

(§1437 et seq.) of Title 42, The Public Health and Welfare. For complete classification of this Act to the Code, see Short Title note set out under section 1437 of Title 42 and Tables.

#### AMENDMENTS

2008—Subsec. (a). Pub. L. 110-411, §101(1), designated first sentence as par. (1) and inserted heading, substituted “tribes—” for “tribes to carry out affordable housing activities.”, added subpars. (A) and (B), and designated second sentence as par. (2) and inserted heading.

Subsec. (g). Pub. L. 110-411, §101(2), inserted “of this section and part B of subchapter II” after “subsection (h)”.

Subsecs. (j), (k). Pub. L. 110-411, §101(3), added subsecs. (j) and (k).

2002—Subsec. (h). Pub. L. 107-292 inserted “and planning” after “Administrative” in heading and “for comprehensive housing and community development planning activities and” after “received under this chapter” in text.

2000—Subsec. (b)(2). Pub. L. 106-568, §1003(a)(1), and Pub. L. 106-569, §503(a)(1), amended par. (2) identically, substituting “for a period of not more than 90 days, if the Secretary determines that an Indian tribe has not complied with, or is unable to comply with, those requirements due to exigent circumstances beyond the control of the Indian tribe.” for “if the Secretary finds that an Indian tribe has not complied or cannot comply with such requirements due to circumstances beyond the control of the tribe.”

Subsec. (c). Pub. L. 106-568, §1003(a)(2), and Pub. L. 106-569, §503(a)(2), amended subsec. (c) identically, inserting at end “The Secretary may waive the requirements of this subsection and subsection (d) of this section if the recipient has made a good faith effort to fulfill the requirements of this subsection and subsection (d) of this section and agrees to make payments in lieu of taxes to the appropriate taxing authority in an amount consistent with the requirements of subsection (d)(2) of this section until such time as the matter of making such payments has been resolved in accordance with subsection (d) of this section.”

1998—Subsec. (c). Pub. L. 105-276, §595(e)(3), reenacted heading without change and amended text generally. Prior to amendment, text read as follows: “The Secretary may not make any grant under this chapter on behalf of an Indian tribe unless the governing body of the locality within which any affordable housing to be assisted with the grant amounts will be situated has entered into an agreement with the recipient for the tribe providing for local cooperation required by the Secretary pursuant to this chapter.”

Subsec. (d). Pub. L. 105-276, §595(e)(4)(A), added subsec. (d) heading, introductory provisions, and par. (1), and struck out former subsec. (d) heading, introductory provisions, and par. (1). Text read as follows: “A grant recipient for an Indian tribe may receive a block grant under this chapter only if—

“(1) the affordable housing assisted with grant amounts received by the recipient (exclusive of any portions not assisted with amounts provided under this chapter) is exempt from all real and personal property taxes levied or imposed by any State, tribe, city, county, or other political subdivision; and”.

Subsec. (d)(2). Pub. L. 105-276, §595(e)(4)(B), inserted “for the tribe” after “the recipient” in introductory provisions.

#### EFFECTIVE DATE

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

### § 4112. Indian housing plans

#### (a) Plan submission

The Secretary shall provide—

(1)(A) for an Indian tribe to submit to the Secretary, by not later than 75 days before the beginning of each tribal program year, a 1-year housing plan for the Indian tribe; or

(B) for the tribally designated housing entity for the tribe to submit the plan as provided in subsection (c) for the tribe; and

(2) for the review of such plans.

#### (b) 1-year plan requirement

##### (1) In general

A housing plan of an Indian tribe under this section shall—

(A) be in such form as the Secretary may prescribe; and

(B) contain the information described in paragraph (2).

##### (2) Required information

A housing plan shall include the following information with respect to the tribal program year for which assistance under this chapter is made available:

##### (A) Description of planned activities

A statement of planned activities, including—

(i) the types of household to receive assistance;

(ii) the types and levels of assistance to be provided;

(iii) the number of units planned to be produced;

(iv)(I) a description of any housing to be demolished or disposed of;

(II) a timetable for the demolition or disposition; and

(III) any other information required by the Secretary with respect to the demolition or disposition;

(v) a description of the manner in which the recipient will protect and maintain the viability of housing owned and operated by the recipient that was developed under a contract between the Secretary and an Indian housing authority pursuant to the United States Housing Act of 1937 (42 U.S.C. 1437 et seq.); and

(vi) outcomes anticipated to be achieved by the recipient.

