

which the tenants are paying rentals in excess of 30 per centum of their incomes, in any project which is assisted under section 1484, 1485, or 1487 of this title and under section 1490a(a)(1)(B) of this title unless the project owner is receiving, or has applied for (within the most recent period of 180 days prior to the effective date of such increase), assistance payments with respect to such project under section 1490a(a)(2)(A) or 1490a(a)(5) of this title or section 1437f of this title.

(July 15, 1949, ch. 338, title V, § 530, as added Pub. L. 96-399, title V, § 509, Oct. 8, 1980, 94 Stat. 1670; amended Pub. L. 98-181, title I [title V, § 517(d)], Nov. 30, 1983, 97 Stat. 1248; Pub. L. 105-276, title V, § 599C(e)(2)(G), Oct. 21, 1998, 112 Stat. 2663.)

#### Editorial Notes

##### AMENDMENTS

1998—Pub. L. 105-276 substituted “assistance payments with respect to such project under section 1490a(a)(2)(A) or 1490a(a)(5) of this title” for “rental assistance payments with respect to such project under section 1490a(a)(2)(A) of this title”.

1983—Pub. L. 98-181 substituted “30 per centum” for “25 per centum”.

#### Statutory Notes and Related Subsidiaries

##### EFFECTIVE DATE OF 1983 AMENDMENT

Amendment by Pub. L. 98-181 effective six months after Nov. 30, 1983, or upon the earlier promulgation of implementing regulations, see section 517(f) of Pub. L. 98-181, set out as a note under section 1490a of this title.

#### § 1490k. FHA insurance

The Secretary is authorized to act as an agent of the Secretary of Housing and Urban Development to recommend insurance of any mortgage meeting the requirements of section 1709 of title 12.

(July 15, 1949, ch. 338, title V, § 531, as added Pub. L. 98-181, title I [title V, § 520], Nov. 30, 1983, 97 Stat. 1249.)

#### § 1490l. Processing of applications

##### (a) Priority

Except as otherwise provided in subsection (c), the Secretary shall, in making assistance available under this subchapter, give a priority to applications submitted by—

- (1) persons and families that have the greatest housing assistance needs because of their low income and their residing in inadequate dwellings;
- (2) applicants applying for assistance for projects that will serve such persons and families; and
- (3) applicants residing in areas which are the most rural in character.

##### (b) Preliminary reservation of assistance at time of initial approval of project

In making available the assistance authorized by section 1483 of this title and section 1490a(a) of this title with respect to projects involving insured and guaranteed loans and interest credits and rental assistance payments, the Secretary shall process and approve requests for such assistance in a manner that provides for a

preliminary reservation of assistance at the time of initial approval of the project.

##### (c) Prioritization of section 1485 housing assistance

###### (1) In general

The Secretary shall make assistance under section 1485 of this title available pursuant to an objective procedure established by the Secretary, under which the Secretary shall identify counties and communities having the greatest need for such assistance and designate such counties and communities to receive such assistance.

###### (2) Objective measures

The Secretary shall use the following objective measures to determine the need for rental housing assistance under paragraph (1):

- (A) The incidence of poverty.
- (B) The lack of affordable housing and the existence of substandard housing.
- (C) The lack of mortgage credit.
- (D) The rural characteristics of the location.
- (E) Other factors as determined by the Secretary, demonstrating the need for affordable housing.

###### (3) Information

In administering this subsection, the Secretary shall use information from the most recent decennial census of the United States, relevant comprehensive affordable housing strategies under section 12705 of this title, and other reliable sources obtained by the Secretary which demonstrate the need for affordable housing in rural areas.

###### (4) Designation

A designation under this subsection shall not be effective for a period of more than 3 years, but may be renewed by the Secretary in accordance with the procedure set forth in this subsection. The Secretary shall take such other reasonable actions as the Secretary considers to be appropriate to notify the public of such designations.

(July 15, 1949, ch. 338, title V, § 532, as added Pub. L. 98-181, title I [title V, § 521], Nov. 30, 1983, 97 Stat. 1250; amended Pub. L. 104-180, title VII, § 734(f), Aug. 6, 1996, 110 Stat. 1604.)

