

(ii) the housing facility or community publishes and adheres to policies and procedures that demonstrate the intent required under this subparagraph; and

(iii) the housing facility or community complies with rules issued by the Secretary for verification of occupancy, which shall—

(I) provide for verification by reliable surveys and affidavits; and

(II) include examples of the types of policies and procedures relevant to a determination of compliance with the requirement of clause (ii). Such surveys and affidavits shall be admissible in administrative and judicial proceedings for the purposes of such verification.

(3) Housing shall not fail to meet the requirements for housing for older persons by reason of:

(A) persons residing in such housing as of September 13, 1988, who do not meet the age requirements of subsections<sup>1</sup> (2)(B) or (C): *Provided*, That new occupants of such housing meet the age requirements of subsections<sup>1</sup> (2)(B) or (C); or

(B) unoccupied units: *Provided*, That such units are reserved for occupancy by persons who meet the age requirements of subsections<sup>1</sup> (2)(B) or (C).

(4) Nothing in this subchapter prohibits conduct against a person because such person has been convicted by any court of competent jurisdiction of the illegal manufacture or distribution of a controlled substance as defined in section 802 of title 21.

(5)(A) A person shall not be held personally liable for monetary damages for a violation of this subchapter if such person reasonably relied, in good faith, on the application of the exemption under this subsection relating to housing for older persons.

(B) For the purposes of this paragraph, a person may only show good faith reliance on the application of the exemption by showing that—

(i) such person has no actual knowledge that the facility or community is not, or will not be, eligible for such exemption; and

(ii) the facility or community has stated formally, in writing, that the facility or community complies with the requirements for such exemption.

(Pub. L. 90-284, title VIII, §807, Apr. 11, 1968, 82 Stat. 84; Pub. L. 100-430, §6(d), Sept. 13, 1988, 102 Stat. 1622; Pub. L. 104-76, §§2, 3, Dec. 28, 1995, 109 Stat. 787.)

#### CODIFICATION

September 13, 1988, referred to in subsec. (b)(3)(A), was in the original “the date of enactment of this Act”, which was translated as meaning the date of enactment of Pub. L. 100-430, which enacted subsec. (b) of this section, to reflect the probable intent of Congress.

#### AMENDMENTS

1995—Subsec. (b)(2)(C). Pub. L. 104-76, §2, amended subpar. (C) generally. Prior to amendment, subpar. (C) read as follows: “intended and operated for occupancy by at least one person 55 years of age or older per unit. In determining whether housing qualifies as housing for older persons under this subsection, the Secretary

shall develop regulations which require at least the following factors:

“(i) the existence of significant facilities and services specifically designed to meet the physical or social needs of older persons, or if the provision of such facilities and services is not practicable, that such housing is necessary to provide important housing opportunities for older persons; and

“(ii) that at least 80 percent of the units are occupied by at least one person 55 years of age or older per unit; and

“(iii) the publication of, and adherence to, policies and procedures which demonstrate an intent by the owner or manager to provide housing for persons 55 years of age or older.”

Subsec. (b)(5). Pub. L. 104-76, §3, added par. (5).

1988—Pub. L. 100-430 designated existing provisions as subsec. (a) and added subsec. (b).

#### EFFECTIVE DATE OF 1988 AMENDMENT

Amendment by Pub. L. 100-430 effective on 180th day beginning after Sept. 13, 1988, see section 13(a) of Pub. L. 100-430, set out as a note under section 3601 of this title.

#### REGULATIONS

Pub. L. 102-550, title IX, §919, Oct. 28, 1992, 106 Stat. 3883, provided that: “The Secretary of Housing and Urban Development shall, not later than 180 days after the date of the enactment of this Act [Oct. 28, 1992], make rules defining what are ‘significant facilities and services especially designed to meet the physical or social needs of older persons’ required under section 807(b)(2) of the Fair Housing Act [42 U.S.C. 3607(b)(2)] to meet the definition of the term ‘housing for older persons’ in such section.”

### § 3608. Administration

#### (a) Authority and responsibility

The authority and responsibility for administering this Act shall be in the Secretary of Housing and Urban Development.

#### (b) Assistant Secretary

The Department of Housing and Urban Development shall be provided an additional Assistant Secretary.