##### (B) Statement of needs

A statement of the housing needs of the low-income Indian families residing in the jurisdiction of the Indian tribe, and the means by which those needs will be addressed during the applicable period, including—

(i) a description of the estimated housing needs and the need for assistance for the low-income Indian families in the jurisdiction, including a description of the manner in which the geographical distribution of assistance is consistent with the geographical needs and needs for various categories of housing assistance; and

(ii) a description of the estimated housing needs for all Indian families in the jurisdiction.

##### (C) Financial resources

An operating budget for the recipient, in such form as the Secretary may prescribe, that includes—

(i) an identification and description of the financial resources reasonably available to the recipient to carry out the purposes of this chapter, including an explanation of the manner in which amounts made available will leverage additional resources; and

(ii) the uses to which those resources will be committed, including eligible and required affordable housing activities under subchapter II and administrative expenses.

#### **(D) Certification of compliance**

Evidence of compliance with the requirements of this chapter, including, as appropriate—

(i) a certification that, in carrying out this chapter, the recipient will comply with the applicable provisions of title II of the Civil Rights Act of 1968 (25 U.S.C. 1301 et seq.) and other applicable Federal laws and regulations;

(ii) a certification that the recipient will maintain adequate insurance coverage for housing units that are owned and operated or assisted with grant amounts provided under this chapter, in compliance with such requirements as the Secretary may establish;

(iii) a certification that policies are in effect and are available for review by the Secretary and the public governing the eligibility, admission, and occupancy of families for housing assisted with grant amounts provided under this chapter;

(iv) a certification that policies are in effect and are available for review by the Secretary and the public governing rents and homebuyer payments charged, including the methods by which the rents or homebuyer payments are determined, for housing assisted with grant amounts provided under this chapter;

(v) a certification that policies are in effect and are available for review by the Secretary and the public governing the management and maintenance of housing assisted with grant amounts provided under this chapter; and

(vi) a certification that the recipient will comply with section 4114(b) of this title.

#### **(c) Participation of tribally designated housing entity**

A plan under this section for an Indian tribe may be prepared and submitted on behalf of the tribe by the tribally designated housing entity for the tribe, but only if such plan contains a certification by the recognized tribal government of the grant beneficiary that such tribe—

(1) has had an opportunity to review the plan and has authorized the submission of the plan by the housing entity; or

(2) has delegated to such tribally designated housing entity the authority to submit a plan on behalf of the tribe without prior review by the tribe.

#### **(d) Coordination of plans**

A plan under this section may cover more than 1 Indian tribe, but only if the certification

requirements under subsection (c) are complied with by each such grant beneficiary covered.

#### **(e) Regulations**

The requirements relating to the contents of plans under this section shall be established by regulation, pursuant to section 4116 of this title.

(Pub. L. 104-330, title I, §102, Oct. 26, 1996, 110 Stat. 4023; Pub. L. 105-276, title V, §595(e)(5), Oct. 21, 1998, 112 Stat. 2657; Pub. L. 106-568, title X, §1003(b), (c), Dec. 27, 2000, 114 Stat. 2926; Pub. L. 106-569, title V, §503(b), (c), Dec. 27, 2000, 114 Stat. 2962; Pub. L. 110-411, title I, §102, Oct. 14, 2008, 122 Stat. 4321.)

#### REFERENCES IN TEXT

This chapter, referred to in subsec. (b)(2), was in the original "this Act", meaning Pub. L. 104-330, Oct. 26, 1996, 110 Stat. 4016, known as the Native American Housing Assistance and Self-Determination Act of 1996. For complete classification of this Act to the Code, see Short Title note set out under section 4101 of this title and Tables.

