

L. 110-140, set out as an Effective Date note under section 1824 of Title 2, The Congress.

### § 12710. Capacity study

#### (a) In general

The Secretary shall ensure that the Department of Housing and Urban Development has adequate capacity and resources, including staff and training programs, to carry out its mission and responsibilities to implement the provisions of this Act, including the ability of the Department to carry out the multifamily mortgage insurance program, and the ability to respond to areas identified as “material weaknesses” by the Office of the Inspector General in financial audits or other reports.

#### (b) Report

Not later than 60 days after November 28, 1990, and annually thereafter, the Secretary shall prepare and submit to the Committee on Banking, Housing, and Urban Affairs of the Senate and the Committee on Banking, Finance and Urban Affairs of the House of Representatives a study detailing the Department’s plan to maintain such capacity, together with any recommendations for legislative and administrative action as the Secretary determines to be appropriate.

(Pub. L. 101-625, title I, § 110, Nov. 28, 1990, 104 Stat. 4093; Pub. L. 102-550, title IV, § 407, Oct. 28, 1992, 106 Stat. 3778.)

#### Editorial Notes

##### REFERENCES IN TEXT

This Act, referred to in subsec. (a), is Pub. L. 101-625, Nov. 28, 1990, 104 Stat. 4079, known as the Cranston-Gonzalez National Affordable Housing Act. For complete classification of this Act to the Code, see Short Title note set out under section 12701 of this title and Tables.

##### AMENDMENTS

1992—Subsec. (a). Pub. L. 102-550 struck out “, and” after “responsibilities” and substituted for period at end “and the ability to respond to areas identified as ‘material weaknesses’ by the Office of the Inspector General in financial audits or other reports.”

#### Statutory Notes and Related Subsidiaries

##### CHANGE OF NAME

Committee on Banking, Finance and Urban Affairs of House of Representatives treated as referring to Committee on Banking and Financial Services of House of Representatives by section 1(a) of Pub. L. 104-14, set out as a note preceding section 21 of Title 2, The Congress. Committee on Banking and Financial Services of House of Representatives abolished and replaced by Committee on Financial Services of House of Representatives, and jurisdiction over matters relating to securities and exchanges and insurance generally transferred from Committee on Energy and Commerce of House of Representatives by House Resolution No. 5, One Hundred Seventh Congress, Jan. 3, 2001.

### § 12711. Protection of State and local authority

Notwithstanding any other provision of this subchapter or subchapter II, the Secretary shall not establish any criteria for allocating or denying funds made available under programs administered by the Secretary based on the adoption, continuation, or discontinuation by a jurisdiction of any public policy, regulation, or law that

is (1) adopted, continued, or discontinued in accordance with the jurisdiction’s duly established authority, and (2) not in violation of any Federal law.

(Pub. L. 101-625, title I, § 111, Nov. 28, 1990, 104 Stat. 4093.)

### § 12712. 5-year energy efficiency plan

#### (a) Establishment

The Secretary of Housing and Urban Development shall establish a plan for activities to be undertaken and policies to be adopted by the Secretary within the 5-year period beginning upon the submission of the plan to the Congress under subsection (d) to provide for, encourage, and improve energy efficiency in newly constructed, rehabilitated, and existing housing. In developing the plan, the Secretary shall consider, as appropriate, any energy assessments under section 944.

#### (b) Initial plan

The Secretary of Housing and Urban Development shall establish the first plan under this section not later than the expiration of the 1-year period beginning on November 28, 1990.

#### (c) Updates

The Secretary of Housing and Urban Development shall revise and update the plan under this section not less than once for each 2-year period, the first such 2-year period beginning on the date of the submission of the initial plan under subsection (b) to the Congress (as provided in subsection (d)). Each such update shall revise the plan for the 5-year period beginning upon the submission of the updated plan to the Congress.

#### (d) Submission to Congress

The Secretary of Housing and Urban Development shall submit the initial plan established under subsection (b) and any updated plans under subsection (c) to the Congress not later than the date by which such plans are to be established or updated under such paragraphs.