#### (c) Delegation of authority; appointment of administrative law judges; location of conciliation meetings; administrative review

The Secretary may delegate any of his functions, duties, and powers to employees of the Department of Housing and Urban Development or to boards of such employees, including functions, duties, and powers with respect to investigating, conciliating, hearing, determining, ordering, certifying, reporting, or otherwise acting as to any work, business, or matter under this subchapter. The person to whom such delegations are made with respect to hearing functions, duties, and powers shall be appointed and shall serve in the Department of Housing and Urban Development in compliance with sections 3105, 3344, 5372, and 7521 of title 5. Insofar as possible, conciliation meetings shall be held in the cities or other localities where the discriminatory housing practices allegedly occurred. The Secretary shall by rule prescribe such rights of appeal from the decisions of his administrative law judges to other administrative law judges or to other officers in the Department, to boards of officers or to himself, as shall be appropriate and in accordance with law.

<sup>1</sup> So in original. Probably should be “paragraph”.

**(d) Cooperation of Secretary and executive departments and agencies in administration of housing and urban development programs and activities to further fair housing purposes**

All executive departments and agencies shall administer their programs and activities relating to housing and urban development (including any Federal agency having regulatory or supervisory authority over financial institutions) in a manner affirmatively to further the purposes of this subchapter and shall cooperate with the Secretary to further such purposes.

**(e) Functions of Secretary**

The Secretary of Housing and Urban Development shall—

(1) make studies with respect to the nature and extent of discriminatory housing practices in representative communities, urban, suburban, and rural, throughout the United States;

(2) publish and disseminate reports, recommendations, and information derived from such studies, including an annual report to the Congress—

(A) specifying the nature and extent of progress made nationally in eliminating discriminatory housing practices and furthering the purposes of this subchapter, obstacles remaining to achieving equal housing opportunity, and recommendations for further legislative or executive action; and

(B) containing tabulations of the number of instances (and the reasons therefor) in the preceding year in which—

(i) investigations are not completed as required by section 3610(a)(1)(B) of this title;

(ii) determinations are not made within the time specified in section 3610(g) of this title; and

(iii) hearings are not commenced or findings and conclusions are not made as required by section 3612(g) of this title;

(3) cooperate with and render technical assistance to Federal, State, local, and other public or private agencies, organizations, and institutions which are formulating or carrying on programs to prevent or eliminate discriminatory housing practices;

(4) cooperate with and render such technical and other assistance to the Community Relations Service as may be appropriate to further its activities in preventing or eliminating discriminatory housing practices;

(5) administer the programs and activities relating to housing and urban development in a manner affirmatively to further the policies of this subchapter; and

(6) annually report to the Congress, and make available to the public, data on the race, color, religion, sex, national origin, age, handicap, and family characteristics of persons and households who are applicants for, participants in, or beneficiaries or potential beneficiaries of, programs administered by the Department to the extent such characteristics are within the coverage of the provisions of law and Executive orders referred to in subsection (f) which apply to such programs (and in order to develop the data to be included and

made available to the public under this subsection, the Secretary shall, without regard to any other provision of law, collect such information relating to those characteristics as the Secretary determines to be necessary or appropriate).

**(f) Provisions of law applicable to Department programs**

The provisions of law and Executive orders to which subsection (e)(6) applies are—

(1) title VI of the Civil Rights Act of 1964 [42 U.S.C. 2000d et seq.];

(2) this subchapter;

(3) section 794 of title 29;

(4) the Age Discrimination Act of 1975 [42 U.S.C. 6101 et seq.];

(5) the Equal Credit Opportunity Act [15 U.S.C. 1691 et seq.];

(6) section 1982 of this title;

(7) section 637(a) of title 15;

(8) section 1735f-5 of title 12;

(9) section 5309 of this title;

(10) section 1701u of title 12;

(11) Executive orders 11063, 11246, 11625, 12250, 12259, and 12432; and

(12) any other provision of law which the Secretary specifies by publication in the Federal Register for the purpose of this subsection.

(Pub. L. 90-284, title VIII, §808, Apr. 11, 1968, 82 Stat. 84; Pub. L. 95-251, §3, Mar. 27, 1978, 92 Stat. 184; Pub. L. 95-454, title VIII, §801(a)(3)(J), Oct. 13, 1978, 92 Stat. 1222; Pub. L. 100-430, §7, Sept. 13, 1988, 102 Stat. 1623.)

REFERENCES IN TEXT

This Act, referred to in subsec. (a), means Pub. L. 90-284, Apr. 11, 1968, 82 Stat. 73, known as the Civil Rights Act of 1968. For complete classification of this Act to the Code, see Tables.

