

**§ 1439. Local housing assistance plan**

**(a) Applicability of approved plan to housing assistance application; procedure upon receipt of application by Secretary of Housing and Urban Development; definitions**

(1) The Secretary of Housing and Urban Development, upon receiving an application for housing assistance under the United States Housing Act of 1937 [42 U.S.C. 1437 et seq.],<sup>1</sup> section 101 of the Housing and Urban Development Act of 1965 [12 U.S.C. 1701s], or,<sup>2</sup> if the unit of general local government in which the proposed assistance is to be provided has an approved housing assistance plan, shall—

(A) not later than ten days after receipt of the application, notify the chief executive officer of such unit of general local government that such application is under consideration; and

(B) afford such unit of general local government the opportunity, during the thirty-day period beginning on the date of such notification, to object to the approval of the application on the grounds that the application is inconsistent with its housing assistance plan.

Upon receiving an application for such housing assistance, the Secretary shall assure that funds made available under this section shall be utilized to the maximum extent practicable to meet the needs and goals identified in the unit of local government's housing assistance plan.

(2) If the unit of general local government objects to the application on the grounds that it is inconsistent with its housing assistance plan, the Secretary may not approve the application unless he determines that the application is consistent with such housing assistance plan. If the Secretary determines, that such application is consistent with the housing assistance plan, he shall notify the chief executive officer of the unit of general local government of his determination and the reasons therefor in writing. If the Secretary concurs with the objection of the unit of local government, he shall notify the applicant stating the reasons therefor in writing.

(3) If the Secretary does not receive an objection by the close of the period referred to in paragraph (1)(B), he may approve the application unless he finds it inconsistent with the housing assistance plan. If the Secretary determines that an application is inconsistent with a housing assistance plan, he shall notify the applicant stating the reasons therefor in writing.

(4) The Secretary shall make the determinations referred to in paragraphs (2) and (3) within thirty days after he receives an objection pursuant to paragraph (1)(B) or within thirty days after the close of the period referred to in paragraph (1)(B), whichever is earlier.

(5) As used in this section, the term "housing assistance plan" means a housing assistance plan submitted and approved under section 5304 of this title or, in the case of a unit of general local government not participating under title I of this Act [42 U.S.C. 5301 et seq.], a housing plan approved by the Secretary as meeting the re-

quirements of this section. In developing a housing assistance plan under this paragraph a unit of general local government shall consult with local public agencies involved in providing for the welfare of children to determine the housing needs of (A) families identified by the agencies as having a lack of adequate housing that is a primary factor in the imminent placement of a child in foster care or in preventing the discharge of a child from foster care and reunification with his or her family; and (B) children who, upon discharge of the child from foster care, cannot return to their family or extended family and for which adoption is not available. The unit of general local government shall include in the housing assistance plan needs and goals with respect to such families and children.

**(b) Housing assistance applications subject to procedures**

The provisions of subsection (a) of this section shall not apply to—

(1) applications for assistance involving 12 or fewer units in a single project or development;

(2) applications for assistance with respect to housing in new community developments approved under title IV of the Housing and Urban Development Act of 1968 [42 U.S.C. 3901 et seq.] or title VII of the Housing and Urban Development Act of 1970 [42 U.S.C. 4501 et seq.] which the Secretary determines are necessary to meet the housing requirements under such title; or

(3) applications for assistance with respect to housing financed by loans or loan guarantees from a State or agency thereof, except that the provisions of subsection (a) of this section shall apply where the unit of general local government in which the assistance is to be provided objects in its housing assistance plan to the exemption provided by this paragraph.

**(c) Repealed. Pub. L. 105-276, title V, § 551(1), Oct. 21, 1998, 112 Stat. 2610**

**(d) Allocation and reservation of housing assistance funds; purposes; prohibited reallocation of unutilized funds; enumerated uses for retained funds; competition for reservation and obligation of funds**

(1)(A)(i) Except as provided by subparagraph (B), the Secretary shall allocate assistance referred to in subsection (a)(1) of this section the first time it is available for reservation on the basis of a formula that is contained in a regulation prescribed by the Secretary, and that is based on the relative needs of different States, areas, and communities, as reflected in data as to population, poverty, housing overcrowding, housing vacancies, amount of substandard housing, and other objectively measurable conditions specified in the regulation. The Secretary may allocate assistance under the preceding sentence in such a manner that each State shall receive not less than one-half of one percent of the amount of funds available for each program referred to in subsection (a)(1) of this section in each fiscal year. In allocating assistance under this paragraph for each program of housing assistance under subsection (a)(1) of this section, the Secretary shall apply the formula, to the ex-

<sup>1</sup> So in original. The comma probably should be "or".

