

105-276, set out as an Effective Date of 1998 Amendment note under section 1437 of this title.

SAVINGS PROVISION

Pub. L. 105-276, title V, § 522(c), Oct. 21, 1998, 112 Stat. 2565, provided that:

“(1) IN GENERAL.—Section 14 of the United States Housing Act of 1937 [42 U.S.C. 1437f] shall apply as provided in section 519(e) of this Act [42 U.S.C. 1437g note].

“(2) EXPANSION OF USE OF MODERNIZATION FUNDING.—Before the implementation of formulas pursuant to sections 9(d)(2) and 9(e)(2) of the United States Housing Act of 1937 [42 U.S.C. 1437g(d)(2), (e)(2)] (as amended by section 519(a) of this Act) an agency may utilize any authority provided under or pursuant to section 14(q) of such Act [42 U.S.C. 1437f(q)] (including the authority under section 201(a) of the Departments of Veterans Affairs and Housing and Urban Development, and Independent Agencies Appropriations Act, 1996 [see Tables for classification] (Public Law 104-134; 110 Stat. 1321-277)), as such provisions (including such section 201(a)) may be amended thereafter, including any amendment made by title II of this Act [see Tables for classification], notwithstanding any other provision of law (including the repeal made under this section, the expiration of the applicability of such section 201 [see Tables for classification], or any repeal of such section 201).

“(3) EFFECTIVE DATE.—This subsection shall take effect on the date of the enactment of this Act [Oct. 21, 1998].”

CONVERSION OF CERTAIN PUBLIC HOUSING TO VOUCHERS

Pub. L. 104-134, title I, § 101(e) [title II, § 202], Apr. 26, 1996, 110 Stat. 1321-257, 1321-279; renumbered title I, Pub. L. 104-140, § 1(a), May 2, 1996, 110 Stat. 1327, which required identification for removal from the inventory of a public housing agency of developments on same or contiguous sites which had more than 300 units and vacancy rate of at least 10 percent, were identified as distressed, and for which estimated cost of continued operation exceeded cost of providing tenant-based assistance under section 1437f of this title, provided for implementation and enforcement of provisions requiring identification, required each agency to develop and carry out plan for removal over 5-year period, and required provision of tenant-based assistance to families residing in any removed development, was repealed by Pub. L. 105-276, title V, § 537(b), Oct. 21, 1998, 112 Stat. 2592. Amounts made available to carry out section 101(e) [title II, § 202] of Pub. L. 104-134 authorized to be used, to extent provided in advance in appropriations Acts, to carry out section 1437z-5 of this title, and section 101(e) [title II, § 202] of Pub. L. 104-134 as in effect immediately before Oct. 21, 1998, to continue to apply to public housing developments identified for conversion, or assessment of whether conversion is required, prior to such date, see section 537(c) of Pub. L. 105-276, set out as a Transition note under section 1437z-5 of this title.

§ 1437m. Payment of non-Federal share

Any of the following may be used as the non-Federal share required in connection with activities undertaken under Federal grant-in-aid programs which provide social, educational, employment, and other services to the tenants in a project assisted under this chapter, other than under section 1437f of this title;

(1) annual contributions under this chapter for operation of the project; or

(2) rental or use-value of buildings or facilities paid for, in whole or in part, from development, modernization, or operation cost financed under this chapter.

(Sept. 1, 1937, ch. 896, title I, § 15, as added Pub. L. 96-399, title II, § 212, Oct. 8, 1980, 94 Stat. 1636;

amended Pub. L. 100-242, title I, § 112(b)(7), Feb. 5, 1988, 101 Stat. 1824; renumbered title I, Pub. L. 100-358, § 5, June 29, 1988, 102 Stat. 681.)

Editorial Notes

AMENDMENTS

1988—Cl. (2). Pub. L. 100-242 struck out “with loans or debt service annual contributions” after “cost financed”.

§ 1437n. Eligibility for assisted housing

(a) Income eligibility for public housing

(1) Income mix within projects

A public housing agency may establish and utilize income-mix criteria for the selection of residents for dwelling units in public housing projects, subject to the requirements of this section.

(2) PHA income mix

(A)¹ TARGETING.—Except as provided in paragraph (4), of the public housing dwelling units of a public housing agency made available for occupancy in any fiscal year by eligible families, not less than 40 percent shall be occupied by extremely low-income families.

(3) Prohibition of concentration of low-income families

(A) Prohibition

A public housing agency may not, in complying with the requirements under paragraph (2), concentrate very low-income families (or other families with relatively low incomes) in public housing dwelling units in certain public housing projects or certain buildings within projects. The Secretary shall review the income and occupancy characteristics of the public housing projects and the buildings of such projects of such agencies to ensure compliance with the provisions of this paragraph and paragraph (2).

