

of Pub. L. 104-330, set out as an Effective Date note under section 4101 of Title 25, Indians.

Amendment by Pub. L. 104-120 to be construed to have become effective Oct. 1, 1995, notwithstanding the effective date of any regulations issued by Secretary of Housing and Urban Development to implement amendments by sections 9 and 10 of Pub. L. 104-120 or any failure by Secretary to issue any such regulations, see section 13 of Pub. L. 104-120, set out as a note under section 1437d of this title.

Amendment by Pub. L. 104-99 effective Jan. 26, 1996, only for fiscal years 1996, 1997, and 1998, and to cease to be effective Oct. 21, 1998, see section 402(f) of Pub. L. 104-99, as amended, and section 514(f) of Pub. L. 105-276, set out as notes under section 1437a of this title.

#### EFFECTIVE DATE OF 1992 AMENDMENT

Amendment by subtitles B through F of title VI [§§ 621-685] of Pub. L. 102-550 applicable upon expiration of 6-month period beginning Oct. 28, 1992, except as otherwise provided, see section 13642 of this title.

#### INAPPLICABILITY OF CERTAIN 1992 AMENDMENTS TO INDIAN PUBLIC HOUSING

Amendment by Pub. L. 102-550 not applicable with respect to lower income housing developed or operated pursuant to contract between Secretary of Housing and Urban Development and Indian housing authority, see section 626 of Pub. L. 102-550, set out as a note under section 1437a of this title.

### § 1437f. Low-income housing assistance

#### (a) Authorization for assistance payments

For the purpose of aiding low-income families in obtaining a decent place to live and of promoting economically mixed housing, assistance payments may be made with respect to existing housing in accordance with the provisions of this section.

#### (b) Other existing housing programs

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

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

#### (c) Contents and purposes of contracts for assistance payments; amount and scope of monthly assistance payments

(1) An assistance contract entered into pursuant to this section shall establish the maximum monthly rent (including utilities and all maintenance and management charges) which the owner is entitled to receive for each dwelling unit with respect to which such assistance payments are to be made. The maximum monthly rent shall not exceed by more than 10 per centum the fair market rental established by the

Secretary periodically but not less than annually for existing or newly constructed rental dwelling units of various sizes and types in the market area suitable for occupancy by persons assisted under this section, except that the maximum monthly rent may exceed the fair market rental (A) by more than 10 but not more than 20 per centum where the Secretary determines that special circumstances warrant such higher maximum rent or that such higher rent is necessary to the implementation of a housing strategy as defined in section 12705 of this title, or (B) by such higher amount as may be requested by a tenant and approved by the public housing agency in accordance with paragraph (3)(B). In the case of newly constructed and substantially rehabilitated units, the exception in the preceding sentence shall not apply to more than 20 per centum of the total amount of authority to enter into annual contributions contracts for such units which is allocated to an area and obligated with respect to any fiscal year beginning on or after October 1, 1980. Proposed fair market rentals for an area shall be published in the Federal Register with reasonable time for public comment, and shall become effective upon the date of publication in final form in the Federal Register. Each fair market rental in effect under this subsection shall be adjusted to be effective on October 1 of each year to reflect changes, based on the most recent available data trended so the rentals will be current for the year to which they apply, of rents for existing or newly constructed rental dwelling units, as the case may be, of various sizes and types in the market area suitable for occupancy by persons assisted under this section. Notwithstanding any other provision of this section, after October 12, 1977, the Secretary shall prohibit high-rise elevator projects for families with children unless there is no practical alternative. The Secretary shall establish separate fair market rentals under this paragraph for Westchester County in the State of New York. The Secretary shall also establish separate fair market rentals under this paragraph for Monroe County in the Commonwealth of Pennsylvania. In establishing fair market rentals for the remaining portion of the market area in which Monroe County is located, the Secretary shall establish the fair market rentals as if such portion included Monroe County. If units assisted under this section are exempt from local rent control while they are so assisted or otherwise, the maximum monthly rent for such units shall be reasonable in comparison with other units in the market area that are exempt from local rent control.

(2)(A) The assistance contract shall provide for adjustment annually or more frequently in the maximum monthly rents for units covered by the contract to reflect changes in the fair market rentals established in the housing area for similar types and sizes of dwelling units or, if the Secretary determines, on the basis of a reasonable formula. However, where the maximum monthly rent, for a unit in a new construction, substantial rehabilitation, or moderate rehabilitation project, to be adjusted using an annual adjustment factor exceeds the fair market rental for an existing dwelling unit in the market area, the Secretary shall adjust the rent only to

the extent that the owner demonstrates that the adjusted rent would not exceed the rent for an unassisted unit of similar quality, type, and age in the same market area, as determined by the Secretary. The immediately foregoing sentence shall be effective only during fiscal year 1995, fiscal year 1996 prior to April 26, 1996, and fiscal years 1997 and 1998, and during fiscal year 1999 and thereafter. Except for assistance under the certificate program, for any unit occupied by the same family at the time of the last annual rental adjustment, where the assistance contract provides for the adjustment of the maximum monthly rent by applying an annual adjustment factor and where the rent for a unit is otherwise eligible for an adjustment based on the full amount of the factor, 0.01 shall be subtracted from the amount of the factor, except that the factor shall not be reduced to less than 1.0. In the case of assistance under the certificate program, 0.01 shall be subtracted from the amount of the annual adjustment factor (except that the factor shall not be reduced to less than 1.0), and the adjusted rent shall not exceed the rent for a comparable unassisted unit of similar quality, type, and age in the market area. The immediately foregoing two sentences shall be effective only during fiscal year 1995, fiscal year 1996 prior to April 26, 1996, and fiscal years 1997 and 1998, and during fiscal year 1999 and thereafter. In establishing annual adjustment factors for units in new construction and substantial rehabilitation projects, the Secretary shall take into account the fact that debt service is a fixed expense. The immediately foregoing sentence shall be effective only during fiscal year 1998.

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

and reserves required for the owner to carry out a strategy acceptable to the Secretary for addressing the problem of drug-related criminal activity. Any rent comparability standard required under this paragraph may be waived by the Secretary to so implement the preceding sentence. The Secretary may (at the discretion of the Secretary and subject to the availability of appropriations for contract amendments), on a project by project basis for projects receiving project-based assistance, provide adjustments to the maximum monthly rents to cover the costs of evaluating and reducing lead-based paint hazards, as defined in section 4851b of this title.

(C) Adjustments in the maximum rents under subparagraphs (A) and (B) shall not result in material differences between the rents charged for assisted units and unassisted units of similar quality, type, and age in the same market area, as determined by the Secretary. In implementing the limitation established under the preceding sentence, the Secretary shall establish regulations for conducting comparability studies for projects where the Secretary has reason to believe that the application of the formula adjustments under subparagraph (A) would result in such material differences. The Secretary shall conduct such studies upon the request of any owner of any project, or as the Secretary determines to be appropriate by establishing, to the extent practicable, a modified annual adjustment factor for such market area, as the Secretary shall designate, that is geographically smaller than the applicable housing area used for the establishment of the annual adjustment factor under subparagraph (A). The Secretary shall establish such modified annual adjustment factor on the basis of the results of a study conducted by the Secretary of the rents charged, and any change in such rents over the previous year, for assisted units and unassisted units of similar quality, type, and age in the smaller market area. Where the Secretary determines that such modified annual adjustment factor cannot be established or that such factor when applied to a particular project would result in material differences between the rents charged for assisted units and unassisted units of similar quality, type, and age in the same market area, the Secretary may apply an alternative methodology for conducting comparability studies in order to establish rents that are not materially different from rents charged for comparable unassisted units. If the Secretary or appropriate State agency does not complete and submit to the project owner a comparability study not later than 60 days before the anniversary date of the assistance contract under this section, the automatic annual adjustment factor shall be applied. The Secretary may not reduce the contract rents in effect on or after April 15, 1987, for newly constructed, substantially rehabilitated, or moderately rehabilitated projects assisted under this section (including projects assisted under this section as in effect prior to November 30, 1983), unless the project has been refinanced in a manner that reduces the periodic payments of the owner. Any maximum monthly rent that has been reduced by the Secretary after April 14, 1987, and prior to November 7, 1988, shall be restored to the maximum monthly rent in effect

on April 15, 1987. For any project which has had its maximum monthly rents reduced after April 14, 1987, the Secretary shall make assistance payments (from amounts reserved for the original contract) to the owner of such project in an amount equal to the difference between the maximum monthly rents in effect on April 15, 1987, and the reduced maximum monthly rents, multiplied by the number of months that the reduced maximum monthly rents were in effect.

(3) The amount of the monthly assistance payment with respect to any dwelling unit shall be the difference between the maximum monthly rent which the contract provides that the owner is to receive for the unit and the rent the family is required to pay under section 1437a(a) of this title. Reviews of family income shall be made no less frequently than annually.

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

(5) The Secretary shall take such steps as may be necessary, including the making of contracts for assistance payments in amounts in excess of the amounts required at the time of the initial renting of dwelling units, the reservation of annual contributions authority for the purpose of amending housing assistance contracts, or the allocation of a portion of new authorizations for the purpose of amending housing assistance contracts, to assure that assistance payments are increased on a timely basis to cover increases in maximum monthly rents or decreases in family incomes.

(6) Redesignated (5).

(7) Repealed. Pub. L. 105-276, title V, § 550(a)(3)(C), Oct. 21, 1998, 112 Stat. 2609.

(8)(A) Not less than one year before termination of any contract under which assistance payments are received under this section, other than a contract for tenant-based assistance under this section, an owner shall provide written notice to the Secretary and the tenants involved of the proposed termination. The notice shall also include a statement that, if the Congress makes funds available, the owner and the Secretary may agree to a renewal of the contract, thus avoiding termination, and that in

the event of termination the Department of Housing and Urban Development will provide tenant-based rental assistance to all eligible residents, enabling them to choose the place they wish to rent, which is likely to include the dwelling unit in which they currently reside. Any contract covered by this paragraph that is renewed may be renewed for a period of up to 1 year or any number or years, with payments subject to the availability of appropriations for any year.

(B) In the event the owner does not provide the notice required, the owner may not evict the tenants or increase the tenants' rent payment until such time as the owner has provided the notice and 1 year has elapsed. The Secretary may allow the owner to renew the terminating contract for a period of time sufficient to give tenants 1 year of advance notice under such terms and conditions as the Secretary may require.

(C) Any notice under this paragraph shall also comply with any additional requirements established by the Secretary.

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

(9)(A) That an applicant or participant is or has been a victim of domestic violence, dating violence, or stalking is not an appropriate basis for denial of program assistance or for denial of admission, if the applicant otherwise qualifies for assistance or admission.

(B) An incident or incidents of actual or threatened domestic violence, dating violence, or stalking will not be construed as a serious or repeated violation of the lease by the victim or threatened victim of that violence and shall not be good cause for terminating the assistance, tenancy, or occupancy rights of the victim of such violence.

(C)(i) Criminal activity directly relating to domestic violence, dating violence, or stalking, engaged in by a member of a tenant's household or any guest or other person under the tenant's control shall not be cause for termination of assistance, tenancy, or occupancy rights if the tenant or an immediate member of the tenant's family is the victim or threatened victim of that domestic violence, dating violence, or stalking.

(ii) Notwithstanding clause (i) or any Federal, State, or local law to the contrary, an owner or manager may bifurcate a lease under this section, or remove a household member from a lease under this section, without regard to whether a household member is a signatory to a lease, in order to evict, remove, terminate occupancy rights, or terminate assistance to any individual who is a tenant or lawful occupant and who engages in criminal acts of physical violence against family members or others, without evicting, removing, terminating assistance to, or otherwise penalizing the victim of such violence who is also a tenant or lawful occupant. Such eviction, removal, termination of occupancy rights, or termination of assistance shall be effected in accordance with the procedures prescribed by Federal, State, and local law for

the termination of leases or assistance under the relevant program of HUD-assisted housing.

(iii) Nothing in clause (i) may be construed to limit the authority of a public housing agency, owner, or manager, when notified, to honor court orders addressing rights of access to or control of the property, including civil protection orders issued to protect the victim and issued to address the distribution or possession of property among the household members in cases where a family breaks up.

(iv) Nothing in clause (i) limits any otherwise available authority of an owner or manager to evict or the public housing agency to terminate assistance to a tenant for any violation of a lease not premised on the act or acts of violence in question against the tenant or a member of the tenant's household, provided that the owner or manager does not subject an individual who is or has been a victim of domestic violence, dating violence, or stalking to a more demanding standard than other tenants in determining whether to evict or terminate.

(v) Nothing in clause (i) may be construed to limit the authority of an owner, manager, or public housing agency to evict or terminate from assistance any tenant or lawful occupant if the owner, manager or public housing agency can demonstrate an actual and imminent threat to other tenants or those employed at or providing service to the property if that tenant is not evicted or terminated from assistance.

(vi) Nothing in this section shall be construed to supersede any provision of any Federal, State, or local law that provides greater protection than this section for victims of domestic violence, dating violence, or stalking.

**(d) Required provisions and duration of contracts for assistance payments; waiver of limitation**

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

(A) the selection of tenants shall be the function of the owner, subject to the annual contributions contract between the Secretary and the agency, except that with respect to the certificate and moderate rehabilitation programs only, for the purpose of selecting families to be assisted, the public housing agency may establish local preferences, consistent with the public housing agency plan submitted under section 1437c-1 of this title by the public housing agency and that an applicant or participant is or has been a victim of domestic violence, dating violence, or stalking is not an appropriate basis for denial of program assistance or for denial of admission if the applicant otherwise qualifies for assistance or admission;

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

(ii) during the term of the lease, the owner shall not terminate the tenancy except for serious or repeated violation of the terms and conditions of the lease, for violation of appli-

cable Federal, State, or local law, or for other good cause, and that an incident or incidents of actual or threatened domestic violence, dating violence, or stalking will not be construed as a serious or repeated violation of the lease by the victim or threatened victim of that violence and will not be good cause for terminating the tenancy or occupancy rights of the victim of such violence;

(iii) during the term of the lease, any criminal activity that threatens the health, safety, or right to peaceful enjoyment of the premises by other tenants, any criminal activity that threatens the health, safety, or right to peaceful enjoyment of their residences by persons residing in the immediate vicinity of the premises, or any drug-related criminal activity on or near such premises, engaged in by a tenant of any unit, any member of the tenant's household, or any guest or other person under the tenant's control, shall be cause for termination of tenancy, except that: (I) criminal activity directly relating to domestic violence, dating violence, or stalking, engaged in by a member of a tenant's household or any guest or other person under the tenant's control, shall not be cause for termination of the tenancy or occupancy rights or program assistance, if the tenant or immediate member of the tenant's family is a victim of that domestic violence, dating violence, or stalking; (II) Notwithstanding<sup>1</sup> subclause (I) or any Federal, State, or local law to the contrary, a public housing agency may terminate assistance to, or an owner or manager may bifurcate a lease under this section, or remove a household member from a lease under this section, without regard to whether a household member is a signatory to a lease, in order to evict, remove, terminate occupancy rights, or terminate assistance to any individual who is a tenant or lawful occupant and who engages in criminal acts of physical violence against family members or others, without evicting, removing, terminating assistance to, or otherwise penalizing the victim of such violence who is also a tenant or lawful occupant. Such eviction, removal, termination of occupancy rights, or termination of assistance shall be effected in accordance with the procedures prescribed by Federal, State, and local law for the termination of leases or assistance under the relevant program of HUD-assisted housing.<sup>2</sup> (III) nothing in subclause (I) may be construed to limit the authority of a public housing agency, owner, or manager, when notified, to honor court orders addressing rights of access to or control of the property, including civil protection orders issued to protect the victim and issued to address the distribution or possession of property among the household members in cases where a family breaks up; (IV) nothing in subclause (I) limits any otherwise available authority of an owner or manager to evict or the public housing agency to terminate assistance to a tenant for any violation of a lease not premised on the act or acts

<sup>1</sup> So in original. "Notwithstanding" probably should not be capitalized.

<sup>2</sup> So in original. The period probably should be a semicolon.

of violence in question against the tenant or a member of the tenant's household, provided that the owner, manager, or public housing agency does not subject an individual who is or has been a victim of domestic violence, dating violence, or stalking to a more demanding standard than other tenants in determining whether to evict or terminate; (V) nothing in subclause (I) may be construed to limit the authority of an owner or manager to evict, or the public housing agency to terminate assistance, to<sup>3</sup> any tenant if the owner, manager, or public housing agency can demonstrate an actual and imminent threat to other tenants or those employed at or providing service to the property if that tenant is not evicted or terminated from assistance; and (VI) nothing in this section shall be construed to supersede any provision of any Federal, State, or local law that provides greater protection than this section for victims of domestic violence, dating violence, or stalking.;<sup>4</sup>

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

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

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

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

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

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

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

(B)(i) In determining the amount of assistance provided under an assistance contract for project-based assistance under this paragraph or a contract for assistance for housing constructed or substantially rehabilitated pursuant to assistance provided under subsection (b)(2) of this section (as such subsection existed immediately before October 1, 1983), the Secretary may consider and annually adjust, with respect to such project, for the cost of employing or

otherwise retaining the services of one or more service coordinators under section 661<sup>5</sup> of the Housing and Community Development Act of 1992 [42 U.S.C. 13631] to coordinate the provision of any services within the project for residents of the project who are elderly or disabled families.

(ii) The budget authority available under section 1437c(c) of this title for assistance under this section is authorized to be increased by \$15,000,000 on or after October 1, 1992, and by \$15,000,000 on or after October 1, 1993. Amounts made available under this subparagraph shall be used to provide additional amounts under annual contributions contracts for assistance under this section which shall be made available through assistance contracts only for the purpose of providing service coordinators under clause (i) for projects receiving project-based assistance under this paragraph and to provide additional amounts under contracts for assistance for projects constructed or substantially rehabilitated pursuant to assistance provided under subsection (b)(2) of this section (as such subsection existed immediately before October 1, 1983) only for such purpose.

(C) An assistance contract for project-based assistance under this paragraph shall provide that the owner shall ensure and maintain compliance with subtitle C of title VI of the Housing and Community Development Act of 1992 [42 U.S.C. 13601 et seq.] and any regulations issued under such subtitle.

(D) An owner of a covered section 8 [42 U.S.C. 1437f] housing project (as such term is defined in section 659 of the Housing and Community Development Act of 1992 [42 U.S.C. 13619]) may give preference for occupancy of dwelling units in the project, and reserve units for occupancy, in accordance with subtitle D of title VI of the Housing and Community Development Act of 1992 [42 U.S.C. 13611 et seq.].

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

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

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

(6) TREATMENT OF COMMON AREAS.—The Secretary may not provide any assistance amounts pursuant to an existing contract for project-based assistance under this section for a housing project and may not enter into a new or renewal contract for such assistance for a project unless the owner of the project provides consent, to such local law enforcement agencies as the Sec-

<sup>3</sup> So in original. Probably should be "assistance to,".

<sup>4</sup> So in original. The period probably should not appear.

<sup>5</sup> So in original. Probably should be section "671".

retary determines appropriate, for law enforcement officers of such agencies to enter common areas of the project at any time and without advance notice upon a determination of probable cause by such officers that criminal activity is taking place in such areas.

**(e) Restrictions on contracts for assistance payments**

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

(2) Repealed. Pub. L. 101-625, title II, §289(b), Nov. 28, 1990, 104 Stat. 4128.

**(f) Definitions**

As used in this section—

(1) the term “owner” means any private person or entity, including a cooperative, an agency of the Federal Government, or a public housing agency, having the legal right to lease or sublease dwelling units;

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

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

(4) the term “participating jurisdiction” means a State or unit of general local government designated by the Secretary to be a participating jurisdiction under title II of the Cranston-Gonzalez National Affordable Housing Act [42 U.S.C. 12721 et seq.];

(5) the term “drug-related criminal activity” means the illegal manufacture, sale, distribution, use, or possession with intent to manufacture, sell, distribute, or use, of a controlled substance (as defined in section 802 of title 21);

(6) the term “project-based assistance” means rental assistance under subsection (b) of this section that is attached to the structure pursuant to subsection (d)(2) or (o)(13) of this section;

(7) the term “tenant-based assistance” means rental assistance under subsection (o) of this section that is not project-based assistance and that provides for the eligible family to select suitable housing and to move to other suitable housing;

(8) the term “domestic violence” has the same meaning given the term in section 13925 of this title;

(9) the term “dating violence” has the same meaning given the term in section 13925 of this title;

(10) the term “stalking” means—

(A)(i) to follow, pursue, or repeatedly commit acts with the intent to kill, injure, harass, or intimidate another person; or

(ii) to place under surveillance with the intent to kill, injure, harass, or intimidate another person; and

(B) in the course of, or as a result of, such following, pursuit, surveillance, or repeatedly committed acts, to place a person in reasonable fear of the death of, or serious bodily injury to, or to cause substantial emotional harm to—

(i) that person;

(ii) a member of the immediate family of that person; or

(iii) the spouse or intimate partner of that person; and

(11) the term “immediate family member” means, with respect to a person—

(A) a spouse, parent, brother or sister, or child of that person, or an individual to whom that person stands in loco parentis; or

(B) any other person living in the household of that person and related to that person by blood or marriage.

**(g) Regulations applicable for implementation of assistance payments**

Notwithstanding any other provision of this chapter, assistance payments under this section may be provided, in accordance with regulations prescribed by the Secretary, with respect to some or all of the units in any project approved pursuant to section 1701q of title 12.

**(h) Nonapplicability of inconsistent provisions to contracts for assistance payments**

Sections 1437c(e) and 1437d of this title (except as provided in section 1437d(j)(3) of this title), and any other provisions of this chapter which are inconsistent with the provisions of this section shall not apply to contracts for assistance entered into under this section.

**(i) Receipt of assistance by public housing agency under other law not to be considered**

The Secretary may not consider the receipt by a public housing agency of assistance under section 811(b)(1) of the Cranston-Gonzalez National Affordable Housing Act [42 U.S.C. 8013(b)(1)], or the amount received, in approving assistance for the agency under this section or determining the amount of such assistance to be provided.

**(j) Repealed. Pub. L. 105-276, title V, § 550(a)(6), Oct. 21, 1998, 112 Stat. 2609**

**(k) Verification of income**

The Secretary shall establish procedures which are appropriate and necessary to assure that income data provided to public housing agencies and owners by families applying for or receiving assistance under this section is complete and accurate. In establishing such procedures, the Secretary shall randomly, regularly, and periodically select a sample of families to authorize the Secretary to obtain information on these families for the purpose of income verification, or to allow those families to provide such information themselves. Such information may include, but is not limited to, data concerning unemployment compensation and Federal income taxation and data relating to benefits made available under the Social Security Act [42 U.S.C. 301 et seq.], the Food and Nutrition Act of 2008 [7 U.S.C. 2011 et seq.], or title 38. Any such information received pursuant to this subsection shall remain confidential and shall be

used only for the purpose of verifying incomes in order to determine eligibility of families for benefits (and the amount of such benefits, if any) under this section.

**(l), (m) Repealed. Pub. L. 98-181, title II, § 209(a)(5), Nov. 30, 1983, 97 Stat. 1183**

**(n) Repealed. Pub. L. 105-276, title V, § 550(a)(7), Oct. 21, 1998, 112 Stat. 2609**

**(o) Voucher program**

**(1) Authority**

**(A) In general**

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

**(B) Establishment of payment standard**

Except as provided under subparagraph (D), the payment standard for each size of dwelling unit in a market area shall not exceed 110 percent of the fair market rental established under subsection (c) of this section for the same size of dwelling unit in the same market area and shall be not less than 90 percent of that fair market rental.

**(C) Set-aside**

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

**(D) Approval**

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

**(E) Review**

The Secretary—

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

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

**(2) Amount of monthly assistance payment**

Subject to the requirement under section 1437a(a)(3) of this title (relating to minimum rental amount), the monthly assistance payment for a family receiving assistance under this subsection shall be determined as follows:

**(A) Tenant-based assistance; rent not exceeding payment standard**

For a family receiving tenant-based assistance, if the rent for the family (including the amount allowed for tenant-paid utilities) does not exceed the applicable payment standard established under paragraph (1), the monthly assistance payment for the family shall be equal to the amount by which the rent (including the amount allowed for tenant-paid utilities) exceeds the greatest of the following amounts, rounded to the nearest dollar:

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

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

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

**(B) Tenant-based assistance; rent exceeding payment standard**

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

**(C) Families receiving project-based assistance**

For a family receiving project-based assistance, the rent that the family is required to pay shall be determined in accordance with section 1437a(a)(1) of this title, and the amount of the housing assistance payment shall be determined in accordance with subsection (c)(3) of this section.

**(3) 40 percent limit**

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

**(4) Eligible families**

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

(A) a very low-income family;

(B) a family previously assisted under this subchapter;

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

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

(E) a family that qualifies to receive a voucher under section 223 or 226 of the Low-Income Housing Preservation and Resident Homeownership Act of 1990 [12 U.S.C. 4113, 4116].

**(5) Annual review of family income**

**(A) In general**

Reviews of family incomes for purposes of this section shall be subject to the provisions of section 3544 of this title and shall be conducted upon the initial provision of housing assistance for the family and thereafter not less than annually.

**(B) Procedures**

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

**(6) Selection of families and disapproval of owners**

**(A) Preferences**

**(i) Authority to establish**

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

**(ii) Content**

Each system of preferences established pursuant to this subparagraph shall be based upon local housing needs and priorities, as determined by the public housing agency using generally accepted data sources, including any information obtained pursuant to an opportunity for public comment as provided under section 1437c-1(f) of this title and under the requirements applicable to the comprehensive housing affordability strategy for the relevant jurisdiction.

**(B) Selection of tenants**

Each housing assistance payment contract entered into by the public housing agency and the owner of a dwelling unit<sup>6</sup> shall provide that the screening and selection of families for those units shall be the function of the owner. In addition, the public housing agency may elect to screen applicants for the program in accordance with such requirements as the Secretary may establish. That an applicant or participant is or has

been a victim of domestic violence, dating violence, or stalking is not an appropriate basis for denial of program assistance or for denial of admission if the applicant otherwise qualifies for assistance or admission. Nothing in this section shall be construed to supersede any provision of any Federal, State, or local law that provides greater protection than this section for victims of domestic violence, dating violence, or stalking.

**(C) PHA disapproval of owners**

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

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

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

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

**(7) Leases and tenancy**

Each housing assistance payment contract entered into by the public housing agency and the owner of a dwelling unit—

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

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

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

(ii) contain terms and conditions that—

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

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

(C) shall provide that during the term of the lease, the owner shall not terminate the tenancy except for serious or repeated violation of the terms and conditions of the lease, for violation of applicable Federal, State, or local law, or for other good cause, and that an incident or incidents of actual or threatened domestic violence, dating violence, or stalking shall not be construed as a serious or repeated violation of the lease by the victim or threatened victim of that violence

<sup>6</sup>So in original. No opening parenthesis was enacted.



and shall not be good cause for terminating the tenancy or occupancy rights of the victim of such violence and in the case of an owner who is an immediate successor in interest pursuant to foreclosure during the term of the lease vacating the property prior to sale shall not constitute other good cause, except that the owner may terminate the tenancy effective on the date of transfer of the unit to the owner if the owner—

(i) will occupy the unit as a primary residence; and

(ii) has provided the tenant a notice to vacate at least 90 days before the effective date of such notice.;<sup>4</sup>

(D) shall provide that during the term of the lease, any criminal activity that threatens the health, safety, or right to peaceful enjoyment of the premises by other tenants, any criminal activity that threatens the health, safety, or right to peaceful enjoyment of their residences by persons residing in the immediate vicinity of the premises, or any violent or drug-related criminal activity on or near such premises, engaged in by a tenant of any unit, any member of the tenant's household, or any guest or other person under the tenant's control, shall be cause for termination of tenancy; except that (i) criminal activity directly relating to domestic violence, dating violence, or stalking, engaged in by a member of a tenant's household or any guest or other person under the tenant's control shall not be cause for termination of the tenancy or occupancy rights, if the tenant or immediate member of the tenant's family is a victim of that domestic violence, dating violence, or stalking; (ii) LIMITATION.—Notwithstanding<sup>7</sup> clause (i) or any Federal, State, or local law to the contrary, a public housing agency may terminate assistance to, or an owner or manager may bifurcate a lease under this section, or remove a household member from a lease under this section, without regard to whether a household member is a signatory to a lease, in order to evict, remove, terminate occupancy rights, or terminate assistance to any individual who is a tenant or lawful occupant and who engages in criminal acts of physical violence against family members or others, without evicting, removing, terminating assistance to, or otherwise penalizing the victim of such violence who is also a tenant or lawful occupant. Such eviction, removal, termination of occupancy rights, or termination of assistance shall be effected in accordance with the procedures prescribed by Federal, State, and local law for the termination of leases or assistance under the relevant program of HUD-assisted housing.<sup>2</sup> (iii) nothing in clause (i) may be construed to limit the authority of a public housing agency, owner, or manager, when notified, to honor court orders addressing rights of access or control of the property, including civil protection orders issued to protect the victim and issued to address the

distribution or possession of property among the household members in cases where a family breaks up; (iv) nothing in clause (i) limits any otherwise available authority of an owner or manager to evict or the public housing agency to terminate assistance to a tenant for any violation of a lease not premised on the act or acts of violence in question against the tenant or a member of the tenant's household, provided that the owner, manager, or public housing agency does not subject an individual who is or has been a victim of domestic violence, dating violence, or stalking to a more demanding standard than other tenants in determining whether to evict or terminate; (v) nothing in clause (i) may be construed to limit the authority of an owner or manager to evict, or the public housing agency to terminate assistance to<sup>3</sup> any tenant if the owner, manager, or public housing agency can demonstrate an actual and imminent threat to other tenants or those employed at or providing service to the property if that tenant is not evicted or terminated from assistance; and (vi) nothing in this section shall be construed to supersede any provision of any Federal, State, or local law that provides greater protection than this section for victims of domestic violence, dating violence, or stalking.;<sup>4</sup>

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

(F) may include any addenda required by the Secretary to set forth the provisions of this subsection. In the case of any foreclosure on any federally-related mortgage loan (as that term is defined in section 2602 of title 12) or on any residential real property in which a recipient of assistance under this subsection resides, the immediate successor in interest in such property pursuant to the foreclosure shall assume such interest subject to the lease between the prior owner and the tenant and to the housing assistance payments contract between the prior owner and the public housing agency for the occupied unit, except that this provision and the provisions related to foreclosure in subparagraph (C) shall not shall not<sup>8</sup> affect any State or local law that provides longer time periods or other additional protections for tenants.

## **(8) Inspection of units by PHAs**

### **(A) In general**

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

<sup>7</sup>So in original. There probably should be no heading or capitalization of "Notwithstanding".

<sup>8</sup>So in original.

**(B) Housing quality standards**

The housing quality standards under this subparagraph are standards for safe and habitable housing established—

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

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

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

(II) do not severely restrict housing choice<sup>9</sup>

**(C) Inspection**

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

**(D) Annual inspections**

Each public housing agency providing assistance under this subsection (or other entity, as provided in paragraph (11)) shall make an annual inspection of each assisted dwelling unit during the term of the housing assistance payments contract for the unit to determine whether the unit is maintained in accordance with the requirements under subparagraph (A). The agency (or other entity) shall retain the records of the inspection for a reasonable time and shall make the records available upon request to the Secretary, the Inspector General for the Department of Housing and Urban Development, and any auditor conducting an audit under section 1437c(h) of this title.

**(E) Inspection guidelines**

The Secretary shall establish procedural guidelines and performance standards to facilitate inspections of dwelling units and conform such inspections with practices utilized in the private housing market. Such guidelines and standards shall take into consideration variations in local laws and practices of public housing agencies and shall provide flexibility to authorities appropriate

to facilitate efficient provision of assistance under this subsection.

**(9) Vacated units**

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

**(10) Rent****(A) Reasonableness**

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

**(B) Negotiations**

A public housing agency (or other entity, as provided in paragraph (11)) shall, at the request of a family receiving tenant-based assistance under this subsection, assist that family in negotiating a reasonable rent with a dwelling unit owner. A public housing agency (or such other entity) shall review the rent for a unit under consideration by the family (and all rent increases for units under lease by the family) to determine whether the rent (or rent increase) requested by the owner is reasonable. If a public housing agency (or other such entity) determines that the rent (or rent increase) for a dwelling unit is not reasonable, the public housing agency (or other such entity) shall not make housing assistance payments to the owner under this subsection with respect to that unit.

**(C) Units exempt from local rent control**

If a dwelling unit for which a housing assistance payment contract is established under this subsection is exempt from local rent control provisions during the term of that contract, the rent for that unit shall be reasonable in comparison with other units in the market area that are exempt from local rent control provisions.

**(D) Timely payments**

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

**(E) Penalties**

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

<sup>9</sup> So in original. Probably should be followed by a period.

**(F) Tax credit projects**

In the case of a dwelling unit receiving tax credits pursuant to section 42 of title 26 or for which assistance is provided under subtitle A of title II of the Cranston Gonzalez<sup>10</sup> National Affordable Housing Act of 1990 [42 U.S.C. 12741 et seq.], for which a housing assistance contract not subject to paragraph (13) of this subsection is established, rent reasonableness shall be determined as otherwise provided by this paragraph, except that—

(i) comparison with rent for units in the private, unassisted local market shall not be required if the rent is equal to or less than the rent for other comparable units receiving such tax credits or assistance in the project that are not occupied by families assisted with tenant-based assistance under this subsection; and

(ii) the rent shall not be considered reasonable for purposes of this paragraph if it exceeds the greater of—

(I) the rents charged for other comparable units receiving such tax credits or assistance in the project that are not occupied by families assisted with tenant-based assistance under this subsection; and

(II) the payment standard established by the public housing agency for a unit of the size involved.

**(11) Leasing of units owned by PHA**

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

**(12) Assistance for rental of manufactured housing****(A) In general**

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

**(B) Rent calculation****(i) Charges included**

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

**(ii) Payment standard**

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

**(iii) Monthly assistance payment**

The monthly assistance payment for a family assisted under this paragraph shall be determined in accordance with paragraph (2).

**(13) PHA project-based assistance****(A) In general**

A public housing agency may use amounts provided under an annual contributions contract under this subsection to enter into a housing assistance payment contract with respect to an existing, newly constructed, or rehabilitated structure, that is attached to the structure, subject to the limitations and requirements of this paragraph.

**(B) Percentage limitation**

Not more than 20 percent of the funding available for tenant-based assistance under this section that is administered by the agency may be attached to structures pursuant to this paragraph.

**(C) Consistency with PHA plan and other goals**

A public housing agency may approve a housing assistance payment contract pursuant to this paragraph only if the contract is consistent with—

(i) the public housing agency plan for the agency approved under section 1437c-1 of this title; and

(ii) the goal of deconcentrating poverty and expanding housing and economic opportunities.

**(D) Income mixing requirement****(i) In general**

Not more than 25 percent of the dwelling units in any project may be assisted under a housing assistance payment contract for project-based assistance pursuant to this paragraph. For purposes of this subparagraph, the term “project” means a single building, multiple contiguous buildings, or multiple buildings on contiguous parcels of land.

**(ii) Exceptions**

The limitation under clause (i) shall not apply in the case of assistance under a contract for housing consisting of single family properties or for dwelling units that are specifically made available for households comprised of elderly families, disabled families, and families receiving supportive services.

**(E) Resident choice requirement**

A housing assistance payment contract pursuant to this paragraph shall provide as follows:

<sup>10</sup> So in original. Probably should be “Cranston-Gonzalez”.

**(i) Mobility**

Each low-income family occupying a dwelling unit assisted under the contract may move from the housing at any time after the family has occupied the dwelling unit for 12 months.

**(ii) Continued assistance**

Upon such a move, the public housing agency shall provide the low-income family with tenant-based rental assistance under this section or such other tenant-based rental assistance that is subject to comparable income, assistance, rent contribution, affordability, and other requirements, as the Secretary shall provide by regulation. If such rental assistance is not immediately available to fulfill the requirement under the preceding sentence with respect to a low-income family, such requirement may be met by providing the family priority to receive the next voucher or other tenant-based rental assistance amounts that become available under the program used to fulfill such requirement.

**(F) Contract term**

A housing assistance payment contract pursuant to this paragraph between a public housing agency and the owner of a structure may have a term of up to 15 years, subject to the availability of sufficient appropriated funds for the purpose of renewing expiring contracts for assistance payments, as provided in appropriations Acts and in the agency's annual contributions contract with the Secretary, and to annual compliance with the inspection requirements under paragraph (8), except that the agency shall not be required to make annual inspections of each assisted unit in the development. The contract may specify additional conditions for its continuation. If the units covered by the contract are owned by the agency, the term of the contract shall be agreed upon by the agency and the unit of general local government or other entity approved by the Secretary in the manner provided under paragraph (11).

**(G) Extension of contract term**

A public housing agency may enter into a contract with the owner of a structure assisted under a housing assistance payment contract pursuant to this paragraph to extend the term of the underlying housing assistance payment contract for such period as the agency determines to be appropriate to achieve long-term affordability of the housing or to expand housing opportunities. Such contract may, at the election of the public housing agency and the owner of the structure, specify that such contract shall be extended for renewal terms of up to 15 years each, if the agency makes the determination required by this subparagraph and the owner is in compliance with the terms of the contract. Such a contract shall provide that the extension of such term shall be contingent upon the future availability of appropriated funds for the purpose of renewing expiring contracts for assistance payments, as pro-

vided in appropriations Acts, and may obligate the owner to have such extensions of the underlying housing assistance payment contract accepted by the owner and the successors in interest of the owner. A public housing agency may agree to enter into such a contract at the time it enters into the initial agreement for a housing assistance payment contract or at any time thereafter that is before the expiration of the housing assistance payment contract.

**(H) Rent calculation**

A housing assistance payment contract pursuant to this paragraph shall establish rents for each unit assisted in an amount that does not exceed 110 percent of the applicable fair market rental (or any exception payment standard approved by the Secretary pursuant to paragraph (1)(D)), except that if a contract covers a dwelling unit that has been allocated low-income housing tax credits pursuant to section 42 of title 26 and is not located in a qualified census tract (as such term is defined in subsection (d) of such section 42), the rent for such unit may be established at any level that does not exceed the rent charged for comparable units in the building that also receive the low-income housing tax credit but do not have additional rental assistance, except that in the case of a contract unit that has been allocated low-income housing tax credits and for which the rent limitation pursuant to such section 42 is less than the amount that would otherwise be permitted under this subparagraph, the rent for such unit may, in the sole discretion of a public housing agency, be established at the higher section 8 [42 U.S.C. 1437f] rent, subject only to paragraph (10)(A). The rents established by housing assistance payment contracts pursuant to this paragraph may vary from the payment standards established by the public housing agency pursuant to paragraph (1)(B), but shall be subject to paragraph (10)(A).

**(I) Rent adjustments**

A housing assistance payments contract pursuant to this paragraph shall provide for rent adjustments, except that—

(i) the adjusted rent for any unit assisted shall be reasonable in comparison with rents charged for comparable dwelling units in the private, unassisted, local market and may not exceed the maximum rent permitted under subparagraph (H), except that the contract may provide that the maximum rent permitted for a dwelling unit shall not be less than the initial rent for the dwelling unit under the initial housing assistance payments contract covering the unit; and

(ii) the provisions of subsection (c)(2)(C) of this section shall not apply.

**(J) Tenant selection**

A public housing agency shall select families to receive project-based assistance pursuant to this paragraph from its waiting list for assistance under this subsection. Eligibility for such project-based assistance shall

be subject to the provisions of section 1437n(b) of this title that apply to tenant-based assistance. The agency may establish preferences or criteria for selection for a unit assisted under this paragraph that are consistent with the public housing agency plan for the agency approved under section 1437c-1 of this title. Any family that rejects an offer of project-based assistance under this paragraph or that is rejected for admission to a structure by the owner or manager of a structure assisted under this paragraph shall retain its place on the waiting list as if the offer had not been made. The owner or manager of a structure assisted under this paragraph shall not admit any family to a dwelling unit assisted under a contract pursuant to this paragraph other than a family referred by the public housing agency from its waiting list. Subject to its waiting list policies and selection preferences, a public housing agency may place on its waiting list a family referred by the owner or manager of a structure and may maintain a separate waiting list for assistance under this paragraph, but only if all families on the agency's waiting list for assistance under this subsection are permitted to place their names on the separate list.

**(K) Vacated units**

Notwithstanding paragraph (9), a housing assistance payment contract pursuant to this paragraph may provide as follows:

**(i) Payment for vacant units**

That the public housing agency may, in its discretion, continue to provide assistance under the contract, for a reasonable period not exceeding 60 days, for a dwelling unit that becomes vacant, but only: (I) if the vacancy was not the fault of the owner of the dwelling unit; and (II) the agency and the owner take every reasonable action to minimize the likelihood and extent of any such vacancy. Rental assistance may not be provided for a vacant unit after the expiration of such period.

**(ii) Reduction of contract**

That, if despite reasonable efforts of the agency and the owner to fill a vacant unit, no eligible family has agreed to rent the unit within 120 days after the owner has notified the agency of the vacancy, the agency may reduce its housing assistance payments contract with the owner by the amount equivalent to the remaining months of subsidy attributable to the vacant unit. Amounts deobligated pursuant to such a contract provision shall be available to the agency to provide assistance under this subsection.

Eligible applicants for assistance under this subsection may enforce provisions authorized by this subparagraph.

**(L) Use in cooperative housing and elevator buildings**

A public housing agency may enter into a housing assistance payments contract under this paragraph with respect to—

(i) dwelling units in cooperative housing; and

(ii) notwithstanding subsection (c), dwelling units in a high-rise elevator project, including such a project that is occupied by families with children, without review and approval of the contract by the Secretary.

**(M) Reviews**

**(i) Subsidy layering**

A subsidy layering review in accordance with section 3545(d) of this title shall not be required for assistance under this paragraph in the case of a housing assistance payments contract for an existing structure, or if a subsidy layering review has been conducted by the applicable State or local agency.

**(ii) Environmental review**

A public housing agency shall not be required to undertake any environmental review before entering into a housing assistance payments contract under this paragraph for an existing structure, except to the extent such a review is otherwise required by law or regulation.

**(14) Inapplicability to tenant-based assistance**

Subsection (c) of this section shall not apply to tenant-based assistance under this subsection.