(Pub. L. 101-625, title IX, § 945, Nov. 28, 1990, 104 Stat. 4416.)

#### Editorial Notes

##### REFERENCES IN TEXT

Section 944, referred to in subsec. (a), is section 944 of Pub. L. 101-625, which is set out below.

##### CODIFICATION

Section was enacted as part of title IX of the Cranston-Gonzalez National Affordable Housing Act, and not as part of title I of such Act which comprises this subchapter.

#### Statutory Notes and Related Subsidiaries

##### BUDGET-NEUTRAL DEMONSTRATION PROGRAM FOR ENERGY AND WATER CONSERVATION IMPROVEMENTS AT MULTIFAMILY RESIDENTIAL UNITS

Pub. L. 114-94, div. G, title LXXXI, § 81001, Dec. 4, 2015, 129 Stat. 1792, provided that:

“(a) ESTABLISHMENT.—The Secretary of Housing and Urban Development (in this section referred to as the ‘Secretary’) shall establish a demonstration program under which the Secretary may execute budget-neutral,

performance-based agreements in fiscal years 2016 through 2019 that result in a reduction in energy or water costs with such entities as the Secretary determines to be appropriate under which the entities shall carry out projects for energy or water conservation improvements at not more than 20,000 residential units in multifamily buildings participating in—

“(1) the project-based rental assistance program under section 8 of the United States Housing Act of 1937 (42 U.S.C. 1437f), other than assistance provided under section 8(o) of that Act;

“(2) the supportive housing for the elderly program under section 202 of the Housing Act of 1959 (12 U.S.C. 1701q); or

“(3) the supportive housing for persons with disabilities program under section 811(d)(2) of the Cranston-Gonzalez National Affordable Housing Act (42 U.S.C. 8013(d)(2)).

“(b) REQUIREMENTS.—

“(1) PAYMENTS CONTINGENT ON SAVINGS.—

“(A) IN GENERAL.—The Secretary shall provide to an entity a payment under an agreement under this section only during applicable years for which an energy or water cost savings is achieved with respect to the applicable multifamily portfolio of properties, as determined by the Secretary, in accordance with subparagraph (B).

“(B) PAYMENT METHODOLOGY.—

“(i) IN GENERAL.—Each agreement under this section shall include a pay-for-success provision that—

“(I) shall serve as a payment threshold for the term of the agreement; and

“(II) requires that payments shall be contingent on realized cost savings associated with reduced utility consumption in the participating properties.

“(ii) LIMITATIONS.—A payment made by the Secretary under an agreement under this section—

“(I) shall be contingent on documented utility savings; and

“(II) shall not exceed the utility savings achieved by the date of the payment, and not previously paid, as a result of the improvements made under the agreement.

“(C) THIRD-PARTY VERIFICATION.—Savings payments made by the Secretary under this section shall be based on a measurement and verification protocol that includes at least—

“(i) establishment of a weather-normalized and occupancy-normalized utility consumption baseline established pre-retrofit;

“(ii) annual third-party confirmation of actual utility consumption and cost for utilities;

“(iii) annual third-party validation of the tenant utility allowances in effect during the applicable year and vacancy rates for each unit type; and

“(iv) annual third-party determination of savings to the Secretary.

An agreement under this section with an entity shall provide that the entity shall cover costs associated with third-party verification under this subparagraph.

“(2) TERMS OF PERFORMANCE-BASED AGREEMENTS.—A performance-based agreement under this section shall include—

“(A) the period that the agreement will be in effect and during which payments may be made, which may not be longer than 12 years;

“(B) the performance measures that will serve as payment thresholds during the term of the agreement;

“(C) an audit protocol for the properties covered by the agreement;

“(D) a requirement that payments shall be contingent on realized cost savings associated with reduced utility consumption in the participating properties; and

“(E) such other requirements and terms as determined to be appropriate by the Secretary.