(B) Deconcentration

(i) In general

A public housing agency shall submit with its annual public housing agency plan under section 1437c-1 of this title an admissions policy designed to provide for deconcentration of poverty and income-mixing by bringing higher income tenants into lower income projects and lower income tenants into higher income projects. This clause may not be construed to impose or require any specific income or racial quotas for any project or projects.

(ii) Incentives

In implementing the policy under clause (i), a public housing agency may offer incentives for eligible families having higher incomes to occupy dwelling unit in projects predominantly occupied by eligible families having lower incomes, and provide for occupancy of eligible families having lower incomes in projects predominantly occupied by eligible families having higher incomes.

¹ So in original. No subpar. (B) has been enacted.

(iii) Family choice

Incentives referred to in clause (ii) may be made available by a public housing agency only in a manner that allows for the eligible family to have the sole discretion in determining whether to accept the incentive and an agency may not take any adverse action toward any eligible family for choosing not to accept an incentive and occupancy of a project described in clause (i)(II),² *Provided*, That the skipping of a family on a waiting list to reach another family to implement the policy under clause (i) shall not be considered an adverse action. An agency implementing an admissions policy under this subparagraph shall implement the policy in a manner that does not prevent or interfere with the use of site-based waiting lists authorized under section 1437d(s)³ of this title.

(4) Fungibility with tenant-based assistance**(A) Authority**

Except as provided under subparagraph (D), the number of public housing dwelling units that a public housing agency shall otherwise make available in accordance with paragraph (2)(A) to comply with the percentage requirement under such paragraph for a fiscal year shall be reduced by the credit number for the agency under subparagraph (B).

(B) Credit for exceeding tenant-based assistance targeting requirement

Subject to subparagraph (C), the credit number under this subparagraph for a public housing agency for a fiscal year shall be the number by which—

- (i) the aggregate number of qualified families who, in such fiscal year, are initially provided tenant-based assistance under section 1437f of this title by the agency; exceeds
- (ii) the number of qualified families that is required for the agency to comply with the percentage requirement under subsection (b)(1) for such fiscal year.

(C) Limitations on credit number

The credit number under subparagraph (B) for a public housing agency for a fiscal year may not in any case exceed the lesser of—

- (i) the number of dwelling units that is equivalent to 10 percent of the aggregate number of families initially provided tenant-based assistance under section 1437f of this title by the agency in such fiscal year; or
- (ii) the number of public housing dwelling units of the agency that—
 - (I) are in projects that are located in census tracts having a poverty rate of 30 percent or more; and
 - (II) are made available for occupancy during such fiscal year and are actually filled only by families whose incomes at the time of commencement of such occu-

pancy exceed 30 percent of the area median income, as determined by the Secretary with adjustments for smaller and larger families.

(D) Fungibility floor

Notwithstanding any authority under subparagraph (A), of the public housing dwelling units of a public housing agency made available for occupancy in any fiscal year by eligible families, not less than 30 percent shall be occupied by families whose incomes at the time of commencement of occupancy do not exceed 30 percent of the area median income, as determined by the Secretary with adjustments for smaller and larger families.

(E) Qualified family

For purposes of this paragraph, the term “qualified family” means a family having an income described in subsection (b)(1).

(5) Limitations on tenancy for over-income families**(A) Limitations**

Except as provided in subparagraph (D), in the case of any family residing in a dwelling unit of public housing whose income for the most recent two consecutive years, as determined pursuant to income reviews conducted pursuant to section 1437a(a)(6) of this title, has exceeded the applicable income limitation under subparagraph (C), the public housing agency shall—

- (i) notwithstanding any other provision of this chapter, charge such family as monthly rent for the unit occupied by such family an amount equal to the greater of—
 - (I) the applicable fair market rental established under section 1437f(c) of this title for a dwelling unit in the same market area of the same size; or
 - (II) the amount of the monthly subsidy provided under this chapter for the dwelling unit, which shall include any amounts from the Operating Fund and Capital Fund under section 1437g of this title used for the unit, as determined by the agency in accordance with regulations that the Secretary shall issue to carry out this subclause; or
- (ii) terminate the tenancy of such family in public housing not later than 6 months after the income determination described in subparagraph (A).

(B) Notice

In the case of any family residing in a dwelling unit of public housing whose income for a year has exceeded the applicable income limitation under subparagraph (C), upon the conclusion of such year the public housing agency shall provide written notice to such family of the requirements under subparagraph (A).

(C) Income limitation

The income limitation under this subparagraph shall be 120 percent of the median income for the area, as determined by the Secretary with adjustments for smaller and larger families, except that the Secretary

² So in original. Cl. (i) does not contain subclauses.