**(15) Homeownership option**

**(A) In general**

A public housing agency providing assistance under this subsection may, at the option of the agency, provide assistance for homeownership under subsection (y) of this section.

**(B) Alternative administration**

A public housing agency may contract with a nonprofit organization to administer a homeownership program under subsection (y) of this section.

**(16) Rental vouchers for relocation of witnesses and victims of crime**

**(A) Witnesses**

Of amounts made available for assistance under this subsection in each fiscal year, the Secretary, in consultation with the Inspector General, shall make available such sums as may be necessary for the relocation of witnesses in connection with efforts to combat crime in public and assisted housing pursuant to requests from law enforcement or prosecution agencies.

**(B) Victims of crime**

**(i) In general**

Of amounts made available for assistance under this section in each fiscal year, the Secretary shall make available such sums as may be necessary for the relocation of families residing in public housing who are victims of a crime of violence (as that term is defined in section 16 of title 18) that has been reported to an appropriate law enforcement agency.

**(ii) Notice**

A public housing agency that receives amounts under this subparagraph shall establish procedures for providing notice of the availability of that assistance to families that may be eligible for that assistance.

**(17) Deed restrictions**

Assistance under this subsection may not be used in any manner that abrogates any local deed restriction that applies to any housing consisting of 1 to 4 dwelling units. This paragraph may not be construed to affect the provisions or applicability of the Fair Housing Act [42 U.S.C. 3601 et seq.].

**(18) Rental assistance for assisted living facilities****(A) In general**

A public housing agency may make assistance payments on behalf of a family that uses an assisted living facility as a principal place of residence and that uses such supportive services made available in the facility as the agency may require. Such payments may be made only for covering costs of rental of the dwelling unit in the assisted living facility and not for covering any portion of the cost of residing in such facility that is attributable to service relating to assisted living.

**(B) Rent calculation****(i) Charges included**

For assistance pursuant to this paragraph, the rent of the dwelling unit that is an assisted living facility with respect to which assistance payments are made shall include maintenance and management charges related to the dwelling unit and tenant-paid utilities. Such rent shall not include any charges attributable to services relating to assisted living.

**(ii) Payment standard**

In determining the monthly assistance that may be paid under this paragraph on behalf of any family residing in an assisted living facility, the public housing agency shall utilize the payment standard established under paragraph (1), for the market area in which the assisted living facility is located, for the applicable size dwelling unit.

**(iii) Monthly assistance payment**

The monthly assistance payment for a family assisted under this paragraph shall be determined in accordance with paragraph (2) (using the rent and payment standard for the dwelling unit as determined in accordance with this subsection), except that a family may be required at the time the family initially receives such assistance to pay rent in an amount exceeding 40 percent of the monthly adjusted income of the family by such an amount or percentage that is reasonable given the services and amenities provided and as the Secretary deems appropriate.<sup>8</sup>

**(C) Definition**

For the purposes of this paragraph, the term “assisted living facility” has the meaning given that term in section 232(b) of the National Housing Act (12 U.S.C. 1715w(b)), except that such a facility may be contained within a portion of a larger multifamily housing project.

**(19) Rental vouchers for Veterans Affairs supported housing program****(A) Set aside**

Subject to subparagraph (C), the Secretary shall set aside, from amounts made available for rental assistance under this subsection, the amounts specified in subparagraph (B) for use only for providing such assistance through a supported housing program administered in conjunction with the Department of Veterans Affairs. Such program shall provide rental assistance on behalf of homeless veterans who have chronic mental illnesses or chronic substance use disorders, shall require agreement of the veteran to continued treatment for such mental illness or substance use disorder as a condition of receipt of such rental assistance, and shall ensure such treatment and appropriate case management for each veteran receiving such rental assistance.

**(B) Amount**

The amount specified in this subparagraph is—

- (i) for fiscal year 2007, the amount necessary to provide 500 vouchers for rental assistance under this subsection;
- (ii) for fiscal year 2008, the amount necessary to provide 1,000 vouchers for rental assistance under this subsection;
- (iii) for fiscal year 2009, the amount necessary to provide 1,500 vouchers for rental assistance under this subsection;
- (iv) for fiscal year 2010, the amount necessary to provide 2,000 vouchers for rental assistance under this subsection; and
- (v) for fiscal year 2011, the amount necessary to provide 2,500 vouchers for rental assistance under this subsection.

**(C) Funding through incremental assistance**

In any fiscal year, to the extent that this paragraph requires the Secretary to set aside rental assistance amounts for use under this paragraph in an amount that exceeds the amount set aside in the preceding fiscal year, such requirement shall be effective only to such extent or in such amounts as are or have been provided in appropriation Acts for such fiscal year for incremental rental assistance under this subsection.

**(20) Prohibited basis for termination of assistance****(A) In general**

A public housing agency may not terminate assistance to a participant in the voucher program on the basis of an incident or incidents of actual or threatened domestic violence, dating violence, or stalking against that participant.

**(B) Construal of lease provisions**

Criminal activity directly relating to domestic violence, dating violence, or stalking shall not be considered a serious or repeated violation of the lease by the victim or threatened victim of that criminal activity justifying termination of assistance to the victim or threatened victim.

**(C) Termination on the basis of criminal activity**

Criminal activity directly relating to domestic violence, dating violence, or stalking shall not be considered cause for termination of assistance for any participant or immediate member of a participant's family who is a victim of the domestic violence, dating violence, or stalking.

**(D) Exceptions****(i) Public housing authority right to terminate for criminal acts**

Nothing in subparagraph (A), (B), or (C) may be construed to limit the authority of the public housing agency to terminate voucher assistance to individuals who engage in criminal acts of physical violence against family members or others.

**(ii) Compliance with court orders**

Nothing in subparagraph (A), (B), or (C) may be construed to limit the authority of a public housing agency, when notified, to honor court orders addressing rights of access to or control of the property, including civil protection orders issued to protect the victim and issued to address the distribution or possession of property among the household members in cases where a family breaks up.

**(iii) Public housing authority right to terminate voucher assistance for lease violations**

Nothing in subparagraph (A), (B), or (C) limit<sup>11</sup> any otherwise available authority of the public housing agency to terminate voucher assistance to a tenant for any violation of a lease not premised on the act or acts of violence in question against the tenant or a member of the tenant's household, provided that the public housing agency does not subject an individual who is or has been a victim of domestic violence, dating violence, or stalking to a more demanding standard than other tenants in determining whether to terminate.

**(iv) Public housing authority right to terminate voucher assistance for imminent threat**

Nothing in subparagraph (A), (B), or (C) may be construed to limit the authority of the public housing agency to terminate voucher assistance to a tenant if the public housing agency can demonstrate an actual and imminent threat to other tenants or those employed at or providing service to the property or public housing agency if that tenant is not evicted or terminated from assistance.

**(v) Preemption**

Nothing in this section shall be construed to supersede any provision of any Federal, State, or local law that provides greater protection than this section for victims of domestic violence, dating violence, or stalking.

**(p) Shared housing for elderly and handicapped**

In order to assist elderly families (as defined in section 1437a(b)(3) of this title who elect to live in a shared housing arrangement in which they benefit as a result of sharing the facilities of a dwelling with others in a manner that effectively and efficiently meets their housing needs and thereby reduces their cost of housing, the Secretary shall permit assistance provided under the existing housing and moderate rehabilitation programs to be used by such families in such arrangements. In carrying out this subsection, the Secretary shall issue minimum habitability standards for the purpose of assuring decent, safe, and sanitary housing for such families while taking into account the special circumstances of shared housing.

**(q) Administrative fees****(1) Fee for ongoing costs of administration****(A) In general**

The Secretary shall establish fees for the costs of administering the tenant-based assistance, certificate, voucher, and moderate rehabilitation programs under this section.

**(B) Fiscal year 1999****(i) Calculation**

For fiscal year 1999, the fee for each month for which a dwelling unit is covered by an assistance contract shall be—

(I) in the case of a public housing agency that, on an annual basis, is administering a program for not more than 600 dwelling units, 7.65 percent of the base amount; and

(II) in the case of an agency that, on an annual basis, is administering a program for more than 600 dwelling units (aa) for the first 600 units, 7.65 percent of the base amount, and (bb) for any additional dwelling units under the program, 7.0 percent of the base amount.

**(ii) Base amount**

For purposes of this subparagraph, the base amount shall be the higher of—

(I) the fair market rental established under subsection (c) of this section (as in effect immediately before the effective date under section 503(a) of the Quality Housing and Work Responsibility Act of 1998) for fiscal year 1993 for a 2-bedroom existing rental dwelling unit in the market area of the agency, and

(II) the amount that is the lesser of (aa) such fair market rental for fiscal year 1994, or (bb) 103.5 percent of the amount determined under clause (i),

adjusted based on changes in wage data or other objectively measurable data that reflect the costs of administering the program, as determined by the Secretary. The

<sup>11</sup> So in original. Probably should be "limits".

Secretary may require that the base amount be not less than a minimum amount and not more than a maximum amount.

**(C) Subsequent fiscal years**

For subsequent fiscal years, the Secretary shall publish a notice in the Federal Register, for each geographic area, establishing the amount of the fee that would apply for public housing agencies administering the program, based on changes in wage data or other objectively measurable data that reflect the costs of administering the program, as determined by the Secretary.

**(D) Increase**

The Secretary may increase the fee if necessary to reflect the higher costs of administering small programs and programs operating over large geographic areas.

**(E) Decrease**

The Secretary may decrease the fee for units owned by a public housing agency to reflect reasonable costs of administration.

**(2) Fee for preliminary expenses**

The Secretary shall also establish reasonable fees (as determined by the Secretary) for—

(A) the costs of preliminary expenses, in the amount of \$500, for a public housing agency, except that such fee shall apply to an agency only in the first year that the agency administers a tenant-based assistance program under this section, and only if, immediately before the effective date under section 503(a) of the Quality Housing and Work Responsibility Act of 1998, the agency was not administering a tenant-based assistance program under this chapter (as in effect immediately before such effective date), in connection with its initial increment of assistance received;

(B) the costs incurred in assisting families who experience difficulty (as determined by the Secretary) in obtaining appropriate housing under the programs; and

(C) extraordinary costs approved by the Secretary.

**(3) Transfer of fees in cases of concurrent geographical jurisdiction**

In each fiscal year, if any public housing agency provides tenant-based assistance under this section on behalf of a family who uses such assistance for a dwelling unit that is located within the jurisdiction of such agency but is also within the jurisdiction of another public housing agency, the Secretary shall take such steps as may be necessary to ensure that the public housing agency that provides the services for a family receives all or part of the administrative fee under this section (as appropriate).

**(4) Applicability**

This subsection shall apply to fiscal year 1999 and fiscal years thereafter.

**(r) Portability**

(1) IN GENERAL.—(A) Any family receiving tenant-based assistance under subsection (o) of this

section may receive such assistance to rent an eligible dwelling unit if the dwelling unit to which the family moves is within any area in which a program is being administered under this section.

(B)(i) Notwithstanding subparagraph (A) and subject to any exceptions established under clause (ii) of this subparagraph, a public housing agency may require that any family not living within the jurisdiction of the public housing agency at the time the family applies for assistance from the agency shall, during the 12-month period beginning on the date of initial receipt of housing assistance made available on behalf of the family from such agency, lease and occupy an eligible dwelling unit located within the jurisdiction served by the agency.

(ii) The Secretary may establish such exceptions to the authority of public housing agencies established under clause (i).

(2) The public housing agency having authority with respect to the dwelling unit to which a family moves under this subsection shall have the responsibility of carrying out the provisions of this subsection with respect to the family.

(3) In providing assistance under subsection (o) of this section for any fiscal year, the Secretary shall give consideration to any reduction in the number of resident families incurred by a public housing agency in the preceding fiscal year as a result of the provisions of this subsection. The Secretary shall establish procedures for the compensation of public housing agencies that issue vouchers to families that move into or out of the jurisdiction of the public housing agency under portability procedures. The Secretary may reserve amounts available for assistance under subsection (o) of this section to compensate those public housing agencies.

(4) The provisions of this subsection may not be construed to restrict any authority of the Secretary under any other provision of law to provide for the portability of assistance under this section.

(5) LEASE VIOLATIONS.—A family may not receive a voucher from a public housing agency and move to another jurisdiction under the tenant-based assistance program if the family has moved out of the assisted dwelling unit of the family in violation of a lease, except that a family may receive a voucher from a public housing agency and move to another jurisdiction under the tenant-based assistance program if the family has complied with all other obligations of the section 8 [42 U.S.C. 1437f] program and has moved out of the assisted dwelling unit in order to protect the health or safety of an individual who is or has been the victim of domestic violence, dating violence, or stalking and who reasonably believed he or she was imminently threatened by harm from further violence if he or she remained in the assisted dwelling unit.

**(s) Prohibition of denial of certificates and vouchers to residents of public housing**

In selecting families for the provision of assistance under this section (including subsection (o) of this section), a public housing agency may not exclude or penalize a family solely because the family resides in a public housing project.



**(t) Enhanced vouchers****(1) In general**

Enhanced voucher assistance under this subsection for a family shall be voucher assistance under subsection (o) of this section, except that under such enhanced voucher assistance—

(A) subject only to subparagraph (D), the assisted family shall pay as rent no less than the amount the family was paying on the date of the eligibility event for the project in which the family was residing on such date;

(B) the assisted family may elect to remain in the same project in which the family was residing on the date of the eligibility event for the project, and if, during any period the family makes such an election and continues to so reside, the rent for the dwelling unit of the family in such project exceeds the applicable payment standard established pursuant to subsection (o) of this section for the unit, the amount of rental assistance provided on behalf of the family shall be determined using a payment standard that is equal to the rent for the dwelling unit (as such rent may be increased from time-to-time), subject to paragraph (10)(A) of subsection (o) of this section and any other reasonable limit prescribed by the Secretary, except that a limit shall not be considered reasonable for purposes of this subparagraph if it adversely affects such assisted families;

(C) subparagraph (B) of this paragraph shall not apply and the payment standard for the dwelling unit occupied by the family shall be determined in accordance with subsection (o) of this section if—

(i) the assisted family moves, at any time, from such project; or

(ii) the voucher is made available for use by any family other than the original family on behalf of whom the voucher was provided; and

(D) if the income of the assisted family declines to a significant extent, the percentage of income paid by the family for rent shall not exceed the greater of 30 percent or the percentage of income paid at the time of the eligibility event for the project.

**(2) Eligibility event**

For purposes of this subsection, the term “eligibility event” means, with respect to a multifamily housing project, the prepayment of the mortgage on such housing project, the voluntary termination of the insurance contract for the mortgage for such housing project (including any such mortgage prepayment during fiscal year 1996 or a fiscal year thereafter or any insurance contract voluntary termination during fiscal year 1996 or a fiscal year thereafter), the termination or expiration of the contract for rental assistance under this section for such housing project (including any such termination or expiration during fiscal years after fiscal year 1994 prior to the effective date of the Departments of Veterans Affairs and Housing and Urban De-

velopment, and Independent Agencies Appropriations Act, 2001), or the transaction under which the project is preserved as affordable housing, that, under paragraphs (3) and (4) of section 515(c), section 524(d) of the Multifamily Assisted Housing Reform and Affordability Act of 1997 (42 U.S.C. 1437f note), section 4113(f) of title 12, or section 1715z-1a(p) of title 12, results in tenants in such housing project being eligible for enhanced voucher assistance under this subsection.

**(3) Treatment of enhanced vouchers provided under other authority****(A) In general**

Notwithstanding any other provision of law, any enhanced voucher assistance provided under any authority specified in subparagraph (B) shall (regardless of the date that the amounts for providing such assistance were made available) be treated, and subject to the same requirements, as enhanced voucher assistance under this subsection.

**(B) Identification of other authority**

The authority specified in this subparagraph is the authority under—

(i) the 10th, 11th, and 12th provisos under the “Preserving Existing Housing Investment” account in title II of the Departments of Veterans Affairs and Housing and Urban Development, and Independent Agencies Appropriations Act, 1997 (Public Law 104-204; 110 Stat. 2884), pursuant to such provisos, the first proviso under the “Housing Certificate Fund” account in title II of the Departments of Veterans Affairs and Housing and Urban Development, and Independent Agencies Appropriations Act, 1998 (Public Law 105-65; 111 Stat. 1351), or the first proviso under the “Housing Certificate Fund” account in title II of the Departments of Veterans Affairs and Housing and Urban Development, and Independent Agencies Appropriations Act, 1999 (Public Law 105-276; 112 Stat. 2469); and

(ii) paragraphs (3) and (4) of section 515(c) of the Multifamily Assisted Housing Reform and Affordability Act of 1997 (42 U.S.C. 1437f note), as in effect before October 20, 1999.

**(4) Authorization of appropriations**

There are authorized to be appropriated for each of fiscal years 2000, 2001, 2002, 2003, and 2004 such sums as may be necessary for enhanced voucher assistance under this subsection.

**(u) Assistance for residents of rental rehabilitation projects**

In the case of low-income families living in rental projects rehabilitated under section 1437o<sup>12</sup> of this title or section 1490m of this title before rehabilitation—

(1) vouchers under this section shall be made for families who are required to move out of their units because of the physical rehabilitation activities or because of overcrowding;

<sup>12</sup>See References in Text note below.

(2) at the discretion of each public housing agency or other agency administering the allocation of assistance or vouchers under this section may be made for families who would have to pay more than 30 percent of their adjusted income for rent after rehabilitation whether they choose to remain in, or to move from, the project; and

(3) the Secretary shall allocate assistance for vouchers under this section to ensure that sufficient resources are available to address the physical or economic displacement, or potential economic displacement, of existing tenants pursuant to paragraphs (1) and (2).

**(v) Extension of expiring contracts**

The Secretary may extend expiring contracts entered into under this section for project-based loan management assistance to the extent necessary to prevent displacement of low-income families receiving such assistance as of September 30, 1996.

**(w) Repealed. Pub. L. 106-74, title V, § 531(d)(2), Oct. 20, 1999, 113 Stat. 1116**

**(x) Family unification**

**(1) Increase in budget authority**

The budget authority available under section 1437c(c) of this title for assistance under subsection (b) of this section is authorized to be increased by \$100,000,000 on or after October 1, 1992, and by \$104,200,000 on or after October 1, 1993.

**(2) Use of funds**

The amounts made available under this subsection shall be used only in connection with tenant-based assistance under this section on behalf of (A) any family (i) who is otherwise eligible for such assistance, and (ii) who the public child welfare agency for the jurisdiction has certified is a family for whom the lack of adequate housing is a primary factor in the imminent placement of the family's child or children in out-of-home care or the delayed discharge of a child or children to the family from out-of-home care and (B) for a period not to exceed 18 months, otherwise eligible youths who have attained at least 18 years of age and not more than 21 years of age and who have left foster care at age 16 or older.

**(3) Allocation**

The amounts made available under this subsection shall be allocated by the Secretary through a national competition among applicants based on demonstrated need for the assistance under this subsection. To be considered for assistance, an applicant shall submit to the Secretary a written proposal containing a report from the public child welfare agency serving the jurisdiction of the applicant that describes how a lack of adequate housing in the jurisdiction is resulting in the initial or prolonged separation of children from their families, and how the applicant will coordinate with the public child welfare agency to identify eligible families and provide the families with assistance under this subsection.

**(4) Definitions**

For purposes of this subsection:

**(A) Applicant**

The term "applicant" means a public housing agency or any other agency responsible for administering assistance under this section.

**(B) Public child welfare agency**

The term "public child welfare agency" means the public agency responsible under applicable State law for determining that a child is at imminent risk of placement in out-of-home care or that a child in out-of-home care under the supervision of the public agency may be returned to his or her family.

**(y) Homeownership option**

**(1) Use of assistance for homeownership**

A public housing agency providing tenant-based assistance on behalf of an eligible family under this section may provide assistance for an eligible family that purchases a dwelling unit (including a unit under a lease-purchase agreement) that will be owned by 1 or more members of the family, and will be occupied by the family, if the family—

(A) is a first-time homeowner, or owns or is acquiring shares in a cooperative;

(B) demonstrates that the family has income from employment or other sources (other than public assistance, except that the Secretary may provide for the consideration of public assistance in the case of an elderly family or a disabled family), as determined in accordance with requirements of the Secretary, that is not less than twice the payment standard established by the public housing agency (or such other amount as may be established by the Secretary);

(C) except as provided by the Secretary, demonstrates at the time the family initially receives tenant-based assistance under this subsection that one or more adult members of the family have achieved employment for the period as the Secretary shall require;

(D) participates in a homeownership and housing counseling program provided by the agency; and

(E) meets any other initial or continuing requirements established by the public housing agency in accordance with requirements established by the Secretary.

**(2) Determination of amount of assistance**

**(A) Monthly expenses not exceeding payment standard**

If the monthly homeownership expenses, as determined in accordance with requirements established by the Secretary, do not exceed the payment standard, the monthly assistance payment shall be the amount by which the homeownership expenses exceed the highest of the following amounts, rounded to the nearest dollar:

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

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

(iii) If the family is receiving payments for welfare assistance from a public agen-

cy, and a portion of those payments, adjusted in accordance with the actual housing costs of the family, is specifically designated by that agency to meet the housing costs of the family, the portion of those payments that is so designated.

**(B) Monthly expenses exceed payment standard**

If the monthly homeownership expenses, as determined in accordance with requirements established by the Secretary, exceed the payment standard, the monthly assistance payment shall be the amount by which the applicable payment standard exceeds the highest of the amounts under clauses (i), (ii), and (iii) of subparagraph (A).

**(3) Inspections and contract conditions**

**(A) In general**

Each contract for the purchase of a unit to be assisted under this section shall—

- (i) provide for pre-purchase inspection of the unit by an independent professional; and
- (ii) require that any cost of necessary repairs be paid by the seller.

**(B) Annual inspections not required**

The requirement under subsection (o)(8)(A)(ii)<sup>12</sup> of this section for annual inspections shall not apply to units assisted under this section.

**(4) Other authority of the Secretary**

The Secretary may—

- (A) limit the term of assistance for a family assisted under this subsection; and
- (B) modify the requirements of this subsection as the Secretary determines to be necessary to make appropriate adaptations for lease-purchase agreements.

**(5) Inapplicability of certain provisions**

Assistance under this subsection shall not be subject to the requirements of the following provisions:

- (A) Subsection (c)(3)(B)<sup>12</sup> of this section.
- (B) Subsection (d)(1)(B)(i) of this section.
- (C) Any other provisions of this section governing maximum amounts payable to owners and amounts payable by assisted families.
- (D) Any other provisions of this section concerning contracts between public housing agencies and owners.
- (E) Any other provisions of this chapter that are inconsistent with the provisions of this subsection.

**(6) Reversion to rental status**

**(A) FHA-insured mortgages**

If a family receiving assistance under this subsection for occupancy of a dwelling defaults under a mortgage for the dwelling insured by the Secretary under the National Housing Act [12 U.S.C. 1701 et seq.], the family may not continue to receive rental assistance under this section unless the family (i) transfers to the Secretary marketable title to the dwelling, (ii) moves from the dwelling within the period established or ap-

proved by the Secretary, and (iii) agrees that any amounts the family is required to pay to reimburse the escrow account under section 1437u(d)(3)<sup>12</sup> of this title may be deducted by the public housing agency from the assistance payment otherwise payable on behalf of the family.

**(B) Other mortgages**

If a family receiving assistance under this subsection defaults under a mortgage not insured under the National Housing Act [12 U.S.C. 1701 et seq.], the family may not continue to receive rental assistance under this section unless it complies with requirements established by the Secretary.

**(C) All mortgages**

A family receiving assistance under this subsection that defaults under a mortgage may not receive assistance under this subsection for occupancy of another dwelling owned by one or more members of the family.

**(7) Downpayment assistance**

**(A) Authority**

A public housing agency may, in lieu of providing monthly assistance payments under this subsection on behalf of a family eligible for such assistance and at the discretion of the public housing agency, provide assistance for the family in the form of a single grant to be used only as a contribution toward the downpayment required in connection with the purchase of a dwelling for fiscal year 2000 and each fiscal year thereafter to the extent provided in advance in appropriations Acts.

**(B) Amount**

The amount of a downpayment grant on behalf of an assisted family may not exceed the amount that is equal to the sum of the assistance payments that would be made during the first year of assistance on behalf of the family, based upon the income of the family at the time the grant is to be made.

**(8) "First-time homeowner" defined**

For purposes of this subsection, the term "first-time homeowner" means—

- (A) a family, no member of which has had a present ownership interest in a principal residence during the 3 years preceding the date on which the family initially receives assistance for homeownership under this subsection; and
- (B) any other family, as the Secretary may prescribe.

**(z) Termination of section 1437f contracts and reuse of recaptured budget authority**

**(1) General authority**

The Secretary may reuse any budget authority, in whole or part, that is recaptured on account of expiration or termination of a housing assistance payments contract only for one or more of the following:

**(A) Tenant-based assistance**

Pursuant to a contract with a public housing agency, to provide tenant-based assist-

ance under this section to families occupying units formerly assisted under the terminated contract.

**(B) Project-based assistance**

Pursuant to a contract with an owner, to attach assistance to one or more structures under this section, for relocation of families occupying units formerly assisted under the terminated contract.

**(2) Families occupying units formerly assisted under terminated contract**

Pursuant to paragraph (1), the Secretary shall first make available tenant- or project-based assistance to families occupying units formerly assisted under the terminated contract. The Secretary shall provide project-based assistance in instances only where the use of tenant-based assistance is determined to be infeasible by the Secretary.

**(aa) Omitted**

**(bb) Transfer, reuse, and rescission of budget authority**

**(1) Transfer of budget authority**

If an assistance contract under this section, other than a contract for tenant-based assistance, is terminated or is not renewed, or if the contract expires, the Secretary shall, in order to provide continued assistance to eligible families, including eligible families receiving the benefit of the project-based assistance at the time of the termination, transfer any budget authority remaining in the contract to another contract. The transfer shall be under such terms as the Secretary may prescribe.

**(2) Reuse and rescission of certain recaptured budget authority**

Notwithstanding paragraph (1), if a project-based assistance contract for an eligible multifamily housing project subject to actions authorized under this subchapter is terminated or amended as part of restructuring under section 517 of the Multifamily Assisted Housing Reform and Affordability Act of 1997, the Secretary shall recapture the budget authority not required for the terminated or amended contract and use such amounts as are necessary to provide housing assistance for the same number of families covered by such contract for the remaining term of such contract, under a contract providing for project-based or tenant-based assistance. The amount of budget authority saved as a result of the shift to project-based or tenant-based assistance shall be rescinded.

**(cc) Law enforcement and security personnel**

**(1) In general**

Notwithstanding any other provision of this chapter, in the case of assistance attached to a structure, for the purpose of increasing security for the residents of a project, an owner may admit, and assistance under this section may be provided to, police officers and other security personnel who are not otherwise eligible for assistance under the chapter.

**(2) Rent requirements**

With respect to any assistance provided by an owner under this subsection, the Secretary may—

(A) permit the owner to establish such rent requirements and other terms and conditions of occupancy that the Secretary considers to be appropriate; and

(B) require the owner to submit an application for those rent requirements, which application shall include such information as the Secretary, in the discretion of the Secretary, determines to be necessary.

**(3) Applicability**

This subsection shall apply to fiscal year 1999 and fiscal years thereafter.

**(dd) Tenant-based contract renewals**

Subject to amounts provided in appropriation Acts, starting in fiscal year 1999, the Secretary shall renew all expiring tenant-based annual contribution contracts under this section by applying an inflation factor based on local or regional factors to an allocation baseline. The allocation baseline shall be calculated by including, at a minimum, amounts sufficient to ensure continued assistance for the actual number of families assisted as of October 1, 1997, with appropriate upward adjustments for incremental assistance and additional families authorized subsequent to that date.

**(ee) Certification and confidentiality**

**(1) Certification**

**(A) In general**

An owner, manager, or public housing agency responding to subsections (c)(9), (d)(1)(B)(ii), (d)(1)(B)(iii), (o)(7)(C), (o)(7)(D), (o)(20), and (r)(5) of this section may request that an individual certify via a HUD approved certification form that the individual is a victim of domestic violence, dating violence, or stalking, and that the incident or incidents in question are bona fide incidents of such actual or threatened abuse and meet the requirements set forth in the aforementioned paragraphs. Such certification shall include the name of the perpetrator. The individual shall provide such certification within 14 business days after the individual receives a request for such certification from the owner, manager, or public housing agency.

**(B) Failure to provide certification**

If the individual does not provide the certification within 14 business days after the individual has received a request in writing for such certification for the owner, manager, or public housing agency, nothing in this subsection or in subsection (c)(9), (d)(1)(B)(ii), (d)(1)(B)(iii), (o)(7)(C), (o)(7)(D), (o)(20), or (r)(5) of this section may be construed to limit the authority of an owner or manager to evict, or the public housing agency or assisted housing provider to terminate voucher assistance for, any tenant or lawful occupant that commits violations of a lease. The owner, manager or public housing agency may extend the 14-day deadline at their discretion.

**(C) Contents**

An individual may satisfy the certification requirement of subparagraph (A) by—

(i) providing the requesting owner, manager, or public housing agency with documentation signed by an employee, agent, or volunteer of a victim service provider, an attorney, or a medical professional, from whom the victim has sought assistance in addressing domestic violence, dating violence, or stalking, or the effects of the abuse, in which the professional attests under penalty of perjury (28 U.S.C. 1746) to the professional's belief that the incident or incidents in question are bona fide incidents of abuse, and the victim of domestic violence, dating violence, or stalking has signed or attested to the documentation; or

(ii) producing a Federal, State, tribal, territorial, or local police or court record.

#### (D) Limitation

Nothing in this subsection shall be construed to require an owner, manager, or public housing agency to demand that an individual produce official documentation or physical proof of the individual's status as a victim of domestic violence, dating violence, or stalking in order to receive any of the benefits provided in this section. At their discretion, the owner, manager, or public housing agency may provide benefits to an individual based solely on the individual's statement or other corroborating evidence.

#### (E) Compliance not sufficient to constitute evidence of unreasonable act

Compliance with this statute by an owner, manager or public housing agency based on the certification specified in paragraphs (1)(A) and (B) of this subsection or based solely on the victim's statement or other corroborating evidence, as permitted by paragraph (1)(C) of this subsection, shall not alone be sufficient to constitute evidence of an unreasonable act or omission by an owner, manager or public housing agency, or employee thereof. Nothing in this subparagraph shall be construed to limit liability for failure to comply with the requirements of subsection (c)(9), (d)(1)(B)(ii), (d)(1)(B)(iii), (o)(7)(C), (o)(7)(D), (o)(20), or (r)(5) of this section.

#### (F) Preemption

Nothing in this section shall be construed to supersede any provision of any Federal, State, or local law that provides greater protection than this section for victims of domestic violence, dating violence, or stalking.

### (2) Confidentiality

#### (A) In general

All information provided to an owner, manager, or public housing agency pursuant to paragraph (1), including the fact that an individual is a victim of domestic violence, dating violence, or stalking, shall be retained in confidence by an owner, manager, or public housing agency, and shall neither be entered into any shared database nor provided to any related entity, except to the extent that disclosure is—

(i) requested or consented to by the individual in writing;

(ii) required for use in an eviction proceeding under subsection (c)(9), (d)(1)(B)(ii),<sup>13</sup> (d)(1)(B)(iii), (o)(7)(C), (o)(7)(D), or (o)(20) of this section;,<sup>14</sup> or

(iii) otherwise required by applicable law.

#### (B) Notification

Public housing agencies must provide notice to tenants assisted under this section of their rights under this subsection and subsections (c)(9), (d)(1)(B)(ii),<sup>13</sup> (d)(1)(B)(iii), (o)(7)(C), (o)(7)(D), (o)(20), and (r)(5) of this section, including their right to confidentiality and the limits thereof, and to owners and managers of their rights and obligations under this subsection and subsections (c)(9), (d)(1)(B)(ii),<sup>13</sup> (d)(1)(B)(iii), (o)(7)(C), (o)(7)(D), (o)(20), and (r)(5) of this section.

(Sept. 1, 1937, ch. 896, title I, § 8, as added Pub. L. 93-383, title II, § 201(a), Aug. 22, 1974, 88 Stat. 662; amended Pub. L. 94-375, § 2(d), (e), (g), Aug. 3, 1976, 90 Stat. 1068; Pub. L. 95-24, title I, § 101(c), Apr. 30, 1977, 91 Stat. 55; Pub. L. 95-128, title II, § 201(c)-(e), Oct. 12, 1977, 91 Stat. 1128; Pub. L. 95-557, title II, § 206(d)(1), (e), (f), Oct. 31, 1978, 92 Stat. 2091, 2092; Pub. L. 96-153, title II, §§ 202(b), 206(b), 210, 211(b), Dec. 21, 1979, 93 Stat. 1106, 1108-1110; Pub. L. 96-399, title II, § 203, title III, § 308(c)(3), Oct. 8, 1980, 94 Stat. 1629, 1641; Pub. L. 97-35, title III, §§ 322(e), 324-326(a), (e)(1), 329H(a), Aug. 13, 1981, 95 Stat. 402, 405-407, 410; Pub. L. 98-181, title II, §§ 203(b)(1), (2), 207-209(a), 210, 211, Nov. 30, 1983, 97 Stat. 1178, 1181-1183; Pub. L. 98-479, title I, § 102(b)(6)-(10), Oct. 17, 1984, 98 Stat. 2221, 2222; Pub. L. 100-242, title I, §§ 141-149, title II, § 262, Feb. 5, 1988, 101 Stat. 1849-1853, 1890; renumbered title I, Pub. L. 100-358, § 5, June 29, 1988, 102 Stat. 681; Pub. L. 100-628, title X, § 1004(a), 1005(b)(1), (c), 1006, 1014(b), (c), 1029, Nov. 7, 1988, 102 Stat. 3264, 3265, 3269, 3272; Pub. L. 101-235, title I, § 127, title VIII, § 801(c), (g), Dec. 15, 1989, 103 Stat. 2025, 2058, 2059; Pub. L. 101-625, title II, § 289(b), title IV, § 413, title V, §§ 541-545(a), 545(2)(b)], 546-549, 550(a), (c), 551-553, 572, title VI, §§ 603, 613(a), Nov. 28, 1990, 104 Stat. 4128, 4160, 4216-4224, 4236, 4277, 4280; Pub. L. 102-139, title II, Oct. 28, 1991, 105 Stat. 756; Pub. L. 102-550, title I, §§ 141-148, 185(a), title VI, §§ 623(b), 660, 674, 675, 682(b), title X, § 1012(g), Oct. 28, 1992, 106 Stat. 3713-3715, 3745, 3819, 3825, 3827, 3828, 3830, 3905; Pub. L. 103-233, title I, § 101(c)(2), (3), (d), Apr. 11, 1994, 108 Stat. 357; Pub. L. 103-327, title II, Sept. 28, 1994, 108 Stat. 2315; Pub. L. 104-19, title I, § 1003, July 27, 1995, 109 Stat. 236; Pub. L. 104-99, title IV, §§ 402(d)(2), (3), (6)(A)(iii), (iv), 405(c), Jan. 26, 1996, 110 Stat. 41, 42, 44; Pub. L. 104-134, title I, § 101(e) [title II, §§ 203(a)-(c), 208], Apr. 26, 1996, 110 Stat. 1321-257, 1321-281, 1321-284; renumbered title I, Pub. L. 104-140, § 1(a), May 2, 1996, 110 Stat. 1327; Pub. L. 104-193, title IX, § 903(a)(2), Aug. 22, 1996, 110 Stat. 2348; Pub. L. 104-204, title II, § 201(g), Sept. 26, 1996, 110 Stat. 2893; Pub. L. 105-18, title II, § 10002, June 12, 1997, 111 Stat. 201; Pub. L. 105-33, title II, §§ 2003, 2004, Aug. 5, 1997, 111 Stat. 257; Pub. L. 105-65, title II, §§ 201(c), 205, title V, § 523(a), (c), Oct. 27, 1997, 111 Stat. 1364, 1365, 1406, 1407; Pub.

<sup>13</sup> So in original. Probably should be "(d)(1)(B)(ii),".

<sup>14</sup> So in original. The comma probably should not appear.

L. 105-276, title II, §209(a), title V, §§514(b)(1), 545(a), (b), 547-549(a)(2), (b), 550(a), 552-555(a), 556(a), 565(c), Oct. 21, 1998, 112 Stat. 2485, 2547, 2596-2607, 2609-2611, 2613, 2631; Pub. L. 106-74, title II, §223, title V, §§523(a), 531(d), 535, 538(a), Oct. 20, 1999, 113 Stat. 1076, 1104, 1116, 1121, 1122; Pub. L. 106-246, div. B, title II, §2801, July 13, 2000, 114 Stat. 569; Pub. L. 106-377, §1(a)(1) [title II, §§205, 228, 232(a), 234], Oct. 27, 2000, 114 Stat. 1441, 1441A-24, 1441A-30, 1441A-31, 1441A-35; Pub. L. 106-569, title III, §301(a), title IX, §§902(a), 903(a), Dec. 27, 2000, 114 Stat. 2952, 3026; Pub. L. 107-95, §12, Dec. 21, 2001, 115 Stat. 921; Pub. L. 107-116, title VI, §632, Jan. 10, 2002, 115 Stat. 2227; Pub. L. 109-162, title VI, §606, Jan. 5, 2006, 119 Stat. 3041; Pub. L. 109-271, §5(d), (e), Aug. 12, 2006, 120 Stat. 759; Pub. L. 109-461, title VII, §710, Dec. 22, 2006, 120 Stat. 3441; Pub. L. 110-234, title IV, §4002(b)(1)(B), (2)(Y), May 22, 2008, 122 Stat. 1096, 1097; Pub. L. 110-246, §4(a), title IV, §4002(b)(1)(B), (2)(Y), June 18, 2008, 122 Stat. 1664, 1857, 1859; Pub. L. 110-289, div. B, title VIII, §2835(a), July 30, 2008, 122 Stat. 2871; Pub. L. 111-22, div. A, title VII, §§703, 704, May 20, 2009, 123 Stat. 1661, 1662; Pub. L. 111-203, title XIV, §1484(2), July 21, 2010, 124 Stat. 2204; Pub. L. 111-372, title III, §302, Jan. 4, 2011, 124 Stat. 4084.)

#### AMENDMENT OF SECTION

*For termination of amendment by section 704 of Pub. L. 111-22, see Termination Date of 2009 Amendment note below.*

#### REFERENCES IN TEXT

The Housing and Community Development Act of 1992, referred to in subsec. (d)(2)(C), (D), is Pub. L. 102-550, Oct. 28, 1992, 106 Stat. 3672. Subtitle C of title VI of the Act is classified generally to subchapter I (§13601 et seq.) of chapter 135 of this title. Subtitle D of title VI of the Act is classified principally to subchapter II (§13611 et seq.) of chapter 135 of this title. For complete classification of this Act to the Code, see Short Title of 1992 Amendment note set out under section 5301 of this title and Tables.

Sections 514 and 517 of the Multifamily Assisted Housing Reform and Affordability Act of 1997, referred to in subsecs. (d)(5) and (bb)(2), are sections 514 and 517 of Pub. L. 105-65, and are set out as a note under this section.

The Cranston-Gonzalez National Affordable Housing Act, referred to in subsecs. (f)(4) and (o)(4)(D), (10)(F), is Pub. L. 101-625, Nov. 28, 1990, 104 Stat. 4079. Title II of the Act, also known as the "HOME Investment Partnerships Act", is classified principally to subchapter II (§12721 et seq.) of chapter 130 of this title. Subtitle A of title II of the Act is classified generally to part A (§12741 et seq.) of subchapter II of chapter 130 of this title. Title IV of the Act, also known as the "Homeownership and Opportunity Through HOPE Act", enacted subchapter II-A (§1437aaa et seq.) of this chapter and subchapter IV (§12871 et seq.) of chapter 130 of this title, amended sections 1437c, 1437f, 1437i, 1437p, 1437r, and 1437s of this title and section 1709 of Title 12, Banks and Banking, and enacted provisions set out as notes under sections 1437c, 1437aa, and 1437aaa of this title. For complete classification of this Act to the Code, see Short Title note set out under section 12701 of this title and Tables.

The Social Security Act, referred to in subsec. (k), is act Aug. 14, 1935, ch. 531, 49 Stat. 620, which is classified generally to chapter 7 (§301 et seq.) of this title. For complete classification of this Act to the Code, see section 1305 of this title and Tables.

The Food and Nutrition Act of 2008, referred to in subsec. (k), is Pub. L. 88-525, Aug. 31, 1964, 78 Stat. 703, which is classified generally to chapter 51 (§2011 et seq.)

of Title 7, Agriculture. For complete classification of this Act to the Code, see Short Title note set out under 2011 of Title 7 and Tables.

The Fair Housing Act, referred to in subsec. (o)(17), is title VIII of Pub. L. 90-284, Apr. 11, 1968, 82 Stat. 81, which is classified principally to subchapter I (§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 503(a) of the Quality Housing and Work Responsibility Act of 1998, referred to in subsec. (q)(1)(B)(ii)(I), (2)(A), is section 503(a) of Pub. L. 105-276, which is set out as an Effective Date of 1998 Amendment note under section 1437 of this title.

The effective date of the Departments of Veterans Affairs and Housing and Urban Development, and Independent Agencies Appropriations Act, 2001, referred to in subsec. (t)(2), means the effective date of H.R. 5482, as enacted by section 1(a)(1) of Pub. L. 106-377, which was approved Oct. 27, 2000.

Section 1437o of this title, referred to in subsec. (u), was repealed by Pub. L. 101-625, title II, §289(b), Nov. 28, 1990, 104 Stat. 4128.

Subsection (o)(8)(A) of this section, referred to in subsec. (y)(3)(B), does not contain a cl. (ii) and does not relate to annual inspections. For provisions of subsec. (o)(8) which relate to annual inspections, see subpar. (D).

Subsection (c)(3)(B) of this section, referred to in subsec. (y)(5), was repealed by Pub. L. 105-276, title V, §550(a)(3)(A)(ii), Oct. 21, 1998, 112 Stat. 2609.

The National Housing Act, referred to in subsec. (y)(6), is act June 27, 1934, ch. 847, 48 Stat. 1246, which is classified principally to chapter 13 (§1701 et seq.) of Title 12, Banks and Banking. For complete classification of this Act to the Code, see section 1701 of Title 12 and Tables.