<sup>2</sup> So in original. The word "or" and the comma probably should not appear.

tent practicable, in a manner so that the assistance under the program is allocated according to the particular relative needs under the preceding sentence that are characteristic of and related to the particular type of assistance provided under the program. Assistance under section 202 of the Housing Act of 1959 [12 U.S.C. 1701q] shall be allocated in a manner that ensures that awards of the assistance under such section are made for projects of sufficient size to accommodate facilities for supportive services appropriate to the needs of frail elderly residents. The preceding sentence shall not apply to projects acquired from the Resolution Trust Corporation under section 1441a(c)<sup>3</sup> of title 12. Amounts for tenant-based assistance under section 8(o) of the United States Housing Act of 1937 [42 U.S.C. 1437f(o)] may not be provided to any public housing agency that has been disqualified from providing such assistance.

(i) Assistance under section 8(o) of the United States Housing Act of 1937 [42 U.S.C. 1437f(o)] shall be allocated in a manner that enables participating jurisdictions to carry out, to the maximum extent practicable, comprehensive housing affordability strategies approved in accordance with section 105 of the Cranston-Gonzalez National Affordable Housing Act [42 U.S.C. 12705]. Such jurisdictions shall submit recommendations for allocating assistance under such section 8(o) to the Secretary in accordance with procedures that the Secretary determines to be appropriate to permit allocations of such assistance to be made on the basis of timely and complete information. This clause may not be construed to prevent, alter, or otherwise affect the application of the formula established pursuant to clause (i) for purposes of allocating such assistance. For purposes of this clause, the term "participating jurisdiction" means a State or unit of general local government designated by the Secretary to be a participating jurisdiction under title II of the Cranston-Gonzalez National Affordable Housing Act [42 U.S.C. 12721 et seq.].

(B) The formula allocation requirements of subparagraph (A) shall not apply to—

(i) assistance that is approved in appropriation Acts for use under sections<sup>4</sup> 9 [42 U.S.C. 1437g], or the rental rehabilitation grant program under section 17,<sup>3</sup> of the United States Housing Act of 1937, except that the Secretary shall comply with section 102 of the Department of Housing and Urban Development Reform Act of 1989 [42 U.S.C. 3545] with respect to such assistance; or

(ii) other assistance referred to in subsection (a) of this section that is approved in appropriation Acts for uses that the Secretary determines are incapable of geographic allocation, including amendments of existing contracts, renewal of assistance contracts, assistance to families that would otherwise lose assistance due to the decision of the project owner to prepay the project mortgage or not to renew the assistance contract, assistance to prevent displacement or to provide replacement housing in connection with the demolition or disposition of public housing, and as-

istance in support of the property disposition and loan management functions of the Secretary.

(C) Any allocation of assistance under subparagraph (A) shall, as determined by the Secretary, be made to the smallest practicable area, consistent with the delivery of assistance through a meaningful competitive process designed to serve areas with greater needs.

(D) Any amounts allocated to a State or areas or communities within a State that are not likely to be used within a fiscal year shall not be re-allocated for use in another State, unless the Secretary determines that other areas or communities (that are eligible for assistance under the program) within the same State cannot use the amounts within that same fiscal year.

(2) The Secretary may reserve such housing assistance funds as he deems appropriate for use by a State or agency thereof.

(3)(A) Notwithstanding any other provision of law, with respect to fiscal years beginning after September 30, 1990, the Secretary may retain not more than 5 percent of the financial assistance that becomes available under programs described in subsection (a)(1) of this section during any fiscal year. Any such financial assistance that is retained shall be available for subsequent allocation to specific areas and communities, and may only be used for—

(i) unforeseen housing needs resulting from natural and other disasters;

(ii) housing needs resulting from emergencies, as certified by the Secretary, other than such disasters;

(iii) housing needs resulting from the settlement of litigation; and

(iv) housing in support of desegregation efforts.