³ See References in Text note below.

may establish income limitations higher or lower than 120 percent of such median income on the basis of the Secretary's findings that such variations are necessary because of prevailing levels of construction costs, or unusually high or low family incomes, vacancy rates, or rental costs.

(D) Exception

Subparagraph (A) shall not apply to a family occupying a dwelling unit in public housing pursuant to paragraph (5) of section 1437a(a) of this title.

(E) Reports on over-income families and waiting lists

The Secretary shall require that each public housing agency shall—

(i) submit a report annually, in a format required by the Secretary, that specifies—

(I) the number of families residing, as of the end of the year for which the report is submitted, in public housing administered by the agency who had incomes exceeding the applicable income limitation under subparagraph (C); and

(II) the number of families, as of the end of such year, on the waiting lists for admission to public housing projects of the agency; and

(ii) make the information reported pursuant to clause (i) publicly available.

(b) Income eligibility for tenant-based section 1437f assistance

(1) In general

Of the families initially provided tenant-based assistance under section 1437f of this title by a public housing agency in any fiscal year, not less than 75 percent shall be extremely low-income families.

(2) Jurisdictions served by multiple PHAs

In the case of any 2 or more public housing agencies that administer tenant-based assistance under section 1437f of this title with respect solely to identical geographical areas, such agencies shall be treated as a single public housing agency for purposes of paragraph (1).

(c) Income eligibility for project-based section 1437f assistance

(1) Pre-1981 act projects

Not more than 25 percent of the dwelling units that were available for occupancy under section 8 [42 U.S.C. 1437f] housing assistance payments contracts under this chapter before October 1, 1981, and which will be leased on or after October 1, 1981, shall be available for leasing by low-income families other than very low-income families.

(2) Post-1981 act projects

Not more than 15 percent of the dwelling units which become available for occupancy under section 8 [42 U.S.C. 1437f] housing assistance payments contracts under this chapter on or after October 1, 1981, shall be available for leasing by low-income families other than very low-income families.

(3) Targeting

For each project assisted under a contract for project-based assistance, of the dwelling

units that become available for occupancy in any fiscal year that are assisted under the contract, not less than 40 percent shall be available for leasing only by extremely low-income families.

(4) Prohibition of skipping

In developing admission procedures implementing paragraphs (1), (2), and (3), the Secretary shall prohibit project owners from selecting families for residence in an order different from the order on the waiting list for the purpose of selecting relatively higher income families for residence. Nothing in this paragraph or this subsection may be construed to prevent an owner of housing assisted under a contract for project-based assistance from establishing a preference for occupancy in such housing for families containing a member who is employed.

(5) Exception

The limitations established in paragraphs (1), (2), and (3) shall not apply to dwelling units made available under project-based contracts under section 1437f of this title for the purpose of preventing displacement, or ameliorating the effects of displacement.

(6) Definition

For purposes of this subsection, the term "project-based assistance" means assistance under any of the following programs:

(A) The new construction or substantial rehabilitation program under section 1437f(b)(2) of this title (as in effect before October 1, 1983).

(B) The property disposition program under section 1437f(b) of this title (as in effect before the effective date under section 503(a) of the Quality Housing and Work Responsibility Act of 1998).

(C) The loan management set-aside program under subsections (b) and (v) of section 1437f of this title.

(D) The project-based certificate program under section 1437f(d)(2) of this title.

(E) The moderate rehabilitation program under section 1437f(e)(2) of this title (as in effect before October 1, 1991).

(F) The low-income housing preservation program under Low-Income Housing Preservation and Resident Homeownership Act of 1990 [12 U.S.C. 4101 et seq.] or the provisions of the Emergency Low Income Housing Preservation Act of 1987 (as in effect before November 28, 1990).

(G) Section 1437f of this title (as in effect before the effective date under section 503(a) of the Quality Housing and Work Responsibility Act of 1998), following conversion from assistance under section 1701s of title 12 or section 1715z-1(f)(2) of title 12.

(d) Establishment of different standards

Notwithstanding subsection (a)(2) or (b)(1), if approved by the Secretary, a public housing agency may for good cause establish and implement, in accordance with the public housing agency plan, an admission standard other than the standard under such subsection.

