

required to implement such a program after the expiration of the 5-year period set forth in section 5422(g)(2) of this title; and

(2) subject to subsection (e) of this section, use amounts from any fee collected under paragraph (1) of this subsection to pay expenses referred to in that paragraph, which shall be exempt and separate from any limitations on the Department regarding full-time equivalent positions and travel.

(b) Contractors

In using amounts from any fee collected under this section, the Secretary shall ensure that separate and independent contractors are retained to carry out monitoring and inspection work and any other work that may be delegated to a contractor under this chapter.

(c) Prohibited use

No amount from any fee collected under this section may be used for any purpose or activity not specifically authorized by this chapter, unless such activity was already engaged in by the Secretary prior to December 27, 2000.

(d) Modification

Beginning on December 27, 2000, the amount of any fee collected under this section may only be modified—

- (1) as specifically authorized in advance in an annual appropriations Act; and
- (2) pursuant to rulemaking in accordance with section 553 of title 5.

(e) Appropriation and deposit of fees

(1) In general

There is established in the Treasury of the United States a fund to be known as the “Manufactured Housing Fees Trust Fund” for deposit of amounts from any fee collected under this section. Such amounts shall be held in trust for use only as provided in this chapter.

(2) Appropriation

Amounts from any fee collected under this section shall be available for expenditure only to the extent approved in advance in an annual appropriations Act. Any change in the expenditure of such amounts shall be specifically authorized in advance in an annual appropriations Act.

(3) Payments to States

On and after the effective date of the Manufactured Housing Improvement Act of 2000, the Secretary shall continue to fund the States having approved State plans in the amounts which are not less than the allocated amounts, based on the fee distribution system in effect on the day before such effective date.

(Pub. L. 93-383, title VI, §620, Aug. 22, 1974, 88 Stat. 712; Pub. L. 96-153, title III, §320, Dec. 21, 1979, 93 Stat. 1119; Pub. L. 96-399, title III, §308(c)(4), Oct. 8, 1980, 94 Stat. 1641; Pub. L. 106-569, title VI, §609, Dec. 27, 2000, 114 Stat. 3010.)

REFERENCES IN TEXT

For the effective date of the Manufactured Housing Improvement Act of 2000, referred to in subsec. (e)(3),

see section 612 of Pub. L. 106-569, set out as an Effective Date of 2000 Amendment note under section 5401 of this title.

AMENDMENTS

2000—Pub. L. 106-569 amended section catchline and text generally. Prior to amendment, text read as follows: “In carrying out the inspections required under this chapter, the Secretary may establish and impose on manufactured home manufacturers, distributors, and dealers such reasonable fees as may be necessary to offset the expenses incurred by him in conducting such inspections, and the Secretary may use any fees so collected to pay expenses incurred in connection with such inspections, except that this section shall not apply in any State which has in effect a State plan under section 5422 of this title.”

1980—Pub. L. 96-399 substituted “manufactured home” for “mobile home”.

1979—Pub. L. 96-153 substituted “conducting such inspections, and the Secretary may use any fees so collected to pay expenses incurred in connection with such inspections, except” for “conducting such inspections, except”.

EFFECTIVE DATE OF 2000 AMENDMENT

Amendment by Pub. L. 106-569 effective Dec. 27, 2000, except that amendment has no effect on any order or interpretative bulletin issued under this chapter and published as a proposed rule pursuant to 5 U.S.C. 553 on or before Dec. 27, 2000, see section 612 of Pub. L. 106-569, set out as a note under section 5401 of this title.

MANUFACTURED HOUSING

Pub. L. 107-18, §1, July 5, 2001, 115 Stat. 152, provided that:

“(a) AVAILABILITY OF FEES.—Notwithstanding section 620(e)(2) of the National Manufactured Housing Construction and Safety Standards Act of 1974 (42 U.S.C. 5419(e)(2)), any fees collected under that Act, including any fees collected before the date of enactment of the American Homeownership and Economic Opportunity Act of 2000 (12 U.S.C. 1701 note) [Dec. 27, 2000] and remaining unobligated on the date of enactment of this Act [July 5, 2001], shall be available for expenditure to offset the expenses incurred by the Secretary under the National Manufactured Housing Construction and Safety Standards Act of 1974 (42 U.S.C. 5401 et seq.), otherwise in accordance with section 620 of that Act.

“(b) DURATION.—The authority for the use of fees provided for in subsection (a) shall remain in effect during the period beginning in fiscal year 2001 and ending on the effective date of the first appropriations Act referred to in section 620(e)(2) of the National Manufactured Housing Construction and Safety Standards Act of 1974 (42 U.S.C. 5419(e)(2)) that is enacted with respect to a fiscal year after fiscal year 2001.”

§ 5420. Failure to report violations; penalties

Any person, other than an officer or employee of the United States, or a person exercising inspection functions under a State plan pursuant to section 5422 of this title, who knowingly and willfully fails to report a violation of any construction or safety standard established under section 5403 of this title may be fined up to \$1,000 or imprisoned for up to one year, or both.

