

§ 1479. General powers of Secretary

(a) Standards of adequate farm housing and other buildings; criteria

The Secretary, for the purposes of this subchapter, shall have the power to determine and prescribe the standards of adequate farm housing and other buildings, by farms or localities, taking into consideration, among other factors, the type of housing which will provide decent, safe, and sanitary dwelling for the needs of the family using the housing, the type and character of the farming operations to be conducted, and the size and earning capacity of the land. The Secretary shall approve a residential building as meeting such standards if the building is constructed in accordance with (1) the minimum standards prescribed by the Secretary, (2) the minimum property standards prescribed by the Secretary of Housing and Urban Development for mortgages insured under title II of the National Housing Act [12 U.S.C. 1707 et seq.], (3) the standards contained in any of the voluntary national model building codes, or (4) in the case of manufactured housing, the standards referred to in section 1472(e) of this title. To the maximum extent feasible, the Secretary shall promote the use of energy saving techniques through standards established by such Secretary for newly constructed residential housing assisted under this subchapter. Such standards shall, insofar as is practicable, be consistent with the standards established pursuant to section 526 of the National Housing Act [12 U.S.C. 1735f-4] and shall incorporate the energy performance requirements developed pursuant to such section.

(b) Terms or conditions of leases or occupancy agreements subject to change with approval of Secretary

The Secretary may require any recipient of a loan or grant to agree that the availability of improvements constructed or repaired with the proceeds of the loan or grant under this subchapter shall not be a justification for directly or indirectly changing the terms or conditions of the lease or occupancy agreement with the occupants of such farms to the latter's disadvantage without the approval of the Secretary.

(c) Rural Housing Insurance Fund for payment of expenditures respecting construction defects; judicial review prohibition

The Secretary is authorized, after October 1, 1977, with respect to any unit or dwelling newly constructed during the period beginning eighteen months prior to October 12, 1977, and purchased with financial assistance authorized by this subchapter which he finds to have structural defects to make expenditures for (1) correcting such defects, (2) paying the claims of the owner of the property arising from such defects, or (3) acquiring title to the property, if such assistance is requested by the owner of the property within thirty-six months after financial assistance under this subchapter is rendered to the owner of the property or, in the case of property with respect to which assistance was made available within eighteen months prior to October 12, 1977, within thirty-six months after October 12, 1977. Expenditures pursuant to this subsection may be paid from the Rural Housing In-

urance Fund. Decisions by the Secretary regarding such expenditures or payments under this subsection, and the terms and conditions under which the same are approved or disapproved, shall not be subject to judicial review.

(d) Defaults involving security interest in tribal lands

In the event of default involving a security interest in tribal allotted or trust land, the Secretary shall only pursue liquidation after offering to transfer the account to an eligible tribal member, the tribe, or the Indian housing authority serving the tribe or tribes. If the Secretary subsequently proceeds to liquidate the account, the Secretary shall not sell, transfer, or otherwise dispose of or alienate the property except to one of the entities described in the preceding sentence.

(e) Terms and conditions; regulations

The Secretary shall, by regulation, prescribe the terms and conditions under which expenditures and payments may be made under the provisions of this section.

(f) Housing in underserved areas

(1) Designation of underserved area

The Secretary shall designate as targeted underserved areas 100 counties and communities in each fiscal year that have severe, unmet housing needs as determined by the Secretary. A county or community shall be eligible for designation if, during the 5-year period preceding the year in which the designation is made, it has received an average annual amount of assistance under this subchapter that is substantially lower than the average annual amount of such assistance received during that 5-year period by other counties and communities in the State that are eligible for such assistance calculated on a per capita basis, and has—

(A) 20 percent or more of its population at or below the poverty level; and

(B) 10 percent or more of its population residing in substandard housing.

As used in this paragraph, the term "poverty level" has the meaning given the term in section 5302(a)(9) of this title.

(2) Preferences

In selecting projects to receive assistance with amounts set aside under paragraph (4), the Secretary shall give preference to any project located in a county or community that has, at the time of designation and as determined by the Secretary—

(A) 28 percent or more of its population at or below poverty level; and

(B) 13 percent or more of its population residing in substandard housing.

In designating underserved areas under paragraph (1), in each fiscal year the Secretary shall designate not less than 5 counties or communities that contain tribal allotted or Indian trust land.

(3) Outreach program and review

(A) Outreach

The Secretary shall publicize the availability to targeted underserved areas of

grants and loans under this subchapter and promote, to the maximum extent feasible, efforts to apply for those grants and loans for housing in targeted underserved areas.

(B) Review

Upon the receipt of data from the 1990 decennial census, the Secretary shall conduct a review of any designations made under paragraph (1) and preferences given under paragraph (2) and the eligibility of communities and counties for such designation and preference, examining the effects of such data on such eligibility. The Secretary shall submit to the Congress, not later than 9 months after the availability of the data, a report regarding the review, which shall include any recommendations of the Secretary for modifications in the standards for designation and preference.

