

litical subdivision of a State, or of any other jurisdiction in which this subchapter shall be effective, that grants, guarantees, or protects the same rights as are granted by this subchapter; but any law of a State, a political subdivision, or other such jurisdiction that purports to require or permit any action that would be a discriminatory housing practice under this subchapter shall to that extent be invalid.

(Pub. L. 90-284, title VIII, §816, formerly §815, Apr. 11, 1968, 82 Stat. 89; renumbered §816, Pub. L. 100-430, §8(1), Sept. 13, 1988, 102 Stat. 1625.)

PRIOR PROVISIONS

A prior section 816 of Pub. L. 90-284 was renumbered section 817 and is classified to section 3616 of this title.

§ 3616. Cooperation with State and local agencies administering fair housing laws; utilization of services and personnel; reimbursement; written agreements; publication in Federal Register

The Secretary may cooperate with State and local agencies charged with the administration of State and local fair housing laws and, with the consent of such agencies, utilize the services of such agencies and their employees and, notwithstanding any other provision of law, may reimburse such agencies and their employees for services rendered to assist him in carrying out this subchapter. In furtherance of such cooperative efforts, the Secretary may enter into written agreements with such State or local agencies. All agreements and terminations thereof shall be published in the Federal Register.

(Pub. L. 90-284, title VIII, §817, formerly §816, Apr. 11, 1968, 82 Stat. 89; renumbered §817, Pub. L. 100-430, §8(1), Sept. 13, 1988, 102 Stat. 1625.)

PRIOR PROVISIONS

A prior section 817 of Pub. L. 90-284 was renumbered section 818 and is classified to section 3617 of this title.

FAIR HOUSING INITIATIVES PROGRAM

Pub. L. 100-242, title V, §561, Feb. 5, 1988, 101 Stat. 1942, as amended, which established a demonstration program on fair housing initiatives and was formerly set out as a note under this section, was transferred to section 3616a of this title.

§ 3616a. Fair housing initiatives program

(a) In general

The Secretary of Housing and Urban Development (in this section referred to as the "Secretary") may make grants to, or (to the extent of amounts provided in appropriation Acts) enter into contracts or cooperative agreements with, State or local governments or their agencies, public or private nonprofit organizations or institutions, or other public or private entities that are formulating or carrying out programs to prevent or eliminate discriminatory housing practices, to develop, implement, carry out, or coordinate—

(1) programs or activities designed to obtain enforcement of the rights granted by title VIII of the Act of April 11, 1968 [42 U.S.C. 3601 et seq.] (commonly referred to as the Civil Rights Act of 1968), or by State or local laws that provide rights and remedies for alleged discrimi-

natory housing practices that are substantially equivalent to the rights and remedies provided in such title VIII, through such appropriate judicial or administrative proceedings (including informal methods of conference, conciliation, and persuasion) as are available therefor; and

(2) education and outreach programs designed to inform the public concerning rights and obligations under the laws referred to in paragraph (1).

(b) Private enforcement initiatives

(1) In general

The Secretary shall use funds made available under this subsection to conduct, through contracts with private nonprofit fair housing enforcement organizations, investigations of violations of the rights granted under title VIII of the Civil Rights Act of 1968 [42 U.S.C. 3601 et seq.], and such enforcement activities as appropriate to remedy such violations. The Secretary may enter into multiyear contracts and take such other action as is appropriate to enhance the effectiveness of such investigations and enforcement activities.

(2) Activities

The Secretary shall use funds made available under this subsection to conduct, through contracts with private nonprofit fair housing enforcement organizations, a range of investigative and enforcement activities designed to—

(A) carry out testing and other investigative activities in accordance with subsection (b)(1) of this section, including building the capacity for housing investigative activities in unserved or underserved areas;

(B) discover and remedy discrimination in the public and private real estate markets and real estate-related transactions, including, but not limited to, the making or purchasing of loans or the provision of other financial assistance sales and rentals of housing and housing advertising;

(C) carry out special projects, including the development of prototypes to respond to new or sophisticated forms of discrimination against persons protected under title VIII of the Civil Rights Act of 1968 [42 U.S.C. 3601 et seq.];

(D) provide technical assistance to local fair housing organizations, and assist in the formation and development of new fair housing organizations; and

(E) provide funds for the costs and expenses of litigation, including expert witness fees.

