

§ 4116. Regulations

(a) Transition requirements

(1) In general

Not later than 90 days after October 26, 1996, the Secretary shall, by notice issued in the Federal Register, establish any requirements necessary to provide for the transition (upon the effectiveness of this chapter and the amendments made by this chapter) from the provision of assistance for Indian tribes and Indian housing authorities under the United States Housing Act of 1937 [42 U.S.C. 1437 et seq.] and other related provisions of law to the provision of assistance in accordance with this chapter and the amendments made by this chapter.

(2) Public comments; general notice of proposed rulemaking

The notice issued under paragraph (1) shall—
(A) invite public comments regarding such transition requirements and final regulations to carry out this chapter; and

(B) include a general notice of proposed rulemaking (for purposes of section 564(a) of title 5) of the final regulations under subsection (b) of this section.

(b) Final regulations

(1) Timing

The Secretary shall issue final regulations necessary to carry out this chapter not later than September 1, 1997, and such regulations shall take effect not later than the effective date of this chapter.

(2) Negotiated rulemaking procedure

(A) In general

Notwithstanding sections 563(a) and 565(a) of title 5, all regulations required under this chapter, including any regulations that may be required pursuant to amendments made to this chapter after October 26, 1996, shall be issued according to a negotiated rulemaking procedure under subchapter III of chapter 5 of title 5.

(B) Committee

(i) In general

Not later than 180 days after the date of enactment of the Native American Housing Assistance and Self-Determination Reauthorization Act of 2008 and any other Act to reauthorize this chapter, the Secretary shall establish a negotiated rulemaking committee, in accordance with the procedures under that subchapter, for the development of proposed regulations under subparagraph (A).

(ii) Adaptation

In establishing the negotiated rulemaking committee, the Secretary shall—

(I) adapt the procedures under the subchapter described in clause (i) to the unique government-to-government relationship between the Indian tribes and the United States, and shall ensure that the membership of the committee include only representatives of the Federal

Government and of geographically diverse small, medium, and large Indian tribes; and

(II) shall not preclude the participation of tribally designated housing entities should tribes elect to be represented by such entities.

(C) Subsequent negotiated rulemaking

The Secretary shall—

(i) initiate a negotiated rulemaking in accordance with this section by not later than 90 days after the date of enactment of the Native American Housing Assistance and Self-Determination Reauthorization Act of 2008 and any other Act to reauthorize this chapter; and

(ii) promulgate regulations pursuant to this section by not later than 2 years after the date of enactment of the Native American Housing Assistance and Self-Determination Reauthorization Act of 2008 and any other Act to reauthorize this chapter.

(D) Review

Not less frequently than once every 7 years, the Secretary, in consultation with Indian tribes, shall review the regulations promulgated pursuant to this section in effect on the date on which the review is conducted.

(e) Effective date

This section shall take effect on October 26, 1996.

(Pub. L. 104-330, title I, §106, Oct. 26, 1996, 110 Stat. 4029; Pub. L. 107-292, §6, Nov. 13, 2002, 116 Stat. 2054; Pub. L. 110-411, title I, §105, Oct. 14, 2008, 122 Stat. 4324.)

REFERENCES IN TEXT

This chapter, referred to in subsecs. (a) and (b), 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.

For the effective date of this chapter, referred to in subsecs. (a)(1) and (b)(1), as 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 this title.

The United States Housing Act of 1937, referred to in subsec. (a)(1), 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 date of enactment of the Native American Housing Assistance and Self-Determination Reauthorization Act of 2008, referred to in subsec. (b)(2)(B)(i), (C), is the date of enactment of Pub. L. 110-411, which was approved Oct. 14, 2008.

AMENDMENTS

2008—Subsec. (b)(2)(B)(i). Pub. L. 110-411, §105(1), substituted “Not later than 180 days after the date of enactment of the Native American Housing Assistance and Self-Determination Reauthorization Act of 2008 and any other Act to reauthorize this chapter, the Secretary” for “The Secretary”.

Subsec. (b)(2)(C), (D). Pub. L. 110-411, §105(2), added subpars. (C) and (D).

2002—Subsec. (b)(2)(A). Pub. L. 107-292 inserted “, including any regulations that may be required pursuant to amendments made to this chapter after October 26, 1996,” after “required under this chapter”.