The United States Housing Act of 1937, referred to in subsec. (b)(2)(A)(v), is act Sept. 1, 1937, ch. 896, as revised generally by Pub. L. 93-383, title II, §201(a), Aug. 22, 1974, 88 Stat. 653, which is classified generally to chapter 8 (§1437 et seq.) of Title 42, The Public Health and Welfare. For complete classification of this Act to the Code, see Short Title note set out under section 1437 of Title 42 and Tables.

The Civil Rights Act of 1968, referred to in subsec. (b)(2)(D)(i), is Pub. L. 90-284, Apr. 11, 1968, 82 Stat. 73. Title II of the Act, popularly known as the Indian Civil Rights Act of 1968, is classified generally to subchapter I (§1301 et seq.) of chapter 15 of this title. For complete classification of this Act to the Code, see Short Title note set out under section 3601 of Title 42, The Public Health and Welfare, and Tables.

#### AMENDMENTS

2008—Subsec. (a)(1)(A). Pub. L. 110-411, §102(1)(A), added subpar. (A) and struck out former subpar. (A) which read as follows: "for an Indian tribe to submit to the Secretary, for each fiscal year, a housing plan under this section for the tribe; or".

Subsec. (a)(1)(B). Pub. L. 110-411, §102(1)(B), substituted "subsection (c)" for "subsection (d)".

Subsecs. (b), (c). Pub. L. 110-411, §102(2), (3), added subsec. (b), redesignated subsec. (d) as (c), and struck out former subsecs. (b) and (c) which required housing plans to contain certain information relating to a 5-year period and a 1-year period, respectively.

Subsec. (d). Pub. L. 110-411, §102(3), (4), redesignated subsec. (e) as (d) and substituted "subsection (c)" for "subsection (d)". Former subsec. (d) redesignated (c).

Subsecs. (e), (f). Pub. L. 110-411, §102(3), redesignated subsecs. (e) and (f) as (d) and (e), respectively.

2000—Subsec. (c)(6). Pub. L. 106-568, §1003(b), and Pub. L. 106-569, §503(b), amended subsec. (c) identically, adding par. (6).

Subsecs. (f), (g). Pub. L. 106-568, §1003(c), and Pub. L. 106-569, §503(c), amended section identically, redesignating subsec. (g) as (f) and striking out heading and text of former subsec. (f). Text read as follows:

"(1) SEPARATE REQUIREMENTS.—The Secretary may—

"(A) establish requirements for submission of plans under this section and the information to be included in such plans applicable to small Indian tribes and small tribally designated housing entities; and

"(B) waive any requirements under this section that the Secretary determines are burdensome or unnecessary for such tribes and housing entities.

"(2) SMALL TRIBES.—The Secretary may define small Indian tribes and small tribally designated housing entities based on the number of dwelling units assisted under this subchapter by the tribe or housing entity or

owned or operated pursuant to a contract under the United States Housing Act of 1937 between the Secretary and the Indian housing authority for the tribe.” 1998—Subsec. (a). Pub. L. 105-276 redesignated par. (1) as (1)(A), par. (2) as (1)(B), and par. (3) as (2), and inserted “or” at end of par. (1)(A).

#### EFFECTIVE DATE

Section effective on the date provided by the Secretary of Housing and Urban Development pursuant to section 4116(a) of this title to provide for timely submission and review of Indian housing plans as necessary for the provision of assistance under this chapter in fiscal year 1998, see section 4113(e) of this title.

### § 4113. Review of plans

#### (a) Review and notice

##### (1) Review

The Secretary shall conduct a limited review of each Indian housing plan submitted to the Secretary to ensure that the plan complies with the requirements of section 4112 of this title. The Secretary shall have the discretion to review a plan only to the extent that the Secretary considers review is necessary.

##### (2) Notice

The Secretary shall notify each Indian tribe for which a plan is submitted and any tribally designated housing entity for the tribe whether the plan complies with such requirements not later than 60 days after receiving the plan. If the Secretary does not notify the Indian tribe, as required under this subsection and subsection (b) of this section, the plan shall be considered, for purposes of this chapter, to have been determined to comply with the requirements under section 4112 of this title and the tribe shall be considered to have been notified of compliance upon the expiration of such 60-day period.

