

any section 8 assistance provided under this subchapter, whether through the extension of an existing contract or the provision of a new contract for assistance, the Secretary shall have the discretion to adjust contract rents within the limits established under section 4105 of this title, irrespective of the comparable rent requirements set forth in section 1437f(c) of title 42. Notwithstanding any provision of law to the contrary, any conflict pertaining to the computation of contract rents arising from differences between this subchapter and section 1437f of title 42 shall, subject to the prior approval of the Secretary, be resolved in favor of this subchapter; and", was executed by making the amendments to par. (2)(E)(ii) to reflect the probable intent of Congress. See Effective and Termination Dates of 1994 Amendment note below.

Subsec. (a)(2)(E)(iii). Pub. L. 103-327 temporarily added cl. (iii) which read as follows:

"(iii)(I) to retain the tenant occupancy profile required by subparagraph (F)(i), tenants that are determined by the Secretary to be low-income tenants at initial income certification upon occupancy, or at the time of implementation of a plan of action (whichever occurs last), shall pay for rent an amount that is not less than the lesser of—

"(aa) 30 percent of 45 percent of median income for the area (as determined by the Secretary and adjusted for family size); or

"(bb) 90 percent of the actual rent paid for a comparable unit in comparable unassisted housing in the market area in which the eligible low-income housing is located.

Subject to subclause (II), payment of this minimum rent shall be a condition of continued occupancy and eligibility for section 8 assistance.

"(II) Notwithstanding the rents required under subclause (I), a tenant who occupies a unit designated for occupancy by low-income persons and families, and who becomes a very low-income tenant, shall be provided with the next available unit designated for occupancy by very low-income persons and families, and, until such unit becomes available, shall pay for rent not more than the amount chargeable as rent under section 1437a(a) of title 42. Such tenant shall not be evicted for nonpayment of rent if the rent amounts set forth in this subclause are paid. The costs resulting from the difference between rents required under subclause (I) and the rents permitted under this subclause shall be incorporated into the section 8 contract for units designated for occupancy by low-income persons or families; and". See Effective and Termination Dates of 1994 Amendment note below.

Subsec. (a)(2)(F). Pub. L. 103-327, which directed the temporary amendment of par. (1)(F) by substituting "to the extent practicable, the units becoming available to new tenants shall be" for "rents for units becoming available to new tenants shall be at levels approved by the Secretary that will ensure, to the extent practicable, that the units will be" in cl. (i), adding cl. (ii), and redesignating former cl. (ii) as (iii), was executed by making the amendments to par. (2)(F) to reflect the probable intent of Congress. Cl. (ii) read as follows: "in order to maintain the proportions of very low- and low-income families and persons required by clause (i), owners shall be required to apply any required Federal preference rules only with respect to tenants within each low- or very low-income category, in accordance with the approved tenant profile; and". See Effective and Termination Dates of 1994 Amendment note below.

1992—Subsec. (a)(2)(A). Pub. L. 102-550, §317(a)(4)(A), substituted "low-income" for "low income" after "families or persons."

Subsec. (a)(2)(G)(i). Pub. L. 102-550, §308(b), substituted " , where the owner is a priority purchaser, to the portion of rent attributable to project oversight costs" for "by making changes in the annual authorized return under section 4104 of this title".

Subsec. (c)(2). Pub. L. 102-550, §317(a)(4)(B), substituted "a hearing" for "an hearing".

Subsec. (d)(2)(B). Pub. L. 102-550, §317(a)(4)(C), inserted "the" after "that".

Subsec. (d)(2)(C)(ii). Pub. L. 102-550, §317(a)(4)(D), substituted "in default" for "default".

Subsec. (e). Pub. L. 102-550, §308(a), struck out subsec. (e) which read as follows: "(e) WINDFALL PROFITS.—The Secretary shall submit a report to the Congress not later than 90 days after November 28, 1990, evaluating the availability, quality, and reliability of data to measure the accessibility of decent, affordable housing in all areas where properties are eligible to submit a notice of intent to prepay under section 4102 of this title. To prevent payment of windfall profits, the Secretary may make available incentive payments under section 4109 or 4110 of this title only to owners in those rental markets where there is an inadequate supply of decent, affordable housing, if the Secretary determines that adequate data can be obtained to permit objective and fair implementation or where necessary to accomplish the other public policy objectives under this chapter. The Secretary shall implement this subsection in a manner consistent with the process established by this chapter."

EFFECTIVE AND TERMINATION DATES OF 1994 AMENDMENT

Pub. L. 103-327, title II, Sept. 28, 1994, 108 Stat. 2316, provided in part that: "Section 601 [amending this section and section 4119 of this title and enacting provisions set out below] of title VI of S. 2281 (103d Cong., 2d Sess.), as reported to the Senate on July 13 (legislative day, July 11), 1994 (S. Rep. 103-307), is hereby incorporated into this Act [Pub. L. 103-327], and such section 601 is deemed enacted into law upon enactment of this Act [Sept. 28, 1994]: *Provided*, That the provisions of such section 601 shall be effective only during fiscal year 1995."

Section 601(f) 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, title II [title VI, §601(f)], Sept. 28, 1994, 108 Stat. 2316, provided in part, that:

"(1) IN GENERAL.—Except as provided in paragraph (2), this section [amending this section and section 4119 of this title] shall take effect on the date of enactment of this Act [Sept. 28, 1994].