(4) Set-aside for targeted underserved areas and colonias

(A) In general

The Secretary shall set aside and reserve for assistance in targeted underserved areas an amount equal to 5.0 percent in each fiscal year of the aggregate amount of lending authority under sections 1472, 1474, 1484, 1485, and 1490d of this title. During each fiscal year, the Secretary shall set aside from amounts available for assistance under paragraphs (2) and (5) of section 1490a(a) of this title, an amount that is appropriate to provide assistance with respect to the lending authority under sections 1484 and 1485 of this title that is set aside for such fiscal year. The Secretary shall establish a procedure to reallocate any assistance set aside in any fiscal year for targeted underserved areas that has not been expended during a reasonable period in such year for use in (i) colonias that have applied for and are eligible for assistance under subparagraph (B) or paragraph (7) and did not receive assistance, and (ii) counties and communities eligible for designation as targeted underserved areas but which were not so designated. The procedure shall also provide that any assistance reallocated under the preceding sentence that has not been expended by a reasonable date established by the Secretary (which shall be after the expiration of the period referred to in the preceding sentence) shall be made available and allocated under the laws and regulations relating to such assistance, notwithstanding this subsection.

(B) Priority for colonias

(i) Notwithstanding the designation of counties and communities as targeted underserved areas under paragraph (1) and the provisions of section 1490 of this title, colonias shall be eligible for assistance with amounts reserved under subparagraph (A), as provided in this subparagraph.

(ii) In providing assistance from amounts reserved under this paragraph in each fiscal year, the Secretary shall give priority to any application for assistance to be used in, or in close proximity to, and serving the residents of, a colonia located in a State de-

scribed under clause (iii). After the Secretary has provided assistance under the priority for colonias located in a State in an amount equal to 5 percent of the total amount of assistance allocated under this subchapter to such State in the fiscal year, the priority shall not apply to any applications for colonias in such State.

(iii) This paragraph shall apply to any State for any fiscal year following 2 fiscal years in which the State obligated the total amount of assistance allocated to it under this subchapter during each of such 2 fiscal years.

(5) List of underserved areas

The Secretary shall publish annually the current list of targeted underserved areas in the Federal Register.

(6) Project preparation assistance

(A) In general

The Secretary may make grants to eligible applicants under subparagraph (D) to promote the development of affordable housing in targeted underserved areas and colonias.

(B) Use

A grant under this paragraph shall not exceed an amount that the Secretary determines to equal the customary and reasonable costs incurred in preparing an application for a loan under section 1472, 1474, 1484, 1485, or 1490d of this title, or a grant under section 1490m of this title (including pre-application planning, site analysis, market analysis, and other necessary technical assistance). The Secretary shall adjust the loan or grant amount under such sections to take account of project preparation costs that have been paid from grant proceeds under this paragraph and that normally would be reimbursed with proceeds of the loan or grant.

(C) Approval

The Secretary shall approve a properly submitted application or issue a written statement indicating the reasons for disapproval not later than 60 days after the receipt of the application.

(D) Eligibility

For purposes of this paragraph, an eligible applicant may be a nonprofit organization or corporation, a community housing development organization, State, unit of general local government, or agency of a State or unit of general local government.

(E) Availability of funding

Any amounts appropriated to carry out this paragraph shall remain available until expended.

(7) Priority for colonias

(A) In general

In providing assistance under this subchapter in any fiscal year described under subparagraph (B), each State in which colonias are located shall give priority to any application for assistance to be used in a colonia. The priority under this subpara-

graph shall not apply in such State after 5 percent of the assistance available in such fiscal year has been allocated for colonias qualifying for the priority.

(B) Covered years

This paragraph shall apply to any fiscal year following 2 fiscal years in which the State did not obligate the total amount of assistance allocated it under this subchapter during each of such 2 fiscal years.

(8) "Colonia" defined

For purposes of this subsection, the term "colonia" means any identifiable community that—

(A) is in the State of Arizona, California, New Mexico, or Texas;

(B) is in the area of the United States within 150 miles of the border between the United States and Mexico, except that the term does not include any standard metropolitan statistical area that has a population exceeding 1,000,000;

(C) is determined to be a colonia on the basis of objective criteria, including lack of potable water supply, lack of adequate sewage systems, and lack of decent, safe, and sanitary housing; and

(D) was in existence as a colonia before November 28, 1990.

(July 15, 1949, ch. 338, title V, §509, 63 Stat. 436; Pub. L. 95-128, title V, §504, Oct. 12, 1977, 91 Stat. 1139; Pub. L. 96-153, title V, §508, Dec. 21, 1979, 93 Stat. 1136; Pub. L. 98-181, title I [title V, §506(a)], Nov. 30, 1983, 97 Stat. 1242; Pub. L. 101-625, title VII, §§708, 709(b), Nov. 28, 1990, 104 Stat. 4287, 4288; Pub. L. 102-550, title VII, §705, Oct. 28, 1992, 106 Stat. 3835; Pub. L. 104-120, §4(a), Mar. 28, 1996, 110 Stat. 835; Pub. L. 104-180, title VII, §734(b), Aug. 6, 1996, 110 Stat. 1602; Pub. L. 105-86, title VII, §735(a), Nov. 18, 1997, 111 Stat. 2110; Pub. L. 105-276, title V, §599C(a), (e)(2)(B), Oct. 21, 1998, 112 Stat. 2661, 2662.)