The Civil Rights Act of 1964, referred to in subsec. (f)(1), is Pub. L. 88-352, July 2, 1964, 78 Stat. 241, as amended. Title VI of the Civil Rights Act of 1964 is classified generally to subchapter V (§2000d et seq.) of chapter 21 of this title. For complete classification of this Act to the Code, see Short Title note set out under section 2000a of this title and Tables.

The Age Discrimination Act of 1975, referred to in subsec. (f)(4), is title III of Pub. L. 94-135, Nov. 28, 1975, 78 Stat. 728, as amended, which is classified generally to chapter 76 (§6101 et seq.) of this title. For complete classification of this Act to the Code, see Short Title note set out under section 6101 of this title and Tables.

The Equal Credit Opportunity Act, referred to in subsec. (f)(5), is title VII of Pub. L. 90-321, as added by Pub. L. 93-495, title V, §503, Oct. 28, 1974, 88 Stat. 1521, as amended, which is classified generally to subchapter IV (§1691 et seq.) of chapter 41 of Title 15, Commerce and Trade. For complete classification of this Act to the Code, see Short Title note set out under section 1601 of Title 15 and Tables.

The Executive orders referred to in subsec. (f)(11) are set out as notes under sections of the Code as follows:

Ex. Ord. No. 11063: 42 U.S.C. 1982,

Ex. Ord. No. 11246: 42 U.S.C. 2000e,

Ex. Ord. No. 11625: 15 U.S.C. 631,

Ex. Ord. No. 12250: 42 U.S.C. 2000d-1, and

Ex. Ord. No. 12432: 15 U.S.C. 631.

Ex. Ord. No. 12259, referred to in subsec. (f)(11), was set out below, prior to revocation by Ex. Ord. No. 12892, Jan. 17, 1994, 59 F.R. 2939, set out below.

CODIFICATION

The second sentence of subsec. (b) of this section has been omitted as it amended sections 3533(a) and 3535(c) of this title.

## AMENDMENTS

1988—Subsec. (d). Pub. L. 100-430, §7(a), inserted “(including any Federal agency having regulatory or supervisory authority over financial institutions)” after “urban development”.

Subsec. (e)(2). Pub. L. 100-430, §7(b)(1)(A), inserted provisions relating to annual report to Congress.

Subsec. (e)(6). Pub. L. 100-430, §7(b)(1)(B)–(D), added par. (6).

Subsec. (f). Pub. L. 100-430, §7(b)(2), added subsec. (f). 1978—Subsec. (c). Pub. L. 95-251 substituted “administrative law judges” for “hearing examiners”.

Pub. L. 95-454 substituted “5372” for “5362”.

## EFFECTIVE DATE OF 1988 AMENDMENT

Amendment by Pub. L. 100-430 effective on 180th day beginning after Sept. 13, 1988, see section 13(a) of Pub. L. 100-430, set out as a note under section 3601 of this title.

## EFFECTIVE DATE OF 1978 AMENDMENT

Amendment by Pub. L. 95-454 effective on first day of first applicable pay period beginning on or after 90th day after Oct. 13, 1978, see section 801(a)(4)(A) of Pub. L. 95-454, set out as an Effective Date note under section 5361 of Title 5, Government Organization and Employees.

## TREATMENT OF OCCUPANCY STANDARDS

Pub. L. 105-276, title V, §589, Oct. 21, 1998, 112 Stat. 2651, provided that:

“(a) ESTABLISHMENT OF POLICY.—Not later than 60 days after the date of the enactment of this Act [Oct. 21, 1998], the Secretary of Housing and Urban Development shall publish a notice in the Federal Register for effect that takes effect upon publication and provides that the specific and unmodified standards provided in the March 20, 1991, Memorandum from the General Counsel of the Department of Housing and Urban Development to all Regional Counsel shall be the policy of the Department of Housing and Urban Development with respect to complaints of discrimination under the Fair Housing Act (42 U.S.C. 3601 et seq.) on the basis of familial status which involve an occupancy standard established by a housing provider.

“(b) PROHIBITION OF NATIONAL STANDARD.—The Secretary of Housing and Urban Development shall not directly or indirectly establish a national occupancy standard.”

## EXECUTIVE ORDER NO. 12259

Ex. Ord. No. 12259, Dec. 31, 1980, 46 F.R. 1253, which related to leadership and coordination by Secretary of Housing and Urban Development of fair housing programs and activities in Federal programs, was revoked by Ex. Ord. No. 12892, §6-607, Jan. 17, 1994, 59 F.R. 2939, set out below.

