

assisted housing that serve to benefit persons in need of mental health care.”

#### ANNUAL REPORT

Pub. L. 105-276, title V, §581, Oct. 21, 1998, 112 Stat. 2643, provided that:

“(a) IN GENERAL.—Not later than 1 year after the date of the enactment of this Act [Oct. 21, 1998], and annually thereafter, the Secretary shall submit a report to the Congress on—

“(1) the impact of the amendments made by this Act [Pub. L. 105-276, see Tables for classification] on—

“(A) the demographics of public housing residents and families receiving tenant-based assistance under the United States Housing Act of 1937 [42 U.S.C. 1437 et seq.]; and

“(B) the economic viability of public housing agencies; and

“(2) the effectiveness of the rent policies established by this Act and the amendments made by this Act on the employment status and earned income of public housing residents.

“(b) EFFECTIVE DATE.—This section shall take effect on the date of the enactment of this Act [Oct. 21, 1998].”

#### USE OF AMERICAN PRODUCTS

Pub. L. 105-276, title V, §584, Oct. 21, 1998, 112 Stat. 2645, provided that:

“(a) PURCHASE OF AMERICAN-MADE EQUIPMENT AND PRODUCTS.—It is the sense of the Congress that, to the greatest extent practicable, all equipment and products purchased with funds made available in this Act [Pub. L. 105-276, see Tables for classification] should be American made.

“(b) NOTICE REQUIREMENT.—In providing financial assistance to, or entering into any contract with, any entity using funds made available in this Act, the head of each Federal agency, to the greatest extent practicable, shall provide to such entity a notice describing the statement made in subsection (a) by the Congress.

“(c) EFFECTIVE DATE.—This section shall take effect on the date of the enactment of this Act [Oct. 21, 1998].”

#### GAO STUDY ON HOUSING ASSISTANCE PROGRAM COSTS

Pub. L. 105-276, title V, §585, Oct. 21, 1998, 112 Stat. 2645, provided that:

“(a) STUDY.—The Comptroller General of the United States shall conduct a study that provides an objective and independent accounting and analysis of the full cost to the Federal Government, public housing agencies, State and local governments, and other entities, per assisted household, of the Federal assisted housing programs, taking into account the qualitative differences among Federal assisted housing programs in accordance with applicable standards of the Department of Housing and Urban Development.

“(b) CONTENTS.—The study under this section shall—

“(1) analyze the full cost to the Federal Government, public housing agencies, State and local governments, and other parties, per assisted household, of the Federal assisted housing programs, in accordance with generally accepted accounting principles, and shall conduct the analysis on a nationwide and regional basis and in a manner such that accurate per unit cost comparisons may be made between Federal assisted housing programs, including grants, direct subsidies, tax concessions, Federal mortgage insurance liability, periodic renovation and rehabilitation, and modernization costs, demolition costs, and other ancillary costs such as security; and

“(2) measure and evaluate qualitative differences among Federal assisted housing programs in accordance with applicable standards of the Department of Housing and Urban Development.

“(c) PROHIBITION OF RECOMMENDATIONS.—In conducting the study under this section and reporting under subsection (e), the Comptroller General may not make any recommendations regarding Federal housing policy.

“(d) FEDERAL ASSISTED HOUSING PROGRAMS.—For purposes of this section, the term ‘Federal assisted housing programs’ means—

“(1) the public housing program under the United States Housing Act of 1937 [42 U.S.C. 1437 et seq.], except that the study under this section shall differentiate between and compare the development and construction of new public housing and the assistance of existing public housing structures;

“(2) the certificate program for rental assistance under section 8(b)(1) of the United States Housing Act of 1937 [42 U.S.C. 1437f(b)(1)];

“(3) the voucher program for rental assistance under section 8(o) of the United States Housing Act of 1937 [42 U.S.C. 1437f(o)];

“(4) the programs for project-based assistance under section 8 of the United States Housing Act of 1937 [42 U.S.C. 1437f];

“(5) the rental assistance payments program under section 521(a)(2)(A) of the Housing Act of 1949 [42 U.S.C. 1490a(a)(2)(A)];

“(6) the program for housing for the elderly under section 202 of the Housing Act of 1959 [12 U.S.C. 1701q];

“(7) the program for housing for persons with disabilities under section 811 of the Cranston-Gonzalez National Affordable Housing Act [42 U.S.C. 8013];

“(8) the program for financing housing by a loan or mortgage insured under section 221(d)(3) of the National Housing Act [12 U.S.C. 1715(d)(3)] that bears interest at a rate determined under the proviso of section 221(d)(5) of such Act [12 U.S.C. 1715(d)(5)];

“(9) the program under section 236 of the National Housing Act [12 U.S.C. 1715z-1];

“(10) the program for construction or substantial rehabilitation under section 8(b)(2) of the United States Housing Act of 1937 [42 U.S.C. 1437f(b)(2)], as in effect before October 1, 1983; and

“(11) any other program for housing assistance administered by the Secretary of Housing and Urban Development or the Secretary of Agriculture, under which occupancy in the housing assisted or housing assistance provided is based on income, as the Comptroller General may determine.

“(e) REPORT.—Not later than 12 months after the date of the enactment of this Act [Oct. 21, 1998], the Comptroller General shall submit to the Congress a final report which shall contain the results of the study under this section, including the analysis and estimates required under subsection (b).

“(f) EFFECTIVE DATE.—This section shall take effect on the date of the enactment of this Act [Oct. 21, 1998].”

#### LIMITATION ON WITHHOLDING OR CONDITIONING OF ASSISTANCE

Assistance provided for in Housing and Community Development Act of 1974 [42 U.S.C. 5301 et seq.], National Housing Act [12 U.S.C. 1701 et seq.], United States Housing Act of 1937 [42 U.S.C. 1437 et seq.], Housing Act of 1949 [see Short Title note set out under section 1441 of this title], Demonstration Cities and Metropolitan Development Act of 1966 [see Short Title note set out under section 3331 of this title], and Housing and Urban Development Acts of 1965, 1968, 1969, and 1970 not to be withheld or made subject to conditions by reason of tax-exempt status of obligations issued or to be issued for financing of assistance, except as otherwise provided by law, see section 817 of Pub. L. 93-383, set out as a note under section 5301 of this title.

#### § 1437a. Rental payments

##### (a) Families included; rent options; minimum amount; occupancy by police officers and over-income families

(1) Dwelling units assisted under this chapter shall be rented only to families who are low-income families at the time of their initial occupancy of such units. Reviews of family income shall be made at least annually; except that, in

the case of any family with a fixed income, as defined by the Secretary, after the initial review of the family's income, the public housing agency or owner shall not be required to conduct a review of the family's income for any year for which such family certifies, in accordance with such requirements as the Secretary shall establish, which shall include policies to adjust for inflation-based income changes, that 90 percent or more of the income of the family consists of fixed income, and that the sources of such income have not changed since the previous year, except that the public housing agency or owner shall conduct a review of each such family's income not less than once every 3 years. Except as provided in paragraph (2) and subject to the requirement under paragraph (3), a family shall pay as rent for a dwelling unit assisted under this chapter (other than a family assisted under section 1437f(o) or (y) of this title or paying rent under section 1437f(c)(3)(B)<sup>1</sup> of this title) the highest of the following amounts, rounded to the nearest dollar:

(A) 30 per centum of the family's monthly adjusted income;

(B) 10 per centum of the family's monthly income; or

(C) if the family is receiving payments for welfare assistance from a public agency and a part of such payments, adjusted in accordance with the family's actual housing costs, is specifically designated by such agency to meet the family's housing costs, the portion of such payments which is so designated.

(2) RENTAL PAYMENTS FOR PUBLIC HOUSING FAMILIES.—

(A) AUTHORITY FOR FAMILY TO SELECT.—

(i) IN GENERAL.—A family residing in a public housing dwelling shall pay as monthly rent for the unit the amount determined under clause (i) or (ii) of subparagraph (B), subject to the requirement under paragraph (3) (relating to minimum rents). Each public housing agency shall provide for each family residing in a public housing dwelling unit owned, assisted, or operated by the agency to elect annually whether the rent paid by such family shall be determined under clause (i) or (ii) of subparagraph (B). A public housing agency may not at any time fail to provide both such rent options for any public housing dwelling unit owned, assisted, or operated by the agency.

(ii) AUTHORITY TO RETAIN FLAT AND CEILING RENTS.—Notwithstanding clause (i) or any other provision of law, any public housing agency that is administering flat rents or ceiling rents pursuant to any authority referred to in section 519(d) of the Quality Housing and Work Responsibility Act of 1998 before the effective day of such Act may continue to charge rent in accordance with such rent provisions after such effective date, except that the agency shall provide for families residing in public housing dwelling units owned or operated by the agency to elect annually whether to pay rent under such provisions or in accordance with one of

the rent options referred to in subparagraph (A).

(B) ALLOWABLE RENT STRUCTURES.—

(i) FLAT RENTS.—Each public housing agency shall establish, for each dwelling unit in public housing owned or operated by the agency, a flat rental amount for the dwelling unit, which—

(I) shall not be lower than 80 percent of—

(aa) the applicable fair market rental established under section 1437f(c) of this title; or

(bb) at the discretion of the Secretary, such other applicable fair market rental established by the Secretary that the Secretary determines more accurately reflects local market conditions and is based on an applicable market area that is geographically smaller than the applicable market area used for purposes of the applicable fair market rental under section 1437f(c) of this title;

except that a public housing agency may apply to the Secretary for exception allowing for a flat rental amount for a property that is lower than the amount otherwise determined pursuant to item (aa) or (bb) and the Secretary may grant such exception if the Secretary determines that the fair market rental for the applicable market area pursuant to item (aa) or (bb) does not reflect the market value of the property and the proposed lower flat rental amount is based on a market analysis of the applicable market and complies with subclause (II) and

(II) shall be designed in accordance with subparagraph (D) so that the rent structures do not create a disincentive for continued residency in public housing by families who are attempting to become economically self-sufficient through employment or who have attained a level of self-sufficiency through their own efforts.

If a new flat rental amount for a dwelling unit will increase a family's existing rental payment by more than 35 percent, the new flat rental amount shall be phased in as necessary to ensure that the family's existing rental payment does not increase by more than 35 percent annually. The preceding sentence shall not be construed to require establishment of rental amounts equal to 80 percent of the fair market rental in years when the fair market rental falls from the prior year.

(ii) INCOME-BASED RENTS.—

(I) IN GENERAL.—The monthly rental amount determined under this clause for a family shall be an amount, determined by the public housing agency, that does not exceed the greatest of the amounts (rounded to the nearest dollar) determined under subparagraphs (A), (B), and (C) of paragraph (1). This clause may not be construed to require a public housing agency to charge a monthly rent in the maximum amount permitted under this clause.

(II) DISCRETION.—Subject to the limitation on monthly rental amount under sub-

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

clause (I), a public housing agency may, in its discretion, implement a rent structure under this clause requiring that a portion of the rent be deposited to an escrow or savings account, imposing ceiling rents, or adopting income exclusions (such as those set forth in subsection (b)(5)(B)), or may establish another reasonable rent structure or amount.

(C) SWITCHING RENT DETERMINATION METHODS BECAUSE OF HARDSHIP CIRCUMSTANCES.—Notwithstanding subparagraph (A), in the case of a family that has elected to pay rent in the amount determined under subparagraph (B)(i), a public housing agency shall immediately provide for the family to pay rent in the amount determined under subparagraph (B)(ii) during the period for which such election was made upon a determination that the family is unable to pay the amount determined under subparagraph (B)(i) because of financial hardship, including—

(i) situations in which the income of the family has decreased because of changed circumstances, loss of<sup>2</sup> reduction of employment, death in the family, and reduction in or loss of income or other assistance;

(ii) an increase, because of changed circumstances, in the family's expenses for medical costs, child care, transportation, education, or similar items; and

(iii) such other situations as may be determined by the agency.

(D) ENCOURAGEMENT OF SELF-SUFFICIENCY.—The rental policy developed by each public housing agency shall encourage and reward employment and economic self-sufficiency.

(E) INCOME REVIEWS.—Notwithstanding the second sentence of paragraph (1), in the case of families that are paying rent in the amount determined under subparagraph (B)(i), the agency shall review the income of such family not less than once every 3 years.

