

public housing agency pursuant to a determination or waiver by the Secretary (under section 6(k) of the United States Housing Act of 1937 [42 U.S.C. 1437d(k)], as such section existed before the date of the enactment of this Act [Nov. 28, 1990]) that a jurisdiction requires a hearing in court providing the basic elements of due process shall be effective after the date of the enactment of this Act only to the extent that the exclusion complies with the amendments made by this section, except that any such waiver provided before the date of the enactment of this Act shall remain in effect until the earlier of the effective date of the final rules implementing the amendments made by this section or 180 days after the date of the enactment.”

REPORT ON IMPACT OF PUBLIC HOUSING LEASE AND GRIEVANCE REGULATION ON ABILITY OF PUBLIC HOUSING AGENCIES TO TAKE ACTION AGAINST TENANTS ENGAGING IN DRUG CRIMES

Pub. L. 100-690, title V, §5103, Nov. 18, 1988, 102 Stat. 4300, provided that: “The Secretary of Housing and Urban Development shall submit to the Congress a report on the impact of the implementation of the public housing tenancy and administrative grievance procedure regulations issued under section 6(k) of the United States Housing Act of 1937 (42 U.S.C. 1437d(k)) on the ability of public housing agencies to evict or take other appropriate action against tenants engaging in criminal activity, especially with respect to the manufacture, sale, distribution, use, or possession of controlled substances (as defined in section 102 of the Controlled Substances Act (21 U.S.C. 802)). The report shall be submitted not later than 12 months after the date of the enactment of this Act [Nov. 18, 1988].”

INDIAN HOUSING

Pub. L. 100-628, title X, §1014(a)(2), Nov. 7, 1988, 102 Stat. 3269, provided that: “In accordance with section 201(b)(2) of the United States Housing Act of 1937 [former section 1437aa(b)(2) of this title], the amendments made by paragraph (1) [amending this section] shall also apply to public housing developed or operated pursuant to a contract between the Secretary of Housing and Urban Development and an Indian housing authority.”

STUDY OF PAYMENTS IN LIEU OF TAXES; REPORT TO CONGRESS

Pub. L. 95-128, title II, §201(g), Oct. 12, 1977, 91 Stat. 1129, provided that the Secretary of Housing and Urban Development conduct a study of payment in lieu of taxes made under subsec. (d) of this section and report to the Congress on the status and adequacy of such payments not later than 12 months after Oct. 12, 1977.

**§ 1437e. Designated housing for elderly and disabled families**

**(a) Authority to provide designated housing**

**(1) In general**

Subject only to provisions of this section and notwithstanding any other provision of law, a public housing agency for which a plan under subsection (d) of this section is in effect may provide public housing projects (or portions of projects) designated for occupancy by (A) only elderly families, (B) only disabled families, or (C) elderly and disabled families.

**(2) Priority for occupancy**

In determining priority for admission to public housing projects (or portions of projects) that are designated for occupancy as provided in paragraph (1), the public housing agency may make units in such projects (or portions) available only to the types of families for whom the project is designated.

**(3) Eligibility of near-elderly families**

If a public housing agency determines that there are insufficient numbers of elderly families to fill all the units in a project (or portion of a project) designated under paragraph (1) for occupancy by only elderly families, the agency may provide that near-elderly families may occupy dwelling units in the project (or portion).

**(b) Standards regarding evictions**

Except as provided in section 1437n(e)(1)(B)<sup>1</sup> of this title, any tenant who is lawfully residing in a dwelling unit in a public housing project may not be evicted or otherwise required to vacate such unit because of the designation of the project (or portion of a project) pursuant to this section or because of any action taken by the Secretary or any public housing agency pursuant to this section.

**(c) Relocation assistance**

A public housing agency that designates any existing project or building, or portion thereof, for occupancy as provided under subsection (a)(1) of this section shall provide, to each person and family who agrees to be relocated in connection with such designation—

(1) notice of the designation and an explanation of available relocation benefits, as soon as is practicable for the agency and the person or family;

(2) access to comparable housing (including appropriate services and design features), which may include tenant-based rental assistance under section 1437f of this title, at a rental rate paid by the tenant that is comparable to that applicable to the unit from which the person or family has vacated; and

(3) payment of actual, reasonable moving expenses.