(e) Eligibility for assistance based on assets**(1) Limitation on assets**

Subject to paragraph (3) and notwithstanding any other provision of this chapter, a dwelling unit assisted under this chapter may not be rented and assistance under this chapter may not be provided, either initially or at each recertification of family income, to any family—

(A) whose net family assets exceed \$100,000, as such amount is adjusted annually by applying an inflationary factor as the Secretary considers appropriate; or

(B) who has a present ownership interest in, a legal right to reside in, and the effective legal authority to sell, real property that is suitable for occupancy by the family as a residence, except that the prohibition under this subparagraph shall not apply to—

(i) any property for which the family is receiving assistance under subsection (y) or (o)(12) of section 1437f of this title;

(ii) any person that is a victim of domestic violence; or

(iii) any family that is offering such property for sale.

(2) Net family assets**(A) In general**

For purposes of this subsection, the term “net family assets” means, for all members of the household, the net cash value of all assets after deducting reasonable costs that would be incurred in disposing of real property, savings, stocks, bonds, and other forms of capital investment. Such term does not include interests in Indian trust land, equity in property for which the family is receiving assistance under subsection (y) or (o)(12) of section 1437f of this title, equity accounts in homeownership programs of the Department of Housing and Urban Development, or Family Self Sufficiency accounts.

(B) Exclusions

Such term does not include—

(i) the value of personal property, except for items of personal property of significant value, as the Secretary may establish or the public housing agency may determine;

(ii) the value of any retirement account;

(iii) real property for which the family does not have the effective legal authority necessary to sell such property;

(iv) any amounts recovered in any civil action or settlement based on a claim of malpractice, negligence, or other breach of duty owed to a member of the family and arising out of law, that resulted in a member of the family being disabled;

(v) the value of any Coverdell education savings account under section 530 of title 26 or any qualified tuition program under section 529 of such title; and

(vi) such other exclusions as the Secretary may establish.

(C) Trust funds

In cases in which a trust fund has been established and the trust is not revocable by,

or under the control of, any member of the family or household, the value of the trust fund shall not be considered an asset of a family if the fund continues to be held in trust. Any income distributed from the trust fund shall be considered income for purposes of section 1437a(b) of this title and any calculations of annual family income, except in the case of medical expenses for a minor.

(3) Self-certification**(A) Net family assets**

A public housing agency or owner may determine the net assets of a family, for purposes of this section, based on a certification by the family that the net assets of such family do not exceed \$50,000, as such amount is adjusted annually by applying an inflationary factor as the Secretary considers appropriate.

(B) No current real property ownership

A public housing agency or owner may determine compliance with paragraph (1)(B) based on a certification by the family that such family does not have any current ownership interest in any real property at the time the agency or owner reviews the family's income.

(C) Standardized forms

The Secretary may develop standardized forms for the certifications referred to in subparagraphs (A) and (B).

(4) Compliance for public housing dwelling units

When recertifying family income with respect to families residing in public housing dwelling units, a public housing agency may, in the discretion of the agency and only pursuant to a policy that is set forth in the public housing agency plan under section 1437c-1 of this title for the agency, choose not to enforce the limitation under paragraph (1).

(5) Enforcement

When recertifying the income of a family residing in a dwelling unit assisted under this chapter, a public housing agency or owner may choose not to enforce the limitation under paragraph (1) or may establish exceptions to such limitation based on eligibility criteria, but only pursuant to a policy that is set forth in the public housing agency plan under section 1437c-1 of this title for the agency or under a policy adopted by the owner. Eligibility criteria for establishing exceptions may provide for separate treatment based on family type and may be based on different factors, such as age, disability, income, the ability of the family to find suitable alternative housing, and whether supportive services are being provided.

(6) Authority to delay evictions

In the case of a family residing in a dwelling unit assisted under this chapter who does not comply with the limitation under paragraph (1), the public housing agency or project owner may delay eviction or termination of the family based on such noncompliance for a period of not more than 6 months.

(7) Verifying income

(A) Beginning in fiscal year 2018, the Secretary shall require public housing agencies to require each applicant for, or recipient of, benefits under this chapter to provide authorization by the applicant or recipient (or by any other person whose income or resources are material to the determination of the eligibility of the applicant or recipient for such benefits) for the public housing agency to obtain (subject to the cost reimbursement requirements of section 1115(a) of the Right to Financial Privacy Act [12 U.S.C. 3415]) from any financial institution (within the meaning of section 1101(1) of such Act [12 U.S.C. 3401(1)]) any financial record (within the meaning of section 1101(2) of such Act [12 U.S.C. 3401(2)]) held by the institution with respect to the applicant or recipient (or any such other person) whenever the public housing agency determines the record is needed in connection with a determination with respect to such eligibility or the amount of such benefits.