(3) MINIMUM RENTAL AMOUNT.—

(A) REQUIREMENT.—Notwithstanding paragraph (1) of this subsection, the method for rent determination elected pursuant to paragraph (2)(A) of this subsection by a family residing in public housing, section 1437f(o)(2) of this title, or section 206(d) of the Housing and Urban-Rural Recovery Act of 1983 (including paragraph (5) of such section), the following entities shall require the following families to pay a minimum monthly rental amount (which amount shall include any amount allowed for utilities) of not more than \$50 per month, as follows:

(i) Each public housing agency shall require the payment of such minimum monthly rental amount, which amount shall be determined by the agency, by—

(I) each family residing in a dwelling unit in public housing by the agency;

(II) each family who is assisted under the certificate or moderate rehabilitation program under section 1437f of this title; and

(III) each family who is assisted under the voucher program under section 1437f of

this title, and the agency shall reduce the monthly assistance payment on behalf of such family as may be necessary to ensure payment of such minimum monthly rental amount.

(ii) The Secretary shall require each family who is assisted under any other program for rental assistance under section 1437f of this title to pay such minimum monthly rental amount, which amount shall be determined by the Secretary.

(B) EXCEPTION FOR HARDSHIP CIRCUMSTANCES.—

(i) IN GENERAL.—Notwithstanding subparagraph (A), a public housing agency (or the Secretary, in the case of a family described in subparagraph (A)(ii)) shall immediately grant an exemption from application of the minimum monthly rental under such subparagraph to any family unable to pay such amount because of financial hardship, which shall include situations in which (I) the family has lost eligibility for or is awaiting an eligibility determination for a Federal, State, or local assistance program, including a family that includes a member who is an alien lawfully admitted for permanent residence under the Immigration and Nationality Act [8 U.S.C. 1101 et seq.] who would be entitled to public benefits but for title IV of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 [8 U.S.C. 1601 et seq.]; (II) the family would be evicted as a result of the imposition of the minimum rent requirement under subparagraph (A); (III) the income of the family has decreased because of changed circumstance, including loss of employment; (IV) a death in the family has occurred; and (V) other situations as may be determined by the agency (or the Secretary, in the case of a family described in subparagraph (A)(ii)).

(ii) WAITING PERIOD.—If a resident requests a hardship exemption under this subparagraph and the public housing agency (or the Secretary, in the case of a family described in subparagraph (A)(ii)) reasonably determines the hardship to be of a temporary nature, an exemption shall not be granted during the 90-day period beginning upon the making of a request for the exemption. A resident may not be evicted during such 90-day period for nonpayment of rent. In such a case, if the resident thereafter demonstrates that the financial hardship is of a long-term basis, the agency (or the Secretary) shall retroactively exempt the resident from the applicability of the minimum rent requirement for such 90-day period.

(4) OCCUPANCY BY POLICE OFFICERS.—

(A) IN GENERAL.—Subject to subparagraph (B) and notwithstanding any other provision of law, a public housing agency may, in accordance with the public housing agency plan for the agency, allow a police officer who is not otherwise eligible for residence in public housing to reside in a public housing dwelling unit. The number and location of units occupied by police officers under this paragraph and the terms and conditions of their tenan-

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

cies shall be determined by the public housing agency.

(B) INCREASED SECURITY.—A public housing agency may take the actions authorized in subparagraph (A) only for the purpose of increasing security for the residents of a public housing project.

(C) DEFINITION.—In this paragraph, the term “police officer” means any person determined by a public housing agency to be, during the period of residence of that person in public housing, employed on a full-time basis as a duly licensed professional police officer by a Federal, State, or local government or by any agency thereof (including a public housing agency having an accredited police force).

(5) OCCUPANCY BY OVER-INCOME FAMILIES IN CERTAIN PUBLIC HOUSING.—

(A) AUTHORITY.—Notwithstanding any other provision of law, a public housing agency that owns or operates less than 250 units may, on a month-to-month basis, lease a dwelling unit in a public housing project to an over-income family in accordance with this paragraph, but only if there are no eligible families applying for housing assistance from the public housing agency for that month and the agency provides not less than 30-day public notice of the availability of such assistance.

(B) TERMS AND CONDITIONS.—The number and location of dwelling units of a public housing agency occupied under this paragraph by over-income families, and the terms and conditions of those tenancies, shall be determined by the public housing agency, except that—

(i) notwithstanding paragraph (2), rent for a unit shall be in an amount that is not less than the costs to operate the unit;

(ii) if an eligible family applies for residence after an over-income family moves in to the last available unit, the over-income family shall vacate the unit in accordance with notice of termination of tenancy provided by the agency, which shall be provided not less than 30 days before such termination; and

(iii) if a unit is vacant and there is no one on the waiting list, the public housing agency may allow an over-income family to gain immediate occupancy in the unit, while simultaneously providing reasonable public notice and outreach with regard to availability of the unit.

(C) DEFINITION.—For purposes of this paragraph, the term “over-income family” means an individual or family that is not a low-income family at the time of initial occupancy.

**(b) Definition of terms under this chapter**

When used in this chapter:

(1) The term “low-income housing” means decent, safe, and sanitary dwellings assisted under this chapter. The term “public housing” means low-income housing, and all necessary appurtenances thereto, assisted under this chapter other than under section 1437f of this title. The term “public housing” includes dwelling units in a mixed finance project that are assisted by a public housing agency with capital or operating assistance. When used in reference to public

housing, the term “low-income housing project” or “project” means (A) housing developed, acquired, or assisted by a public housing agency under this chapter, and (B) the improvement of any such housing.

(2)(A) The term “low-income families” means those families whose incomes do not exceed 80 per centum of the median income for the area, as determined by the Secretary with adjustments for smaller and larger families, except that the Secretary may establish income ceilings higher or lower than 80 per centum of the median for the area on the basis of the Secretary’s findings that such variations are necessary because of prevailing levels of construction costs or unusually high or low family incomes.

(B) The term “very low-income families” means low-income families whose incomes do not exceed 50 per centum of the median family income for the area, as determined by the Secretary with adjustments for smaller and larger families, except that the Secretary may establish income ceilings higher or lower than 50 per centum of the median for the area on the basis of the Secretary’s findings that such variations are necessary because of unusually high or low family incomes.

(C) The term extremely low-income families<sup>3</sup> means very low-income families whose incomes do not exceed the higher of—

(i) the poverty guidelines updated periodically by the Department of Health and Human Services under the authority of section 9902(2) of this title applicable to a family of the size involved (except that this clause shall not apply in the case of public housing agencies or projects located in Puerto Rico or any other territory or possession of the United States); or

(ii) 30 percent of the median family income for the area, as determined by the Secretary, with adjustments for smaller and larger families (except that the Secretary may establish income ceilings higher or lower than 30 percent of the median for the area on the basis of the Secretary’s findings that such variations are necessary because of unusually high or low family incomes).

(D) Such ceilings shall be established in consultation with the Secretary of Agriculture for any rural area, as defined in section 1490 of this title, taking into account the subsidy characteristics and types of programs to which such ceilings apply. In determining median incomes (of persons, families, or households) for an area or establishing any ceilings or limits based on income under this chapter, the Secretary shall determine or establish area median incomes and income ceilings and limits for Westchester and Rockland Counties, in the State of New York, as if each such county were an area not contained within the metropolitan statistical area in which it is located. In determining such area median incomes or establishing such income ceilings or limits for the portion of such metropolitan statistical area that does not include Westchester or Rockland Counties, the Sec-

<sup>3</sup>So in original. Probably should be “‘extremely low-income families’”.

retary shall determine or establish area median incomes and income ceilings and limits as if such portion included Westchester and Rockland Counties. In determining areas that are designated as difficult development areas for purposes of the low-income housing tax credit, the Secretary shall include Westchester and Rockland Counties, New York, in the New York City metropolitan area.

(3) PERSONS AND FAMILIES.—

(A) SINGLE PERSONS.—The term “families” includes families consisting of a single person in the case of (i) an elderly person, (ii) a disabled person, (iii) a displaced person, (iv) the remaining member of a tenant family, and (v) any other single persons. In no event may any single person under clause (v) of the first sentence be provided a housing unit assisted under this chapter of 2 or more bedrooms.

(B) FAMILIES.—The term “families” includes families with children and, in the cases of elderly families, near-elderly families, and disabled families, means families whose heads (or their spouses), or whose sole members, are elderly, near-elderly, or persons with disabilities, respectively. The term includes, in the cases of elderly families, near-elderly families, and disabled families, 2 or more elderly persons, near-elderly persons, or persons with disabilities living together, and 1 or more such persons living with 1 or more persons determined under the public housing agency plan to be essential to their care or well-being.

(C) ABSENCE OF CHILDREN.—The temporary absence of a child from the home due to placement in foster care shall not be considered in determining family composition and family size.

(D) ELDERLY PERSON.—The term “elderly person” means a person who is at least 62 years of age.

(E) PERSON WITH DISABILITIES.—The term “person with disabilities” means a person who—

(i) has a disability as defined in section 423 of this title,

(ii) is determined, pursuant to regulations issued by the Secretary, to have a physical, mental, or emotional impairment which (I) is expected to be of long-continued and indefinite duration, (II) substantially impedes his or her ability to live independently, and (III) is of such a nature that such ability could be improved by more suitable housing conditions, or

(iii) has a developmental disability as defined in section 15002 of this title.

Such term shall not exclude persons who have the disease of acquired immunodeficiency syndrome or any conditions arising from the etiologic agent for acquired immunodeficiency syndrome. Notwithstanding any other provision of law, no individual shall be considered a person with disabilities, for purposes of eligibility for low-income housing under this subchapter, solely on the basis of any drug or alcohol dependence. The Secretary shall consult with other appropriate Federal agencies to implement the preceding sentence.

(F) DISPLACED PERSON.—The term “displaced person” means a person displaced by govern-

mental action, or a person whose dwelling has been extensively damaged or destroyed as a result of a disaster declared or otherwise formally recognized pursuant to Federal disaster relief laws.

(G) NEAR-ELDERLY PERSON.—The term “near-elderly person” means a person who is at least 50 years of age but below the age of 62.

(4) The term “income” means income from all sources of each member of the household, as determined in accordance with criteria prescribed by the Secretary, in consultation with the Secretary of Agriculture, except that any amounts not actually received by the family and any amounts which would be eligible for exclusion under section 1382b(a)(7) of this title or any deferred Department of Veterans Affairs disability benefits that are received in a lump sum amount or in prospective monthly amounts may not be considered as income under this paragraph.

(5) ADJUSTED INCOME.—The term “adjusted income” means, with respect to a family, the amount (as determined by the public housing agency) of the income of the members of the family residing in a dwelling unit or the persons on a lease, after any income exclusions as follows:

(A) MANDATORY EXCLUSIONS.—In determining adjusted income, a public housing agency shall exclude from the annual income of a family the following amounts:

(i) ELDERLY AND DISABLED FAMILIES.—\$400 for any elderly or disabled family.

(ii) MEDICAL EXPENSES.—The amount by which 3 percent of the annual family income is exceeded by the sum of—

(I) unreimbursed medical expenses of any elderly family or disabled family;

(II) unreimbursed medical expenses of any family that is not covered under subclause (I), except that this subclause shall apply only to the extent approved in appropriation Acts; and

(III) unreimbursed reasonable attendant care and auxiliary apparatus expenses for each handicapped member of the family, to the extent necessary to enable any member of such family (including such handicapped member) to be employed.

(iii) CHILD CARE EXPENSES.—Any reasonable child care expenses necessary to enable a member of the family to be employed or to further his or her education.

(iv) MINORS, STUDENTS, AND PERSONS WITH DISABILITIES.—\$480 for each member of the family residing in the household (other than the head of the household or his or her spouse) who is less than 18 years of age or is attending school or vocational training on a full-time basis, or who is 18 years of age or older and is a person with disabilities.

(v) CHILD SUPPORT PAYMENTS.—Any payment made by a member of the family for the support and maintenance of any child who does not reside in the household, except that the amount excluded under this clause may not exceed \$480 for each child for whom such payment is made; except that this clause shall apply only to the extent approved in appropriations Acts.

