

housing affordability strategy under section 12705 of title 42 that the proposed activities are consistent with the approved housing strategy of the State within which the eligible low-income housing is located; and

(7) such other certifications or information that the Secretary determines to be necessary or appropriate to achieve the purposes of this subchapter.

(c) Implementation agreements

The Secretary may enter into any agreements necessary to implement an approved State preservation plan, which may include incentives that are authorized under other provisions of this subchapter.

(Pub. L. 100-242, title II, § 227, as added Pub. L. 101-625, title VI, § 601(a), Nov. 28, 1990, 104 Stat. 4270.)

REGULATIONS

Pub. L. 102-550, title III, § 315, Oct. 28, 1992, 106 Stat. 3770, provided that: "The Secretary of Housing and Urban Development shall issue interim regulations implementing section 227 of the Housing and Community Development Act of 1987 (as amended by section 601(a) of the Cranston-Gonzalez National Affordable Housing Act) [12 U.S.C. 4117] not later than the expiration of the 30-day period beginning on the date of the enactment of this Act [Oct. 28, 1992], which shall take effect upon issuance. The Secretary shall issue final regulations implementing such section 227 after notice and opportunity for public comment regarding the interim regulations, 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). The duration of the period for public comment shall not be less than 60 days, and the final regulations shall be issued not later than the expiration of the 60-day period beginning upon the conclusion of the comment period and shall take effect upon issuance."

§ 4118. Consultations with other interested parties

The Secretary shall confer with any appropriate State or local government agency to confirm any State or local assistance that is available to achieve the purposes of this title¹ and shall give consideration to the views of any such agency when making determinations under this subchapter. The Secretary shall also confer with appropriate interested parties that the Secretary believes could assist in the development of a plan of action that best achieves the purposes of this subchapter.

(Pub. L. 100-242, title II, § 228, as added Pub. L. 101-625, title VI, § 601(a), Nov. 28, 1990, 104 Stat. 4271.)

REFERENCES IN TEXT

This title, referred to in text, means title II of Pub. L. 100-242, as amended by Pub. L. 101-625, title VI, § 601(a), Nov. 28, 1990, 104 Stat. 4249, known as the Low-Income Housing Preservation and Resident Homeownership Act of 1990, which is classified principally to this chapter. For complete classification of this Act to the Code, see Short Title note set out under section 4101 of this title and Tables.

§ 4119. Definitions

For purposes of this subchapter:

(1) The term "eligible low-income housing" means any housing financed by a loan or mortgage—

(A) that is—

(i) insured or held by the Secretary under section 1715(d)(3) of this title and receiving loan management assistance under section 1437f of title 42 due to a conversion from section 1701s of this title;

(ii) insured or held by the Secretary and bears interest at a rate determined under the proviso of section 1715(d)(5) of this title;

(iii) insured, assisted, or held by the Secretary or a State or State agency under section 1715z-1 of this title; or

(iv) held by the Secretary and formerly insured under a program referred to in clause (i), (ii), or (iii); and

(B) that, under regulation or contract in effect before February 5, 1988, is or will within 24 months become eligible for prepayment without prior approval of the Secretary.

(2) The term "Federal cost limit" means, for any eligible low-income housing, the amount determined under section 4105(a) of this title.

(3) The term "low-income affordability restrictions" means limits imposed by regulation or regulatory agreement on tenant rents, rent contributions, or income eligibility in eligible low-income housing.

(4) The terms "low-income families or persons" and "very low-income families or persons" mean families or persons whose incomes do not exceed the respective levels established for low-income families and very low-income families, respectively, under section 1437a(b)(2) of title 42.

(5) The term "moderate-income families or persons" means families or persons whose incomes are between 80 percent and 95 percent of the median income for the area, as determined by the Secretary with adjustments for smaller and larger families.

(6) The term "nonprofit organization" means any private, nonprofit organization that—

(A) is organized or chartered under State or local laws;

(B) has no part of its net earnings inuring to the benefit of any member, founder, contributor, or individual;

(C) complies with standards of financial accountability acceptable to the Secretary; and

(D) has among its principal purposes significant activities related to the provision of decent housing that is affordable to very low-, low-, and moderate-income families.

(7) The term "owner" means the current or subsequent owner or owners of eligible low-income housing.

(8) The term "preservation equity" means, for any eligible low-income housing—

(A) for purposes of determining the authorized return under section 4104(a) of this title and providing incentives to extend the low-income affordability restrictions on the housing under section 4109 of this title—

(i) the preservation value of the housing determined under section 4103(b)(1) of this title; less

¹ See References in Text note below.