(B) Notwithstanding section 1104(a)(1) of the Right to Financial Privacy Act [12 U.S.C. 3404(a)(1)], an authorization provided by an applicant or recipient (or any other person whose income or resources are material to the determination of the eligibility of the applicant or recipient) pursuant to subparagraph (A) of this paragraph shall remain effective until the earliest of—

- (i) the rendering of a final adverse decision on the applicant's application for eligibility for benefits under this chapter;
- (ii) the cessation of the recipient's eligibility for benefits under this chapter; or
- (iii) the express revocation by the applicant or recipient (or such other person referred to in subparagraph (A)) of the authorization, in a written notification to the Secretary.

(C)(i) An authorization obtained by the public housing agency pursuant to this paragraph shall be considered to meet the requirements of the Right to Financial Privacy Act [12 U.S.C. 3401 et seq.] for purposes of section 1103(a) of such Act [12 U.S.C. 3403(a)], and need not be furnished to the financial institution, notwithstanding section 1104(a) of such Act [12 U.S.C. 3404(a)].

(ii) The certification requirements of section 1103(b) of the Right to Financial Privacy Act [12 U.S.C. 3403(b)] shall not apply to requests by the public housing agency pursuant to an authorization provided under this clause.

(iii) A request by the public housing agency pursuant to an authorization provided under this clause is deemed to meet the requirements of section 1104(a)(3) of the Right to Financial Privacy Act [12 U.S.C. 3404(a)(3)] and the flush language of section 1102 of such Act [12 U.S.C. 3402].

(iv) The public housing agency shall inform any person who provides authorization pursuant to this paragraph of the duration and scope of the authorization.

(D) If an applicant for, or recipient of, benefits under this chapter (or any such other person referred to in subparagraph (A)) refuses to

provide, or revokes, any authorization made by the applicant or recipient for the public housing agency to obtain from any financial institution any financial record, the public housing agency may, on that basis, determine that the applicant or recipient is ineligible for benefits under this subchapter.

(f) Ineligibility of individuals convicted of manufacturing or producing methamphetamine on the premises

Notwithstanding any other provision of law, a public housing agency shall establish standards for occupancy in public housing dwelling units and assistance under section 1437f of this title that—

(1) permanently prohibit occupancy in any public housing dwelling unit by, and assistance under section 1437f of this title for, any person who has been convicted of manufacturing or otherwise producing methamphetamine on the premises in violation of any Federal or State law; and

(2) immediately and permanently terminate the tenancy in any public housing unit of, and the assistance under section 1437f of this title for, any person who is convicted of manufacturing or otherwise producing methamphetamine on the premises in violation of any Federal or State law.

(Sept. 1, 1937, ch. 896, title I, §16, as added Pub. L. 97-35, title III, §323, Aug. 13, 1981, 95 Stat. 404; amended Pub. L. 98-181, title I [title II, §213], Nov. 30, 1983, 97 Stat. 1184; Pub. L. 100-242, title I, §§103, 112(b)(8), Feb. 5, 1988, 101 Stat. 1822, 1824; renumbered title I, Pub. L. 100-358, §5, June 29, 1988, 102 Stat. 681; Pub. L. 100-628, title X, §1001(a), Nov. 7, 1988, 102 Stat. 3263; Pub. L. 101-625, title V, §§511, 572(1), Nov. 28, 1990, 104 Stat. 4194, 4236; Pub. L. 102-550, title I, §105, Oct. 28, 1992, 106 Stat. 3684; Pub. L. 104-99, title IV, §402(d)(6)(A)(v), Jan. 26, 1996, 110 Stat. 42; Pub. L. 104-120, §9(d), Mar. 28, 1996, 110 Stat. 837; Pub. L. 104-330, title V, §501(b)(7), Oct. 26, 1996, 110 Stat. 4042; Pub. L. 105-276, title IV, §428, title V, §§513(a), 576(d)(2), Oct. 21, 1998, 112 Stat. 2511, 2543, 2640; Pub. L. 105-277, div. A, §123, Oct. 21, 1998, 112 Stat. 2681-546; Pub. L. 106-74, title II, §205, Oct. 20, 1999, 113 Stat. 1069; Pub. L. 113-76, div. L, title II, §238(b), Jan. 17, 2014, 128 Stat. 635; Pub. L. 114-201, title I, §§103, 104, July 29, 2016, 130 Stat. 792, 793.)

Editorial Notes

REFERENCES IN TEXT

Section 1437d(s) of this title, referred to in subsec. (a)(3)(B)(iii), probably should be a reference to section 1437d(r) of this title. Pub. L. 105-276, title V, §§525, 575(d), 576(d)(1)(B), Oct. 21, 1998, 112 Stat. 2568, 2637, 2640, amended section 1437d by adding a subsec. (s) relating to site-based waiting lists and a subsec. (t) relating to authority to require access to criminal records and then redesignated those subsecs. (s) and (t) as (r) and (s), respectively.

