of time consistent with sound economics and the purposes of this Act, except upon a foreclosure by a lender (or upon other transfer in lieu of foreclosure) if such action
 - i. recognizes any contractual or legal rights of public agencies, nonprofit sponsors, or others to take actions that would avoid termination of low-income affordability in the case of foreclosure or transfer in lieu of foreclosure, and
 - ii. is not for the purpose of avoiding low income affordability restrictions, as determined by the Secretary; and

- F. if newly constructed, meets the energy efficiency standards promulgated by the Secretary in accordance with section 12709 of this title.

2. Adjustment of qualifying rent

The Secretary may adjust the qualifying rent established for a project under subparagraph (A) of paragraph (1), only if the Secretary finds that such adjustment is necessary to support the continued financial viability of the project and only by such amount as the Secretary determines is necessary to maintain continued financial viability of the project.

3. Increases in tenant income

Housing shall qualify as affordable housing despite a temporary noncompliance with subparagraph (B) or (C) of paragraph (1) if such

noncompliance is caused by increases in the incomes of existing tenants and if actions satisfactory to the Secretary are being taken to ensure that all vacancies are filled in accordance with paragraph (1) until such noncompliance is corrected. Tenants who no longer qualify as low-income families shall pay as rent the lesser of the amount payable by the tenant under State or local law or 30 percent of the family's adjusted monthly income, as recertified annually. The preceding sentence shall not apply with respect to funds made available under this Act for units that have been allocated a low-income housing tax credit by a housing credit agency pursuant to section 42 of title 26.

4. Mixed-income project

Housing that accounts for less than 100 percent of the dwelling units in a project shall qualify as affordable housing if such housing meets the criteria of this section.

5. Mixed-use project

Housing in a project that is designed in part for uses other than residential use shall qualify as affordable housing if such housing meets the criteria of this section.

b. Homeownership

Housing that is for homeownership shall qualify as affordable housing under this subchapter only if the housing--

1. has an initial purchase price that does not exceed 95 percent of the median purchase price for the area, as determined by the Secretary with such adjustments for differences in structure, including whether the housing is single-family or multifamily, and for new and old housing as the Secretary determines to be appropriate;
2. is the principal residence of an owner whose family qualifies as a low-income family--
 - A. in the case of a contract to purchase existing housing, at the time of purchase;
 - B. in the case of a lease-purchase agreement for existing housing or for housing to be constructed, at the time the agreement is signed; or
 - C. in the case of a contract to purchase housing to be constructed, at the time the contract is signed;
3. is subject to resale restrictions that are established by the participating jurisdiction and determined by the Secretary to be appropriate to--
 - A. allow for subsequent purchase of the property only by persons who meet the qualifications specified under paragraph (2), at a price which will--
 - i. provide the owner with a fair return on investment, including any improvements, and
 - ii. ensure that the housing will remain affordable to a reasonable range of low-income homebuyers; or

- B. recapture the investment provided under this subchapter in order to assist other persons in accordance with the requirements of this subchapter, except where there are no net proceeds or where the net proceeds are insufficient to repay the full amount of the assistance; and
4. if newly constructed, meets the energy efficiency standards promulgated by the Secretary in accordance with section 12709 of this title.

(Pub. L. 101-625, title II, Sec. 215, Nov. 28, 1990, 104 Stat. 4101; Pub. L. 102-550, title II, Secs. 208, 209, Oct. 28, 1992, 106 Stat. 3754; Pub. L. 103-233, title II, Sec. 203, Apr. 11, 1994, 108 Stat. 364; Pub. L. 105-276, title V, Sec. 599B(b), Oct. 21, 1998, 112 Stat. 2660.)

References in Text

This Act, referred to in subsec. (a)(1)(E), (3), is Pub. L. 101-625, Nov. 28, 1990, 104 Stat. 4079, known as the Cranston-Gonzalez National Affordable Housing Act. For complete classification of this Act to the Code, see Short Title note set out under section 12701 of this title and Tables.

Amendments

1998--Subsec. (b)(2). Pub. L. 105-276 amended par. (2) generally. Prior to amendment, par. (2) read as follows: "is the principal residence of an owner whose family qualifies as a low-income family at the time of purchase;".

1994--Subsec. (b)(3). Pub. L. 103-233, Sec. 203(a), redesignated par. (4) as (3) and struck out former par. (3) which read as follows: "is made available for initial purchase only to first-time homebuyers;".

Subsec. (b)(3)(B). Pub. L. 103-233, Sec. 203(b), substituted "subchapter" for "subsection" after "requirements of this".

Subsec. (b)(4), (5). Pub. L. 103-233, Sec. 203(a)(2), redesignated pars. (4) and (5) as (3) and (4), respectively.

1992--Subsec. (a)(1)(A). Pub. L. 102-550, Sec. 208(a)(1), substituted "number of bedrooms in the unit" for "smaller and larger families".

Subsec. (a)(1)(E). Pub. L. 102-550, Sec. 208(b), inserted before semicolon ", except upon a foreclosure by a lender (or upon other transfer in lieu of foreclosure) if such action (i) recognizes any contractual or legal rights of public agencies, nonprofit sponsors, or others to take actions that would avoid termination of low-income affordability in the case of foreclosure or transfer in lieu of foreclosure, and (ii) is not

for the purpose of avoiding low income affordability restrictions, as determined by the Secretary".

Subsec. (a)(3). Pub. L. 102-550, Sec. 208(a)(2), (3), substituted "the lesser of the amount payable by the tenant under State or local law or" for "not less than" in second sentence and inserted at end "The preceding sentence shall not apply with respect to funds made available under this Act for units that have been allocated a low-income housing tax credit by a housing credit agency pursuant to section 42 of title 26."

Subsec. (b)(4). Pub. L. 102-550, Sec. 209, added par. (4) and struck out former par. (4) which read as follows: "is made available for subsequent purchase only--
" (A) to persons who meet the qualifications specified under paragraph (2), and
"(B) at a price consistent with guidelines that are established by the participating jurisdiction and determined by the Secretary to be appropriate--
"(i) to provide the owner with a fair return on investment, including any improvements, and
"(ii) to ensure that the housing will remain affordable to a reasonable range of low income homebuyers; and".

Effective Date of 1998 Amendment

Amendment by Pub. L. 105-276 made on, and applicable beginning upon, Oct. 21, 1998, see section 599B(c) of Pub. L. 105-276, set out as a note under section 12744 of this title.

Effective Date of 1994 Amendment

Amendment by Pub. L. 103-233 applicable with respect to any amounts made available to carry out this subchapter after Apr. 11, 1994, and any amounts made available to carry out this subchapter before that date that remain uncommitted on that date, with Secretary to issue any regulations necessary to carry out such amendment not later than end of 45-day period beginning on that date, see section 209 of Pub. L. 103-233, set out as a note under section 5301 of this title.

Effective Date of 1992 Amendment

Amendment by Pub. L. 102-550 applicable to unexpended funds allocated under subchapter II of this chapter in fiscal year 1992, except as otherwise specifically provided, see section 223 of Pub. L. 102-550, set out as a note under section 12704 of this title.

Section Referred to in Other Sections

This section is referred to in sections 4851b, 12705, 12750 of this title.

