

2000—Subsec. (a). Pub. L. 106-569, §703, substituted “limited partnership” for “nonprofit limited partnership” in first sentence of introductory provisions.

Subsec. (j). Pub. L. 106-569, §708(b), struck out heading and text of subsec. (j). Text read as follows: “Whoever, as an owner, agent, or manager, or who is otherwise in custody, control, or possession of property that is security for a loan made or insured under this section willfully uses, or authorizes the use, of any part of the rents, assets, proceeds, income, or other funds derived from such property, for any purpose other than to meet actual or necessary expenses of the property, or for any other purpose not authorized by this subchapter or the regulations adopted pursuant to this subchapter, shall be fined not more than \$250,000 or imprisoned not more than 5 years, or both.”

1998—Subsec. (a). Pub. L. 105-276 inserted “, or any nonprofit limited partnership in which the general partner is a nonprofit entity,” after “private nonprofit organization” in first sentence.

1996—Subsec. (j). Pub. L. 104-180 added subsec. (j).

1988—Subsec. (f)(1). Pub. L. 100-242, §316(b), struck out “and” at end.

Subsec. (f)(3). Pub. L. 100-242, §305(a), amended par. (3) generally. Prior to amendment, par. (3) read as follows: “the term ‘domestic farm labor’ means persons who receive a substantial portion (as determined by the Secretary) of their income as laborers on farms situated in the United States, Puerto Rico, or the Virgin Islands and either (A) are citizens of the United States, or (B) reside in the United States, Puerto Rico, or the Virgin Islands after being legally admitted for permanent residence therein.”

Subsec. (i). Pub. L. 100-628 added subsec. (i).

1983—Subsec. (h). Pub. L. 98-181 added subsec. (h).

1980—Subsec. (a). Pub. L. 96-399 inserted reference to Indian tribe.

1979—Subsec. (d). Pub. L. 96-153 repealed subsec. (d) which provided for a maximum of \$38,000,000 for the aggregate amount of principal obligations of loans insured under this section.

1978—Subsec. (d). Pub. L. 95-557, §501(d), substituted “\$38,000,000 (subject to approval in an appropriation Act)” for “\$25,000,000”.

Subsec. (g). Pub. L. 95-557, §504, added subsec. (g).

1977—Subsec. (f)(3). Pub. L. 95-128 extended definition of “domestic farm labor” to include laborers on farms situated in Puerto Rico and the Virgin Islands and the residents of the islands after being legally admitted for permanent residence.

1970—Subsec. (a). Pub. L. 91-609, §801(a), authorized insurance of loans to broad-based nonprofit organizations and nonprofit organizations of farmworkers incorporated within the State and provided for housing and related facilities for domestic farm labor any place within the State where need exists.

Subsec. (a)(2). Pub. L. 91-609, §801(b), substituted “1” for “5” per centum.

Subsec. (f)(1), (2). Pub. L. 91-609, §801(c), substituted “structures (including household furnishings)” for “structures” in cls. (A) and (B).

1968—Subsec. (f)(2). Pub. L. 90-448 included land necessary for an adequate site within the definition of “related facilities”.

1964—Subsec. (f)(3). Pub. L. 88-560 included residents of the United States after being legally admitted for permanent residence.

EFFECTIVE DATE OF 2008 AMENDMENT

Amendment of this section and repeal of Pub. L. 110-234 by Pub. L. 110-246 effective May 22, 2008, the date of enactment of Pub. L. 110-234, see section 4 of Pub. L. 110-246, set out as an Effective Date note under section 8701 of Title 7, Agriculture.

§ 1485. Housing and related facilities for elderly persons and families or other persons and families of low income

(a) Direct loans; authorization; terms and conditions; revolving fund; appropriation

The Secretary is authorized to make loans to private nonprofit corporations and consumer cooperatives and Indian tribes to provide rental or cooperative housing and related facilities for elderly or handicapped persons or families of low or moderate income or other persons and families of low income in rural areas, in accordance with terms and conditions substantially identical with those specified in section 1472 of this title; except that—

(1) no such loan shall exceed the development cost or the value of the security, whichever is less;

(2) such a loan may be made for a period of up to 30 years from the making of the loan; and

(3) such a loan, when made to a consumer cooperative for cooperative housing purposes, may, notwithstanding any other provision of law, be made upon the condition that any person who is admitted as an eligible member and tenant of the cooperative may not subsequently be deprived of his membership or tenancy by reason of his no longer meeting the income eligibility requirements established by the Secretary.

There is authorized to be appropriated not to exceed \$50,000,000, which shall constitute a revolving fund to be used by the Secretary in carrying out this subsection.

(b) Insurance of loans; authorization; terms and conditions; utilization of Agricultural Credit Insurance Fund

The Secretary is authorized to insure and make commitments to insure loans made to any individual, corporation, association, trust, Indian tribe, or partnership to provide rental or cooperative housing and related facilities for elderly or handicapped persons or families or other persons and families of moderate income in rural areas, in accordance with terms and conditions substantially identical with those specified in section 1472 of this title; except that—

(1) no such loan shall exceed the development cost or the value of the security, whichever is less;

(2) such a loan may be made for a period of up to 30 years from the making of the loan, but the Secretary may provide for periodic payments based on an amortization schedule of 50 years with a final payment of the balance due at the end of the term of the loan;

(3) for insuring such loans, the Secretary shall utilize the Agricultural Credit Insurance Fund subject to all the provisions of section 1929 of title 7 and the second and third sentences of section 1928¹ of title 7, including the authority in section 1929(f)(1)¹ of title 7 to utilize the insurance fund to make, sell, and insure loans which could be insured under this subsection; but the aggregate of the principal

¹ See References in Text note below.

amounts of such loans made by the Secretary and not disposed of shall not exceed \$10,000,000 outstanding at any one time; and the Secretary may take liens running to the United States though the notes may be held by other lenders;

(4) such a loan, when made to a consumer cooperative for cooperative housing purposes, may, notwithstanding any other provision of law, be made upon the condition that any person who is admitted as an eligible member and tenant of the cooperative may not subsequently be deprived of his membership or tenancy by reason of his no longer meeting the income eligibility requirements established by the Secretary;

(5) loans may be made to owners who are otherwise eligible under this section to purchase and convert single-family residences to rental units of two or more dwellings; and

(6) the Secretary may make a new loan to the current borrower to finance the final payment of the original loan for an additional period not to exceed twenty years, if—

(A) the Secretary determines—

(i) it is more cost-efficient and serves the tenant base more effectively to maintain the current property than to build a new property in the same location; or

(ii) the property has been maintained to such an extent that it warrants retention in the current portfolio because it can be expected to continue providing decent, safe, and affordable rental units for the balance of the loan; and

(B) the Secretary determines—

(i) current market studies show that a need for low-income rural rental housing still exists for that area; and

(ii) any other criteria established by the Secretary has been met.

(c) Equity recapture loans and loans to nonprofit organizations and public agencies

With respect to a loan made or insured under subsection (a) or (b), the Secretary is authorized to—

(1) make or insure an equity loan in the form of a supplemental loan for the purpose of equity takeout to the owner of housing financed with a loan made or insured under this section pursuant to a contract entered into before December 15, 1989, for the purpose of extending the affordability of the housing for low income families or persons and very low-income families or persons for not less than 20 years, except that such loan may not exceed 90 percent of the value of the equity in the project as determined by the Secretary;

(2) transfer and reamortize an existing loan in connection with assistance provided under paragraph (1); and

(3) make or insure a loan to enable a nonprofit organization or public agency to make a purchase described in section 1472(c)(5) of this title.

