

Editorial Notes

REFERENCES IN TEXT

The Energy Policy and Conservation Act, referred to in subsecs. (c)(4) and (f), is Pub. L. 94-163, Dec. 22, 1975, 89 Stat. 871, as amended. Part C of title III of such act is classified generally to part B (§6321 et seq.) of subchapter III of chapter 77 of Title 42, The Public Health and Welfare. For complete classification of this Act to the Code, see Short Title note set out under section 6201 of Title 42 and Tables.

CODIFICATION

Section was enacted as part of the Housing and Urban Development Act of 1970, and not as part of the National Housing Act which comprises this chapter.

AMENDMENTS

1977—Subsecs. (c)(6), (e). Pub. L. 95-91 inserted “, the Secretary of Housing and Urban Development,” after “the Administrator”.

Statutory Notes and Related Subsidiaries

TRANSFER OF FUNCTIONS

Functions vested in Secretary of Housing and Urban Development under this section transferred to Secretary of Energy by section 7154(b) of Title 42, The Public Health and Welfare.

Federal Energy Administration terminated and functions vested by law in Administrator thereof transferred to Secretary of Energy (unless otherwise specifically provided) by sections 7151(a) and 7293 of Title 42.

§ 1701z-9. Expansion of home ownership opportunities in urban areas

In carrying out activities under section 1701z-1 of this title, the Secretary is authorized to conduct demonstrations to determine the feasibility of expanding homeownership opportunities in urban areas and encouraging the creation and maintenance of decent, safe, and sanitary housing in such areas by utilizing techniques including, but not limited to, the conversion of multifamily housing properties to condominium or cooperative ownership by individuals and families.

(Pub. L. 91-609, title V, §510, as added Pub. L. 95-557, title III, §305(b), Oct. 31, 1978, 92 Stat. 2097.)

Editorial Notes

CODIFICATION

Section was enacted as part of the Housing and Urban Development Act of 1970, and not as part of the National Housing Act which comprises this chapter.

Statutory Notes and Related Subsidiaries

STUDY TO DETERMINE FEASIBILITY OF UNDERGROUND CONSTRUCTION OF RESIDENTIAL HOUSING

Pub. L. 95-557, title III, §305(c), Oct. 31, 1978, 92 Stat. 2097, required the Secretary to study the feasibility of underground construction of residential housing and necessary changes in housing codes and financing, and report to Congress no later than one year after Oct. 31, 1978 as to the findings and recommendations of legislative enactments as a result of the study.

§ 1701z-10. Model rehabilitation guidelines in inspection and approval of rehabilitated properties; report to Congress

(a)(1) The Secretary shall develop model rehabilitation guidelines for the voluntary adoption

by States and communities to be used in conjunction with existing building codes by State and local officials in the inspection and approval of rehabilitated properties.

(2) Such guidelines shall be developed in consultation with the National Institute of Building Sciences, appropriate national organizations of agencies and officials of State and local governments, representatives of the building industry, and consumer groups, and other interested parties.

(3) The Secretary shall publish such guidelines for public comment not later than one year after October 31, 1978, and promulgate them no later than eighteen months after such date.

(4) The Secretary may furnish technical assistance to State and local governments to facilitate the use and implementation of such guidelines.

(b) The Secretary shall report to Congress not later than thirty-six months after October 31, 1978, regarding (1) actions taken by State and local governments to adopt guidelines or their equivalents, and (2) recommendations for further action.

(Pub. L. 91-609, title V, §511, as added Pub. L. 95-557, title IX, §903, Oct. 31, 1978, 92 Stat. 2125.)

Editorial Notes

CODIFICATION

Section was enacted as part of the Housing and Urban Development Act of 1970, and not as part of the National Housing Act which comprises this chapter.

§ 1701z-10a. Biennial survey of economic and housing market conditions

The Secretary shall, not less than biennially, survey national, regional, and local economic and housing market conditions in a manner that provides data comparable to the data collected in such survey conducted in 1981.

(Pub. L. 91-609, title V, §512, as added Pub. L. 98-181, title I [title IV, §466(b)], Nov. 30, 1983, 97 Stat. 1236.)

Editorial Notes

CODIFICATION

Section was enacted as part of the Housing and Urban Development Act of 1970, and not as part of the National Housing Act which comprises this chapter.

§ 1701z-11. Management and disposition of multifamily housing projects**(a) Goals**

The Secretary of Housing and Urban Development shall manage or dispose of multifamily housing projects that are owned by the Secretary or that are subject to a mortgage held by the Secretary in a manner that—

(1) is consistent with the National Housing Act [12 U.S.C. 1701 et seq.] and this section;

(2) will protect the financial interests of the Federal Government; and

(3) will, in the least costly fashion among reasonable available alternatives, address the goals of—

(A) preserving certain housing so that it can remain available to and affordable by low-income persons;

(B) preserving and revitalizing residential neighborhoods;

(C) maintaining existing housing stock in a decent, safe, and sanitary condition;

(D) minimizing the involuntary displacement of tenants;

(E) maintaining housing for the purpose of providing rental housing, cooperative housing, and homeownership opportunities for low-income persons;

(F) minimizing the need to demolish multifamily housing projects;

(G) supporting fair housing strategies; and

(H) disposing of such projects in a manner consistent with local housing market conditions.

In determining the manner in which a project is to be managed or disposed of, the Secretary may balance competing goals relating to individual projects in a manner that will further the purposes of this section.

(b) Definitions

For purposes of this section:

(1) Multifamily housing project

The term “multifamily housing project” means any multifamily rental housing project which is, or prior to acquisition by the Secretary was, assisted or insured under the National Housing Act [12 U.S.C. 1701 et seq.], or was subject to a loan under section 1701q of this title.

(2) Subsidized project

The term “subsidized project” means a multifamily housing project that, immediately prior to the assignment of the mortgage on such project to, or the acquisition of such mortgage by, the Secretary, was receiving any of the following types of assistance:

(A) Below market interest rate mortgage insurance under the proviso of section 221(d)(5) of the National Housing Act [12 U.S.C. 1715(d)(5)].

(B) Interest reduction payments made in connection with mortgages insured under section 236 of the National Housing Act [12 U.S.C. 1715z-1].

(C) Direct loans made under section 1701q of this title.

(D) Assistance in the form of—

(i) rent supplement payments under section 101 of the Housing and Urban Development Act of 1965 [12 U.S.C. 1701s],

(ii) additional assistance payments under section 236(f)(2) of the National Housing Act [12 U.S.C. 1715z-1(f)(2)],

(iii) housing assistance payments made under section 23 of the United States Housing Act of 1937 [42 U.S.C. 1421b] (as in effect before January 1, 1975), or

(iv) housing assistance payments made under section 8 of the United States Housing Act of 1937 [42 U.S.C. 1437f] (excluding payments made for tenant-based assistance under section 8),

if (except for purposes of section 183(c) of the Housing and Community Development Act of 1987) such assistance payments are made to more than 50 percent of the units in the project.

(3) Formerly subsidized project

The term “formerly subsidized project” means a multifamily housing project owned by the Secretary that was a subsidized project immediately prior to its acquisition by the Secretary.

(4) Unsubsidized project

The term “unsubsidized project” means a multifamily housing project owned by the Secretary that is not a subsidized project or a formerly subsidized project.

