

1998—Subsec. (a). Pub. L. 105-276, §595(e)(10)(A), substituted “subsection (b) of this section” for “paragraph (2)”.

Subsec. (b). Pub. L. 105-276, §595(e)(10)(B), substituted “subsection (a) of this section” for “paragraph (1)”.

#### 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.

### § 4139. Noncompliance with affordable housing requirement

If a recipient uses grant amounts to provide affordable housing under this subchapter, and at any time during the useful life of the housing the recipient does not comply with the requirement under section 4135(a)(2) of this title, the Secretary shall take appropriate action under section 4161(a) of this title.

(Pub. L. 104-330, title II, §209, Oct. 26, 1996, 110 Stat. 4035; Pub. L. 105-276, title V, §595(c), Oct. 21, 1998, 112 Stat. 2656; Pub. L. 106-568, title X, §1003(f)(1), Dec. 27, 2000, 114 Stat. 2927; Pub. L. 106-569, title V, §503(e)(1), Dec. 27, 2000, 114 Stat. 2962.)

#### AMENDMENTS

2000—Pub. L. 106-568 and Pub. L. 106-569 generally amended section catchline and text identically. Prior to amendment, text read as follows: “If a recipient uses grant amounts to provide affordable housing under activities under this subchapter and, at any time during the useful life of the housing the housing does not comply with the requirement under section 4135(a)(2) of this title, the Secretary shall reduce future grant payments on behalf of the grant beneficiary by an amount equal to the grant amounts used for such housing (under the authority under section 4161(a)(2) of this title) or require repayment to the Secretary of an amount equal to such grant amounts.”

1998—Pub. L. 105-276 made technical amendment to reference in original act which appears in text as reference to section 4135(a)(2) of this title.

#### 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.

### § 4140. Continued use of amounts for affordable housing

Any funds for programs for low-income housing under the United States Housing Act of 1937 [42 U.S.C. 1437 et seq.] that, on the date of the applicability of this chapter to an Indian tribe, are owned by, or in the possession or under the control of, the Indian housing authority for the tribe, including all reserves not otherwise obligated, shall be considered assistance under this chapter and subject to the provisions of this chapter relating to use of such assistance.

(Pub. L. 104-330, title II, §210, Oct. 26, 1996, 110 Stat. 4036.)

#### REFERENCES IN TEXT

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

The date of the applicability of this chapter, referred to in text, probably means the effective date of Pub. L. 104-330, which is 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.

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.

#### 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.

## PART B—SELF-DETERMINED HOUSING ACTIVITIES FOR TRIBAL COMMUNITIES

### § 4145. Purpose

The purpose of this part is to establish a program for self-determined housing activities for the tribal communities to provide Indian tribes with the flexibility to use a portion of the grant amounts under section 4111 of this title for the Indian tribe in manners that are wholly self-determined by the Indian tribe for housing activities involving construction, acquisition, rehabilitation, or infrastructure relating to housing activities or housing that will benefit the community served by the Indian tribe.

(Pub. L. 104-330, title II, §231, as added Pub. L. 110-411, title II, §206(a)(2), Oct. 14, 2008, 122 Stat. 4326.)

### § 4145a. Program authority

#### (a) Definition of qualifying Indian tribe

In this section, the term “qualifying Indian tribe” means, with respect to a fiscal year, an Indian tribe or tribally designated housing entity—

- (1) to or on behalf of which a grant is made under section 4111 of this title;
- (2) that has complied with the requirements of section 4112(b)(6)<sup>1</sup> of this title; and
- (3) that, during the preceding 3-fiscal-year period, has no unresolved significant and material audit findings or exceptions, as demonstrated in—

- (A) the annual audits of that period completed under chapter 75 of title 31 (commonly known as the “Single Audit Act”); or
- (B) an independent financial audit prepared in accordance with generally accepted auditing principles.

#### (b) Authority

Under the program under this part, for each of fiscal years 2009 through 2013, the recipient for each qualifying Indian tribe may use the amounts specified in subsection (c) in accordance with this part.

#### (c) Amounts

With respect to a fiscal year and a recipient, the amounts referred to in subsection (b) are

<sup>1</sup> So in original. Section 4112(b) of this title does not contain a par. (6).

amounts from any grant provided under section 4111 of this title to the recipient for the fiscal year, as determined by the recipient, but in no case exceeding the lesser of—

- (1) an amount equal to 20 percent of the total grant amount for the recipient for that fiscal year; and
- (2) \$2,000,000.

(Pub. L. 104-330, title II, § 232, as added Pub. L. 110-411, title II, § 206(a)(2), Oct. 14, 2008, 122 Stat. 4326.)