#### (b) Notice of reasons for determination of non-compliance

If the Secretary determines that a plan, as submitted, does not comply with the requirements under section 4112 of this title, the Secretary shall specify in the notice under subsection (a) of this section the reasons for the noncompliance and any modifications necessary for the plan to meet the requirements under section 4112 of this title.

#### (c) Review

After submission of the Indian housing 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 subsection, the Secretary shall review the plan (including any amendments or modifications thereto) to determine whether the contents of the plan—

- (1) set forth the information required by section 4112 of this title to be contained in an Indian housing plan;
- (2) are consistent with information and data available to the Secretary; and
- (3) are not prohibited by or inconsistent with any provision of this chapter or other applicable law.

If the Secretary determines that any of the appropriate certifications required under section

4112(c)(5)<sup>1</sup> of this title are not included in the plan, the plan shall be deemed to be incomplete.

#### (d) Updates to plan

After a plan under section 4112 of this title has been submitted for an Indian tribe for any tribal program year, the tribe may comply with the provisions of such section for any succeeding tribal program year by submitting only such information regarding such changes as may be necessary to update the plan previously submitted.

#### (e) Self-determined activities program

Notwithstanding any other provision of this section, the Secretary—

(1) shall review the information included in an Indian housing plan pursuant to subsections (b)(4)<sup>2</sup> and (c)(7)<sup>3</sup> only to determine whether the information is included for purposes of compliance with the requirement under section 4145a(b)(2)<sup>4</sup> of this title; and

(2) may not approve or disapprove an Indian housing plan based on the content of the particular benefits, activities, or results included pursuant to subsections (b)(4)<sup>2</sup> and (c)(7).<sup>3</sup>

(Pub. L. 104-330, title I, §103, Oct. 26, 1996, 110 Stat. 4026; Pub. L. 105-276, title V, §595(e)(6), Oct. 21, 1998, 112 Stat. 2657; Pub. L. 110-411, title I, §103, Oct. 14, 2008, 122 Stat. 4323.)

#### REFERENCES IN TEXT

This chapter, referred to in subsecs. (a)(2) and (c)(3), was in the original “this Act”, meaning Pub. L. 104-330, Oct. 26, 1996, 110 Stat. 4016, known as the Native American Housing Assistance and Self-Determination Act of 1996. For complete classification of this Act to the Code, see Short Title note set out under section 4101 of this title and Tables.

Section 4112(c)(5) of this title, referred to in subsec. (c), was repealed by Pub. L. 110-411, title I, §102(2), Oct. 14, 2008, 122 Stat. 4321.

#### AMENDMENTS

2008—Subsec. (d). Pub. L. 110-411, §103(1), substituted “tribal program” for “fiscal” in two places, struck out “(with respect to information included for the 5-year period under section 4112(b) of this title or the 1-year period under section 4112(c) of this title)” before “by submitting only such information”, and struck out at end “Not less than once every 5 years, the tribe shall submit a complete plan.”

Subsec. (e). Pub. L. 110-411, §103(2), added subsec. (e) and struck out former subsec. (e). Prior to amendment, text read as follows: “This section and section 4112 of this title shall take effect on the date provided by the Secretary pursuant to section 4116(a) of this title to provide for timely submission and review of Indian housing plans as necessary for the provision of assistance under this chapter in fiscal year 1998.”

1998—Subsec. (c)(3). Pub. L. 105-276 inserted “not” before “prohibited”.

### § 4114. Treatment of program income and labor standards

#### (a) Program income

##### (1) Authority to retain

Notwithstanding any other provision of this chapter, a recipient may retain any program

<sup>1</sup> See References in Text note below.

<sup>2</sup> So in original. Subsec. (b) of this section does not contain a par. (4).

<sup>3</sup> So in original. Subsec. (c) of this section does not contain a par. (7).

<sup>4</sup> So in original. Section 4145a(b) of this title does not contain a par. (2).