“(3) ENTITY ELIGIBILITY.—The Secretary shall—

“(A) establish a competitive process for entering into agreements under this section; and

“(B) enter into such agreements only with entities that, either jointly or individually, demonstrate significant experience relating to—

“(i) financing or operating properties receiving assistance under a program identified in subsection (a);

“(ii) oversight of energy or water conservation programs, including oversight of contractors; and

“(iii) raising capital for energy or water conservation improvements from charitable organizations or private investors.

“(4) GEOGRAPHICAL DIVERSITY.—Each agreement entered into under this section shall provide for the inclusion of properties with the greatest feasible regional and State variance.

“(5) PROPERTIES.—A property may only be included in the demonstration under this section only if the property is subject to affordability restrictions for at least 15 years after the date of the completion of any conservation improvements made to the property under the demonstration program. Such restrictions may be made through an extended affordability agreement for the property under a new housing assistance payments contract with the Secretary of Housing and Urban Development or through an enforceable covenant with the owner of the property.

“(c) PLAN AND REPORTS.—

“(1) PLAN.—Not later than 90 days after the date of enactment of this Act [Dec. 4, 2015], the Secretary shall submit to the Committees on Appropriations and Financial Services of the House of Representatives and the Committees on Appropriations and Banking, Housing, and Urban Affairs of the Senate a detailed plan for the implementation of this section.

“(2) REPORTS.—Not later than 1 year after the date of enactment of this Act, and annually thereafter, the Secretary shall—

“(A) conduct an evaluation of the program under this section; and

“(B) submit to Congress a report describing each evaluation conducted under subparagraph (A).

“(d) FUNDING.—For each fiscal year during which an agreement under this section is in effect, the Secretary may use to carry out this section any funds appropriated to the Secretary for the renewal of contracts under a program described in subsection (a).”

#### ENERGY ASSESSMENT REPORT

Pub. L. 101-625, title IX, §944, Nov. 28, 1990, 104 Stat. 4415, directed Secretary of Housing and Urban Development to submit a report to Congress, not later than one year after Nov. 28, 1990, assessing any activity undertaken by the Secretary to increase energy efficiency in housing, such report to include an analysis of the Aug. 15, 1990, DOE-HUD program to expand energy efficiency and increase affordability of federally-assisted housing, and provided that in such report Secretary of Housing and Urban Development (in consultation with Secretary of Energy) was to establish, and include a description of, a standard measure by which changes over time in residential energy efficiency could be compared.

#### UNIFORM MORTGAGE FINANCING PLAN FOR ENERGY EFFICIENCY

Pub. L. 101-625, title IX, §946, Nov. 28, 1990, 104 Stat. 4416, as amended by Pub. L. 102-486, title I, §105(b), Oct. 24, 1992, 106 Stat. 2792; Pub. L. 102-550, title IX, §914(b), Oct. 28, 1992, 106 Stat. 3877, provided that:

“(a) UNIFORM PLAN.—The Secretary of Housing and Urban Development, in consultation with the Secretary of Energy, shall promulgate a uniform plan to make housing more affordable through energy efficient mortgages (as such term is defined in section 104 of this Act [42 U.S.C. 12704]). The plan shall be promulgated not later than 2 years after the date of the enactment of

the Cranston-Gonzalez National Affordable Housing Act [Nov. 28, 1990].

“(b) TASK FORCE.—To develop the plan, the Secretary shall form a task force to make recommendation[s] on financing energy efficiency in private mortgages, through the policies of Federal agencies and federally chartered financial institutions, mortgage bankers, homebuilders, real estate brokers, private mortgage insurers, energy suppliers, and nonprofit housing and energy organizations. The task force shall include, but not be limited to, individuals representing the Federal Housing Administration mortgage programs of the Department of Housing and Urban Development, the Farmers Home Administration mortgage loan and insurance programs of Department of Agriculture, the Federal Home Loan Mortgage Corporation, and the Federal National Mortgage Association. The Task Force shall determine whether notifying potential home purchasers of the availability of energy efficient mortgages would promote energy efficiency in residential buildings, and if so, the Task Force shall recommend appropriate notification guidelines, and agencies and organizations referred to in the preceding sentence are authorized to implement such guidelines.”