(5) Affordable

A unit shall be considered affordable if—

(A) for units occupied—

(i) by very low-income families, the rent does not exceed 30 percent of 50 percent of the area median income, as determined by the Secretary, with adjustments for smaller and larger families; and

(ii) by low-income families other than very low-income families, the rent does not exceed 30 percent of 80 percent of the area median income, as determined by the Secretary, with adjustments for smaller and larger families; or

(B) the unit, or the family residing in the unit, is receiving assistance under section 8 of the United States Housing Act of 1937 [42 U.S.C. 1437f].

(6) Low-income families and very low-income families

The terms “low-income families” and “very low-income families” shall have the meanings given the terms in section 3(b) of the United States Housing Act of 1937 [42 U.S.C. 1437a(b)].

(7) Preexisting tenant

The term “preexisting tenant” means, with respect to a multifamily housing project acquired pursuant to this section by a purchaser other than the Secretary at foreclosure or after sale by the Secretary, a family that resides in a unit in the project immediately before the acquisition of the project by the purchaser.

(8) Market area

The term “market area” means a market area determined by the Secretary.

(9) Secretary

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

(c) Disposition of property

(1) Disposition to purchasers

In carrying out this section, the Secretary may dispose of a multifamily housing project owned by the Secretary on a negotiated, competitive bid, or other basis, on such terms as the Secretary deems appropriate considering the low-income character of the project and consistent with the goals in subsection (a), only to a purchaser determined by the Secretary to be capable of—

(A) satisfying the conditions of the disposition plan developed under paragraph (2) for the project;

(B) implementing a sound financial and physical management program that is de-

signed to enable the project to meet anticipated operating and repair expenses to ensure that the project will remain in decent, safe, and sanitary condition and in compliance with any standards under applicable State or local laws, rules, ordinances, or regulations relating to the physical condition of the housing and any such standards established by the Secretary;

(C) responding to the needs of the tenants and working cooperatively with tenant organizations;

(D) providing adequate organizational, staff, and financial resources to the project; and

(E) meeting such other requirements as the Secretary may determine.

(2) Disposition plan

(A) In general

Prior to the sale of a multifamily housing project that is owned by the Secretary, the Secretary shall develop an initial disposition plan for the project that specifies the minimum terms and conditions of the Secretary for disposition of the project, the initial sales price that is acceptable to the Secretary, and the assistance that the Secretary plans to make available to a prospective purchaser in accordance with this section.

(B) Market-wide plans

In developing the initial disposition plan under this subsection for a multifamily housing project located in a market area in which at least 1 other multifamily housing project owned by the Secretary is located, the Secretary may coordinate the disposition of all such multifamily housing projects located within the same market area to the extent and in such manner as the Secretary determines appropriate to carry out the goals under subsection (a).

(C) Sales price

The initial sales price shall be reasonably related to the intended use of the project after sale, any rehabilitation requirements for the project, the rents for units in the project that can be supported by the market, the amount of rental assistance available for the project under section 8 of the United States Housing Act of 1937 [42 U.S.C. 1437f], the occupancy profile of the project (including family size and income levels for tenant families), and any other factors that the Secretary considers appropriate.

(D) Community and tenant input

In carrying out this section, the Secretary shall develop procedures—

(i) to obtain appropriate and timely input into disposition plans from officials of the unit of general local government affected, the community in which the project is situated, and the tenants of the project; and

(ii) to facilitate, where feasible and appropriate, the sale of multifamily housing projects to existing tenant organizations with demonstrated capacity, to public or

nonprofit entities that represent or are affiliated with existing tenant organizations, or to other public or nonprofit entities.

(E) Technical assistance

To carry out the procedures developed under subparagraph (D), the Secretary may provide technical assistance, directly or indirectly, and may use amounts available for technical assistance under the Emergency Low Income Housing Preservation Act of 1987, subtitle C of the Low-Income Housing Preservation and Resident Homeownership Act of 1990 [12 U.S.C. 4141 et seq.], subtitle B of title IV of the Cranston-Gonzalez National Affordable Housing Act [42 U.S.C. 12871 et seq.], or this section, for the provision of technical assistance under this paragraph. Recipients of technical assistance funding under the provisions referred to in this subparagraph shall be permitted to provide technical assistance to the extent of such funding under any of such provisions or under this subparagraph, notwithstanding the source of the funding.

(3) Foreclosure sale

In carrying out this section, the Secretary shall—

(A) prior to foreclosing on any mortgage held by the Secretary on any multifamily housing project, notify both the unit of general local government in which the property is located and the tenants of the property of the proposed foreclosure sale; and

(B) dispose of a multifamily housing project through a foreclosure sale only to a purchaser that the Secretary determines is capable of implementing a sound financial and physical management program that is designed to enable the project to meet anticipated operating and repair expenses to ensure that the project will remain in decent, safe, and sanitary condition and in compliance with any standards under applicable State or local laws, rules, ordinances, or regulations relating to the physical condition of the housing and any such standards established by the Secretary.

(d) Management and maintenance of properties

(1) Contracting for management services

In carrying out this section, the Secretary may—

(A) contract for management services for a multifamily housing project that is owned by the Secretary (or for which the Secretary is mortgagee in possession) with for-profit and nonprofit entities and public agencies (including public housing authorities) on a negotiated, competitive bid, or other basis at a price determined by the Secretary to be reasonable, with a manager the Secretary has determined is capable of—

(i) implementing a sound financial and physical management program that is designed to enable the project to meet anticipated operating and maintenance expenses to ensure that the project will remain in decent, safe, and sanitary condition and in compliance with any standards

under applicable State or local laws, rules, ordinances, or regulations relating to the physical condition of the project and any such standards established by the Secretary;

(ii) responding to the needs of the tenants and working cooperatively with tenant organizations;

(iii) providing adequate organizational, staff, and financial resources to the project; and

(iv) meeting such other requirements as the Secretary may determine; and

(B) require the owner of a multifamily housing project that is subject to a mortgage held by the Secretary to contract for management services for the project in the manner described in subparagraph (A).

(2) Maintenance of projects owned by Secretary

In the case of multifamily housing projects that are owned by the Secretary (or for which the Secretary is mortgagee in possession), the Secretary shall—

(A) to the greatest extent possible, maintain all such occupied projects in a decent, safe, and sanitary condition and in compliance with any standards under applicable State or local laws, rules, ordinances, or regulations relating to the physical condition of the housing and any such standards established by the Secretary;

(B) to the greatest extent possible, maintain full occupancy in all such projects; and

(C) maintain all such projects for purposes of providing rental or cooperative housing.

(3) Projects subject to a mortgage held by Secretary

In the case of any multifamily housing project that is subject to a mortgage held by the Secretary, the Secretary shall require the owner of the project to carry out the requirements of paragraph (2).

(e) Required assistance

In disposing of multifamily housing property under this section, consistent with the goal of subsection (a)(3)(A), the Secretary shall take, separately or in combination with other actions under this subsection or subsection (f), one or more of the following actions:

(1) Contract with owner for project-based assistance

In the case of multifamily housing projects that are acquired by a purchaser other than the Secretary at foreclosure or after sale by the Secretary, the Secretary may enter into contracts under section 8 of the United States Housing Act of 1937 [42 U.S.C. 1437f] (to the extent budget authority is available) with owners of the projects, subject to the following requirements:

(A) Subsidized or formerly subsidized projects receiving mortgage-related assistance

In the case of a subsidized or formerly subsidized project referred to in subparagraphs (A) through (C) of subsection (b)(2)—

(i) the contract shall be sufficient to assist at least all units covered by an assistance contract under any of the authorities referred to in subsection (b)(2)(D) before acquisition or foreclosure, unless the Secretary acts pursuant to the provisions of subparagraph (C);

(ii) the contract shall provide that, when a vacancy occurs in any unit in the project requiring project-based rental assistance pursuant to this subparagraph that is occupied by a family who is not eligible for assistance under such section 8 [42 U.S.C. 1437f], the owner shall lease the available unit to a family eligible for assistance under such section 8; and

(iii) the Secretary shall take actions to ensure that any unit in any such project that does not otherwise receive project-based assistance under this subparagraph remains available and affordable for the remaining useful life of the project, as defined by the Secretary; to carry out this clause, the Secretary may require purchasers to establish use or rent restrictions maintaining the affordability of such units.