Section 503(a) of the Quality Housing and Work Responsibility Act of 1998, referred to in subsec. (c)(6)(B), (G), is section 503(a) of Pub. L. 105-276, which is set out as an Effective Date of 1998 Amendment note under section 1437 of this title.

The Low-Income Housing Preservation and Resident Homeownership Act of 1990, referred to in subsec. (c)(6)(F), is title II of Pub. L. 100-242, Feb. 5, 1988, 101

Stat. 1877, as amended, which is classified principally to chapter 42 (§4101 et seq.) of Title 12, Banks and Banking. For complete classification of this Act to the Code, see Short Title note set out under section 4101 of Title 12 and Tables.

The Emergency Low Income Housing Preservation Act of 1987, referred to in subsec. (c)(6)(F), 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. Subtitles A and B of title II, which were formerly set out as a note under section 1715f of Title 12, Banks and Banking, and which amended section 1715z-6 of Title 12, were amended generally by Pub. L. 101-625 and are classified to subchapter I (§4101 et seq.) of chapter 42 of Title 12. Subtitles C and D of title II amended section 1715z-15 of Title 12 and sections 1437f, 1472, 1485, and 1487 of this title. Another subtitle C of title II of Pub. L. 100-242, as added by Pub. L. 102-550, is classified generally to subchapter II (§4141 et seq.) of chapter 42 of Title 12. For complete classification of this Act to the Code, see Short Title note set out under section 4101 of Title 12 and Tables.

The Right to Financial Privacy Act, referred to in subsec. (e)(7)(C)(i), probably means the Right to Financial Privacy Act of 1978, title XI of Pub. L. 95-630, Nov. 10, 1978, 92 Stat. 3697, which is classified generally to chapter 35 (§3401 et seq.) of Title 12, Banks and Banking. For complete classification of this Act to the Code, see Short Title note set out under section 3401 of Title 12 and Tables.

CODIFICATION

October 1, 1981, referred to in subsec. (c)(1), (2), was in the original “the effective date of the Housing and Community Development Amendments of 1981” and “such effective date”, meaning the effective date of subtitle A of title III of Pub. L. 97-35, Aug. 13, 1981, 95 Stat. 384, which was generally effective Oct. 1, 1981. See Effective Date note below.

AMENDMENTS

2016—Subsec. (a)(5). Pub. L. 114-201, §103, added par. (5).

Subsec. (e). Pub. L. 114-201, §104, added subsec. (e).

2014—Subsec. (a)(2)(A). Pub. L. 113-76, §238(b)(1), substituted “extremely low-income families” for “families whose incomes at the time of commencement of occupancy do not exceed 30 percent of the area median income, as determined by the Secretary with adjustments for smaller and larger families; except that the Secretary may establish income ceilings higher or lower than 30 percent of the area median income on the basis of the Secretary’s findings that such variations are necessary because of unusually high or low family incomes”.

Subsec. (b)(1). Pub. L. 113-76, §238(b)(2), substituted “extremely low-income families” for “families whose incomes do not exceed 30 percent of the area median income, as determined by the Secretary with adjustments for smaller and larger families; except that the Secretary may establish income ceilings higher or lower than 30 percent of the area median income on the basis of the Secretary’s findings that such variations are necessary because of unusually high or low family incomes”.

Subsec. (c)(3). Pub. L. 113-76, §238(b)(3), substituted “extremely low-income families” for “families whose incomes at the time of commencement of occupancy do not exceed 30 percent of the area median income, as determined by the Secretary with adjustments for smaller and larger families; except that the Secretary may establish income ceilings higher or lower than 30 percent of the area median income on the basis of the Secretary’s findings that such variations are necessary because of unusually high or low family incomes”.

1999—Subsecs. (a)(2)(A), (c)(3). Pub. L. 106-74, §205(1), inserted before the period at end “; except that the Secretary may establish income ceilings higher or

lower than 30 percent of the area median income on the basis of the Secretary’s findings that such variations are necessary because of unusually high or low family incomes”.

1998—Subsecs. (a) to (d). Pub. L. 105-276, §513(a), as amended by Pub. L. 105-277, §123, added subsecs. (a) to (d) and struck out former subsecs. (a) to (d). Prior to amendment, subsec. (a) related to percentage availability under contracts prior to Oct. 1, 1981, subsec. (b) related to percentage availability under contracts on or after Oct. 1, 1981, subsec. (c) related to admission procedures implementing subsec. (b), and subsec. (d) related to applicability of admission procedures limitations.