TITLE 42--THE PUBLIC HEALTH AND WELFARE

CHAPTER 130--NATIONAL AFFORDABLE HOUSING

SUBCHAPTER II--INVESTMENT IN AFFORDABLE HOUSING

Part A--HOME Investment Partnerships

Sec. 216. Participation by States and local governments

The Secretary shall designate a State or unit of general local government to be a participating jurisdiction when it complies with procedures that the Secretary shall establish by regulation, which procedures shall only provide for the following:

1. Allocation

Not later than 20 days after funds to carry out this part become available (or, during the first year after November 28, 1990, not later than 20 days after (A) funds to carry out this part are provided in an appropriations Act, or (B) regulations to implement this part are promulgated, whichever is later), the Secretary shall allocate funds in accordance with section 12747 of this title and promptly notify each jurisdiction receiving a formula allocation of its allocation amount. If a jurisdiction is not already a participating jurisdiction, the Secretary shall inform the jurisdiction in writing how the jurisdiction may become a participating jurisdiction.

2. Consortia

A consortium of geographically contiguous units of general local government shall be deemed to be a unit of general local government for purposes of this subchapter if the Secretary determines that the consortium--

- A. has sufficient authority and administrative capability to carry out the purposes of this subchapter on behalf of its member jurisdictions, and
- B. will, according to a written certification by the State (or States, if the consortium includes jurisdictions in more than one State), direct its activities to alleviation of housing problems within the State or States.

3. Eligibility

- A. Except as provided in paragraph (10), a jurisdiction receiving a formula allocation under section 12747 of this title shall be eligible to become a participating jurisdiction if its formula allocation is \$750,000 or greater, or if the Secretary finds that--
 - i. the jurisdiction has a local housing authority and has demonstrated a capacity to carry out provisions of this part, and
 - ii. the State has authorized the Secretary to transfer to the jurisdiction a portion of the State's allocation that is equal to or greater than the difference between the jurisdiction's formula allocation and \$750,000, or the State or jurisdiction has made available from the State's or jurisdiction's own sources an equal

amount for use by the jurisdiction in conformance with the provisions of this part.

- B. If a jurisdiction has met the requirements of subparagraph (A), the jurisdiction's formula allocation for a fiscal year shall subsequently be deemed to equal the sum of the jurisdiction's allocation under section 12747(a)(1) of this title and the amount made available to the jurisdiction under subparagraph (A)(ii).

4. Notification

If an eligible jurisdiction notifies the Secretary in writing, not later than 30 days after receiving notification under paragraph (1), of its intention to become a participating jurisdiction, the Secretary shall reserve an amount equal to the jurisdiction's allocation (plus any reallocations for which the jurisdiction is eligible under section 12747(d)(1) of this title) pending the jurisdiction's designation as a participating jurisdiction. The Secretary shall reallocate, in accordance with paragraph (6) of this section, any funds reserved under the previous sentence if the Secretary determines that the jurisdiction will not meet the requirements for designation as a participating jurisdiction within a reasonable period of time.

5. Submission of strategy

Not later than 90 days after providing notification under paragraph (4), an eligible jurisdiction shall submit to the Secretary a comprehensive housing affordability strategy in accordance with section 12705 of this title.

6. Reallocation

If the Secretary determines that a jurisdiction has failed to meet the requirements of the previous 3 paragraphs or if the Secretary, after providing for amendments and resubmissions in accordance with section 12705(c)(3) of this title, disapproves the jurisdiction's comprehensive housing affordability strategy, the Secretary shall reallocate any funds reserved for the jurisdiction as follows:

A. State

If a State has failed to meet the requirements, the Secretary shall--

- i. make any funds reserved for the State available by direct reallocation among applications submitted by units of general local government within the State or consortia that include units of general local government within the State, insofar as approvable applications meeting the selection criteria under section 12747(c) of this title are received within 12 months after the funds become available for the direct reallocation, and
- ii. reallocate the remainder by formula in accordance with section 12747(b) of this title.

B. Local

If a unit of general local government has failed to meet the requirements and is located in a State that is a participating

jurisdiction, the Secretary shall reallocate to the State any funds reserved for the locality, with preference going to the provision of affordable housing within the locality.

C. Direct reallocation

If a unit of general local government has failed to meet the requirements and is located in a State that is not a participating jurisdiction, the Secretary shall--

- i. make any funds reserved for the locality available for use within the State by direct reallocation among units of general local government and community housing development organizations, insofar as approvable applications meeting the selection criteria under section 12747(c) of this title are received within 12 months after the funds become available for the direct reallocation with priority going to applications for affordable housing within the locality, and
- ii. reallocate the remainder in accordance with section 12747(b) of this title.

D. Certain jurisdictions deemed to be participating jurisdictions

If a State or unit of general local government is meeting the requirements of paragraphs (3), (4), and (5), it shall be deemed to be a participating jurisdiction for purposes of reallocation under this paragraph.

7. Designation

The Secretary shall designate an eligible jurisdiction to be a participating jurisdiction as soon as its comprehensive housing affordability strategy is approved in accordance with section 12705 of this title.

8. Continuous designation

Once a State or unit of general local government is designated a participating jurisdiction, it shall remain a participating jurisdiction for subsequent fiscal years, except as provided in paragraph (9). The provisions of paragraphs (3) through (6) shall not apply to participating jurisdictions.

9. Revocation

The Secretary may revoke a jurisdiction's designation as a participating jurisdiction if--

- A. the Secretary finds, after reasonable notice and opportunity for hearing, that the jurisdiction is unwilling or unable to carry out the provisions of this subchapter, or
- B. the jurisdiction's allocation falls below \$750,000 for 3 consecutive years, below \$625,000 for 2 consecutive years, or the jurisdiction does not receive a formula allocation of \$500,000 or more in any 1 year, except as provided in paragraph (10).

If a jurisdiction's designation as a participating jurisdiction is revoked, any remaining line of credit in the jurisdiction's HOME Investment Trust Fund established under section 12748 of this title

shall be reallocated in accordance with paragraph (6) of this section.

10. Threshold reduction

If the amount appropriated pursuant to section 12724 of this title for any fiscal year is less than \$1,500,000,000, then this section shall be applied during that year--

1. by substituting "\$500,000" for "\$750,000" both places it appears in paragraph (3); and
2. by substituting "\$500,000", "\$410,000", and "\$335,000" for "\$750,000", "\$625,000", and "\$500,000", respectively, where they appear in paragraph (9).

(Pub. L. 101-625, title II, Sec. 216, Nov. 28, 1990, 104 Stat. 4103; Pub. L. 102-550, title II, Sec. 202(a), Oct. 28, 1992, 106 Stat. 3751.)

Amendments

1992--Par. (3)(A). Pub. L. 102-550, Sec. 202(a)(1), substituted "Except as provided in paragraph (10), a jurisdiction" for "A jurisdiction".

Par. (9)(B). Pub. L. 102-550, Sec. 202(a)(2), inserted ", except as provided in paragraph (10)" after "in any 1 year".

Par. (10). Pub. L. 102-550, Sec. 202(a)(3), added par. (10).

