

## CODIFICATION

Pub. L. 106-568, §203, and Pub. L. 106-569, §513, enacted identical sections 811 of Pub. L. 104-330. This section is based on the text of section 811 of Pub. L. 104-330, as added by Pub. L. 106-569, §513.

**§ 4231. Types of investments****(a) In general**

Subject to section 4230 of this title and an applicable housing plan approved under section 4223 of this title, the Director shall have—

(1) the discretion to use grant amounts for affordable housing activities through the use of—

- (A) equity investments;
- (B) interest-bearing loans or advances;
- (C) noninterest-bearing loans or advances;
- (D) interest subsidies;
- (E) the leveraging of private investments;

or

(F) any other form of assistance that the Secretary determines to be consistent with the purposes of this subchapter; and

(2) the right to establish the terms of assistance provided with funds referred to in paragraph (1).

**(b) Investments**

The Director may invest grant amounts for the purposes of carrying out affordable housing activities in investment securities and other obligations, as approved by the Secretary.

(Pub. L. 104-330, title VIII, §812, as added Pub. L. 106-568, title II, §203, Dec. 27, 2000, 114 Stat. 2888, and Pub. L. 106-569, title V, §513, Dec. 27, 2000, 114 Stat. 2982.)

## CODIFICATION

Pub. L. 106-568, §203, and Pub. L. 106-569, §513, enacted identical sections 812 of Pub. L. 104-330. This section is based on the text of section 812 of Pub. L. 104-330, as added by Pub. L. 106-569, §513.

**§ 4232. Low-income requirement and income targeting****(a) In general**

Housing shall qualify for affordable housing for purposes of this subchapter only if—

(1) each dwelling unit in the housing—

(A) in the case of rental housing, is made available for occupancy only by a family that is a low-income family at the time of the initial occupancy of that family of that unit; and

(B) in the case of housing for homeownership, is made available for purchase only by a family that is a low-income family at the time of purchase; and

(2) each dwelling unit in the housing will remain affordable, according to binding commitments satisfactory to the Secretary, for—

(A) the remaining useful life of the property (as determined by the Secretary) without regard to the term of the mortgage or to transfer of ownership; or

(B) such other period as the Secretary determines is the longest feasible period of time consistent with sound economics and the purposes of this subchapter, except upon

a foreclosure by a lender (or upon other transfer in lieu of foreclosure) if that action—

(i) recognizes any contractual or legal rights of any public agency, nonprofit sponsor, or other person or entity to take an action that would—

(I) avoid termination of low-income affordability, in the case of foreclosure; or

(II) transfer ownership in lieu of foreclosure; and

(ii) is not for the purpose of avoiding low-income affordability restrictions, as determined by the Secretary.

**(b) Exception**

Notwithstanding subsection (a), housing assistance pursuant to section 4228(a)(2)(B) of this title shall be considered affordable housing for purposes of this subchapter.

(Pub. L. 104-330, title VIII, §813, as added Pub. L. 106-568, title II, §203, Dec. 27, 2000, 114 Stat. 2888, and Pub. L. 106-569, title V, §513, Dec. 27, 2000, 114 Stat. 2982.)

## CODIFICATION

Pub. L. 106-568, §203, and Pub. L. 106-569, §513, enacted identical sections 813 of Pub. L. 104-330. This section is based on the text of section 813 of Pub. L. 104-330, as added by Pub. L. 106-569, §513.

**§ 4233. Lease requirements and tenant selection****(a) Leases**

Except to the extent otherwise provided by or inconsistent with the laws of the State of Hawaii, in renting dwelling units in affordable housing assisted with grant amounts provided under this subchapter, the Director, owner, or manager shall use leases that—

(1) do not contain unreasonable terms and conditions;

(2) require the Director, owner, or manager to maintain the housing in compliance with applicable housing codes and quality standards;

(3) require the Director, owner, or manager to give adequate written notice of termination of the lease, which shall be the period of time required under applicable State or local law;

(4) specify that, with respect to any notice of eviction or termination, notwithstanding any State or local law, a resident shall be informed of the opportunity, before any hearing or trial, to examine any relevant documents, record, or regulations directly related to the eviction or termination;

(5) require that the Director, owner, or manager may not terminate the tenancy, during the term of the lease, except for serious or repeated violation of the terms and conditions of the lease, violation of applicable Federal, State, or local law, or for other good cause; and

(6) provide that the Director, owner, or manager may terminate the tenancy of a resident for any activity, engaged in by the resident, any member of the household of the resident, or any guest or other person under the control of the resident, that—

(A) threatens the health or safety of, or right to peaceful enjoyment of the premises

by, other residents or employees of the Department, owner, or manager;

(B) threatens the health or safety of, or right to peaceful enjoyment of their premises by, persons residing in the immediate vicinity of the premises; or

(C) is criminal activity (including drug-related criminal activity) on or off the premises.