(vi) **SPOUSAL SUPPORT EXPENSES.**—Any payment made by a member of the family for the support and maintenance of any spouse or former spouse who does not reside in the household, except that the amount excluded under this clause shall not exceed the lesser of (I) the amount that such family member has a legal obligation to pay, or (II) \$550 for each individual for whom such payment is made; except that this clause shall apply only to the extent approved in appropriations Acts.

(vii) **EARNED INCOME OF MINORS.**—The amount of any earned income of a member of the family who is not—

(I) 18 years of age or older; and

(II) the head of the household (or the spouse of the head of the household).

(B) **PERMISSIVE EXCLUSIONS FOR PUBLIC HOUSING.**—In determining adjusted income, a public housing agency may, in the discretion of the agency, establish exclusions from the annual income of a family residing in a public housing dwelling unit. Such exclusions may include the following amounts:

(i) **EXCESSIVE TRAVEL EXPENSES.**—Excessive travel expenses in an amount not to exceed \$25 per family per week, for employment- or education-related travel.

(ii) **EARNED INCOME.**—An amount of any earned income of the family, established at the discretion of the public housing agency, which may be based on—

(I) all earned income of the family;<sup>4</sup>

(II) the amount earned by particular members of the family;

(III) the amount earned by families having certain characteristics; or

(IV) the amount earned by families or members during certain periods or from certain sources.

(iii) **OTHERS.**—Such other amounts for other purposes, as the public housing agency may establish.

(6) **PUBLIC HOUSING AGENCY.**—

(A) **IN GENERAL.**—Except as provided in subparagraph (B), the term “public housing agency” means any State, county, municipality, or other governmental entity or public body (or agency or instrumentality thereof) which is authorized to engage in or assist in the development or operation of public housing, or a consortium of such entities or bodies as approved by the Secretary.

(B) **SECTION 1437f PROGRAM.**—For purposes of the program for tenant-based assistance under section 1437f of this title, such term includes—

(i) a consortia of public housing agencies that the Secretary determines has the capacity and capability to administer a program for assistance under such section in an efficient manner;

(ii) any other public or private nonprofit entity that, upon the effective date under section 503(a) of the Quality Housing and Work Responsibility Act of 1998, was administering any program for tenant-based assistance under section 1437f of this title (as

in effect before the effective date of such Act), pursuant to a contract with the Secretary or a public housing agency; and

(iii) with respect to any area in which no public housing agency has been organized or where the Secretary determines that a public housing agency is unwilling or unable to implement a program for tenant-based assistance<sup>5</sup> section 1437f of this title, or is not performing effectively—

(I) the Secretary or another public or private nonprofit entity that by contract agrees to receive assistance amounts under section 1437f of this title and enter into housing assistance payments contracts with owners and perform the other functions of public housing agency under section 1437f of this title; or

(II) notwithstanding any provision of State or local law, a public housing agency for another area that contracts with the Secretary to administer a program for housing assistance under section 1437f of this title, without regard to any otherwise applicable limitations on its area of operation.

(7) The term “State” includes the several States, the District of Columbia, the Commonwealth of Puerto Rico, the territories and possessions of the United States, and the Trust Territory of the Pacific Islands.

(8) The term “Secretary” means the Secretary of Housing and Urban Development.

(9) **DRUG-RELATED CRIMINAL ACTIVITY.**—The term “drug-related criminal activity” means the illegal manufacture, sale, distribution, use, or possession with intent to manufacture, sell, distribute, or use, of a controlled substance (as such term is defined in section 802 of title 21).

(10) **MIXED-FINANCE PROJECT.**—The term “mixed-finance project” means a public housing project that meets the requirements of section 1437z-7 of this title.

(11) **PUBLIC HOUSING AGENCY PLAN.**—The term “public housing agency plan” means the plan of a public housing agency prepared in accordance with section 1437c-1 of this title.

(12) **CAPITAL FUND.**—The term “Capital Fund” means the fund established under section 1437g(d) of this title.

(13) **OPERATING FUND.**—The term “Operating Fund” means the fund established under section 1437g(e) of this title.

**(c) Definition of terms used in reference to public housing**

When used in reference to public housing:

(1) The term “development” means any or all undertakings necessary for planning, land acquisition, demolition, construction, or equipment, in connection with a low-income housing project. The term “development cost” comprises the costs incurred by a public housing agency in such undertakings and their necessary financing (including the payment of carrying charges), and in otherwise carrying out the development of such project, but does not include the costs associated with the demolition of or remediation of environmental hazards associated with

<sup>4</sup> So in original. The comma probably should be a semicolon.

<sup>5</sup> So in original. Probably should be “assistance under”.

public housing units that will not be replaced on the project site, or other extraordinary site costs as determined by the Secretary. Construction activity in connection with a low-income housing project may be confined to the reconstruction, remodeling, or repair of existing buildings.

(2) The term “operation” means any or all undertakings appropriate for management, operation, services, maintenance, security (including the cost of security personnel), or financing in connection with a low-income housing project. The term also means the financing of tenant programs and services for families residing in low-income housing projects, particularly where there is maximum feasible participation of the tenants in the development and operation of such tenant programs and services. As used in this paragraph, the term “tenant programs and services” includes the development and maintenance of tenant organizations which participate in the management of low-income housing projects; the training of tenants to manage and operate such projects and the utilization of their services in project management and operation; counseling on household management, house-keeping, budgeting, money management, child care, and similar matters; advice as to resources for job training and placement, education, welfare, health, and other community services; services which are directly related to meeting tenant needs and providing a wholesome living environment; and referral to appropriate agencies in the community when necessary for the provision of such services. To the maximum extent available and appropriate, existing public and private agencies in the community shall be used for the provision of such services.

(3) The term “acquisition cost” means the amount prudently required to be expended by a public housing agency in acquiring property for a low-income housing project.

(4) The term “congregate housing” means low-rent housing with which there is connected a central dining facility where wholesome and economical meals can be served to occupants. Expenditures incurred by a public housing agency in the operation of a central dining facility in connection with congregate housing (other than the cost of providing food and service) shall be considered a cost of operation of the project.

(5) The terms “group home” and “independent living facility” have the meanings given such terms in section 8013(k) of this title.

**(d) Disallowance of earned income from rent determinations**

**(1) In general**

Notwithstanding any other provision of law, the rent payable under subsection (a) by a family described in paragraph (3) of this subsection may not be increased as a result of the increased income due to such employment during the 12-month period beginning on the date on which the employment is commenced.

**(2) Phase-in of rent increases**

Upon the expiration of the 12-month period referred to in paragraph (1), the rent payable by a family described in paragraph (3) may be increased due to the continued employment of

the family member described in paragraph (3)(B), except that during the 12-month period beginning upon such expiration the amount of the increase may not be greater than 50 percent of the amount of the total rent increase that would be applicable but for this paragraph.

**(3) Eligible families**

A family described in this paragraph is a family—

(A) that—

(i) occupies a dwelling unit in a public housing project; or

(ii) receives assistance under section 1437f of this title; and

(B)(i) whose income increases as a result of employment of a member of the family who was previously unemployed for 1 or more years;

(ii) whose earned income increases during the participation of a family member in any family self-sufficiency or other job training program; or

(iii) who is or was, within 6 months, assisted under any State program for temporary assistance for needy families funded under part A of title IV of the Social Security Act [42 U.S.C. 601 et seq.] and whose earned income increases.

**(4) Applicability**

This subsection and subsection (e) shall apply beginning upon October 1, 1999, except that this subsection and subsection (e) shall apply with respect to any family described in paragraph 3(A)(ii)<sup>6</sup> only to the extent provided in advance in appropriations Acts.

**(e) Individual savings accounts**

**(1) In general**

In lieu of a disallowance of earned income under subsection (d), upon the request of a family that qualifies under subsection (d), a public housing agency may establish an individual savings account in accordance with this subsection for that family.

**(2) Deposits to account**

The public housing agency shall deposit in any savings account established under this subsection an amount equal to the total amount that otherwise would be applied to the family’s rent payment under subsection (a) as a result of employment.

**(3) Withdrawal from account**

Amounts deposited in a savings account established under this subsection may only be withdrawn by the family for the purpose of—

(A) purchasing a home;

(B) paying education costs of family members;

(C) moving out of public or assisted housing; or

(D) paying any other expense authorized by the public housing agency for the purpose of promoting the economic self-sufficiency of residents of public and assisted housing.

<sup>6</sup> So in original. Probably should be paragraph “(3)(A)(ii)”.

**(f) Availability of income matching information****(1) Disclosure to PHA**

A public housing agency, or the owner responsible for determining the participant's eligibility or level of benefits, shall require any family described in paragraph (2) who receives information regarding income, earnings, wages, or unemployment compensation from the Department of Housing and Urban Development pursuant to income verification procedures of the Department to disclose such information, upon receipt of the information, to the public housing agency that owns or operates the public housing dwelling unit in which such family resides or that provides the housing assistance under this chapter on behalf of such family, as applicable, or to the owner responsible for determining the participant's eligibility or level of benefits.

**(2) Families covered**

A family described in this paragraph is a family that resides in a dwelling unit—

- (A) that is a public housing dwelling unit;
- (B) for which tenant-based assistance is provided under section 1437f of this title,<sup>7</sup> or
- (C) for which project-based assistance is provided under section 1437f of this title, section 1437bb<sup>1</sup> of this title, or section 811.<sup>1</sup>

(Sept. 1, 1937, ch. 896, title I, § 3, as added Pub. L. 93-383, title II, § 201(a), Aug. 22, 1974, 88 Stat. 654; amended Pub. L. 94-375, § 2(f), Aug. 3, 1976, 90 Stat. 1068; Pub. L. 95-557, title II, § 206(c), Oct. 31, 1978, 92 Stat. 2091; Pub. L. 96-153, title II, § 202(a), Dec. 21, 1979, 93 Stat. 1106; Pub. L. 97-35, title III, § 322(a), Aug. 13, 1981, 95 Stat. 400; Pub. L. 98-181, title I [title II, §§ 202, 206(a)-(c)], Nov. 30, 1983, 97 Stat. 1178, 1179; Pub. L. 98-479, title I, § 102(b)(1)-(3), Oct. 17, 1984, 98 Stat. 2221; Pub. L. 100-242, title I, §§ 102(a), 111, 170(c), Feb. 5, 1988, 101 Stat. 1821, 1823, 1867; renumbered title I and amended Pub. L. 100-358, §§ 4, 5, June 29, 1988, 102 Stat. 680, 681; Pub. L. 101-235, title III, § 302, Dec. 15, 1989, 103 Stat. 2043; Pub. L. 101-625, title V, §§ 515(b), 572, 573(a)-(d), 574, Nov. 28, 1990, 104 Stat. 4199, 4236-4238; Pub. L. 102-550, title I, §§ 102-103(a)(2), 185(c)(4), title VI, §§ 621, 622(c), 625(a)(1), Oct. 28, 1992, 106 Stat. 3683, 3748, 3812, 3817, 3820; Pub. L. 103-233, title III, § 301, Apr. 11, 1994, 108 Stat. 369; Pub. L. 104-99, title IV, § 402(b)(1), (c), Jan. 26, 1996, 110 Stat. 40, 41; Pub. L. 104-330, title V, § 501(b)(1), Oct. 26, 1996, 110 Stat. 4041; Pub. L. 105-276, title V, §§ 506, 507(a), (c), 508(a), (b)(1), (c)(1), (d)(1), 520(a), 523, 524(a), 546, Oct. 21, 1998, 112 Stat. 2523-2529, 2562, 2565-2567, 2604; Pub. L. 106-74, title II, § 214(a), Oct. 20, 1999, 113 Stat. 1074; Pub. L. 106-402, title IV, § 401(b)(7), Oct. 30, 2000, 114 Stat. 1738; Pub. L. 110-289, div. B, title VI, § 2608, July 30, 2008, 122 Stat. 2862; Pub. L. 113-76, div. L, title II, §§ 210, 212, 238(a), Jan. 17, 2014, 128 Stat. 625, 626, 635; Pub. L. 113-235, div. K, title II, § 238, Dec. 16, 2014, 128 Stat. 2758; Pub. L. 114-94, div. G, title LXXVIII, § 78001(a), Dec. 4, 2015, 129 Stat. 1791; Pub. L. 114-201, title I, § 102(a), (c), July 29, 2016, 130 Stat. 786, 788.)