Subsec. (e). Pub. L. 105-276, §576(d)(2), struck out heading and text of subsec. (e), which directed public housing agency to establish standards to prohibit occupancy by and terminate tenancy of any person illegally using controlled substance or whose use of controlled substance or abuse of alcohol might interfere with peaceful enjoyment of premises by other residents, and authorized agency to consider rehabilitation of person in making determination to deny occupancy.

Subsec. (f). Pub. L. 105-276, §428, added subsec. (f).

1996—Pub. L. 104-120, §9(d)(1), substituted “Eligibility” for “Income eligibility” in section catchline.

Subsec. (c). Pub. L. 104-99 temporarily substituted “the written system of preferences for selection established by the public housing agency pursuant to section 1437d(c)(4)(A)” for “the system of preferences established by the agency pursuant to section 1437d(c)(4)(A)(ii)”. See Effective and Termination Dates of 1996 Amendments note below.

Subsec. (d). Pub. L. 104-330, §501(b)(7)(A), redesignated par. (1) as entire subsec. and struck out par. (2) which read as follows: “The limitations established in subsections (a) and (b) of this section shall not apply to dwelling units assisted by Indian public housing agencies, to scattered site public housing dwelling units sold or intended to be sold to public housing tenants under section 1437c(h) of this title..”

Subsec. (e). Pub. L. 104-120, §9(d)(2), added subsec. (e).

Subsec. (e)(3). Pub. L. 104-330, §501(b)(7)(B), struck out heading and text of par. (3). Text read as follows: “This subsection does not apply to any dwelling unit assisted by an Indian housing authority.”

1992—Subsec. (c). Pub. L. 102-550, §105(a), substituted “very low-income families and shall” for “very low-income families, shall” and “. In developing such admission procedures, the Secretary shall” for “, and shall” and inserted “; except that such prohibition shall not apply with respect to families selected for occupancy in public housing under the system of preferences established by the agency pursuant to section 1437d(c)(4)(A)(ii) of this title” after “higher income families for residence”.

Subsec. (d)(2). Pub. L. 102-550, §105(b), inserted before period at end “, to scattered site public housing dwelling units sold or intended to be sold to public housing tenants under section 1437c(h) of this title.”

1990—Subsec. (a). Pub. L. 101-625, §572(1), substituted “low-income families” for “lower income families”.

Subsec. (b). Pub. L. 101-625, §572(1), substituted “low-income families” for “lower income families” in par. (1).

Pub. L. 101-625, §511, designated existing provisions as par. (1), substituted “15 percent” for “5 per centum”, and added par. (2).

Subsecs. (c), (d)(1). Pub. L. 101-625, §572(1), substituted “low-income families” for “lower income families” wherever appearing.

1988—Subsec. (b). Pub. L. 100-242, §112(b)(8), struck out “annual” before “contributions”.

Subsec. (c). Pub. L. 100-628 substituted “shall establish an appropriate specific percentage of lower income families other than very-low income families that may be assisted in each assisted housing program” for “and shall establish, as appropriate, differing percentage limitations on admission of lower income families in separate assisted housing programs” and inserted be-

fore period at end of first sentence “, and shall prohibit project owners from selecting families for residence in an order different from the order on the waiting list for the purpose of selecting relatively higher income families for residence”.

Pub. L. 100-242, §103, added subsec. (c).

Subsec. (d). Pub. L. 100-242, §103, added subsec. (d).

1983—Subsec. (a). Pub. L. 98-181 increased to 25 from 10 the percentage of dwelling units available for leasing.

Statutory Notes and Related Subsidiaries

EFFECTIVE DATE OF 1998 AMENDMENTS

Pub. L. 105-277, div. A, §123, Oct. 21, 1998, 112 Stat. 2681-546, provided that the amendment made by section 123 of Pub. L. 105-277 is effective upon enactment of Pub. L. 105-276.

Amendment by title V of Pub. L. 105-276 effective and applicable beginning upon Oct. 1, 1999, except as otherwise provided, with provision that Secretary may implement amendment before such date, except to extent that such amendment provides otherwise, and with savings provision, see section 503 of Pub. L. 105-276, set out as a note under section 1437 of this title.

Pub. L. 105-276, title V, §513(b), Oct. 21, 1998, 112 Stat. 2547, provided that: “This section [amending this section] shall take effect on, and the amendments under this section are made on, and shall apply beginning upon, the date of the enactment of this Act [Oct. 21, 1998].”

EFFECTIVE AND TERMINATION DATES OF 1996 AMENDMENTS

Amendment by Pub. L. 104-330 effective Oct. 1, 1997, except as otherwise expressly provided, see section 107 of Pub. L. 104-330, set out as an Effective Date note under section 4101 of Title 25, Indians.