§ 4117. Authorization of appropriations

There are authorized to be appropriated for grants under this subchapter such sums as may be necessary for each of fiscal years 2009 through 2013. This section shall take effect on October 26, 1996.

(Pub. L. 104-330, title I, §108, Oct. 26, 1996, 110 Stat. 4030; Pub. L. 107-292, §2(a), Nov. 13, 2002, 116 Stat. 2053; Pub. L. 110-411, title VII, §701(a), Oct. 14, 2008, 122 Stat. 4334.)

AMENDMENTS

2008—Pub. L. 110-411 substituted “2009 through 2013” for “1998 through 2007”.

2002—Pub. L. 107-292 substituted “1998 through 2007” for “1998, 1999, 2000, and 2001”.

SUBCHAPTER II—AFFORDABLE HOUSING ACTIVITIES

PART A—GENERAL BLOCK GRANT PROGRAM

§ 4131. National objectives and eligible families

(a) Primary objective

The national objectives of this chapter are—

(1) to assist and promote affordable housing activities to develop, maintain, and operate affordable housing in safe and healthy environments on Indian reservations and in other Indian areas for occupancy by low-income Indian families;

(2) to ensure better access to private mortgage markets for Indian tribes and their members and to promote self-sufficiency of Indian tribes and their members;

(3) to coordinate activities to provide housing for Indian tribes and their members with Federal, State, and local activities to further economic and community development for Indian tribes and their members;

(4) to plan for and integrate infrastructure resources for Indian tribes with housing development for tribes; and

(5) to promote the development of private capital markets in Indian country and to allow such markets to operate and grow, thereby benefiting Indian communities.

(b) Eligible families

(1) In general

Except as provided under paragraphs (2) and (4), and except with respect to loan guarantees under the demonstration program under subchapter VI, assistance under eligible housing activities under this chapter shall be limited to low-income Indian families on Indian reservations and other Indian areas.

(2) Exception to low-income requirement

(A) Exception to requirement

Notwithstanding paragraph (1), a recipient may provide housing or housing assistance through affordable housing activities for which a grant is provided under this chapter to any family that is not a low-income family, to the extent that the Secretary ap-

proves the activities due to a need for housing for those families that cannot reasonably be met without that assistance.

(B) Limits

The Secretary shall establish limits on the amount of assistance that may be provided under this chapter for activities for families who are not low-income families.

(3) Essential families

Notwithstanding paragraph (1), a recipient may provide housing or housing assistance provided through affordable housing activities assisted with grant amounts under this chapter for a family on an Indian reservation or other Indian area if the recipient determines that the presence of the family on the Indian reservation or other Indian area is essential to the well-being of Indian families and the need for housing for the family cannot reasonably be met without such assistance.

(4) Law enforcement officers

A recipient may provide housing or housing assistance provided through affordable housing activities assisted with grant amounts under this chapter for a law enforcement officer on an Indian reservation or other Indian area, if—

(A) the officer—

(i) is employed on a full-time basis by the Federal Government or a State, county, or other unit of local government, or lawfully recognized tribal government; and

(ii) in implementing such full-time employment, is sworn to uphold, and make arrests for, violations of Federal, State, county, or tribal law; and

(B) the recipient determines that the presence of the law enforcement officer on the Indian reservation or other Indian area may deter crime.

(5) Law enforcement officers

Notwithstanding paragraph (1), a recipient may provide housing or housing assistance provided through affordable housing activities assisted with grant amounts under this chapter to a law enforcement officer on the reservation or other Indian area, who is employed full-time by a Federal, State, county or tribal government, and in implementing such full-time employment is sworn to uphold, and make arrests for violations of Federal, State, county or tribal law, if the recipient determines that the presence of the law enforcement officer on the Indian reservation or other Indian area may deter crime.

(6)¹ Preference for tribal members and other Indian families

The Indian housing plan for an Indian tribe may require preference, for housing or housing assistance provided through affordable housing activities assisted with grant amounts provided under this chapter on behalf of such tribe, to be given (to the extent practicable) to Indian families who are members of such tribe, or to other Indian families. In any case in

¹ So in original. Two pars. (6) have been enacted.