## AMENDMENT OF SECTION

*Pub. L. 114-201, title I, § 102(a), (c), (h), July 29, 2016, 130 Stat. 786, 788, 791, provided that,*

*effective upon the issuance of notice or regulations implementing section 102 of Pub. L. 114-201, except that such section 102 may only take effect upon the commencement of a calendar year, this section is amended as follows:*

*(1) in subsection (a)—*  
*(A) in the second sentence of paragraph (1), by striking “at least annually” and inserting “pursuant to paragraph (6)”;* and

*(B) by adding at the end the following new paragraphs:*

*“(6) Reviews of family income.—*

*“(A) Frequency.—Reviews of family income for purposes of this section shall be made—*

*“(i) in the case of all families, upon the initial provision of housing assistance for the family;*

*“(ii) annually thereafter, except as provided in paragraph (1) with respect to fixed-income families;*

*“(iii) upon the request of the family, at any time the income or deductions (under subsection (b)(5)) of the family change by an amount that is estimated to result in a decrease of 10 percent (or such lower amount as the Secretary may, by notice, establish, or permit the public housing agency or owner to establish) or more in annual adjusted income; and*

*“(iv) at any time the income or deductions (under subsection (b)(5)) of the family change by an amount that is estimated to result in an increase of 10 percent or more in annual adjusted income, or such other amount as the Secretary may by notice establish, except that any increase in the earned income of a family shall not be considered for purposes of this clause (except that earned income may be considered if the increase corresponds to previous decreases under clause (iii)), except that a public housing agency or owner may elect not to conduct such review in the last three months of a certification period.*

*“(B) In general.—Reviews of family income for purposes of this section shall be subject to the provisions of section 3544 of this title.*

*“(7) Calculation of income.—*

*“(A) Use of current year income.—In determining family income for initial occupancy or provision of housing assistance pursuant to clause (i) of paragraph (6)(A) or pursuant to reviews pursuant to clause (iii) or (iv) of such paragraph, a public housing agency or owner shall use the income of the family as estimated by the agency or owner for the upcoming year.*

*“(B) Use of prior year income.—In determining family income for annual reviews pursuant to paragraph (6)(A)(ii), a public housing agency or owner shall, except as otherwise provided in this paragraph and paragraph (1), use the income of the family as determined by the agency or owner for the preceding year, taking into consideration any redetermination of income during such prior year pursuant to clause (iii) or (iv) of paragraph (6)(A).*

*“(C) Other income.—In determining the income for any family based on the prior year's income, with respect to prior year calculations of income not subject to subparagraph (B), a public housing agency or owner may make other adjustments as it considers appropriate to reflect current income.*

*“(D) Safe harbor.—A public housing agency or owner may, to the extent such information is*

<sup>7</sup> So in original. The comma probably should be a semicolon.



available to the public housing agency or owner, determine the family's income prior to the application of any deductions based on timely income determinations made for purposes of other means-tested Federal public assistance programs (including the program for block grants to States for temporary assistance for needy families under part A of title IV of the Social Security Act, a program for Medicaid assistance under a State plan approved under title XIX of the Social Security Act, and the supplemental nutrition assistance program (as such term is defined in section 2012 of title 7)). The Secretary shall, in consultation with other appropriate Federal agencies, develop electronic procedures to enable public housing agencies and owners to have access to such benefit determinations made by other means-tested Federal programs that the Secretary determines to have comparable reliability. Exchanges of such information shall be subject to the same limitations and tenant protections provided under section 3544 of this title with respect to information obtained under the requirements of section 303(i) of the Social Security Act (42 U.S.C. 503(i)).

“(E) Electronic income verification.—The Secretary shall develop a mechanism for disclosing information to a public housing agency for the purpose of verifying the employment and income of individuals and families in accordance with section 453(j)(7)(E) of the Social Security Act (42 U.S.C. 653(j)(7)(E)), and shall ensure public housing agencies have access to information contained in the ‘Do Not Pay’ system established by section 5 of the Improper Payments Elimination and Recovery Improvement Act of 2012 (Public Law 112-248; 126 Stat. 2392).

“(F) PHA and owner compliance.—A public housing agency or owner may not be considered to fail to comply with this paragraph or paragraph (6) due solely to any de minimis errors made by the agency or owner in calculating family incomes.”;

(2) in subsection (b), by striking paragraphs (4) and (5) and inserting the following new paragraphs:

“(4) Income.—The term ‘income’ means, with respect to a family, income received from all sources by each member of the household who is 18 years of age or older or is the head of household or spouse of the head of the household, plus unearned income by or on behalf of each dependent who is less than 18 years of age, as determined in accordance with criteria prescribed by the Secretary, in consultation with the Secretary of Agriculture, subject to the following requirements:

“(A) Included amounts.—Such term includes recurring gifts and receipts, actual income from assets, and profit or loss from a business.

“(B) Excluded amounts.—Such term does not include—

“(i) any imputed return on assets, except to the extent that net family assets exceed \$50,000, except that such amount (as it may have been previously adjusted) shall be adjusted for inflation annually by the Secretary in accordance with an inflationary index selected by the Secretary;

“(ii) any amounts that would be eligible for exclusion under section 1613(a)(7) of the Social Security Act (42 U.S.C. 1382b(a)(7));

“(iii) deferred disability benefits from the Department of Veterans Affairs that are received

in a lump sum amount or in prospective monthly amounts;

“(iv) any expenses related to aid and attendance under section 1521 of title 38 to veterans who are in need of regular aid and attendance; and

“(v) exclusions from income as established by the Secretary by regulation or notice, or any amount required by Federal law to be excluded from consideration as income.

“(C) Earned income of students.—Such term does not include—

“(i) earned income, up to an amount as the Secretary may by regulation establish, of any dependent earned during any period that such dependent is attending school or vocational training on a full-time basis; or

“(ii) any grant-in-aid or scholarship amounts related to such attendance used—

“(I) for the cost of tuition or books; or

“(II) in such amounts as the Secretary may allow, for the cost of room and board.

“(D) Educational savings accounts.—Income shall be determined without regard to any amounts in or from, or any benefits from, any Coverdell education savings account under section 530 of title 26 or any qualified tuition program under section 529 of such title.

“(E) Recordkeeping.—The Secretary may not require a public housing agency or owner to maintain records of any amounts excluded from income pursuant to this subparagraph.

“(5) Adjusted income.—The term ‘adjusted income’ means, with respect to a family, the amount (as determined by the public housing agency or owner) of the income of the members of the family residing in a dwelling unit or the persons on a lease, after any deductions from income as follows:

“(A) Elderly and disabled families.—\$525 in the case of any family that is an elderly family or a disabled family.

“(B) Minors, students, and persons with disabilities.—\$480 for each member of the family residing in the household (other than the head of the household or his or her spouse) who is less than 18 years of age or is attending school or vocational training on a full-time basis, or who is 18 years of age or older and is a person with disabilities.

“(C) Child care.—Any reasonable child care expenses necessary to enable a member of the family to be employed or to further his or her education.

“(D) Health and medical expenses.—The amount, if any, by which 10 percent of annual family income is exceeded by the sum of—

“(i) in the case of any elderly or disabled family, any unreimbursed health and medical care expenses; and

“(ii) any unreimbursed reasonable attendant care and auxiliary apparatus expenses for each handicapped member of the family, if determined necessary by the public housing agency or owner to enable any member of such family to be employed.

The Secretary shall, by regulation, provide hardship exemptions to the requirements of this subparagraph and subparagraph (C) for impacted families who demonstrate an inability to pay calculated rents because of financial hardship. Such

regulations shall include a requirement to notify tenants regarding any changes to the determination of adjusted income pursuant to such subparagraphs based on the determination of the family's claim of financial hardship exemptions required by the preceding sentence. Such regulations shall be promulgated in consultation with tenant organizations, industry participants, and the Secretary of Health and Human Services, with an adequate comment period provided for interested parties.

“(E) *Permissive deductions.*—Such additional deductions as a public housing agency may, at its discretion, establish, except that the Secretary shall establish procedures to ensure that such deductions do not materially increase Federal expenditures.

The Secretary shall annually calculate the amounts of the deductions under subparagraphs (A) and (B), as such amounts may have been previously calculated, by applying an inflationary factor as the Secretary shall, by regulation, establish, except that the actual deduction determined for each year shall be established by rounding such amount to the next lowest multiple of \$25.”;

(3) by striking subsections (d) and (e); and

(4) by redesignating subsection (f) as subsection (d).

See 2016 Amendment notes below.

#### REFERENCES IN TEXT

Section 1437f(c)(3)(B) of this title, referred to in subsec. (a)(1), was repealed by Pub. L. 105-276, title V, § 550(a)(3)(A)(ii), Oct. 21, 1998, 112 Stat. 2609.

Section 519(d) of the Quality Housing and Work Responsibility Act of 1998, referred to in subsec. (a)(2)(A)(ii), is section 519(d) of Pub. L. 105-276 which is set out as a note below.

The effective day of such Act and the effective date of such Act, referred to in subsecs. (a)(2)(A)(ii) and (b)(6)(B)(ii), probably means the general effective date for the Quality Housing and Work Responsibility Act of 1998, Pub. L. 105-276, title V, included in section 503 of the Act which is set out as an Effective Date of 1998 Amendment note under section 1437 of this title.

Section 206(d) of the Housing and Urban-Rural Recovery Act of 1983, referred to in subsec. (a)(3)(A), is section 206(d) of Pub. L. 98-181, which is set out as a note below.

The Immigration and Nationality Act, referred to in subsec. (a)(3)(B)(i)(I), is act June 27, 1952, ch. 477, 66 Stat. 163, as amended, which is classified principally to chapter 12 (§ 1101 et seq.) of Title 8, Aliens and Nationality. For complete classification of this Act to the Code, see Short Title note set out under section 1101 of Title 8 and Tables.

The Personal Responsibility and Work Opportunity Reconciliation Act of 1996, referred to in subsec. (a)(3)(B)(i)(I), is Pub. L. 104-193, Aug. 22, 1996, 110 Stat. 2105. Title IV of the Act is classified principally to chapter 14 (§ 1601 et seq.) of Title 8, Aliens and Nationality. For complete classification of title IV to the Code, see Tables.

Section 503(a) of the Quality Housing and Work Responsibility Act of 1998, referred to in subsec. (b)(6)(B)(ii), is section 503(a) of Pub. L. 105-276 which is set out as an Effective Date of 1998 Amendment note under section 1437 of this title.

The Social Security Act, referred to in subsec. (d)(3)(B)(iii), is act Aug. 14, 1935, ch. 531, 49 Stat. 620, as amended. Part A of title IV of the Act is classified generally to part A (§ 601 et seq.) of subchapter IV of chapter 7 of this title. For complete classification of this Act to the Code, see section 1305 of this title and Tables.

Section 1437bb of this title, referred to in subsec. (f)(2)(C), was repealed by Pub. L. 104-330, title V, § 501(a), Oct. 26, 1996, 110 Stat. 4041.

Section 811, referred to in subsec. (f)(2)(C), means section 811 of the United States Housing Act of 1937, but that Act does not contain a section 811.

#### PRIOR PROVISIONS

A prior section 3 of act Sept. 1, 1937, ch. 896, 50 Stat. 889, as amended, established the United States Housing Authority and was classified to section 1403 of this title, prior to the general revision of this chapter by Pub. L. 93-383.

Prior similar provisions were contained in section 2 of act Sept. 1, 1937, ch. 896, 50 Stat. 888, which was classified to section 1402 of this title prior to the general revision of this chapter by Pub. L. 93-383.

#### AMENDMENTS

2016—Subsec. (a)(1). Pub. L. 114-201, § 102(a)(1)(A), substituted “pursuant to paragraph (6)” for “at least annually” in introductory provisions.

Subsec. (a)(6), (7). Pub. L. 114-201, § 102(a)(1)(B), added pars. (6) and (7).

Subsec. (b)(4), (5). Pub. L. 114-201, § 102(c), added pars. (4) and (5) and struck out former pars. (4) and (5) which defined the terms “income” and “adjusted income”, respectively.

