

that governmental unit to carry out its Community Development Program” for “The Secretary may also provide such technical assistance under this paragraph directly or through contracts”.

1977—Subsec. (a). Pub. L. 95-128, §107(1), (2), extended provisions to fiscal years 1978 through 1980 and increased rate to 3 from 2 per centum.

Subsec. (a)(5). Pub. L. 95-128, §107(3), provided for grants to Indian tribes.

Subsec. (a)(7), (8). Pub. L. 95-128, §107(4), added pars. (7) and (8).

Subsec. (b). Pub. L. 95-128, §107(5), substituted “15 per centum” for “one-fourth”.

Subsec. (d). Pub. L. 95-128, §107(6), added subsec. (d).

1976—Subsec. (a)(1). Pub. L. 94-375 included new community projects assisted under title X of the National Housing Act as within the authority of the Secretary to make grants from the special discretionary fund.

#### EFFECTIVE DATE OF 1990 AMENDMENT

Amendment by section 913(c) of Pub. L. 101-625 applicable to amounts approved in any appropriation Act under section 5303 of this title for fiscal year 1990 and each fiscal year thereafter, see section 913(f) of Pub. L. 101-625, set out as a note under section 5306 of this title.

#### EFFECTIVE DATE OF 1989 AMENDMENT

Pub. L. 101-235, title I, §105(d), Dec. 15, 1989, 103 Stat. 1999, provided that:

“(1) IN GENERAL.—Except as provided in this paragraph and paragraph (2), the amendments made by this section [amending this section] shall apply with respect to any grants made under section 107 of the Housing and Community Development Act of 1974 [this section] on or after the date of the enactment of this Act [Dec. 15, 1989], except a grant made under the third sentence of section 107(a) of [the] Housing and Community Development Act of 1974, as such sentence existed immediately before such date, and grants for specific activities (referred to in House Report Number 101-297) pursuant to the amount appropriated for use under section 107 by the enactment of the bill, H.R. 2916, of the One Hundred First Congress [Pub. L. 101-144, Nov. 9, 1989, 103 Stat. 850].

“(2) PRIOR GRANTS.—Any grant made under section 107 of the Housing and Community Development Act of 1974 [this section] before the date of the enactment of this Act [Dec. 15, 1989] or pursuant to a grant award notification made before such date shall be governed by the provisions of such section as it existed immediately before the date of the enactment of this Act.”

#### EFFECTIVE DATE OF 1983 AMENDMENT

Amendment by Pub. L. 98-181 applicable only to funds available for fiscal year 1984 and thereafter, see section 110(b) of Pub. L. 98-181, as amended, set out as a note under section 5316 of this title.

#### EFFECTIVE DATE OF 1981 AMENDMENT

Amendment by Pub. L. 97-35 effective Oct. 1, 1981, see section 371 of Pub. L. 97-35, set out as an Effective Date note under section 3701 of Title 12, Banks and Banking.

#### EFFECTIVE DATE OF 1978 AMENDMENT

Amendment by Pub. L. 95-557 effective Oct. 1, 1978, see section 104 of Pub. L. 95-557, set out as a note under section 1709 of Title 12, Banks and Banking.

#### EFFECTIVE DATE OF 1977 AMENDMENT

Amendment by Pub. L. 95-128 effective Oct. 1, 1977, see section 114 of Pub. L. 95-128, set out as a note under section 5301 of this title.

#### REGULATIONS

Pub. L. 102-550, title VIII, §801(c)(3), Oct. 28, 1992, 106 Stat. 3844, provided that, not later than the expiration of the 60-day period beginning on Oct. 28, 1992, the Secretary of Housing and Urban Development was to issue

proposed regulations to carry out subsec. (b)(6) of this section and to issue final regulations to carry out subsec. (b)(6) not later than the expiration of the 120-day period beginning on Oct. 28, 1992.

#### COMMUNITY OUTREACH PARTNERSHIP

Pub. L. 102-550, title VIII, §851, Oct. 28, 1992, 106 Stat. 3855, directed Secretary to carry out a 5-year demonstration program to determine feasibility of facilitating partnerships between institutions of higher education and communities to solve urban problems through research, outreach, and exchange of information, established program of grants to public and private nonprofit institutions of higher education to assist in establishing or carrying out such activities and to establish and operate Community Outreach Partnership Centers which were to focus on problems associated with housing, economic development, neighborhood revitalization, infrastructure, health care, job training, education, crime prevention, planning, community organizing, and other areas deemed appropriate by the Secretary, further provided for establishment of national advisory council to assist Secretary in these areas and a national clearinghouse to disseminate information resulting from these activities, and further provided for appropriations for the demonstration program as well as for an annual report to Congress by the Secretary.