Effective Date of 1992 Amendment

Amendment by Pub. L. 102-550 applicable to unexpended funds allocated under subchapter II of this chapter in fiscal year 1992, except as otherwise specifically provided, see section 223 of Pub. L. 102-550, set out as a note under section 12704 of this title.

Applicability of Grant Thresholds

Section 202(c) of Pub. L. 102-550 provided that: "Notwithstanding any other provision of law, the grant thresholds provided for in section 216 [42 U.S.C. 12746], as amended by this section, and the grant thresholds provided for in section 217(b) of the Cranston-Gonzalez National Affordable Housing Act [42 U.S.C. 12747(b)], as amended by this section, shall apply."

Section Referred to in Other Sections

This section is referred to in sections 12704, 12747, 12750 of this title.

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TITLE 42--THE PUBLIC HEALTH AND WELFARE

CHAPTER 130--NATIONAL AFFORDABLE HOUSING

SUBCHAPTER II--INVESTMENT IN AFFORDABLE HOUSING

Part A--HOME Investment Partnerships

Sec. 217. Allocation of Resources

a. In general

1. States and units of general local government

After reserving amounts under paragraph (3) for the insular areas, the Secretary shall allocate funds approved in an appropriation Act to carry out this subchapter by formula as provided in subsection (b) of this section. Of the funds made available under the preceding sentence, the Secretary shall initially allocate 60 percent among units of general local government and 40 percent among States.

2. Repealed. Pub. L. 104-330, title V, Sec. 505(a)(1)(B), Oct. 26, 1996, 110 Stat. 4044

3. \1\ Insular areas

\1\ See 1992 Amendment note below.

For each fiscal year, of any amounts approved in appropriation Acts to carry out this subchapter, the Secretary shall reserve for grants to the insular areas the greater of (A) \$750,000, or (B) 0.2 percent of the amounts appropriated under such Acts. The Secretary shall provide for the distribution of amounts reserved under this paragraph among the insular areas pursuant to specific criteria for such distribution, which shall be contained in a regulation issued by the Secretary.

b.

c. Formula allocation

1. In general

A. Basic formula

The Secretary shall establish in \2\ regulation an allocation formula that reflects each jurisdiction's share of total need among eligible jurisdiction \3\ for an increased supply of affordable housing for very low-income and low-income families of different size, as identified by objective measures of inadequate housing supply, substandard housing, the number of low-income families in housing likely to be in need of rehabilitation, the costs of producing housing, poverty, and the relative fiscal incapacity of the jurisdiction to carry out housing

activities eligible under section 12742 of this title without Federal assistance. Allocation among units of general local government shall take into account the housing needs of metropolitan cities, urban counties, and approved consortia of units of general local government.

\2\ So in original. Probably should be "by".

\3\ So in original. Probably should be "jurisdictions".

B. Source of data

The data to be used for formula allocation of funds within a fiscal year shall be data obtained from a standard source that are available to the Secretary 90 days prior to the beginning of that fiscal year.

C. Use of basic formula

The basic formula established under subparagraph (A) shall be used for all formula allocations and reallocations provided for in this part.

D. Weights

When allocation is made among States, the Secretary shall apply the formula in subparagraph (A) giving 20 percent weight to measures of need for the whole State and 80 percent weight to measures of need among units of general local government that are not receiving an allocation under section 12746(1) of this title.

E. Adjustments

In developing the basic formula in subparagraph (A), the Secretary shall

- i. avoid the allocation of an excessively large share of amounts made available under this part to any one State or unit of general local government, and
- ii. take into account the need for a geographic distribution of amounts made available under this part that appropriately reflects the housing need in each region of the Nation.

F. Consultation

The Secretary shall develop the formula in subparagraph (A) in ongoing consultation with

- i. the Subcommittee on Housing and Urban Affairs of the Committee on Banking, Housing, and Urban Affairs of the Senate,
- ii. the Subcommittee on Housing and Community Development of the Committee on Banking, Finance and Urban Affairs of the House of Representatives, and
- iii. organizations representing States and units of general local government. Not less than 60 days prior to publishing a formula for comment, the Secretary shall submit to the Committee on Banking, Housing, and

Urban Affairs of the Senate and the Committee on Banking, Finance and Urban Affairs of the House of Representatives a copy of the formula the Secretary intends to propose.

2. Minimum State allocation

A. In general

If the formula, when applied to funds approved under this section in appropriations Acts for a fiscal year, would allocate less than \$3,000,000 to any State, the allocation for such State shall be \$3,000,000, and the increase shall be deducted pro rata from the allocations of other States.

B. Increased minimum allocation

If no unit of general local government within a State receives an allocation under paragraph (3), the State's allocation shall be increased by \$500,000. Priority for use of such increased allocation shall go to the provision of affordable housing within the boundaries of metropolitan cities, urban counties, and approved consortia within the State, based on the need for such funds. The increased allocation to a State under the preceding sentence shall be derived by a pro rata deduction from the allocations to units of general local government in all States, except that such pro rata deduction shall not reduce the allocation of any unit of general local government below \$500,000.

3. Minimum local allocation

The Secretary shall allocate funds available for formula allocation to units of general local government that, as of the end of the previous fiscal year, qualified as metropolitan cities, urban counties, and consortia approved by the Secretary in accordance with section 12746(2) of this title so that, when all such funds are initially allocated by formula, jurisdictions that are allocated an amount of \$500,000 or more, and participating jurisdictions (other than consortia that fail to renew the membership of all of their member jurisdictions) that are allocated an amount less than \$500,000, shall receive an allocation. Prior to announcing initial allocations, the Secretary shall successively recalculate the allocations to jurisdictions under this subsection so that the maximum number of such jurisdictions can receive initial allocations, except as provided in paragraph (4).

4. Threshold reduction

If the amount appropriated pursuant to section 12724 of this title for any fiscal year is less than \$1,500,000,000, then this section shall be applied during that year by substituting "\$335,000" for "\$500,000" where it appears in paragraph (3).

d. Criteria for direct reallocation

The Secretary shall establish objective criteria for making direct reallocations to any participating jurisdiction and other eligible entities. A jurisdiction shall be eligible for a direct reallocation under this subsection only if the jurisdiction, in a form acceptable to the Secretary, submits an application that demonstrates to the satisfaction of the Secretary that the jurisdiction is engaged, or has made good faith efforts to engage, in cooperative efforts between the State and appropriate participating jurisdictions within the State to develop, coordinate, and implement housing strategies under this subchapter. The Secretary shall by regulation establish objective selection criteria for such direct reallocations, which criteria shall take into account--

1. the applicant's demonstrated commitment to expand the supply of affordable rental housing, including units developed by public housing agencies, as indicated by the additional number of units of affordable housing made available through production or rehabilitation within the previous 2 years, making adjustment for regional variations in construction and rehabilitation costs and giving special consideration to the number of additional units made available under this subchapter through production or rehabilitation, including units developed by public housing agencies, in relation to the amounts made available under this program;
2. the applicant's actions that--
 - A. direct funds made available under this part to benefit very low-income families, with a range of incomes, in amounts that exceed the income targeting requirements of section 12744 of this title, with extra consideration given for activities that expand the supply of affordable housing for very low-income families whose incomes do not exceed 30 percent of the median family income for the area, as determined by the Secretary;
 - B. apply the tenant selection preference categories applicable under section 1437f of this title to the selection of tenants for housing assisted under this part;
 - C. provide matching resources in excess of funds required under section 12750 of this title; and
 - D. stimulate a high degree of investment and participation in development by the private sector, including nonprofit organizations; and
3. the degree to which the applicant is pursuing policies that--
 - A. make existing housing more affordable;
 - B. remove or ameliorate any negative effects that public policies identified by the applicant pursuant to section 12705(b)(4) of this title may have on the cost of housing or the incentives to develop, maintain, or improve affordable housing in the jurisdiction;
 - C. preserve the affordability of privately-owned housing that is vulnerable to conversion, demolition, disinvestment, or abandonment;

