

of the amount of assistance that the Secretary may provide based on such cost limits.

(4) Federal cost limit analysis

A statement of whether the aggregate preservation rents exceed the Federal cost limits and a direction to the owner to file a plan of action under section 4107 of this title or submit a second notice of intent under subsection (d), whichever is applicable.

(c) Availability to tenants

The Secretary shall make any information provided to the owner under subsections (a) and (b) available to the tenants of the housing, together with other information relating to the rights and opportunities of the tenants.

(d) Second notice of intent

(1) Filing

Each owner of eligible low-income housing that elects to transfer housing under section 4110 of this title shall submit to the Secretary, in such form and manner as the Secretary prescribes, notice of intent to sell the housing under section 4110 of this title. To be eligible to prepay the mortgage or voluntarily terminate the insurance contract on the mortgage, an owner of housing for which the preservation rents exceed the Federal cost limits under section 4105(b) of this title shall submit to the Secretary notice of such intent. The provisions of sections 4111 and 4113 of this title shall apply to any owner submitting a notice under the preceding sentence.

(2) Timing

A second notice of intent under this subsection shall be submitted not later than 30 days after receipt of information from the Secretary under this section. If an owner fails to submit such notice within such period, the notice of intent submitted by the owner under section 4102 of this title shall be void and ineffective for purposes of this subchapter.

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

Upon filing a second notice of intent under this subsection, the owner shall simultaneously file such notice of the 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.

(Pub. L. 100-242, title II, §216, as added Pub. L. 101-625, title VI, §601(a), Nov. 28, 1990, 104 Stat. 4253; amended Pub. L. 102-550, title III, §§303, 317(a)(2), Oct. 28, 1992, 106 Stat. 3763, 3772.)

AMENDMENTS

1992—Subsec. (b)(4). Pub. L. 102-550, §317(a)(2), substituted “exceed” for “exceeds”.

Subsec. (d)(3). Pub. L. 102-550, §303, added par. (3).

§ 4107. Plan of action

(a) Submission to Secretary

(1) Timing

Not later than 6 months after receipt of the information from the Secretary under section

4106 of this title an owner seeking to terminate the low-income affordability restrictions through prepayment of the mortgage or voluntary termination under section 4108 of this title, or to extend the low-income affordability restriction on the housing under section 4109 of this title, shall submit a plan of action to the Secretary in such form and manner as the Secretary shall prescribe. Any owner or purchaser seeking a transfer of the housing under section 4110 or 4111 of this title shall submit a plan of action under this section to the Secretary upon acceptance of a bona fide offer under section 4110(b) or (c) of this title or upon making of any bona fide offer under section 4111 of this title.

(2) Copies to tenants

Each owner submitting a plan of action under this section to the Secretary shall also submit a copy to the tenants of the housing. The owner shall simultaneously submit the plan of action to the office of the chief executive officer of the appropriate State or local government for the jurisdiction within which the housing is located. Each owner and the Secretary shall also, upon request, make available to the tenants of the housing and to the office of the chief executive officer of the appropriate State or local government for the jurisdiction within which the housing is located all documentation supporting the plan of action, but not including any information that the Secretary determines is proprietary information. An appropriate agency of such State or local government shall review the plan and advise the tenants of the housing of any programs that are available to assist the tenants in carrying out the purposes of this title.¹

(3) Failure to submit

If the owner does not submit a plan of action to the Secretary within the 6-month period referred to in paragraph (1) (or the applicable longer period), the notice of intent shall be ineffective for purposes of this subchapter and the owner may not submit another notice of intent under section 4102 of this title until 6 months after the expiration of such period.

(b) Contents

(1) Termination of affordability restrictions

If the plan of action proposes to terminate the low-income affordability restrictions through prepayment or voluntary termination in accordance with section 4108 of this title, the plan shall include—

(A) a description of any proposed changes in the status or terms of the mortgage or regulatory agreement;

(B) a description of any proposed changes in the low-income affordability restrictions;

(C) a description of any change in ownership that is related to prepayment or voluntary termination;

(D) an assessment of the effect of the proposed changes on existing tenants;

(E) an analysis of the effect of the proposed changes on the supply of housing af-

¹ See References in Text note below.

fordable to low- and very low-income families or persons in the community within which the housing is located and in the area that the housing could reasonably be expected to serve; and