(B) Any amounts retained in any fiscal year under subparagraph (A) that are unexpended at the end of such fiscal year shall remain available for the following fiscal year under the program under subsection (a)(1) of this section from which the amount was retained. Such amounts shall be allocated on the basis of the formula under subsection (d)(1) of this section.

(4)(A) The Secretary shall not reserve or obligate assistance subject to allocation under paragraph (1)(A) to specific recipients, unless the assistance is first allocated on the basis of the formula contained in that paragraph and then is reserved and obligated pursuant to a competition.

(B) Any competition referred to in subparagraph (A) shall be conducted pursuant to specific criteria for the selection of recipients of assistance. The criteria shall be contained in—

(i) a regulation promulgated by the Secretary after notice and public comment; or

(ii) to the extent authorized by law, a notice published in the Federal Register.

(C) Subject to the times at which appropriations for assistance subject to paragraph (1)(A) may become available for reservation in any fiscal year, the Secretary shall take such steps as the Secretary deems appropriate to ensure that, to the maximum extent practicable, the process referred to in subparagraph (A) is carried out with similar frequency and at similar times for each fiscal year.

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

<sup>4</sup> So in original. Probably should be "section".

(D) This paragraph shall not apply to assistance referred to in paragraph (4).<sup>3</sup>

**(e) Assistance payments for properties in Jefferson County, Texas**

From budget authority made available in appropriation Acts for fiscal year 1988, the Secretary shall enter into an annual contributions contract for a term of 180 months to obligate sufficient funds to provide assistance payments pursuant to section 8(b)(1) of the United States Housing Act of 1937 [42 U.S.C. 1437f(b)(1)] on behalf of 500 lower income families from budget authority made available for fiscal year 1988, so long as such families occupy properties in Jefferson County, Texas. If a lower income family receiving assistance payments pursuant to this subsection ceases to qualify for assistance payments pursuant to the provisions of section 8 of such Act [42 U.S.C. 1437f] or of this subsection during the 180-month term of the annual contributions contract, assistance payments shall be made on behalf of another lower income family who occupies a unit identified in the previous sentence.

(Pub. L. 93-383, title II, §213, Aug. 22, 1974, 88 Stat. 674; Pub. L. 95-128, title II, §207, Oct. 12, 1977, 91 Stat. 1130; Pub. L. 96-153, title II, §204, Dec. 21, 1979, 93 Stat. 1108; Pub. L. 96-399, title II, §202(d), Oct. 8, 1980, 94 Stat. 1629; Pub. L. 97-35, title III, §321(e), Aug. 13, 1981, 95 Stat. 399; Pub. L. 98-181, title I [title II, §201(a)(1), (2)], Nov. 30, 1983, 97 Stat. 1175; Pub. L. 98-479, title I, §102(e), Oct. 17, 1984, 98 Stat. 2222; Pub. L. 100-242, title V, §522(a), Feb. 5, 1988, 101 Stat. 1938; Pub. L. 101-235, title I, §§101(a)-(c), (e), 104(a), Dec. 15, 1989, 103 Stat. 1988-1990, 1998; Pub. L. 101-494, §5, Oct. 31, 1990, 104 Stat. 1186; Pub. L. 101-625, title V, §§556, 576, title VIII, §§801(b), 804(e), Nov. 28, 1990, 104 Stat. 4233, 4238, 4303, 4323; Pub. L. 102-389, title II, Oct. 6, 1992, 106 Stat. 1591; Pub. L. 102-550, title I, §154, Oct. 28, 1992, 106 Stat. 3718; Pub. L. 104-330, title V, §501(d)(3), Oct. 26, 1996, 110 Stat. 4043; Pub. L. 105-276, title V, §§522(b)(2), 551, Oct. 21, 1998, 112 Stat. 2564, 2610.)

REFERENCES IN TEXT

The United States Housing Act of 1937, referred to in subsec. (a)(1), 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, and amended, which is classified generally to this chapter (§1437 et seq.). Section 17 of the United States Housing Act of 1937, referred to in subsec. (d)(1)(B)(i), which was classified to section 1437 of this title, was repealed by Pub. L. 101-625, title II, §289(b), Nov. 28, 1990, 104 Stat. 4128. For complete classification of this Act to the Code, see Short Title note under section 1437 of this title and Tables.