- D. increase the supply of housing that is affordable to very low-income and low-income persons, particularly in areas that are accessible to expanding job opportunities; and
- E. remedy the effects of discrimination and improve housing opportunities for disadvantaged minorities.

e. Reallocations

1. In general

The Secretary shall make any reallocations periodically throughout each fiscal year so as to ensure that all funds to be reallocated are made available to eligible jurisdictions as soon as possible, consistent with orderly program administration. Jurisdictions eligible for such reallocations shall include participating jurisdictions and jurisdictions meeting the requirements of paragraphs (3), (4), and (5) of section 12746 of this title.

2. Commitments

The Secretary shall establish procedures according to which participating jurisdictions may make commitments to invest funds made available under this section. Such procedures shall provide for appropriate stages of commitment of funds to a project from initial reservation through binding commitment. Notwithstanding any other provision of this subchapter, funds that the Secretary determines are needed to fulfill binding commitments shall not be available for reallocation.

3. Limitation

Unless otherwise specified in this part, any reallocation of funds from a State shall be made only among all participating States, and any reallocation of funds from units of general local government shall be made only among all participating units of general local government.

(Pub. L. 101-625, title II, Sec. 217, Nov. 28, 1990, 104 Stat. 4105; Pub. L. 102-229, title I, Dec. 12, 1991, 105 Stat. 1709; Pub. L. 102-230, Sec. 1, Dec. 12, 1991, 105 Stat. 1720; Pub. L. 102-273, Sec. 1, Apr. 21, 1992, 106 Stat. 113; Pub. L. 102-389, title II, Oct. 6, 1992, 106 Stat. 1581; Pub. L. 102-550, title II, Secs. 202(b), 203(b), 211(a)(2), Oct. 28, 1992, 106 Stat. 3751, 3752, 3756; Pub. L. 104-330, title V, Sec. 505(a)(1), Oct. 26, 1996, 110 Stat. 4044; Pub. L. 105-65, title II, Sec. 214, Oct. 27, 1997, 111 Stat. 1366.)

Amendments

1997--Subsec. (b)(3). Pub. L. 105-65, in first sentence, substituted "jurisdictions that are allocated an amount of \$500,000 or more, and participating jurisdictions (other than consortia that fail to renew the membership of all of their member jurisdictions) that are allocated an amount less than \$500,000, shall receive an allocation" for "only those jurisdictions that are allocated an amount of \$500,000 or greater shall receive an allocation". 1996--Subsec. (a)(1). Pub. L. 104-330, Sec. 505(a)(1)(A), struck out "reserving amounts under paragraph (2) for Indian tribes and after" after "After".

Subsec. (a)(2). Pub. L. 104-330, Sec. 505(a)(1)(B), struck out heading and text of par. (2). Text read as follows: "For each fiscal year, of the amount approved in an appropriations Act to carry out this subchapter, the Secretary shall reserve for grants to Indian tribes 1 percent of the amount appropriated under such section. The Secretary shall provide for distribution of amounts under this paragraph to Indian tribes on the basis of a competition conducted pursuant to specific criteria for the selection of Indian tribes to receive such amounts. The criteria shall be contained in a regulation promulgated by the Secretary after notice and public comment."

1992--Subsec. (a)(1). Pub. L. 102-550, Sec. 211(a)(2)(A), added first sentence and struck out former first sentence which read as follows: "After reserving amounts for Indian tribes as required by paragraph (2) of this subsection and after reserving amounts for the insular areas under paragraph (3), the Secretary shall allocate funds approved in an appropriations Act to carry out this subchapter by formula as provided in subsection (b) of this section."

Pub. L. 102-389 made identical amendment to those made by Pub. L. 102-229 and Pub. L. 102-230, Sec. 1(1). See 1991 Amendment note below.

Subsec. (a)(3). Pub. L. 102-550, Sec. 211(a)(2)(D), and Pub. L. 102-389 both added new pars. (3) related to insular areas. The text reflects the par. (3) added by Pub. L. 102-550. The par. (3) added by Pub. L. 102-389 read as follows: "For each fiscal year, of any amounts approved in appropriations Acts to carry out this subchapter, the Secretary shall reserve for grants to the insular areas the greater of (A) \$750,000, or (B) 0.2 percent of the amounts appropriated under such Acts. The Secretary shall provide for the distribution of amounts reserved under this paragraph among the insular areas pursuant to specific criteria for such distribution. The criteria shall be contained in a regulation promulgated by the Secretary after notice and public comment."

Pub. L. 102-550, Sec. 211(a)(2)(C), struck out par. (3), as added by Pub. L. 102-230, Sec. 1(2), which read as follows:

"(A) In general.--For each fiscal year, of any amount approved in an appropriations Act to carry out this subchapter, the Secretary shall reserve for grants to the insular areas an amount that reflects--

"(i) their share of the total population of eligible jurisdictions; and

"(ii) any adjustments that the Secretary determines are reasonable in light of available data that are related to factors set forth in subsection (b)(1)(B) of this section.

"(B) Specific criteria.--The Secretary shall provide for the distribution of amounts reserved under this paragraph among the insular areas in accordance with specific criteria to be set forth in a regulation promulgated by the Secretary after notice and public comment.

"(C) Transitional provisions.--For fiscal year 1992, the reservation for insular areas specified in subparagraph (A) shall be made from any funds which become available for reallocation in accordance with the provisions of section 12746(6)(A) of this title."

Pub. L. 102-550, Sec. 211(a)(2)(B), struck out par. (3), as added by Pub. L. 102-229, which read as follows: "For each fiscal year, of any amounts approved in appropriations Acts to carry out this subchapter, the Secretary shall reserve for grants to the insular areas the greater of (A) \$750,000, or (B) 0.5 percent of the

amounts appropriated under such Acts. The Secretary shall provide for the distribution of amounts reserved under this paragraph among the insular areas pursuant to specific criteria for such distribution. The criteria shall be contained in a regulation promulgated by the Secretary after notice and public comment."

Subsec. (b)(1)(A). Pub. L. 102-550, Sec. 203(b)(1), (6), redesignated subpar. (B) as (A) and struck out former subpar. (A) which provided for a formula for allocation of funds for production of affordable rental housing through new construction or substantial rehabilitation.

Pub. L. 102-273 added cl. (iii) reading as follows: "Notwithstanding clauses (i) and (ii), any jurisdiction receiving amounts made available under such clause may, at the discretion of the jurisdiction, use such amounts for other eligible uses in accordance with section 12742 of this title if the jurisdiction determines that such use will better meet the housing needs within the jurisdiction. This clause shall be effective only with respect to funds provided under the Departments of Veterans Affairs and Housing and Urban Development, and Independent Agencies Appropriations Act, 1992 (Public Law 102-139; 105 Stat. 744), which suspends the requirement of contributions by participating jurisdictions, and shall become ineffective if such requirement is reimposed."

