

1996—Subsec. (e). Pub. L. 104-99 temporarily substituted “Exception” for “Exceptions” in subsec. heading and struck out “(1) LONG-TERM VIABILITY.—” before “The Secretary may waive” and par. (2) which read as follows:

“(2) SELECTION OF TENANTS.—For projects revitalized under this section, a public housing agency may select tenants pursuant to a local system of preferences, in lieu of selecting tenants pursuant to the preferences specified under section 1437d(c)(4)(A)(i) of this title. Such local system shall be established in writing and shall respond to local housing needs and priorities as determined by the public housing agency. The public housing agency shall hold 1 or more public hearings to obtain the views of low-income tenants and other interested parties on the housing needs and priorities of the agency’s jurisdiction.” See Effective and Termination Dates of 1996 Amendments note below.

Subsec. (h)(3). Pub. L. 104-330 struck out “, except that it does not include any Indian housing authority” after “section 1437a(b) of this title”.

EFFECTIVE DATE OF 1998 AMENDMENT

Pub. L. 105-276, title V, § 535(b), Oct. 21, 1998, 112 Stat. 2586, provided that: “The amendment made by 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

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.

Amendment by Pub. L. 104-99 effective Jan. 26, 1996, only for fiscal years 1996, 1997, and 1998, and to cease to be effective Oct. 21, 1998, see section 402(f) of Pub. L. 104-99, as amended, and section 514(f) of Pub. L. 105-276, set out as notes under section 1437a of this title.

TERMINATION OF REPORTING REQUIREMENTS

For termination, effective May 15, 2000, of provisions of law requiring submittal to Congress of any annual, semiannual, or other regular periodic report listed in House Document No. 103-7 (in which item 11 on page 104 identifies a reporting provision which, as subsequently amended, is contained in subsec. (l) of this section), see section 3003 of Pub. L. 104-66, as amended, set out as a note under section 1113 of Title 31, Money and Finance.

STUDY OF ELDERLY AND DISABLED PUBLIC HOUSING NEEDS

Pub. L. 108-186, title IV, § 402(c), Dec. 16, 2003, 117 Stat. 2694, required the Comptroller General to submit a report to Congress regarding the extent of severely distressed elderly and disabled public housing and recommendations for improving that housing not later than 18 months after Dec. 18, 2003.

§ 1437w. Transfer of management of certain housing to independent manager at request of residents

(a) Authority

The Secretary may transfer the responsibility and authority for management of specified housing (as such term is defined in subsection (h)) from a public housing agency to an eligible management entity, in accordance with the requirements of this section, if—

- (1) a request for transfer of management of such housing is made and approved in accordance with subsection (b); and
- (2) the Secretary or the public housing agency, as appropriate pursuant to subsection (b), determines that—

(A) due to the mismanagement of the agency, such housing has deferred maintenance, physical deterioration, or obsolescence of major systems and other deficiencies in the physical plant of the project;

(B) such housing is located in an area such that the housing is subject to recurrent vandalism and criminal activity (including drug-related criminal activity); and

(C) the residents can demonstrate that the elements of distress for such housing specified in subparagraphs (A) and (B) can be remedied by an entity or entities, identified by the residents, that has or have a demonstrated capacity to manage, with reasonable expenses for modernization.

(b) Request for transfer

The responsibility and authority for managing specified housing may be transferred only pursuant to a request made by a majority vote of the residents for the specified housing that—

(1) in the case of specified housing that is owned by a public housing agency that is designated as a troubled agency under section 1437d(j)(2) of this title—

(A) is made to the public housing agency or the Secretary; and

(B) is approved by the agency or the Secretary; or

(2) in the case of specified housing that is owned by a public housing agency that is not designated as a troubled agency under section 1437d(j)(2) of this title—

(A) is made to and approved by the public housing agency; or

(B) if a request is made to the agency pursuant to subparagraph (A) and is not approved, is subsequently made to and approved by the Secretary.

(c) Capital and operating assistance

Pursuant to a contract under subsection (d), the Secretary shall require the public housing agency for specified housing to provide to the manager for the housing, from any assistance from the Capital and Operating Funds under section 1437g of this title for the agency, fair and reasonable amounts for the housing for eligible capital and operating activities under subsection (d)(1) and (e)(1) of section 1437g of this title. The amount made available under this subsection to a manager shall be determined by the Secretary based on the share for the specified housing of the aggregate amount of assistance from such Funds for the public housing agency transferring the housing, taking into consideration the operating and capital improvement needs of the specified housing, the operating and capital improvement needs of the remaining public housing units managed by the public housing agency, and the public housing agency plan of such agency.