**(b) Tenant or homebuyer selection**

As a condition to receiving grant amounts under this subchapter, the Director shall adopt and use written tenant and homebuyer selection policies and criteria that—

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

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

(3) provide for—

(A) the selection of tenants and homebuyers from a written waiting list in accordance with the policies and goals set forth in an applicable housing plan approved under section 4223 of this title; and

(B) the prompt notification in writing of any rejected applicant of the grounds for that rejection.

(Pub. L. 104-330, title VIII, § 814, as added Pub. L. 106-568, title II, § 203, Dec. 27, 2000, 114 Stat. 2889, and Pub. L. 106-569, title V, § 513, Dec. 27, 2000, 114 Stat. 2983.)

CODIFICATION

Pub. L. 106-568, § 203, and Pub. L. 106-569, § 513, enacted identical sections 814 of Pub. L. 104-330. This section is based on the text of section 814 of Pub. L. 104-330, as added by Pub. L. 106-569, § 513.

**§ 4234. Repayment**

If the Department of Hawaiian Home Lands uses grant amounts to provide affordable housing under activities under this subchapter and, at any time during the useful life of the housing, the housing does not comply with the requirement under section 4232(a)(2) of this title, the Secretary shall—

(1) reduce future grant payments on behalf of the Department by an amount equal to the grant amounts used for that housing (under the authority of section 4238(a)(2) of this title); or

(2) require repayment to the Secretary of any amount equal to those grant amounts.

(Pub. L. 104-330, title VIII, § 815, as added Pub. L. 106-568, title II, § 203, Dec. 27, 2000, 114 Stat. 2890, and Pub. L. 106-569, title V, § 513, Dec. 27, 2000, 114 Stat. 2984.)

CODIFICATION

Pub. L. 106-568, § 203, and Pub. L. 106-569, § 513, enacted identical sections 815 of Pub. L. 104-330. This section is based on the text of section 815 of Pub. L. 104-330, as added by Pub. L. 106-569, § 513.

**§ 4235. Annual allocation**

For each fiscal year, the Secretary shall allocate any amounts made available for assistance under this subchapter for the fiscal year, in accordance with the formula established pursuant

to section 4236 of this title to the Department of Hawaiian Home Lands if the Department complies with the requirements under this subchapter for a grant under this subchapter.

(Pub. L. 104-330, title VIII, § 816, as added Pub. L. 106-568, title II, § 203, Dec. 27, 2000, 114 Stat. 2890, and Pub. L. 106-569, title V, § 513, Dec. 27, 2000, 114 Stat. 2984.)

CODIFICATION

Pub. L. 106-568, § 203, and Pub. L. 106-569, § 513, enacted identical sections 816 of Pub. L. 104-330. This section is based on the text of section 816 of Pub. L. 104-330, as added by Pub. L. 106-569, § 513.

**§ 4236. Allocation formula**

**(a) Establishment**

The Secretary shall, by regulation issued not later than the expiration of the 6-month period beginning on December 27, 2000, in the manner provided under section 4227 of this title, establish a formula to provide for the allocation of amounts available for a fiscal year for block grants under this subchapter in accordance with the requirements of this section.

**(b) Factors for determination of need**

The formula under subsection (a) shall be based on factors that reflect the needs for assistance for affordable housing activities, including—

(1) the number of low-income dwelling units owned or operated at the time pursuant to a contract between the Director and the Secretary;

(2) the extent of poverty and economic distress and the number of Native Hawaiian families eligible to reside on the Hawaiian Home Lands; and

(3) any other objectively measurable conditions that the Secretary and the Director may specify.

**(c) Other factors for consideration**

In establishing the formula under subsection (a), the Secretary shall consider the relative administrative capacities of the Department of Hawaiian Home Lands and other challenges faced by the Department, including—

(1) geographic distribution within Hawaiian Home Lands; and

(2) technical capacity.

**(d) Effective date**

This section shall take effect on December 27, 2000.

(Pub. L. 104-330, title VIII, § 817, as added Pub. L. 106-568, title II, § 203, Dec. 27, 2000, 114 Stat. 2890, and Pub. L. 106-569, title V, § 513, Dec. 27, 2000, 114 Stat. 2984.)

CODIFICATION

Pub. L. 106-568, § 203, and Pub. L. 106-569, § 513, enacted substantially identical sections 817 of Pub. L. 104-330. This section is based on the text of section 817 of Pub. L. 104-330, as added by Pub. L. 106-569, § 513.

**§ 4237. Remedies for noncompliance**

**(a) Actions by Secretary affecting grant amounts**

**(1) In general**

Except as provided in subsection (b), if the Secretary finds after reasonable notice and op-