#### Editorial Notes

##### AMENDMENTS

1996—Subsec. (a). Pub. L. 104-180, § 734(f)(1), substituted “Except as otherwise provided in subsection (c), the Secretary” for “The Secretary” in introductory provisions.

Subsec. (c). Pub. L. 104-180, § 734(f)(2), added subsec. (c).

#### § 1490m. Housing preservation grants

##### (a) Statement of purposes

The purpose of this section is to authorize the Secretary to make grants to eligible grantees including private nonprofit organizations, Indian tribes, general units of local government, counties, States, and consortia of other eligible grantees, in order to—

- (1) rehabilitate or replace single family housing in rural areas which is owned by low- and very low-income persons and families, and

(2) rehabilitate or replace rental properties or cooperative housing which has a membership resale structure that enables the cooperative to maintain affordability for persons of low income in rural areas serving low- and very low-income occupants.

The Secretary may also provide tenant-based assistance as provided under section 1437f of this title or section 1490r of this title upon the request of grantees in order to minimize the displacement of very low-income tenants residing in units rehabilitated or replaced with assistance under this section.

**(b) Mandatory program requirements**

Preservation programs assisted under this section shall—

(1) be used to provide loans or grants to owners of single family housing in order to cover the cost of repairs and improvements;

(2) be used to provide loans or grants, not to exceed \$15,000 per unit, to owners of single family housing to replace existing housing if repair or rehabilitation of the housing is determined by the Secretary not to be practicable and the owner of the housing is unable to afford a loan under section 1472 of this title for replacement housing;

(3) be used to provide interest reduction payment;

(4) be used to provide loans or grants to owners of rental housing, except that rental rehabilitation or replacement assistance provided under this subsection for any structure shall not exceed 75 per centum of the total costs associated with the rehabilitation or replacement of that structure;

(5) be used to provide other comparable assistance that the Secretary deems appropriate to carry out the purpose of this section, designed to reduce the costs of such repair, rehabilitation, and replacement in order to make such housing affordable by persons of low income and, to the extent feasible, by persons and families whose incomes do not exceed 50 per centum of the area median income;

(6) benefit low- and very low-income persons and families in rural areas, without causing the displacement of current residents; and

(7) raise health and safety conditions to meet those specified in section 1479(a) of this title.

**(c) Allocation formula; transfer of funds; maximum amounts**

(1) The Secretary shall allocate grant funds under this section for use in each State on the basis of a formula contained in a regulation prescribed by the Secretary using the average of the ratios between—

(A) the population of the rural areas in that State and the population of the rural areas of all States;

(B) the extent of poverty in the rural areas in that State and the extent of poverty in the rural areas of all States; and

(C) the extent of substandard housing in the rural areas of that State and the extent of substandard housing in the rural areas of all States.

Any funds which are allocated to a State but uncommitted to grantees will be transferred to the

State office of the Farmers Home Administration in a timely manner and be used for authorized rehabilitation activities under section 1474 of this title. Funds obligated, but subsequently unspent and deobligated, may remain available, to the extent provided in appropriations Acts, for use as housing preservation grants in ensuing fiscal years.

(2) Unless there is only one eligible grantee in a State, a single grantee may not receive more than 50 per centum of a State's allocation.

**(d) Statement of activity by grantee; submission; contents; availability; consultations; evaluation by Secretary; criteria applicable; maximum amounts**

(1) Eligible grantees may submit a statement of activity to the Secretary at the time specified by the program administrator, containing a description of its proposed preservation program. The statement shall consist of the activities each entity proposes to undertake for the fiscal year, and the projected progress in carrying out those activities. The statement of activities shall be made available to the public for comment.

(2) In preparing such statement, the grantee shall consult with and consider the views of appropriate local officials.