(B) Subsidized or formerly subsidized projects receiving rental assistance

In the case of a subsidized or formerly subsidized project referred to in subsection (b)(2)(D) that is not subject to subparagraph (A)—

(i) the contract shall be sufficient to assist at least all units in the project that are covered, or were covered immediately before foreclosure on or acquisition of the project by the Secretary, by an assistance contract under any of the provisions referred to in such subsection, unless the Secretary acts pursuant to provisions of subparagraph (C); and

(ii) the contract shall provide that, when a vacancy occurs in any unit in the project requiring project-based rental assistance pursuant to this subparagraph that is occupied by a family who is not eligible for assistance under such section 8 [42 U.S.C. 1437f], the owner shall lease the available unit to a family eligible for assistance under such section 8.

(C) Exceptions

(i) Authority

In lieu of providing project-based assistance under section 8 of the United States Housing Act of 1937 [42 U.S.C. 1437f] in accordance with subparagraph (A)(i) or (B)(i) for a project, the Secretary may, for certain units in unsubsidized projects located within the same market area as the project otherwise required to be assisted with such project-based assistance—

(I) require use and rent restrictions providing that such units shall be available to and affordable by very low-income families for the remaining useful life of the project (as defined by the Secretary), or

(II) provide project-based assistance under section 8 for such units to be occupied by only very low-income persons,

but only if the requirements under clause (i) are met.

(ii) Requirements

The requirements under this clause are that—

(I) upon the disposition of the project otherwise required to be assisted with project-based assistance under subparagraph (A)(i) or (B)(i), the Secretary shall make available tenant-based assistance under section 8 [42 U.S.C. 1437f] to low-income families residing in units otherwise required to be assisted with such project-based assistance; and

(II) the number of units subject to use restrictions or provided assistance under clause (i) shall be at least equivalent to the number of units otherwise required to be assisted with project-based assistance under section 8 in accordance with subparagraph (A)(i) or (B)(i).

(D) Unsubsidized projects

Notwithstanding actions taken pursuant to subparagraph (C), in the case of unsubsidized projects, the contract shall be sufficient to provide—

(i) project-based rental assistance for all units that are covered, or were covered immediately before foreclosure or acquisition, by an assistance contract under—

(I) the new construction and substantial rehabilitation program under section 8(b)(2) of the United States Housing Act of 1937 [42 U.S.C. 1437f(b)(2)] (as in effect before October 1, 1983);

(II) the property disposition program under section 8(b) of such Act;

(III) the project-based certificate program under section 8 of such Act;

(IV) the moderate rehabilitation program under section 8(e)(2) of such Act;

(V) section 23 of such Act [42 U.S.C. 1421b] (as in effect before January 1, 1975);

(VI) the rent supplement program under section 101 of the Housing and Urban Development Act of 1965 [12 U.S.C. 1701s]; or

(VII) section 8 of the United States Housing Act of 1937, following conversion from assistance under section 101 of the Housing and Urban Development Act of 1965; and

(ii) tenant-based assistance under section 8 of the United States Housing Act of 1937 for families that are preexisting tenants of the project in units that, immediately before foreclosure or acquisition of the project by the Secretary, were covered by an assistance contract under the loan management set-aside program under section 8(b) of the United States Housing Act of 1937.

(2) Annual contribution contracts for tenant-based assistance

In the case of multifamily housing projects that are acquired by a purchaser other than the Secretary at foreclosure or after sale by the Secretary, the Secretary may enter into

annual contribution contracts with public housing agencies to provide tenant-based assistance under section 8 of the United States Housing Act of 1937 [42 U.S.C. 1437f] on behalf of all low-income families who are otherwise eligible for assistance in accordance with subparagraph (A), (B), or (D) of paragraph (1) on the date that the project is acquired by the purchaser, subject to the following requirements:

(A) Requirement of sufficient affordable housing in area

The Secretary may not take action under this paragraph unless the Secretary determines that there is available in the area an adequate supply of habitable, affordable housing for very low-income families and other low-income families using tenant-based assistance.

(B) Limitation for subsidized and formerly subsidized projects

The Secretary may not take actions under this paragraph in connection with units in subsidized or formerly subsidized projects for more than 10 percent of the aggregate number of units in such projects disposed of by the Secretary in any fiscal year.

(3) Other assistance

(A) In general

In accordance with the authority provided under the National Housing Act [12 U.S.C. 1701 et seq.], the Secretary may provide other assistance pursuant to subsection (f) to the owners of multifamily housing projects that are acquired by a purchaser other than the Secretary at foreclosure, or after sale by the Secretary, on terms that ensure that—

(i) at least the units in the project otherwise required to receive project-based assistance pursuant to subparagraphs (A), (B), or (D) of paragraph (1) are available to and affordable by low-income persons; and

(ii) for the remaining useful life of the project, as defined by the Secretary, there shall be in force such use or rent restrictions as the Secretary may prescribe.

(B) Very low-income tenants

If, as a result of actions taken pursuant to this paragraph, the rents charged to any very low-income families residing in the project who are otherwise required (pursuant to subparagraph (A), (B), or (D) of paragraph (1)) to receive project-based assistance under section 8 of the United States Housing Act of 1937 [42 U.S.C. 1437f] exceed the amount payable as rent under section 3(a) of the United States Housing Act of 1937 [42 U.S.C. 1437a(a)], the Secretary shall provide tenant-based assistance under section 8 of such Act to such families.

(f) Discretionary assistance

In addition to the actions required under subsection (e) for a subsidized, formerly subsidized, or unsubsidized multifamily housing project, the Secretary may, pursuant to the disposition plan and the goals in subsection (a), take one or more of the following actions:

(1) Discounted sales price

In accordance with the authority provided under the National Housing Act [12 U.S.C. 1701 et seq.], the Secretary may reduce the selling price of the project. Such reduced sales price shall be reasonably related to the intended use of the property after sale, any rehabilitation requirements for the project, the rents for units in the project that can be supported by the market, the amount of rental assistance available for the project under section 8 of the United States Housing Act of 1937 [42 U.S.C. 1437f], the occupancy profile of the project (including family size and income levels for tenant families), and any other factors that the Secretary considers appropriate.

(2) Use and rent restrictions

The Secretary may require certain units in a project to be subject to use or rent restrictions providing that such units will be available to and affordable by low- and very low-income persons for the remaining useful life of the property, as defined by the Secretary.

(3) Short-term loans

The Secretary may provide short-term loans to facilitate the sale of a multifamily housing project if—

(A) authority for such loans is provided in advance in an appropriation Act;

(B) such loan has a term of not more than 5 years;

(C) the Secretary determines, based upon documentation provided to the Secretary, that the borrower has obtained a commitment of permanent financing to replace the short-term loan from a lender who meets standards established by the Secretary; and

(D) the terms of such loan are consistent with prevailing practices in the marketplace or the provision of such loan results in no cost to the Government, as defined in section 661a of title 2.