Section 1437u(d)(3) of this title, relating to reimbursement of escrow accounts, referred to in subsec. (y)(6)(A), was repealed by Pub. L. 105-276, title V, §509(a)(2), Oct. 21, 1998, 112 Stat. 2531.

#### CODIFICATION

Pub. L. 110-234 and Pub. L. 110-246 made identical amendments to this section. The amendments by Pub. L. 110-234 were repealed by section 4(a) of Pub. L. 110-246.

October 20, 1999, referred to in subsec. (t)(3)(B)(ii), was in the original "the enactment of this Act", which was translated as meaning the enactment of Pub. L. 106-74, which enacted subsec. (t) of this section, to reflect the probable intent of Congress.

Section 203(a) of Pub. L. 100-242, as amended, which was formerly set out in a note under section 1715f of Title 12, Banks and Banking, and which provided that on Nov. 28, 1990, the amendment made by section 262 of Pub. L. 100-242 is repealed and section is to read as it would without such amendment, was omitted in the general amendment of subtitle A of title II of Pub. L. 100-242 by Pub. L. 101-625.

#### PRIOR PROVISIONS

A prior section 8 of act Sept. 1, 1937, ch. 896, 50 Stat. 891, as amended, authorized promulgation of rules and regulations by the Authority and was classified to section 1408 of this title, prior to the general revision of this chapter by Pub. L. 93-383.

#### AMENDMENTS

2011—Subsec. (o)(18)(B)(iii). Pub. L. 111-372 inserted before period at end " , except that a family may be required at the time the family initially receives such assistance to pay rent in an amount exceeding 40 percent of the monthly adjusted income of the family by such an amount or percentage that is reasonable given the services and amenities provided and as the Secretary deems appropriate."

2009—Subsec. (o)(7)(C). Pub. L. 111-22, §§703(1), 704, temporarily inserted before semicolon at end "and in

the case of an owner who is an immediate successor in interest pursuant to foreclosure during the term of the lease vacating the property prior to sale shall not constitute other good cause, except that the owner may terminate the tenancy effective on the date of transfer of the unit to the owner if the owner—

“(i) will occupy the unit as a primary residence; and

“(ii) has provided the tenant a notice to vacate at least 90 days before the effective date of such notice.”

See Termination Date of 2009 Amendment note below.

Subsec. (o)(7)(F). Pub. L. 111-22, §§ 703(2), 704, temporarily inserted at end “In the case of any foreclosure on any federally-related mortgage loan (as that term is defined in section 2602 of title 12) or on any residential real property in which a recipient of assistance under this subsection resides, the immediate successor in interest in such property pursuant to the foreclosure shall assume such interest subject to the lease between the prior owner and the tenant and to the housing assistance payments contract between the prior owner and the public housing agency for the occupied unit, except that this provision and the provisions related to foreclosure in subparagraph (C) shall not affect any State or local law that provides longer time periods or other additional protections for tenants.” See Termination Date of 2009 Amendment note below.

2008—Subsec. (k). Pub. L. 110-246, § 4002(b)(1)(B), (2)(Y), substituted “Food and Nutrition Act of 2008” for “Food Stamp Act of 1977”.

Subsec. (o)(10)(F). Pub. L. 110-289, § 2835(a)(2), added subpar. (F).

Subsec. (o)(13)(D)(i). Pub. L. 110-289, § 2835(a)(1)(A), substituted “any project” for “any building” and inserted at end “For purposes of this subparagraph, the term ‘project’ means a single building, multiple contiguous buildings, or multiple buildings on contiguous parcels of land.”

Subsec. (o)(13)(F). Pub. L. 110-289, § 2835(a)(1)(B), substituted “15 years” for “10 years”.

Subsec. (o)(13)(G). Pub. L. 110-289, § 2835(a)(1)(C), inserted after first sentence “Such contract may, at the election of the public housing agency and the owner of the structure, specify that such contract shall be extended for renewal terms of up to 15 years each, if the agency makes the determination required by this subparagraph and the owner is in compliance with the terms of the contract.” and inserted at end “A public housing agency may agree to enter into such a contract at the time it enters into the initial agreement for a housing assistance payment contract or at any time thereafter that is before the expiration of the housing assistance payment contract.”

Subsec. (o)(13)(H). Pub. L. 110-289, § 2835(a)(1)(D), inserted before period at end of first sentence “, except that in the case of a contract unit that has been allocated low-income housing tax credits and for which the rent limitation pursuant to such section 42 is less than the amount that would otherwise be permitted under this subparagraph, the rent for such unit may, in the sole discretion of a public housing agency, be established at the higher section 8 rent, subject only to paragraph (10)(A)”.

Subsec. (o)(13)(I)(i). Pub. L. 110-289, § 2835(a)(1)(E), inserted before semicolon “, except that the contract may provide that the maximum rent permitted for a dwelling unit shall not be less than the initial rent for the dwelling unit under the initial housing assistance payments contract covering the unit”.

Subsec. (o)(13)(L), (M). Pub. L. 110-289, § 2835(a)(1)(F), added subpars. (L) and (M).

2006—Subsec. (c)(9). Pub. L. 109-162, § 606(1), added par. (9).

Subsec. (c)(9)(C)(ii). Pub. L. 109-271, § 5(e)(1), added cl. (ii) and struck out former cl. (ii) which read as follows: “Notwithstanding clause (i), an owner or manager may bifurcate a lease under this section, in order to evict, remove, or terminate assistance to any individual who is a tenant or lawful occupant and who engages in criminal acts of physical violence against family mem-

bers or others, without evicting, removing, terminating assistance to, or otherwise penalizing the victim of such violence who is also a tenant or lawful occupant.”

Subsec. (d)(1)(A). Pub. L. 109-271, § 5(d), amended subpar. (A) generally. Prior to amendment, subpar. (A) read as follows: “the selection of tenants shall be the function of the owner, subject to the annual contributions contract between the Secretary and the agency, except that with respect to the certificate and moderate rehabilitation programs only, for the purpose of selecting families to be assisted, the public housing agency may establish local preferences, consistent with the public housing agency plan submitted under section 1437c-1 of this title by the public housing agency and that an applicant or participant is or has been a victim of domestic violence, dating violence, or stalking is not an appropriate basis for denial of program assistance or for denial of admission if the applicant otherwise qualifies for assistance or admission;”

Pub. L. 109-162, § 606(2)(A), which directed insertion of “and that an applicant or participant is or has been a victim of domestic violence, dating violence, or stalking is not an appropriate basis for denial of program assistance or for denial of admission if the applicant otherwise qualifies for assistance or admission” after “public housing agency”, was executed by making the insertion after “public housing agency” the last place appearing to reflect the probable intent of Congress.

Subsec. (d)(1)(B)(ii). Pub. L. 109-162, § 606(2)(B), inserted “, and that an incident or incidents of actual or threatened domestic violence, dating violence, or stalking will not be construed as a serious or repeated violation of the lease by the victim or threatened victim of that violence and will not be good cause for terminating the tenancy or occupancy rights of the victim of such violence” before semicolon at end.

Subsec. (d)(1)(B)(iii). Pub. L. 109-162, § 606(2)(C), inserted before semicolon at end “, except that: (I) criminal activity directly relating to domestic violence, dating violence, or stalking, engaged in by a member of a tenant’s household or any guest or other person under the tenant’s control, shall not be cause for termination of the tenancy or occupancy rights or program assistance, if the tenant or immediate member of the tenant’s family is a victim of that domestic violence, dating violence, or stalking; (II) notwithstanding subclause (I), a public housing agency may terminate assistance to any individual who is a tenant or lawful occupant and who engages in criminal acts of physical violence against family members or others, without evicting, removing, terminating assistance to, or otherwise penalizing the victim of such violence who is also a tenant or lawful occupant; (III) nothing in subclause (I) may be construed to limit the authority of a public housing agency, owner, or manager, when notified, to honor court orders addressing rights of access to or control of the property, including civil protection orders issued to protect the victim and issued to address the distribution or possession of property among the household members in cases where a family breaks up; (IV) nothing in subclause (I) limits any otherwise available authority of an owner or manager to evict or the public housing agency to terminate assistance to a tenant for any violation of a lease not premised on the act or acts of violence in question against the tenant or a member of the tenant’s household, provided that the owner, manager, or public housing agency does not subject an individual who is or has been a victim of domestic violence, dating violence, or stalking to a more demanding standard than other tenants in determining whether to evict or terminate; (V) nothing in subclause (I) may be construed to limit the authority of an owner or manager to evict, or the public housing agency to terminate assistance, to any tenant if the owner, manager, or public housing agency can demonstrate an actual

and imminent threat to other tenants or those employed at or providing service to the property if that tenant is not evicted or terminated from assistance; and (VI) nothing in this section shall be construed to supersede any provision of any Federal, State, or local law that provides greater protection than this section for victims of domestic violence, dating violence, or stalking.”

Subsec. (d)(1)(B)(iii)(II). Pub. L. 109-271, §5(e)(2), added subcl. (II) and struck out former subcl. (II) which read as follows: “notwithstanding subclause (I), a public housing agency may terminate assistance to any individual who is a tenant or lawful occupant and who engages in criminal acts of physical violence against family members or others, or an owner or manager under this section may bifurcate a lease, in order to evict, remove, or terminate assistance to any individual who is a tenant or lawful occupant and who engages in criminal acts of physical violence against family members or others, without evicting, removing, terminating assistance to, or otherwise penalizing the victim of such violence who is also a tenant or lawful occupant;”

Subsec. (f)(8). Pub. L. 109-162, §606(3), added par. (8).

Subsec. (f)(9). Pub. L. 109-271, §5(e)(3)(A), struck out “and” after semicolon at end.

Pub. L. 109-162, §606(3), added par. (9).

Subsec. (f)(10). Pub. L. 109-162, §606(3), added par. (10).

Subsec. (f)(10)(A)(i). Pub. L. 109-271, §5(e)(3)(B), substituted “or” for “and” at end.

Subsec. (f)(11). Pub. L. 109-162, §606(3), added par. (11).

Subsec. (f)(11)(B). Pub. L. 109-271, §5(e)(3)(C), substituted “blood or marriage” for “blood and marriage”.

Subsec. (o)(6)(B). Pub. L. 109-271, §5(e)(4)(A)(iii), which directed the substitution of “admission. Nothing” for “admission, and that nothing” in second sentence, was executed by making the substitution in third sentence, to reflect the probable intent of Congress.

Pub. L. 109-271, §5(e)(4)(A)(ii), which directed the substitution of “for admission or” for “for admission for” in second sentence, was executed by substituting “for assistance or” for “for assistance for” in third sentence, to reflect the probable intent of Congress.

Pub. L. 109-271, §5(e)(4)(A)(i), which directed amendment of second sentence of subpar. (B) by striking “by” after “denial of program assistance”, was executed by striking that language in third sentence, to reflect the probable intent of Congress.

Pub. L. 109-162, §606(4)(A), inserted “That an applicant or participant is or has been a victim of domestic violence, dating violence, or stalking is not an appropriate basis for denial of program assistance by or for denial of admission if the applicant otherwise qualifies for assistance for admission, and that nothing in this section shall be construed to supersede any provision of any Federal, State, or local law that provides greater protection than this section for victims of domestic violence, dating violence, or stalking.” at end.

Subsec. (o)(7)(C). Pub. L. 109-162, §606(4)(B), inserted “, and that an incident or incidents of actual or threatened domestic violence, dating violence, or stalking shall not be construed as a serious or repeated violation of the lease by the victim or threatened victim of that violence and shall not be good cause for terminating the tenancy or occupancy rights of the victim of such violence” before semicolon at end.

Subsec. (o)(7)(D). Pub. L. 109-162, §606(4)(C), inserted at end “; except that (i) criminal activity directly relating to domestic violence, dating violence, or stalking, engaged in by a member of a tenant’s household or any guest or other person under the tenant’s control shall not be cause for termination of the tenancy or occupancy rights, if the tenant or immediate member of the tenant’s family is a victim of that domestic violence, dating violence, or stalking; (ii) notwithstanding clause (i), a public housing agency may terminate assistance to any individual who is a tenant or lawful occupant and who engages in criminal acts of physical violence against family members or others, or an owner

or manager may bifurcate a lease under this section, in order to evict, remove, or terminate assistance to any individual who is a tenant or lawful occupant and who engages in criminal acts of physical violence against family members or others, without evicting, removing, terminating assistance to, or otherwise penalizing the victim of such violence who is also a tenant or lawful occupant; (iii) nothing in clause (i) may be construed to limit the authority of a public housing agency, owner, or manager, when notified, to honor court orders addressing rights of access to control of the property, including civil protection orders issued to protect the victim and issued to address the distribution or possession of property among the household members in cases where a family breaks up; (iv) nothing in clause (i) limits any otherwise available authority of an owner or manager to evict or the public housing agency to terminate assistance to a tenant for any violation of a lease not premised on the act or acts of violence in question against the tenant or a member of the tenant’s household, provided that the owner, manager, or public housing agency does not subject an individual who is or has been a victim of domestic violence, dating violence, or stalking to a more demanding standard than other tenants in determining whether to evict or terminate; (v) nothing in clause (i) may be construed to limit the authority of an owner or manager to evict, or the public housing agency to terminate, assistance to any tenant if the owner, manager, or public housing agency can demonstrate an actual and imminent threat to other tenants or those employed at or providing service to the property if that tenant is not evicted or terminated from assistance; and (vi) nothing in this section shall be construed to supersede any provision of any Federal, State, or local law that provides greater protection than this section for victims of domestic violence, dating violence, or stalking.”

Subsec. (o)(7)(D)(ii). Pub. L. 109-271, §5(e)(4)(B)(i), added cl. (ii) and struck out former cl. (ii) which read as follows: “notwithstanding clause (i), a public housing agency may terminate assistance to any individual who is a tenant or lawful occupant and who engages in criminal acts of physical violence against family members or others, or an owner or manager may bifurcate a lease under this section, in order to evict, remove, or terminate assistance to any individual who is a tenant or lawful occupant and who engages in criminal acts of physical violence against family members or others, without evicting, removing, terminating assistance to, or otherwise penalizing the victim of such violence who is also a tenant or lawful occupant;”

Subsec. (o)(7)(D)(iii). Pub. L. 109-271, §5(e)(4)(B)(ii), substituted “access or control” for “access to control”.

Subsec. (o)(7)(D)(v). Pub. L. 109-271, §5(e)(4)(B)(iii), substituted “terminate” for “terminate,”

Subsec. (o)(19)(B). Pub. L. 109-461 reenacted heading without change and amended text generally, substituting cls. (i) to (v) relating to amounts necessary to provide vouchers for rental assistance for fiscal years 2007 to 2011 for former cls. (i) through (iv) relating to amounts necessary to provide vouchers for rental assistance for fiscal years 2003 to 2006.

Subsec. (o)(20). Pub. L. 109-162, §606(4)(D), added par. (20).

Subsec. (o)(20)(D)(ii). Pub. L. 109-271, §5(e)(4)(C), substituted “distribution or” for “distribution”.

Subsec. (r)(5). Pub. L. 109-162, §606(5), inserted “, except that a family may receive a voucher from a public housing agency and move to another jurisdiction under the tenant-based assistance program if the family has complied with all other obligations of the section 8 program and has moved out of the assisted dwelling unit in order to protect the health or safety of an individual who is or has been the victim of domestic violence, dating violence, or stalking and who reasonably believed he or she was imminently threatened by harm from further violence if he or she remained in the assisted dwelling unit” before period at end.

Subsec. (ee). Pub. L. 109-162, §606(6), added subsec. (ee).



Subsec. (ee)(1)(A). Pub. L. 109-271, §5(e)(5)(A), substituted “the individual receives a request for such certification from the owner, manager, or public housing agency” for “the owner, manager, or public housing agency requests such certification”.

Subsec. (ee)(1)(B). Pub. L. 109-271, §5(e)(5)(B), substituted “the individual has received a request in writing for such certification for the owner, manager, or public housing agency” for “the owner, manager, public housing agency, or assisted housing provider has requested such certification in writing” and “The owner, manager or public housing” for “The owner, manager, public housing” and struck out “, or assisted housing provider” before “may extend the 14-day deadline”.

Subsec. (ee)(1)(C)(i). Pub. L. 109-271, §5(e)(5)(C), struck out “sexual assault,” after “addressing domestic violence, dating violence,”.

Subsec. (ee)(1)(D). Pub. L. 109-271, §5(e)(5)(D), struck out “sexual assault,” after “dating violence,”.

Subsec. (ee)(1)(E). Pub. L. 109-271, §5(e)(5)(E)(ii), struck out “, or assisted housing provider” in two places after “public housing agency”.

Pub. L. 109-271, §5(e)(5)(E)(i), which directed the substitution of “manager or public housing” for “manager, public housing” wherever appearing, was executed by making the substitution for “manager, public housing” and “manger, public housing”, to reflect the probable intent of Congress.

2002—Subsec. (t)(2). Pub. L. 107-116 inserted “(including any such mortgage prepayment during fiscal year 1996 or a fiscal year thereafter or any insurance contract voluntary termination during fiscal year 1996 or a fiscal year thereafter)” after “insurance contract for the mortgage for such housing project”.

2001—Subsec. (o)(19). Pub. L. 107-95 added par. (19).

2000—Subsec. (o)(13). Pub. L. 106-377, §1(a)(1) [title II, §232(a)], reenacted heading without change and amended text generally, substituting subpars. (A) to (K) providing for funding percentage limitation, consistency of contracts with public housing agency plan and goals, income mixing requirement, resident choice requirement, contract term and its extension, rent calculation and adjustments, tenant selection, and vacated units for former subpars. (A) to (D) providing for extension of contract term, rent calculation, and adjusted rents.

Subsec. (t)(1)(B). Pub. L. 106-569, §903(a), inserted before semicolon at end “, except that a limit shall not be considered reasonable for purposes of this subparagraph if it adversely affects such assisted families”.

Pub. L. 106-377, §1(a)(1) [title II, §205], inserted “and any other reasonable limit prescribed by the Secretary” before semicolon at end.

Pub. L. 106-246, which directed the substitution of “the assisted family may elect to remain in the same project in which the family was residing on the date of the eligibility event for the project, and if, during any period the family makes such an election and continues to so reside,” for “during any period that the assisted family continues residing in the same project in which the family was residing on the date of the eligibility event for the project, if” in section 538 of Pub. L. 106-74, was executed by making the substitution in subsec. (t)(1)(B) of this section, which was enacted by section 538 of Pub. L. 106-74, to reflect the probable intent of Congress.

Subsec. (t)(2). Pub. L. 106-569, §902(a), substituted “fiscal year 1994” for “fiscal year 1996”.

Pub. L. 106-377, §1(a)(1) [title II, §228], inserted “(including any such termination or expiration during fiscal years after fiscal year 1996 prior to the effective date of the Departments of Veterans Affairs and Housing and Urban Development, and Independent Agencies Appropriations Act, 2001)” after “contract for rental assistance under this section for such housing project”.

Subsec. (x)(2). Pub. L. 106-377, §1(a)(1) [title II, §234], substituted “(A) any family (i) who is otherwise eligible for such assistance, and (ii)” for “any family (A) who is otherwise eligible for such assistance, and (B)” and inserted before period at end “and (B) for a period not to exceed 18 months, otherwise eligible youths who

have attained at least 18 years of age and not more than 21 years of age and who have left foster care at age 16 or older”.

Subsec. (y)(7), (8). Pub. L. 106-569, §301(a), added par. (7) and redesignated former par. (7) as (8).

1999—Subsec. (c)(8)(A). Pub. L. 106-74, §535(1), substituted “termination of” for “terminating” after “Not less than one year before” and “. The notice shall also include a statement that, if the Congress makes funds available, the owner and the Secretary may agree to a renewal of the contract, thus avoiding termination, and that in the event of termination the Department of Housing and Urban Development will provide tenant-based rental assistance to all eligible residents, enabling them to choose the place they wish to rent, which is likely to include the dwelling unit in which they currently reside. Any contract covered by this paragraph that is renewed may be renewed for a period of up to 1 year or any number or years, with payments subject to the availability of appropriations for any year.” for “. specifying the reasons for the termination with sufficient detail to enable the Secretary to evaluate whether the termination is lawful and whether there are additional actions that can be taken by the Secretary to avoid the termination. The owner’s notice shall include a statement that the owner and the Secretary may agree to a renewal of the contract, thus avoiding the termination.”

Subsec. (c)(8)(B). Pub. L. 106-74, §535(2), (4), redesignated subpar. (C) as (B) and struck out former subpar. (B) which read as follows: “In the case of owner who has requested that the Secretary renew the contract, the owner’s notice under subparagraph (A) to the tenants shall include statements that—

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

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

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

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

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

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

Subsec. (c)(8)(C). Pub. L. 106-74, §535(4), redesignated subpar. (D) as (C). Former subpar. (C) redesignated (B).

Pub. L. 106-74, §535(3), struck out “Notwithstanding the preceding provisions of this paragraph, if the owner agrees to a 5-year contract renewal offered by the Secretary, payments under which shall be subject to the availability of appropriations for any year, the owner shall provide a written notice to the Secretary and the tenants not less than 180 days before the termination of such contract.” after “(C)” and “in the immediately preceding sentence” before “. the owner may not evict the tenants”, struck out “180-day” before “notice” in two places, and substituted “1 year has elapsed” for “such period has elapsed” and “1 year of advance notice” for “180 days of advance notice”.

Subsec. (c)(8)(D), (E). Pub. L. 106-74, §535(4), redesignated subpars. (D) and (E) as (C) and (D), respectively.

Subsec. (o)(18). Pub. L. 106-74, §523(a), added par. (18).

Subsec. (t). Pub. L. 106-74, §538(a), added subsec. (t).

Subsec. (v). Pub. L. 106-74, §531(d)(1), designated sentence enacted by Pub. L. 104-99, §405(c), as subsec. (v).

Subsec. (w). Pub. L. 106-74, §531(d)(2), struck out heading and text of subsec. (w). Text read as follows: “Not later than 30 days after the beginning of each fis-

cal year, the Secretary shall publish in the Federal Register a plan for reducing, to the extent feasible, year-to-year fluctuations in the levels of budget authority that will be required over the succeeding 5-year period to renew expiring rental assistance contracts entered into under this section since August 22, 1974. To the extent necessary to carry out such plan and to the extent approved in appropriations Acts, the Secretary is authorized to enter into annual contributions contracts with terms of less than 60 months."

Subsec. (z)(1). Pub. L. 106-74, §223(1), in introductory provisions, inserted "expiration or" after "on account of" and struck out "(other than a contract for tenant-based assistance)" after "payments contract".

Subsec. (z)(3). Pub. L. 106-74, §223(2), struck out heading and text of par. (3). Text read as follows: "This subsection shall be effective for actions initiated by the Secretary on or before September 30, 1995."

1998—Subsec. (a). Pub. L. 105-276, §550(a)(1), struck out at end "A public housing agency may contract to make assistance payments to itself (or any agency or instrumentality thereof) as the owner of dwelling units if such agency is subject to the same program requirements as are applied to other owners. In such cases, the Secretary may establish initial rents within applicable limits."

Subsec. (b). Pub. L. 105-276, §550(a)(2), substituted "Other" for "Rental certificates and other" in subsec. heading, inserted par. (1) designation and heading, and struck out after first sentence "The Secretary shall enter into a separate annual contributions contract with each public housing agency to obligate the authority approved each year, beginning with the authority approved in appropriations Acts for fiscal year 1988 (other than amendment authority to increase assistance payments being made using authority approved prior to the appropriations Acts for fiscal year 1988), and such annual contributions contract (other than for annual contributions under subsection (o) of this section) shall bind the Secretary to make such authority, and any amendments increasing such authority, available to the public housing agency for a specified period."

Subsec. (c)(3). Pub. L. 105-276, §550(a)(3)(A), struck out "(A)" after par. designation, and struck out subpar. (B), which authorized payment of higher percentage of income as rent than that specified under section 1437a(a) of this title if family receiving tenant-based rental assistance notified public housing agency of its interest in a unit renting for an excess rent and agency determined that the rent was reasonable, and set forth provisions which limited agency approval of such excess rentals to 10 percent of annual allocation, required report to Secretary where such rentals exceeded 5 percent of allocation, and required Secretary to report to Congress annually on agencies which had submitted such reports and include recommendations deemed appropriate to correct problems identified in reports.

Subsec. (c)(4). Pub. L. 105-276, §550(a)(3)(B), struck out "or by a family that qualifies to receive assistance under subsection (b) of this section pursuant to section 223 or 226 of the Low-Income Housing Preservation and Resident Homeownership Act of 1990" after "such dwelling unit" in first sentence.

Subsec. (c)(5), (6). Pub. L. 105-276, §550(a)(3)(C), (D), redesignated par. (6) as (5) and struck out former par. (5) which read as follows: "Assistance payments may be made with respect to up to 100 per centum of the dwelling units in any structure upon the application of the owner or prospective owner. Within the category of projects containing more than fifty units and designed for use primarily by nonelderly and nonhandicapped persons which are not subject to mortgages purchased under section 305 of the National Housing Act, the Secretary may give preference to applications for assistance involving not more than 20 per centum of the dwelling units in a project. In according any such preference, the Secretary shall compare applications received during distinct time periods not exceeding sixty days in duration."

Subsec. (c)(7). Pub. L. 105-276, §550(a)(3)(C), struck out par. (7) which read as follows: "To the extent authorized in contracts entered into by the Secretary with a public housing agency, such agency may purchase any structure containing one or more dwelling units assisted under this section for the purpose of reselling the structure to the tenant or tenants occupying units aggregating in value at least 80 per centum of the structure's total value. Any such resale may be made on the terms and conditions prescribed under section 1437c(h) of this title and subject to the limitation contained in such section."

Subsec. (c)(8). Pub. L. 105-276, §549(b), redesignated par. (9) as (8)(A) and substituted subpars. (B) to (E) for "The Secretary shall review the owner's notice, shall consider whether there are additional actions that can be taken by the Secretary to avoid the termination, and shall ensure a proper adjustment of the contract rents for the project in conformity with the requirements of paragraph (2). The Secretary shall issue a written finding of the legality of the termination and the reasons for the termination, including the actions considered or taken to avoid the termination. Within 30 days of the Secretary's finding, the owner shall provide written notice to each tenant of the Secretary's decision. For purposes of this paragraph, the term 'termination' means the expiration of the assistance contract or an owner's refusal to renew the assistance contract, and such term shall include termination of the contract for business reasons."

Pub. L. 105-276, §549(a)(1)(A), struck out par. (8) which read as follows: "Each contract under this section shall provide that the owner will notify tenants at least 90 days prior to the expiration of the contract of any rent increase which may occur as a result of the expiration of such contract."

Subsec. (c)(9). Pub. L. 105-276, §549(b)(1), redesignated par. (9) as (8)(A).

Pub. L. 105-276, §549(a)(1)(B), substituted "Not less than one year before terminating any contract under which assistance payments are received under this section, other than a contract for tenant-based assistance under this section, an owner shall provide written notice to the Secretary and the tenants involved of the proposed termination, specifying the reasons for the termination with sufficient detail to enable the Secretary to evaluate whether the termination is lawful and whether there are additional actions that can be taken by the Secretary to avoid the termination." for "Not less than 180 days prior to terminating any contract under which assistance payments are received under this section (but not less than 90 days in the case of housing certificates or vouchers under subsection (b) or (o) of this section), an owner shall provide written notice to the Secretary and the tenants involved of the proposed termination, specifying the reasons for the termination with sufficient detail to enable the Secretary to evaluate whether the termination is lawful and whether there are additional actions that can be taken by the Secretary to avoid the termination."

Subsec. (c)(10). Pub. L. 105-276, §549(a)(1)(A), struck out par. (10) which read as follows: "If an owner provides notice of proposed termination under paragraph (9) and the contract rent is lower than the maximum monthly rent for units assisted under subsection (b)(1) of this section, the Secretary shall adjust the contract rent based on the maximum monthly rent for units assisted under subsection (b)(1) of this section and the value of the low-income housing after rehabilitation."

Subsec. (d)(1)(A). Pub. L. 105-276, §514(b)(1), amended subpar. (A) generally. For former text of subpar. (A), see 1996 Amendment note below.

Subsec. (d)(1)(B)(ii). Pub. L. 105-276, §549(a)(2)(A), substituted "during the term of the lease, the owner" for "the owner".

Subsec. (d)(1)(B)(iii). Pub. L. 105-276, §549(a)(2)(B), substituted "during the term of the lease, any criminal activity" for "provide that any criminal activity".

Subsec. (d)(2)(A). Pub. L. 105-276, §550(a)(4)(A), struck out at end "Where the Secretary enters into an annual

contributions contract with a public housing agency pursuant to which the agency will enter into a contract for assistance payments with respect to an existing structure, the contract for assistance payments may not be attached to the structure unless (i) the Secretary and the public housing agency approve such action, and (ii) the owner agrees to rehabilitate the structure other than with assistance under this chapter and otherwise complies with the requirements of this section, except that the Secretary shall permit the public housing agency to approve such attachment with respect to not more than 15 percent of the assistance provided by the public housing agency if the requirements of clause (ii) are met. Notwithstanding any other provision of this section, a public housing agency and an applicable State agency may, on a priority basis, attach to structures not more than an additional 15 percent of the assistance provided by the public housing agency or the applicable State agency only with respect to projects assisted under a State program that permits the owner of the projects to prepay a State assisted or subsidized mortgage on the structure, except that attachment of assistance under this sentence shall be for the purpose of (i) providing incentives to owners to preserve such projects for occupancy by lower and moderate income families (for the period that assistance under this sentence is available), and (ii) to assist lower income tenants to afford any increases in rent that may be required to induce the owner to maintain occupancy in the project by lower and moderate income tenants. Any assistance provided to lower income tenants under the preceding sentence shall not be considered for purposes of the limitation under paragraph (1)(A) regarding the percentage of families that may receive assistance under this section who do not qualify for preferences under such paragraph."

Subsec. (d)(2)(B) to (G). Pub. L. 105-276, § 550(a)(4)(C), redesignated subpars. (F) to (H) as (B) to (D), respectively, and struck out former subpars. (B) to (E). Prior to repeal, former subpar. (B) required the Secretary to permit a public housing agency to approve attachment of assistance with respect to any newly constructed structure if certain conditions were met, former subpar. (C) required a public housing agency to enter into a contract with an owner of a structure to which a contract for assistance was attached under this par. to provide for renewal of expiring assistance payment contracts, former subpar. (D) required owners of structures to which a contract for assistance was attached to adopt certain tenant selection procedures, and former subpar. (E) required the Secretary to annually survey public housing agencies to determine which have reached certain limitations in providing assistance and to report the survey results to Congress.

Subsec. (d)(2)(H). Pub. L. 105-276, § 550(a)(4)(C), redesignated subpar. (H) as (D).

Pub. L. 105-276, § 550(a)(4)(B), substituted "An owner" for "Notwithstanding subsection (d)(1)(A)(i) of this section, an owner".

Subsec. (d)(6). Pub. L. 105-276, § 552, added par. (6).

Subsec. (f)(6). Pub. L. 105-276, § 545(b), inserted "(o)(13)" after "(d)(2)".

Subsec. (f)(7). Pub. L. 105-276, § 550(a)(5), struck out "(b) or" after "under subsection" and inserted before period at end "and that provides for the eligible family to select suitable housing and to move to other suitable housing".

Subsec. (h). Pub. L. 105-276, § 565(c), which directed insertion of "(except as provided in section 1437d(j)(3) of this title)" after "section 1437d of this title", was executed by making the insertion after "Sections 1437(c)(e) and 1437d of this title", to reflect the probable intent of Congress.

Subsec. (j). Pub. L. 105-276, § 550(a)(6), struck out subsec. (j), which authorized contracts for making rental assistance payments on behalf of low-income families utilizing manufactured homes as principal places of residence, directed that contract establish maximum monthly rent permitted with respect to home and real property on which it was located and provided formula

for calculating amount of monthly assistance, provided for adjustments, set forth minimum and maximum terms, in the case of substantially rehabilitated or newly constructed park, provided limit on principal amount of mortgage attributable to rental spaces within park, and authorized Secretary to prescribe other terms and conditions necessary for purpose of carrying out subsection.

Subsec. (n). Pub. L. 105-276, § 550(a)(7), struck out subsec. (n) which read as follows: "In making assistance available under subsections (b)(1) and (e)(2) of this section, the Secretary may provide assistance with respect to residential properties in which some or all of the dwelling units do not contain bathroom or kitchen facilities, if—

"(1) the property is located in an area in which there is a significant demand for such units, as determined by the Secretary;

"(2) the unit of general local government in which the property is located and the local public housing agency approve of such units being utilized for such purpose; and

"(3) in the case of assistance under subsection (b)(1) of this section, the unit of general local government in which the property is located and the local public housing agency certify to the Secretary that the property complies with local health and safety standards.

The Secretary may waive, in appropriate cases, the limitation and preference described in the second and third sentences of section 1437a(b)(3) of this title with respect to the assistance made available under this subsection."

Subsec. (o). Pub. L. 105-276, § 545(a), amended subsec. (o) generally. Prior to amendment, subsec. (o) contained provisions relating to assistance using a payment standard based upon fair market rental, categories of families eligible for assistance and preferences, contracts with public housing agencies for annual contributions, annual adjustments of assistance payment amounts, assistance with respect to certain cooperative and mutual housing, contracts to provide rental vouchers, set asides of budget authority for an adjustment pool, reasonable rent requirements and disapproval of leases with unreasonable rents, and assistance on behalf of families utilizing manufactured homes as principal places of residence.

Subsec. (o)(2). Pub. L. 105-276, § 209(a), inserted at end "Notwithstanding the preceding sentence, for families being admitted to the voucher program who remain in the same unit or complex, where the rent (including the amount allowed for utilities) does not exceed the payment standard, the monthly assistance payment for any family shall be the amount by which such rent exceeds the greater of 30 percent of the family's monthly adjusted income or 10 percent of the family's monthly income." Notwithstanding sections 209(b) and 503 of Pub. L. 105-276, set out as Effective Date of 1998 Amendment notes below and under section 1437 of this title, this amendment was executed before the amendment by section 545(a) of Pub. L. 105-276 to reflect the probable intent of Congress and the provisions of section 545(c) of Pub. L. 105-276, set out as an Effective Date of 1998 Amendment note below, and section 559 of Pub. L. 105-276, set out as a Regulations note below.

Subsec. (q). Pub. L. 105-276, § 547, amended subsec. (q) generally, substituting present provisions for provisions which authorized establishment of fee for costs incurred in administering certificate and housing voucher programs under subsecs. (b) and (o) of this section, costs of preliminary expenses in connection with new allocations of assistance, costs incurred in assisting families who experienced difficulty in obtaining appropriate housing under the programs, and extraordinary costs; provisions which set forth use of fees for employing one or more service coordinators to coordinate provision of supportive services for elderly or disabled families on whose behalf assistance was provided; and provision which limited establishment or increase of fees to amounts provided in appropriation Acts.

Subsec. (r). Pub. L. 105-276, §553(3), inserted heading, added par. (1), and struck out former par. (1) which read as follows: "Any family assisted under subsection (b) or (o) of this section may receive such assistance to rent an eligible dwelling unit if the dwelling unit to which the family moves is within the same State, or the same or a contiguous metropolitan statistical area as the metropolitan statistical area within which is located the area of jurisdiction of the public housing agency approving such assistance; except that any family not living within the jurisdiction of a public housing agency at the time that such family applies for assistance from such agency shall, during the 12-month period beginning upon the receipt of any tenant-based rental assistance made available on behalf of the family, use such assistance to rent an eligible dwelling unit located within the jurisdiction served by such public housing agency."

Subsec. (r)(2). Pub. L. 105-276, §553(1), struck out at end "If no public housing agency has authority with respect to the dwelling unit to which a family moves under this subsection, the public housing agency approving the assistance shall have such responsibility."

Subsec. (r)(3). Pub. L. 105-276, §553(2), struck out "(b) or" before "(o) of this section for" and inserted at end "The Secretary shall establish procedures for the compensation of public housing agencies that issue vouchers to families that move into or out of the jurisdiction of the public housing agency under portability procedures. The Secretary may reserve amounts available for assistance under subsection (o) of this section to compensate those public housing agencies."

Subsec. (r)(5). Pub. L. 105-276, §553(5), added par. (5).

Subsec. (t). Pub. L. 105-276, §554, struck out subsec. (t). For text, see 1996 Amendment note below.

Subsec. (u). Pub. L. 105-276, §550(a)(8), in pars. (1) and (3), struck out "certificates or" before "vouchers" and, in par. (2), struck out ", certificates" before "or vouchers".

Subsec. (x)(2). Pub. L. 105-276, §550(a)(9), substituted "tenant-based assistance" for "housing certificate assistance".

Subsec. (y)(1). Pub. L. 105-276, §555(a)(1)(A), in introductory provisions, substituted "A public housing agency providing tenant-based assistance on behalf of an eligible family under this section may provide assistance for an eligible family that purchases a dwelling unit (including a unit under a lease-purchase agreement) that will be owned by 1 or more members of the family, and will be occupied by the family, if the family" for "A family receiving tenant-based assistance under this section may receive assistance for occupancy of a dwelling owned by one or more members of the family if the family".

Subsec. (y)(1)(A). Pub. L. 105-276, §555(a)(1)(B), inserted ", or owns or is acquiring shares in a cooperative" before semicolon at end.

Subsec. (y)(1)(B). Pub. L. 105-276, §555(a)(1)(C), struck out cl. (i), redesignated cl. (ii) as entire subpar., and inserted ", except that the Secretary may provide for the consideration of public assistance in the case of an elderly family or a disabled family" after "public assistance". Prior to amendment, cl. (i) read as follows: "participates in the family self-sufficiency program under section 1437u of this title of the public housing agency providing the assistance; or".

Subsec. (y)(2). Pub. L. 105-276, §555(a)(2), added par. (2) and struck out heading and text of former par. (2). Text read as follows:

"(A) IN GENERAL.—Notwithstanding any other provisions of this section governing determination of the amount of assistance payments under this section on behalf of a family, the monthly assistance payment for any family assisted under this subsection shall be the amount by which the fair market rental for the area established under subsection (c)(1) of this section exceeds 30 percent of the family's monthly adjusted income; except that the monthly assistance payment shall not exceed the amount by which the monthly homeownership expenses, as determined in accordance with require-

ments established by the Secretary, exceeds 10 percent of the family's monthly income.

"(B) EXCLUSION OF EQUITY FROM INCOME.—For purposes of determining the monthly assistance payment for a family, the Secretary shall not include in family income an amount imputed from the equity of the family in a dwelling occupied by the family with assistance under this subsection."

Subsec. (y)(3), (4). Pub. L. 105-276, §555(a)(3), added pars. (3) and (4) and struck out former pars. (3) and (4) which read as follows:

"(3) RECAPTURE OF CERTAIN AMOUNTS.—Upon sale of the dwelling by the family, the Secretary shall recapture from any net proceeds the amount of additional assistance (as determined in accordance with requirements established by the Secretary) paid to or on behalf of the eligible family as a result of paragraph (2)(B).

"(4) DOWNPAYMENT REQUIREMENT.—Each public housing agency providing assistance under this subsection shall ensure that each family assisted shall provide from its own resources not less than 80 percent of any downpayment in connection with a loan made for the purchase of a dwelling. Such resources may include amounts from any escrow account for the family established under section 1437u(d) of this title. Not more than 20 percent of the downpayment may be provided from other sources, such as from nonprofit entities and programs of States and units of general local government."

Subsec. (y)(5). Pub. L. 105-276, §555(a)(3), (4), redesignated par. (6) as (5) and struck out heading and text of former par. (5). Text read as follows: "A family may not receive assistance under this subsection during any period when assistance is being provided for the family under other Federal homeownership assistance programs, as determined by the Secretary, including assistance under the HOME Investment Partnerships Act, the Homeownership and Opportunity Through HOPE Act, title II of the Housing and Community Development Act of 1987, and section 1472 of this title."

Subsec. (y)(6) to (8). Pub. L. 105-276, §555(a)(4), redesignated pars. (7) and (8) as (6) and (7), respectively. Former par. (6) redesignated (5).

Subsec. (z). Pub. L. 105-276, §548(1), made technical amendment relating to placement of subsection.

Subsec. (cc). Pub. L. 105-276, §548(2), added subsec. (cc).

Subsec. (dd). Pub. L. 105-276, §556(a), added subsec. (dd).

1997—Subsec. (c)(2)(A). Pub. L. 105-65, §§201(c), 205, substituted "fiscal years 1997 and 1998" for "fiscal year 1997" in third and sixth sentences and inserted at end "In establishing annual adjustment factors for units in new construction and substantial rehabilitation projects, the Secretary shall take into account the fact that debt service is a fixed expense. The immediately foregoing sentence shall be effective only during fiscal year 1998."

Pub. L. 105-33, §§2003, 2004, inserted ", and during fiscal year 1999 and thereafter" before period at end of third and sixth sentences.

Subsec. (c)(9). Pub. L. 105-18, which directed substitution of "Not less than 180 days prior to terminating any contract" for "Not less than one year prior to terminating any contract", was executed by making the substitution for "Not less than 1 year prior to terminating any contract" to reflect the probable intent of Congress.

Subsec. (d)(5). Pub. L. 105-65, §523(a), added par. (5).

Subsec. (bb). Pub. L. 105-65, §523(c), inserted heading, designated existing provisions as par. (1) and former subsec. heading as par. (1) heading, and added par. (2).

1996—Subsec. (c)(2)(A). Pub. L. 104-204 inserted ", fiscal year 1996 prior to April 26, 1996, and fiscal year 1997" after "fiscal year 1995" in two places, substituted "Except for assistance under the certificate program, for" for "For", inserted after fourth sentence "In the case of assistance under the certificate program, 0.01 shall be subtracted from the amount of the annual ad-

justment factor (except that the factor shall not be reduced to less than 1.0), and the adjusted rent shall not exceed the rent for a comparable unassisted unit of similar quality, type, and age in the market area.”, and substituted “The immediately foregoing two sentences” for “The immediately foregoing sentence”.

Subsec. (c)(8). Pub. L. 104-134, §101(e) [title II, §203(b)(1), (d)], temporarily inserted “(other than a contract for assistance under the certificate or voucher program)” after “section”. See Effective and Termination Dates of 1996 Amendments note below.