(3) The Secretary shall evaluate the merits of each statement on the basis of such criteria as the Secretary shall prescribe, including the extent—

(A) to which the repair, rehabilitation, and replacement activities will assist persons of low income who lack adequate shelter, with priority given to applications assisting the maximum number of persons and families whose incomes do not exceed 50 per centum of the area median income;

(B) to which the repair, rehabilitation, and replacement activities include the participation of other public or private organizations in providing assistance, in addition to the assistance provided under this section, in order to lower the costs of such activities or provide for the leveraging of available funds to supplement the rural housing preservation grant program;

(C) to which such activities will be undertaken in rural areas having populations below 10,000 or in remote parts of other rural areas;

(D) to which the repair, rehabilitation, and replacement activities may be expected to result in achieving the greatest degree of repair or improvement for the least cost per unit or dwelling;

(E) to which the program would minimize displacement;

(F) to which the program would alleviate overcrowding in rural residences inhabited by low- and very low-income persons and families;

(G) to which the program would minimize the use of grant funds for administrative purposes; and

(H) to which the owner agrees to meet the requirement of subsection (e)(1)(B)(iv) for a period longer than 5 years;

and shall assess the demonstrated capacity of the grantee to carry out the program as well as the financial feasibility of the program.

(4) The amount of assistance provided under this section with respect to any housing shall be the least amount that the Secretary determines is necessary to provide, through the repair and rehabilitation, or replacement, of such housing, decent housing of modest design that is affordable for persons of low income.

(5) A grantee may use housing preservation grant funds under this section for replacement housing only after providing documentation to the Secretary that—

(A) the existing housing is in such poor condition that rehabilitation is not economically feasible;

(B) the owner of the housing lacks the income or repayment ability necessary to qualify for a loan under section 1472 of this title; and

(C) the grantee will extend assistance to the owner of the housing under terms that the owner can afford.

**(e) Limitations on assistance; failure to implement required agreement**

(1) Assistance under this section may be provided with respect to rental or cooperative housing only if—

(A) the owner has entered into such agreements with the Secretary as may be necessary to assure compliance with the requirements of this section, to assure the financial feasibility of such housing, and to carry out the other provisions of this section;

(B) the owner agrees—

(i) to pass on to the tenants any reduction in the debt service payments resulting from the assistance provided under this section;

(ii) not to convert the units to condominium ownership (or in the case of a cooperative, to condominium ownership or any form of cooperative ownership not eligible for assistance under this section);

(iii) not to refuse to rent a dwelling unit in the structure to a family solely because the family is receiving or is eligible to receive assistance under any Federal, State, or local housing assistance program; and

(iv) that the units repaired and rehabilitated with such assistance will be occupied, or available for occupancy, by persons of low income;

during the 5-year period beginning on the date on which the units in the housing are available for occupancy;

(C) the unit of general local government or nonprofit organization that receives the assistance certifies to the satisfaction of the Secretary that the assistance will be made available in conformity with Public Law 88-352 [42 U.S.C. 2000a et seq.] and Public Law 90-284;

(D) the owner agrees to enter into and abide by written leases with the tenants, which leases shall provide that tenants may be evicted only for good cause; and

(E) the unit of general local government or nonprofit organization will agree to supervise repairs and rehabilitation and will agree to have a disinterested party inspect such repairs and rehabilitation.

(2) Assistance under this section provided with respect to any housing other than rental or co-

operative housing may be provided only if the owner complies with the requirements set forth in subparagraph (E) of paragraph (1) and any other requirements established by the Secretary to carry out the purpose of this section.

(3)(A) The Secretary shall provide that if the owner or his or her successors in interest fail to carry out the agreements described in subparagraphs (A) and (B) of paragraph (1) during the applicable period, the owner or his or her successors in interest shall make a payment to the Secretary of an amount that equals the total amount of assistance provided under this section with respect to such housing, plus interest thereon (without compounding), for each year and any fraction thereof that the assistance was outstanding, at a rate determined by the Secretary taking into account the average yield on outstanding marketable long-term obligations of the United States during the month preceding the date on which the assistance was made available.

(B) Notwithstanding any other provision of law, any assistance provided under this section shall constitute a debt, which is payable in the case of any failure to carry out the agreements described in subparagraphs (A), (B), and (C) of paragraph (1), and shall be secured by the security instruments provided by the owner to the Secretary.