#### § 5308. Guarantee and commitment to guarantee loans for acquisition of property

##### (a) Authority of Secretary; issuance of obligations by eligible public entities or designated public agencies; form, denomination, maturity, and conditions of notes or other obligations; percentage allocation requirements

The Secretary is authorized, upon such terms and conditions as the Secretary may prescribe, to guarantee and make commitments to guarantee, only to such extent or in such amounts as provided in appropriation Acts, the notes or other obligations issued by eligible public entities, or by public agencies designated by such eligible public entities, for the purposes of financing (1) acquisition of real property or the rehabilitation of real property owned by the eligible public entity (including such related expenses as the Secretary may permit by regulation); (2) housing rehabilitation; (3) economic development activities permitted under paragraphs (14), (15), and (17) of section 5305(a) of this title; (4) construction of housing by nonprofit organizations for homeownership under section 1437o(d)<sup>1</sup> of this title or title VI of the Housing and Community Development Act of 1987; (5) the acquisition, construction, reconstruction, or installation of public facilities (except for buildings for the general conduct of government); or (6) in the case of colonias (as such term is defined in section 916 of the Cranston-Gonzalez National Affordable Housing Act), public works and site or other improvements. A guarantee under this section may be used to assist a grantee in obtaining financing only if the grantee has made efforts to obtain such financing without the use of such guarantee and cannot complete such financing consistent with the timely execution of the program plans without such guarantee. Notes or other obligations guaranteed pursuant to this section shall be in such form and denominations, have such maturities, and be subject to

<sup>1</sup> See References in Text note below.

such conditions as may be prescribed by regulations issued by the Secretary. The Secretary may not deny a guarantee under this section on the basis of the proposed repayment period for the note or other obligation, unless the period is more than 20 years or the Secretary determines that the period causes the guarantee to constitute an unacceptable financial risk. Notwithstanding any other provision of law and subject only to the absence of qualified applicants or proposed activities and to the authority provided in this section, to the extent approved or provided in appropriation Acts, the Secretary shall enter into commitments to guarantee notes and obligations under this section with an aggregate principal amount of \$2,000,000,000 for fiscal year 1993 and \$2,000,000,000 for fiscal year 1994. Of the amount approved in any appropriation Act for guarantees under this section in any fiscal year, the Secretary shall allocate 70 percent for guarantees for metropolitan cities, urban counties, and Indian tribes and 30 percent for guarantees for units of general local government in nonentitlement areas. The Secretary may waive the percentage requirements of the preceding sentence in any fiscal year only to the extent that there is an absence of qualified applicants or proposed activities from metropolitan cities, urban counties, and Indian tribes or units of general local government in nonentitlement areas.

**(b) Prerequisites**

No guarantee or commitment to guarantee shall be made with respect to any note or other obligation if the issuer's total outstanding notes or obligations guaranteed under this section (excluding any amount defeased under the contract entered into under subsection (d)(1)(A)) would thereby exceed an amount equal to 5 times the amount of the grant approval for the issuer pursuant to section 5306 or 5307 of this title.

**(c) Payment of principal, interest and costs**

Notwithstanding any other provision of this chapter, grants allocated to an issuer pursuant to this chapter (including program income derived therefrom) are authorized for use in the payment of principal and interest due (including such servicing, underwriting, or other costs as may be specified in regulations of the Secretary) on the notes or other obligations guaranteed pursuant to this section.

**(d) Repayment contract; security; pledge by State**

(1) To assure the repayment of notes or other obligations and charges incurred under this section and as a condition for receiving such guarantees, the Secretary shall require the issuer to—

(A) enter into a contract, in a form acceptable to the Secretary, for repayment of notes or other obligations guaranteed hereunder;

(B) pledge any grant for which the issuer may become eligible under this chapter; and

(C) furnish, at the discretion of the Secretary, such other security as may be deemed appropriate by the Secretary in making such guarantees, including increments in local tax receipts generated by the activities assisted under this chapter or dispositions proceeds

from the sale of land or rehabilitated property.