(d) Contract between Secretary and manager

(1) Requirements

Pursuant to the approval of a request under this section for transfer of the management of specified housing, the Secretary shall enter into a contract with the eligible management entity.

(2) Terms

A contract under this subsection shall contain provisions establishing the rights and responsibilities of the manager with respect to the specified housing and the Secretary and shall be consistent with the requirements of this chapter applicable to public housing projects.

(e) Compliance with public housing agency plan

A manager of specified housing under this section shall comply with the approved public housing agency plan applicable to the housing and shall submit such information to the public housing agency from which management was transferred as may be necessary for such agency to prepare and update its public housing agency plan.

(f) Demolition and disposition by manager

A manager under this section may demolish or dispose of specified housing only if, and in the manner, provided for in the public housing agency plan for the agency transferring management of the housing.

(g) Limitation on PHA liability

A public housing agency that is not a manager for specified housing shall not be liable for any act or failure to act by a manager or resident council for the specified housing.

(h) Definitions

For purposes of this section, the following definitions shall apply:

(1) Eligible management entity

The term “eligible management entity” means, with respect to any public housing project, any of the following entities:

(A) Nonprofit organization

A public or private nonprofit organization, which may—

- (i) include a resident management corporation; and
- (ii) not include the public housing agency that owns or operates the project.

(B) For-profit entity

A for-profit entity that has demonstrated experience in providing low-income housing.

(C) State or local government

A State or local government, including an agency or instrumentality thereof.

(D) Public housing agency

A public housing agency (other than the public housing agency that owns or operates the project).

The term does not include a resident council.

(2) Manager

The term “manager” means any eligible management entity that has entered into a contract under this section with the Secretary for the management of specified housing.

(3) Nonprofit

The term “nonprofit” means, with respect to an organization, association, corporation, or other entity, that no part of the net earnings of the entity inures to the benefit of any member, founder, contributor, or individual.

(4) Private nonprofit organization

The term “private nonprofit organization” means any private organization (including a State or locally chartered organization) that—

- (A) is incorporated under State or local law;
- (B) is nonprofit in character;
- (C) complies with standards of financial accountability acceptable to the Secretary; and
- (D) has among its purposes significant activities related to the provision of decent housing that is affordable to low-income families.

(5) Public nonprofit organization

The term “public nonprofit organization” means any public entity that is nonprofit in character.

(6) Specified housing

The term “specified housing” means a public housing project or projects, or a portion of a project or projects, for which the transfer of management is requested under this section. The term includes one or more contiguous buildings and an area of contiguous row houses, but in the case of a single building, the building shall be sufficiently separable from the remainder of the project of which it is part to make transfer of the management of the building feasible for purposes of this section.

(Sept. 1, 1937, ch. 896, title I, §25, as added Pub. L. 105-276, title V, §534, Oct. 21, 1998, 112 Stat. 2579.)

PRIOR PROVISIONS

A prior section 1437w, act Sept. 1, 1937, ch. 896, title I, §25, as added Pub. L. 102-550, title I, §121(b), Oct. 28, 1992, 106 Stat. 3701; amended Pub. L. 104-330, title V, §501(b)(10), Oct. 26, 1996, 110 Stat. 4042, known as the Choice in Public Housing Management Act of 1992, related to choice in public housing management, prior to repeal by Pub. L. 105-276, title V, §§503, 534, Oct. 21, 1998, 112 Stat. 2521, 2579, effective and applicable beginning upon Oct. 1, 1999, except as otherwise provided, with provision that Secretary may implement repeal before such date, and with savings provision.

EFFECTIVE DATE

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

§ 1437x. Environmental reviews**(a) In general****(1) Release of funds**

In order to assure that the policies of the National Environmental Policy Act of 1969 [42 U.S.C. 4321 et seq.] and other provisions of law which further the purposes of such Act (as specified in regulations issued by the Secretary) are most effectively implemented in connection with the expenditure of funds under this subchapter, and to assure to the public undiminished protection of the environment, the Secretary may, under such regulations, in lieu of the environmental protection procedures otherwise applicable, provide for