**(d) Required plan**

A plan under this subsection for designating a project (or portion of a project) for occupancy under subsection (a)(1) of this section is a plan, prepared by the public housing agency for the project and submitted to the Secretary, that—

(1) establishes that the designation of the project is necessary—

(A) to achieve the housing goals for the jurisdiction under the comprehensive housing affordability strategy under section 12705 of this title; and

(B) to meet the housing needs of the low-income population of the jurisdiction; and

(2) includes a description of—

(A) the project (or portion of a project) to be designated;

(B) the types of tenants for which the project is to be designated;

(C) any supportive services to be provided to tenants of the designated project (or portion);

(D) how the design and related facilities (as such term is defined in section 1701q(d)(8)<sup>1</sup> of title 12) of the project accommodate the special environmental needs of the intended occupants; and

<sup>1</sup> See References in Text note below.

(E) any plans to secure additional resources or housing assistance to provide assistance to families that may have been housed if occupancy in the project were not restricted pursuant to this section.

For purposes of this subsection, the term “supportive services” means services designed to meet the special needs of residents.

**(e) Review of plans**

**(1) Review and notification**

The Secretary shall conduct a limited review of each plan under subsection (d) of this section that is submitted to the Secretary to ensure that the plan is complete and complies with the requirements of subsection (d) of this section. The Secretary shall notify each public housing agency submitting a plan whether the plan complies with such requirements not later than 60 days after receiving the plan. If the Secretary does not notify the public housing agency, as required under this paragraph or paragraph (2), the plan shall be considered, for purposes of this section, to comply with the requirements under subsection (d) of this section and the Secretary shall be considered to have notified the agency of such compliance upon the expiration of such 60-day period.

**(2) Notice of reasons for determination of non-compliance**

If the Secretary determines that a plan, as submitted, does not comply with the requirements under subsection (d) of this section, the Secretary shall specify in the notice under paragraph (1) the reasons for the noncompliance and any modifications necessary for the plan to meet such requirements.

**(3) Standards for determination of noncompliance**

The Secretary may determine that a plan does not comply with the requirements under subsection (d) of this section only if—

(A) the plan is incomplete in significant matters required under such subsection; or

(B) there is evidence available to the Secretary that challenges, in a substantial manner, any information provided in the plan.

**(4) Treatment of existing plans**

Notwithstanding any other provision of this section, a public housing agency shall be considered to have submitted a plan under this subsection if the agency has submitted to the Secretary an application and allocation plan under this section (as in effect before March 28, 1996) that have not been approved or disapproved before March 28, 1996.

**(f) Effectiveness**

**(1) 5-year effectiveness of original plan**

A plan under subsection (d) of this section shall be in effect for purposes of this section during the 5-year period that begins upon notification under subsection (e)(1) of this section of the public housing agency that the plan complies with the requirements under subsection (d) of this section.

**(2) Renewal of plan**

Upon the expiration of the 5-year period under paragraph (1) or any 2-year period under

this paragraph, an agency may extend the effectiveness of the designation and plan for an additional 2-year period (that begins upon such expiration) by submitting to the Secretary any information needed to update the plan. The Secretary may not limit the number of times a public housing agency extends the effectiveness of a designation and plan under this paragraph.

**(3) Transition provision**

Any application and allocation plan approved under this section (as in effect before March 28, 1996) before March 28, 1996, shall be considered to be a plan under subsection (d) of this section that is in effect for purposes of this section for the 5-year period beginning upon such approval.

**(g) Inapplicability of Uniform Relocation Assistance and Real Property Acquisitions Policy Act of 1970**

No tenant of a public housing project shall be considered to be displaced for purposes of the Uniform Relocation Assistance and Real Property Acquisitions Policy Act of 1970 [42 U.S.C. 4601 et seq.] because of the designation of any existing project or building, or portion thereof, for occupancy as provided under subsection (a) of this section.

