

(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 (8)(B), was repealed by Pub.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”.

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.

(Pub. L. 100-242, title II, §231, as added Pub. L. 101-625, title VI, §601(a), Nov. 28, 1990, 104 Stat. 4273; amended Pub. L. 102-550, title III, §317(a)(6), Oct. 28, 1992, 106 Stat. 3772.)

AMENDMENTS

1992—Subsec. (b). Pub. L. 102-550 substituted “4112(c)” for “4112(d)”.

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

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

§ 4122. Preemption of State and local laws**(a) In general**

No State or political subdivision of a State may establish, continue in effect, or enforce any law or regulation that—

(1) restricts or inhibits the prepayment of any mortgage described in section 4119(1) of this title (or the voluntary termination of any insurance contract pursuant to section 1715t of this title) on eligible low income housing;

(2) restricts or inhibits an owner of such housing from receiving the authorized annual return provided under section 4104 of this title;

(3) is inconsistent with any provision of this subchapter, including any law, regulation, or other restriction that limits or impairs the ability of any owner of eligible low income housing to receive incentives authorized under this subchapter (including authorization to increase rental rates, transfer the housing, obtain secondary financing, or use the proceeds of any of such incentives); or

(4) in its applicability to low-income housing is limited only to eligible low-income housing for which the owner has prepaid the mortgage or terminated the insurance contract.

Any law, regulation, or restriction described under paragraph (1), (2), (3), or (4) shall be ineffective and any eligible low-income housing exempt from the law, regulation, or restriction, only to the extent that it violates the provisions of this subsection.

(b) Effect

This section shall not prevent the establishment, continuing in effect, or enforcement of any law or regulation of any State or political subdivision of a State not inconsistent with the provisions of this subchapter, such as any law or regulation relating to building standards, zoning limitations, health, safety, or habitability standards for housing, rent control, or conversion of rental housing to condominium or cooperative ownership, to the extent such law or regulation is of general applicability to both housing receiving Federal assistance and nonassisted housing. This section shall not preempt, annul, or alter any contractual restrictions or obligations existing before November 28, 1990, that prevent or limit an owner of eligible low-income housing from prepaying the mortgage on the housing (or terminating the insurance contract on the housing).

(Pub. L. 100-242, title II, §232, as added Pub. L. 101-625, title VI, §601(a), Nov. 28, 1990, 104 Stat. 4273; amended Pub. L. 102-550, title III, §311, Oct. 28, 1992, 106 Stat. 3765.)

AMENDMENTS

1992—Subsec. (b). Pub. L. 102-550 substituted “, such as any law or regulation” for “and” after “subchapter”.

§ 4123. Severability

If any provision of this subchapter, or the application of such provision with respect to any person or circumstance, is held invalid, the remainder of this Act, and the application of such provision to any other person or circumstance, shall not be affected by such holding.

(Pub. L. 100-242, title II, §233, as added Pub. L. 101-625, title VI, §601(a), Nov. 28, 1990, 104 Stat. 4274.)

REFERENCES IN TEXT

This Act, referred to in text, is Pub. L. 100-242, Feb. 5, 1988, 101 Stat. 1815, as amended, known as the Housing and Community Development Act of 1987. For complete classification of this Act to the Code, see Short Title of 1988 Amendment note under section 5301 of Title 42, The Public Health and Welfare, and Tables.

§ 4124. Authorization of appropriations**(a) In general**

There are authorized to be appropriated for assistance and incentives authorized under this subchapter \$638,252,784 for fiscal year 1993 and \$665,059,401 for fiscal year 1994.

(b) Grants

Subject to approval in appropriation Acts, not more than \$50,000,000 of the amounts made available under subsection (a) of this section for fiscal year 1993, and not more than \$50,000,000 of the amounts made available under subsection (a) of this section for fiscal year 1994, shall be available for grants under section 4111(d)(2) of this title.

(Pub. L. 100-242, title II, §234, as added Pub. L. 101-625, title VI, §601(a), Nov. 28, 1990, 104 Stat. 4274; amended Pub. L. 102-550, title III, §301, Oct. 28, 1992, 106 Stat. 3762.)

AMENDMENTS

1992—Pub. L. 102-550 amended section generally. Prior to amendment, section read as follows:

“(a) GENERAL.—There are authorized to be appropriated for assistance and incentives authorized under this chapter \$425,000,000 for fiscal year 1991 and \$858,000,000 for fiscal year 1992.

“(b) GRANTS.—Of the amounts made available under subsection (a) of this section, not more than \$100,000,000 for each of fiscal years 1991 and 1992 shall be available for grants under section 4111(d)(2) of this title, subject to approval in appropriations Acts.”

§ 4125. State preservation project assistance**(1) In general**

Upon application by a State or local housing authority (including public housing agencies), the Secretary of Housing and Urban Development may make available, from sources of assistance appropriated to preserve the low and moderate income status of projects with expiring Federal use restrictions, assistance to such State or local housing authorities for use in preventing the loss of housing affordable for low and moderate income families that is assisted under a State program under the terms of which the owner may prepay a State assisted or subsidized mortgage on such housing. The application of the State or local housing authority shall demonstrate to the Secretary that the total amount of incentives provided to the owner to induce the owner to preserve the low and moderate income status of the project shall not exceed the level of incentives which may be provided to a similarly situated project with expiring Federal use restrictions under subtitle B of title II of the Housing and Community Development Act of 1987 [12 U.S.C. 4101 et seq.].