Subsecs. (d) to (f). Pub. L. 114-201, § 102(a)(2), (3), redesignated subsec. (f) as (d) and struck out former subsecs. (d) and (e) which related to disallowance of earned income from rent determinations and individual savings accounts, respectively.

2015—Subsec. (a)(1). Pub. L. 114-94 inserted before period at end of second sentence “; except that, in the case of any family with a fixed income, as defined by the Secretary, after the initial review of the family's income, the public housing agency or owner shall not be required to conduct a review of the family's income for any year for which such family certifies, in accordance with such requirements as the Secretary shall establish, which shall include policies to adjust for inflation-based income changes, that 90 percent or more of the income of the family consists of fixed income, and that the sources of such income have not changed since the previous year, except that the public housing agency or owner shall conduct a review of each such family's income not less than once every 3 years”.

2014—Subsec. (a)(2)(B)(i). Pub. L. 113-235, § 238(3), substituted “If” for “Public housing agencies must comply by June 1, 2014, with the requirement of this clause, except that if” in concluding provisions.

Pub. L. 113-235, § 238(1), substituted “which—” for “which shall not be lower than 80 percent of the applicable fair market rental established under section 1437f(c) of this title and which shall—” in introductory provisions, added subcl. (I), and struck out former subcl. (I) which read as follows: “be based on the rental value of the unit, as determined by the public housing agency; and”.

Pub. L. 113-76, § 210(2), inserted concluding provisions and struck out former concluding provisions, which read as follows: “The rental amount for a dwelling unit shall be considered to comply with the requirements of this clause if such amount does not exceed the actual monthly costs to the public housing agency attributable to providing and operating the dwelling unit. The preceding sentence may not be construed to require establishment of rental amounts equal to or based on operating costs or to prevent public housing agencies from developing flat rents required under this clause in any other manner that may comply with this clause.”

Pub. L. 113-76, § 210(1), in introductory provisions, substituted “Each” for “Except as otherwise provided under this clause, each” and inserted “not be lower than 80 percent of the applicable fair market rental established under section 1437f(c) of this title and which shall” after “which shall”.

Subsec. (a)(2)(B)(i)(II). Pub. L. 113-235, § 238(2), inserted “shall” before “be designed”.

Subsec. (b)(2). Pub. L. 113-76, § 238(a), designated first sentence as subpar. (A), second sentence as subpar. (B), and remaining sentences as subpar. (D), and added subpar. (C).

Subsec. (b)(6)(A). Pub. L. 113-76, § 212, inserted “, or a consortium of such entities or bodies as approved by the Secretary” before period at end.

2008—Subsec. (b)(4). Pub. L. 110-289 inserted “or any deferred Department of Veterans Affairs disability benefits that are received in a lump sum amount or in prospective monthly amounts” before “may not be considered”.

2000—Subsec. (b)(3)(E)(iii). Pub. L. 106-402 substituted “section 15002 of this title” for “section 6001 of this title”.

1999—Subsec. (f)(1). Pub. L. 106-74, § 214(a)(1), inserted “, or the owner responsible for determining the participant’s eligibility or level of benefits,” after “A public housing agency” and “, or to the owner responsible for determining the participant’s eligibility or level of benefits” before period at end.

Subsec. (f)(2)(C). Pub. L. 106-74, § 214(a)(2), added subpar. (C).

1998—Subsec. (a)(1). Pub. L. 105-276, § 507(c), inserted “and subject to the requirement under paragraph (3)” after “paragraph (2)” in third sentence.

Subsec. (a)(2). Pub. L. 105-276, § 523, amended par. (2) generally. For prior text, see 1996 Amendment note below.

Subsec. (a)(3). Pub. L. 105-276, § 507(a), added par. (3).

Subsec. (a)(4), (5). Pub. L. 105-276, § 524(a), added pars. (4) and (5).

Subsec. (b)(1). Pub. L. 105-276, § 506(1), inserted after second sentence “The term ‘public housing’ includes dwelling units in a mixed finance project that are assisted by a public housing agency with capital or operating assistance.”

Subsec. (b)(2). Pub. L. 105-276, § 508(c)(1), substituted “limits for Westchester and Rockland Counties” for “limits for Westchester County”, inserted “each” before “such county”, substituted “include Westchester or Rockland Counties” for “include Westchester County” and “included Westchester and Rockland Counties” for “included Westchester County”, and inserted at end “In determining areas that are designated as difficult development areas for purposes of the low-income housing tax credit, the Secretary shall include Westchester and Rockland Counties, New York, in the New York City metropolitan area.”

Subsec. (b)(3)(A). Pub. L. 105-276, § 506(2)(A), struck out at end “In determining priority for admission to housing under this chapter, the Secretary shall give preference to single persons who are elderly, disabled, or displaced persons before single persons who are eligible under clause (v) of the first sentence.”

Subsec. (b)(3)(B). Pub. L. 105-276, § 506(2)(B), substituted “public housing agency plan” for “regulations of the Secretary” in second sentence.

Subsec. (b)(3)(E). Pub. L. 105-276, § 506(3), inserted at end “Notwithstanding any other provision of law, no individual shall be considered a person with disabilities, for purposes of eligibility for low-income housing under this subchapter, solely on the basis of any drug or alcohol dependence. The Secretary shall consult with other appropriate Federal agencies to implement the preceding sentence.”

Subsec. (b)(5). Pub. L. 105-276, § 508(a), amended par. (5) generally, substituting present provisions for provisions which had defined “adjusted income” as income which remained after excluding \$550 for each member of family in household under 18 years of age, disabled, or a student, \$400 for any elderly or disabled family, the amount by which medical and related expenses exceeded 3 percent of income, child care expenses, 10 percent of earned income, and any payment made for support and maintenance of nonresident child, spouse, or former spouse.

Subsec. (b)(6). Pub. L. 105-276, § 546, amended par. (6) generally. Prior to amendment, par. (6) read as follows:

“The term ‘public housing agency’ means any State, county, municipality, or other governmental entity or public body (or agency or instrumentality thereof) which is authorized to engage in or assist in the development or operation of low-income housing.”

Subsec. (b)(9) to (13). Pub. L. 105-276, § 506(4), added pars. (9) to (13).

Subsec. (c). Pub. L. 105-276, § 508(b)(1)(A), which directed the amendment of subsec. (c) by striking out the undesignated par. after par. (3), was executed by striking out concluding provisions after par. (5), to reflect the probable intent of Congress. Concluding provisions read as follows: “The earnings of and benefits to any public housing resident resulting from participation in a program providing employment training and supportive services in accordance with the Family Support Act of 1988, section 1437t of this title, or any comparable Federal, State, or local law shall not be considered as income for the purposes of determining a limitation on the amount of rent paid by the resident during—

“(1) the period that the resident participates in such program; and

“(2) the period that—

“(A) begins with the commencement of employment of the resident in the first job acquired by the person after completion of such program that is not funded by assistance under this chapter; and

“(B) ends on the earlier of—

“(i) the date the resident ceases to continue employment without good cause as the Secretary shall determine; or

“(ii) the expiration of the 18-month period beginning on the date referred to in subparagraph (A).”

Subsec. (c)(1). Pub. L. 105-276, § 520(a), inserted before period at end of second sentence “, but does not include the costs associated with the demolition of or remediation of environmental hazards associated with public housing units that will not be replaced on the project site, or other extraordinary site costs as determined by the Secretary”.

Subsecs. (d), (e). Pub. L. 105-276, § 508(b)(1)(B), added subsecs. (d) and (e).

Subsec. (f). Pub. L. 105-276, § 508(d)(1), added subsec. (f).

1996—Subsec. (a)(2). Pub. L. 104-99, § 402(b)(1), (f), temporarily amended par. (2) generally, substituting

“(2) Notwithstanding paragraph (1), a public housing agency may—

“(A) adopt ceiling rents that reflect the reasonable market value of the housing, but that are not less than the monthly costs—

“(i) to operate the housing of the agency; and

“(ii) to make a deposit to a replacement reserve (in the sole discretion of the public housing agency); and

“(B) allow families to pay ceiling rents referred to in subparagraph (A), unless, with respect to any family, the ceiling rent established under this paragraph would exceed the amount payable as rent by that family under paragraph (1).” for

“(2)(A) Any public housing agency may provide that each family residing in a public housing project owned and operated by such agency (or in low-income housing assisted under section 1437f of this title that contains more than 2,000 dwelling units) shall pay as monthly rent an amount determined by such agency to be appropriate that does not exceed a maximum amount that—

“(i) is established by such agency and approved by the Secretary;

“(ii) is not more than the amount payable as rent by such family under paragraph (1); and

“(iii) is not less than the average monthly amount of debt service and operating expenses attributable to dwelling units of similar size in public housing projects owned and operated by such agency.

“(B) The terms of all ceiling rents established prior to December 15, 1989, shall be extended without time limitation.” See Effective and Termination Dates of 1996 Amendments note below.

Subsec. (b)(5)(F). Pub. L. 104-330, § 501(b)(1)(A)(i), inserted "and" after semicolon.

Subsec. (b)(5)(G). Pub. L. 104-330, § 501(b)(1)(A)(ii), (iii), redesignated subpar. (H) as (G) and struck out former subpar. (G) which read as follows: "excessive travel expenses, not to exceed \$25 per family per week, for employment- or education-related travel, except that this subparagraph shall apply only to families assisted by Indian housing authorities; and".

Subsec. (b)(5)(H). Pub. L. 104-330, § 501(b)(1)(A)(iii), redesignated subpar. (H) as (G).

Pub. L. 104-99, § 402(c), (f), temporarily added subpar. (H) which read "for public housing, any other adjustments to earned income established by the public housing agency. If a public housing agency adopts other adjustments to income pursuant to subparagraph (H), the Secretary shall not take into account any reduction of or increase in the public housing agency's per unit dwelling rental income resulting from those adjustments when calculating the contributions under section 1437g of this title for the public housing agency for the operation of the public housing." See Effective and Termination Dates of 1996 Amendments note below.

Subsec. (b)(6). Pub. L. 104-330, § 501(b)(1)(B), struck out at end "The term includes any Indian housing authority."

Subsec. (b)(7). Pub. L. 104-330, § 501(b)(1)(C), inserted "and" before "the Trust" and struck out ", and Indian tribes" after "Pacific Islands".

Subsec. (b)(9) to (12). Pub. L. 104-330, § 501(b)(1)(D), struck out pars. (9) to (12) which read as follows:

"(9) The term 'Indian' means any person recognized as being an Indian or Alaska Native by an Indian tribe, the Federal Government, or any State.

"(10) The term 'Indian area' means the area within which an Indian housing authority is authorized to provide low-income housing.

"(11) The term 'Indian housing authority' means any entity that—

"(A) is authorized to engage in or assist in the development or operation of low-income housing for Indians; and

"(B) is established—

"(i) by exercise of the power of self-government of an Indian tribe independent of State law; or

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

"(12) The term 'Indian tribe' means any tribe, band, pueblo, group, community, or nation of Indians or Alaska Natives."

1994—Subsec. (b)(3)(B). Pub. L. 103-233 substituted "includes families with children and" for "means families with children".

1992—Subsec. (a)(1). Pub. L. 102-550, § 185(c)(4), substituted "section 1437f(o) or (y) of this title or paying rent under section 1437f(c)(3)(B) of this title" for "section 1437f(o) of this title".

Subsec. (a)(2)(A). Pub. L. 102-550, § 102(a), struck out "for not more than a 5-year period" after "monthly rent".

Subsec. (a)(2)(B). Pub. L. 102-550, § 102(b), struck out first sentence which read as follows: "The 5-year limitation established in subparagraph (A) shall not apply to any family residing in a public housing project administered by an Indian public housing agency." and substituted "without time limitation" for "for the 5-year period beginning on December 15, 1989".

Subsec. (b)(3). Pub. L. 102-550, § 621, amended par. (3) generally, substituting present provisions for provisions relating to families consisting of single persons, elderly families, handicapped persons, displaced persons, and families with household heads 50 years old or older and the priorities for admission of such families and persons to housing under this chapter.

Subsec. (b)(4). Pub. L. 102-550, § 103(a)(1), inserted "and any amounts which would be eligible for exclusion under section 1382b(a)(7) of this title" after "family".