#### ENERGY EFFICIENCY DEMONSTRATION

Pub. L. 101-625, title IX, §961, Nov. 28, 1990, 104 Stat. 4424, directed Secretary of Housing and Urban Development to establish a program to demonstrate various methods of improving the energy efficiency of existing housing, provided for funding, provided that the demonstration determine appropriate design, improvement, and rehabilitation methods and practices for increasing residential energy efficiency in housing already constructed, and directed Secretary, as soon as practicable after Sept. 30, 1991, to submit to Congress a report setting forth the findings and recommendations of the Secretary as a result of the demonstration.

### § 12713. Eligibility under first-time homebuyer programs

#### (a) Eligibility of displaced homemakers and single parents for Federal assistance for first-time homebuyers

##### (1) Displaced homemakers

No individual who is a displaced homemaker may be denied eligibility under any Federal program to assist first-time homebuyers on the basis that the individual, while a homemaker, owned a home with his or her spouse or resided in a home owned by the spouse.

##### (2) Single parents

No individual who is a single parent may be denied eligibility under any Federal program to assist first-time homebuyers on the basis that the individual, while married, owned a home with his or her spouse or resided in a home owned by the spouse.

#### (b) Definitions

For purposes of this section:

##### (1) Displaced homemaker

The term “displaced homemaker” means an individual who—

(A) is an adult;

(B) has not worked full-time, full-year in the labor force for a number of years but has, during such years, worked primarily without remuneration to care for the home and family; and

(C) is unemployed or underemployed and is experiencing difficulty in obtaining or upgrading employment.

### (2) First-time homebuyer

The term “first-time homebuyer” means an individual who has never, or has not during a specified period of time, had any present ownership interest in a principal residence.

### (3) Single parent

The term “single parent” means an individual who—

(A) is unmarried or legally separated from a spouse; and

(B)(i) has 1 or more minor children for whom the individual has custody or joint custody; or

(ii) is pregnant.

### (c) Applicability

This section shall apply to any Federal program to assist first-time homebuyers, unless the program is exempted from this section by a statute that amends this subsection or explicitly refers to this subsection.

(Pub. L. 101-625, title IX, §956, Nov. 28, 1990, 104 Stat. 4421.)

### Editorial Notes

#### CODIFICATION

Section was enacted as part of title IX of the Cranston-Gonzalez National Affordable Housing Act, and not as part of title I of such Act which comprises this subchapter.

### § 12714. Repealed. Pub. L. 104-99, title IV, § 404(a), Jan. 26, 1996, 110 Stat. 44

Section, Pub. L. 101-625, title IX, §957, Nov. 28, 1990, 104 Stat. 4422, related to maximum annual limitation on rent increases resulting from employment.

### Statutory Notes and Related Subsidiaries

#### EFFECTIVE DATE OF REPEAL

Pub. L. 104-99, title IV, §404(a), Jan. 26, 1996, 110 Stat. 44, provided in part that this section is repealed retroactive to Nov. 28, 1990, and shall be of no effect.

#### ECONOMIC INDEPENDENCE

Pub. L. 102-550, title IX, §923, Oct. 28, 1992, 106 Stat. 3884, which provided that Secretary of Housing and Urban Development was to immediately implement section 12714 of this title and that other Federal agencies authorized to assist low-income families were to take similar steps to encourage economic independence and the accumulation of assets, was repealed retroactive to Oct. 28, 1992, by Pub. L. 104-99, title IV, §404(b), Jan. 26, 1996, 110 Stat. 44, which further provided that section 923 of Pub. L. 102-550 was to be of no effect.

### SUBCHAPTER II—INVESTMENT IN AFFORDABLE HOUSING

### § 12721. Findings

The Congress finds that—

(1) the Nation has not made adequate progress toward the goal of national housing policy, as set out in the Housing Act of 1949 [42 U.S.C. 1441 et seq.] and reaffirmed in the Housing and Urban Development Act of 1968, which would provide decent, safe, sanitary, and affordable living environments for all Americans;

(2) the supply of affordable rental housing is diminishing;