

ings as the Secretary of Housing and Urban Development by regulation shall prescribe. Such terms shall not include persons whose involvement is only in their official capacity, such as State or local government officials or officers of lending institutions.

(Pub. L. 100-242, title I, §165, Feb. 5, 1988, 101 Stat. 1864.)

CODIFICATION

Section was enacted as part of the Housing and Community Development Act of 1987, and not as part of the Department of Housing and Urban Development Act which comprises this chapter.

§ 3544. Preventing fraud and abuse in housing and urban development programs

(a) Definitions

As used in this section:

(1) Secretary

The term “Secretary” means the Secretary of Housing and Urban Development.

(2) Applicant; participant

The terms “applicant” and “participant” shall have such meanings as the Secretary by regulation shall prescribe, except that such terms shall include members of an applicant’s or participant’s household, and such terms shall not include persons whose involvement is only in their official capacity, such as State or local government officials and officers of lending institutions.

(3) Public housing agency

The term “public housing agency” means any agency described in section 3(b)(6) of the United States Housing Act of 1937 [42 U.S.C. 1437a(b)(6)].

(4) Program of the Department of Housing and Urban Development

The term “program of the Department of Housing and Urban Development” includes Indian housing programs assisted under title II¹ of the United States Housing Act of 1937.

(b) Applicant and participant consent

As a condition of initial or continuing eligibility for participation in any program of the Department of Housing and Urban Development involving initial and periodic review of an applicant’s or participant’s income, and to assure that the level of benefits provided under the program is correct, the Secretary may require that an applicant or participant—

(1) sign a consent form approved by the Secretary authorizing the Secretary, the public housing agency, or the owner responsible for determining eligibility for or level of benefits to request current or previous employers to verify salary and wage information pertinent to the applicant’s or participant’s eligibility or level of benefits;

(2) sign a consent form approved by the Secretary authorizing the Secretary or the public housing agency responsible for determining eligibility or level of benefits to request a State agency charged with the administration

of the State unemployment law to release wage information with respect to such applicant or participant or information regarding whether such applicant or participant is receiving, has received, or has made application for, unemployment compensation, and the amount of any such compensation being received (or to be received) by such applicant or participant;

(3) sign a consent form approved by the Secretary authorizing the Secretary to request the Commissioner of Social Security and the Secretary of the Treasury to release information pursuant to section 6103(l)(7)(D)(ix) of title 26 with respect to such applicant or participant for the sole purpose of the Secretary verifying income information pertinent to the applicant’s or participant’s eligibility or level of benefits; and

(4) only in the case of an applicant or participant that is a member of a family described in section 3(f)(2) of the United States Housing Act of 1937 (42 U.S.C. 1437a(f)(2)), sign an agreement under which the applicant or participant agrees to provide to the appropriate public housing agency, or the owner responsible for determining the participant’s eligibility or level of benefits, the information required under section 3(f)(1) of such Act [42 U.S.C. 1437a(f)(1)] for the sole purpose of verifying income information pertinent to the applicant’s or participant’s eligibility or level of benefits, and comply with such agreement.

Except as provided in this subsection, this consent form shall not be used to request taxpayer return information protected by section 6103 of title 26.

(c) Access to records

(1) Omitted

(2) Applicant and participant protections

(A) In order to protect applicants for, and recipients of, benefits under the programs of the Department of Housing and Urban Development from the improper use of information obtained pursuant to the requirements of section 503(i) of this title from the State agency charged with the administration of the State unemployment compensation law, pursuant to section 3(d)(1) of the United States Housing Act of 1937 [42 U.S.C. 1437a(d)(1)] from the applicant or participant, or pursuant to section 6103(l)(7)(D)(ix) of title 26 from the Commissioner of Social Security or the Secretary of the Treasury, officers and employees of the Department of Housing and Urban Development and (in the case of information obtained pursuant to such section 503(i) or 3(d)(1) [42 U.S.C. 1437a(d)(1)]) representatives of public housing agencies may only use such information—

(i) to verify an applicant’s or participant’s eligibility for or level of benefits; or

(ii) in the case of an owner or public housing agency responsible for determining eligibility for or level of benefits, to inform such owner or public housing agency that an applicant’s or participant’s eligibility for or level of benefits is uncertain and to request such owner or public housing agency to ver-

¹ See References in Text note below.

ify such applicant's or participant's income information.