(Pub. L. 93-383, title VI, §621, Aug. 22, 1974, 88 Stat. 712.)

§ 5421. Prohibition on waiver of rights

The rights afforded manufactured home purchasers under this chapter may not be waived, and any provision of a contract or agreement entered into after August 22, 1974, to the contrary shall be void.

(Pub. L. 93-383, title VI, §622, Aug. 22, 1974, 88 Stat. 712; Pub. L. 96-399, title III, §308(c)(4), Oct. 8, 1980, 94 Stat. 1641.)

AMENDMENTS

1980—Pub. L. 96-399 substituted “manufactured home” for “mobile home”.

§ 5422. State enforcement

(a) Jurisdiction of State agency or court under State law

Nothing in this chapter shall prevent any State agency or court from asserting jurisdiction under State law over any manufactured home construction or safety issue with respect to which no Federal manufactured home construction and safety standard has been established pursuant to the provisions of section 5403 of this title.

(b) Assumption of responsibility for enforcement of Federal standards; submission of enforcement plan to Secretary

Any State which, at any time, desires to assume responsibility for enforcement of manufactured home safety and construction standards relating to any issue with respect to which a Federal standard has been established under section 5403 of this title, shall submit to the Secretary a State plan for enforcement of such standards.

(c) Criteria for approval of State plan by Secretary

The Secretary shall approve the plan submitted by a State under subsection (b) of this section, or any modification thereof, if such plan in his judgment—

(1) designates a State agency or agencies as the agency or agencies responsible for administering the plan throughout the State;

(2) provides for the enforcement of manufactured home safety and construction standards promulgated under section 5403 of this title;

(3) provides for a right of entry and inspection of all factories, warehouses, or establishments in such State in which manufactured homes are manufactured and for the review of plans, in a manner which is identical to that provided in section 5413 of this title;

(4) provides for the imposition of the civil and criminal penalties under section 5410 of this title;

(5) provides for the notification and correction procedures under section 5414 of this title;

(6) provides for the payment of inspection fees by manufacturers in amounts adequate to cover the costs of inspections;

(7) contains satisfactory assurances that the State agency or agencies have or will have the legal authority and qualified personnel necessary for the enforcement of such standards;

(8) give satisfactory assurances that such State will devote adequate funds to the administration and enforcement of such standards;

(9) requires manufacturers, distributors, and retailers in such State to make reports to the Secretary in the same manner and to the same extent as if the State plan were not in effect;

(10) provides that the State agency or agencies will make such reports to the Secretary

in such form and containing such information as the Secretary shall from time to time require;

(11) with respect to any State plan submitted on or after the expiration of the 5-year period beginning on December 27, 2000, provides for an installation program established by State law that meets the requirements of section 5404(c)(3) of this title;

(12) with respect to any State plan submitted on or after the expiration of the 5-year period beginning on December 27, 2000, provides for a dispute resolution program for the timely resolution of disputes between manufacturers, retailers, and installers of manufactured homes regarding responsibility, and for the issuance of appropriate orders, for the correction or repair of defects in manufactured homes that are reported during the 1-year period beginning on the date of installation; and

(13) complies with such other requirements as the Secretary may by regulation prescribe for the enforcement of this chapter.

(d) Notice and hearing prior to rejection by Secretary of State plan

If the Secretary rejects a plan submitted under subsection (b) of this section, he shall afford the State submitting the plan due notice and opportunity for a hearing before so doing.

(e) Discretionary enforcement by Secretary of standards in State having approved plan

After the Secretary approves a State plan submitted under subsection (b) of this section, he may, but shall not be required to, exercise his authority under this chapter with respect to enforcement of manufactured home construction and safety standards in the State involved.

(f) Annual evaluation by Secretary of execution of State plan; basis of evaluation; submission of evaluation and data to Congress; determination by Secretary of improper administration, etc., of State plan; procedure; effect of determination

The Secretary shall, on the basis of reports submitted by the designated State agency and his own inspections, make a continuing evaluation of the manner in which each State having a plan approved under this section is carrying out such plan. Such evaluation shall be made by the Secretary at least annually for each State, and the results of such evaluation and the inspection reports on which it is based shall be promptly submitted to the appropriate committees of the Congress. Whenever the Secretary finds, after affording due notice and opportunity for a hearing, that in the administration of the State plan there is a failure to comply substantially with any provision of the State plan or that the State plan has become inadequate, he shall notify the State agency or agencies of his withdrawal of approval of such plan. Upon receipt of such notice by such State agency or agencies such plan shall cease to be in effect, but the State may retain jurisdiction in any case commenced before the withdrawal of the plan in order to enforce manufactured home standards under the plan whenever the issues involved do not relate to the reasons for the withdrawal of the plan.