Subsec. (b)(1)(B), (C). Pub. L. 102-550, Sec. 203(b)(6), redesignated subpars. (C) and (D) as (B) and (C), respectively. Former subpar. (B) redesignated (A).

Subsec. (b)(1)(D). Pub. L. 102-550, Sec. 203(b)(6), redesignated subpar. (E) as (D). Former subpar. (D) redesignated (C).

Pub. L. 102-550, Sec. 203(b)(2), substituted "The basic formula established under subparagraph (A)" for "Except as provided in subparagraph (A), the basic formula established under subparagraph (B)".

Subsec. (b)(1)(E). Pub. L. 102-550, Sec. 203(b)(6), redesignated subpar. (F) as (E). Former subpar. (E) redesignated (D).

Pub. L. 102-550, Sec. 203(b)(3), substituted "formula in subparagraph (A)" for "formulas in subparagraph (B)". Subsec. (b)(1)(F). Pub. L. 102-550, Sec. 203(b)(6), redesignated subpar. (G) as (F). Former subpar. (F) redesignated (E).

Pub. L. 102-550, Sec. 203(b)(4), substituted "basic formula in subparagraph (A)" for "basic formula in subparagraph (B)" and struck out at end "If a jurisdiction receives an allocation under subparagraph (A), the Secretary shall make such adjustments in the jurisdiction's allocation under the formula in subparagraph (B) as may be necessary to ensure that the combined effect of the formulas in subparagraphs (A) and (B) does not reduce the allocation of any jurisdiction below the allocation it would receive if allocations were made according to the formula under subparagraph (B) alone." Subsec. (b)(1)(G). Pub. L. 102-550, Sec. 203(b)(6), redesignated subpar. (G) as (F).

Pub. L. 102-550, Sec. 203(b)(5), substituted "formula in subparagraph (A)" for "formulas in subparagraphs (A) and (B)". Subsec. (b)(3). Pub. L. 102-550, Sec.

202(b)(1), inserted before period at end ", except as provided in paragraph (4)".
Subsec. (b)(4). Pub. L. 102-550, Sec. 202(b)(2), added par. (4).

1991--Subsec. (a)(1). Pub. L. 102-229 and Pub. L. 102-230, Sec. 1(1), amended par. (1) identically, inserting before first comma "and after reserving amounts for the insular areas under paragraph (3)".

Subsec. (a)(3). Pub. L. 102-229 and Pub. L. 102-230, Sec. 1(2), which were enacted on the same day, both added new pars. (3) relating to insular areas.

Change of Name

Committee on Banking, Finance and Urban Affairs of House of Representatives treated as referring to Committee on Banking and Financial Services of House of Representatives by section 1(a) of Pub. L. 104-14, set out as a note preceding section 21 of Title 2, The Congress.

Effective Date of 1996 Amendment

Amendment by Pub. L. 104-330 effective Oct. 1, 1997, except as otherwise expressly provided, see section 107 of Pub. L. 104-330, set out as an Effective Date note under section 4101 of Title 25, Indians. Section 505(b) of Pub. L. 104-330 provided that: "The amendments under subsection (a) [amending this section and section 12838 of this title] shall apply with respect to amounts made available for assistance under title II of the Cranston-Gonzalez National Affordable Housing Act [42 U.S.C. 12721 et seq.] for fiscal year 1998 and fiscal years thereafter."

Effective Date of 1992 Amendment

Amendment by section 211(a)(2) of Pub. L. 102-550 applicable with respect to fiscal year 1993 and thereafter, see section 211(b) of Pub. L. 102-550, set out as a note under section 12704 of this title. Amendment by sections 202(b) and 203(b) of Pub. L. 102-550 applicable to unexpended funds allocated under subchapter II of this chapter in fiscal year 1992, except as otherwise specifically provided, see section 223 of Pub. L. 102-550, set out as a note under section 12704 of this title.

Applicability of Grant Thresholds

Grant thresholds provided for in subsec. (b) of this section as amended by Pub. L. 102-550 to apply notwithstanding any other provision of law, see section 202(c) of Pub. L. 102-550, set out as a note under section 12746 of this title.

Expedited Issuance of Regulation

Section 211(a)(3) of Pub. L. 102-550 provided that: "The regulation referred to in the amendment made by paragraph (2)(D) [amending this section] shall take effect not later than the expiration of the 90-day period beginning on the date of the enactment of this Act [Oct. 28, 1992]. The regulation shall not be subject to the requirements of subsections (b) and (c) of section 553 of title 5, United States Code, or section 7(o) of the Department of Housing and Urban Development Act [42 U.S.C. 3535(o)]."

Section Referred to in Other Sections

This section is referred to in sections 12705c, 12746, 12748, 12749, 12771, 12831 of this title.

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TITLE 42--THE PUBLIC HEALTH AND WELFARE

CHAPTER 130--NATIONAL AFFORDABLE HOUSING

SUBCHAPTER II--INVESTMENT IN AFFORDABLE HOUSING

Part A--HOME Investment Partnerships

Sec. 218. HOME Investment Trust Funds

a. Establishment

The Secretary shall establish for each participating jurisdiction a HOME Investment Trust Fund, which shall be an account (or accounts as provided in section 12749(c) of this title) for use solely to invest in affordable housing within the participating jurisdiction's boundaries or within the boundaries of contiguous jurisdictions in joint projects which serve residents from both jurisdictions in accordance with the provisions of this part.

b. Line of credit

The Secretary shall establish a line of credit in the HOME Investment Trust Fund of each participating jurisdiction, which line of credit shall include--

1. funds allocated or reallocated to the participating jurisdiction under section 12747 of this title, and
2. any payment or repayment made pursuant to section 12749 of this title.

c. Reductions

A participating jurisdiction's line of credit shall be reduced by--

1. funds drawn from the HOME Investment Trust Fund by the participating jurisdiction,
 2. funds expiring under subsection (g) of this section, and
 3. any penalties assessed by the Secretary under section 12754 \1\ of this title.
-

\1\ So in original. Probably should be section ``12753".

- d.
- e. Certification
A participating jurisdiction may draw funds from its HOME Investment Trust Fund, but not to exceed the remaining line of credit, only after providing certification that the funds shall be used pursuant to the participating jurisdiction's approved housing strategy and in compliance with all requirements of this subchapter. When such certification is received, the Secretary shall immediately disburse such funds in accordance with the form of the assistance determined by the participating jurisdiction
- f. Investment within 15 days
The participating jurisdiction shall, not later than 15 days after funds are drawn from the jurisdiction's HOME Investment Trust Fund, invest such funds, together with any interest earned thereon, in the affordable housing for which the funds were withdrawn.
- g. No interest or fees
The Secretary shall not charge any interest or levy any other fee with regard to funds in a HOME Investment Trust Fund.
- h. Expiration of right to draw funds
If any funds becoming available to a participating jurisdiction under this subchapter are not placed under binding commitment to affordable housing within 24 months after the last day of the month in which such funds are deposited in the jurisdiction's HOME Investment Trust Fund, the jurisdiction's right to draw such funds from the HOME Investment Trust Fund shall expire. The Secretary shall reduce the line of credit in the participating jurisdiction's HOME Investment Trust Fund by the expiring amount and shall reallocate the funds by formula in accordance with section 12747(d) of this title.
- i. Administrative provision
The Secretary shall keep each participating jurisdiction informed of the status of its HOME Investment Trust Fund, including the status of amounts under various stages of commitment.

