

Title 42, The Public Health and Welfare, amended sections 1437a, 1437c to 1437e, 1437g, 1437i, 1437n, 1437u to 1437x, 1437aaa-5, 1437aaa-6, 1439, 11371 to 11376, 11382, 11401, 11403g, 11408, 11903a, 12747, and 12838 of Title 42, repealed sections 1437aa to 1437ee of Title 42, enacted provisions set out as notes under sections 11371, 12747, and 12899h-1 of Title 42, amended provisions set out as a note under section 11301 of Title 42, and repealed provisions set out as a note under section 1701z-6 of Title 12, Banks and Banking. For complete classification of title V to the Code, see Tables.

The date of the effectiveness of the amendments made by this subchapter, referred to in subsec. (b), means the effective date of the amendments made by title V of Pub. L. 104-330, which is 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 this title.

AMENDMENTS

2006—Subsec. (b). Pub. L. 109-281 struck out “subtitle D of title IV of the Cranston-Gonzalez National Affordable Housing Act,” after “pursuant to”.

2000—Pub. L. 106-400 substituted “McKinney-Vento Homeless Assistance Act” for “Stewart B. McKinney Homeless Assistance Act” in subsections. (a) and (b).

EFFECTIVE DATE

Section effective Oct. 26, 1996, see section 508 of Pub. L. 104-330, set out as a note under section 4181 of this title.

§ 4184. Effect on HOME Investment Partnerships Act

Nothing in this chapter or an amendment made by this chapter prohibits or prevents any participating jurisdiction (within the meaning of the HOME Investment Partnerships Act (42 U.S.C. 12721 et seq.)) from providing any amounts made available to the participating jurisdiction under that Act (42 U.S.C. 12721 et seq.) to an Indian tribe or a tribally designated housing entity for use in accordance with that Act (42 U.S.C. 12721 et seq.).

(Pub. L. 104-330, title V, § 509, as added Pub. L. 110-411, title V, § 501(a), Oct. 14, 2008, 122 Stat. 4331.)

REFERENCES IN TEXT

This chapter, referred to in text, was in the original “this Act”, meaning Pub. L. 104-330, Oct. 26, 1996, 110 Stat. 4016, known as the Native American Housing Assistance and Self-Determination Act of 1996. For complete classification of this Act to the Code, see Short Title note set out under section 4101 of this title and Tables.

The HOME Investment Partnerships Act, referred to in text, is title II of Pub. L. 101-625, Nov. 28, 1990, 104 Stat. 4094, which enacted subchapter II of chapter 130 of Title 42, The Public Health and Welfare, amended section 1437f of Title 42, and repealed section 1706e of Title 12, Banks and Banking, sections 1437o and 1452b of Title 42, and provisions set out as a note under section 1715f of Title 12. For complete classification of this Act to the Code, see Short Title note set out under section 12701 of Title 42 and Tables.

SUBCHAPTER VI—FEDERAL GUARANTEES FOR FINANCING FOR TRIBAL HOUSING ACTIVITIES

§ 4191. Authority and requirements

(a) Authority

To such extent or in such amounts as provided in appropriations Acts, the Secretary may, sub-

ject to the limitations of this subchapter (including limitations designed to protect and maintain the viability of rental housing units owned or operated by the recipient that were developed under a contract between the Secretary and an Indian housing authority pursuant to the United States Housing Act of 1937 [42 U.S.C. 1437 et seq.]), and upon such terms and conditions as the Secretary may prescribe, guarantee and make commitments to guarantee, the notes or other obligations issued by Indian tribes or tribally designated housing entities with tribal approval, for the purposes of financing affordable housing activities described in section 4132 of this title and housing related community development activity as consistent with the purposes of this chapter.

(b) Terms of loans

Notes or other obligations guaranteed pursuant to this subchapter shall be in such form and denominations, have such maturities, and be subject to such conditions as may be prescribed by regulations issued by the Secretary. The Secretary may not deny a guarantee under this subchapter on the basis of the proposed repayment period for the note or other obligation, unless the period is more than 20 years or the Secretary determines that the period causes the guarantee to constitute an unacceptable financial risk.

(c) Limitation on outstanding guarantees

No guarantee or commitment to guarantee shall be made with respect to any note or other obligation if the total outstanding notes or obligations of the issuer guaranteed under this subchapter (excluding any amount defeased under the contract entered into under section 4192(a)(1) of this title) would thereby exceed an amount equal to 5 times the amount of the grant approval for the issuer pursuant to subchapter III.

(d) Limitation on percentage

A guarantee made under this subchapter shall guarantee repayment of 95 percent of the unpaid principal and interest due on the notes or other obligations guaranteed.

(Pub. L. 104-330, title VI, § 601, Oct. 26, 1996, 110 Stat. 4046; Pub. L. 107-292, § 7, Nov. 13, 2002, 116 Stat. 2054; Pub. L. 108-393, § 2, Oct. 30, 2004, 118 Stat. 2246.)

REFERENCES IN TEXT

The United States Housing Act of 1937, referred to in subsec. (a), is act Sept. 1, 1937, ch. 896, as revised generally by Pub. L. 93-383, title II, Aug. 22, 1974, 88 Stat. 653, which is classified generally to chapter 8 (§1437 et seq.) of Title 42, The Public Health and Welfare. For complete classification of this Act to the Code, see Short Title note set out under section 1437 of Title 42 and Tables.