Subsec. (c)(9). Pub. L. 104-134, §101(e) [title II, §203(b)(2), (d)], temporarily substituted “, other than a contract under the certificate or voucher program” for “(but not less than 90 days in the case of housing certificates or vouchers under subsection (b) or (o) of this section)”. See Effective and Termination Dates of 1996 Amendments note below.

Subsec. (d)(1)(A). Pub. L. 104-99, §402(d)(2), (f), temporarily amended subpar. (A) generally, substituting “the selection of tenants shall be the function of the owner, subject to the provisions of the annual contributions contract between the Secretary and the agency, except that for the certificate and moderate rehabilitation programs only, for the purpose of selecting families to be assisted, the public housing agency may establish, after public notice and an opportunity for public comment, a written system of preferences for selection that is not inconsistent with the comprehensive housing affordability strategy under title I of the Cranston-Gonzalez National Affordable Housing Act;” for “the selection of tenants for such units shall be the function of the owner, subject to the provisions of the annual contributions contract between the Secretary and the agency, except that the tenant selection criteria used by the owner shall—

“(i) for not less than (I) 70 percent of the families who initially receive assistance in any 1-year period in the case of assistance attached to a structure and (II) 90 percent of such families in the case of assistance not attached to a structure, give preference to families that occupy standard housing (including families that are homeless or living in a shelter for homeless families), are paying more than 50 percent of family income for rent, or are involuntarily displaced (including displacement because of disposition of a multifamily housing project under section 1701z-11 of title 12) at the time they are seeking assistance under this section; except that any family otherwise eligible for assistance under this section may not be denied preference for assistance not attached to a structure (or delayed or otherwise adversely affected in the provision of such assistance) solely because the family resides in public housing;

“(ii) for any remaining assistance in any 1-year period, give preference to families who qualify under a system of local preferences established by the public housing agency in writing and after public hearing to respond to local housing needs and priorities, which may include (I) assisting very low-income families who either reside in transitional housing assisted under title IV of the Stewart B. McKinney Homeless Assistance Act, or participate in a program designed to provide public assistance recipients with greater access to employment and educational opportunities; (II) assisting families in accordance with subsection (u)(2) of this section; (III) assisting families identified by local public agencies involved in providing for the welfare of children as having a lack of adequate housing that is a primary factor in the imminent placement of a child in foster care, or in preventing the discharge of a child from foster care and reunification with his or her family; (IV) assisting youth, upon discharge from foster care, in cases in which return to the family or extended family or adoption is not available; (V) assisting veterans who are eligible and have applied for assistance, will use the assistance for a dwelling unit designed for the handicapped, and, upon discharge or eligibility for discharge from a hospital or nursing home, have physical disability which,

because of the configuration of their homes, prevents them from access to or use of their homes; and (VI) achieving other objectives of national housing policy as affirmed by Congress; and

“(iii) prohibit any individual or family evicted from housing assisted under the chapter by reason of drug-related criminal activity from having a preference under any provision of this subparagraph for 3 years unless the evicted tenant successfully completes a rehabilitation program approved by the agency, except that the agency may waive the application of this clause under standards established by the Secretary (which shall include waiver for any member of a family of an individual prohibited from tenancy under this clause who the agency determines clearly did not participate in and had no knowledge of such criminal activity or when circumstances leading to eviction no longer exist);”.

See Effective and Termination Dates of 1996 Amendments note below.

Subsec. (d)(1)(B)(ii), (iii). Pub. L. 104-134, §101(e) [title II, §203(c), (d)], in cl. (ii) temporarily inserted “during the term of the lease,” after “(ii)” and in cl. (iii) temporarily substituted “during the term of the lease,” for “provide that”. See Effective and Termination Dates of 1996 Amendments note below.

Subsec. (d)(1)(B)(v). Pub. L. 104-193, §903(a)(2), added cl. (v).

Subsec. (d)(2)(A). Pub. L. 104-99, §402(d)(6)(A)(iii), (f), temporarily struck out at end “Any assistance provided to lower income tenants under the preceding sentence shall not be considered for purposes of the limitation under paragraph (1)(A) regarding the percentage of families that may receive assistance under this section who do not qualify for preferences under such paragraph.” See Effective and Termination Dates of 1996 Amendments note below.

Subsec. (d)(2)(H). Pub. L. 104-99, §402(d)(6)(A)(iv), (f), temporarily substituted “An owner” for “Notwithstanding subsection (d)(1)(A)(i) of this section, an owner”. See Effective and Termination Dates of 1996 Amendments note below.

Subsec. (o)(3)(B). Pub. L. 104-99, §402(d)(3), (f), temporarily amended subpar. (B) generally. Prior to amendment, subpar. (B) read as follows: “In selecting families to be assisted, preference shall be given to families which, at the time they are seeking assistance, occupy standard housing (including families that are homeless or living in a shelter for homeless families), are involuntarily displaced (including displacement because of disposition of a multifamily housing project under section 1701z-11 of title 12), or are paying more than 50 per centum of family income for rent. A public housing agency may provide for circumstances in which families who do not qualify for any preference established in the preceding sentence are provided assistance under this subsection before families who do qualify for such preference, except that not more than 10 percent (or such higher percentage determined by the Secretary to be necessary to ensure that public housing agencies can assist families in accordance with subsection (u)(2) of this section or determined by the Secretary to be appropriate for other good cause) of the families who initially receive assistance in any 1-year period (or such shorter period selected by the public housing agency before the beginning of its first full year subject to this sentence) may be families who do not qualify for such preference. The public housing agency shall in implementing the preceding sentence establish a system of preferences in writing and after public hearing to respond to local housing needs and priorities which may include (i) assisting very low-income families who either reside in transitional housing assisted under title IV of the Stewart B. McKinney Homeless Assistance Act, or participate in a program designed to provide public assistance recipients with greater access to employment and educational opportunities, (ii) assisting families in accordance with subsection (u)(2) of this section; (iii) assisting families identified by local public agencies involved in providing for the welfare of

children as having a lack of adequate housing that is a primary factor in the imminent placement of a child in foster care, or in preventing the discharge of a child from foster care and reunification and his or her family; (iv) assisting youth, upon discharge from foster care, in cases in which return to the family or extended family or adoption is not available; (v) assisting veterans who are eligible and have applied for assistance, will use the assistance for a dwelling unit designed for the handicapped, and, upon discharge or eligibility for discharge from a hospital or nursing home, have physical disability which, because of the configuration of their homes, prevents them from access to or use of their homes; and (vi) achieving other objectives of national housing policy as affirmed by Congress. Any individual or family evicted from housing assisted under the chapter by reason of drug-related criminal activity (as defined in subsection (f)(5) of this section) shall not be eligible for a preference under any provision of this subparagraph for 3 years unless the evicted tenant successfully completes a rehabilitation program approved by the Secretary (which shall include waiver for any member of a family of an individual prohibited from tenancy under this clause who the agency determines clearly did not participate in and had no knowledge of such criminal activity or when circumstances leading to eviction no longer exist)." See Effective and Termination Dates of 1996 Amendments note below.

Subsec. (t). Pub. L. 104-134, §101(e) [title II, §203(a), (d)], temporarily repealed subsec. (t) which read as follows:

"(1) No owner who has entered into a contract for housing assistance payments under this section on behalf of any tenant in a multifamily housing project shall refuse—

"(A) to lease any available dwelling unit in any multifamily housing project of such owner that rents for an amount not greater than the fair market rent for a comparable unit, as determined by the Secretary under this section, to a holder of a certificate of eligibility under this section a proximate cause of which is the status of such prospective tenant as a holder of such certificate, and to enter into a housing assistance payments contract respecting such unit; or

"(B) to lease any available dwelling unit in any multifamily housing project of such owner to a holder of a voucher under subsection (o) of this section, and to enter into a voucher contract respecting such unit, a proximate cause of which is the status of such prospective tenant as holder of such voucher.

"(2) For purposes of this subsection, the term 'multifamily housing project' means a residential building containing more than 4 dwelling units." See Effective and Termination Dates of 1996 Amendments note below.

Subsec. (v). Pub. L. 104-99, §405(c), amended subsec. (v) generally. Prior to amendment, subsec. (v) read as follows:

"(1) The Secretary shall extend any expiring contract entered into under this section for loan management assistance or execute a new contract for project-based loan management assistance, if the owner agrees to continue providing housing for low-income families during the term of the contract.

"(2)(A) The eligibility of a multifamily residential project for loan management assistance under this section shall be determined without regard to whether the project is subsidized or unsubsidized.

"(B) In allocating loan management assistance under this section, the Secretary may give a priority to any project only on the basis that the project has serious financial problems that are likely to result in a claim on the insurance fund in the near future or the project is eligible to receive incentives under subtitle B of the Low-Income Housing Preservation and Resident Homeownership Act of 1990."

Subsec. (bb). Pub. L. 104-134, §101[(e)] [title II, §208], added subsec. (bb).

1995—Subsec. (z). Pub. L. 104-19 added subsec. (z).

1994—Subsec. (c)(2)(A). Pub. L. 103-327 inserted at end: "However, where the maximum monthly rent, for a

unit in a new construction, substantial rehabilitation, or moderate rehabilitation project, to be adjusted using an annual adjustment factor exceeds the fair market rental for an existing dwelling unit in the market area, the Secretary shall adjust the rent only to the extent that the owner demonstrates that the adjusted rent would not exceed the rent for an unassisted unit of similar quality, type, and age in the same market area, as determined by the Secretary. The immediately foregoing sentence shall be effective only during fiscal year 1995. For any unit occupied by the same family at the time of the last annual rental adjustment, where the assistance contract provides for the adjustment of the maximum monthly rent by applying an annual adjustment factor and where the rent for a unit is otherwise eligible for an adjustment based on the full amount of the factor, 0.01 shall be subtracted from the amount of the factor, except that the factor shall not be reduced to less than 1.0. The immediately foregoing sentence shall be effective only during fiscal year 1995."

Subsec. (d)(1)(A)(i). Pub. L. 103-233, §101(c)(2), inserted "(including displacement because of disposition of a multifamily housing project under section 1701z-11 of title 12)" after "displaced".

Subsec. (d)(1)(A)(ii). Pub. L. 103-327 which directed the amendment of cl. (ii) by striking "and (V)" and inserting in lieu thereof "(V) assisting families that include one or more adult members who are employed; and (VI)", and inserting after the final semicolon "subclause (V) shall be effective only during fiscal year 1995"; was not executed because the words "and (V)" did not appear and cl. (ii) already contains subcls. (V) and (VI). See 1992 Amendment note below.

Subsec. (f)(1). Pub. L. 103-233, §101(d), inserted "an agency of the Federal Government," after "cooperative,".

Subsec. (o)(3)(B). Pub. L. 103-233, §101(c)(3), inserted "(including displacement because of disposition of a multifamily housing project under section 1701z-11 of title 12)" after "displaced".

Subsec. (aa). Pub. L. 103-327 temporarily added subsec. (aa), "Refinancing incentive", which read as follows:

"(1) IN GENERAL.—The Secretary may pay all or a part of the up front costs of refinancing for each project that—

"(A) is constructed, substantially rehabilitated, or moderately rehabilitated under this section;

"(B) is subject to an assistance contract under this section; and

"(C) was subject to a mortgage that has been refinanced under section 223(a)(7) or section 223(f) of the National Housing Act to lower the periodic debt service payments of the owner.

"(2) SHARE FROM REDUCED ASSISTANCE PAYMENTS.—The Secretary may pay the up front cost of refinancing only—

"(A) to the extent that funds accrue to the Secretary from the reduced assistance payments that results from the refinancing; and

"(B) after the application of amounts in accordance with section 1012 of the Stewart B. McKinney Homeless Assistance Amendments Act of 1988." See Effective and Termination Dates of 1994 Amendment note below.

1992—Subsec. (c)(2)(B). Pub. L. 102-550, §1012(g), inserted at end "The Secretary may (at the discretion of the Secretary and subject to the availability of appropriations for contract amendments), on a project by project basis for projects receiving project-based assistance, provide adjustments to the maximum monthly rents to cover the costs of evaluating and reducing lead-based paint hazards, as defined in section 4851b of this title."

Pub. L. 102-550, §142, inserted after first sentence "The Secretary shall make additional adjustments in the maximum monthly rent for units under contract (subject to the availability of appropriations for contract amendments) to the extent the Secretary determines such adjustments are necessary to reflect in-

creases in the actual and necessary expenses of owning and maintaining the units that have resulted from the expiration of a real property tax exemption.”

Subsec. (c)(4). Pub. L. 102-550, §141(a), inserted “or by a family that qualifies to receive assistance under subsection (b) of this section pursuant to section 223 or 226 of the Low-Income Housing Preservation and Resident Homeownership Act of 1990” after first comma in first sentence.

Subsec. (c)(9). Pub. L. 102-550, §143, inserted before period at end “, and such term shall include termination of the contract for business reasons”.

Subsec. (d)(1)(A)(ii)(V), (VI). Pub. L. 102-550, §144(a), added subcl. (V) and redesignated former subcl. (V) as (VI).

Subsec. (d)(1)(B)(iii). Pub. L. 102-550, §145, inserted “, any criminal activity that threatens the health, safety, or right to peaceful enjoyment of their residences by persons residing in the immediate vicinity of the premises,” before “or any drug-related” and substituted “tenant of any unit” for “public housing tenant”.

Subsec. (d)(2)(F). Pub. L. 102-550, §674, added subpar. (F).

Subsec. (d)(2)(G), (H). Pub. L. 102-550, §682(b), added subpars. (G) and (H).

Subsec. (d)(4). Pub. L. 102-550, §660, added par. (4).

Subsec. (f)(6), (7). Pub. L. 102-550, §146, added pars. (6) and (7).

Subsec. (i). Pub. L. 102-550, §623(b), added subsec. (i).

Subsec. (o)(3)(A). Pub. L. 102-550, §141(b), struck out “or” before “(iv)” and inserted before period at end “, or” and cl. (v).

Subsec. (o)(3)(B)(v), (vi). Pub. L. 102-550, §144(b), in third sentence, added cl. (v) and redesignated former cl. (v) as (vi).

Subsec. (q)(3), (4). Pub. L. 102-550, §675, added par. (3) and redesignated former par. (3) as (4).

Subsec. (r)(1). Pub. L. 102-550, §147, inserted before period at end “; except that any family not living within the jurisdiction of a public housing agency at the time that such family applies for assistance from such agency shall, during the 12-month period beginning upon the receipt of any tenant-based rental assistance made available on behalf of the family, use such assistance to rent an eligible dwelling unit located within the jurisdiction served by such public housing agency”.

Subsec. (x)(1). Pub. L. 102-550, §148, amended par. (1) generally. Prior to amendment, par. (1) read as follows: “The budget authority available under section 1437c(c) of this title for assistance under subsection (b) of this section is authorized to be increased by \$35,000,000 on or after October 1, 1990, by \$35,000,000 on or after October 1, 1991.”

Subsec. (y). Pub. L. 102-550, §185(a), added subsec. (y). 1991—Subsec. (c)(1). Pub. L. 102-139 inserted provisions relating to separate fair market rentals for Monroe County, Pennsylvania.

1990—Subsec. (a). Pub. L. 101-625, §572(1), which directed the substitution of “low-income families” for “lower income families”, was executed by making the substitution for “lower-income families” to reflect the probable intent of Congress.

Pub. L. 101-625, §548(b), inserted at end “A public housing agency may contract to make assistance payments to itself (or any agency or instrumentality thereof) as the owner of dwelling units if such agency is subject to the same program requirements as are applied to other owners. In such cases, the Secretary may establish initial rents within applicable limits.”

Subsec. (b). Pub. L. 101-625, §541(a), inserted heading and struck out par. (1) designation preceding text.

Subsec. (b)(2). Pub. L. 101-625, §413(b)(1), added par. (2).

Subsec. (c)(1). Pub. L. 101-625, §543(b), inserted “(A)” after second reference to “fair market rental” and substituted “a housing strategy as defined in section 12705 of this title, or (B) by such higher amount as may be requested by a tenant and approved by the public housing agency in accordance with paragraph (3)(B).” for “a

local housing assistance plan as defined in section 1439(a)(5) of this title.”

Subsec. (c)(2)(B). Pub. L. 101-625, §542, inserted at end “Where the Secretary determines that a project assisted under this section is located in a community where drug-related criminal activity is generally prevalent and the project’s operating, maintenance, and capital repair expenses have been substantially increased primarily as a result of the prevalence of such drug-related activity, the Secretary may (at the discretion of the Secretary and subject to the availability of appropriations for contract amendments for this purpose), on a project by project basis, provide adjustments to the maximum monthly rents, to a level no greater than 120 percent of the project rents, to cover the costs of maintenance, security, capital repairs, and reserves required for the owner to carry out a strategy acceptable to the Secretary for addressing the problem of drug-related criminal activity. Any rent comparability standard required under this paragraph may be waived by the Secretary to so implement the preceding sentence.”

Subsec. (c)(3). Pub. L. 101-625, §543(a), designated existing provisions as subpar. (A) and added subpar. (B).

Subsec. (c)(9). Pub. L. 101-625, §544, inserted after first sentence “The owner’s notice shall include a statement that the owner and the Secretary may agree to a renewal of the contract, thus avoiding the termination.” and inserted at end “Within 30 days of the Secretary’s finding, the owner shall provide written notice to each tenant of the Secretary’s decision.”

Subsec. (c)(10). Pub. L. 101-625, §572(2), substituted “low-income housing” for “lower income housing”.

Subsec. (d)(1)(A). Pub. L. 101-625, §545(a), amended subpar. (A) generally. Prior to amendment, subpar. (A) read as follows: “the selection of tenants for such unit shall be the function of the owner, subject to the provisions of the annual contributions contract between the Secretary and the agency, except that (i) the tenant selection criteria used by the owner shall give preference to families which occupy substandard housing, are paying more than 50 per centum of family income for rent, or are involuntarily displaced at the time they are seeking assistance under this section; and (ii) the public housing agency may provide for circumstances in which families who do not qualify for any preference established in clause (i) are provided assistance before families who do qualify for such preference, except that not more than 10 percent (or such higher percentage determined by the Secretary to be necessary to ensure that public housing agencies can assist families in accordance with subsection (u)(2) of this section or determined by the Secretary to be appropriate for other good cause) of the families who initially receive assistance in any 1-year period (or such shorter period selected by the public housing agency before the beginning of its first full year subject to this clause) may be families who do not qualify for such preference;”.

Subsec. (d)(1)(B)(iii), (iv). Pub. L. 101-625, §546, added cls. (iii) and (iv).

Subsec. (d)(2)(A). Pub. L. 101-625, §552(b), inserted after first sentence “The Secretary shall permit public housing agencies to enter into contracts for assistance payments of less than 12 months duration in order to avoid disruption in assistance to eligible families if the annual contributions contract is within 1 year of its expiration date.”

Pub. L. 101-625, §613(a)(1), inserted at end “Notwithstanding any other provision of this section, a public housing agency and an applicable State agency may, on a priority basis, attach to structures not more than an additional 15 percent of the assistance provided by the public housing agency or the applicable State agency only with respect to projects assisted under a State program that permits the owner of the projects to prepay a State assisted or subsidized mortgage on the structure, except that attachment of assistance under this sentence shall be for the purpose of (i) providing incentives to owners to preserve such projects for occupancy by lower and moderate income families (for the

period that assistance under this sentence is available), and (ii) to assist lower income tenants to afford any increases in rent that may be required to induce the owner to maintain occupancy in the project by lower and moderate income tenants. Any assistance provided to lower income tenants under the preceding sentence shall not be considered for purposes of the limitation under paragraph (1)(A) regarding the percentage of families that may receive assistance under this section who do not qualify for preferences under such paragraph."

Subsec. (d)(2)(C). Pub. L. 101-625, § 613(a)(2), inserted at end "To the extent assistance is used as provided in the penultimate sentence of subparagraph (A), the contract for assistance may, at the option of the public housing agency, have an initial term not exceeding 15 years."

Pub. L. 101-625, § 547(c), amended subpar. (C) generally. Prior to amendment, subpar. (C) read as follows: "Any contract for assistance payments that is attached to a structure under this paragraph shall (at the option of the public housing agency but subject to available funds) be renewable for 2 additional 5-year terms, except that the aggregate term of the initial contract and renewals shall not exceed 15 years."

Subsec. (d)(2)(D), (E). Pub. L. 101-625, § 547(a), (b), added subpars. (D) and (E).

Subsec. (e)(2). Pub. L. 101-625, § 289(b), struck out par. (2) which read as follows: "For the purpose of upgrading and thereby preserving the Nation's housing stock, the Secretary is authorized to make assistance payments under this section directly or through public housing agencies pursuant to contracts with owners or prospective owners who agree to upgrade housing so as to make and keep such housing decent, safe, and sanitary through upgrading which involves less than substantial rehabilitation, as such upgrading and rehabilitation are defined by the Secretary, and which shall involve a minimum expenditure of \$3,000 for a unit, including its prorated share of work to be accomplished on common areas or systems. The Secretary is authorized to prescribe such terms and conditions for contracts entered into under this section pursuant to this paragraph as the Secretary determines to be necessary and appropriate, except that such terms and conditions, to the maximum extent feasible, shall be consistent with terms and conditions otherwise applicable with respect to other dwelling units assisted under this section. Notwithstanding subsection (c)(1) of this section, the Secretary may, in carrying out the preceding sentence, establish a maximum monthly rent (for units upgraded pursuant to this paragraph) which exceeds the fair market rental by not more than 20 per centum if such units are located in an area where the Secretary finds cost levels so require, except that the Secretary may approve maximum monthly rents which exceed the fair market rentals by more than 20 but not more than 30 per centum where the Secretary determines that special circumstances warrant such higher rent or where necessary to the implementation of a local housing assistance plan. The Secretary is also authorized to make assistance available under this section pursuant to this paragraph to any unit in a housing project which, on an overall basis, reflects the need for such upgrading. The Secretary shall increase the amount of assistance provided under this paragraph above the amount of assistance otherwise permitted by this paragraph and subsection (c)(1) of this section, if the Secretary determines such increase necessary to assist in the sale of multifamily housing projects owned by the Department of Housing and Urban Development. In order to maximize the availability of low-income housing, in providing assistance under this paragraph, the Secretary shall include in any calculation or determination regarding the amount of the assistance to be made available the extent to which any proceeds are available from any tax credits provided under section 42 of title 26 (or from any syndication of such credits) with respect to the housing. For each fiscal year, the Secretary may not provide assistance pursuant to this

paragraph to any project for rehabilitation of more than 100 units. Assistance pursuant to this paragraph shall be allocated according to the formula established pursuant to section 1439(d) of this title, and awarded pursuant to a competition under such section. The Secretary shall maintain a single listing of any assistance provided pursuant to this paragraph, which shall include a statement identifying the owner and location of the project to which assistance was made, the amount of the assistance, and the number of units assisted."

Subsec. (f)(1). Pub. L. 101-625, § 548(a), substituted "dwelling units" for "newly constructed or substantially rehabilitated dwelling units as described in this section".

Subsec. (f)(4), (5). Pub. L. 101-625, § 549, added pars. (4) and (5).

Subsec. (j)(1). Pub. L. 101-625, § 572(1), substituted "low-income families" for "lower income families" in introductory provisions.

Subsec. (o). Pub. L. 101-625, § 541(b), inserted heading.

Subsec. (o)(3). Pub. L. 101-625, § 545(2)(b), inserted "(A)" after "(3)", redesignated former cls. (A) to (D) as cls. (i) to (iv), respectively, inserted "(B)" before "In selecting families", "(including families that are homeless or living in a shelter for homeless families)" after "substandard housing", and inserted at end "The public housing agency shall in implementing the preceding sentence establish a system of preferences in writing and after public hearing to respond to local housing needs and priorities which may include (i) assisting very low-income families who either reside in transitional housing assisted under title IV of the Stewart B. McKinney Homeless Assistance Act, or participate in a program designed to provide public assistance recipients with greater access to employment and educational opportunities, (ii) assisting families in accordance with subsection (u)(2) of this section; (iii) assisting families identified by local public agencies involved in providing for the welfare of children as having a lack of adequate housing that is a primary factor in the imminent placement of a child in foster care, or in preventing the discharge of a child from foster care and reunification and his or her family; (iv) assisting youth, upon discharge from foster care, in cases in which return to the family or extended family or adoption is not available; and (v) achieving other objectives of national housing policy as affirmed by Congress. Any individual or family evicted from housing assisted under the chapter by reason of drug-related criminal activity (as defined in subsection (f)(5) of this section) shall not be eligible for a preference under any provision of this subparagraph for 3 years unless the evicted tenant successfully completes a rehabilitation program approved by the Secretary (which shall include waiver for any member of a family of an individual prohibited from tenancy under this clause who the agency determines clearly did not participate in and had no knowledge of such criminal activity or when circumstances leading to eviction no longer exist)."

Pub. L. 101-625, § 413(a), added cl. (D).

Subsec. (o)(7). Pub. L. 101-625, § 572(1), substituted "low-income families" for "lower income families".

Subsec. (o)(9). Pub. L. 101-625, § 413(b)(2), added par. (9).

Subsec. (o)(10), (11). Pub. L. 101-625, § 550(a), (c), added pars. (10) and (11).

Subsec. (r)(1). Pub. L. 101-625, § 551, substituted "the same State, or the same or a contiguous" for "the same, or a contiguous,".

Subsec. (u). Pub. L. 101-625, § 572(1), substituted "low-income families" for "lower income families" in introductory provisions.

Subsec. (v)(1). Pub. L. 101-625, § 572(1), substituted "low-income families" for "lower income families".

Subsec. (v)(2)(B). Pub. L. 101-625, § 603, which directed the substitution of "Low-Income Housing Preservation and Resident Homeownership Act of 1990" for "Emergency Low Income Housing Preservation Act of 1987" in section "89(v)(2) of the United States Housing Act of 1937", was executed to subsec. (v)(2)(B) of this section



(section 8 of the United States Housing Act of 1937) to reflect the probable intent of Congress.

Subsecs. (w), (x). Pub. L. 101-625, §§552(a), 553, added subsecs. (w) and (x).

1989—Subsec. (c)(2)(C). Pub. L. 101-235, §702(g), substituted “quality, type, and age” for “quality and age”.

Pub. L. 101-235, §702(c), inserted after first sentence “In implementing the limitation established under the preceding sentence, the Secretary shall establish regulations for conducting comparability studies for projects where the Secretary has reason to believe that the application of the formula adjustments under subparagraph (A) would result in such material differences. The Secretary shall conduct such studies upon the request of any owner of any project, or as the Secretary determines to be appropriate by establishing, to the extent practicable, a modified annual adjustment factor for such market area, as the Secretary shall designate, that is geographically smaller than the applicable housing area used for the establishment of the annual adjustment factor under subparagraph (A). The Secretary shall establish such modified annual adjustment factor on the basis of the results of a study conducted by the Secretary of the rents charged, and any change in such rents over the previous year, for assisted units and unassisted units of similar quality, type, and age in the smaller market area. Where the Secretary determines that such modified annual adjustment factor cannot be established or that such factor when applied to a particular project would result in material differences between the rents charged for assisted units and unassisted units of similar quality, type, and age in the same market area, the Secretary may apply an alternative methodology for conducting comparability studies in order to establish rents that are not materially different from rents charged for comparable unassisted units.”

Subsec. (e)(2). Pub. L. 101-235, §127(1), inserted before period at end of first sentence “; and which shall involve a minimum expenditure of \$3,000 for a unit, including its prorated share of work to be accomplished on common areas or systems”.

Pub. L. 101-235, §127(2), (3), inserted at end “In order to maximize the availability of low-income housing, in providing assistance under this paragraph, the Secretary shall include in any calculation or determination regarding the amount of the assistance to be made available the extent to which any proceeds are available from any tax credits provided under section 42 of title 26 (or from any syndication of such credits) with respect to the housing. For each fiscal year, the Secretary may not provide assistance pursuant to this paragraph to any project for rehabilitation of more than 100 units. Assistance pursuant to this paragraph shall be allocated according to the formula established pursuant to section 1439(d) of this title, and awarded pursuant to a competition under such section. The Secretary shall maintain a single listing of any assistance provided pursuant to this paragraph, which shall include a statement identifying the owner and location of the project to which assistance was made, the amount of the assistance, and the number of units assisted.”

1988—Subsec. (b)(1). Pub. L. 100-242, §141, inserted provisions at end authorizing Secretary to enter into separate contributions contracts with each public housing agency to obligate authority approved each year, beginning with fiscal year 1988.

Subsec. (c)(1). Pub. L. 100-242, §142(a), inserted before last sentence “Each fair market rental in effect under this subsection shall be adjusted to be effective on October 1 of each year to reflect changes, based on the most recent available data trended so the rentals will be current for the year to which they apply, of rents for existing or newly constructed rental dwelling units, as the case may be, of various sizes and types in the market area suitable for occupancy by persons assisted under this section.”

Pub. L. 100-242, §142(b), inserted at end “The Secretary shall establish separate fair market rentals under this paragraph for Westchester County in the State of New York.”

Pub. L. 100-242, §142(c)(1), inserted at end “If units assisted under this section are exempt from local rent control while they are so assisted or otherwise, the maximum monthly rent for such units shall be reasonable in comparison with other units in the market area that are exempt from local rent control.”

Subsec. (c)(2)(C). Pub. L. 100-628, §1004(a)(1), substituted “under subparagraphs (A) and (B)” for “as hereinbefore provided”.

Pub. L. 100-628, §1004(a)(2), inserted at end “Any maximum monthly rent that has been reduced by the Secretary after April 14, 1987, and prior to November 7, 1988, shall be restored to the maximum monthly rent in effect on April 15, 1987. For any project which has had its maximum monthly rents reduced after April 14, 1987, the Secretary shall make assistance payments (from amounts reserved for the original contract) to the owner of such project in an amount equal to the difference between the maximum monthly rents in effect on April 15, 1987, and the reduced maximum monthly rents, multiplied by the number of months that the reduced maximum monthly rents were in effect.”

Pub. L. 100-242, §142(c)(2), substituted “assisted units and unassisted units of similar quality and age in the same market area” for “assisted and comparable unassisted units” and inserted at end “If the Secretary or appropriate State agency does not complete and submit to the project owner a comparability study not later than 60 days before the anniversary date of the assistance contract under this section, the automatic annual adjustment factor shall be applied.”

Pub. L. 100-242, §142(d), inserted at end “The Secretary may not reduce the contract rents in effect on or after April 15, 1987, for newly constructed, substantially rehabilitated, or moderately rehabilitated projects assisted under this section (including projects assisted under this section as in effect prior to November 30, 1983), unless the project has been refinanced in a manner that reduces the periodic payments of the owner.”

Subsec. (c)(2)(D). Pub. L. 100-242, §142(e), struck out subpar. (D) which read as follows: “Notwithstanding the foregoing, the Secretary shall limit increases in contract rents for newly constructed or substantially rehabilitated projects assisted under this section to the amount of operating cost increases incurred with respect to comparable rental dwelling units of various sizes and types in the same market area which are suitable for occupancy by families assisted under this section. Where no comparable dwelling units exist in the same market area, the Secretary shall have authority to approve such increases in accordance with the best available data regarding operating cost increases in rental dwelling units.”

Subsec. (c)(9), (10). Pub. L. 100-242, §262(a), (b), added pars. (9) and (10).

Subsec. (d)(1)(A). Pub. L. 100-628, §1014(b), inserted cl. (i) designation after “except that” and added cl. (ii) before semicolon at end.

Subsec. (d)(2). Pub. L. 100-628, §1005(b)(1), designated existing provisions as subpar. (A), substituted “(i)” and “(ii)” for “(A)” and “(B)” wherever appearing, and added subpar. (B).

Pub. L. 100-628, §1005(c), added subpar. (C).

Pub. L. 100-242, §148, inserted exception authorizing Secretary to permit public housing authority to approve attachment with respect to not more than 15 percent of assistance provided by public housing agency if requirements of cl. (B) are met.

Subsec. (o)(1). Pub. L. 100-242, §143(a)(1), substituted “The Secretary may provide assistance” for “In connection with the rental rehabilitation and development program under section 1437o of this title or the rural housing preservation grant program under section 1490m of this title, or for other purposes, the Secretary is authorized to conduct a demonstration program”.

Subsec. (o)(3). Pub. L. 100-628, §1014(c), inserted sentence at end authorizing public housing agencies to provide for circumstances in which families who do not qualify for any preference are provided assistance

under this subsection before families who do qualify for such preference.

Subsec. (o)(4). Pub. L. 100-242, §143(a)(2), (3), redesignated par. (5) as (4) and struck out former par. (4) which read as follows: "The Secretary shall use substantially all of the authority to enter into contracts under this subsection to make assistance payments for families residing in dwellings to be rehabilitated with assistance under section 1437o of this title and for families displaced as a result of rental housing development assisted under such section or as a result of activities assisted under section 1490m of this title."

Subsec. (o)(5). Pub. L. 100-242, §143(a)(3), redesignated par. (6) as (5). Former par. (5) redesignated (4).

Subsec. (o)(6). Pub. L. 100-242, §143(a)(3), (b), redesignated par. (7) as (6), substituted "annually" for "as frequently as twice during any five-year period" in subpar. (A), and struck out subpar. (D) which directed that public housing agency consult with public and units of local government regarding impact of adjustments made under this section on the number of families that can be assisted. Former par. (6) redesignated (5).

Subsec. (o)(7). Pub. L. 100-242, §143(a)(3), (c), redesignated par. (8) as (7), and struck out "not to exceed 5 per centum of the amount of" after "utilize". Former par. (7) redesignated (6).

Subsec. (o)(8). Pub. L. 100-242, §143(a)(3), (d), added par. (8). Former par. (8) redesignated (7).

Subsecs. (q) to (u). Pub. L. 100-242, §§144-149, added subsecs. (q) to (u).

Subsec. (u)(3). Pub. L. 100-628, §1006, added par. (3).

Subsec. (v). Pub. L. 100-628, §1029, redesignated par. (2) as (1) and inserted "for project-based loan management assistance", added par. (2), and struck out former par. (1) which required that each contract entered into by Secretary for loan management assistance be for a term of 180 months.

Pub. L. 100-242, §262(c), added subsec. (v).

1984—Subsec. (d)(2). Pub. L. 98-479, §102(b)(6), substituted "Where the Secretary enters into an annual contributions contract with a public housing agency pursuant to which the agency will enter into a contract for assistance payments with respect to an existing structure, the contract for assistance payments may not be attached to the structure unless (A) the Secretary and the public housing agency approve such action, and (B) the owner agrees to rehabilitate the structure other than with assistance under this chapter and otherwise complies with the requirements of this section." for "A contract under this section may not be attached to the structure except where the Secretary specifically waives the foregoing limitation and the public housing agency approves such action, and the owner agrees to rehabilitate the structure other than with assistance under this chapter and otherwise complies with the requirements of this section. The aggregate term of such contract and any contract extension may not be more than 180 months."

Subsec. (e)(2). Pub. L. 98-479, §102(b)(7), inserted at end "The Secretary shall increase the amount of assistance provided under this paragraph above the amount of assistance otherwise permitted by this paragraph and subsection (c)(1) of this section, if the Secretary determines such increase necessary to assist in the sale of multifamily housing projects owned by the Department of Housing and Urban Development."

Subsec. (n). Pub. L. 98-479, §102(b)(8), substituted "subsections (b)(1) and (e)(2) of this section" for "subsection (b)(1), subsection (e)(2) of this section".

Subsec. (o)(3)(C). Pub. L. 98-479, §102(b)(9), added cl. (C).

Subsec. (o)(7)(D). Pub. L. 98-479, §102(b)(10), inserted "unit of" before "general".

1983—Subsec. (a). Pub. L. 98-181, §209(a)(1), substituted "existing housing" for "existing, newly constructed, and substantially rehabilitated housing".

Subsec. (b)(2). Pub. L. 98-181, §209(a)(2), repealed par. (2) which related to authorization of assistance payments by the Secretary and contractually obligated public housing agencies for construction or substantial

rehabilitation of housing, modest in design, with units for occupancy by low-income families and requirement that contracts providing housing assistance and entered into after Aug. 13, 1981, specify the number of units available for occupancy by eligible families.

Subsec. (d)(1)(A). Pub. L. 98-181, §203(b)(1), inserted "are paying more than 50 per centum of family income for rent,".

Subsec. (d)(2). Pub. L. 98-181, §208, inserted second and third sentences respecting waiver of limitation and limitation of contract and any extension to prescribed period.

Subsec. (e)(1). Pub. L. 98-181, §209(a)(3), redesignated par. (4) as (1) and struck out former par. (1) which prescribed terms of 20 to 30 years for newly constructed or substantially rehabilitated dwelling units.

Subsec. (e)(2). Pub. L. 98-181, §209(a)(3), redesignated par. (5) as (2) and struck out former par. (2) which required owners to assume ownership, management, and maintenance responsibilities, including selection of tenants and termination of tenancy for newly constructed or substantially rehabilitated dwelling units.

Pub. L. 98-181, §203(b)(2), inserted "are paying more than 50 per centum of family income for rent," after "substandard housing".

Subsec. (e)(3). Pub. L. 98-181, §209(a)(3), struck out par. (3) which required that construction or substantial rehabilitation of dwelling units be eligible for mortgages insured under the National Housing Act and that assistance not be withheld by reason of availability of mortgage insurance under section 1715z-9 of title 12 or tax-exempt status obligations used to finance the construction or rehabilitation.

Subsec. (e)(4), (5). Pub. L. 98-181, §209(a)(3), redesignated pars. (4) and (5) as (1) and (2), respectively.

Subsec. (i). Pub. L. 98-181, §209(a)(4), repealed subsec. (i) which related to contracts with respect to substantially rehabilitated dwelling units.

Subsecs. (l), (m). Pub. L. 98-181, §209(a)(5), repealed subsec. (l) relating to limitation of cost and rent increases, and subsec. (m) relating to preference for projects on suitable State and local government tracts.

Subsec. (n). Pub. L. 98-181, §209(a)(6), substituted "subsection (e)(2) of this section" for "subsection (e)(5) and subsection (i) of this section".

Pub. L. 98-181, §210(1), (2), inserted "subsection (b)(1) of this section," before "subsection (e)(5)" and a comma after "subsection (e)(5) of this section".

Subsec. (n)(3). Pub. L. 98-181, §210(3)-(5), added par. (3).

Subsec. (o). Pub. L. 98-181, §207, added subsec. (o).

Subsec. (p). Pub. L. 98-181, §211, added subsec. (p).

1981—Subsec. (b)(2). Pub. L. 97-35, §§324(1), 325(1), inserted provisions relating to increasing housing opportunities for very low-income families and provisions relating to availability for occupancy the number of units for which assistance is committed.

Subsec. (c)(2)(D). Pub. L. 97-35, §324(2), added par. (D).

Subsec. (c)(3). Pub. L. 97-35, §322(e)(1), revised formula for computation of amount of monthly assistance and struck out authority to make reviews at least every two years in cases of elderly families.

Subsec. (c)(5). Pub. L. 97-35, §325(2), inserted reference to mortgages under section 1720 of title 12.

Subsec. (c)(7). Pub. L. 97-35, §322(e)(2), struck out par. (7) relating to percentage requirement for families with very low income and redesignated former par. (8) as (7).

Subsec. (c)(8). Pub. L. 97-35, §326(a), added par. (8). Former par. (8) redesignated (7).

Subsec. (d)(1)(B). Pub. L. 97-35, §326(e)(1), substituted provisions relating to terms and conditions, and termination of the lease by the owner for provisions relating to right of the agency to give notice to terminate and owner the right to make representation to agency for termination of the tenancy.

Subsec. (f). Pub. L. 97-35, §322(e)(3), struck out pars. (1) to (3) which defined "lower income families", "very low-income families" and "income", respectively, and redesignated pars. (4) to (6) as (1) to (3), respectively.

Subsec. (h). Pub. L. 97-35, §322(e)(4), (5), struck out reference to section 1437a(1) of this title.

Subsec. (j). Pub. L. 97-35, § 329H(a), generally revised and reorganized provisions and, as so revised and reorganized, substituted provisions relating to contracts to make assistance payments to assist lower income families by making rental assistance payments on behalf of such family, for provisions relating to annual contributions contracts to assist lower income families by making rental assistance payments.

Subsec. (j)(3). Pub. L. 97-35, § 322(e)(6), substituted in par. (3) “the rent the family is required to pay under section 1437a(a) of this title” for “25 per centum of one-twelfth of the annual income of such family”.

Subsecs. (l) to (n). Pub. L. 97-35, § 324(3), added subsecs. (l) to (n).

1980—Subsec. (c)(1). Pub. L. 96-399, § 203(a), inserted provision that in the case of newly constructed and substantially rehabilitated units, the exception in the preceding sentence shall not apply to more than 20 per centum of the total amount of authority to enter into annual contributions contracts for such units which is allocated to an area and obligated with respect to any fiscal year beginning on or after Oct. 1, 1980.

Subsec. (e)(5). Pub. L. 96-399, § 203(b), inserted provision relating to the authority of the Secretary, notwithstanding subsec. (c)(1) of this section, to establish monthly rent exceeding fair market rental where cost levels so require or where necessary to the implementation of a local housing assistance plan.

Subsec. (j). Pub. L. 96-399, § 308(c)(3), substituted “manufactured home” for “mobile home” wherever appearing.

1979—Subsec. (c)(3). Pub. L. 96-153, § 202(b), substituted new provisions for computation of the amount of monthly assistance payments with respect to dwelling units and laid down criteria to be followed by the Secretary in regard to payments to families with different income levels.

Subsec. (d)(1)(A). Pub. L. 96-153, § 206(b)(1), substituted “Secretary and the agency, except that the tenant selection criteria used by the owner shall give preference to families which occupy substandard housing or are involuntarily displaced at the time they are seeking assistance under this section.” for “Secretary and the agency;”.

Subsec. (e)(1). Pub. L. 96-153, § 211(b), substituted “term of less than two hundred and forty months” for “term of less than one month”.

Subsec. (e)(2). Pub. L. 96-153, § 206(b)(2), substituted “performance of such responsibilities), except that the tenant selection criteria shall give preference to families which occupy substandard housing or are involuntarily displaced at the time they are seeking housing assistance under this section” for “performance of such responsibilities)”.

