

or if such assistance is not available, in the case of an application proposing demolition or disposition of 200 or more units, the use of available project-based assistance under section 1437f of this title having a term of not less than 5 years”.

Subsec. (b)(3)(A)(iii). Pub. L. 102-550, § 116(b)(1)(B), inserted before semicolon at end “to the extent available; or if such assistance is not available, in the case of an application proposing demolition or disposition of 200 or more units, the use of available project-based assistance under other Federal programs having a term of not less than 5 years”.

Subsec. (b)(3)(A)(v). Pub. L. 102-550, § 116(b)(1)(C), inserted before semicolon “to the extent available; or if such assistance is not available, in the case of an application proposing demolition or disposition of 200 or more units, the use of tenant-based assistance under section 1437f of this title (excluding vouchers under section 1437f(o) of this title) having a term of not less than 5 years”.

Subsec. (b)(3)(B). Pub. L. 102-550, § 116(b)(4), added subpar. (B). Former subpar. (B) redesignated (C).

Subsec. (b)(3)(C) to (F). Pub. L. 102-550, § 116(b)(3), redesignated subpars. (B) to (E) as (C) to (F), respectively. Former subpar. (F) redesignated (G).

Subsec. (b)(3)(G). Pub. L. 102-550, § 116(b)(3), redesignated subpar. (F) as (G). Former subpar. (G) redesignated (H).

Pub. L. 102-550, § 116(b)(2), substituted “tenant’s choice;” for “tenant’s choice.”

Subsec. (b)(3)(H). Pub. L. 102-550, § 116(b)(3), redesignated subpar. (G) as (H).

Subsecs. (e), (f). Pub. L. 102-550, § 116(c), added subsec. (e) and redesignated former subsec. (e) as (f).

1990—Subsec. (a)(2)(A)(i). Pub. L. 101-625, § 572(2), substituted “low-income housing” for “lower income housing” wherever appearing.

Subsec. (a)(2)(B). Pub. L. 101-625, § 572, substituted “low-income families” for “lower income families” and “low-income housing” for “lower income housing” wherever appearing.

Pub. L. 101-625, § 512(a), inserted before first comma “, which, in the case of scattered-site housing of a public housing agency, shall be in an amount that bears the same ratio to the total of such costs and obligations as the number of units disposed of bears to the total number of units of the project at the time of disposition”.

Subsec. (b)(1). Pub. L. 101-625, § 412(a), substituted “disposition, and the tenant councils, resident management corporation, and tenant cooperative, if any, have been given appropriate opportunities to purchase the project or portion of the project covered by the application,” for “disposition”.

Subsec. (c)(2). Pub. L. 101-625, § 513(b), inserted at end “As part of each annual budget request for the Department of Housing and Urban Development, the Secretary shall submit to the Congress a report—”, and added subpars. (A) and (B).

Subsec. (c)(3). Pub. L. 101-625, § 513(c), struck out par. (3) which read as follows: “The Secretary shall, in allocating assistance for the acquisition or development of public housing or for moderate rehabilitation under section 1437f(e)(2) of this title, give consideration to housing that replaces demolished public housing units in accordance with a plan under subsection (b)(3) of this section.”

Subsec. (e). Pub. L. 101-625, § 412(b), added subsec. (e). 1988—Subsec. (a)(1). Pub. L. 100-242, § 121(a), substituted “and” for “or” after “purposes.”.

Subsec. (b). Pub. L. 100-242, § 170(f), inserted “or” after “under this section”.

Subsec. (b)(3). Pub. L. 100-242, § 121(b), added par. (3).

Subsec. (c). Pub. L. 100-242, § 121(c), designated existing provisions as par. (1) and added pars. (2) and (3).

Pub. L. 100-242, § 112(b)(9), substituted “contributions authorized under section 1437c” for “annual contributions authorized under section 1437c(c)”.

Subsec. (d). Pub. L. 100-242, § 121(d), added subsec. (d) and struck out former subsec. (d) which read as follows:

“The provisions of this section shall not apply to the conveyance of units in a public housing project for the purpose of providing homeownership opportunities for lower income families capable of assuming the responsibilities of homeownership.”

Statutory Notes and Related Subsidiaries

EFFECTIVE DATE OF 1998 AMENDMENT

Pub. L. 105-276, title V, § 531(c), Oct. 21, 1998, 112 Stat. 2574, provided that: “This section [amending this section and section 1437aaa-3 of this title and enacting provisions set out as a note under section 1437aaa-3 of this title] shall take effect on, and the amendments made by this section are made on, and shall apply beginning upon, the date of the enactment of this Act [Oct. 21, 1998].”

EFFECTIVE DATE OF 1995 AMENDMENT

Amendment by Pub. L. 104-19 effective for applications for demolition, disposition, or conversion to homeownership of public housing approved by the Secretary, and other consolidation and relocation activities of public housing agencies undertaken on, before, or after Sept. 30, 1995 and on or before Sept. 30, 1998, see section 1002(d) of Pub. L. 104-19, as amended, set out as a note under section 1437c of this title.

EFFECTIVE DATE OF 1990 AMENDMENT

Pub. L. 101-625, title V, § 512(b), Nov. 28, 1990, 104 Stat. 4195, provided that: “The amendment made by this section [amending this section] shall apply to any scattered-site public housing project or portion of such project disposed of after the date of the enactment of this Act [Nov. 28, 1990].”

