

## EFFECTIVE DATE OF 1992 AMENDMENT

Amendment by section 220 of Pub. L. 102-550 applicable to unexpended funds allocated under subchapter II of this chapter in fiscal year 1992, except as otherwise specifically provided, see section 223 of Pub. L. 102-550, set out as a note under section 12704 of this title.

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.

**§ 12705a. Purposes of Removal of Regulatory Barriers to Affordable Housing Act**

The purposes of sections 12705a to 12705d of this title are—

(1) to encourage State and local governments to further identify and remove regulatory barriers to affordable housing (including barriers that are excessive, unnecessary, duplicative, or exclusionary) that significantly increase housing costs and limit the supply of affordable housing; and

(2) to strengthen the connection between Federal housing assistance and State and local efforts to identify and eliminate regulatory barriers.

(Pub. L. 102-550, title XII, §1202, Oct. 28, 1992, 106 Stat. 3938.)

## REFERENCES IN TEXT

Sections 12705a to 12705d of this title, referred to in text, were in the original “this title”, meaning title XII of Pub. L. 102-550, Oct. 28, 1992, 106 Stat. 3938, known as the Removal of Regulatory Barriers to Affordable Housing Act of 1992, which enacted sections 12705a to 12705d of this title, amended sections 5306 and 12705 of this title, and enacted provisions set out as a note below.

## CODIFICATION

Section was enacted as part of the Removal of Regulatory Barriers to Affordable Housing Act of 1992, and also as part of the Housing and Community Development Act of 1992, and not as part of the Cranston-Gonzalez National Affordable Housing Act which comprises this chapter.

## SHORT TITLE

Pub. L. 102-550, title XII, §1201, Oct. 28, 1992, 106 Stat. 3938, provided that: “This title [enacting this section and sections 12705b to 12705d of this title, amending sections 5306 and 12705 of this title, and enacting provisions set out as a note below] may be cited as the ‘Removal of Regulatory Barriers to Affordable Housing Act of 1992.’”

## REPORT BY SECRETARY

Pub. L. 102-550, title XII, §1207, Oct. 28, 1992, 106 Stat. 3941, provided that not later than 2 years after Oct. 28, 1992, the Secretary of Housing and Urban Development submit a report to Congress describing any successful State and local strategies for removal of barriers to affordable housing, assessing impact of identified regulatory barriers on housing patterns of minorities, and describing any strategies developed or implemented by Department of Housing and Urban Development for reducing barriers to affordable housing imposed by Federal Government, prior to repeal by Pub. L. 105-362, title VII, §701(b), Nov. 10, 1998, 112 Stat. 3287.

EX. ORD. NO. 13878. ESTABLISHING A WHITE HOUSE COUNCIL ON ELIMINATING REGULATORY BARRIERS TO AFFORDABLE HOUSING

Ex. Ord. No. 13878, June 25, 2019, 84 F.R. 30853, provided:

By the authority vested in me as President by the Constitution and the laws of the United States of America, it is hereby ordered as follows:

SECTION 1. *Purpose.* For many Americans, access to affordable housing is becoming far too difficult. Rising housing costs are forcing families to dedicate larger shares of their monthly incomes to housing. In 2017, approximately 37 million renter and owner households spent more than 30 percent of their incomes on housing, with more than 18 million spending more than half of their incomes on housing. Between 2001 and 2017, the number of renter households allocating more than half of their incomes toward rent increased by nearly 45 percent. These rising costs are leaving families with fewer resources for necessities such as food, healthcare, clothing, education, and transportation, negatively affecting their quality of life and hindering their access to economic opportunity.