REFERENCES IN TEXT

The National Housing Act, referred to in subsec. (a), is act June 27, 1934, ch. 847, 48 Stat. 1246, as amended. Title II of the National Housing Act is classified principally to subchapter II (§1707 et seq.) of chapter 13 of Title 12, Banks and Banking. For complete classification of this Act to the Code, see section 1701 of Title 12 and Tables.

AMENDMENTS

1998—Subsec. (f)(4)(A). Pub. L. 105-276, in first sentence, substituted "each fiscal year" for "fiscal year 1998" and, in second sentence, substituted "During each fiscal year" for "During such fiscal year" and substituted "from amounts available for assistance under paragraphs (2) and (5) of section 1490a(a) of this title, an amount" for "an amount of section 521 rental assistance".

1997—Subsec. (f)(4)(A). Pub. L. 105-86 substituted "fiscal year 1998" for "fiscal year 1997".

1996—Subsec. (f)(4)(A). Pub. L. 104-180 substituted "fiscal year 1997" for "fiscal year 1996".

Pub. L. 104-120 substituted "fiscal year 1996" for "fiscal years 1993 and 1994" and "During such fiscal year" for "During each such fiscal year".

1992—Subsec. (f)(1). Pub. L. 102-550, §705(a)(1), substituted "in each fiscal year" for "in each of fiscal years 1991 and 1992" in introductory provisions.

Subsec. (f)(2). Pub. L. 102-550, §705(a)(2), inserted concluding provisions.

Subsec. (f)(4)(A). Pub. L. 102-550, §705(a)(3), substituted "an amount equal to 5.0 percent in fiscal years 1993 and 1994" for "an amount equal to 3.5 percent in fiscal year 1991 and 5.0 percent in fiscal year 1992".

Subsec. (f)(4)(B)(ii). Pub. L. 102-550, §705(c), inserted "or in close proximity to, and serving the residents of," before "a colonia".

Subsec. (f)(8)(C) to (E). Pub. L. 102-550, §705(b), redesignated subpar. (D) as (C), struck out former subpar. (C) which read as follows: "is designated by the State or county in which it is located as a colonia;" added subpar. (D), and struck out subpar. (E) which read as follows: "was in existence and generally recognized as a colonia before November 28, 1990."

1990—Subsecs. (d), (e). Pub. L. 101-625, §708, added subsec. (d) and redesignated former subsec. (d) as (e).

Subsec. (f). Pub. L. 101-625, §709(b), added subsec. (f). 1983—Subsec. (a). Pub. L. 98-181 inserted provisions relating to standards, designated cls. (1) to (4), the compliance with which will result in approval by the Secretary, and inserted provision relating to the promotion of the use of energy saving techniques.

1979—Subsec. (c). Pub. L. 96-153 substituted "within thirty-six months after October 12, 1977" for "within eighteen months after October 12, 1977".

1977—Subsecs. (c), (d). Pub. L. 95-128 added subsecs. (c) and (d).

EFFECTIVE DATE OF 1996 AMENDMENT

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

REGULATIONS

Pub. L. 101-625, title VII, §709(c), Nov. 28, 1990, 104 Stat. 4290, provided that: "Not later than the expiration of the 120-day period beginning on the date of enactment of the Cranston-Gonzalez National Affordable Housing Act [Nov. 28, 1990], the Secretary of Agriculture shall issue any regulations necessary to carry out the amendment made by this section [amending this section]."

HOUSING IN UNDERSERVED AREAS

Pub. L. 101-625, title VII, §709(a), Nov. 28, 1990, 104 Stat. 4288, provided that: "The purpose of this section [amending this section and enacting provisions set out above] is to improve the quality of affordable housing in communities that have extremely high concentrations of poverty and substandard housing and that have been underserved by rural housing programs, including extremely distressed areas in the Lower Mississippi Delta and other regions of the Nation, by directing Farmers Home Administration assistance toward designated underserved areas."

EXEMPTIONS OF EXISTING DWELLINGS FROM LIVING AREA LIMITATIONS; AUTHORITY OF DISTRICT OFFICES OF FARMERS' HOME ADMINISTRATION

Pub. L. 100-202, §101(k) [title VI, §632], Dec. 22, 1987, 101 Stat. 1329-322, 1329-356, provided that: "During fiscal year 1988 and each succeeding fiscal year, the Secretary of Agriculture shall permit each district office of the Farmers Home Administration to exempt any existing dwelling from any limitation established by the Secretary on the number of square feet of living area that may be contained in a dwelling to be eligible for a loan under section 502 of the Housing Act of 1949 [section 1472 of this title], if the dwelling is modest in design, size, and cost for the area in which it is located."

§ 1480. Administrative powers of Secretary

In carrying out the provisions of this subchapter, the Secretary shall have the power to—

(a) Service and supply contracts

make contracts for services and supplies without regard to the provisions of section