

this Act [Nov. 28, 1990] or under section 212 of such Act [12 U.S.C. 4102] (as amended by section 601(a)) may elect to be subject to (1) the provisions of such Act as in effect before the date of the enactment of this Act, or (2) the provisions of the Low-Income Housing Preservation and Resident Homeownership Act of 1990 [see Short Title note above], after the date of the enactment of this Act. The Secretary shall establish procedures for owners to make the election under the preceding sentence. An owner that elects to be subject to the provisions of the Emergency Low Income Housing Preservation Act of 1987 shall comply with section 212(b), section 217(a)(2), and section 217(c) of the Low-Income Housing Preservation and Resident Homeownership Act of 1990 [12 U.S.C. 4102(b) and 4107(a)(2), (c)].

“(b) **RIGHT OF CONVERSION TO NEW SYSTEM.**—Any owner who has filed a plan of action on or before October 11, 1990, shall have the right to convert to the system of incentives and restrictions under this subtitle [subtitle A of title VI of Pub. L. 101-625, see Effective Date note above], with such adjustments as the Secretary determines to be appropriate to compensate for the value of any incentives the owner received under the Emergency Low Income Housing Preservation Act of 1987 [see Codification note preceding this section]. Owners filing plans after such date shall not have any right under this subsection.

“(c) **EFFECTIVENESS OF REPEALED PROVISIONS.**—Notwithstanding the amendment made by section 601(a) [enacting this chapter], the provisions of the Emergency Low Income Housing Preservation Act of 1987 (as in effect immediately before the date of the enactment of this Act [Nov. 28, 1990]) shall apply with respect to any housing for which the election under subsection (a)(1) is made. With respect to housing for which such an election is made—

“(1) in making incentives under section 224 of such Act [formerly set out in a note under section 1715f of this title] available to such housing, the Secretary—

“(A) shall, for approvable plans of action, provide assistance sufficient to enable a nonprofit organization that has purchased or will purchase an eligible low income housing project to meet project oversight costs; and

“(B) may not refuse to offer incentives referred to in such section to any owner who filed a notice of intent under section 222 of such Act before October 15, 1991, based solely on the date of filing of the plan of action for the housing; and

“(2) the provisions of section 233(1)(A)(i) of such Act [formerly set out in a note under section 1715f of this title] shall not apply, and the term ‘eligible low income housing’ shall, for purposes of such Act, shall [sic] include housing financed by a loan or mortgage that is insured or held by the Secretary or a State or State agency under section 221(d)(3) of the National Housing Act [12 U.S.C. 1715f(d)(3)] and receiving loan management assistance under section 8 of the United States Housing Act of 1937 [42 U.S.C. 1437f] due to a conversion from section 101 of the Housing and Urban Development Act of 1965 [12 U.S.C. 1701s].

“(d) **REGULATIONS.**—Not later than the expiration of the 90-day period beginning on the date of the enactment of this Act [Nov. 28, 1990], the Secretary of Housing and Urban Development shall, subject to the provisions of section 553 of title 5, United States Code, publish proposed rules to implement this subtitle and the amendments made by this subtitle. Not later than 45 days after the expiration of the period under the preceding sentence the Secretary shall issue interim or final rules to implement such provisions.”

§ 4102. Notice of intent

(a) Filing with Secretary

An owner of eligible low-income housing that intends to terminate the low-income affordability restrictions through prepayment or voluntary termination in accordance with section

4108 of this title, extend the low-income affordability restrictions of the housing in accordance with section 4109 of this title, or transfer the housing to a qualified purchaser in accordance with section 4110 of this title, shall file with the Secretary a notice indicating such intent in the form and manner as the Secretary shall prescribe.

(b) Filing with State or local government, tenants, and mortgagee

The owner, upon filing a notice of intent under this section, shall simultaneously file the notice of intent with the chief executive officer of the appropriate State or local government for the jurisdiction within which the housing is located and with the mortgagee, and shall inform the tenants of the housing of the filing.

(c) Ineligibility for filing

An owner shall not be eligible to file a notice of intent under this section if the mortgage covering the housing—

(1) falls into default on or after November 28, 1990; or

(2)(A) fell into default before, but is current as of, November 28, 1990; and

(B) the owner does not agree to recompense the appropriate Insurance Fund, in the amount the Secretary determines appropriate, for any losses sustained by the Fund as a result of any work-out or other arrangement agreed to by the Secretary and the owner with respect to the defaulted mortgage.

The Secretary shall carry out this subsection in a manner consistent with the provisions of section 1701z-11 of this title.

(Pub. L. 100-242, title II, §212, as added Pub. L. 101-625, title VI, §601(a), Nov. 28, 1990, 104 Stat. 4249.)

§ 4103. Appraisal and preservation value of eligible low-income housing

(a) Appraisal

Upon receiving notice of intent regarding an eligible low-income housing project indicating an intent to extend the low-income affordability restrictions under section 4109 of this title or transfer the housing under section 4110 of this title, the Secretary shall provide for determination of the preservation value of the housing, as follows:

(1) Appraisers

The preservation value shall be determined by 2 independent appraisers, one of whom shall be selected by the Secretary and one of whom shall be selected by the owner. The appraisals shall be conducted not later than 4 months after filing the notice of intent under section 4102 of this title, and the owner shall submit to the Secretary the appraisal made by the owner's selected appraiser not later than 90 days after receipt of the notice under paragraph (2). If the 2 appraisers fail to agree on the preservation value, and the Secretary and the owner also fail to agree on the preservation value, the Secretary and the owner shall jointly select and jointly compensate a third appraiser, whose appraisal shall be binding on the parties.