Driving the rise in housing costs is a lack of housing supply to meet demand. Federal, State, local, and tribal governments impose a multitude of regulatory barriers—laws, regulations, and administrative practices—that hinder the development of housing. These regulatory barriers include: overly restrictive zoning and growth management controls; rent controls; cumbersome building and rehabilitation codes; excessive energy and water efficiency mandates; unreasonable maximum-density allowances; historic preservation requirements; overly burdensome wetland or environmental regulations; outdated manufactured-housing regulations and restrictions; undue parking requirements; cumbersome and time-consuming permitting and review procedures; tax policies that discourage investment or reinvestment; overly complex labor requirements; and inordinate impact or developer fees. These regulatory barriers increase the costs associated with development, and, as a result, drive down the supply of affordable housing. They are the leading factor in the growth of housing prices across metropolitan areas in the United States. Many of the markets with the most severe shortages in affordable housing contend with the most restrictive State and local regulatory barriers to development.

These regulatory barriers impede our Nation’s economic growth. Hardworking American families struggle to live in markets where there is an insufficient supply of housing—even in markets generating a significant number of jobs. One recent study suggests that certain regulatory restrictions on housing supply have forced workers to live far away from high-productivity areas with the best available jobs, creating a geographic misallocation of labor between cities that may have decreased the annual economic growth rate in the United States by 36 percent between 1964 and 2009.

Low- and middle-income Americans are often hit the hardest by regulatory barriers to housing development. High housing costs place strains on household budgets, limit educational opportunities, impair workforce mobility, slow job creation, and increase financial risks. Furthermore, studies have consistently identified high housing prices as a primary determinant of homelessness, and research has directly linked more stringent housing market regulation to higher homelessness rates.

To help these populations, in 2018, the Federal Government invested more than \$46 billion in rental assistance programs for low-income families—much of which grows at approximately 3 percent per annum while assisting a fixed number of households. The Federal Government provides additional housing support through the tax code, with over \$9.1 billion in tax expenditures in Low-Income Housing Tax Credits (LIHTC) to developers of low-income housing. Generally, these Federal tax dollars are focused disproportionately on areas with high-cost and highly regulated housing markets.

But to improve housing affordability in a truly sustainable manner, we need innovative solutions—not simply increases in spending and subsidies for Federal housing. These solutions must address the regulatory barriers that are inhibiting the development of hous-

ing. If we fail to act, Federal subsidies will only continue to mask the true cost of these onerous regulatory barriers, and, as a result, many Americans will not be able to access the opportunities they deserve.

SEC. 2. *Policy.* It shall be the policy of my Administration to work with Federal, State, local, tribal, and private sector leaders to address, reduce, and remove the multitude of overly burdensome regulatory barriers that artificially raise the cost of housing development and help to cause the lack of housing supply. Increasing the supply of housing by removing overly burdensome regulatory barriers will reduce housing costs, boost economic growth, and provide more Americans with opportunities for economic mobility. In addition, it will strengthen American communities and the quality of services offered in them by allowing hardworking Americans to live in or near the communities they serve.

SEC. 3. *White House Council on Eliminating Regulatory Barriers to Affordable Housing.* There is hereby established a White House Council on Eliminating Regulatory Barriers to Affordable Housing (Council). The Council shall be chaired by the Secretary of Housing and Urban Development, or his designee. The Assistant to the President for Domestic Policy and the Assistant to the President for Economic Policy, or their designees, shall be Vice Chairs.

(a) *Membership.* In addition to the Chair and Vice Chairs, the Council shall consist of the following officials, or their designees:

- (i) the Secretary of the Treasury;
- (ii) the Secretary of the Interior;
- (iii) the Secretary of Agriculture;
- (iv) the Secretary of Labor;
- (v) the Secretary of Transportation;
- (vi) the Secretary of Energy;
- (vii) the Administrator of the Environmental Protection Agency;
- (viii) the Director of the Office of Management and Budget;
- (ix) the Chairman of the Council of Economic Advisers;
- (x) the Deputy Assistant to the President and Director of Intergovernmental Affairs; and
- (xi) the heads of such other executive departments and agencies (agencies) and offices as the President, Chair, or Vice Chairs may, from time to time, designate or invite, as appropriate.

