

**§ 12752. Distribution of assistance****(a) Local**

Each participating jurisdiction shall, insofar as is feasible, distribute assistance under this part geographically within its boundaries and among different categories of housing need, according to the priorities of housing need identified in the jurisdiction's approved housing strategy.

**(b) State**

Participating States shall be responsible for distributing assistance throughout the State according to the State's assessment of the geographical distribution of the housing need within the State, as identified in the State's approved housing strategy. Participating States shall distribute assistance to rural areas in amounts that take into account the nonmetropolitan share of the State's total population and objective measures of rural housing need, such as poverty and substandard housing, as set forth in the State's housing strategy approved under section 12705 of this title. To the extent the need is within the boundaries of a participating unit of general local government, the State and the unit of general local government shall coordinate activities to address that need.

(Pub. L. 101-625, title II, §222, Nov. 28, 1990, 104 Stat. 4112.)

**§ 12753. Penalties for misuse of funds**

If the Secretary finds after reasonable notice and opportunity for hearing that a participating jurisdiction has failed to comply substantially with any provision of this part and until the Secretary is satisfied that there is no longer any such failure to comply, the Secretary shall reduce the line of credit in the participating jurisdiction's HOME Investment Trust Fund by the amount of any expenditures that were not in accordance with the requirements of this subchapter, and the Secretary may—

- (1) prevent withdrawals from the participating jurisdiction's HOME Investment Trust Fund for activities affected by such failure to comply;
- (2) restrict the participating jurisdiction's activities under this subchapter to activities that conform to one or more model programs made available under section 12743 of this title; or
- (3) remove the participating jurisdiction from participation in allocations or reallocations of funds made available under this part.

(Pub. L. 101-625, title II, §223, Nov. 28, 1990, 104 Stat. 4112.)

**§ 12754. Limitation on jurisdictions under court order****(a) In general**

Notwithstanding any other provision of this Act, the Secretary shall ensure that funds provided under this part are not employed to carry out housing remedies or to pay fines, penalties, or costs associated with an action in which—

- (1) a participating jurisdiction has been adjudicated, by a Federal, State, or local court, to be in violation of title VI of the Civil

Rights Act of 1964 [42 U.S.C. 2000d et seq.], the Fair Housing Act [42 U.S.C. 3601 et seq.], or any other Federal, State, or local law promoting fair housing or prohibiting discrimination, or

- (2) a settlement has been entered into in any case where claims of such violations have been asserted against a participating jurisdiction, except to the extent permitted by subsection (b).

**(b) Remedial use of funds permitted**

In the case of settlement described in subsection (a)(2), a jurisdiction may use funds provided under this Act to carry out housing remedies with eligible activities.

(Pub. L. 101-625, title II, §224, Nov. 28, 1990, 104 Stat. 4113.)

## REFERENCES IN TEXT

This Act, referred to in text, is Pub. L. 101-625, Nov. 28, 1990, 104 Stat. 4079, known as the Cranston-Gonzalez National Affordable Housing Act. For complete classification of this Act to the Code, see Short Title note set out under section 12701 of this title and Tables.

The Civil Rights Act of 1964, referred to in subsec. (a)(1), is Pub. L. 88-352, July 2, 1964, 78 Stat. 241, as amended. Title VI of the Act is classified generally to subchapter V (§2000d et seq.) of chapter 21 of this title. For complete classification of this Act to the Code, see Short Title note set out under section 2000a of this title and Tables.

The Fair Housing Act, referred to in subsec. (a)(1), is title VIII of Pub. L. 90-284, Apr. 11, 1968, 82 Stat. 81, as amended, which is classified principally to subchapter I (§3601 et seq.) of chapter 45 of this title. For complete classification of this Act to the Code, see Short Title note set out under section 3601 of this title and Tables.

**§ 12755. Tenant and participant protections****(a) Lease**

The lease between a tenant and an owner of affordable housing assisted under this subchapter for rental shall be for not less than one year, unless by mutual agreement between the tenant and the owner, and shall contain such terms and conditions as the Secretary shall determine to be appropriate.

**(b) Termination of tenancy**

An owner shall not terminate the tenancy or refuse to renew the lease of a tenant of rental housing assisted under this subchapter except for serious or repeated violation of the terms and conditions of the lease, for violation of applicable Federal, State, or local law, or for other good cause. Any termination or refusal to renew must be preceded by not less than 30 days by the owner's service upon the tenant of a written notice specifying the grounds for the action. Such 30-day waiting period is not required if the grounds for the termination or refusal to renew involve a direct threat to the safety of the tenants or employees of the housing, or an imminent and serious threat to the property (and the termination or refusal to renew is in accordance with the requirements of State or local law).

**(c) Maintenance and replacement**

The owner of rental housing assisted under this subchapter shall maintain the premises in compliance with all applicable housing quality standards and local code requirements.