Section 101 of the Housing and Urban Development Act of 1965, referred to in subsec. (a)(1), is section 101 of Pub. L. 89-117, Aug. 10, 1965, 79 Stat. 451, as amended, which enacted section 1701s of Title 12, Banks and Banking, and amended sections 1451 and 1465 of this title.

This Act, referred to in subsec. (a)(5), is Pub. L. 93-383, Aug. 22, 1974, 88 Stat. 633, as amended, known as the Housing and Community Development Act of 1974. Title I of the Housing and Community Development Act of 1974 is classified principally to chapter 69 (§5301 et seq.) of this title. For complete classification of this Act to the Code, see Short Title note set out under section 5301 of this title and Tables.

The Housing and Urban Development Act of 1968, referred to in subsec. (b)(2), is Pub. L. 90-448, Aug. 1, 1968,

82 Stat. 476, as amended. Title IV of the Housing and Urban Development Act of 1968 which was classified principally to chapter 48 (§3901 et seq.) of this title, was omitted from the Code pursuant to section 4528 of this title, which terminated the authority to guarantee bonds, debentures, notes, or other obligations under such title IV, after Dec. 31, 1970. For complete classification of this Act to the Code, see Short Title note set out under section 1701 of Title 12, Banks and Banking, and Tables.

The Housing and Urban Development Act of 1970, referred to in subsec. (b)(2), is Pub. L. 91-609, Dec. 31, 1970, 84 Stat. 1770, as amended. Title VII of the Housing and Urban Development Act of 1970, known as the Urban Growth and New Community Development Act of 1970, is classified principally to chapter 59 (§4501 et seq.) of this title. For complete classification of this Act to the Code, see Short Title of 1970 Amendment note set out under section 1701 of Title 12.

Section 1441a(c) of title 12, referred to in subsec. (d)(1)(A)(i), was repealed by Pub. L. 111-203, title III, §364(b), July 21, 2010, 124 Stat. 1555.

The Cranston-Gonzalez National Affordable Housing Act, referred to in subsec. (d)(1)(A)(ii), is Pub. L. 101-625, Nov. 28, 1990, 104 Stat. 4079. Title II of the Act, known as the "HOME Investments Partnership Act", is classified principally to subchapter II (§12721 et seq.) of chapter 130 of this title. For complete classification of this Act to the Code, see Short Title note set out under section 12701 of this title and Tables.

Paragraph (4), referred to in subsec. (d)(4)(D), was redesignated paragraph (3) of subsec. (d) by Pub. L. 105-276, title V, §551(2)(C), Oct. 21, 1998, 112 Stat. 2610.

CODIFICATION

Section was enacted as part of the Housing and Community Development Act of 1974, and not as part of the United States Housing Act of 1937 which comprises this chapter.

AMENDMENTS

1998—Subsec. (c). Pub. L. 105-276, §551(1), struck out subsec. (c) which read as follows: "For areas in which an approved local housing assistance plan is not applicable the Secretary shall not approve an application for housing assistance unless he determines that there is a need for such assistance, taking into consideration any applicable State housing plans, and that there is or will be available in the area public facilities and services adequate to serve the housing proposed to be assisted. The Secretary shall afford the unit of general local government in which the assistance is to be provided an opportunity, during a 30-day period following receipt of an application by him, to provide comments or information relevant to the determination required to be made by the Secretary under this subsection."

Subsec. (d)(1)(A)(i). Pub. L. 105-276, §551(2)(A)(i), inserted at end "Amounts for tenant-based assistance under section 8(o) of the United States Housing Act of 1937 may not be provided to any public housing agency that has been disqualified from providing such assistance."

Subsec. (d)(1)(A)(ii). Pub. L. 105-276, §551(2)(A)(ii), substituted "8(o)" for "8(b)(1)" in two places.

Subsec. (d)(1)(B)(i). Pub. L. 105-276, §522(b)(2), which directed the amendment of subsec. (d)(1)(B)(ii), by striking out "or 14", was executed by striking out "or 14" after "9" in subsec. (d)(1)(B)(i) to reflect the probable intent of Congress.

