

pending in accordance with it, or for mandatory or injunctive relief.

**(d) Review**

**(1) In general**

Any recipient who receives notice under subsection (a) of the termination, reduction, or limitation of payments under this chapter—

(A) may, not later than 60 days after receiving such notice, file with the United States Court of Appeals for the circuit in which such State is located, or in the United States Court of Appeals for the District of Columbia, a petition for review of the action of the Secretary; and

(B) upon the filing of any petition under subparagraph (A), shall forthwith transmit copies of the petition to the Secretary and the Attorney General of the United States, who shall represent the Secretary in the litigation.

**(2) Procedure**

The Secretary shall file in the court a record of the proceeding on which the Secretary based the action, as provided in section 2112 of title 28. No objection to the action of the Secretary shall be considered by the court unless such objection has been urged before the Secretary.

**(3) Disposition**

**(A) Court proceedings**

The court shall have jurisdiction to affirm or modify the action of the Secretary or to set it aside in whole or in part. The findings of fact by the Secretary, if supported by substantial evidence on the record considered as a whole, shall be conclusive. The court may order additional evidence to be taken by the Secretary, and to be made part of the record.

**(B) Secretary**

The Secretary—

(i) may modify the findings of fact of the Secretary, or make new findings, by reason of the new evidence so taken and filed with the court; and

(ii) shall file—

(I) such modified or new findings, which findings with respect to questions of fact shall be conclusive if supported by substantial evidence on the record considered as a whole; and

(II) the recommendation of the Secretary, if any, for the modification or setting aside of the original action of the Secretary.

**(4) Finality**

Upon the filing of the record with the court, the jurisdiction of the court shall be exclusive and its judgment shall be final, except that such judgment shall be subject to review by the Supreme Court of the United States upon writ of certiorari or certification as provided in section 1254 of title 28.

(Pub. L. 104-330, title IV, § 401, Oct. 26, 1996, 110 Stat. 4037; Pub. L. 106-568, title X, § 1003(h), (i), Dec. 27, 2000, 114 Stat. 2928, 2929; Pub. L. 106-569, title V, § 503(g), (h), Dec. 27, 2000, 114 Stat. 2964, 2965; Pub. L. 110-411, title IV, § 401, Oct. 14, 2008, 122 Stat. 4330.)

**Editorial Notes**

REFERENCES IN TEXT

This chapter, referred to in text, was in the original “this Act”, meaning Pub. L. 104-330, Oct. 26, 1996, 110 Stat. 4016, known as the Native American Housing Assistance and Self-Determination Act of 1996. For complete classification of this Act to the Code, see Short Title note set out under section 4101 of this title and Tables.

AMENDMENTS

2008—Subsec. (a)(2) to (4). Pub. L. 110-411 added par. (2) and redesignated former pars. (2) and (3) as (3) and (4), respectively.

2000—Subsec. (a). Pub. L. 106-568, § 1003(h), and Pub. L. 106-569, § 503(g), amended subsec. (a) identically, designating existing provisions as par. (1), inserting heading, redesignating former pars. (1) to (4) as subpars. (A) to (D), respectively, of par. (1), realigning margins, designating concluding provisions as par. (2), inserting heading, substituting “If the Secretary takes an action under subparagraph (A), (B), or (C) of paragraph (1)” for “If the Secretary takes an action under paragraph (1), (2), or (3)”, and adding par. (3).

Subsec. (b). Pub. L. 106-568, § 1003(i), and Pub. L. 106-569, § 503(h), amended subsec. (b) identically, designating existing provisions as par. (1), inserting heading, redesignating former pars. (1) and (2) as subpars. (A) and (B), respectively, of par. (1), realigning margins of concluding provisions, inserting “, if the recipient enters into a performance agreement with the Secretary that specifies the compliance objectives that the recipient will be required to achieve by the termination date of the performance agreement” before period at end of concluding provisions, and adding pars. (2) to (4).

**Statutory Notes and Related Subsidiaries**

EFFECTIVE DATE

Section effective Oct. 1, 1997, except as otherwise expressly provided, see section 107 of Pub. L. 104-330, set out as a note under section 4101 of this title.

**§ 4162. Replacement of recipient**

**(a) Authority**

As a condition of the Secretary making a grant under this chapter on behalf of an Indian tribe, the tribe shall agree that, notwithstanding any other provision of law, the Secretary may, only in the circumstances set forth in subsection (b), require that a replacement tribally designated housing entity serve as the recipient for the tribe, in accordance with subsection (c).

**(b) Conditions of removal**

The Secretary may require such replacement tribally designated housing entity for a tribe only upon a determination by the Secretary on the record after opportunity for a hearing that the recipient for the tribe has engaged in a pattern or practice of activities that constitutes substantial or willful noncompliance with the requirements under this chapter.

