

(21) State

The term “State” means the States of the United States, the District of Columbia, the Commonwealth of Puerto Rico, the Commonwealth of the Northern Mariana Islands, Guam, the Virgin Islands, American Samoa, and any other territory or possession of the United States and Indian tribes.

(22) Tribally designated housing entity

The terms “tribally designated housing entity” and “housing entity” have the following meaning:

(A) Existing IHA's

With respect to any Indian tribe that has not taken action under subparagraph (B), and for which an Indian housing authority—

(i) was established for purposes of the United States Housing Act of 1937 [42 U.S.C. 1437 et seq.] before October 26, 1996, that meets the requirements under the United States Housing Act of 1937,

(ii) is acting on October 26, 1996, as the Indian housing authority for the tribe, and

(iii) is not an Indian tribe for purposes of this chapter,

the terms mean such Indian housing authority.

(B) Other entities

With respect to any Indian tribe that, pursuant to this chapter, authorizes an entity other than the tribal government to receive grant amounts and provide assistance under this chapter for affordable housing for Indians, which entity is established—

(i) by exercise of the power of self-government of one or more Indian tribes independent of State law, or

(ii) by operation of State law providing specifically for housing authorities or housing entities for Indians, including regional housing authorities in the State of Alaska,

the terms mean such entity.

(C) Establishment

A tribally designated housing entity may be authorized or established by one or more Indian tribes to act on behalf of each such tribe authorizing or establishing the housing entity.

(Pub. L. 104-330, § 4, Oct. 26, 1996, 110 Stat. 4018; Pub. L. 105-256, § 13(b), Oct. 14, 1998, 112 Stat. 1900; Pub. L. 105-276, title V, § 595(e)(1), (2), Oct. 21, 1998, 112 Stat. 2656; Pub. L. 106-402, title IV, § 401(b)(2), Oct. 30, 2000, 114 Stat. 1737; Pub. L. 107-292, § 3, Nov. 13, 2002, 116 Stat. 2053; Pub. L. 110-411, § 3, Oct. 14, 2008, 122 Stat. 4320; Pub. L. 111-269, § 2, Oct. 12, 2010, 124 Stat. 2850.)

REFERENCES IN TEXT

This chapter, referred to in text, was in the original “this Act”, meaning Pub. L. 104-330, Oct. 26, 1996, 110 Stat. 4016, known as the Native American Housing Assistance and Self-Determination Act of 1996. For complete classification of this Act to the Code, see Short Title note set out under section 4101 of this title and Tables.

The Indian Gaming Regulatory Act, referred to in par. (8)(B), is Pub. L. 100-497, Oct. 17, 1988, 102 Stat. 2467,

which is classified principally to chapter 29 (§2701 et seq.) of this title. For complete classification of this Act to the Code, see Short Title note set out under section 2701 of this title and Tables.

The Alaska Native Claims Settlement Act, referred to in par. (13)(B), is Pub. L. 92-203, Dec. 18, 1971, 85 Stat. 688, which is classified generally to chapter 33 (§1601 et seq.) of Title 43, Public Lands. For complete classification of this Act to the Code, see Short Title note set out under section 1601 of Title 43 and Tables.

The Indian Self-Determination and Education Assistance Act (25 U.S.C. 450 et seq.), referred to in par. (13)(B), is Pub. L. 93-638, Jan. 4, 1975, 88 Stat. 2203, which was classified principally to subchapter II (§450 et seq.) of chapter 14 of this title prior to editorial reclassification as chapter 46 (§5301 et seq.) of this title. For complete classification of this Act to the Code, see Short Title note set out under section 5301 of this title and Tables.

For the effective date under section 705, referred to in par. (13)(C)(i)(II), as Oct. 26, 1996, see section 705 of Pub. L. 104-330, set out as an Effective Date note under section 4211 of this title.

The United States Housing Act of 1937, referred to in pars. (13)(C)(i)(II) and (22)(A)(i), is act Sept. 1, 1937, ch. 896, as revised generally by Pub. L. 93-383, title II, §201(a), Aug. 22, 1974, 88 Stat. 653, which is classified generally to chapter 8 (§1437 et seq.) of Title 42, The Public Health and Welfare. For complete classification of this Act to the Code, see Short Title note set out under section 1437 of Title 42 and Tables.

AMENDMENTS

2010—Par. (9)(C). Pub. L. 111-269 added subpar. (C).

2008—Pars. (8) to (22). Pub. L. 110-411 added par. (8), redesignated former pars. (8) to (21) as (9) to (22), respectively, and struck out former par. (22) which defined “housing related community development”.

2002—Par. (22). Pub. L. 107-292 added par. (22).

2000—Par. (17)(C). Pub. L. 106-402 substituted “as defined in section 15002 of title 42” for “as defined in section 6001 of title 42”.

1998—Par. (10). Pub. L. 105-276, §595(e)(1), amended heading and text of par. (10) generally. Prior to amendment, text read as follows: “The term ‘Indian area’ means the area within which a tribally designated housing entity is authorized by one or more Indian tribes to provide assistance under this chapter for affordable housing.”

Par. (12)(B). Pub. L. 105-256 substituted “Indian Self-Determination and Education Assistance Act (25 U.S.C. 450 et seq.)” for “Indian Self-Determination and Education Assistance Act of 1975”.

Par. (12)(C)(i)(II). Pub. L. 105-276, §595(e)(2), substituted “705” for “107”.