Subsec. (k). Pub. L. 96-153, § 210, added subsec. (k).

1978—Subsec. (e)(5). Pub. L. 95-557, § 206(e), added par. (5).

Subsec. (i). Pub. L. 95-557, § 206(d)(1), added subsec. (i).

Subsec. (j). Pub. L. 95-557, § 206(f), added subsec. (j).

1977—Subsec. (c). Pub. L. 95-128, § 201(c), (d), inserted in par. (1) prohibition against high-rise elevator projects for families with children after Oct. 12, 1977, and struck out from par. (4) provision which prohibited payment after the sixty-day period if the unoccupied unit was in a project insured under the National Housing Act, except pursuant to section 1715z-9 of title 12.

Subsec. (d)(3). Pub. L. 95-128, § 201(e)(1), added par. (3).

Subsec. (e)(1). Pub. L. 95-24 substituted “three hundred and sixty months, except that such term may not exceed two hundred and forty months in the case of a project financed with assistance of a loan made by, or insured, guaranteed or intended for purchase by, the Federal Government, other than pursuant to section 1715z-9 of title 12” for “two hundred and forty months” and “Notwithstanding the preceding sentence, in the case of” for “In the case of”.

Subsec. (e)(2). Pub. L. 95-128, § 201(e)(2), inserted provision respecting the Secretary’s approval of any public housing agency for assumption of management and maintenance responsibilities of dwelling units under the preceding sentence.

1976—Subsec. (c)(4). Pub. L. 94-375, § 2(d), inserted provision extending payments to newly constructed or substantially rehabilitated unoccupied units in an amount equal to the debt service of such unit for a period not to exceed one year, provided that a good faith effort is being made to fill the unit, the unit provides decent and safe housing, the unit is not insured under the National Housing Act, except pursuant to section 1715z-9 of title 12, and the revenues from the project do not exceed the cost.

Subsec. (e)(1). Pub. L. 94-375, § 2(g), inserted “or the Farmers’ Home Administration” after “State or local agency”.

Subsec. (f)(6). Pub. L. 94-375, § 2(e), added par. (6).

#### EFFECTIVE DATE OF 2010 AMENDMENT

Amendment by Pub. L. 111-203 effective on the date on which final regulations implementing that amendment take effect, or on the date that is 18 months after the designated transfer date if such regulations have not been issued by that date, see section 1400(c) of Pub. L. 111-203, set out as a note under section 1601 of Title 15, Commerce and Trade.

#### TERMINATION DATE OF 2009 AMENDMENT

Pub. L. 111-22, div. A, title VII, § 704, May 20, 2009, 123 Stat. 1662, as amended by Pub. L. 111-203, title XIV, § 1484(2), July 21, 2010, 124 Stat. 2204, provided that: “This title [amending this section and enacting provisions set out as notes under sections 5201 and 5220 of Title 12, Banks and Banking], and any amendments made by this title are repealed, and the requirements under this title shall terminate, on December 31, 2014.”

#### EFFECTIVE DATE OF 2008 AMENDMENT

Amendment of this section and repeal of Pub. L. 110-234 by Pub. L. 110-246 effective May 22, 2008, the date of enactment of Pub. L. 110-234, except as otherwise provided, see section 4 of Pub. L. 110-246, set out as an Effective Date note under section 8701 of Title 7, Agriculture.

Amendment by section 4002(b)(1)(B), (2)(Y) of Pub. L. 110-246 effective Oct. 1, 2008, see section 4407 of Pub. L. 110-246, set out as a note under section 1161 of Title 2, The Congress.

#### EFFECTIVE DATE OF 2002 AMENDMENT

Amendment by Pub. L. 107-116 effective Sept. 30, 2001, see section 603 of Pub. L. 107-116, set out as a note under section 1715n of Title 12, Banks and Banking.

#### EFFECTIVE DATE OF 2000 AMENDMENT

Pub. L. 106-569, title III, § 301(b), Dec. 27, 2000, 114 Stat. 2952, provided that: “The amendments made by subsection (a) [amending this section] shall take effect immediately after the amendments made by section 555(c) of the Quality Housing and Work Responsibility Act of 1998 [Pub. L. 105-276, set out as an Effective Date of 1998 Amendment note below] take effect pursuant to such section.”

Pub. L. 106-569, title IX, § 902(b), Dec. 27, 2000, 114 Stat. 3026, provided that: “The amendment under subsection (a) [amending this section] shall be made and shall apply—

“(1) upon the enactment of this Act, if the Departments of Veterans Affairs and Housing and Urban Development, and Independent Agencies Appropriations Act, 2001 [H.R. 5482, as enacted by section 1(a)(1) of Pub. L. 106-377], is enacted before the enactment of this Act; and

“(2) immediately after the enactment of such appropriations Act, if such appropriations Act is enacted after the enactment of this Act.”

Pub. L. 106-569, title IX, § 903(b), Dec. 27, 2000, 114 Stat. 3026, provided that: “The amendment under subsection (a) [amending this section] shall be made and shall apply—

“(1) upon the enactment of this Act, if the Departments of Veterans Affairs and Housing and Urban De-

velopment, and Independent Agencies Appropriations Act, 2001 [H.R. 5482, as enacted by section 1(a)(1) of Pub. L. 106-377], is enacted before the enactment of this Act; and

“(2) immediately after the enactment of such appropriations Act, if such appropriations Act is enacted after the enactment of this Act.”

#### EFFECTIVE DATE OF 1998 AMENDMENT

Pub. L. 105-276, title II, § 209(b), Oct. 21, 1998, 112 Stat. 2485, provided that: “This section [amending this section] shall take effect 60 days after the later of October 1, 1998 or the date of the enactment of this Act [Oct. 21, 1998].”

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.

Amendment by section 514(b)(1) of Pub. L. 105-276 effective and applicable beginning upon Oct. 21, 1998, see section 514(g) of Pub. L. 105-276, set out as a note under section 1701s of Title 12, Banks and Banking.

Pub. L. 105-276, title V, § 545(c), Oct. 21, 1998, 112 Stat. 2604, provided that: “Notwithstanding the amendment made by subsection (a) of this section [amending this section], any amendments to section 8(o) of the United States Housing Act of 1937 (42 U.S.C. 1437f(o)) that are contained in title II of this Act [see Tables for classification] shall apply with respect to the provision of assistance under such section during the period before implementation (pursuant to section 559 of this title [set out as a Regulations and Transition Provisions note below]) of such section 8(o) as amended by subsection (a) of this section.”

Pub. L. 105-276, title V, § 549(a)(3), Oct. 21, 1998, 112 Stat. 2607, provided that: “The amendments under this subsection [amending this section] are made on, and shall apply beginning upon, the date of the enactment of this Act [Oct. 21, 1998], and shall apply thereafter, notwithstanding section 203 of the Departments of Veterans Affairs and Housing and Urban Development, and Independent Agencies Appropriations Act, 1996 [section 101(e) [title II, § 203] of Pub. L. 104-134, amending this section and enacting provisions set out as an Effective and Termination Dates of 1996 Amendments note below] (42 U.S.C. 1437f note) or any other provision of law (including the expiration of the applicability of such section 203 or any repeal of such section 203).”

Pub. L. 105-276, title V, § 554, Oct. 21, 1998, 112 Stat. 2611, provided that: “Notwithstanding section 203(d) of the Departments of Veterans Affairs and Housing and Urban Development, and Independent Agencies Appropriations Act, 1996 (as contained in section 101(e) of the Omnibus Consolidated Rescissions and Appropriations Act of 1996 (Public Law 104-134; 42 U.S.C. 1437f note) [see Effective and Termination Dates of 1996 Amendments note below]), section 8 of the United States Housing Act of 1937 (42 U.S.C. 1437f) is amended by striking subsection (t). This section shall apply beginning upon, and the amendment made by this section is made on, and shall apply beginning upon, the date of the enactment of this Act [Oct. 21, 1998].”

Pub. L. 105-276, title V, § 555(c), Oct. 21, 1998, 112 Stat. 2613, provided that: “This section [amending this section and enacting provisions set out as a note below] shall take effect on, and the amendments made by this section are made on, and shall apply beginning upon, the date of the enactment of this Act [Oct. 21, 1998].”

Amendment by section 565(c) of Pub. L. 105-276 effective and applicable beginning upon Oct. 21, 1998, see section 565(e) of Pub. L. 105-276, set out as a note under section 1437d of this title.

#### EFFECTIVE AND TERMINATION DATES OF 1996 AMENDMENTS

Section 101(e) [title II, § 203(d)] of Pub. L. 104-134, as amended by Pub. L. 104-204, title II, § 201(e), Sept. 26,

1996, 110 Stat. 2893; Pub. L. 105-65, title II, § 201(b), Oct. 27, 1997, 111 Stat. 1364, provided that: “The provisions of this section [amending this section] shall be effective for fiscal years 1996, 1997, and 1998 only.”

Amendment by section 402(d)(2), (3), (6)(A)(iii), (iv) of Pub. L. 104-99 effective Jan. 26, 1996, only for fiscal years 1996, 1997, and 1998, and to cease to be effective Oct. 21, 1998, see section 402(f) of Pub. L. 104-99, as amended, and section 514(f) of Pub. L. 105-276, set out as notes under section 1437a of this title.

#### EFFECTIVE AND TERMINATION DATES OF 1994 AMENDMENT

Amendment by Pub. L. 103-327 enacting subsec. (aa), effective only during fiscal year 1995, see title II in part of Pub. L. 103-327, set out as a note under section 1715n of Title 12, Banks and Banking.

#### EFFECTIVE DATE OF 1992 AMENDMENT

Amendment by subtitles B through F of title VI [§§ 621-685] of Pub. L. 102-550 applicable upon expiration of 6-month period beginning Oct. 28, 1992, except as otherwise provided, see section 13642 of this title.

#### EFFECTIVE DATE OF 1990 AMENDMENT

Amendment by section 289(b)(1) of Pub. L. 101-625, repealing subsec. (e)(2) of this section, effective Oct. 1, 1991; however, provisions of subsec. (e)(2) to remain in effect with respect to single room occupancy dwellings as authorized by subchapter IV (§11361 et seq.) of chapter 119 of this title, see section 12839(a)(4), (b) of this title.

#### EFFECTIVE DATE OF 1983 AMENDMENT; SAVINGS PROVISION

Section 209(b) Pub. L. 98-181 provided that: “The amendments made by subsection (a) [amending this section] shall take effect on October 1, 1983, except that the provisions repealed shall remain in effect—

“(1) with respect to any funds obligated for a viable project under section 8 of the United States Housing Act of 1937 [this section] prior to January 1, 1984; and

“(2) with respect to any project financed under section 202 of the Housing Act of 1959 [12 U.S.C. 1701q].”

#### EFFECTIVE DATE OF 1981 AMENDMENT

Amendments by sections 322(e) and 329H(a) of Pub. L. 97-35 effective Oct. 1, 1981, and amendments by sections 324, 325, and 326(a) of Pub. L. 97-35 applicable with respect to contracts entered into on or after Oct. 1, 1981, see section 371 of Pub. L. 97-35, set out as an Effective Date note under section 3701 of Title 12, Banks and Banking.

Section 326(e)(2) of Pub. L. 97-35 provided that: “The amendment made by paragraph (1) [amending this section] shall apply with respect to leases entered into on or after October 1, 1981.”

#### EFFECTIVE DATE OF 1979 AMENDMENT

Amendment by section 202(b) of Pub. L. 96-153 effective Jan. 1, 1980, except with respect to amount of tenant contribution required of families whose occupancy commenced prior to such date, see section 202(c) of Pub. L. 96-153, set out as a note under section 1437a of this title.

#### EFFECTIVE DATE OF 1978 AMENDMENT

Section 206(d)(2) of Pub. L. 95-557 provided that: “The amendment made by this subsection [amending this section] shall become effective with respect to contracts entered into on or after 270 days following the date of enactment of this Act [Oct. 31, 1978].”

Amendment by section 206(e), (f) of Pub. L. 95-557 effective Oct. 1, 1978, see section 206(h) of Pub. L. 95-557, set out as a note under section 1437c of this title.

#### EFFECTIVE DATE

Section effective not later than Jan. 1, 1975, see section 201(b) of Pub. L. 93-383, set out as a note under section 1437 of this title.

## APPLICABILITY OF 1994 AMENDMENTS

Title II of Pub. L. 103-327, 108 Stat. 2315, third par., provided that: “The immediately foregoing amendment [amending subsec. (c)(2)(A) of this section by authorizing modification of rent adjustment where adjusted rent exceeds fair market rental] shall apply to all contracts for new construction, substantial rehabilitation, and moderate rehabilitation projects under which rents are adjusted under section 8(c)(2)(A) of such Act [subsec. (c)(2)(A) of this section] by applying an annual adjustment factor.”

Title II of Pub. L. 103-327, 108 Stat. 2315, fifth par., provided that: “The immediately foregoing [amending subsec. (c)(2)(A) of this section by inserting two sentences at end authorizing reduction of annual adjustment factor in certain circumstances] shall hereafter apply to all contracts that are subject to section 8(c)(2)(A) of such Act [subsec. (c)(2)(A) of this section] and that provide for rent adjustments using an annual adjustment factor.”

## REGULATIONS AND TRANSITION PROVISIONS

Pub. L. 105-276, title V, § 559, Oct. 21, 1998, 112 Stat. 2615, provided that:

“(a) INTERIM REGULATIONS.—The Secretary of Housing and Urban Development shall issue such interim regulations as may be necessary to implement the amendments made by this subtitle [subtitle C (§§ 545-559) of title V of Pub. L. 105-276, see Tables for classification] and other provisions in this title [see Tables for classification] which relate to section 8(o) of the United States Housing Act of 1937 [42 U.S.C. 1437f(o)].

“(b) FINAL REGULATIONS.—The Secretary shall issue final regulations necessary to implement the amendments made by this subtitle and other provisions in this title which relate to section 8(o) of the United States Housing Act of 1937 [42 U.S.C. 1437f(o)] not later than 1 year after the date of the enactment of this Act [Oct. 21, 1998].

“(c) FACTORS FOR CONSIDERATION.—Before the publication of the final regulations under subsection (b), in addition to public comments invited in connection with the publication of the interim rule, the Secretary shall—

“(1) seek recommendations on the implementation of sections 8(o)(6)(B), 8(o)(7)(B), and 8(o)(10)(D) of the United States Housing Act of 1937 [42 U.S.C. 1437f(o)(6)(B), (7)(B), (10)(D)] and of renewals of expiring tenant-based assistance from organizations representing—

“(A) State or local public housing agencies;

“(B) owners and managers of tenant-based housing assisted under section 8 of the United States Housing Act of 1937;

“(C) families receiving tenant-based assistance under section 8 of the United States Housing Act of 1937; and

“(D) legal service organizations; and

“(2) convene not less than 2 public forums at which the persons or organizations making recommendations under paragraph (1) may express views concerning the proposed disposition of the recommendations.

“(d) CONVERSION ASSISTANCE.—

“(1) IN GENERAL.—The Secretary may provide for the conversion of assistance under the certificate and voucher programs under subsections (b) and (o) of section 8 of the United States Housing Act of 1937 [42 U.S.C. 1437f(b), (o)], as in effect before the applicability of the amendments made by this subtitle, to the voucher program established by the amendments made by this subtitle.

“(2) CONTINUED APPLICABILITY.—The Secretary may apply the provisions of the United States Housing Act of 1937 [42 U.S.C. 1437 et seq.], or any other provision of law amended by this subtitle, as those provisions were in effect immediately before the date of the enactment of this Act [Oct. 21, 1998] (except that such provisions shall be subject to any amendments

to such provisions that may be contained in title II of this Act [see Tables for classification]), to assistance obligated by the Secretary before October 1, 1999, for the certificate or voucher program under section 8 of the United States Housing Act of 1937 [42 U.S.C. 1437f], if the Secretary determines that such action is necessary for simplification of program administration, avoidance of hardship, or other good cause.

“(e) EFFECTIVE DATE.—This section shall take effect on the date of the enactment of this Act [Oct. 21, 1998].”

## REGULATIONS

Pub. L. 105-276, title V, § 556(b), Oct. 21, 1998, 112 Stat. 2613, directed the Secretary of Housing and Urban Development to implement the amendment made by subsec. (a), adding 42 U.S.C. 1437f(dd), through notice, not later than Dec. 31, 1998, and to issue final regulations, not later than one year after Oct. 21, 1998. HUD Notice 98-65 was issued Dec. 30, 1998, and final regulations were published in the Federal Register Oct. 21, 1999, effective Nov. 22, 1999. See 64 F.R. 56882.

For provisions requiring Secretary of Housing and Urban Development to issue regulations necessary to implement amendment to this section by Pub. L. 103-233, see section 101(f) of Pub. L. 103-233, set out as a note under section 1701z-11 of Title 12, Banks and Banking.

For provision requiring that not later than expiration of the 180-day period beginning Oct. 28, 1992, the Secretary of Housing and Urban Development shall issue regulations implementing amendments to this section by section 545 of Pub. L. 101-625, see section 104 of Pub. L. 102-550, set out as a note under section 1437d of this title.

Section 149 of Pub. L. 102-550 provided that: “The Secretary of Housing and Urban Development shall issue any final regulations necessary to carry out the amendments made by section 547 of the Cranston-Gonzalez National Affordable Housing Act [Pub. L. 101-625, amending this section] not later than the expiration of the 180-day period beginning on the date of the enactment of this Act [Oct. 28, 1992]. The regulations shall be issued after notice and opportunity for public comment pursuant to the provisions of section 553 of title 5, United States Code (notwithstanding subsections (a)(2), (b)(B), and (d)(3) of such section) and shall take effect upon the expiration of the 30-day period beginning upon issuance.”

Section 151 of Pub. L. 102-550 provided that: “The Secretary of Housing and Urban Development shall issue any final regulations necessary to carry out the provisions of section 555 of the Cranston-Gonzalez National Affordable Housing Act [Pub. L. 101-625] (42 U.S.C. 1437f note) not later than the expiration of the 180-day period beginning on the date of the enactment of this Act [Oct. 28, 1992]. The regulations shall be issued after notice and opportunity for public comment pursuant to the provisions of section 553 of title 5, United States Code (notwithstanding subsections (a)(2), (b)(B), and (d)(3) of such section) and shall take effect upon the expiration of the 30-day period beginning upon issuance.”

## SAVINGS PROVISION

Pub. L. 106-377, § 1(a)(1) [title II, § 232(b)], Oct. 27, 2000, 114 Stat. 1441, 1441A-34, as amended by Pub. L. 110-28, title VI, § 6904, May 25, 2007, 121 Stat. 185, provided that: “In the case of any dwelling unit that, upon the date of the enactment of this Act [Oct. 27, 2000], is assisted under a housing assistance payment contract under section 8(o)(13) [of the United States Housing Act of 1937 (42 U.S.C. 1437f(o)(13))] as in effect before such enactment, or under section 8(d)(2) of the United States Housing Act of 1937 (42 U.S.C. 1437f(d)(2)) as in effect before the enactment of the Quality Housing and Work Responsibility Act of 1998 (title V of Public Law 105-276) [approved Oct. 21, 1998], assistance may be renewed or extended under such section 8(o)(13), as

amended by subsection (a), provided that the initial contract term and rent of such renewed or extended assistance shall be determined pursuant to subparagraphs (F) and (H), and subparagraphs (C) and (D) of such section shall not apply to such extensions or renewals.”

#### CONVERSION OF HUD CONTRACTS

Pub. L. 110-289, div. A, title VI, §1603, July 30, 2008, 122 Stat. 2825, provided that:

“(a) IN GENERAL.—Notwithstanding any other provision of law, the Secretary may, at the request of an owner of a multifamily housing project that exceeds 5,000 units to which a contract for project-based rental assistance under section 8 of the United States Housing Act of 1937 (‘Act’) (42 U.S.C. 1437f) and a Rental Assistance Payment contract is subject, convert such contracts to a contract for project-based rental assistance under section 8 of the Act.

“(b) INITIAL RENEWAL.—

“(1) At the request of an owner under subsection (a) made no later than 90 days prior to a conversion, the Secretary may, to the extent sufficient amounts are made available in appropriation Acts and notwithstanding any other law, treat the contemplated resulting contract as if such contract were eligible for initial renewal under section 524(a) of the Multifamily Assisted Housing Reform and Affordability Act of 1997 [Pub. L. 105-65] (42 U.S.C. 1437f note) (‘MAHRA’) (42 U.S.C. 1437f note).

“(2) A request by an owner pursuant to paragraph (1) shall be upon such terms and conditions as the Secretary may require.

“(c) RESULTING CONTRACT.—The resulting contract shall—

“(1) be subject to section 524(a) of MAHRA [Pub. L. 105-65] (42 U.S.C. 1437f note);

“(2) be considered for all purposes a contract that has been renewed under section 524(a) of MAHRA (42 U.S.C. 1437f note) for a term not to exceed 20 years;

“(3) be subsequently renewable at the request of an owner, under any renewal option for which the project is eligible under MAHRA (42 U.S.C. 1437f note);

“(4) contain provisions limiting distributions, as the Secretary determines appropriate, not to exceed 10 percent of the initial investment of the owner;

“(5) be subject to the availability of sufficient amounts in appropriation Acts; and

“(6) be subject to such other terms and conditions as the Secretary considers appropriate.

“(d) INCOME TARGETING.—To the extent that assisted dwelling units, subject to the resulting contract under subsection (a), serve low-income families, as defined in section 3(b)(2) of the Act (42 U.S.C. 1437a(b)(2)) the units shall be considered to be in compliance with all income targeting requirements under the Act (42 U.S.C. 1437 et seq.).

“(e) TENANT ELIGIBILITY.—Notwithstanding any other provision of law, each family residing in an assisted dwelling unit on the date of conversion of a contract under this section, subject to the resulting contract under subsection (a), shall be considered to meet the applicable requirements for income eligibility and occupancy.

“(f) DEFINITIONS.—As used in this section—

“(1) the term ‘Secretary’ means the Secretary of Housing and Urban Development;

“(2) the term ‘conversion’ means the action under which a contract for project-based rental assistance under section 8 of the Act [42 U.S.C. 1437f] and a Rental Assistance Payment contract become a contract for project-based rental assistance under section 8 of the Act (42 U.S.C. 1437f) pursuant to subsection (a);

“(3) the term ‘resulting contract’ means the new contract after a conversion pursuant to subsection (a); and

“(4) the term ‘assisted dwelling unit’ means a dwelling unit in a multifamily housing project that exceeds 5,000 units that, on the date of conversion of a contract under this section, is subject to a contract

for project-based rental assistance under section 8 of the Act (42 U.S.C. 1437f) or a Rental Assistance Payment contract.”

#### PURPOSES OF MARK-TO-MARKET EXTENSION ACT OF 2001

Pub. L. 107-116, title VI, §602, Jan. 10, 2002, 115 Stat. 2221, provided that: “The purposes of this title [see Short Title of 2002 Amendment note set out under section 1437 of this title] are—

“(1) to continue the progress of the Multifamily Assisted Housing Reform and Affordability Act of 1997 [title V of Pub. L. 105-65, see Short Title of 1997 Amendment note set out under section 1701 of Title 12, Banks and Banking] (referred to in this section as ‘that Act’);

“(2) to ensure that properties that undergo mortgage restructurings pursuant to that Act are rehabilitated to a standard that allows the properties to meet their long-term affordability requirements;

“(3) to ensure that, for properties that undergo mortgage restructurings pursuant to that Act, reserves are set at adequate levels to allow the properties to meet their long-term affordability requirements;

“(4) to ensure that properties that undergo mortgage restructurings pursuant to that Act are operated efficiently, and that operating expenses are sufficient to ensure the long-term financial and physical integrity of the properties;

“(5) to ensure that properties that undergo rent restructurings have adequate resources to maintain the properties in good condition;

“(6) to ensure that the Office of Multifamily Housing Assistance Restructuring of the Department of Housing and Urban Development continues to focus on the portfolio of properties eligible for restructuring under that Act;

“(7) to ensure that the Department of Housing and Urban Development carefully tracks the condition of those properties on an ongoing basis;

“(8) to ensure that tenant groups, nonprofit organizations, and public entities continue to have the resources for building the capacity of tenant organizations in furtherance of the purposes of subtitle A of that Act [subtitle A of title V of Pub. L. 105-65, set out in a note below]; and

“(9) to encourage the Office of Multifamily Housing Assistance Restructuring to continue to provide participating administrative entities, including public participating administrative entities, with the flexibility to respond to specific problems that individual cases may present, while ensuring consistent outcomes around the country.”

#### PILOT PROGRAM FOR HOMEOWNERSHIP ASSISTANCE FOR DISABLED FAMILIES

Pub. L. 106-569, title III, §302, Dec. 27, 2000, 114 Stat. 2953, authorized a public housing agency providing tenant-based assistance to provide homeownership assistance to a disabled family that purchases a dwelling unit (including a dwelling unit under a lease-purchase agreement) that will be owned by one or more members of the disabled family and will be occupied by the disabled family and required the Secretary of Housing and Urban Development to issue implementing regulations not later than 90 days after Dec. 27, 2000.

#### DETERMINATION OF ADMINISTRATIVE FEES

Pub. L. 108-7, div. K, title II, [(5)], Feb. 20, 2003, 117 Stat. 485, which provided that the fee otherwise authorized under subsec. (q) of this section was to be determined in accordance with subsec. (q) as in effect immediately before Oct. 21, 1998, was from the Departments of Veterans Affairs and Housing and Urban Development, and Independent Agencies Appropriations Act, 2003 and was not repeated in subsequent appropriation acts. Similar provisions were contained in the following prior appropriation acts:

Pub. L. 107-73, title II, Nov. 26, 2001, 115 Stat. 660.

Pub. L. 106-377, §1(a)(1) [title II], Oct. 27, 2000, 114 Stat. 1441, 1441A-12.

Pub. L. 106-74, title II, Oct. 20, 1999, 113 Stat. 1056.

HOMEOWNERSHIP OPPORTUNITIES DEMONSTRATION PROGRAM

Pub. L. 105-276, title V, §555(b), Oct. 21, 1998, 112 Stat. 2613, provided that:

“(1) IN GENERAL.—With the consent of the affected public housing agencies, the Secretary may carry out (or contract with 1 or more entities to carry out) a demonstration program under section 8(y) of the United States Housing Act of 1937 (42 U.S.C. 1437f(y)) to expand homeownership opportunities for low-income families.

“(2) REPORT.—The Secretary shall report annually to Congress on activities conducted under this subsection.”

MULTIFAMILY HOUSING ASSISTANCE

Subtitles A (§§511-524) and D (§§571-579) of title V of Pub. L. 105-65, as amended by Pub. L. 105-276, title V, §§549(c), 597(b), Oct. 21, 1998, 112 Stat. 2608, 2659; Pub. L. 106-74, title II, §§213(b), 219, title V, §§531(a)-(c), 534, 538(b), Oct. 20, 1999, 113 Stat. 1074, 1075, 1109-1116, 1120, 1123; Pub. L. 106-400, §2, Oct. 30, 2000, 114 Stat. 1675; Pub. L. 107-116, title VI, §§611-614, 616(a)(1), (b), 621, 622(a), 623(a), 624, 625, Jan. 10, 2002, 115 Stat. 2222-2227; Pub. L. 109-289, div. B, title II, §21043(a), as added by Pub. L. 110-5, §2, Feb. 15, 2007, 121 Stat. 53; Pub. L. 110-289, div. A, title II, §1216(d), July 30, 2008, 122 Stat. 2792; Pub. L. 112-55, div. C, title II, §237, Nov. 18, 2011, 125 Stat. 702, provided that:

“SUBTITLE A—FHA-INSURED MULTIFAMILY HOUSING MORTGAGE AND HOUSING ASSISTANCE RESTRUCTURING

“SEC. 511. FINDINGS AND PURPOSES.

“(a) FINDINGS.—Congress finds that—

“(1) there exists throughout the Nation a need for decent, safe, and affordable housing;

“(2) as of the date of enactment of this Act [Oct. 27, 1997], it is estimated that—

“(A) the insured multifamily housing portfolio of the Federal Housing Administration consists of 14,000 rental properties, with an aggregate unpaid principal mortgage balance of \$38,000,000,000; and

“(B) approximately 10,000 of these properties contain housing units that are assisted with project-based rental assistance under section 8 of the United States Housing Act of 1937 [42 U.S.C. 1437f];

“(3) FHA-insured multifamily rental properties are a major Federal investment, providing affordable rental housing to an estimated 2,000,000 low- and very low-income families;

“(4) approximately 1,600,000 of these families live in dwelling units that are assisted with project-based rental assistance under section 8 of the United States Housing Act of 1937;

“(5) a substantial number of housing units receiving project-based assistance have rents that are higher than the rents of comparable, unassisted rental units in the same housing rental market;

“(6) many of the contracts for project-based assistance will expire during the several years following the date of enactment of this Act;

“(7) it is estimated that—

“(A) if no changes in the terms and conditions of the contracts for project-based assistance are made before fiscal year 2000, the cost of renewing all expiring rental assistance contracts under section 8 of the United States Housing Act of 1937 for both project-based and tenant-based rental assistance will increase from approximately \$3,600,000,000 in fiscal year 1997 to over \$14,300,000,000 by fiscal year 2000 and some \$22,400,000,000 in fiscal year 2006;

“(B) of those renewal amounts, the cost of renewing project-based assistance will increase from \$1,200,000,000 in fiscal year 1997 to almost \$7,400,000,000 by fiscal year 2006; and

“(C) without changes in the manner in which project-based rental assistance is provided, renewals of expiring contracts for project-based rental assistance will require an increasingly larger portion of the discretionary budget authority of the Department of Housing and Urban Development in each subsequent fiscal year for the foreseeable future;

“(8) absent new budget authority for the renewal of expiring rental contracts for project-based assistance, many of the FHA-insured multifamily housing projects that are assisted with project-based assistance are likely to default on their FHA-insured mortgage payments, resulting in substantial claims to the FHA General Insurance Fund and Special Risk Insurance Fund;

“(9) more than 15 percent of federally assisted multifamily housing projects are physically or financially distressed, including a number which suffer from mismanagement;

“(10) due to Federal budget constraints, the downsizing of the Department of Housing and Urban Development, and diminished administrative capacity, the Department lacks the ability to ensure the continued economic and physical well-being of the stock of federally insured and assisted multifamily housing projects;

“(11) the economic, physical, and management problems facing the stock of federally insured and assisted multifamily housing projects will be best served by reforms that—

“(A) reduce the cost of Federal rental assistance, including project-based assistance, to these projects by reducing the debt service and operating costs of these projects while retaining the low-income affordability and availability of this housing;

“(B) address physical and economic distress of this housing and the failure of some project managers and owners of projects to comply with management and ownership rules and requirements; and

“(C) transfer and share many of the loan and contract administration functions and responsibilities of the Secretary to and with capable State, local, and other entities; and

“(12) the authority and duties of the Secretary, not including the control by the Secretary of applicable accounts in the Treasury of the United States, may be delegated to State, local or other entities at the discretion of the Secretary, to the extent the Secretary determines, and for the purpose of carrying out this title [see Short Title of 1997 Amendment note set out under section 1701 of Title 12, Banks and Banking], so that the Secretary has the discretion to be relieved of processing and approving any document or action required by these reforms.

“(b) PURPOSES.—Consistent with the purposes and requirements of the Government Performance and Results Act of 1993 [Pub. L. 103-62, see Short Title of 1993 Amendment note set out under section 1101 of Title 31, Money and Finance], the purposes of this subtitle are—

“(1) to preserve low-income rental housing affordability and availability while reducing the long-term costs of project-based assistance;

“(2) to reform the design and operation of Federal rental housing assistance programs, administered by the Secretary, to promote greater multifamily housing project operating and cost efficiencies;

“(3) to encourage owners of eligible multifamily housing projects to restructure their FHA-insured mortgages and project-based assistance contracts in a manner that is consistent with this subtitle before the year in which the contract expires;

“(4) to reduce the cost of insurance claims under the National Housing Act [12 U.S.C. 1701 et seq.] related to mortgages insured by the Secretary and used to finance eligible multifamily housing projects;

“(5) to streamline and improve federally insured and assisted multifamily housing project oversight and administration;

“(6) to resolve the problems affecting financially and physically troubled federally insured and assisted

multifamily housing projects through cooperation with residents, owners, State and local governments, and other interested entities and individuals;

“(7) to protect the interest of project owners and managers, because they are partners of the Federal Government in meeting the affordable housing needs of the Nation through the section 8 rental housing assistance program;

“(8) to protect the interest of tenants residing in the multifamily housing projects at the time of the restructuring for the housing; and

“(9) to grant additional enforcement tools to use against those who violate agreements and program requirements, in order to ensure that the public interest is safeguarded and that Federal multifamily housing programs serve their intended purposes.

“SEC. 512. DEFINITIONS.

“In this subtitle:

“(1) COMPARABLE PROPERTIES.—The term ‘comparable properties’ means properties in the same market areas, where practicable, that—

“(A) are similar to the eligible multifamily housing project as to neighborhood (including risk of crime), type of location, access, street appeal, age, property size, apartment mix, physical configuration, property and unit amenities, utilities, and other relevant characteristics; and

“(B) are not receiving project-based assistance.

“(2) ELIGIBLE MULTIFAMILY HOUSING PROJECT.—The term ‘eligible multifamily housing project’ means a property consisting of more than 4 dwelling units—

“(A) with rents that, on an average per unit or per room basis, exceed the rent of comparable properties in the same market area, determined in accordance with guidelines established by the Secretary;

“(B) that is covered in whole or in part by a contract for project-based assistance under—

“(i) the new construction or substantial rehabilitation program under section 8(b)(2) of the United States Housing Act of 1937 [42 U.S.C. 1437f(b)(2)] (as in effect before October 1, 1983);

“(ii) the property disposition program under section 8(b) of the United States Housing Act of 1937;

“(iii) the moderate rehabilitation program under section 8(e)(2) of the United States Housing Act of 1937;

“(iv) the loan management assistance program under section 8 of the United States Housing Act of 1937;

“(v) section 23 of the United States Housing Act of 1937 [42 U.S.C. 1437u] (as in effect before January 1, 1975);

“(vi) the rent supplement program under section 101 of the Housing and Urban Development Act of 1965 [12 U.S.C. 1701s]; or

“(vii) section 8 of the United States Housing Act of 1937, following conversion from assistance under section 101 of the Housing and Urban Development Act of 1965; and

“(C) financed by a mortgage insured or held by the Secretary under the National Housing Act [12 U.S.C. 1701 et seq.].

Such term does not include any project with an expiring contract described in paragraph (1) or (2) of section 524(e), but does include a project described in section 524(e)(3). Notwithstanding any other provision of this title, the Secretary may treat a project as an eligible multifamily housing project for purposes of this title if (I) the project is assisted pursuant to a contract for project-based assistance under section 8 of the United States Housing Act of 1937 renewed under section 524 of this Act, (II) the owner consents to such treatment, and (III) the project met the requirements of the first sentence of this paragraph for eligibility as an eligible multifamily housing project before the initial renewal of the contract under section 524.

“(3) EXPIRING CONTRACT.—The term ‘expiring contract’ means a project-based assistance contract attached to an eligible multifamily housing project which, under the terms of the contract, will expire.

“(4) EXPIRATION DATE.—The term ‘expiration date’ means the date on which an expiring contract expires.

“(5) FAIR MARKET RENT.—The term ‘fair market rent’ means the fair market rental established under section 8(c) of the United States Housing Act of 1937.

“(6) LOW-INCOME FAMILIES.—The term ‘low-income families’ has the same meaning as provided under section 3(b)(2) of the United States Housing Act of 1937 [42 U.S.C. 1437a(b)(2)].

“(7) MORTGAGE RESTRUCTURING AND RENTAL ASSISTANCE SUFFICIENCY PLAN.—The term ‘mortgage restructuring and rental assistance sufficiency plan’ means the plan as provided under section 514.

“(8) NONPROFIT ORGANIZATION.—The term ‘nonprofit organization’ means any private nonprofit organization that—

“(A) is organized under State or local laws;

“(B) has no part of its net earnings inuring to the benefit of any member, founder, contributor, or individual; and

“(C) has a long-term record of service in providing or financing quality affordable housing for low-income families through relationships with public entities.

“(9) PORTFOLIO RESTRUCTURING AGREEMENT.—The term ‘portfolio restructuring agreement’ means the agreement entered into between the Secretary and a participating administrative entity, as provided under section 513.

“(10) PARTICIPATING ADMINISTRATIVE ENTITY.—The term ‘participating administrative entity’ means a public agency (including a State housing finance agency or a local housing agency), a nonprofit organization, or any other entity (including a law firm or an accounting firm) or a combination of such entities, that meets the requirements under section 513(b).

“(11) PROJECT-BASED ASSISTANCE.—The term ‘project-based assistance’ means rental assistance described in paragraph (2)(B) of this section that is attached to a multifamily housing project.

“(12) RENEWAL.—The term ‘renewal’ means the replacement of an expiring Federal rental contract with a new contract under section 8 of the United States Housing Act of 1937, consistent with the requirements of this subtitle.

“(13) SECRETARY.—The term ‘Secretary’ means the Secretary of Housing and Urban Development.

“(14) STATE.—The term ‘State’ has the same meaning as in section 104 of the Cranston-Gonzalez National Affordable Housing Act [42 U.S.C. 12704].

“(15) TENANT-BASED ASSISTANCE.—The term ‘tenant-based assistance’ has the same meaning as in section 8(f) of the United States Housing Act of 1937.

“(16) UNIT OF GENERAL LOCAL GOVERNMENT.—The term ‘unit of general local government’ has the same meaning as in section 104 of the Cranston-Gonzalez National Affordable Housing Act.

“(17) VERY LOW-INCOME FAMILY.—The term ‘very low-income family’ has the same meaning as in section 3(b) of the United States Housing Act of 1937 [42 U.S.C. 1437a(b)].

“(18) QUALIFIED MORTGAGEE.—The term ‘qualified mortgagee’ means an entity approved by the Secretary that is capable of servicing, as well as originating, FHA-insured mortgages, and that—

“(A) is not suspended or debarred by the Secretary;

“(B) is not suspended or on probation imposed by the Mortgagee Review Board; and

“(C) is not in default under any Government National Mortgage Association obligation.

“(19) OFFICE.—The term ‘Office’ means the Office of Multifamily Housing Assistance Restructuring established under section 571.



“SEC. 513. AUTHORITY OF PARTICIPATING ADMINISTRATIVE ENTITIES.

“(a) PARTICIPATING ADMINISTRATIVE ENTITIES.—

“(1) IN GENERAL.—Subject to subsection (b)(3), the Secretary shall enter into portfolio restructuring agreements with participating administrative entities for the implementation of mortgage restructuring and rental assistance sufficiency plans to restructure multifamily housing mortgages insured or held by the Secretary under the National Housing Act [12 U.S.C. 1701 et seq.], in order to—

“(A) reduce the costs of expiring contracts for assistance under section 8 of the United States Housing Act of 1937 [42 U.S.C. 1437f];

“(B) address financially and physically troubled projects; and

“(C) correct management and ownership deficiencies.

“(2) PORTFOLIO RESTRUCTURING AGREEMENTS.—Each portfolio restructuring agreement entered into under this subsection shall—

“(A) be a cooperative agreement to establish the obligations and requirements between the Secretary and the participating administrative entity;

“(B) identify the eligible multifamily housing projects or groups of projects for which the participating administrative entity is responsible for assisting in developing and implementing approved mortgage restructuring and rental assistance sufficiency plans under section 514;

“(C) require the participating administrative entity to review and certify to the accuracy and completeness of the evaluation of rehabilitation needs required under section 514(e)(3) for each eligible multifamily housing project included in the portfolio restructuring agreement, in accordance with regulations promulgated by the Secretary;

“(D) identify the responsibilities of both the participating administrative entity and the Secretary in implementing a mortgage restructuring and rental assistance sufficiency plan, including any actions proposed to be taken under section 516 or 517;

“(E) require each mortgage restructuring and rental assistance sufficiency plan to be prepared in accordance with the requirements of section 514 for each eligible multifamily housing project;

“(F) include other requirements established by the Secretary, including a right of the Secretary to terminate the contract immediately for failure of the participating administrative entity to comply with any applicable requirement;

“(G) if the participating administrative entity is a State housing finance agency or a local housing agency, indemnify the participating administrative entity against lawsuits and penalties for actions taken pursuant to the agreement, excluding actions involving willful misconduct or negligence;

“(H) include compensation for all reasonable expenses incurred by the participating administrative entity necessary to perform its duties under this subtitle; and

“(I) include, where appropriate, incentive agreements with the participating administrative entity to reward superior performance in meeting the purposes of this title.

“(b) SELECTION OF PARTICIPATING ADMINISTRATIVE ENTITY.—

“(1) SELECTION CRITERIA.—The Secretary shall select a participating administrative entity based on whether, in the determination of the Secretary, the participating administrative entity—

“(A) has demonstrated experience in working directly with residents of low-income housing projects and with tenants and other community-based organizations;

“(B) has demonstrated experience with and capacity for multifamily restructuring and multifamily financing (which may include risk-sharing arrangements and restructuring eligible multifamily housing properties under the fiscal year 1997 Federal

Housing Administration multifamily housing demonstration program);

“(C) has a history of stable, financially sound, and responsible administrative performance (which may include the management of affordable low-income rental housing);

“(D) has demonstrated financial strength in terms of asset quality, capital adequacy, and liquidity;

“(E) has demonstrated that it will carry out the specific transactions and other responsibilities under this subtitle in a timely, efficient, and cost-effective manner; and

“(F) meets other criteria, as determined by the Secretary.

“(2) SELECTION.—If more than 1 interested entity meets the qualifications and selection criteria for a participating administrative entity, the Secretary may select the entity that demonstrates, as determined by the Secretary, that it will—

“(A) provide the most timely, efficient, and cost-effective—

“(i) restructuring of the mortgages covered by the portfolio restructuring agreement; and

“(ii) administration of the section 8 project-based assistance contract, if applicable; and

“(B) protect the public interest (including the long-term provision of decent low-income affordable rental housing and protection of residents, communities, and the American taxpayer).

“(3) PARTNERSHIPS.—For the purposes of any participating administrative entity applying under this subsection, participating administrative entities are encouraged to develop partnerships with each other and with nonprofit organizations, if such partnerships will further the participating administrative entity's ability to meet the purposes of this title.

