

for community housing partnership activities authorized under section 12773 of this title; and

(2) not more than \$11,000,000 for fiscal year 1993, and \$22,000,000 for fiscal year 1994, shall be for activities in support of State and local housing strategies authorized under part C.

(Pub. L. 101-625, title II, §205, Nov. 28, 1990, 104 Stat. 4096; Pub. L. 102-550, title II, §201, Oct. 28, 1992, 106 Stat. 3751; Pub. L. 103-120, §5, Oct. 27, 1993, 107 Stat. 1148.)

AMENDMENTS

1993—Pub. L. 103-120 substituted “\$25,000,000 for fiscal year 1994” for “\$14,000,000 for fiscal year 1994” in par. (1) and “\$22,000,000 for fiscal year 1994” for “\$11,000,000 for fiscal year 1994” in par. (2).

1992—Pub. L. 102-550 amended section generally. Prior to amendment, section read as follows: “There are authorized to be appropriated to carry out this subchapter \$1,000,000,000 for fiscal year 1991, and \$2,086,000,000 for fiscal year 1992, of which—

“(1) not more than \$14,000,000 for fiscal year 1991, and \$14,000,000 for fiscal year 1992, shall be for community housing partnership activities authorized under section 12773 of this title; and

“(2) not more than \$11,000,000 for fiscal year 1991, and \$11,000,000 for fiscal year 1992, shall be for activities in support of State and local housing strategies authorized under part C of this subchapter.”

§ 12725. Notice

The Secretary shall issue regulations to implement the provisions of this subchapter after notice and an opportunity for comment pursuant to section 553 of title 5. Such regulations shall become effective not later than 180 days after November 28, 1990.

(Pub. L. 101-625, title II, §206, Nov. 28, 1990, 104 Stat. 4096.)

PART A—HOME INVESTMENT PARTNERSHIPS

§ 12741. Authority

The Secretary is authorized to make funds available to participating jurisdictions for investment to increase the number of families served with decent, safe, sanitary, and affordable housing and expand the long-term supply of affordable housing in accordance with provisions of this part.

(Pub. L. 101-625, title II, §211, Nov. 28, 1990, 104 Stat. 4096.)

§ 12742. Eligible uses of investment

(a) Housing uses

(1) In general

Funds made available under this part may be used by participating jurisdictions to provide incentives to develop and support affordable rental housing and homeownership affordability through the acquisition, new construction, reconstruction, or moderate or substantial rehabilitation of affordable housing, including real property acquisition, site improvement, conversion, demolition, and other expenses, including financing costs, relocation expenses of any displaced persons, families, businesses, or organizations, to provide for the payment of reasonable administrative and

planning costs, to provide for the payment of operating expenses of community housing development organizations, and to provide tenant-based rental assistance. For the purpose of this part, the term “affordable housing” includes permanent housing for disabled homeless persons, transitional housing, and single room occupancy housing.

(2) Preference to rehabilitation

A participating jurisdiction shall give preference to rehabilitation of substandard housing unless the jurisdiction determines that—

(A) such rehabilitation is not the most cost effective way to meet the jurisdiction’s need to expand the supply of affordable housing; and

(B) the jurisdiction’s housing needs cannot be met through rehabilitation of the available stock.

The Secretary shall not restrict a participating jurisdiction’s choice of rehabilitation, substantial rehabilitation, new construction, reconstruction, acquisition, or other eligible housing use unless such restriction is explicitly authorized under section 12753(2) of this title.

(3) Tenant-based rental assistance

(A) In general

A participating jurisdiction may use funds provided under this part for tenant-based rental assistance only if—

(i) the jurisdiction certifies that the use of funds under this part for tenant-based rental assistance is an essential element of the jurisdiction’s annual housing strategy for expanding the supply, affordability, and availability of decent, safe, sanitary, and affordable housing, and specifies the local market conditions that lead to the choice of this option; and

(ii) the tenant-based rental assistance is provided in accordance with written tenant selection policies and criteria that are consistent with the purposes of providing housing to very low- and low-income families and are reasonably related to preference rules established under section 1437d(c)(4)(A)¹ of this title.

(B) Fair share not affected

A jurisdiction’s section 8 [42 U.S.C. 1437f] fair share allocation shall be unaffected by the use of assistance under this subchapter.

(C) 24-month contracts

Rental assistance contracts made available with assistance under this subchapter shall be for not more than 24 months, except that assistance to a family may be renewed.

(D) Use of section 1437f assistance

In any case where assistance under section 1437f of this title becomes available to a participating jurisdiction, recipients of rental assistance under this subchapter shall qualify for tenant selection preferences to the same extent as when they received the rental assistance under this subchapter. A rental

¹ See References in Text note below.

assistance program under this subchapter shall meet minimum criteria prescribed by the Secretary, such as housing quality standards and standards regarding the reasonableness of the rent.

(E) Security deposit assistance

A jurisdiction using funds provided under this part for tenant-based rental assistance may use such funds to provide loans or grants to very low- and low-income families for security deposits for rental of dwelling units. Assistance under this subparagraph does not preclude assistance under any other provision of this paragraph.