**(f) Advance payments of assistance**

The Secretary shall provide for such advance payments of assistance under this section as the Secretary determines is necessary to effectively carry out the provisions of this section.

**(g) Annual review and audit by Secretary of activities; adjustment, etc., of resources; reallocation of amounts**

The Secretary shall, at least on an annual basis, make such review and audits as may be necessary or appropriate to determine whether the grantee has carried out its activities in a timely manner and in accordance with the requirements of this section, the degree to which the activities assisted benefitted low income families or persons and very low-income families or persons who lacked adequate housing, and whether the grantee has a continuing capacity to carry out the activities in a timely manner. The Secretary may adjust, reduce, or withdraw resources made available to grantees receiving assistance under this section, or take other action as appropriate in accordance with the findings of these reviews and audits. Any amounts which become available as a result of actions under this subsection shall be reallocated as housing preservation grants to such grantee or grantees as the Secretary may determine.

**(h) Rules and regulations; delegation of authority**

(1) The Secretary is authorized to prescribe such rules and regulations and make such delegations of authority as he deems necessary to carry out this section within 90 days after November 30, 1983.

(2) The Secretary shall, not later than the expiration of the 30-day period following February 5, 1988, issue regulations to carry out the program of grants under subsection (a)(2).

**(i) National historic preservation objectives affected by rehabilitation activities; establishment of procedures for determining consonant purposes and measures**

The Secretary shall establish procedures which support national historic preservation objectives and which assure that, if any rehabilitation proposed to be assisted under this section would affect property that is included or is eligible for inclusion on the National Register of Historic Places, such activity shall not be undertaken unless (1) it will reasonably meet the standards for rehabilitation issued by the Secretary of the Interior and the appropriate State historic preservation officer is afforded the opportunity to comment on the specific rehabilitation plan, or (2) the Advisory Council on Historic Preservation is afforded an opportunity to comment on cases for which the recipient of assistance, in consultation with the State historic preservation officer, determines that the proposed rehabilitation activity cannot reasonably meet such standards or would adversely affect historic property as defined therein.

(July 15, 1949, ch. 338, title V, § 533, as added Pub. L. 98-181, title I [title V, § 522], Nov. 30, 1983, 97 Stat. 1250; amended Pub. L. 100-242, title III, §§ 310, 316(g), Feb. 5, 1988, 101 Stat. 1896, 1898; Pub. L. 101-625, title VII, § 717, Nov. 28, 1990, 104 Stat. 4296; Pub. L. 102-550, title VII, §§ 706(1), 711, Oct. 28, 1992, 106 Stat. 3835, 3840; Pub. L. 105-276, title V, § 550(e), Oct. 21, 1998, 112 Stat. 2610; Pub. L. 105-362, title I, § 101(h), Nov. 10, 1998, 112 Stat. 3281.)

**Editorial Notes**

REFERENCES IN TEXT

Public Law 88-352, referred to in subsec. (e)(1)(C), is Pub. L. 88-352, July 2, 1964, 78 Stat. 241, as amended, known as the Civil Rights Act of 1964, which is classified principally to subchapters II to IX (§2000a et seq.) of chapter 21 of this title. For complete classification of this Act to the Code, see Short Title note set out under section 2000a of this title and Tables.

Public Law 90-284, referred to in subsec. (e)(1)(C), is Pub. L. 90-284, Apr. 11, 1968, 82 Stat. 73, as amended, known as the Civil Rights Act of 1968. For complete classification of this Act to the Code, see Short Title note set out under section 3601 of this title and Tables.

AMENDMENTS

1998—Subsec. (a). Pub. L. 105-276 substituted “tenant-based assistance as provided under section 1437f of this title” for “assistance payments as provided by section 1437f(o) of this title” in concluding provisions.

Subsec. (j). Pub. L. 105-362 struck out subsec. (j) which read as follows: “Not later than 180 days after the close of each fiscal year in which assistance under this section is furnished, the Secretary shall submit to the Congress a report which shall contain—

“(1) a description of the progress made in accomplishing the objectives of this section; and

“(2) a summary of the use of such funds during the preceding year.