“(4) ALTERNATIVE ADMINISTRATORS.—With respect to any eligible multifamily housing project for which a participating administrative entity is unavailable, or should not be selected to carry out the requirements of this subtitle with respect to that multifamily housing project for reasons relating to the selection criteria under paragraph (1), the Secretary shall—

“(A) carry out the requirements of this subtitle with respect to that eligible multifamily housing project; or

“(B) contract with other qualified entities that meet the requirements of paragraph (1) to provide the authority to carry out all or a portion of the requirements of this subtitle with respect to that eligible multifamily housing project.

“(5) PRIORITY FOR PUBLIC AGENCIES AS PARTICIPATING ADMINISTRATIVE ENTITIES.—The Secretary shall provide a reasonable period during which the Secretary will consider proposals only from State housing finance agencies or local housing agencies, and the Secretary shall select such an agency without considering other applicants if the Secretary determines that the agency is qualified. The period shall be of sufficient duration for the Secretary to determine whether any State housing finance agencies or local housing agencies are interested and qualified. Not later than the end of the period, the Secretary shall notify the State housing finance agency or the local housing agency regarding the status of the proposal and, if the proposal is rejected, the reasons for the rejection and an opportunity for the applicant to respond.

“(6) STATE AND LOCAL PORTFOLIO REQUIREMENTS.—

“(A) IN GENERAL.—If the housing finance agency of a State is selected as the participating administrative entity, that agency shall be responsible for such eligible multifamily housing projects in that State as may be agreed upon by the participating administrative entity and the Secretary. If a local housing agency is selected as the participating administrative entity, that agency shall be responsible for such eligible multifamily housing projects

in the jurisdiction of the agency as may be agreed upon by the participating administrative entity and the Secretary.

“(B) NONDELEGATION.—Except with the prior approval of the Secretary, a participating administrative entity may not delegate or transfer responsibilities and functions under this subtitle to 1 or more entities.

“(7) PRIVATE ENTITY REQUIREMENTS.—

“(A) IN GENERAL.—If a for-profit entity is selected as the participating administrative entity, that entity shall be required to enter into a partnership with a public purpose entity (including the Department).

“(B) PROHIBITION.—No private entity shall share, participate in, or otherwise benefit from any equity created, received, or restructured as a result of the portfolio restructuring agreement.

“SEC. 514. MORTGAGE RESTRUCTURING AND RENTAL ASSISTANCE SUFFICIENCY PLAN.

“(a) IN GENERAL.—

“(1) DEVELOPMENT OF PROCEDURES AND REQUIREMENTS.—The Secretary shall develop procedures and requirements for the submission of a mortgage restructuring and rental assistance sufficiency plan for each eligible multifamily housing project with an expiring contract.

“(2) TERMS AND CONDITIONS.—Each mortgage restructuring and rental assistance sufficiency plan submitted under this subsection shall be developed by the participating administrative entity, in cooperation with an owner of an eligible multifamily housing project and any servicer for the mortgage that is a qualified mortgagee, under such terms and conditions as the Secretary shall require.

“(3) CONSOLIDATION.—Mortgage restructuring and rental assistance sufficiency plans submitted under this subsection may be consolidated as part of an overall strategy for more than 1 property.

“(b) NOTICE REQUIREMENTS.—The Secretary shall establish notice procedures and hearing requirements for tenants and owners concerning the dates for the expiration of project-based assistance contracts for any eligible multifamily housing project.

“(c) EXTENSION OF CONTRACT TERM.—Subject to agreement by a project owner, the Secretary may extend the term of any expiring contract or provide a section 8 contract with rent levels set in accordance with subsection (g) for a period sufficient to facilitate the implementation of a mortgage restructuring and rental assistance sufficiency plan, as determined by the Secretary.

“(d) TENANT RENT PROTECTION.—If the owner of a project with an expiring Federal rental assistance contract does not agree to extend the contract, not less than 12 months prior to terminating the contract, the project owner shall provide written notice to the Secretary and the tenants and the Secretary shall make tenant-based assistance available to tenants residing in units assisted under the expiring contract at the time of expiration. In addition, if after giving the notice required in the first sentence, an owner determines to terminate a contract, an owner shall provide an additional written notice with respect to the termination, in a form prescribed by the Secretary, not less than 120 days prior to the termination. In the event the owner does not provide the 120-day notice required in the preceding sentence, the owner may not evict the tenants or increase the tenants' rent payment until such time as the owner has provided the 120-day notice and such period has elapsed. The Secretary may allow the owner to renew the terminating contract for a period of time sufficient to give tenants 120 days of advance notice in accordance with section 524 of this Act.

“(e) MORTGAGE RESTRUCTURING AND RENTAL ASSISTANCE SUFFICIENCY PLAN.—Each mortgage restructuring and rental assistance sufficiency plan shall—

“(1) except as otherwise provided, restructure the project-based assistance rents for the eligible multi-

family housing project in a manner consistent with subsection (g), or provide for tenant-based assistance in accordance with section 515;

“(2) allow for rent adjustments by applying an operating cost adjustment factor established under guidelines established by the Secretary;

“(3) require the owner or purchaser of an eligible multifamily housing project to evaluate the rehabilitation needs of the project, in accordance with regulations of the Secretary, and notify the participating administrative entity of the rehabilitation needs;

“(4) require the owner or purchaser of the project to provide or contract for competent management of the project;

“(5) require the owner or purchaser of the project to take such actions as may be necessary to rehabilitate, maintain adequate reserves, and to maintain the project in decent and safe condition, based on housing quality standards established by—

“(A) the Secretary; or

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

“(i) meet or exceed housing quality standards established by the Secretary; and

“(ii) do not severely restrict housing choice;

“(6) require the owner or purchaser of the project to maintain affordability and use restrictions in accordance with regulations promulgated by the Secretary, for a term of not less than 30 years which restrictions shall be—

“(A) contained in a legally enforceable document recorded in the appropriate records; and

“(B) consistent with the long-term physical and financial viability and character of the project as affordable housing;

“(7) include a certification by the participating administrative entity that the restructuring meets subsidy layering requirements established by the Secretary by regulation for purposes of this subtitle;

“(8) require the owner or purchaser of the project to meet such other requirements as the Secretary determines to be appropriate; and

“(9) prohibit the owner from refusing to lease a reasonable number of units to holders of certificates and vouchers under section 8 of the United States Housing Act of 1937 [42 U.S.C. 1437f] because of the status of the prospective tenants as certificate and voucher holders.

“(f) TENANT AND OTHER PARTICIPATION AND CAPACITY BUILDING.—

“(1) PROCEDURES.—

“(A) IN GENERAL.—The Secretary shall establish procedures to provide an opportunity for tenants of the project, residents of the neighborhood, the local government, and other affected parties to participate effectively and on a timely basis in the restructuring process established by this subtitle.

“(B) COVERAGE.—These procedures shall take into account the need to provide tenants of the project, residents of the neighborhood, the local government, and other affected parties timely notice of proposed restructuring actions and appropriate access to relevant information about restructuring activities. To the extent practicable and consistent with the need to accomplish project restructuring in an efficient manner, the procedures shall give all such parties an opportunity to provide comments to the participating administrative entity in writing, in meetings, or in another appropriate manner (which comments shall be taken into consideration by the participating administrative entity).

“(2) REQUIRED CONSULTATION.—The procedures developed pursuant to paragraph (1) shall require consultation with tenants of the project, residents of the neighborhood, the local government, and other affected parties, in connection with at least the following:

“(A) the mortgage restructuring and rental assistance sufficiency plan;

“(B) any proposed transfer of the project; and

“(C) the rental assistance assessment plan pursuant to section 515(c).

“(3) FUNDING.—

“(A) IN GENERAL.—The Secretary shall make available not more than \$10,000,000 annually in funding, which amount shall be in addition to any amounts made available under this subparagraph and carried over from previous years, from which the Secretary may make obligations to tenant groups, nonprofit organizations, and public entities for building the capacity of tenant organizations, for technical assistance in furthering any of the purposes of this subtitle (including transfer of developments to new owners), for technical assistance for preservation of low-income housing for which project-based rental assistance is provided at below market rent levels and may not be renewed (including transfer of developments to tenant groups, nonprofit organizations, and public entities), for tenant services, and for tenant groups, nonprofit organizations, and public entities described in section 517(a)(5), from those amounts made available under appropriations Acts for implementing this subtitle or previously made available for technical assistance in connection with the preservation of affordable rental housing for low-income persons.

“(B) MANNER OF PROVIDING.—Notwithstanding any other provision of law restricting the use of preservation technical assistance funds, the Secretary may provide any funds made available under subparagraph (A) through existing technical assistance programs pursuant to any other Federal law, including the Low-Income Housing Preservation and Resident Homeownership Act of 1990 [12 U.S.C. 4101 et seq.] and the Multifamily Housing Property Disposition Reform Act of 1994 [Pub. L. 103-233, see Short Title of 1994 Amendment note set out under section 1701 of Title 12, Banks and Banking], or through any other means that the Secretary considers consistent with the purposes of this subtitle, without regard to any set-aside requirement otherwise applicable to those funds.

“(C) PROHIBITION.—None of the funds made available under subparagraph (A) may be used directly or indirectly to pay for any personal service, advertisement, telegram, telephone, letter, printed or written matter, or other device, intended or designed to influence in any manner a Member of Congress, to favor or oppose, by vote or otherwise, any legislation or appropriation by Congress, whether before or after the introduction of any bill or resolution proposing such legislation or appropriation.

“(g) RENT LEVELS.—

“(1) IN GENERAL.—Except as provided in paragraph (2), each mortgage restructuring and rental assistance sufficiency plan pursuant to the terms, conditions, and requirements of this subtitle shall establish for units assisted with project-based assistance in eligible multifamily housing projects adjusted rent levels that—

“(A) are equivalent to rents derived from comparable properties, if—

“(i) the participating administrative entity makes the rent determination within a reasonable period of time; and

“(ii) the market rent determination is based on not less than 2 comparable properties; or

“(B) if those rents cannot be determined, are equal to 90 percent of the fair market rents for the relevant market area.

“(2) EXCEPTIONS.—

“(A) IN GENERAL.—A contract under this section may include rent levels that exceed the rent level described in paragraph (1) at rent levels that do not exceed 120 percent of the fair market rent for the market area (except that the Secretary may waive this limit for not more than five percent of all units subject to portfolio restructuring agreements, based on a finding of special need), if the participating administrative entity—

“(i) determines that the housing needs of the tenants and the community cannot be adequately addressed through implementation of the rent limitation required to be established through a mortgage restructuring and rental assistance sufficiency plan under paragraph (1); and

“(ii) follows the procedures under paragraph (3).

“(B) EXCEPTION RENTS.—In any fiscal year, a participating administrative entity may approve exception rents on not more than 20 percent of all units covered by the portfolio restructuring agreement with expiring contracts in that fiscal year, except that the Secretary may waive this ceiling upon a finding of special need.

“(3) RENT LEVELS FOR EXCEPTION PROJECTS.—For purposes of this section, a project eligible for an exception rent shall receive a rent calculated on the actual and projected costs of operating the project, at a level that provides income sufficient to support a budget-based rent that consists of—

“(A) the debt service of the project;

“(B) the operating expenses of the project, as determined by the participating administrative entity, including—

“(i) contributions to adequate reserves;

“(ii) the costs of maintenance and necessary rehabilitation; and

“(iii) other eligible costs permitted under section 8 of the United States Housing Act of 1937;

“(C) an adequate allowance for potential operating losses due to vacancies and failure to collect rents, as determined by the participating administrative entity;

“(D) an allowance for a reasonable rate of return to the owner or purchaser of the project, as determined by the participating administrative entity, which may be established to provide incentives for owners or purchasers to meet benchmarks of quality for management and housing quality; and

“(E) other expenses determined by the participating administrative entity to be necessary for the operation of the project.

“(h) EXEMPTIONS FROM RESTRUCTURING.—The following categories of projects shall not be covered by a mortgage restructuring and rental assistance sufficiency plan if—

“(1) the primary financing or mortgage insurance for the multifamily housing project that is covered by that expiring contract was provided by a unit of State government or a unit of general local government (or an agency or instrumentality of a unit of a State government or unit of general local government) and the financing involves mortgage insurance under the National Housing Act [42 U.S.C. 1701 et seq.], such that the implementation of a mortgage restructuring and rental assistance sufficiency plan under this subtitle is in conflict with applicable law or agreements governing such financing;

“(2) the project is a project financed under section 202 of the Housing Act of 1959 [12 U.S.C. 1701q] or section 515 of the Housing Act of 1949 [42 U.S.C. 1485], or refinanced pursuant to section 811 of the American Homeownership and Economic Opportunity Act of 2000 [12 U.S.C. 1701q note]; or

“(3) the project has an expiring contract under section 8 of the United States Housing Act of 1937 entered into pursuant to [former] section 441 of the McKinney-Vento Homeless Assistance Act [42 U.S.C. 11401].

“SEC. 515. SECTION 8 RENEWALS AND LONG-TERM AFFORDABILITY COMMITMENT BY OWNER OF PROJECT.

“(a) SECTION 8 RENEWALS OF RESTRUCTURED PROJECTS.—

“(1) PROJECT-BASED ASSISTANCE.—Subject to the availability of amounts provided in advance in appropriations Acts, and to the control of the Secretary of applicable accounts in the Treasury of the United States, with respect to an expiring section 8 contract

on an eligible multifamily housing project to be renewed with project-based assistance (based on a determination under subsection (c)), the Secretary shall enter into contracts with participating administrative entities pursuant to which the participating administrative entity shall offer to renew or extend the contract, or the Secretary shall offer to renew such contract, and the owner of the project shall accept the offer, if the initial renewal is in accordance with the terms and conditions specified in the mortgage restructuring and rental assistance sufficiency plan and the rental assistance assessment plan.

“(2) TENANT-BASED ASSISTANCE.—Subject to the availability of amounts provided in advance in appropriations Acts and to the control of the Secretary of applicable accounts in the Treasury of the United States, with respect to an expiring section 8 contract on an eligible multifamily housing project to be renewed with tenant-based assistance (based on a determination under subsection (c)), the Secretary shall enter into contracts with participating administrative entities pursuant to which the participating administrative entity shall provide for the renewal of section 8 assistance on an eligible multifamily housing project with tenant-based assistance, or the Secretary shall provide for such renewal, in accordance with the terms and conditions specified in the mortgage restructuring and rental assistance sufficiency plan and the rental assistance assessment plan.

“(b) REQUIRED COMMITMENT.—After the initial renewal of a section 8 contract pursuant to this section, the owner shall accept each offer made pursuant to subsection (a) to renew the contract, for the term of the affordability and use restrictions required by section 514(e)(6), if the offer to renew is on terms and conditions specified in the mortgage restructuring and rental assistance sufficiency plan.

“(c) DETERMINATION OF WHETHER TO RENEW WITH PROJECT-BASED OR TENANT-BASED ASSISTANCE.—

“(1) MANDATORY RENEWAL OF PROJECT-BASED ASSISTANCE.—Section 8 assistance shall be renewed with project-based assistance, if—

“(A) the project is located in an area in which the participating administrative entity determines, based on housing market indicators, such as low vacancy rates or high absorption rates, that there is not adequate available and affordable housing or that the tenants of the project would not be able to locate suitable units or use the tenant-based assistance successfully;

“(B) a predominant number of the units in the project are occupied by elderly families, disabled families, or elderly and disabled families; or

“(C) the project is held by a nonprofit cooperative ownership housing corporation or nonprofit cooperative housing trust.

“(2) RENTAL ASSISTANCE ASSESSMENT PLAN.—

“(A) IN GENERAL.—With respect to any project that is not described in paragraph (1), the participating administrative entity shall, after consultation with the owner of the project, develop a rental assistance assessment plan to determine whether to renew assistance for the project with tenant-based assistance or project-based assistance.

“(B) RENTAL ASSISTANCE ASSESSMENT PLAN REQUIREMENTS.—Each rental assistance assessment plan developed under this paragraph shall include an assessment of the impact of converting to tenant-based assistance and the impact of extending project-based assistance on—

“(i) the ability of the tenants to find adequate, available, decent, comparable, and affordable housing in the local market;

“(ii) the types of tenants residing in the project (such as elderly families, disabled families, large families, and cooperative homeowners);

“(iii) the local housing needs identified in the comprehensive housing affordability strategy, and local market vacancy trends;

“(iv) the cost of providing assistance, comparing the applicable payment standard to the

project’s adjusted rent levels determined under section 514(g);

“(v) the long-term financial stability of the project;

“(vi) the ability of residents to make reasonable choices about their individual living situations;

“(vii) the quality of the neighborhood in which the tenants would reside; and

“(viii) the project’s ability to compete in the marketplace.

“(C) REPORTS TO DIRECTOR.—Each participating administrative entity shall report regularly to the Director as defined in subtitle D, as the Director shall require, identifying—

“(i) each eligible multifamily housing project for which the entity has developed a rental assistance assessment plan under this paragraph that determined that the tenants of the project generally supported renewal of assistance with tenant-based assistance, but under which assistance for the project was renewed with project-based assistance; and

“(ii) each project for which the entity has developed such a plan under which the assistance is renewed using tenant-based assistance.

“(3) ELIGIBILITY FOR TENANT-BASED ASSISTANCE.—Subject to paragraph (4), with respect to any project that is not described in paragraph (1), if a participating administrative entity approves the use of tenant-based assistance based on a rental assistance assessment plan developed under paragraph (2), tenant-based assistance shall be provided to each assisted family (other than a family already receiving tenant-based assistance) residing in the project at the time the assistance described in section 512(2)(B) terminates.

“(4) ASSISTANCE THROUGH ENHANCED VOUCHERS.—In the case of any family described in paragraph (3) that resides in a project described in section 512(2)(B), the tenant-based assistance provided shall be enhanced voucher assistance under section 8(t) of the United States Housing Act of 1937 (42 U.S.C. 1437f(t)).

“(5) INAPPLICABILITY OF CERTAIN PROVISION.—If a participating administrative entity approves renewal with project-based assistance under this subsection, section 8(d)(2) of the United States Housing Act of 1937 shall not apply.

“SEC. 516. PROHIBITION ON RESTRUCTURING.

“(a) PROHIBITION ON RESTRUCTURING.—The Secretary may elect not to consider any mortgage restructuring and rental assistance sufficiency plan or request for contract renewal if the Secretary or the participating administrative entity determines that—

“(1)(A) the owner or purchaser of the project has engaged in material adverse financial or managerial actions or omissions with regard to such project; or

“(B) the owner or purchaser of the project has engaged in material adverse financial or managerial actions or omissions with regard to other projects of such owner or purchaser that are federally assisted or financed with a loan from, or mortgage insured or guaranteed by, an agency of the Federal Government;

“(2) material adverse financial or managerial actions or omissions include—

“(A) materially violating any Federal, State, or local law or regulation with regard to this project or any other federally assisted project, after receipt of notice and an opportunity to cure;

“(B) materially breaching a contract for assistance under section 8 of the United States Housing Act of 1937 [42 U.S.C. 1437f], after receipt of notice and an opportunity to cure;

“(C) materially violating any applicable regulatory or other agreement with the Secretary or a participating administrative entity, after receipt of notice and an opportunity to cure;

“(D) repeatedly and materially violating any Federal, State, or local law or regulation with regard to the project or any other federally assisted project;

“(E) repeatedly and materially breaching a contract for assistance under section 8 of the United States Housing Act of 1937;

“(F) repeatedly and materially violating any applicable regulatory or other agreement with the Secretary or a participating administrative entity;

“(G) repeatedly failing to make mortgage payments at times when project income was sufficient to maintain and operate the property;

“(H) materially failing to maintain the property according to housing quality standards after receipt of notice and a reasonable opportunity to cure; or

“(I) committing any actions or omissions that would warrant suspension or debarment by the Secretary;

“(3) the owner or purchaser of the property materially failed to follow the procedures and requirements of this subtitle, after receipt of notice and an opportunity to cure; or

“(4) the poor condition of the project cannot be remedied in a cost effective manner, as determined by the participating administrative entity.

The term ‘owner’ as used in this subsection, in addition to it having the same meaning as in section 8(f) of the United States Housing Act of 1937, also means an affiliate of the owner. The term ‘purchaser’ as used in this subsection means any private person or entity, including a cooperative, an agency of the Federal Government, or a public housing agency, that, upon purchase of the project, would have the legal right to lease or sublease dwelling units in the project, and also means an affiliate of the purchaser. The terms ‘affiliate of the owner’ and ‘affiliate of the purchaser’ means any person or entity (including, but not limited to, a general partner or managing member, or an officer of either) that controls an owner or purchaser, is controlled by an owner or purchaser, or is under common control with the owner or purchaser. The term ‘control’ means the direct or indirect power (under contract, equity ownership, the right to vote or determine a vote, or otherwise) to direct the financial, legal, beneficial or other interests of the owner or purchaser.

“(b) OPPORTUNITY TO DISPUTE FINDINGS.—

“(1) IN GENERAL.—During the 30-day period beginning on the date on which the owner or purchaser of an eligible multifamily housing project receives notice of a rejection under subsection (a) or of a mortgage restructuring and rental assistance sufficiency plan under section 514, the Secretary or participating administrative entity shall provide that owner or purchaser with an opportunity to dispute the basis for the rejection and an opportunity to cure.

“(2) AFFIRMATION, MODIFICATION, OR REVERSAL.—

“(A) IN GENERAL.—After providing an opportunity to dispute under paragraph (1), the Secretary or the participating administrative entity may affirm, modify, or reverse any rejection under subsection (a) or rejection of a mortgage restructuring and rental assistance sufficiency plan under section 514.

“(B) REASONS FOR DECISION.—The Secretary or the participating administrative entity, as applicable, shall identify the reasons for any final decision under this paragraph.

“(C) REVIEW PROCESS.—The Secretary shall establish an administrative review process to appeal any final decision under this paragraph.

“(c) FINAL DETERMINATION.—Any final determination under this section shall not be subject to judicial review.

“(d) DISPLACED TENANTS.—

“(1) NOTICE TO CERTAIN RESIDENTS.—The Office shall notify any tenant that is residing in a project or receiving assistance under section 8 of the United States Housing Act of 1937 (42 U.S.C. 1437f) at the time of rejection under this section, of such rejection, except that the Office may delegate the responsibility to provide notice under this paragraph to the participating administrative entity.

“(2) ASSISTANCE AND MOVING EXPENSES.—Subject to the availability of amounts provided in advance in

appropriations Acts, for any low-income tenant that is residing in a project or receiving assistance under section 8 of the United States Housing Act of 1937 at the time of rejection under this section, that tenant shall be provided with tenant-based assistance and reasonable moving expenses, as determined by the Secretary.

“(e) TRANSFER OF PROPERTY.—For properties disqualified from the consideration of a mortgage restructuring and rental assistance sufficiency plan under this section in accordance with paragraph (1) or (2) of subsection (a) because of actions by an owner or purchaser, the Secretary shall establish procedures to facilitate the voluntary sale or transfer of a property as part of a mortgage restructuring and rental assistance sufficiency plan, with a preference for tenant organizations and tenant-endorsed community-based nonprofit and public agency purchasers meeting such reasonable qualifications as may be established by the Secretary.

“SEC. 517. RESTRUCTURING TOOLS.

“(a) MORTGAGE RESTRUCTURING.—

“(1) In this subtitle, an approved mortgage restructuring and rental assistance sufficiency plan shall include restructuring mortgages in accordance with this subsection to provide—

“(A) a restructured or new first mortgage that is sustainable at rents at levels that are established in section 514(g); and

“(B) a second mortgage that is in an amount equal to not more than the greater of—

“(i) the full or partial payment of claim made under this subtitle; or

“(ii) the difference between the restructured or new first mortgage and the indebtedness under the existing insured mortgage immediately before it is restructured or refinanced, provided that the amount of the second mortgage shall be in an amount that the Secretary or participating administrative entity determines can reasonably be expected to be repaid.

“(2) The second mortgage shall bear interest at a rate not to exceed the applicable Federal rate as defined in section 1274(d) of the Internal Revenue Code of 1986 [26 U.S.C. 1274(d)]. The term of the second mortgage shall be equal to the term of the restructured or new first mortgage.

“(3) Payments on the second mortgage shall be deferred when the first mortgage remains outstanding, except to the extent there is excess project income remaining after payment of all reasonable and necessary operating expenses (including deposits in a reserve for replacement), debt service on the first mortgage, and any other expenditures approved by the Secretary. At least 75 percent of any excess project income shall be applied to payments on the second mortgage, and the Secretary or the participating administrative entity may permit up to 25 percent to be paid to the project owner if the Secretary or participating administrative entity determines that the project owner meets benchmarks for management and housing quality.

“(4) The full amount of the second mortgage shall be immediately due and payable if—

“(A) the first mortgage is terminated or paid in full, except as otherwise provided by the holder of the second mortgage;

“(B) the project is purchased and the second mortgage is assumed by any subsequent purchaser in violation of guidelines established by the Secretary; or

“(C) the Secretary provides notice to the project owner that such owner has failed to materially comply with any requirements of this section or the United States Housing Act of 1937 [42 U.S.C. 1437 et seq.] as those requirements apply to the project, with a reasonable opportunity for such owner to cure such failure.

“(5) The Secretary may modify the terms of the second mortgage, assign the second mortgage to the

acquiring organization or agency, or forgive all or part of the second mortgage if the Secretary holds the second mortgage and if the project is acquired by a tenant organization or tenant-endorsed community-based nonprofit or public agency, pursuant to guidelines established by the Secretary.

“(6) The second mortgage under this section may be a first mortgage if no restructured or new first mortgage will meet the requirement of paragraph (1)(A).

“(b) RESTRUCTURING TOOLS.—In addition to the requirements of subsection (a) and to the extent these actions are consistent with this section and with the control of the Secretary of applicable accounts in the Treasury of the United States, an approved mortgage restructuring and rental assistance sufficiency plan under this subtitle may include one or more of the following actions:

“(1) FULL OR PARTIAL PAYMENT OF CLAIM.—Making a full payment of claim or partial payment of claim under section 541(b) of the National Housing Act [12 U.S.C. 1735f-19(b)], as amended by section 523(b) of this Act. Any payment under this paragraph shall not require the approval of a mortgagee.

“(2) REFINANCING OF DEBT.—Refinancing of all or part of the debt on a project. If the refinancing involves a mortgage that will continue to be insured under the National Housing Act [12 U.S.C. 1701 et seq.], the refinancing shall be documented through amendment of the existing insurance contract and not through a new insurance contract.

“(3) MORTGAGE INSURANCE.—Providing FHA multifamily mortgage insurance, reinsurance or other credit enhancement alternatives, including multifamily risk-sharing mortgage programs, as provided under section 542 of the Housing and Community Development Act of 1992 [Pub. L. 102-550, 12 U.S.C. 1707 note]. The Secretary shall use risk-shared financing under section 542(c) of the Housing and Community Development Act of 1992 for any mortgage restructuring, rehabilitation financing, or debt refinancing included as part of a mortgage restructuring and rental assistance sufficiency plan if the terms and conditions are considered to be the best available financing in terms of financial savings to the FHA insurance funds and will result in reduced risk of loss to the Federal Government. Any limitations on the number of units available for mortgage insurance under section 542 shall not apply to eligible multifamily housing projects. Any credit subsidy costs of providing mortgage insurance shall be paid from the Liquidating Accounts of the General Insurance Fund or the Special Risk Insurance Fund and shall not be subject to any limitation on appropriations.

“(4) CREDIT ENHANCEMENT.—Providing any additional State or local mortgage credit enhancements and risk-sharing arrangements that may be established with State or local housing finance agencies, the Federal Housing Finance Agency, the Federal National Mortgage Association, and the Federal Home Loan Mortgage Corporation, to a modified or refinanced first mortgage.

“(5) COMPENSATION OF THIRD PARTIES.—Consistent with the portfolio restructuring agreement, entering into agreements, incurring costs, or making payments, including incentive agreements designed to reward superior performance in meeting the purposes of this Act, as may be reasonably necessary, to compensate the participation of participating administrative entities and other parties in undertaking actions authorized by this subtitle. Upon request to the Secretary, participating administrative entities that are qualified under the United States Housing Act of 1937 to serve as contract administrators shall be the contract administrators under section 8 of the United States Housing Act of 1937 [12 U.S.C. 1437f] for purposes of any contracts entered into as part of an approved mortgage restructuring and rental assistance sufficiency plan. Subject to the availability of amounts provided in advance in appropriations Acts for administrative fees under section 8 of the United

States Housing Act of 1937, such amounts may be used to compensate participating administrative entities for compliance monitoring costs incurred under section 519.

“(6) USE OF PROJECT ACCOUNTS.—Applying any residual receipts, replacement reserves, and any other project accounts not required for project operations, to maintain the long-term affordability and physical condition of the property or of other eligible multifamily housing projects. The participating administrative entity may expedite the acquisition of residual receipts, replacement reserves, or other such accounts, by entering into agreements with owners of housing covered by an expiring contract to provide an owner with a share of the receipts, not to exceed 10 percent, in accordance with guidelines established by the Secretary.

“(c) REHABILITATION NEEDS AND ADDITION OF SIGNIFICANT FEATURES.—

“(1) REHABILITATION NEEDS.—

“(A) IN GENERAL.—Rehabilitation may be paid from the residual receipts, replacement reserves, or any other project accounts not required for project operations, or, as provided in appropriations Acts and subject to the control of the Secretary of applicable accounts in the Treasury of the United States, from budget authority provided for increases in the budget authority for assistance contracts under section 8 of the United States Housing Act of 1937, the rehabilitation grant program established under section 236 of the National Housing Act [12 U.S.C. 1715z-1], as amended by section 531 of subtitle B of this Act, or through the debt restructuring transaction. Rehabilitation under this paragraph shall only be for the purpose of restoring the project to a non-luxury standard adequate for the rental market intended at the original approval of the project-based assistance.

“(B) CONTRIBUTION.—Each owner or purchaser of a project to be rehabilitated under an approved mortgage restructuring and rental assistance sufficiency plan shall contribute, from non-project resources, not less than 25 percent of the amount of rehabilitation assistance received, except that the participating administrative entity may provide an exception from the requirement of this subparagraph for housing cooperatives.

“(2) ADDITION OF SIGNIFICANT FEATURES.—

“(A) AUTHORITY.—An approved mortgage restructuring and rental assistance sufficiency plan may require the improvement of the project by the addition of significant features that are not necessary for rehabilitation to the standard provided under paragraph (1), such as air conditioning, an elevator, and additional community space. The Secretary shall establish guidelines regarding the inclusion of requirements regarding such additional significant features under such plans.

“(B) FUNDING.—Significant features added pursuant to an approved mortgage restructuring and rental assistance sufficiency plan may be paid from the funding sources specified in the first sentence of paragraph (1)(A).

“(C) LIMITATION ON OWNER CONTRIBUTION.—An owner of a project may not be required to contribute from non-project resources, toward the cost of any additional significant features required pursuant to this paragraph, more than 25 percent of the amount of any assistance received for the inclusion of such features.

“(D) APPLICABILITY.—This paragraph shall apply to all eligible multifamily housing projects, except projects for which the Secretary and the project owner executed a mortgage restructuring and rental assistance sufficiency plan on or before the date of the enactment of the Mark-to-Market Extension Act of 2001 [Jan. 10, 2002].

“(d) PROHIBITION ON EQUITY SHARING BY THE SECRETARY.—The Secretary is prohibited from participating in any equity agreement or profit-sharing agree-

ment in conjunction with any eligible multifamily housing project.

“(e) CONFLICT OF INTEREST GUIDELINES.—The Secretary may establish guidelines to prevent conflicts of interest by a participating administrative entity that provides, directly or through risk-sharing arrangements, any form of credit enhancement or financing pursuant to subsections [sic] (b)(3) or (b)(4) or to prevent conflicts of interest by any other person or entity under this subtitle.

“SEC. 518. MANAGEMENT STANDARDS.

“Each participating administrative entity shall establish management standards, including requirements governing conflicts of interest between owners, managers, contractors with an identity of interest, pursuant to guidelines established by the Secretary and consistent with industry standards.

“SEC. 519. MONITORING OF COMPLIANCE.

“(a) COMPLIANCE AGREEMENTS.—(1) Pursuant to regulations issued by the Secretary under section 522(a), each participating administrative entity, through binding contractual agreements with owners and otherwise, shall ensure long-term compliance with the provisions of this subtitle. Each agreement shall, at a minimum, provide for—

“(A) enforcement of the provisions of this subtitle; and

“(B) remedies for the breach of those provisions.

“(2) If the participating administrative entity is not qualified under the United States Housing Act of 1937 [42 U.S.C. 1437 et seq.] to be a section 8 contract administrator or fails to perform its duties under the portfolio restructuring agreement, the Secretary shall have the right to enforce the agreement.

“(b) PERIODIC MONITORING.—

“(1) IN GENERAL.—Not less than annually, each participating administrative entity that is qualified to be the section 8 contract administrator shall review the status of all multifamily housing projects for which a mortgage restructuring and rental assistance sufficiency plan has been implemented.

“(2) INSPECTIONS.—Each review under this subsection shall include onsite inspection to determine compliance with housing codes and other requirements as provided in this subtitle and the portfolio restructuring agreements.

“(3) ADMINISTRATION.—If the participating administrative entity is not qualified under the United States Housing Act of 1937 to be a section 8 contract administrator, either the Secretary or a qualified State or local housing agency shall be responsible for the review required by this subsection.

“(c) AUDIT BY THE SECRETARY.—The Comptroller General of the United States, the Secretary, and the Inspector General of the Department of Housing and Urban Development may conduct an audit at any time of any multifamily housing project for which a mortgage restructuring and rental assistance sufficiency plan has been implemented.

“SEC. 520. REPORTS TO CONGRESS.

“(a) ANNUAL REVIEW.—In order to ensure compliance with this subtitle, the Secretary shall conduct an annual review and report to the Congress on actions taken under this subtitle and the status of eligible multifamily housing projects.

“(b) SEMIANNUAL REVIEW.—Not less than semiannually during the 2-year period beginning on the date of the enactment of this Act [Oct. 27, 1997] and not less than annually thereafter, the Secretary shall submit reports to the Committee on Financial Services of the House of Representatives and the Committee on Banking, Housing, and Urban Affairs of the Senate stating, for such periods, the total number of projects identified by participating administrative entities under each of clauses (i) and (ii) of section 515(c)(2)(C).

“SEC. 521. GAO AUDIT AND REVIEW.

“(a) INITIAL AUDIT.—Not later than 18 months after the effective date of final regulations promulgated

under this subtitle, the Comptroller General of the United States shall conduct an audit to evaluate eligible multifamily housing projects and the implementation of mortgage restructuring and rental assistance sufficiency plans.

“(b) REPORT.—

“(1) IN GENERAL.—Not later than 18 months after the audit conducted under subsection (a), the Comptroller General of the United States shall submit to Congress a report on the status of eligible multifamily housing projects and the implementation of mortgage restructuring and rental assistance sufficiency plans.

“(2) CONTENTS.—The report submitted under paragraph (1) shall include—

“(A) a description of the initial audit conducted under subsection (a); and

“(B) recommendations for any legislative action to increase the financial savings to the Federal Government of the restructuring of eligible multifamily housing projects balanced with the continued availability of the maximum number of affordable low-income housing units.

“SEC. 522. REGULATIONS.

“(a) RULEMAKING AND IMPLEMENTATION.—

“(1) INTERIM REGULATIONS.—The Director shall issue such interim regulations as may be necessary to implement this subtitle and the amendments made by this subtitle with respect to eligible multifamily housing projects covered by contracts described in section 512(2)(B) that expire in fiscal year 1999 or thereafter. If, before the expiration of such period, the Director has not been appointed, the Secretary shall issue such interim regulations.

“(2) FINAL REGULATIONS.—The Director shall issue final regulations necessary to implement this subtitle and the amendments made by this subtitle with respect to eligible multifamily housing projects covered by contracts described in section 512(2)(B) that expire in fiscal year 1999 or thereafter before the later of: (A) the expiration of the 12-month period beginning upon the date of the enactment of this Act [Oct. 27, 1997]; and (B) the 3-month period beginning upon the appointment of the Director under subtitle D.

“(3) FACTORS FOR CONSIDERATION.—Before the publication of the final regulations under paragraph (2), in addition to public comments invited in connection with publication of the interim rule, the Secretary shall—

“(A) seek recommendations on the implementation of sections 513(b) and 515(c)(1) from organizations representing—

“(i) State housing finance agencies and local housing agencies;

“(ii) other potential participating administering entities;

“(iii) tenants;

“(iv) owners and managers of eligible multifamily housing projects;

“(v) States and units of general local government; and

“(vi) qualified mortgagees; and

“(B) convene not less than 3 public forums at which the organizations making recommendations under subparagraph (A) may express views concerning the proposed disposition of the recommendations.

“(b) TRANSITION PROVISION FOR CONTRACTS EXPIRING IN FISCAL YEAR 1998.—Notwithstanding any other provision of law, the Secretary shall apply all the terms of section 211 and section 212 of the Departments of Veterans Affairs and Housing and Urban Development, and Independent Agencies Appropriations Act, 1997 [Pub. L. 104-204, set out below] (except for section 212(h)(1)(G) and the limitation in section 212(k)) contracts for project-based assistance that expire during fiscal year 1998 (in the same manner that such provisions apply to expiring contracts defined in section 212(a)(3) of such Act), except that section 517(a) of the Act shall apply to mortgages on projects subject to such contracts.

“SEC. 523. TECHNICAL AND CONFORMING AMENDMENTS.

“(a) CALCULATION OF LIMIT ON PROJECT-BASED ASSISTANCE.—[Amended this section.]

“(b) PARTIAL PAYMENT OF CLAIMS ON MULTIFAMILY HOUSING PROJECTS.—[Amended section 1735f-19 of Title 12, Banks and Banking.]

“(c) REUSE AND RESCISSION OF CERTAIN RECAPTURED BUDGET AUTHORITY.—[Amended this section.]

“(d) SECTION 8 CONTRACT RENEWALS.—[Amended section 405(a) of Pub. L. 104-99, set out below.]

“(e) RENEWAL UPON REQUEST OF OWNER.—[Amended section 211 of Pub. L. 104-204, set out below.]

“(f) EXTENSION OF DEMONSTRATION CONTRACT PERIOD.—[Amended section 212 of Pub. L. 104-204, set out below.]

“SEC. 524. RENEWAL OF EXPIRING PROJECT-BASED SECTION 8 CONTRACTS.

“(a) IN GENERAL.—

“(1) RENEWAL.—Subject to paragraph (2), upon termination or expiration of a contract for project-based assistance under section 8 for a multifamily housing project (and notwithstanding section 8(v) of the United States Housing Act of 1937 [42 U.S.C. 1437f] for loan management assistance), the Secretary shall, at the request of the owner of the project and to the extent sufficient amounts are made available in appropriation Acts, use amounts available for the renewal of assistance under section 8 of such Act to provide such assistance for the project. The assistance shall be provided under a contract having such terms and conditions as the Secretary considers appropriate, subject to the requirements of this section. This section shall not require contract renewal for a project that is eligible under this subtitle for a mortgage restructuring and rental assistance sufficiency plan, if there is no approved plan for the project and the Secretary determines that such an approved plan is necessary.

“(2) PROHIBITION ON RENEWAL.—Notwithstanding part 24 of title 24 of the Code of Federal Regulations, the Secretary may elect not to renew assistance for a project otherwise required to be renewed under paragraph (1) or provide comparable benefits under paragraph (1) or (2) of subsection (e) for a project described in either such paragraph, if the Secretary determines that a violation under paragraphs (1) through (4) of section 516(a) has occurred with respect to the project. For purposes of such a determination, the provisions of section 516 shall apply to a project under this section in the same manner and to the same extent that the provisions of such section apply to eligible multifamily housing projects, except that the Secretary shall make the determination under section 516(a)(4).

“(3) CONTRACT TERM FOR MARK-UP-TO-MARKET CONTRACTS.—In the case of an expiring or terminating contract that has rent levels less than comparable market rents for the market area, if the rent levels under the renewal contract under this section are equal to comparable market rents for the market area, the contract shall have a term of not less than 5 years, subject to the availability of sufficient amounts in appropriation Acts.

“(4) RENEWAL RENTS.—Except as provided in subsection (b), the contract for assistance shall provide assistance at the following rent levels:

“(A) MARKET RENTS.—At the request of the owner of the project, at rent levels equal to the lesser of comparable market rents for the market area or 150 percent of the fair market rents, in the case only of a project that—

“(i) has rent levels under the expiring or terminating contract that do not exceed such comparable market rents;

“(ii) does not have a low- and moderate-income use restriction that can not be eliminated by unilateral action by the owner;

“(iii) is decent, safe, and sanitary housing, as determined by the Secretary;

“(iv) is not—

“(I) owned by a nonprofit entity;

“(II) subject to a contract for moderate rehabilitation assistance under section 8(e)(2) of the United States Housing Act of 1937, as in effect before October 1, 1991; or

“(III) a project for which the public housing agency provided voucher assistance to one or more of the tenants after the owner has provided notice of termination of the contract covering the tenant's unit; and

“(v) has units assisted under the contract for which the comparable market rent exceeds 110 percent of the fair market rent.

The Secretary may adjust the percentages of fair market rent (as specified in the matter preceding clause (i) and in clause (v)), but only upon a determination and written notification to the Congress within 10 days of making such determination, that such adjustment is necessary to ensure that this subparagraph covers projects with a high risk of nonrenewal of expiring contracts for project-based assistance.

“(B) REDUCTION TO MARKET RENTS.—In the case of a project that has rent levels under the expiring or terminating contract that exceed comparable market rents for the market area, at rent levels equal to such comparable market rents.

“(C) RENTS NOT EXCEEDING MARKET RENTS.—In the case of a project that is not subject to subparagraph (A) or (B), at rent levels that—

“(i) are not less than the existing rents under the terminated or expiring contract, as adjusted by an operating cost adjustment factor established by the Secretary (which shall not result in a negative adjustment), if such adjusted rents do not exceed comparable market rents for the market area; and

“(ii) do not exceed comparable market rents for the market area.