(4) Redesignated (3)

(5) Lead-based paint hazards

A participating jurisdiction may use funds provided under this part for the evaluation and reduction of lead-based paint hazards, as defined in section 4851b of this title.

(b) Investments

Participating jurisdictions shall have discretion to invest funds made available under this part as equity investments, interest-bearing loans or advances, noninterest-bearing loans or advances, interest subsidies or other forms of assistance that the Secretary has determined to be consistent with the purposes of this subchapter. Each participating jurisdiction shall have the right to establish the terms of assistance.

(c) Administrative costs

In each fiscal year, each participating jurisdiction may use not more than 10 percent of the funds made available under this part to the jurisdiction for such year for any administrative and planning costs of the jurisdiction in carrying out this part, including the costs of the salaries of persons engaged in administering and managing activities assisted with funds made available under this part.

(d) Prohibited uses

Funds made available under this part may not be used to—

- (1) defray any administrative cost of a participating jurisdiction that exceed the amount specified under subsection (c),
- (2) provide tenant-based rental assistance for the special purposes of the existing section 8 [42 U.S.C. 1437f] program, including replacing public housing that is demolished or disposed of, preserving federally assisted housing, assisting in the disposition of housing owned or held by the Secretary, preventing displacement from rental rehabilitation projects, or extending or renewing tenant-based assistance under section 1437f of this title,
- (3) provide non-Federal matching contributions required under any other Federal program,
- (4) provide assistance authorized under section 1437g of this title,
- (5) carry out activities authorized under section 1437g(d)(1)¹ of this title, or
- (6) provide assistance to eligible low-income housing under the Emergency Low Income Housing Preservation Act of 1987 or the Low-

Income Housing Preservation and Resident Homeownership Act of 1990 [12 U.S.C. 4101 et seq.].

(e) Cost limits

(1) In general

The Secretary shall establish limits on the amount of funds under this part that may be invested on a per unit basis. For multifamily housing, such limits shall not be less than the per unit dollar amount limitations set forth in section 1715(d)(3)(ii) of title 12, as such limitations may be adjusted in accordance therewith, except that for purposes of this subsection the Secretary shall, by regulation, increase the per unit dollar amount limitations in any geographical area by an amount, not to exceed 140 percent, that equals the amount by which the costs of multifamily housing construction in the area exceed the national average of such costs. The limits shall be established on a market-by-market basis, with adjustments made for number of bedrooms, and shall reflect the actual cost of new construction, reconstruction, or rehabilitation of housing that meets applicable State and local housing and building codes and the cost of land, including necessary site improvements. Adjustments shall be made annually to reflect inflation. Separate limits may be set for different eligible activities.

(2) Criteria

In calculating per unit limits, the Secretary shall take into account that assistance under this subchapter is intended to—

- (A) provide nonluxury housing with suitable amenities;
- (B) operate effectively in all jurisdictions;
- (C) facilitate mixed-income housing; and
- (D) reflect the costs associated with meeting the special needs of tenants or homeowners that the housing is designed to serve.

(3) Consultation

In calculating cost limits, the Secretary shall consult with organizations that have expertise in the development of affordable housing, including national nonprofit organizations and national organizations representing private development firms and State and local governments.

(f) Certification of compliance

The requirements of section 3545(d) of this title shall be satisfied by a certification by a participating jurisdiction to the Secretary that the combination of Federal assistance provided to any housing project shall not be any more than is necessary to provide affordable housing.

(g) Limitation on operating assistance

A participating jurisdiction may not use more than 5 percent of its allocation under this part for the payment of operating expenses for community housing development organizations.

(Pub. L. 101-625, title II, §212, Nov. 28, 1990, 104 Stat. 4097; Pub. L. 102-550, title II, §§203(a), 204-207(b), (d), title X, §1012(e), Oct. 28, 1992, 106 Stat. 3752-3754, 3905; Pub. L. 105-276, title V, §522(b)(5), Oct. 21, 1998, 112 Stat. 2565.)

REFERENCES IN TEXT

Section 1437d(c)(4)(A) of this title, referred to in subsection (a)(3)(A)(ii), was in the original "section 6(c)(4)(A)

of the Housing Act of 1937", and was translated as reading "section 6(c)(4)(A) of the United States Housing Act of 1937", act Sept. 1, 1937, ch. 896, to reflect the probable intent of Congress.

Section 1437g(d)(1) of this title, referred to in subsec. (d)(5), was in the original "section 9(d)(1) of the Housing Act of 1937", and was translated as reading "section 9(d)(1) of the United States Housing Act of 1937", act Sept. 1, 1937, ch. 896, to reflect the probable intent of Congress.