(4) Up-front grants

If the Secretary determines that action under this paragraph is more cost-effective than establishing rents pursuant to subsection (h)(2), the Secretary may utilize the budget authority provided for contracts issued under this section for project-based assistance under section 8 of the United States Housing Act of 1937 [42 U.S.C. 1437f] to (in addition to providing project-based section 8 rental assistance) provide up-front grants for the necessary cost of rehabilitation and other related development costs. This paragraph shall be effective during fiscal years 2006 through 2010 only to the extent that such budget authority is made available for use under this paragraph in advance in appropriation Acts.

(5) Tenant-based assistance

The Secretary may make available tenant-based assistance under section 8 of the United States Housing Act of 1937 to families residing in a multifamily housing project that do not otherwise qualify for project-based assistance.

(6) Alternative uses**(A) In general**

Notwithstanding any other provision of law, after providing notice to and an oppor-

tunity for comment by preexisting tenants, the Secretary may allow not more than—

(i) 10 percent of the total number of units in multifamily housing projects that are disposed of by the Secretary during any fiscal year to be made available for uses other than rental or cooperative uses, including low-income homeownership opportunities, or in any particular project, community space, office space for tenant or housing-related service providers or security programs, or small business uses, if such uses benefit the tenants of the project; and

(ii) 5 percent of the total number of units in multifamily housing projects that are disposed of by the Secretary during any fiscal year to be used in any manner, if the Secretary and the unit of general local government or area-wide governing body determine that such use will further fair housing, community development, or neighborhood revitalization goals.

(B) Displacement protection

The Secretary may take actions under subparagraph (A) only if—

(i) tenant-based rental assistance under section 8 of the United States Housing Act of 1937 [42 U.S.C. 1437f] is made available to each eligible family residing in the project that is displaced as a result of such actions; and

(ii) the Secretary determines that sufficient habitable, affordable rental housing is available in the market area in which the project is located to ensure use of such assistance.

(7) Transfer for use under other programs of Secretary**(A) In general**

Notwithstanding the provisions of subsection (e), the Secretary may, pursuant to an agreement under subparagraph (B), transfer a multifamily housing project—

(i) to a public housing agency for use of the project as public housing; or

(ii) to an entity eligible to own or operate housing assisted under section 1701q of this title or under section 811 of the Cranston-Gonzalez National Affordable Housing Act [42 U.S.C. 8013] for use as supportive housing under either of such sections.

(B) Requirements for agreement

An agreement providing for the transfer of a project described in subparagraph (A) shall—

(i) contain such terms, conditions, and limitations as the Secretary determines appropriate, including requirements to ensure use of the project as public housing, supportive housing under section 1701q of this title, or supportive housing under section 811 of the Cranston-Gonzalez National Affordable Housing Act [42 U.S.C. 8013], as applicable; and

(ii) ensure that no tenant of the project will be displaced as a result of actions taken under this paragraph.

(8) Rebuilding

Notwithstanding any provision of section 8 of the United States Housing Act of 1937 [42 U.S.C. 1437f], the Secretary may provide project-based assistance in accordance with subsection (e) of this section to support the rebuilding of a multifamily housing project rebuilt or to be rebuilt (in whole or in part and on-site, off-site, or in a combination of both) in connection with disposition under this section, if the Secretary determines that—

(A) the project is not being maintained in a decent, safe, and sanitary condition;

(B) rebuilding the project would be less expensive than substantial rehabilitation;

(C) the unit of general local government in which the project is located approves the rebuilding and makes a financial contribution or other commitment to the project; and

(D) the rebuilding is a part of a local neighborhood revitalization plan approved by the unit of general local government.

The provisions of subsection (j)(2) shall apply to any tenants of the project who are displaced.

(9) Emergency assistance funds

The Secretary may make arrangements with State agencies and units of general local government of States receiving emergency assistance under part A of title IV of the Social Security Act [42 U.S.C. 601 et seq.] for the provision of assistance under such Act [42 U.S.C. 301 et seq.] on behalf of eligible families who would reside in any multifamily housing projects.

(g) Protection for unassisted very low-income tenants

For each multifamily housing project disposed of under this section, the Secretary shall require that, for any very low-income family who is a preexisting tenant of the project who (upon disposition) would be required to pay rent in an amount in excess of 30 percent of the adjusted income (as such term is defined in section 3(b) of the United States Housing Act of 1937 [42 U.S.C. 1437a(b)]) of the family—

(1) for a period of 2 years beginning upon the date of the acquisition of the project by the purchaser under such disposition, the rent for the unit occupied by the family may not be increased above the rent charged immediately before acquisition;

(2) such family shall be considered displaced for purposes of any system of preferences established pursuant to section 6(c)(4)(A), 8(d)(1)(A), or 8(o)(6)(A) of the United States Housing Act of 1937 [42 U.S.C. 1437d(c)(4)(A), 1437f(d)(1)(A), and 1437f(o)(6)(A)]; and

(3) notice shall be provided to such family, not later than the date of the acquisition of the project by the purchaser—

(A) of the requirements under paragraphs (1) and (2); and

(B) that, after the expiration of the period under paragraph (1), the rent for the unit occupied by the family may be increased.

(h) Contract requirements

Contracts for project-based rental assistance under section 8 of the United States Housing Act

of 1937 [42 U.S.C. 1437f] provided pursuant to this section shall be subject to the following requirements:

(1) Contract term

The contract shall have a term of 15 years, except that the term may be less than 15 years—

(A) to the extent that the Secretary finds that, based on the rental charges and financing for the multifamily housing project to which the contract relates, the financial viability of the project can be maintained under a contract having such a term; except that the Secretary shall require that the amount of rent payable by tenants of the project for units assisted under such contract shall not exceed the amount payable for rent under section 3(a) of the United States Housing Act of 1937 [42 U.S.C. 1437a(a)] for a period of at least 15 years; or

(B) if such assistance is provided—

(i) under a contract authorized under section 6 of the HUD Demonstration Act of 1993; and

(ii) pursuant to a disposition plan under this section for a project that is determined by the Secretary to be otherwise in compliance with this section.

(2) Contract rent

The Secretary shall establish the contract rents under such contracts at levels that, together with other resources available to the purchasers, provide sufficient amounts for the necessary costs of rehabilitating and operating the multifamily housing project and do not exceed the percentage of the existing housing fair market rentals for the market area in which the project assisted under the contract is located as determined by the Secretary under section 8(c) of the United States Housing Act of 1937 [42 U.S.C. 1437f(c)].

(i) Right of first refusal for local and State government agencies**(1) Notification**

Not later than 30 days after the Secretary acquires title to a multifamily housing project, the Secretary shall notify the appropriate unit of general local government (including public housing agencies) and State agency or agencies designated by the chief executive officer of the State in which the project is located of such acquisition of title and that, for a period beginning upon such notification that does not exceed 90 days, such unit of general local government and agency or agencies shall have the exclusive right under this subsection to make bona fide offers to purchase the project.

(2) Right of first refusal

During the 90-day period, the Secretary may not sell or offer to sell the multifamily housing project other than to a party notified under paragraph (1), unless the unit of general local government and the designated State agency or agencies notify the Secretary that they will not make an offer to purchase the project. The Secretary shall accept a bona fide offer to purchase the project made during such

period if it complies with the terms and conditions of the disposition plan for the project or is otherwise acceptable to the Secretary.