**(c) Choice and term of replacement**

If the Secretary requires that a replacement tribally designated housing entity serve as the recipient for a tribe (or tribes)—

(1) the replacement entity shall be an entity mutually agreed upon by the Secretary and the tribe (or tribes) for which the recipient was authorized to act, except that if no such entity is agreed upon before the expiration of

the 60-day period beginning upon the date that the Secretary makes the determination under subsection (b), the Secretary shall act as the replacement entity until agreement is reached upon a replacement entity; and

(2) the replacement entity (or the Secretary, as provided in paragraph (1)) shall act as the tribally designated housing entity for the tribe (or tribes) for a period that expires upon—

(A) a date certain, which shall be specified by the Secretary upon making the determination under subsection (b); or

(B) the occurrence of specific conditions, which conditions shall be specified in written notice provided by the Secretary to the tribe upon making the determination under subsection (b).

(Pub. L. 104-330, title IV, §402, Oct. 26, 1996, 110 Stat. 4039.)

#### Editorial Notes

##### REFERENCES IN TEXT

This chapter, referred to in subsecs. (a) and (b), was in the original “this Act”, meaning Pub. L. 104-330, Oct. 26, 1996, 110 Stat. 4016, known as the Native American Housing Assistance and Self-Determination Act of 1996. For complete classification of this Act to the Code, see Short Title note set out under section 4101 of this title and Tables.

#### Statutory Notes and Related Subsidiaries

##### EFFECTIVE DATE

Section effective Oct. 1, 1997, except as otherwise expressly provided, see section 107 of Pub. L. 104-330, set out as a note under section 4101 of this title.

### § 4163. Monitoring of compliance

#### (a) Enforceable agreements

Each recipient, through binding contractual agreements with owners and otherwise, shall ensure long-term compliance with the provisions of this chapter. Such measures shall provide for (1) enforcement of the provisions of this chapter by the grant beneficiary or by recipients and other intended beneficiaries, and (2) remedies for the breach of such provisions.

#### (b) Periodic monitoring

Not less frequently than annually, each recipient shall review the activities conducted and housing assisted under this chapter to assess compliance with the requirements of this chapter. Such review shall include an appropriate level of onsite inspection of housing to determine compliance with applicable requirements. The results of each review shall be included in the performance report of the recipient submitted to the Secretary under section 4164 of this title and made available to the public.

#### (c) Performance measures

The Secretary shall establish such performance measures as may be necessary to assess compliance with the requirements of this chapter.

(Pub. L. 104-330, title IV, §403, Oct. 26, 1996, 110 Stat. 4039; Pub. L. 110-411, title IV, §402, Oct. 14, 2008, 122 Stat. 4330.)

#### Editorial Notes

##### REFERENCES IN TEXT

This chapter, referred to in text, was in the original “this Act”, meaning Pub. L. 104-330, Oct. 26, 1996, 110 Stat. 4016, known as the Native American Housing Assistance and Self-Determination Act of 1996. For complete classification of this Act to the Code, see Short Title note set out under section 4101 of this title and Tables.

##### AMENDMENTS

2008—Subsec. (b). Pub. L. 110-411 inserted “an appropriate level of” after “shall include”.

#### Statutory Notes and Related Subsidiaries

##### EFFECTIVE DATE

Section effective Oct. 1, 1997, except as otherwise expressly provided, see section 107 of Pub. L. 104-330, set out as a note under section 4101 of this title.

### § 4164. Performance reports

#### (a) Requirement

For each fiscal year, each recipient shall—

(1) review the progress it has made during such fiscal year in carrying out the Indian housing plan (or plans) for the Indian tribes for which it administers grant amounts; and

(2) submit a report to the Secretary (in a form acceptable to the Secretary) describing the conclusions of the review.

#### (b) Content

Each report under this section for a fiscal year shall—

(1) describe the use of grant amounts provided to the recipient for such fiscal year;

(2) assess the relationship of such use to the planned activities identified in the Indian housing plan of the grant beneficiary; and

(3) indicate the programmatic accomplishments of the recipient.

#### (c) Submission

The Secretary shall establish dates for submission of reports under this section, and review such reports and make such recommendations as the Secretary considers appropriate to carry out the purposes of this chapter.

#### (d) Public availability

A recipient preparing a report under this section shall make the report publicly available to the citizens in the jurisdiction of the recipient in sufficient time to permit such citizens to comment on such report prior to its submission to the Secretary, and in such manner and at such times as the recipient may determine. The report shall include a summary of any comments received by the grant beneficiary or recipient from citizens in its jurisdiction regarding its program.

(Pub. L. 104-330, title IV, §404, Oct. 26, 1996, 110 Stat. 4040; Pub. L. 110-411, title IV, §403, Oct. 14, 2008, 122 Stat. 4330.)

#### Editorial Notes

##### REFERENCES IN TEXT

This chapter, referred to in subsec. (c), was in the original “this Act”, meaning Pub. L. 104-330, Oct. 26, 1996, 110 Stat. 4016, known as the Native American