The Emergency Low Income Housing Preservation Act of 1987, referred to in subsec. (d)(6), is title II of Pub. L. 100-242, Feb. 5, 1988, 102 Stat. 1877, as amended, which was classified principally as a note under section 1715f of Title 12, Banks and Banking. Title II of Pub. L. 100-242, was amended generally by Pub. L. 101-625, title VI, §601(a), Nov. 28, 1990, 104 Stat. 4249, and is now known as the Low-Income Housing Preservation and Resident Homeownership Act of 1990, which is classified principally to chapter 42 (§ 4101 et seq.) of Title 12. For complete classification of this Act to the Code, see Short Title note set out under section 4101 of Title 12 and Tables.

AMENDMENTS

1998—Subsec. (d)(5). Pub. L. 105-276 substituted "section 1437g(d)(1)" for "section 1437f".

1992—Subsec. (a)(1). Pub. L. 102-550, §207(a), inserted "to provide for the payment of reasonable administrative and planning costs, to provide for the payment of operating expenses of community housing development organizations," after "or organizations,".

Pub. L. 102-550, §205, inserted at end "For the purpose of this part, the term 'affordable housing' includes permanent housing for disabled homeless persons, transitional housing, and single room occupancy housing."

Subsec. (a)(2). Pub. L. 102-550, §203(a)(1), struck out "under paragraph (3) of this subsection or" after "authorized" in concluding provisions.

Subsec. (a)(3). Pub. L. 102-550, §204(b), added cl. (ii) of par. (3)(A) and struck out former cl. (ii) which read as follows: "the tenant-based rental assistance is provided to persons from the waiting lists eligible for section 8 assistance in accordance with the applicable preferences."

Pub. L. 102-550, §204(a), added subpar. (E).

Pub. L. 102-550, §203(a)(2), (3), redesignated par. (4) as (3) and struck out former par. (3) which provided for conditions for new construction of housing.

Subsec. (a)(4). Pub. L. 102-550, §203(a)(3), redesignated par. (4) as (3).

Subsec. (a)(5). Pub. L. 102-550, §1012(e), added par. (5).

Subsec. (c). Pub. L. 102-550, §207(b)(3), added subsec. (c). Former subsec. (c) redesignated (d).

Pub. L. 102-550, §207(b)(1), inserted before comma at end of par. (1) "that exceed the amount specified under subsection (c)".

Subsec. (d). Pub. L. 102-550, §207(b)(2), redesignated subsec. (c) as (d). Former subsec. (d) redesignated (e).

Pub. L. 102-550, §206, inserted after first sentence of par. (1) "For multifamily housing, such limits shall not be less than the per unit dollar amount limitations set forth in section 1715f(d)(3)(ii) of title 12, as such limitations may be adjusted in accordance therewith, except that for purposes of this subsection the Secretary shall, by regulation, increase the per unit dollar amount limitations in any geographical area by an amount, not to exceed 140 percent, that equals the amount by which the costs of multifamily housing construction in the area exceed the national average of such costs."

Subsecs. (e), (f). Pub. L. 102-550, §207(b)(2), redesignated subsecs. (d) and (e) as (e) and (f), respectively.

Subsec. (g). Pub. L. 102-550, §207(d), added subsec. (g).

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.

EFFECTIVE DATE OF 1992 AMENDMENT

Amendment by sections 203-207 of Pub. L. 102-550 applicable to unexpended funds allocated under subchapter II of this chapter in fiscal year 1992, except as otherwise specifically provided, see section 223 of Pub. L. 102-550, set out as a note under section 12704 of this title.

§ 12743. Development of model programs

(a) In general

The Secretary shall—

(1) in cooperation with participating jurisdictions, government-sponsored mortgage finance corporations, nonprofit organizations, the private sector, and other appropriate parties, develop, test, evaluate, refine, and, as necessary, replace a selection of model programs designed to carry out the purposes of this subchapter;

(2) make available to participating jurisdictions alternative model programs, which shall include suggested guidelines, procedures, forms, legal documents and such other elements as the Secretary determines to be appropriate;

(3) assure, insofar as is feasible, the availability of an appropriate variety of model programs designed for local market conditions, housing problems, project characteristics, and managerial capacities as they differ among participating jurisdictions;

(4) negotiate and enter into agreements with agencies of the Federal Government, participating jurisdictions, private financial institutions, government-sponsored mortgage finance corporations, nonprofit organizations, and other entities to provide such services, products, or financing as may be required for the implementation of a model program;

(5) provide detailed information on model programs as requested by participating jurisdictions, private financial institutions, developers, nonprofit organizations, and other interested parties; and

(6) encourage the use of such model programs to achieve efficiency, economies of scale, and effectiveness in the investment of funds made available under this part through third-party training, printed materials, and such other means of support as the Secretary determines will achieve the purpose of this subchapter.

(b) Adoption of programs

Except as provided in section 12753(2) of this title, each participating jurisdiction shall have the discretion to adopt one or more model programs, adapt one or more model programs to its own requirements, design additional forms of assistance by itself or in cooperation with other participating jurisdictions, and suggest additional model programs for adoption by the Secretary as the participating jurisdiction may deem appropriate, and the Secretary may assist a participating jurisdiction in adopting, adapting, or designing one or more model programs.

(c) Part D programs

The selection of model programs to be made available for adoption or adaptation shall in-