EFFECTIVE DATE

Section effective Oct. 1, 1997, except as otherwise expressly provided, see section 107 of Pub. L. 104-330, set out as a note under section 4101 of this title.

§ 4104. Waiver of matching funds requirements in Indian housing programs**(a) Authorization of waiver**

For any housing program that provides assistance through any Indian housing authority, the Secretary of Housing and Urban Development may provide assistance under such program in any fiscal year notwithstanding any other provision of law that requires the Indian housing authority to provide amounts to match or supplement the amounts provided under such program, if the Indian housing authority has not received amounts for such fiscal year under title I of the Housing and Community Development Act of 1974 [42 U.S.C. 5301 et seq.].

(b) Extent of waiver

The authority under subsection (a) to provide assistance notwithstanding requirements regarding matching or supplemental amounts shall be effective only to the extent provided by the Secretary, which shall not extend beyond the fiscal year in which the waiver is made or beyond the receipt of any amounts by an Indian housing authority under title I of the Housing and Community Development Act of 1974 [42 U.S.C. 5301 et seq.].

(c) Definition of housing program

For purposes of this section, the term “housing program” means a program under the administration of the Secretary of Housing and Urban Development or the Secretary of Agriculture (through the Administrator of the Farmers Home Administration) that provides assistance in the form of contracts, grants, loans, cooperative agreements, or any other form of assistance (including the insurance or guarantee of a loan, mortgage, or pool of mortgages) for housing.

(Pub. L. 101-625, title IX, §959, Nov. 28, 1990, 104 Stat. 4423.)

REFERENCES IN TEXT

The Housing and Community Development Act of 1974, referred to in subsecs. (a) and (b), is Pub. L. 93-383, Aug. 22, 1974, 88 Stat. 633, as amended. Title I of the Act is classified principally to chapter 69 (§5301 et seq.) of Title 42, The Public Health and Welfare. For complete classification of this Act to the Code, see Short Title note set out under section 5301 of Title 42 and Tables.

CODIFICATION

Section was enacted as part of the Cranston-Gonzalez National Affordable Housing Act, and not as part of the Native American Housing Assistance and Self-Determination Act of 1996 which comprises this chapter.

Section was formerly classified to section 1437ff of Title 42, The Public Health and Welfare.

SUBCHAPTER I—BLOCK GRANTS AND GRANT REQUIREMENTS

§ 4111. Block grants**(a) Authority****(1) In general**

For each fiscal year, the Secretary shall (to the extent amounts are made available to carry out this chapter) make grants under this section on behalf of Indian tribes—

(A) to carry out affordable housing activities under part A of subchapter II; and

(B) to carry out self-determined housing activities for tribal communities programs under part B of that subchapter.

(2) Provision of amounts

Under such a grant on behalf of an Indian tribe, the Secretary shall provide the grant amounts for the tribe directly to the recipient for the tribe.

(b) Plan requirement**(1) In general**

The Secretary may make a grant under this chapter on behalf of an Indian tribe for a fiscal year only if—

(A) the Indian tribe has submitted to the Secretary an Indian housing plan for such

fiscal year under section 4112 of this title; and

(B) the plan has been determined under section 4113 of this title to comply with the requirements of section 4112 of this title.

(2) Waiver

The Secretary may waive the applicability of the requirements under paragraph (1), in whole or in part, for a period of not more than 90 days, if the Secretary determines that an Indian tribe has not complied with, or is unable to comply with, those requirements due to exigent circumstances beyond the control of the Indian tribe.

(c) Local cooperation agreement

Notwithstanding any other provision of this chapter, grant amounts provided under this chapter on behalf of an Indian tribe may not be used for rental or lease-purchase homeownership units that are owned by the recipient for the tribe unless the governing body of the locality within which the property subject to the development activities to be assisted with the grant amounts is or will be situated has entered into an agreement with the recipient for the tribe providing for local cooperation required by the Secretary pursuant to this chapter. The Secretary may waive the requirements of this subsection and subsection (d) if the recipient has made a good faith effort to fulfill the requirements of this subsection and subsection (d) and agrees to make payments in lieu of taxes to the appropriate taxing authority in an amount consistent with the requirements of subsection (d)(2) until such time as the matter of making such payments has been resolved in accordance with subsection (d).

(d) Exemption from taxation

Notwithstanding any other provision of this chapter, grant amounts provided under this chapter on behalf of an Indian tribe may not be used for affordable housing activities under this chapter for rental or lease-purchase dwelling units developed under the United States Housing Act of 1937 (42 U.S.C. 1437 et seq.) or with amounts provided under this chapter that are owned by the recipient for the tribe unless—

(1) such dwelling units (which, in the case of units in a multi-unit project, shall be exclusive of any portions of the project not developed under the United States Housing Act of 1937 [42 U.S.C. 1437 et seq.] or with amounts provided under this chapter) are exempt from all real and personal property taxes levied or imposed by any State, tribe, city, county, or other political subdivision; and

(2) the recipient for the tribe makes annual payments of user fees to compensate such governments for the costs of providing governmental services, including police and fire protection, roads, water and sewerage systems, utilities systems and related facilities, or payments in lieu of taxes to such taxing authority, in an amount equal to the greater of \$150 per dwelling unit or 10 percent of the difference between the shelter rent and the utility cost, or such lesser amount as—

(A) is prescribed by State, tribal, or local law;