(Pub. L. 101-625, title II, Sec. 218, Nov. 28, 1990, 104 Stat. 4109; Pub. L. 102-550, title II, Secs. 203(c), 221, Oct. 28, 1992, 106 Stat. 3752, 3762.)

Amendments

1992--Subsec. (a). Pub. L. 102-550, Sec. 221, inserted "or within the boundaries of contiguous jurisdictions in joint projects which serve residents from both jurisdictions" after "boundaries". Subsec. (g). Pub. L. 102-550, Sec. 203(c), substituted "If" for "Except as provided in section 12747(b)(1)(A)(ii) of this title, if".

Effective Date of 1992 Amendment

Amendment by Pub. L. 102-550 applicable to unexpended funds allocated under subchapter II of this chapter in fiscal year 1992, except as otherwise specifically provided, see section 223 of Pub. L. 102-550, set out as a note under section 12704 of this title.

Section Referred to in Other Sections

This section is referred to in section 12746 of this title.

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TITLE 42--THE PUBLIC HEALTH AND WELFARE

CHAPTER 130--NATIONAL AFFORDABLE HOUSING

SUBCHAPTER II--INVESTMENT IN AFFORDABLE HOUSING

Part A--HOME Investment Partnerships

Sec. 219. Repayment of investment

a. In general

Any repayment of funds drawn from a jurisdiction's HOME Investment Trust Fund, and any payment of interest or other return on the investment of such funds, shall be deposited in such jurisdiction's HOME Investment Trust Fund, except that, if the jurisdiction is not a participating jurisdiction when such payment or repayment is made, the amount of such payment or repayment shall be reallocated in accordance with section 12747(d) of this title.

b. Assurance of repayment

Each participating jurisdiction shall enter into an agreement with the Secretary ensuring that funds invested in affordable housing under this part are repayable when the housing no longer qualifies as affordable housing. Any repayment under the previous sentence shall be for deposit in the HOME Investment Trust Fund of the jurisdiction making the investment; except that if such jurisdiction is not a participating jurisdiction when such repayment is made, the amount of such repayment shall be reallocated in accordance with section 12747(d) of this title.

c. Availability

The Secretary shall take such actions as are necessary to ensure that any repayments deposited in a HOME Investment Trust Fund in accordance with this section shall be immediately available to the participating jurisdiction for investment subject to the provisions of this part that apply to funds that are allocated under section 12747 of this title. Actions authorized under the preceding sentence may include authorizing the establishment for a participating jurisdiction of a HOME Investment Trust Fund account outside of the Federal Government that, under arrangements satisfactory to the Secretary, shall be used solely to invest in affordable housing within the participating jurisdiction's boundaries in accordance with the provisions of this

subchapter. Such accounts shall be established in such a manner that repayments are not receipts or collections of the Federal Government.

(Pub. L. 101-625, title II, Sec. 219, Nov. 28, 1990, 104 Stat. 4110.)

Section Referred to in Other Sections

This section is referred to in sections 12748, 12802 of this title.

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TITLE 42--THE PUBLIC HEALTH AND WELFARE

CHAPTER 130--NATIONAL AFFORDABLE HOUSING

SUBCHAPTER II--INVESTMENT IN AFFORDABLE HOUSING

Part A--HOME Investment Partnerships

Sec. 220. Matching requirements

a. Contribution

Each participating jurisdiction shall make contributions to housing that qualifies as affordable housing under this subchapter that total, throughout a fiscal year, not less than 25 percent of the funds drawn from the jurisdiction's HOME Investment Trust Fund in such fiscal year. Such contributions shall be in addition to any amounts made available under section 12746(3)(A)(ii) of this title.

b. Recognition

1. In general

A contribution shall be recognized for purposes of subsection (a) of this section only if it--

- A. is made with respect to housing that qualifies as affordable housing under section 12745 of this title; or
- B. is made with respect to any portion of a project not less than 50 percent of the units of which qualify as affordable housing under section 12745 of this title.

2. Administrative expenses

Contributions for administrative expenses may not be recognized for purposes of subsection (a) of this section.

c. Form

Such contributions may be in the form of--

1. cash contributions from non-Federal resources, which may not include funds from a grant made under section 5306(b) or section 5306(d) of this title;
2. the value of taxes, fees, or other charges that are normally and customarily imposed but are waived, foregone, or deferred in a manner that achieves affordability of housing assisted under this subchapter;
3. the value of land or other real property as appraised according to procedures acceptable to the Secretary;
4. the value of investment in on-site and off-site infrastructure directly required for affordable housing assisted under this subchapter;
5. Redesignated (4)
6. up to--
 - A. 50 percent of proceeds from bond financing validly issued by a State or local government, agency or instrumentality thereof, or political subdivision thereof, and repayable with revenues derived from a multifamily affordable housing project financed, and
 - B. 25 percent of proceeds from bond financing validly issued by a State or local government, agency or instrumentality thereof, or political subdivision thereof, and repayable with revenues derived from a single-family project financed, but not more than 25 percent of the contribution required under subsection (a) of this section may be derived from these sources;
7. the reasonable value of any site-preparation and construction materials and any donated or voluntary labor in connection with the site-preparation for, or construction or rehabilitation of, affordable housing; and
8. such other contributions to affordable housing as the Secretary considers appropriate.

d. Reduction of requirement

1. In general

The Secretary shall reduce the matching requirement under subsection (a) of this section with respect to any funds drawn from a jurisdiction's HOME Investment Trust Fund Account during a fiscal year by--

- A. 50 percent for a jurisdiction that certifies that it is in fiscal distress; and
- B. 100 percent for a jurisdiction that certifies that it is in severe fiscal distress.

2. Definitions

For purposes of this section--

- A. "fiscal distress" means a jurisdiction other than a State that satisfies 1 of the distress criteria set forth in paragraph (3); and

- B. "severe fiscal distress" means a jurisdiction other than a State that satisfies both of the distress criteria set forth in paragraph (3).

3. Distress criteria

For purposes of a jurisdiction other than a State certifying that it is distressed, the following criteria shall apply:

A. Poverty rate

The average poverty rate in the jurisdiction for the calendar year immediately preceding the year in which its fiscal year begins was equal to or greater than 125 percent of the average national poverty rate during such calendar year (as determined according to information of the Bureau of the Census).

B. Per capita income

The average per capita income in the jurisdiction for the calendar year immediately preceding the year in which its fiscal year begins was less than 75 percent of the average national per capita income during such calendar year (as determined according to information of the Bureau of the Census).

4. States

In determining the degree to which a jurisdiction that is a State is distressed, the Secretary shall take into consideration the State's fiscal capacity and expenditure needs as determined by a national organization which compiles the relevant data.