(F) any other information that the Secretary determines is necessary to achieve the purposes of this title.¹

(2) Extension of affordability restrictions

If the plan of action proposes to 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, the plan shall include—

(A) a description of any proposed changes in the status or terms of the mortgage or regulatory agreement;

(B) a description of the Federal incentives requested (including cash flow projections), and analyses of how the owner will address any physical or financial deficiencies and maintain the low-income affordability restrictions of the housing;

(C) a description of any assistance from State or local government agencies, including low-income housing tax credits, that have been offered to the owner or purchaser or for which the owner or purchaser has applied or intends to apply;

(D) a description of any transfer of the property, including the identity of the transferee and a copy of any documents of sale; and

(E) any other information that the Secretary determines is necessary to achieve the purposes of this title.¹

(c) Revisions

An owner may from time to time revise and amend the plan of action as may be necessary to obtain approval of the plan under this subchapter. The owner shall submit any revision to the Secretary and to the tenants of the housing and make available to the Secretary and tenants all documentation supporting any revision, but not including any information that the Secretary determines is proprietary information.

(Pub. L. 100-242, title II, §217, as added Pub. L. 101-625, title VI, §601(a), Nov. 28, 1990, 104 Stat. 4254; amended Pub. L. 102-550, title III, §304, Oct. 28, 1992, 106 Stat. 3763.)

REFERENCES IN TEXT

This title, referred to in subsecs. (a)(2) and (b)(1)(F), (2)(E), means title II of Pub. L. 100-242, as amended by Pub. L. 101-625, title VI, §601(a), Nov. 28, 1990, 104 Stat. 4249, known as the Low-Income Housing Preservation and Resident Homeownership Act of 1990, which is classified principally to this chapter. For complete classification of this Act to the Code, see Short Title note set out under section 4101 of this title and Tables.

AMENDMENTS

1992—Subsec. (a)(2). Pub. L. 102-550, §304(a), inserted after second sentence “Each owner and the Secretary shall also, upon request, make available to the tenants of the housing and to the office of the chief executive officer of the appropriate State or local government for the jurisdiction within which the housing is located all documentation supporting the plan of action, but not including any information that the Secretary determines is proprietary information.”

Subsec. (c). Pub. L. 102-550, §304(b), inserted before period at end “and make available to the Secretary and tenants all documentation supporting any revision, but not including any information that the Secretary determines is proprietary information”.

§ 4108. Prepayment and voluntary termination

(a) Approval

The Secretary may approve a plan of action that provides for termination of the low-income affordability restrictions through prepayment of the mortgage or voluntary termination of the mortgage insurance contract only upon a written finding that—

(1) implementation of the plan of action will not—

(A) materially increase economic hardship for current tenants, and will not in any event result in (i) a monthly rental payment by any current tenant that exceeds 30 percent of the monthly adjusted income of the tenant or an increase in the monthly rental payment in any year that exceeds 10 percent (whichever is lower), or (ii) in the case of a current tenant who already pays more than such percentage, an increase in the monthly rental payment in any year that exceeds the increase in the Consumer Price Index or 10 percent (whichever is lower); or

(B) involuntarily displace current tenants (except for good cause) where comparable and affordable housing is not readily available determined without regard to the availability of Federal housing assistance that would address any such hardship or involuntary displacement; and

(2) the supply of vacant, comparable housing is sufficient to ensure that such prepayment will not materially affect—

(A) the availability of decent, safe, and sanitary housing affordable to low-income and very low-income families or persons in the area that the housing could reasonably be expected to serve;

(B) the ability of low-income and very low-income families or persons to find affordable, decent, safe, and sanitary housing near employment opportunities; or

(C) the housing opportunities of minorities in the community within which the housing is located.

(b) Standards and procedure for written findings

(1) Standards

A written finding under subsection (a) shall be based on an analysis of the evidence considered by the Secretary in reaching such finding and shall contain documentation of such evidence.

(2) Procedure and criteria

The Secretary shall, by regulation, develop (A) a procedure for determining whether the conditions under paragraphs (1) and (2) of subsection (a) exist, (B) requirements for evidence on which such determinations are based, and (C) criteria on which such determinations are based.

(c) Disapproval

If the Secretary determines a plan of action to prepay a mortgage or terminate an insurance