The Secretary shall require grantees under this section to submit to him such reports, and other information as may be necessary in order for the Secretary to make the report required by this subsection.”

1992—Subsec. (a). Pub. L. 102-550, §§ 706(1), 711(1)(B), in concluding provisions, inserted reference to section 1490r of this title and “or replaced” after “rehabilitated”.

Subsec. (a)(1), (2). Pub. L. 102-550, § 711(1)(A), inserted “or replace” after “rehabilitate”.

Subsec. (b). Pub. L. 102-550, § 711(2)(A), substituted “Preservation programs” for “Rehabilitation programs” in introductory provisions.

Subsec. (b)(2). Pub. L. 102-550, § 711(2)(E), added par. (2). Former par. (2) redesignated (3).

Subsec. (b)(3). Pub. L. 102-550, § 711(2)(D), redesignated par. (2) as (3). Former par. (3) redesignated (4).

Pub. L. 102-550, § 711(2)(B), inserted “or replacement” after “rehabilitation” in two places.

Subsec. (b)(4). Pub. L. 102-550, § 711(2)(D), redesignated par. (3) as (4). Former par. (4) redesignated (5).

Pub. L. 102-550, § 711(2)(C), substituted “repair, rehabilitation, and replacement” for “repair and rehabilitation”.

Subsec. (b)(5) to (7). Pub. L. 102-550, § 711(2)(D), redesignated pars. (4) to (6) as (5) to (7), respectively.

Subsec. (c)(1). Pub. L. 102-550, § 711(3), substituted “grant funds under this section” for “rehabilitation grant funds” in introductory provisions.

Subsec. (d)(1). Pub. L. 102-550, § 711(4)(A), substituted “preservation program” for “rehabilitation program”.

Subsec. (d)(3)(A), (B), (D). Pub. L. 102-550, § 711(4)(B), substituted “repair, rehabilitation, and replacement” for “repair and rehabilitation”.

Subsec. (d)(4). Pub. L. 102-550, § 711(4)(C), inserted “, or replacement,” after “rehabilitation”.

Subsec. (d)(5). Pub. L. 102-550, § 711(4)(D), added par. (5).

1990—Subsec. (c)(1). Pub. L. 101-625, § 717(a), inserted at end “Funds obligated, but subsequently unspent and deobligated, may remain available, to the extent provided in appropriations Acts, for use as housing preservation grants in ensuing fiscal years.”

Subsec. (g). Pub. L. 101-625, § 717(b), substituted last sentence for “Any amounts which became available as a result of actions under this subsection shall be reallocated in the year in which they become available to such grantee or grantees as the Secretary may determine.”

1988—Subsec. (e)(1)(B)(iii). Pub. L. 100-242, § 316(g)(1), inserted “to” before “refuse”.

Subsec. (g). Pub. L. 100-242, § 316(g)(2), substituted “low income families or persons and very low-income families or persons” for “persons of low income and very low-income”.

Subsec. (h). Pub. L. 100-242, § 310, designated existing provisions as par. (1) and added par. (2).

**Statutory Notes and Related Subsidiaries**

EFFECTIVE DATE OF 1998 AMENDMENT

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.

RURAL RENTAL REHABILITATION DEMONSTRATION

Pub. L. 100-242, title III, § 311, Feb. 5, 1988, 101 Stat. 1896, as amended by Pub. L. 100-628, title X, § 1044, Nov. 7, 1988, 102 Stat. 3273; Pub. L. 101-137, § 7(d), Nov. 3, 1989, 103 Stat. 826; Pub. L. 101-144, title II, Nov. 9, 1989, 103 Stat. 846; Pub. L. 105-362, title VII, § 701(f), Nov. 10, 1998, 112 Stat. 3287, directed Secretary of Housing and Urban Development to carry out a rural rental rehabilitation demonstration program, provided funding for program, and terminated authority for such program after Sept. 30, 1991.

**§ 1490n. Review of rules and regulations**

**(a) Publication for public comment in Federal Register**

Notwithstanding any other provision of law, no rule or regulation pursuant to this subchapter may become effective unless it has first