5. Waiver in disaster areas

If a participating jurisdiction is located in an area in which a declaration of a disaster pursuant to the Robert T. Stafford Disaster Relief and Emergency Assistance Act [42 U.S.C. 5121 et seq.] is in effect for any part of a fiscal year, the Secretary may reduce the matching requirement for that fiscal year under subsection (a) of this section with respect to any funds drawn from a jurisdiction's HOME Investment Trust Fund Account during that fiscal year by up to 100 percent.

(Pub. L. 101-625, title II, Sec. 220, Nov. 28, 1990, 104 Stat. 4111; Pub. L. 102-550, title II, Secs. 207(c), 210(a)-(c), Oct. 28, 1992, 106 Stat. 3753, 3755; Pub. L. 103-233, title II, Sec. 204, Apr. 11, 1994, 108 Stat. 364.)

References in Text

The Robert T. Stafford Disaster Relief and Emergency Assistance Act, referred to in subsec. (d)(5), is Pub. L. 93-288, May 22, 1974, 88 Stat. 143, as amended, which is classified principally to chapter 68 (Sec. 5121 et seq.) of this title. For complete classification of this Act to the Code, see Short Title note set out under section 5121 of this title and Tables.

Amendments

1994--Subsec. (a). Pub. L. 103-233 amended heading and text of subsec. (a) generally. Prior to amendment, text read as follows: "Each participating jurisdiction shall make contributions to housing that qualifies as affordable housing under this subchapter that total, throughout a fiscal year, not less than-- "(1) 25 percent of the total funds drawn from the jurisdiction's HOME Investment Trust Fund in that fiscal year with respect to rental assistance, housing rehabilitation and substantial rehabilitation; and "(2) 30 percent of the total funds drawn from the jurisdiction's HOME Investment Trust Fund in that fiscal year with respect to new construction. Such contributions shall be in addition to any amounts made available under section 12746(3)(A)(ii) of this title."1992--Subsec. (a). Pub. L. 102-550, Sec. 210(a)(4), substituted "housing that qualifies as affordable housing under this subchapter" for "affordable housing assisted under this subchapter" in introductory provisions.

Subsec. (a)(1). Pub. L. 102-550, Sec. 210(a)(1), substituted ", housing rehabilitation and substantial rehabilitation; and" for "and housing rehabilitation;".

Subsec. (a)(2). Pub. L. 102-550, Sec. 210(a)(2), substituted "30" for "33" and "new construction." for "substantial rehabilitation; and".

Subsec. (a)(3). Pub. L. 102-550, Sec. 210(a)(3), struck out par. (3) which read as follows: "50 percent of the total funds drawn from the jurisdiction's HOME Investment Trust Fund in that fiscal year with respect to new construction."

Subsec. (b)(2). Pub. L. 102-550, Sec. 207(c)(1), substituted "may not be recognized for purposes of subsection (a) of this section" for "shall be recognized only up to an amount equal to 7 percent of funds provided for investment under this subchapter".

Subsec. (c)(2). Pub. L. 102-550, Sec. 207(c)(2), redesignated par. (3) as (2) and struck out former par. (2) which read as follows: "payment of administrative expenses, as defined by the Secretary, from non-Federal resources, which may include funds from a grant made under section 5306(b) or section 5306(d) of this title;".

Subsec. (c)(3). Pub. L. 102-550, Sec. 210(b)(1), which directed the striking of "and" at end of par. (4), was executed by striking "and" at end of par. (3) to reflect the probable intent of Congress and the redesignation of par. (4) as (3). See below.

Pub. L. 102-550, Sec. 207(c)(2)(B), redesignated par. (4) as (3). Former par. (3) redesignated (2).

Subsec. (c)(4). Pub. L. 102-550, Sec. 210(b)(2), which directed the substitution of a semicolon for the period at end of par. (5), was executed by making the substitution at end of par. (4) to reflect the probable intent of Congress and the redesignation of par. (5) as (4). See below.

Pub. L. 102-550, Sec. 207(c)(2)(B), redesignated par. (5) as (4). Former par. (4) redesignated (3).

Subsec. (c)(5). Pub. L. 102-550, Sec. 207(c)(2)(B), redesignated par. (5) as (4).

Subsec. (c)(6) to (8). Pub. L. 102-550, Sec. 210(b)(3), added pars. (6) to (8).

Subsec. (d). Pub. L. 102-550, Sec. 210(c), added subsec. (d) and struck out former subsec. (d) which read as follows: "If a jurisdiction demonstrates to the satisfaction of the Secretary that a reduction of the matching requirement specified in subsection (a) of this section is necessary to permit the jurisdiction to carry out the purposes of this subchapter, the Secretary may reduce the matching requirement during a period not to exceed 3 years after the jurisdiction is first designated as a participating jurisdiction. Such reduction shall be not more than 75 percent in the first year, not more than 50 percent in the second year, and not more than 25 percent in the third year."

Effective Date of 1994 Amendment

Amendment by Pub. L. 103-233 applicable with respect to any amounts made available to carry out this subchapter after Apr. 11, 1994, and any amounts made available to carry out this subchapter before that date that remain uncommitted on that date, with Secretary to issue any regulations necessary to carry out such amendment not later than end of 45-day period beginning on that date, see section 209 of Pub. L. 103-233, set out as a note under section 5301 of this title.

Effective Date of 1992 Amendment

Section 210(d) of Pub. L. 102-550 provided that: "The amendments made by this section [amending this section] shall apply with respect to fiscal year 1993 and each fiscal year thereafter." 'Amendment by section 207(c) of Pub. L. 102-550 applicable to unexpended funds allocated under subchapter II of this chapter in fiscal year 1992, except as otherwise specifically provided, see section 223 of Pub. L. 102-550, set out as a note under section 12704 of this title.

Section Referred to in Other Sections

This section is referred to in sections 1437aaa-2, 12747 of this title.

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TITLE 42--THE PUBLIC HEALTH AND WELFARE

CHAPTER 130--NATIONAL AFFORDABLE HOUSING

SUBCHAPTER II--INVESTMENT IN AFFORDABLE HOUSING

Part A--HOME Investment Partnerships

Sec. 221. Private-public partnership

Each participating jurisdiction shall make all reasonable efforts, consistent with the purposes of this subchapter, to maximize participation by the private sector, including nonprofit organizations and for-profit entities, in the implementation of the

jurisdiction's housing strategy, including participation in the financing, development, rehabilitation and management of affordable housing. Nothing in the previous sentence shall preclude public housing authorities from fully participating in the implementation of a jurisdiction's housing strategy.

(Pub. L. 101-625, title II, Sec. 221, Nov. 28, 1990, 104 Stat. 4112.)

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TITLE 42--THE PUBLIC HEALTH AND WELFARE

CHAPTER 130--NATIONAL AFFORDABLE HOUSING

SUBCHAPTER II--INVESTMENT IN AFFORDABLE HOUSING

Part A--HOME Investment Partnerships

Sec. 12752. Distribution of assistance

a. Local

Each participating jurisdiction shall, insofar as is feasible, distribute assistance under this part geographically within its boundaries and among different categories of housing need, according to the priorities of housing need identified in the jurisdiction's approved housing strategy.

b. State

Participating States shall be responsible for distributing assistance throughout the State according to the State's assessment of the geographical distribution of the housing need within the State, as identified in the State's approved housing strategy. Participating States shall distribute assistance to rural areas in amounts that take into account the nonmetropolitan share of the State's total population and objective measures of rural housing need, such as poverty and substandard housing, as set forth in the State's housing strategy approved under section 12705 of this title. To the extent the need is within the boundaries of a participating unit of general local government, the State and the unit of general local government shall coordinate activities to address that need.