(d) Construction requirements; detached units for cooperative housing

No loan shall be made or insured under subsection (a) or (b) unless the Secretary finds that

the construction involved will be undertaken in an economical manner and will not be of elaborate or extravagant design or materials. However, specifically designed equipment required by elderly or handicapped persons or families shall not be considered elaborate or extravagant. A loan may be made or insured under subsection (a) or (b) with respect to detached units, including those on scattered sites, for cooperative housing.

(e) Definitions

As used in this section—

(1) the term “housing” means new or existing housing suitable for dwelling use by occupants eligible under this section, and such term also means manufactured home rental parks where either the lots or both the lots and the homes are available for use by occupants eligible under this section; and such term also means congregate housing facilities for elderly or handicapped persons or families who require some supervision and central services but are otherwise able to care for themselves; such housing for the handicapped may be utilized in conjunction with educational and training facilities;

(2) the term “related facilities” includes cafeterias or dining halls, community rooms or buildings, appropriate recreation facilities, and other essential service facilities;

(3) the term “congregate housing” means housing in which (A) some of the units may not have kitchen facilities, and (B) there is a central dining facility to provide wholesome and economic meals for elderly or handicapped persons or families.

(4) the term “development cost” means the costs of constructing, purchasing, improving, altering, or repairing new or existing housing and related facilities and purchasing and improving the necessary land, including necessary and appropriate fees and charges, initial operating expenses up to 2 per centum of the aforementioned costs, approved by the Secretary, impact fees, local charges for installation, provision, or use of infrastructure, and local assessments for public improvements and services imposed by State and local governments. Such fees and charges may include payments of qualified consulting organizations or foundations which operate on a nonprofit basis and which render services or assistance to nonprofit corporations or consumer cooperatives who provide housing and related facilities for low or moderate income families. Notwithstanding the first sentence of this paragraph, the term “development cost” shall not include any initial operating expenses in the case of any nonprofit corporation or consumer cooperative that is financing housing under this section and has been allocated a low-income housing tax credit by a housing credit agency pursuant to section 42 of title 26.

(f) Administrative expenses

Amounts made available pursuant to section 1483 of this title shall be available for administrative expenses incurred under this section.

(g) Loans for financing transfers of memberships in cooperatives

Notwithstanding the provisions of subsections (a) and (b) of this section, the Secretary may make and insure loans to consumer cooperatives to enable such cooperatives to finance the transfers of memberships in the cooperatives upon such terms and conditions as low- and moderate-income persons can reasonably afford, except that such loans shall not be made upon terms more favorable than are authorized under section 1490a(a) of this title, and that the total loan to a cooperative under this section shall not exceed the value of the property.

(h) Project transfers**(1) Condition**

After August 6, 1996, the ownership or control of a project for which a loan is made or insured under this section may be transferred only if the Secretary determines that such transfer would further the provision of housing and related facilities for low-income families or persons and would be in the best interests of residents and the Federal Government.

(2) Actions to expedite project approvals**(A) In general**

The Secretary shall take actions to facilitate timely approval of requests to transfer ownership or control, for the purpose of rehabilitation or preservation, of multifamily housing projects for which assistance is provided by the Secretary of Agriculture in conjunction with any low-income housing tax credits under section 42 of title 26 or tax-exempt housing bonds.

(B) Consultation

The Secretary of Agriculture shall consult with the Commissioner of the Internal Revenue Service and take such actions as are appropriate in conjunction with such consultation to simplify the coordination of rules, regulations, forms (including applications forms for project transfers), and approval requirements² multifamily housing projects for which assistance is provided by the Secretary of Agriculture in conjunction with any low-income housing tax credits under section 42 of title 26 or tax-exempt housing bonds.

(C) Existing requirements

Any actions taken pursuant to this paragraph shall be taken in a manner that provides for full compliance with any existing requirements under law or regulation that are designed to protect families receiving Federal housing assistance, including income targeting, rent, and fair housing provisions, and shall also comply with requirements regarding environmental review and protection and wages paid to laborers.

(D) Recommendations

In implementing the changes required under this paragraph, the Secretary shall solicit recommendations regarding such changes from project owners and sponsors,

investors and stakeholders in housing tax credits, State and local housing finance agencies, tenant advocates, and other stakeholders in such projects.

(i) Limitations on cost increases after approval for project involving newly constructed or substantially rehabilitated units; applicable factors

After approving a project involving newly constructed or substantially rehabilitated units under this section, the Secretary shall limit cost increases to those approved by the Secretary. The Secretary may approve those increases only for unforeseen factors beyond the owner's control, design changes required by the Secretary or the local government, or changes in financing approved by the Secretary.

(j) Contract preferences for providing units in newly constructed projects

For the purpose of achieving the lowest cost in providing units in newly constructed projects assisted under this section, the Secretary shall give a preference in entering into contracts under this section for projects which are to be located on specific tracts of land provided by States, units of local government, or others if the Secretary determines that the tract of land is suitable for such housing, and that affording such preference will be cost effective.

(k) Management fees

The Secretary shall assure that management fees are not excessive when a project developed under this section is managed by the developer or an affiliate of the developer.

(l) Determination of market feasibility of project

For purposes of determining the market feasibility of any project to be assisted under this section—

(1) in the case of any applicant who applies for rental assistance payments under section 1490a of this title in connection with such project, the Secretary shall consider the availability of such rental assistance payments with respect to the project and shall require such applicant to demonstrate that a market exists for persons and families eligible for such rental assistance payments; and

(2) in the case of any applicant whose project is expected to utilize any assistance under a program of a State, or political subdivision thereof, that is similar to such assistance payments under section 1490a of this title, the Secretary shall only require such applicant to demonstrate that—

(A) a market exists for persons and families eligible for such program of assistance;

(B) such program of assistance will provide rental assistance for a period of not less than five years, and, at the option of the applicant, either that there is a reasonable assurance that the contract for assistance will be extended or renewed, or for the term of the loan remaining after the period of such assistance, that an adequate rental market exists for the project without such assistance; and

(C) during the term of such rental assistance contracts, such State or political sub-

²So in original. The word "for" probably should appear.

division shall make available the amounts required for such rental assistance not less than annually.

(m) Standards for housing and related facilities rehabilitated or repaired; establishment, criteria, etc.

The Secretary shall establish standards for housing and related facilities rehabilitated or repaired with amounts received under a loan made or insured under this section. Standards established by the Secretary under this subsection shall provide that except for substantial rehabilitation the particular items or systems repaired or rehabilitated must meet appropriate levels of quality or performance comparable to those levels prescribed by the Secretary of Housing and Urban Development for rehabilitation, but shall not require that such items or systems or the remainder of the property meet the standards which are applicable to new construction. The Secretary shall ensure that standards prescribed under this subsection provide decent, safe, and sanitary housing and related facilities.

(n) Assistance to projects located on more than one site

The Secretary may not deny assistance under this section or section 1490a of this title on the basis that the project involved is to be located on more than one site.

(o) Rental assistance payments as affecting assistance to projects or occupancy by eligible persons

The Secretary may not (1) deny assistance under this section on the basis that rental assistance payments under section 1490a of this title may be required unless the authority to provide such assistance is not available; or (2) promulgate any regulation that would have the effect of denying occupancy to eligible persons on the basis that such persons require rental assistance payments under section 1490a of this title.

(p) Occupancy by low income persons and families other than very low-income persons and families

(1) To the extent assistance is available under section 1490a(a)(2) of this title, not more than 25 per centum of the dwelling units which were available for occupancy under this section prior to November 30, 1983, and which will be leased on or after November 30, 1983, shall be available for leasing by low income persons and families other than very low-income persons and families.

