

**§ 1434. Records; contents; examination and audit**

Every contract between the Department of Housing and Urban Development and any person or local body (including any corporation or public or private agency or body) for a loan, advance, grant, or contribution under the United States Housing Act of 1937, as amended [42 U.S.C. 1437 et seq.], the Housing Act of 1949, as amended [42 U.S.C. 1441 et seq.], or any other Act shall provide that such person or local body shall keep such records as the Department of Housing and Urban Development shall from time to time prescribe, including records which permit a speedy and effective audit and will fully disclose the amount and the disposition by such person or local body of the proceeds of the loan, advance, grant, or contribution, or any supplement thereto, the capital cost of any construction project for which any such loan, advance, grant, or contribution is made, and the amount of any private or other non-Federal funds used or grants-in-aid made for or in connection with any such project. No mortgage covering new or rehabilitated multifamily housing (as defined in section 1715r of title 12) shall be insured unless the mortgagor certifies that he will keep such records as are prescribed by the Secretary of Housing and Urban Development at the time of the certification and that they will be kept in such form as to permit a speedy and effective audit. The Department of Housing and Urban Development and the Comptroller General of the United States shall have access to and the right to examine and audit such records. This section shall become effective on the first day after the first full calendar month following the date of approval of the Housing Act of 1961.

(Aug. 2, 1954, ch. 649, title VIII, § 814, 68 Stat. 647; Pub. L. 87-70, title IX, § 908, June 30, 1961, 75 Stat. 191; Pub. L. 90-19, § 10(h), May 25, 1967, 81 Stat. 23.)

## REFERENCES IN TEXT

The United States Housing Act of 1937, as amended, 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 this chapter (§ 1437 et seq.). For complete classification of this Act to the Code, see Short Title note set out under section 1437 of this title and Tables.

The Housing Act of 1949, as amended, referred to in text, is act July 15, 1949, ch. 338, 63 Stat. 413, as amended, which is classified principally to chapter 8A (§ 1441 et seq.) of this title. For complete classification of this Act to the Code, see Short Title note set out under section 1441 of this title and Tables.

The first day after the first full calendar month following the date of approval of the Housing Act of 1961, referred to in text, probably means Aug. 1, 1961, which is the first day after the first full calendar month following approval of Pub. L. 87-70, which was approved on June 30, 1961.

## CODIFICATION

Section was not enacted as part of the United States Housing Act of 1937 which comprises this chapter.

Section was formerly classified to sections 1446 of this title and 1715s of Title 12, Banks and Banking.

## AMENDMENTS

1967—Pub. L. 90-19 substituted “Secretary of Housing and Urban Development” for “Federal Housing Commissioner” in second sentence and “Department of

Housing and Urban Development” for “Housing and Home Finance Agency (or any official or constituent thereof)” and “Housing and Home Finance Agency (or such official or constituent thereof)” in first sentence and for “Housing and Home Finance Agency or any official or constituent agency thereof” in third sentence, respectively.

1961—Pub. L. 87-70 required record keeping provisions in contracts under the Housing Act of 1949 and in contracts under any other act, prohibited insurance of mortgages covering new or rehabilitated multifamily housing unless the mortgagor certifies that he will keep records, and empowered the Comptroller General to examine and audit records, and substituted “Housing Act of 1961” for “Housing Act of 1954”.

## EFFECTIVE DATE

The fourth sentence of section 814 of act Aug. 2, 1954, ch. 649, 68 Stat. 647 (prior to the amendment by section 908 of Pub. L. 87-70), provided that this section is effective on first day after first calendar month following the date of approval of the act (Aug. 2, 1954).

**§ 1435. Access to books, documents, etc., for purpose of audit**

Every contract for loans or annual contributions under this chapter shall provide that the Secretary of Housing and Urban Development and the Comptroller General of the United States, or any of their duly authorized representatives, shall, for the purpose of audit and examination, have access to any books, documents, papers, and records of the public housing agency entering into such contract that are pertinent to its operations with respect to financial assistance under this chapter.

(Aug. 2, 1954, ch. 649, title VIII, § 816, 68 Stat. 647; Pub. L. 90-19, § 10(i), May 25, 1967, 81 Stat. 23.)

## CODIFICATION

Section was not enacted as part of the United States Housing Act of 1937 which comprises this chapter.

## AMENDMENTS

1967—Pub. L. 90-19 substituted “Secretary of Housing and Urban Development” for “Public Housing Commissioner”.

**§ 1436. Repealed. Pub. L. 91-609, title V, § 503(4), Dec. 31, 1970, 84 Stat. 1786**

Section, Pub. L. 87-70, title II, § 207, June 30, 1961, 75 Stat. 165; Pub. L. 88-560, title II, § 203(e), title IV, § 407, Sept. 2, 1964, 78 Stat. 784, 796; Pub. L. 89-117, title XI, § 1105, Aug. 10, 1965, 79 Stat. 503; Pub. L. 90-19, § 18(a), May 25, 1967, 81 Stat. 25; Pub. L. 90-448, title XVII, § 1714(a), Aug. 1, 1968, 82 Stat. 607, provided for low-rent housing demonstration programs and development grants. See section 1701z-1 et seq. of Title 12, Banks and Banking.