(Sept. 1, 1937, ch. 896, title I, §7, as added Pub. L. 93-383, title II, §201(a), Aug. 22, 1974, 88 Stat. 662; amended Pub. L. 95-557, title IV, §412, Oct. 31, 1978, 92 Stat. 2110; Pub. L. 100-242, title I, §112(b)(3), Feb. 5, 1988, 101 Stat. 1824; renumbered title I, Pub. L. 100-358, §5, June 29, 1988, 102 Stat. 681; amended Pub. L. 102-550, title VI, §622(a), Oct. 28, 1992, 106 Stat. 3813; Pub. L. 104-99, title IV, §402(d)(6)(A)(ii), Jan. 26, 1996, 110 Stat. 42; Pub. L. 104-120, §10(a), Mar. 28, 1996, 110 Stat. 838; Pub. L. 104-330, title V, §501(b)(4), Oct. 26, 1996, 110 Stat. 4042; Pub. L. 105-276, title V, §595(d), Oct. 21, 1998, 112 Stat. 2656.)

REFERENCES IN TEXT

Section 1437n(e)(1)(B) of this title, referred to in subsec. (b), was repealed by Pub. L. 105-276, title V, §576(d)(2), Oct. 21, 1998, 112 Stat. 2640.

Section 1701q of title 12, referred to in subsec. (d)(2)(D), was amended generally by Pub. L. 101-625, title VIII, §801(a), Nov. 28, 1990, 104 Stat. 4297, and, as so amended, does not contain a subsec. (d)(8) or a definition of the term “related facilities”.

The Uniform Relocation Assistance and Real Property Acquisitions Policy Act of 1970, referred to in subsec. (g), probably means the Uniform Relocation Assistance and Real Property Acquisition Policy Act of 1970, Pub. L. 91-646, Jan. 2, 1971, 84 Stat. 1894, as amended, which is classified principally to chapter 61 (§4601 et seq.) of this title. For complete classification of this Act to the Code, see Short Title note set out under section 4601 of this title and Tables.

PRIOR PROVISIONS

A prior section 7 of act Sept. 1, 1937, ch. 896, 50 Stat. 891, as amended, required publication of information and submission of annual report by the Authority and was classified to section 1407 of this title, prior to the general revision of this chapter by Pub. L. 93-383.

AMENDMENTS

1998—Subsec. (h). Pub. L. 105-276 struck out heading and text of subsec. (h). Text read as follows: “The provisions of this section shall not apply with respect to

low-income housing developed or operated pursuant to a contract between the Secretary and an Indian housing authority.”

1996—Pub. L. 104-330, §501(b)(4), which directed amendment of “subsection 7” of the United States Housing Act of 1937, probably meaning this section, by striking subsec. (l), could not be executed because this section does not contain a subsec. (l).

Pub. L. 104-120 amended section generally, restating former subsecs. (a) to (g) relating to designated housing as subsecs. (a) to (h) relating to designated housing for elderly and disabled families.

Subsec. (a)(2). Pub. L. 104-99, which directed the temporary amendment of par. (2) by substituting “in accordance with the written system of preferences for selection established pursuant to” for “according to the preferences for occupancy under”, could not be executed because of the amendment by Pub. L. 104-120 which amended section generally retroactive to Oct. 1, 1995. See Effective and Termination Dates of 1996 Amendments note below.

1992—Pub. L. 102-550 amended section generally, substituting present provisions for provisions relating to and defining “congregate housing” and providing for design, development, and acquisition of congregate housing for displaced or elderly families, limitation on amounts for contracts for congregate housing, and costs for central dining facilities.

1988—Pub. L. 100-242 struck out “annual” before “contributions” in proviso.