## EX. ORD. NO. 12892. LEADERSHIP AND COORDINATION OF FAIR HOUSING IN FEDERAL PROGRAMS: AFFIRMATIVELY FURTHERING FAIR HOUSING

Ex. Ord. No. 12892, Jan. 17, 1994, 59 F.R. 2939, provided:

By the authority vested in me as President by the Constitution and the laws of the United States of America, and in accordance with the Fair Housing Act, as amended (42 U.S.C. 3601 et seq.) (“Act”), in order to affirmatively further fair housing in all Federal programs and activities relating to housing and urban development throughout the United States, it is hereby ordered as follows:

SECTION 1. *Administration of Programs and Activities Relating to Housing and Urban Development.*

1-101. Section 808(d) of the Act, as amended [42 U.S.C. 3608(d)], provides that all executive departments and agencies shall administer their programs and activities relating to housing and urban development (including any Federal agency having regulatory or supervisory authority over financial institutions) in a manner af-

firmatively to further the purposes of the Act and shall cooperate with the Secretary of Housing and Urban Development to further such purposes.

1-102. As used in this order, the phrase “programs and activities” shall include programs and activities operated, administered, or undertaken by the Federal Government; grants; loans; contracts; insurance; guarantees; and Federal supervision or exercise of regulatory responsibility (including regulatory or supervisory authority over financial institutions).

SEC. 2. *Responsibilities of Executive Agencies.*

2-201. The primary authority and responsibility for administering the programs and activities relating to housing and urban development affirmatively to further fair housing is vested in the Secretary of Housing and Urban Development.

2-202. The head of each executive agency is responsible for ensuring that its programs and activities relating to housing and urban development are administered in a manner affirmatively to further the goal of fair housing as required by section 808 of the Act [42 U.S.C. 3608] and for cooperating with the Secretary of Housing and Urban Development, who shall be responsible for exercising leadership in furthering the purposes of the Act.

2-203. In carrying out the responsibilities in this order, the head of each executive agency shall take appropriate steps to require that all persons or other entities who are applicants for, or participants in, or who are supervised or regulated under, agency programs and activities relating to housing and urban development shall comply with this order.

2-204. Upon receipt of a complaint alleging facts that may constitute a violation of the Act or upon receipt of information from a consumer compliance examination or other information suggesting a violation of the Act, each executive agency shall forward such facts or information to the Secretary of Housing and Urban Development for processing under the Act. Where such facts or information indicate a possible pattern or practice of discrimination in violation of the Act, they also shall be forwarded to the Attorney General. The authority of the Federal depository institution regulatory agencies to take appropriate action under their statutory authority remains unaffected.

SEC. 3. *President's Fair Housing Council.*

3-301. There is hereby established an advisory council entitled the “President's Fair Housing Council” (“Council”). The Council shall be chaired by the Secretary of Housing and Urban Development and shall consist of the Secretary of Health and Human Services, the Secretary of Transportation, the Secretary of Education, the Secretary of Labor, the Secretary of Defense, the Secretary of Agriculture, the Secretary of Veterans Affairs, the Secretary of the Treasury, the Attorney General, the Secretary of the Interior, the Chair of the Federal Reserve, the Comptroller of the Currency, the Director of the Office of Thrift Supervision, the Chair of the Federal Deposit Insurance Corporation, and such other officials of executive departments and agencies as the President may, from time to time, designate.

3-302. The President's Fair Housing Council shall review the design and delivery of Federal programs and activities to ensure that they support a coordinated strategy to affirmatively further fair housing. The Council shall propose revisions to existing programs or activities, develop pilot programs and activities, and propose new programs and activities to achieve its goals.

3-303. In support of cooperative efforts among all executive agencies, the Secretary of Housing and Urban Development shall:

(a) cooperate with, and render assistance to, the heads of all executive agencies in the formulation of policies and procedures to implement this order and to provide information and guidance on the affirmative administration of programs and activities relating to housing and urban development and the protection of the rights accorded by the Act; and

(b) develop memoranda of understanding and any necessary implementing procedures among executive agencies designed to provide for consultation and the coordination of Federal efforts to further fair housing through the affirmative administration of programs and activities relating to housing and urban development, including coordination of the investigation of complaints or other information referred to the Secretary as required by section 2-204 of this order that would constitute a violation of the Act or, where relevant, other Federal laws. Existing memoranda of understanding shall remain in effect until superseded.