(3) Procedure

The Secretary shall establish any procedures necessary to carry out this subsection.

(j) Displacement of tenants and relocation assistance

(1) In general

Whenever tenants will be displaced as a result of the demolition of, repairs to, or conversion in the use of, a multifamily housing project that is owned by the Secretary (or for which the Secretary is mortgagee in possession), the Secretary shall identify tenants who will be displaced, and shall notify all such tenants of their pending displacement and of any relocation assistance that may be available. In the case of a multifamily housing project that is subject to a mortgage held by the Secretary, the Secretary shall require the owner of the project to carry out the requirements of this paragraph, if the Secretary has authorized the demolition of, repairs to, or conversion in the use of such multifamily housing project.

(2) Rights of displaced tenants

The Secretary shall ensure for any such tenant (who continues to meet applicable qualification standards) the right—

(A) to return, whenever possible, to a repaired or rebuilt unit;

(B) to occupy a unit in another multifamily housing project owned by the Secretary;

(C) to obtain housing assistance under the United States Housing Act of 1937 [42 U.S.C. 1437 et seq.]; or

(D) to receive any other available similar relocation assistance as the Secretary determines to be appropriate.

(k) Mortgage and project sales

(1) In general

The Secretary may not approve the sale of any loan or mortgage held by the Secretary (including any loan or mortgage owned by the Government National Mortgage Association) on any subsidized project or formerly subsidized project, unless such sale is made as part of a transaction that will ensure that such project will continue to operate at least until the maturity date of such loan or mortgage, in a manner that will provide rental housing on terms at least as advantageous to existing and future tenants as the terms required by the program under which the loan or mortgage was made or insured prior to the assignment of the loan or mortgage on such project to the Secretary.

(2) Sale of certain projects

The Secretary may not approve the sale of any subsidized project—

(A) that is subject to a mortgage held by the Secretary, or

(B) if the sale transaction involves the provision of any additional subsidy funds by the Secretary or a recasting of the mortgage,

unless such sale is made as part of a transaction that will ensure that the project will

continue to operate, at least until the maturity date of the loan or mortgage, in a manner that will provide rental housing on terms at least as advantageous to existing and future tenants as the terms required by the program under which the loan or mortgage was made or insured prior to the proposed sale of the project.

(3) Mortgage sales to State and local governments

Notwithstanding any provision of law that requires competitive sales or bidding, the Secretary may carry out negotiated sales of mortgages held by the Secretary, without the competitive selection of purchasers or intermediaries, to units of general local government or State agencies, or groups of investors that include at least one such unit of general local government or State agency, if the negotiations are conducted with such agencies, except that—

(A) the terms of any such sale shall include the agreement of the purchasing agency or unit of local government or State agency to act as mortgagee or owner of a beneficial interest in such mortgages, in a manner consistent with maintaining the projects that are subject to such mortgages for occupancy by the general tenant group intended to be served by the applicable mortgage insurance program, including, to the extent the Secretary determines appropriate, authorizing such unit of local government or State agency to enforce the provisions of any regulatory agreement or other program requirements applicable to the related projects; and

(B) the sales prices for such mortgages shall be, in the determination of the Secretary, the best prices that may be obtained for such mortgages from a unit of general local government or State agency, consistent with the expectation and intention that the projects financed will be retained for use under the applicable mortgage insurance program for the life of the initial mortgage insurance contract.

(4) Sale of mortgages covering unsubsidized projects

Notwithstanding any other provision of law, the Secretary may sell mortgages held on projects that are not subsidized or formerly subsidized projects on such terms and conditions as the Secretary may prescribe.

(5) Mortgage sale demonstration

The Secretary may carry out a demonstration to test the feasibility of restructuring and disposing of troubled multifamily mortgages held by the Secretary through the establishment of partnerships with public, private, and nonprofit entities.

(6) Project sale demonstration

The Secretary may carry out a demonstration to test the feasibility of disposing of troubled multifamily housing projects that are owned by the Secretary through the establishment of partnerships with public, private, and nonprofit entities.

(I) Report to Congress

Not later than June 1 of each year, the Secretary shall submit to the Congress a report describing the status of multifamily housing projects owned by or subject to mortgages held by the Secretary, on an aggregate basis, which highlights the differences, if any, between the subsidized and the unsubsidized inventory. The report shall include—

- (1) the average and median size of the projects;
- (2) the geographic locations of the projects, by State and region;
- (3) the years during which projects were assigned to the Department, and the average and median length of time that projects remain in the HUD-held inventory;
- (4) the status of HUD-held mortgages;
- (5) the physical condition of the HUD-held and HUD-owned inventory;
- (6) the occupancy profile of the projects, including the income, family size, race, and ethnic origin of current tenants, and the rents paid by such tenants;
- (7) the proportion of units that are vacant;
- (8) the number of projects for which the Secretary is mortgagee in possession;
- (9) the number of projects sold in foreclosure sales;
- (10) the number of HUD-owned projects sold;
- (11) a description of actions undertaken pursuant to this section, including a description of the effectiveness of such actions and any impediments to the disposition or management of multifamily housing projects;
- (12) a description of the extent to which the provisions of this section and actions taken under this section have displaced tenants of multifamily housing projects;
- (13) a description of any of the functions performed in connection with this section that are contracted out to public or private entities or to States; and
- (14) a description of the activities carried out under subsection (i) during the preceding year.

(Pub. L. 95-557, title II, §203, Oct. 31, 1978, 92 Stat. 2088; Pub. L. 96-153, title II, §208, Dec. 21, 1979, 93 Stat. 1109; Pub. L. 96-399, title II, §213, Oct. 8, 1980, 94 Stat. 1636; Pub. L. 100-242, title I, §181, Feb. 5, 1988, 101 Stat. 1868; Pub. L. 100-628, title X, §1010, Nov. 7, 1988, 102 Stat. 3266; Pub. L. 101-235, title II, §204(a), Dec. 15, 1989, 103 Stat. 2039; Pub. L. 101-625, title V, §579, Nov. 28, 1990, 104 Stat. 4245; Pub. L. 103-120, §6(c)(2), Oct. 27, 1993, 107 Stat. 1149; Pub. L. 103-233, title I, §101(b), Apr. 11, 1994, 108 Stat. 343; Pub. L. 105-276, title V, §514(b)(2)(C), Oct. 21, 1998, 112 Stat. 2548; Pub. L. 109-171, title II, §2003(b), Feb. 8, 2006, 120 Stat. 9.)

Editorial Notes**REFERENCES IN TEXT**

The National Housing Act, referred to in subsecs. (a)(1), (b)(1), (e)(3)(A), and (f)(1), is act June 27, 1934, ch. 847, 48 Stat. 1246, as amended, which is classified principally to this chapter (§1701 et seq.). For complete classification of this Act to the Code, see section 1701 of this title and Tables.

Section 183(c) of the Housing and Community Development Act of 1987, referred to in subsec. (b)(2)(D), is

section 183(c) of Pub. L. 100-242, which was set out as a note under section 1437f of Title 42, The Public Health and Welfare, prior to repeal by Pub. L. 105-276, title V, §582(a)(2), Oct. 21, 1998, 112 Stat. 2643.