(b) *Administration.* The Vice Chairs shall convene regular meetings of the Council, determine its agenda, and direct its work with the oversight of and in consultation with the Chair. The Department of Housing and Urban Development shall provide funding and administrative support for the Council.

SEC. 4. *Mission and Functions of the Council.* The Council shall work across agencies and offices, with consideration of existing initiatives, to:

(a) solicit feedback from State, local, and tribal government officials, as well as relevant private-sector stakeholders, including developers, homebuilders, creditors, real estate professionals, manufacturers, academic researchers, renters, advocates, and homeowners, to:

(i) identify Federal, State, local, and tribal laws, regulations, and administrative practices that artificially raise the costs of housing development and contribute to shortages in housing supply, and

(ii) identify practices and strategies that most successfully reduce and remove burdensome Federal, State, local, and tribal laws, regulations, and administrative practices that artificially raise the costs of housing development, while highlighting actors that successfully implement such practices and strategies;

(b) evaluate and quantify the effect that various Federal, State, local, and tribal regulatory barriers have on affordable housing development, and the economy in general, and identify ways to improve the data available to the public and private researchers who evaluate such effects, without violating privacy laws or creating unnecessary burdens;

(c) identify and assess the actions each agency can take under existing authorities to minimize Federal regulatory barriers that unnecessarily raise the costs of housing development;

(d) assess the actions each agency can take under existing authorities to align, support, and encourage State, local, and tribal efforts to reduce regulatory barriers that unnecessarily raise the costs of housing development; and

(e) recommend Federal, State, local, and tribal actions and policies that would:

(i) reduce and streamline statutory, regulatory, and administrative burdens at all levels of government that inhibit the development of affordable housing, and

(ii) encourage State, local, and tribal governments to reduce regulatory barriers to the development of affordable housing.

SEC. 5. *Reports.* The Vice Chairs, on behalf of the Council, and with the oversight of and in consultation with the Chair, shall:

(a) within 12 months of the date of this order [June 25, 2019], submit to the President a report on the Council's implementation of section 4 of this order; and

(b) submit to the President any subsequent report that the President may request or that the Council may deem appropriate.

SEC. 6. *Agency Participation and Response.* The heads of agencies and offices shall provide such assistance and information to the Council, consistent with applicable law, as may be necessary to carry out the functions of this order.

SEC. 7. *Termination.* The Council shall terminate on January 21, 2021, unless extended by the President.

SEC. 8. *General Provisions.* (a) Nothing in this order shall be construed to impair or otherwise affect:

(i) the authority granted by law to an executive department, agency, or the head thereof; or

(ii) the functions of the Director of the Office of Management and Budget relating to budgetary, administrative, or legislative proposals.

(b) This order shall be implemented consistent with applicable law and subject to the availability of appropriations.

(c) This order is not intended to, and does not, create any right or benefit, substantive or procedural, enforceable at law or in equity by any party against the United States, its departments, agencies, or entities, its officers, employees, or agents, or any other person.

DONALD J. TRUMP.

#### § 12705b. Definition of regulatory barriers to affordable housing

For purposes of sections 12705a to 12705d of this title, the terms “regulatory barriers to affordable housing” and “regulatory barriers” mean any public policies (including policies embodied in statutes, ordinances, regulations, or administrative procedures or processes) required to be identified by a jurisdiction in connection with its comprehensive housing affordability strategy under section 12705(b)(4) of this title. Such terms do not include policies relating to rents imposed on a structure by a jurisdiction or policies that have served to create or preserve, or can be shown to create or preserve, housing for low- and very low-income families, including displacement protections, demolition controls, replacement housing requirements, relocation benefits, housing trust funds, dedicated funding sources, waiver of local property taxes and builder fees, inclusionary zoning, rental zoning overlays, long-term use restrictions, and rights of first refusal.

(Pub. L. 102-550, title XII, § 1203, Oct. 28, 1992, 106 Stat. 3938.)