3-304. In connection with carrying out functions under this order, the Secretary of Housing and Urban Development is authorized to request from any executive agency such information and assistance as the Secretary deems necessary. Each agency shall furnish such information to the extent permitted by law and, to the extent practicable, provide assistance to the Secretary.

**SEC. 4. Specific Responsibilities.**

4-401. In implementing the responsibilities under sections 2-201, 2-202, 2-203, and section 3 of this order, the Secretary of Housing and Urban Development shall, to the extent permitted by law:

(a) promulgate regulations in consultation with the Department of Justice and Federal banking agencies regarding programs and activities of executive agencies related to housing and urban development that shall:

- (1) describe the functions, organization, and operations of the President's Fair Housing Council;
- (2) describe the types of programs and activities defined in section 1-102 of this order that are subject to the order;
- (3) describe the responsibilities and obligations of executive agencies in ensuring that programs and activities are administered and executed in a manner that furthers fair housing;
- (4) describe the responsibilities and obligations of applicants, participants, and other persons and entities involved in housing and urban development programs and activities affirmatively to further the goal of fair housing; and
- (5) describe a method to identify impediments in programs or activities that restrict fair housing choice and implement incentives that will maximize the achievement of practices that affirmatively further fair housing.

(b) coordinate executive agency implementation of the requirements of this order and issue standards and procedures regarding:

- (1) the administration of programs and activities relating to housing and urban development in a manner affirmatively to further fair housing; and
- (2) the cooperation of executive agencies in furtherance of the Secretary of Housing and Urban Development's authority and responsibility under the Act.

4-402. Within 180 days of the publication of final regulations by the Secretary of Housing and Urban Development under section 4-401 of this order, the head of each executive agency shall publish proposed regulations providing for the administration of programs and activities relating to housing and urban development in a manner affirmatively to further fair housing, consistent with the Secretary of Housing and Urban Development's regulations, and with the standards and procedures issued pursuant to section 4-401(b) of this order. As soon as practicable thereafter, each executive agency shall issue its final regulations. All executive agencies shall formally submit all such proposed and final regulations, and any related issuances or standards, to the Secretary of Housing and Urban Development at least 30 days prior to public announcement.

4-403. The Secretary of Housing and Urban Development shall review proposed regulations and standards prepared pursuant to section 4-402 of this order to ensure conformity with the purposes of the Act and consistency among the operations of the various executive agencies and shall provide comments to executive agencies with respect thereto on a timely basis.

4-404. In addition to promulgating the regulations described in section 4-401 of this order, the Secretary of

Housing and Urban Development shall promulgate regulations describing the nature and scope of coverage and the conduct prohibited, including mortgage lending discrimination and property insurance discrimination.

**SEC. 5. Administrative Enforcement.**

5-501. The head of each executive agency shall be responsible for enforcement of this order and, unless prohibited by law, shall cooperate and provide records, data, and documentation in connection with any other agency's investigation of compliance with provisions of this order.

5-502. If any executive agency concludes that any person or entity (including any State or local public agency) applying for or participating in, or supervised or regulated under, a program or activity relating to housing and urban development has not complied with this order or any applicable rule, regulation, or procedure issued or adopted pursuant to this order, it shall endeavor to end and remedy such violation by informal means, including conference, conciliation, and persuasion. An executive agency need not pursue informal resolution of matters where similar efforts made by another executive agency have been unsuccessful, except where otherwise required by law. In the event of failure of such informal means, the executive agency, in conformity with rules, regulations, procedures, or policies issued or adopted by it pursuant to section 4 of this order hereof, shall impose such sanctions as may be authorized by law. To the extent authorized by law, such sanctions may include:

- (a) cancellation or termination of agreements or contracts with such person, entity, or any State or local public agency;
- (b) refusal to extend any further aid under any program or activity administered by it and affected by this order until it is satisfied that the affected person, entity, or State or local public agency will comply with the rules, regulations, and procedures issued or adopted pursuant to this order;
- (c) refusal to grant supervisory or regulatory approval to such person, entity, or State or local public agency under any program or activity administered by it that is affected by this order or revoke such approval if previously given; and
- (d) any other action as may be appropriate under law.

5-503. Findings of any violation under section 5-502 of this order shall be promptly reported by the head of each executive agency to the Secretary of Housing and Urban Development and the Attorney General. The Secretary of Housing and Urban Development shall forward this information to all other executive agencies.