(B) No Federal, State, or local agency, or public housing agency, or owner responsible for determining eligibility for or level of benefits receiving such information may terminate, deny, suspend, or reduce any benefits of an applicant or participant until such agency or owner has taken appropriate steps to independently verify information relating to—

(i) the amount of the wages, other earnings or income, or unemployment compensation involved,

(ii) whether such applicant or participant actually has (or had) access to such wages, other earnings or income, or benefits for his or her own use, and

(iii) the period or periods when, or with respect to which, the applicant or participant actually received such wages, other earnings or income, or benefits.

(C) Such applicant or participant shall be informed by the agency or owner of the findings made by the agency or owner on the basis of such verified information, and shall be given an opportunity to contest such findings, in the same manner as applies to other information and findings relating to eligibility factors under the program.

(3) Penalty

(A) Any person who knowingly and willfully requests or obtains any information concerning an applicant or participant pursuant to the authority contained in section 503(i) of this title, section 3(d)(1) of the United States Housing Act of 1937 [42 U.S.C. 1437a(d)(1)], or section 6103(l)(7)(D)(ix) of title 26 without consent or agreement, as applicable, pursuant to subsection (b) of this section or under false pretenses, or any person who knowingly and willfully discloses any such information in any manner to any individual not entitled under any law to receive it, shall be guilty of a misdemeanor and fined not more than \$5,000. The term "person" as used in this paragraph shall include an officer or employee of the Department of Housing and Urban Development, an officer or employee of any public housing agency, and any owner responsible for determining eligibility for or level of benefits (or employee thereof).

(B) Any applicant or participant affected by (i) a negligent or knowing disclosure of information referred to in this section, section 503(i) of this title, section 3(d)(1) of the United States Housing Act of 1937 [42 U.S.C. 1437a(d)(1)], or section 6103(l)(7)(D)(ix) of title 26 about such person by an officer or employee of any public housing agency or owner (or employee thereof), which disclosure is not authorized by this section, such section 503(i), such section 3(d)(1) [42 U.S.C. 1437a(d)(1)], such section 6103(l)(7)(D)(ix), or any regulation implementing this section, such section 503(i), such section 3(d)(1) [42 U.S.C. 1437a(d)(1)], or such section 6103(l)(7)(D)(ix), or for which consent, pursuant to subsection (b) of this section, has not been granted, or (ii) any other negligent or knowing action that is inconsis-

ent with this section, such section 503(i), such section 3(d)(1) [42 U.S.C. 1437a(d)(1)], such section 6103(l)(7)(D)(ix), or any such implementing regulation may bring a civil action for damages and such other relief as may be appropriate against any officer or employee of any public housing agency or owner (or employee thereof) responsible for any such unauthorized action. The district court of the United States in the district in which the affected applicant or participant resides, in which such unauthorized action occurred, or in which the applicant or participant alleged to be responsible for any such unauthorized action resides, shall have jurisdiction in such matters. Appropriate relief that may be ordered by such district courts shall include reasonable attorney's fees and other litigation costs.

(d) Effective date

(1) In general

Except as provided in paragraphs (2) and (3), the provisions of this section shall take effect on September 30, 1989.

(2) Optional early implementation

At the initiative of a State or an agency of the State, and with the approval of the Secretary of Labor, the amendments made by subsection (c)(1) may be made effective in such State on any date before September 30, 1989, which is more than 90 days after November 7, 1988.

