

the selection process or take other appropriate actions; and

(B) in the case of a selection that has been made, determine whether to—

(i) void or rescind the selection, subject to review and determination on the record after opportunity for a hearing;

(ii) impose sanctions upon the violator, including debarment, subject to review and determination on the record after opportunity for a hearing;

(iii) recapture any funds that have been disbursed;

(iv) permit the violating applicant selected to continue to participate in the program; or

(v) take any other actions that the Secretary considers appropriate.

The Secretary shall publish in the Federal Register a descriptive statement of each determination made and action taken under this paragraph.

#### (2) Civil penalties

Whoever violates any section<sup>2</sup> of this section shall be subject to the imposition of a civil penalty in a civil action brought by the United States in an appropriate district court of the United States. A civil penalty under this paragraph may not exceed—

(A) \$100,000 in the case of an individual; or

(B) \$1,000,000 in the case of an applicant other than an individual.

#### (3) Deposit of penalties in insurance funds

Notwithstanding any other provision of law, all civil money penalties collected under this section shall be deposited in the Rural Housing Insurance Fund.

#### (4) Nonexclusiveness of remedies

This subsection may not be construed to limit the applicability of any requirements, sanctions, penalties, or remedies established under any other law. The Secretary shall not be relieved of any obligation to carry out the requirements of this section because such other requirements, sanctions, penalties, or remedies apply.

#### (f) Limitation of assistance

The Secretary shall certify that assistance provided by the Secretary to any housing project shall not be more than is necessary to provide affordable housing after taking account of assistance from all Federal, State, and local sources. The Secretary shall adjust the amount of assistance provided to an applicant to compensate for any changes reported under subsection (c).

#### (g) Regulations

Not less than 180 days following December 15, 1989, the Secretary shall promulgate regulations to implement this section.

#### (h) "Assistance" defined

For purposes of this section, the term "assistance" means any housing grant, loan, guarantee, insurance, rebate, subsidy, tax credit bene-

fit, or other form of direct or indirect assistance, for the original construction or development of the project.

#### (i) Report by Secretary

The Secretary shall submit to the Congress, not later than 180 days following December 15, 1989, a report describing actions taken to carry out this section, including actions to inform and educate officers and employees of the Department of Agriculture regarding the provisions of this section.

(July 15, 1949, ch. 338, title V, § 536, as added Pub. L. 101-235, title IV, § 401(a), Dec. 15, 1989, 103 Stat. 2045; amended Pub. L. 101-625, title VII, § 719(a), Nov. 28, 1990, 104 Stat. 4297; Pub. L. 104-65, § 11(b)(2), Dec. 19, 1995, 109 Stat. 701.)

#### CODIFICATION

December 15, 1989, referred to in subsec. (g), was in the original "the date of enactment of this Act", which was translated as meaning the date of enactment of Pub. L. 101-235, which enacted this section, to reflect the probable intent of Congress.

#### AMENDMENTS

1995—Subsec. (d). Pub. L. 104-65 struck out subsec. (d) which related to regulation of lobbyists and consultants.

1990—Subsec. (h). Pub. L. 101-625 inserted before period at end " , for the original construction or development of the project".

#### EFFECTIVE DATE OF 1994 AMENDMENT

Amendment by Pub. L. 104-65 effective Jan. 1, 1996, except as otherwise provided, see section 24 of Pub. L. 104-65, set out as an Effective Date note under section 1601 of Title 2, The Congress.

#### EFFECTIVE DATE

Pub. L. 101-235, title IV, § 401(b), Dec. 15, 1989, 103 Stat. 2048, provided that: "Section 536 of the Housing Act of 1949 [this section], as added by subsection (a), shall take effect on the effective date of regulations implementing such section."

### § 1490p-1. Office of Rural Housing Preservation

#### (a) Establishment

There is established within the Farmers Home Administration an Office of Rental Housing Preservation (hereafter in this section referred to as the "Office"). The Office shall be headed by a Director designated by the Secretary of Agriculture.

#### (b) Purposes

The purposes of the Office are:

(1) to review and process applications under section 1472(c) of this title and section 1485(t) of this title related to the preservation of rural rental housing;

(2) to provide technical or financial assistance to any other projects needing such assistance;

(3) to coordinate and direct all other activities related to the preservation of rural housing; and

(4) to monitor compliance of projects prepaid or receiving incentives under the Housing Act of 1949.

(July 15, 1949, ch. 338, title V, § 537, as added Pub. L. 102-550, title VII, § 712(c), Oct. 28, 1992, 106 Stat. 3841.)