Section 101 of the Housing and Urban Development Act of 1965, referred to in subsecs. (b)(2)(D)(i) and (e)(1)(D)(i)(VI), (VII), is section 101 of Pub. L. 89-117, title I, Aug. 10, 1965, 79 Stat. 451, as amended, which enacted section 1701s of this title and amended sections 1451 and 1465 of Title 42.

Section 23 of the United States Housing Act of 1937, referred to in subsecs. (b)(2)(D)(iii) and (e)(1)(D)(i)(V), was classified to section 1421b of Title 42 and was omitted from the Code following the general revision of the United States Housing Act of 1937 by Pub. L. 93-383, title II, §201(a), Aug. 22, 1974, 88 Stat. 653.

The Emergency Low Income Housing Preservation Act of 1987, referred to in subsec. (c)(2)(E), is title II of Pub. L. 100-242, Feb. 5, 1988, 101 Stat. 1877, which, as amended by Pub. L. 101-625, is known as the Low-Income Housing Preservation and Resident Homeownership Act of 1990, and is classified principally to subchapter I (§4101 et seq.) of chapter 42 of this title. Subtitle C of the Low-Income Housing Preservation and Resident Homeownership Act of 1990, probably means subtitle C of title II of Pub. L. 100-242, as added by Pub. L. 102-550, which is classified generally to subchapter II (§4141 et seq.) of chapter 42 of this title. Another subtitle C of title II of Pub. L. 100-242 amended sections 1472, 1485, and 1487 of Title 42. For complete classification of this Act to the Code, see Short Title note set out under section 4101 of this title and Tables.

The Cranston-Gonzalez National Affordable Housing Act, referred to in subsec. (c)(2)(E), is Pub. L. 101-625, Nov. 28, 1990, 104 Stat. 4079. Subtitle B of title IV of the Act is classified principally to part A (§12871 et seq.) of subchapter IV of chapter 130 of Title 42. For complete classification of this Act to the Code, see Short Title note set out under section 12701 of Title 42 and Tables.

The Social Security Act, referred to in subsec. (f)(9), is act Aug. 14, 1935, ch. 531, 49 Stat. 620, as amended, which is classified generally to chapter 7 (§301 et seq.) of Title 42. Part A of title IV of the Act is classified generally to part A (§601 et seq.) of subchapter IV of chapter 7 of Title 42. For complete classification of this Act to the Code, see section 1305 of Title 42 and Tables.

Section 6 of the HUD Demonstration Act of 1993, referred to in subsec. (h)(1)(B)(i), is section 6 of Pub. L. 103-120, which is set out as a note under section 1437f of Title 42.

The United States Housing Act of 1937, as amended, referred to in subsec. (j)(2)(C), 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, which is classified generally to chapter 8 (§1437 et seq.) of Title 42. For complete classification of this Act to the Code, see Short Title note set out under section 1437 of Title 42 and Tables.

CODIFICATION

Section was enacted as part of the Housing and Community Development Amendments of 1978, and not as part of the National Housing Act which comprises this chapter.

AMENDMENTS

2006—Subsec. (f)(4). Pub. L. 109-171 inserted at end “This paragraph shall be effective during fiscal years 2006 through 2010 only to the extent that such budget authority is made available for use under this paragraph in advance in appropriation Acts.”

1998—Subsec. (g)(2). Pub. L. 105-276 substituted “any system of preferences established pursuant to section 6(c)(4)(A), 8(d)(1)(A), or 8(o)(6)(A)” for “the preferences for assistance under sections 6(c)(4)(A)(i), 8(d)(1)(A)(i), and 8(o)(3)(B)”.

1994—Pub. L. 103-233 amended section generally, substituting present provisions for former provisions which related, in subsec. (a) to goals, in subsec. (b) to

management or disposal of property by negotiated competitive bids, in subsec. (c) to maintenance of housing projects, in subsec. (d) to financial assistance to owner, in subsec. (e) to right of first refusal, in subsec. (f) to displacement of tenants and relocation assistance, in subsec. (g) to assignment or partial payment of mortgages, in subsec. (h) to limitations on certain project, loan, and mortgage sales, in subsec. (i) to definition of multifamily housing project, in subsec. (j) to rules and regulations, in subsec. (k) to annual report describing status of projects, and in subsec. (l) to project-based assistance.

1993—Subsec. (l). Pub. L. 103-120 added subsec. (l).

1990—Subsec. (a)(1)(B). Pub. L. 101-625, § 579(a), struck out “or vacant” after “moderate-income persons”.

Subsec. (d)(1). Pub. L. 101-625, § 579(b)(1), struck out “or are vacant (which units shall be made available for such families as soon as possible)” before semicolon at end of cl. (B).

Subsec. (d)(2), (3). Pub. L. 101-625, § 579(b)(2), (3), added par. (2) and redesignated former par. (2) as (3).

1989—Subsec. (k). Pub. L. 101-235 amended subsec. (k) generally. Prior to amendment, subsec. (k) read as follows: “The Secretary shall annually submit to the Congress a report describing the activities carried out under subsection (e) of this section during the preceding year.”

1988—Subsec. (a). Pub. L. 100-628, § 1010(a), substituted “occupied by low- and moderate-income persons on the date of assignment or foreclosure (whichever is greater)” for “, on the date of assignment, occupied by low- and moderate-income persons” in par. (1)(C).

Pub. L. 100-242, § 181(a), substituted introductory provisions and par. (1) for former introductory provisions and par. (1) which read as follows: “It is the policy of the United States that the Secretary of Housing and Urban Development (hereinafter referred to as the ‘Secretary’) shall manage and dispose of multifamily housing projects which are owned by the Secretary in a manner consistent with the National Housing Act and this section. The purpose of the property management and disposition program of the Department of Housing and Urban Development shall be to manage and dispose of projects in a manner which will protect the financial interests of the Federal Government and be less costly to the Federal Government than other reasonable alternatives by which the Secretary can further the goals of—

“(1) preserving the housing units so that at least those units which are occupied by low- and moderate-income persons or which are vacant, at the time of acquisition, are available to and affordable by such persons;”

Subsec. (b)(2). Pub. L. 100-242, § 181(b), designated existing provisions as subpar. (A) and redesignated former cls. (A) to (D) as cls. (i) to (iv), substituted “subject to subsection (a) of this section that is owned by the Secretary (or for which the Secretary is mortgagee in possession)” for “, owned by the Secretary”, substituted “may determine; and” for “may determine.”, and added subpar. (B).

Subsec. (c). Pub. L. 100-242, § 181(c), amended subsec. (c) generally. Prior to amendment, subsec. (c) read as follows: “Except where the Secretary has determined on a case-by-case basis that it would be clearly inappropriate, given the manner by which an individual project is to be managed or disposed of pursuant to subsection (a) of this section, the Secretary shall seek to—

“(1) maintain all occupied multifamily housing projects owned by the Secretary in a decent, safe, and sanitary condition;

“(2) to the greatest extent possible, maintain full occupancy in all multifamily housing projects owned by the Secretary; and

“(3) maintain the project for purposes of providing rental or cooperative housing for the longest feasible period.”

Subsec. (d). Pub. L. 100-628, § 1010(b), amended third sentence of par. (1) generally. Prior to amendment, third sentence read as follows: “Such contracts shall be

sufficient to assist all units in subsidized or formerly subsidized projects, and all units in other projects that are occupied by lower income families eligible for assistance under such section 8 at the time of foreclosure or sale, as the case may be, and all units that are vacant at such time (which units shall be made available for such families as soon as possible).”

