

(2) the right to establish the terms of assistance.

**(b) Investments**

A recipient may invest grant amounts for the purposes of carrying out affordable housing activities in investment securities and other obligations as approved by the Secretary.

(Pub. L. 104-330, title II, §204, Oct. 26, 1996, 110 Stat. 4033.)

REFERENCES IN TEXT

This chapter, referred to in subsec. (a)(1), was in the original "this Act", meaning Pub. L. 104-330, Oct. 26, 1996, 110 Stat. 4016, known as the Native American Housing Assistance and Self-Determination Act of 1996. For complete classification of this Act to the Code, see Short Title note set out under section 4101 of this title and Tables.

EFFECTIVE DATE

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

**§ 4135. Low-income requirement and income targeting**

**(a) In general**

Housing shall qualify as affordable housing for purposes of this chapter only if—

(1) each dwelling unit in the housing—

(A) in the case of rental housing, is made available for occupancy only by a family that is a low-income family at the time of their initial occupancy of such unit;

(B) in the case of a contract to purchase existing housing, is made available for purchase only by a family that is a low-income family at the time of purchase;

(C) in the case of a lease-purchase agreement for existing housing or for housing to be constructed, is made available for lease-purchase only by a family that is a low-income family at the time the agreement is entered into; and

(D) in the case of a contract to purchase housing to be constructed, is made available for purchase only by a family that is a low-income family at the time the contract is entered into; and

(2) except for housing assisted under section 1437bb of title 42 (as in effect before the date of the effectiveness of this chapter), each dwelling unit in the housing will remain affordable, according to binding commitments satisfactory to the Secretary, for the remaining useful life of the property (as determined by the Secretary) without regard to the term of the mortgage or to transfer of ownership, or for such other period that the Secretary determines is the longest feasible period of time consistent with sound economics and the purposes of this chapter, except upon a foreclosure by a lender (or upon other transfer in lieu of foreclosure) if such action—

(A) recognizes any contractual or legal rights of public agencies, nonprofit sponsors, or others to take actions that would avoid termination of low-income affordability in the case of foreclosure or transfer in lieu of foreclosure; and

(B) is not for the purpose of avoiding low-income affordability restrictions, as determined by the Secretary.

**(b) Exception**

Notwithstanding subsection (a) of this section, housing assisted pursuant to section 4131(b)(2) of this title shall be considered affordable housing for purposes of this chapter.

**(c) Applicability**

The provisions of paragraph (2) of subsection (a) regarding binding commitments for the remaining useful life of property shall not apply to a family or household member who subsequently takes ownership of a homeownership unit.

(Pub. L. 104-330, title II, §205, Oct. 26, 1996, 110 Stat. 4033; Pub. L. 105-276, title V, §595(e)(8), Oct. 21, 1998, 112 Stat. 2657; Pub. L. 110-411, title II, §204, Oct. 14, 2008, 122 Stat. 4326.)

REFERENCES IN TEXT

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

Section 1437bb of title 42, referred to in subsec. (a)(2), was repealed by Pub. L. 104-330, title V, §501(a), Oct. 26, 1996, 110 Stat. 4041, effective Oct. 1, 1997.

For the date of the effectiveness of this chapter, referred to in subsec. (a)(2), as Oct. 1, 1997, except as otherwise expressly provided, see section 107 of Pub. L. 104-330, set out as an Effective Date note under section 4101 of this title.

AMENDMENTS

2008—Subsec. (c). Pub. L. 110-411 added subsec. (c).

1998—Subsec. (a)(1)(B) to (D). Pub. L. 105-276 added subpars. (B) to (D) and struck out former subpar. (B) which read as follows: "in the case of housing for homeownership, is made available for purchase only by a family that is a low-income family at the time of purchase; and".

EFFECTIVE DATE

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

**§ 4136. Repealed. Pub. L. 106-568, title X, § 1003(k)(2), Dec. 27, 2000, 114 Stat. 2930; Pub. L. 106-569, title V, § 503(j)(2), Dec. 27, 2000, 114 Stat. 2966**

Section, Pub. L. 104-330, title II, §206, Oct. 26, 1996, 110 Stat. 4034; Pub. L. 105-276, title V, §595(a), Oct. 21, 1998, 112 Stat. 2656, related to certification of compliance with subsidy layering requirements.