(ii) any debt secured by the property; and

(B) for purposes of determining incentives under section¹ 4110 and 4111 of this title and determining the amount of an acquisition loan under the provisions of section 1715z-6(f)(3)² of this title—

(i) the preservation value of the housing determined under section 4103(b)(2) of this title; less

(ii) the outstanding balance of the federally-assisted mortgage or mortgages for the housing.

(9) The term “preservation value” means, for any eligible low-income housing, the applicable value determined under paragraph (1) or (2) of section 4103(b) of this title.

(10) The term “Secretary” means the Secretary of Housing and Urban Development.

(11) The term “resident council” means any incorporated nonprofit organization or association that—

(A) is representative of the residents of the housing;

(B) adopts written procedures providing for the election of officers on a regular basis; and

(C) has a democratically elected governing board, elected by the residents of the housing.

(Pub. L. 100-242, title II, § 229, as added Pub. L. 101-625, title VI, § 601(a), Nov. 28, 1990, 104 Stat. 4271; amended Pub. L. 102-550, title III, §§ 310, 317(a)(5), Oct. 28, 1992, 106 Stat. 3765, 3772; Pub. L. 103-327, title II, Sept. 28, 1994, 108 Stat. 2316.)

REFERENCES IN TEXT

Section 1715z-6(f) of this title, referred to in par. (8)(B), was repealed by Pub. L. 104-204, title II, Sept. 26, 1996, 110 Stat. 2885.

CODIFICATION

Amendment by Pub. L. 103-327 is based on section 601(e) of title VI of S. 2281, One Hundred Third Congress, as reported July 13, 1994, which was enacted into law by Pub. L. 103-327.

AMENDMENTS

1994—Par. (4). Pub. L. 103-327 temporarily amended par. (4) to read as follows:

“(4)(A) The term ‘low-income tenants’ means families or persons with incomes that exceed 50 percent of the median income for the area (as determined by the Secretary with adjustments for family size) but do not exceed 80 percent of the median income for the area (as determined by the Secretary with adjustments for family size).”

“(B) The term ‘very low-income tenants’ means families or persons with incomes that are less than or equal to 50 percent of the median income for the area (as determined by the Secretary with adjustments for family size).” See Effective and Termination Dates of 1994 Amendment note below.

1992—Par. (1)(A)(i). Pub. L. 102-550, § 310, substituted “receiving loan management assistance under section 1437f of title 42 due to a conversion from section 1701s of this title” for “assisted under section 1701s of this title or section 1437f of title 42”.

Par. (11)(A). Pub. L. 102-550, § 317(a)(5), substituted “residents” for “resident”.

¹ So in original. Probably should be “sections”.

² See References in Text note below.

EFFECTIVE AND TERMINATION DATES OF 1994 AMENDMENT

Amendment by Pub. L. 103-327 effective only during fiscal year 1995, see provision of title II of Pub. L. 103-327 set out as a note under section 4112 of this title.

§ 4120. Notice to tenants

Where a provision of this subchapter requires that information or material be given to tenants of the housing, the requirement may be met by (1) posting a copy of the information or material in readily accessible locations within each affected building, or posting notices in each such location describing the information or material and specifying a location, as convenient to the tenants as is reasonably practical, where a copy may be examined, and (2) supplying a copy of the information or material to a representative of the tenants.

(Pub. L. 100-242, title II, § 230, as added Pub. L. 101-625, title VI, § 601(a), Nov. 28, 1990, 104 Stat. 4273.)

§ 4121. Definitions of qualified and priority purchaser and related party rule

(a) Priority purchaser

The term “priority purchaser” means (A) a resident council organized to acquire the housing in accordance with a resident homeownership program that meets the requirements of section 4121¹ of this title; and (B) any nonprofit organization or State or local agency that agrees to maintain low-income affordability restrictions for the remaining useful life of the housing (as determined under section 4112(d)² of this title).

(b) Qualified purchaser

The term “qualified purchaser” means any entity that agrees to maintain low-income affordability restrictions for the remaining useful life of the housing (as determined under section 4112(c) of this title), and includes for-profit entities and priority purchasers.

(c) Related parties

Except as provided in subsection (d) of this section, the terms “qualified purchaser” and “priority purchaser” do not include any entity that, either directly or indirectly, is wholly or partially owned or controlled by the owner of the housing being transferred under this subchapter, is under whole or partial common control with such owner, or has any financial interest in such owner or in which such owner has any financial interest. The Secretary shall issue any regulations appropriate to implement the preceding sentence.

(d) Management exception

A qualified purchaser shall not be precluded from retaining as a property management entity a company that is owned or controlled by the selling owner or a principal thereof if retention of the management company is neither a condition of sale nor part of consideration paid for sale and the property management contract is negotiated by the qualified purchaser on an arm’s length basis.

¹ So in original. Probably should be section “4116”.

² So in original. Probably should be section “4112(c)”.