**(d) Tenant selection**

The owner of rental housing assisted under this subchapter shall adopt written tenant selection policies and criteria that—

(1) are consistent with the purpose of providing housing for very low-income and low-income families,

(2) are reasonably related to program eligibility and the applicant's ability to perform the obligations of the lease,

(3) give reasonable consideration to the housing needs of families that would have a preference under section 1437d(c)(4)(A) of this title, and

(4) provide for (A) the selection of tenants from a written waiting list in the chronological order of their application, insofar as is practicable, and (B) for<sup>2</sup> the prompt notification in writing of any rejected applicant of the grounds for any rejection.

(Pub. L. 101-625, title II, §225, Nov. 28, 1990, 104 Stat. 4113; Pub. L. 114-113, div. L, title II, §235, Dec. 18, 2015, 129 Stat. 2896.)

## AMENDMENTS

2015—Subsec. (b). Pub. L. 114-113 inserted at end “Such 30-day waiting period is not required if the grounds for the termination or refusal to renew involve a direct threat to the safety of the tenants or employees of the housing, or an imminent and serious threat to the property (and the termination or refusal to renew is in accordance with the requirements of State or local law).”

**§ 12756. Monitoring of compliance****(a) Enforceable agreements**

Each participating jurisdiction, through binding contractual agreements with owners and otherwise, shall ensure long-term compliance with the provisions of this subchapter. Such measures shall provide for (1) enforcement of the provisions of this subchapter by the jurisdiction or by the intended beneficiaries, and (2) remedies for the breach of such provisions.

**(b) Periodic monitoring**

Each participating jurisdiction, not less frequently than annually, shall review the activities of owners of affordable housing assisted under this subchapter for rental to assess compliance with the requirements of this subchapter. Such review shall include on-site inspection to determine compliance with housing codes and other applicable regulations. The results of each review shall be included in the jurisdiction's performance report submitted to the Secretary under section 12708(a) of this title and made available to the public.

**(c) Special procedures for certain projects**

In the case of small-scale or scattered site housing, the Secretary may provide for such streamlined procedures for achieving the purposes of this section as the Secretary determines to be appropriate.

(Pub. L. 101-625, title II, §226, Nov. 28, 1990, 104 Stat. 4114.)

<sup>2</sup> So in original. The word “for” probably should not appear.

## PART B—COMMUNITY HOUSING PARTNERSHIP

**§ 12771. Set-aside for community housing development organizations****(a) In general**

For a period of 24 months after funds under part A are made available to a jurisdiction, the jurisdiction shall reserve not less than 15 percent of such funds for investment only in housing to be developed, sponsored, or owned by community housing development organizations. Each participating jurisdiction shall make reasonable efforts to identify community housing development organizations that are capable or can reasonably be expected to become capable of carrying out elements of the jurisdiction's housing strategy and to encourage such community housing development organizations to do so. If during the first 24 months of its participation under this subchapter, a participating jurisdiction is unable to identify a sufficient number of capable community housing development organizations, then up to 20 percent of the funds allocated to that jurisdiction under this section, but not to exceed \$150,000, may be made available to carry out activities that develop the capacity of community housing development organizations in that jurisdiction. A participating jurisdiction is authorized to enter into contracts with community housing development organizations to carry out this section.

**(b) Recapture and reuse**

If any funds reserved under subsection (a) remain uninvested for a period of 24 months, then the Secretary shall deduct such funds from the line of credit in the participating jurisdiction's HOME Investment Trust Fund and make such funds available by direct reallocation (1) to other participating jurisdictions for affordable housing developed, sponsored or owned by community housing development organizations, or (2) to nonprofit intermediary organizations to carry out activities that develop the capacity of community housing development organizations consistent with section 12773 of this title, with preference to community housing development organizations serving the jurisdiction from which the funds were recaptured.

**(c) Direct reallocation criteria**

Insofar as practicable, direct reallocations under this section shall be made according to the selection criteria established under section 12747(c) of this title.

(Pub. L. 101-625, title II, §231, Nov. 28, 1990, 104 Stat. 4114; Pub. L. 102-550, title II, §212(a), (b), Oct. 28, 1992, 106 Stat. 3757.)

## AMENDMENTS

1992—Subsec. (a). Pub. L. 102-550 substituted “24” for “18” in first sentence and inserted after second sentence “If during the first 24 months of its participation under this subchapter, a participating jurisdiction is unable to identify a sufficient number of capable community housing development organizations, then up to 20 percent of the funds allocated to that jurisdiction under this section, but not to exceed \$150,000, may be made available to carry out activities that develop the capacity of community housing development organizations in that jurisdiction.”

Subsec. (b). Pub. L. 102-550, §212(a), substituted “24” for “18”.