Pub. L. 100-242, § 181(d), added subsec. (d). Former subsec. (d) redesignated (f).

Subsec. (e). Pub. L. 100-628, § 1010(c), amended subsec. (e) generally. Prior to amendment, subsec. (e) read as follows: “Upon receipt of a bona fide offer to purchase a project subject to subsection (a) of this section, the Secretary shall notify the local government and the State housing finance agency (or other agency or agencies designated by the Governor) of the proposed terms and conditions of the offer, including the assistance that the Secretary plans to make available to the prospective purchaser. The local government and the designated State agency shall have 90 days to match the offer and purchase the project. In administering the right of first refusal provided in this subsection, the Secretary shall offer assistance to the local government or designated State agency on terms and conditions at least as favorable as made available to the prospective purchaser. Notwithstanding any other provision of law to the contrary, a local government (including a public housing agency) or designated State agency may purchase a subsidized project or formerly subsidized project in accordance with this subsection.”

Pub. L. 100-242, § 181(d)(1), (e), added subsec. (e). Former subsec. (e) redesignated (g).

Subsec. (f). Pub. L. 100-242, § 181(d)(1), (e)(1), (g)(1), redesignated former subsec. (d) as (f). Former subsec. (f) redesignated (i).

Subsec. (f)(1). Pub. L. 100-242, § 181(f), substituted “subject to subsection (a) of this section that is owned by the Secretary (or for which the Secretary is mortgagee in possession)” for “owned by the Secretary”, and inserted at end “In the case of a multifamily housing project subject to subsection (a) of this section that is not owned by the Secretary (and for which the Secretary is not mortgagee in possession), the Secretary shall require the owner of the project to carry out the requirements of this paragraph.”

Subsec. (g). Pub. L. 100-242, § 181(d)(1), (e)(1), redesignated former subsec. (e) as (g). Former subsec. (g) redesignated (j).

Subsec. (h). Pub. L. 100-242, § 181(d)(1), (e)(1), (g), added subsec. (h).

Subsec. (i). Pub. L. 100-628, § 1010(d), (e), substituted “(excluding payments made for certificates under subsection (b)(1) or vouchers under subsection (o) of this section), if (except for purposes of paragraphs (1) and (2) of subsection (h) of this section), and section 183(c) of the Housing and Community Development Act of 1987) such housing assistance payments are made to more than 50 percent of the units in the project” for “(other than subsection (b)(1) of such section), without regard to whether such payments are made to all or a portion of the units in the project” in par. (2) (E) and added par. (4).

Pub. L. 100-242, § 181(e)(1), (g)(1), (h), redesignated former subsec. (f) as (i), designated existing provisions as par. (1), and added pars. (2) and (3).

Subsec. (j). Pub. L. 100-242, § 181(g)(1), redesignated former subsec. (g) as (j).

Subsec. (k). Pub. L. 100-628, § 1010(f), added subsec. (k).

1980—Subsec. (a). Pub. L. 96-399, § 213(a), in par. (1) inserted provisions respecting occupation of units by low- and moderate-income persons or units vacant at the time of acquisition, and added par. (6).

Subsec. (b)(1). Pub. L. 96-399, § 213(b), inserted provisions relating to the number of project units occupied by low- and moderate-income persons.

Subsec. (c)(3). Pub. L. 96-399, § 213(c), added par. (3).

Subsec. (d)(2)(B), (C). Pub. L. 96-399, § 213(d), inserted exception for tenants of above-moderate income.

Subsec. (f). Pub. L. 96-399, § 213(e), substituted provisions respecting applicability to projects assisted or in-

sured under this chapter, or subject to loans under section 1701q of this title or section 1452b of title 42, or projects acquired by the Secretary pursuant to any other provision of law, for provisions respecting applicability to assistance under section 1715z-1 of this title, the proviso of section 1715(d)(5) of this title, or section 101 of the Housing and Urban Development Act of 1965, and projects insured under this chapter.

1979—Subsec. (d)(2). Pub. L. 96-153 substituted “assume for any such tenant (who continues to meet applicable qualification standards) the right” for “seek to assure the maximum opportunity for any such tenant”.

Statutory Notes and Related Subsidiaries

EFFECTIVE DATE OF 2006 AMENDMENT

Pub. L. 109-171, title II, §2003(c), Feb. 8, 2006, 120 Stat. 9, provided that: “The amendments made by this section [amending this section and section 1715z-11a of this title] shall not apply to any transaction that formally commences within one year prior to the enactment of this section [Feb. 8, 2006].”

REGULATIONS

Pub. L. 103-233, title I, §101(f), Apr. 11, 1994, 108 Stat. 358, provided that: “The Secretary shall issue interim regulations necessary to implement the amendments made by subsections (b) through (d) [amending this section and sections 1437d and 1437f of Title 42, The Public Health and Welfare] not later than 90 days after the date of the enactment of this Act [Apr. 11, 1994]. Such interim regulations shall take effect upon issuance and invite public comment on the interim regulations. The Secretary shall issue final regulations to implement such amendments after opportunity for such public comment, but not later than 12 months after the date of issuance of such interim regulations.”

APPROPRIATED FUNDS REQUIREMENT FOR BELOW-MARKET SALES

Pub. L. 109-171, title II, §§2001, 2002, Feb. 8, 2006, 120 Stat. 7, 8, provided that:

“SEC. 2001. DEFINITIONS.

“For purposes of this subtitle [subtitle A (§§2001-2003) of title II of Pub. L. 109-171, amending this section and section 1715z-11a of this title and enacting provisions set out as notes under this section], the following definitions shall apply:

“(1) The term ‘affordability requirements’ means any requirements or restrictions imposed by the Secretary, at the time of sale, on a multifamily real property or a multifamily loan, such as use restrictions, rent restrictions, and rehabilitation requirements.

“(2) The term ‘discount sale’ means the sale of a multifamily real property in a transaction, such as a negotiated sale, in which the sale price is lower than the property market value and is set outside of a competitive bidding process that has no affordability requirements.

“(3) The term ‘discount loan sale’ means the sale of a multifamily loan in a transaction, such as a negotiated sale, in which the sale price is lower than the loan market value and is set outside of a competitive bidding process that has no affordability requirements.

“(4) The term ‘loan market value’ means the value of a multifamily loan, without taking into account any affordability requirements.

“(5) The term ‘multifamily real property’ means any rental or cooperative housing project of 5 or more units owned by the Secretary that prior to acquisition by the Secretary was security for a loan or loans insured under title II of the National Housing Act [12 U.S.C. 1707 et seq.].

“(6) The term ‘multifamily loan’ means a loan held by the Secretary and secured by a multifamily rental or cooperative housing project of 5 or more units that

was formerly insured under title II of the National Housing Act.

“(7) The term ‘property market value’ means the value of a multifamily real property for its current use, without taking into account any affordability requirements.

“(8) The term ‘Secretary’ means the Secretary of Housing and Urban Development.

“SEC. 2002. APPROPRIATED FUNDS REQUIREMENT FOR BELOW-MARKET SALES.