(2) To the extent assistance is available under section 1490a(a)(2) of this title, not more than 5 per centum of the dwelling units which become available for occupancy under this section on or after November 30, 1983, shall be available for leasing by low income persons and families other than very low-income persons and families.

(3) Units in projects financed under this section which become available for occupancy after November 30, 1983, shall not be available for occupancy by persons and families other than very low-income persons and families if the authority to provide assistance for such persons is available.

(4) In projects financed under this section, units that have been allocated a low-income housing tax credit by a housing credit agency pursuant to section 42 of title 26 shall not be available for occupancy by persons or families other than persons or families with incomes not in excess of the qualifying income applicable to such units pursuant to subparagraph (A) or (B) of section 42(g)(1) of title 26.

(5) The Secretary shall coordinate the processing of any application for a loan under this section for a project and the processing of any application for assistance under section 1490a(a)(2) of this title with respect to housing units in the same project in an economical and efficient manner. At the time the Secretary enters into a commitment to make or insure a loan under this section the Secretary shall obligate amounts for assistance payments under section 1490a(a)(2) of this title for the project, to the extent that such amounts are available and the Secretary determines such assistance is necessary for the market feasibility of the project.

(q) Determination of income of person or family occupying financed housing

In determining the income of a person or family occupying housing financed under this section, the Secretary shall consider the value of that person's or family's assets in the same manner as the Secretary of Housing and Urban Development considers such value for the purpose of the United States Housing Act of 1937 [42 U.S.C. 1437 et seq.].

(r) Operating reserve and equity contribution requirements; regulations to implement adjustment by negotiated rulemaking procedure

(1) the³ Secretary—

(A) may require that the initial operating reserve under this section may be in the form of an irrevocable letter of credit; and

(B) except as provided in paragraph (2), may require not more than a 3 percent contribution to equity, except that the Secretary shall require a 5 percent contribution in the case of a project that is allocated a low-income housing tax credit pursuant to section 42 of title 26.

(2) The Secretary may adjust the amount of equity contribution to ensure that assistance provided is not more than is necessary to provide affordable housing after taking account of assistance from all Federal, State, and local sources.

(3) Not later than 60 days after August 6, 1996, the Secretary shall issue regulations to implement subsection (r)(2) in accordance with the negotiated rulemaking procedures set forth in subchapter III of chapter 5 of title 5: *Provided*, That if the negotiated rulemaking is not completed within the designated time, the Secretary shall proceed to promulgate regulations under the rulemaking authority contained in section 557 of title 5.

(s) Limitation of fees on loans

No fee other than a late fee may be imposed by or for the Secretary or any other Federal agency on or with respect to a loan made or insured under this section.

³ So in original. Probably should be capitalized.

(t) Equity takeout loans**(1) Authority**

The Secretary is authorized to guarantee an equity loan (in the form of a supplemental loan) to an owner of housing financed with a loan made or insured under subsection (b), only if the Secretary determines, after taking into account local market conditions, that there is reasonable likelihood that the housing will continue as decent, safe, and sanitary housing for the remaining life of the original loan on the project made or insured under subsection (b) and that such an equity loan is—

(A) necessary to provide a fair return on the owner's investment in the housing;

(B) the least costly alternative for the Federal Government that is consistent with carrying out the purposes of this subsection; and

(C) would not impose an undue hardship on tenants or an unreasonable cost to the Federal Government.

The amount of loans guaranteed under this subsection shall be subject to limits provided in appropriations Acts.

(2) Timing

The Secretary is authorized to guarantee an equity loan under this subsection after the expiration of the 20-year period beginning on the date that an existing loan under subsection (b) of this section was made or insured. Not more than one equity loan under this subsection may be provided for any project.

(3) Amount of the takeout

The amount of an equity loan under this subsection shall not exceed the difference between the outstanding principal on debt secured by the project and 90 percent of the appraised value of the project. The appraised value of the project shall be determined by 2 independent appraisers, 1 of whom shall be selected by the Secretary and 1 of whom shall be selected by the owner. If the 2 appraisers fail to agree on the value of the project, the Secretary and the owner shall jointly select a third appraiser whose appraisal shall be binding on the Secretary and the owner. The amount of the equity loan shall not exceed 30 percent of the amount of the original appraised value of the project made or insured under subsection (b).

(4) Submission of plan

An owner requesting an equity loan under this subsection shall submit a plan acceptable to the Secretary to ensure that the cost of amortizing an equity loan under paragraph (1) does not result in the displacement of very-low-income tenants or substantially alter the income mix of the tenants in the project.

(5) Regulations

The Secretary shall issue final regulations within 180 days from December 15, 1989.

(6) Effective date

The requirements of this subsection shall apply to any loan obligated under this section on or after December 15, 1989. This subsection shall not require retroactive reserve account

payments with respect to any loan that was obligated on or after December 15, 1989, and on or before June 16, 1990, but reserve account payments shall be required for such loans beginning on November 28, 1990.

(u) Reuse of loan authority

Loan authority that is obligated under this section but that is not expended due to any action that removes the original borrower, may be reallocated to a different borrower during the same fiscal year in which the loan authority was obligated. Any loan authority under this section appropriated or made available within limits established in appropriations Acts shall remain available until expended.

(v) Assumption of loans

The Secretary may provide for the assumption or transfer of a loan or loan obligation under this section to any person or entity qualified to receive a loan or loan obligation under this section in any case of default or foreclosure with respect to the original borrower. The Secretary shall provide in each assumption or transfer under this subsection for the assumption of the obligations, rights, and interests under the terms of the loan or loan obligation or such other terms as the Secretary determines appropriate.

(w) Set-aside of rural rental housing funds**(1) Authority**

Except as provided in paragraph (2), the Secretary shall set aside from amounts made available for each State for loans under this section, not less than 9 percent of the amounts available in each fiscal year. Amounts set aside shall be available only for nonprofit entities in the State, which may not be wholly or partially owned or controlled by a for-profit entity. A partnership, that has as its general partner a nonprofit entity or the nonprofit entity's for-profit subsidiary, is eligible to receive funds set aside under this subsection to sponsor a project which is receiving low-income housing tax credits authorized under section 42 of title 26. For the purposes of this subsection, a nonprofit entity is an organization that—

(A) will own an interest in a project to be financed under this section and will materially participate in the development and the operation of the project;

(B) is a private organization that has nonprofit, tax exempt status under section 501(c)(3) or section 501(c)(4) of title 26;

(C) has among its purposes the planning, development, or management of low-income housing or community development projects; and

(D) is not affiliated with or controlled by a for-profit organization.

(2) Minimum State set-aside

If the amount set aside under paragraph (1) for any State is less than \$750,000 in any fiscal year, the Secretary shall pool such amount together with set-aside amounts from other States whose set-aside is less than \$750,000, and shall make such amounts available for such eligible entities under paragraph (1) in

any such State. The Secretary shall establish a procedure to provide that any amounts pooled under this paragraph from the allocation for any State in any fiscal year that are not obligated during a reasonable period in such year shall be made available for any such eligible entities under paragraph (1) in such State. The Secretary may provide amounts available for reallocation under this subsection in excess of \$750,000 in a given State, if such amounts are necessary to finance a project under this section.

(3) Unused amounts

(A) Equitable distribution

Any amounts set aside under this subsection from the allocation for any State that are not obligated by 9 months after the allocation, shall first be pooled and made available to any other eligible nonprofit entity in any State as defined in this subsection. The Secretary shall make reasonable efforts to ensure that pooled funds are distributed under this subparagraph in an equitable manner.