(2) To assist in assuring the repayment of notes or other obligations and charges incurred under this section, a State shall pledge any grant for which the State may become eligible under this chapter as security for notes or other obligations and charges issued under this section by any unit of general local government in a nonentitlement area in the State.

**(e) Pledged grants for repayments**

The Secretary is authorized, notwithstanding any other provision of this chapter, to apply grants pledged pursuant to paragraphs (1)(B) and (2) of subsection (d) to any repayments due the United States as a result of such guarantees.

**(f) Full faith and credit of United States pledged for payment; conclusiveness and validity of guarantee**

The full faith and credit of the United States is pledged to the payment of all guarantees made under this section. Any such guarantee made by the Secretary shall be conclusive evidence of the eligibility of the obligations for such guarantee with respect to principal and interest, and the validity of any such guarantee so made shall be incontestable in the hands of a holder of the guaranteed obligations.

**(g) Issuance of obligations by Secretary to Secretary of the Treasury to satisfy authorized guarantee obligations; establishment of maturities and rates of interest and purchase of obligations by Secretary of the Treasury**

The Secretary may issue obligations to the Secretary of the Treasury in an amount outstanding at any one time sufficient to enable the Secretary to carry out his obligations under guarantees authorized by this section. The obligations issued under this subsection shall have such maturities and bear such rate or rates of interest as shall be determined by the Secretary of the Treasury. The Secretary of the Treasury is authorized and directed to purchase any obligations of the Secretary issued under this section, and for such purposes is authorized to use as a public debt transaction the proceeds from the sale of any securities issued under chapter 31 of title 31, and the purposes for which such securities may be issued under such chapter are extended to include the purchases of the Secretary's obligations hereunder.

**(h) Federal taxation of guaranteed obligations; grants to borrowing entity or agency of taxable obligations for net interest costs, etc.; limitation on amount of grant; assistance to issuer in hardship cases**

Obligations guaranteed under this section shall be subject to Federal taxation as provided in subsection (j). The Secretary is authorized to make, and to contract to make, grants, in such amounts as may be approved in appropriations Acts, to or on behalf of the issuing eligible public entity or public agency to cover not to exceed 30 per centum of the net interest cost (including such servicing, underwriting, or other costs as may be specified in regulations of the Secretary) to the borrowing entity or agency of such obligations. The Secretary may also, to the

extent approved in appropriation Acts, assist the issuer of a note or other obligation guaranteed under this section in the payment of all or a portion of the principal and interest amount due under the note or other obligation, if the Secretary determines that the issuer is unable to pay the amount because of circumstances of extreme hardship beyond the control of the issuer.

**(i) Omitted**

**(j) Inclusion within gross income for purpose of chapter 1 of title 26 of interest paid on taxable obligations**

With respect to any obligation issued by a<sup>2</sup> eligible public entity or designated agency which is guaranteed pursuant to this section, the interest paid on such obligation shall be included in gross income for the purpose of chapter 1 of title 26.

**(k) Outstanding obligations; limitation; monitoring use of guarantees under this section**

(1) The total amount of outstanding obligations guaranteed on a cumulative basis by the Secretary pursuant to subsection (a) shall not at any time exceed \$4,500,000,000 or such higher amount as may be authorized to be appropriated for sections 5306 and 5307 of this title for any fiscal year.

(2) The Secretary shall monitor the use of guarantees under this section by eligible public entities. If the Secretary finds that 50 percent of the aggregate guarantee authority has been committed, the Secretary may—

(A) impose limitations on the amount of guarantees any one entity may receive in any fiscal year of \$35,000,000 for units of general local government receiving grants under section 5306(b) of this title and \$7,000,000 for units of general local government receiving grants under section 5306(d) of this title; or

(B) request the enactment of legislation increasing the aggregate limitation on guarantees under this section.

**(l) Purchase of guaranteed obligations by Federal Financing Bank**

Notes or other obligations guaranteed under this section may not be purchased by the Federal Financing Bank.

**(m) Limitation on imposition of fee or charge**

No fee or charge may be imposed by the Secretary or any other Federal agency on or with respect to a guarantee made by the Secretary under this section after February 5, 1988.

**(n) State assistance in submission of applications**

Any State that has elected under section 5306(d)(2)(A) of this title to distribute funds to units of general local government in nonentitlement areas may assist such units in the submission of applications for guarantees under this section.