<sup>2</sup> So in original. Probably should be "subsection".

## REFERENCES IN TEXT

The Housing Act of 1949, referred to in subsec. (b)(4), is act July 15, 1949, ch. 338, 63 Stat. 413, as amended, which is classified principally to this chapter (§1441 et seq.). For complete classification of this Act to the Code, see Short Title note set out under section 1441 of this title and Tables.

**§ 1490p-2. Loan guarantees for multifamily rental housing in rural areas**

**(a) Authority**

The Secretary may make commitments to guarantee eligible loans for the development costs of eligible housing and related facilities, and may guarantee such eligible loans, in accordance with this section.

**(b) Extent of guarantee**

A guarantee made under this section shall guarantee repayment of an amount not exceeding the total of the amount of the unpaid principal and interest of the loan for which the guarantee is made. The liability of the United States under any guarantee under this section shall decrease or increase pro rata with any decrease or increase of the amount of the unpaid portion of the obligation.

**(c) Eligible borrowers**

A loan guaranteed under this section may be made to a nonprofit organization, an agency or body of any State government or political subdivision thereof, an Indian tribe, or a private entity.

**(d) Eligible housing**

A loan may be guaranteed under this section only if the loan is used for the development costs of housing and related facilities (as such terms are defined in section 1485(e) of this title) that—

(1) consists of 5 or more adequate dwellings;

(2) is available for occupancy only by low or moderate income<sup>1</sup> families or persons, whose incomes at the time of initial occupancy do not exceed 115 percent of the median income of the area, as determined by the Secretary;

(3) will remain available as provided in paragraph (2), according to such binding commitments as the Secretary may require, for the period of the original term of the loan guaranteed, unless the housing is acquired by foreclosure (or instrument in lieu of foreclosure) or the Secretary waives the applicability of such requirement for the loan only after determining, based on objective information, that—

(A) there is no longer a need for low- and moderate-income housing in the market area in which the housing is located;

(B) housing opportunities for low-income households and minorities will not be reduced as a result of the waiver; and

(C) additional Federal assistance will not be necessary as a result of the waiver; and

(4) is located in a rural area.

**(e) Eligible lenders**

**(1) Requirement**

A loan may be guaranteed under this section only if the loan is made by a lender that the Secretary determines—

(A) meets the qualifications, and has been approved by the Secretary of Housing and Urban Development, to make loans for multifamily housing that are to be insured under the National Housing Act [12 U.S.C. 1701 et seq.];

(B) meets the qualifications, and has been approved by the Federal National Mortgage Association and the Federal Home Loan Mortgage Corporation, to make loans for multifamily housing that are to be sold to such corporations; or

(C) meets any qualifications that the Secretary may, by regulation, establish for participation of lenders in the loan guarantee program under this section.

**(2) Eligibility list and annual audit**

The Secretary shall establish a list of eligible lenders and shall annually conduct an audit of each lender included in the list for purposes of determining whether such lender continues to be an eligible lender.

**(f) Loan terms**

Each loan guaranteed pursuant to this section shall—

(1) be made for a period of not less than 25 nor greater than 40 years from the date the loan was made and may provide for amortization of the loan over a period of not to exceed 40 years with a final payment of the balance due at the end of the loan term;

(2) involve a rate of interest agreed upon by the borrower and the lender that does not exceed the maximum allowable rate established by the Secretary for purposes of this section and is fixed over the term of the loan;

(3) involve a principal obligation (including initial service charges, appraisal, inspection, and other fees as the Secretary may approve) not to exceed—

(A) in the case of a borrower that is a nonprofit organization or an agency or body of any State or local government, 97 percent of the development costs of the housing and related facilities or the value of the housing and facilities, whichever is less;

(B) in the case of a borrower that is a for-profit entity not referred to in subparagraph (A), 90 percent of the development costs of the housing and related facilities or the value of the housing and facilities, whichever is less; and

(C) in the case of any borrower, for such part of the property as may be attributable to dwelling use, the applicable maximum per unit dollar amount limitations under section 207(c) of the National Housing Act [12 U.S.C. 1713(c)];

(4) be secured by a first mortgage on the housing and related facilities for which the loan is made, or otherwise, as the Secretary may determine necessary to ensure repayment of the obligation; and

(5) for at least 20 percent of the loans made under this section, the Secretary shall provide the borrower with assistance in the form of credits pursuant to section 1490a(a)(1)(B) of this title to the extent necessary to reduce the rate of interest under paragraph (2) to the ap-

<sup>1</sup>So in original. Probably should be "low- or moderate-income".