(B) Return to the States

After funds have been pooled and obligated for 30 days, the Secretary shall return any remaining funds to the States on a proportional basis for use by any other eligible entity as defined in this section.

(x) Uniform project costs; coordination of housing resources and tax benefits

The Secretary shall—

(1) establish standard guidelines for State of costs that describe allowable development costs which are required for development of all projects under this section, without regard to whether the project was allocated a low-income housing tax credit;

(2) require each State to establish a process for coordinating the selection of projects under this section with the housing needs and priorities as established in a State comprehensive housing affordability strategy under section 12705 of this title and a low-income housing tax credit allocation plan under section 42 of title 26; and

(3) develop, in consultation with housing credit agencies (as that term is defined under section 42 of title 26), uniform procedures for identifying and sharing information on project costs, builder profit, identity of interests relationships, and other factors, as appropriate, with the relevant housing credit agency for projects that are allocated a low-income housing tax credit pursuant to section 42(h) of title 26 for the purpose of achieving compliance with section 3545(d) of this title.

(y) Service coordinators

(1) Grants

The Secretary may make grants under this subsection, with respect to any project that the Secretary determines has a sufficient number of frail elderly residents, for the cost of employing or otherwise retaining the services of one or more individuals to coordinate services provided to frail elderly residents of the project (in this subsection referred to as a

“service coordinator”), who shall be responsible for—

(A) assessing the supportive service needs of frail elderly residents of the project, based on objective criteria and interviews with such residents;

(B) working with service providers to design the provision of services to meet the needs of frail elderly residents of the project, taking into consideration the needs and desires of such residents and their ability and willingness to pay for such services, as expressed by the residents;

(C) mobilizing public and private resources to obtain funding for such services for such residents;

(D) monitoring and evaluating the impact and effectiveness of any supportive services provided for such residents;

(E) consulting and coordinating with any appropriate public and private agencies regarding the provision of supportive services; and

(F) performing such other duties that the Secretary deems appropriate to enable frail elderly persons residing in federally assisted housing to live with dignity and independence.

(2) Qualifications

Individuals employed as service coordinators pursuant to this subsection shall meet the minimum qualifications and standards established under section 8011(d)(4) of this title for service coordinators under a congregate housing services program.

(3) Application and selection

The Secretary shall provide for the form and manner of applications for grants under this subsection and for the selection of applicants to receive the grants.

(4) “Frail elderly” defined

For purposes of this subsection, the term “frail elderly” has the meaning given the term in section 8011(k) of this title.

(z) Accounting and recordkeeping requirements

(1) Accounting standards

The Secretary shall require that borrowers in programs authorized by this section maintain accounting records in accordance with generally accepted accounting principles for all projects that receive funds from loans made or guaranteed by the Secretary under this section.

(2) Record retention requirements

The Secretary shall require that borrowers in programs authorized by this section retain for a period of not less than 6 years and make available to the Secretary in a manner determined by the Secretary, all records required to be maintained under this subsection and other records identified by the Secretary in applicable regulations.

(aa) Double damages for unauthorized use of housing projects assets and income

(1) Action to recover assets or income

(A) In general

The Secretary may request the Attorney General to bring an action in a United

States district court to recover any assets or income used by any person in violation of the provisions of a loan made or guaranteed by the Secretary under this section or in violation of any applicable statute or regulation.

(B) Improper documentation

For purposes of this subsection, a use of assets or income in violation of the applicable loan, loan guarantee, statute, or regulation shall include any use for which the documentation in the books and accounts does not establish that the use was made for a reasonable operating expense or necessary repair of the project or for which the documentation has not been maintained in accordance with the requirements of the Secretary and in reasonable condition for proper audit.

(C) Definition

For the purposes of this subsection, the term “person” means—

- (i) any individual or entity that borrows funds in accordance with programs authorized by this section;
- (ii) any individual or entity holding 25 percent or more interest of any entity that borrows funds in accordance with programs authorized by this section; and
- (iii) any officer, director, or partner of an entity that borrows funds in accordance with programs authorized by this section.

(2) Amount recoverable

(A) In general

In any judgment favorable to the United States entered under this subsection, the Attorney General may recover double the value of the assets and income of the project that the court determines to have been used in violation of the provisions of a loan made or guaranteed by the Secretary under this section or any applicable statute or regulation, plus all costs related to the action, including reasonable attorney and auditing fees.

(B) Application of recovered funds

Notwithstanding any other provision of law, the Secretary may use amounts recovered under this subsection for activities authorized under this section and such funds shall remain available for such use until expended.

(3) Time limitation

Notwithstanding any other provision of law, an action under this subsection may be commenced at any time during the 6-year period beginning on the date that the Secretary discovered or should have discovered the violation of the provisions of this section or any related statutes or regulations.

(4) Continued availability of other remedies

The remedy provided in this subsection is in addition to and not in substitution of any other remedies available to the Secretary or the United States.

(July 15, 1949, ch. 338, title V, §515, as added Pub. L. 87-723, §4(b), Sept. 28, 1962, 76 Stat. 671;