**(o) "Eligible public entity" defined**

For purposes of this section, the term "eligible public entity" means any unit of general local government, including units of general local government in nonentitlement areas.

**(p) Training and information activities relating to home guarantee program**

(1) The Secretary, in cooperation with eligible public entities, shall carry out training and information activities with respect to the guarantee program under this section. Such activities shall commence not later than 1 year after November 28, 1990.<sup>3</sup>

(2) The Secretary may use amounts set aside under section 5307 of this title to carry out this subsection.

**(q) Economic development grants**

**(1) Authorization**

The Secretary may make grants in connection with notes or other obligations guaranteed under this section to eligible public entities for the purpose of enhancing the security of loans guaranteed under this section or improving the viability of projects financed with loans guaranteed under this section.

**(2) Eligible activities**

Assistance under this subsection may be used only for the purposes of and in conjunction with projects and activities assisted under subsection (a).

**(3) Applications**

Applications for assistance under this subsection may be submitted only by eligible public entities, and shall be in the form and in accordance with the procedures established by the Secretary. Eligible public entities may apply for grants only in conjunction with requests for guarantees under subsection (a).

**(4) Selection criteria**

The Secretary shall establish criteria for awarding assistance under this subsection. Such criteria shall include—

(A) the extent of need for such assistance;

(B) the level of distress in the community to be served and in the jurisdiction applying for assistance;

(C) the quality of the plan proposed and the capacity or potential capacity of the applicant to successfully carry out the plan; and

(D) such other factors as the Secretary determines to be appropriate.

**(r) Guarantee of obligations backed by loans**

**(1) Authority**

The Secretary may, upon such terms and conditions as the Secretary considers appropriate, guarantee the timely payment of the principal of and interest on such trust certificates or other obligations as may—

(A) be offered by the Secretary or by any other offeror approved for purposes of this subsection by the Secretary; and

(B) be based on and backed by a trust or pool composed of notes or other obligations guaranteed or eligible for guarantee by the Secretary under this section.

**(2) Full faith and credit**

To the same extent as provided in subsection (f), the full faith and credit of the United

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

<sup>3</sup>See Codification note below.

States is pledged to the payment of all amounts that may be required to be paid under any guarantee made by the Secretary under this subsection.

### (3) Subrogation

If the Secretary pays a claim under a guarantee made under this section, the Secretary shall be subrogated for all the rights of the holder of the guaranteed certificate or obligation with respect to such certificate or obligation.

### (4) Effect of laws

No State or local law, and no Federal law, shall preclude or limit the exercise by the Secretary of—

(A) the power to contract with respect to public offerings and other sales of notes, trust certificates, and other obligations guaranteed under this section upon such terms and conditions as the Secretary deems appropriate;

(B) the right to enforce any such contract by any means deemed appropriate by the Secretary; and

(C) any ownership rights of the Secretary, as applicable, in notes, certificates, or other obligations guaranteed under this section, or constituting the trust or pool against which trust certificates, or other obligations guaranteed under this section, are offered.

(Pub. L. 93-383, title I, §108, Aug. 22, 1974, 88 Stat. 647; Pub. L. 95-128, title I, §108, Oct. 12, 1977, 91 Stat. 1123; Pub. L. 96-399, title I, §108, Oct. 8, 1980, 94 Stat. 1619; Pub. L. 97-35, title III, §309(i), Aug. 13, 1981, 95 Stat. 397; Pub. L. 98-181, title I [title I, §108], Nov. 30, 1983, 97 Stat. 1168; Pub. L. 98-479, title II, §§203(l)(2), 204(k)(1), Oct. 17, 1984, 98 Stat. 2231, 2233; Pub. L. 99-272, title III, §3002(a), Apr. 7, 1986, 100 Stat. 102; Pub. L. 100-242, title V, §514, Feb. 5, 1988, 101 Stat. 1930; Pub. L. 101-625, title IX, §§901(b), 910(b)-(g), Nov. 28, 1990, 104 Stat. 4385, 4389-4391; Pub. L. 102-550, title VIII, §801(b), Oct. 28, 1992, 106 Stat. 3843; Pub. L. 103-233, title II, §§231, 232(a)(1), 233, Apr. 11, 1994, 108 Stat. 366, 368; Pub. L. 104-120, §3(b), Mar. 28, 1996, 110 Stat. 835.)