This chapter, referred to in subsec. (a), was in the original “this Act”, meaning Pub. L. 104-330, Oct. 26, 1996, 110 Stat. 4016, known as the Native American Housing Assistance and Self-Determination Act of 1996. For complete classification of this Act to the Code, see Short Title note set out under section 4101 of this title and Tables.

AMENDMENTS

2004—Subsec. (d). Pub. L. 108-393 added subsec. (d).

2002—Subsec. (a). Pub. L. 107-292, §7(1), inserted “and housing related community development activity as consistent with the purposes of this chapter” after “section 4132 of this title”.

Subsecs. (b) to (d). Pub. L. 107-292, §7(2), (3), redesignated subsecs. (c) and (d) as (b) and (c), respectively, and struck out heading and text of former subsec. (b). Text read as follows: “A guarantee under this subchapter may be used to assist an Indian tribe or housing entity in obtaining financing only if the Indian tribe or housing entity has made efforts to obtain such financing without the use of such guarantee and cannot complete such financing consistent with the timely execution of the program plans without such guarantee.”

EFFECTIVE DATE

Pub. L. 104-330, title VI, §606, Oct. 26, 1996, 110 Stat. 4048, provided that: “This title [enacting this subchapter] shall take effect on the date of the enactment of this Act [Oct. 26, 1996].”

[Another section 606 of Pub. L. 104-330 is classified to section 4196 of this title.]

§ 4192. Security and repayment

(a) Requirements on issuer

To assure the repayment of notes or other obligations and charges incurred under this subchapter and as a condition for receiving such guarantees, the Secretary shall require the Indian tribe or housing entity issuing such notes or obligations to—

(1) enter into a contract, in a form acceptable to the Secretary, for repayment of notes or other obligations guaranteed under this subchapter;

(2) pledge any grant for which the issuer may become eligible under this chapter;

(3) demonstrate that the extent of such issuance and guarantee under this subchapter is within the financial capacity of the tribe and is not likely to impair the ability to use grant amounts under subchapter I, taking into consideration the requirements under section 4133(b) of this title; and

(4) furnish, at the discretion of the Secretary, such other security as may be deemed appropriate by the Secretary in making such guarantees, including increments in local tax receipts generated by the activities assisted under this chapter or disposition proceeds from the sale of land or rehabilitated property.

(b) Repayment from grant amounts

Notwithstanding any other provision of this chapter—

(1) the Secretary may apply grants pledged pursuant to subsection (a)(2) to any repayments due the United States as a result of such guarantees; and

(2) grants allocated under this chapter for an Indian tribe or housing entity (including program income derived therefrom) may be used to pay principal and interest due (including such servicing, underwriting, and other costs as may be specified in regulations issued by the Secretary) on notes or other obligations guaranteed pursuant to this subchapter.

(c) Full faith and credit

The full faith and credit of the United States is pledged to the payment of all guarantees

made under this subchapter. Any such guarantee made by the Secretary shall be conclusive evidence of the eligibility of the obligations for such guarantee with respect to principal and interest, and the validity of any such guarantee so made shall be incontestable in the hands of a holder of the guaranteed obligations.

(Pub. L. 104-330, title VI, §602, Oct. 26, 1996, 110 Stat. 4046.)

REFERENCES IN TEXT

This chapter, referred to in subsecs. (a) and (b), was in the original “this Act”, meaning Pub. L. 104-330, Oct. 26, 1996, 110 Stat. 4016, known as the Native American Housing Assistance and Self-Determination Act of 1996. For complete classification of this Act to the Code, see Short Title note set out under section 4101 of this title and Tables.

EFFECTIVE DATE

Section effective Oct. 26, 1996, see section 606 of Pub. L. 104-330, set out as a note under section 4191 of this title.

§ 4193. Payment of interest

The Secretary may make, and contract to make, grants, in such amounts as may be approved in appropriations Acts, to or on behalf of an Indian tribe or housing entity issuing notes or other obligations guaranteed under this subchapter, to cover not to exceed 30 percent of the net interest cost (including such servicing, underwriting, or other costs as may be specified in regulations of the Secretary) to the borrowing entity or agency of such obligations. The Secretary may also, to the extent approved in appropriations Acts, assist the issuer of a note or other obligation guaranteed under this subchapter in the payment of all or a portion of the principal and interest amount due under the note or other obligation, if the Secretary determines that the issuer is unable to pay the amount because of circumstances of extreme hardship beyond the control of the issuer.

(Pub. L. 104-330, title VI, §603, Oct. 26, 1996, 110 Stat. 4047.)

EFFECTIVE DATE

Section effective Oct. 26, 1996, see section 606 of Pub. L. 104-330, set out as a note under section 4191 of this title.

§ 4194. Training and information

The Secretary, in cooperation with eligible public entities, shall carry out training and information activities with respect to the guarantee program under this subchapter.

(Pub. L. 104-330, title VI, §604, Oct. 26, 1996, 110 Stat. 4047.)

EFFECTIVE DATE

Section effective Oct. 26, 1996, see section 606 of Pub. L. 104-330, set out as a note under section 4191 of this title.

§ 4195. Limitations on amount of guarantees

(a) Aggregate fiscal year limitation

Notwithstanding any other provision of law and subject only to the absence of qualified applicants or proposed activities and to the au-