(c) Funding of fair housing organizations

(1) In general

The Secretary shall use funds made available under this section to enter into contracts or cooperative agreements with qualified fair housing enforcement organizations, other private nonprofit fair housing enforcement organizations, and nonprofit groups organizing to build their capacity to provide fair housing enforcement, for the purpose of supporting the continued development or implementation of

initiatives which enforce the rights granted under title VIII of the Civil Rights Act of 1968 [42 U.S.C. 3601 et seq.], as amended. Contracts or cooperative agreements may not provide more than 50 percent of the operating budget of the recipient organization for any one year.

(2) Capacity enhancement

The Secretary shall use funds made available under this section to help establish, organize, and build the capacity of fair housing enforcement organizations, particularly in those areas of the country which are currently underserved by fair housing enforcement organizations as well as those areas where large concentrations of protected classes exist. For purposes of meeting the objectives of this paragraph, the Secretary may enter into contracts or cooperative agreements with qualified fair housing enforcement organizations. The Secretary shall establish annual goals which reflect the national need for private fair housing enforcement organizations.

(d) Education and outreach

(1) In general

The Secretary, through contracts with one or more qualified fair housing enforcement organizations, other fair housing enforcement organizations, and other nonprofit organizations representing groups of persons protected under title VIII of the Civil Rights Act of 1968 [42 U.S.C. 3601 et seq.], shall establish a national education and outreach program. The national program shall be designed to provide a centralized, coordinated effort for the development and dissemination of fair housing media products, including—

- (A) public service announcements, both audio and video;
- (B) television, radio and print advertisements;
- (C) posters; and
- (D) pamphlets and brochures.

The Secretary shall designate a portion of the amounts provided in subsection (g)(4) of this section for a national program specifically for activities related to the annual national fair housing month. The Secretary shall encourage cooperation with real estate industry organizations in the national education and outreach program. The Secretary shall also encourage the dissemination of educational information and technical assistance to support compliance with the housing adaptability and accessibility guidelines contained in the Fair Housing Act Amendments of 1988.

(2) Regional and local programs

The Secretary, through contracts with fair housing enforcement organizations, other nonprofit organizations representing groups of persons protected under title VIII of the Civil Rights Act of 1968 [42 U.S.C. 3601 et seq.], State and local agencies certified by the Secretary under section 810(f) of the Fair Housing Act [42 U.S.C. 3610(f)], or other public or private entities that are formulating or carrying out programs to prevent or eliminate discriminatory housing practices, shall establish or support education and outreach programs at the regional and local levels.

(3) Community-based programs

The Secretary shall provide funding to fair housing organizations and other nonprofit organizations representing groups of persons protected under title VIII of the Civil Rights Act of 1968, or other public or private entities that are formulating or carrying out programs to prevent or eliminate discriminatory housing practices, to support community-based education and outreach activities, including school, church, and community presentations, conferences, and other educational activities.

(e) Program administration

(1) Not less than 30 days before providing a grant or entering into any contract or cooperative agreement to carry out activities authorized by this section, the Secretary shall submit notification of such proposed grant, contract, or cooperative agreement (including a description of the geographical distribution of such contracts) to the Committee on Banking, Housing, and Urban Affairs of the Senate and the Committee on Banking, Finance and Urban Affairs of the House of Representatives.

(2) Repealed. Pub. L. 104-66, title I, §1071(d), Dec. 21, 1995, 109 Stat. 720.

(f) Regulations

(1) The Secretary shall issue such regulations as may be necessary to carry out the provisions of this section.