(3) Requirements for State agencies

In the case of any State the legislature of which has not been in session for at least 30 calendar days (whether or not consecutive) between November 7, 1988, and September 30, 1989, the amendments made by subsection (c)(1) shall take effect 30 calendar days after the first day on which such legislature is in session on or after September 30, 1989.

(e) Conditions of release of information by third parties

An applicant or participant under any program of the Department of Housing and Urban Development may not be required or requested to consent to the release of information by third parties as a condition of initial or continuing eligibility for participation in the program unless—

(1) the request for consent is made, and the information secured is maintained, in accordance with this section,² section 552a of title 5; and

(2) the consent that is requested is appropriately limited, with respect to time and information relevant and necessary to meet the requirements of this section.

(Pub. L. 100-628, title IX, §904, Nov. 7, 1988, 102 Stat. 3259; Pub. L. 102-550, title IX, §903(a), Oct. 28, 1992, 106 Stat. 3867; Pub. L. 103-66, title III, §3003, Aug. 10, 1993, 107 Stat. 338; Pub. L. 105-276, title V, §508(d)(2), Oct. 21, 1998, 112 Stat. 2529; Pub. L. 106-74, title II, §214(b), Oct. 20, 1999, 113 Stat. 1074.)

REFERENCES IN TEXT

The United States Housing Act of 1937, referred to in subsec. (a)(4), is act Sept. 1, 1937, ch. 896, as revised gen-

² So in original. The comma probably should be "and".

erally by Pub. L. 93-383, title II, §201(a), Aug. 22, 1974, 88 Stat. 653, and amended. Title II of the Act, which was classified generally to subchapter II (§1437aa et seq.) of chapter 8 of this title, was repealed by Pub. L. 104-330, title V, §501(a), Oct. 26, 1996, 110 Stat. 4041. For complete classification of this Act to the Code, see Short Title note set out under section 1437 of this title and Tables.

The amendments made by subsection (c)(1), referred to in subsec. (d)(2), (3), mean the amendments made by section 904(c)(1) of Pub. L. 100-628, which enacted section 503(i) and amended section 504(a)(2) of this title. See Codification note below.

CODIFICATION

Section is comprised of section 904 of Pub. L. 100-628. Subsec. (c)(1) of section 904 of Pub. L. 100-628 amended sections 503 and 504 of this title.

Section was enacted as part of the Stewart B. McKinney Homeless Assistance Amendments Act of 1988, and not as part of the Department of Housing and Urban Development Act which comprises this chapter.

AMENDMENTS

1999—Subsec. (b)(4). Pub. L. 106-74 inserted “, or the owner responsible for determining the participant’s eligibility or level of benefits,” after “appropriate public housing agency” and substituted “verifying income” for “the public housing agency verifying income”.

1998—Subsec. (b)(4). Pub. L. 105-276, §508(d)(2)(A), which directed the amendment of subsec. (b) by adding par. (4) at end, was executed by adding par. (4) after par. (3), to reflect the probable intent of Congress.

Subsec. (c)(2)(A). Pub. L. 105-276, §508(d)(2)(B)(i), in introductory provisions, inserted “, pursuant to section 3(d)(1) of the United States Housing Act of 1937 from the applicant or participant,” after “unemployment compensation law” and “or 3(d)(1)” after “such section 503(i)”.

Subsec. (c)(3)(A). Pub. L. 105-276, §508(d)(2)(B)(ii)(I), (II), in first sentence, inserted “, section 3(d)(1) of the United States Housing Act of 1937,” after “503(i) of this title” and “or agreement, as applicable,” after “consent”.

Subsec. (c)(3)(B). Pub. L. 105-276, §508(d)(2)(B)(ii)(III), (IV), in first sentence, inserted “section 3(d)(1) of the United States Housing Act of 1937,” after “503(i) of this title,” and “such section 3(d)(1),” after “such section 503(i),” wherever appearing.