Subsec. (d)(2) to (5). Pub. L. 105-276, §551(2)(B), (C), redesignated pars. (3) to (5) as (2) to (4), respectively, and struck out former par. (2) which read as follows: "Not later than sixty days after approval in an appropriation Act, the Secretary shall allocate from the amounts available for use in nonmetropolitan areas an amount of authority for assistance under section 8(d) of the United States Housing Act of 1937 determined in consultation with the Secretary of Agriculture for use in connection with section 1490m of this title during the

fiscal year for which such authority is approved. The amount of assistance allocated to nonmetropolitan areas pursuant to this section in any fiscal year shall not be less than 20 nor more than 25 per centum of the total amount of the assistance that is subject to allocation under paragraph (1)(A)."

1996—Subsec. (d)(1)(B)(ii). Pub. L. 104-330 substituted "public housing" for "public and Indian housing".

1992—Subsec. (e). Pub. L. 102-389 and Pub. L. 102-550 amended subsec. (e) identically, substituting "Jefferson County, Texas" for "the Park Central New Community Project or in adjacent areas that are recognized by the unit of general local government in which such Project is located as being included within the Park Central New Town In Town Project".

1990—Subsec. (a)(1). Pub. L. 101-625, §801(b), struck out "section 202 of the Housing Act of 1959" before ", if the unit".

Subsec. (a)(5). Pub. L. 101-625, §576, inserted at end "In developing a housing assistance plan under this paragraph a unit of general local government shall consult with local public agencies involved in providing for the welfare of children to determine the housing needs of (A) families identified by the agencies as having a lack of adequate housing that is a primary factor in the imminent placement of a child in foster care or in preventing the discharge of a child from foster care and reunification with his or her family; and (B) children who, upon discharge of the child from foster care, cannot return to their family or extended family and for which adoption is not available. The unit of general local government shall include in the housing assistance plan needs and goals with respect to such families and children."

Subsec. (d)(1)(A). Pub. L. 101-625, §556, designated existing provisions as cl. (i) and added cl. (ii).

Pub. L. 101-494 inserted after first sentence "The Secretary may allocate assistance under the preceding sentence in such a manner that each State shall receive not less than one-half of one percent of the amount of funds available for each program referred to in subsection (a)(1) of this section in each fiscal year."

Subsec. (d)(1)(A)(i). Pub. L. 101-625, §804(e), which directed amendment of subpar. (A) by inserting after the period at end "The preceding sentence shall not apply to projects acquired from the Resolution Trust Corporation under section 1441a(c) of title 12.", was executed by making the insertion after the period at end of cl. (i), to reflect the probable intent of Congress and the intervening amendment by Pub. L. 101-625, §556. See above.

1989—Subsec. (a)(1). Pub. L. 101-235, §101(e), struck out "section 235 or 236 of the National Housing Act," before "section 101 of the Housing and Urban Development Act of 1965".

Subsec. (d)(1). Pub. L. 101-235, §101(a), amended par. (1) generally. Prior to amendment, par. (1) read as follows: "The Secretary shall allocate assistance referred to in subsection (a) of this section (other than assistance approved in appropriation Acts for use under sections 9, 14, and 17 of the United States Housing Act of 1937) the first time it is available for reservation on the basis of a formula which is contained in a regulation prescribed by the Secretary, and which is based on the relative needs of different States, areas, and communities as reflected in data as to population, poverty, housing overcrowding, housing vacancies, amount of substandard housing, and other objectively measurable conditions specified in such regulation. Any amounts allocated to a State or areas or communities within a State which are not likely to be utilized within a fiscal year shall not be reallocated for use in another State unless the Secretary determines that other areas or communities within the same State cannot utilize the amounts within that same fiscal year."

Subsec. (d)(2). Pub. L. 101-235, §101(b), substituted "of the assistance that is subject to allocation under paragraph (1)(A)" for "of such assistance".