“(a) DISCOUNT SALES.—Notwithstanding any other provision of law, except for affordability requirements for the elderly and disabled required by statute, disposition by the Secretary of a multifamily real property during fiscal years 2006 through 2010 through a discount sale under sections 207(l) or 246 of the National Housing Act (12 U.S.C. 1713(l), 1715z-11), section 203 of the Housing and Community Development Amendments of 1978 (12 U.S.C. 1701z-11), or section 204 of the Departments of Veterans Affairs and Housing and Urban Development, and Independent Agencies Appropriations Act, 1997 (12 U.S.C. 1715z-11a), shall be subject to the availability of appropriations to the extent that the property market value exceeds the sale proceeds. If the multifamily real property is sold, during such fiscal years, for an amount equal to or greater than the property market value then the transaction is not subject to the availability of appropriations.

“(b) DISCOUNT LOAN SALES.—Notwithstanding any other provision of law and in accordance with the Federal Credit Reform Act of 1990 (2 U.S.C. 661 et seq.), a discount loan sale during fiscal years 2006 through 2010 under section 207(k) of the National Housing Act (12 U.S.C. 1713(k)), section 203(k) of the Housing and Community Development Amendments of 1978 (12 U.S.C. 1701z-11(k)), or section 204(a) of the Departments of Veterans Affairs and Housing and Urban Development, and Independent Agencies Appropriations Act, 1997 (12 U.S.C. 1715z-11a(a)), shall be subject to the availability of appropriations to the extent that the loan market value exceeds the sale proceeds. If the multifamily loan is sold, during such fiscal years, for an amount equal to or greater than the loan market value then the transaction is not subject to the availability of appropriations.

“(c) APPLICABILITY.—This section shall not apply to any transaction that formally commences within one year prior to the enactment of this section [Feb. 8, 2006].”

MULTIFAMILY HOUSING DISPOSITION

Pub. L. 103-233, title I, §101(a), Apr. 11, 1994, 108 Stat. 343, provided that: “The Congress finds that—

“(1) the portfolio of multifamily housing project mortgages insured by the FHA is severely troubled and at risk of default, requiring the Secretary to increase loss reserves from \$5,500,000,000 in 1991 to \$11,900,000,000 in 1992 to cover estimated future losses;

“(2) the inventory of multifamily housing projects owned by the Secretary has more than quadrupled since 1989, and, by the end of 1994, may exceed 69,000 units;

“(3) the cost to the Federal Government of owning and maintaining multifamily housing projects escalated to \$288,000,000 in fiscal year 1993;

“(4) the inventory of multifamily housing projects subject to mortgages held by the Secretary has increased dramatically, to more than 2,400 mortgages, and approximately half of these mortgages, with approximately 219,000 units, are delinquent;

“(5) the inventory of insured and formerly insured multifamily housing projects is deteriorating, potentially endangering tenants and neighborhoods; and

“(6) the current statutory framework governing the disposition of multifamily housing projects effectively impedes the Government’s ability to dispose of properties, protect tenants, and ensure that projects are maintained over time.”

Pub. L. 100-242, title I, §184, Feb. 5, 1988, 101 Stat. 1872, as amended by Pub. L. 101-625, title V, §580, Nov. 28,

1990, 104 Stat. 4245, provided for establishment of demonstration program for multifamily housing disposition partnerships, together with requirements relating to participation by State housing finance agencies in sale of such housing and cooperation between Secretary of Housing and Urban Development and such agencies, as well as termination of such program at end of Sept. 30, 1991, with certain exceptions, with report to Congress required to be submitted by Secretary not later than 6 months after Sept. 30, 1991, prior to repeal by Pub. L. 103-233, title I, §102, Apr. 11, 1994, 108 Stat. 358.

§ 1701z-12. Housing access

The Secretary shall require any purchaser of a multifamily housing project owned by the Secretary which is sold on or after October 1, 1978, to agree not to refuse unreasonably to lease a vacant dwelling unit in the project which rents for an amount not greater than the fair market rent for a comparable unit in the area as determined by the Secretary under section 1437f of title 42 to a holder of a certificate of eligibility under that section solely because of such prospective tenant's status as a certificate holder. (Pub. L. 95-557, title II, §204, Oct. 31, 1978, 92 Stat. 2090.)

Editorial Notes

CODIFICATION

Section was enacted as part of the Housing and Community Development Amendments of 1978, and not as part of the National Housing Act which comprises this chapter.

§ 1701z-13. Solar energy for single-family and multifamily housing units

(a) Purpose

It is the purpose of this section to promote and extend the application of viable solar energy systems as a desirable source of energy for residential single-family and multifamily housing units.

(b) Cost-effective and economically feasible solar energy systems; "solar energy system" defined

(1) The Secretary, in carrying out programs and activities under section 1452b¹ of title 42, section 1701q of this title, and section 1437f of title 42, shall permit the installation of solar energy systems which are cost-effective and economically feasible.

(2) For the purpose of this Act, the term "solar energy system" means any addition, alteration, or improvement to an existing or new structure which is designed to utilize wind energy or solar energy either of the active type based on mechanically forced energy transfer or of the passive type based on convective, conductive, or radiant energy transfer or some combination of these types to reduce the energy requirements of that structure from other energy sources, and which is in conformity with such criteria and standards as shall be prescribed by the Secretary in consultation with the Secretary of Energy.

(c) Matters considered

In carrying out subsection (b), the Secretary shall take such steps as may be necessary to en-

¹ See References in Text note below.

courage the installation of cost-effective and economically feasible solar energy systems in housing assisted under the programs and activities referred to in such subsection taking into account the interests of low-income homeowners and renters, including the implementation of a plan of action to publicize the availability and feasibility of solar energy systems to current or potential recipients of assistance under such programs and activities.

(d) Report to Congress

The Secretary shall, in conjunction with the Secretary of Energy, transmit to the Congress, within eighteen months after October 31, 1978, a report setting forth—

(1) the number of solar units which were contracted for or installed or which are on order under the provisions of subsection (b)(1) of this section during the first twelve full calendar months after October 31, 1978; and

(2) an analysis of any problems and benefits related to encouraging the use of solar energy systems in the programs and activities referred to in subsection (b).

(Pub. L. 95-557, title II, §209, Oct. 31, 1978, 92 Stat. 2095; Pub. L. 98-479, title II, §204(n)(3), Oct. 17, 1984, 98 Stat. 2234.)

Editorial Notes

REFERENCES IN TEXT

Section 1452b of title 42, referred to in subsec. (b)(1), was repealed by Pub. L. 101-625, title II, §289(b)(1), Nov. 28, 1990, 104 Stat. 4128.

This Act, referred to in subsec. (b)(2), is Pub. L. 95-557, Oct. 31, 1978, 92 Stat. 2080, known as the Housing and Community Development Amendments of 1978. For complete classification of this Act to the Code, see Short Title of 1978 Amendments note set out under section 5301 of Title 42, The Public Health and Welfare, and Tables.

CODIFICATION

Section was enacted as part of the Housing and Community Development Amendments of 1978, and not as part of the National Housing Act which comprises this chapter.

AMENDMENTS

1984—Subsec. (d). Pub. L. 98-479 substituted "conjunction" for "conjunction" in provisions preceding par. (1).

§ 1701z-14. Lower cost technology demonstration program

The Secretary of Housing and Urban Development is authorized to develop and implement a demonstration program utilizing lower cost building technology for projects located on inner-city vacant land.

(Pub. L. 97-35, title III, §339C, Aug. 13, 1981, 95 Stat. 417.)

Editorial Notes

CODIFICATION

Section was enacted as part of the Housing and Community Development Amendments of 1981 and also as part of the Omnibus Budget Reconciliation Act of 1981, and not as part of the National Housing Act which comprises this chapter.