In determining the rent level for a contract under this subparagraph, the Secretary shall approve rents sufficient to cover budget-based cost increases and shall give greater consideration to providing rent at a level up to comparable market rents for the market area based on the number of the criteria under clauses (i) through (iii) of subparagraph (D) that the project meets. Notwithstanding any other provision of law, the Secretary shall include in such budget-based cost increases costs relating to the project as a whole (including costs incurred with respect to units not covered by the contract for assistance), but only (I) if inclusion of such costs is requested by the owner or purchaser of the project, (II) if inclusion of such costs will permit capital repairs to the project or acquisition of the project by a nonprofit organization, and (III) to the extent that inclusion of such costs (or a portion thereof) complies with the requirement under clause (ii).

“(D) WAIVER OF 150 PERCENT LIMITATION.—Notwithstanding subparagraph (A), at rent levels up to comparable market rents for the market area, in the case of a project that meets the requirements under clauses (i) through (v) of subparagraph (A) and—

“(i) has residents who are a particularly vulnerable population, as demonstrated by a high percentage of units being rented to elderly families, disabled families, or large families;

“(ii) is located in an area in which tenant-based assistance would be difficult to use, as demonstrated by a low vacancy rate for affordable housing, a high turnback rate for vouchers, or a lack of comparable rental housing; or

“(iii) is a high priority for the local community, as demonstrated by a contribution of State or local funds to the property.

In determining the rent level for a contract under this subparagraph, the Secretary shall approve



rents sufficient to cover budget-based cost increases and shall give greater consideration to providing rent at a level up to comparable market rents for the market area based on the number of the criteria under clauses (i) through (iv) that the project meets.

“(5) COMPARABLE MARKET RENTS AND COMPARISON WITH FAIR MARKET RENTS.—The Secretary shall prescribe the method for determining comparable market rent by comparison with rents charged for comparable properties (as such term is defined in section 512), which may include appropriate adjustments for utility allowances and adjustments to reflect the value of any subsidy (other than section 8 assistance) provided by the Department of Housing and Urban Development.

“(b) EXCEPTION RENTS.—

“(1) RENEWAL.—In the case of a multifamily housing project described in paragraph (2), pursuant to the request of the owner of the project, the contract for assistance for the project pursuant to subsection (a) shall provide assistance at the lesser of the following rent levels:

“(A) ADJUSTED EXISTING RENTS.—The existing rents under the expiring contract, as adjusted by an operating cost adjustment factor established by the Secretary (which shall not result in a negative adjustment).

“(B) BUDGET-BASED RENTS.—Subject to a determination by the Secretary that a rent level under this subparagraph is appropriate for a project, a rent level that provides income sufficient to support a budget-based rent (including a budget-based rent adjustment if justified by reasonable and expected operating expenses).

“(2) PROJECTS COVERED.—A multifamily housing project described in this paragraph is a multifamily housing project that—

“(A) is not an eligible multifamily housing project under section 512(2); or

“(B) is exempt from mortgage restructuring under this subtitle pursuant to section 514(h).

“(3) MODERATE REHABILITATION PROJECTS.—In the case of a project with a contract under the moderate rehabilitation program, other than a moderate rehabilitation contract under [former] section 441 of the McKinney-Vento Homeless Assistance Act [42 U.S.C. 11401], pursuant to the request of the owner of the project, the contract for assistance for the project pursuant to subsection (a) shall provide assistance at the lesser of the following rent levels:

“(A) ADJUSTED EXISTING RENTS.—The existing rents under the expiring contract, as adjusted by an operating cost adjustment factor established by the Secretary (which shall not result in a negative adjustment).

“(B) FAIR MARKET RENTS.—Fair market rents (less any amounts allowed for tenant-purchased utilities).

“(C) MARKET RENTS.—Comparable market rents for the market area.

“(c) RENT ADJUSTMENTS AFTER RENEWAL OF CONTRACT.—

“(1) REQUIRED.—After the initial renewal of a contract for assistance under section 8 of the United States Housing Act of 1937 [42 U.S.C. 1437f] pursuant to subsection (a), (b)(1), or (e)(2), the Secretary shall annually adjust the rents using an operating cost adjustment factor established by the Secretary (which shall not result in a negative adjustment) or, upon the request of the owner and subject to approval of the Secretary, on a budget basis. In the case of projects with contracts renewed pursuant to subsection (a) or pursuant to subsection (e)(2) at rent levels equal to comparable market rents for the market area, at the expiration of each 5-year period, the Secretary shall compare existing rents with comparable market rents for the market area and may make any adjustments in the rent necessary to maintain the contract rents at a level not greater than

comparable market rents or to increase rents to comparable market rents.

“(2) DISCRETIONARY.—In addition to review and adjustment required under paragraph (1), in the case of projects with contracts renewed pursuant to subsection (a) or pursuant to subsection (e)(2) at rent levels equal to comparable market rents for the market area, the Secretary may, at the discretion of the Secretary but only once within each 5-year period referred to in paragraph (1), conduct a comparison of rents for a project and adjust the rents accordingly to maintain the contract rents at a level not greater than comparable market rents or to increase rents to comparable market rents.

“(d) ENHANCED VOUCHERS UPON CONTRACT EXPIRATION.—

“(1) IN GENERAL.—In the case of a contract for project-based assistance under section 8 for a covered project that is not renewed under subsection (a) or (b) of this section (or any other authority), to the extent that amounts for assistance under this subsection are provided in advance in appropriation Acts, upon the date of the expiration of such contract the Secretary shall make enhanced voucher assistance under section 8(t) of the United States Housing Act of 1937 (42 U.S.C. 1437f(t)) available on behalf of each low-income family who, upon the date of such expiration, is residing in an assisted dwelling unit in the covered project.

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

“(A) ASSISTED DWELLING UNIT.—The term ‘assisted dwelling unit’ means a dwelling unit that—

“(i) is in a covered project; and

“(ii) is covered by rental assistance provided under the contract for project-based assistance for the covered project.

“(B) COVERED PROJECT.—The term ‘covered project’ means any housing that—

“(i) consists of more than four dwelling units;

“(ii) is covered in whole or in part by a contract for project-based assistance under—

“(I) the new construction or substantial rehabilitation program under section 8(b)(2) of the United States Housing Act of 1937 (as in effect before October 1, 1983);

“(II) the property disposition program under section 8(b) of the United States Housing Act of 1937;

“(III) the moderate rehabilitation program under section 8(e)(2) of the United States Housing Act of 1937 (as in effect before October 1, 1991);

“(IV) the loan management assistance program under section 8 of the United States Housing Act of 1937;

“(V) section 23 of the United States Housing Act of 1937 [42 U.S.C. 1437u] (as in effect before January 1, 1975);

“(VI) the rent supplement program under section 101 of the Housing and Urban Development Act of 1965 [12 U.S.C. 1701s]; or

“(VII) section 8 of the United States Housing Act of 1937, following conversion from assistance under section 101 of the Housing and Urban Development Act of 1965,

which contract will (under its own terms) expire during the period consisting of fiscal years 2000 through 2004; and

“(iii) is not housing for which residents are eligible for enhanced voucher assistance as provided, pursuant to the ‘Preserving Existing Housing Investment’ account in the Departments of Veterans Affairs and Housing and Urban Development, and Independent Agencies Appropriations Act, 1997 (Public Law 104-204; 110 Stat. 2884) or any other subsequently enacted provision of law, in lieu of any benefits under section 223 of the Low-Income Housing Preservation and Resident Homeownership Act of 1990 (12 U.S.C. 4113).

“(4) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated for each of fiscal years 2000, 2001, 2002, 2003, and 2004 such sums as may be necessary for enhanced voucher assistance under this subsection.

“(e) CONTRACTUAL COMMITMENTS UNDER PRESERVATION LAWS.—Except as provided in subsection (a)(2) and notwithstanding any other provision of this subtitle, the following shall apply:

“(1) PRESERVATION PROJECTS.—Upon expiration of a contract for assistance under section 8 [42 U.S.C. 1437f] for a project that is subject to an approved plan of action under the Emergency Low Income Housing Preservation Act of 1987 (12 U.S.C. 1715f note) or the Low-Income Housing Preservation and Resident Homeownership Act of 1990 (12 U.S.C. 4101 et seq.), to the extent amounts are specifically made available in appropriation Acts, the Secretary shall provide to the owner benefits comparable to those provided under such plan of action, including distributions, rent increase procedures, and duration of low-income affordability restrictions. This paragraph shall apply to projects with contracts expiring before, on, or after the date of the enactment of this section [Oct. 27, 1997].

“(2) DEMONSTRATION PROJECTS.—

“(A) IN GENERAL.—Upon expiration of a contract for assistance under section 8 for a project entered into pursuant to any authority specified in subparagraph (B) for which the Secretary determines that debt restructuring is inappropriate, the Secretary shall, at the request of the owner of the project and to the extent sufficient amounts are made available in appropriation Acts, provide benefits to the owner comparable to those provided under such contract, including annual distributions, rent increase procedures, and duration of low-income affordability restrictions. This paragraph shall apply to projects with contracts expiring before, on, or after the date of the enactment of this section [Oct. 27, 1997].

“(B) DEMONSTRATION PROGRAMS.—The authority specified in this subparagraph is the authority under—

“(i) section 210 of the Departments of Veterans Affairs and Housing and Urban Development, and Independent Agencies Appropriations Act, 1996 (Public Law 104-134; 110 Stat. 1321-285; 42 U.S.C. 1437f note);

“(ii) section 212 of the Departments of Veterans Affairs and Housing and Urban Development, and Independent Agencies Appropriations Act, 1997 (Public Law 104-204; 110 Stat. 2897; 42 U.S.C. 1437f note); and

“(iii) either of such sections, pursuant to any provision of this title [see Short Title of 1997 Amendment note set out under section 1701 of title 12].

“(3) MORTGAGE RESTRUCTURING AND RENTAL ASSISTANCE SUFFICIENCY PLANS.—Notwithstanding paragraph (1), the owner of the project may request, and the Secretary may consider, mortgage restructuring and rental assistance sufficiency plans to facilitate sales or transfers of properties under this subtitle, subject to an approved plan of action under the Emergency Low Income Housing Preservation Act of 1987 (12 U.S.C. 1715f note) [see Codification note preceding section 4101 of Title 12, Banks and Banking] or the Low-Income Housing Preservation and Resident Homeownership Act of 1990 (12 U.S.C. 4101 et seq.), which plans shall result in a sale or transfer of those properties.

“(f) PREEMPTION OF CONFLICTING STATE LAWS LIMITING DISTRIBUTIONS.—

“(1) IN GENERAL.—Except as provided in paragraph (2), no State or political subdivision of a State may establish, continue in effect, or enforce any law or regulation that limits or restricts, to an amount that is less than the amount provided for under the regulations of the Secretary establishing allowable

project distributions to provide a return on investment, the amount of surplus funds accruing after the date of the enactment of this section [Oct. 27, 1997] that may be distributed from any multifamily housing project assisted under a contract for rental assistance renewed under any provision of this section (except subsection (b)) to the owner of the project.

“(2) EXCEPTION AND WAIVER.—Paragraph (1) shall not apply to any law or regulation to the extent such law or regulation applies to—

“(A) a State-financed multifamily housing project; or

“(B) a multifamily housing project for which the owner has elected to waive the applicability of paragraph (1).

“(3) TREATMENT OF LOW-INCOME USE RESTRICTIONS.—This subsection may not be construed to provide for, allow, or result in the release or termination, for any project, of any low- or moderate-income use restrictions that can not be eliminated by unilateral action of the owner of the project.

“(g) APPLICABILITY.—Except to the extent otherwise specifically provided in this section, this section shall apply with respect to any multifamily housing project having a contract for project-based assistance under section 8 [42 U.S.C. 1437f] that terminates or expires during fiscal year 2000 or thereafter.

“SEC. 525. CONSISTENCY OF RENT LEVELS UNDER ENHANCED VOUCHER ASSISTANCE AND RENT RESTRUCTURINGS.

“(a) IN GENERAL.—The Secretary shall examine the standards and procedures for determining and establishing the rent standards described under subsection (b). Pursuant to such examination, the Secretary shall establish procedures and guidelines that are designed to ensure that the amounts determined by the various rent standards for the same dwelling units are reasonably consistent and reflect rents for comparable unassisted units in the same area as such dwelling units.

“(b) RENT STANDARDS.—The rent standards described in this subsection are as follows:

“(1) ENHANCED VOUCHERS.—The payment standard for enhanced voucher assistance under section 8(t) of the United States Housing Act of 1937 (42 U.S.C. 1437f(t)).

“(2) MARK-TO-MARKET.—The rents derived from comparable properties, for purposes of section 514(g) of this Act.

“(3) CONTRACT RENEWAL.—The comparable market rents for the market area, for purposes of section 524(a)(4) of this Act.

“SUBTITLE D—OFFICE OF MULTIFAMILY HOUSING ASSISTANCE RESTRUCTURING

“[SECS. 571 to 578. Repealed. Pub. L. 105-65, title V, § 579(a)(2), as added by Pub. L. 107-116, title VI, § 621(1), Jan. 10, 2002, 115 Stat. 2226.]

“SEC. 579. TERMINATION.

“(a) REPEALS.—

“(1) MARK-TO-MARKET PROGRAM.—Subtitle A (except for section 524) is repealed effective October 1, 2015.

“(2) OMHAR.—Subtitle D (except for this section) is repealed effective October 1, 2004.

“(b) EXCEPTION.—Notwithstanding the repeal under subsection (a), the provisions of subtitle A (as in effect immediately before such repeal) shall apply with respect to projects and programs for which binding commitments have been entered into under this Act before October 1, 2015.

“(c) TERMINATION OF DIRECTOR AND OFFICE.—The Office of Multifamily Housing Assistance Restructuring and the position of Director of such Office shall terminate at the end of September 30, 2004.

“(d) TRANSFER OF AUTHORITY.—Effective upon the repeal of subtitle D under subsection (a)(2) of this section, all authority and responsibilities to administer the program under subtitle A are transferred to the Secretary.”

[Pub. L. 109-289, div. B, title II, §21043(b), as added by Pub. L. 110-5, §2, Feb. 15, 2007, 121 Stat. 53, provided that: “The repeal made by section 579(a)(1) of the Multifamily Assisted Housing Reform and Affordability Act of 1997 [Pub. L. 105-65, set out above] shall be deemed not to have taken effect before the date of the enactment of the Revised Continuing Appropriations Resolution, 2007 [Feb. 15, 2007], and subtitle A of such Act [set out above] shall be in effect as if no such repeal had been made before such date of enactment.”]

[Pub. L. 107-116, title VI, §616(a)(2), Jan. 10, 2002, 115 Stat. 2225, provided that: “The amendment made by paragraph (1) of this subsection [amending section 514 of Pub. L. 105-65, set out above] is deemed to have taken effect on the date of the enactment of Public Law 106-74 [Oct. 20, 1999] (113 Stat. 1109).”]

[Pub. L. 107-116, title VI, §622(b), Jan. 10, 2002, 115 Stat. 2227, provided that: “The amendment made by subsection (a) [amending section 572(a) of Pub. L. 105-65, set out above] shall apply to the first Director of the Office of Multifamily Housing Assistance Restructuring of the Department of Housing and Urban Development appointed after the date of the enactment of this Act [Jan. 10, 2002], and any such Director appointed thereafter.”]

[Pub. L. 107-116, title VI, §623(b), Jan. 10, 2002, 115 Stat. 2227, provided that: “The amendment made by subsection (a) [amending section 572(b) of Pub. L. 105-65, set out above] shall apply to any vacancy in the position of Director of the Office of Multifamily Housing Assistance Restructuring of the Department of Housing and Urban Development which occurs or exists after the date of the enactment of this Act [Jan. 10, 2002].”]

[Pub. L. 105-276, title V, §597(c), Oct. 21, 1998, 112 Stat. 2659, provided that: “This section [amending section 524(a)(2) of Pub. L. 105-65, set out above] shall take effect on, and the amendments made by this section are made on, and shall apply beginning upon, the date of the enactment of this Act [Oct. 21, 1998].”]

#### GAO REPORT ON SECTION 8 RENTAL ASSISTANCE FOR MULTIFAMILY HOUSING PROJECTS

Pub. L. 105-65, title V, §532, Oct. 27, 1997, 111 Stat. 1411, directed the Comptroller General of the United States to report to the Congress on section 8 (42 U.S.C. 1437f) rental assistance for multifamily housing projects, including an analysis of how State and local housing finance agencies had benefited from rental assistance and the effectiveness of project oversight, not later than the expiration of the 18-month period beginning on Oct. 27, 1997.

#### ADMINISTRATIVE FEES FOR CERTIFICATE AND HOUSING VOUCHER PROGRAMS

Section 202 of Pub. L. 104-204 provided that: “Notwithstanding section 8(q) of the United States Housing Act of 1937 [42 U.S.C. 1437f(q)], as amended—

“(a) The Secretary shall establish fees for the cost of administering the certificate, voucher and moderate rehabilitation programs.

“(1)(A) For fiscal year 1997, the fee for each month for which a dwelling unit is covered by an assistance contract shall be 7.5 percent of the base amount, adjusted as provided herein, in the case of an agency that, on an annual basis, is administering a program of no more than 600 units, and 7 percent of the base amount, adjusted as provided herein, for each additional unit above 600.

“(B) The base amount shall be the higher of—

“(i) the fair market rental for fiscal year 1993 for a 2-bedroom existing rental dwelling unit in the market area of the agency; and

“(ii) such fair market rental for fiscal year 1994, but not more than 103.5 percent of the amount determined under clause (i).

“(C) The base amount shall be adjusted to reflect changes in the wage data or other objectively measurable data that reflect the costs of administering

the program during fiscal year 1996; except that the Secretary may require that the base amount be not less than a minimum amount and not more than a maximum amount.

“(2) For subsequent fiscal years, the Secretary shall publish a notice in the Federal Register, for each geographic area, establishing the amount of the fee that would apply for the agencies administering the program, based on changes in wage data or other objectively measurable data that reflect the cost of administering the program, as determined by the Secretary.

“(3) The Secretary may increase the fee if necessary to reflect higher costs of administering small programs and programs operating over large geographic areas.

“(4) The Secretary may decrease the fee for PHA-owned units.

“(b) Beginning in fiscal year 1997 and thereafter, the Secretary shall also establish reasonable fees (as determined by the Secretary) for—

“(1) the costs of preliminary expenses, in the amount of \$500, for a public housing agency, but only in the first year it administers a tenant-based assistance program under the United States Housing Act of 1937 [42 U.S.C. 1437 et seq.] and only if, immediately before the effective date of this Act [Sept. 26, 1996], it was not administering a tenant-based assistance program under the 1937 Act (as in effect immediately before the effective date of this Act), in connection with its initial increment of assistance received;

“(2) the costs incurred in assisting families who experience difficulty (as determined by the Secretary) in obtaining appropriate housing under the program; and

“(3) extraordinary costs approved by the Secretary.”

Similar provisions were contained in the following prior appropriations Acts:

Pub. L. 104-99, title IV, §403(b), Jan. 26, 1996, 110 Stat. 43.

Pub. L. 103-120, §11(a), Oct. 27, 1993, 107 Stat. 1151.

#### CONTRACT RENEWALS

Section 211 of Pub. L. 104-204, as amended by Pub. L. 105-18, title II, §10006, June 12, 1997, 111 Stat. 201; Pub. L. 105-65, title V, §523(e), Oct. 27, 1997, 111 Stat. 1407; Pub. L. 106-400, §2, Oct. 30, 2000, 114 Stat. 1675, provided that:

“(a) DEFINITIONS.—For purposes of this section—

“(1) the term ‘expiring contract’ means a contract for project-based assistance under section 8 of the United States Housing Act of 1937 [42 U.S.C. 1437f] that expires during fiscal year 1997;

“(2) the term ‘family’ has the same meaning as in section 3(b) of the United States Housing Act of 1937 [42 U.S.C. 1437a(b)];

“(3) the term ‘multifamily housing project’ means a property consisting of more than 4 dwelling units that is covered in whole or in part by a contract for project-based assistance under section 8 of the United States Housing Act of 1937;

“(4) the term ‘owner’ has the same meaning as in section 8(f) of the United States Housing Act of 1937;

“(5) the term ‘project-based assistance’ means rental assistance under section 8 of the United States Housing Act of 1937 that is attached to a multifamily housing project;

“(6) the term ‘public agency’ means a State housing finance agency, a local housing agency, or other agency with a public purpose and status;

“(7) the term ‘Secretary’ means the Secretary of Housing and Urban Development; and

“(8) the term ‘tenant-based assistance’ has the same meaning as in section 8(f) of the United States Housing Act of 1937.

“(b) SECTION 8 CONTRACT RENEWAL AUTHORITY.—

“(1) IN GENERAL.—Notwithstanding section 405(a) of the Balanced Budget Downpayment Act, I [Pub. L. 104-99, set out below], upon the request of the owner

of a multifamily housing project that is covered by an expiring contract, the Secretary shall use amounts made available for the renewal of assistance under section 8 of the United States Housing Act of 1937 [42 U.S.C. 1437f] to renew the expiring contract as project-based assistance for a period of not more than one year, at rent levels that are equal to those under the expiring contract as of the date on which the contract expires: *Provided*, That those rent levels do not exceed 120 percent of the fair market rent for the market area in which the project is located. For an FHA-insured multifamily housing project with an expiring contract at rent levels that exceed 120 percent of the fair market rent for the market area, the Secretary shall provide, at the request of the owner, section 8 project-based assistance, for a period of not more than one year, at rent levels that do not exceed 120 percent of the fair market rent.

“(2) EXEMPTION FOR STATE AND LOCAL HOUSING AGENCY PROJECTS.—Notwithstanding paragraph (1), upon the expiration of a contract with rent levels that exceed the percentage described in that paragraph, if the Secretary determines that the primary financing or mortgage insurance for the multifamily housing project that is covered by that expiring contract was provided by a public agency, the Secretary shall, at the request of the owner and the public agency, renew the expiring contract—

“(A) for a period of not more than one year; and

“(B) at rent levels that are equal to those under the expiring contract as of the date on which the contract expires.

“(3) EXEMPTION OF CERTAIN OTHER PROJECTS.—Notwithstanding paragraph (1), for section 202 projects, section 515 projects, projects with contracts entered into pursuant to [former] section 441 of the McKinney-Vento Homeless Assistance Act [42 U.S.C. 11401], and projects with rents that exceed 100 percent of fair market rent for the market area, but that are less than rents for comparable projects, upon the expiration of a section 8 contract, the Secretary shall, at the request of the owner, renew the expiring contract—

“(A) for a period of not more than one year; and

“(B) at rent levels that are equal to those under the expiring contract as of the date on which the contract expires.

“(4) OTHER CONTRACTS.—

“(A) PARTICIPATION IN DEMONSTRATION.—For a contract covering an FHA-insured multifamily housing project that expires during fiscal year 1997 with rent levels that exceed the percentage described in paragraph (1) and after notice to the tenants, the Secretary shall, at the request of the owner of the project and after notice to the tenants, include that multifamily housing project in the demonstration program under section 212 of this Act [set out below]. The Secretary shall ensure that a multifamily housing project with an expiring contract in fiscal year 1997 shall be allowed to be included in the demonstration.

“(B) EFFECT OF MATERIAL ADVERSE ACTIONS AND OMISSIONS.—Notwithstanding paragraph (1) or any other provision of law, the Secretary shall not renew an expiring contract if the Secretary determines that the owner of the multifamily housing project has engaged in material adverse financial or managerial actions or omissions with regard to the project (or with regard to other similar projects if the Secretary determines that such actions or omissions constitute a pattern of mismanagement that would warrant suspension or debarment by the Secretary). The term ‘owner’, as used in this subparagraph, in addition to it having the same meaning as in section 8(f) of the United States Housing Act of 1937 [42 U.S.C. 1437f(f)], also means an affiliate of the owner. The term ‘affiliate of the owner’ means any person or entity (including, but not limited to, a general partner or managing member, or an officer of either) that controls an owner, is con-

trolled by an owner, or is under common control with the owner. The term ‘control’ means the direct or indirect power (under contract, equity ownership, the right to vote or determine a vote, or otherwise) to direct the financial, legal, beneficial, or other interests of the owner.

“(C) TRANSFER OF PROPERTY.—For properties disqualified from the demonstration program because of actions by an owner or purchaser in accordance with subparagraph (B), the Secretary shall establish procedures to facilitate the voluntary sale or transfer of the property, with a preference for tenant organizations and tenant-endorsed community-based nonprofit and public agency purchasers meeting such reasonable qualifications as may be established by the Secretary. The Secretary may include the transfer of section 8 project-based assistance.

“(5) TENANT PROTECTIONS.—Any family residing in an assisted unit in a multifamily housing project that is covered by an expiring contract that is not renewed, shall be offered tenant-based assistance before the date on which the contract expires or is not renewed.”

Pub. L. 104-120, §2(a), Mar. 28, 1996, 110 Stat. 834, provided that: “Notwithstanding section 405(b) of the Balanced Budget Downpayment Act, I (Public Law 104-99; 110 Stat. 44) [set out below], at the request of the owner of any project assisted under section 8(e)(2) of the United States Housing Act of 1937 [42 U.S.C. 1437f(e)(2)] (as such section existed immediately before October 1, 1991), the Secretary of Housing and Urban Development may renew, for a period of 1 year, the contract for assistance under such section for such project that expires or terminates during fiscal year 1996 at current rent levels.”

Section 405(a), (b) of Pub. L. 104-99, as amended by Pub. L. 105-65, title V, §523(d), Oct. 27, 1997, 111 Stat. 1407, provided that:

“(a) Notwithstanding part 24 of title 24 of the Code of Federal Regulations, for fiscal year 1996 and henceforth, the Secretary of Housing and Urban Development may use amounts available for the renewal of assistance under section 8 of the United States Housing Act of 1937 [42 U.S.C. 1437f], upon termination or expiration of a contract for assistance under section 8 of such Act of 1937 (other than a contract for tenant-based assistance and notwithstanding section 8(v) of such Act for loan management assistance), to provide assistance under section 8 of such Act, subject to the Section 8 Existing Fair Market Rents, for the eligible families assisted under the contracts at expiration or termination, which assistance shall be in accordance with terms and conditions prescribed by the Secretary.

“(b) Notwithstanding subsection (a) and except for projects assisted under section 8(e)(2) of the United States Housing Act of 1937 (as it existed immediately prior to October 1, 1991), at the request of the owner, the Secretary shall renew for a period of one year contracts for assistance under section 8 that expire or terminate during fiscal year 1996 at the current rent levels.”

#### FHA MULTIFAMILY DEMONSTRATION AUTHORITY

Section 212 of title II of Pub. L. 104-204, as amended by Pub. L. 105-65, title V, §523(f), Oct. 27, 1997, 111 Stat. 1407, provided that:

“(a) IN GENERAL.—

“(1) REPEAL.—

“(A) IN GENERAL.—Section 210 of the Departments of Veterans Affairs and Housing and Urban Development and Independent Agencies Appropriations Act, 1996 (110 Stat. 1321) [section 101(e) [title II, §210] of Pub. L. 104-134, formerly set out as a note below] is repealed.

“(B) EXCEPTION.—Notwithstanding the repeal under subparagraph (A), amounts made available under section 210(f) [of] the Departments of Veterans Affairs and Housing and Urban Development and Independent Agencies Appropriations Act, 1996 shall remain available for the demonstration pro-

gram under this section through the end of fiscal year 1997.

“(2) SAVINGS PROVISIONS.—Nothing in this section shall be construed to affect any commitment entered into before the date of enactment of this Act [Sept. 26, 1996] under the demonstration program under section 210 of the Departments of Veterans Affairs and Housing and Urban Development and Independent Agencies Appropriations Act, 1996.

“(3) DEFINITIONS.—For purposes of this section—

“(A) the term ‘demonstration program’ means the program established under subsection (b);

“(B) the term ‘expiring contract’ means a contract for project-based assistance under section 8 of the United States Housing Act of 1937 [42 U.S.C. 1437f] that expires during fiscal year 1997;

“(C) the term ‘family’ has the same meaning as in section 3(b) of the United States Housing Act of 1937 [42 U.S.C. 1437a(b)];

“(D) the term ‘multifamily housing project’ means a property consisting of more than 4 dwelling units that is covered in whole or in part by a contract for project-based assistance;

“(E) the term ‘owner’ has the same meaning as in section 8(f) of the United States Housing Act of 1937;

“(F) the term ‘project-based assistance’ means rental assistance under section 8 of the United States Housing Act of 1937 that is attached to a multifamily housing project;

“(G) the term ‘Secretary’ means the Secretary of Housing and Urban Development; and

“(H) the term ‘tenant-based assistance’ has the same meaning as in section 8(f) of the United States Housing Act of 1937.

“(b) DEMONSTRATION AUTHORITY.—

“(1) IN GENERAL.—Subject to the funding limitation in subsection (l), the Secretary shall administer a demonstration program with respect to multifamily projects—

“(A) whose owners agree to participate;

“(B) with rents on units assisted under section 8 of the United States Housing Act of 1937 [42 U.S.C. 1437f] that are, in the aggregate, in excess of 120 percent of the fair market rent of the market area in which the project is located; and

“(C) the mortgages of which are insured under the National Housing Act [12 U.S.C. 1701 et seq.].

“(2) PURPOSE.—The demonstration program shall be designed to obtain as much information as is feasible on the economic viability and rehabilitation needs of the multifamily housing projects in the demonstration, to test various approaches for restructuring mortgages to reduce the financial risk to the FHA Insurance Fund while reducing the cost of section 8 subsidies, and to test the feasibility and desirability of—

“(A) ensuring, to the maximum extent practicable, that the debt service and operating expenses, including adequate reserves, attributable to such multifamily projects can be supported at the comparable market rent with or without mortgage insurance under the National Housing Act and with or without additional section 8 rental subsidies;

“(B) utilizing section 8 rental assistance, while taking into account the capital needs of the projects and the need for adequate rental assistance to support the low- and very low-income families residing in such projects; and

“(C) preserving low-income rental housing affordability and availability while reducing the long-term cost of section 8 rental assistance.

“(c) GOALS.—

“(1) IN GENERAL.—The Secretary shall carry out the demonstration program in a manner that will protect the financial interests of the Federal Government through debt restructuring and subsidy reduction and, in the least costly fashion, address the goals of—

“(A) maintaining existing affordable housing stock in a decent, safe, and sanitary condition;

“(B) minimizing the involuntary displacement of tenants;

“(C) taking into account housing market conditions;

“(D) encouraging responsible ownership and management of property;

“(E) minimizing any adverse income tax impact on property owners; and

“(F) minimizing any adverse impacts on residential neighborhoods and local communities.

“(2) BALANCE OF COMPETING GOALS.—In determining the manner in which a mortgage is to be restructured or a subsidy reduced under this subsection, the Secretary may balance competing goals relating to individual projects in a manner that will further the purposes of this section.

“(d) PARTICIPATION ARRANGEMENTS.—

“(1) IN GENERAL.—In carrying out the demonstration program, the Secretary may enter into participation arrangements with designees, under which the Secretary may provide for the assumption by designees (by delegation, by contract, or otherwise) of some or all of the functions, obligations, responsibilities and benefits of the Secretary.

“(2) DESIGNEES.—In entering into any arrangement under this subsection, the Secretary shall select state housing finance agencies, housing agencies or nonprofits (separately or in conjunction with each other) to act as designees to the extent such agencies are determined to be qualified by the Secretary. In locations where there is no qualified State housing finance agency, housing agency or nonprofit to act as a designee, the Secretary may act as a designee. Each participation arrangement entered into under this subsection shall include a designee as the primary partner. Any organization selected by the Secretary under this section shall have a long-term record of service in providing low-income housing and meet standards of fiscal responsibility, as determined by the Secretary.

“(3) DESIGNEE PARTNERSHIPS.—For purposes of any participation arrangement under this subsection, designees are encouraged to develop partnerships with each other, and to contract or subcontract with other entities, including—

“(A) public housing agencies;

“(B) financial institutions;

“(C) mortgage servicers;

“(D) nonprofit and for-profit housing organizations;

“(E) the Federal National Mortgage Association;

“(F) the Federal Home Loan Mortgage Corporation;

“(G) Federal Home Loan Banks; and

“(H) other State or local mortgage insurance companies or bank lending consortia.

“(e) LONG-TERM AFFORDABILITY.—

“(1) IN GENERAL.—After the renewal of a section 8 contract pursuant to a restructuring under this section, the owner shall accept each offer to renew the section 8 contract, for a period of 20 years from the date of the renewal under the demonstration, if the offer to renew is on terms and conditions, as agreed to by the Secretary or designee and the owner under a restructuring.

“(2) AFFORDABILITY REQUIREMENTS.—Except as otherwise provided by the Secretary, in exchange for any mortgage restructuring under this section, a project shall remain affordable for a period of not less than 20 years. Affordability requirements shall be determined in accordance with guidelines established by the Secretary or designee. The Secretary or designee may waive these requirements for good cause.

“(f) PROCEDURES.—

“(1) NOTICE OF PARTICIPATION IN DEMONSTRATION.—Not later than 45 days before the date of expiration of an expiring contract (or such later date, as determined by the Secretary, for good cause), the owner of the multifamily housing project covered by that expiring contract shall notify the Secretary or designee

and the residents of the owner's intent to participate in the demonstration program.

“(2) DEMONSTRATION CONTRACT.—Upon receipt of a notice under paragraph (1), the owner and the Secretary or designee shall enter into a demonstration contract, which shall provide for initial section 8 project-based rents at the same rent levels as those under the expiring contract or, if practical, the budget-based rent to cover debt service, reasonable operating expenses (including reasonable and appropriate services), and a reasonable return to the owner, as determined solely by the Secretary. The demonstration contract shall be for the minimum term necessary for the rents and mortgages of the multifamily housing project to be restructured under the demonstration program, but shall not be for a period of time to exceed 180 days, unless extended for good cause by the Secretary.

“(g)(1) PROJECT-BASED SECTION 8.—The Secretary shall renew all expiring contracts under the demonstration as section 8 project-based contracts, for a period of time not to exceed one year, unless otherwise provided under subsection (h) or in paragraph (2).

“(2) The Secretary may renew a demonstration contract for an additional period of not to exceed 120 days, if—

“(A) the contract was originally executed before February 1, 1997, and the Secretary determines, in the sole discretion of the Secretary, that the renewal period for the contract needs to exceed 1 year, due to delay of publication of the Secretary's demonstration program guidelines until January 23, 1997 (not to exceed 21 projects); or

“(B) the contract was originally executed before October 1, 1997, in connection with a project that has been identified for restructuring under the joint venture approach described in section VII.B.2. of the Secretary's demonstration program guidelines, and the Secretary determines, in the sole discretion of the Secretary, that the renewal period for the contract needs to exceed 1 year, due to delay in implementation of the joint venture agreement required by the guidelines (not to exceed 25 projects).

“(h) DEMONSTRATION ACTIONS.—

“(1) DEMONSTRATION ACTIONS.—For purposes of carrying out the demonstration program, and in order to ensure that contract rights are not abrogated, subject to such third party consents as are necessary (if any), including consent by the Government National Mortgage Association if it owns a mortgage insured by the Secretary, consent by an issuer under the mortgage-backed securities program of the Association, subject to the responsibilities of the issuer to its security holders and the Association under such program, and consent by parties to any contractual agreement which the Secretary proposes to modify or discontinue, the Secretary or, except with respect to subparagraph (B), designee, subject to the funding limitation in subsection (l), shall take not less than one of the actions specified in subparagraphs (G), (H), and (I) and may take any of the following actions:

“(A) REMOVAL OF RESTRICTIONS.—

“(i) IN GENERAL.—Consistent with the purposes of this section, subject to the agreement of the owner of the project and after consultation with the tenants of the project, the Secretary or designee may remove, relinquish, extinguish, modify, or agree to the removal of any mortgage, regulatory agreement, project-based assistance contract, use agreement, or restriction that had been imposed or required by the Secretary, including restrictions on distributions of income which the Secretary or designee determines would interfere with the ability of the project to operate without above-market rents.

“(ii) ACCUMULATED RESIDUAL RECEIPTS.—The Secretary or designee may require an owner of a property assisted under the section 8 new construction/substantial rehabilitation program under the United States Housing Act of 1937 [42

U.S.C. 1437 et seq.] to apply any accumulated residual receipts toward effecting the purposes of this section.

“(B) REINSURANCE.—With respect to not more than 5,000 units within the demonstration during fiscal year 1997, the Secretary may enter into contracts to purchase reinsurance, or enter into participations or otherwise transfer economic interest in contracts of insurance or in the premiums paid, or due to be paid, on such insurance, on such terms and conditions as the Secretary may determine. Any contract entered into under this paragraph shall require that any associated units be maintained as low-income units for the life of the mortgage, unless waived by the Secretary for good cause.

“(C) PARTICIPATION BY THIRD PARTIES.—The Secretary or designee may enter into such agreements, provide such concessions, incur such costs, make such grants (including grants to cover all or a portion of the rehabilitation costs for a project) and other payments, and provide other valuable consideration as may reasonably be necessary for owners, lenders, servicers, third parties, and other entities to participate in the demonstration program. The Secretary may establish performance incentives for designees.

“(D) SECTION 8 ADMINISTRATIVE FEES.—Notwithstanding any other provision of law, the Secretary may make fees available from the section 8 contract renewal appropriation to a designee for contract administration under section 8 of the United States Housing Act of 1937 [42 U.S.C. 1437f] for purposes of any contract restructured or renewed under the demonstration program.

“(E) FULL OR PARTIAL PAYMENT OF CLAIM.—Notwithstanding any other provision of law, the Secretary may make a full payment of claim or partial payment of claim prior to default.

“(F) CREDIT ENHANCEMENT.—

“(i) IN GENERAL.—The Secretary or designee may provide FHA multifamily mortgage insurance, reinsurance, or other credit enhancement alternatives, including retaining the existing FHA mortgage insurance on a restructured first mortgage at market value or using the multifamily risk-sharing mortgage programs, as provided under section 542 of the Housing and Community Development Act of 1992 [12 U.S.C. 1707 note]. Any limitations on the number of units available for mortgage insurance under section 542 shall not apply to insurance issued for purposes of the demonstration program.

“(ii) MAXIMUM PERCENTAGE.—During fiscal year 1997, not more than 25 percent of the units in multifamily housing projects with expiring contracts in the demonstration, in the aggregate, may be restructured without FHA insurance, unless otherwise agreed to by the owner of a project.

“(iii) CREDIT SUBSIDY.—Any credit subsidy costs of providing mortgage insurance shall be paid from amounts made available under subsection (l).

“(G) MORTGAGE RESTRUCTURING.—

“(i) IN GENERAL.—The Secretary or designee may restructure mortgages to provide a restructured first mortgage to cover debt service and operating expenses (including a reasonable rate of return to the owner) at the market rent, and a second mortgage equal to the difference between the restructured first mortgage and the mortgage balance of the eligible multifamily housing project at the time of restructuring.

“(ii) CREDIT SUBSIDY.—Any credit subsidy costs of providing a second mortgage shall be paid from amounts made available under subsection (l).

“(H) DEBT FORGIVENESS.—The Secretary or designee, for good cause and at the request of the owner of a multifamily housing project, may forgive at the time of the restructuring of a mortgage

any portion of a debt on the project that exceeds the market value of the project.

“(I) BUDGET-BASED RENTS.—The Secretary or designee may renew an expiring contract, including a contract for a project in which operating costs exceed comparable market rents, for a period of not more than one year, at a budget-based rent that covers debt service, reasonable operating expenses (including all reasonable and appropriate services), and a reasonable rate of return to the owner, as determined solely by the Secretary, provided that the contract does not exceed the rent levels under the expiring contract. The Secretary may establish a preference under the demonstration program for budget-based rents for unique housing projects, such as projects designated for occupancy by elderly families and projects in rural areas.

“(J) SECTION 8 TENANT-BASED ASSISTANCE.—For not more than 10 percent of units in multifamily housing projects that have had their mortgages restructured in any fiscal year under the demonstration, the Secretary or designee may provide, with the agreement of an owner and in consultation with the tenants of the housing, section 8 tenant-based assistance for some or all of the assisted units in a multifamily housing project in lieu of section 8 project-based assistance. Section 8 tenant-based assistance may only be provided where the Secretary determines and certifies that there is adequate available and affordable housing within the local area and that tenants will be able to use the section 8 tenant-based assistance successfully.

“(2) OFFER AND ACCEPTANCE.—Notwithstanding any other provision of law, an owner of a project in the demonstration must accept any reasonable offer made by the Secretary or a designee under this subsection. An owner may appeal the reasonableness of any offer to the Secretary and the Secretary shall respond within 30 days of the date of appeal with a final offer. If the final offer is not acceptable, the owner may opt out of the program.

“(i) COMMUNITY AND TENANT INPUT.—In carrying out this section, the Secretary shall develop procedures to provide appropriate and timely notice, including an opportunity for comment and timely access to all relevant information, to officials of the unit of general local government affected, the community in which the project is situated, and the tenants of the project.

“(j) TRANSFER OF PROPERTY.—The Secretary shall establish procedures to facilitate the voluntary sale or transfer of multifamily housing projects under the demonstration to tenant organizations and tenant-endorsed community-based nonprofit and public agency purchasers meeting such reasonable qualifications as may be established by the Secretary.

“(k) LIMITATION ON DEMONSTRATION AUTHORITY.—The Secretary shall carry out the demonstration program with respect to mortgages not to exceed 50,000 units.

“(l) FUNDING.—In addition to the \$30,000,000 made available under section 210 of the Departments of Veterans Affairs and Housing and Urban Development and Independent Agencies Appropriations Act, 1996 (110 Stat. 1321) [section 101(e) [title II, §210] of Pub. L. 104-134, formerly set out as a note below], for the costs (including any credit subsidy costs associated with providing direct loans or mortgage insurance) of modifying and restructuring loans held or guaranteed by the Federal Housing Administration, as authorized under this section, \$10,000,000 is hereby appropriated, to remain available until September 30, 1998.

“(m) REPORT TO CONGRESS.—

“(1) IN GENERAL.—

“(A) QUARTERLY REPORTS.—Not less than every 3 months, the Secretary shall submit to the Congress a report describing and assessing the status of the projects in the demonstration program.

“(B) FINAL REPORT.—Not later than 6 months after the end of the demonstration program, the Secretary shall submit to the Congress a final report on the demonstration program.