Subsec. (d)(4). Pub. L. 101-235, §104(a), amended par. (4) generally. Prior to amendment, par. (4) read as fol-

lows: "Notwithstanding any other provision of law, with respect to fiscal years beginning after September 30, 1981, the Secretary of Housing and Urban Development may not retain more than 15 per centum of the financial assistance which becomes available under programs described in subsection (a)(1) of this section during any fiscal year. Any such financial assistance which is retained shall be available for subsequent allocation to specific areas and communities, and may only be used for—

"(A) unforeseeable housing needs, especially those brought on by natural disasters or special relocation requirements;

"(B) support for the needs of the handicapped or for minority enterprise;

"(C) providing for assisted housing as a result of the settlement of litigation;

"(D) small research and demonstration projects;

"(E) lower-income housing needs described in housing assistance plans, including activities carried out under areawide housing opportunity plans; and

"(F) innovative housing programs or alternative methods for meeting lower-income housing needs approved by the Secretary, including assistance for infrastructure in connection with the Indian Housing Program."

Subsec. (d)(5). Pub. L. 101-235, §101(c), added par. (5).

1988—Subsec. (e). Pub. L. 100-242 added subsec. (e).

1984—Subsec. (d)(2). Pub. L. 98-479 substituted "section 1490m of this title" for "section 1490l of this title".

1983—Subsec. (a)(1). Pub. L. 98-181, §201(a)(1), inserted provision following subpar. (B) requiring that funds be utilized to meet the needs and goals identified in the unit of local government's housing assistance plan.

Subsec. (d)(1). Pub. L. 98-181, §201(a)(2), amended par. (1) generally, inserting provision respecting assistance approved in appropriation Acts for sections 9 and 17 of the United States Housing Act of 1937 uses, requiring allocation of assistance to be based on a formula contained in a regulation, making the relative needs provision applicable to different States, striking out requirement that Secretary assure, in carrying out national housing and community development objectives, that funds available for housing assistance programs be allocated or reserved in accordance with goals described in approved housing assistance plans, and striking out provision respecting allocation of funds for nonmetropolitan areas, which was reenacted as last sentence of par. (2).

Subsec. (d)(2). Pub. L. 98-181, §201(a)(2), amended par. (2) generally, inserting provision respecting allocation of nonmetropolitan area funds for use in connection with section 1490l of this title; reenacting as second sentence provision respecting amount of funds allocated for nonmetropolitan areas, which formerly constituted last sentence of par. (1); and striking out former provision respecting reservation of housing assistance funds for new community developments approved under title IV of the Housing and Urban Development Act of 1968 and title VII of the Housing and Urban Development Act of 1970 for persons of low- and moderate-income.

1981—Subsec. (d)(4). Pub. L. 97-35 added par. (4).

1980—Subsec. (d)(1). Pub. L. 96-399 substituted "carrying out section 14 of such Act" for "modernization of low-income housing projects".

1979—Subsec. (d)(1). Pub. L. 96-153 inserted provisions limiting allocation of assistance other than that approved in appropriation acts for use on and after Oct. 1, 1979 for modernization of low-income housing projects and inserted provision that any amounts allocated to a State or to areas or communities within a State which are not likely to be utilized within a fiscal year shall not be reallocated for use in another State unless the Secretary determines that other areas or communities within the same State cannot utilize the amounts in accordance with the appropriate housing assistance plans within that fiscal year.

1977—Subsec. (d)(1). Pub. L. 95-128 inserted provision requiring the Secretary to assure that funds available

for subsec. (a) housing assistance programs shall be allocated or reserved in accordance with goals described in local, State, or other housing assistance plans approved by the Secretary pursuant to section 5304 of this title and shall be utilized to meet needs reflected in data referred to in the preceding sentence.

EFFECTIVE DATE OF 1998 AMENDMENT

Amendment by title V of Pub. L. 105-276 effective and applicable beginning upon Oct. 1, 1999, except as otherwise provided, with provision that Secretary may implement amendment before such date, except to extent that such amendment provides otherwise, and with savings provision, see section 503 of Pub. L. 105-276, set out as a note under section 1437 of this title.

EFFECTIVE DATE OF 1996 AMENDMENT

Amendment by Pub. L. 104-330 effective 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 Title 25, Indians.

EFFECTIVE DATE OF 1990 AMENDMENT

Amendment by section 801(b) of Pub. L. 101-625 effective Oct. 1, 1991, with respect to projects approved on or after such date, and subject to issuance of regulations, see section 801(c) of Pub. L. 101-625, set out as a note under section 1701q of Title 12, Banks and Banking.