1993—Subsec. (a)(4). Pub. L. 103-66, §3003(1), added par. (4).

Subsec. (b). Pub. L. 103-66, §3003(2)(D), in concluding provisions, substituted “Except as provided in this subsection, this” for “This”.

Subsec. (b)(3). Pub. L. 103-66, §3003(2)(A)-(C), added par. (3).

Subsec. (c). Pub. L. 103-66, §3003(5), struck out “State employment” after “Access to” in heading.

Subsec. (c)(2)(A). Pub. L. 103-66, §3003(3)(A)(i), in introductory provisions, inserted “or pursuant to section 6103(l)(7)(D)(ix) of title 26 from the Commissioner of Social Security or the Secretary of the Treasury” after “compensation law” and “(in the case of information obtained pursuant to such section 503(i))” before “representatives”.

Subsec. (c)(2)(A)(ii). Pub. L. 103-66, §3003(3)(A)(ii), substituted “owner or public housing agency” for “owner” wherever appearing.

Subsec. (c)(2)(B)(i) to (iii). Pub. L. 103-66, §3003(3)(B), substituted “wages, other earnings or income,” for “wages” wherever appearing.

Subsec. (c)(3)(A). Pub. L. 103-66, §3003(4)(A), inserted “or section 6103(l)(7)(D)(ix) of title 26 without consent pursuant to subsection (b) of this section or” after “section 503(i) of this title”.

Subsec. (c)(3)(B)(i). Pub. L. 103-66, §3003(4)(B)(i), added cl. (i) and struck out former cl. (i) which read as follows: “a negligent or knowing disclosure of information referred to in this section or in section 503(i) of this

title about such person by an officer or employee of any public housing agency or owner (or employee thereof), which disclosure is not authorized by this section, such section 503(i), or any regulation implementing this section or such section 503(i), or”.

Subsec. (c)(3)(B)(ii). Pub. L. 103-66, §3003(4)(B)(ii), inserted “such section 6103(l)(7)(D)(ix),” after “503(i)”. 1992—Subsec. (e). Pub. L. 102-550 added subsec. (e).

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.

RELEASE FORMS

Pub. L. 102-550, title IX, §903(b), Oct. 28, 1992, 106 Stat. 3868, directed Secretary of Housing and Urban Development, not later than the expiration of the 180-day period beginning Oct. 28, 1992, to develop a release form that fulfilled the requirements of this section and provided that during the period beginning Oct. 28, 1992, and ending upon implementation of the use of the new form, the benefits provided to an applicant or participant under any program of Department of Housing and Urban Development, or eligibility for such benefits, could not be terminated, denied, suspended, or reduced because of any failure to sign any form authorizing the release of information from any third party, if the applicant or participant otherwise disclosed all financial information relating to the application or recertification.

§ 3545. HUD accountability

(a) Notice regarding assistance

(1) Publication of notice of availability

The Secretary shall publish in the Federal Register notice of the availability of any assistance under any program or discretionary fund administered by the Secretary.

(2) Publication of application procedures

The Secretary shall publish in the Federal Register a description of the form and procedures by which application for the assistance may be made, and any deadlines relating to the award or allocation of the assistance. Such description shall be designed to help eligible applicants to apply for such assistance.

(3) Publication of selection criteria

Not less than 30 days before any deadline by which applications or requests for assistance under any program or discretionary fund administered by the Secretary must be submitted, the Secretary shall publish in the Federal Register the criteria by which selection for the assistance will be made. Subject to section 1439 of this title, such criteria shall include any objective measures of housing need, project merit, or efficient use of resources that the Secretary determines are appropriate and consistent with the statute under which the assistance is made available.

(4) Documentation of decisions

(A) The Secretary shall award or allocate assistance only in response to a written application in a form approved in advance by the Secretary, except where other award or allocation procedures are specified in statute.