(2) The Secretary shall, for use during the demonstration authorized in this section, establish guidelines for testing activities funded under the private enforcement initiative of the fair housing initiatives program. The purpose of such guidelines shall be to ensure that investigations in support of fair housing enforcement efforts described in subsection (a)(1) of this section shall develop credible and objective evidence of discriminatory housing practices. Such guidelines shall apply only to activities funded under this section, shall not be construed to limit or otherwise restrict the use of facts secured through testing not funded under this section in any legal proceeding under Federal fair housing laws, and shall not be used to restrict individuals or entities, including those participating in the fair housing initiatives program, from pursuing any right or remedy guaranteed by Federal law. Not later than 6 months after the end of the demonstration period authorized in this section,¹ the Secretary shall submit to Congress the evaluation of the Secretary of the effectiveness of such guidelines in achieving the purposes of this section.

(3) Such regulations shall include provisions governing applications for assistance under this section, and shall require each such application to contain—

(A) a description of the assisted activities proposed to be undertaken by the applicant, together with the estimated costs and schedule for completion of such activities;

(B) a description of the experience of the applicant in formulating or carrying out programs to prevent or eliminate discriminatory housing practices;

¹ See References in Text note below.

(C) available information, including studies made by or available to the applicant, indicating the nature and extent of discriminatory housing practices occurring in the general location where the applicant proposes to conduct its assisted activities, and the relationship of such activities to such practices;

(D) an estimate of such other public or private resources as may be available to assist the proposed activities;

(E) a description of proposed procedures to be used by the applicant for monitoring conduct and evaluating results of the proposed activities; and

(F) any additional information required by the Secretary.

(4) Regulations issued under this subsection shall not become effective prior to the expiration of 90 days after the Secretary transmits such regulations, in the form such regulations are intended to be published, to the Committee on Banking, Housing, and Urban Affairs of the Senate and the Committee on Banking, Finance and Urban Affairs of the House of Representatives.

(5) The Secretary shall not obligate or expend any amount under this section before the effective date of the regulations required under this subsection.

(g) Authorization of appropriations

There are authorized to be appropriated to carry out the provisions of this section,² \$21,000,000 for fiscal year 1993 and \$26,000,000 for fiscal year 1994, of which—

(1) not less than \$3,820,000 for fiscal year 1993 and \$8,500,000 for fiscal year 1994 shall be for private enforcement initiatives authorized under subsection (b) of this section, divided equally between activities specified under subsection (b)(1) of this section and those specified under subsection (b)(2) of this section;

(2) not less than \$2,230,000 for fiscal year 1993 and \$8,500,000 for fiscal year 1994 shall be for qualified fair housing enforcement organizations authorized under subsection (c)(1) of this section;

(3) not less than \$2,010,000 for fiscal year 1993 and \$4,000,000 for fiscal year 1994 shall be for the creation of new fair housing enforcement organizations authorized under subsection (c)(2) of this section; and

(4) not less than \$2,540,000 for fiscal year 1993 and \$5,000,000 for fiscal year 1994 shall be for education and outreach programs authorized under subsection (d) of this section, to be divided equally between activities specified under subsection (d)(1) of this section and those specified under subsections (d)(2) and (d)(3) of this section.

Any amount appropriated under this section shall remain available until expended.

(h) Qualified fair housing enforcement organization

(1) The term “qualified fair housing enforcement organization” means any organization that—

(A) is organized as a private, tax-exempt, nonprofit, charitable organization;

(B) has at least 2 years experience in complaint intake, complaint investigation, testing for fair housing violations and enforcement of meritorious claims; and

(C) is engaged in all the activities listed in paragraph (1)(B) at the time of application for assistance under this section.

An organization which is not solely engaged in fair housing enforcement activities may qualify as a qualified fair housing enforcement organization, provided that the organization is actively engaged in each of the activities listed in subparagraph (B).

(2) The term “fair housing enforcement organization” means any organization that—

(A) meets the requirements specified in paragraph (1)(A);

(B) is currently engaged in the activities specified in paragraph (1)(B);

(C) upon the receipt of funds under this section will become engaged in all of the activities specified in paragraph (1)(B); and

(D) for purposes of funding under subsection (b) of this section, has at least 1 year of experience in the activities specified in paragraph (1)(B).

(i) Prohibition on use of funds

None of the funds authorized under this section may be used by the Secretary for purposes of settling claims, satisfying judgments or fulfilling court orders in any litigation action involving either the Department or housing providers funded by the Department. None of the funds authorized under this section may be used by the Department for administrative costs.