5-504. Any executive agency shall also consider invoking appropriate sanctions against any person or entity where any other executive department or agency has initiated action against that person or entity pursuant to section 5-502 of this order, where the Secretary of Housing and Urban Development has issued a charge against such person or entity that has not been resolved, or where the Attorney General has filed a civil action in Federal Court against such person or entity.

5-505. Each executive agency shall consult with the Secretary of Housing and Urban Development, and the Attorney General where a civil action in Federal Court has been filed, regarding agency actions to invoke sanctions under the Act. The Department of Housing and Urban Development, the Department of Justice, and Federal banking agencies shall develop and coordinate appropriate policies and procedures for taking action under their respective authorities. Each decision to invoke sanctions and the reasons therefor shall be documented and shall be provided to the Secretary of Housing and Urban Development and, where appropriate, to the Attorney General in a timely manner.

**SEC. 6. General Provisions.**

6-601. Nothing in this order shall limit the authority of the Attorney General to provide for the coordinated enforcement of nondiscrimination requirements in Federal assistance programs under Executive Order No. 12250 [42 U.S.C. 2000d-1 note].

6-602. All provisions of regulations, guidelines, and procedures proposed to be issued by executive agencies

pursuant to this order that implement nondiscrimination requirements of laws covered by Executive Order No. 12250 [42 U.S.C. 2000d-1 note] shall be submitted to the Attorney General for review in accordance with that Executive order. In addition, the Secretary shall consult with the Attorney General regarding all regulations and procedures proposed to be issued under sections 4-401 and 4-402 of this order to assure consistency with coordinated Federal efforts to enforce nondiscrimination requirements in programs of Federal financial assistance pursuant to Executive Order No. 12250.

6-603. Nothing in this order shall affect the authority and responsibility of the Attorney General to commence any civil action authorized by the Act.

6-604. (a) Part IV and sections 501 and 503 of Executive Order No. 11063 [42 U.S.C. 1982 note] are revoked. The activities and functions of the President's Committee on Equal Opportunity in Housing described in that Executive order shall be performed by the Secretary of Housing and Urban Development.

(b) Sections 101 and 502(a) of Executive Order No. 11063 are revised to apply to discrimination because of "race, color, religion (creed), sex, disability, familial status or national origin." All executive agencies shall revise regulations, guidelines, and procedures issued pursuant to Part II of Executive Order No. 11063 to reflect this amendment to coverage.

(c) Section 102 of Executive Order No. 11063 is revised by deleting the term "Housing and Home Finance Agency" and inserting in lieu thereof the term "Department of Housing and Urban Development."

6-605. Nothing in this order shall affect any requirement imposed under the Equal Credit Opportunity Act (15 U.S.C. 1691 *et seq.*), the Home Mortgage Disclosure Act (12 U.S.C. 2801 *et seq.*) or the Community Reinvestment Act (12 U.S.C. 2901 *et seq.*).

6-606. Nothing in this order shall limit the authority of the Federal banking agencies to carry out their responsibilities under current law or regulations.

6-607. Executive Order No. 12259 is hereby revoked.

#### SEC. 7. Report.

7-701. The Secretary of Housing and Urban Development shall submit to the President an annual report commenting on the progress that the Department of Housing and Urban Development and other executive agencies have made in carrying out requirements and responsibilities under this Executive order. The annual report may be consolidated with the annual report on the state of fair housing required by section 808(e)(2) of the Act [42 U.S.C. 3608(e)(2)].

WILLIAM J. CLINTON.

#### FEDERAL LEADERSHIP OF FAIR HOUSING

Memorandum of President of the United States, Jan. 17, 1994, 59 F.R. 8513, provided:

Memorandum for the Heads of Executive Departments and Agencies

On April 11, 1968, one week after the assassination of the great civil rights leader Martin Luther King, Jr., the Fair Housing Act [42 U.S.C. 3601 *et seq.*] was enacted (1) to prohibit discrimination in housing, and (2) to direct the Secretary of Housing and Urban Development to affirmatively further fair housing in Federal housing and urban development programs. Twenty-five years later, despite a strengthening of the Fair Housing Act 5 years ago, hundreds of acts of housing discrimination occur in our Nation each day.

Americans of every income level, seeking to live where they choose, feel the weight of discrimination because of the color of their skin, their race, their religion, their gender, their country of origin, or because they are disabled or have children.