amended Pub. L. 88-340, June 30, 1964, 78 Stat. 233; Pub. L. 88-560, title V, §501(d) Sept. 2, 1964, 78 Stat. 796; Pub. L. 89-117, title X, §1005(c), Aug. 10, 1965, 79 Stat. 501; Pub. L. 89-754, title VIII, §§804, 805, Nov. 3, 1966, 80 Stat. 1282; Pub. L. 91-78, §1, Sept. 30, 1969, 83 Stat. 125; Pub. L. 91-152, title IV, §413(a), Dec. 24, 1969, 83 Stat. 398; Pub. L. 91-609, title VIII, §803(c), Dec. 31, 1970, 84 Stat. 1807; Pub. L. 93-117, §13(b), Oct. 2, 1973, 87 Stat. 423; Pub. L. 93-383, title V, §§509(b), 510, Aug. 22, 1974, 88 Stat. 695; Pub. L. 95-60, §4(b), June 30, 1977, 91 Stat. 258; Pub. L. 95-80, §4(b), July 31, 1977, 91 Stat. 340; Pub. L. 95-128, title V, §§501(b), 507(a)(3), 508, Oct. 12, 1977, 91 Stat. 1138, 1140, 1141; Pub. L. 95-406, §7(b), Sept. 30, 1978, 92 Stat. 881; Pub. L. 95-557, title V, §501(e), Oct. 31, 1978, 92 Stat. 2111; Pub. L. 96-71, §5(b), Sept. 28, 1979, 93 Stat. 502; Pub. L. 96-105, §5(b), Nov. 8, 1979, 93 Stat. 795; Pub. L. 96-153, title V, §501(f), Dec. 21, 1979, 93 Stat. 1134; Pub. L. 96-372, §6(b), Oct. 3, 1980, 94 Stat. 1364; Pub. L. 96-399, title V, §§501(b), 502, 503, 507(c), Oct. 8, 1980, 94 Stat. 1668, 1670; Pub. L. 97-35, title III, §351(b), Aug. 13, 1981, 95 Stat. 420; Pub. L. 97-289, §3(a), Oct. 6, 1982, 96 Stat. 1231; Pub. L. 98-35, §3(a), May 26, 1983, 97 Stat. 198; Pub. L. 98-109, §4(a), Oct. 1, 1983, 97 Stat. 746; Pub. L. 98-181, title I [title V, §§511(b), 512], Nov. 30, 1983, 97 Stat. 1244; Pub. L. 98-479, title I, §105(e), Oct. 17, 1984, 98 Stat. 2227; Pub. L. 99-120, §3(a), Oct. 8, 1985, 99 Stat. 503; Pub. L. 99-156, §3(a), Nov. 15, 1985, 99 Stat. 816; Pub. L. 99-219, §3(a), Dec. 26, 1985, 99 Stat. 1731; Pub. L. 99-267, §3(a), Mar. 27, 1986, 100 Stat. 74; Pub. L. 99-272, title III, §3009(a), Apr. 7, 1986, 100 Stat. 105; Pub. L. 99-289, §1(b), May 2, 1986, 100 Stat. 412; Pub. L. 99-345, §1, June 24, 1986, 100 Stat. 673; Pub. L. 99-430, Sept. 30, 1986, 100 Stat. 986; Pub. L. 100-122, §1, Sept. 30, 1987, 101 Stat. 793; Pub. L. 100-154, Nov. 5, 1987, 101 Stat. 890; Pub. L. 100-170, Nov. 17, 1987, 101 Stat. 914; Pub. L. 100-179, Dec. 3, 1987, 101 Stat. 1018; Pub. L. 100-200, Dec. 21, 1987, 101 Stat. 1327; Pub. L. 100-242, title II, §§242, 263, title III, §§301(e), 306, 307, 316(c), Feb. 5, 1988, 101 Stat. 1890, 1891, 1893, 1895, 1896, 1898; Pub. L. 100-628, title X, §1042, Nov. 7, 1988, 102 Stat. 3273; Pub. L. 101-137, §7(a), Nov. 3, 1989, 103 Stat. 825; Pub. L. 101-235, title II, §207, title IV, §402, Dec. 15, 1989, 103 Stat. 2042, 2048; Pub. L. 101-625, title VII, §§701(e), 712, 713, Nov. 28, 1990, 104 Stat. 4282, 4291, 4292; Pub. L. 102-142, title VII, §743(a), Oct. 28, 1991, 105 Stat. 915; Pub. L. 102-230, §4, Dec. 12, 1991, 105 Stat. 1721; Pub. L. 102-550, title VII, §§701(e), 707(a)-(f)(1), 708(a), Oct. 28, 1992, 106 Stat. 3834, 3836-3839; Pub. L. 104-120, §4(b), (c), Mar. 28, 1996, 110 Stat. 835; Pub. L. 104-180, title VII, §734(a), (c)(1), (2), (3)(C), (d), (e)(2), Aug. 6, 1996, 110 Stat. 1601-1603; Pub. L. 105-86, title VII, §735(b), Nov. 18, 1997, 111 Stat. 2110; Pub. L. 105-276, title V, §599C(b), Oct. 21, 1998, 112 Stat. 2661; Pub. L. 106-569, title VII, §704, Dec. 27, 2000, 114 Stat. 3014; Pub. L. 110-289, div. B, title VIII, §2833, July 30, 2008, 122 Stat. 2868.)

REFERENCES IN TEXT

Section 1928 of title 7, referred to in subsec. (b)(3), was amended generally by Pub. L. 104-127, title VI, §605, Apr. 4, 1996, 110 Stat. 1086, and, as so amended, consists of subsecs. (a) and (b) which are substantially similar to provisions formerly contained in the third sentence of such section.

Section 1929(f)(1) of title 7, referred to in subsec. (b)(3), was repealed and section 1929(f)(2) was redesign-

nated section 1929(f)(1) by Pub. L. 104-127, title VII, §744, Apr. 4, 1996, 110 Stat. 1125.

The United States Housing Act of 1937, referred to in subsec. (q), is act Sept. 1, 1937, ch. 896, as revised generally by Pub. L. 93-383, title II, §201(a), Aug. 22, 1974, 88 Stat. 653, and amended, which is classified generally to chapter 8 (§1437 et seq.) of this title. For complete classification of this Act to the Code, see Short Title note set out under section 1437 of this title and Tables.

CODIFICATION

Section 203(a) of Pub. L. 100-242, as amended, which was formerly set out in a note under section 1715/ of Title 12, Banks and Banking, and which provided that on Nov. 28, 1990, the amendment made by section 263 of Pub. L. 100-242 is repealed and section is to read as it would without such amendment, was omitted in the general amendment of subtitle A of title II of Pub. L. 100-242 by Pub. L. 101-625.

AMENDMENTS

2008—Subsec. (h). Pub. L. 110-289, which directed amendment of subsec. (h) by inserting “(1) Condition” after “(h)” and adding par. (2), was executed by making the insertion after “(h) Project transfers” and adding par. (2), to reflect the probable intent of Congress.

2000—Subsec. (z). Pub. L. 106-569 added subsec. (z) and struck out heading and text of former subsec. (z). Text read as follows: “Whoever, as an owner, agent, or manager, or who is otherwise in custody, control, or possession of property that is security for a loan made or insured under this section willfully uses, or authorizes the use, of any part of the rents, assets, proceeds, income, or other fund derived from such property, for any purpose other than to meet actual or necessary expenses of the property, or for any other purpose not authorized by this subchapter or the regulations adopted pursuant to this subchapter, shall be fined not more than \$250,000 or imprisoned not more than 5 years, or both.”

Subsec. (aa). Pub. L. 106-569 added subsec. (aa).

1998—Subsec. (b)(4) to (7). Pub. L. 105-276, §599C(b)(1), redesignated pars. (5) to (7) as (4) to (6), respectively, and struck out former par. (4) which read as follows: “no loan shall be insured under this subsection after September 30, 1998;”.

Subsec. (w)(1). Pub. L. 105-276, §599C(b)(2), substituted “each fiscal year” for “fiscal year 1998” in first sentence.

1997—Subsec. (a)(2). Pub. L. 105-86, §735(b)(3)(A), substituted “up to 30 years” for “up to fifty years”.

Subsec. (b)(2). Pub. L. 105-86, §735(b)(3)(B)(i), added par. (2) and struck out former par. (2) which read as follows: “provide for complete amortization by periodic payments within such term as the Secretary may prescribe;”.

Subsec. (b)(4). Pub. L. 105-86, §735(b)(1), substituted “September 30, 1998” for “September 30, 1997”.

Subsec. (b)(7). Pub. L. 105-86, §735(b)(3)(B)(ii)-(iv), added par. (7).

Subsec. (w)(1). Pub. L. 105-86, §735(b)(2), substituted “fiscal year 1998” for “fiscal year 1997”.

1996—Subsec. (b)(4). Pub. L. 104-180, §734(a)(1), substituted “September 30, 1997” for “September 30, 1996”.

Pub. L. 104-120, §4(b), substituted “September 30, 1996” for “September 30, 1994”.

Subsec. (c)(1). Pub. L. 104-180, §734(c)(3)(C), substituted “December 15, 1989” for “December 21, 1979”.

Subsec. (h). Pub. L. 104-180, §734(c)(1), added subsec. (h).

Subsec. (r). Pub. L. 104-180, §734(d)(1), added subsec. (r) and struck out former subsec. (r) which read as follows: “The Secretary—

“(1) may require that the initial operating reserve under this section may be in the form of an irrevocable letter of credit; and

“(2) may not require more than a 3 percent contribution to equity, except that the Secretary shall require a 5 percent contribution in the case of a

project that is allocated a low-income housing tax credit pursuant to section 42 of title 26.”