#### § 4145b. Use of amounts for housing activities

##### (a) Eligible housing activities

Any amounts made available for use under this part by a recipient for an Indian tribe shall be used only for housing activities, as selected at the discretion of the recipient and described in the Indian housing plan for the Indian tribe pursuant to section 4112(b)(6)<sup>1</sup> of this title, for the construction, acquisition, or rehabilitation of housing or infrastructure in accordance with section 4132 of this title to provide a benefit to families described in section 4131(b)(1) of this title.

##### (b) Prohibition on certain activities

Amounts made available for use under this part may not be used for commercial or economic development.

(Pub. L. 104-330, title II, § 233, as added Pub. L. 110-411, title II, § 206(a)(2), Oct. 14, 2008, 122 Stat. 4327.)

#### § 4145c. Inapplicability of other provisions

##### (a) In general

Except as otherwise specifically provided in this chapter, subchapter I, part A of subchapter II, and subchapters III through VIII shall not apply to—

- (1) the program under this part; or
- (2) amounts made available in accordance with this part.

##### (b) Applicable provisions

The following provisions of subchapters I through VIII shall apply to the program under this part and amounts made available in accordance with this part:

- (1) Section 4111(c) of this title (relating to local cooperation agreements).
- (2) Subsections (d) and (e) of section 4111 of this title (relating to tax exemption).
- (3) Section 4111(j) of this title (relating to Federal supply sources).
- (4) Section 4111(k) of this title (relating to tribal preference in employment and contracting).
- (5) Section 4112(b)(4)<sup>1</sup> of this title (relating to certification of compliance).
- (6) Section 4114 of this title (relating to treatment of program income and labor standards).
- (7) Section 4115 of this title (relating to environmental review).

<sup>1</sup> So in original. Section 4112(b) of this title does not contain a par. (6).

<sup>1</sup> So in original. Section 4112(b) of this title does not contain a par. (4).

(8) Section 4131(b) of this title (relating to eligible families).

(9) Section 4133(c) of this title (relating to insurance coverage).

(10) Section 4133(g) of this title (relating to a de minimis exemption for procurement of goods and services).

(11) Section 4136<sup>2</sup> of this title (relating to treatment of funds).

(12) Section 4139 of this title (relating to noncompliance with affordable housing requirement).

(13) Section 4161 of this title (relating to remedies for noncompliance).

(14) Section 4168 of this title (relating to public availability of information).

(15) Section 4211 of this title (relating to 50-year leasehold interests in trust or restricted lands for housing purposes).

(Pub. L. 104-330, title II, § 234, as added Pub. L. 110-411, title II, § 206(a)(2), Oct. 14, 2008, 122 Stat. 4327.)

#### REFERENCES IN TEXT

This chapter, referred to in subsec. (a), 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.

Subchapters I through VIII, referred to in subsecs. (a) and (b), were in the original references to titles I through VIII of Pub. L. 104-330, which enacted subchapters I through VIII of this chapter. In addition to enacting subchapter V, title V enacted section 12899h-1 of Title 42, The Public Health and Welfare, amended sections 1437a, 1437c to 1437e, 1437g, 1437l, 1437n, 1437u to 1437x, 1437aaa-5, 1437aaa-6, 1439, 11371 to 11376, 11382, 11401, 11403g, 11408, 11903a, 12747, and 12838 of Title 42, repealed sections 1437aa to 1437ee of Title 42, enacted provisions set out as notes under sections 11371, 12747, and 12899h-1 of Title 42, amended provisions set out as a note under section 11301 of Title 42, and repealed provisions set out as a note under section 1701z-6 of Title 12, Banks and Banking. In addition to enacting subchapter VII, title VII amended sections 1715z-13a and 1721 of Title 12 and sections 11902 to 11905 of Title 42. For complete classification of titles I to VIII to the Code, see Short Title note set out under section 4101 of this title and Tables.

Section 4136 of this title, referred to in subsec. (b)(11), related to certification of compliance with subsidy layering requirements and was repealed by Pub. L. 106-568, title X, § 1003(k)(2), Dec. 27, 2000, 114 Stat. 2930 and Pub. L. 106-569, title V, § 503(j)(2), Dec. 27, 2000, 114 Stat. 2966.

#### § 4145d. Review and report

##### (a) Review

During calendar year 2011, the Secretary shall conduct a review of the results achieved by the program under this part to determine—

- (1) the housing constructed, acquired, or rehabilitated under the program;
- (2) the effects of the housing described in paragraph (1) on costs to low-income families of affordable housing;
- (3) the effectiveness of each recipient in achieving the results intended to be achieved, as described in the Indian housing plan for the Indian tribe; and

<sup>2</sup> See References in Text note below.