

ments, papers, and records of the resident council that are pertinent to assistance received under this subchapter.

**(10) Assumption conditions**

Any entity that assumes a mortgage covering low-income housing in connection with the acquisition of the housing from an owner under this section must comply with any low-income affordability restrictions for the remaining useful life of the housing as determined under section 4112(c) of this title.

(Pub. L. 100-242, title II, §226, as added Pub. L. 101-625, title VI, §601(a), Nov. 28, 1990, 104 Stat. 4267; amended Pub. L. 102-550, title III, §309, Oct. 28, 1992, 106 Stat. 3765; Pub. L. 105-276, title V, §514(b)(2)(A), Oct. 21, 1998, 112 Stat. 2548.)

AMENDMENTS

1998—Subsec. (b)(6)(B). Pub. L. 105-276, which directed the substitution of “Any system for preferences established under section 1437f(d)(1)(A) or 1437f(o)(6)(A)” for “The requirement for giving preferences to certain categories of eligible families under sections 1437f(d)(1)(A) and 1437f(o)(3)” in second sentence, was executed by making the substitution for text which included the word “preference” rather than “preferences” to reflect the probable intent of Congress.

1992—Subsec. (b)(2). Pub. L. 102-550, §309(1), inserted “and limitation on conditions of approval” in heading and inserted at end of text “The Secretary may not require the prepayment of the mortgage on eligible low-income housing for the approval of a plan of action involving a homeownership program for the housing.”

Subsec. (b)(3)(E). Pub. L. 102-550, §309(2), added subpar. (E).

Subsec. (b)(8). Pub. L. 102-550, §309(3), substituted “Except in the case of limited equity cooperatives, resident” for “Resident”.

Subsec. (b)(10). Pub. L. 102-550, §309(4), struck out “, as determined by the Secretary,” after “entity that assumes”, substituted “4112(c)” for “4112(d)”, and struck out at end “This requirement shall only apply to an entity, such as a cooperative association, that, as determined by the Secretary, intends to own the housing on a permanent basis.”

**§ 4117. Delegated responsibility to State agencies**

**(a) In general**

In addition to any responsibilities delegated under section 4103(c) of this title, the Secretary shall delegate some or all responsibility for implementing this subchapter to a State housing agency if such agency submits a preservation plan acceptable to the Secretary.

**(b) Approval**

State preservation plans shall be submitted in such form and in accordance with such procedures as the Secretary shall establish. The Secretary may approve plans that contain—

- (1) an inventory of low-income housing located within the State that is or will be eligible low-income housing under this subchapter within 5 years;
- (2) a description of the agency’s experience in the area of multifamily financing and restructuring;
- (3) a description of the administrative resources that the agency will commit to the processing of plans of action in accordance with this subchapter;
- (4) a description of the administrative resources that the agency will commit to the

monitoring of approved plans of action in accordance with this subchapter;

(5) an independent analysis of the performance of the multifamily housing inventory financed or otherwise monitored by the agency;

(6) a certification by the public official responsible for submitting the comprehensive housing affordability strategy under section 12705 of title 42 that the proposed activities are consistent with the approved housing strategy of the State within which the eligible low-income housing is located; and

(7) such other certifications or information that the Secretary determines to be necessary or appropriate to achieve the purposes of this subchapter.

**(c) Implementation agreements**

The Secretary may enter into any agreements necessary to implement an approved State preservation plan, which may include incentives that are authorized under other provisions of this subchapter.

(Pub. L. 100-242, title II, §227, as added Pub. L. 101-625, title VI, §601(a), Nov. 28, 1990, 104 Stat. 4270.)

REGULATIONS

Pub. L. 102-550, title III, §315, Oct. 28, 1992, 106 Stat. 3770, provided that: “The Secretary of Housing and Urban Development shall issue interim regulations implementing section 227 of the Housing and Community Development Act of 1987 (as amended by section 601(a) of the Cranston-Gonzalez National Affordable Housing Act) [12 U.S.C. 4117] not later than the expiration of the 30-day period beginning on the date of the enactment of this Act [Oct. 28, 1992], which shall take effect upon issuance. The Secretary shall issue final regulations implementing such section 227 after notice and opportunity for public comment regarding the interim regulations, 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). The duration of the period for public comment shall not be less than 60 days, and the final regulations shall be issued not later than the expiration of the 60-day period beginning upon the conclusion of the comment period and shall take effect upon issuance.”

**§ 4118. Consultations with other interested parties**

The Secretary shall confer with any appropriate State or local government agency to confirm any State or local assistance that is available to achieve the purposes of this title<sup>1</sup> and shall give consideration to the views of any such agency when making determinations under this subchapter. The Secretary shall also confer with appropriate interested parties that the Secretary believes could assist in the development of a plan of action that best achieves the purposes of this subchapter.

(Pub. L. 100-242, title II, §228, as added Pub. L. 101-625, title VI, §601(a), Nov. 28, 1990, 104 Stat. 4271.)