Subsec. (t)(4). Pub. L. 104-180, §734(c)(2), redesignated par. (6) as (4) and struck out heading and text of former par. (4). Text read as follows: “For each initial loan made or insured under subsection (b) of this section pursuant to a contract entered into after the date this subsection takes effect, the owner shall make monthly payments from project income to the Secretary for deposit in a reserve account for the project. Such monthly payments shall, in the first year after the loan is made or insured, equal \$2 for each unit in the project, and shall increase by \$2 annually until the expiration of the 20-year period beginning on the date that the loan was made or insured, except that such initial payments, any accrued payments, and annual increases shall not be required for a unit occupied by a low-income family or individual who is paying more than 30 percent of the family’s or individual’s adjusted income in rent. The rent on a unit for which payment is made under this paragraph shall be increased by the amount of such payment.”

Subsec. (t)(5). Pub. L. 104-180, §734(c)(2), redesignated par. (7) as (5) and struck out former par. (5) which read as follows:

“(5) RESERVE ACCOUNT.—

“(A) Payments under paragraph (4) shall be deposited in an interest bearing account that the Secretary shall establish for the project.

“(B) The Secretary shall make available amounts in the reserve account only for payments of principal and interest on an equity loan under this subsection. Such payments shall be in amounts necessary to ensure that rent payments made by low-income families residing in the housing do not exceed the maximum rent under section 1490a(a)(2)(A) of this title;

“(C) Any payments to the account, and interest on such payments, not expended in the project from which such payments were made, shall be used in other projects to make payments of principal and interest on an equity loan under this subsection. Such payments shall be in amounts necessary to ensure that rent payments made by low-income families residing in the housing do not exceed the maximum rent under section 1490a(a)(2)(A) of this title.

“(D) The Secretary shall make payments from accounts under this paragraph only to the extent provided in appropriations Acts.”

Subsec. (t)(6) to (8). Pub. L. 104-180, §734(c)(2)(B), redesignated pars. (6) to (8) as (4) to (6), respectively.

Subsec. (w)(1). Pub. L. 104-180, §734(a)(2), substituted “fiscal year 1997” for “fiscal year 1996”.

Pub. L. 104-120, §4(c), substituted “fiscal year 1996” for “fiscal years 1993 and 1994”.

Subsec. (z). Pub. L. 104-180, §734(d)(2), (e)(2), added subsec. (z) and struck out heading and text of former subsec. (z). Text consisted of 3 pars. which denied Secretary authority to refuse to make complying loan solely because facilities were in rural or remote area or to provide preference for project based on availability of particular essential service and required Secretary to give preference to proposed projects serving rural communities 20 or more miles from an urban area.

1992—Subsec. (b)(4). Pub. L. 102-550, §701(e), substituted “1994” for “1992”.

Subsec. (e)(4). Pub. L. 102-550, §707(a), struck out “and” before “initial operating expenses up to”, inserted “, impact fees, local charges for installation, provision, or use of infrastructure, and local assessments for public improvements and services imposed by State and local governments” after “approved by the Secretary”, and inserted at end “Notwithstanding the first sentence of this paragraph, the term ‘development cost’ shall not include any initial operating expenses in the case of any nonprofit corporation or consumer cooperative that is financing housing under this section and has been allocated a low-income housing tax credit by a housing credit agency pursuant to section 42 of title 26.”

Subsec. (l)(1). Pub. L. 102-550, §707(b)(1), added par. (1) and struck out former par. (1) which read as follows:

“in the case of any applicant whose project is expected to utilize rental assistance payments under section 1490a of this title, the Secretary shall only require such applicant to demonstrate that a market exists for persons and families eligible for such rental assistance payments; and”.

Subsec. (p)(4). Pub. L. 102-550, §707(b)(2)(1), substituted period at end for “, except when the Secretary determines that the continued vacancy of units that have been unoccupied for at least 6 months threatens the financial viability of the project. The preceding sentence shall not be interpreted as authorizing the Secretary to—

“(A) limit the ability of a housing credit agency to require an owner of housing, in order to receive a low-income housing tax credit, to enter into a restrictive covenant, in such form and for such period as the housing credit agency deems appropriate, to maintain the occupancy characteristics of the project as prescribed in section 42(h)(6) of title 26; or

“(B) deny or delay closing of financing under this section by reason of the existence, or occupancy terms, of any such restrictive covenant.”

Subsec. (p)(5). Pub. L. 102-550, §707(b)(2)(2), added par. (5).

Subsec. (r)(2). Pub. L. 102-550, §707(c), inserted before period at end “, except that the Secretary shall require a 5 percent contribution in the case of a project that is allocated a low-income housing tax credit pursuant to section 42 of title 26”.

Subsec. (w)(1). Pub. L. 102-550, §708(a)(1)–(3), substituted “not less than 9 percent of the amounts available in fiscal years 1993 and 1994” for “not less than 7 percent of the amounts available in fiscal year 1991 and not less than 9 percent of the amounts available in fiscal year 1992” in first sentence, struck out “or under whole or partial control with a for-profit entity” after “by a for-profit entity” in second sentence, and inserted at end “A partnership, that has as its general partner a nonprofit entity or the nonprofit entity’s for-profit subsidiary, is eligible to receive funds set aside under this subsection to sponsor a project which is receiving low-income housing tax credits authorized under section 42 of title 26. For the purposes of this subsection, a nonprofit entity is an organization that—” and subpars. (A) to (D).

Subsec. (w)(2). Pub. L. 102-550, §708(a)(4), inserted at end “The Secretary may provide amounts available for reallocation under this subsection in excess of \$750,000 in a given State, if such amounts are necessary to finance a project under this section.”

Subsec. (w)(3). Pub. L. 102-550, §708(a)(5), added par. (3) and struck out heading and text of former par. (3). Text read as follows: “Any amounts set aside or pooled under this subsection from the allocation for any State in any fiscal year that are not obligated by a reasonable date established by the Secretary (which shall be after the expiration of the period under paragraph (2)) shall be made available to any entity eligible under this section in such State.”

Subsec. (x). Pub. L. 102-550, §707(d), added subsec. (x).

Subsec. (y). Pub. L. 102-550, §707(e), added subsec. (y).

Subsec. (z). Pub. L. 102-550, §707(f)(1), added subsec. (z).

1991—Subsec. (b)(4). Pub. L. 102-142 substituted “1992” for “1991”.

Subsec. (p)(4). Pub. L. 102-230 inserted at end “The preceding sentence shall not be interpreted as authorizing the Secretary to—” and subpars. (A) and (B).

1990—Subsec. (b)(4). Pub. L. 101-625, §701(e), substituted “1991” for “1990”.

Subsec. (t)(3). Pub. L. 101-625, §712(a)(1), substituted “original appraised value of the project” for “original loan on the project”.

Subsec. (t)(4). Pub. L. 101-625, §712(a)(2), inserted “initial” before “loan” in first sentence and inserted “initial payments, any accrued payments, and” after “except that such” in second sentence.

Subsec. (t)(8). Pub. L. 101-625, §712(a)(3), added par. (8) and struck out former par. (8) which read as follows:

“The requirements of this subsection shall apply to any applications for assistance under this section on or after the expiration of 180 days from December 15, 1989.”

Subsec. (u). Pub. L. 101-625, §712(b), inserted at end “Any loan authority under this section appropriated or made available within limits established in appropriations Acts shall remain available until expended.”

Subsec. (v). Pub. L. 101-625, §712(c), added subsec. (v).

Subsec. (w). Pub. L. 101-625, §713, added subsec. (w).

1989—Subsec. (b)(4). Pub. L. 101-137 substituted “September 30, 1990” for “September 30, 1989”.

Subsec. (t). Pub. L. 101-235, §207, added subsec. (t).