#### REFERENCES IN TEXT

Section 1437*o* of this title, referred to in subsec. (a)(4), was repealed by Pub. L. 101-625, title II, §289(b), Nov. 28, 1990, 104 Stat. 4128.

Title VI of the Housing Community Development Act of 1987, referred to in subsec. (a)(4), is title VI of Pub. L. 100-242, Feb. 5, 1988, 101 Stat. 1951, which was set out as a note under section 1715*l* of Title 12, Banks and Banking, and was repealed by Pub. L. 101-625, title II, §289(b), Nov. 28, 1990, 104 Stat. 4128.

Section 916 of the Cranston-Gonzalez National Affordable Housing Act, referred to in subsec. (a)(6), is section 916 of Pub. L. 101-625, which is set out as a note under section 5306 of this title.

This chapter, referred to in subssecs. (c) to (e), was in the original "this title", meaning title I of Pub. L. 93-383, Aug. 22, 1974, 88 Stat. 633, which is classified principally to this chapter. For complete classification of title I to the Code, see Tables.

#### CODIFICATION

Subsec. (i) of this section amended section 711(22) of former Title 31, Money and Finance. Subsec. (i) was originally enacted as subsec. (f) of this section, and was redesignated as subsec. (i) by Pub. L. 95-128, §108(2).

November 28, 1990, referred to in subsec. (p)(1), was in the original "the date of the enactment of the Housing and Community Development Act of 1990", and was translated as meaning the date of enactment of the Cranston-Gonzalez National Affordable Housing Act, Pub. L. 101-625, which enacted subsec. (p) of this section, to reflect the probable intent of Congress and because no "Housing and Community Development Act of 1990" has been enacted.

#### AMENDMENTS

1996—Subsec. (k)(1). Pub. L. 104-120 substituted "\$4,500,000,000" for "\$3,500,000,000".

1994—Subsec. (a). Pub. L. 103-233, §231, added cls. (5) and (6).

Subsec. (q). Pub. L. 103-233, §232(a)(1), added subsec. (q).

Subsec. (r). Pub. L. 103-233, §233, added subsec. (r).

1992—Subsec. (a). Pub. L. 102-550 amended fifth sentence generally. Prior to amendment, fifth sentence read as follows: "Notwithstanding any other provision of law and subject only to the absence of qualified applicants or proposed activities and to the authority provided in this section, to the extent approved or provided in appropriation Acts, the Secretary shall enter into commitments to guarantee notes and obligations under this section with an aggregate principal amount of \$300,000,000 during fiscal year 1991 and \$300,000,000 during fiscal year 1992."

1990—Subsec. (a). Pub. L. 101-625, §910(e)(1), inserted at end "Of the amount approved in any appropriation Act for guarantees under this section in any fiscal year, the Secretary shall allocate 70 percent for guarantees for metropolitan cities, urban counties, and Indian tribes and 30 percent for guarantees for units of general local government in nonentitlement areas. The Secretary may waive the percentage requirements of the preceding sentence in any fiscal year only to the extent that there is an absence of qualified applicants or proposed activities from metropolitan cities, urban counties, and Indian tribes or units of general local government in nonentitlement areas."

Pub. L. 101-625, §910(c), inserted "The Secretary may not deny a guarantee under this section on the basis of the proposed repayment period for the note or other obligation, unless the period is more than 20 years or the Secretary determines that the period causes the guarantee to constitute an unacceptable financial risk."

Pub. L. 101-625, §910(b)(2), substituted a semicolon for "; or" before "(3)" and added cl. (4).

Pub. L. 101-625, §910(b)(1)(A), substituted "eligible public entity" and "eligible public entities" for "unit of general local government" and "units of general local government", respectively, wherever appearing.

Pub. L. 101-625, §901(b), amended last sentence generally. Prior to amendment, last sentence read as follows: "Notwithstanding any other provision of law and subject only to the absence of qualified applicants or proposed activities, to the authority provided in this section, and to any funding limitation approved in appropriation Acts, the Secretary shall enter into commitments to guarantee notes and obligations under this section with an aggregate principal amount of \$150,000,000 during fiscal year 1988, and \$153,000,000 during fiscal year 1989."

Subsec. (b). Pub. L. 101-625, §910(d), inserted "(excluding any amount defeased under the contract entered into under subsection (d)(1)(A))" after "this section", substituted "5" for "three", and inserted reference to section 5307 of this title.

