

§ 4114. Permissible prepayment or voluntary termination and modification of commitments

(a) In general

Notwithstanding any limitations on prepayment or voluntary termination under this subchapter, an owner may terminate the low-income affordability restrictions through prepayment or voluntary termination, subject to compliance with the provisions of section 4113 of this title, under one of the following circumstances:

(1)(A) The Secretary approves a plan of action under section 4109(a) of this title, but does not provide the assistance approved in such plan during the 15-month period beginning on the date of approval.

(B) After the date that the housing would have been eligible for prepayment pursuant to the terms of the mortgage (notwithstanding this subchapter), the Secretary approves a plan of action under section 4110 or 4111 of this title, but does not provide the assistance approved in such plan before the earlier of (i) the expiration of the 2-month period beginning on the commencement of the 1st fiscal year beginning after such approval, or (ii) the expiration of the 6-month period beginning on the date of approval.

(C) The Secretary approves a plan of action under section 4110 or 4111 of this title for any eligible low-income housing not covered by subparagraph (B), but does not provide the assistance approved in such plan before the earlier of (i) the expiration of the 2-month period beginning on the commencement of the 1st fiscal year beginning after such approval, or (ii) the expiration of the 9-month period beginning on the date of approval.

(2) An owner who intended to transfer the housing to a qualified purchaser under section 4110 or 4111 of this title, and fully complied with the provisions of such section, did not receive any bona fide offers from any qualified purchasers within the applicable time periods.

In the event that the purchaser under the plan of action is unable to consummate the purchase for reasons other than the failure of the Secretary to provide incentives, an owner may terminate the low-income affordability restrictions through prepayment or voluntary termination subject to the provisions of sections 4110 and 4111 of this title.

(b) Section 1437f rental assistance

When providing rental assistance under section 1437f of title 42, the Secretary may enter into a contract with an owner, contingent upon the future availability of appropriations for the purpose of renewing expiring contracts for rental assistance as provided in appropriations Acts, to extend the term of such rental assistance for such additional period or periods necessary to carry out an approved plan of action. The contract and the approved plan of action shall provide that, if the Secretary is unable to extend the term of such rental assistance or is unable to develop a revised package of incentives providing benefits to the owner comparable to those received under the original approved plan of action, the Secretary, upon the request of the

owner, shall take the following actions (subject to the limitations under the following paragraphs):

(1) Modification of commitments

Modify the binding commitments made pursuant to section 4112(a)(2) of this title that are dependent on such rental assistance.

(2) Termination of plan of action

Permit the owner to prepay the mortgage and terminate the plan of action and any implementing use agreements or restrictions, but only if the owner agrees in writing to comply with provisions of section 4113 of this title.

At least 30 days before making a request under this subsection, an owner shall notify the Secretary of the owner's intention to submit the request. The Secretary shall have a period of 90 days following receipt of such notice to take action to extend the rental assistance contract and to continue the binding commitments under section 4112(a)(2) of this title.

(Pub. L. 100-242, title II, §224, as added Pub. L. 101-625, title VI, §601(a), Nov. 28, 1990, 104 Stat. 4265.)

§ 4115. Timetable for approval of plan of action

(a) Notification of deficiencies

Not later than 60 days after receipt of a plan of action, the Secretary shall notify the owner in writing of any deficiencies that prevent the plan of action from being approved. If deficiencies are found, such notice shall describe alternative ways in which the plan may be revised to meet the criteria for approval.

(b) Notification of approval

(1) In general

Not later than 180 days after receipt of a plan of action, or such longer period as the owner requests, the Secretary shall notify the owner in writing whether the plan of action, including any revisions, is approved. If approval is withheld, the notice shall describe—

(A) the reasons for withholding approval; and

(B) the actions that could be taken to meet the criteria for approval.

(2) Opportunity to revise

The Secretary shall subsequently give the owner a reasonable opportunity to revise the plan of action and seek approval.

(c) Delayed approval

If the Secretary does not approve a plan of action within the period under subsection (b), the Secretary shall provide incentives and assistance under this subchapter in the amount that the owner would have received if the Secretary had complied with such time limitations. The preceding sentence shall not apply if the plan of action was not approved because of deficiencies. An owner may bring an action in the appropriate Federal district court to enforce this subsection.

(Pub. L. 100-242, title II, §225, as added Pub. L. 101-625, title VI, §601(a), Nov. 28, 1990, 104 Stat. 4266.)