**§ 4137. Lease requirements and tenant selection**

**(a) Leases**

Except to the extent otherwise provided by or inconsistent with tribal law, in renting dwelling units in affordable housing assisted with grant amounts provided under this chapter, the owner or manager of the housing shall utilize leases that—

(1) do not contain unreasonable terms and conditions;

(2) require the owner or manager to maintain the housing in compliance with applicable housing codes and quality standards;

(3) require the owner or manager to give adequate written notice of termination of the lease, which shall be the period of time required under State, tribal, or local law;

(4) specify that, with respect to any notice of eviction or termination, notwithstanding any State, tribal, or local law, a resident shall be informed of the opportunity, prior to any hearing or trial, to examine any relevant documents, records, or regulations directly related to the eviction or termination;

(5) require that the owner or manager may not terminate the tenancy, during the term of the lease, except for serious or repeated violation of the terms or conditions of the lease, violation of applicable Federal, State, tribal, or local law, or for other good cause; and

(6) provide that the owner or manager may terminate the tenancy of a resident for any activity, engaged in by the resident, any member of the household of the resident, or any guest or other person under the control of the resident, that—

(A) threatens the health or safety of, or right to peaceful enjoyment of the premises by, other residents or employees of the owner or manager of the housing;

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

(C) is criminal activity (including drug-related criminal activity) on or off the premises.

#### **(b) Tenant and homebuyer selection**

The owner or manager of affordable rental housing assisted with grant amounts provided under this chapter shall adopt and utilize written tenant and homebuyer selection policies and criteria that—

(1) are consistent with the purpose of providing housing for low-income families;

(2) are reasonably related to program eligibility and the ability of the applicant to perform the obligations of the lease; and

(3) provide for—

(A) the selection of tenants and homebuyers from a written waiting list in accordance with the policies and goals set forth in the Indian housing plan for the tribe that is the grant beneficiary of such grant amounts; and

(B) the prompt notification in writing to any rejected applicant of that rejection and the grounds for that rejection.

(Pub. L. 104-330, title II, §207, Oct. 26, 1996, 110 Stat. 4034; Pub. L. 105-276, title V, §595(b), (e)(9), Oct. 21, 1998, 112 Stat. 2656, 2658.)

#### REFERENCES IN TEXT

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

#### AMENDMENTS

1998—Subsec. (b). Pub. L. 105-276, §595(b)(1), (2), in heading substituted “Tenant and homebuyer selection”

for “Tenant selection” and, in introductory provisions, inserted “and homebuyer” after “tenant”.

Subsec. (b)(3)(A). Pub. L. 105-276, §595(b)(3), inserted “and homebuyers” after “tenants”.

Subsec. (b)(3)(B). Pub. L. 105-276, §595(e)(9), substituted “to any rejected applicant of that rejection and the grounds for that rejection” for “of any rejected applicant of the grounds for any rejection”.

#### EFFECTIVE DATE

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

#### **§ 4138. Availability of records**

##### **(a) Provision of information**

Notwithstanding any other provision of law, except as provided in subsection (b) of this section, the National Crime Information Center, police departments, and other law enforcement agencies shall, upon request, provide information to Indian tribes or tribally designated housing entities regarding the criminal conviction records of applicants for employment, and of adult applicants for, or tenants of, housing assisted with grant amounts provided to such tribe or entity under this chapter for purposes of applicant screening, lease enforcement, and eviction.

##### **(b) Exception**

A law enforcement agency described in subsection (a) of this section shall provide information under this paragraph relating to any criminal conviction of a juvenile only to the extent that the release of such information is authorized under the law of the applicable State, tribe, or locality.

##### **(c) Confidentiality**

An Indian tribe or tribally designated housing entity receiving information under this section may use such information only for the purposes provided in this section and such information may not be disclosed to any person who is not an officer, employee, or authorized representative of the tribe or entity or the owner of housing assisted under this chapter, and who has a job-related need to have access to the information for the purposes under this section. For judicial eviction proceedings, disclosures may be made to the extent necessary. The Secretary shall, by regulation, establish procedures necessary to ensure that information provided under this section to any tribe or entity is used, and confidentiality is maintained, as required under this section.

(Pub. L. 104-330, title II, §208, Oct. 26, 1996, 110 Stat. 4035; Pub. L. 105-276, title V, §595(e)(10), Oct. 21, 1998, 112 Stat. 2658; Pub. L. 110-411, title II, §205, Oct. 14, 2008, 122 Stat. 4326.)

#### REFERENCES IN TEXT

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

#### AMENDMENTS

2008—Subsec. (a). Pub. L. 110-411 inserted “applicants for employment, and of” after “records of”.