Subsec. (d). Pub. L. 101-625, §910(b)(4)(A), designated existing provisions as par. (1), redesignated former pars. (1) to (3) as subpars. (A) to (C), respectively, and added par. (2).

Subsec. (e). Pub. L. 101-625, §910(b)(4)(B), substituted "paragraphs (1)(B) and (2) of subsection (d)" for "subsection (d)(2)".

Subsec. (h). Pub. L. 101-625, §910(f), inserted at end "The Secretary may also, to the extent approved in appropriation Acts, assist the issuer of a note or other ob-

ligation guaranteed under this section in the payment of all or a portion of the principal and interest amount due under the note or other obligation, if the Secretary determines that the issuer is unable to pay the amount because of circumstances of extreme hardship beyond the control of the issuer."

Pub. L. 101-625, §910(b)(1), substituted "entity or agency" for "unit or agency" and "eligible public entity" for "unit of general local government".

Subsec. (j). Pub. L. 101-625, §910(b)(1)(A), substituted "eligible public entity" for "unit of general local government".

Subsec. (k). Pub. L. 101-625, §910(e)(2), designated existing provisions as par. (1) and added par. (2).

Subsec. (n). Pub. L. 101-625, §910(b)(3), added subsec. (n).

Subsec. (o). Pub. L. 101-625, §910(b)(5), added subsec. (o).

Subsec. (p). Pub. L. 101-625, §910(g), added subsec. (p).  
1988—Subsec. (a). Pub. L. 100-242, §514(c), in first sentence inserted cl. (1) designation and added cls. (2) and (3).

Pub. L. 100-242, §514(a), in last sentence struck out "during fiscal year 1984" after "commitment" and substituted "\$150,000,000 during fiscal year 1988, and \$153,000,000 during fiscal year 1989" for "\$225,000,000".

Subsec. (m). Pub. L. 100-242, §514(b), added subsec. (m).

1986—Subsec. (l). Pub. L. 99-272 added subsec. (l).

1984—Subsec. (g). Pub. L. 98-479, §203(l)(2), substituted "chapter 31 of title 31" for "the Second Liberty Bond Act, as now or hereafter in force" and "such chapter" for "such Act".

Subsec. (h). Pub. L. 98-479, §204(k)(1), substituted "subsection (j)" for "subsection (g)".

1983—Subsec. (a). Pub. L. 98-181 inserted provision that a guarantee under this section may be used to assist a grantee in obtaining financing only if the grantee has made efforts to obtain such financing without the use of such guarantee and cannot complete such financing consistent with the timely execution of the program plans without such guarantee, and substituted provisions requiring the Secretary to enter into commitments during fiscal year 1984 to guarantee notes and obligations under this section with an aggregate principal amount of \$225,000,000, notwithstanding any other provision of law and subject only to the absence of qualified applicants or proposed activities, for provisions prohibiting the Secretary from entering into commitments during fiscal year 1981 to guarantee under this section notes and other obligations with an aggregate principal amount in excess of \$300,000,000.

1981—Subsec. (d)(2). Pub. L. 97-35 struck out "approved or" after "grant".

1980—Subsec. (a). Pub. L. 96-399, §108(1), (2), inserted provision respecting amounts as provided in appropriation Acts, and provision relating to limitation of \$300,000,000 the amount the Secretary is authorized to guarantee during fiscal year 1981.

Subsec. (j). Pub. L. 96-399, §108(3), struck out "Notwithstanding any other provision of this section" before "The total amount".

1977—Subsec. (a). Pub. L. 95-128, §108(1), (3), reenacted substantially existing provisions and struck out "or assembly" after "acquisition of", included rehabilitation of real property owned by the unit of general local government, inserted provision respecting form, denominations, maturities, and conditions of notes or other obligations to be guaranteed, and struck out after parenthetical text "to serve or be used in carrying out activities which are eligible for assistance under section 5305 of this title and are identified in the application under section 5304 of this title, and with respect to which grants have been or are to be made under section 5303 of this title, but no such guarantee shall be issued in behalf of any agency designed to benefit, in or by the flotation of any issue, a private individual or corporation".

Subsec. (b). Pub. L. 95-128, §108(1), (3), added subsec. (b) and struck out prior provisions respecting: reserva-

tion and withholding of prescribed amount for purpose of paying guaranteed obligations, subject to being increased because of any unanticipated, major reduction in estimated disposition proceeds; pledge of full faith and credit of unit of general local government to the Secretary for repayment of any amount required to be paid by the United States pursuant to any guarantee; and pledge of repayment of proceeds of grants in event of failure of repayment as hereinbefore provided.