Subsec. (b)(5)(B). Pub. L. 102-550, § 625(a)(1), inserted "or disabled" after "elderly".

Subsec. (b)(5)(D). Pub. L. 102-550, § 103(a)(2)(A), added subpar. (D) and struck out former subpar. (D) which read as follows: "(i) child care expenses to the extent necessary to enable another member of the family to be employed or to further his or her education; or (ii) excessive travel expenses, not to exceed \$25 per family per week, for employment or education related travel, except that this clause shall apply only to families assisted by Indian housing authorities;".

Subsec. (b)(5)(G). Pub. L. 102-550, § 103(a)(2)(B)–(D), added subpar. (G).

Subsec. (c)(4), (5). Pub. L. 102-550, § 622(c), which directed the amendment of subsec. (c) by inserting pars. (4) and (5) after "project.", was executed by making the insertion after "project." at the end of par. (3), to reflect the probable intent of Congress.

1990—Pub. L. 101-625, § 515(b), added concluding undesignated par. directing that earnings and benefits to public housing residents resulting from participation in programs providing employment training and supportive services not be considered as income.

Subsec. (a)(1). Pub. L. 101-625, § 572(1), substituted "low-income families" for "lower income families" in introductory provisions.

Subsecs. (a)(2)(A), (b)(1). Pub. L. 101-625, § 572(2), substituted "low-income housing" for "lower income housing" wherever appearing.

Subsec. (b)(2). Pub. L. 101-625, § 573(d), inserted sentences at end relating to determination or establishment of median incomes and income ceilings and limits for Westchester County and for metropolitan statistical areas outside Westchester County.

Pub. L. 101-625, § 572(1), substituted "low-income families" for "lower income families" wherever appearing.

Subsec. (b)(3). Pub. L. 101-625, § 574, inserted sentence at end relating to effect of temporary absence of child from the home due to placement in foster care on considerations of family composition and size.

Pub. L. 101-625, § 573(a), substituted "(D) and any other single persons. In no event may any single person under clause (D) be provided a housing unit assisted under this chapter of 2 bedrooms or more." for "(D) other single persons in circumstances described in regulations of the Secretary." in first sentence, struck out after first sentence "In no event shall more than 15 per centum of the units under the jurisdiction of any public housing agency be occupied by single persons under clause (D).", and struck out third from last sentence which was executed (to reflect the probable intent of Congress) by striking out third sentence from end which read as follows: "The Secretary may increase the limitation described in the second sentence of this paragraph to not more than 30 per centum if, following consultation with the public housing agency involved, the Secretary determines that the dwelling units involved are neither being occupied, nor are likely to be occupied within the next 12 months, by families or persons described in clauses (A), (B), and (C), due to the condition or location of such dwelling units, and that such dwelling units may be occupied if made available to single persons described in clause (D)."

Subsec. (b)(4). Pub. L. 101-625, § 573(b), inserted before period at end ", except that any amounts not actually received by the family may not be considered as income under this paragraph".

Subsec. (b)(5)(A). Pub. L. 101-625, § 573(c)(1), substituted "\$550" for "\$480".

Subsec. (b)(5)(C). Pub. L. 101-625, § 573(c)(2), struck out "elderly" before "family" in cl. (i) and struck out "and" at end.

Subsec. (b)(5)(E), (F). Pub. L. 101-625, § 573(c)(3), added subpars. (E) and (F).

Subsecs. (b)(6), (10), (11)(A), (c). Pub. L. 101-625, § 572(2), substituted "low-income housing" for "lower income housing" wherever appearing.

1989—Subsec. (a)(2)(A). Pub. L. 101-235, § 302(1), substituted "5-year period" for "3-year period".

Subsec. (a)(2)(B). Pub. L. 101-235, § 302(2), substituted "5-year limitation" for "3-year limitation" and inserted at end "The terms of all ceiling rents established

prior to December 15, 1989, shall be extended for the 5-year period beginning on December 15, 1989.”

1988—Subsec. (a). Pub. L. 100-242, §102(a), designated existing provisions as par. (1), substituted “Except as provided in paragraph (2), a” for “A”, redesignated former pars. (1) to (3) as subpars. (A) to (C), respectively, and added par. (2).

Subsec. (b)(3). Pub. L. 100-242, §170(c), in cl. (A), substituted “sixty-two years of age,” for “sixty-two years of age or”, and “, has a developmental disability as defined in section 6001(7) of this title” for “or in section 102 of the Developmental Disabilities Services and Facilities Construction Amendments of 1970”.

Pub. L. 100-242, §111, inserted provisions relating to determination of priority admission to public housing projects designed for elderly families.

Subsec. (b)(5)(D). Pub. L. 100-358, §4(a), designated existing provisions as cl. (i) and added cl. (ii).

Subsec. (b)(6). Pub. L. 100-358, §4(b), inserted at end “The term includes any Indian housing authority.”

Subsec. (b)(7). Pub. L. 100-358, §4(c), struck out “, bands, groups, and Nations, including Alaska Indians, Aleuts, and Eskimos, of the United States” after “and Indian tribes”.

Subsec. (b)(9) to (12). Pub. L. 100-358, §4(d)–(g), added pars. (9) to (12).

1984—Subsec. (b)(2). Pub. L. 98-479, §102(b)(1), inserted provision at end that such ceilings shall be established in consultation with the Secretary of Agriculture for any rural area, as defined in section 1490 of this title, taking into account the subsidy characteristics and types of programs to which such ceilings apply.

Subsec. (b)(4). Pub. L. 98-479, §102(b)(2), inserted “, in consultation with the Secretary of Agriculture” at end.

Subsec. (b)(5)(C). Pub. L. 98-479, §102(b)(3), designated existing provision as cl. (i), added cl. (ii), and inserted “the amount by which the aggregate of the following expenses of the family” in provisions preceding cl. (i).

1983—Subsec. (a). Pub. L. 98-181, §206(a), in provisions preceding par. (1), inserting provision requiring annual review of family income, and inserted “(other than a family assisted under section 1437f(o) of this title)”.

Subsec. (b)(2). Pub. L. 98-181, §206(b), qualified the term “very low-income families” in authorizing the Secretary to establish, where necessary, variations in income ceilings higher or lower than 50 per centum of the median for the area.

Subsec. (b)(3). Pub. L. 98-181, §202, inserted provision at end of par. (3) authorizing increase from 15 to 30 per centum in the single person occupancy limitation for nonoccupancy of the involved dwelling units.

Subsec. (b)(5). Pub. L. 98-181, §206(c), amended par. (5) generally, substituting provisions designating cls. (A) to (D) for prior exclusion from “adjusted income” of such amounts or types of income as the Secretary might prescribe, taking into account the number of minor children and other appropriate factors.

1981—Pub. L. 97-35 added subsecs. (a) and (c) and designated provisions constituting former section as subsec. (b), and in subsec. (b) as so designated, substituted provisions defining “lower income housing”, “lower income families”, “families”, “income”, “adjusted income”, “public housing agency”, “State”, and “Secretary” for provisions defining “low-income housing”, “low-income families”, “development”, “operation”, “acquisition cost”, “public housing agency”, “State”, “Secretary”, and “low-income housing project”.

1979—Par. (1). Pub. L. 96-153 substituted provisions that the rental for a dwelling shall not exceed certain portion of the resident family’s income to be established by the Secretary, and that in the case of a very low income family 25 per centum and in other cases 30 per centum of family income for provisions that such rental shall not exceed one-fourth of the family’s income as defined by the Secretary.

1978—Par. (2)(D). Pub. L. 95-557 substituted “15 per cent” for “10 per cent”.

1976—Par. (2). Pub. L. 94-375 struck out “and” before cl. (C), added cl. (D), and two provisos relating to the percentage of units to be occupied by single persons

and the priority to be given to single persons who are elderly, handicapped, or displaced, following cl. (D).

#### EFFECTIVE DATE OF 2016 AMENDMENT

Pub. L. 114-201, title I, §102(h), July 29, 2016, 130 Stat. 791, provided that: “The Secretary of Housing and Urban Development shall issue notice or regulations to implement this section [amending this section and section 1437f of this title and enacting provisions set out as a note below] and this section shall take effect after such issuance, except that this section may only take effect upon the commencement of a calendar year.”

#### EFFECTIVE DATE OF 1998 AMENDMENT

Amendment by title V of Pub. L. 105-276 effective and applicable beginning upon Oct. 1, 1999, except as otherwise provided, with provision that Secretary may implement amendment before such date, except to extent that such amendment provides otherwise, and with savings provision, see section 503 of Pub. L. 105-276, set out as a note under section 1437 of this title.

Pub. L. 105-276, title V, §507(d), Oct. 21, 1998, 112 Stat. 2526, provided that: “The amendments under this section [amending this section] are made on, and shall apply beginning upon, the date of the enactment of this Act [Oct. 21, 1998].”

Pub. L. 105-276, title V, §508(c)(2), Oct. 21, 1998, 112 Stat. 2529, provided that: “The amendments made by this paragraph [probably means this subsection, amending this section] are made on, and shall apply beginning upon, the date of the enactment of this Act [Oct. 21, 1998].”

Pub. L. 105-276, title V, §524(b), Oct. 21, 1998, 112 Stat. 2568, provided that: “The amendment made by this paragraph [probably means this section, amending this section] is made on, and shall apply beginning upon, the date of the enactment of this Act [Oct. 21, 1998].”

#### EFFECTIVE AND TERMINATION DATES OF 1996 AMENDMENTS

Pub. L. 105-276, title V, §514(f), Oct. 21, 1998, 112 Stat. 2548, provided that: “Section 402 of The Balanced Budget and Downpayment Act, I [Pub. L. 104-99, see note below], and the amendments made by such section shall cease to be effective on the date of the enactment of this Act [Oct. 21, 1998]. Notwithstanding the inclusion in this Act [see Tables for classification] of any provision extending the effectiveness of such section or such amendments, such provision included in this Act shall not take effect.”

Amendment by Pub. L. 104-330 effective Oct. 1, 1997, except as otherwise expressly provided, see section 107 of Pub. L. 104-330, set out as an Effective Date note under section 4101 of Title 25, Indians.

Pub. L. 104-99, title IV, §402(f), Jan. 26, 1996, 110 Stat. 43, as amended by Pub. L. 104-204, title II, §201(c)(2), Sept. 26, 1996, 110 Stat. 2893; Pub. L. 105-65, title II, §201(d)(2), Oct. 27, 1997, 111 Stat. 1364, provided that: “This section [amending this section, sections 1437d to 1437f, 1437n, 1437v, and 13615 of this title, and section 1701s of Title 12, Banks and Banking, enacting provisions set out as notes under this section and sections 1437 and 1437d of this title, and amending provisions set out as a note under section 1437f of this title] shall be effective upon the enactment of this Act [Jan. 26, 1996] and only for fiscal years 1996, 1997, and 1998.”

#### EFFECTIVE DATE OF 1992 AMENDMENT

Pub. L. 102-550, title I, §103(a)(3), Oct. 28, 1992, 106 Stat. 3684, provided that: “To the extent that the amendments made by paragraphs (1) and (2) [amending this section] result in additional costs under this title [see Tables for classification], such amendments shall be effective only to the extent that amounts to cover such additional costs are provided in advance in appropriation Acts.”

Amendment by subtitles B through F of title VI [§§621-685] of Pub. L. 102-550 applicable upon expiration of 6-month period beginning Oct. 28, 1992, except as otherwise provided, see section 13642 of this title.

## EFFECTIVE DATE OF 1990 AMENDMENT

Pub. L. 101-625, title V, §573(f), Nov. 28, 1990, 104 Stat. 4237, provided that: “The Secretary shall issue regulations implementing subsections (a) and (d) [sic] the amendments made by this section [amending this section] not later than the expiration of the 90-day period beginning on the date of the enactment of this Act [Nov. 28, 1990]. The regulations may not take effect until after September 30, 1991.”