Amendment by Pub. L. 104-120 to be construed to have become effective Oct. 1, 1995, notwithstanding the effective date of any regulations issued by Secretary of Housing and Urban Development to implement amendments by sections 9 and 10 of Pub. L. 104-120 or any failure by Secretary to issue any such regulations, see section 13 of Pub. L. 104-120, set out as a note under section 1437d of this title.

Amendment by Pub. L. 104-99 effective Jan. 26, 1996, only for fiscal years 1996, 1997, and 1998, and to cease to be effective Oct. 21, 1998, see section 402(f) of Pub. L. 104-99, as amended, and section 514(f) of Pub. L. 105-276, set out as notes under section 1437a of this title.

EFFECTIVE DATE

Section effective Oct. 1, 1981, see section 371 of Pub. L. 97-35, set out as a note under section 3701 of Title 12, Banks and Banking.

§ 1437o. Repealed. Pub. L. 101-625, title II, § 289(b), Nov. 28, 1990, 104 Stat. 4128

Section, act Sept. 1, 1937, ch. 896, title I, §17, as added Nov. 30, 1983, Pub. L. 98-181, title I [title III, §301], 97 Stat. 1196; amended Oct. 17, 1984, Pub. L. 98-479, title I, §103, 98 Stat. 2223; Oct. 18, 1986, Pub. L. 99-500, §101(g), 100 Stat. 1783-242, and Oct. 30, 1986, Pub. L. 99-591, §101(g), 100 Stat. 3341-242; Dec. 22, 1987, Pub. L. 100-202, §§101(f) [title I, §101], 106, 101 Stat. 1329-187, 1329-189, 1329-433; Feb. 5, 1988, Pub. L. 100-242, title I, §§150, 151, 170(e), 101 Stat. 1853, 1854, 1867; renumbered title I, June 29, 1988, Pub. L. 100-358, §5, 102 Stat. 681; Nov. 7, 1988, Pub. L. 100-628, title X, §1007, 102 Stat. 3266; June 30, 1989, Pub. L. 101-45, title I, 103 Stat. 112; Dec. 15, 1989, Pub. L. 101-235, title III, §304, 103 Stat. 2044; May 25, 1990, Pub. L. 101-302, title II, 104 Stat. 238; Nov. 5, 1990, Pub. L. 101-507, title II, 104 Stat. 1369; Nov. 28, 1990, Pub. L. 101-625, title V, §572(1), 104 Stat. 4236; Apr. 10, 1991, Pub. L. 102-27, title II, 105 Stat. 150; Oct. 28, 1992, Pub. L. 102-550, title VI, §625(a)(4), 106 Stat. 3820, authorized Secretary to make rental rehabilitation and development grants.

Statutory Notes and Related Subsidiaries

EFFECTIVE DATE OF REPEAL

Repeal effective Oct. 1, 1991, and except with respect to projects and programs for which binding commitments have been entered into prior to Oct. 1, 1991, no new grants or loans to be made after Oct. 1, 1991, under this section, see section 12839(a)(1), (b)(1) of this title.

§ 1437p. Demolition and disposition of public housing

(a) Applications for demolition and disposition

Except as provided in subsection (b), upon receiving an application by a public housing agency for authorization, with or without financial assistance under this subchapter, to demolish or dispose of a public housing project or a portion of a public housing project (including any transfer to a resident-supported nonprofit entity), the Secretary shall approve the application, if the public housing agency certifies—

(1) in the case of—

(A) an application proposing demolition of a public housing project or a portion of a public housing project, that—

(i) the project or portion of the public housing project is obsolete as to physical condition, location, or other factors, making it unsuitable for housing purposes; and

(ii) no reasonable program of modifications is cost-effective to return the public housing project or portion of the project to useful life; and

(B) an application proposing the demolition of only a portion of a public housing project, that the demolition will help to ensure the viability of the remaining portion of the project;

(2) in the case of an application proposing disposition by sale or other transfer of a public housing project or other real property subject to this subchapter—

(A) the retention of the property is not in the best interests of the residents or the public housing agency because—

(i) conditions in the area surrounding the public housing project adversely affect the health or safety of the residents or the feasible operation of the project by the public housing agency; or

(ii) disposition allows the acquisition, development, or rehabilitation of other properties that will be more efficiently or effectively operated as low-income housing;

(B) the public housing agency has otherwise determined the disposition to be appropriate for reasons that are—

(i) in the best interests of the residents and the public housing agency;

(ii) consistent with the goals of the public housing agency and the public housing agency plan; and

(iii) otherwise consistent with this subchapter; or

(C) for property other than dwelling units, the property is excess to the needs of a public housing project or the disposition is incidental to, or does not interfere with, continued operation of a public housing project;