Subsecs. (c) to (e). Pub. L. 95-128, §108(3), added subsecs. (c) to (e). Former subsecs. (c) to (e) redesignated (f) to (h).

Subsecs. (f), (g). Pub. L. 95-128, §108(2), redesignated former subsecs. (c) and (d) as (f) and (g).

Subsec. (h). Pub. L. 95-128, §108(2), (4), (5), redesignated former subsec. (e) as (h) and substituted in first sentence "subsection (j)" for "subsection (g)"; substituted in first sentence "shall" for "may, at the option of the issuing unit of general local government or designated agency,"; and in second sentence "The Secretary is authorized to make, and to contract to make, grants, in such amounts as may be approved in appropriations Acts," for "In the event that taxable obligations are issued and guaranteed, the Secretary is authorized to make, and to contract to make, grants".

Subsec. (j). Pub. L. 95-128, §108(2), (6), redesignated former subsec. (g) as (j) and substituted "is guaranteed pursuant to" for "such unit or agency has elected to issue as a taxable obligation pursuant to subsection (e) of".

Subsec. (k). Pub. L. 95-128, §108(7), added subsec. (k).

#### EFFECTIVE DATE OF 1996 AMENDMENT

Amendment by Pub. L. 104-120 to be construed to have become effective Oct. 1, 1995, see section 13(a) of Pub. L. 104-120, set out as an Effective and Termination Dates of 1996 Amendments note under section 1437d of this title.

#### EFFECTIVE DATE OF 1994 AMENDMENT

Amendment by Pub. L. 103-233 applicable with respect to any amounts made available to carry out subchapter II (§12721 et seq.) of chapter 130 of this title after Apr. 11, 1994, and any amounts made available to carry out that subchapter before that date that remain uncommitted on that date, with Secretary to issue any regulations necessary to carry out such amendment not later than end of 45-day period beginning on that date, see section 209 of Pub. L. 103-233, set out as a note under section 5301 of this title.

#### EFFECTIVE DATE OF 1986 AMENDMENT

Pub. L. 99-272, title III, §3002(b), Apr. 7, 1986, 100 Stat. 102, provided that: "The amendment made by subsection (a) [amending this section] shall take effect on July 1, 1986."

#### EFFECTIVE DATE OF 1983 AMENDMENT

Amendment by Pub. L. 98-181 applicable only to funds available for fiscal year 1984 and thereafter, see section 110(b) of Pub. L. 98-181, as amended, set out as a note under section 5316 of this title.

#### EFFECTIVE DATE OF 1981 AMENDMENT

Amendment by Pub. L. 97-35 effective Oct. 1, 1981, see section 371 of Pub. L. 97-35, set out as an Effective Date note under section 3701 of Title 12, Banks and Banking.

#### EFFECTIVE DATE OF 1977 AMENDMENT

Amendment by Pub. L. 95-128 effective Oct. 1, 1977, see section 114 of Pub. L. 95-128, set out as a note under section 5301 of this title.

#### REGULATIONS

Pub. L. 101-625, title IX, §910(i), Nov. 28, 1990, 104 Stat. 4392, provided that: "To carry out the amendments made by this section [amending this section and section 5313 of this title], the Secretary of Housing and Urban Development shall—

“(1) issue proposed regulations not later than 90 days after the date of the enactment of this Act [Nov. 28, 1990]; and

“(2) issue final regulations not later than 180 days after the date of the enactment of this Act.”

#### COMMUNITY DEVELOPMENT LOAN GUARANTEES

Pub. L. 101-625, title IX, §910(a), Nov. 28, 1990, 104 Stat. 4389, provided that:

“(1) PURPOSES.—The purposes of the amendments made by this section [amending this section and section 5313 of this title] are—

“(A) to reaffirm the commitment of the Federal Government to assist local governments in their efforts in stimulating economic and community development activities needed to combat severe economic distress and to help in promoting economic development activities needed to aid in economic recovery; and

“(B) to promote revitalization and development projects undertaken by local governments that principally benefit persons of low and moderate income, the elimination of slums and blight, and to meet urgent community needs, with special priority for projects located in areas designated as enterprise zones by the Federal Government or by any State.