1978—Pub. L. 95-557 substituted “(1) low-rent housing which, as of January 1, 1979, was built or under construction, with which there is connected a central dining facility where wholesome and economical meals can be served to such occupants; or (2) low-rent housing constructed after, but not under construction prior to, January 1, 1979, connected with which there is a central dining facility to provide wholesome and economical meals for such occupants. Such occupants of congregate housing may also be provided with other supportive services appropriate to their needs under title IV of the Housing and Community Development Amendments of 1978” for “low-income housing (A) in which some or all of the dwelling units do not have kitchen facilities, and (B) connected with which there is a central dining facility to provide wholesome and economical meals for elderly and displaced families under terms and conditions prescribed by the public housing agency to permit a generally self-supporting operation”.

#### EFFECTIVE AND TERMINATION DATES OF 1996 AMENDMENTS

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.

Amendment by Pub. L. 104-120 to be construed to have become effective Oct. 1, 1995, notwithstanding the effective date of any regulations issued by Secretary of Housing and Urban Development to implement amendments by sections 9 and 10 of Pub. L. 104-120 or any failure by Secretary to issue any such regulations, see section 13 of Pub. L. 104-120, set out as a note under section 1437d of this title.

Amendment by Pub. L. 104-99 effective Jan. 26, 1996, only for fiscal years 1996, 1997, and 1998, and to cease to be effective Oct. 21, 1998, see section 402(f) of Pub. L. 104-99, as amended, and section 514(f) of Pub. L. 105-276, set out as notes under section 1437a of this title.

#### EFFECTIVE DATE OF 1992 AMENDMENT

Amendment by subtitles B through F of title VI [§§ 621-685] of Pub. L. 102-550 applicable upon expiration of 6-month period beginning Oct. 28, 1992, except as otherwise provided, see section 13642 of this title.

#### INAPPLICABILITY OF CERTAIN 1992 AMENDMENTS TO INDIAN PUBLIC HOUSING

Amendment by Pub. L. 102-550 not applicable with respect to lower income housing developed or operated

pursuant to contract between Secretary of Housing and Urban Development and Indian housing authority, see section 626 of Pub. L. 102-550, set out as a note under section 1437a of this title.

### § 1437f. Low-income housing assistance

#### (a) Authorization for assistance payments

For the purpose of aiding low-income families in obtaining a decent place to live and of promoting economically mixed housing, assistance payments may be made with respect to existing housing in accordance with the provisions of this section.

#### (b) Other existing housing programs

(1) IN GENERAL.—The Secretary is authorized to enter into annual contributions contracts with public housing agencies pursuant to which such agencies may enter into contracts to make assistance payments to owners of existing dwelling units in accordance with this section. In areas where no public housing agency has been organized or where the Secretary determines that a public housing agency is unable to implement the provisions of this section, the Secretary is authorized to enter into such contracts and to perform the other functions assigned to a public housing agency by this section.

(2) The Secretary is authorized to enter into annual contributions contracts with public housing agencies for the purpose of replacing public housing transferred in accordance with subchapter II-A of this chapter. Each contract entered into under this subsection shall be for a term of not more than 60 months.

#### (c) Contents and purposes of contracts for assistance payments; amount and scope of monthly assistance payments

(1) An assistance contract entered into pursuant to this section shall establish the maximum monthly rent (including utilities and all maintenance and management charges) which the owner is entitled to receive for each dwelling unit with respect to which such assistance payments are to be made. The maximum monthly rent shall not exceed by more than 10 per centum the fair market rental established by the Secretary periodically but not less than annually for existing or newly constructed rental dwelling units of various sizes and types in the market area suitable for occupancy by persons assisted under this section, except that the maximum monthly rent may exceed the fair market rental (A) by more than 10 but not more than 20 per centum where the Secretary determines that special circumstances warrant such higher maximum rent or that such higher rent is necessary to the implementation of a housing strategy as defined in section 12705 of this title, or (B) by such higher amount as may be requested by a tenant and approved by the public housing agency in accordance with paragraph (3)(B). In the case of newly constructed and substantially rehabilitated units, the exception in the preceding sentence shall not apply to more than 20 per centum of the total amount of authority to enter into annual contributions contracts for such units which is allocated to an area and obligated with respect to any fiscal year beginning on or after October 1, 1980. Proposed fair market