Subsec. (u). Pub. L. 101-235, §402, added subsec. (u).

1988—Subsec. (b)(4). Pub. L. 100-242, §301(e), substituted “September 30, 1989” for “March 15, 1988”.

Subsec. (c). Pub. L. 100-242, §242(2), added subsec. (c). Former subsec. (c) redesignated (d).

Subsecs. (d) to (g). Pub. L. 100-242, §242(1), redesignated subsecs. (c) to (f) as (d) to (g), respectively.

Subsec. (h). Pub. L. 100-628 struck out subsec. (h) which read as follows: “The Secretary shall limit increases in rents on or after November 30, 1983, for newly constructed or substantially rehabilitated projects assisted under this section to the lesser of the actual operating cost increases incurred or the amount of operating cost increases incurred with respect to comparable rental dwelling units of various sizes and types in the same market area which are suitable for occupancy by families and persons assisted under this section. Where no comparable dwelling units exist in the same market area, the Secretary shall have authority to approve such increases in accordance with the best available data regarding operating cost increases in rental dwelling units.”

Pub. L. 100-242, §242(1), redesignated subsec. (g) as (h). Former subsec. (h) redesignated (i).

Subsecs. (i) to (p). Pub. L. 100-242, §242(1), redesignated subsecs. (h) to (o) as (i) to (p), respectively.

Subsec. (p)(1). Pub. L. 100-242, §316(c), substituted “on or after such date” for “on or after such effective date”, which for purposes of codification was translated as “on or after November 30, 1983”, thus requiring no change in text.

Subsec. (p)(4). Pub. L. 100-242, §306, added par. (4).

Subsec. (q). Pub. L. 100-242, §242(1), redesignated former subsec. (p) as (q).

Subsec. (r). Pub. L. 100-242, §263, added subsec. (r).

Subsec. (s). Pub. L. 100-242, §307, added subsec. (s).

1987—Subsec. (b)(4). Pub. L. 100-200 substituted “March 15, 1988” for “December 16, 1987”.

Pub. L. 100-179 substituted “December 16, 1987” for “December 2, 1987”.

Pub. L. 100-170 substituted “December 2, 1987” for “November 15, 1987”.

Pub. L. 100-154 substituted “November 15, 1987” for “October 31, 1987”.

Pub. L. 100-122 substituted “October 31, 1987” for “September 30, 1987”.

1986—Subsec. (b)(4). Pub. L. 99-430 substituted “September 30, 1987” for “September 30, 1986”.

Pub. L. 99-345 substituted “September 30, 1986” for “June 6, 1986”.

Pub. L. 99-289 substituted “June 6, 1986” for “April 30, 1986”.

Pub. L. 99-272 directed amendment identical to Pub. L. 99-219, substituting “March 17, 1986” for “December 15, 1985”.

Pub. L. 99-267 substituted “April 30, 1986” for “March 17, 1986”.

1985—Subsec. (b)(4). Pub. L. 99-219 substituted “March 17, 1986” for “December 15, 1985”.

Pub. L. 99-156 substituted “December 15, 1985” for “November 14, 1985”.

Pub. L. 99-120 substituted “November 14, 1985” for “September 30, 1985”.

1984—Subsec. (k)(2)(B). Pub. L. 98-479 inserted “, at the option of the applicant, either that there is a reasonable assurance that the contract for assistance will be extended or renewed, or”.

1983—Subsec. (a)(2) to (4). Pub. L. 98-181, §512(c)(1), (2), struck out par. (2) which related to rates of interest on loans, and redesignated pars. (3) and (4) as (2) and (3), respectively.

Subsec. (b)(2) to (4). Pub. L. 98-181, §512(c)(3), (4), struck out par. (2) which related to rates of interest on loans and redesignated pars. (3) to (5) as (2) to (4), respectively.

Subsec. (b)(5). Pub. L. 98-181, §512(c)(4), redesignated par. (6) as (5). Former par. (5) redesignated (4).

Pub. L. 98-181, §511(b), substituted “September 30, 1985” for “November 30, 1983”.

Pub. L. 98-109 substituted “November 30, 1983” for “September 30, 1983”.

Pub. L. 98-35 substituted “September 30, 1983” for “May 20, 1983”.

Subsec. (b)(6), (7). Pub. L. 98-181, §512(c)(4), redesignated par. (7) as (6). Former par. (6) redesignated (5).

Pub. L. 98-181, §512(b), added par. (7).

Subsec. (c). Pub. L. 98-181, §512(d), inserted provisions relating to detached units, on scattered sites, for cooperative housing.

Subsec. (d)(1). Pub. L. 98-181, §512(e), inserted provisions relating to applicability to manufactured home rental parks.

Subsecs. (g) to (p). Pub. L. 98-181, §512(a), added subsecs. (g) to (p).

1982—Subsec. (b)(5). Pub. L. 97-289 substituted “May 20, 1983” for “September 30, 1982”.

1981—Subsec. (b)(5). Pub. L. 97-35 substituted “1982” for “1981”.

1980—Subsec. (a). Pub. L. 96-399, §§503(a), 507(c)(1), inserted reference to Indian tribes in provisions preceding par. (1), and added par. (4).

Subsec. (b). Pub. L. 96-399, §§501(b), 503(b), 507(c)(2), inserted reference to Indian tribe in provisions preceding par. (1), in par. (5) substituted “September 30, 1981” for “October 15, 1980”, and added par. (6).

Pub. L. 96-372 substituted “October 15, 1980” for “September 30, 1980” in par. (5).

Subsec. (f). Pub. L. 96-399, §502, added subsec. (f).

1979—Subsec. (b)(5). Pub. L. 96-153 substituted “September 30, 1980” for “November 30, 1979”.

Pub. L. 96-105 substituted “November 30, 1979” for “October 31, 1979”.

Pub. L. 96-71 substituted “October 31, 1979” for “September 30, 1979”.

1978—Subsec. (b)(5). Pub. L. 95-557 substituted “September 30, 1979” for “October 31, 1978”.

Pub. L. 95-406 substituted “October 31, 1978” for “September 30, 1978”.

1977—Subsec. (a). Pub. L. 95-128, §507(a)(3), authorized loans for housing of handicapped persons or families.

Subsec. (b). Pub. L. 95-128, §§501(b), 507(a)(3), substituted “elderly or handicapped persons or families” for “elderly persons and elderly families” in provision preceding par. (1) and “September 30, 1978” for “September 30, 1977” in par. (5).

Pub. L. 95-80 substituted “September 30, 1977” for “July 31, 1977” in par. (5).

Pub. L. 95-60 substituted “July 31, 1977” for “June 30, 1977” in par. (5).

Subsec. (c). Pub. L. 95-128, §508(a), provided that specifically designed equipment required by elderly or handicapped persons or families shall not be considered elaborate or extravagant.

Subsec. (d)(1). Pub. L. 95-128, §508(b), defined “housing” to also mean congregate housing facilities for elderly or handicapped persons or families who require some supervision and central services but are otherwise able to care for themselves and authorized such housing for the handicapped to be utilized in conjunction with educational and training facilities.

Subsec. (d)(3). Pub. L. 95-128, §508(c), substituted definition of “congregate housing” for prior definition of “elderly persons” as persons 62 years of age or over and “elderly families” as families the head of which (or his spouse) is 62 years of age or over.

1974—Subsec. (b)(1). Pub. L. 93-383, §510(a), struck out “\$750,000 or” after “exceed” and substituted “less” for “least”.

Subsec. (b)(5). Pub. L. 93-383, §509(b), substituted “June 30, 1977” for “October 1, 1974”.