“(2) OBJECTIVES.—In order to further the purpose described in paragraph (1), activities undertaken pursuant to the amendments made by this section shall be directed toward meeting the objectives set forth in sections 101(c) and 104(b)(3) of the Housing and Community Development Act of 1974 (42 U.S.C. 5301(c) and 5304(b)(3)) and the additional objectives of—

“(A) encouraging local governments to establish public-private partnerships;

“(B) preserving housing affordable for persons of low and moderate income; and

“(C) creating permanent employment opportunities, primarily for persons of low and moderate income.”

#### ADMINISTRATIVE ACTIONS FOR PROVISION OF PRIVATE SECTOR FINANCING OF GUARANTEED LOANS

Pub. L. 99-272, title III, §3002(c), Apr. 7, 1986, 100 Stat. 102, provided that: “The Secretary of Housing and Urban Development shall take such administrative actions as are necessary to provide by the effective date of subsection (a) [July 1, 1986] private sector financing of loans guaranteed under section 108 of the Housing and Community Development Act of 1974 [this section].”

### § 5309. Nondiscrimination in programs and activities

#### (a) Prohibited conduct

No person in the United States shall on the ground of race, color, national origin, religion, or sex be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity funded in whole or in part with funds made available under this chapter. Any prohibition against discrimination on the basis of age under the Age Discrimination Act of 1975 [42 U.S.C. 6101 et seq.] or with respect to an otherwise qualified handicapped individual as provided in section 794 of title 29 shall also apply to any such program or activity.

#### (b) Compliance procedures available to Secretary

Whenever the Secretary determines that a State or unit of general local government which is a recipient of assistance under this chapter has failed to comply with subsection (a) or (e) or an applicable regulation, he shall notify the

Governor of such State or the chief executive officer of such unit of local government of the noncompliance and shall request the Governor or the chief executive officer to secure compliance. If within a reasonable period of time, not to exceed sixty days, the Governor or the chief executive officer fails or refuses to secure compliance, the Secretary is authorized to (1) refer the matter to the Attorney General with a recommendation that an appropriate civil action be instituted; (2) exercise the powers and functions provided by title VI of the Civil Rights Act of 1964 (42 U.S.C. 2000d); (3) exercise the powers and functions provided for in section 5311(a) of this title; or (4) take such other action as may be provided by law.

#### (c) Civil action by Attorney General

When a matter is referred to the Attorney General pursuant to subsection (b), or whenever he has reason to believe that a State government or unit of general local government is engaged in a pattern or practice in violation of the provisions of this section, the Attorney General may bring a civil action in any appropriate United States district court for such relief as may be appropriate, including injunctive relief.

#### (d) Waiver of race discrimination prohibitions regarding assistance to Hawaiian Home Lands

The provisions of this section and section 5304(b)(2) of this title which relate to discrimination on the basis of race shall not apply to the provision of assistance by grantees under this chapter to the Hawaiian Home Lands.

#### (e) Equal access

##### (1) Definition

In this subsection, the term “youth organization” means an organization described under part B of subtitle II of title 36 that is intended to serve individuals under the age of 21 years.

##### (2) In general

No State or unit of general local government that has a designated open forum, limited public forum, or nonpublic forum and that is a recipient of assistance under this chapter shall deny equal access or a fair opportunity to meet to, or discriminate against, any youth organization, including the Boy Scouts of America or any group officially affiliated with the Boy Scouts of America, that wishes to conduct a meeting or otherwise participate in that designated open forum, limited public forum, or nonpublic forum.

(Pub. L. 93-383, title I, §109, Aug. 22, 1974, 88 Stat. 649; Pub. L. 97-35, title III, §306, Aug. 13, 1981, 95 Stat. 392; Pub. L. 101-625, title IX, §§911, 912(a), Nov. 28, 1990, 104 Stat. 4392; Pub. L. 109-148, div. A, title VIII, §8126(d), Dec. 30, 2005, 119 Stat. 2730; Pub. L. 109-163, div. A, title X, §1058(d), Jan. 6, 2006, 119 Stat. 3443.)

#### REFERENCES IN TEXT

This chapter, referred to in subsecs. (a), (b), (d), and (e)(2), was in the original “this title”, meaning title I of Pub. L. 93-383, Aug. 22, 1974, 88 Stat. 633, which is classified principally to this chapter. For complete classification of title I to the Code, see Tables.