An increasing body of evidence indicates that barriers to fair housing are pervasive. Forty percent of all families move every 5 years. This statistic is significant given the results of a recent study, commissioned by the Department of Housing and Urban Development (HUD), which found that more than half of the African

Americans and Latinos seeking to rent or buy a home are treated differently than whites with the same qualifications. Moreover, based upon Home Mortgage Disclosure Act [12 U.S.C. 2801 *et seq.*] data, the number of minority persons who are rejected when attempting to obtain loans to purchase homes is two to three times higher than it is for nonminorities in almost every metropolitan area of this country.

Racial and ethnic segregation, both in the private housing market and in public and assisted housing, has been well documented. Despite legislation (the Fair Housing Act) and Executive action (Executive Order No. 11063 [42 U.S.C. 1982 note]), the divisive impact of housing segregation persists in metropolitan areas all across this country. Too many lower income and minority Americans face barriers to housing outside of central cities. Segregation in housing and schools deprives too many of our children and youth of an opportunity to enter the marketplace or work on an equal footing. For too many families, our cities are no longer the launching pads for economic self-sufficiency and upward mobility that they have been for countless immigrants and minorities since the country's birth. And many Americans who are better off abandon the cities.

The resulting decline in the very heart of too many of our metropolitan areas threatens all of us: the health of our dynamic regional economies—the very lifeblood of future national economic growth and higher living standards for all of us and all of our children—is placed at risk.

We can do better. We can start by making sure that our own Federal policies and programs across all of our agencies support the fair housing and equal opportunity goals to which all Americans are committed. If all of our executive agencies affirmatively further fair housing in the design of their policies and administration of their programs relating to housing and urban development, a truly nondiscriminatory housing market will be closer to achievement.

By an Executive Order [Ex. Ord. No. 12892, set out above] ("the Order") I am issuing today and this memorandum, I am addressing those needs. The Secretary of Housing and Urban Development and, where appropriate, the Attorney General—the officials with the primary responsibility for the enforcement of Federal fair housing laws—will take the lead in developing and coordinating measures to carry out the purposes of this Order.

Through this Order, I am first expanding Executive Order No. 11063 to provide protection against discrimination in programs of Federal insurance or guaranty to persons who are disabled and to families with children.

Second, I am revoking the old Executive Order No. 12259 entitled "Leadership and Coordination of Fair Housing in Federal Programs." The new Executive order reflects the expanded authority of the Secretary of Housing and Urban Development and I am directing him to take stronger measures to provide leadership and coordination in affirmatively furthering fair housing in Federal programs.

Third, I ask the heads of departments and agencies, including the Federal banking agencies, to cooperate with the Secretary of Housing and Urban Development in identifying ways to structure agency programs and activities to affirmatively further fair housing and to promptly negotiate memoranda of understanding with him to accomplish that goal.

Further, I direct the Secretary of Housing and Urban Development to review all of HUD's programs to assure that they truly provide equal opportunity and promote economic self-sufficiency for those who are beneficiaries and recipients of those programs.

I also direct the Secretary to review HUD's programs to assure that they contain the maximum incentives to affirmatively further fair housing and to eliminate barriers to free choice where they continue to exist. This review shall include Federally assisted housing, Federally insured housing and other housing and housing related programs, including those of the Government National Mortgage Association and the Federal Housing Administration.

Today, I am establishing a new Cabinet-level organization to focus the cooperative efforts of all agencies on fair housing. The President's Fair Housing Council will be chaired by the Secretary of Housing and Urban Development and will consist of the Secretary of Health and Human Services, the Secretary of Transportation, the Secretary of Education, the Secretary of Labor, the Secretary of Defense, the Secretary of Agriculture, the Secretary of Veterans Affairs, the Secretary of the Treasury, the Attorney General, the Secretary of the Interior, the Chair of the Federal Reserve, the Comptroller of the Currency, the Director of the Office of Thrift Supervision, and the Chair of the Federal Deposit Insurance Corporation.

The President's Fair Housing Council shall review the design and delivery of Federal programs and activities to ensure that they support a coordinated strategy to affirmatively further fair housing. The Council shall propose revisions to existing programs or activities, develop pilot programs and activities, and propose new programs and activities to achieve its goals.