## EFFECTIVE DATE OF REPEAL: SAVINGS PROVISION

Pub. L. 91-609, title V, § 503, Dec. 31, 1970, 84 Stat. 1785, provided in part for repeal of sections 1701d-3, 1701e, 1701e note, and 1701f of Title 12, Banks and Banking, this section, note below, section 1452a, section 1456 note, and sections 3372, 3373 of this title, effective July 1, 1971, except that the repeal shall not affect contracts, commitments, reservations, or other obligations entered pursuant to such provisions prior to July 1, 1971.

## REPORT OF SELF-HELP STUDIES AND DEMONSTRATIONS

Pub. L. 90-448, title XVII, § 1714(b), Aug. 1, 1968, 82 Stat. 607, providing for report to Congress within one year after Aug. 1, 1968, respecting self-help studies and demonstrations, was repealed by Pub. L. 91-609, title V, § 503(7), Dec. 31, 1970, 84 Stat. 1786.

**§ 1436a. Restriction on use of assisted housing by non-resident aliens**

**(a) Conditions for assistance**

Notwithstanding any other provision of law, the applicable Secretary may not make financial assistance available for the benefit of any alien unless that alien is a resident of the United States and is—

(1) an alien lawfully admitted for permanent residence as an immigrant as defined by section 1101(a)(15) and (20) of title 8, excluding, among others, alien visitors, tourists, diplomats, and students who enter the United States temporarily with no intention of abandoning their residence in a foreign country;

(2) an alien who entered the United States prior to June 30, 1948, or such subsequent date as is enacted by law, has continuously maintained his or her residence in the United States since then, and is not ineligible for citizenship, but who is deemed to be lawfully admitted for permanent residence as a result of an exercise of discretion by the Attorney General pursuant to section 1259 of title 8;

(3) an alien who is lawfully present in the United States pursuant to an admission under section 1157 of title 8 or pursuant to the granting of asylum (which has not been terminated) under section 1158 of title 8;

(4) an alien who is lawfully present in the United States as a result of an exercise of discretion by the Attorney General for emergent reasons or reasons deemed strictly in the public interest pursuant to section 1182(d)(5) of title 8;

(5) an alien who is lawfully present in the United States as a result of the Attorney General's withholding deportation pursuant to section 1231(b)(3) of title 8;

(6) an alien lawfully admitted for temporary or permanent residence under section 1255a of title 8; or

(7) an alien who is lawfully resident in the United States and its territories and possessions under section 141 of the Compacts of Free Association between the Government of the United States and the Governments of the Marshall Islands, the Federated States of Micronesia (48 U.S.C. 1901 note) and Palau (48 U.S.C. 1931 note) while the applicable section is in effect: *Provided*, That, within Guam any such alien shall not be entitled to a preference in receiving assistance under this Act over any United States citizen or national resident therein who is otherwise eligible for such assistance.

**(b) "Financial assistance" defined**

(1) For purposes of this section the term "financial assistance" means financial assistance made available pursuant to the United States Housing Act of 1937 [42 U.S.C. 1437 et seq.], section 1715z or 1715z-1 of title 12, the direct loan program under section 1472 of this title or section 1472(c)(5)(D), 1474, 1490a(a)(2)(A), or 1490r of this title, subtitle A of title III of the Cranston-Gonzalez National Affordable Housing Act [42 U.S.C. 12851 et seq.], or section 101 of the Housing and Urban Development Act of 1965 [12 U.S.C. 1701s].

(2) If the eligibility for financial assistance of at least one member of a family has been affirmatively established under the program of financial assistance and under this section, and the ineligibility of one or more family members has not been affirmatively established under this section, any financial assistance made available to that family by the applicable Secretary shall be prorated, based on the number of individuals in the family for whom eligibility has been affirmatively established under the program of financial assistance and under this section, as compared with the total number of individuals who are members of the family.

**(c) Preservation of families; students**

(1) If, following completion of the applicable hearing process, financial assistance for any individual receiving such assistance on February 5, 1988, is to be terminated, the public housing agency or other local governmental entity involved (in the case of public housing or assistance under section 8 of the United States Housing Act of 1937 [42 U.S.C. 1437f]) or the applicable Secretary (in the case of any other financial assistance) shall take one of the following actions:

(A) Permit the continued provision of financial assistance, if necessary to avoid the division of a family in which the head of household or spouse is a citizen of the United States, a national of the United States, or an alien resident of the United States described in any of paragraphs (1) through (6) of subsection (a) of this section. For purposes of this paragraph, the term "family" means a head of household, any spouse, any parents of the head of household, any parents of the spouse, and any children of the head of household or spouse. Financial assistance continued under this subparagraph for a family may be provided only on a prorated basis, under which the amount of financial assistance is based on the percentage of the total number of members of the family that are eligible for that assistance under the program of financial assistance and under this section.

(B)(i) Defer the termination of financial assistance, if necessary to permit the orderly transition of the individual and any family members involved to other affordable housing.

(ii) Except as provided in clause (iii), any deferral under this subparagraph shall be for a 6-month period and may be renewed by the public housing agency or other entity involved for an aggregate period of 18-months. At the beginning of each deferral period, the public housing agency or other entity involved shall inform the individual and family members of their ineligibility for financial assistance and offer them other assistance in finding other affordable housing.

(iii) The time period described in clause (ii) shall not apply in the case of a refugee under section 1157 of title 8 or an individual seeking asylum under section 1158 of title 8.

(2) Notwithstanding any other provision of law, the applicable Secretary may not make financial assistance available for the benefit of—

(A) any alien who—

(i) has a residence in a foreign country that such alien has no intention of abandoning;