REPLACEMENT HOUSING DEMONSTRATION PROGRAM

Pub. L. 101-625, title V, § 513(a), Nov. 28, 1990, 104 Stat. 4195, directed Secretary of Housing and Urban Development to carry out a program to demonstrate the effectiveness of replacing public housing dwelling units eligible for demolition or disposition with 5-year certificate assistance provided under 42 U.S.C. 1437f, with Secretary to carry out the demonstration only with respect to public housing dwelling units owned or operated by the public housing authority for Saint Louis, Missouri, that before the termination of the demonstration program under this subsection are approved for demolition or disposition, and with the demonstration program to terminate at end of Sept. 30, 1992.

§ 1437q. Financing limitations

On and after October 1, 1983, the Secretary—

(1) may only enter into contracts for annual contributions regarding obligations financing public housing projects authorized by section 1437c(c) of this title if such obligations are exempt from taxation under section 1437i(b) of this title, or if such obligations are issued under section 1437b of this title and such obligations are exempt from taxation; and

(2) may not enter into contracts for periodic payments to the Federal Financing Bank to offset the costs to the Bank of purchasing obligations (as described in the first sentence of section 2294(b) of title 12) issued by local public housing agencies for purposes of financing public housing projects authorized by section 1437c(c) of this title.

(Sept. 1, 1937, ch. 896, title I, § 19, as added Pub. L. 98-181, title I [title II, § 215], Nov. 30, 1983, 97 Stat. 1185; renumbered title I, Pub. L. 100-358, § 5, June 29, 1988, 102 Stat. 681.)

§ 1437r. Public housing resident management

(a) Purpose

The purpose of this section is to encourage increased resident management of public housing projects, as a means of improving existing living conditions in public housing projects, by providing increased flexibility for public housing projects that are managed by residents by—

- (1) permitting the retention, and use for certain purposes, of any revenues exceeding operating and project costs; and
- (2) providing funding, from amounts otherwise available, for technical assistance to promote formation and development of resident management entities.

For purposes of this section, the term “public housing project” includes one or more contiguous buildings or an area of contiguous row houses the elected resident councils of which approve the establishment of a resident management corporation and otherwise meet the requirements of this section.

(b) Program requirements

(1) Resident council

As a condition of entering into a resident management program, the elected resident council of a public housing project shall approve the establishment of a resident management corporation. When such approval is made by the elected resident council of a building or row house area, the resident management program shall not interfere with the rights of other families residing in the project or harm the efficient operation of the project. The resident management corporation and the resident council may be the same organization, if the organization complies with the requirements applicable to both the corporation and council. The corporation shall be a nonprofit corporation organized under the laws of the State in which the project is located, and the tenants of the project shall be the sole voting members of the corporation. If there is no elected resident council, a majority of the households of the public housing project shall approve the establishment of a resident council to determine the feasibility of establishing a resident management corporation to manage the project.

(2) Public housing management specialist

The resident council of a public housing project, in cooperation with the public housing agency, shall select a qualified public housing management specialist to assist in determining the feasibility of, and to help establish, a resident management corporation and to provide training and other duties agreed to in the daily operations of the project.

(3) Bonding and insurance

Before assuming any management responsibility for a public housing project, the resident management corporation shall provide fidelity bonding and insurance, or equivalent protection, in accordance with regulations and requirements of the Secretary and the public housing agency. Such bonding and insurance, or its equivalent, shall be adequate to protect

the Secretary and the public housing agency against loss, theft, embezzlement, or fraudulent acts on the part of the resident management corporation or its employees.

(4) Management responsibilities

A resident management corporation that qualifies under this section, and that supplies insurance and bonding or equivalent protection sufficient to the Secretary and the public housing agency, shall enter into a contract with the public housing agency establishing the respective management rights and responsibilities of the corporation and the public housing agency. Such contract shall be consistent with the requirements of this chapter applicable to public housing projects and may include specific terms governing management personnel and compensation, access to public housing project records, submission of and adherence to budgets, rent collection procedures, tenant income verification, tenant eligibility determinations, tenant eviction, the acquisition of supplies and materials, rent determination, community service requirements,¹ and such other matters as may be appropriate. The contract shall be treated as a contracting out of services and shall be subject to any provision of a collective bargaining agreement regarding contracting out to which the public housing agency is subject.

(5) Annual audit

The books and records of a resident management corporation operating a public housing project shall be audited annually by a certified public accountant. A written report of each audit shall be forwarded to the public housing agency and the Secretary.

(c) Assistance amounts

A contract under this section for management of a public housing project by a resident management corporation shall provide for—

- (1) the public housing agency to provide a portion of the assistance to agency from the Capital and Operating Funds to the resident management corporation in accordance with subsection (e) for purposes of operating the public housing project covered by the contract and performing such other eligible activities with respect to the project as may be provided under the contract;

(2) the amount of income expected to be derived from the project itself (from sources such as rents and charges);

(3) the amount of income to be provided to the project from the other sources of income of the public housing agency (such as interest income, administrative fees, and rents); and

(4) any income generated by a resident management corporation of a public housing project that exceeds the income estimated under the contract shall be used for eligible activities under subsections (d)(1) and (e)(1) of section 1437g of this title.

(d) Waiver of Federal requirements

(1) Waiver of regulatory requirements

Upon the request of any resident management corporation and public housing agency,

¹ So in original.