

Acts, to carry out section 1437z-5 of this title, and section 101(e) [title II, §202] of Pub. L. 104-134 as in effect immediately before Oct. 21, 1998, to continue to apply to public housing developments identified for conversion, or assessment of whether conversion is required, prior to such date, see section 537(c) of Pub. L. 105-276, set out as a Transition note under section 1437z-5 of this title.

#### § 1437m. Payment of non-Federal share

Any of the following may be used as the non-Federal share required in connection with activities undertaken under Federal grant-in-aid programs which provide social, educational, employment, and other services to the tenants in a project assisted under this chapter, other than under section 1437f of this title;

(1) annual contributions under this chapter for operation of the project; or

(2) rental or use-value of buildings or facilities paid for, in whole or in part, from development, modernization, or operation cost financed under this chapter.

(Sept. 1, 1937, ch. 896, title I, §15, as added Pub. L. 96-399, title II, §212, Oct. 8, 1980, 94 Stat. 1636; amended Pub. L. 100-242, title I, §112(b)(7), Feb. 5, 1988, 101 Stat. 1824; renumbered title I, Pub. L. 100-358, §5, June 29, 1988, 102 Stat. 681.)

#### AMENDMENTS

1988—Cl. (2). Pub. L. 100-242 struck out “with loans or debt service annual contributions” after “cost financed”.

#### § 1437n. Eligibility for assisted housing

##### (a) Income eligibility for public housing

###### (1) Income mix within projects

A public housing agency may establish and utilize income-mix criteria for the selection of residents for dwelling units in public housing projects, subject to the requirements of this section.

###### (2) PHA income mix

(A)<sup>1</sup> TARGETING.—Except as provided in paragraph (4), of the public housing dwelling units of a public housing agency made available for occupancy in any fiscal year by eligible families, not less than 40 percent shall be occupied by families whose incomes at the time of commencement of occupancy do not exceed 30 percent of the area median income, as determined by the Secretary with adjustments for smaller and larger families; except that the Secretary may establish income ceilings higher or lower than 30 percent of the area median income on the basis of the Secretary’s findings that such variations are necessary because of unusually high or low family incomes.

###### (3) Prohibition of concentration of low-income families

###### (A) Prohibition

A public housing agency may not, in complying with the requirements under paragraph (2), concentrate very low-income families (or other families with relatively low incomes) in public housing dwelling units in

certain public housing projects or certain buildings within projects. The Secretary shall review the income and occupancy characteristics of the public housing projects and the buildings of such projects of such agencies to ensure compliance with the provisions of this paragraph and paragraph (2).

##### (B) Deconcentration

###### (i) In general

A public housing agency shall submit with its annual public housing agency plan under section 1437c-1 of this title an admissions policy designed to provide for deconcentration of poverty and income-mixing by bringing higher income tenants into lower income projects and lower income tenants into higher income projects. This clause may not be construed to impose or require any specific income or racial quotas for any project or projects.

###### (ii) Incentives

In implementing the policy under clause (i), a public housing agency may offer incentives for eligible families having higher incomes to occupy dwelling unit in projects predominantly occupied by eligible families having lower incomes, and provide for occupancy of eligible families having lower incomes in projects predominantly occupied by eligible families having higher incomes.

###### (iii) Family choice

Incentives referred to in clause (ii) may be made available by a public housing agency only in a manner that allows for the eligible family to have the sole discretion in determining whether to accept the incentive and an agency may not take any adverse action toward any eligible family for choosing not to accept an incentive and occupancy of a project described in clause (i)(II).<sup>2</sup> *Provided*, That the skipping of a family on a waiting list to reach another family to implement the policy under clause (i) shall not be considered an adverse action. An agency implementing an admissions policy under this subparagraph shall implement the policy in a manner that does not prevent or interfere with the use of site-based waiting lists authorized under section 1437d(s)<sup>3</sup> of this title.

##### (4) Fungibility with tenant-based assistance

###### (A) Authority

Except as provided under subparagraph (D), the number of public housing dwelling units that a public housing agency shall otherwise make available in accordance with paragraph (2)(A) to comply with the percentage requirement under such paragraph for a fiscal year shall be reduced by the credit number for the agency under subparagraph (B).

###### (B) Credit for exceeding tenant-based assistance targeting requirement

Subject to subparagraph (C), the credit number under this subparagraph for a public

<sup>1</sup> So in original. No subpar. (B) has been enacted.

<sup>2</sup> So in original. Cl. (i) does not contain subclauses.

<sup>3</sup> See References in Text note below.