

contract authority, of projects which will be modernized to a substantial extent with weatherization materials as defined in section 6862(9) of this title, and redesignated former subsec. (b) as entire section.

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.

ENERGY EFFICIENT PUBLIC HOUSING DEMONSTRATION

Pub. L. 100-242, title I, §125, Feb. 5, 1988, 101 Stat. 1847, provided that:

“(a) ESTABLISHMENT.—The Secretary of Housing and Urban Development shall establish a demonstration program through the assistance of an appropriate technology transfer organization that specializes in producing detailed energy-efficient designs and in conducting local and statewide, public participation tests for energy efficient, needs-oriented housing. The appropriate technology organization shall carry out the demonstration working through and with public housing agencies to build and test a variety of energy-efficient housing designs in 100 separate housing units in 4 different States that meet local lower income housing needs (including single parent, disabled, and elderly concerns) through a composite ranging from single to 12-plex units in the cluster approach on vacant lots and open areas.

“(b) REPORT.—As soon as practicable following September 30, 1988, the Secretary of Housing and Urban Development shall submit to the Congress a report setting forth the findings and recommendations of the Secretary as a result of the demonstration under this section.

“(c) FUNDING.—Of the budget authority authorized to be provided for the development of public housing, there is authorized to be appropriated to carry out this section \$4,700,000 for fiscal year 1988.”

§ 1437l. Repealed. Pub. L. 105-276, title V, § 522(a), Oct. 21, 1998, 112 Stat. 2564

Section, act Sept. 1, 1937, ch. 896, title I, §14, as added Pub. L. 96-399, title II, §202(a), Oct. 8, 1980, 94 Stat. 1625; amended Pub. L. 97-35, title III, §322(c), 329G, Aug. 13, 1981, 95 Stat. 402, 410; Pub. L. 98-181, title I [title II, §214(b)], Nov. 30, 1983, 97 Stat. 1185; Pub. L. 98-479, title II, §204(b)(2), Oct. 17, 1984, 98 Stat. 2233; Pub. L. 100-242, title I, §§112(b)(6), 119(b)-(i), 120, Feb. 5, 1988, 101 Stat. 1824, 1830-1837; renumbered title I, Pub. L. 100-358, §5, June 29, 1988, 102 Stat. 681; Pub. L. 101-625, title IV, §414, title V, §§509(a)-(g), 510, 572, Nov. 28, 1990, 104 Stat. 4160, 4187, 4191-4193, 4236; Pub. L. 102-139, title II, Oct. 28, 1991, 105 Stat. 757, 759; Pub. L. 102-550, title I, §§111(b)(1), 115, title VI, §625(a)(3), Oct. 28, 1992, 106 Stat. 3688, 3692, 3820; Pub. L. 103-233, title III, §302, Apr. 11, 1994, 108 Stat. 369; Pub. L. 104-19, title I, §§1001(a), 1003A, July 27, 1995, 109 Stat. 235, 236; Pub. L. 104-134, title I, §101(e) [title II, §201(a)(1)], Apr. 26, 1996, 110 Stat. 1321-257, 1321-277; renumbered title I, Pub. L. 104-140, §1(a), May 2, 1996, 110 Stat. 1327; Pub. L. 104-330, title V, §501(b)(6), Oct. 26, 1996, 110 Stat. 4042; Pub. L. 105-276, title II, §208, Oct. 21, 1998, 112 Stat. 2485, related to assistance for public housing modernization. See section 1437g(a) of this title.

EFFECTIVE DATE OF REPEAL

Repeal effective and applicable beginning upon Oct. 1, 1999, except as otherwise provided, with provision that Secretary may implement the repeal before such date, and with savings provision, see section 503 of Pub. L. 105-276, set out as an Effective Date of 1998 Amendment note under section 1437 of this title.

SAVINGS PROVISION

Pub. L. 105-276, title V, §522(c), Oct. 21, 1998, 112 Stat. 2565, provided that:

“(1) IN GENERAL.—Section 14 of the United States Housing Act of 1937 [42 U.S.C. 1437l] shall apply as provided in section 519(e) of this Act [42 U.S.C. 1437g note].

“(2) EXPANSION OF USE OF MODERNIZATION FUNDING.—Before the implementation of formulas pursuant to sections 9(d)(2) and 9(e)(2) of the United States Housing Act of 1937 [42 U.S.C. 1437g(d)(2), (e)(2)] (as amended by section 519(a) of this Act) an agency may utilize any authority provided under or pursuant to section 14(q) of such Act [42 U.S.C. 1437l(q)] (including the authority under section 201(a) of the Departments of Veterans Affairs and Housing and Urban Development, and Independent Agencies Appropriations Act, 1996 [see Tables for classification] (Public Law 104-134; 110 Stat. 1321-277)), as such provisions (including such section 201(a)) may be amended thereafter, including any amendment made by title II of this Act [see Tables for classification], notwithstanding any other provision of law (including the repeal made under this section, the expiration of the applicability of such section 201 [see Tables for classification], or any repeal of such section 201).

“(3) EFFECTIVE DATE.—This subsection shall take effect on the date of the enactment of this Act [Oct. 21, 1998].”