"(2) EXCEPTION.—If an owner of eligible low-income housing has a plan of action that has been approved by the Secretary and that is being implemented as of the date of enactment of this Act [Sept. 28, 1994], subsections (a), (b), (c), and (d) [amending this section] shall not apply to current tenants of such housing until the first date on which the next annual rent adjustments are made following the date of enactment of this Act."

§ 4113. Assistance for displaced tenants

(a) Section 1437f assistance

Each low-income family that is displaced as a result of the prepayment of the mortgage or voluntary termination of an insurance contract on eligible low income housing shall, subject to the availability or¹ amounts provided under appropriations Acts, receive tenant-based assistance under section 1437f of title 42. To the extent sufficient amounts are made available under appropriations Acts, in each fiscal year the Secretary shall reserve from amounts made available under section 4124(a) of this title or, if necessary, under section 1437c(c) of title 42, such amounts as the Secretary determines are necessary to provide assistance payments for low-income families displaced during the fiscal year.

(b) Relocation assistance

The Secretary shall coordinate with public housing agencies to ensure that any very low- or

¹ So in original. Probably should be "of".

low-income family displaced from eligible low-income housing as the result of the prepayment of the mortgage (or termination of the mortgage insurance contract) on such housing is able to acquire a suitable, affordable dwelling unit in the area of the housing from which the family is displaced. The Secretary shall require the owner of such housing to pay 50 percent of the moving expenses of each family relocated, except that such percentage shall be increased to the extent that State or local law of general applicability requires a higher payment by the owner.

(c) Continued occupancy

(1) In general

Each owner that prepays the mortgage (or terminates the mortgage insurance contract) on eligible low-income housing shall, as provided in paragraph (3), allow the tenants occupying units in such housing on the date of the submission of notice of intent under section 4102 of this title to remain in the housing for a period of 3 years, at rent levels (except for increases necessary for increased operating costs) existing at the time of prepayment.

(2) Provision of assistance by owner

In any case in which the Secretary requires an owner to allow tenants to occupy units under paragraph (1), an owner may fulfill the requirements of such paragraph by providing such assistance necessary for the tenant to rent a decent, safe, and sanitary unit in another project for the same period and at a rental cost to the tenant not in excess of the rental amount the tenant would have been required to pay in the housing of the owner, except that the tenant must freely agree to waive the right to occupy the unit in the owner's housing.

(3) Applicability to low-vacancy areas and special needs tenants

The provisions of this subsection shall apply only to—

(A) eligible low income housing located in a low-vacancy area (as such term is defined by the Secretary); and

(B) tenants in any eligible low-income housing in any area who have special needs restricting their ability to relocate (including elderly tenants and tenants with disabilities), as determined under regulations established by the Secretary.

(d) Required acceptance of section 1437f assistance

An owner who prepays the mortgage (or terminates the mortgage insurance contract) on eligible low-income housing and maintains the housing for residential rental occupancy may not refuse to rent, refuse to negotiate for the rental of, or otherwise make unavailable or deny the rent of a dwelling unit in such property to any person, or discriminate against any person in the terms, conditions, or privileges of rental of a dwelling (or in the provision of services or facilities in connection therewith), because the person receives assistance under section 1437f of title 42.

(e) Regional pools

In providing assistance under this section, the Secretary shall allocate the assistance on a re-

gional basis through the regional offices of the Department of Housing and Urban Development. The Secretary shall allocate assistance under this section in a manner so that the total number of assisted units in each such region available for occupancy by, and affordable to, lower income families and persons does not decrease because of the prepayment or payment of a mortgage on eligible low-income housing or the termination of an insurance contract on such housing.

(f) Enhanced voucher assistance for certain tenants

(1) Authority

In lieu of benefits under subsections (b), (c), and (d) of this section, and subject to the availability of appropriated amounts, each family described in paragraph (2) shall be offered enhanced voucher assistance under section 1437f(t) of title 42.

(2) Eligible families

A family described in this paragraph is a family that is—

(A)(i) a low-income family; or

(ii) a moderate-income family that is: (I) an elderly family; (II) a disabled family; or (III) residing in a low-vacancy area; and

(B) residing in eligible low-income housing on the date of the prepayment of the mortgage or voluntary termination of the insurance contract.

(Pub. L. 100-242, title II, §223, as added Pub. L. 101-625, title VI, §601(a), Nov. 28, 1990, 104 Stat. 4264; amended Pub. L. 105-276, title V, §550(d), Oct. 21, 1998, 112 Stat. 2610; Pub. L. 106-74, title V, §538(c), Oct. 20, 1999, 113 Stat. 1123.)

AMENDMENTS

1999—Subsec. (f). Pub. L. 106-74 added subsec. (f).

1998—Subsec. (a). Pub. L. 105-276 substituted “tenant-based assistance under section 1437f of title 42” for “assistance under the certificate and voucher programs under sections 1437f(b) and 1437f(o)”.

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 Title 42, The Public Health and Welfare.

§ 4114. Permissible prepayment or voluntary termination and modification of commitments

(a) In general

Notwithstanding any limitations on prepayment or voluntary termination under this subchapter, an owner may terminate the low-income affordability restrictions through prepayment or voluntary termination, subject to compliance with the provisions of section 4113 of this title, under one of the following circumstances:

(1)(A) The Secretary approves a plan of action under section 4109(a) of this title, but does not provide the assistance approved in such plan during the 15-month period beginning on the date of approval.