I direct the Secretary of Housing and Urban Development and the President's Fair Housing Council to develop a pilot program to be implemented in selected metropolitan areas. This initiative will promote fair housing choice by helping inner-city families to move to suburban neighborhoods and by making the central city more attractive to those who have left it. I direct the members of the Council to undertake a demonstration program that will reinvent the way assisted housing is offered to applicants, will break down jurisdictional barriers in housing opportunities, and will promote the use of subsidies that diminish residential segregation, and will combine these initiatives with refined educational incentives aimed at improving the effectiveness of inner-city schools. I am directing that transportation alternatives be considered along with targeted social service and job training programs as part of the support necessary to create a one-stop, metropolitan area-wide fair housing opportunity pilot program that will effectively offer Federally assisted housing, Federally insured housing, and private market housing within a metropolitan area to all residents of the area. The pilot program should call upon realtors, mortgage lenders, housing providers, and local governments, among others, to assist in expanding housing choices.

To address the findings of recent studies, I hereby direct the Secretary of Housing and Urban Development and the Attorney General and, where appropriate, the heads of the Federal banking agencies to exercise national leadership to end discrimination in mortgage lending, the secondary mortgage market, and property insurance practices. The Secretary is directed to issue regulations to define discriminatory practices in these areas and the Secretary and the Attorney General are directed to aggressively enforce the laws prohibiting these practices.

In each of these areas, I direct the Secretary of Housing and Urban Development to take the lead with the other Federal agencies in working to gain the voluntary cooperation, participation, and expertise of all of those in private industry, the States and localities who can assist in achieving the Nation's fair housing goals.

The Secretary of Housing and Urban Development is authorized and directed to publish this memorandum in the Federal Register.

WILLIAM J. CLINTON.

### § 3608a. Collection of certain data

#### (a) In general

To assess the extent of compliance with Federal fair housing requirements (including the requirements established under title VI of Public Law 88-352 [42 U.S.C. 2000d et seq.] and title VIII of Public Law 90-284 [42 U.S.C. 3601 et seq.]), the Secretary of Agriculture shall collect, not less

than annually, data on the racial and ethnic characteristics of persons eligible for, assisted, or otherwise benefiting under each community development, housing assistance, and mortgage and loan insurance and guarantee program administered by such Secretary. Such data shall be collected on a building by building basis if the Secretary determines such collection to be appropriate.

#### (b) Reports to Congress

The Secretary of Agriculture shall include in the annual report of such Secretary to the Congress a summary and evaluation of the data collected by such Secretary under subsection (a) during the preceding year.

(Pub. L. 100-242, title V, §562, Feb. 5, 1988, 101 Stat. 1944; Pub. L. 104-66, title I, §1071(e), Dec. 21, 1995, 109 Stat. 720.)

#### REFERENCES IN TEXT

Public Law 88-352, referred to in subsec. (a), is Pub. L. 88-352, July 2, 1964, 78 Stat. 241, as amended, known as the Civil Rights Act of 1964. Title VI of the Civil Rights Act of 1964 is classified generally to subchapter V (§2000d et seq.) of chapter 21 of this title. For complete classification of this Act to the Code, see Short Title note set out under section 2000a of this title and Tables.

Title VIII of Public Law 90-284, referred to in subsec. (a), is title VIII of Pub. L. 90-284, Apr. 11, 1968, 82 Stat. 81, as amended, known as the Fair Housing Act, which is classified principally to subchapter I (§3601 et seq.) of this chapter. For complete classification of this Act to the Code, see Short Title note set out under section 3601 of this title and Tables.

#### CODIFICATION

Section was enacted as part of the Housing and Community Development Act of 1987, and not as part of title VIII of Pub. L. 90-284, popularly known as the Fair Housing Act, which comprises this subchapter.

#### AMENDMENTS

1995—Subsec. (a). Pub. L. 104-66, §1071(e)(1), struck out “the Secretary of Housing and Urban Development and” before “the Secretary of Agriculture”, “each” before “collect, not less than annually”, and “involved” before “determines such collection”.

Subsec. (b). Pub. L. 104-66, §1071(e)(2), substituted “The” for “The Secretary of Housing and Urban Development and the” before “Secretary of Agriculture” and struck out “each” before “include in the”.

### § 3609. Education and conciliation; conferences and consultations; reports

Immediately after April 11, 1968, the Secretary shall commence such educational and conciliatory activities as in his judgment will further the purposes of this subchapter. He shall call conferences of persons in the housing industry and other interested parties to acquaint them with the provisions of this subchapter and his suggested means of implementing it, and shall endeavor with their advice to work out programs of voluntary compliance and of enforcement. He may pay per diem, travel, and transportation expenses for persons attending such conferences as provided in section 5703 of title 5. He shall consult with State and local officials and other interested parties to learn the extent, if any, to which housing discrimination exists in their State or locality, and whether and how State or local enforcement programs might be