CONVERSION OF CERTAIN PUBLIC HOUSING TO VOUCHERS

Pub. L. 104-134, title I, §101(e) [title II, §202], Apr. 26, 1996, 110 Stat. 1321-257, 1321-279; renumbered title I, Pub. L. 104-140, §1(a), May 2, 1996, 110 Stat. 1327, which required identification for removal from the inventory of a public housing agency of developments on same or contiguous sites which had more than 300 units and vacancy rate of at least 10 percent, were identified as distressed, and for which estimated cost of continued operation exceeded cost of providing tenant-based assistance under section 1437f of this title, provided for implementation and enforcement of provisions requiring identification, required each agency to develop and carry out plan for removal over 5-year period, and required provision of tenant-based assistance to families residing in any removed development, was repealed by Pub. L. 105-276, title V, §537(b), Oct. 21, 1998, 112 Stat. 2592. Amounts made available to carry out section 101(e) [title II, §202] of Pub. L. 104-134 authorized to be used, to extent provided in advance in appropriations Acts, to carry out section 1437z-5 of this title, and section 101(e) [title II, §202] of Pub. L. 104-134 as in effect immediately before Oct. 21, 1998, to continue to apply to public housing developments identified for conversion, or assessment of whether conversion is required, prior to such date, see section 537(c) of Pub. L. 105-276, set out as a Transition note under section 1437z-5 of this title.

§ 1437m. Payment of non-Federal share

Any of the following may be used as the non-Federal share required in connection with activities undertaken under Federal grant-in-aid programs which provide social, educational, employment, and other services to the tenants in a project assisted under this chapter, other than under section 1437f of this title:

- (1) annual contributions under this chapter for operation of the project; or
- (2) rental or use-value of buildings or facilities paid for, in whole or in part, from development, modernization, or operation cost financed under this chapter.

(Sept. 1, 1937, ch. 896, title I, §15, as added Pub. L. 96-399, title II, §212, Oct. 8, 1980, 94 Stat. 1636; amended Pub. L. 100-242, title I, §112(b)(7), Feb. 5, 1988, 101 Stat. 1824; renumbered title I, Pub. L. 100-358, §5, June 29, 1988, 102 Stat. 681.)

AMENDMENTS

1988—Cl. (2). Pub. L. 100-242 struck out “with loans or debt service annual contributions” after “cost financed”.

§ 1437n. Eligibility for assisted housing

(a) Income eligibility for public housing

(1) Income mix within projects

A public housing agency may establish and utilize income-mix criteria for the selection of residents for dwelling units in public housing projects, subject to the requirements of this section.

(2) PHA income mix

(A)¹ TARGETING.—Except as provided in paragraph (4), of the public housing dwelling units of a public housing agency made available for occupancy in any fiscal year by eligible families, not less than 40 percent shall be occupied by extremely low-income families.

(3) Prohibition of concentration of low-income families

(A) Prohibition

A public housing agency may not, in complying with the requirements under paragraph (2), concentrate very low-income families (or other families with relatively low incomes) in public housing dwelling units in certain public housing projects or certain buildings within projects. The Secretary shall review the income and occupancy characteristics of the public housing projects and the buildings of such projects of such agencies to ensure compliance with the provisions of this paragraph and paragraph (2).

(B) Deconcentration

(i) In general

A public housing agency shall submit with its annual public housing agency plan under section 1437c-1 of this title an admissions policy designed to provide for deconcentration of poverty and income-mixing by bringing higher income tenants into lower income projects and lower income tenants into higher income projects. This clause may not be construed to impose or require any specific income or racial quotas for any project or projects.

(ii) Incentives

In implementing the policy under clause (i), a public housing agency may offer incentives for eligible families having higher incomes to occupy dwelling unit in projects predominantly occupied by eligible families having lower incomes, and provide for occupancy of eligible families having lower incomes in projects predominantly occupied by eligible families having higher incomes.

(iii) Family choice

Incentives referred to in clause (ii) may be made available by a public housing agency only in a manner that allows for the eligible family to have the sole discre-

tion in determining whether to accept the incentive and an agency may not take any adverse action toward any eligible family for choosing not to accept an incentive and occupancy of a project described in clause (i)(II).² *Provided*, That the skipping of a family on a waiting list to reach another family to implement the policy under clause (i) shall not be considered an adverse action. An agency implementing an admissions policy under this subparagraph shall implement the policy in a manner that does not prevent or interfere with the use of site-based waiting lists authorized under section 1437d(s)³ of this title.

(4) Fungibility with tenant-based assistance

(A) Authority

Except as provided under subparagraph (D), the number of public housing dwelling units that a public housing agency shall otherwise make available in accordance with paragraph (2)(A) to comply with the percentage requirement under such paragraph for a fiscal year shall be reduced by the credit number for the agency under subparagraph (B).

(B) Credit for exceeding tenant-based assistance targeting requirement

Subject to subparagraph (C), the credit number under this subparagraph for a public housing agency for a fiscal year shall be the number by which—

(i) the aggregate number of qualified families who, in such fiscal year, are initially provided tenant-based assistance under section 1437f of this title by the agency; exceeds

(ii) the number of qualified families that is required for the agency to comply with the percentage requirement under subsection (b)(1) for such fiscal year.

(C) Limitations on credit number

The credit number under subparagraph (B) for a public housing agency for a fiscal year may not in any case exceed the lesser of—

(i) the number of dwelling units that is equivalent to 10 percent of the aggregate number of families initially provided tenant-based assistance under section 1437f of this title by the agency in such fiscal year; or

(ii) the number of public housing dwelling units of the agency that—

(I) are in projects that are located in census tracts having a poverty rate of 30 percent or more; and

(II) are made available for occupancy during such fiscal year and are actually filled only by families whose incomes at the time of commencement of such occupancy exceed 30 percent of the area median income, as determined by the Secretary with adjustments for smaller and larger families.

(D) Fungibility floor

Notwithstanding any authority under subparagraph (A), of the public housing dwell-

¹ So in original. No subpar. (B) has been enacted.

² So in original. Cl. (i) does not contain subclauses.

³ See References in Text note below.