REFERENCES IN TEXT

This title, referred to in text, means title II of Pub. L. 100-242, as amended by Pub. L. 101-625, title VI, §601(a), Nov. 28, 1990, 104 Stat. 4249, known as the Low-Income Housing Preservation and Resident Home-

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

ownership Act of 1990, which is classified principally to this chapter. For complete classification of this Act to the Code, see Short Title note set out under section 4101 of this title and Tables.

### § 4119. Definitions

For purposes of this subchapter:

(1) The term “eligible low-income housing” means any housing financed by a loan or mortgage—

(A) that is—

(i) insured or held by the Secretary under section 1715l(d)(3) of this title and receiving loan management assistance under section 1437f of title 42 due to a conversion from section 1701s of this title;

(ii) insured or held by the Secretary and bears interest at a rate determined under the proviso of section 1715l(d)(5) of this title;

(iii) insured, assisted, or held by the Secretary or a State or State agency under section 1715z-1 of this title; or

(iv) held by the Secretary and formerly insured under a program referred to in clause (i), (ii), or (iii); and

(B) that, under regulation or contract in effect before February 5, 1988, is or will within 24 months become eligible for prepayment without prior approval of the Secretary.

(2) The term “Federal cost limit” means, for any eligible low-income housing, the amount determined under section 4105(a) of this title.

(3) The term “low-income affordability restrictions” means limits imposed by regulation or regulatory agreement on tenant rents, rent contributions, or income eligibility in eligible low-income housing.

(4) The terms “low-income families or persons” and “very low-income families or persons” mean families or persons whose incomes do not exceed the respective levels established for low-income families and very low-income families, respectively, under section 1437a(b)(2) of title 42.

(5) The term “moderate-income families or persons” means families or persons whose incomes are between 80 percent and 95 percent of the median income for the area, as determined by the Secretary with adjustments for smaller and larger families.

(6) The term “nonprofit organization” means any private, nonprofit organization that—

(A) is organized or chartered under State or local laws;

(B) has no part of its net earnings inuring to the benefit of any member, founder, contributor, or individual;

(C) complies with standards of financial accountability acceptable to the Secretary; and

(D) has among its principal purposes significant activities related to the provision of decent housing that is affordable to very low-, low-, and moderate-income families.

(7) The term “owner” means the current or subsequent owner or owners of eligible low-income housing.

(8) The term “preservation equity” means, for any eligible low-income housing—

(A) for purposes of determining the authorized return under section 4104(a) of this title and providing incentives to extend the low-income affordability restrictions on the housing under section 4109 of this title—

(i) the preservation value of the housing determined under section 4103(b)(1) of this title; less

(ii) any debt secured by the property; and

(B) for purposes of determining incentives under section<sup>1</sup> 4110 and 4111 of this title and determining the amount of an acquisition loan under the provisions of section 1715z-6(f)(3)<sup>2</sup> of this title—

(i) the preservation value of the housing determined under section 4103(b)(2) of this title; less

(ii) the outstanding balance of the federally-assisted mortgage or mortgages for the housing.

(9) The term “preservation value” means, for any eligible low-income housing, the applicable value determined under paragraph (1) or (2) of section 4103(b) of this title.

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

(11) The term “resident council” means any incorporated nonprofit organization or association that—

(A) is representative of the residents of the housing;

(B) adopts written procedures providing for the election of officers on a regular basis; and

(C) has a democratically elected governing board, elected by the residents of the housing.

(Pub. L. 100-242, title II, § 229, as added Pub. L. 101-625, title VI, § 601(a), Nov. 28, 1990, 104 Stat. 4271; amended Pub. L. 102-550, title III, §§ 310, 317(a)(5), Oct. 28, 1992, 106 Stat. 3765, 3772; Pub. L. 103-327, title II, Sept. 28, 1994, 108 Stat. 2316.)

#### REFERENCES IN TEXT

Section 1715z-6(f) of this title, referred to in par. (8)(B), was repealed by Pub. L. 104-204, title II, Sept. 26, 1996, 110 Stat. 2885.

#### CODIFICATION

Amendment by Pub. L. 103-327 is based on section 601(e) of title VI of S. 2281, One Hundred Third Congress, as reported July 13, 1994, which was enacted into law by Pub. L. 103-327.

#### AMENDMENTS

1994—Par. (4). Pub. L. 103-327 temporarily amended par. (4) to read as follows:

“(4)(A) The term ‘low-income tenants’ means families or persons with incomes that exceed 50 percent of the median income for the area (as determined by the Secretary with adjustments for family size) but do not exceed 80 percent of the median income for the area (as determined by the Secretary with adjustments for family size).

“(B) The term ‘very low-income tenants’ means families or persons with incomes that are less than or equal to 50 percent of the median income for the area (as determined by the Secretary with adjustments for family

<sup>1</sup> So in original. Probably should be “sections”.

<sup>2</sup> See References in Text note below.