## EFFECTIVE DATE OF 1988 AMENDMENT

Pub. L. 100-358, §6, June 29, 1988, 102 Stat. 681, provided that: “The Secretary of Housing and Urban Development may carry out programs to provide lower income housing on Indian reservations and other Indian areas only in accordance with the amendments made by this Act [enacting sections 1437aa to 1437ee of this title, amending this section and section 1437c of this title, and enacting provisions set out as a note under section 1437 of this title], commencing on whichever of the following occurs earlier:

“(1) EFFECTIVE DATE OF REGULATIONS.—The effective date of regulations issued under section 205 of the United States Housing Act of 1937 [former section 1437ee of this title].

“(2) 90 DAYS.—The expiration of the 90-day period beginning on the date of the enactment of this Act [June 29, 1988].”

## 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 1979 AMENDMENT

Pub. L. 96-153, title II, §202(c), Dec. 21, 1979, 93 Stat. 1106, which provided that amendment by section 202(a) of Pub. L. 96-153 (amending this section and section 1437f of this title) shall become effective on Jan. 1, 1980, except that the amount of the tenant contribution required of families whose occupancy of housing units assisted under this chapter commenced prior to that date shall be determined in accordance with the provisions of this chapter in effect on Dec. 31, 1979, so long as such occupancy was continuous thereafter, was repealed by Pub. L. 97-35, title III, §322(h)(1), Aug. 13, 1981, 95 Stat. 404.

## EFFECTIVE DATE OF 1978 AMENDMENT

Amendment by Pub. L. 95-557 effective Oct. 1, 1978, see section 206(h) of Pub. L. 95-557, set out as a note under section 1437c of this title.

## EFFECTIVE DATE

Section effective on such date or dates as the Secretary of Housing and Urban Development shall prescribe, but not later than eighteen months after Aug. 22, 1974, except that all of the provisions of par. (1) shall become effective on the same date, see section 201(b) of Pub. L. 93-383, set out as a note under section 1437 of this title.

The Department of Housing and Urban Development adopted an interim rule, 24 CFR 860.409, Sept. 26, 1975, 40 F.R. 44326, which provided: “The effective date of section 3(1) of the United States Housing Act of 1937, as amended [par. (1) of this section], shall be the date that these regulations [sections 860.401 to 860.409 of Title 24, CFR] are published in the Federal Register (September 26, 1975).”

## REGULATIONS

Pub. L. 115-31, div. K, title II, §240, May 5, 2017, 131 Stat. 789, provided that: “The Secretary shall establish by notice such requirements as may be necessary to implement section 78001 of title LXXVIII of the Fixing America’s Surface Transportation Act (Public Law 114-94) [amending this section and section 1437f of this title], and the notice shall take effect upon issuance:

*Provided*, That the Secretary shall commence rulemaking based on the initial notice no later than the expiration of the 6-month period following issuance of the notice and the rulemaking shall allow for the opportunity for public comment.”

Pub. L. 113-76, div. L, title II, §243, Jan. 17, 2014, 128 Stat. 637, provided that: “The Secretary shall establish by notice such requirements as may be necessary to implement sections 210, 212, 220, 238, and 242 [amending this section and sections 1437f and 1437n of this title and enacting provisions set out as a note under section 1437f of this title] under this title and the notice shall take effect upon issuance: *Provided*, That the Secretary shall commence rulemaking based on the initial notice no later than the expiration of the 6-month period following issuance of the notice and the rulemaking shall allow for the opportunity for public comment.”

Pub. L. 104-99, title IV, §402(b)(2), Jan. 26, 1996, 110 Stat. 41, provided that:

“(A) IN GENERAL.—The Secretary shall, by regulation, after notice and an opportunity for public comment, establish such requirements as may be necessary to carry out section 3(a)(2)(A) of the United States Housing Act of 1937 [42 U.S.C. 1437a(a)(2)(A)], as amended by paragraph (1).

“(B) TRANSITION RULE.—Prior to the issuance of final regulations under paragraph (1), a public housing agency may implement ceiling rents, which shall be not less than the monthly costs to operate the housing of the agency and—

“(i) determined in accordance with section 3(a)(2)(A) of the United States Housing Act of 1937, as that section existed on the day before enactment of this Act [Jan. 26, 1996];

“(ii) equal to the 95th percentile of the rent paid for a unit of comparable size by tenants in the same public housing project or a group of comparable projects totaling 50 units or more; or

“(iii) equal to the fair market rent for the area in which the unit is located.”

[Section 402(b)(2) of Pub. L. 104-99, set out above, effective Jan. 26, 1996, and only for fiscal years 1996, 1997, and 1998, and to cease to be effective Oct. 21, 1998, see Effective and Termination Dates of 1996 Amendments notes above.]

Pub. L. 102-550, title I, §191, Oct. 28, 1992, 106 Stat. 3750, provided that: “The Secretary of Housing and Urban Development shall issue any final regulations necessary to implement the provisions of this title [see Tables for classification] and the amendments made by this title not later than the expiration of the 180-day period beginning on the date of the enactment of this Act [Oct. 28, 1992], except as expressly provided otherwise in this title and the amendments made by this title. Such regulations shall be issued after notice and opportunity for public comment pursuant to the provisions of section 553 of title 5, United States Code (notwithstanding subsections (a)(2), (b)(B), and (d)(3) of such section).”

## SAVINGS PROVISION

Pub. L. 105-276, title V, §508(b)(2), Oct. 21, 1998, 112 Stat. 2528, provided that: “Notwithstanding the amendment made by paragraph (1) [amending this section], the provisions of the undesignated paragraph at the end of section 3(c)(3) of the United States Housing Act of 1937 [see 1998 and 1992 Amendment notes above], as such section was in effect immediately before the enactment of this Act [Oct. 21, 1998], shall continue to apply until the effective date under section 503 of this Act [set out as a note under section 1437 of this title]. Notwithstanding the amendment made by subsection (a) of this section [amending this section], nor the applicability under section 402(f) of The Balanced Budget Downpayment Act, I [Pub. L. 104-99] (42 U.S.C. 1437a note) of the amendments made by such section 402 [see Effective and Termination Dates of 1996 Amendments note set out above], nor any repeal of such section 402(f), the provisions of section 3(b)(5)(G) of the United States Housing Act of 1937 (42 U.S.C. 1437a(b)(5)(G)), as such

section was in effect immediately before the date of the enactment of this Act, shall continue to apply until the effective date under section 503 of this Act.”

TERMINATION OF TRUST TERRITORY OF THE PACIFIC ISLANDS

For termination of Trust Territory of the Pacific Islands, see note set out preceding section 1681 of Title 48, Territories and Insular Possessions.

ADJUSTMENTS TO OPERATING FORMULA DUE TO IMPACT ON PUBLIC HOUSING REVENUES

Pub. L. 114-201, title I, §102(g)(1), July 29, 2016, 130 Stat. 791, provided that: “If the Secretary of Housing and Urban Development determines that the application of subsections (a) through (e) of this section [amending this section and section 1437f of this title] results in a material and disproportionate reduction in the rental income of certain public housing agencies during the first year in which such subsections are implemented, the Secretary may make appropriate adjustments in the formula income for such year of those agencies experiencing such a reduction.”

TRANSITIONAL CEILING RENTS

Pub. L. 105-276, title V, §519(d), Oct. 21, 1998, 112 Stat. 2561, provided that: “Notwithstanding section 3(a)(1) of the United States Housing Act of 1937 (42 U.S.C. 1437a(a)(1)), during the period ending upon the later of the implementation of the formulas established pursuant to subsections (d)(2) and (e)(2) of [section 9 of] such Act [42 U.S.C. 1437g(d)(2), (e)(2)] (as amended by this section) and October 1, 1999, a public housing agency may take any of the following actions with respect to public housing:

“(1) NEW PROVISIONS.—An agency may—

“(A) adopt and apply ceiling rents that reflect the reasonable market value of the housing, but that are not less than—

“(i) for housing other than housing predominantly for elderly or disabled families (or both), 75 percent of the monthly cost to operate the housing of the agency;

“(ii) for housing predominantly for elderly or disabled families (or both), 100 percent of the monthly cost to operate the housing of the agency; and

“(iii) the monthly cost to make a deposit to a replacement reserve (in the sole discretion of the public housing agency); and

“(B) allow families to pay ceiling rents referred to in subparagraph (A), unless, with respect to any family, the ceiling rent established under this paragraph would exceed the amount payable as rent by that family under paragraph (1).

“(2) CEILING RENTS FROM BALANCED BUDGET ACT, I.—An agency may utilize the authority under section 3(a)(2) of the United States Housing Act of 1937 (42 U.S.C. 1437a(a)(2)), as in effect immediately before the enactment of this Act [Oct. 21, 1998], notwithstanding any amendment to such section made by this Act.

“(3) TRANSITIONAL CEILING RENTS FOR BALANCED BUDGET ACT, I.—An agency may utilize the authority with respect to ceiling rents under section 402(b)(2) of The Balanced Budget Downpayment Act, I [Pub. L. 104-99] (42 U.S.C. 1437a note), notwithstanding any other provision of law (including the expiration of the applicability of such section or the repeal of such section).”

CERTAIN PAYMENTS MADE TO VICTIMS OF NAZI PERSECUTION DISREGARDED IN DETERMINING ELIGIBILITY FOR AND AMOUNT OF NEED-BASED BENEFITS AND SERVICES

Pub. L. 103-286, §1, Aug. 1, 1994, 108 Stat. 1450, provided that:

“(a) IN GENERAL.—Payments made to individuals because of their status as victims of Nazi persecution shall be disregarded in determining eligibility for and

the amount of benefits or services to be provided under any Federal or federally assisted program which provides benefits or services based, in whole or in part, on need.

“(b) APPLICABILITY.—Subsection (a) shall apply to determinations made on or after the date of the enactment of this Act [Aug. 1, 1994] with respect to payments referred to in subsection (a) made before, on, or after such date.

“(c) PROHIBITION AGAINST RECOVERY OF VALUE OF EXCESSIVE BENEFITS OR SERVICES PROVIDED DUE TO FAILURE TO TAKE ACCOUNT OF CERTAIN PAYMENTS MADE TO VICTIMS OF NAZI PERSECUTION.—No officer, agency, or instrumentality of any government may attempt to recover the value of excessive benefits or services provided before the date of the enactment of this Act [Aug. 1, 1994] under any program referred to in subsection (a) by reason of any failure to take account of payments referred to in subsection (a).

“(d) NOTICE TO INDIVIDUALS WHO MAY HAVE BEEN DENIED ELIGIBILITY FOR BENEFITS OR SERVICES DUE TO THE FAILURE TO DISREGARD CERTAIN PAYMENTS MADE TO VICTIMS OF NAZI PERSECUTION.—Any agency of government that has not disregarded payments referred to in subsection (a) in determining eligibility for a program referred to in subsection (a) shall make a good faith effort to notify any individual who may have been denied eligibility for benefits or services under the program of the potential eligibility of the individual for such benefits or services.

“(e) REPAYMENT OF ADDITIONAL RENT PAID UNDER HUD HOUSING PROGRAMS BECAUSE OF FAILURE TO DISREGARD REPARATION PAYMENTS.—

“(1) AUTHORITY.—To the extent that amounts are provided in appropriation Acts for payments under this subsection, the Secretary of Housing and Urban Development shall make payments to qualified individuals in the amount determined under paragraph (3).

“(2) QUALIFIED INDIVIDUALS.—For purposes of this subsection, the term ‘qualified individual’ means an individual who—

“(A) has received any payment because of the individual’s status as a victim of Nazi persecution;

“(B) at any time during the period beginning on February 1, 1993 and ending on April 30, 1993, resided in a dwelling unit in housing assisted under any program for housing assistance of the Department of Housing and Urban Development under which rent payments for the unit were determined based on or taking into consideration the income of the occupant of the unit;

“(C) paid rent for such dwelling unit for any portion of the period referred to in subparagraph (B) in an amount determined in a manner that did not disregard the payment referred to in subparagraph (A); and

“(D) has submitted a claim for payment under this subsection as required under paragraph (4).

The term does not include the successors, heirs, or estate of an individual meeting the requirements of the preceding sentence.

“(3) AMOUNT OF PAYMENT.—The amount of a payment under this subsection for a qualified individual shall be equal to the difference between—

“(A) the sum of the amount of rent paid by the individual for rental of the dwelling unit of the individual assisted under a program for housing assistance of the Department of Housing and Urban Development, for the period referred to in paragraph (2)(B), and

“(B) the sum of the amount of rent that would have been payable by the individual for rental of such dwelling unit for such period if the payments referred to in paragraph (2)(A) were disregarded in determining the amount of rent payable by the individual for such period.