“(2) CONTENTS.—Each report submitted under paragraph (1)(A) shall include a description of—

“(A) each restructuring proposal submitted by an owner of a multifamily housing project, including a description of the physical, financial, tenancy, and market characteristics of the project;

“(B) the Secretary’s evaluation and reasons for each multifamily housing project selected or rejected for participation in the demonstration program;

“(C) the costs to the FHA General Insurance and Special Risk Insurance funds;

“(D) the subsidy costs provided before and after restructuring;

“(E) the actions undertaken in the demonstration program, including the third-party arrangements made; and

“(F) the demonstration program’s impact on the owners of the projects, including any tax consequences.

“(3) CONTENTS OF FINAL REPORT.—The report submitted under paragraph (1)(B) shall include—

“(A) the required contents under paragraph (2); and

“(B) any findings and recommendations for legislative action.”

Section 101(e) [title II, §210] of title I of Pub. L. 104-134, Apr. 26, 1996, 110 Stat. 1321-257, 1321-285; renumbered title I, Pub. L. 104-140, §1(a), May 2, 1996, 110 Stat. 1327, which authorized the Secretary of Housing and Urban Development on and after Oct. 1, 1995, and before Oct. 1, 1997, to initiate a FHA multifamily demonstration program, was repealed by Pub. L. 104-204, title II, §212(a)(1)(A), Sept. 26, 1996, 110 Stat. 2897.

#### PUBLIC HOUSING MOVING TO WORK DEMONSTRATION

Section 101(e) [title II, §204] of Pub. L. 104-134, as amended by Pub. L. 105-276, title V, §522(b)(3), Oct. 21, 1998, 112 Stat. 2564, provided that:

“(a) PURPOSE.—The purpose of this demonstration is to give public housing agencies and the Secretary of Housing and Urban Development the flexibility to design and test various approaches for providing and administering housing assistance that: reduce cost and achieve greater cost effectiveness in Federal expenditures; give incentives to families with children where the head of household is working, seeking work, or is preparing for work by participating in job training, educational programs, or programs that assist people to obtain employment and become economically self-sufficient; and increase housing choices for low-income families.

“(b) PROGRAM AUTHORITY.—The Secretary of Housing and Urban Development shall conduct a demonstration program under this section beginning in fiscal year 1996 under which up to 30 public housing agencies (including Indian housing authorities) administering the public or Indian housing program and the section 8 [42 U.S.C. 1437f] housing assistance payments program may be selected by the Secretary to participate. The Secretary shall provide training and technical assistance during the demonstration and conduct detailed evaluations of up to 15 such agencies in an effort to identify replicable program models promoting the purpose of the demonstration. Under the demonstration, notwithstanding any provision of the United States Housing Act of 1937 [42 U.S.C. 1437 et seq.] except as provided in subsection (e), an agency may combine operating assistance provided under section 9 of the United States Housing Act of 1937 [42 U.S.C. 1437g], modernization assistance provided under section 14 of such Act [42 U.S.C. 1437j], and assistance provided under section 8 of such Act for the certificate and voucher programs, to provide housing assistance for low-income families, as defined in section 3(b)(2) of the United States Housing Act of 1937 [42 U.S.C. 1437a(b)(2)], and services to facilitate the transition to work on such terms and conditions as the agency may propose and the Secretary may approve.

“(c) APPLICATION.—An application to participate in the demonstration—

“(1) shall request authority to combine assistance under sections 8, 9, and 14 of the United States Housing Act of 1937 [42 U.S.C. 1437f, 1437g, 1437j];

“(2) shall be submitted only after the public housing agency provides for citizen participation through a public hearing and, if appropriate, other means;

“(3) shall include a plan developed by the agency that takes into account comments from the public hearing and any other public comments on the proposed program, and comments from current and prospective residents who would be affected, and that includes criteria for—

“(A) families to be assisted, which shall require that at least 75 percent of the families assisted by participating demonstration public housing authorities shall be very low-income families, as defined in section 3(b)(2) of the United States Housing Act of 1937 [42 U.S.C. 1437a(b)(2)];

“(B) establishing a reasonable rent policy, which shall be designed to encourage employment and self-sufficiency by participating families, consistent with the purpose of this demonstration, such as by excluding some or all of a family’s earned income for purposes of determining rent;

“(C) continuing to assist substantially the same total number of eligible low-income families as would have been served had the amounts not been combined;

“(D) maintaining a comparable mix of families (by family size) as would have been provided had the amounts not been used under the demonstration; and

“(E) assuring that housing assisted under the demonstration program meets housing quality standards established or approved by the Secretary; and

“(4) may request assistance for training and technical assistance to assist with design of the demonstration and to participate in a detailed evaluation.

“(d) SELECTION.—In selecting among applications, the Secretary shall take into account the potential of each agency to plan and carry out a program under the demonstration, the relative performance by an agency under the public housing management assessment program under section 6(j) of the United States Housing Act of 1937 [42 U.S.C. 1437d(j)], and other appropriate factors as determined by the Secretary.

“(e) APPLICABILITY OF 1937 ACT PROVISIONS.—

“(1) Section 18 of the United States Housing Act of 1937 [42 U.S.C. 1437p] shall continue to apply to public housing notwithstanding any use of the housing under this demonstration.

“(2) Section 12 of such Act [42 U.S.C. 1437j] shall apply to housing assisted under the demonstration, other than housing assisted solely due to occupancy by families receiving tenant-based assistance.

“(f) EFFECT ON SECTION 8, OPERATING SUBSIDIES, AND COMPREHENSIVE GRANT PROGRAM ALLOCATIONS.—The amount of assistance received under section 8, section 9, or pursuant to section 14 [42 U.S.C. 1437f, 1437g, 1437j] by a public housing agency participating in the demonstration under this part [section] shall not be diminished by its participation.

“(g) RECORDS, REPORTS, AND AUDITS.—

“(1) KEEPING OF RECORDS.—Each agency shall keep such records as the Secretary may prescribe as reasonably necessary to disclose the amounts and the disposition of amounts under this demonstration, to ensure compliance with the requirements of this section, and to measure performance.

“(2) REPORTS.—Each agency shall submit to the Secretary a report, or series of reports, in a form and at a time specified by the Secretary. Each report shall—

“(A) document the use of funds made available under this section;

“(B) provide such data as the Secretary may request to assist the Secretary in assessing the demonstration; and

“(C) describe and analyze the effect of assisted activities in addressing the objectives of this part [section].

“(3) ACCESS TO DOCUMENTS BY THE SECRETARY.—The Secretary shall have access for the purpose of audit and examination to any books, documents, papers, and records that are pertinent to assistance in connection with, and the requirements of, this section.

“(4) ACCESS TO DOCUMENTS BY THE COMPTROLLER GENERAL.—The Comptroller General of the United States, or any of the duly authorized representatives of the Comptroller General, shall have access for the purpose of audit and examination to any books, documents, papers, and records that are pertinent to assistance in connection with, and the requirements of, this section.

“(h) EVALUATION AND REPORT.—

“(1) CONSULTATION WITH PHA AND FAMILY REPRESENTATIVES.—In making assessments throughout the demonstration, the Secretary shall consult with representatives of public housing agencies and residents.

“(2) REPORT TO CONGRESS.—Not later than 180 days after the end of the third year of the demonstration, the Secretary shall submit to the Congress a report evaluating the programs carried out under the demonstration. The report shall also include findings and recommendations for any appropriate legislative action.

“(i) FUNDING FOR TECHNICAL ASSISTANCE AND EVALUATION.—From amounts appropriated for assistance under section 14 of the United States Housing Act of 1937 [42 U.S.C. 1437j] for fiscal years 1996, 1997, and 1998, the Secretary may use up to a total of \$5,000,000—

“(1) to provide, directly or by contract, training and technical assistance—

“(A) to public housing agencies that express an interest to apply for training and technical assistance pursuant to subsection (c)(4), to assist them in designing programs to be proposed for the demonstration; and

“(B) to up to 10 agencies selected to receive training and technical assistance pursuant to subsection (c)(4), to assist them in implementing the approved program; and

“(2) to conduct detailed evaluations of the activities of the public housing agencies under paragraph (1)(B), directly or by contract.

“(j) CAPITAL AND OPERATING FUND ASSISTANCE.—With respect to any public housing agency participating in the demonstration under this section that receives assistance from the Capital or Operating Fund under section 9 of the United States Housing Act of 1937 [42 U.S.C. 1437g] (as amended by the Quality Housing and Work Responsibility Act of 1998), for purposes of this section—

“(1) any reference to assistance under section 9 of the United States Housing Act of 1937 shall be considered to refer also to assistance provided from the Operating Fund under section 9(e) of such Act (as so amended); and

“(2) any reference to assistance under section 14 of the United States Housing Act of 1937 [former 42 U.S.C. 1437j] shall be considered to refer also to assistance provided from the Capital Fund under section 9(d) of such Act (as so amended).”

#### PROHIBITION AGAINST PREFERENCES WITH RESPECT TO CERTAIN PROJECTS

Pub. L. 104–99, title IV, § 402(d)(4)(B), Jan. 26, 1996, 110 Stat. 42, provided that: “Notwithstanding any other provision of law, no Federal tenant selection preferences under the United States Housing Act of 1937 [42 U.S.C. 1437 et seq.] shall apply with respect to—

“(i) housing constructed or substantially rehabilitated pursuant to assistance provided under section 8(b)(2) of the United States Housing Act of 1937 [42 U.S.C. 1437f(b)(2)] (as such section existed on the day before October 1, 1983); or

“(ii) projects financed under section 202 of the Housing Act of 1959 [12 U.S.C. 1701q] (as such section



existed on the day before the date of enactment of the Cranston-Gonzalez National Affordable Housing Act [Nov. 28, 1990].”

[Pub. L. 105-276, title V, §514(c)(2), Oct. 21, 1998, 112 Stat. 2548, provided that: “Notwithstanding any other provision of law (including subsection (f) of this section [set out as an Effective and Termination Dates of 1996 Amendments note under section 1437a of this title]), section 402(d)(4)(B) of The Balanced Budget Downpayment Act, I [Pub. L. 104-99, set out above] (42 U.S.C. 1437a note) shall apply to fiscal year 1999 and thereafter.”]

[Section 402(d)(4)(B) of Pub. L. 104-99, set out above, effective Jan. 26, 1996, only for fiscal years 1996, 1997, and 1998, and to cease to be effective Oct. 21, 1998, see section 402(f) of Pub. L. 104-99, as amended, and section 514(f) of Pub. L. 105-276, set out as Effective and Termination Dates of 1996 Amendments notes under section 1437a of this title.]

#### COMMUNITY INVESTMENT DEMONSTRATION PROGRAM

Pub. L. 103-120, §6, Oct. 27, 1993, 107 Stat. 1148, as amended by Pub. L. 104-316, title I, §122(j), Oct. 19, 1996, 110 Stat. 3837, provided that:

“(a) DEMONSTRATION PROGRAM.—The Secretary shall carry out a demonstration program to attract pension fund investment in affordable housing through the use of project-based rental assistance under section 8 of the United States Housing Act of 1937 [42 U.S.C. 1437f].

“(b) FUNDING REQUIREMENTS.—In carrying out this section, the Secretary shall ensure that not less than 50 percent of the funds appropriated for the demonstration program each year are used in conjunction with the disposition of either—

“(1) multifamily properties owned by the Department; or

“(2) multifamily properties securing mortgages held by the Department.

“(c) CONTRACT TERMS.—

“(1) IN GENERAL.—Project-based assistance under this section shall be provided pursuant to a contract entered into by the Secretary and the owner of the eligible housing that—

“(A) provides assistance for a term of not less than 60 months and not greater than 180 months; and

“(B) provides for contract rents, to be determined by the Secretary, which shall not exceed contract rents permitted under section 8 of the United States Housing Act of 1937 [42 U.S.C. 1437f], taking into consideration any costs for the construction, rehabilitation, or acquisition of the housing.

“(2) AMENDMENT TO SECTION 203.—[Amended section 1701z-11 of Title 12, Banks and Banking.]

“(d) LIMITATION.—(1) The Secretary may not provide (or make a commitment to provide) more than 50 percent of the funding for housing financed by any single pension fund, except that this limitation shall not apply if the Secretary, after the end of the 6-month period beginning on the date notice is issued under subsection (e)—

“(A) determines that—

“(i) there are no expressions of interest that are likely to result in approvable applications in the reasonably foreseeable future; or

“(ii) any such expressions of interest are not likely to use all funding under this section; and

“(B) so informs the Committee on Banking, Finance and Urban Affairs [now Committee on Financial Services] of the House of Representatives and the Committee on Banking, Housing, and Urban Affairs of the Senate.

“(2) If the Secretary determines that there are expressions of interest referred to in paragraph (1)(A)(ii), the Secretary may reserve funding sufficient in the Secretary’s determination to fund such applications and may use any remaining funding for other pension funds in accordance with this section.

“(e) IMPLEMENTATION.—The Secretary shall by notice establish such requirements as may be necessary to

carry out the provisions of this section. The notice shall take effect upon issuance.

“(f) APPLICABILITY OF ERISA.—Notwithstanding section 514(d) of the Employee Retirement Income Security Act of 1974 [29 U.S.C. 1144(d)], nothing in this section shall be construed to authorize any action or failure to act that would constitute a violation of such Act [29 U.S.C. 1001 et seq.].

“(g) REPORT.—Not later than 3 months after the last day of each fiscal year, the Secretary shall submit to the Committee on Banking, Finance and Urban Affairs [now Committee on Financial Services] of the House of Representatives and the Committee on Banking, Housing, and Urban Affairs of the Senate a report summarizing the activities carried out under this section during that fiscal year.

“(h) ESTABLISHMENT OF STANDARDS.—Mortgages secured by housing assisted under this demonstration shall meet such standards regarding financing and securitization as the Secretary may establish.

“(i) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated \$100,000,000 for fiscal year 1994 to carry out this section.

“(j) Redesignated (i).]

“(k) TERMINATION DATE.—The Secretary shall not enter into any new commitment to provide assistance under this section after September 30, 1998.”

#### ADMINISTRATIVE FEES FOR CERTIFICATE AND HOUSING VOUCHER PROGRAMS DURING FISCAL YEAR 1994

Pub. L. 103-120, §11(a), Oct. 27, 1993, 107 Stat. 1151, provided that: “Notwithstanding the second sentence of section 8(q)(1) of the United States Housing Act of 1937 [42 U.S.C. 1437f(q)(1)], other applicable law, or any implementing regulations and related requirements, the fee for the ongoing costs of administering the certificate and housing voucher programs under subsections (b) and (o) of section 8 of such Act during fiscal year 1994 shall be—

“(1) not less than a fee calculated in accordance with the fair market rents for Federal fiscal year 1993; or

“(2) not more than—

“(A) a fee calculated in accordance with section 8(q) of such Act, except that such fee shall not be in excess of 3.5 percent above the fee calculated in accordance with paragraph (1); or

“(B) to the extent approved in an appropriation Act, a fee calculated in accordance with such section 8(q).”

#### EFFECTIVENESS OF ASSISTANCE FOR PHA-OWNED UNITS

Section 150 of Pub. L. 102-550 provided that: “The amendments made by section 548 of the Cranston-Gonzalez National Affordable Housing Act [Pub. L. 101-625, amending this section] shall be effective notwithstanding the absence of any regulations issued by the Secretary of Housing and Urban Development.”

#### MOVING TO OPPORTUNITY FOR FAIR HOUSING

Section 152 of Pub. L. 102-550, as amended by Pub. L. 103-120, §3, Oct. 27, 1993, 107 Stat. 1148, which directed Secretary of Housing and Urban Development to carry out demonstration program in eligible cities to provide tenant-based assistance to very low-income families with children to move out of areas of high concentrations of persons living in poverty to areas with low concentrations of such persons, required biennial report to Congress evaluating effectiveness and final report not later than Sept. 30, 2004, provided for increased funding under section 1437c(c) of this title to carry out demonstration, and authorized implementation by notice of requirements necessary to carry out program, was repealed by Pub. L. 105-276, title V, §550(f), Oct. 21, 1998, 112 Stat. 2610.

#### DIRECTIVE TO FURTHER FAIR HOUSING OBJECTIVES UNDER CERTIFICATE AND VOUCHER PROGRAMS

Section 153 of Pub. L. 102-550, which directed Secretary of Housing and Urban Development, not later

than 2 years after Oct. 28, 1992, to review and comment upon study prepared pursuant to section 558(3) of Pub. L. 101-625, formerly set out as a note below, to evaluate implementation and effects of existing demonstration and judicially mandated programs, to assess factors that might impede geographic dispersion of families receiving section 8 certificates and vouchers, to identify and implement administrative revisions that would enhance dispersion and tenant choice, and to submit report to Congress describing findings, actions taken, and recommendations, was repealed by Pub. L. 105-276, title V, §582(a)(3), Oct. 21, 1998, 112 Stat. 2643.

#### INAPPLICABILITY OF CERTAIN 1992 AMENDMENTS TO INDIAN PUBLIC HOUSING

Amendment by section 623(b) of Pub. L. 102-550 not applicable with respect to lower income housing developed or operated pursuant to contract between Secretary of Housing and Urban Development and Indian housing authority, see section 626 of Pub. L. 102-550, set out as a note under section 1437a of this title.

#### TERMINATION OF EXISTING HOUSING PROGRAMS

Except with respect to projects and programs for which binding commitments have been entered into prior to Oct. 1, 1991, no new grants or loans to be made after Oct. 1, 1991, under subsec. (e)(2) of this section except for funds allocated under such section for single room occupancy dwellings as authorized by subchapter IV (§11361 et seq.) of chapter 119 of this title, see section 12839(a)(4) of this title.

#### PUBLIC HOUSING MIXED INCOME NEW COMMUNITIES STRATEGY DEMONSTRATION

Section 522 of Pub. L. 101-625, as amended by Pub. L. 104-66, title I, §1071(b), Dec. 21, 1995, 109 Stat. 720; Pub. L. 104-99, title IV, §402(d)(6)(B), Jan. 26, 1996, 110 Stat. 43, which directed Secretary of Housing and Urban Development to carry out program to demonstrate effectiveness of promoting revitalization of troubled urban communities through provision of public housing in socioeconomically mixed settings, directed appointment of coordinating committees to develop implementation plans, set forth scope of program including provision of supportive services, required report to Congress evaluating program's effectiveness and including findings and recommendations, and provided for termination of the program 10 years after Nov. 28, 1990, was repealed by Pub. L. 105-276, title V, §582(a)(10), Oct. 21, 1998, 112 Stat. 2644.

#### STUDY OF PUBLIC HOUSING FUNDING SYSTEM

Section 524 of Pub. L. 101-625 directed Secretary of Housing and Urban Development to conduct a study assessing one or more revised methods of providing sufficient Federal funds to public housing agencies for operation, maintenance and modernization of public housing, which study was to include a comparison of existing methods of funding in public housing with those used by Department of Housing and Urban Development in housing assisted under this section and a review of results of study entitled "Alternative Operating Subsidies Systems for the Public Housing Program", with an update of such study as necessary, and to submit a report to Congress not later than 12 months after Nov. 28, 1990, detailing the findings of this study.

#### STUDY OF PROSPECTIVE PAYMENT SYSTEM FOR PUBLIC HOUSING

Section 525 of Pub. L. 101-625 directed Secretary of Housing and Urban Development to conduct a study assessing one or more revised methods of providing Federal housing assistance through local public housing agencies, examining methods of prospective payment, including the conversion of PHA operating assistance, modernization, and other Federal housing assistance to a schedule of steady and predictable capitated Federal payments on behalf of low income public housing tenants, and making specific assessments and to submit a

report to Congress not later than 12 months after Nov. 28, 1990.

#### GAO STUDY OF ALTERNATIVES IN PUBLIC HOUSING DEVELOPMENT

Section 526 of Pub. L. 101-625 directed Comptroller General to conduct a study assessing alternative methods of developing public housing dwelling units, other than under the existing public housing development program under this chapter, and submit a report to Congress regarding the findings and conclusions of the study not later than 12 months after Nov. 28, 1990.

#### PREFERENCE FOR NEW CONSTRUCTION UNDER THIS SECTION

Section 545(c) of Pub. L. 101-625, as amended by Pub. L. 104-99, title IV, §402(d)(4)(A), Jan. 26, 1996, 110 Stat. 42, which provided that, with respect to housing constructed or substantially rehabilitated pursuant to assistance provided under subsec. (b)(2) of this section, as such provisions existed before Oct. 1, 1983, and projects financed under section 1701q of Title 12, Banks and Banking, notwithstanding tenant selection criteria under contract between Secretary and owner pursuant to first sentence of such section, for at least 70 percent of units becoming available, tenant selection criteria for such housing was to give preference to families occupying substandard housing (including homeless families and those living in shelters), paying more than 50 percent of family income for rent, or involuntarily displaced, and system of local preferences established under subsec. (d)(1)(A)(ii) of this section by public housing agency was to apply to remaining units that became available, to extent that such preferences were applicable with respect to tenant eligibility limitations, was repealed by Pub. L. 105-276, title V, §514(c)(1), Oct. 21, 1998, 112 Stat. 2548.

#### DOCUMENTATION OF EXCESSIVE RENT BURDENS

Section 550(b) of Pub. L. 101-625 provided that:

"(1) DATA.—The Secretary of Housing and Urban Development shall collect and maintain, in an automated system, data describing the characteristics of families assisted under the certificate and voucher programs established under section 8 of the United States Housing Act of 1937 [42 U.S.C. 1437f], which data shall include the share of family income paid toward rent.

"(2) REPORT.—Not less than annually, the Secretary shall submit a report to the Congress setting forth, for each of the certificate program and the voucher program, the percentage of families participating in the program who are paying for rent more than the amount determined under section 3(a)(1) of such Act [42 U.S.C. 1437a(a)(1)]. The report shall set forth data in appropriate categories, such as various areas of the country, types and sizes of public housing agencies, types of families, and types or markets. The data shall identify the jurisdictions in which more than 10 percent of the families assisted under section 8 of such Act pay for rent more than the amount determined under section 3(a)(1) of such Act and the report shall include an examination of whether the fair market rent for such areas is appropriate. The report shall also include any recommendations of the Secretary for legislative and administrative actions appropriate as a result of analysis of the data.

"(3) AVAILABILITY OF DATA.—The Secretary shall make available to each public housing agency administering assistance under the certificate or voucher program any data maintained under this subsection that relates to the public housing agency."

[For termination, effective May 15, 2000, of reporting provisions in section 550(b)(2) of Pub. L. 101-625, set out above, see section 3003 of Pub. L. 104-66, as amended, set out as a note under section 1113 of Title 31, Money and Finance, and item 16 on page 103 of House Document No. 103-7.]

INCOME ELIGIBILITY FOR TENANCY IN NEW  
CONSTRUCTION UNITS

Section 555 of Pub. L. 101-625 provided that: "Any dwelling units in any housing constructed or substantially rehabilitated pursuant to assistance provided under section 8(b)(2) of the United States Housing Act of 1937 [42 U.S.C. 1437f(b)(2)], as such section existed before October 1, 1983, and with a contract for assistance under such section, shall be reserved for occupancy by low-income families and very low-income families."

GAO STUDY REGARDING FAIR MARKET RENT  
CALCULATION

Section 558 of Pub. L. 101-625 directed Comptroller General to conduct a study to examine fair market rentals under subsec. (c)(1) of this section which are wholly contained within such market areas and submit a report to Congress not later than 18 months after Nov. 28, 1990, regarding findings and conclusions.

STUDY OF UTILIZATION RATES

Section 559 of Pub. L. 101-625 directed Secretary of Housing and Urban Development to conduct a study of reasons for success or failure, within appropriate cities and localities, in utilizing assistance made available for such areas under this section and submit a report to Congress concerning this study not later than the expiration of the 1-year period beginning on Nov. 28, 1990.

FEASIBILITY STUDY REGARDING INDIAN TRIBE  
ELIGIBILITY FOR VOUCHER PROGRAM

Section 561 of Pub. L. 101-625 directed Secretary of Housing and Urban Development to conduct a study to determine feasibility and effectiveness of entering into contracts with Indian housing authorities to provide voucher assistance under subsec. (o) of this section and submit a report to Congress regarding findings and conclusions not later than the expiration of the 1-year period beginning on Nov. 28, 1990.

STUDY OF PRIVATE NONPROFIT INITIATIVES

Section 582 of Pub. L. 101-625 directed Secretary of Housing and Urban Development to conduct a study to examine how private nonprofit initiatives to provide low-income housing development in local communities across the country have succeeded, with particular emphasis on how Federal housing policy and tax structures can best promote local private nonprofit organizations involvement in low-income housing development, and submit a report to Congress regarding findings not later than 1-year after Nov. 28, 1990.

PREFERENCES FOR NATIVE HAWAIIANS ON HAWAIIAN  
HOMELANDS UNDER HUD PROGRAMS

Section 958 of Pub. L. 101-625, which directed Secretary of Housing and Urban Development to provide preferences for housing assistance programs to native Hawaiians in subsec. (a), described assistance programs available in subsec. (b), authorized Secretary to provide mortgage insurance in certain situations in subsec. (c), and defined pertinent terms in subsec. (d), was repealed by Pub. L. 102-238, § 5(b), Dec. 17, 1991, 105 Stat. 1910.

AUTHORIZATION FOR PROVISION OF ASSISTANCE TO PROGRAMS ADMINISTERED BY STATE OF HAWAII UNDER ACT OF JULY 9, 1921

Section 962 of Pub. L. 101-625, as added by Pub. L. 102-238, § 5(a), Dec. 17, 1991, 105 Stat. 1909, provided that:

"(a) ASSISTANCE AUTHORIZED.—The Secretary of Housing and Urban Development is authorized to provide assistance, under any housing assistance program administered by the Secretary, to the State of Hawaii, for use by the State in meeting the responsibilities with which it has been charged under the provisions of the Act of July 9, 1921 (42 Stat. 108) [formerly 48 U.S.C. 691-718].

"(b) MORTGAGE INSURANCE.—

"(1) IN GENERAL.—Notwithstanding any other provision or limitation of this Act [see Short Title note

set out under section 12701 of this title], or the National Housing Act [12 U.S.C. 1701 et seq.], including those relating to marketability of title, the Secretary of Housing and Urban Development may provide mortgage insurance covering any property on lands set aside under the provisions of the Act of July 9, 1921 (42 Stat. 108), upon which there is or will be located a multifamily residence, for which the Department of the Hawaiian Home Lands of the State of Hawaii—

"(A) is the mortgagor or co-mortgagor;

"(B) guarantees in writing to reimburse the Secretary for any mortgage insurance claim paid in connection with such property; or

"(C) offers other security that is acceptable to the Secretary, subject to appropriate conditions prescribed by the Secretary.

"(2) SALE ON DEFAULT.—In the event of a default on a mortgage insured pursuant to paragraph (1), the Department of Hawaiian Home Lands of the State of Hawaii may sell the insured property or housing unit to an eligible beneficiary as defined in the Act of July 9, 1921 (42 Stat. 108)."

ANNUAL ADJUSTMENT FACTORS FOR RENTS UNDER  
LOWER-INCOME HOUSING ASSISTANCE PROGRAM

Section 801(a), (b), (d), (e) of Pub. L. 101-235 provided that:

"(a) EFFECT OF PRIOR COMPARABILITY STUDIES.—

"(1) IN GENERAL.—In any case in which, in implementing section 8(c)(2) of the United States Housing Act of 1937 [42 U.S.C. 1437f(c)(2)]—

"(A) the use of comparability studies by the Secretary of Housing and Urban Development or the appropriate State agency as an independent limitation on the amount of rental adjustments resulting from the application of an annual adjustment factor under such section has resulted in the reduction of the maximum monthly rent for units covered by the contract or the failure to increase such contract rent to the full amount otherwise permitted under the annual adjustment factor, or

"(B) an assistance contract requires a project owner to make a request before becoming eligible for a rent adjustment under the annual adjustment factor and the project owner certifies that such a request was not made because of anticipated negative adjustment to the project rents,

for fiscal year 1980, and annually thereafter until regulations implementing this section take effect, rental adjustments shall be calculated as an amount equal to the annual adjustment factor multiplied by a figure equal to the contract rent minus the amount of contract rent attributable to debt service. Upon the request of the project owner, the Secretary shall pay to the project owner the amount, if any, by which the total rental adjustment calculated under the preceding sentence exceeds the total adjustments the Secretary or appropriate State agency actually approved, except that solely for purposes of calculating retroactive payments under this subsection, in no event shall any project owner be paid an amount less than 30 percent of a figure equal to the aggregate of the annual adjustment factor multiplied by the full contract rent for each year on or after fiscal year 1980, minus the sum of the rental payments the Secretary or appropriate State agency actually approved for those years. The method provided by this subsection shall be the exclusive method by which retroactive payments, whether or not requested, may be made for projects subject to this subsection for the period from fiscal year 1980 until the regulations issued under subsection (e) take effect. For purposes of this paragraph, 'debt service' shall include interest, principal, and mortgage insurance premium if any.

"(2) APPLICABILITY.—

"(A) IN GENERAL.—Subsection (a) shall apply with respect to any use of comparability studies referred to in such subsection occurring before the effective date of the regulations issued under subsection (e).

“(B) FINAL LITIGATION.—Subsection (a) shall not apply to any project with respect to which litigation regarding the authority of the Secretary to use comparability studies to limit rental adjustments under section 8(c)(2) of the United States Housing Act of 1937 has resulted in a judgment before the effective date of this Act [Dec. 15, 1989] that is final and not appealable (including any settlement agreement).

“(b) 3-YEAR PAYMENTS.—The Secretary shall provide the amounts under subsection (a) over the 3-year period beginning on the effective date of the regulations issued under subsection (e). The Secretary shall provide the payments authorized under subsection (a) only to the extent approved in subsequent appropriations Acts. There are authorized to be appropriated such sums as may be necessary for this purpose.

“(d) DETERMINATION OF CONTRACT RENT.—(1) The Secretary shall upon the request of the project owner, make a one-time determination of the contract rent for each project owner referred to in subsection (a). The contract rent shall be the greater of the contract rent—

“(A) currently approved by the Secretary under section 8(c)(2) of the United States Housing Act of 1937 [42 U.S.C. 1437f(c)(2)], or

“(B) calculated in accordance with the first sentence of subsection (a)(1).

“(2) All adjustments in contract rents under section 8(c)(2) of the United States Housing Act of 1937, including adjustments involving projects referred to in subsection (a), that occur beginning with the first anniversary date of the contract after the regulations issued under subsection (e) take effect shall be made in accordance with the annual adjustment and comparability provisions of sections 8(c)(2)(A) and 8(c)(2)(C) of such Act, respectively, using the one-time contract rent determination under paragraph (1).

“(e) REGULATIONS.—The Secretary shall issue regulations to carry out this section and the amendments made by this section [amending this section], including the amendments made by subsection (c) with regard to annual adjustment factors and comparability studies. The Secretary shall issue such regulations not later than the expiration of the 180-day period beginning on the date of the enactment of this Act [Dec. 15, 1989].”

#### PROHIBITION OF REDUCTION OF CONTRACT RENTS; BUDGET COMPLIANCE

Section 1004(b) of Pub. L. 100-628 provided that: “During fiscal year 1989, the amendment made by subsection (a)(2) [amending this section] shall be effective only to such extent or in such amounts as are provided in appropriation Acts. For purposes of section 202 of the Balanced Budget and Emergency Deficit Control Reaffirmation Act of 1987 (Public Law 100-119) [2 U.S.C. 909], to the extent that this section has the effect of transferring an outlay of the United States from one fiscal year to an adjacent fiscal year, the transfer is a necessary (but secondary) result of a significant policy change.”

#### PROJECT-BASED LOWER-INCOME HOUSING ASSISTANCE; IMPLEMENTATION OF PROGRAM

Section 1005(a) of Pub. L. 100-628 provided that: “To implement the amendment made by section 148 of the Housing and Community Development Act of 1987 [Pub. L. 100-242, see 1988 Amendment note above], the Secretary of Housing and Urban Development shall issue regulations that take effect not later than 30 days after the date of the enactment of this Act [Nov. 7, 1988]. Until the effective date of the regulations, the Secretary of Housing and Urban Development shall consider each application from a public housing agency to attach a contract for assistance payments to a structure, in accordance with the amendment made by such section 148 to section 8(d)(2) of the United States Housing Act of 1937 (42 U.S.C. 1437f(d)(2)), and shall promptly

approve such application if it meets the requirements of such section 8(d)(2).”

#### PROJECT-BASED LOWER-INCOME HOUSING ASSISTANCE IN NEW CONSTRUCTION; REGULATIONS IMPLEMENTING PROGRAM

Section 1005(b)(2) of Pub. L. 100-628 provided that: “To implement the amendments made by this subsection [amending this section], the Secretary of Housing and Urban Development shall issue regulations that take effect not later than 90 days after the date of the enactment of this Act [Nov. 7, 1988].”

#### USE OF FUNDS RECAPTURED FROM REFINANCING STATE AND LOCAL FINANCE PROJECTS

Section 1012 of Pub. L. 100-628, as amended by Pub. L. 102-273, §2(a), (c)(1), Apr. 21, 1992, 106 Stat. 113; Pub. L. 102-550, title I, §163, Oct. 28, 1992, 106 Stat. 3722, provided that:

“(a) DEFINITION OF QUALIFIED PROJECT.—For purposes of this section, the term ‘qualified project’ means any State financed project or local government or local housing agency financed project, that—

“(1) was—

“(A) provided a financial adjustment factor under section 8 of the United States Housing Act of 1937 [42 U.S.C. 1437f]; or

“(B) constructed or substantially rehabilitated pursuant to assistance provided under a contract under section 8(b)(2) of the United States Housing Act of 1937 (as in effect on September 30, 1983) entered into during any of calendar years 1979 through 1984; and

“(2) is being refinanced.

“(b) AVAILABILITY OF FUNDS.—The Secretary shall make available to the State housing finance agency in the State in which a qualified project is located, or the local government or local housing agency initiating the refinancing of the qualified project, as applicable, an amount equal to 50 percent of the amounts recaptured from the project (as determined by the Secretary on a project-by-project basis). Notwithstanding any other provision of law, such amounts shall be used only for providing decent, safe, and sanitary housing affordable for very low-income families and persons.

“(c) APPLICABILITY AND BUDGET COMPLIANCE.—

“(1) RETROACTIVITY.—This section shall apply to refinancings of projects for which settlement occurred or occurs before, on, or after the date of the enactment of the Housing and Community Development Act of 1992 [Oct. 28, 1992], subject to the provisions of paragraph (2).

“(2) BUDGET COMPLIANCE.—This section shall apply only to the extent or in such amounts as are provided in appropriation Acts.”

[Section 2(b) of Pub. L. 102-273 provided that: “The amendments made by subsection (a) [amending section 1012 of Pub. L. 100-628, set out above] shall apply to any refinancing of a local government or local housing agency financed project approved by the Secretary of Housing and Urban Development for which settlement occurred after January 1, 1992.”]

#### PUBLIC HOUSING COMPREHENSIVE TRANSITION DEMONSTRATION

Section 126 of Pub. L. 100-242, which directed Secretary of Housing and Urban Development to carry out program in 11 public housing agencies to demonstrate effectiveness of providing services to ensure transition of public housing residents to private housing, set forth requirements of program, and required interim report to Congress not later than 2 years after Feb. 5, 1988, and final report not later than 60 days after termination of program 7 years after such date, was repealed by Pub. L. 105-276, title V, §582(a)(8), Oct. 21, 1998, 112 Stat. 2644.

#### NONDISCRIMINATION AGAINST SECTION 8 CERTIFICATE HOLDERS AND VOUCHER HOLDERS

Section 183(c) of Pub. L. 100-242, which prohibited owner of subsidized project to refuse to lease dwelling

unit to holder of certificate of eligibility or voucher under this section, where proximate cause of refusal was status of prospective tenant as holder of such certificate or voucher, was repealed by Pub. L. 105-276, title V, §582(a)(2), Oct. 21, 1998, 112 Stat. 2643.

**WITHDRAWAL BY OWNERS, DEVELOPERS, AND SPONSORS FROM PROGRAMS UNDER THIS SECTION; SURVEY AND DETERMINATION OF NUMBER; NOTIFICATION OF RENT INCREASES; REPORT TO CONGRESS; REGULATIONS TO PREVENT CONFLICT OF INTEREST ON THE PART OF FEDERAL, STATE, AND LOCAL OFFICIALS; RECOVERY OF LEGAL EXPENSES; CONTENTS OF ANNUAL REPORT**

Section 326(b)-(d) of Pub. L. 97-35, as amended by Pub. L. 102-550, title I, §129(a), Oct. 28, 1992, 106 Stat. 3711; Pub. L. 105-276, title V, §582(a)(4), Oct. 21, 1998, 112 Stat. 2643, provided that:

“(b)[(1) Repealed. Pub. L. 105-276, title V, §582(a)(4), Oct. 21, 1998, 112 Stat. 2643.]

“(2) Not later than one year after the date of the enactment of this Act [Aug. 13, 1981], the Secretary shall transmit to the Congress a report indicating alternative methods which may be utilized for recapturing the cost to the Federal Government of front-end investment in those units which are removed from the section 8 program.

“(c) Repealed. Pub. L. 105-276, title V, §582(a)(4), Oct. 21, 1998, 112 Stat. 2643.]

**“(d) RENTAL ASSISTANCE FRAUD RECOVERIES.—**

**“(1) AUTHORITY TO RETAIN RECOVERED AMOUNTS.—**The Secretary of Housing and Urban Development shall permit public housing agencies administering the housing assistance payments program under section 8 of the United States Housing Act of 1937 [42 U.S.C. 1437f] to retain, out of amounts obtained by the agencies from tenants that are due as a result of fraud and abuse, an amount (determined in accordance with regulations issued by the Secretary) equal to the greater of—

“(A) 50 percent of the amount actually collected, or

“(B) the actual, reasonable, and necessary expenses related to the collection, including costs of investigation, legal fees, and collection agency fees.

“(2) USE.—Amounts retained by an agency shall be made available for use in support of the affected program or project, in accordance with regulations issued by the Secretary. Where the Secretary is the principal party initiating or sustaining an action to recover amounts from families or owners, the provisions of this section shall not apply.

“(3) RECOVERY.—Amounts may be recovered under this paragraph—

“(A) by an agency through a lawsuit (including settlement of the lawsuit) brought by the agency or through court-ordered restitution pursuant to a criminal proceeding resulting from an agency’s investigation where the agency seeks prosecution of a family or where an agency seeks prosecution of an owner; or

“(B) through administrative repayment agreements with a family or owner entered into as a result of an administrative grievance procedure conducted by an impartial decisionmaker in accordance with section 6(k) of the United States Housing Act of 1937 [42 U.S.C. 1437d(k)].”

[Section 129(b) of Pub. L. 102-550, provided that: “Subsection (a) [amending section 326(d) of Pub. L. 97-35, set out above] shall apply with respect to actions by public housing agencies initiated on or after the date of the enactment of this Act [Oct. 28, 1992].”

**STUDY BY SECRETARY CONCERNING FEASIBILITY OF MINIMUM RENT PAYMENT REQUIREMENTS**

Section 212 of Pub. L. 96-153 directed the Secretary of Housing and Urban Development to conduct a study of the feasibility and financial desirability of requiring minimum rent payments from tenants in low-income housing assisted under this chapter, and to submit a re-

port to the Congress containing the findings and conclusions of such study not later than ten days after the Budget for fiscal year 1981 is transmitted pursuant to section 11 of former Title 31, Money and Finance, and directed the Secretary of Housing and Urban Development to conduct a study to provide detailed comparisons between the rents paid by tenants occupying low-income housing assisted under this chapter and the rents paid by tenants at the same income level who are not in assisted housing and to transmit a report on such study to the Congress not later than Mar. 1, 1980.

**STUDY OF ALTERNATIVE MEANS OF ENCOURAGING THE DEVELOPMENT OF HOUSING**

Section 208 of Pub. L. 95-557 directed that Secretary of Housing and Urban Development conduct a study for purpose of examining alternative means of encouraging development of housing to be assisted under this section for occupancy by large families which reside in areas with a low-vacancy rate in rental housing and report to Congress no later than one year after Oct. 31, 1978, for purpose of providing legislative recommendations with respect to this study.

**TAXATION OF INTEREST PAID ON OBLIGATIONS SECURED BY INSURED MORTGAGE AND ISSUED BY PUBLIC AGENCY**

Section 319(b) of Pub. L. 93-383, as amended by Pub. L. 99-514, §2, Oct. 22, 1986, 100 Stat. 2095, provided that: “With respect to any obligation secured by a mortgage which is insured under section 221(d)(3) of the National Housing Act [section 1715(d)(3) of Title 12, Banks and Banking] and issued by a public agency as mortgagor in connection with the financing of a project assisted under section 8 of the United States Housing Act of 1937 [this section], the interest paid on such obligation shall be included in gross income for purposes of chapter 1 of the Internal Revenue Code of 1986 [formerly I.R.C. 1954] [chapter 1 of Title 26, Internal Revenue Code].”

**RENTAL OR INCOME CONTRIBUTIONS; USE OF SPECIAL SCHEDULES OF REQUIRED PAYMENTS FOR PARTICIPANTS IN MUTUAL HELP PROJECTS CONTRIBUTING LABOR, ETC.**

Section 203 of Pub. L. 93-383 provided that: “The rental or income contribution provisions of the United States Housing Act of 1937 [sections 1437 to 1437j of this title], as amended by section 201 of this Act, shall not preclude the use of special schedules of required payments as approved by the Secretary for participants in mutual help housing projects who contribute labor, land, or materials to the development of such projects.”

**§ 1437g. Public housing Capital and Operating Funds**

**(a) Merger into Capital Fund**

Except as otherwise provided in the Quality Housing and Work Responsibility Act of 1998, any assistance made available for public housing under section 1437i of this title before October 1, 1999, shall be merged into the Capital Fund established under subsection (d) of this section.

**(b) Merger into Operating Fund**

Except as otherwise provided in the Quality Housing and Work Responsibility Act of 1998, any assistance made available for public housing under this section before October 1, 1999, shall be merged into the Operating Fund established under subsection (e) of this section.

**(c) Allocation amount**

**(1) In general**

For fiscal year 2000 and each fiscal year thereafter, the Secretary shall allocate amounts in the Capital Fund and Operating