(j) Reporting requirements

Not later than 180 days after the close of each fiscal year in which assistance under this section is furnished, the Secretary shall prepare and submit to the Congress a comprehensive report which shall contain—

(1) a description of the progress made in accomplishing the objectives of this section;

(2) a summary of all the private enforcement activities carried out under this section and the use of such funds during the preceding fiscal year;

(3) a list of all fair housing enforcement organizations funded under this section during the preceding fiscal year, identified on a State-by-State basis;

(4) a summary of all education and outreach activities funded under this section and the use of such funds during the preceding fiscal year; and

(5) any findings, conclusions, or recommendations of the Secretary as a result of the funded activities.

(Pub. L. 100-242, title V, §561, Feb. 5, 1988, 101 Stat. 1942; Pub. L. 101-625, title IX, §953, Nov. 28, 1990, 104 Stat. 4419; Pub. L. 102-550, title IX, §905(b), Oct. 28, 1992, 106 Stat. 3869; Pub. L. 104-66, title I, §1071(d), Dec. 21, 1995, 109 Stat. 720.)

REFERENCES IN TEXT

The Civil Rights Act of 1968, referred to in subsecs. (a)(1), (b)(1), (2)(C), (c)(1), and (d), is Pub. L. 90-284, Apr. 11, 1968, 82 Stat. 73, as amended. Title VIII of the Act,

² So in original. The comma probably should not appear.

known as the Fair Housing Act, is classified principally to subchapter I (§ 3601 et seq.) of this chapter. For complete classification of these Acts to the Code, see Short Title notes set out under section 3601 of this title and Tables.

The Fair Housing Act Amendments of 1988, referred to in subsec. (d)(1), probably means the Fair Housing Amendments Act of 1988, Pub. L. 100-430, Sept. 13, 1988, 102 Stat. 1619, as amended. For complete classification of this Act to the Code, see Short Title of 1988 Amendment note set out under section 3601 of this title and Tables.

The phrase “Not later than 6 months after the end of the demonstration period authorized in this section”, referred to in subsec. (f)(2), probably means the end of the demonstration period pursuant to former subsec. (e) of this section, which provided that such period was to end Sept. 30, 1992. However, subsec. (e) was redesignated (h) and struck out by Pub. L. 102-550. See 1992 Amendment notes below.

CODIFICATION

Section was enacted as part of the Housing and Community Development Act of 1987, and not as part of title VIII of Pub. L. 90-284, known as the Fair Housing Act, which comprises this subchapter.

Section was formerly set out as a note under section 3616 of this title.

AMENDMENTS

1995—Subsec. (e)(2). Pub. L. 104-66 struck out par. (2) which read as follows: “The Secretary shall provide to the Committee on Banking, Housing, and Urban Affairs of the Senate and the Committee on Banking, Finance and Urban Affairs of the House of Representatives a quarterly report that summarizes the activities funded under this section and describes the geographical distribution of grants, contracts, or cooperative agreements funded under this section.”

1992—Subsecs. (b) to (f). Pub. L. 102-550, § 905(b)(1), (2), added subsecs. (b) to (d) and redesignated former subsecs. (b) and (c) as (e) and (f), respectively.

Subsec. (g). Pub. L. 102-550, § 905(b)(1), (3), redesignated subsec. (d) as (g) and, in first sentence, substituted “\$21,000,000 for fiscal year 1993 and \$26,000,000 for fiscal year 1994, of which—” and pars. (1) to (4) for “including any program evaluations, \$6,000,000 for fiscal year 1991 and \$6,300,000 for fiscal year 1992, of which not more than \$3,000,000 in each year shall be for the private enforcement initiative demonstration.”

Subsec. (h). Pub. L. 102-550, § 905(b)(4), added subsec. (h) and struck out former subsec. (h) which provided that the demonstration period authorized by this section would end Sept. 30, 1992.

Pub. L. 102-550, § 905(b)(1), redesignated subsec. (e) as (h).

Subsecs. (i), (j). Pub. L. 102-550, § 905(b)(4), added subsecs. (i) and (j).