“(4) SUBMISSION OF CLAIMS.—A payment under this subsection for an individual may be made only pursuant to a written claim for such payment by such indi-

vidual submitted to the Secretary of Housing and Urban Development in the form and manner required by the Secretary before—

“(A) in the case of any individual notified by the Department of Housing and Urban Development orally or in writing that such specific individual is eligible for a payment under this subsection, the expiration of the 6-month period beginning on the date of receipt of such notice; and

“(B) in the case of any other individual, the expiration of the 12-month period beginning on the date of the enactment of this Act [Aug. 1, 1994].”

#### INAPPLICABILITY OF CERTAIN 1992 AMENDMENTS TO INDIAN PUBLIC HOUSING

Pub. L. 102-550, title VI, § 626, Oct. 28, 1992, 106 Stat. 3820, provided that: “The amendments made by this subtitle [subtitle B (§§ 621-626) of title VI of Pub. L. 102-550, amending this section and sections 1437c to 1437f, 1437i, 1437o, 1438, and 8013 of this title] shall not apply with respect to lower income housing developed or operated pursuant to a contract between the Secretary of Housing and Urban Development and an Indian housing authority.”

#### BUDGET COMPLIANCE

Pub. L. 101-625, title V, § 573(e), Nov. 28, 1990, 104 Stat. 4237, provided that: “The amendments made by subsections (b) and (c) [amending this section] shall apply only to the extent approved in appropriations Acts.”

#### MEDIAN AREA INCOME

Pub. L. 100-242, title V, § 567, Feb. 5, 1988, 101 Stat. 1948, provided that: “For purposes of calculating the median income for any area that is not within a metropolitan statistical area (as established by the Office of Management and Budget) for programs under title I of the Housing and Community Development Act of 1974 [42 U.S.C. 5301 et seq.], the United States Housing Act of 1937 [42 U.S.C. 1437 et seq.], the National Housing Act [12 U.S.C. 1701 et seq.], or title V of the Housing Act of 1949 [42 U.S.C. 1471 et seq.], the Secretary of Housing and Urban Development or the Secretary of Agriculture (as appropriate) shall use whichever of the following is higher:

“(1) the median income of the county in which the area is located; or

“(2) the median income of the entire nonmetropolitan area of the State.”

#### DETERMINATION OF RENT PAYABLE BY TENANTS OCCUPYING ASSISTED HOUSING; DELAYED APPLICATION OR STAGED IMPLEMENTATION OF AMENDED PROVISIONS

Pub. L. 98-181, title I [title II, § 206(d)], Nov. 30, 1983, 97 Stat. 1180, provided that:

“(1) The following provisions of this paragraph apply to determinations of the rent to be paid by or the contribution required of a tenant occupying housing assisted under the authorities amended by this section [amending this section] or subsections (a) through (h) of section 322 of the Housing and Community Development Amendments of 1981 [amending sections 1437 to 1437d, 1437f, 1437g, 1437i, 1437j, and 1437l of this title and sections 1701s and 1715z-1 of Title 12, Banks and Banking, and repealing provisions set out as notes under this section and section 1701s of Title 12] (hereinafter referred to as ‘assisted housing’) on or before the effective date of regulations implementing this section:

“(A) Notwithstanding any other provision of this section or subsections (a) through (h) of section 322 of the Housing and Community Development Amendments of 1981, the Secretary of Housing and Urban Development (hereinafter referred to as the ‘Secretary’) may provide for delayed applicability, or for staged implementation, of the procedures for determining rents or contributions, as appropriate, required by such provisions if the Secretary determines that immediate application of such procedures would be impracticable, would violate the terms of existing

leases, or would result in extraordinary hardship for any class of tenants.

“(B) The Secretary shall provide that the rent or contribution, as appropriate, required to be paid by a tenant shall not increase as a result of the amendments made by this section and subsections (a) through (h) of section 322 of the Housing and Community Development Amendments of 1981, and as a result of any other provision of Federal law or regulation, by more than 10 per centum during any twelve-month period, unless the increase above 10 per centum is attributable to increases in income which are unrelated to such amendments, law, or regulation.

“(2) Tenants of assisted housing other than those referred to in paragraph (1) shall be subject to immediate rent payment or contribution determinations in accordance with applicable law and without regard to the provisions of paragraph (1), but the Secretary shall provide that the rent or contribution payable by any such tenant who is occupying assisted housing on the effective date of any provision of Federal law or regulation shall not increase, as a result of any such provision of Federal law or regulation, by more than 10 per centum during any twelve-month period, unless the increase above 10 per centum is attributable to increases in income which are unrelated to such law or regulation.

“(3) In the case of tenants receiving rental assistance under section 521(a)(1) of the Housing Act of 1949 [section 1490a(a)(1) of this title] on the effective date of this section [Nov. 30, 1983] whose assistance is converted to assistance under section 8 of the United States Housing Act of 1937 [section 1437f of this title] on or after such date, the Secretary shall provide that the rent or contribution payable by any such tenant shall not increase, as a result of such conversion, by more than 10 per centum during any twelve-month period, unless the increase above 10 per centum is attributable to increases in income which are unrelated to such conversion or to any provision of Federal law or regulation.

“(4)(A) Notwithstanding any other provision of law, in the case of the conversion of any assistance under section 101 of the Housing and Urban Development Act of 1965 [12 U.S.C. 1701s], section 236(f)(2) of the National Housing Act [12 U.S.C. 1715z-1(f)(2)], or section 23 of the United States Housing Act of 1937 [section 1421b of this title] (as in effect before the date of the enactment of the Housing and Community Development Act of 1974 [Aug. 22, 1974]) to assistance under section 8 of the United States Housing Act of 1937, any increase in rent payments or contributions resulting from such conversion, and from the amendments made by this section of any tenant benefiting from such assistance who is sixty-two years of age or older may not exceed 10 per centum per annum.

“(B) In the case of any such conversion of assistance occurring on or after October 1, 1981, and before the date of the enactment of this section [Nov. 30, 1983], the rental payments due after such date of enactment by any tenant benefiting from such assistance who was sixty-two years of age or older on the date of such conversion shall be computed as if the tenant’s rental payment or contribution had, on the date of conversion, been the lesser of the actual rental payment or contribution required, or 25 per centum of the tenant’s income.

“(5) The limitations on increases in rent contained in paragraphs (1)(B), (2), (3), and (4) shall remain in effect and may not be changed or superseded except by another provision of law which amends this subsection.

“(6) As used in this subsection, the term ‘contribution’ means an amount representing 30 per centum of a tenant’s monthly adjusted income, 10 per centum of the tenant’s monthly income, or the designated amount of welfare assistance, whichever amount is used to determine the monthly assistance payment for the tenant under section 3(a) of the United States Housing Act of 1937 [subsec. (a) of this section].

“(7) The provisions of subsections (a) through (h) of section 322 of the Housing and Community Development Amendments of 1981 shall be implemented and



fully applicable to all affected tenants no later than five years following the date of enactment of such amendments [Aug. 13, 1981], except that the Secretary may extend the time for implementation if the Secretary determines that full implementation would result in extraordinary hardship for any class of tenants."

Prior provisions for determining rent payable by tenants occupying assisted housing under and authorizing delayed application or staged implementation of provisions amended by section 322 of Pub. L. 97-35 were contained in Pub. L. 97-35, title III, §322(i), Aug. 13, 1981, 95 Stat. 404, which was repealed by Pub. L. 98-181, title I [title II, §206(e)], Nov. 30, 1983, 97 Stat. 1181.

ESTABLISHMENT OF INCREASED MONTHLY RENTAL CHARGE FOR FAMILY OCCUPYING LOW-INCOME HOUSING UNIT; ADJUSTMENT FACTORS

Pub. L. 93-383, title II, §202, Aug. 22, 1974, 88 Stat. 667, provided that: "To the extent that section 3(1) of the United States Housing Act of 1937, as amended by section 201(a) of this Act [par. (1) of this section], would require the establishment of an increased monthly rental charge for any family which occupies a low-income housing unit as of the effective date of such section 3(1) (other than by reason of the provisions relating to welfare assistance payments) [see Effective Date note set out above], the required adjustment shall be made, in accordance with regulations of the Secretary, as follows: (A) the first adjustment shall not exceed \$5 and shall become effective as of the month following the month of the first review of the family's income pursuant to section 6(c)(2) of such Act [section 1437d(c)(2) of this title] which occurs at least six months after the effective date of such section 3(1), and (B) subsequent adjustments, each of which shall not exceed \$5, shall be made at six-month intervals over whatever period is necessary to effect the full required increase in the family's rental charge."

**§ 1437a-1. Repealed. Pub. L. 105-276, title V, § 582(a)(1), Oct. 21, 1998, 112 Stat. 2643**

Section, Pub. L. 101-625, title V, §519, Nov. 28, 1990, 104 Stat. 4202, authorized public housing rent waiver for police officers. See section 1437a(a)(4) of this title.

EFFECTIVE DATE OF REPEAL

Repeal effective and applicable beginning upon Oct. 1, 1999, except as otherwise provided, with provision that Secretary may implement the repeal before such date, and with savings provision, see section 503 of Pub. L. 105-276, set out as an Effective Date of 1998 Amendment note under section 1437 of this title.

**§ 1437b. Loans and commitments to make loans for low-income housing projects**

**(a) Authority of Secretary; interest rates; repayment date; use as security for obligations of public housing agency**

The Secretary may make loans or commitments to make loans to public housing agencies to help finance or refinance the development, acquisition, or operation of low-income housing projects by such agencies. Any contract for such loans and any amendment to a contract for such loans shall provide that such loans shall bear interest at a rate specified by the Secretary which shall not be less than a rate determined by the Secretary of the Treasury taking into consideration the current average market yield on outstanding marketable obligations of the United States with remaining periods to maturity comparable to the average maturities of such loans, plus one-eighth of 1 per centum. Such loans shall be secured in such manner and shall be re-

paid within such period not exceeding forty years, or not exceeding forty years from the date of the bonds evidencing the loan, as the Secretary may determine. The Secretary may require loans or commitments to make loans under this section to be pledged as security for obligations issued by a public housing agency in connection with a low-income housing project.

**(b) Issuance of obligations by Secretary; limitation on amounts; forms and denominations; terms and conditions; purchase, establishment of maturities and rates of interest, and sale by Secretary of the Treasury**

The Secretary may issue and have outstanding at any one time notes and other obligations for purchase by the Secretary of the Treasury in an amount which will not, unless authorized by the President, exceed \$1,500,000,000. For the purpose of determining obligations incurred to make loans pursuant to this chapter against any limitation otherwise applicable with respect to such loans, the Secretary shall estimate the maximum amount to be loaned at any one time pursuant to loan agreements then outstanding with public housing agencies. Such notes or other obligations shall be in such forms and denominations and shall be subject to such terms and conditions as may be prescribed by the Secretary with the approval of the Secretary of the Treasury. The notes or other 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 notes or other obligations of the Secretary issued hereunder and for such purpose 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 securities may be issued under such chapter are extended to include any purchases of such obligations. The Secretary of the Treasury may at any time sell any of the notes or other obligations acquired by him under this section. All redemptions, purchases, and sales by the Secretary of the Treasury of such notes or other obligations shall be treated as public debt transactions of the United States.

**(c) Public and Indian housing financing reforms**

(1) At such times as the Secretary may determine, and in accordance with such accounting and other procedures as the Secretary may prescribe, each loan made by the Secretary under subsection (a) that has any principal amount outstanding or any interest amount outstanding or accrued shall be forgiven; and the terms and conditions of any contract, or any amendment to a contract, for such loan with respect to any promise to repay such principal and interest shall be canceled. Such cancellation shall not affect any other terms and conditions of such contract, which shall remain in effect as if the cancellation had not occurred. This paragraph shall not apply to any loan the repayment of which was not to be made using annual contributions, or to any loan all or part of the proceeds of which are due a public housing agency from contractors or others.

(2)(A) On April 7, 1986, each note or other obligation issued by the Secretary to the Secretary