Subsec. (d)(4). Pub. L. 93-383, §510(b), inserted provisions including initial operating expenses up to 2 per centum of enumerated costs and requiring payments to be made to consultants rendering services to nonprofit corporations or consumer cooperatives providing housing and related facilities to low or moderate income families.

1973—Subsec. (b)(5). Pub. L. 93-117 substituted “October 1, 1974” for “October 1, 1973”.

1970—Subsec. (b)(1). Pub. L. 91-609 substituted “\$750,000” for “\$300,000”.

1969—Subsec. (b)(5). Pub. L. 91-152 substituted “October 1, 1973” for “January 1, 1970”.

Pub. L. 91-78 substituted “January 1, 1970” for “October 1, 1969”.

1966—Subsec. (a). Pub. L. 89-754, §§804(a), 805(a), inserted “or other persons and families of low income” after “income” and substituted “rental or cooperative housing” for “rental housing”, respectively.

Subsec. (b). Pub. L. 89-754, §805(a), (b), substituted “rental or cooperative housing” for “rental housing” and inserted “or other persons and families of moderate income” after “families”, respectively.

Subsec. (d)(1). Pub. L. 89-754, §804(b), substituted in the definition of “housing” the words “occupants eligible under this section,” for “elderly persons or elderly families”.

Subsec. (d)(4). Pub. L. 89-754, §805(c), defined fees and charges as used for purposes of “development cost” to include payments to qualified consulting organizations or foundations which operate on a nonprofit basis and which render services or assistance to nonprofit corporations or consumer cooperatives who provide housing and related facilities.

1965—Subsec. (b)(5). Pub. L. 89-117 substituted “October 1, 1969” for “September 30, 1965”.

1964—Subsec. (b). Pub. L. 88-560 substituted “\$300,000” for “\$100,000” in cl. (1), and “1965” for “1964” in cl. (5).

Pub. L. 88-340 substituted “September 30, 1964” for “June 30, 1964” in cl. (5).

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.

EFFECTIVE DATE OF 1992 AMENDMENT

Section 708(b) of Pub. L. 102-550 provided that: “The amendment made by subsection (a)(5) [amending this section] shall take effect on October 1, 1993, and shall apply to fiscal year 1994 and each fiscal year thereafter.”

EFFECTIVE DATE OF 1981 AMENDMENT

Amendment by Pub. L. 97-35 effective Oct. 1, 1981, see section 371 of Pub. L. 97-35, set out as an Effective Date note under section 3701 of Title 12, Banks and Banking.

REGULATIONS

Section 707(f)(2) of Pub. L. 102-550 provided that: “The Secretary of Agriculture shall issue any regulations necessary to carry out the amendment made by paragraph (1) [amending this section] not later than the expiration of the 45-day period beginning on the date of the enactment of this Act [Oct. 28, 1992]. Not later than the expiration of the 30-day period beginning on the date of the enactment of this Act, the Secretary shall submit a copy of any regulations to be issued under this subsection to the Congress. The requirements of section 534(d) of the Housing Act of 1949 [42 U.S.C. 1490n(d)] and subsections (b) and (c) of section 553 of title 5, United States Code, shall apply to any such regulations.”

§ 1486. Financial assistance to provide low-rent housing for domestic farm labor

(a) Application; considerations

Upon the application of any State or political subdivision thereof, or any Indian tribe, or any broad-based public or private nonprofit organization incorporated within the State, or any nonprofit organization of farmworkers incorporated within the State, the Secretary is authorized to provide financial assistance for the provision of low-rent housing and related facilities (which may be located any place within the State) for domestic farm labor, if he finds that—

(1) the housing and related facilities for which financial assistance is requested will fulfill a pressing need in the area in which such housing and facilities will be located, and there is reasonable doubt that the same can be provided without financial assistance under this section;

(2) the applicant will contribute, from its own resources or from funds borrowed under section 1484 of this title or elsewhere, at least 10 per centum of the total development cost;

(3) the types of housing and related facilities to be provided are most practicable, giving due consideration to the purposes to be served thereby and the needs of the occupants thereof, and such housing and facilities shall be durable and suitable for year-around occupancy or use, unless the Secretary finds that there is no need for such year-around occupancy or use in that area; and

(4) the construction will be undertaken in an economical manner, and the housing and related facilities will not be of elaborate or extravagant design or material.

(b) Maximum amount of assistance

The amount of any financial assistance provided under this section for low-rent housing and related facilities shall not exceed 90 per centum of the total development cost thereof, as determined by the Secretary, less such amount as the Secretary determines can be practicably obtained from other sources (including a loan under section 1484 of this title).

(c) Prerequisite agreements; rentals; safety and sanitation standards; priority of domestic farm labor

No financial assistance for low-rent housing and related facilities shall be made available under this section unless, to any extent and for any periods required by the Secretary, the applicant agrees—

(1) that the rentals charged domestic farm labor shall not exceed such amounts as may be approved by the Secretary, giving due consideration to the income and earning capacity of the tenants, and the necessary costs of operating and maintaining such housing;

(2) that such housing shall be maintained at all times in a safe and sanitary condition in accordance with such standards as may be prescribed by State or local law, or, in the absence of such standards, in accordance with such minimum requirements as the Secretary shall prescribe; and

(3) an absolute priority will be given at all times in granting occupancy of such housing and facilities to domestic farm labor.

(d) Payments; contracts to specify uses of housing

The Secretary may make payments pursuant to any contract for financial assistance under this section at such times and in such manner, as may be specified in the contract. In each contract, the Secretary shall include such covenants, conditions, or provisions as he deems necessary to insure that the housing and related facilities, for which financial assistance is made available, be used only in conformity with the provisions of this section.

(e) Regulations for prevention of waste

The Secretary shall prescribe regulations to insure that Federal funds expended under this section are not wasted or dissipated. The Secretary shall not give priority for funding under this section to any one of the groups listed in subsection (a) over any of the others so listed.

(f) Wages; labor standards; waiver; authority and functions of Secretary

All laborers and mechanics employed by contractors or subcontractors on projects assisted by the Secretary which are undertaken by approved applicants under this section shall be paid wages at rates not less than those prevailing on similar construction in the locality, as determined by the Secretary of Labor in accordance with sections 3141-3144, 3146, and 3147 of title 40. The Secretary shall not extend any financial assistance under this section for any project without first obtaining adequate assurance that these labor standards will be maintained on the construction work; except that compliance with such standards may be waived by the Secretary in cases or classes of cases where laborers or mechanics, not otherwise employed at any time on the project, voluntarily donate their services without compensation for the purpose of lowering the costs of construction and the Secretary determines that any amounts thereby saved are fully credited to the person, corporation, association, organization, or other entity, undertaking the project. The Secretary of Labor shall have, with respect to the labor standards specified in this section, the authority and functions set forth in Reorganization Plan Numbered 14 of 1950 (15 F.R. 3176; 64 Stat. 1267), and section 3145 of title 40.

(g) Definitions

As used in this section—

(1) the term “low-rent housing” means rental housing within the financial reach of families of low income consisting of (A) new structures (including household furnishings) suitable for dwelling use by domestic farm labor, and (B) existing structures (including household furnishings) which can be made suitable for dwelling use by domestic farm labor by rehabilitation, alteration, conversion, or improvement;

(2) the terms “related facilities” and “domestic farm labor” shall have the meaning assigned to them in section 1484(f) of this title;

(3) the term “development cost” shall have the meaning assigned to it in section 1485(d)(4)¹ of this title; and

¹ See References in Text note below.