(Pub. L. 101-625, title II, Sec. 222, Nov. 28, 1990, 104 Stat. 4112.)

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TITLE 42--THE PUBLIC HEALTH AND WELFARE

CHAPTER 130--NATIONAL AFFORDABLE HOUSING

SUBCHAPTER II--INVESTMENT IN AFFORDABLE HOUSING

Part A--HOME Investment Partnerships

Sec. 223. Penalties for misuse of funds

If the Secretary finds after reasonable notice and opportunity for hearing that a participating jurisdiction has failed to comply substantially with any provision of this part and until the Secretary is satisfied that there is no longer any such failure to comply, the Secretary shall reduce the line of credit in the participating jurisdiction's HOME Investment Trust Fund by the amount of any expenditures that were not in accordance with the requirements of this subchapter, and the Secretary may--

1. prevent withdrawals from the participating jurisdiction's HOME Investment Trust Fund for activities affected by such failure to comply;
2. restrict the participating jurisdiction's activities under this subchapter to activities that conform to one or more model programs made available under section 12743 of this title; or
3. remove the participating jurisdiction from participation in allocations or reallocations of funds made available under this part.

(Pub. L. 101-625, title II, Sec. 223, Nov. 28, 1990, 104 Stat. 4112.)

Section Referred to in Other Sections

This section is referred to in sections 12742, 12743, 12748 of this title.

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TITLE 42--THE PUBLIC HEALTH AND WELFARE

CHAPTER 130--NATIONAL AFFORDABLE HOUSING

SUBCHAPTER II--INVESTMENT IN AFFORDABLE HOUSING

Part A--HOME Investment Partnerships

Sec. 224. Limitation on Jurisdictions Under Court Order

- a. In general
Notwithstanding any other provision of this Act, the Secretary shall ensure that funds provided under this part are not employed to carry out housing

remedies or to pay fines, penalties, or costs associated with an action in which--

1. a participating jurisdiction has been adjudicated, by a Federal, State, or local court, to be in violation of title VI of the Civil Rights Act of 1964 [42 U.S.C. 2000d et seq.], the Fair Housing Act [42 U.S.C. 3601 et seq.], or any other Federal, State, or local law promoting fair housing or prohibiting discrimination, or
2. a settlement has been entered into in any case where claims of such violations have been asserted against a participating jurisdiction, except to the extent permitted by subsection (b) of this section.

b. Remedial use of funds permitted

In the case of settlement described in subsection (a)(2) of this section, a jurisdiction may use funds provided under this Act to carry out housing remedies with eligible activities.

(Pub. L. 101-625, title II, Sec. 224, Nov. 28, 1990, 104 Stat. 4113.)

References in Text

This Act, referred to in text, is Pub. L. 101-625, Nov. 28, 1990, 104 Stat. 4079, known as the Cranston-Gonzalez National Affordable Housing Act. For complete classification of this Act to the Code, see Short Title note set out under section 12701 of this title and Tables.

The Civil Rights Act of 1964, referred to in subsec. (a)(1), is Pub. L. 88-352, July 2, 1964, 78 Stat. 241, as amended. Title VI of the Act is classified generally to subchapter V (Sec. 2000d et seq.) of chapter 21 of this title. For complete classification of this Act to the Code, see Short Title note set out under section 2000a of this title and Tables.

The Fair Housing Act, referred to in subsec. (a)(1), is title VIII of Pub. L. 90-284, Apr. 11, 1968, 82 Stat. 81, as amended, which is classified principally to subchapter I (Sec. 3601 et seq.) of chapter 45 of this title. For complete classification of this Act to the Code, see Short Title note set out under section 3601 of this title and Tables.

Section Referred to in Other Sections

This section is referred to in section 12748 of this title.

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TITLE 42--THE PUBLIC HEALTH AND WELFARE

CHAPTER 130--NATIONAL AFFORDABLE HOUSING

SUBCHAPTER II--INVESTMENT IN AFFORDABLE HOUSING

Part A--HOME Investment Partnerships

Sec. 225. Tenant and participant protections

a. Lease

The lease between a tenant and an owner of affordable housing assisted under this subchapter for rental shall be for not less than one year, unless by mutual agreement between the tenant and the owner, and shall contain such terms and conditions as the Secretary shall determine to be appropriate.

b. Termination of tenancy

An owner shall not terminate the tenancy or refuse to renew the lease of a tenant of rental housing assisted under this subchapter 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. Any termination or refusal to renew must be preceded by not less than 30 days by the owner's service upon the tenant of a written notice specifying the grounds for the action.

c. Maintenance and replacement

The owner of rental housing assisted under this subchapter shall maintain the premises in compliance with all applicable housing quality standards and local code requirements.

d. Tenant selection

The owner of rental housing assisted under this subchapter shall adopt written tenant selection policies and criteria that--

1. are consistent with the purpose of providing housing for very low-income and low-income families,
2. are reasonably related to program eligibility and the applicant's ability to perform the obligations of the lease,
3. give reasonable consideration to the housing needs of families that would have a preference under section 1437d(c)(4)(A) of this title, and
4. provide for (A) the selection of tenants from a written waiting list in the chronological order of their application, insofar as is practicable, and (B) for \1\ the prompt notification in writing of any rejected applicant of the grounds for any rejection.

\1\ So in original. The word ``for" probably should not appear.

(Pub. L. 101-625, title II, Sec. 225, Nov. 28, 1990, 104 Stat. 4113.)

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TITLE 42--THE PUBLIC HEALTH AND WELFARE

CHAPTER 130--NATIONAL AFFORDABLE HOUSING

SUBCHAPTER II--INVESTMENT IN AFFORDABLE HOUSING

Part A--HOME Investment Partnerships

Sec. 226. Monitoring of compliance

a. Enforceable agreements

Each participating jurisdiction, through binding contractual agreements with owners and otherwise, shall ensure long-term compliance with the provisions of this subchapter. Such measures shall provide for

1. enforcement of the provisions of this subchapter by the jurisdiction or by the intended beneficiaries, and
2. remedies for the breach of such provisions.

b. Periodic monitoring

Each participating jurisdiction, not less frequently than annually, shall review the activities of owners of affordable housing assisted under this subchapter for rental to assess compliance with the requirements of this subchapter. Such review shall include on-site inspection to determine compliance with housing codes and other applicable regulations. The results of each review shall be included in the jurisdiction's performance report submitted to the Secretary under section 12708(a) of this title and made available to the public.

c. Special procedures for certain projects

In the case of small-scale or scattered site housing, the Secretary may provide for such streamlined procedures for achieving the purposes of this section as the Secretary determines to be appropriate.

(Pub. L. 101-625, title II, Sec. 226, Nov. 28, 1990, 104 Stat. 4114.)