Amendment by section 801(b) of Pub. L. 101-625 deemed enacted Nov. 5, 1990, see title II of Pub. L. 101-507, set out as a note under section 1701q of Title 12.

EFFECTIVE DATE OF 1989 AMENDMENT

Pub. L. 101-235, title I, §104(b), Dec. 15, 1989, 103 Stat. 1998, provided that: "Any assistance made available under section 213(d)(4) of the Housing and Community Development Act of 1974 [42 U.S.C. 1439(d)(4)] before October 1, 1990, or pursuant to a commitment for such assistance entered into before such date, shall be governed by the provisions of section 213(d)(4) as such section existed before the date of the enactment of this Act [Dec. 15, 1989]."

EFFECTIVE DATE OF 1981 AMENDMENT

Amendment by Pub. L. 97-35 effective Oct. 1, 1981, see section 371 of Pub. L. 97-35, set out as an Effective Date note under section 3701 of Title 12, Banks and Banking.

**§ 1440. State housing finance and development agencies**

**(a) Statement of purpose; participation by private and nonprofit developers in activities assisted**

It is the purpose of this section to encourage the formation and effective operation of State housing finance agencies and State development agencies which have authority to finance, to assist in carrying out, or to carry out activities designed to (1) provide housing and related facilities through land acquisition, construction, or rehabilitation, for persons and families of low, moderate, and middle income, (2) promote the sound growth and development of neighborhoods through the revitalization of slum and blighted areas, (3) increase and improve employment opportunities for the unemployed and underemployed through the development and redevelopment of industrial, manufacturing, and commercial facilities, or (4) implement the development aspects of State land use and preservation policies, including the advance acquisition of land where it is consistent with such policies. The Secretary of Housing and Urban Development shall encourage maximum partici-

pation by private and nonprofit developers in activities assisted under this section.

**(b) Determination of eligibility for assistance; definitions**

(1) A State housing finance or State development agency is eligible for assistance under this section only if the Secretary determines that it is fully empowered and has adequate authority to at least carry out or assist in carrying out the purposes specified in clause (1) of subsection (a) of this section.

(2) For the purpose of this section—

(A) the term "State housing finance or State development agency" means any public body or agency, publicly sponsored corporation, or instrumentality of one or more States which is designated by the Governor (or Governors in the case of an interstate development agency) for purposes of this section;

(B) the term "State" means any State of the United States, the District of Columbia, the Commonwealth of Puerto Rico, or any territory or possession of the United States; and

(C) the term "Secretary" means the Secretary of Housing and Urban Development.

**(c) Guarantee of obligations issued by agencies; grants to agencies for interest payments on obligations; maximum amount of grants; prerequisites for guarantee; full faith and credit pledged for payment of guarantee; effect and validity of guarantee; fees and charges for guarantee; authorization of appropriations for grants; maximum amount of obligations guaranteed**

(1) The Secretary is authorized to guarantee, and enter into commitments to guarantee, the bonds, debentures, notes, and other obligations issued by State housing finance or State development agencies to finance development activities as determined by him to be in furtherance of the purpose of clause (1) or (2) of subsection (a) of this section, except that obligations issued to finance activities solely in furtherance of the purpose of clause (1) of subsection (a) of this section may be guaranteed only if the activities are in connection with the revitalization of slum or blighted areas under title I of this Act [42 U.S.C. 5301 et seq.] or under any other program determined to be acceptable by the Secretary for this purpose.

(2) The Secretary is authorized to make, and to contract to make, grants to or on behalf of a State housing finance or State development agency to cover not to exceed 33½ per centum of the interest payable on bonds, debentures, notes, and other obligations issued by such agency to finance development activities in furtherance of the purposes of this section.

(3) No obligation shall be guaranteed or otherwise assisted under this section unless the interest income thereon is subject to Federal taxation as provided in subsection (h)(2) of this section, except that use of guarantees provided for in this subsection shall not be made a condition to nor preclude receipt of any other Federal assistance.

(4) The full faith and credit of the United States is pledged to the payment of all guarantees made under this section with respect to principal, interest, and any redemption pre-