1990—Subsec. (d). Pub. L. 101-625, § 953(a), amended first sentence generally. Prior to amendment, first sentence read as follows: “There are authorized to be appropriated to carry out the provisions of this section, including any program evaluations, \$5,000,000 for fiscal year 1988, and \$5,000,000 for fiscal year 1989, of which not more than \$3,000,000 in each year shall be for the private enforcement initiative demonstration.”

Subsec. (e). Pub. L. 101-625, § 953(b), substituted “1992” for “1989”.

CHANGE OF NAME

Committee on Banking, Finance and Urban Affairs of House of Representatives treated as referring to Committee on Banking and Financial Services of House of Representatives by section 1(a) of Pub. L. 104-14, set out as a note preceding section 21 of Title 2, The Congress. Committee on Banking and Financial Services of House of Representatives abolished and replaced by Committee on Financial Services of House of Representatives, and jurisdiction over matters relating to

securities and exchanges and insurance generally transferred from Committee on Energy and Commerce of House of Representatives by House Resolution No. 5, One Hundred Seventh Congress, Jan. 3, 2001.

CONGRESSIONAL FINDINGS

Pub. L. 102-550, title IX, § 905(a), Oct. 28, 1992, 106 Stat. 3868, provided that: “The Congress finds that—

“(1) in the past half decade, there have been major legislative and administrative changes in Federal fair housing and fair lending laws and substantial improvements in the Nation’s understanding of discrimination in the housing markets;

“(2) in response to evidence of continuing housing discrimination, the Congress passed the Fair Housing Act Amendments of 1988 [probably should be the Fair Housing Amendments Act of 1988, Pub. L. 100-430, see Short Title of 1988 Amendment note set out under section 3601 of this title], to provide for more effective enforcement of fair housing rights through judicial and administrative avenues and to expand the number of protected classes covered under Federal fair housing laws;

“(3) in the Financial Institutions Reform, Recovery and Enforcement Act of 1989 [Pub. L. 101-73, see Short Title of 1989 Amendment note set out under 12 U.S.C. 1811], the Congress expanded the disclosure provisions under the Home Mortgage Disclosure Act [probably should be the Home Mortgage Disclosure Act of 1975; 12 U.S.C. 2801 et seq.] to provide increased information on the mortgage lending patterns of financial institutions;

“(4) in the Americans with Disabilities Act of 1990 [42 U.S.C. 12101 et seq.], the Congress provided a clear and comprehensive national mandate for the elimination of discrimination against individuals with disabilities;

“(5) in 1991, data collected under the Home Mortgage Disclosure Act disclosed evidence of pervasive discrimination in the Nation’s mortgage lending markets;

“(6) the Housing Discrimination Survey, released by the Department of Housing and Urban Development in 1991, found that Hispanic and African-American homeseekers experience some form of discrimination in at least half of their encounters with sales and rental agents;

“(7) the Fair Housing Initiatives Program should be revised and expanded to reflect the significant changes in the fair housing and fair lending area that have taken place since the Program’s initial authorization in the Housing and Community Development Act of 1987 [Pub. L. 100-242, see Short Title of 1988 Amendment note under section 5301 of this title];

“(8) continuing educational efforts by the real estate industry are a useful way to increase understanding by the public of their fair housing rights and responsibilities; and

“(9) the proven efficacy of private nonprofit fair housing enforcement organizations and community-based efforts makes support for these organizations a necessary component of the fair housing enforcement system.”

§ 3617. Interference, coercion, or intimidation

It shall be unlawful to coerce, intimidate, threaten, or interfere with any person in the exercise or enjoyment of, or on account of his having exercised or enjoyed, or on account of his having aided or encouraged any other person in the exercise or enjoyment of, any right granted or protected by section 3603, 3604, 3605, or 3606 of this title.

(Pub. L. 90-284, title VIII, § 818, formerly § 817, Apr. 11, 1968, 82 Stat. 89; renumbered § 818 and amended Pub. L. 100-430, §§ 8(1), 10, Sept. 13, 1988, 102 Stat. 1625, 1635.)